The Role of Corroborative Evidence in Child Sexual Abuse Evaluations

STEVE HERMAN*

Psychology Department, University of Hawaii at Hilo, Hilo, HI, USA

Abstract

Published studies of forensic child sexual abuse (CSA) evaluations by mental health and medical professionals and paraprofessionals (MHPs) were analysed in order to evaluate two widely held assumptions. These related assumptions are (1) evidence that corroborates children’s reports of sexual abuse is rare in forensic CSA evaluations; and (2) in the vast majority of evaluations, MHPs base their judgements about whether or not sexual abuse allegations are true on their assessments of children’s reports of sexual abuse and other psychosocial data. Data from five chart review studies of a combined total of 894 forensic CSA evaluations provided sufficient information to assess the validity of these assumptions. Corroborative evidence was present in 36% of the 894 evaluations and in 54% of evaluations in which MHPs judged the allegations likely to be true, contradicting the first assumption. In the evaluations in which corroborative evidence was present, the presence or absence of a child’s report of sexual abuse was only weakly associated with MHPs’ judgements about the validity of the allegations (allegations in almost all corroborated cases were judged likely to be true, even in the absence of a child’s report), partially contradicting the second assumption. Implications of this analysis for research and policy are discussed. Copyright © 2010 John Wiley & Sons, Ltd.

Key words: child sexual abuse; forensic evaluation; corroborative evidence

INTRODUCTION

Psychologists, psychiatrists, social workers, child protective services (CPS) caseworkers, and other mental health and medical professionals and paraprofessionals (henceforth collectively referred to as MHPs) currently play key roles in many forensic evaluations of cases of alleged child sexual abuse (CSA) in the US and other countries. The two most important questions in forensic CSA evaluations are (1) was a child sexually abused?; and (2) if sexual abuse occurred, who was the perpetrator? Clinical evaluations, however, are focused on making diagnoses of psychosocial problems and recommending appropriate...
treatments. See Heilbrun, Grisso, and Goldstein (2009) for a detailed comparison of the purposes and characteristics of forensic and clinical evaluations.

In the US, CPS caseworkers conduct or participate in more than 150,000 forensic CSA evaluations each year (US Department of Health and Human Services, 2010). MHPs who do not work for CPS agencies conduct or participate in thousands of additional forensic CSA evaluations, for example, as court-appointed evaluators in custody disputes in which CSA is alleged (Bow, Quinnell, Zaroff, & Assemany, 2002), at one of the more than 700 child advocacy centres in the US (Connell, 2009), and in specialised medical clinics (Davies, Cole, Albertella, McCulloch, Allen, & Kekevian, 1996). Many forensic CSA evaluations are also conducted by MHPs in other countries (e.g. Hershkowitz, Horowitz, & Lamb, 2007b; Wilson, 2007).

MHPs may play a number of distinct roles in forensic CSA evaluations. Two key roles are those of data collector and data interpreter (Heilbrun et al., 2009). As data collectors, MHPs interview alleged child victims of sexual abuse and others, review relevant case documents, and administer psychological tests. In some cases, MHPs function primarily as data collectors—as forensic child interviewers—and may not have direct responsibility for data interpretation tasks. The central data interpretation task in forensic CSA evaluations is to analyse the available data in order to determine if the sexual abuse allegations are true (Berliner & Conte, 1993; Faller, 1996).

Because of justified concerns about the scientific reliability and validity of professionals’ opinions about the truth or falsity of CSA allegations, some experts have advised MHPs not to provide legal decision makers with a direct opinion on ‘the ultimate legal question of whether an event(s) of child sexual abuse occurred’ (Kuehnle & Sparta, 2006, p. 132). However, as Berliner and Conte (1993) have observed,

While some have argued that it is improper for a mental health professional to give an opinion about the truth of an allegation … we believe that it is just this opinion that is sought when an evaluation is requested. Regardless of how the conclusions are stated or the data represented, the evaluator’s opinion about the validity of the complaint will be evident (p. 121).

In fact, in the US, CPS caseworkers are generally required to explicitly express their opinions about the validity of abuse allegations as part of their job descriptions.

Despite the potentially drastic consequences of erroneous judgements by forensic evaluators about the validity of allegations of sexual abuse, the processes by which MHPs make these judgements have not yet been subjected to adequate scientific scrutiny. Furthermore, there are a number of widespread beliefs about the characteristics of forensic evaluations cases that have not been empirically verified. The purpose of the current paper is to evaluate the empirical support for two widely held assumptions about forensic CSA evaluations:

Assumption 1. Corroboration1 for children’s reports of sexual abuse is rare in forensic CSA evaluations.

1The terms *corroboration* and *corroborative evidence* are used throughout this article to refer only to non-psychosocial corroborative evidence such as medical evidence, eyewitnesses, physical evidence, and perpetrator confessions. This usage is consistent with the way the terms are used in most social science research reports. However, this usage may be objectionable or confusing to some readers, because legal decision makers and legal scholars use the term *corroboration* in a more general sense, to refer to any evidence that supports or confirms an allegation or hypothesis. According to *A Dictionary of Law*, corroboration is ‘evidence that confirms the accuracy of other evidence “in a material particular”’ (Martin & Law, 2009). Thus, from a legal perspective, the presence of certain psychosocial case features—for example, sexualised behaviour in young children—would be seen as corroboration for an allegation by those who believe that the presence of these case features means that an allegation is significantly more likely to be true.
Assumption 2. In the vast majority of forensic CSA evaluations, MHPs base their judgements about whether or not sexual abuse allegations are true on their assessments of the child’s report of sexual abuse and other psychosocial data.

Despite the marked, and sometimes acrimonious, differences of opinion about many other important issues in CSA research and practice, endorsement of these two assumptions is almost universal amongst researchers interested in CSA. Many practitioners also endorse these assumptions. Here are quotations reflecting one or both of these assumptions from prominent researchers and from guidelines for practitioners:

In order to prove [a child sexual abuse case] a prosecutor must overcome a host of practical and legal problems: most cases of CSA leave no physical evidence, no injury that can be observed or detected by a medical examination (Palusci, Cox, Cyrus, Heartwell, Vendervort, & Pott, 1999) and no bodily fluids that can be tested by forensic scientists (Staller & Vandervort, 2010, p. 3).

In the vast majority of sexual abuse cases, the primary, and often the only, evidence is the child’s verbal allegation and testimony. Decisions regarding both child protection and criminal proceedings, therefore, depend heavily on the quality of information obtained from suspected victims during investigative interviews (Lamb, Hershkowitz, Orbach, & Esplin, 2008, p. 182).

The accuracy of diagnosis of CSA is often difficult because definitive medical or physical evidence is lacking or inconclusive in the vast majority of cases . . . Children’s statements typically represent the central evidence for judging the occurrence of CSA (London, Bruck, Ceci, & Shuman, 2005, pp. 194–195).

In the majority of [reported cases of child sexual abuse], medical evidence is unavailable . . . Even when medical evidence of abuse is found, it may offer no clue regarding the identity of the perpetrator. Thus in many cases the report of a child is the only evidence implicating a suspect and is often the only indication that abuse took place (Goodman, Batterman-Faunce, Schaaf, & Kenney, 2002, p. 850).

A spontaneous, clear, detailed, and consistent statement from a child that describes sexual abuse in terms appropriate to that child’s developmental level is the best evidence that abuse has occurred (Adams, 2000, p. 177).

It should be stressed that a clear statement by the child is the single most important factor in making a diagnosis of sexual abuse (Royal College of Physicians, 1997, p. 2).

It is often difficult to prove [sexual abuse], since there seldom are credible witnesses to the sexual activity . . . When a child states that adults have behaved in a way that can be described as sexual abuse, the child is, with rare exception, telling the truth (Baily & Baily, 1996, pp. 176–177).

This paper proceeds as follows: First, psychosocial and non-psychosocial evidence are defined, and general problems with the interpretation of psychosocial evidence are briefly reviewed. Second, a typology of evidence of abuse in forensic CSA evaluations is
described. Third, this typology is used to summarise data from five field studies of forensic CSA evaluations in order to evaluate Assumptions 1 and 2. The final section discusses implications and limitations of the analysis.

**PSYCHOSOCIAL AND NON-PSYCHOSOCIAL EVIDENCE OF SEXUAL ABUSE**

The evidence that an MHP may consider in a forensic CSA evaluation can be divided into two broad categories: psychosocial evidence and non-psychosocial evidence. The term *non-psychosocial evidence* refers to evidence that is not essentially psychosocial in nature, evidence that would not ordinarily be collected by—or require interpretation by—an MHP. Non-psychosocial evidence includes medical findings, photographs or videos, other physical evidence, and suspects’ confessions.

Psychosocial evidence, the type of evidence that MHPs appear to be most qualified by virtue of their training and experience to collect and interpret, includes:

- **Children’s verbal reports.** MHPs often consider and discuss (1) the contents of these reports (e.g. Does the child clearly describe sexual abuse during investigative interviews?); (2) the child’s paraverbal and non-verbal behaviours (e.g. Does the child display appropriate affect during investigative interviews?); (3) the narrative qualities of the child’s statement (e.g. Is the child’s narrative logical and are core elements consistent?); and (4) the history of the child’s statements across multiple occasions (e.g. Is the disclosure process gradual? Are there marked inconsistencies between different reports?).

- **The child’s behaviour and the psychosocial context in which the suspicions or allegations of abuse emerged** (e.g. Did the child’s initial report of abuse emerge spontaneously or only after prolonged questioning by concerned adults? Did the child’s behaviour change after the onset of the alleged abuse? Does the child display unusually sexualised behaviours? Does the child display symptoms of a mental illness? Is the child the object of a custody dispute?).

- **The verbal statements and psychosocial histories of other parties involved in the case** (e.g. Do any parties to the allegation appear to be delusional?).

- **The degree to which the characteristics of the case conform to syndromes such as the CSA accommodation syndrome (Summit, 1983) or the parental alienation syndrome (Gardner, 1998).**

There is some overlap between the categories of psychosocial and non-psychosocial evidence. For example, a confession by a suspected perpetrator could be considered psychosocial evidence because it is a statement made by a person in a specific psychosocial context. In general, however, legal decision makers tend to view confessions as more akin to other types of strong non-psychosocial evidence (e.g. photographs, conclusive medical evidence, and eyewitness testimony) than to the primary types of psychosocial evidence mentioned above. Furthermore, legal decision makers do not generally request or rely on the assistance of MHPs to judge the validity of confessions and other types of non-psychosocial evidence. An exception to this general rule is found in some cases in which a false confession may have occurred or in which the validity of eyewitness testimony is in question; in those cases, assessment and interpretation by an expert psychologist or psychiatrist may be useful to legal decision makers (Cutler & Kovera, 2010; Kassin, 2008a).
When there is non-psychosocial evidence that strongly corroborates a child’s report of abuse, then an MHP’s opinion about the validity of the abuse allegation is more or less superfluous (Horner & Guyer, 1991). This does not mean that MHPs themselves are superfluous—in some cases, MHPs collect information that leads to the discovery of important corroborative evidence. For example, a well-conducted, non-leading, videotaped interview with a child victim may be used to elicit hard corroboration in the form of a perpetrator confession (Horner, Guyer, & Kalter, 1993a; Lippert, Cross, Jones, & Walsh, 2010; Staller & Faller, 2010). When non-psychosocial evidence is absent or ambiguous, then MHPs’ judgements about the validity of allegations of CSA are based primarily on an assessment of the only available evidence, the psychosocial evidence.

Problems with the interpretation of psychosocial evidence

There is considerable disagreement amongst researchers and MHPs about how much weight should be accorded to different types of psychosocial evidence of CSA (Conte, Sorenson, Fogarty, & Rosa, 1991; Kendall-Tackett & Watson, 1992; Oberlander, 1995). In some cases, the interpretation that one MHP accords to a specific type of evidence may be diametrically opposed to the interpretation accorded by another MHP. For example, some MHPs believe that sexual abuse narratives that are initially fairly complete, and remain consistent and logical across time are characteristic of true reports, whereas others believe that inconsistent statements and gradual disclosure are characteristic of true reports (Mason, 1998).

There are many studies and meta-analyses that have described psychosocial correlates of sexual abuse (e.g. Kendall-Tackett, Williams, & Finkelhor, 1993). Most of these studies compare sexually abused children to non-abused children from either community or clinical samples. These studies usually find some mean differences on psychosocial variables between sexually abused children and non-abused children from community samples (e.g. Friedrich, Grambsch, Damon, Hewitt, Koverola, Lang, Wolfe, & Broughton, 1992). In general, the differences between sexually abused children and non-abused children from clinical samples are smaller, and children from non-abused clinical samples often manifest higher levels of psychopathology than do sexually abused children (Kendall-Tackett et al., 1993). The control populations in almost all of these studies—non-abused children from clinical or community samples—are not the populations that are directly relevant to the problem faced by forensic evaluators. MHPs who conduct forensic CSA evaluations are attempting to discriminate between sexually abused children and non-abused children who have become the objects of forensic CSA evaluations.

There are very few empirical studies that have compared sexually abused children to non-abused children who have become the objects of forensic evaluations, and there are important differences between non-abused children in general and non-abused children from forensic evaluation samples. There are psychosocial variables—for example, certain highly sexualised behaviours—that are much more common amongst sexually abused children than amongst non-abused children from community samples (Friedrich et al., 1992) but do not appear to be more common amongst sexually abused children than amongst non-abused children from forensic evaluation samples. The only empirical study that has examined the usefulness of sexualised behaviour for discriminating between abused and non-abused children who are the objects of forensic evaluations found that sexualised behaviour was equally common in these two groups and was therefore of no use in a forensic evaluation context as an indicator of the validity of sexual abuse.
allegations (Drach, Wientzen, & Ricci, 2001; see Friedrich, Trane, & Gully, 2005 and Ricci, Drach, & Wientzen, 2005 for an interesting debate about the interpretation of the Drach et al. study results).

There are at least two good reasons to believe that variables that may be associated with sexual abuse status in general community samples may be of little use to forensic evaluators. First, the relatively low base rate for recent sexual abuse in community samples means that even features that are more common amongst sexually abused children than amongst non-abused children may be of little practical use for discriminating between abused and non-abused children in initial decisions about whether or not to refer children for formal evaluations (Bridges, Faust, & Ahern, 2009; Faust, Bridges, & Ahern, 2009a; Wood, 1996). Second, the populations of sexually abused and non-abused children who are the objects of forensic CSA evaluations differ markedly from the populations of all sexually abused and non-abused children because of the way that children become the objects of forensic evaluations. The proportion of non-abused children from forensic samples who display sexualised behaviour is probably much higher than the proportion of all non-abused children who display sexualised behaviour, because the display of sexualised behaviour often leads to suspicions of abuse and to referrals for forensic CSA evaluations. This biasing effect of the selection process on the constitution of forensic samples has been labelled detection (Ricci et al., 2005) or suspicion (Lyon, 2009) bias.

As a result of detection bias, the correct interpretation of indicator variables may actually be diametrically opposed in community and forensic samples. For example, children from forensic evaluation samples who display sexualised behaviours might actually be less likely to have been sexually abused than children from forensic samples who do not display these behaviours. This possibility is described as reversal by Bridges et al. (2009; see also Faust et al., 2009a; Faust, Bridges, & Ahern, 2009b). In a study of forensic CSA evaluations by Walsh, Jones, Cross, & Lippert (2008, p. 9), the presence of behavioural evidence of sexual abuse (bed-wetting, nightmares) was, in fact, associated with a decreased likelihood that a case would be accepted for prosecution, possibly because such cases were less likely to represent true allegations.

These same issues may also apply to children’s reports of sexual abuse: Because of base rate and detection bias issues, even the presence or absence of a child’s report of sexual abuse may not be a useful indicator of the validity of abuse allegations in forensic evaluation samples. Surprisingly, to date, there has been little or no research that addresses this question, probably because it is simply assumed that the presence of a report is always a probabilistic indicator of sexual abuse. Although such research would not be easy to conduct, it would not be impossible. One way to do it would be to comb through a large database of forensic evaluations such as those that are available in Israel (Hershkowitz, Fisher, Lamb, & Horowitz, 2007a) in order to locate cases in which there is convincing non-psychosocial evidence that an abuse allegation is either true or false. Once a large enough subset of corroborated true and false cases is available, data from these cases could be analysed in order to determine which, if any, psychosocial variables—including the presence or absence of a child’s report of sexual abuse—are empirically associated with the truth status of abuse allegations.

Because of base rate issues, detection bias, and other problems, there is a widespread—but not universal—consensus amongst social science researchers that MHPs’ judgements about the validity of uncorroborated allegations of CSA lack a firm scientific foundation (Benedek, Derdeyn, Effron, Guyer, Hayden, Jurrow et al., 1998; Faust & Ziskin, 1988; Faust et al., 2009a; Fisher, 1995; Fisher & Whiting, 1998; Goodman, Emery, & Haugaard,
Corroborative evidence in child sexual abuse evaluations

There is no reason to believe that clinicians’ skill in determining whether or not a child has been abused is the product of specialized knowledge. The conclusions to be drawn from a child’s graphic description of a sexual encounter, for example, are a matter of common sense. Not scientific knowledge or even clinical acumen. Because testimony as an expert involves an implicit representation that the opinions presented are grounded in specialized knowledge, a mental health professional should decline on ethical grounds to offer an opinion about whether a child told the truth or had been ‘abused.’ By the same token, under the rules of evidence, such an opinion should never be admitted (p. 516).

Expressions of the opposing viewpoint, that it is scientifically, ethically, and legally legitimate for MHPs to substantiate allegations of CSA on the basis of psychosocial or clinical evidence, come primarily from practitioners, clinician/researchers who perform forensic CSA evaluations (Berliner & Conte, 1993; Faller, 2003; Sgroi, 1982), and professional organisations largely composed of clinicians (American Academy of Child and Adolescent Psychiatry, 1997; American Professional Society on the Abuse of Children, 1997). In a survey study of MHPs who conduct forensic CSA evaluations, 58% reported that they believed that their evaluations could establish whether or not a child was sexually abused (Oberlander, 1995).

A TYPOLOGY OF EVIDENCE IN FORENSIC CSA EVALUATIONS

Cases of alleged CSA that become the objects of forensic evaluations can be classified into five categories based on the presence or absence of non-psychosocial corroborative evidence and the presence or absence of a child’s report of sexual abuse during formal investigative interviews: (1) corroboration/report cases in which there is both a non-psychosocial corroborative evidence and a report of abuse by the child; (2) corroboration/no report cases; (3) no corroboration/report cases; (4) no corroboration/no report cases; and (5) refuting evidence cases in which there is non-psychosocial evidence that the abuse allegations are false, with or without a verbal report of abuse by the child. Refuting evidence cases are quite rare (Jones & McGraw, 1987; Lamb, Sternberg, Esplin, Hershkowitz, Orbach, & Hovav, 1997).

Table 1 summarises data about the distribution of cases across the first four categories of the proposed typology from five field studies (DeVoe & Faller, 1999; DiPietro, Runyan, & Fredrickson, 1997; Dubowitz, Black, & Harrington, 1992; Elliott & Briere, 1994; Gordon & Jaudes, 1996). There is no refuting evidence category in Table 1 because there were no refuting evidence cases reported in any of these studies. These five studies are the only studies that could be located that (1) were chart review studies of forensic CSA evaluations conducted by MHPs; and (2) provided sufficient information to determine or estimate the joint distribution of three variables: (i) the presence or absence of a report of sexual abuse by a child during investigative interviews; (ii) the presence or absence of
Table 1. Corroborative evidence, interview reports of sexual abuse, and evaluator judgements

<table>
<thead>
<tr>
<th>Citation</th>
<th>n</th>
<th>No corroboration</th>
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<tr>
<td>Elliott and Briere (1994)</td>
<td>399</td>
<td>0.30*</td>
<td>0.00</td>
<td>0.40</td>
<td>0.81*</td>
<td>0.10</td>
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<tr>
<td>DiPietro et al. (1997)†</td>
<td>179</td>
<td>0.35</td>
<td>0.00</td>
<td>0.30</td>
<td>0.91</td>
<td>0.18</td>
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<tr>
<td>Gordon and Jaudes (1996)‡</td>
<td>141</td>
<td>0.09</td>
<td>0.00</td>
<td>0.36</td>
<td>0.75</td>
<td>0.18</td>
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<tr>
<td>Dubowitz et al. (1992)§</td>
<td>99</td>
<td>0.29</td>
<td>0.03</td>
<td>0.33</td>
<td>0.79</td>
<td>0.11</td>
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<tr>
<td>DeVoe and Faller (1999)¶</td>
<td>76</td>
<td>0.32</td>
<td>0.04</td>
<td>0.36</td>
<td>0.78</td>
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<tr>
<td>Weighted means</td>
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<td>0.28</td>
<td>0.01</td>
<td>0.36</td>
<td>0.82</td>
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Note. Report means that the child made a verbal report of sexual abuse during an investigative interview; Prev, prevalence; Sub, substantiation rate, the rate at which allegations in the corresponding subset of cases were judged likely to be true.

*The published report did not provide enough data to exactly calculate these figures. It was possible to calculate that the overall interview report rate fell somewhere between 0.52 and 0.69; the mid-point of this interval, 0.60, was used as the basis for the superscripted estimates shown in the table.
†Both ‘probable’ and ‘definite’ cases are classified as substantiated. The estimates shown are based on the assumption that no cases in which there was both no disclosure and no evidence were classified as ‘probable’ or ‘definite’.
‡The estimates shown are based on the assumptions that (1) all of the 52 cases with both evidence and an interview disclosure were substantiated; and (2) no cases with neither an interview disclosure nor corroborative evidence were substantiated.
§Full data were available for only 99 of the 132 children in the study.
¶The estimates shown are based on the assumptions (1) that all of the 25 cases with independent corroborative evidence were substantiated; and (2) that the four children with corroborations who did not disclose in the first interview did disclose in a later interview.
Corroborative evidence in child sexual abuse evaluations

Non-psychosocial corroborative evidence; and (iii) evaluators’ judgements about the validity of the abuse allegations.

The evidence presented in Table 1 clearly contradicts Assumption 1, that corroborative evidence is rare in forensic CSA evaluations. Non-psychosocial corroborative evidence was present in 36% of the 894 evaluations summarised in Table 1, in 50% of all cases in which there was some evidence of abuse (non-psychosocial corroborative evidence and/or a child’s report), and in 54% of cases in which MHPs judged the allegations likely to be true. A child reported sexual abuse during interviews in 60% of the evaluations. A child’s report of sexual abuse was the primary—or only—evidence of abuse in 36% of all evaluations and in 46% of evaluations in which MHPs judged the allegations to be likely true.

Assumption 2, that MHPs usually base their judgements about the validity of abuse allegations primarily on the child’s report and other psychosocial data, is partially contradicted by the data summarised in Table 1. When corroborative evidence was present, the presence or absence of a child’s report of sexual abuse had a relatively weak association with MHPs’ decisions—MHPs judged allegations to be likely true in 100% of the corroboration/report cases and in 86% of the corroboration/no report cases. By contrast, when corroborative evidence was absent, the presence or absence of a child’s report was strongly associated with evaluator judgements: MHPs judged allegations to be likely to be true in 82% of the no corroboration/report cases but in only 1% of the no corroboration/no report cases. In summary, if corroboration is available, the corroborative evidence, not the child’s report, seems to be the most important evidence; if corroboration is absent, then, by default, the child’s report and other psychosocial case features appear to be the most important evidence.

DISCUSSION

An analysis of empirical data from five field studies indicates that two widely held assumptions about corroborative evidence in forensic CSA evaluations are erroneous. First, this analysis shows that corroborative evidence is not rare in forensic CSA evaluations conducted by MHPs. If the results of the current analysis can be generalised to the population of all forensic CSA evaluations conducted by MHPs, then corroborative evidence is present approximately in 36% of all evaluations and in 54% of all cases in which MHPs judge the allegations likely to be true. This conclusion runs directly counter to beliefs expressed by the most prominent researchers in the field. Second, when corroborative evidence is present, the presence or absence of a child’s report has only a weak association with MHPs’ judgements about the validity of abuse allegations—most corroborated allegations are judged likely to be true, even in the absence of a child’s report. The second conclusion is less surprising than the first. When strong corroborative evidence—for example, a video of the abuse—is available, a child’s report is not necessary to prove that abuse occurred or to identify the perpetrator.

The conclusion that corroborative evidence is fairly common in forensic CSA evaluations is supported by the results of a survey study of 20 CPS caseworkers (Haskett, Wayland, Hutcheson, & Tavana, 1995); an analysis of the data reported in this study indicates that participants stated that corroborative evidence (medical findings and eyewitness reports) played a significant role in their substantiation decisions in between 37% and 45% of cases that they substantiated.
The population of CSA cases that are accepted for prosecution differs from the population of cases that are evaluated by MHPs, at least in the US, because (1) some cases—i.e. non-caretaker abuse cases—are usually only investigated by law enforcement; (2) cases that are classified as unsubstantiated by CPS caseworkers are less likely to be referred to prosecutors; (3) cases with little or no corroboration are less likely to be referred to prosecutors (Walsh et al., 2008); and (4) cases with weak corroboration are less likely to be accepted for prosecution (Bradshaw & Marks, 1990; Cross, De Vos, & Whitcomb, 1994; Gray, 1993). Thus, in general, rates of corroborative evidence are significantly higher in prosecution samples than in forensic CSA evaluation samples. Nevertheless, the assumption that corroborative evidence is rare in CSA cases is often extended to prosecution samples and underlies another common assumption, that CSA cases are especially difficult to prosecute. For example, the US Supreme Court has written that ‘Child abuse is one of the most difficult crimes to detect and prosecute, in large part because there often are no witnesses except the victim’ (Pennsylvania v Ritchie, 1987, p. 60).

As is the case for the population of alleged CSA cases that are evaluated by MHPs, the available empirical evidence contradicts the common assumption that corroborative evidence is rare in the population of alleged CSA cases that are prosecuted. In a study of 552 cases of alleged CSA that were referred to prosecutors, Cross, Whitcomb, and De Vos (1995) found that 47% included strong corroborative evidence (a confession, physical evidence, or eyewitnesses) and an additional 29% included moderate corroborative evidence (primarily medical or psychological evidence), so that 76% of all cases included at least moderate levels of corroboration. In a study of 329 cases, Walsh et al. (2008) found that 79% had at least moderate levels of corroboration. Faller and Henry (2000) found that 64% of 323 CSA cases from a prosecution sample included a confession, and 70% ended in plea-bargained convictions. A meta-analysis of 21 studies of child abuse prosecutions found that at least 72% of cases charged were carried forward by prosecutors and that 82% of carried-forward cases ended with plea-bargained convictions (Cross, Walsh, Simone, & Jones, 2003). Overall, 94% of carried-forward cases ended in convictions, and conviction rates in carried-forward child abuse cases did not differ from conviction rates for other types of felonies. In summary, more than 70% of CSA cases in prosecution samples include moderate to strong levels of corroborative evidence.

The assumption that corroborative evidence is rare in cases of alleged CSA is so axiomatic for most CSA researchers that it is endorsed even by those whose own empirical research directly contradicts it. For example, Staller and Vandervort (2010) state that ‘one of the law’s most difficult tasks [is]: proving a criminal case of child sexual abuse (CSA) beyond a reasonable doubt’ in a book (Staller & Faller, 2010) that describes an in-depth case study of one US jurisdiction that obtains confessions in 64% of criminal CSA cases that are accepted for prosecution and in which 70% of charged cases end in plea-bargained convictions (Faller & Henry, 2000). This assumption is a kind of cognitive blind spot that seems to prevent some researchers from seeing their own data clearly.

The conclusions of this study should be considered in the context of other studies, analyses, and anecdotal evidence suggesting that error rates for MHPs’ judgements about the validity of allegations of CSA are quite high, much higher than is commonly appreciated. Herman and Freitas (2010) estimate that the false positive, false negative, and overall error rates for a typical MHP who conducts forensic CSA evaluations are at least 0.18, 0.36, and 0.28, respectively, and that error rates vary markedly from one practitioner to the next. Using a different methodology, Herman (2005) estimated that the overall error rate for judgements about uncorroborated CSA allegations is at least 0.24. The hypothesis
that, in the absence of corroboration, most MHPs are unable to reliably distinguish between children’s—or, for that matter, adults’—true and false reports of past events, including reports of sexual abuse, is supported by a large body of empirical research and syntheses of existing research (Bond & DePaulo, 2006; Crossman & Lewis, 2006; Faust & Ziskin, 1988; Fisher, 1995; Fisher & Whiting, 1998; Goodman et al., 2002; Herman, 2009; Hershkowitz et al., 2007a; Horner et al., 1993a; Leach, Talwar, Lee, Bala, & Lindsay, 2004; Lindblad & Lainpelto, 2008; Melton & Limber, 1989; Orcutt, Goodman, Tobey, Batterman-Faunce, & Thomas, 2001; Poole & Lindsay, 1998; Realmuto, Jensen, & Wescoe, 1990; Realmuto & Wescoe, 1992; Talwar, Lee, Bala, & Lindsay, 2006; Vrij, Akehurst, Brown, & Mann, 2006).

In the context of the conclusion that MHPs’ judgements about the validity of allegations of CSA are subject to high error rates, the findings of the current study have potentially important implications for research, practice, and policy. First, despite the fact that MHPs are not trained in the collection, elicitation, and preservation of evidence, corroborative evidence is available in approximately 36% of all CSA evaluations conducted by MHPs. This suggests that policy reforms aimed at increasing the rate of corroborated cases might be successful. Increasing rates of corroboration might result in fewer failures to substantiate and prosecute true allegations—false negative judgement errors. Reducing the false negative error rate should make it possible to protect more children from sexual abuse. Second, decisions to substantiate or prosecute allegations that are actually false—false positive errors—can have catastrophic consequences for non-abused children, their families, and for those wrongly accused of sexual abuse. The current analysis suggests that it might be feasible to reduce false positive errors by imposing more stringent evidentiary requirements for the substantiation and criminal prosecution of CSA allegations.

**Could more CSA allegations be corroborated?**

CSA is a very serious crime in every US jurisdiction (US Department of Health and Human Services, n.d.a, n.d.b) and in many other countries (Interpol, n.d.). A number of US states have statutes allowing the death penalty for certain types of CSA (Death Penalty Information Center, n.d.). Allegations that serious crimes have been committed in the US are almost always initially investigated by the police, except when it comes to allegations of CSA. In the US, in many jurisdictions, CPS caseworkers conduct initial investigations into allegations of CSA by a parent or caretaker—they are often the first people to interview the adults who are reporting suspicions of sexual abuse, the child who is the object of the suspicions, and the alleged perpetrator (Winterfeld & Sakagawa, 2003).

CPS caseworkers and other MHPs are not usually trained in law enforcement methods and investigative techniques. In fact, in the US, because of low pay, high turnover, and sometimes minimal educational requirements for job entry, CPS caseworkers often have little relevant training or experience in mental health, social work, or forensic child interviewing. In one survey study of MHPs who perform CSA evaluations in California, 78 of the respondents described themselves as ‘social workers’. Of these 78, only 66% possessed a graduate or undergraduate degree in social work or a related field, and only 12% had professional licences (Shumaker, 2000). As Lawlor (1998) notes, ‘much of the investigation done in cases of child sexual abuse appears to be done by the least trained professionals and paraprofessionals’ (pp. 105–106). Few MHPs are able to perform high-quality forensic child interviews, even after intensive workshop training (Warren & Marsil, 2002).
Only when interview skills training is followed by intensive, ongoing supervision do MHPs’ interviewing skills appear to reliably improve (Lamb, Sternberg, Orbach, Herschkowitz, Horowitz, & Esplin, 2002). But intensive, ongoing supervision is expensive and is not generally available to CPS caseworkers in real-world settings. The inadequate professional preparation and low skill level of many practitioners in this field are unlikely to change in the foreseeable future.

Some law enforcement commentators have speculated that CPS involvement in the early stages of CSA investigations can make it difficult or impossible for police to build strong cases against perpetrators because CPS investigations can alert perpetrators that they are under suspicion, giving them time to destroy key evidence and obtain legal counsel (Walsh, 1993). Perpetrator confessions are one of the most common strong forms of evidence in CSA cases, but obtaining confessions or admissions of guilt often depends on the element of surprise (Staller & Faller, 2010). Perpetrators who have had the time to consult with an attorney are much less likely to confess (Pearse, Gudjonsson, Clare, & Rutter, 1998). The element of surprise is crucial to another law enforcement technique that can provide decisive corroborative evidence—the pretext phone call (Pence & Wilson, 1992). In pretext phone calls, police get CSA victims to record phone calls to perpetrators in which they try to get the perpetrator to make an admission of guilt. Pretext phone calls work better with perpetrators who are not aware that they are the objects of criminal or CPS investigations. The most effective suspect interrogation techniques involve deception, which many MHPs are ethically prohibited from employing. In short, most CPS caseworkers and other MHPs do not have the training, attitudes, abilities, or ethical latitude that are required to use the techniques that are most effective in obtaining hard corroboration for allegations of CSA.

Social science researchers who have examined the prevalence of corroborative evidence in cases of alleged CSA have concluded that an increased focus on obtaining corroborative evidence could benefit sexually abused children (Lippert et al., 2010; Staller & Faller, 2010; Walsh et al., 2008). Improving the prevalence and quality of corroboration could benefit sexually abused children by (1) relieving any feelings of guilt or responsibility that the child may be experiencing, if a perpetrator confession can be elicited; (2) reducing the duration of the child’s involvement with CPS, foster care, and the criminal justice system; and (3) making it less likely that children will need to go through the potentially traumatic experience of testifying in court against their abusers.

The elicitation, collection, and preservation of corroborative evidence are not central features of CPS investigations but are (or should be) at the heart of law enforcement investigations. Kenneth Lanning, a former US Federal Bureau of Investigation agent who specialises in CSA cases, has cogently articulated the ‘law enforcement perspective’ and contrasted it with the child advocacy perspective, as follows:

The law-enforcement perspective deals with criminal activity and legally defensible fact-finding. The process must, therefore, focus more on:
• admissible evidence of what happened than on emotional belief that something happened
• the accuracy than on the existence of repressed memory
• objective than on subjective reality
• neutral investigation than on child advocacy

In their desire to convince society that child sexual victimization exists and children do not lie about it, some professionals interpret efforts to seek corroboration
for alleged sexual victimization as a sign of denial or disbelief. Corroboration, however, is essential. Investigators cannot just accept that something sexual happened to a child and ignore the context details that are necessary if it is to be proven in a court of law. When the only evidence offered is the word of a child against the word of an adult, child sexual victimization can be difficult to prove in a court of law. It is not the job of law-enforcement officers to believe a child or any other victim or witness. The child victim should be carefully interviewed. The information obtained should be assessed and evaluated, and appropriate investigation should be conducted to corroborate any and all aspects of a victim’s statement. The investigator should always be an objective fact-finder considering all possibilities and attempting to determine what happened with an open mind (Lanning, 2001, p. 102).

Numerous commentators have called for the separation of investigative and family-supportive roles in the management of alleged or confirmed child maltreatment (Hayes & Spratt, 2009; Pelton, 1998); a common proposal is to turn over primary responsibility for child maltreatment investigations to the police (Kinney, Huang, Dichter, & Gelles, 2005; Lindsey & Hawkins, 1994). In Sweden, the UK, and other countries, police already often take the lead role in investigating allegations of CSA and performing forensic child interviews (Cederborg, Orbach, Sternberg, & Lamb, 2000; Lamb, Orbach, Sternberg, Aldridge, Pearson, Stewart, Esplin, & Bowler, 2009). A few US jurisdictions have been experimenting with placing law enforcement in direct control of all initial investigations of child maltreatment allegations. Several US jurisdictions, notably in Arkansas (Center for the Study of Social Policy, 2000) and several Florida counties (Kinney, Cohen, Huang, Gelles, Bae, & Fusco, 2003; Kinney et al., 2005), have been experimenting for more than a decade with allocating primary responsibility for child maltreatment investigations to law enforcement agencies. Studies of these experiments have not demonstrated a clear superiority of law enforcement-directed investigation in terms of child welfare and criminal justice outcomes (Kinney et al., 2005), but have shown that police involvement in investigations has not had a detrimental effect (see Cross, Finkelhor, & Ormrod, 2005 for a review). These studies have not yet addressed the question suggested by the current analysis: Does placing law enforcement in control of initial CSA investigations increase the rate and quality of corroboration as compared with CPS-led investigations?

Although there are good a priori reasons to believe that police might be more effective than CPS caseworkers and other MHPs in obtaining corroboration for CSA allegations, hard empirical support for this hypothesis is hard to come by. The best available evidence that a speedy law enforcement-centric response to allegations of sexual abuse may result in higher rates of corroborated cases comes from an in-depth case study of one small US jurisdiction, St. Mary County in Michigan, that has been remarkably successful in obtaining confessions in CSA cases (Staller & Faller, 2010). Prosecutors, law enforcement, and CPS caseworkers in St. Mary County follow a detailed written protocol for responding to cases of alleged sexual abuse that emphasises a speedy videotaped interview of the child. If the child discloses abuse, then the alleged perpetrator is interrogated by law enforcement as soon as possible. The videotape of the child’s disclosure is shown to the suspect during the interrogation, and interrogation techniques that include deception and psychological manipulation are used to attempt to elicit a confession. If the suspect denies committing abuse, he or she is offered an immediate polygraph test. Many additional confessions are obtained during the polygraph tests. A key feature of this approach is the emphasis on speed—suspects who have the time to obtain legal counsel may be much less likely to
agree to interrogation and less likely to make confessions. In a study of a sample of 323 criminal CSA cases (cases that had been accepted for prosecution) in St. Mary County, there was a 64% confession rate (Faller & Henry, 2000). This is a much higher rate than has been found in studies of comparable samples in other US jurisdictions (e.g. Lippert et al., 2010).

One underlying reason that those who make legal and policy decisions in the US continue to accept a child protection system in which allegations of serious crimes are initially investigated by CPS caseworkers who are not trained in criminal investigations is arguably the erroneous assumption that strong corroborative evidence is unobtainable in most true cases of CSA. If key legal decision makers and policy makers believed that speedy, competent, law enforcement responses to CSA allegations could result in the collection or elicitation of strong corroborative evidence in many—or even most—true cases of CSA, then the status quo might be harder to support and defend.

Should evidentiary thresholds for substantiation and criminal prosecution be raised?

Anecdotal reports suggest that the investigation, substantiation, and prosecution of false CSA allegations can have disastrous, permanent effects on the lives of the children and adults involved, even if the investigations ultimately do not result in erroneous substantiations or wrongful criminal convictions (Bernet, 1997; Besharov, 1994; Bikel, 1997; Boyer & Kirk, 1998; Bruck, 1998; Bruck, Ceci, & Hembrooke, 1998; Ceci & Bruck, 1995; Fincham, Beach, Moore, & Diener, 1994; Fukurai & Butler, 1994; Garven, Wood, Malpass, & Shaw, 1998; Humphrey, 1985; Johnson, 2004; Nathan & Snedeker, 2001; Pawloski, 2005; Pillai, 2002; Rabinowitz, 2004; Robinson, 2007; Rosenthal, 1995; San Diego County Grand Jury, 1992, 1994; Schreiber, Bellah, Martinez, McLaurin, Strok, Garven, & Wood, 2006; Seattle Post Intelligencer, 1998; Swarns & Cooper, 1998; Wexler, 1990). Although reforms that increase the rate at which true allegations of CSA are corroborated may lower the false negative rate, they are unlikely to have a beneficial impact on the false positive rate because it is very difficult to find evidence that can clearly prove a universal negative assertion—in this case, that a child was never sexually abused. There is a marked logical asymmetry in the types of evidence that can be used to prove that CSA never occurred versus evidence that can prove that it did occur at least once. For example, a suspect’s denial is not usually considered to be evidence that abuse did not occur, but a confession is strong evidence that it did; the fact that no third party witnessed even a single incident of abuse is not strong evidence that abuse did not occur, whereas a third party witness to a single incident is strong evidence that it did; in most cases, lack of medical evidence is not strong evidence that abuse did not occur, whereas the existence of certain types of medical evidence provides very strong evidence of sexual abuse; and so on. Hershkowitz et al. (2007a, p. 101) report that, in a systematic review of 1100 forensic CSA evaluations, she and her colleagues could identify only 13 cases in which there was clear evidence that a CSA allegation was false.

At present, the only practical way to reduce false positive errors in forensic CSA evaluations would be to raise the evidentiary bar for substantiation and criminal prosecution of allegations of CSA, perhaps by (re)imposing corroborative requirements. In the US, prior to the 1980s, there were numerous jurisdictions that required corroborative evidence as a prerequisite to the pursuit of criminal prosecution of cases of alleged CSA. In response to the perception that these requirements resulted in an inability to prosecute
some child molesters, these corroboration requirements were abolished in the 1980s (Lane, 1986).

There are indications that US appellate courts are starting to (again) become aware of the risks of wrongful criminal convictions in CSA cases in which corroborative evidence is weak or non-existent. For example, the US Supreme Court recently overturned a death sentence in a CSA case (*Kennedy v Louisiana*, 2008), in part because they realised that false positive errors are more likely in professional and lay judgements about the validity of CSA allegations than in judgements about other types of allegations of criminal conduct:

The problem of unreliable, induced, and even imagined child testimony means there is a ‘special risk of wrongful execution’ in some child rape cases … Studies conclude that children are highly susceptible to suggestive questioning techniques like repetition, guided imagery, and selective reinforcement … Similar criticisms pertain to other cases involving child witnesses; but child rape cases present heightened concerns because the central narrative and account of the crime often comes from the child herself. She and the accused are, in most instances, the only ones present when the crime was committed (p. 2663).

The Oregon appellate courts, in a series of recent cases, have ruled that expert opinion testimony by medical and mental health professionals that they have diagnosed a child as sexually abused should not be considered legally admissible, unless it is firmly based on physical evidence of abuse, because the potential for prejudicial impact from opinions based on assessments of psychosocial evidence far outweighs their limited probative value (*State v Clay*, 2010; *State v Lovern*, 2010; *State v Merrimon*, 2010; *State v Southard*, 2009).

Similar arguments also apply to the substantiation of CSA allegations in child protection contexts. In many US jurisdictions, statutes require only a preponderance of the evidence for the substantiation of CSA (and other child maltreatment) allegations. ‘Preponderance of the evidence’ is the lowest evidentiary standard in use in the US legal system (two higher standards are ‘clear and convincing evidence’ and ‘beyond a reasonable doubt’), and it is often interpreted as meaning that the evidence is sufficient to conclude that there is a greater than 50% chance that the hypothesis in question is true (Myers, 2009). Because of the potentially severe negative consequences to innocent children and adults that can result from erroneous substantiations of false allegations, this standard seems too lax to many observers (Herman, 2009). McMahon (1999) has argued that the use of this standard to substantiate CSA in custody disputes is a violation of the accused parent’s constitutional due process rights.

In summary, in order to protect non-abused children and those who are wrongly accused of sexual abuse from potentially severe harm at the hands of the state, it may be time for legal decision makers and policy makers to follow the lead of the US Supreme Court and the Oregon appellate courts, and consider raising evidentiary bars for (1) the substantiation of CSA allegations in child protection contexts; and (2) their prosecution in criminal justice contexts. The analysis presented here suggests that the negative impact of raising evidentiary bars for the substantiation and prosecution of CSA allegations might not be as drastic as some fear, because corroboration for sexual abuse allegation is more common than many people realise. Furthermore, if reforms of investigative procedures could increase the rate of corroboration, then that change might offset any increase in false negative errors as a result of the imposition of more stringent evidentiary requirements.
Limitations and recommendations for research

There are a number of limitations to the current analysis that have not yet been discussed. First, the five empirical studies that provide the primary basis for the argument that corroborative evidence is not rare in forensic CSA evaluations all took place in the US prior to 2000, and the total sample size across the five studies is only 894. Three of the five studies included data only on medical corroboration. Thus, there are a number of possible limitations to the generalisability of the data reported in these studies. However, data from each of these studies are generally consistent with (1) data from the other four studies; (2) data from field studies that employed different methodologies (Haskett et al., 1995); and (3) data from studies that have examined prosecution samples (Cross et al., 1995, 2003; Faller & Henry, 2000; Walsh et al., 2008). Future field studies of forensic CSA evaluations should always attempt to collect data on the strength and types of corroborative evidence that are available in each evaluation and on evaluators’ judgements about the validity of each allegation. Studies in countries other than the US would also be helpful, because rates of corroboration may differ between countries.

Second, the investigative methods most likely to significantly increase corroboration rates are likely to be similar to those employed in St. Mary County, Michigan (Staller & Faller, 2010). These methods have resulted in high confession rates because they take advantage of speed and surprise, and involve the use of deception and psychological manipulation of suspects during interrogations. Although these techniques, which are commonly employed by police in order to extract confessions from suspects in many types of criminal investigations, are legal and effective, they appear to increase the risk of false confessions (Kassin, 2008b; Ofshe & Watters, 1994).

If investigative procedures such as those employed by St. Mary County are to be used more widely to increase corroboration rates, there are some safeguards that could be put in place in order to make false confessions (1) less likely to occur; and (2) easier to detect when they do occur. All interrogations could be recorded on video from start to finish; care could be taken not to provide suspects with information about the crime that they would not know if they were innocent; investigators could attempt to elicit information that they could use to confirm or refute a confession; certain especially dangerous techniques, such as suggesting to the suspect that he/she cannot remember committing the crime or asking the suspect to imagine that he/she committed the crime, could be avoided; and special care could be taken to avoid coercive or suggestive techniques when interrogating juveniles and the mentally disabled.

If investigators show videotapes of children’s reports of sexual abuse to suspects, there is a risk that innocent suspects will incorporate information from the child’s report into false confessions. Perhaps investigators could show only portions of these videotapes to suspects, with segments containing some key information that only the perpetrator would know edited out. If a suspect confesses, he/she could be asked to provide the missing information in order to confirm the validity of the confession. Finally, investigators should always be cognisant of the possibilities (1) that a child may have made a false or misguided report of abuse; (2) that the child has made a true report but identified the wrong perpetrator; or (3) that a suspect had made a false confession.

Third, there are other potential problems with both the St. Mary model and the more prevalent child advocacy centre model for the investigation of alleged or suspected CSA. Some of these problems result from the blurring of boundaries and goals of the various participants in CSA investigations—CPS caseworkers, forensic interviewers, therapists,
police, and prosecutors. Another issue is that a single-minded focus on the criminal prosecution and incarceration of sex offenders may not always be in the best interests of abused children, for example, when a parental offender is the primary breadwinner for a family. The two reforms suggested in this paper—to increase rates of corroboration and to raise evidentiary requirements for substantiation and prosecution—do not adequately address these issues. See Connell (2009) for a cogent discussion of these and other related problems.

Fourth, the arguments made here should not be read as suggesting that non-psychosocial corroborative evidence should always be taken at face value. There is considerable cause for concern about the validity of medical evidence that is often presented as diagnostic or supportive of a hypothesis of sexual abuse (Berenson, Chacko, Wiemann, Mishaw, Friedrich, & Grady, 2000; Heger, Ticson, Velasquez, & Bernier, 2002; Kelly, Koh, & Thompson, 2006; McCann, Wells, Simon, & Voris, 1990; Pillai, 2005, 2007). Other types of corroborative evidence that are often accepted as conclusive by legal fact finders—for example, eyewitness identifications, DNA evidence, and confessions—are not as reliable as is commonly believed (Connors, Lundregan, Miller, & McEwan, 1996; Kassin, 2005; Ofshe & Watters, 1994; Scheck, Neufeld, & Dwyer, 2000).

Fifth, the arguments presented should not be taken as implying that law enforcement professionals and legal fact finders are likely to be more accurate than MHPs in distinguishing between true and false reports of sexual abuse by children in the absence of corroborative evidence. The empirical study of the accuracy of legal fact finders’ judgements about CSA allegations is subject to epistemological, methodological, and ethical obstacles that are similar to the obstacles that hinder direct empirical research on the accuracy of MHPs’ judgements. The central problem is that, in real judgements about allegations of CSA by legal fact finders, there is rarely any criterion that can be used to judge the accuracy of fact finders’ judgements, other than the evidence that was already known to the fact finders at the time they made their judgements. There are a number of interesting studies that have used indirect methods to provide rough estimates of the accuracy of verdicts rendered by judges and juries (Arkes & Mellers, 2002; Spencer, 2007); these studies suggest that jury verdicts in criminal cases may be significantly less accurate than is commonly believed. A study of nine real-world criminal CSA cases in Sweden suggests that legal fact finders’ judgements about the validity of CSA allegations are biased and unreliable when they are made on the basis of psychosocial evidence (Lindblad & Lainpelto, 2008).

CONCLUSION

A review of five chart review studies of forensic CSA evaluations reveals that, contrary to the conventional wisdom, corroborative evidence is not rare in MHPs’ forensic evaluations of allegations of CSA. These findings, in the context of other empirical and theoretical studies indicating that MHPs’ judgements about the validity of uncorroborated CSA allegations are low in psychometric reliability and validity, suggest that reforms in the way allegations of CSA are investigated and assessed are needed in order to reduce the risk of potentially severe harm to (1) sexually abused children; (2) children who may become victims of sexual abuse in the future if perpetrators escape detection; (3) non-abused children who make false reports and develop false memories of sexual abuse; and (4) juveniles and adults who are wrongly accused of sexual abuse.
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