



Child Sexual Abuse

- The Role of Expert Statements in Legal Outcome

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CSA legislation in Finland

- In Finland, legislation on CSA is based on the age of the child and assessing the child's mental development
- Child sexual abuse is defined in the Penal Code as sexual intercourse or other sexual act with a child less than 16 years of age
- The sexual act stated in the law can be e.g. touching the child, exposing the child to sexual situations or making the child perform sexual acts
- Also if a person in a parenting role has sexual intercourse with a 16–18-year-old child, it is considered child sexual abuse by the law (Finnish Penal Code chapter 20, section / § 6)





Preliminary investigation

- When suspected CSA cases are reported to police the first stage of the criminal process starts, namely preliminary investigation
- In Finland preliminary investigation is performed and led by police
- During the preliminary investigation, the task of the police is to solve the crime, collect enough evidence for prosecution and prepare the case for court handling
- Investigation procedures include hearing all parties involved, getting expert statements, possible coercive means and other necessary procedure such as collecting forensic evidence





Child interview

- The child interview that is done during preliminary investigation is important along the whole criminal process because children less than 15 years of age are by rule not heard personally in court in Finland
- In the case of young children, the police can refer for an expert to interview the child and to give an expert opinion of how probable it is that abuse did happen, based on the interview
- The expert is usually a psychologist with special training on forensic interview, and in Finland this kind of service is done by the forensic psychiatric teams located in all five university hospitals
- Guidelines state that all under 6-year-old children should be interviewed by a forensic psychiatric team





Expert statements

- The most important expert statements in CSA cases are the forensic interviewer's statement and a medical statement
- Medical statement - a written statement of physical findings in the light of the child's disclosure, other knowledge of suspected crime and medical history.
 - Based on a medical examination by a physician
- The police refers for these statements in approx. every fifth investigated CSA case (Humppi & Ellonen 2010)
- In the statement given to the police, professionals are required to provide an opinion on how likely it is that the alleged abuse did happen
- The experts are often cautious in their statements. Especially physical medical evidence is rarely obvious enough for the expert to say it supports the alleged abuse. Therefore statements usually conclude that abuse may or may not have happened.



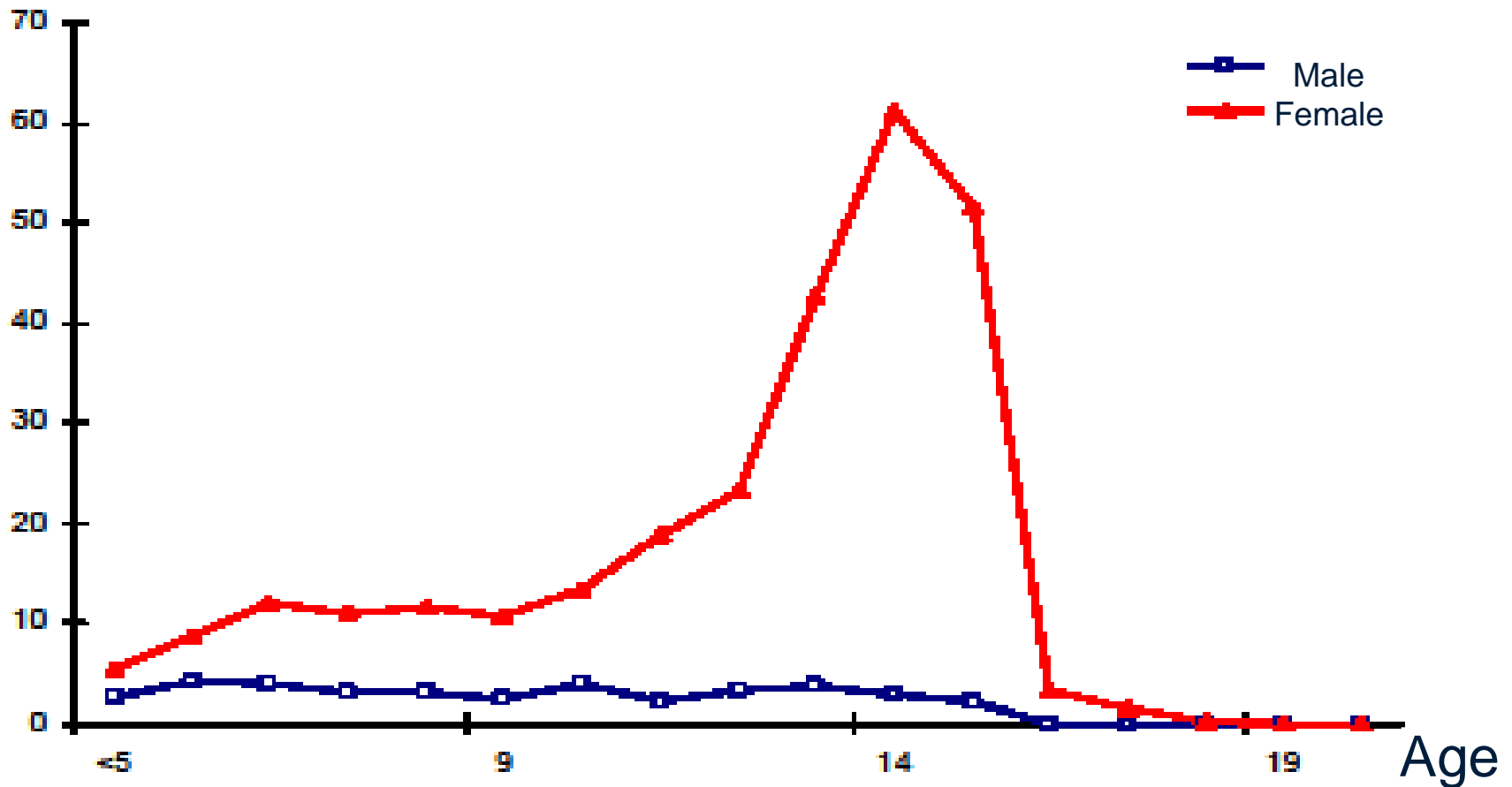


Prosecution and court handling

- The next stages of legal process after preliminary investigation are prosecution and court handling
- The prosecutor decides whether to press charges or not
- Prosecutors and judges base their decisions on the evidence attained by the police during preliminary investigation
- A videotape of the hearing of the child, done by the police or by a forensic interviewer, is used as evidence in court



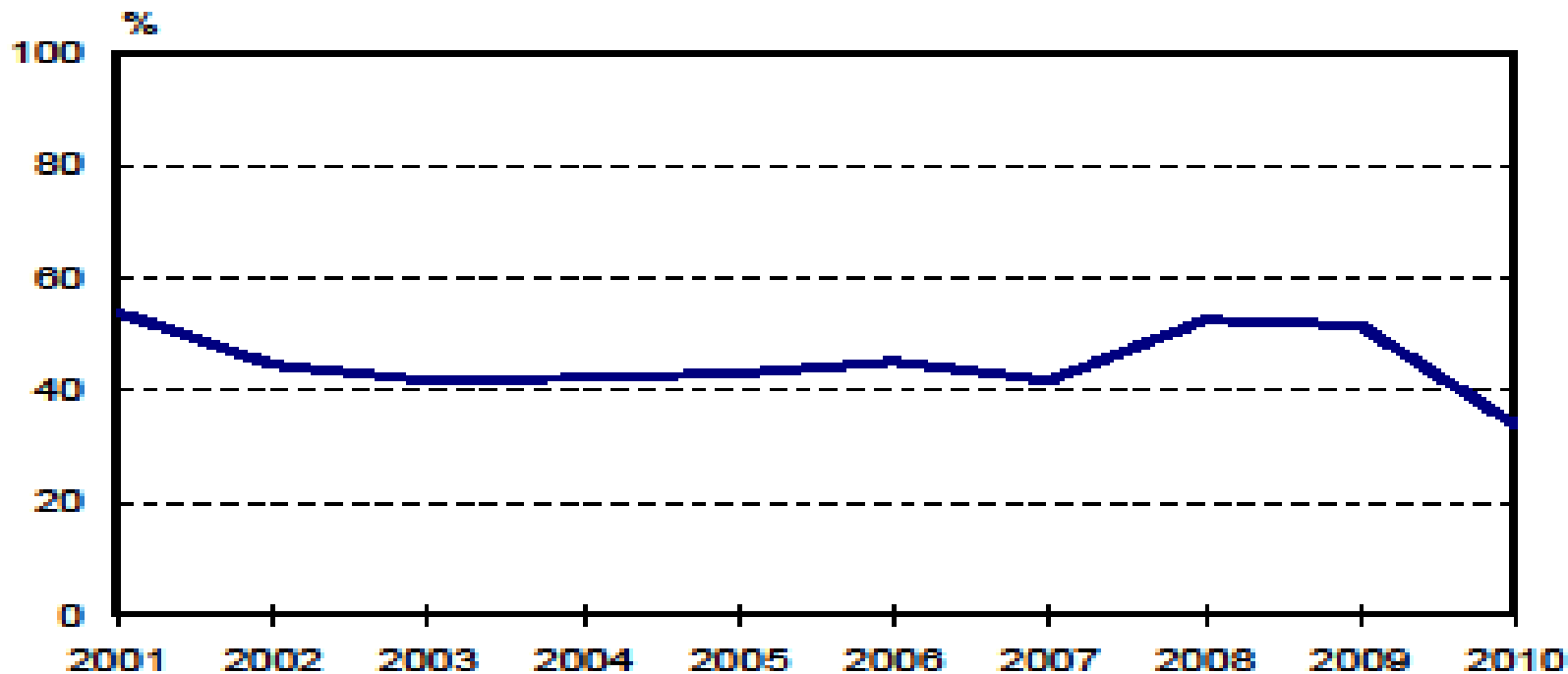
Police reported CSA victims/ 10 000 person by age group 2010, Finnish National Registry



CSA

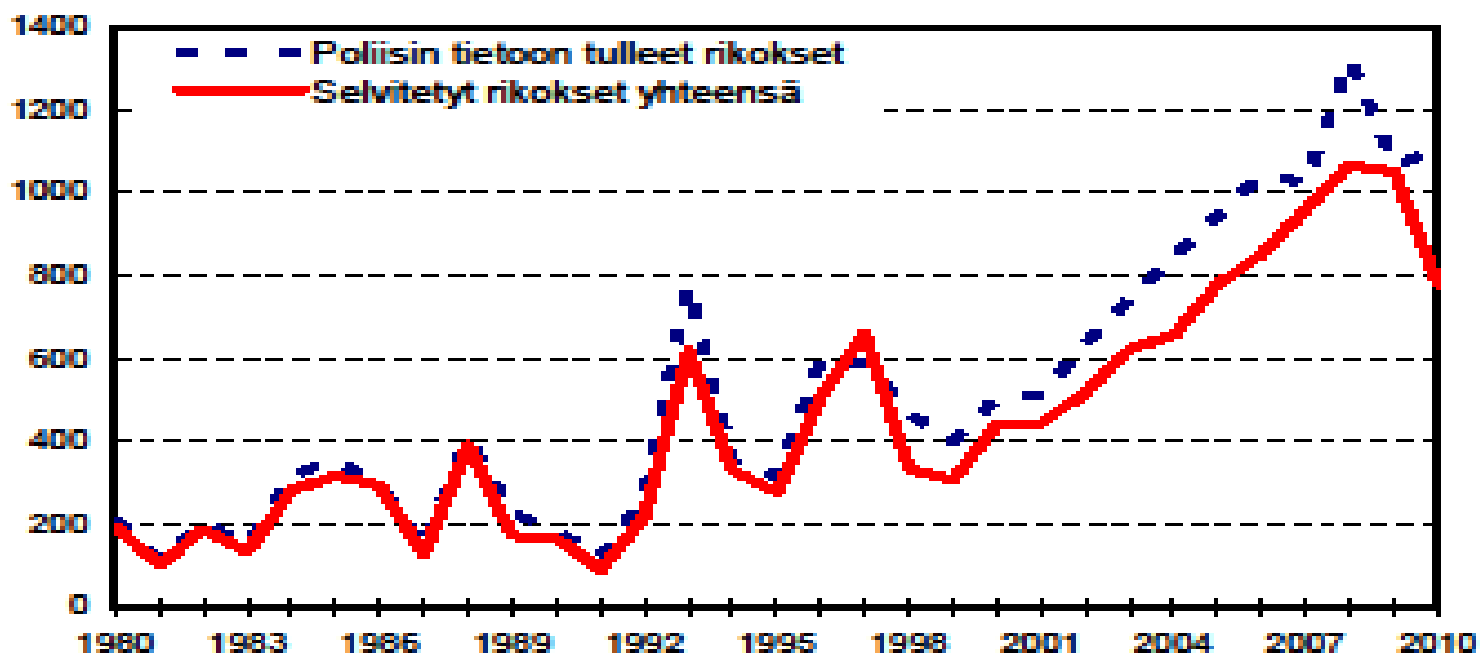
Solved crime/year

2010, Finnish National Registry



Annually police reported and solved CSA crimes 2010, Finnish National Registry

106 *Heini Kainulainen & Päivi Honkatukia & Hannu Niemi*





Background for our study

- CSA is often extremely difficult to prove in legal sense:
 - lack of (physical) evidence
 - challenges related to the arrangement of the child's hearing & varying quality of disclosures (Hirvelä 2007)
- The role of expert statements as legal evidence is unclear (Humppi & Ellonen 2010)
 - No relation between forensic medical evaluation and convictions (De Jong et. al.1991; Hansen et. al. 2010)
 - Positive medical examination findings were 2.5 times more likely to result in criminal prosecution with a finding of a perpetrator quilt ($p < .001$) (Palusci et al.1999)
- Charged cases tend to have at least 2 types of evidence; often disclosure AND corroborating evidence (Walsh et. al. 2010)





Our study objectives

- To analyze the role of medical and forensic interviewer's expert statements in the legal outcome of CSA cases
- To describe how medical findings are interpreted in the legal process of CSA cases





Data

- A case-study, data collected from Tampere University Hospital region in Finland
- Tampere is the third largest city in Finland (population 220 000) and one of five university hospitals is situated in Tampere
- Results cannot be generalized to whole Finland without reservations
- Legislation as well as criminal processes are, however, same in all other cities, so results probably draw a picture about the whole situation in Finland





Data

- The data consists of
 1. Clinical forensic medical records from the hospital
 2. Official documents of the legal process:
 - Reports of an offence from the police
 - Prosecutor's decisions
 - Court decisions
- The documents were collected from different databases, administered by different authorities, and combined to form the study database





Data limitations

- The registers have not been planned to be used as research material → challenges for data collection
- Variation in documentation made it challenging to find all information needed. Subjective interpretation was required during data collection and coding
- Difficulties in collecting data can be seen as a limitation
- The CSA cases selected for this study are cases
 - which have been reported to the police
 - where the police has referred for a medical statement from Tampere University Hospital





Data collection

- Case = child
- 130 medically examined, police reported CSA cases in Tampere University Hospital during the years 2001-2009, collected from medical records by computer data search combining
 - a. ICD-10 diagnosis (Z04.4, T74.2, F65.4, Z61.4, Z61.5, Y05.0, Y05.10, Y05.11, Y05.2, Y05.8, Y05.9)
 - b. medical examination unit/out-patient clinic and
 - c. age limit of patients: under 18-year old
- This is approx. every third of all medically examined cases during the study period



Characteristics of police reported medically examined CSA cases

Variable	N	(%)
Age of the victim, years; girls/boys		
0-6	59/22	(62)
7-9	19/1	(15)
10-17	26/3	(22)
Gender of the victim		
Girl	104	(80)
Boy	26	(20)
Single or continuous CSA		
Single event	50	(38)
Multiple events	80	(62)
Number of suspected perpetrators		
One	120	(93)
Several	9	(7)
Number of victims per crime		
One	86	(67)
Several	43	(33)





<u>Alleged perpetrator</u>	<u>n (%)</u>
Parent (mother/father)	60 (47)
Stepfather	4 (3)
Other relative	12 (9)
Boy/girlfriend	1 (0,8)
Other	42 (33)
Unknown suspect	10 (8)





Other evidence collected during preliminary investigation

Evidence type	N (%)
Forensic interview and statement	83 (64)
Additional medical examinations	24 (19)
Other expert statements	34 (26)
Coercive measures	29 (22)





Delay from alleged CSA to medical exam

	Frequency	%
< 72h	38	29,2
72h-14 days	12	9.2
>14 days	80	61.5
Total	130	100





Forensic samples

- n=25 (19 %)
 - n=38 (29%) acute medical examinations (<72h)
- Acute medical findings 16 (12 %)
 - Hemorrhage, Submucosal petecchiae, Hematomas, Abrasions, lacerations
- Forensic evidence collected from
 - 22 Child's body
 - 2 cloths or bedding
 - 2 crime scene
 - % Positive finding for semen
 - 1 identification
- All with positive forensic sample were convicted





How did the suspicion rise?

- 50 (38.5 %) children told about the suspected sexual abuse within the family
- 15 disclosed to a third party
- In 30 cases (24 %) there was a significant change in child's behaviour
- 15(11.5 %) cases had either an eye witness, a photographic/video material or a description of the abuse in a diary
- 12 (9%) cases had a concerning symptom or a sign





The conviction rates according to how the suspicion rose

- 44 % if the child disclosed to a family member
- 33 % if the child had disclosed to a third party.
- 66.6 % With an eye witness or objective material the perpetrator was convicted
- 11 % with behavioural changes
- none with concerning physical symptoms or signs





CSA

Sex difference in legal outcome

- *preliminary results*

- **Earlier studies** indicate that male victim cases are less likely filed by DA
 - Significantly more female victim cases filed who were seen in CAAC
- In our study: no sex difference in charge filing rate
 - Females 43% vs males 42%



The conviction rate of biological parents as a perpetrator is significantly lower than if the perpetrator is not a family member

	Biological parent	Stepfather	Other known suspects	Total
Closed investigation & Charges dismissed	46 76.7%	8 50%	14 31.8%	78 60%
Conviction	8 13.3%	5 31.3%	28 63.6%	41 31.5%
Not guilty	6 10%	3 18.8%	2 4.5%	11 8.5%
n	60	16	44	130





The most severe sexual act in medically examined police reported CSA cases in preliminary investigation

Most severe sexual act per victim	N (%)
Penetration	35 (27)
Fondling	48 (37)
Forced child to touch perpetrator's genital area	5 (4)
No physical contact	10 (8)
Not known	31 (24)





Palusci V. et al.

Medical assessment and legal outcome in child sexual abuse.

Arch Ped Adol Med 1999;153(4):388-92

- Positive medical examination findings were 2.5 times more likely to result in a criminal prosecution with a finding of a perpetrator guilt ($p < .001$)
- Disclosure of child sexual abuse during medical assessment was significantly associated with a positive physical examination finding





Hanse LA et al.

Medical findings and legal outcome in sexually abused children.

J Forensic Sci 2010;55(1): 104

- Abnormal genital findings
 - In 38% of girls
 - In 20 %of boys
- No relation between abnormal anogenital findings and two legal outcomes
 - "appearing in court"
 - "being convicted"





Physical findings according to Adams et al Guidelines 2007

1. Indeterminate

MAY SUPPORT A CHILD'S CLEAR DISCLOSURE

- Deep notches 4-8 5
- Hymen less than 1mm 1
- HPV 1
- Immediate anal dilatation 2

2. Acute

TRAUMA TO EXTERNAL GENITAL/ANAL TISSUE

- Laceration/bruising 1
- Laceration PF/FN, 2





Physical findings according to Adams et al Guidelines 2007

INJURIES INDICATING BLUNT FORCE PENETRATING TRAUMA

- Acute hymen laceration, Age 13. 25-15.75 yrs
 - 2 deep notches
 - 2 transections
- 1 Hymen ecchymosis
 - Age 6.6 years
- Perianal laceration 2
 - 1 male, 14 years
 - 1 female, 3 years 11 months
- Hymenal transection
 - 6; >10 years kuinka moni akuutti?
 - 1; < 10 years
- Missing segment of hymenal section
 - 1; 15 years

RESIDUAL INJURIES

- Perianal scar 1
- PF scar 1
 - Vaginal scar; 9 years



Anogenital findings

- >10 year old girls 61.5%
 - 7 transections
 - 4 >50% notch
 - 1 missing hymenal segment 3-6 o'clock
 - acute
 - 2 transections
 - 2 deep notches
- < 10 year old girls 6.4 %
 - 1 transection (9 yrs)
 - 1 scar in posterior fourchette
 - 1 anal laceration (3 yrs)
 - 1 Petecchia and submucosal hemorrhage in hymen (6 yrs)
 - 1 hymen < 1mm (6 yrs)
- Boys 3.4%
 - 1 acute anal laceration





Adams et al

Examination findings in legally confirmed child sexual abuse. It's normal to be normal.

Pediatrics 1994;94:310-7

- N=236
- Legally confirmed
- Significantly higher incidence of abnormal findings in girls examined within 72 h since last abusive event





Cross et al

Prosecution of child sexual abuse: which cases are accepted

Child Abuse Negl 1994;19:1431-42

- Medical evidence and confession are the strongest predictors of prosecution





Medical Expert statements

- *preliminary results*

- Medical statements
 - 15.4 % supported the alleged crime
 - 7.7% were interpreted by inadequate knowledge and/or conclusion which led to misinterpretation in the legal system

> normal or objective physical findings should be interpreted according to present and up to date international (or national) guidelines and literature<

- Medical statement may support the decision making in the legal process when it is consistent with the child's disclosure, and when it is interpreted correctly






In prosecutor's decision process to bring charges,

- medical statements were mentioned as a piece of evidence in 18 (33%) cases
- Charge filing rate
- in the whole study population is 40 % (52/130),
- in forensic interviewing group 30.1 % (25/83).

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- Medical statement was mentioned influencing the decision making in legal process
 - 33% drop of charges
 - 15% conviction
 - 20% not guilty
 - No statistical difference ($p=0.16$)



Medical statement conclusion of the CSA allegation in the legal process with final conviction, n

Statement's conclusion	Preliminary investigation	Case closed	Charges filed	Conviction	Not guilty
<hr/>					
<u>Medical examination</u>					
Not supported nor excluded	97	17	37	28	9
Supportive	24	1	14	13	1
Non-supportive	9	2	1	0	1
<hr/>					
Total	130	20	52	41	11





Interview

- Disclosure
 - Forensic interview 37%
 - 2 disclosures were found unreliable
 - 34 Supportive statements
 - Police officer 66 %
- Prosecutor filed charges 4 cases without a disclosure
 - 2 forensic interviewer's supportive statement based on behaviour
 - One interview was stated unreliable because the child was still living w/perpetrator during the forensic interview
- Prosecutor did not file charges with 3 teenage girls with disclosure



Table . The outcome of police and forensic interview statement conclusion in legal process.

	Preliminary investigation	Case closed	Charges filed	Conviction	not guilty
<u>Forensic interview</u>					
<u>Statement's conclusion</u>					
<u>(child's disclosure)</u>					
Supportive with disclosure	34	2	25	20	5
Supportive, no disclosure	7	0	1	1	0
Non-supportive	21	7	1	0	1
Not taking a stand	21	3	2	0	2
<u>Police interview</u>					
Not interview at all	7	4	0	0	0
Total	130	20	51	40	11





In < 10 year old children with a disclosure
the charges are filed and the perpetrator is convicted
significantly more often than without a disclosure



Legal outcome – preliminary results

Legal outcome	< 7 years	7-9 years	> 10 years	P value
Crime investigation closed	13 (16%)	4 (20%)	2 (6.9%)	
Files dropped	47 (58%)	5 (25%)	7 (24.1%)	P<0.000
Convicted	15(18.5%)	7 (50%)	19 (65.5%)	P<0.000
Not guilty in Court of Appeal	6 (7.4%)	4 (20%)	1 (3.4%)	
Total	81	20	29	





Legal outcome in criminal investigation

-preliminary results

- Investigation was closed in 10 cases
 - with no disclosure from child
 - no other supportive material of suspected crime
- 77% of CSA cases proceeded to prosecutor after preliminary investigation
- Charges filing rate was 41.5% (54/130),
 - In charged cases 54% (54/100)
- Conviction rate was 31.5 % (41/130),
 - In charged cases 76% (41/54)





Discussion

- How to protect the legal rights of the very small children?
- The role of common terminology (=multidisciplinary language), guidelines, peer-reviewing, and understanding each other in multidisciplinary collaboration is highly important





Conclusion

- We highlight the fact that medical examination cannot exclude suspicion of child sexual abuse
- Child's disclosure of the sexual abuse is the main evidence in legal process.

