



# Prosecution of Child Sexual Abuse:

## Challenges in Achieving Justice

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## Introduction<sup>1</sup>

For the past several decades, there have been efforts to confront challenges in the prosecution of child sexual abuse (CSA). Approaches to responding to CSA have been studied and deliberated.<sup>2</sup> Prosecution serves an important purpose beyond providing a penalty to a guilty party. Prosecution of CSA can provide an avenue to justice for survivors of abuse and their families and also protect potential future victims. Prosecutors, overall, are charged with the responsibility to review, evaluate and, as appropriate, pursue criminal charges consistent with the interest of justice and with due regard for fairness, accuracy, and rights of the defendant, victims, and witnesses.<sup>3</sup> Advocates of justice for children argue that a case that moves forward to prosecution sends a message to the community that sexual abuse of children is taken seriously and that justice for child victims is a priority.

In the U.S. over the past several decades, there has also been increased awareness of the incidence and prevalence of CSA and its impact on children's psychological health and well-being. There also have been many advances in the criminal justice system (CJS) response to child maltreatment.<sup>4</sup> Such advances include widespread availability of child advocacy centers (CACs)<sup>5</sup>; use of trained forensic interviewers<sup>6</sup>; courtroom experts to inform finders of fact (judges and jury members) and to explain children's memory, children's ability to recount what happened to them, and reasons for their delays in disclosure<sup>7</sup>; and the availability of advanced medical technology, Sexual Assault Nurse Examiners (SANEs), and specifically trained Child Abuse Pediatricians to collect evidence and detect injuries. Given these advances, it is important to examine the CJS outcomes in cases in the U.S. and to make recommendations for next steps in achieving justice for children and the community.

## **This paper explores policy and practice implications based on the prosecutorial outcomes for 325 cases that involved allegations of child sexual abuse.**

Stephanie Block and Linda Williams, along with numerous colleagues, conducted federally funded research on the prosecution of CSA<sup>8</sup> to examine rates of attrition in cases of CSA, to examine the trajectories of reported cases, and to assess current barriers at stages leading to prosecution. The research also documented non-prosecutorial outcomes, as not all cases result in prosecution and other outcomes are available and, at times, preferable. This paper explores policy and practice implications based on the examination of the prosecutorial outcomes.<sup>9</sup> The outcomes for 500 randomly selected CSA reports made to the authorities in four jurisdictions were examined.<sup>10</sup> In this white paper, we focus on the outcomes for the 325 cases that involved allegations of CSA by perpetrators aged 16 and older, and we make recommendations for policy and practice as well as call for further research and action. We examine how reports of CSA progress through intake, investigation, and prosecution; the characteristics of cases that move forward; and the factors associated with case attrition at each stage.

The success of this research reflects an exceptional working relationship with four prosecutor's offices and their staff and the contributions of many professionals who work in the field of child welfare. These include pediatricians, attorneys, prosecutors, psychologists, social workers, statisticians, victim advocates, and criminologists. Our work, however, does not end with a technical report, journal articles, and a description of the prosecutorial outcomes of these cases. This white paper, relying on feedback from an interdisciplinary team, makes actionable recommendations for achieving justice for all involved and for strengthening the safety of our communities.

## **SUSTAINABLE CHANGE**

**will require education and a shift in beliefs and social norms so the occurrence of child sexual abuse is recognized and community members can:**

- **Participate in protection and prevention efforts**
- **Provide support to survivors and their families**
- **Identify evidence of this crime as they serve on juries**

Our work is a response to a pressing need for collaboration between researchers, policy makers, and practitioners,<sup>11</sup> and calls for joint efforts to promote justice and improve system responses for victims of CSA and their families. This white paper intends to inform those interested in improving system response to CSA, including child advocates, prosecutors, defense attorneys, judges, attorneys general, lawmakers, investigators, therapists, and others; to recommend next steps designed to address the challenges identified; and to facilitate discussion with key stakeholders about improving response to CSA.

Addressing the challenges documented by our research and finding and evaluating solutions will require the continued work of the justice system and the community. This includes work with multidisciplinary teams (MDTs) composed of law enforcement, child protective services (CPS), prosecutors, CAC staff, medical and mental health personnel, and victim advocates. Sustainable change also will require education and a shift in beliefs and social norms so that the occurrence of CSA is recognized and community members are able to participate in protection and prevention efforts as well as provide support to survivors and their families and identify evidence of this crime as they serve on juries. Our work can contribute to social change as we build on partnerships we formed and together develop specific guidelines and recommendations for innovations in approaches to the prosecution of CSA.

### **About the Research**

In this document, we discuss the outcomes for 325 reports of CSA to authorities. These cases involved allegations of abuse by perpetrators aged 16 and older. We examined prosecutor case files, trial record boxes, electronic databases, CPS reports, medical reports, police reports and available children's advocacy center files. This type of retrospective analysis is common for CSA research, but few gather the breadth of information that we did in our study. The files were coded to objectively capture case details, victim and perpetrator characteristics, medical findings, and all case outcomes.

We also documented important non-prosecutorial outcomes, including the following recommendations: new or continued involvement with CPS; removal of the alleged perpetrator from the home; orders of protection; medical evaluation of the victim; therapy for the victim, the family, or the alleged perpetrator; admission to a residential treatment program; parenting classes; monitoring of exposure to the alleged perpetrator; home safety plans; protective action by a school; professional license revocation or board action against an alleged perpetrator; and other non-criminal court/legal actions. Detailed discussion of our findings on these outcomes is beyond the scope of this paper, but it is important to acknowledge these other outcomes.

The CJS outcomes and the unique predictors of cases going forward to each stage have been identified and described in a peer-reviewed academic publication.<sup>12</sup> These form the basis of our discussion in this

## Even with the significant resources of child advocacy centers and multidisciplinary teams, there are an array of factors that can make prosecution of serious allegations of sexual assault challenging.

white paper of implications for policy and practice. We examine several stages of outcomes in the CJS. These are: (a) case closed at intake, (b) proceed to prosecutorial investigation, and (c) prosecute. Based on our findings on the case characteristics that impact these outcomes, we offer implications for policy and practice here.

### Overview of Challenges in the Prosecution of CSA

The challenges in prosecution of CSA have been emphasized by many in the field of child maltreatment,<sup>13</sup> though there have been significant advances in handling these complicated cases. Even with the significant resources of CACs and MDTs, there are an array of factors that can make prosecution of serious allegations of sexual assault challenging. The unique nature of CSA, a crime that is hidden and usually perpetrated without any outside witnesses, makes it such that evidence relies heavily on the statements of a child. Compounding this issue, offenders may target young children who do not completely understand the acts perpetrated or, as is not uncommon, groom the victim to endure the sexual abuse. As a result, children's disclosures may reflect confusion about what happened to them, reflect feelings of shame or guilt, or be delayed by fear of the consequences of a disclosure. Such fear of disclosure also may stem from threats a perpetrator made to harm the child or another family member and be especially strong if the child was threatened with dissolution of their family.

It is well known that physical or other corroborative evidence is rarely available in cases of CSA.<sup>14</sup> Thus the cases rely on interviews and, ultimately, on the testimony of children,<sup>15</sup> some of whom were very young at the time of the abuse. If a case is to go forward to prosecution or to a trial it is important to gather information from the child victim in a legal, non-suggestive, and developmentally appropriate manner<sup>16</sup> which is typically accomplished by using trained forensic interviewers. A child's (and a family's) decision to participate in these interviews and the information disclosed are often essential components to an investigation and can determine if and how a case will proceed. Some families do not trust the systems that are supposed to protect them and do not want to participate. Protective parents might feel that it is too traumatic for their children to discuss the event. Sometimes children disclose to peers or trusted adults but will not go "on record" for various reasons (e.g., because they do not want to get the perpetrator in trouble). Disclosures are complicated and dynamic, and case progression can hinge on this interview. In short, even in cases in which a CJS response is arguably appropriate, there are significant challenges that may impede moving forward to prosecution and ultimately to conviction.

### Justice System Outcomes for the CSA Cases Studied

[Table 1](#) reports the characteristics of the cases in our sample (N=325). As is customary with these cases, most of the reports we reviewed were of sexual assault against a female child by a male perpetrator who was known to the victim. While some very young children were victims, the majority were 13 or older at the time of the abuse.

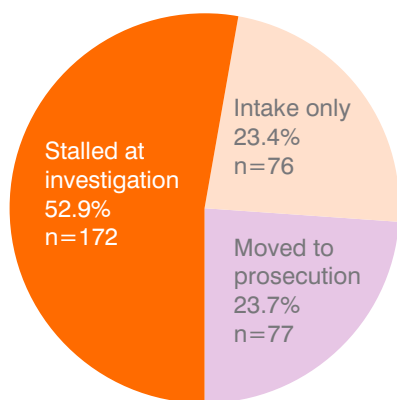
Our review of the case records resulted in a map of the justice system outcomes (see [Figure 1](#)). We found that nearly one quarter of the 325 child reports of sexual assault by perpetrators aged 16 and older were removed from consideration for prosecution and were designated as "intake only" cases. These were often cases with no

forensic interview or where disclosure issues made it unlikely that the elements of a crime could be established. Some “intake only” cases were those that did not involve a prosecutable crime and therefore were immediately referred back to CPS or the CAC. Thus an “intake only” designation occurred when a report did not involve credible allegations of abuse, when the victim was unavailable (e.g., the victim had run away or could not be located), when there were insurmountable issues concerning the disclosure or a victim’s unwillingness to proceed, or when a decision was made that going forward was not in the best interest of the child.

We found that over 50% of the reports of CSA stalled at the investigation stage and fewer than one quarter (n=77) of the 325 cases moved forward to prosecution. Of the 77 cases that did move forward to prosecution, at the time of the review 4 were classified as pending or stagnant and 25 (32%) of the cases were dismissed or a nolle prosequi was filed (nolle prosequi is a court filing that terminates a case; however, it allows the prosecutor’s office to bring charges again if deemed appropriate). Notably, of the remaining 48 prosecuted cases all but 4 resulted in a determination of guilt (25 were by a guilty plea, 9 by a guilty verdict at trial, and 10 by an admission of guilt with deferred prosecution). This means that 57% of the cases that moved forward to prosecution resulted in a determination of guilt. Of the 25 plea bargains, 20 defendants pled guilty to a sex offense and 5 to a non-sex offense; of 9 found guilty at trial, 6 were found guilty of a sex offense, and 3 of a non-sex offense. It is striking, given the many concerns that arise in discussions about the potential trauma of a courtroom trial for child witnesses, that there were only 13 trials (out of 325 reports of CSA). Four of these resulted in not guilty verdicts.

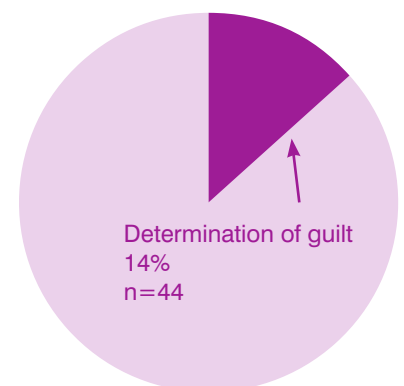
To summarize, of the 325 reports of CSA we reviewed, 50% of the reports stalled at the investigation stage, fewer than 25% of the reports resulted in prosecution, and only 14% (44 cases) resulted in a determination of guilt. While most cases never reached the prosecution stage, when they were prosecuted the majority (57%) resulted in a determination of guilt. Given these findings of high rates of case attrition and, yet, many “successful” prosecutions, one might ask: “Is the glass half empty or half full?” Clearly when prosecutions occur, the results are strong, but many cases in which there are serious allegations of CSA are not prosecuted. In our assessment, most concerning is the finding that over 50% of the reports of CSA stalled at the investigation stage. Our analyses below provide further examination of the factors associated with these two outcomes: “investigation only” and “prosecute.”

### Of 325 child sexual abuse cases...



**Over 50% stalled at the investigation stage. Fewer than 25% moved forward to prosecution.**

**Only 14% resulted in a determination of guilt.**



See [Figure 1](#) for full chart of case outcome data.



## Characteristics of Cases That Go Forward to Prosecution

To begin to answer this question, we looked more deeply into the case characteristics that impacted the outcomes at each stage of decision-making. Our statistical analysis revealed several key factors that impacted the prosecutorial process and predicted case outcome, case stagnation, and case attrition. We examined how case characteristics impacted the stage that the case reached (intake only, proceed to investigation, and prosecution). Although our statistical analyses included many variables hypothesized as likely to impact decision-making (e.g., abuse included acts of sexual penetration, multiple victims, age of the victim, repeated sexual assault, and perpetrator with a known prior criminal history of sexual assault), none of these impacted the prosecutorial outcomes (see [Table 2](#)).

We examined the factors that impacted the movement of reports toward prosecution and found that cases that did not move forward were influenced by perpetrator age, several victim characteristics, support from the primary caregiver, and disclosure (column 1 in [Table 2](#)). If the victim had previously been involved in a report to CPS (n=142), was female (n=202), and evidenced willingness to proceed with the investigation and court process (n=251), the case was more likely to move forward. Those cases with problems in the disclosure (e.g., without a complete or with an inconsistent disclosure) were less likely to move forward.

As noted above, about half of the 325 cases were investigated beyond intake but then closed. For a case to move from investigation to prosecution, we found that the age of the perpetrator (35 and older), the victim's willingness to proceed, and the caregiver's support were critical. Key barriers that made it less likely that a case would move forward to prosecution included disclosure barriers, family barriers, or other evidentiary barriers.

Perpetrators who were over the age of 35 at the time of the abuse were most likely to be prosecuted, and prosecution was five times more likely when compared to 16- to 18-year-old perpetrators. Cases with these much older perpetrators were more likely to move from intake to investigation and five times more likely to proceed from investigation to prosecution. The fact that perpetrators who are prosecuted are often age 35 and older may reflect that these individuals have had time to accumulate prior offenses that flagged prosecutorial interest in pursuing charges. But investigating cases in which an older adult is the alleged perpetrator is also likely a reflection of societal expectations that older individuals are the ones who commit the most serious sexual offenses against children. A perception that a sexual assault by an older offender should be taken most seriously may be widespread among community members who comprise the jury pools for trials in these cases. Community education about the characteristics of child sex offenders may inform potential jurors that perpetrators are not limited to this age demographic. There is also a misconception that child sex offenders are

## A case was more likely to move forward if:

### The victim...

- Had previously been involved in a report to child protective services
- Was female
- Showed willingness to proceed with the investigation and court process

### The perpetrator was 35 or older

### There was support from the caregiver

### No disclosure barriers were noted

## **In cases in which investigations went forward, lack of victim cooperation and disclosure issues or inconsistencies were most critical in thwarting prosecution.**

usually strangers. Such misconceptions are damaging to child credibility and may underpin jury biases. Indeed, adult defendants in CSA cases are often upstanding and trusted members of society, many with no criminal record. This may create doubt in the community that the individual is capable of such crimes. Jurors may be reluctant to believe that someone they would trust with their own child could be guilty of such a crime.

The gender of the victim (female) also predicted cases moving forward to investigation and prosecution. Other researchers have found that cases involving male victims have lower rates of prosecution<sup>17</sup> and that cases with male victims and long-term abuse experiences were associated with delays in prosecution.<sup>18</sup> This likely reflects a mistaken perception that boys can or should defend against the approaches of sex offenders and/or a mistaken assumption that males are less likely to be harmed or traumatized by the abuse. Such perceptions may impact a male victim's willingness to go forward or the assessment made by the CJS actors. Indeed, some early studies revealed that forensic interviewers found boys to be less credible than girls<sup>19</sup> and such perceptions today could influence the likelihood of a case being accepted for prosecution.

It was notable that a child's reluctance to proceed (participate in the prosecution) and disclosure issues (delayed or incomplete disclosure) did not predict the decision to investigate. It is when we examine the characteristics associated with moving forward from investigation to prosecution that the child victim's willingness to proceed and the issue of disclosure barriers are critical. Thus we found that the challenges of victim cooperation and disclosure delays or inconsistencies were most critical in thwarting prosecution in cases in which investigations went forward. While prosecutors cannot (or should not) "force" a child to testify, some believe that properly preparing a child for trial and to testify against a perpetrator can be a positive experience for a child even if the case never goes to trial. In addition, support for victims that increases capability to go forward with a case is just as likely to lead to a guilty plea as it is to lead to a trial. Cases that result in a guilty plea may be those in which the defense (and the prosecution) view the victim as receiving sufficient support to be capable of going to a trial. The support of a caregiver is critical here. Improved approaches to providing support for victims and their families may increase the likelihood that legitimate cases move out of the investigation stage to prosecution as our finding on caregiver support underlines.

Indeed, we found that the most significant contributor to outcome was the availability of victim-supportive caregivers. While such cases were more than three times as likely to proceed to investigation, they were over five times more likely to move forward to prosecution. The importance of caregiver support is a critical finding from our research and likely undergirds the other factors that impact case attrition and are amenable to change. These include victim cooperation/willingness to proceed, remediation of disclosure issues, increasing general family support, and reducing other evidentiary barriers. Below we discuss the implications for changes in how reports of CSA are approached.



## Implications of Findings for Policy and Practice: What are the factors that are amenable to change?

### Disclosures, Forensic Interviews and Victim Cooperation

It is no surprise that, as with other studies of prosecution of CSA cases, we found that availability of forensic evidence is a critical component of cases that proceed to prosecution. Scientific forensic evidence and documentation of the crime through adult eyewitnesses or other physical evidence is available in less than 5% of CSA cases.<sup>20</sup> In part, due to the secretive nature of the crime of child sexual assault, the young age of the victims, and the frequent delays in the disclosure of CSA,<sup>21</sup> the collection of sexual assault kit evidence and potential DNA and other corroborative medical evidence is hindered and, in effect, obstructed by the perpetrators. Additionally, the yield of evidence collection in prepubertal children is much lower than in adults.

This often leaves us with the most compelling evidence being the child's disclosure of the sexual assault. For a case to come to the attention of authorities, there is customarily some kind of indication that abuse has occurred. Often this involves a child's statement or a disclosure by the child that something has happened to them. This statement could be accidental, purposeful, or prompted. Some children never tell.<sup>22</sup> When children do disclose CSA to a peer or someone else in their lives, they still might not choose to make an official report to police or CPS. There are many reasons that a child and/or their family might not want to go on record about their abuse. A child may not have the words to adequately describe what happened and the child's account of the incident(s) might change over time or depending on who they are telling about it, or what questions they are asked. Some children do not make reports because they have been threatened, groomed, or feel guilt or shame, or they may not tell because they do not want the perpetrator to get in trouble or potentially go to jail. Some victims' families might influence the disclosure because they do not trust the police, are concerned about factors related to systemic racism, and/or have concerns about their own or the perpetrator's immigration status. There may be concerns about CPS removal of the child or other children from the home. In addition, financial dependence on the perpetrator could raise concern about the future economic well-being of the family and influence the family's willingness to make a report. Sometimes children tell us part of the story or make a partial disclosure to "test the waters" and see how the disclosure is received and/or impacts their lives (e.g., are they believed, does CPS come and remove them from their home). Sometimes children tell and then take back or "recant" their disclosures. Disclosures of abuse are complicated by the many factors described above and some children say they would rather live with CSA than have their living situation change or put their families in financial straits.

**The most significant contributor to case outcome was the availability of victim-supportive caregivers.**

**While such cases were more than 3x as likely to proceed to investigation, they were over 5x more likely to move forward to prosecution.**

**Victims may be unwilling to participate in the criminal justice system for several reasons including but not limited to:**

- **They have been threatened**
- **They feel shamed**
- **They are uneducated about the courtroom/court process**
- **They lack support from primary caregiver**

**These barriers can and should be better addressed through systemic intervention**

To address issues of disclosure, when CSA is suspected and there is a decision made by prosecutors to investigate, children are referred for a forensic interview, often at a CAC. The forensic interviewer is trained to ask developmentally appropriate and non-leading questions to obtain information from the child. Of course, in nearly every case that goes to court a victim must testify. However, scientifically supported forensic interviews of child victims are the main (and sometimes the only) evidence available to prosecutors who then use such evidence in decision-making about prosecution as well as to inform their prosecutorial strategy for achieving justice. When there has been an incomplete or unclear disclosure by the child and there is no forensic interview (often because the child or family resists completing such an interview), there is little likelihood that the case will proceed from investigation to prosecution. A number of circumstances can surround the cases that do not go forward due to disclosure and evidentiary issues. First, it is possible that the child or family actually did not want to participate. If a report is made because a child exhibited suspicious behavior but did not make any initial disclosure to anyone, the prosecutor may not request a forensic interview because it is clear that the child does not want to discuss potential abuse. In some cases the child is too young to be interviewed or the child disclosed to a peer or other trusted individual but did not want to go “on record.” In other cases the child makes an initial disclosure but does not disclose during the forensic interview. It is also possible that a child makes a disclosure during a forensic interview but the investigation does not support the disclosure.

In some cases, children can receive more than one interview. While multiple forensic interviews with a child might result in additional information and opportunity for investigators to attempt to corroborate a child’s account,<sup>23</sup> there may be some reluctance on the part of prosecutors to utilize this approach. Some prosecutors might be hesitant to use multiple forensic interviews because of the concern that children might contradict themselves and/or recant. Education about children’s eyewitness memory and the dynamics of disclosure is important to the field. Children’s narratives are not expected to be identical across interviews and teams can be trained about how to handle these applied memory issues. Additional resources and/or training may be needed as well as future efforts directed at examining if and how prosecutors can better use forensic interview evidence to increase the likelihood that a case will move from the investigation stage to prosecution.

### **Support for Victims**

We found that an important contribution to cases not moving forward from investigation to prosecution was the reluctance of the victim to proceed. Interestingly, prosecutors, in informal conversations, expressed divergent opinions about the benefit children may receive from testifying in court. There are attorneys who never or almost never see any benefit to a child who testifies and they work hard to avoid putting a child through this. Some attorneys, however, were familiar with research that found, with supportive caregivers, some

children may benefit from involvement in a court case and may even experience a positive outcome from testifying.<sup>24</sup> Some found that this was their experience in the work they did prosecuting these cases over many years. A benefit to a child victim may accrue regardless of the verdict, such that even if a trial ends with a “not guilty,” it can still be beneficial for some children. A key factor to increasing the likelihood of a positive outcome for the child is the support of the caregiver. Any positive outcomes also may be related to the child having an opportunity to be believed, supported, and to testify.

For a child, proceeding with a case and testifying may allow them to feel supported and believed by adults (who represent the state). However, testifying can be and often is stressful for a child for many reasons. One is the requirement that the child face the alleged perpetrator and be subject to cross examination that is often developmentally inappropriate, confusing, and/or designed to trick a child.<sup>25</sup> There are modifications that can be made to the courtroom to ease this stressor, and the child should be prepared by the prosecutor for what to expect in court and how to deal with the stress it can invoke.<sup>26</sup>

The use of screens to block the view of the defendant, positioning of the prosecutor in such a way that the child is not facing the defendant, and having a support person in court are some other ways that courts can accommodate children.<sup>27</sup> In some countries, children are allowed to testify via closed-circuit television, which also has been found to increase children’s memory accuracy.<sup>28</sup> The use of these techniques in the U.S. has been found to be limited by 6th Amendment guarantees of the accused’s right to confront a witness against him or her in a criminal action.<sup>29</sup> Some legislatures have crafted procedures for increasing the availability of mechanisms designed to reduce the trauma to the child and to promote children’s eyewitness memory accuracy. These are worthy of further attention by lawmakers in each state. All of the permitted supportive processes designed to make court less aversive to the child and the child’s caregiver require training of staff and allocation of prosecutorial resources (especially time) to implement an approach that aims to reduce reluctance and stress on the child.

Knowing that in most cases the account given by the child victim is critical to any successful follow-up and that a child’s testimony is almost always needed for the prosecution of a criminal case, often the field has focused on providing support for the victim. In the cases we reviewed, the willingness of the victim to proceed (which will often also be a reflection of their willingness to disclose) is an important contributor to the outcome. Clearly, the wishes of the victim need to be recognized and respected; however, if an unwillingness to proceed reflects the fact that the child has been threatened about the negative consequences of telling about the abuse, or if the child is ashamed about what happened, or if the child has not been supported or educated about the courtroom, or has not received adequate support from the primary caregiver, these all can be and need to be remedied. Below we suggest some remedies for these concerns.



**Caregiver support in regard to prosecution may reflect many elements, including the following:**

- **Concern for the welfare of the child or the community**
- **Concern reflecting doubt about the impact of the process or the case outcome on the child**
- **An assessment that the legal process can never be okay for a child**
- **Disbelief that the child’s account was true and/or protection of the suspect or the caregiver**

**Caregiver Support**

We found that support by the child’s primary caregiver<sup>30</sup> was critical to how cases proceeded at all levels of decision-making. Prosecutors as well as others involved in responding to CSA reports told us that cases without caregiver support are some of the most difficult ones to move forward. The caregiver, especially a non-offending parent, is often involved in the decision-making process for and with their children, especially in court and other legal settings. In addition, the level of support available from the caregiver (often the child’s mother) may vary over time.

In this analysis “support by a caregiver” indicated support for the prosecution moving forward, which also captured supportive behavior towards the child. This “support by caregiver” variable is complex because sometimes if a caregiver was not supportive of prosecution, they were in fact being supportive of the child, who wished to not proceed with prosecution. In these analyses we could not separate these two components of caregiver support. Caregiver support in regard to prosecution, therefore, may reflect many elements, including the following:

*Concern for the welfare of the child or the community:* Support for moving forward with prosecution may reflect a caregiver’s wish to support the child’s welfare by seeking justice for the victim and the community.

*Concern reflecting doubt about the impact of the process or the case outcome on the child:* The caregiver may have an expectation that the court experience will be difficult for the child, will not be helpful to the child, or will contribute to the child’s emotional difficulties. The caregiver may also make an assessment that a guilty outcome is unlikely, or that a guilty outcome would not be helpful to the child. Such an assessment may be a valid one and be supported by therapists or others who are also focused on the child’s best interests.

*An assessment that the legal process can never be okay for a child:* Some caregivers cannot be swayed by evidence<sup>31</sup> that the court process can be positive for the child. However, such evidence may have never been presented to the caregiver, either because contact with the caregiver was truncated or because CJS personnel or other system responders were unaware of or uncertain about research evidence that investigation and prosecution is not necessarily harmful and may even be helpful to a child. For example, the legal process (whether or not the defendant pleads guilty) may provide positive closure and contribute to the child’s understanding that they were believed and that the CSA they suffered was taken seriously. Alternatively, the caregiver may have made the assessment that the manner in which the case was being handled was not okay for the child. This assessment may come after initial cooperation as the caregiver learns more about what “going forward with prosecution” really entails and especially when it involves likely testimony by the child.



*Disbelief that the child's account was true and/or protection of the suspect or the caregiver:* A caregiver may withhold support due to disbelief in the accusation made by the child or by others. In addition, withholding support may be related to an expectation that a guilty outcome would be harmful to the family or to the caregiver. In some cases, support for prosecution may be withdrawn to protect a perpetrator, for example, when the perpetrator is a romantic partner of the caregiver (who often may be manipulating and threatening the caregiver along with the child).

For many decades, we have known and research has shown that caregiver support is critical. We have been examining the nature of caregiver support in greater detail because it is apparent that the reasons for the issues that arise with caregiver support need greater and more systematic attention in order to ameliorate them.<sup>32</sup> Prior research has demonstrated a need to understand more about the complexity of determinants of this support and a need for new and different responses from those who provide services to the children in these cases. Understanding and addressing the need for approaches that will bolster caregiver support is critical in seeking justice for victims of CSA. These approaches include:

*Changes in how support services work with/respond to non-offending caregivers:* There is a need to provide those who work with victims of CSA and their families with documentation and a clearer understanding of the issues caregivers face if they are to support a victim of CSA and ultimately be able to support prosecution.

*Approaches that rely on an ecological model:* There is evidence that there are many dimensions of support for caregivers and that each of these aspects need to be addressed. Support may come from individuals (family, friends, neighbors, therapists), the community (churches, neighborhoods, support groups), or the social institutions responsible for responding to CSA (CPS, CACs, courts, schools). Each contributor to caregiver support may require a different approach as we consider how to educate them to bolster their capacity to provide support. This approach also suggests that it is not only CAC personnel who should take responsibility for supporting the caregiver but they may serve a critical role in encouraging (and possibly training) others to provide support. This role also extends to advocates who work in the court system and are needed to support caregivers and to keep them informed of the case status. Our future work is focused on this area.

*Listening to what caregivers say they need:* Caregivers need attention to their own conflicts and the psychological issues that arise for them as they confront the sexual abuse of the child. This is true especially if they are themselves survivors of CSA. There are complicated dynamics that impact a family's trust and willingness to participate in systems that are designed to protect them but that also can sometimes complicate their lives. In our study, sometimes families stopped responding and indicated they no longer wished to pursue a prosecutorial outcome. Future research involving direct contact

**Understanding and addressing the need for approaches that will bolster caregiver support is critical in seeking justice for victims. These approaches include:**

- **Changes in how support services work with/respond to non-offending caregivers**
- **Approaches that rely on an ecological model**
- **Listening to what caregivers say they need**
- **Considering the financial needs of caregivers**
- **Providing connections to supportive peer groups**

with families could specifically explore which concerns are most prevalent and ways to effectively address these concerns. It would also be important to understand which barriers might be related to systemic racism, so that these factors can be identified and addressed as we move towards a more just society.

*Considering the financial needs of caregivers:* Caregivers need financial resources if they are to adequately support child victims of sexual abuse. They face lost wages, transportation expenses, the cost of childcare for other children, and, for some, the challenges of attaining financial independence from an alleged perpetrator. In families in which the perpetrator is the main source of household income, dependency may be part of the reason caregivers continue to live with the perpetrator or choose not to move forward with a case. Caregivers who are dependent on their spouse or partner for financial support may find themselves in crisis when there is a CSA disclosure. After CSA is disclosed, CPS often begins with an assessment of potential harm if the child remains in the home, and this assessment includes the ability of the non-offending caregiver (NOC) to provide a safe and stable environment for their child. Caregivers need a supportive CAC and approaches that will provide the tools necessary for their participation in their child's case. These changes would involve an in-depth look at current public policy and identification of barriers to accessing services. Not only the child, but also the caregiver will likely benefit from access to trauma-informed care and services.

While some states have funds for monetary support after a crime has been committed, there are often caps on how much financial support can be provided to a family, and long wait times for receiving funds are not practical when victims and families require immediate financial support. We also have noted immigration-related barriers, especially when a caregiver is dependent upon an accused party to maintain their immigration status. While the non-immigrant U visa in the U.S. may be an avenue for service providers to use to support the caregiver, applying for a U visa is a complicated and lengthy process.<sup>33</sup> Those who provide services to child victims and their families should be familiar with this process and understand how to identify and respond to the special issues raised when dealing with reports of CSA in immigrant families. Undocumented persons may also be unwilling to take advantage of state supports due to concerns about the Public Charge Rule (which threatens to penalize folks who take advantage of government provided supports).





## Our review of the needs of caregivers underscores the potential value of developing new programs to increase support for caregivers on an individual, community, and societal level.

*Providing connections to supportive peer groups:* In addition to therapeutic interventions, one approach that has met with initial success is to provide caregivers with supportive peer groups where they can talk to others who have experienced the same process and have encountered or are currently encountering similar issues.<sup>34</sup> Such groups may build confidence in their ability to support and protect their child (see for example, MOSAC, a group for mothers of sexually abused children).<sup>35</sup> These programs would benefit from more support to further develop this approach, provide documentation on program policies and procedures, and conduct evaluations and research to assess outcomes and to improve and develop such interventions.

### Policy and Practice Recommendations

#### The role and involvement of Children's Advocacy Centers

It is clear that CACs play a critical role in the prosecution of CSA and in the support of children and families. Indeed, some research has found that CACs facilitate connections between families and supportive services and that in locations with an active CAC, the rate of prosecution of CSA is higher. MDTs are a critical part of CACs and research indicates that they also have an impact on cases moving forward to prosecution.<sup>36</sup>

It must be noted that CACs are not found in every county in every state of the U.S. All the jurisdictions in this study had an active CAC, though there were differences in their funding and support, location within the community, and staffing levels. Our current research was not an assessment of the impact of CACs but our study findings have implications for CACs and for a future research agenda. Our review of the needs of caregivers underscores the potential value of developing new programs to increase support for caregivers on an individual, community, and societal level. This approach calls for enhancing the existing training on caregiver support that CAC workers receive so they can help the individuals (for example, family members, friends, employers, and work associates) and communities (neighbors, religious groups, schools, etc.) with whom the caregiver interacts develop the capacity to be more supportive both emotionally and instrumentally. CACs and other service providers can play an important role in facilitating multidimensional supports for caregivers.

Our next series of papers that will examine non-prosecutorial outcomes will address many aspects of the role of CACs.

#### Assistance and support for prosecutors and prosecutors' offices

Some state statutes require expedited trials or other court processes in cases of sex crimes involving minors. Yet prosecutors often still face court delays that can impact a family's willingness to participate, memory reports, and the child's perceived competency. Many victims and their families want to move past the trauma and are not willing to participate when it takes two to three years from the time of report for a case to be completed. Today, delays may approach four years due to post-COVID court backlogs. While in some cases, prosecutors think delay can be beneficial if the child is supported and becomes more capable of withstanding the rigors of a court trial, such delay might also place burdens on the child and the family and potentially could make finding justice in the courtroom less likely.<sup>37</sup>

Effective prosecution of complex CSA cases requires resources that may exceed those required for other felonies. Investigators, forensic interviewers, victim advocates, administrative staff, and case record “reminder” filing systems are needed but may not always be available. When funding of prosecutors’ offices is limited and/or if the prosecution of these cases is not a priority for the office, there may not be support for salaries of the necessary staff or for record-keeping systems needed to respond to the ever-increasing volume of CSA cases. This may mean that some cases will occasionally “slip through the cracks.” In fact, we brought 3 such cases to the attention of the offices in our study. This may especially become an issue when personnel changes occur, such as when a prosecutor is transferred or promoted to another unit or leaves the office to accept a position elsewhere. In rare cases, cases previously assigned to another prosecutor may never be reassigned.

Whenever such changes happen, additional efforts are needed to make sure the case goes forward and rapport with the victim and the victim’s family is not lost. Adequate administrative support and close monitoring of case progress is critical and can help to keep track of communication with the child’s caregivers to increase the likelihood of cooperation. Prioritizing efforts to retain prosecutors who successfully handle these cases is critical to victims and families so that prosecutors who are aware of the various services and how to navigate multiple agencies can provide support, information and guidance. It is additionally important to have prosecutors who are trained in the applied developmental science issues related to these cases. Our findings on the complexity of handling these cases make it clear that success cannot be measured by the number of convictions. Metrics that measure the prosecutor’s effectiveness in collaboration with the MDT members (CACs, law enforcement, medical personnel, social workers, and advocates), judges, and the victims and their caregivers are critical.

It is clear based on our research that in every office, a large volume of cases is being handled by a small number of people. When the cooperation of the child and the child’s family depends on the personal attention that the prosecutor is able not only to give to “the case” but most importantly to the child and family—whether this involves preparing the child for court or explaining the status of the case and the next steps to the victim and family—training and retaining prosecutors is critical. Offices need to address the problem of high turnover rates and the need for high-quality training. This will involve not only some formal training but also the opportunity to shadow more experienced attorneys. Such mentoring opportunities may help reduce burnout. Additional funding for these units would not only provide the needed staffing for administrative assistance but also could serve to keep trained prosecutors working these cases and reduce burnout and turnover.

CSA prosecutors are typically self-selected because they are drawn to the work but, for that reason, they can also be resistant to recognizing burnout and secondary trauma. Additionally they often face the disheartening reality that much of the work they do is neither recognized nor valued, even within their offices as a whole. They are often fighting for justice for victims that people do not want to hear about. It can be easy for some of these cases/victims

**When the cooperation of the child and the child’s family depends on the personal attention that the prosecutor is able not only to give to “the case” but most importantly to the child and family . . . training and retaining prosecutors is critical.**

## There is a need for increased support for prosecutors who *try* child sexual abuse cases and for efforts to overcome the barriers to prosecution by increasing the capacity for individuals, the community, and society to support the child victims and their caregivers.

to get “lost” unless a parent is constantly calling out for prosecution. CSA is a heinous crime that most people do not want to think about, hear about, or acknowledge, but that is happening in their own communities by trusted doctors, coaches, priests, and others.

### Cultural Shifts and Changing the Culture

Those of us who work in this field have seen how the culture has changed over the past 30 years. There is now greater acknowledgement of the incidence and prevalence of CSA and greater understanding of the complexities of cases that involve persons other than those once presumed to encompass most child sex offenders—the stranger lurking in the darkness or near a school yard. There also has been an increased recognition of the need to address reports of CSA with new laws and new systems. Movements such as #MeToo and cases such as the one against Larry Nassar for sexually assaulting USA athletes result in publicity<sup>38</sup> that can contribute to increased awareness of the nature of CSA. Such attention and recognition of this crime may also contribute to an increase in the number of reports that come to the attention of prosecutors’ offices. While the increasing number of reports to the CJS is a sign of change in the tolerance of CSA, this may also burden those who are already short on resources to meet the needs of those involved in these cases.

The next culture change will likely involve even more reports of CSA along with our broadened understanding of hidden offenses (for example, we already have seen in Massachusetts increased understanding, identification, and reporting of commercial sexual exploitation).<sup>39</sup> More attention is also being directed at the problem of invasive sexual recordings, and the proliferation of technology will likely increase the incidence of such offenses. Any increased understanding by the community and by those who comprise the pool of potential jurors of the dynamics of CSA could make the job of prosecutors easier even as it increases the number of reported cases.

In this paper we have identified many barriers to prosecution and some specific remedies. Most importantly, we have suggested that there is a need for increased support for prosecutors who try CSA cases and for efforts to overcome the barriers to prosecution by increasing the capacity for individuals, the community, and society to support the child victims of CSA and their caregivers. There is little question that most long-serving prosecutors of CSA have chosen this work and ultimately many dedicate their careers to seeking justice in these cases. Their focus, of course, should not be on winning these cases but rather on ensuring justice is served. Nevertheless, improving how these cases are handled will require us to address larger systemic challenges that surround the prosecution of this crime and examination of why so many cases do not proceed beyond investigation. In a study of the outcomes of cases involving assaults reported by adult victims, Williams and colleagues<sup>40</sup> found two important elements impact decisions of prosecutors to go forward with cases. One element that plays a critical role is managerial efficiency—in short, the number of staff available to address the cases that are reported. While this has not been systematically studied in decision-making in regard to cases of CSA, it is important to note that some offices are

## Myths and misconceptions about child sexual abuse may play a significant role in increasing the challenges for prosecutors in these cases.

burdened by too many cases. Further research may be needed to learn more about the extent to which staffing/management issues impact the prosecution of cases of CSA. Staff shortages may reflect the volume of cases and limited resources available in a given jurisdiction or may be a reflection of the extent to which prosecution of cases of CSA is undervalued—perhaps due to the view that most of the crimes are not worthy of prosecution based on a mistaken notion that (with the exception of a few more sensational incidents) the children and families are not worthy of the most serious attention.

The second element found that impacts the prosecution of sexual assault reported by adult victims is cultural misconceptions about rape and sexual assault—the elements that comprise rape myths about evidence of victim injuries and victim behaviors are found to support or detract from the credibility of the alleged victims. Similarly, myths and misconceptions about CSA may play a significant role in increasing the challenges for prosecutors in cases of CSA. These may include misconceptions about the sexual abuse of children—that children’s reports are not ever reliable, that disclosure issues always reflect fabrication or that children have been coached by others in their reports of CSA. When little evidence of physical trauma from the sexual assault is found another misconception may appear—that children will be better off if we only let them forget about it. In addition there is the myth that the victim is to blame for the behaviors of the alleged perpetrators. When a community holds such misconceptions about CSA it may be more likely that jurors from that community will not believe that the crime occurred. Some prosecutors have reported a systemic misogyny which portrays CSA as a “girl” victim problem that, in most cases, is not a big concern to the state. Such misogyny is then reflected in the lack of attention given to this crime. While these concerns require systematic study, perceptions about CSA as well as availability of adequate resources—including well-trained prosecutors—may contribute to the small number of cases that move forward to prosecution.

Prosecutors and our research suggest a need to address cultural misconceptions and augment the resources devoted to investigation of cases. In addition we need a better understanding of how prosecutors view success as well as how success is viewed in the eyes of children and their caregivers. Indeed, the metric for evaluation of successful prosecution may need to shift. We continue to work on developing guidelines and suggestions for innovation in prosecuting cases of CSA and building on the partnerships formed in this research. Efforts to address these issues will require continued work of MDTs to arrive at solutions and evaluate their impact.

Despite the challenges, the prosecution of CSA serves an important purpose beyond the punishment of the crime itself. When the decision is made to prosecute acts of CSA, attorneys seek justice and safety for the victims and their families, as well as the protection of potential future victims. Each case that does move to prosecution, therefore, sends a message to the rest of the community that sexual violence against children is taken seriously and that justice for child victims is a priority.



## Appendix: Tables and Figures

Table 1: Coding of Project Variables, with Frequencies

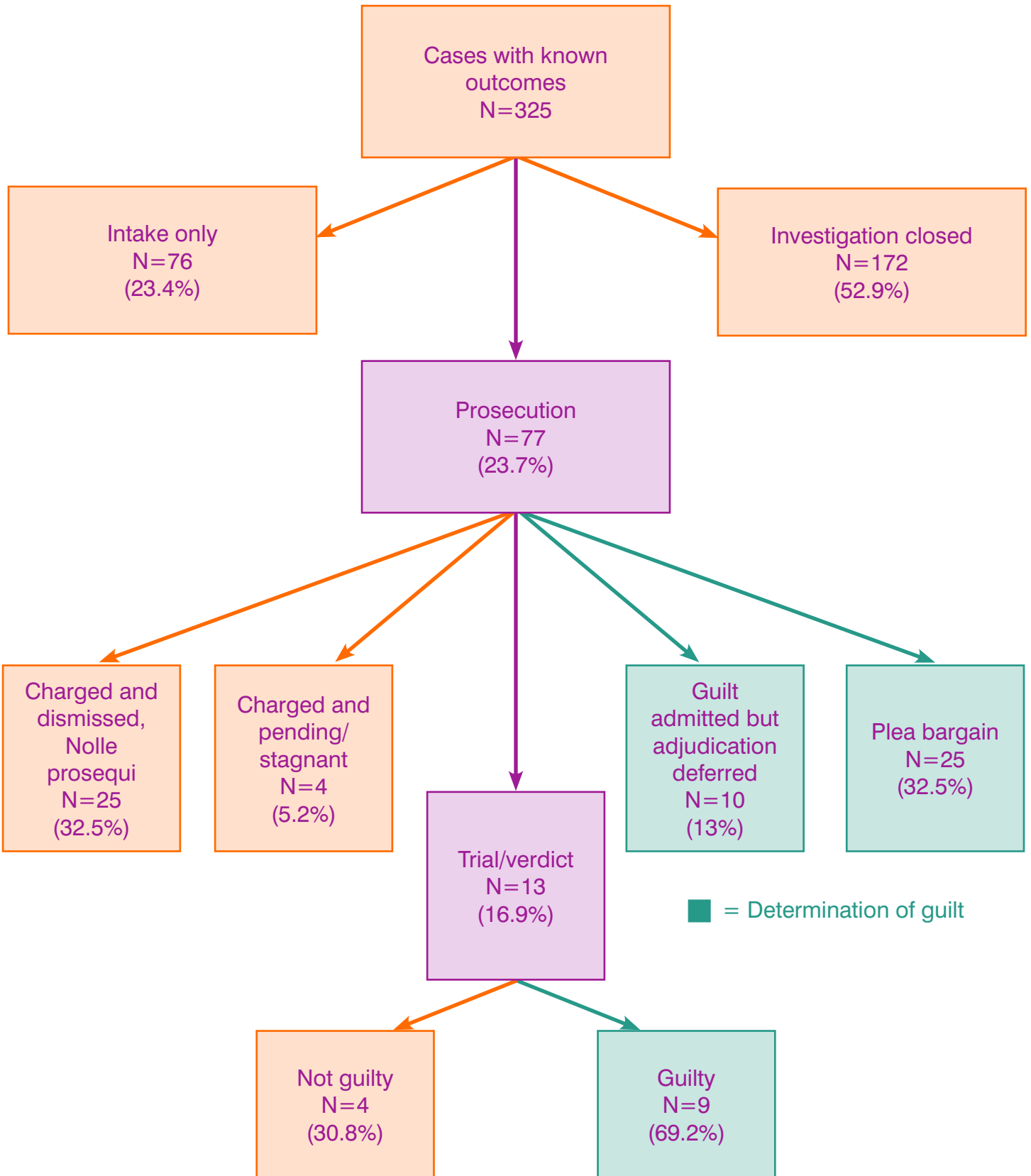
Variable	Frequency N (%)
<b>Outcome</b>	
Intake Only	76 (23)
Investigate and Close	172 (53)
Prosecution	77 (24)
	325 (100)
<b>Perp in other criminal case</b>	
No	122 (38)
Yes	128 (39)
Unknown	75 (23)
	325 (100)
<b>Number of alleged perps</b>	
1	299 (92)
More than 1	17 (5)
Unknown	9 (3)
	325 (100)
<b>Perp relationship to victim</b>	
Stranger	9 (3)
Peer	41 (12)
Romantic Relationship	10 (3)
Person of Authority	21 (6)
Parent/Family	94 (29)
Acquaintance	87 (27)
BF/GF of Parent	25 (8)
Unknown	38 (12)
	325 (100)
<b>Perp gender</b>	
Male	283 (87)
Female	24 (7)
Unknown	18 (6)
	325 (100)

Variable	Frequency N (%)
<b>Perp age when abuse began</b>	
16-18	61 (19)
19-35	95 (29)
Over 35	72 (22)
Unknown	97 (30)
	325 (100)
<b>Victim's age at time of abuse</b>	
0-4	40 (12)
5-9	51 (16)
10-12	35 (11)
13 or Older	199 (61)
	325 (100)
<b>Instances of abuse for victim</b>	
One Time	87 (27)
More Than Once	99 (30)
Unknown	139 (43)
	325 (100)
<b>Victim history with CPS</b>	
No	73 (23)
Yes	193 (59)
Unknown	59 (18)
	325 (100)
<b>Victim gender</b>	
Male	68 (21)
Female	257 (79)
	325 (100)
<b>Victim had official forensic interview</b>	
No	197 (61)
Yes	110 (34)
Unknown	18 (5)
	325 (100)
<b>Number of victims</b>	
1	293 (90)
More Than One	29 (9)
Unknown	3 (1)
	325 (100)



Variable		Frequency N (%)
<b>Caregiver supportive of prosecution</b>	No/Missing	221 (68)
	Yes	104 (32)
		325 (100)
<b>Abuse with penetration</b>	No/Missing	191 (59)
	Yes	134 (41)
		325 (100)
<b>Victim not willing to participate</b>	No	74 (23)
	Yes	251 (77)
		325 (100)

Figure 1: Case Outcomes for 325 Child Sexual Abuse Cases (Perpetrator 16+)



**Table 2:**  
**Predictors of Stage of Outcome for 325 Reported Cases of Child Sexual Abuse**

<b>Predictor</b>	<b>Outcome</b>		
	<b>3-Level</b>	<b>Investigate</b>	<b>Prosecute</b>
<b>Perpetrator characteristic</b>			
Perpetrator Age (Over 35)	***	*****	*****
<b>Victim characteristic</b>			
Victim CPS History	**	-	-
Victim Female	**	-	-
Victim Willing to Proceed	**	-	*****
<b>Support</b>			
Caregiver Support	*****	***	*****
<b>Barrier noted</b>			
Disclosure Issues	neg*	-	neg*
Family Barrier	-	-	neg*
Insufficient Evidence	-	-	neg*

*Note: Results of Reduced Set Logistic Regression Analyses for Three Outcome Variables (N=325). All significant at p < .05\**

## Endnotes

- 1 This work was, in part, supported by Award No. 2014-MU-MU-0001 funded by the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice: *The Prosecution of Child Sexual Abuse: A Partnership To Improve Outcomes*. The opinions, findings, and conclusions or recommendations expressed in this paper are those of the authors and do not necessarily reflect those of the Department of Justice.
  
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9 This research team is currently preparing reports on other case outcomes for these cases, to be available in 2022.

10 This retrospective analysis included 500 randomly selected prosecutor case records of CSA reports in 2009-2013 in four jurisdictions in one northeastern state. The protocol in this state included evaluation of all reports of CSA by the prosecutor's office. Of the 500 case files reviewed and coded, 325 cases involved allegations of abuse by perpetrators aged 16 and older at the time the abuse commenced (and thus more likely subject to criminal prosecution). We determined that outcomes for juvenile perpetrators (less than 16) should be reported separately from the adult offenders given differences in how juvenile cases are handled in criminal investigations.

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