



# Child sexual abuse—Medical statement conclusions in criminal legal process



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## ABSTRACT

**Objectives:** To evaluate medical statement conclusions in the criminal-legal process in suspected cases of child sexual abuse (CSA).

**Study design** An observational study of a random sample of 130 medically examined, police reported CSA suspected cases during 2001–2009. Medical statements were evaluated and their conclusions were analyzed with an end-point in the legal process. The data consists of official investigation documents from the University Hospital records, the Police, crime laboratories, the State Prosecutor, and the Courts of Law.

**Results:** The median age of the children was 5.3 years (range 11 months–17.3 years) at the time of the suspected sexual abuse. In most cases (76.2%, 99/130) medical statement conclusions neither supported nor excluded the suspicion of CSA. Twenty-one (16.2%) medical statements supported and in 10 cases (7.7%) the conclusion did not support the suspected CSA.

Of the suspected CSA cases a hundred (76.9%) proceeded to the Prosecutor. The charge filing rate was 41.5% (54/130). The final conviction rate was 30.8% (40/130) and 74% in the charged cases. Medical statements were mentioned as evidence in the Prosecutor's decision to file charges in 18 (33.3%) of suspected CSA cases and in 15 (36%) of verdicts. A child's clear disclosure of CSA ( $p < 0.001$ ) and medical statements ( $p = 0.037$ ) had a significant role in decision making on convictions.

**Conclusion:** In medical statement conclusions, physical findings with proper documentation and interpretation are needed to avoid misunderstandings in the legal process. The present study supports a routine medical statement peer review to minimize the risk of neglect caused by lack of knowledge among authorities working with sexually abused children.

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## 1. Introduction

Child sexual abuse (CSA) allegations are a multidisciplinary challenge for health care professionals as well as for social services, criminal investigators, prosecutors and the Courts of Law. In previous reports, physical evidence alone is rarely obvious enough to support the suspicion of sexual abuse, as in children, objective medical findings are rare [1–6].

The role of written medical statements as evidence in the legal process is unclear [7]. CSA is often extremely difficult to prove in a legal sense with a lack of (physical) evidence and challenges related to the arrangement of the child's hearing together with the varying quality of the child's disclosures of alleged sexual crimes

[8]. Indicted cases tend to have at least two types of evidence, which is often the victim's disclosure with corroborating evidence [6]. There is conflicting data on whether medical evaluations have an effect on prosecutions or convictions [9–15]. In previous studies, medical evidence and confessions have been found to be strong predictors of prosecution [8–10,14]. However, in other studies, no relationship between medical evaluations and prosecutions or convictions was found [12,13,15].

In Finland, CSA victims are referred to health care professionals for medical evaluation and/or forensic interview if the Police consider it necessary. The preliminary investigation is led by the Police in collaboration with the Prosecutor. During the past 10 years there has been enormous progress in national as well in international guidelines and literature, and changes in the Finnish criminal and child welfare laws.

The objective of our study was to evaluate medical statement conclusions and to analyze their role in the criminal legal process.

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## 2. Material and methods

This multidisciplinary study combines official documents in the criminal process of child sexual abuse (CSA) allegations; forensic medical examinations, preliminary investigations, prosecutor's documents and court verdicts. In all cases, a forensic medical statement was required to be included in the official documents as evidence at every stage of the criminal process.

The formation of the database was conducted phase by phase, and organization by organization. All the official documents are stored in separate databases and archives administered by different authorities. We were given permission separately in each case to collect and combine data from medical files with official documents from preliminary investigation files, prosecutor's documents and court handling decisions to form a dataset. Data was formed and analyzed anonymously with careful ethical consideration, so that an individual child cannot be recognized. The study protocol was approved by the Ethics Committee of the Pirkanmaa Hospital District, Tampere, Finland and the National Police Board, Helsinki, Finland.

### 2.1. Data collection

1. Medical records collected by computer data search combination.
  - a. ICD-10 diagnoses (Z04.4, T74.2, F65.4, Z61.4, Z61.5, Y05.0, Y05.10, Y05.11, Y05.2, Y05.8, Y05.9) covering all aspects of child sexual abuse.
  - b. Medical examination unit/out-patient clinic during 1.1.2001–31.12.2009 and
  - c. Age limit under 18-years annually.

We retrospectively reviewed a random sample of CSA cases collected from the University Hospital records. The medical records were collected from the hospital archives by the archivist. We included in the study only such medically examined CSA cases where a crime investigation case number was found in the medical records.

2. The cases were identified in the National Police Information System by the crime investigation number. Sergeants responsible for those CSA cases were identified from the Police Information System, which is a national crime register. Authorization to view the actual preliminary investigation files was provided separately from each sergeant in charge of those cases by written consent.
3. Data requests for the preliminary investigations by CSA crime case numbers were sent to the Prosecutor's office. From the *Prosecutor's office* we received archive numbers of those cases that proceeded to court handling as well as the documents of the Prosecutor's decision to dismiss cases.
4. We made a request for the *District Court archive documents*, which included the Prosecutor's application for a summons, the judicial decision and possible sentence.
5. If the district court's conviction was appealed against from the district court to the *Court of Appeal*, a written request was sent to the Court of Appeal for the lawful decisions in these cases.

*Variables collected from files:* Gender and age of victim, number of victims and perpetrators, offender's relationship to victim, date of alleged CSA, continuity, alleged abuse type, date of report to law enforcement, prosecutor, and court verdict date, forensic medical examination dates, acute or non acute examination, forensic sample collection and findings, expert statement conclusions, additional examinations, other investigation procedures, status of criminal investigation, verdicts, offender's confession.

A Statistical analysis was made by using SPSS (version 18.0). Tests applied for data were Pearson's  $\chi^2$ -test and Fisher's exact test, and statistical significance was assumed if  $p < 0.05$ .

### 2.2. Definitions

#### 2.2.1. Case

An under 18 year old child who has been the victim of a sexual crime according to allegations.

#### 2.2.2. Medical examination

A clinical forensic medical examination performed by a physician, consultant or trainee in gynecology and obstetrics or a pediatric outpatient clinic.

#### 2.2.3. Medical statement

A written statement of clinical forensic medical examination which includes the documentation and the interpretation of the physical findings by a physician. Written medical forensic statements present the physical findings in medical examinations and translate the meaning of these findings or the lack of them into "multidisciplinary language" understood by other professionals.

### 2.3. Exclusion criteria

Two hundred and sixty five randomly selected medical records were reviewed from the University Hospital medical records. Forty-five cases were excluded even though a forensic medical examination was performed; either there was no police referral or there was no written request for the medical statement in the medical files, that is, the police officer had only escorted the suspected victim to the clinical forensic examination with no further requests. A sample of 220 CSA cases with crime investigation numbers was found. Eight cases were excluded because a medical examination was not performed at all during the investigation. In seventeen cases a medical statement was not attached to the patient files. A total of 195 cases were included in the first phase of the study. In 23 cases a medical statement was not attached to the preliminary investigation material. Thirteen cases were still under criminal investigation. In five cases we did not receive documents from the prosecution service. In seven cases we did not receive the District Court's decisions, in nine cases the files from the Court of Appeal, and in eight cases the crime was not CSA. These cases were excluded from the data.

## 3. Results

### 3.1. Study population

The final research data consists of the analysis of 130 children (Table 1). Medical evaluation was performed to 47 (36.2%) cases before year 2006 and to 83 (63.8%) cases since 2006. The median age was 5.3 years (range 11 months–17.3 years) at the time of the offence and 6.5 years at the time of the crime being reported to law enforcement. The majority of the victims (78%) were under 10 years old. In most cases there was a suspicion of repetitive sexual abuse, which continued from several months to years. In every third allegation there were multiple victims per crime; two victims in 18%, three victims in 10% and four to five victims in 5.4% per crime. In nine cases there were two to three offenders per child.

### 3.2. Preliminary investigation and medical statement conclusions

#### 3.2.1. Medical statement conclusion not supporting nor excluding suspected CSA

The medical statement conclusion was "not supporting nor excluding" in 99 (76.2%) of suspected CSA cases. Of those cases, 93 (94%) had normal or no residual physical findings. Furthermore, three cases had acute findings, and three cases had residual physical findings (Table 2).

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