



Contents lists available at ScienceDirect

Child Abuse & Neglect

journal homepage: www.elsevier.com/locate/chiabuneg

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

ARTICLE INFO

Keywords:

Prosecution
 Child sexual abuse
 Forensic interview
 Investigation
 Child advocacy center (CAC)
 Decision-making
 Mixed methods

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.<https://doi.org/10.1016/j.chiabu.2018.02.022>

Received 21 July 2017; Received in revised form 14 February 2018; Accepted 20 February 2018

0145-2134/ © 2018 Elsevier Ltd. All rights reserved.

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 to 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.

Download English Version:

<https://daneshyari.com/en/article/6832013>

Download Persian Version:

<https://daneshyari.com/article/6832013>

[Daneshyari.com](https://daneshyari.com)