

# PROSECUTION OF CHILD ABUSE

## A Meta-Analysis of Rates of Criminal Justice Decisions

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*This study meta-analyzed rates of criminal justice decisions in 21 studies of prosecution of child abuse. Rates of referral to prosecution, filing charges, and incarceration varied considerably. Rates of carrying cases forward without dismissal were consistently 72% or greater. For cases carried forward, plea rates averaged 82% and conviction rates 94%. Compared to national data, child abuse was less likely to lead to filing charges and incarceration than most other felonies but more likely to be carried forward without dismissal. Diversion, guilty plea, and trial and conviction rates were about the same for child abuse and all violent crimes. Thus, prosecuting child abuse is generally neither feckless nor reckless. Rates can be misleading and cannot be the sole measure of prosecution success.*

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**Key words:** *child abuse, child sexual abuse, prosecution, criminal justice, meta-analysis*

HEARING ABOUT THE ABUSE OF A CHILD provokes a visceral wish to punish the offender, and most professionals agree that prosecution and punishment of child maltreatment can be an appropriate response (see Myers, 1994). Although hard data are elusive, evaluation studies and prosecutor surveys suggest a substantial increase in the prosecution of child abuse during the 1980s and 1990s, and many district attorney's offices around the country have established specialized child abuse units (Smith &

Goretsky-Elstein, 1994). A 1994 survey of prosecutors found that 91% cited domestic violence and child abuse as a source of workload problems in their offices (McEwen, 1995). Prosecution is our most consequential intervention in response to child maltreatment, with a major impact on perpetrators, victims, their families, and the community.

Sometimes extraordinary cases have captured national attention, and prosecution of child abuse has been portrayed as feckless and

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reckless. Stories about prosecutors of child abuse being unable to win convictions suggest that it can be feckless (see Dziech & Schudson, 1989), whereas stories about overzealous prosecutors pursuing questionable allegations suggest that it can be reckless (see, e.g., Wright, 1995). But public and professional understanding of prosecution of child abuse should be based on data, rather than newsworthy cases that may not be representative. Better data would also help illuminate the experience of child victims in the system.

Despite their importance, however, basic data about prosecution of child

abuse have not been systematically compiled. The federal Bureau of Justice Statistics reports data on prosecution of many different crimes (see, e.g., Reaves, 2001), including many that would include child abuse (e.g., rape, assault), but it does not generally present data separately for victims of different ages.

A number of studies have reported rates for several different decisions related to the prosecution of child abuse. This study analyzes these rates for child abuse cases to address the following questions:

- How often are substantiated or founded cases referred for prosecution?
- How often are charges filed?
- How often are cases diverted from prosecution to treatment or other interventions?
- Once charges are filed, how often are cases carried forward versus diverted or dismissed?
- How often do child abuse defendants plead guilty versus go to trial?
- How often are child abuse defendants convicted?
- How often are convicted defendants incarcerated?

## KEY POINTS OF THE RESEARCH REVIEW

- Referral rates varied considerably across 4 studies, ranging from 40% to 85%.
- Charging rates varied considerably across 14 studies, ranging from 28% to 94%.
- Diversion rates ranged from 0% to 7% for studies that reported disposition.
- The great majority of cases that were charged were carried forward without dismissal or transfer, a mean of 79% across 18 studies.
- Plea rates of cases carried forward were generally high across 19 studies, with a mean of 82%, whereas trial rates were correspondingly low, with a mean of 18%.
- Conviction rates of cases carried forward were consistently high, averaging 94% across 19 studies.
- Incarceration rates of those convicted varied considerably, ranging from 24% to 96% across 14 studies.
- Child abuse cases were less likely to have charges filed than most other felonies, were more likely to be carried forward without dismissal, and had lower incarceration rates.
- The only difference between rates in child abuse cases and those of rapes and sexual assaults in general was a significantly higher carried-forward rate and a lower incarceration rate for child abuse cases.
- On average, across the results reviewed, for a hypothetical 100 alleged perpetrators referred to prosecutors:
  - 66 would be charged;
  - 43 would plead guilty;
  - 12 would be dismissed or transferred;
  - 2 would be diverted to treatment;
  - 6 would be convicted at trial;
  - 3 would be acquitted at trial;
  - 26 would be incarcerated.

This information is then combined to depict case flow. Unlike previous reviews (e.g., Cross, Whitcomb, & DeVos, 1995; Stroud, Martens, & Barker, 2000), we include a comprehensive sample of studies and calculate aggregate statistics using meta-analytic techniques. Next, we compare rates for child abuse cases to overall rates for felonies, violent crimes, and rape and sexual assault charges to see how prosecution of child abuse differs from prosecution of other crimes.

Finally, we generate a hypothetical case flow for 100 child abuse cases referred to prosecutors.

### ***Special Nature of Prosecution of Child Abuse***

Prosecution of child abuse differs from most prosecution in many ways (see, e.g., Davidson, 1997; Whitcomb, 1992), several of which may influence the rates analyzed here. First, the process of investigation and referral to prosecutors is different, which is likely to affect the population of cases that are referred. Two different investigative agencies, police and child protective services (CPS), regularly refer child abuse cases to prosecutors, whereas only the police refer most other crimes. One or both of these agencies will be involved in all official child abuse investigations, either because private citizens contact them directly or professionals such as health care providers and school personnel contact them following detection, disclosure, or suspicion of abuse. CPS agencies' primary mission is to assess the child's risk and need for protective services.

The complicated, multidisciplinary nature of investigating child abuse and the need to protect children in the process has led in part to the development of specialized organizations to carry out these functions. These range from specialized child abuse units within district attorneys' offices, to multidisciplinary teams across investigative agencies, to comprehensive Children's Advocacy Centers (CACs) (see Sheppard & Zangrillo, 1996). These agencies aim to improve the process of criminal justice investigations for children by making the experience more child-friendly and by coordinating the efforts of the different investigators. CACs have increased ninefold since 1994 and are now established in 49 states across the United States (National Children's Alliance, 2001). The involvement of CACs or other multidisciplinary investigation organizations could have an impact on the rates analyzed here.

Second, child abuse presents special challenges that can make prosecution difficult. It can be very difficult to ascertain whether a criminal act has occurred and who is culpable. In sexual

abuse cases particularly, evidence can be sparse. Skilled prosecutors can use children's statements to find and present corroborative evidence, but often prosecution relies heavily on child victims' testimony. Prosecution often depends on families' commitment to prosecution and child victims' ability as witnesses, credibility with juries, and capacity to withstand the stress of a criminal trial (see, e.g., Davidson, 1997; McGregor, 1990; Whitcomb, 1992). Prosecution of both sexual and physical abuse also depends on judges' and juries' willingness to acknowledge a problem that historically has been disbelieved, ignored, or discounted. The special challenges of prosecuting child abuse could influence criminal justice decision rates through much of the process, including the defendant's decision to plead guilty versus go to trial.

Third, child maltreatment may differ from other crimes in the state's interest in prosecution and punishment. Professional opinion about prosecution of child abuse has historically been divided (see Harshbarger, 1987; Levesque, 1995; Newberger, 1987; Peters, Dinsmore, & Toth, 1989), and prosecution is sometimes controversial. Prosecution may be declined in favor of therapeutic approaches, family or juvenile court proceedings, or both (see Whitcomb & Hardin, 1996 on coordination of criminal and civil courts). Even when prosecutors believe a criminal justice response is justified, they need to weigh the costs and benefits of prosecution for the victim, family, and community. Such costs include the stress on children who may need to testify and the emotional pain of seeing an offending parent prosecuted, whereas benefits include not only achieving justice but also preventing further abuse by controlling offenders. Such considerations could well influence the rate at which cases are prosecuted and taken to trial and the rate at which convicted defendants are incarcerated.

### ***How Prosecution of Child Abuse Works***

In most ways, the prosecution of child abuse parallels that of any prosecution (cf. Cross et al., 1995; Davidson, 1997) (see Figure 1, adapted

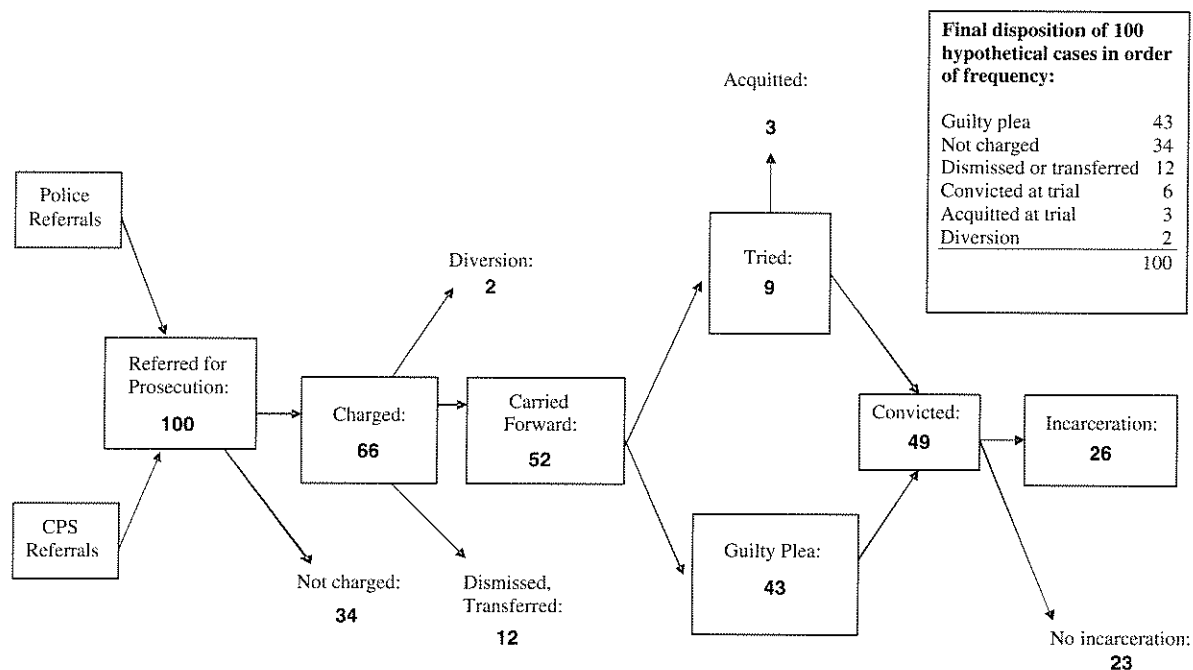


Figure 1: Hypothetical Case Flow of 100 Child Abuse Cases Referred for Prosecution

from Boland, Mahanna, & Sones, 1992, for a diagram of prosecution case flow). Referrals to prosecution in police cases are relatively straightforward, based on the evidence gathered and the procedures of a particular jurisdiction. For CPS cases, referral is discretionary for many cases, although referral is mandatory for certain types of more serious cases in most jurisdictions (see, e.g., MacMurray, 1989; Mennrich, Martell, Cross, & White, 2002; Wilber, 1987).

Once prosecutors have received a referral of child abuse from CPS or the police, they evaluate the case to assess whether a crime has been committed and whether they can prove it beyond a reasonable doubt without unduly hurting the victim. They may decline cases because of insufficient evidence that a crime has been committed or because the probability of obtaining a conviction does not justify subjecting victims and their families to the stress of prosecution and possibly a trial (see, e.g., Smith & Goretsky-Elstein, 1994; Whitcomb, 1992). Declined cases are not pursued further at that point, although prosecutors may later file charges if they obtain more evidence or if a

victim-witness who was initially unready to testify later becomes ready because of recovery or maturation. Many declined cases are closed and go no further in criminal court. They may be pursued as lawsuits in civil court, and the allegations may be considered in family, probate, or juvenile court in relation to issues such as custody, visitation, and restraining orders.

Once prosecutors accept a case, they seek to charge the defendants at grand jury or preliminary hearing and typically pursue conviction. After prosecution is initiated, however, the case may be dismissed by judges or dropped by prosecutors if prosecution is no longer appropriate. Diversion is another alternative to prosecution when diversion programs are available (see, e.g., Fridell, 1991). In diversion, prosecutors agree to drop charges pending perpetrators' successful completion of an agreed-on treatment program. If perpetrators do not follow through with treatment, prosecutors can then resume prosecution.

Once cases are carried forward without dismissal or diversion, defendants then must decide whether to plead guilty or go to trial. Plea bargaining between prosecutors and defen-

dants may influence this decision. Defendants may seek reduced sentences and prosecutors may offer them in the interest of securing a guilty plea. Defendants who go to trial may be found guilty or acquitted, and those convicted through a guilty plea or at trial will be sentenced.

## METHOD

In contrast to a traditional literature review, a meta-analysis statistically combines results in an objective manner to summarize and synthesize selected empirical studies (Cooper & Hedges, 1994; Lipsey & Wilson, 2001). In addition, meta-analysis provides a foundation for future research by identifying what is and what is not known about a particular topic.

### *Study Selection*

Several strategies were used to identify potential studies to be included in the analyses. Electronic databases were searched for books, published articles, dissertations, or conference papers reporting empirical research on child abuse prosecution. The searched databases included PsychInfo, Lexus, Social Work Abstracts, Social Sciences Abstracts, Educational Resources Information Center (ERIC), and Dissertation Abstracts International. Combinations of the following keywords were used in the searches: "prosecution," "criminal justice," "courts," "sentencing," "child abuse," and "child maltreatment." Efforts were also made to identify relevant unpublished manuscripts or articles in press by contacting child abuse researchers through an electronic mail discussion list (Child-Maltreatment-Research-L). Sources were included in the meta-analysis if they presented quantitative data on child abuse prosecution case flow with information on at least one of the following: referral rate, charging or prosecution acceptance rate, carried forward rate, plea and trial rate, or incarceration rate. A total of 21 studies were identified that met these criteria. Most of the studies were relatively current, with 5 studies published during the 1980s, 11 published during the 1990s, 4 completed during the 2000s, and only 1 published before 1970 (see Table 1) (these studies are also marked with an

asterisk in the references). The majority of studies (15) were from journals. The remaining documents were monographs (1), books (1), final reports (3), and a manuscript submitted for publication (1). All of the studies were conducted in the United States. Four additional studies were identified but not included because 3 were conducted in Canada (Stevens & Fischer, 1992; Trocme et al., 2002; Van Dam, Halliday, & Bates, 1985), and 1 was conducted in New South Wales, Australia (Cashmore & Horsky, 1988).

Two of the 21 sources identified in the search presented results from multiple samples or multiple sites separately. Dolan (1985) reported data from two communities. One community implemented a special collaborative program between the district attorney and CPS. In this program, police-trained investigators conducted special review of CPS cases with potential for prosecution. The other community was a comparison using a standard CPS sample. A research report from the American Bar Association and the National Institute of Justice (Davis & Wells, 1996) reported data separately for three different sites: a child protection office, a sheriff's office, and a prosecutor's office. For purposes of the meta-analysis, each of the different samples presented in these sources was analyzed as a separate case. A total of 24 observations were included in the analysis from the original 21 studies.

Of these 24, 19 (79%) concerned only sexual abuse cases and 5 (21%) included a combination of sexual and physical abuse cases. Data were analyzed for the entire 24 and also separately for the sexual abuse subsample and the sexual and physical abuse subsample. For most outcomes, differences between the two subsamples were minimal. In addition, mean and median percentages for the sexual abuse subsample were mostly within 5 percentage points of the total sample. Therefore, the entire sample of 24 cases was used.

In 54% of studies, samples were drawn from prosecutors' offices versus 25% from CPS or investigation agencies, 13% from police, and 8% from human service agencies. The degree that sample characteristics were available in these studies varied greatly. Across 17 studies, 78% of

child victims were girls. Fourteen studies reported age of child victims, but some reported means and others reported percentages of children with age ranges. We calculated approximate means over the 14 studies, using exact means when possible and estimating means using the information given when necessary. Children across the 14 studies were on average about 9 years old. In 6 studies that recorded race, the overwhelming majority of child victims were White. Across 20 studies, 54% of the cases involved intrafamilial abuse. In 11 studies that reported age of offender, using the method for approximating the mean described above, offenders across the 11 studies were on average about 34 years old.

### **Rates**

Rates were calculated for the following decision points in the prosecution of child abuse: referral, filing criminal charges, diversion, carrying cases forward (versus dismissing them), guilty plea, trial, conviction, and incarceration. In most studies, each perpetrator was the unit of analysis and was considered an individual case, although Mennerich et al. (2002) used the prosecutor's entire case as the unit of analysis, even if it included multiple perpetrators, as long as all perpetrators had the same outcome. Each rate was defined as follows:

*Referral to prosecutors' office.* This is the proportion of substantiated or founded cases referred to the prosecutors' office by CPS or law enforcement agencies. This rate equals the number of cases referred to the prosecutors' office divided by the number of cases substantiated or founded by the source agency.

*Charged.* This is the proportion of referred cases charged with a crime versus screened out. The rate was calculated as the number of cases in which criminal charges were filed divided by the number of cases referred for prosecution. Some studies used the term "accepted for prosecution" rather than "charged."

*Diversion.* This is the proportion of charged cases diverted from prosecution to treatment or

some other alternative. This was calculated as the number of cases diverted divided by the number of cases charged. For cases with an absence of diversion in disposition, the rate was inferred to be zero, whether or not a diversion program was available.

*Carried forward.* This is the proportion of charged cases that go to trial or have guilty pleas. Dismissed, diverted, transferred cases were defined as not carried forward. The rate was equal to the number of cases that resulted in a guilty plea or trial divided by the number of cases charged by the prosecutor's office.

*Guilty plea.* This is the proportion of cases carried forward that resulted in a guilty plea. The rate was calculated as the number of cases with a guilty plea divided by the number of cases that were carried forward.

*Trial.* This is the proportion of cases carried forward that led to a trial. The rate was calculated as the number of cases that went to trial divided by the number of cases that were carried forward. Note that the trial rate and the plea rate total to 100% of all cases carried forward. Thus, the trial rate equals one minus the plea rate, and therefore results for these rates are essentially two different ways of looking at the same analysis.

*Conviction.* Conviction rate of cases carried forward was calculated as the number of guilty pleas and convictions at trial divided by the number of cases that were carried forward. Studies consistently had too few cases that went to trial to calculate reliable rates of conviction at trial.

*Incarceration.* This was the proportion of convictions that resulted in incarcerations. The rate was calculated as the number of cases that led to incarceration divided by the number of convictions.

### **Comparison Data**

Comparison data were gathered from 12 national studies of prosecution in urban areas conducted for the U.S. Department of Justice (DOJ)

from 1977 to 1998. Each study gathered samples of state court felony defendants for a 1-year time frame in 30 to 40 of the most populous U.S. counties. We calculated each rate whenever possible for every study. Comparison studies are marked with a dagger (†) in the References section (Boland & Brady, 1985; Boland, Brady, Tyson, & Bassler, 1983; Boland, Conly, Mahanna, Warner, & Sones, 1990; Boland, Conly, Warner, Sones, & Martin, 1989; Boland, Logan, Sones, & Martin, 1988; Brossi, 1979; Hart & Reaves, 1999; Reaves, 1998; Reaves & Smith, 1995). Rates were calculated for three groups: (a) all felony offenses, (b) all violent crimes, and (c) all cases involving a charge of rape. Violent crimes, as defined by the DOJ studies, included murder, rape, robbery, assault, and such crimes against children as child abuse, nonviolent or nonforcible sexual assault, kidnapping, and cruelty to a child. Note that each succeeding comparison group was a subset of the previous comparison group and that each comparison group included child abuse cases—it was impossible to separate them from crimes against adults. The comparison of rates from the federal data with rates from the child abuse studies was slightly conservative as a result.

Because some of these studies only reported aggregate results across jurisdictions, the unit of analysis for the comparison data was the entire United States. Because the federal comparison data were drawn primarily from urban areas “that account for the vast majority of all reported crimes” (approximately 85% according to reports from the FBI) (Boland & Sones, 1986, p. 3), these rates could reasonably be viewed as national.

### **Analysis**

Data were aggregated across studies for the following rates: referral to prosecution, charging, diversion, carrying forward, pleading guilty, going to trial (which is simply one minus the guilty plea rate), conviction (of cases carried forward), and incarceration. Most studies only reported data on some of these rates, so the actual *N* of cases meta-analyzed varied across the specific rates.

Mean rates for each decision point were calculated for the child abuse studies. Studies were not weighted by sample size (see Light & Pillemer, 1984; Lipsey & Wilson, 2001), because the source of the sample (CPS, police, special agencies) appeared to be directly related to its size. We felt that weighting the sample would have given certain jurisdictions of certain types undue influence in the results. A parallel analysis of weighted statistics yielded very similar results, however. The weighted mean rates differed from their unweighted counterparts by no more than 4.0%. We also calculated median rates, which differed from means by no more than 6.5% and so were not used further. For each rate, the *Q* statistic (Lipsey & Wilson, 2001) was calculated to assess whether the variation was likely due to systematic differences across the samples or instead was better explained by chance (sampling error).

Mean rates were also calculated for each of the three categories of felonies in the comparison data. The mean rates for the child abuse sample were then compared to the comparison mean rates using one-sample *t* tests, which treated the comparison mean rates as population values. Note that it would have been inappropriate to use standard comparison of means procedures (e.g., independent-sample *t* tests) to contrast the child abuse studies and national comparison studies because the unit of analysis is jurisdiction for the child abuse studies but the entire country for the federal comparison studies.

Adapting the method of Boland and colleagues (e.g., Boland et al., 1992; see also Cross et al., 1995), we also examined the hypothetical flow of 100 child abuse cases through different stages of prosecutorial decision making. This model uses the mean rates identified in the studies that were reviewed and provides a scenario representing “typical” prosecution out-

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comes for a set of 100 cases at the point at which they have been referred for prosecution. This analysis suggests general trends, even though it does not take into account the possibility that rates at different points may be correlated nor that mean rates may not be representative of many jurisdictions.

## RESULTS

Table 1 presents the rates for each of the child abuse studies, and Figure 2 presents boxplots summarizing the distribution for each rate in the child abuse sample. Table 2 presents statistics on each rate in both the child abuse sample and comparison samples.

### Rates

*Referral to district attorney.* The unweighted mean referral rate was 56% across four studies, but the mean was not useful because of the variability in rates. A special program that included both health care and police intervention in child abuse cases had a high rate of 85% (Rogers, 1982). Dolan's (1985) quasi-experiment found that a community that had a special CPS-DA collaborative investigation program within CPS referred 59% of cases to prosecutors. On the other hand, the two standard CPS samples (including Dolan's comparison community) both had a substantially lower referral rate of 40%.

*Charging.* Across the 13 studies that had charging or prosecution rates, more than half of child abuse cases considered by prosecutors were accepted, but again this rate is so variable that the mean is not useful. This rate ranged from 28% to 94%, and even the middle half (interquartile range) of studies varied by 33%. The majority of studies (8) had charging rates between 48% and 76%.

*Diversion/deferred.* For the 12 studies that reported diversion or from which zero diversion could be inferred from an absence of diversion in disposition, an average of 2% of cases were diverted. For the six studies in which diversion was reported, an average of 3% of cases were diverted in these studies. However, given that

most studies did not report diversion, it seems likely that many jurisdictions do not use diversion, at least formally, and the mean rate of formal diversion is much lower. It is possible, of course, that an informal type of diversion was used in these jurisdictions, in which prosecutors agree not to file charges if the alleged perpetrator pursues treatment, but retain the option of filing charges later. But we have no way of measuring that in this meta-analysis.

*Carrying cases forward.* The carried forward rate refers to the proportion of cases that, once charged, are carried forward either to trial or to a guilty plea. In other words, this represents the proportion of charged cases that were not later dismissed, diverted, or transferred. In 15 of the 18 studies for which carried-forward rates could be calculated, the rate was 72% or greater. Two outliers (Bradshaw & Marks, 1990; DeFrancis, 1969) with small carried-forward rates collected some or all of their data from the 1960s and 1970s. These cases occurred before the increased sophistication about sexual abuse and increased coordination among police, prosecutors, and other professionals that arose in the 1980s. A third outlier (Dolan, 1985) had 50% of cases carried forward in the community with a special sexual abuse unit, but this study had a small *N* of 30.

*Pleading guilty.* The plea rate in cases carried forward was consistently high, exceeding 83% in 14 of the 19 studies. In one outlier, DeJong and Rose (1991), the authors noted that the strict sentencing in that state for guilty pleas may have led to the low rate (39%) of pleas. This state required those who pled to serve 4 years in jail, and the mandatory minimum sentence for felony child sexual abuse was 5 to 10 years. Martone, Jaudes, and Cavins (1996), in another outlier, reported case disposition for alleged perpetrators charged only with felonies, with their plea rate of 57%. Felony cases of sexual abuse or assault may be more likely to proceed to trial versus plea rather than misdemeanors. The DeFrancis (1969) study reported that its most significant finding was the high dismissal rate of prosecutions (44%), which may severely impact the low number of pleas (61%), resulting in a third outlier.



TABLE 1: Data in the Meta-Analysis

Study	Sample	N <sup>a</sup>	Abuse Type	Referral	Charged	Diversion	Carried Forward	Guilty Plea	Trial	Conviction of Carried Forward	Incarceration
1. De Francis, 1969	Brooklyn Society for the Prevention of Cruelty to Children	143	Sexual	—	—	—	.43	.61	.39	.85	.43
2. Conte & Berliner, 1981	Prosecutors	84	Sexual	—	—	—	.99	.77	.23	.91	.59
3. Rogers, 1982	Specialized health and police program	261	Sexual	.85	.48	.00 <sup>b</sup>	.72	.87	.13	.98	—
4. Dolan, 1985 <sup>c</sup>	CPS	83	Sexual	.59	.76	.00 <sup>b</sup>	.50	.94	.06	1.00	.25
5. Dolan, 1985 <sup>d</sup>	CPS	40	Sexual	.40	.75	.00 <sup>b</sup>	.78	.71	.29	.86	.33
6. Chapman & Smith, 1987	Prosecutors	249	Sexual	—	.63	.06	.82	.88	.13	.94	.60
7. MacMurray, 1989	Prosecutors	87	Sexual	—	.49	—	—	—	—	—	—
8. Bradshaw & Marks, 1990	Prosecutors	350	Sexual	—	.74	.00 <sup>b</sup>	.49	.83	.17	.96	.52
9. DeJong & Rose, 1991	Prosecutors	115	Sexual	—	—	—	—	.39	.61	.92	—
10. Goodman et al., 1992	Prosecutors	170	Sexual	—	—	—	.87	.86	.14	.93	.59
11. Tjaden & Thoennes, 1992	CPS	34	Physical and sexual	—	—	—	.79	.85	.15	.93	.24
12. Gray, 1993	Prosecutors	303	Physical and sexual	—	—	—	—	.88	.12	—	—
13. Smith & Goretzky-Elstein, 1993	Prosecutors	919	Sexual	—	—	.03	.87	.86	.14	.95	.59
14. Cross, Whitcomb, & De Vos, 1995	Prosecutors	552	Sexual	—	.60	.02	.92	.84	.16	.93	.78
15. Davis & Wells, 1996 <sup>e</sup>	CPS	225	Physical and sexual	—	—	—	—	—	—	—	—
16. Davis & Wells, 1996 <sup>f</sup>	Sheriff's office	99	Physical and sexual	.40	.92	.01	.85	.94	.06	.99	—
17. Davis & Wells, 1996 <sup>g</sup>	Prosecutors	6,111	Sexual	—	.94	.06	.77	.95	.05	.97	—
18. Marlone, Jaudes, & Cavins, 1996	Hospital investigation team	77	Sexual	—	.68	.00 <sup>b</sup>	.87	—	—	.99	.32
19. Brewer, Rowe, & Brewer, 1997	Private investigative agency	200	Sexual	—	.86	.00 <sup>b</sup>	.88	.57	.43	.86	.90
20. Cheit & Goldschmidt, 1997	Arraigned cases	1,138	Sexual	—	.39	—	—	—	—	—	—
21. Cullen, Smith, Funk, & Haaf, 2000	Prosecutors	201	Sexual	—	—	—	.84	.87	.13	.95	.45
22. Faller & Henry, 2000	Criminal court files	263	Sexual	—	—	—	.89	—	—	—	—
23. Mennerich, Martell, Cross, & White, 2002	Prosecutors	703	Physical and sexual	—	.28	.004	.91	.94	.06	.96	.96
24. Stroud, Martens, & Barker, 2000	Children's Advocacy Center	174	Sexual	—	—	—	—	—	—	—	—

NOTE: CPS = child protective services.

a. N refers to the denominator for the first available rate.

b. Inferred from absence of diversion in disposition.

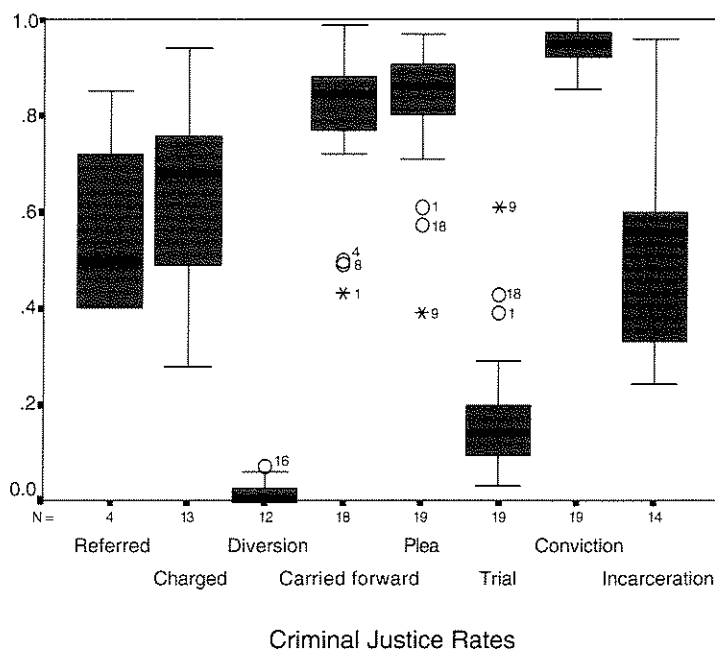
c. Experimental community.

d. Control community.

e. CPS case study.

f. Sheriff's office case study.

g. Case study in one site for multiple years.



**Figure 2: Boxplots of Rates for Criminal Justice Decisions**

NOTE: Black lines represent the median. Boxes represent the middle half of the distribution. Lines extending from boxes ("whiskers") represent the remainder of the distribution except for outliers and extremes, which are represented by O and asterisk (\*), respectively. The study number for each outlier and extreme is shown.

*Going to trial.* Note that the trial rate was simply one minus the plea rate, so these rates were merely two different ways of expressing the same phenomenon. Trial rates varied from 3% to 61%; the highest rate was, of course, DeJong and Rose (1991), with a mean of 18% (median = 14%) of carried-forward cases proceeding to trial. Fourteen of the 19 studies with trial rates had rates of 16% or less.

**Of those cases carried forward and not dismissed, diverted, or transferred, a large percentage (mean = 94%) ended in convictions either through guilty pleas or at trial. Sixteen of the 19 studies had rates 90% or greater. Studies consistently had too few cases that went to trial to calculate reliable rates of conviction at trial.**

*Conviction.* Of those cases carried forward and not dismissed, diverted, or transferred, a large percentage (mean = 94%) ended in convictions either through guilty pleas or at trial. Sixteen of the 19 studies had rates 90% or greater. Studies consistently had too few cases that went to trial to calculate reliable rates of conviction at trial.

*Incarceration.* Incarceration rates of those convicted varied considerably. Rates for the 14 studies ranged from 24% to 96%, with a mean of 54%. Studies were fairly equally distributed across the range. For example, 2 studies had incarceration rates of 25% or less, 2 had rates between 30% and 39%, 2 had rates between 40% and 49%, 4 had rates between 50% and 59%, 2 had rates between 60% and 80%, and 2 had rates of 90% or more.

### **Systematic Versus Chance Variation in Rates**

For the child abuse studies, the *Q* statistic was statistically significant at  $p < .001$  for all but one rate in Table 2 (for diversion). This provides evidence that the variation in rates is systematic, that is, due to real differences between the studies analyzed and not just sampling error or chance. It is beyond the scope of this article to explore what jurisdictional, organizational, or sample variables could explain this variation, but this suggests the value of additional meta-analytic research (see below).

TABLE 2: Summary Table of Rates of Criminal Justice Action

Criminal Justice Action	Child Abuse Studies					Comparison Studies			
	Number of Studies	M	SD	Minimum	Maximum	Number of Studies	All Felonies	Violent Offenses	Rape & Other Sexual Assault
							M	M	M
Referral to prosecution	4	.56	.21	.40	.85	8	—	—	—
Charged	13	.66	.20	.28	.94	12	.79*	.79*	.69
Diversion	12 <sup>a</sup>	.02	.02	.00	.07	12	.03	.01	.01
Carried forward	18	.79	.16	.43	.99	12	.73	.65**	.69*
Guilty plea	19	.82	.15	.39	.97	12	.87	.81	.76
Trial	19	.18	.15	.03	.61	12	.13	.19	.24
Conviction	19	.94	.05	.85	1.00	12	.96	.94	.93
Incarceration	14	.54	.23	.24	.96	12	.66	.73**	.74**

NOTE: Rates in the child abuse studies came from individual jurisdictions or agencies, and rates in the comparison studies were national.

a. For the six studies in which diversion was reported,  $M = .03$ ,  $SD = .03$ , Minimum = .004, Maximum = .07.

\* $p < .05$ . \*\* $p < .01$ .

### Comparison to Other Crimes

Table 2 also presents results for the comparison of rates in child abuse cases to all felonies, violent crimes, and rapes and sexual assaults in general. Child abuse cases were less likely to have charges filed than felonies overall and other violent crimes, but the charging rate was similar to the rate for rape and other sexual assault generally. The diversion rate for each of the comparison categories was similar to the 2% rate of the child abuse studies—3% for all felonies and 1% for violent offenses and rape and other sexual assault. Child abuse cases were substantially and significantly more likely to be carried forward without dismissal than violent crimes and rape and other sexual assault. Guilty plea and trial rates for child abuse cases were similar to all the comparison categories, and the differences were not statistically significant. Carried-forward child abuse cases were as likely to lead to conviction as all three comparison categories. The incarceration rate for child abuse cases was lower than all three comparison categories and significantly lower than violent crimes and rape and sexual assault.

### Hypothetical Case Flow

Figure 1 presents case flow for a hypothetical 100 cases referred to prosecutors—this analysis

focused on cases after referral because there were few studies on referral and their results were too variable. This analysis is based on averaging across studies. About 66 out of 100 cases referred to prosecutors would be charged with a crime. Fifty-two would be carried forward to guilty plea or trial. Forty-nine would be convicted, 43 of those through a guilty plea. Twenty-six would be incarcerated. The text box on Figure 1 listing dispositions in order of frequency shows that a substantial majority of the 100 defendants are either not charged or plead guilty, and only 9 go to trial.

### DISCUSSION

These data demonstrate that most substantiated and founded child abuse cases do not lead to prosecution but that the majority of cases that are prosecuted do end in conviction, the great majority by guilty plea. A summary of the findings is presented in Key Points of the Research Review. The small number of available studies varied considerably in the proportion of cases that were sent to prosecutors and the proportion on which prosecutors filed charges. But there was considerable consistency in carrying cases forward, obtaining guilty pleas, and convictions once cases were charged. Incarceration rates were variable. Rates for child abuse cases resembled rates for all felonies generally, except

that they were less likely to have charges filed. Furthermore, child abuse cases were more likely to be carried forward but less likely to lead to incarceration than violent offenses and rape and sexual assault.

### **Understanding Rates**

*Referral rate.* This most fundamental step is probably the least understood. Most studies of prosecution of child abuse use samples of cases that have already been referred to prosecutors (see Stroud et al., 2000), limiting what can be learned about the referral process itself. Referral rates differed greatly by the type of agency. We do not know to what extent variation in referral stems from differences in policy and procedure versus differences in decision making. We are aware of no studies that look in detail at the processes of referral in the prosecution of child abuse, although Stroud et al. (2000) examine variables that predict referral.

*Charging rates.* Charging rates vary greatly across studies, although high percentages of those actually charged are convicted. Thus, the best predictor of whether alleged perpetrators in a prosecution sample are punished is whether or not they are charged (see Cross et al.,

1995). There is now a moderate body of literature on rates at which cases referred to prosecutors on child sexual abuse allegations are charged and some studies that included physical abuse as well. Variation across jurisdictions is the central feature of these data, however, and the mean and median are not necessarily representative. We can think of several possible explanations for this variation.

First, differences in the screening process across jurisdictions may

lead to differences in charging rate, not because criteria for case selection are so different but because the organizational procedures for screening cases are different and are not well-captured by the charging rate. For example, screening in one jurisdiction may be a two-stage process, and the charging rate may only measure one of those stages. It is possible, for example, that police or CPS may consult with prosecutors about cases in one jurisdiction prior to referral and informally screen out cases, whereas prosecutors in another jurisdiction may screen cases only after they have been referred for a charging decision.

Second, differences in charging rates probably reflect differences in the population of cases across studies. Some of this is obvious from the different nature of the population in these studies—cases seen by CPS, sheriff's offices, and hospital investigations teams, for example, are likely to differ. But charging rates were not linked in obvious ways to the setting from which the sample came, and there was still considerable variation within similar samples, for example, cases drawn from prosecutors' offices. Because of local or state policy or practice, different communities may apply lower or higher thresholds for referral for prosecution. States mandate referral from CPS to law enforcement or prosecutors for certain categories of abuse, but these laws vary across states. Variations in training of police, prosecutors, and judges may create differences in criteria for investigating cases. Even prosecutors applying identical criteria in two different communities may achieve different prosecution rates because of differences in the potential for prosecution of the cases sent to them. In addition, communities may diverge in the incidence of child abuse of a type and severity that warrants prosecution or in the willingness of child victims and their families to support prosecution.

Third, some variation may be due to disparity among district attorneys in their commitment to and investment in prosecuting child abuse. Some district attorneys may have a broader perspective on the role of prosecution, and believe in prosecuting a wider range of cases than others. They may vary as well in the weight they give to victims' wishes for or against prosecu-

**Because of local or state policy or practice, different communities may apply lower or higher thresholds for referral for prosecution. States mandate referral from CPS to law enforcement or prosecutors for certain categories of abuse, but these laws vary across states. Variations in training of police, prosecutors, and judges may create differences in criteria for investigating cases.**

tion. Training may play an important role here, too.

Fourth, district attorneys are likely to vary in the priority they give prosecuting child abuse, even when they agree in principle. DAs must respond to a wide range of criminal behavior. Prosecution of child abuse requires special commitment because of its many special demands, such as interviewing children, supporting families, and coordinating with other professionals. Some district attorney's offices have invested resources by hiring specialized professionals, developing specialized units, and participating in multidisciplinary teams and agencies like CACs. Many district attorneys' offices have not made this commitment, however, and may be less likely to charge cases.

Note that increased zeal and resources for prosecuting child abuse could paradoxically lower charging rates by influencing which cases are referred to prosecutors. If a community understands that prosecutors have an increased willingness, ability, or both to pursue child abuse cases, it may refer more cases that are difficult to investigate and prosecute. Committed prosecutors may encourage these referrals and screen in cases that other prosecutors would reject. Prosecutors may, for example, be willing to interview younger children and look for corroborative evidence on allegations that other offices would not find sufficiently credible to spend time on. Many of these cases may be summarily closed without taking much time or having much impact on the criminal justice system, but they would have an effect on the charging rate.

Fifth, prosecutors' offices may vary in their skill in developing cases that can be prosecuted. Prosecution of child abuse is a specialized endeavor that requires skill in and commitment to child interviewing, gathering corroborative evidence, and many other elements of investigation. It is likely that this skill is not evenly distributed, so some prosecutors' offices are likely to be better than others at developing cases that lead to charges.

*Diversion.* The small number of studies in which diversion is reported and the small percentages of diverted cases even in those studies suggest that diversion is not used frequently

and rarely programmatically or systematically. Time and resources may be lacking to develop formal diversion programs, and the risks of reoffending may often seem to outweigh the benefits of diversion. An informal type of diversion may be used even when formal diversion is lacking. Rather than formally charging alleged perpetrators with a crime and then dropping the charges as part of a diversion agreement, prosecutors may agree informally not to charge if alleged perpetrators pursue treatment, leaving open the option of charging later. The rarity of diversion programs parallels the rarity with which it is discussed in the professional literature. Is diversion an alternative that has not been explored sufficiently?

*Carried forward.* This is the first of three rates examined here that demonstrated considerable consistency across studies. This consistency suggests that prosecutors are charging cases that they judge to have high probabilities of conviction. The high rates at which cases were carried forward without dismissal may reflect their seriousness and the care with which prosecutors decide to file charges, which may in turn be related to the investment of time and resources they require.

*Plea and conviction.* Echoing Cross et al. (1995), one of the most important findings from this research is that child abuse trials are relatively rare, certainly as a proportion of cases investigated but even as a proportion of cases charged. The rates at which defendants pled guilty versus went to trial were consistently high. The consistently high rates suggest that prosecutors in many different jurisdictions have been able to select, prosecute, and plea-bargain effectively enough to obtain guilty pleas in a large majority of cases that they carry forward. The large proportion of guilty pleas of those cases carried forward ensures high overall conviction rates. The statistics for prosecution of child abuse thus resemble those of felony arrests overall, which also feature high plea and conviction rates for cases carried forward.

Note that the consistency in plea rates and conviction rates does not necessarily mean that crimes on which offenders were sentenced were equally severe across jurisdictions. Prosecutors

are likely making decisions to charge and carry forward cases based on their offices' ability to obtain convictions in a given case. One office may obtain a high conviction rate but only pursue the most severe cases, whereas another office may have an identical conviction rate but pursue a wider range of cases.

*Incarceration.* The great variation in incarceration rates suggests that there is no consistently

**The higher rate of carrying child abuse cases forward without dismissal may stem from careful screening of child abuse cases in the charging process. The lower incarceration rate may be a function of child abuse perpetrators' frequent close relationship to victims, which may lead judges to perceive child abuse as less serious or to avoid incarceration because of the impact they believe it will have on the family.**

applied standard regarding sentencing of child abuse across jurisdictions. Cheit and Goldschmidt (1997) expressed concern that sentences for child sex offenders in Rhode Island were more lenient than those for other felonies of comparable severity, whereas Champion (1988) found that sentences for child sexual abusers were more severe. Given the considerable variation in sentencing found here, the difference between these two studies may simply be one manifestation of more widespread variation in the difference between sentences for child sexual offenses and for other crimes.

Differences in standards for punishment could be one explanation for the wide variation in incarceration rates. Judges and juries across jurisdictions may differ on their criteria for choosing to incarcerate, and states may vary in their sentencing standards. Public and judicial opinion about appropriate sentences may vary across states and regions. In addition, effective alternatives to incarceration may promote lower incarceration in some jurisdictions, but the lack thereof may lead to higher incarceration rates in other jurisdictions. Variation in incarceration may stem from differences in the population of cases referred for prosecution. Regardless of their cause, these results suggest that standards for incarceration of defendants con-

victed of child abuse crimes need further examination. Note that the mere fact of being incarcerated may be less important than the length of incarceration, which was beyond our scope but should be the focus of new research.

*Comparison to other crimes.* Child abuse and other violent crimes had very similar rates. This suggests that there is no radical difference between the prosecution of child abuse and other violent crimes, particularly rape and sexual assault cases in general. Perhaps the most important difference is that prosecutors accept lower proportions of child abuse cases, but they also appear to dismiss fewer as well.

From these data, it is impossible to tell why the charging rate was lower for child abuse than for other violent crimes. To what extent is it because allegations were false, insufficient evidence was found to initiate prosecution, or prosecution was rejected in the interest of the child, family, or community? The higher rate of carrying child abuse cases forward without dismissal may stem from careful screening of child abuse cases in the charging process. The lower incarceration rate may be a function of child abuse perpetrators' frequent close relationship to victims, which may lead judges to perceive child abuse as less serious or to avoid incarceration because of the impact they believe it will have on the family. Further research is needed here.

### ***Implications for Practice, Policy, and Research***

The results here suggest that using rates to define prosecution success could be misleading. On one hand, carried-forward and conviction rates appear to be so consistent that they may be insensitive to differences in effectiveness. On the other hand, charging rates are so variable and potentially subject to differences in measurement, referral, screening practices, and populations that any contrast in rates is hard to interpret. Good programs willing to evaluate more difficult cases might be "punished" with lower charging rates. Charging and conviction rates can seem persuasive, but any conclusion drawn from them should be examined skeptically, and they should never be the sole measure of an agency's success.

Note further that we have used a consistent definition of rates here, but other parties that are reporting rates may calculate them in different ways. Charging rates are very different depending on the denominator used to calculate them (the numbers investigated, substantiated, referred, etc.). The same is true of conviction rates. Variation in defining and calculating rates adds to the confusion and misinterpretation.

Much public and professional attention is devoted to trials of child abuse cases, but the number of cases in which alleged perpetrators are not charged or defendants plead guilty is more than 8 times greater than those going to trial. We know much less about what happens after investigation and prosecution for the perpetrator, the child, and the family in these cases, nor have models of intervention been described for these situations.

### **Limitations**

The relatively small number of studies available, especially for some decisions, limits this research. Several studies have small sample sizes as well, making rates subject to sampling error. Furthermore, some of the agencies studied were either selected for research because of their special characteristics (e.g., Dolan, 1985) or agreed to participate in research because of their special interest in prosecuting child abuse (e.g., Cross et al., 1995). This may limit the generalizability of these results. The fact that the comparison samples included child abuse cases, although presumably a small number, may obscure differences between child abuse cases and other crimes to some degree.

### **Future Research**

We see three directions for new research. First, more research on rates needs to be done. Better reporting and dissemination of data from district attorney and child protective services offices could increase the number of studies tenfold and also better represent standard practice. Because decisions at different stages may be interdependent, studies should report case flow as a whole rather than individual rates. New studies should report rates within jurisdictions

for multiple years and tie variation to changes in policy and practice, such as the introduction of victim witness advocates, multidisciplinary teams, or CACs.

Second, more could be done meta-analyzing studies of prosecution rates, especially given the systematic variation revealed here by the *Q* statistic. Examining how rates are correlated with the year of the study (see Light & Pillemer, 1984) could help identify the impact of changes in public knowledge and opinion or the development of innovations such as multidisciplinary investigation teams, mandatory referral from CPS to law enforcement, and sex offender registries. Additional meta-analyses could explore how rates vary by jurisdictional or organizational factors or by population characteristics. Studies have examined individual case factors related to the decision to prosecute (see, e.g., Cross, DeVos, & Whitcomb, 1994), but we know little about what leads agencies to vary on prosecution. The variation seen in the few studies on referral and sentencing also needs more research.

Third, research must go beyond rates. Many studies have examined a variety of aspects of prosecution, such as time span of case processing (see Ostrom & Hanson, 2000), plea bargaining (see, e.g., Nardulli, Eisenstein, & Flemming, 1988) and sentencing, but few such studies focus on child maltreatment. Studies should also link case flow data to survey or interview data regarding prosecutors' decision making on individual cases to better understand why cases flow along certain paths. Alternative indicators of prosecutor success should be developed, such as measures of the quality of the investigation and preparation process. Given the multidisciplinary response to child maltreatment, research should also examine prosecution in relation to agencies such as CPS and civil courts. Research should examine what happens when cases are not prosecuted, including child protective action, civil court action, and therapeutic intervention. Cross, Martell, McDonald, and Ahl (1999) found that children were more likely to be placed outside the home in cases that were declined by prosecutors. Martell (2002) did not find this effect in a replication, but protective social workers did report that various

prosecutor actions had been helpful to avoid child placement. Research should also examine what happens for children, families, and defendants following guilty pleas.

## CONCLUSION

Much more research is needed, but even these few studies provide core knowledge that can inform policy and practice. They suggest the value of a proportionate view of prosecution of child abuse. In this view, prosecution is a major response but still applies to a minority of cases, mostly sexual abuse. On the whole, prosecution of child abuse is not feckless, in that

most cases that are charged end in conviction. Neither is it reckless, in that case flow resembles that of other felony cases and trials are relatively few. Cases without charges filed and cases that end in guilty pleas should receive attention more commensurate with their numbers.

Evaluation of prosecution must move beyond prosecution rates and conviction rates, which must be interpreted with healthy skepticism. Alternative measures of prosecution success must be developed. On this sometimes overheated topic, data can be a tool for rational analysis.

## IMPLICATIONS FOR PRACTICE, POLICY, AND RESEARCH

- We should not view prosecution of child abuse as feckless, in that guilty plea rates are consistently high, and prosecutors obtain convictions in a large majority of the cases they file charges on.
- Neither should we view it as reckless, because charges are filed, on average, less often than for other felonies, and trials are relatively few.
- The variation in charges filed suggests district attorneys' offices differ based on case population, programs, policy, philosophy, skills, or other factors.
- Case flow of child abuse prosecution should be seen as similar in many ways to prosecution of felonies in general, because diversion, guilty plea, trial, and conviction rates for child abuse cases were all within 6% of the rates for all felonies.
- Cases without charges filed and cases that end in guilty pleas are more than 8 times more frequent than trials and should receive attention more commensurate with their numbers.
- Charging and conviction rates should not be used as the sole measures of prosecution success because they are subject to differences in case population, and they may be unfair to good programs taking on difficult cases.
- Additional measures of prosecution success need to be developed.
- Diversion programs deserve additional examination as they are rarely used or discussed in the professional literature.
- Standards for incarceration of defendants convicted of child abuse crimes need further examination because the rate of incarceration was lower than for every comparison category.
- We need to study existing rate data more thoroughly, obtain more rate information from prosecutor databases, and do research that goes beyond rates to examine a range of prosecution processes and outcomes.

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References marked with an asterisk (\*) indicate studies included in the meta-analysis. References marked with a dagger (†) indicate studies included in the comparison.



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