THE LEGAL PROCESS IN CHILD SEXUAL ABUSE
Difficulties in confirming evidence and providing support

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Dedicated to all those professional people who help to improve for children in the legal process.
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CONTENTS

ABSTRACT 3
SVENSK SAMMANFATTNING 4
LIST OF PAPERS 6
ABBREVIATIONS 7
INTRODUCTION 8
BACKGROUND 10
Child sexual abuse 10
Child sexual abuse in the legal process 11
Epidemiological research on child sexual abuse in the legal process 13
Support from adults 13
Difficulties in confirming evidence 14
Procedures and institutions for handling cases of child sexual abuse in Sweden 16
Mandatory reporting to social services 16
Legal process 16
Legal proceedings in other countries 17
Support for the children 18
ABSTRACT

When children have been sexually abused, they are the victim of a crime and as a result may enter into a legal process. This is often coincident with the fact that, as a result of abuse, the child has a mental disorder.

The overall purpose of this thesis was to study the situation of such children in the legal process. In-depth interviews were carried out on ten children aged 8-18 years old. The interviews focused on the children’s experiences and perceptions of meeting with various professionals in the legal process. In-depth interviews were also conducted with nine parents of children who had been sexually abused and who had entered into a legal process. Parents described how they experienced the situation for their children as victims, but also their experiences as parents whose children participated in a legal process. Seven prosecutors with experience of cases where children were plaintiffs were also interviewed in this study. The aim was to understand the experiences of prosecutors on the basis that they had met many children suspected of being victims of crime. In a fourth study the obstacles that can prevent children from talking about sexual abuse in a police interview was illuminated by interviews with children and police interrogations with non-offending parents.

The participants in studies I-IV were identified from the records of three public prosecution offices in three cities in Sweden. Face-to-face, in-depth, semi-structured interviews were carried out via open-ended questions following guidelines; verbatim transcriptions of the interviews were then analysed by hand through a process of interpretative engagement in order to identify themes and integrate these themes into meaningful clusters, first within and then across cases to ensure the validity and trustworthiness of the data. The interviews were analysed using Interpretative Phenomenological Analysis (IPA). This is an appropriate method to explore the participants’ life-world/personal-world and the individuals’ personal perceptions of objects or events, as opposed to an attempt to produce an objective account. In the first study (study I) on the children, five major themes emerged through the analysis: not being believed, making child sexual abuse (CSA) visible, need for support, sanctions for offenders and lack of respect for the child’s integrity. Almost all of the children had a feeling of not being believed.

In the study (study II) on the parents, three superordinate themes emerged from an analysis of the data: 1) stigmatization, 2) need for support in the parental role and 3) transforming consequences to reality.

Three themes emerged from prosecutors (study III): (1) difficulties with the evidence of crime, (2) children’s special needs and (3) children’s dependence on adults. The informants’ descriptions of how they perceived the children in the legal process were associated with their experience of the difficulty of finding proof of the crime. The
informants experience difficulties when they encounter children in the legal process. As prosecutors, they often face difficulties proving that the child has been the victim of a crime.

It is difficult for children to disclose that they were sexually abused. The main reason for this difficulty is likely to be that the abuse evokes strong emotions that can be difficult to manage. The aim of study IV was to identify and describe the obstacles that can prevent children from talking about sexual abuse in a police interview. Data consisted of 28 investigative interviews with children and 12 police interrogations with non-offending parents. The children in these situations were between 8 and 15 years of age when they were interviewed. Data interpretation and analysis were based on content analysis. The following categories were identified: not being believed/telling the truth, need for support and dependence on adults, guilt and shame, fear, and difficulty in spatial and temporal characterization.

The main conclusion of this thesis is that there are difficulties in confirming evidence when children who have suffered sexual abuse are involved in a legal process. It is also concluded that there is an absence of models with the aim to support children and parents going through the process. If children who are victims of crime should be offered a fair, supporting and secure procedure there must be some changes in the legal process.

**SVENSK SAMMANFATTNING**


I intervjuerna med föräldrar framkom följande temata: ”stigmatisering”, ”behov av stöd i föräldrarollen” samt ”transformera konsekvenserna till verkligheten”. Åklagarnas erfarenheter uttrycktes i följande temata: ”bevissvårigheter”, barn har särskilda behov” och ”barn är beroende av vuxna”. Deras erfarenheter är att de framförallt upplever svårigheter med att bevisa att barnet har utsatts för brott.


Den huvudsakliga konklusionen av studien är att det föreligger stora bevissvårigheter när barn som har utsatts för sexuella övergrepp deltar i en rättsprocess och bristande modeller för stödinsatser till barn och föräldrar. Om barn som har utsatts för brott ska erbjudas ett rättsstarkt system bör det ske förändringar inom rättsväsendet.
LIST OF PAPERS

This thesis is based on the following papers, which will be referred to in the text.

**Paper I.** Managing the legal process: An interpretative phenomenological analysis of sexually abused children’s experiences of the legal process.

**Paper II.** Parents’ opinions – view of their child’s experiences in the legal process: An interpretative analysis of parents’ opinions.
Back, C., Gustafsson, P.A. & Berterö, C. *Journal of Child Sexual Abuse, 2012*

**Paper III.** Sexually abused children-prosecutors experiences of their participation in the legal process.

**Paper IV.** How do children overcome difficulties talking about sexual abuse?
Back, C., Gustafsson, P.A. & Berterö, C. Submitted

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ABBREVIATIONS

BBIC  Barns Behov I Centrum (Child’s needs in centre, System for handling child protection cases)

BRÅ  Brottsförebyggande rådet (Swedish National Council For Crime Prevention)

CAC  Child Advocacy Centres

CRC  Convention on the Rights of Children

CSA  Child Sexual Abuse

DSM-IV  Diagnostic and Statistical Manual of Mental Disorders IV

FB  Föräldrabalken (Parental Code)

FUK  Förundersökningskungörelsen (Pre-trial Investigations Act).

HD  Högsta Domstolen (Supreme Court)

ICS  Integrated Children’s System

IPA  Interpretative Phenomenological Analysis

NICHD  National Institute of Child Health and Human Development

PTSD  Post-traumatic stress disorder

RB  Rättegångsbalken (Code of Judicial Procedure)

SoL  Socialtjänstlagen (The Social Services Act).

SOSFS  Socialstyrelsens föreskrifter och allmänna råd (National Swedish Board of Health and Welfare)

SOU  Svensk offentlig utredning (Swedish public inquiry)

SFS  Svensk författningssamling (Swedish Code of Statutes)

TF-CBT  Trauma-Focused Cognitive Behavioural Therapy

UNCR  United Nation Convention on the Rights of the Child
INTRODUCTION

Child sexual abuse (CSA) is an old problem, which has probably occurred throughout history; in most societies, it is a criminal act.

Historically, in Sweden sexual acts between adults and children have not been a personal crime, but a crime against the church, and both individuals were sentenced to death (Ohlander, 1986); as a consequence of this, the crime had to be kept quiet. Until 1937, the child was regarded as an accomplice to incest offenses (Ohlander, 1986). It was not until the 1980s that knowledge that children are sexually abused became more acknowledged and debated in the media. In connection with the phenomenon becoming more visible, the number of police reports of suspected crimes also increased (BRÅ, 2003).

It is mainly in the last 15-20 years that knowledge on this field has expanded in psychiatry. This trend is also reflected in factors such as the child psychiatry committee’s report, “The lives” (SOU 1998:31), which clearly highlights children who have been sexually abused as at particular risk for developing mental disorder. The report also says that attention is diverted away from these children’s needs as they often fall between the areas of responsibility of various agencies.

The Prosecution Office, National Police Board Government and National Board of Health and Forensic Medicine Board were commissioned by the government to develop national guidelines for cooperation in investigations related to children suspected of being exposed to crime and criteria for the Children’s Houses. The findings were reported in 2009. The purpose of the national guidelines and criteria for the Children’s Houses is to ensure that cooperation is kept in mind. The goal of collaboration is to ensure that children who are suspected of being exposed to crime receive legal security, good treatment and support and, when necessary, immediate crisis management and treatment (Kaldal, Diesen, Beije, Diesen, 2010).

The question of under what conditions children reveal and explain that they have been victims of abuse has previously been given special attention by the author (Leander, Christianson & Granhag, 2007; Svedin & Back, 2003). The author has experience of working in child and adolescent psychiatry, with children and young people who have been victims of abuse. Coupled with this experience, she has also undertaken research studies in this field. These studies showed that children found it difficult to reveal and talk about the sexual abuse that they had experienced. Of 30 children who had been sexually abused and exploited for the purpose of producing child pornography, none of 23 children (7 were too young/unaware, sedated or asleep) had spontaneously disclosed what had happened until the abuse had been discovered. The children’s testimonies in police interviews were found to be incomplete and fragmentary and some of the children denied having been involved in the acts, even when they were shown evidence, films and photographs showing
that these events had actually occurred (Svedin & Back, 2003). The main problem lies in both the private, sexual nature of the crime and that adults often have difficulties in understanding the child’s way of communicating his or her experiences (Svedin & Back, 2003). Research shows that children who have experienced CSA have difficulty telling adults about it both when the abuse is ongoing and later in life (Devoe & Faller, 1999). The main reason for this difficulty is probably that talking about the abuse arouses strong emotions, primarily shame and guilt, and that these feelings are difficult to deal with (Leander, Christianson & Granhag, 2007; Svedin & Back, 2003).

This phenomenon that children remained silent or said very little about the abuse was also linked to how the circumstances appeared to them when they became the subject of a lawsuit. In criminal cases, there are requirements for specific expression of the act, so investigations can be discontinued if the child does not provide a sufficiently detailed narrative. One such example is when a child is not able to place an event in time and space (Kaldal, 2010).

This phenomenon of children remaining silent or being very curt about the abuse is also connected to how the circumstances looked for them when they became the subject of legal action. The focus here is on the children’s role in the legal process, their own descriptions of their experiences and descriptions of others who also meet the children during a lawsuit.
BACKGROUND

Child sexual abuse

The issue of sexual abuse falls into the domains of various disciplines, such as psychology, sociology, child psychiatry, paediatrics, social work, criminology and law. The incidence in Sweden of CSA is estimated to be 7% of girls and 3% of boys (Edgardh, Nilsson & Lewin, 1999; Finkelhor, 1994; Annerbäck, Wingren, Svedin & Gustafsson, 2010). In Sweden in 2010, 4391 notifications of CSA of children aged 0-15 years were received (BRÅ, 2010). Schecter and Roberge (1976) gave the following definition of sexual exploitation that is still the internationally most widely used and referenced definition:

“The sexual exploitation of children refers to the involvement of dependent, developmentally immature children and adolescents in sexual activities that they do not fully comprehend, are unable to give informed consent to, and that violate the social taboos of family roles” (pp.127-142).

Approximately two-thirds of all children exhibit symptoms and behavioural disturbances after being abused (Kendall-Tacket, Williams, Finkelhor, 1993). Although some children who experience traumatic events are resilient, many others develop symptoms that can have a profound and long-lasting negative impact on their daily functioning, health and safety (Finkelhor, Hotaling, Lewis & Smith, 1990). Post-traumatic stress disorder, (PTSD), depression, anxiety and behavioural symptoms, including self-injury, substance abuse, impaired interpersonal trust and affective instability, are among the reactions to CSA (Cohen, Mannorino & Deblinger, 2006).

Individuals’ ability to cope with a traumatic event varies. If you are confronted with stress that is sudden, unexpected and catastrophic, and the usual approaches do not work for processing, it can lead to the development of a chronic stress condition known as PTSD (van der Kolk, McFarlane & Weisaeth, 1996). An experience of sexual abuse can produce post-traumatic stress with intrusive distressing memories, nightmares or other discomforts that last a long time (DSM-IV).

Dissociation can be part of PTSD and is defined by Putnam as follows (1993): “dissociation as a psycho-physiological process that alters a person’s thoughts, feelings, or actions so for a period of time certain information is not associated or integrated with other information as it normally or logically is” (p, 40). A person who dissociates does not integrate incoming information; the person loses the ability to integrate knowledge, emotion and memory. The dissociated event is isolated in the mind, but the memory remains intact and can be recalled at a later time. Signs of dissociation are, for example, memory lapses, trance, identity confusion, depersonalization and loss of time or perspective (Putnam, 1997).
Child sexual abuse in the legal process

In most cultures, a sexual assault against a child is considered as an offense to be prosecuted in the judicial system (SFS.1962:700). Children should be protected from further abuse and, according to the Parental Code, have a right to care, security and a good upbringing. The guardian has the right and duty to decide on matters concerning the child’s personal affairs (Parental Code, SFS.1962:700).

The Child Convention deals in particular with the right to protection from abuse. Article 19 states that States Parties shall take all appropriate legal and social measures to protect children against all forms of physical or mental violence, injury or abuse, maltreatment or exploitation. Children have a right to be heard in all matters that affect them. The child’s views should be considered in relation to the child’s maturity and age (UNCR,1989). The child’s right to be heard also applies to children who are very young and is also upheld in the European Court of Justice Art. 8. Article 6 of the European Convention grants the right to a fair trial and describes the minimum rights of the suspect. UNCRC is considered to be an important guarantee of full human rights for every child (United Nations, 1989) and, in all investigations and decision processes, consideration should be taken with the aim of providing what is best for the child. Unfortunately, the demand for a high level of reliability that is inherent in the legal process is shaped to fit the way that adults communicate, and children’s testimony in court is often viewed as inadequate and unreliable. It would be desirable if there were a common European convention for the management of cases of children who have been victims of crime. The debate about children wanting to experience greater participation in the legal process is fully in line with the CRC intentions as asserted in Article 12.

In Sweden, it has long been considered that the “child’s best” is associated with the child being involved as little as possible in the legal process (Diesen & Diesen, 2009). Most often, the child’s only involvement is to give their story in a single video-recorded police interview, which occurs on only one occasion (Diesen, 2002). The idea is that the child is spared the psychological pressure associated with being part of the legal process and, instead, the child should be offered psychological treatment if there is a need for it.

Anyone who becomes aware of something that may require National Social Welfare Committee to intervene to protect a child should, according to chapter 14 § 1a piece of the Social Services Act, notify the social welfare committee. Suspected violations should be reported to the police. (SOSFS 2006:12). The condition for the prosecutor to initiate an investigation is for there to be a suspicion that relates to a specific criminal offense. However, it is not necessary to know where and when the crime occurred and who committed it. The child’s guardian is responsible as the child’s legal representative in contact with the judicial authorities (SFS. 1949:381). A special representative of the child shall be appointed if the guardian of the child is suspected
of the crime or it may be anticipated that the guardian, because of his or her relationship with the alleged offender, will not fully support the child’s interests (SFS. 1999:997). During the inquiry, according to chapter 23 § 6 Rättegångsbalken (RB) (SFS. 1942:740), hearings should be held, with each one likely to provide information relevant to the investigation. According to paragraph 23 of chapter 10 § RB, the guardian should be present during questioning of a person under 15 years of age, if this can be done without detriment to the investigation. This provision does not mean that the guardian has an unconditional right to sit in at hearings, but may be included before and after a hearing. When children under 15 years of age are involved, they do not usually appear in court; instead video recordings of police interviews with them are played in court. In the interrogation room, there are only the interrogator and the child. If there are other people who have a reason to take part in the interview, they follow the hearing in an adjoining monitoring room (Kaldal, Diesen, Beije & Diesen, 2010). This may include a social worker, prosecutor or psychotherapist specialized in child and adolescent psychiatry (Kaldal et al., 2010). The child could be at a disadvantage in court because the child is not present and can answer questions. This means that the suspected perpetrator is able to answer questions from the law officers. The child usually has only one opportunity to relay their story, which takes place in the police interrogation. However, a hearing recorded on video receives a slightly lower status than hearings undertaken in court under the principle of evidence immediacy. Therefore, it is always preferable that the child appears in court. The child’s lack of cognitive ability to understand and be able to express and explain the event requires adaptation by the judiciary and its promotion of the child’s interests.

Complaints against unknown perpetrators that are reported within 24 hours of the crime constituted 50% of all reports of sexual abuse in Sweden 2003 (Brå rapport, 2004; Diesen & Diesen, 2009). In these cases, the offender was known in 35% of all cases. Cases in which the suspect was a family member constituted only 8% of cases for which the notification was directly connected with a crime. This means that abuse within the family is even more difficult to investigate because a lot of time has often passed since the crime (Diesen & Diesen, 2009). Key reasons why a police report so rarely leads to a prosecution are that the only evidence is the child’s story and there is a lack of supporting evidence (www.aklagare.se/Dokumentsamling/Handbocker/). Supreme Court sets high demands in these cases. They argue that if a verbal testimony should be attributed to a high probative value it really must be credible and reliable. The Supreme Court does recognize that children can give valuable evidence during an investigation through a video-recorded interrogation. However one such video-recording is said to be interpreted with caution, which in practice means that it is assigned a lower value than if the person was personally participating in the court (Sutorius & Kaldal, 2003).
The legal process will be characterized by the rule of law and legal security and a basic principle should be to ensure a fair assessment. Criminal law is an expression of a certain social norm or social morality (Leijonhufvud & Wennberg, 2009).

**Epidemiological research on child sexual abuse in the legal process**

*Support from adults*

Finkelhor and Browne’s (1985) traumatogenic model has long been a guiding principle when it comes to understanding why some children have long-term difficulties and others do not. The model describes four so-called traumatogenic factors that can lead to negative psychosocial effects on the child. These factors are traumatic sexualization, betrayal, stigmatization and powerlessness. Although children who experience traumatic events can be resilient, many develop symptoms that can have a profound and long-lasting negative impact on their daily functioning, health and safety (Finkelhor, Hotaling, Lewis & Smith, 1990; Kendall-Tacket, Williams & Finkelhor, 1993). PTSD, depression, anxiety or behavioural symptoms, including self-injury, substance abuse, impaired interpersonal trust and affective instability, are among the reactions to CSA (Cohen, Mannorino & Deblinger, 2006). Children who have been subjected to a crime such as a sexual assault face several challenges. CSA does not leave visible effects as often as physical abuse, but it does leave lasting psychological damage (Finkelhor & Brown, 1985).

Mudaly and Goddard (2006) have described the cases of nine Australian children between 9 and 18 years of age who had met professionals during a legal process. Their results show that the children’s evaluation of their experiences tended to be more negative if the professionals they had to interact with were not well inclined to listen to the children, or even to believe their stories. This was especially true if the educational level of the professional was relatively low.

Traditionally, it has been assumed that ambivalent non-offending parents are not adequately supportive of their children after disclosure, but Bolen and Lamb (2007) have hypothesized that a strong desire for the parents to provide support may coexist with feelings of ambivalence about the specific abuse that a child has experienced. Parental distress has been shown to be significantly associated with children’s post-abuse adjustment (Cohen & Mannorino, 1996). Child victims have special needs in the criminal justice process, but their needs are often neglected. These needs are connected to such problems, about which there is a substantial lack of knowledge.

In Sweden, the government has worked to strengthen and develop collaboration between government agencies when investigating children suspected of being exposed to physical and sexual abuse. The aim is to focus the investigation on the needs of children and to improve the quality of investigation in order to create a better basis for the lawsuit. At 25 locations in Sweden, there are places known as
Children’s Houses; however, most children in Sweden are still being investigated without access to such facilities. The Children’s Houses have a multidisciplinary team working together in child abuse cases in a child-friendly environment to increase the quality of assessment, police inquiry and crisis intervention, reducing trauma to children. The aim of these centres is to coordinate the work of law enforcement, child protection, medical, psychiatric and other agencies. In addition, efforts are made to ensure that only a single interviewer is used to obtain information from the child (Cross, Cross, Jones, Walsh, Simone & Kolko, 2007). Child advocates, policymakers, prosecutors, judges and other legal professionals need to work together to develop ways to increase the collaboration of all parties involved in CSA cases, while at the same time trying to work toward producing the fairest possible legal outcome (Walsh, Lippert, Cross, Maurice & Davison, 2008).

Plummer and Eastin (2007) state that when “professionals assisted mothers with information and advice, this was found to be helpful. Professionals investigating and treating child sexual abuse should be cognizant of how the event of disclosure may undermine a mother’s confidence as a parent, and assist mothers in rebuilding their parental self-esteem”. In this study, the mothers felt tired and overwhelmed. This exhaustion both reduced the energy they had for normal parent/child activities and made the child the central focus of their concerns (Plummer & Eastin, 2007).

The level of family support has been identified as one of the most important predictors of the degree to which the child can adjust following the disclosure of CSA (Hecht & Debra, 2000).

A study has shown that parental support is important for children who have experienced CSA (Coulborn Faller & Palusci, 2007). Another study has provided strong evidence that both mothers and fathers also frequently experience distress. One of the most important and consistent findings in the literature is that support/protection for non-offending caregivers is a factor leading to better emotional and behavioural adjustment of sexually abused children (Elliott & Carnes, 2001).

Difficulties in confirming evidence

Proving that a crime has been committed is a complex task, but in the case of crimes against children, it is especially difficult to obtain evidence. Walsh et al. (2008) examined what is of particular importance to ensure that the case will proceed to prosecution. They found that the child’s own story, but also supporting evidence that may cause the perpetrator to confess the crime, are two important factors that determine whether the case proceeds to trial.

Unfortunately, the demand for high reliability that is inherent in the legal process is shaped to fit the way that adults communicate; children’s testimony in court is often viewed as inadequate and unreliable.
Quas et al. point towards a clear need to develop and test interventions that focus on how to enhance children’s understanding, and whether such interventions concurrently improve children’s wellbeing (Quas et al., 2009).

Nathanson and Saywitz (2003) found that children interviewed in courtroom environment demonstrated significantly greater heart rate variability than children interviewed in a private room. These findings of heightened anxiety, and as a consequence memory impairment, in court compared with those in a private room highlight the need to develop innovative methods for reducing child witnesses’ stress and enhancing their memory performance. Innovative techniques that teach children to remember better, even in intimidating environments, and questioning methods that aid children in retrieving details should be beneficial for promoting more complete and accurate testimony from children (Nathanson & Saywitz, 2003). Further studies have confirmed previous results: there is value in designing courtroom environments and courtroom practices that are child-friendly (Connon et al., 2011).

To enable the child to talk about sexual abuse, it is important to have a good interviewer. Prosecutors have an interest not only in curbing improper interviewing, but also in promoting skilful interviewing. For example, the credibility of a child witness can be increased and the prosecution’s case strengthened if the initial interview of the child is conducted by a highly skilled interviewer (Wood, 2000). The interviewing style is a factor of the utmost importance with regard to the amount of information reported by children (Leander et al., 2009). Also knowledge about normal sexual behaviour (Larsson, 2001) in children is needed.

It is of great importance to understand the circumstances that inhibit disclosure so that investigators can develop better techniques for working with non-disclosing children who appear likely to have been abused (London, Bruck, Ceci & Shuman, 2005).

Controlled studies have repeatedly shown that the quality of interviewing reliably and dramatically improves when interviewers employ the structured National Institute of Child Health and Human Development (NICHD) protocol (Lamb, Orbach, Hershkowitz, Esplin & Horowitz, 2007). The NICHD protocol improves the quality of information obtained from alleged victims by investigators, thereby increasing the likelihood that interventions will be appropriate. This protocol is a result of research on children’s memory, communicative skills and social knowledge that was translated into guidelines to improve the quality of police interviews of children.
Procedures and institutions for handling cases of child sexual abuse in Sweden

Mandatory reporting to social services

Sexual abuse and assault are situations from which children should be protected FB6:1(SFS. 1949:381) LVU 2 § (SFS. 1990:52). Under Swedish law, CSA is a serious crime. Its judicial basis is that all kinds of sexual acts against children and adolescents under 18 years of age by an adult responsible for their care/education, or who have a similar relationship to the child, are criminal offenses. Acts of sexual innuendo directed at children under 15, regardless of who uses the child, are also punishable.

When children have been sexually abused, there are usually a number of investigations by various government agencies that are carried out simultaneously; social services is the agency that has an explicit responsibility for the collaboration of involved authorities (SFS. 1980:620). Social services have a possibility but not an obligation to file a police report when they suspect that a crime has been committed.

All professionals working in an authority that deals with children, but also others who work in the health care services and social services, are obliged to report to the social welfare committee if they suspect that a person younger than 18 years is in need of protection. The public are requested, but are not obliged, to report such cases to social services (SFS. 1980:620). Social services have an overriding responsibility to protect the child by preventing repeated assault. The child protection investigation is the most important task to be carried out when there is a report of a child at risk. The child protection process in Sweden is composed of three steps: social service report, investigation, and voluntary or compulsory care (SOU. 1997:3); (Cocozza, 2007).

When children have been sexually abused, it is usually several inquiries from various authorities taking place simultaneously. Social services are the agency that has an explicit responsibility for interaction comes about Sol. 5:1a. (SFS.1980:620). Social services have an option but not an obligation to file suspect a crime has been committed.

Legal process

In common with other European countries, Sweden has principles of law that, among other things, reflect the European Convention on Human Rights’ principles (www.europeansourcebook.org) focused on the suspect’s legal certainty and the legal security of the victim, which refer to the right to state protection and assistance in the event of national victims of crime. Both parties shall have the right to qualified legal assistance, both parties shall be able to obtain adequate investigative efforts and both parties are to submit and respond to evidence. Anyone who has been the victim of a crime is called the plaintiff, and child plaintiffs are often assisted by a counsel. This is a lawyer who provides support to the child during the trial, but also assists in injury claims. In the trial, there is an immediacy principle, which means that the plaintiff
and the defendant shall be present at the trial and verbally give their description of what happened, so that judges and law officials can ask questions to both the suspect and the alleged victim of crime.

A child is usually questioned by police on only one occasion. The video-recorded interrogation is used in the trial if the child is 15 or younger, which means that there is no opportunity for the listeners to ask the child questions. The videotaped interview is made by a police officer and Pre-trial Investigations Act 18 § (SFS. 1947:948) states that, “the hearing shall be undertaken by a person qualified for the job”.

If there is one parent who is a suspect then an outside lawyer is usually appointed as the child’s legal representative and, as such, takes the parental role as the child’s representative in the process.

Legal proceedings in other countries

Children have special needs that have to be taken into account when they are involved in a lawsuit. To accommodate this in the best way possible, different countries have developed specific systems to cater for children’s needs.

Child Advocacy Centres (CAC) in the USA are a model for child abuse investigation designed to be more child- and family friendly than traditional methods. Jones et al. (2007) found that the CAC model can have a positive impact on non-offending caregivers’ level of satisfaction. One of the primary goals of these centres is to improve child forensic interviewing following allegations of CSA. They aim to coordinate law enforcement, child protective, medical and other agencies, and generally use a single interviewer to provide information to every other investigator involved in the case (Jones et al., 2007).

CAC has been in U.S. since the 1980’s. Iceland was the country in Europe which was first started “Children House” (1998) and had the CAC as a model. “Children House” in Sweden has had CAC and “Children House” in Iceland as models.

In New Zealand there are legislative and procedural measures available to assist children who testify in the criminal courts. Children can be forensically interviewed by professionals specially trained to effectively communicate with children and the courts, unlike in Sweden, where there always is a police interrogation with the child. Children may also be cross-examined via closed-circuit television or behind a screen (Hanna, Davies, Crothers & Hendersson, 2012).

In the UK there is an intermediary system. In this system, there are individuals from different professions working with the children. Different professional roles include assessing witnesses’ communication needs, assisting in police interviews if requested, preparing a report from the assessment and assisting at trial. The normal process is that an intermediary is first involved at the referral, followed by a police
investigation and ending with a trial (Hanna, et al., 2012). If the intermediate goes on to assist at trial they will present a written report to the court on the child’s communication needs and how best to question him/her (Plotnikoff & Woolfson, 2009).

**Support for the children**

The overall goal is that the child receives protection and support from the community via a holistic approach. Any authority that interacts with a child who is the victim of a crime is there to ensure the child’s best interests.

**Special representatives**

Parents are usually chosen to represent the child in the legal process. A special representative of the child shall be appointed as a guardian if it is anticipated that the guardian, because of his or her relationship with the person suspected of the offense, is not going to support the child’s interests fully. A special representative of the child’s rights is involved during the investigation and in subsequent proceedings. As a special representative, a lawyer, an associate of a law firm or another person can be appointed (SFS. 1999:997).

**Counsel**

A person who has been the victim of a sexual offense has the right to have a counsel. The counsel’s mission is to support the plaintiff’s interests in the case and provide assistance. The counsel will also assist the plaintiff to recover damages as a result of the crime (SFS. 1988:609).

**Social services**

The social services provide specific interventions for help seeking people, including victims (SFS. 1980:620). This may involve counselling and supportive calls and more focused crisis intervention. The calls can differ in terms of nature and scope. The terms support and assistance in SFS. 1980: 620 include efforts to provide financial assistance, supportive conversations, contacts, and sharing of contacts with other agencies and non-governmental organisations.

**Child psychiatry**

A child and the child’s family should be offered emergency treatment as early as possible after a disclosure of sexual abuse. For some children, a brief crisis intervention may be sufficient, but some children need longer treatment. It is important that child psychiatry makes an assessment of the need for treatment. The assessment should be done regardless of whether the police case leads to prosecution and conviction (Svedin & Banck, 2002). The treatment currently considered the most effective for PTSD is trauma-focused cognitive behavioural therapy (TF-CBT) (Cohen & Mannorino, 2004).
AIMS OF THE THESIS

When children have been sexually abused, they are the victim of a crime and as a result may become involved in a legal process. This often coincides with the fact that, as a result of abuse, they suffer from a mental disorder. The overall purpose of this thesis is to study the situation for children in the legal process with a particular focus on their status as children.

The specific aims are as follows:

- Through the use of in-depth interviews, to identify and describe how sexually abused children experience the legal process, which includes being interviewed by police, meeting lawyers and prosecutors in the courtroom and meeting other significant authorities.
- To study how the parents of children who have been the victims of sexual assault experience the legal process, seen from the child’s as well as the parents’ perspective.
- To study prosecutors’ experiences of working with children who have been sexually abused.
- To identify and describe the obstacles that can hinder children from talking about sexual abuse in a police interview.
CONCEPTUAL FRAMEWORK

Children’s and parents’ experiences can come to light in many ways; here, the method used to obtain an understanding of these experiences is qualitative interviews (Patton, 2002). The process in which prosecutors meet child victims and then try to lead them through the legal process is likely to give rise to many thoughts and reflections. This experience is also focused on in this work.

Phenomenology is a philosophical approach to the study of experience, an approach which has a special interest in thinking about the experience of being human with a focus on the important aspects that make up our lived world – life world (Smith, 2009).

Husserl was the first to develop the field of phenomenology. The method of IPA is the successor to Heidegger, and Mearleau-Ponty and Sartre also played a role. The ability to interpret makes the person who she is; Heidegger assumes that all people are meaning-seeking creatures. An existential question is thus an important question about what something means to someone. A major research interest in existential hermeneutics is the meaning and significance that humans ascribe to the world we live in: how people interpret and understand meaningful contexts and meanings.

The informants’ experiences resulting in interaction with other people and the concept of symbolic interactionism describes the study of people in group and human behaviour (Blumer, 1997). Symbolic interactionism is based on three conditions: 1) People act toward things in ways based on the meanings that the things have for them. 2) The importance of such things is derived from, or arises out of, social interaction with their peers. 3) These meanings are handled and modified through interpretation. People’s interpretations are not entirely free-floating, but are processes in social interaction – symbolic interactionism (Blumer, 1997).

A model to understand what influences the development of a child is the so-called ecological model. This approach is based on Bronfenbrenner’s theory that humans are affected by several interacting systems in a context (Bronfenbrenner, 1977). The development of an ecological model consists of four levels/systems. These are called microsystem, mesosystem, exosystem and macrosystem. The microsystem includes the individual and its immediate environment (e.g. family members). The mesosystem includes relationships between environments in the microsystem (e.g. school). The exosystem consists of structures of the same type as those in the mesosystem, but with the difference that the individual does not act directly in the exosystem’s structures (e.g. community). The individual has contact with the exosystem, but not regularly. The macrosystem is more abstract and consists of ideologies as well as cultural and social systems. The development ecology approach can be described as a central starting point for social services for children; Barns Behov I Centrum (BBIC) is a documentation system for child welfare investigations.
that is based on this developing ecological approach. It is derived from the English "Integrated Children’s System” (ICS). The aim is to strengthen the child’s perspective and the participation of children, young people and their families. The system should also ensure consistency across the country and improve and maintain the quality of social care for children and youths (Socialstyrelsen, 2006).

When a child participates in a legal process that has been developed for adults, that child’s cognitive condition is tested. This could be made even more challenging by ill health that may have occurred after the child was sexually abused.

Small children have difficulties in creating autobiographical memories, they can’t provide a comprehensive picture of what they have been through and talk about daily events. Havnesköld & Risholm Mothander (2009) describes that there is a critical developmental stage when children are 6-7 years old. Then there is a change in the individual’s psycho-biological maturity, the way of thinking and the way of expressing and regulating emotions. Children may begin to evaluate themselves and others in a general societal perspective and thinking becomes more logical.

At 9-10 years of age, the authors demonstrate that the child becomes aware of the central self-image that has been created in constant review and exchange with the outside world. The child also begins to see itself considering the abstract norm that society’s value are given. When the child enters adolescence development it often brings conflicting feelings in the child. Relationships with parents change and peer group takes great influence. Peer group and other adults often means a lot to the self-esteem and idealization of other adults often occur.

IPA is a suitable method for exploring the participant’s personal world and the individual’s personal perceptions of an object or an event, as opposed to an attempt to produce an objective account. If the person dissociates or suffers from PTSD, it is not an obstacle. It is the particular individual’s experience that is important, and the vocabulary that the individual has chosen to express the experience.
METHOD AND MATERIALS

A qualitative approach was chosen for this thesis. Qualitative studies use an emergent design, a design that emerges as researchers make ongoing decisions reflecting what has already been learned (Polit & Beck, 2008). IPA was used in studies I-III. Content analysis (study IV) is a research method used to draw conclusions about the content of various types of communication, such as interviews, observation protocols or newspaper articles (Krippendorf, 1980). Content analysis is a widely used qualitative technique.

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<tr>
<th>Study I</th>
<th>Study II</th>
<th>Study III</th>
<th>Study IV</th>
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<tr>
<td>10 sexually abused children (9 girls-1 boy)</td>
<td>9 parents (two of them were foster parents) to 10 children</td>
<td>7 prosecutors</td>
<td>28 interrogation by police with children</td>
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<td>9-15 years of age</td>
<td>Four cases in which the perpetrator was father-stepfather</td>
<td>Semistructured interview based on their experiences working with children who have been sexually abused</td>
<td>8-15 years of age</td>
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<td>The perpetrator was someone outside the family</td>
<td>Four cases the perpetrator was an acquaintance</td>
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<td>12 interrogation by police with non-offending parents</td>
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<td>Semi-structured interview about children’s experience in the legal process</td>
<td>Two cases the perpetrator was a stranger</td>
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Interpretative Phenomenological Analysis (IPA) Content analysis

THEMES

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<thead>
<tr>
<th>Need of support</th>
<th>Need of support in the parental role</th>
<th>Children’s special needs</th>
<th>Need of support</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not being believed</td>
<td>Stigmatization</td>
<td>Difficulties with evidence of crime</td>
<td>Telling the truth</td>
</tr>
<tr>
<td>Making CSA visible</td>
<td>Transforming consequences to reality</td>
<td>Children’s dependence on adults</td>
<td>Dependence on adults</td>
</tr>
<tr>
<td>Sanctions for offenders</td>
<td></td>
<td>Guilt and shame</td>
<td>Fear</td>
</tr>
<tr>
<td>Lack of respect for the child’s integrity</td>
<td></td>
<td>Spatial and time-oriented</td>
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Figure 1. Data sources, data collection and methodology for analysis presented followed by the main findings from each study.
Participants and procedure

This thesis is based on in-depth interviews with children, parents and prosecutors, and text analysis of police interrogations. Three chief prosecutors were asked to contribute participants to this study. A letter was sent presenting information about the study and that its aim concerned child sexual abuse. The interviewees were identified in the records from these public prosecution offices in Sweden. The interviews were mainly carried out in the children’s homes. The interviews were semi-structured and followed guidelines set forth by Patton (2002). The questions were open-ended and informants used their own words and were encouraged to express their own personal perspectives, that is, their experiences of meetings with different professional participants in the legal process. The interviews included the following phrases: “Tell me about the disclosure of sexual abuse” and “Tell me about your experiences of participating in the legal process”. Interviews were audiotaped and transcribed verbatim and then subjected to detailed qualitative analysis that attempted to elicit key themes in the participant’s account. The setting in study III was three public prosecutors’ offices in different cities in Sweden. In the last study (study IV), data consisted of 28 police interrogations with children and 12 police interrogations with non-offending parents.

Children

Fifty children were asked via a letter to participate in interviews about their experiences of the legal process after the children had disclosed being subjected to sexual abuse. Ten children and parents responded positively to the request. Consent was obtained in writing from the children, but also from their parents. The study sample consisted of ten sexually abused children: one boy and nine girls. The actual legal processes took place between 2000 and 2004. The perpetrator was someone outside the family in all cases. At the time of the interview, the children were between 8 and 18 years old.

Parents

The interviewees were identified from the records of three public prosecution offices in Sweden, as is described above. Nine parents (some of whom were parents of the interviewed children, but not all) responded positively to the request to participate, two of whom were foster parents with whom the child had been living for a long time. One of the parents had two daughters who had been part of a legal process, and the account of her case refers to both daughters. All the interviewed parents were non-offending parents. The perpetrator was a father or stepfather in four cases, an acquaintance in four cases and, in the remaining two cases, a stranger. The actual legal proceedings took place between 2000 and 2004.
Prosecutor

The participants were seven prosecutors. Chief prosecutor was contacted who then chose 2-3 prosecutors who they felt could bring something of substance to the interviews. All were specially trained to handle crimes against children, such as mistreatment within the family or sexual abuse. They had worked for many years and had extensive experience in dealing with children involved in lawsuits. They also shared a strong commitment to improving the situation for children. All interviewed prosecutors were women.

Police interrogation

The setting for this study was three public prosecutors’ offices in different cities in Sweden. A letter was sent presenting information about the study concerning child sexual abuse. The data cover actual legal processes from the period of 2000 to 2004, including records/protocols of investigative interviews with children and police interrogations with non-offending parents.

The data for study IV consisted of 28 investigative interviews with 12 children (8-15 years), totalling 962 sides of text, and 12 police interrogations with 12 non-offending parents, totalling 110 sides of text; overall, there was 1072 sides of text.

Analysis

One important theoretical touchstone for IPA is the phenomenology that originated with Husserl’s attempts to construct a philosophical science of consciousness.

The analysis of the informants’ accounts (study I –III) was based on the recommendations of Smith (2003). Verbatim transcriptions of the interviews were analysed by hand. The first stage involved reading and re-reading the text from the accounts of the interviewees in order to identify and label themes that characterize each section of the text, an essential prerequisite for analysis. Some of the themes form natural clusters of concepts that share meanings or references, whereas others are characterized by hierarchical relationships with one another. A master list of themes was produced for each individual case and themes for which there was little evidence were dropped from the analysis (Smith, 2009). The table of themes was the basis for the account of the participants’ responses, which takes the form of the narrative argument interspersed with verbatim extracts from the transcripts to support the case. This was used as the basis for writing up the results, where the table was turned into a narrative report illustrated with extracts from the participants (Smith and Osborn, 2003).

In paper I-III the method of analysis was qualitative and employed interpretative phenomenology. The aim of interpretative phenomenological analysis (IPA) is to explore the informants’ views of the world and to adopt an “insider perspective” as much as possible (Smith, 1996), recognizing that the research exercise is a dynamic
process (Smith, 2009). IPA draws on the traditions of phenomenology, hermeneutics and symbolic interactionism in attempting to understand how people make sense of their experiences.

The process of analysis in IPA is iterative and involves a close interaction between reader and text.

All data, records and protocols in study IV were analysed using qualitative content analysis. Rather than being a single method, current applications of content analysis show three distinct approaches: conventional, directed or summative. All three approaches are focused on interpreting meaning from the content of text data (Hsieh & Shannon, 2005). In this study, we use the directed approach. Qualitative content analysis goes beyond merely counting words; it examines language intensely for the purpose of classifying large amounts of text into an efficient number of categories that represent similar meanings (Weber, 1990). A central idea in analysis is that the many words in the text are classified into far fewer content categories. Data that at first view cannot be coded are identified and analysed later to determine whether they represent a new category or a subcategory of an existing code. Codes are thus defined both before and during data analysis. The predetermined codes are derived from theory or relevant research findings (Hsieh & Shannon, 2005). The goal of a directed approach to content analysis is to validate or extend conceptually a theoretical framework or theory. We use the directed approach and the findings from study I-III as a screen for the analysis in study IV.

Validity

There is now considerable discussion among qualitative researchers about the assessment of the quality of qualitative research. This has been prompted by growing dissatisfaction with qualitative research being evaluated according to the criteria for validity and reliability that are applied to quantitative research. Qualitative research should be evaluated in relation to criteria recognized as appropriate to it. In studies I, II and III, the data are analysed by IPA (Smith, 2003). Smith presents four broad principles for assessing validity and quality in IPA. The first principle is sensitivity to context. The second broad principle is commitment and rigor and the third broad principle is transparency and coherence. The final broad principle is impact and importance.

To validate the result in this study a detailed description of the data collection was carried out and also a presentation of how the analysis of the material is completed. This includes that the analyses of the interviews was reinforced by several verbatim extracts. All themes that occurred through the analysis were also validated through a systematic review of the material. The analysis and findings was checked by an
experienced and competent qualitative researcher. Finally, to confirm and illustrate the themes selected, quotations related to the category are presented.

Interviews were conducted with great respect and sensitivity to the informants and their story. Conducting an IPA interview requires skill awareness and dedication which has characterized these interviews. The informants themselves have chosen where the interview was to take place. Some preferred to be at home while others choose the researcher’s office.

In study IV, content analysis was used. Content analysis is valid if the inferences drawn from the available texts withstand the test of independently available evidence, of new observations, of competing theories or interpretations, or of being able to inform successful actions (Krippendorf, 2004). Krippendorf’s model of a typology for validating evidence contains the following: sampling, semantic, structural, functional, correlative and predictive validity. Sampling validity is the degree to which a population is accurately represented in the sample. Semantic validity is the degree to which the analytical categories of texts correspond to the meanings these texts have for particular readers or the roles they play within a chosen context. Structural validity refers to available texts, the stable meanings, language habits, signifying practices, and behaviours in the chosen context. Functional validity is the degree to which analytical constructs are vindicated in use rather than in structure. It is an epistemological fact that correlations between test results and other variables relate measures of phenomena to each other, not phenomena. Correlations cannot bridge the epistemological gap between measures and the phenomena they claim to measure. Finally, Krippendorf’s assertions about evidence for predictive validity establish the degree to which the answers of content analysis accurately anticipate events, identify properties or describe states of affairs, knowledge of which are absent or did not enter that analysis (Krippendorf, 2004).

**Ethical considerations**

As in all types of research on humans, the Declaration of Helsinki forms the basis of the design (World Medical Association, 2008).

It is important to evaluate the ethical consequences when dealing with research material concerning something as delicate as CSA. The interviews focused on the experience of participation in the legal process and not specifically on the sexual abuse. This was a requirement of the Ethics Board. However, of course, the interview situation led them to remember the abuse and if they were known to have mental illness, in the interview they received recommendations where to turn for help.

In addition to the general requirements on information, the decision to approve the study assumed the fulfilment of consent requirements, and confidentiality and use requirements (SFS. 2003:460;) participants also had the opportunity to decline to participate without being contacted by phone. Age-appropriate information was also
given directly to the children. The informants were informed that they could
discontinue participation at any time and without giving reasons why they wanted
to cancel. The studies were approved by the regional ethical review board in
Linköping (Dno 03-437).
SUMMARY OF RESULTS

Study I. Managing the legal process: An interpretative phenomenological analysis of sexually abused children’s experiences of the legal process

When the children were asked if they wanted to participate in an interview, they were allowed to make their own active choice. The themes that emerged from the material were as follows: not being believed, making CSA visible, need for support, sanctions for offenders and lack of respect for the child’s integrity.

Putting sexual abuse into words and creating a coherent narrative often cause difficulties for children. They do not always have the cognitive facilities required for this. If they have not been in treatment, they may also use different defence mechanisms to avoid strong feelings of discomfort and fear. In a legal process, it is extremely important to prevent someone who is innocent from being convicted. Many children experience relief when they get the opportunity to share their experience that they have been abused. The children who experienced the provision of support from parents or professionals insisted on the necessity of telling their story, and considered it a very important part of the process. Those who did not experience such support did not feel this need. Support from parents, but also from professionals, is important. With regard to the perpetrator’s punishment, all children agreed that the offender must be punished for the crime committed. However, the punishment should also involve treatment of the offender, so that the offender changes and does not repeat the offense. Some of the children described that they had been treated with a lack of respect for their privacy. The children wanted to be considered as active subjects, not as passive objects.

Study II. Parents’ opinions – view of their child’s experiences in the legal process: An interpretative analysis of parents’ opinions

Three superordinate themes emerged from an analysis of the data from the nine participants: stigmatization, need for support in the parental role and transforming consequences to reality. The parents were convinced of the guilt of the perpetrator and felt shame over what their children had been exposed to. This was perhaps more significant when the perpetrator was the child’s father or stepfather, which of course would have an even greater effect on the life of the mother. The parents had feelings of stigmatization and strong feelings of wanting to move and start afresh in a new place where no one knew them. They lacked support and acknowledgment in their parental role. The parents described that they missed the right to be a parent to their child now when the child had been a victim of this crime.

In some cases, the legal process had continued over several years, with the result that both parents and children felt psychologically unwell. The long period was partly due to the long wait for a court hearing. The parents believed that, at some point, the children simply wanted to put a stop to the process, leaving both the offense they
had been subjected to and the legal process behind them. They wanted to move on in life. Both parents and children felt that finally putting an end to the process was important for the restoration of their mental health. The interviews also revealed that children and parents were in different phases of the crisis cycle, depending on whether they had received treatment or not.

Study III Sexually abused children – prosecutors’ experiences of their participation in the legal process

The primary aim of the study was to analyse prosecutors’ experiences of encountering children in legal processes. They were free to describe their experiences within a few areas of inquiry. The informants’ descriptions of how they perceived the children in the legal process were associated with their experience of the difficulty of finding proof of the crime, children’s special needs and children’s dependence on adults. The informants experience difficulties when they encounter children in the legal process. In particular, as prosecutors, they often face difficulties proving that the child has been exposed to crime. The essence of the informants’ experience was that they had an idea that the children’s needs were not catered for in the legal process. There were more participants who felt that the children’s needs were not addressed, and that the court placed the same expectations on children as on adults. They said that the children did not have the support desired from the lawsuit. The informants experienced that children lack a supportive structure around them.

They also noted how dependent children were on adults who could respond to them adequately, and who could relate to them in a proper manner so that they did not finish the lawsuit with worse mental health than when they had begun it. It was common among all informants to believe that children have special needs that should be taken into account.

Study IV: How do children overcome difficulties talking about sexual abuse?

It is hard for children to reveal that they have been victims of sexual abuse. The child’s own story should be and is central to any set of legal proceedings, but we also know that children find it difficult to talk about sexual abuse. The main reason for this difficulty is probably that talking about the abuse arouses strong emotions that can be difficult to deal with.

The findings are presented in five categories: not being believed/telling the truth, need for support and dependence on adults, guilt and shame, fear, and difficulty in spatial and temporal characterization.

The findings indicate that the legal system makes children vulnerable and may itself contribute to a failure to obtain “true stories”. These obstacles are linked to the child’s social network, especially the family; the legal process appears to have limited
potential to overcome these barriers. There seems to be a lack of support and constructive advice at the onset of the legal process, but also a lack of structured techniques to facilitate opportunities for children to give more detailed narratives about the sexual abuse. This first category, not being believed/telling the truth, means that children seem to have a feeling that they will not be believed when they talk about sexual abuse. This feeling of mistrust arose from police interrogations but also, above all, from contact with the non-offending parent or both parents if the perpetrator was from outside the family.

To receive psychological support from adults seems to be very important for these children. In cases where such support is provided, it is also much easier for the children to tell their story and, when this psychological support is provided by their parents, it is experienced as being especially important and supportive. In addition to parental support, our findings also showed that children could request and acknowledge support from professionals.

It is known that sexual abuse contributes to feelings of both shame and guilt. It is also known that feelings of guilt are connected to a disclosure of sexual abuse and children’s experiences of the negative consequences that this disclosure brings for their family. The findings for the children in this study also reflect that they themselves feel guilty about what happened.

During a police interrogation, the child is supposed to locate the crime in space and time. The interrogator asks many questions that require the child to have developed cognitive skills that are present in an adult. Our results show that this is neither realistic nor possible.
REFLECTIVE SUMMARY OF FINDINGS

Difficulties in confirming evidence

The findings shows that children have a sense that they were not believed in the police interview and the same feeling also in the courtroom. The children felt they were challenged in a way that they did not understand. A consequence of this is that children sometimes find it difficult to tell about the abuse. It appears that there will be a difference for them once they develop a good relationship with the police interrogator; then it is easier for the children to talk about what has happened to them. In the four studies, it appears that children have an idea of the importance of telling the truth. When they have to tell the police about the crimes they have been subjected to, it is difficult for the children to speak. This is because, while they are well aware that they must speak and that they must tell the truth, before the interrogation the parents may have disputed whether they really had been victims of a crime. Because sexual assault is a crime that affects relationships among people and that evokes so much emotion, there are strong forces trying to suppress it and a strong desire for nothing to have happened. In Sweden, prosecutors indicate that child’s credibility is important. The child’s testimony must usually be presented in a single interrogation because children do not usually participate in the trial. Children may be told in the first interrogation that they should tell everything about the crimes they have been subjected to and should tell the truth. It requires a certain level of maturity to understand that this is the time to speak out about everything.

Supplying support

The need for support to be provided to children emerges as an important factor in both the interviews with children and with parents, as well as the prosecutors. The children want support from their parents and insist that, when they got such support, this was the most important factor for them in the process. The children had a desire for the perpetrators to serve a sentence as punishment for the criminal act, but the punishment should also contain an element of treatment, so as to prevent the perpetrators from subjecting other children to sexual abuse. Parents want to give their children support, but also sometimes wished for more support in their role as parents to allow them to provide their children with sufficient support. Both children and parents can give examples of some professionals who were an important source of support for them during the process, but it appears more as if it is coincidence, and is more about the individuals than there being a clear structure around how support should be provided to children and parents who are involved in the legal process. Prosecutors also state that children have special needs in comparison to adults and are dependent on adults for access to justice. They need to feel supported by adults in order to be able to tell their stories and pursue justice.
It is known that children who have been abused may feel stigmatized; it appears that such children also have feelings of shame and guilt. Furthermore, parents appear to feel stigmatized and have feelings of shame and guilt. Parents may have sometimes suspected that their child had been abused, and when they had those suspicions confirmed, it can be a source of guilt. Most parents also have a strong desire to protect their children from difficult experiences. Children also have shame and guilt in relation to their parents in that they caused their parents problems as a result of having been abused.

Children’s lesser ability in terms of spatial-time orientation has consequences when they decide the time and place at which the crime occurred and relay it in an interview. This was also confirmed in the interviews with the prosecutors, who argue that it is difficult to prosecute and progress with the prosecution on the basis of a child’s story. It emerged from the police interrogations that children are especially afraid of the abuser, and sometimes it is only when children know the perpetrator has been taken care of that they dare to tell what the abuser did to them.

The children also disclose that they experienced that their integrity was not being respected in the legal process. Parents describe that they were in need of information and transparency in order to adapt their lives and to avoid the legal process taking too much of everyday life. They needed to put an end to it, and had a desire to put the process behind them and move on.
GENERAL DISCUSSION

The overall purpose of this thesis is to study the situation for children in the legal process with a particular focus on their status as children. Findings demonstrate the need for support to be provided to children going through such a process. Another important finding is the difficulties in confirming evidence.

Children’s experiences as expressed in this thesis show that they are both satisfied and dissatisfied with their experiences as part of a legal process. It is shown that it is valuable for children who have been exposed to CSA to take part in the legal process as equal partners with the other participants. This means that children want to be active participants in the legal process rather than passive objects. This finding is supported by another study (Block et al., 2010).

Findings further highlight that children need parental support during the legal process, something which is also found by others (Coulborn-Faller & Palusci, 2007; Elliott & Carnes, 2001). It seems reasonable to assume that parents feel a great responsibility to protect their child from harm and severe traumatic experiences. However, when a child is sexually abused, it can be perceived by the parent as a failure to protect the child. This study shows that non-offending parents may feel stigmatized and burdened with shame and guilt about that. This finding demonstrates that there is a great need for more organised activities to support normal, functional parenthood, so that the family can recover and move on after a painful process (Plummer & Eastin, 2007).

The present study also shows that parents and children need information on what the legal process entails with realistic timetables. Parental function seems important for the children, especially in the initial stage when they are dependent on an adult for the filing of a police report. Unless the parent has the ability to take that responsibility, another adult should be introduced into the process at an early stage as an alternative to the parent. The child needs professional support-based interventions, which is also supported by Mudualy and Goddard (2006).

The legal process should be characterized by legal certainty and legal security, and a fundamental principle is to ensure a fair assessment. The reported crimes seldom lead to prosecution or conviction, as the only proof is usually the child’s story. This study demonstrates that there are great concerns regarding proof when children are part of a legal process. The aim of protecting the child leads to great difficulty in investigating and proving crimes (Diesen & Diesen, 2009). Since a video statement is deemed to have less value than evidence in which the person participates physically in court and is available to answer questions (Gregow, 1996), children are at a disadvantage. Prosecutors are required to enable children to be included in a legally secure system. A prerequisite for this is that the child participates in the hearing in the courtroom, but because children basically do not do this, since it is not considered appropriate for them, the prosecutors interviewed in this study focused
on children’s limitations instead of seeing what needs to be improved to make it a more equitable process for children.

However, there are some suggestions that children can appear in court via a video link, through which the child would be able to answer questions and participate, but would not have to be physically present in court. Innovative techniques that teach children to remember better, even in intimidating environments, and questioning methods that aid the retrieval of details by children should be beneficial in promoting more complete and accurate testimonies from children (Nathanson & Saywitz, 2003). Connon et al. (2011) propose that there is value in designing courtroom environments and courtroom practices that are child-friendly. The children do not have the cognitive prerequisites of an adult, leading to difficulties both when they try to understand and perceive what they have been through, but also when they try to relay the event to a police officer. If the child does not say anything or relays a very vague story of abuse at the initial hearing, it often results in the investigation being closed. Adaptation of hearings to reflect children’s cognitive abilities and conditions is a prerequisite for legal safe retrieval of the child’s story; this can be done through an appropriate interrogation technique and a structured interrogation protocol (Lamb, Orbach, Hershkowitz, Esplin & Horowitz, 2007). The person conducting an interrogation should also be aware of any limitations that may prevent the child from telling. The interviewing style is a factor of the utmost importance with regard to the amount of information reported by children (Leander et al., 2009). These barriers may be related to family networks, but it is up to the judicial system to help the child overcome them. This study shows that children have experiences of not feeling believed when they report abuse. They are also well aware that they must tell the truth. Obviously, the child’s testimony is examined and tested, but perhaps not by cross-examination. There are also doubts about how a child might react if subjected to cross-examination, as studies have shown that this is not appropriate for children (Hanna, et.al. 2012).

If legal certainty and legal security are to be achieved for children, it requires many changes. These have been started but must continue to evolve.

The results from these accounts show that prosecutors felt a need to highlight the children’s special needs. These needs are reinforced by the fact that the children are often described as neglected. The informants also seem to be in a dilemma. On one hand, they recognize the children’s special needs, but on the other they require the children to conform to a legal system that is intended for adults.

Our results show that prosecutors are reluctant to accept children participating personally in court as a complement to the recorded video interview. They argue that the court is not suitable for children today. Only one participant had a good experience of a child’s involvement in court. They were all very aware that today the child would be at a disadvantage in relation to the suspect. The suspect is present in
the courtroom and can answer questions and argue their case. In addition, the informants experienced that children lack a supportive structure around them.

Despite these issues, the judiciary has made progress in the use of different innovations to improve the situation for children in the legal process. Today, video-recording of children’s hearings in Sweden, as in many other countries, is taken for granted. How the situation for children in the legal process can be further improved is still an important issue to consider, and this study has shown that prosecutors are not satisfied with the current situation.
CLINICAL IMPLICATIONS

The Swedish Supreme Court claims that, for an account of sexual abuse to be considered credible, it should be coherent, clear and detailed. One reason why so few cases of suspected CSA lead to prosecution is that there is rarely any evidence available other than the child’s testimony. The results reported here suggest that there are difficulties regarding evidence when children participate in legal processes. The aim of protecting children from participating in a legal process does not match what was indicated in this thesis, in which it was shown that children want to participate in the process as an active subject rather than a passive object. Children should be more equal partners and participate in court proceedings so that they can answer questions in the same way as the suspect, who is always personally present at court hearings. This could mean that technical solutions such as a video link to the child who can sit in another room may be relevant. Since the child’s narrative is sometimes the only evidence that a crime has been committed, it is especially important that the individual who interviews the child helps the child to overcome any barriers, such as feelings of not being believed and feelings of fear. The child must feel comfortable in the interview situation and trust the interviewer; then, they can tell their story. This means that interrogators need to use more structured questioning while they establish a good relationship with the child. At the hearing of the child, consideration should be given to the child’s level of development, which affects children’s cognitive abilities. Evaluation should also be based on the child’s mental health, and whether the child has the ability to put into words and describe the crimes they have suffered, or are only able to provide a very fragmentary narrative. Children and parents need organised support in a completely different way than this study indicates is currently provided. Children have a natural need for support from their parents, which means that parents may require help to maintain their normal function as parents with regard to their children. If there is a parent who cannot support the child’s needs, the child should be supported by another adult.
LIMITATIONS AND STRENGTHS

Several potential limitations to this study should be noted. The children in study I all have in common that the abuser was not a family member, and this may have affected their willingness to tell their stories during the judicial process, as well as their memories of that process. It is much more likely for them to be free to tell that they were afraid of a person outside the family than to express fear for a family member. The method of IPA does have a limitation since we use the spoken word to describe the world and experiences. In the language we choose to describe a particular experience, we always construct a particular version of that experience. The language can never totally give expression to that experience. It is important to be aware of this, especially when working with children and considering their way of using words to express themselves.

Another limitation that could be highlighted is the small sample size, but this is common in qualitative research, since few persons give a large amount of data. In phenomenological studies the groups commonly range in size from 5 to 25 informants + 10 (Kvale, 1996). The gender perspective has also not been discussed and remains a topic for future investigation. In this study, it was mainly girls and their mothers who were interviewed. The prosecution team also consisted of women, reflecting the fact that in these cases female personnel dominate. It is a limitation that the qualitative aspects of the police interrogations (tone, emotional reactions, etc.) in study IV were not registered and transcribed, but the interviews had to be analyzed in the condition they were filed. The collection of the material took place some years ago, which means that there could be a risk that developments in the field (i.e. the start of Children’s houses) could make it less relevant for today’s practice.

The material is abundant which is a strength. Another strength is that the prosecutors who attended all had much experience in the legal process.

It is also strength that we use the directed approach and the findings from study I-III as a break for the analysis in study IV.
FUTURE RESEARCH

There are several findings of the legal process regarding child sexual abuse that are important to study further. Suggestions of some such areas are listed below.

The findings of the studies in this thesis indicate that both children and parents seek support; for them to have comprehensive and effective community support, you need both social services and child psychiatry to develop theories and methods for this type of work. These efforts should then be evaluated.

In Sweden, children under 15 do not participate in trials physically, but instead undergo videotaped police interviews. Studies should be carried out on cases when children younger than 15 years old participate in a trial.

It is also desirable to study cases in which children tell the police about sexual abuse but the case does not proceed to prosecution. Is the child’s mental health affected by this?

Evolution of the interrogation techniques used by the police should also be studied.

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REFERENCES


Kvale, S. (1996). Introduction to Qualitative Research Interviewing. SAGE.


