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Research article

Legal decision-making in child sexual abuse investigations: A mixed-methods study of factors that influence prosecution

Jacquelynn F. Duron*

School of Social Work, Rutgers, The State University of New Jersey, 390 George St., Suite 713, New Brunswick, NJ, 08901, United States



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ABSTRACT

Prosecution of child sexual abuse cases is an important aspect of a community's response for holding perpetrators accountable and protecting children. Differences in charging rates across jurisdictions may reflect considerations made in prosecutors' decision-making process. This mixed-methods, multiphase study used data from a Children's Advocacy Center in a suburban county in the Southern United States to explore the factors associated with child sexual abuse cases that are accepted for prosecution and the process followed by prosecutors. Data were sequentially linked in three phases (qualitative-quantitative-qualitative), incorporating 1) prosecutor perceptions about what case characteristics affect charging potential, 2) 100 case records and forensic interviews, and 3) in-depth reviews of cases prosecuted. Content analysis was used to identify influential case elements, logistic regression modeling was used to determine factors associated with a decision to prosecute, and framework analysis was used to further confirm and expand upon case factors. Overall, findings indicate that prosecution is most strongly predicted by caregiver support and the availability of other evidence. The decision to prosecute was found to include a process of ongoing evaluation of the evidence and determination of a balanced approach to justice. The decision to prosecute a case can be influenced by strong and supportive investigative practices. An important implication is that interaction among multidisciplinary professionals promotes communication and efforts, further enhancing discretion about potential legal actions.

1. Introduction

In 2015, 57,286 cases of child sexual abuse (CSA) were reported in the United States, accounting for 8.4% of all reported cases of child maltreatment (U.S. Department of Health and Human Services, 2013). From 1992 through 2010, several sources consistently report a decline in substantiated CSA cases from over 150,000 children to 63,000 (Finkelhor & Jones, 2012). With disclosure rates estimated to reflect only 10% of offenses committed (Lyon & Ahern, 2011; Lyon, 2007), prevalence rates and changes provide additional insight. International prevalence studies from 22 countries indicate that 7% of men and 19% of women have experienced some form of sexual abuse by the time they are 18 years old (Pereda et al., 2009). Using these estimates to extrapolate CSA rates across the 3.7 billion women and 3.8 billion men comprising the world population in 2017 (United Nations, 2017), an estimated 703 million women and 266 million men have experienced CSA. While these numbers suggest that historical estimates of incidence have been low, studies of CSA prevalence rates demonstrate a decline in several countries, including Australia (Dunne et al., 2003), Canada (Shields et al., 2016), and Finland (Laaksonen et al., 2011).

* Corresponding author.

E-mail address: jduron@ssw.rutgers.edu.

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Although the reasons for a decline in CSA remain elusive, these trends parallel declines in other crime categories and may represent a decreased tolerance for CSA, or may be the result of intensive prevention, treatment, and criminal justice efforts (Berliner, 2011; Finkelhor & Jones, 2004).

While declines in CSA rates may suggest improved criminal justice endeavors, there exists a great disparity amongst prosecution rates across jurisdictions in the United States. A meta-analysis of the decisions made in the prosecution of CSA cases indicates that charging rates vary considerably, ranging from 28% to 94% (Cross et al., 2003). This discrepancy reflects differences in communities, policies, practices, and decision-making and demonstrates a gap in the literature whereby research must move beyond rates to consider prosecution practices (Cross et al., 2003). Further, this variability is problematic for children as it reveals instances when protecting children, holding perpetrators accountable, and intervening to the full extent of the law are compromised. Integral to prosecutorial proceedings are the investigative steps completed, including the forensic interview, which elicits a child's disclosure narrative. Children's disclosure statements are often the primary evidence available for making judgements about CSA (London et al., 2007) and are pivotal to prosecution. As the field continues to explore changes in CSA prevalence and incidence estimates, examining the prosecutorial process can elucidate the dynamics influencing substantiation and the role of prosecutorial decision-making. In turn, this knowledge can strengthen investigative efforts by informing practices that influence prosecution in order to protect children. With uncertainty remaining about how prosecutorial discretion is exercised, including how disclosure narratives are considered, this mixed-methods study examines the factors associated with a decision to prosecute perpetrators using disclosure cases from a Children's Advocacy Center (CAC).

2. Background

The literature on factors associated with the prosecution of CSA cases spans over four decades (see Cole, 1970; Hartley et al., 2013; Mac Murray, 1989; Martone et al., 1996). Previous studies evaluating prosecution have explored influencing factors associated with the age, gender, and race of both the child and the perpetrator (Brewer, Rowe, & Brewer, 1997; Cross et al., 1994; Hartley et al., 2013; Mac Murray, 1989), credibility related to these factors (O'Donohue et al., 1998), the relationship between the child perpetrator, and the availability of evidence (Brewer et al., 1997; Cross et al., 1994). Cross et al. (1994) also examined how abuse severity, mother's support, and the child's relationship to the first person disclosed related to prosecution. Further, prosecution has also been associated with a child's disclosure narrative (Walsh et al., 2010).

2.1. Perpetrator characteristics associated with prosecution

A perpetrator's gender, race, age, and relationship to the child may influence how a child feels about sharing her or his disclosure (Lyon, 2007). These factors may also influence how willing a family is to pursue criminal charges (Stroud et al., 2000) and how the prosecutor views the charging potential. The majority of cases referred for prosecution typically involve an older perpetrator who is not closely related to the child (Stroud et al., 2000). Child sexual abuse perpetrators, when compared to other felons, were also more likely to be employed, married, European American, older than 30 years old (Cullen et al., 2000), and charged with abusing multiple children (Brewer et al., 1997).

2.2. Child characteristics associated with prosecution

Several child case predictors contribute to movement toward criminal court proceedings. Some research has indicated that a child's age or gender predicted whether or not a case would be processed (Gray, 1993; Mac Murray, 1989); other research found that a child's race was not predictive of prosecution (Brewer et al., 1997). Cullen et al. (2000) discovered that CSA cases accepted for prosecution most often involved European American females, with an average age of 11.13 years. Overwhelmingly, the majority of cases that progress to criminal proceedings are for children over 4 years of age who are female (Stroud et al., 2000). Although older children provide better quality interviews, this was not associated with higher rates of prosecution (Hagborg et al., 2012).

2.3. Prosecutor's evaluation of cases

While this constellation of child and perpetrator factors influence the decision to prosecute, they do not consider how prosecutors evaluate cases. In an early report from the American Bar Association (1981), 25% of survey respondents described having special policies for determining whether to prosecute CSA cases. The most cited reasons for not prosecuting were perceived incompetency of children due to very young age or forgetfulness of specific dates or places, lack of corroboration, a lack of child credibility, or recanting (American Bar Association, 1981). In a survey of former prosecutors, responses suggest that the evaluation of evidence greatly informed the decision to prosecute as did awareness of community norms, public reaction, and selectivity in an overloaded system (Cole, 1970). In a 2017 survey, prosecutors handling child maltreatment cases with a majority involving CSA, shared that the two greatest challenges to prosecution were insufficient evidence to corroborate a child's account and the child not being able to emotionally withstand testifying in court (Cross & Whitcomb, 2017). Chin (2010) also found that prosecution of CSA is greatly impacted by the evidentiary difficulties presented including secrecy, the lack of witnesses, and apprehension about children's statements. Chin (2010) observed that videotapes enhanced a child's disclosure by providing an opportunity for the interview to be experienced firsthand. This opportunity must be considered when evaluating how prosecutors sort through the evidence to arrive at a decision.

2.4. Disclosure as a process influencing prosecution

Forensic interviews provide an opportunity for children to disclose abuse details. The prosecution of CSA cases is often limited to or completely based on the evidence derived from the forensic interview because other evidence is lacking (Peterson & Biggs, 1997; Walsh et al., 2010). For criminal proceedings, a forensic interview should be consistent, lengthy, and detailed (Stromwall, 2010), with skillfully conducted interviews supporting conviction of perpetrators (Cronch et al., 2006). Prosecution is often contingent upon the level of dependable details collected from the child (Perona et al., 2006), with disclosure linked to a greater likelihood that charges will be filed (Walsh et al., 2010). The forensic interview elicits details about what occurred, reflecting the child's understanding of the content of sexual abuse as well as the child's ability to recall contextual factors about events as they transpired (Lamb et al., 2007; Orbach & Lamb, 2000).

A critique of the extant literature suggests that while previous research has examined some of the factors associated with prosecution, these studies have mostly lacked prosecutor perspectives about the issues and dynamics of cases that influence the decision to charge. Additionally, previous research focusing on children's disclosure narratives has not explored how the number of details provided or the specific questions used to transition a child into a narrative disclosure describing sexual abuse experiences relate to a decision to prosecute a case. Thus, this mixed-method, multiphase study builds on the existing literature by considering the child's disclosure narrative and investigative stages. Further, by using both quantitative and qualitative approaches, the voice of the decision-makers, namely prosecutors, is included. In an effort to better understand factors that distinguish cases that advance to criminal prosecution from those that do not, this research investigated the factors associated with prosecution, a decision to pursue charges, by using a sample of child sexual abuse cases (N = 100) and four criminal prosecutors as informants, to answer the following research questions:

Qualitative Phase 1: What is the prosecutors' process for pursuing prosecution? What influences the decision to pursue prosecution?

Quantitative Phase 2: What case factors (e.g. gender, age, relationship, details, services) are associated with the prosecution of child sexual abuse cases?

Qualitative Phase 3: How do prosecutors make decisions? What characteristics of each case led to prosecution?

3. Methods

This research used a mixed-methods multiphase design alternating qualitative and quantitative methods across three phases of study (Creswell & Plano Clark, 2011; Sandelowski, 2003) in order to identify case factors associated with the decision to prosecute CSA cases. Decision theory posits that decision-making is a process involving several stages, including gathering data and making a judgement (Carroll & Johnson, 1990). Therefore, it was important to mix the data during data collection and interpretation of analyses in order to elaborate on findings from one phase to the next, triangulate overall conclusions, and gain a comprehensive understanding of the process (Bryman, 2006). Research questions were incrementally addressed where the influence between phases was iterative, with each phase informing the next, and altogether phases had equal priority for addressing the study's purpose (Creswell & Plano Clark, 2011). This allowed for a post-positivist exploration of quantitative data seeking a determination or explanation of prosecution through measurement of factors and associations, and a constructivist exploration of qualitative data allowing for understanding of prosecution decision-making experiences (Creswell & Plano Clark, 2011). Use of a multiphase mixed process increased the design rigor for studying this complex social issue and provided greater insight than could have been gained from a qualitative or quantitative approach alone (Bryman, 2006; Creswell, 2009; Greene et al., 1989).

The study examined a sample of disclosure cases from one Children's Advocacy Center (CAC) in a suburban county in the Southern United States. The first phase of the study involved individual interviews with prosecutors of a district attorney's Child Abuse Division to explore how they handled and processed CSA cases. In these interviews, prosecutors described the case elements that they found influential and critical to the decision-making process. Considering these variables, the second phase of research focused on gathering data from CAC files in order to develop a prediction model. Finally, factors associated with prosecution as identified through the logistic regression models were included in the interview guide for the final phase of prosecutor interviews. In the third and final phase of research, prosecutors were asked to discuss the dynamics of a sample of cases in order to confirm and expand upon the factors influencing prosecution as identified in phase two. Prosecution was operationalized as charged or rejected based on the initial decision to pursue criminal charges with charged indicating a case was accepted by a prosecutor for referral to a grand jury, a good predictor of whether or not a case will be convicted (Cross et al., 1995). This research was approved by the university's Institutional Review Board.

4. Sample and setting

4.1. phase 1: qualitative interviews with prosecutors

Each of the six prosecutors in the county's Child Abuse Division was invited to participate in the research study. Four prosecutors, three female and one male, completed one-on-one in person interviews. All participants were White, aged 30–49 years old. Prosecutors worked in the division from 6 months to 10 years, with three serving the division for 4 years or more. In total, the prosecutors' professional careers as attorneys spanned from 5.5 to 20 years and three prosecutors had 16 or more years of legal

experience.

4.2. Phase 2: quantitative CAC records

One hundred cases were randomly chosen from approximately 658 available cases which had documented closed legal outcomes and available video-recorded interviews from July 2009 to October 2013. Cases were stratified and then randomly selected based on assignment to prosecutors, including 6 current and 5 former attorneys who were supervised by the same chief of the division, until 50 charged and 50 rejected cases were attained. All cases involved an adult perpetrator, defined by this state as anyone 17 years of age or older, because those were the cases processed by the Child Abuse Division. The CAC and Child Abuse Division provided reports of cases that met eligibility criteria: 1) a completed forensic interview 2) disclosure of sexual abuse, 3) a closed case – no longer in investigation, 4) a final legal outcome documented, and 5) the child was 3–16 years old at the time of the abuse. Additionally, in consideration of the modest sample size and in an effort to reduce variation of previous investigations, only first time reports of CSA that were documented and investigated were included. Eligible cases were classified into one of two groups based on outcomes: A) those whose cases led to criminal prosecution (accepted/indicted) and B) those whose cases did not lead to criminal prosecution (rejected).

4.3. Phase 3: qualitative prosecutor case reviews

A convenience sample of 10 cases from the 100 described above were the subject of individual in-depth case reviews. These were systematically chosen by selecting every third case available for each of the participating prosecutors. Three of the six prosecutors participated.

5. Procedures

5.1. Phase 1: qualitative interviews with prosecutors

A semi-structured interview guide was developed by the author and research assistants based on a review of the literature related to the prosecution of CSA cases. Interview questions aimed to assess the global experiences of prosecutors pursuing criminal charges in CSA cases. The guide also queried participants about factors that influence the decision to prosecute. Questions included: 1) What are some of the most common obstacles you have faced in pursuing prosecution? 2) What parts of the forensic interview are most important to your case? Interviews lasted 45–75 minutes. All interviews were conducted in person. Detailed notes quoting responses verbatim and written notes were transcribed within 72 hours.

5.2. Phase 2: quantitative CAC records

The author collected all case data from the state case tracking system and forensic interview videos. Each case was viewed individually and data were recorded on the research form which integrated portions of the checklist and interviewing stages presented by Cheung (Cheung, 2008, 2012) including, 1) building rapport, 2) free narrative, 3) questioning, and 4) closing. Case information was documented about the child, perpetrator, abuse allegation, as well as services received at the CAC. A disclosure statement consisted of the child's affirmation of sexual maltreatment by a narrative elicited in the forensic interview.

The variables included in model building procedures were selected for their previously documented relationship to prosecution or because of their theoretical relationship to this process. First, variables were added to the model based on Phase 1 participant feedback, including the number of details elicited in a forensic interview, whether a caregiver was supportive of the child at the time of disclosure and initial investigation, and the availability of other evidence. Using the definition of details described in research conducted by Orbach et al. (2000), details included any word or phrase identifying or describing people, objects, or events integrally related to the abuse allegation. Family support was categorized as a non-offending caregiver's support of the child's disclosure. Support for the child was characterized by one or both of these criteria: 1) the child describing in the forensic interview a primary caregiver who believed the child, supported the child's disclosure, reported the abuse, and/or cooperated with the investigation, 2) CAC records indicating that the primary caregiver supported the child, was protective, and/or cooperated with the investigation. Evidence was coded indicating whether or not other evidence was available. Other evidence included, 1) perpetrator confession, 2) failed polygraph, 3) witness, 4) physical evidence including medical, 5) media including texts and videos, and 6) other victims. Polygraphs, while not admissible in court, often led to additional evidence. Related to the forensic interview was the exploratory investigation of how a child's transition into a disclosure narrative could potentially indicate readiness and comfort describing abuse, and relate to the overall interview quality which might influence prosecution. Previous research has found that the use of supportive interviewing practices can help a child communicate disclosure narratives (Hershkowitz et al., 2014).

Second, child and perpetrator characteristics, number and type of abuse experienced, and relationship between the child and perpetrator were examined for their association to prosecution based on research demonstrating that age, gender, race, abuse severity, and relationship influence disclosure and legal investigations (Brewer et al., 1997; Goodman-Brown et al., 2003; Hartley et al., 2013). Third, because a medical referral could be associated with evidence or eliminate curiosity about the potential for evidence this variable was explored (McGregor et al., 2002). Fourth, based on the concept of a child's mental health influencing readiness for disclosing and emotional stability for pursuing prosecution (Cross et al., 1994) therapy was examined. Finally, CAC services received

by the child and family following abuse were later added as a predictor variable when analysis of descriptions suggested that services reflected varying levels of interaction that might be different between cases prosecuted or not.

5.3. Phase 3: qualitative prosecutor case reviews

Case reviews were completed using a semi-structured interview guide, probing when necessary, to facilitate the discussion of each case and the prosecution process. Questions were generated by incorporating findings from Phases 1 and 2, integrating previous research, and allowing the prosecutor to expand upon the process and dynamics of a case that influenced prosecution. Interviews began with a prosecutor providing an overview of the case, including what the allegations were and the steps taken to reach the final prosecutorial decision. Directed questions were then asked about potential influential factors such as the availability of evidence and caregiver support. For example, prosecutors were asked: 1) What evidence was available for this case? 2) Was the caregiver or family supportive of the child? If so, how? One of the prosecutors was the chief of the division who had served as a consultant or was directly involved in the proceedings of all cases used in the study. One prosecutor reviewed two cases, one reviewed four cases, and the chief reviewed four cases handled by different prosecutors in the division for the years sampled. The cases represented the efforts of six different prosecutors. Case reviews lasted 60 to 90 minutes. Detailed notes quoted participant responses verbatim and written notes were transcribed within 72 hours.

6. Analysis

6.1. Phase 1: qualitative interviews with prosecutors

Analysis was conducted without software by the author and an assistant. An iterative content analysis procedure was used (Miles & Huberman, 1994; Patton, 2002). The author and research assistant, a PhD student, first independently read transcripts repeatedly and then inductively coded all four interviews. Coding was discussed to come to consensus about relevant codes and create an initial coding scheme. The codebook was then used to independently code all interviews. A meeting was held to review coding and resolve discrepancies through in-depth discussion and negotiated consensus of the emergent themes. The final themes related to factors that influence the prosecution process: details about the abuse allegation, corroboration of a child’s disclosure through other evidence, and family support. These key themes were added as variables to the final data collection instrument for Phase 2, Quantitative Review of CAC Records, which also included variables relating to the child, perpetrator, and abuse.

6.2. Phase 2: quantitative CAC records

All case record and forensic interview data were quantified and entered into SPSS v.22. Descriptive statistics were used to describe the sample. Independent variables recorded on the data collection instrument included youth, perpetrator, and abuse characteristics, details in the forensic interview, when the child transitioned to a disclosure narrative (following first prompt or later), services received, caregiver support, and other evidence. The dependent variable was whether or not a case was accepted for prosecution. Correlates of risk for prosecution were based on comparing CSA cases accepted for prosecution with those who were rejected. A model building procedure outlined by Hosmer and Lemeshow (2000) was used to identify correlates of prosecution. First, the linearity of the logit for continuous predictor variables was assessed and one variable, number of services provided, was corrected. A new services variable was created by adding 1 to all cases so that no values were 0. A square root transformation was then used to correct the variable. Next, univariate logistic regression analyses were conducted to identify correlates of risk for the baseline multivariable model. Variables found to be correlated with prosecution proceedings using a value of P < 0.25 were entered as the first set of predictor variables into a baseline multivariable model with prosecution as the criterion variable. This included all 10 correlates of prosecution listed in Table 1.

In an effort to identify the most parsimonious model, predictor variables that were not correlated with prosecution using a value

Table 1
Correlates of Prosecution in CSA cases.

Variable	B	SE	p	OR	95% CI	Cases prosecuted more likely to:
Child age (continuous)	-0.106	0.055	0.055	0.90	0.81–1.0	Be younger
Child gender	0.932	0.582	0.109	2.54	0.81 – 7.9	Be female
Hispanic	-0.486	0.404	0.230	0.61	0.28 – 1.4	Be non-Hispanic
Transitioned to disclosure after asked purpose of visit	-0.811	0.494	0.101	0.44	0.17 – 1.12	Disclose abuse after more than the first transition prompt (purpose of visit)
Sexual abuse (continuous, 1–6)	0.419	0.220	0.057	1.52	0.99 – 2.3	Have more experiences of different types of sexual abuse
Support	1.47	0.551	0.007	4.4	1.5 – 12.9	Have caregiver support
Services (continuous)	1.18	0.248	0.000	3.1	1.9 – 5.0	Receive more services
Medical referral	1.53	0.440	0.001	4.6	2.0–11.0	Have a medical referral
Other evidence	1.99	0.519	0.000	7.3	2.7 – 20.2	Have other evidence
Therapy	2.19	0.550	0.000	9.0	3.1–24.4	Receive therapy

of $P < 0.10$, in the baseline multivariable model were excluded from the subsequent model. From the original 10 variables included in the baseline model, only three variables, support, services and other evidence, had p -values less than 0.10. The use of less conservative p -values is based on the work of Bendel and Afifi (1977) and Mickey and Greenland (1989) which found that the traditional p -value level of 0.05 often overlooks variables of potential theoretical contribution. To verify the importance of remaining predictor variables and to help determine that important variables were not eliminated within this model, each variable was examined to ensure that estimated coefficients did not change markedly in magnitude from the baseline model to the preliminary main effects model. Practically relevant interaction terms, based on the extant literature, were also explored. Since the interaction terms were not statistically significant or meaningful, the likelihood ratio test was then used to compare the baseline multivariable model with the new, more parsimonious model. There was no significant decrement in fit ($LRT X^2 = 7.17$, $df = 7$, $p = 0.42$), thus, the more parsimonious model was retained.

6.3. Phase 3: qualitative prosecutor case reviews

The author and a research associate, a psychologist, analyzed interview transcripts using framework analysis (Ritchie & Spencer, 1994). Five stages of analysis included: familiarization, identifying a thematic framework, indexing (coding), charting, and mapping and interpretation. The process merges deductive and inductive coding approaches, allowing incorporation of a priori issues while also exploring emergent issues. Following familiarization with the data and initial coding, a codebook was developed and independent coding was completed. The process was iterative and required meeting to discuss coding in depth and coming to consensus by discussion and negotiation about the meaning of codes and thematic patterns. Member checking was completed by contacting prosecutors during analysis to clarify or confirm data and following analysis to review aggregate findings.

7. Findings & results

7.1. Phase 1: qualitative interviews with prosecutors

Prosecutors began each interview by providing an overview of the criminal prosecution process. Investigations were initiated through CPS or law enforcement and then referred to the CAC. If it was determined that a criminal offense had occurred, a case was referred to the Child Abuse Division where it was randomly assigned to a prosecutor for intake review. The prosecutor made a decision to file a case or not, and if filed, the grand jury subsequently provided an opinion. Once in the district court, it was assigned to one of the existing courts where a prosecutor was also assigned. Participants described the decision to prosecute as a complex series of steps where “legal decisions are made all along the way.” The three factors that were consistently described as influencing prosecution decisions were caregiver support of the child, the details provided by the child, and the availability of evidence.

7.1.1. Caregiver support

Prosecutors described caregiver support as an influential factor for prosecuting a case and achieving a successful outcome. A non-offending caregiver’s support was described as being protective and helping a child feel comfortable discussing sexual abuse. While a parent’s support is best, any support from caregivers, including extended family members, can help children communicate about abuse. When asked about how cases were prosecuted, one prosecutor said: “It really comes down to the strength of the victim and the support the victim has around them.” Another prosecutor stated that evidence was of primary importance and “Secondary to that is support that the victim gets from mom or other family members.” Another prosecutor described how a lack of parental support sends a very strong negative message, “We’ve had cases where mom is supportive of the defendant and so the message that sends to the child is they are not doing the right thing.” Caregiver support is integral to strengthening the child’s resolve to discuss abuse and serves as an important element for safeguarding children from additional abuse. Caregiver support or lack of support influences a child’s comfort in sharing details.

7.1.2. Details

Prosecutors viewed a children’s forensic interview in order to assess the details provided in their accounts of sexual abuse. Central to pursuing prosecution is the clarity of child statements and the level of detail provided. A child’s ability to discuss abuse often “depends on the child being ready to talk about it,” but the forensic interviewer assists by “ask[ing] a lot of open-ended questions.” Once a child discloses abuse, it is important that the interviewer is “... thorough in questioning. What did something sound like, smell like, taste like? Details, the little details. Little details convince someone that you are telling the truth.” Another prosecutor shared how the forensic interview is an opportunity to hear the child’s descriptions:

The ones that stand out are the ones where a little kid says things they wouldn’t know unless they experienced it. It’s a child’s description, but it’s clear ... We hear grown up acts described with a child’s words. The truth is in the details ...

Details provided in the forensic interview are directly tied to law enforcement’s investigation. As the prosecutors described, the specifics of a case such as the ages of the parties involved and nature of the sexual abuse experienced determine criminal charges. The details characterizing the abuse provide opportunities to confirm a child’s statement.

7.1.3. Evidence

Closely connected to the details provided by a child, was the collection of corroborating accounts and evidence. One prosecutor

described the investigative procedures saying, “You have to handle evidence in a proper way so as not to allow anything to be destroyed or a defense attorney to alter the credibility of the child.” Additionally, “The quality of investigations is the most significant factor in a positive outcome. You need details, workers that can collect and build a case.” Reflecting the general sentiment toward accountability, while emphasizing the need to substantiate a child’s statement, another prosecutor stated, “While you certainly want to prosecute anyone who has committed a crime against a child, you have to have evidence. In all cases the child is the primary evidence.” During the first step in the prosecution process, a prosecutor reviews all evidence. One prosecutor described the intake objective as:

... looking for sufficient evidence. The legal standard is probable cause. If we got a sufficient statement from the child that can be probable cause or if we have a statement from the defendant, and along with the defendant, if there is an eyewitness ... looking to see if I believe a crime occurred, if there is enough evidence for prosecution, to go to court in good faith and prosecute.

7.2. Phase 2: quantitative CAC records

Among the 100 cases analyzed, the 50 cases prosecuted included children who were 60% non-Hispanic, 45% female, and a mean age of 11.20 years (SD = 3.97). Perpetrators were 56% non-Hispanic, 100% male and a mean age of 32.73 (SD = 14.21). Children knew the perpetrator 92% of the time and had a familial relationship 62% of the time. Race was collapsed to Hispanic or Non-Hispanic because this was the largest group in the sample and it better accommodated modeling with a limited number of cases.

7.2.1. Forensic interview

During their interviews children in cases prosecuted provided an average of 51.94 (SD = 16.69) details. Half of these cases involved CPS. Children were most often victims of penile penetration (30%), fondling of the genitals (30%), digital penetration (26%), and/or oral sex (26%). Slightly more than half of the children in cases prosecuted (52%) described experiencing more than one type of abuse, a mean of 1.9 (SD = 1.07). In the child’s interview or in the CAC records, 74% of all non-offending caregivers were identified as being supportive of their child’s disclosure at the time of the interview.

7.2.2. Evidence and services

Additional evidence was available for 50% of cases prosecuted. Most often this evidence included confessions (22.9%), other victim disclosures (22.9%), failed polygraphs (17.1%), and media (17.1%). Sixty percent of the cases prosecuted received a medical referral for a hospital exam. Children also received a variety of CAC services including information about the case or criminal justice system and follow-up phone calls (50%), referrals or coordination of social and family services (42%), and case review team meetings (46%). Services provided ranged from 0 to 84 with a mean number of 25.72 (SD = 17.41).

7.2.3. Final legal outcome for cases prosecuted

Among the 50 cases prosecuted, the final legal outcome included 14 (28%) receiving dismissal, 18 (36%) receiving state penitentiary confinement, and 18 (36%) receiving deferred adjudication. This is a 72% sentencing rate.

7.2.4. Multivariable model

In the final multivariable model ($X^2 = 59.05$, $df = 3$, $p < 0.001$; Nagelkerke $R^2 = 0.595$), Caregiver support (OR = 5.1; 95% confidence interval [CI] = 1.4–19.1), other evidence (OR = 4.7; 95% confidence interval [CI] = 1.4–15.4), and number of services received (OR = 3.2; 95% confidence interval [CI] = 1.9–5.3) were the strongest predictors of prosecution. These three variables accounted for 59.5% of the variances in the logistic regression model (see Table 2). The strongest predictor of prosecution indicates that children who have caregiver support at disclosure have more than a 400% greater chance of having a case accepted for prosecution than those children who did not have caregiver support.

7.3. Phase 3: qualitative prosecutor case reviews

Participants in this sample included three female prosecutors who were White and ranged in age from 30 to 49 years. These three prosecutors also participated in Phase 1 of this study. Most children (n = 9) in the cases reviewed were female and ranged in age from 4 to 16 years. Ethnicity among children and perpetrators was identical with two cases involving African American individuals, four involving Hispanic individuals, and four involving White individuals. The perpetrators’ relation to the children included a friend,

Table 2
Final Logistic Regression Model: Predictors of Prosecution in CSA Cases.

Predictors	B	SE	p	OR	95% CI	Cases prosecuted more likely to:
Caregiver support (Y/N)	1.62	0.675	0.016	5.1	1.4–19.1	Have caregiver support
Other evidence (Y/N)	1.55	0.611	0.011	4.7	1.4–15.4	Have other evidence
Number of services	1.19	0.279	0.000	3.2	1.9–5.7	Receive more services

$X^2(3, N = 100) = 59.05$, $p < 0.001$; Nagelkerke $R^2 = 0.595$.

family friend of a friend, church member, father, stepfather, grandfather, and uncle. Victimization ranged from single incident sexual abuse by digital penetration to attempted penile penetration. The time from first abuse experience to disclosure at the forensic interview ranged from the day after the abuse to five years later. The final prosecutorial outcome included a single dismissal, deferred adjudication in three cases, and up to 35 years of time in the state penitentiary for six cases.

Four major themes emerged about the elements influencing prosecution and the decision-making process: 1) a child's disclosure as the primary evidence, 2) evidence gathered through a quality investigation, 3) caregiver support, and 4) the decision to prosecute.

7.3.1. *A child's disclosure as the primary evidence*

Prosecutors described a child's disclosure as pivotal to prosecution. A child's disclosure served as the basis for the investigation in all ten cases. Prosecutors outlined three underlying elements – an immediate outcry, details, and credibility – as the most important aspects of the disclosure narrative.

More than half of the cases were described as situations in which the child immediately told someone about abuse, someone witnessed the abuse and told immediately, or someone asked the child about abuse soon after the incident. Relating timing of outcry to credibility, one prosecutor said this, "There was an immediate outcry. It wasn't something that happened 2 or 3 years ago. She told the very next day. Jurors tend to find that credible." Related to the immediacy of the outcry, one prosecutor stated, "The length of time can also affect emotions. They may be desensitized. When it is close to the incident, emotions are raw." The ability to provide vivid details, particularly for cases that do not involve repeated or continuous abuse, is often related to the child telling about the abuse as close to the time of the event as possible.

In their descriptions of the children's forensic interviews, prosecutors discussed the importance of details in determining the nature of sexual crimes and portraying a clear chronicle of experiences. One prosecutor shared questions to be considered, "How are they talking about it and what kinds of details are they providing? Can they talk about sensory details – smell, taste?" Another prosecutor distinguished that touching a child's buttocks was a different level of crime than vaginal touching. The prosecutor provided this description, "She said he put his hands in her pants and touched her bottom. He touched her vagina over the panties. That's important, because touching a child's butt is a Class C misdemeanor, not a felony." Associated with the amount of details provided by children are the impressions their disclosure narratives give to those involved in investigating and potentially to any jurors involved in sentencing.

The prosecutor's descriptions about the child's disclosure as primary evidence was strongly connected to how the child's statements emerge, how the child tells of her or his experiences, and consistency. Although notions of credibility do not emerge for all interviews, there was a consistent pattern. In one case the prosecutor shared.

The way her outcry comes out is pretty credible. What she says happens in the evening while her brothers and sisters are in the living room. There is a complaint from the children about chores and mom questions her daughter.

Related to the idea of dependable accounts, another prosecutor reported that having "two consistent statements" strengthened a case. For other cases, believability was related to the child's reaction in disclosing abuse. One prosecutor commented, "She was believable because of the way she described it. The emotions. Kids that are silly get scrutinized more. Does the emotion match what happened?" Overall, the theme concerning a child's disclosure as the primary evidence reveals how a child's statements prompt further investigation.

7.3.2. *Gathering evidence*

In the investigation of sexual abuse allegations, the prosecutors describe law enforcement building a case by using the child's statements to gather evidence. The immediate systematic approach taken by officials determines the quality of the investigation. The process of gathering evidence is comprised of two central components: corroborating the disclosure and using the substantiated allegation to pursue a confession.

Corroboration of sexual abuse involves interviewing individuals present when a child was abused, whether or not they witnessed the event, comparing facts, completing DNA tests when appropriate, searching for media such as texts, videos, and pictures, getting statements from all children abused by the perpetrator, and requesting a polygraph. Prosecutors emphasized how good investigations explore as many leads as possible in order to gather additional evidence and enhance the prosecution potential. In many instances, the collection of corroborating findings makes it incredibly difficult for a perpetrator to continue denying allegations, leading to partial or full admissions of sexual abuse. Following the disclosure of two victims in a related case, a "defendant comes in for an interview. He starts blurring everything out. He immediately tells that he had been molesting both boys." Polygraphs can also be helpful when a perpetrator is denying actual wrongdoing. In one case, after a father denied all allegations, "He took a polygraph and failed. Then he admitted to touching his daughter on the side of her vagina." Securing a confession of any level was considerably beneficial to pursuing prosecution. With an efficient and expedient investigation, the combination of corroborating findings and confessions added credibility to children's statements.

7.3.3. *Caregiver support*

In 8 of 10 cases, prosecutors described children having a supportive parent. In one case, mom was described as having a drug problem, and while she was not supportive, there was another caregiver who was supportive. The prosecutor described this situation, "She was with her grandma as the case was pending. Mom was supportive of dad. Grandma was very supportive. She brought her here when needed." Support of the child varied greatly over the course of the investigation and was expressed differently for many families. For some caregivers, support was immediate as they confronted the perpetrator and initiated an investigation. A prosecutor

described such a case, ‘Mom confronts dad and he said he didn’t do anything ... She lets the cops in ... Mom got a protective order Mom completed a victim impact statement.’ Even when a parent wasn’t sure what to believe, she demonstrated support by filing a report. The prosecutor described, ‘Mom was hesitant. Not sure if she should believe the child. She made the report and gave a statement to the police ... The family had mixed feelings.’ In some cases, support wavers. A parent may be supportive of a child providing a disclosure and even cooperate with the investigation, but then experience a change in feelings. Although support over the course of a case may change, the descriptions provided by prosecutors for these cases strongly suggest that initial support by a caregiver is essential.

7.3.4. *The decision process*

In their interviews, prosecutors described the factors related to pursuing criminal charges and conviction for each case. As they described the influential factors, the prosecutors also clearly defined the process of making a decision. Decisions over the course of criminal prosecution were strongly tied to an ongoing evaluation of the evidence. This evaluation was depicted as assessing the strength of a case and then taking a balanced approach.

The first decision in the criminal prosecution process is the decision of whether or not to file charges against a perpetrator. This decision is very strictly based on the availability of evidence. As one prosecutor described, ‘I get the offense report, CAC file, SANE [sexual assault nurse examiner] records. We get a packet of everything that goes with a case. There is a lot of corroborating evidence.’ Alternatively, the opposite decision could be made when evidence is limited. One prosecutor said, ‘If I think there is not enough evidence, I will reject.’ An admission of wrongdoing by the perpetrator further simplifies the decision. As cases progressed through sentencing, the strength of the evidence was assessed to determine what offer should be made and what outcome was reasonable. In a case that was eventually dismissed, the prosecutor noted that there was ‘enough to get him indicted, but not move forward.’ In explaining the process, this same prosecutor stated:

We are always going to take a case forward and let the grand jury help. Even if the evidence is weak ... If we have some doubt ... If we don’t believe in a case, we shouldn’t be trying to get the case indicted. For the grand jury, you are asking ‘do you think there is sufficient evidence?’

As prosecution continues beyond the initial decision to file charges, the sentencing phase becomes very complicated. Once a case is indicted, the prosecutor must determine what plea offer to give and establish how far to pursue charges. Considerations for justice, the best interest of the child, family, perpetrator, and community are all deliberated upon in order to establish a course of action that is fair and reasonable. One prosecutor aptly captures this complexity:

You have to assess if a case is strong enough to move forward. If there are strong charges. We want to protect children. We look at the community objective. Being focused on justice. Everyone has their own feelings about what is right and just. Over time the definition of justice changes. There is a continuum of punishment available. My recommendation might be one thing because of the trauma to the victim, the severity of a case. Many things come into play. I rarely say I don’t want to pursue charges. Most often it is about not wanting to go to court.

Taking a case to court requires the child to testify. Prosecutors described their considerations for putting a child through the trial process. One prosecutor noted that a child’s parents ‘didn’t want her to testify. The defendant knew this from talking to the family. They shared a family.’ In another case, the ‘daughter feared going to court’ so ‘3 years in prison [was] a reasonable resolution to avoid trial.’ In another case, the prosecutor described part of the community perspective by saying ‘each case has its own ick factor. A jury is going to be more affected and upset by someone being penetrated than not.’ A consideration for the perpetrator was described when the prosecutor said ‘I considered his youth and no other felonies.’ Another prosecutor shared several perspectives demonstrating how complex and varied cases can be:

It can be difficult, because a) you don’t know if you can prove it. And are you really willing to ruin someone’s life? Sometimes you have an inkling, but they are difficult to prove. One of the reasons a grand jury exists is to be the voice of the community. To listen to details and make a decision. Even if I decide it is appropriate for charges to be made, they have to review the details and make a decision.

8. Discussion

The prosecution of CSA cases is an arduous process where initial decisions are made based on evidence that commences with a child’s disclosure narrative. Through this mixed methods study, qualitative and quantitative phases of inquiry using CAC case records and prosecutor interviews were integrated to provide a comprehensive understanding of the decision to prosecute CSA cases. Results across all study phases reveal the consistent influence of caregiver support and other evidence on prosecutorial decision-making.

8.1. *The influence of caregivers and evidence*

Supportive caregivers accepted the child’s disclosure and cooperated with the investigation. This is consistent with other literature that finds that overall, non-offending mothers tend to respond with belief and emotional support (Knott, 2012) and guardians are partially or fully supportive (Bolen, 2002). Lack of support could be related to a caregiver’s own personal difficulty coping with the situation, reflect pressure from family members to support a perpetrator, or relate to cultural expectations. In many countries,

ethnic and religious culture can influence the process of disclosing and reporting CSA (Fontes & Plummer, 2010). In some collectivist cultures, such as African or Asian societies, there may be a low tendency to disclose or report CSA because of shame, a patriarchal hierarchy, family honor or reputation, and the cost of losing a provider to harsh punishment (Boakye, 2009; Han & Kim, 2016). Although findings about parental belief, support, and protection may be inconsistent in the literature, non-offending mothers are less supportive and less protective when the perpetrator is a partner (Elliott & Carnes, 2001), and may blame and doubt more when children are older (Walsh et al., 2012).

Evidence is of critical importance to the prosecution of CSA cases (Brewer et al., 1997; Cross et al., 1994). Recently, Cross and Whitcomb (2017) found that the most common reason prosecutors declined to prosecute a child maltreatment case was because of the absence of corroborating evidence. In most cases where additional evidence is found, the search begins by pursuing information gained from the details provided by children in their disclosure narratives. Supplemental evidence can range from disclosures made by other children to media. Details strengthen the investigation by yielding opportunities to corroborate a child's statements. The consistency found for eliciting details in cases that were prosecuted and rejected may reflect the use of an interview protocol which strives for both accuracy and consistency in collecting the most details from every child. Consistency in collecting disclosure statements is important as research on the type of evidence leading to prosecution has revealed that having two types of evidence, including disclosure narratives, a corroborating witness, perpetrator confession, and disclosure from another child predicted a decision to file charges (Walsh et al., 2010).

8.2. The potential for offering support through services

The number of services provided to and on behalf of children and families was associated with a decision to prosecute CSA cases. Beyond caregivers, support of the child included the investigative system assisting families throughout the process. Whether a caregiver was supportive of the child or not, family members serving as guardians could cooperate and engage in services. A review of CACs suggests that services received by families reduce the stress and trauma of the investigation process (Elmquist et al., 2015). While the CAC model is used in more than 27 countries (National Children's Advocacy Center, 2017) supportive services extend beyond the CAC model. In South Korea, therapists serving families involved in CSA investigations indicate that parents want emotional support with tailored and flexible service delivery (Han & Kim, 2016). While greater service interaction may reflect family interest and motivation to support children, it also represents an opportunity for investigating agencies to increase parent or caregiver involvement. Originally, the objective for quantifying the number of services received was to portray the range of interactions between the CAC and families. However, in the process of reviewing service notes, it became apparent that services reflected a family's level of engagement in the investigative process. Due to the late addition of services in the model, it is unclear how services and interaction between the CAC and families may have differed prior to a decision to prosecute compared to after the decision was made. As a standard of practice, most cases receive basic services such as information and referrals. However, prosecution was related to cases where families received more services. The lack of an interaction effect among services and support suggests that it is possible to focus on each of these factors separately to increase the likelihood of prosecution.

8.3. Prosecutorial decision-making

As reflected in prior research, prosecutorial decision-making in CSA cases is affected by the availability and quality of evidence which is at the crux of the initial charging decision (Chin, 2010; Cole, 1970). The findings from this study broaden the understanding of prosecutor decision-making, by revealing a shift in roles over the course of the prosecution process. The prosecutor transitions from a role that is primarily an evaluator of evidence to one that is an advocate of justice. Prosecutors use a framework of balanced justice in their discretion to prosecute CSA cases. There is no universal standard; rather, every case presents a unique combination of circumstances and characteristics to be considered. When in doubt, prosecutors often rely on shared decision-making by relying on the grand jury's decision. As a case moves forward in the charging process, the decision about final outcome involves balancing the assessment of evidence with many considerations. These considerations are objective and subjective appraisals of what justice requires, what is in the best interest of the child, what the crime was and who the perpetrator is, including criminal history, how supportive the family is in the criminal proceeding process, and what community members such as the jurors will think of the case and evidence.

8.4. Protecting children through prosecution

Prosecution is a critical component of a comprehensive child protection and CSA prevention strategy because criminal conviction is the most consequential response communities have for holding child sexual offenders accountable (Cross et al., 2003). Just as the etiology of child abuse is understood as a series of risk factors and protective factors complexly interwoven through interactions among varying systems (IOM & NRC, 2013), prevention approaches must include strategies targeting multiple levels (Krug et al., 2002). At the community level, a lack of enforcement of child abuse laws may suggest tolerance (Krug et al., 2002). Therefore, prosecution reflects the societal norms and social policies established to deliver justice and protect children from victimization. Prosecution may also be important in returning control to the child, promoting safety, and preventing offenders from further crime (Walsh et al., 2010) through confinement, monitoring, and linkage to treatment.

With prosecution varying greatly across jurisdictions (Cross et al., 2003), it is critical to recognize the elements considered to arrive at a decision. While this knowledge is important for strengthening investigative efforts, the disparity in accepting and charging

cases found in previous literature and the evaluation of criteria identified in this study also reveals the authority of decision-makers. Gershman (2011) describes prosecutorial decision-making as an “extraordinary exercise of discretionary power” that eludes standardization in arriving at a decision (p. 1259). With considerable power, the prosecutor evaluates competing considerations for the victim, accountability, justice, and the need for the system to deter criminal behavior (National Center for Prosecution of Child Abuse, 2004).

Several implications emerge from this research. First, caregiver support matters for eliciting disclosure statements and investigating allegations. Professionals can promote caregiver support by using service opportunities to engage families and assist them during a difficult time. Second, evidence is of paramount concern in legal proceedings. By working together, investigative team members can gather further proof of abuse which may be important for perpetrator admissions and family resolutions to seek justice. Third, prosecutorial decisions are informed by data and deliberated upon in a process of reconciling justice. This provides opportunities to influence the decision-making process. Similar to the way a multidisciplinary model of cross-disciplinary cooperation may be used to decide the likelihood of CSA (Everson & Faller, 2012), professionals can fulfill their independent roles by coordinating with a team to make critical decisions (Wiley, 2009). In doing so, professionals share in decision-making in much the same way the grand jury does. For example, in the CAC model, multidisciplinary collaboration encourages attorneys, police officers, forensic interviewers, child protection workers, mental health providers, medical professionals, and advocates to conduct coordinated investigations (NCAC, 2017b). The most effective response to CSA, including prosecution, should involve communication among MDT members through case reviews to refine planning, share information, and problem solve together (Cross et al., 2008). Finally, community policies are needed to establish new and ongoing education, trainings, and resources in order to build awareness and skills about investigative issues and implement strong practices.

8.5. Limitations

This study included CSA records from one CAC restricting exploration of case data to that which was previously collected. This convenience sampling limits generalizability. Mixed methods research can be complex to implement requiring careful planning, timing, integration of methods, additional resources, and adherence to each method’s standards for rigor (Wisdom & Creswell, 2013). However, mixed methods research also allows for methods to be compared, is grounded in the participants’ experiences, and provides rich, comprehensive data (Wisdom & Creswell, 2013). The use of data from multiple sources with multiple methods improved the accuracy of findings. Although the sample was small, efforts were made to reduce the number of categories entered in the analysis. The model building procedure may also be considered exploratory with opportunities to expand future research. Further, the difficulty faced in identifying a sample of rejected cases may reflect a higher rate of acceptance for this county compared to others. Response bias was possible during the case reviews with prosecutors as they might have felt the need to justify decisions and proceedings. As prosecutors ultimately have the final discretion in a decision to prosecute, questions remain about variables not explored in this study. For example, further research might examine if and how prosecution is evaluated in various communities in order to improve processes and outcomes. Other areas for exploration may include examining how family dynamics and circumstances, resources, and prosecutors vary by community.

9. Conclusions

The major findings of this research demonstrate the complexity of investigating and prosecuting CSA cases. Findings most strongly illustrate the influence of caregiver support and evidence on prosecutorial decision-making. By understanding the elements weighed, process used, and discretion practiced as a function of prosecution, professionals investigating CSA in communities everywhere can work to strengthen data gathering efforts, engage and support families, and collaborate to influence judgements about how to legally proceed with cases. As explained by prosecutors, the crux of the investigation and principal evidence is the child’s disclosure. Detailed statements enable law enforcement to search for corroborating evidence. Regardless of the investigative model used, communities can bolster child protection efforts by encouraging multidisciplinary team members to interact in eliciting comprehensive child statements. In communities where multidisciplinary cooperation is limited, government efforts to enact policies and funding for these endeavors may facilitate improved CSA investigation and prosecution. Further, interaction among professionals counterbalances independent influence by promoting discussion about family involvement and determination of the most appropriate legal actions. These judgments are critical for addressing the criminality of child sexual abuse, whereby a community’s response to offenses is one part of a cohesive child abuse prevention and protection strategy.

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