

Child Sexual Abuse

ONE

Legal Burdens and Scientific Methods

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Down the road, they've got a program they call,
"The Child Goes to Court" or something like that.
Wrong! I mean, if we need our kid to go to court . . .
we'll get 'em ready. . . . But it's a lot more effective
if you bore in and get a legal confession that is
presentable in court; [then] you don't have to worry
very much about preparing your kid to go to court.

—Ed Duke, Chief of Police

In his waning days as the prosecutor in St. Mary County, Mark Jameson stood one snowy morning in December 2002 before a jury and told its twelve members that in the next three days he would prove beyond a reasonable doubt that forty-eight-year old Tommy Inman had repeatedly sexually assaulted twelve-year old Takisha Johnson. Eight men and five women would hear the evidence against the defendant, much of it presented by the preteen girl, and decide Inman's fate.

Inman was charged under state law with three counts of criminal sexual conduct (CSC) in the first degree. When Jameson, in his relaxed, plainspoken manner, explained to his fellow citizens that the evidence

would show that this man committed separate acts of digital and penile penetration and forcing Takisha to perform fellatio upon him, he promised one of the law's most difficult tasks: proving a criminal case of child sexual abuse (CSA) beyond a reasonable doubt.

"Beyond reasonable doubt" is a standard designed for a system that seeks to protect the innocent from being wrongly accused and convicted. If the scales must tip in favor of one side or the other, then in theory the legal system would prefer the guilty to walk free than deprive an innocent person of liberty. The power behind this presumption plays out in favor of the defendant throughout the process. The accused has the right to an attorney, the right to remain silent, the right to confront and cross-examine his accusers in a court of law, the right to a trial by a jury of his peers. Once in court, the burden rests on the prosecution to go well beyond establishing a plausible case, one supported by lower legal standards such as the preponderance of the evidence, and to convince the jury of the defendant's guilt beyond reasonable doubt.

American prosecutors possess broad discretion in determining which criminal suspects should be charged and what charges to level (*United States v. Armstrong*). When they exercise this discretion, they must take into consideration the fact that in order to get a conviction they need to meet the beyond a reasonable doubt standard of evidence. This creates a margin of error in criminal charging. Unless the prosecution is convinced of a realistic opportunity to meet the standard, it will not typically charge a defendant (Kaplan, 1965). This helps to explain why the prosecution so rarely loses a case and provides one rationale for why so many criminal cases are resolved when the defendant pleads guilty—only cases with overwhelming evidence actually result in criminal charges. There is nothing untoward about this. Indeed, the American criminal justice system is designed to achieve just this result. The margin of error seeks to ensure that innocent people are rarely charged with a crime and that individuals should not be charged unless there is substantial evidence indicating guilt.

Unique challenges presented by CSA cases are layered atop this ever-present margin of error, and over the years children have paid a price as a result. Studies suggest that vastly larger numbers of children are victimized by adults (Berliner and Elliott, 2002) than are vindicated through criminal proceedings (Jones et al., 2007; Cross et al., 2007; Walsh et al. 2007; Walsh et al. 2008; Palusci et al., 1999;

Martone, Jaudes, and Cavins, 1996; Cross, De Vos, and Whitcomb, 1994; MacMurry, 1988).

Writing in 1987, the United States Supreme Court observed, “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*, 60). In order to prove such a 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 et al., 1999), and no bodily fluids that can be tested by forensic scientists.

The prosecutor must be able to convey a coherent legal narrative to the jury. Scholars have noted the significance of these legal narratives, “the resolution of any individual case in the law relies heavily on a court’s adoption of a particular story, one that makes sense, is true to what the listeners know about the world, and hangs together” (Scheppele, 1989:208). The “prosecutor *must* shape his or her client’s case into a coherent story” (Korobkin, 1998:10). In the case of child sexual abuse, the prosecutor must explain why children sometimes do not report their sexual victimization for months, even years; must help juries understand why, when children do report abuse, they may not tell the entire story in their initial disclosure, which can leave the uninformed juror with the impression that the child has embellished the story over time; and may need to make sense of why children sometimes recant valid disclosures of sexual abuse. They must somehow explain to average citizens what seems to be counterintuitive behavior on the part of some victims of CSA, such as why a child would run into the arms of the man who has hurt her or why a child’s description of sexual victimization may contain fantastical elements.

In short, the prosecutor must construct a believable legal narrative on behalf of a child victim, however, that child may not tell the story in a way that jurors can readily understand or may not act in accordance with adult expectations about truthful storytelling, thereby casting potential doubt (Korobkin, 1998; Lempert, 1991–92).

This is only a partial listing of the difficulties that must be overcome in proving such charges beyond a reasonable doubt. Defense attorneys stand ready to use each of these difficulties to their client’s benefit by sowing seeds of doubt about the child’s narrative and the strength of the prosecution’s case.

In the typical community response to a sexual abuse allegation, the child must make a forthright, detailed, and believable statement about the sexual abuse, which often requires the child to betray someone whom he or she loves and on whom he or she is dependent. This person may be perceived as powerful by the child, and may be able to provide a persuasive counterassertion that the child is lying, mistaken, or disturbed. Despite community intentions to minimize the number of times the child must repeat the account of sexual abuse, often children are repeatedly interviewed by a spectrum of professionals (Cross et al., 2007). This includes, when appropriate, submitting to a medical examination. If the child is convincing to professionals in the repeated interviews, and preferably if there are medical signs of sexual abuse or other evidence, the prosecutor *may* decide that there is sufficient evidence to prove the case and move forward.

Finally, the court system has its own series of burdens for the child. Usually the trial takes place after a number of procedural and other delays (Walsh et al., 2008). The child is either in a state of anticipation or prepares for the ordeal of testimony, only to have the trial postponed. Testifying involves not only direct examination, which demands yet another in-depth description of the sexual acts the child has experienced in the public or quasi-public environment of the courtroom, but also cross-examination, typically a face-to-face confrontation between the child and the defendant (*Crawford v. Washington*). A major goal of cross-examination is to discredit the child's statement, memory, or intentions. Although in recent years states have passed statutes to make courtrooms more "child friendly," often these measures are not invoked (see chapter 4). Moreover, none of these measures really do much to shift the burden of successful prosecution away from the child. Thus, the child is buffeted in a criminal-justice system designed by adults and primarily for adults. Their needs are routinely overlooked and unmet.

CSC AND THE ALLOCATION OF LEGAL AND SOCIAL RISKS

One way to make sense of these various discussions is to consider the distribution of legal and social risks and realities that potentially exist in any case and consider their implications. In general, there are four possible outcomes. They are reflected in table 1.1.

Table 1.1 Factual/Legal Outcomes

		Factually	
		<i>Guilty</i>	<i>Not guilty</i>
<i>Legally</i>	<i>Guilty plea or conviction</i>	Proper outcome: Found guilty	Improper outcome: False confession or wrongful conviction
	<i>Not guilty: Not charged, dismissed, or declared not guilty after trial</i>	Improper outcome: Wrongful release	Proper outcome: Found not guilty

In any given case, as a matter of fact, the suspect either committed the acts or not, which may or may not be reflected in the finding of legal guilt. Oftentimes in CSA cases, only the two parties will know the absolute truth about what happened. Our criminal-justice system attempts to sort out the innocent from the guilty throughout the legal process. In doing so, the legal system either gets it right or gets it wrong. There are two possible ways of getting it right. First, the factually guilty either confesses or is convicted of a crime actually committed. Second, the factually innocent are not charged, their cases are dismissed, or they are found not guilty. Similarly, there are also two possible wrong outcomes. The first is when an innocent person confesses to something he or she did not do (false confession), or pleads guilty or is convicted of a crime that he or she did not commit (see chapter 8). The second is when a factually guilty person is not charged or convicted of crime that was committed. The burden of proof, constitutional rights of suspects, and margin of error in charging cases all speak to the preferred status of this type of legal error. As noted, an improper outcome resulting in a wrongful finding of innocence is the preferred error in our legal system to a wrongful finding of guilt. An error in this direction, however, may carry detrimental consequences that are particularly troubling in matters of child sexual abuse from a community perspective. Since CSA is often not a single isolated act, it means that a child victim may continue to be abused. Additionally, since abusers may assault multiple victims, letting a guilty person go free may mean that other children in the community are at risk. So from a legal perspective, while we may want to minimize the risk

of making this kind of error relative to the suspect to protect our individual rights, from a social perspective we may be simultaneously increasing the risk of harm to children in the community.

Errors are certainly troubling in either direction. Nonetheless, professional practitioners (such as child advocates and defense attorneys) might well line up on opposing sides when discussing which kind of error is preferable from their professional standpoint and how they would balance the relative social and legal risks. This is particularly salient when tensions arise between two different professional points of view during the handling of a single case. Obviously, *all* criminal cases are about allocating the relative risks of these mistakes and protecting, as best we can, against abuses that would lead to any kind of wrongful outcome; nonetheless, how we balance these risks on a day-to-day basis has a direct impact on the operation of justice.

CHILD SEXUAL ABUSE: DEBATABLE PROGRESS

The St. Mary County circuit court judge who presided over the Inman trial recalled a case from his own days as the county prosecutor in the mid-1970s and used it to illustrate the difficulty in successfully prosecuting CSA cases. A ten-year-old boy spent a day with a family friend on his farm. At the end of the day, the boy's mother observed her son emerge from the farmer's truck and sensed almost immediately that something was wrong. She asked her son what was the matter. Within minutes, the boy explained that the farmer had molested him. The judge assessed the situation: "Well, I got a good case. First of all, I don't have the problem of an untimely reporting. Second, there's no problem about identification because the mother saw the man, knew the man. And third, the child's demeanor reinforced his veracity." Despite the perception of a strong case, the jury acquitted the farmer. The judge's view was that this was because until relatively recently, the public had preferred not to acknowledge that sexually motivated crimes against children happen.

Support for the judge's explanation of the jury's response to this case is provided by the academic theoretical literature on "legal storytelling." Among other things, Korobkin asserts that a critical factor linked to success at trial is the degree to which the legal narrative "reminds jurors of other stories, litigative or otherwise, that they accept as true."

Additionally, “litigative narratives—particularly the opening and closing arguments of counsel—utilize preexisting components familiar to their constructors from stories they have read, heard, watched, or told” (1998:13). Thus, to the extent that child sexual abuse was not characterized as a public problem in popular discourse until the late 1970s or early 1980s, the St. Mary prosecutor may have been attempting to frame his case around a legal narrative that was not yet understood or commonly accepted, or at least acknowledged as possible. Today, while publicly recognized, crimes of sexual violence against children are among the most underreported and infrequently prosecuted major offenses (Berliner and Elliott, 2002; Cross et al., 2002). Moreover, when prosecution does occur, in a large percentage of cases defendants are allowed to plead guilty to lesser offenses, oftentimes to charges unrelated to sex crimes (Gray, 1993). The difficulties inherent in prosecuting CSA and the resolution of these cases cause real problems for communities large and small.

Although some progress has been made in the prosecution of child sexual abuse since the late 1970s this progress has not been linear. By the early 1990s, there was grave concern in some quarters that law-enforcement authorities and child advocates had overreacted. These defense-oriented advocates argued that the criminal prosecution of alleged sexual victimization of children resulted in innocent persons being accused, convicted, and sentenced to long periods of incarceration. Their arguments were bolstered by a series of cases and appellate court decisions around the country that called into question a number of the methods used to investigate alleged CSA. Perhaps the most prominent of these is the McMartin preschool case from Los Angeles County, California. During the investigation, four hundred children who had attended the preschool over the previous decade were interviewed, and investigators concluded that 369 of them had been molested. Eventually, seven defendants were charged with 208 counts of sexual abuse upon forty-one children. A preliminary examination was conducted over the course of eighteen months, and at its conclusion, the seven were ordered by the court to stand trial on 135 counts. Shortly thereafter, prosecutors dropped all counts against five of the defendants, and two stood trial. Eventually the two defendants were either acquitted by a jury or the jury could not agree on guilt, and none of the defendants was ever convicted of any charge (Montoya, 1993).

In *New Jersey v. Michaels* (1993), the state Supreme Court overturned Margaret Kelly Michaels’s conviction of 115 sexual offenses that

she had been convicted of perpetrating on twenty children in the Wee Care daycare center. The court's concern about the way in which the child complainants were questioned by investigators resulted in the court's mandating pretrial "taint hearings" to ensure that the child's accounts of abuse were not contaminated by improper interviewing before they were permitted to be presented to a jury. These hearings are in practice today. As well, forensic narratives must be carefully collected in order to withstand subsequent scrutiny.

In another much debated example, the Country Walk case from Dade County, Florida, a couple was charged with molesting numerous children who attended the couple's illegal daycare center. The wife, Ileana Fuster, pled guilty to twelve criminal counts of child sexual abuse and testified against her husband, Frank Fuster. A Honduran immigrant, she was sentenced to ten years in prison, then deported from the United States upon her release. Her husband was convicted of numerous counts of sexual battery and lewd and aggravated assault on children after a jury trial and sentenced to six consecutive life terms in prison, each with a minimum sentence of twenty-five years. Although this case began in 1984 and his trial was held in 1985, litigation upholding Frank Fuster's multiple convictions and academic debate about the case continue a quarter-century later (Cheit and Mervis, 2007; *Fuster-Escalona v. Crosby*).

The tension brought about by differing views of such cases has led to a vigorous, long-standing, and multifaceted debate regarding how best to respond to alleged incidences of child sexual abuse. In the 1980s, when the intrafamilial sexual abuse of children was just emerging as a recognized public problem, prosecutors were initially reluctant to bring charges, believing that such cases were more appropriately resolved through civil child-protective proceedings in family and juvenile courts (Ginkowski, 1986). They were primarily thought to be private family affairs, and prosecutors expressed concern that intervention by the criminal courts would not be effective. Today CSA, whether within the family or not, is prosecuted more vigorously. More vigorous prosecution has, in turn, spurred a contentious debate in mental health, social services, and legal communities about various aspects of investigation, assessment, and charging decisions (Ceci and Bruck, 1995; McGough, 1995, 2002; McGough and Warren, 1994). About this debate, Jane Mildred has aptly observed that "well-known and respected scientists with impressive credentials disagree about almost every important issue related to child sexual abuse" (2003:493).

ST. MARY COUNTY CSA INVESTIGATION PROTOCOL

When St. Mary Chief Prosecutor Mark Jameson stepped before the jury at the Inman trial in December 2002 and asserted that he would prove his case beyond a reasonable doubt, he would take on this prosecutorial risk based on the community's extraordinary commitment to prosecuting these cases. During his twenty years in the prosecutor's office, Jameson had played steward to a community-based protocol for investigating CSA cases. To some extent, the fact that Thomas Inman's case was going to trial was evidence that the protocol had failed in its primary objectives. Nonetheless, the fact that Jameson was determined to see the Inman situation to its legal conclusion was illustrative of the county's tenacious commitment to prosecuting sexual offenders.

The roots of the protocol are traceable to a handful of spontaneous experiments created in the moment to deal with some particularly vulnerable child victims. After a string of successes that surprised everyone, the protocol was reduced to formal policy, which set out the prosecutor's expectations for the community's professional practitioners who investigated CSA cases. This policy, in its totality, lifted much of the burden of persuasion from child victims and placed more demands on the community professionals—police officers, social workers, polygraph operators, and lawyers—and ultimately onto the suspected perpetrators. The protocol itself combined a series of steps, many of which are hotly debated by scholars and practitioners.

The protocol relied on six key factors (table 1.2). First was a rapid response. Child sexual abuse cases received priority and were investigated immediately. Second, law enforcement and child protective services (CPS) collaborated, with CPS doing the majority of the forensic interviewing. Third, the initial forensic interview of the child victim was captured on videotape. The county used the videotape as a permanent and authoritative account of the child's version of the facts. Other professionals who needed to hear the child's story were invited to watch the tape and were actively dissuaded from requiring the child to repeat it. This video recording preserved a single account of the child's often-emotional disclosure closer in time to the event itself and free from repeated rehearsals that can sometimes deaden the child's affect by the time a case goes to trial. Fourth, as soon as possible after a credible disclosure of sexual abuse by a child, there was an initial interview and subsequent

interrogation of the suspect. At this stage, law-enforcement authorities in the community engaged in the unusual practice of showing the suspect the videotape of the child's forensic interview. The suspect was asked to confirm or deny the facts as reported by the child. This approach privileged the child's account of the events, making it more difficult for adults to simply deny the child's story outright. If the suspect claimed the child was not telling the truth, he was at pains to explain why the child would lie in such a way. In this manner the professionals pressured the suspect into co-constructing a legal narrative account of what happened that was integrated with the child's account. This is unlike the situation at trial when a child's legal narrative must stand up against an independently constructed and competing defendant's legal narrative. Furthermore, the speed with which the community reacted was designed to ensure that the suspect had not yet summoned a defense attorney. Investigators tended to get full or partial confessions. Sixth, if the suspect's explanation did not match the child's—that is, if the suspect did not confess to at least some act of child sexual abuse—he (or she) was offered an immediate polygraph. This polygraph, too, was videotaped. There is considerable additional pressure on the suspect at this point to “come clean for everybody's sake.” Again, there was pressure at this stage for the suspect to co-construct a legal narrative that incorporated the child's version of the facts but in which adult professionals (and not the child) were responsible for carrying the weight of persuasion.

While the St. Mary County protocol had other formal components—medical examinations in appropriate cases, efforts to secure physical evidence such as rape kits—these six elements are the most salient. The protocol also contained informal, unwritten elements that have developed over time. These included a prohibition on plea-bargaining if the child were made to testify at a preliminary examination and a requirement that if the defendant pleaded guilty or was convicted, he would likely undergo a sex offender assessment with a local mental-health provider who specializes in these assessments. Similarly, an unwritten rule was that if the suspect/defendant passed the polygraph examination, charges were either not filed or dropped regardless of the strength of the remaining evidence.

Taken together, the aspects of this protocol—prompt response, use of videotape, interview and interrogation techniques, and polygraph—have proven an effective tool for the prosecutor's office in St. Mary County for over two decades. This county enjoyed extraordinary success in securing

Table 1.2 St. Mary Protocol Primary Elements

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1. All reports of child sexual abuse are to go initially to Child Protective Services (CPS).
 2. Those that do not involve caretaker maltreatment or failure to protect are referred on to the appropriate law enforcement agency. (In most states, CPS has mandated responsibility only for child maltreatment cases, including sexual abuse, where caretakers are the abusers or caretakers fail to protect children from abusers. Cases involving non-caretaker suspects are the province of the police.)
 3. As much information about the case as possible is gathered before the investigation begins. This includes determining through the Central Registry if there have been prior referrals and their disposition.
 4. If the case is to be investigated by CPS, and CPS thinks the case has merit, CPS contacts the appropriate law-enforcement agency to see if it wants a joint interview with the child.
 5. On cases within CPS's mandate, CPS has responsibility for interviewing the child.
 6. On cases falling solely within law enforcement's jurisdiction, law enforcement may nevertheless request a CPS interviewer.
 7. Whenever possible, child interviews are videotaped.
 8. The child is interviewed in a place conducive to videotaping and the child's sense of safety.
 9. As soon as the child's videotaped interview is complete, law enforcement conducts the initial interview with the suspect.
 10. The suspect is shown the videotape of the child interview and then interrogated.
 11. Even if the suspect does not confess, an attempt is made to obtain from him or her information that may corroborate facts in the child's statement.
 12. If the suspect does not confess, he or she is offered a polygraph.
 13. If the suspect is willing, a polygraph is offered immediately.
 14. If possible, the polygraph examination is videotaped. If the suspect denies the abuse and is thought to have been deceptive, there is to be an immediate post-polygraph videotaped or audiotaped interview.
 15. Law enforcement is responsible for collecting physical evidence (clothing, bed clothing, photographs and videos, sexual aids, telephone records, trace evidence, fingerprints, medical records of suspect).
 16. There is a medical examination of the child, if appropriate.
 17. The child is removed to a safe place if necessary.
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confessions from suspects accused of sexually abusing children. Two critical consequences flowed from securing confessions early in criminal investigations. First, it resulted in high charging and conviction rates in CSA cases (compared with other jurisdictions), and second, it nearly eliminated the need for child victims to be engaged in protracted and public legal proceedings. Child-welfare advocates and scholars have long known about the trauma experienced by children who must repeatedly testify, sometimes against family members or family friends, in open court.

Yet the very efficiency and effectiveness of the response may raise some concerns (see chapter 8). While the quickness of the response and the techniques used by police interrogators and the polygraphist to secure confessions are unquestionably legal and no court would prohibit law enforcement's rapid response to a criminal act, some may be concerned when the speed with which an investigation is launched is designed for the purpose of capturing the suspect before he can consult an attorney. Similarly, while our courts have approved of police use of deceit to coax a confession from a suspect, reasonable people may feel such activity on the part of governmental actors is inappropriate. Others may believe that mere trickery is no cause for concern given the gravity of child sexual abuse. These are important and difficult normative questions about which debate will go on.

Nonetheless, compared to national norms, all three factors—high confessions, high convictions, and reducing child exposure to legal procedures—were indicators that something unusual was occurring in this community.

QUANTITATIVE RESEARCH ON ST. MARY COUNTY

Members of our team had been studying the community from afar for some time. We had analyzed court file data from 1988 through 1998 (323 cases) to explain what factors predicted the county's success in securing confessions and convictions. These analyses had culminated in a number of published reports (Vandervort, 2006; Henry, 1997, 1999; Faller et al., 2001; Faller et al., 2006; Faller and Henry, 2000). For this book, we added additional cases (for a total of 448) and reanalyzed the data. The goal was to reflect, as best we could, the longitudinal experience of the professionals in St. Mary County from 1988 to 2000. (We could only examine a case

file for research purposes and know its outcome after the case was closed. Hence, we could not include all cases from 2001 and 2002, because they were not all closed. The court-file data were not collected for research purposes. These data are merely what the prosecutor included in the case files for prosecution purposes. Like most researchers who conduct “case record reviews,” we encountered some missing data; see Thoennes and Tjaden, 1990.) These analyses demonstrated the efficacy of this protocol and consistency in its efficacy over time. Some of our most significant findings:

- *Charging decisions.* Criminal charges were filed in 69 percent of all CSA cases referred to the prosecutor’s office between 1992 and 1998, according to statistics kept by Mark Jameson. (His predecessor did not keep such statistics.) Of those not charged, the primary reason was that the suspect had passed a polygraph examination.

- *Videotaping.* The child’s disclosure was videotaped in 71.3 percent of the cases (318 cases). When CPS was involved, 84 percent of the cases were videotaped. That dropped to 58 percent when only law enforcement was involved. The average age of children who were videotaped was 11.3 years (with those not videotaped on average 12.4 years).

- *Polygraph.* The suspect was offered a polygraph in 62.5 percent of the cases (245 cases). Of those 177 actually received a polygraph (72 percent). Of those who received a polygraph 65 percent were videotaped (115 cases). The polygraph examiner deemed 58.2 percent of the suspects who received polygraphs deceptive (105 cases). In the remaining cases, the polygraph operator found no deception in 15.3 percent (27 cases); and was unable to form an opinion in 4.5 percent (8 cases). An additional 21.5 percent of the suspects (38 cases) confessed during the polygraph itself.

- *Confessions.* Altogether, 64.4 percent of the suspects (270 cases) confessed to some act of sexual abuse during the investigation. The researchers could determine the extent to which the suspect’s confession corroborated or did not corroborate the child’s disclosure in 95.6 percent of the cases (256 cases). Of these, in 139 cases the child’s report was fully corroborated and in another 119 cases the suspect’s confession partially corroborated the child’s report. In cases in which a confession was obtained, 38.9 percent (104 cases) occurred in the initial interrogation and viewing of the child’s videotape.

- *Pleas and convictions.* In 72 percent of the cases (316 cases), the suspect pleaded guilty to a sexual offense. In 73.7 percent of cases (224

cases), the child's disclosure was videotaped, and there was a guilty plea. When there was no videotape, defendants pleaded guilty in 74.6 percent of the cases (75 cases).

- *Court appearances and sentencing.* Children testified thirty-three times. Of these, thirteen times were at preliminary examination, twelve times at trial; only four children testified at both. (The court file did not indicate at what hearing the child testified in three cases.) Eighteen CSA cases went to trial over thirteen years. The defendant was found guilty in seven of the sixteen cases for which there is a trial outcome. In the 342 cases where the sentence was in the court file, 124 received a prison sentence; 128 received some jail time with or without probation; and nine received only probation.

While these findings continued to confirm that the county was interesting, they told us very little about why it was so successful. It appeared that a more personal and nuanced understanding of the community and its processes was necessary to gain that kind of insight. We came to ask a different set of questions: Why was this community so successful in dealing with CSA prosecutions? What would professional practitioners in the community say about the protocol and its workings? In their view, who or what made it work so effectively? Could it be used elsewhere? What did the protocol look like in action? Was there a darker side to such a policy? What were its political or social costs?

Scholz and Tietje posit, "The more complex and contextualized the objects of research, the more valuable the case study approach is regarded to be" (2002:3-4). Our interests were certainly moving us toward seeking answers to complex and contextual questions. We decided to address these questions using a case-method ethnographic approach.

QUALITATIVE CASE STUDY METHOD

David Thatcher noted that "case study is one of the major research strategies in contemporary social science" and has been employed by sociologists and political scientists as well as in professional fields like social work, education, and business" (2006:1,631). A number of prominent scholars have written books on this approach to inquiry, among them Yin (2003a, 2003b), Stake (1995), Scholz and Tietje (2002), and Gillham

(2000). Furthermore, a number of researchers have utilized the method with great success to study atypical events (such as Diane Vaughan's much acclaimed work on the Challenger space shuttle disaster; see Vaughan, 1996) and everyday practices (Yin, 2004; Stake, 1991) alike.

Case study is uniquely suited for answering certain kinds of questions. Scholz and Tietje note, "Most of the time, the case study approach is chosen in research fields where the biographic, authentic, and historic dynamics and perspectives of real social or natural systems are considered" (2002:4). St. Mary seemed ripe for a case study approach because we wanted to know why it had been so successful handling CSA cases over time, who or what was responsible for this success, and how the various institutional systems (including criminal justice and child protective services) worked together in a natural setting.

The benefits of case study have been identified as threefold. First, case studies are generally explanatory in nature and deal with causal relationships. They seek to answer *how and why* questions. So the focus is not on whether something works but on *how* and *why* it works the way it does. Thus, case studies attempt to unpack and answer questions about *processes*. Case studies examine human behavior in complex, real-world contexts.

Second, case studies are credited with capturing the worldview of the participants and thus provide an interpretative framework for understanding common practices and actions. Indeed, we found the interplay between individual actors and their beliefs in conjunction with policy (both formal and informal) in St. Mary County to be critical. The goal was to understand processes from the perspective of those involved. Unlike more "objectivist" forms of inquiry, case study is interested in "subjectivity" or "phenomenological meaning" (Gillham, 2000:7). This is significant not only as a matter of general interest, but also because of its practical implications. Understanding community practices requires knowing something about how individual agents make sense of their world and take action based on these belief systems.

Third, Thatcher has made a compelling argument that case studies make another, greatly underappreciated, contribution to "normative theory—theories about the ideals we should pursue and the obligations we should accept" (2006:1,631). He argues that normative case studies contribute to understanding important public values. We believe our study findings in St. Mary County and our arguments that the entire

community endorsed the notion of “shifting the burden” and “sharing the responsibilities” sits squarely in this line of important research documenting how public values are enacted by and in community contexts. We believe that “normalized justice” in St. Mary County is generating entirely different rates of CSA prosecutions and convictions than in other counties in the United States.

In addition to these three major advantages of case-method design, and in light of the current evidence-based practice movements occurring in a number of areas of professional study including social work, there is a final potential benefit of this method. We are increasingly discovering how difficult it is to move effective interventions and treatments “into the field,” in part because real-world phenomena require considering complicated intersections between individual actors, policy and program guidelines, and cultural and environmental settings in a given social and historical context. A case study, such as that in St. Mary, can begin to reveal some of the significant factors at play in the field that may be inhibiting the movement of “best practices” developed by academics in “laboratories” into real world practice. Thus, while the academic literature produced by legal, social-work, and other social-science scholars, may take firm positions relative to the merits or lack thereof of some procedural practices employed in the community (such as videotaping forensic interviews with children or the scientific merit of polygraph tests). If the practitioner operates from a belief system that is at odds with the scientific literature, it is highly unlikely that he or she will integrate this knowledge into daily practice. Examining how a community “enacts” justice by unpacking the specific values and practices of the community actors involved in seeking justice helps illuminate the limitations of existing empirical literature. This schism is worthy of study.

In our work, we started off by defining the empirical unit of investigation as the “protocol,” that is the written policy created in the prosecutor’s office for investigating CSA cases in the county. This quickly proved to be problematic, in part, because while all community professionals were very aware of how day-to-day practices played out, many were unfamiliar with the actual written protocol. (This supports our contention that features of the protocol were simply incorporated into normative practice.) So it became clear that studying the policy per se was too narrow a focus. We necessarily expanded our attention to include both the informal and formal practices for handling CSA cases in the community—both

present practice and that recalled about the recent past. The net result was conceptualizing the project as an embedded case study, in which the various interdisciplinary perspectives and practices could be woven together to understand the general operation of justice (in matters of CSA) in the community as a whole.

Case-based and community-based research is sometimes criticized for lacking scientific rigor or dismissed as being “only one” example and therefore not generalizable to larger populations, or too “subjective.” These critiques tend to miss the very point of case-method research. The truth is that generalizable research projects are “ill-suited to the complexity, embedded character, and specificity of real-life phenomena” which are the subject matter of case study (Gillham, 2000:6). Furthermore, the “criteria of objectivity may not be applied in holistic case studies. Holistic case studies are a highly subjective affair and include the personal value system of the case study team” (Scholz and Tietje, 2002:21). The very point is to get to these subjectivities and understand how they are linked to specific outcomes.

ST. MARY AS A CASE FOR STUDY

We posit four reasons why St. Mary was an appropriate subject for study. First, while St. Mary is like other jurisdictions in some respects, we argue it is unique (and hence worthy of attention) because it has been unusually successful in convicting offenders in CSA cases despite the fact the community is relatively resource-poor. In our earlier quantitative studies cited above, there were indications that something set this community apart. We compared the statistical findings to other studies of the criminal prosecution process (Cross et al., 2003). There are also national data sets of crimes against persons and property, but these statistics are not reported in sufficient detail to allow direct comparisons of the success of St. Mary County to national statistics. The exception, however, is a study of all the CSA cases over approximately the same time frame as our quantitative data in Rhode Island (Cheit and Goldschmidt, 1997). Statistical comparisons using the ratio of successful criminal prosecutions for sexual abuse to the population indicate that there were 4.2 times as many successful prosecutions in St. Mary County as in Rhode Island. We contend that St. Mary’s conviction rate is significantly higher than other known jurisdictions such as to justify studying how the county obtains them. Indeed,

this contention is borne out by three articles published in *Child Abuse & Neglect* in 2007, which derive from a study of children's advocacy centers (Cross et al., 2007; Jones et al., 2007; Walsh et al., 2007).

Second, St. Mary's protocol flourishes in a resource-poor county. Most other programs that have received national attention have required substantial additional resources, funded either by the federal government (for example, Santa Clara County, California; Giarretto, 1980) or substantial community contributions (for example, the National Children's Advocacy Center; Carnes and LeDuc, 1998), or both. Furthermore, most nationally prominent programs are in fairly affluent communities. The fact that St. Mary has not required extraordinary financial resources makes that possibility of adaptation more likely and makes it a compelling case for investigation.

Third, to the extent that St. Mary is like many other resource-poor jurisdictions, it is important to examine its everyday practices. In many disciplines studying everyday practices has gained prominence, and social scientists have recognized that there is much to be learned from doing so. The fact that other communities may be doing variations on elements of the protocol (such as videotaping forensic interviews or conducting joint law enforcement/CPS investigations) does not negate the importance of studying the processes in detail in a single community. In fact, the findings presented should allow other jurisdictions to determine where their own community practices are similar to, and different from, those presented here.

Fourth, we contend that what is critically significant in St. Mary County is its integrated and holistic approach to CSA that cuts across professional disciplines and utilizes a variety of approaches in conjunction with each other. The protocol is more than a single innovation; it incorporates a number of practices and strategies both formal and informal. While the individual steps may not be entirely new, investigating the integrated, systematic, holistic, interdisciplinary treatment is.

St. Mary County offers one model of intervention. While we do not hold it out as an *exclusive* model for other communities to replicate in detail, we do suggest that by unpacking the values embedded in St. Mary's approach, we begin to expose the operation of justice in an applied case example. Other communities are invited to consider these values-in-action and to ask how they might inform, reorder, or conflict with the way values organize their own community practices when delivering

justice. In short, this study can serve to inform other communities faced with a similar series of value-based decisions when they implement and integrate their child welfare and criminal justice systems and attempt to develop systematic models for supporting sexually abused children.

THE RESEARCH TEAM AND DATA COLLECTION

Our trips down and back to St. Mary to watch Mark Jameson try his last case as chief prosecutor during the three-day Inman trial marked our first journey into the community for observational data. Four out of the six members of the research team attended. Of the four of us who made those pilgrimages to witness all or part of the trial, three were familiar with the community only from our previous studies of court files. For us, the community held some mystery as we ventured into it, to look around, for the first time. The fourth member, however, was serving as an expert witness at the trial for Chief Prosecutor Jameson. This pivotal player was both research team member and community member. In the parlance of qualitative research, he was an insider and our primary gatekeeper for this research; he was also actively engaged as part of our research team.

Our colleague and Jameson's expert witness was Jim Henry. Henry had first arrived in St. Mary County as a CPS worker in 1980. Henry, along with his law-enforcement buddies Ed Williams and Ed Duke and polygraph operator Rick Rivers, had been present since the earliest days of the protocol (see chapters 2 and 3). Together with the prosecutor, this group of men functioned as an interdisciplinary team. They breathed life into the protocol, but perhaps more important, the protocol took shape around their personalities, and expertise and its values were institutionalized and transmitted to others in the process. Of this core group, Rick Rivers is still there two decades later, occasionally running polygraphs on suspects for the prosecutor's office in CSA cases. Williams has since retired, but he remains an active member of the community. Duke has been promoted to chief of police. In 1990, Henry left the community in body but not in mind or spirit. He routinely returns in order to testify in criminal trials involving CSA, always as an expert witness for the prosecution. After leaving St. Mary County, Henry continued his career in CPS as a supervisor before returning to school to earn a doctorate in social science with a concentration in social work. It was at this point that

he began to turn to St. Mary County as a site for his research. He joined the faculty at Western Michigan University in 1997.

Although Henry's roles have changed over time, his curiosity about what he experienced in St. Mary County and his desire to examine systematically what had gone on and disseminate that information to broader audiences have been unwavering. It was through him that the rest of our research team, one by one until we were six, became engaged in serious study of the county, its policies, its practices, and its people.

Henry first approached Kathleen Faller, a professor at the University of Michigan School of Social Work, in 1998 about using court-file data for study. Faller, a member of the faculty since 1977, has specialized in CSA. Around that initial nucleus grew an eclectic and energetic group: Bill Birdsall, economist, former priest, and associate professor emeritus of social work; Frank Vandervort, a clinical professor of law, practicing attorney, and child advocate; Karen Staller, an assistant professor of social work and retired attorney; and Elana Buch, a student in the University of Michigan's Joint Doctoral Program in Social Work and Anthropology.

The group that constituted the research team was interdisciplinary and diverse. We ranged in rank and experience from doctoral student to emeritus professor (and all ranks in between); our degrees number four PhDs, two JDs, a divinity degree, and three master's degrees. Our disciplines represent social work, law, economics, religion, and anthropology. Our experiences spanned forensic social work, public interest law, program evaluation, policy analysis, qualitative research, and statistical modeling. We were associated with two different universities. In short, the research team that sought to study the county has a wide range of credentials—academic, professional, and practical—as well as a variety of professional sensibilities and viewpoints. Scholz and Tietje have argued that “because problems do not usually end at disciplinary borders, case studies often require an interdisciplinary approach and teamwork” (2002:5). Our research team appeared uniquely qualified for the task.

We worked for over a year collecting empirical evidence for this study. It included observations of two trials, hearings, and other court proceedings, extensive formal interviews, videotaped recordings of both child interviews and polygraph sessions, informal “hanging out” at various local restaurants, taking photographs of the environment, collecting

documents that included written protocols, annual reports, manuals, newspaper articles, trial transcripts, letters of commendation, and other community artifacts, and recording fieldnotes of each of our excursions into the community.

Our initial foray into the community did not go unnoticed. The arrival of four outsiders to watch the Inman trial was sufficiently unusual that it caught the eye of a local journalist who covered the court beat. While asking who we were, he admitted to being bored by the same old testimony by expert witness Jim Henry in the same old sexual abuse cases. He lamented the fact that there had not been a murder in the county in several years. Given his boredom and eagerness to find something new to write about, we should not have been surprised that the local newspaper carried an article entitled “Experts Keep Eye on County” on our second day in the field.

Over time our presence was less strange, at least to those with whom we became most familiar and built relationships. One measure of our growing familiarity with the research site is recorded in the evolution of notes on the “soup place,” a regular lunchtime destination of a number of court personnel, including one helpful judge and his buddies. We came to know the soup, the regular crowd, including the judge, and the owner, Bill, and they came to know us. This is demonstrated in some of the field notes on our trips:

Soup today was good. Though it's hot and muggy, the menu is still Chili and soup of the day. Today it was Italian Wedding Soup, which was delicious. Two of the Judge's lunch crowd were there; no judge though. (Buch)

We were a bit early for our interview, so we went . . . around the corner to have a cup of soup and hear the gossip. There was a “Support Bush, Support Our Troops” sign in the front yard of the shop. (Buch)

Nell and I had soup at Bill's behind the court annex. Owner's name is Bill. Hellos all round. (Birdsall)

Got to town at 11:45 in good time to have soup with the good old boys at Bill's. The two guys who are the Judge's buddies . . . greeted “The Professor” and I joined them. (Birdsall)

In addition to demonstrating our growing familiarity with the community locals, these fieldnotes point to the significance of having a multidisciplinary research team, sitting in different relationships to each other and the community to collect data. They reflect the relatively different “eye” that Birdsall, an emeritus professor, and Buch, an anthropology and social work doctoral student, brought to the research project. This is critical, since the information recorded in fieldnotes became empirical evidence for our case study. Relying on one or the other alone would have decreased the richness of the overall material. Buch noted tastes, flavors, mugginess, and environmental context. Birdsall recorded his developing interpersonal relationship with the “soup place” inhabitants through his references to the “good old boys,” “Bill,” and “The Professor.” Buch would unlikely be welcomed in the same manner as “The Professor” at the soup place, and Birdsall was unlikely to register details such as the taste of the soup in his notes. There are two important implications. The first is that there is an interactive effect between and among research team member and community players that influences the very empirical evidence from which study reports will later be constructed. Second, different kinds of recorded observations—interpersonal and environmental—made available a rich mix for reconstructing the scene and the community. While Birdsall’s notes helped us consider the relationships among the various players, Buch’s illuminated the context in which to situate those actors. Our sense of the scene, and interpretations about the community, would be different had the soup choices included lemongrass or miso and the sign planted in the front lawn had read “Kerry for President” or “Another Family for Peace.”

In addition to observations recorded in fieldnotes, formal interviews were conducted with twenty-seven judges, prosecutors, defense attorneys, law enforcement agents (including state troopers, sheriffs, and city police officers of several ranks), CPS workers, polygraph operators, therapists, and community advocates (see table 1.3). We used Jim Henry as an insider to gain access to many of these people, but we also used a snowball sampling strategy, asking each of those we interviewed whom else we should seek out and then followed up on those suggestions. With the exception of one active defense attorney who declined our request for interviews, everyone we asked consented. We are confident that we talked to all the major players in community at least once.

Table 1.3 Key Players in St. Mary County

Prosecutors and Judges

George Richter, Prosecutor/Judge
Charles Davis, Prosecutor
Mark Jameson, Prosecutor/Judge
John Hunter, Prosecutor
Paul Fassbinder, Judge
Jane Jacobson, Prosecutor

Defense Attorneys

Richard Nowak
Sam Huff
Brian Muller

Law Enforcement Officers and Polygraphists

Ed Williams, State Police
Ed Duke, Police Chief
Shawn Duffy, Detective
James Ford, Police Officer
Jeff Penn, Detective
Rick Rivers, Polygraphist
Jason Touhy, Polygraphist

Social Workers and Victim Advocates

Jack Moor, Child Services Manager and CPS Supervisor
Carol Bragg, CPS Supervisor
Donna Wagner, CPS Supervisor
Cecilia Berg, CPS Worker
Jim Henry, CPS Worker
Cindy Carbone, CPS Worker
Laura Cook, Victim Advocate
Susan Connor, Victim Therapist
Mark Reggio, Offender Evaluator

Community Advocates

Chris Kovac, Videographer
Cindy Fassbinder, Community Educator
Mary Fitzgerald, Community Coordinator

In general, one to three members of our research team conducted each interview. Our intention was not to overwhelm the person being interviewed, but rather to bring multiple lenses to the interview observations and questioning. The interviews were semistructured, with general domains specified in advance. The participant was offered an opportunity to review the interview protocol beforehand if they choose to do so. Some of them did and others did not. We shared this interview protocol in advance because we felt that reflection on the questions would only enhance and enrich the empirical evidence we collected.

All of the interviews were tape recorded and transcribed. There were several iterations of the interview transcripts. First, a skilled transcriptionist produced a complete transcript of the audiotape. We sent these transcripts back to the interviewees and encouraged them to make any corrections or deletions to the record that they wanted. The point was to give them final say over the “evidence” from which we were to work. Remarkably, given the busy schedules of the professionals we interviewed, almost all of them read and returned the transcripts. Some made minor editorial or spelling corrections, filled in missing dates, and the like. Only one deleted a small section of sensitive information that the informant felt was best left out of our evidence pool. We honored this request, and we had made it clear to all of the people we talked to that they would have the opportunity to revisit their own words before we used them as study evidence.

INTERPRETATIONS, FINDINGS, AND PHILOSOPHICAL DIFFERENCES

We spent the next several years analyzing the data, integrating it with our previous study findings, and writing up the entire project. We worked as a team throughout the project. We have met, once or twice a month, over these years for two hours at a time to collaborate in all stages of the project. Analysis started with debriefing after each interview and foray into the community. The team discussed and considered the implications of each of these experiences. As the interviews were conducted, transcribed, and sent to and returned from the participants, we discussed them one by one as they became available to us. This allowed us to begin to understand what each individual was saying about his or her experiences of

case handling in the community. We began to piece together timelines of events and people's careers that helped provide a structure for understanding the historical context and evolution of ideas about the protocol. In addition, from these discussions began to emerge some themes about how individual community members approached their jobs, the cases, or the issue of CSA. For example, many had individual but deeply held personal philosophies on what constituted truth, justice, fairness, and other ideas that ultimately helped explain how and why they acted in their professional capacities the way they did.

After considering the individual viewpoints, we began clustering them by roles in the system; examining the prosecutors together, the defense attorneys together, the police officers together; and the like. In doing so, we started to frame an understanding of the disciplinary perspective on CSA cases in the community. Only after making sense of the individual stories and perspectives provided to us by the participants, then crafting them together as an institutional group, could we begin to synthesize the information and piece together some sort of community narrative. Metaphorically, this project is not unlike considering an orchestra in which individual musicians make up the various sections—such as the strings or woodwinds—and these sections then contribute individually and collectively to the orchestra's whole performance. The difficulty at this stage was maintaining a delicate balance when it came to using individual perspectives to understand the operation of community practices as a whole. We have tried, in the chapters that follow to balance those concerns. It was only at this final stage of synthesis that our research team began to understand the community's collective commitment to justice.

As a team we had both to honor and to guard against Jim Henry's insider status. Once employed as a caseworker in the community, he continues to serve as a consultant for the prosecutor's office after almost two decades. Henry never conducted any interviews by himself; instead, one or more other team members, who usually took the lead during the interview, accompanied him. In a few cases, most notably when talking to his fellow "sex busters," his personal relationship with the interview subject led to empirical evidence that had the flavor of reminisces among old friends, where other research team members stepped in with questions primarily to clarify ideas. Our sense is that this actually enriched the data and reflected shared understandings of a common history. We acknowledge that this team of insiders influenced our final understanding of what

happened in the community, although we have tried to challenge their dominant viewpoint and amplify the voices of differing accounts.

In addition, other members of the research team formally interviewed Henry, treating him as a research subject, recording his responses and using the empirical evidence as with all other participants. Nonetheless, Henry also fully participated at the analysis and interpretive stages of this project. Certainly he has influenced the final reporting of this study; however, his interpretations did not go unchallenged in team meetings. Thus, we have used excerpts from Henry's formal interview as well as his first-person account in this book. We have tried to keep his roles as "study participant" and as "researcher" separate. Research-team members using different evidence or interpreting the evidence on hand differently often challenged Henry. Sometimes our insights surprised him; nonetheless, they have been worked into the text. These differences, like everything else in this book, were either negotiated until agreement was reached, or the disagreements are made transparent in the text. We believe that the diversity of viewpoints and the varying degrees of knowledge about the community enhanced the rigor and strengthened the findings we report.

PHILOSOPHICAL DIFFERENCES AND THEIR SIGNIFICANCE

There were inevitable moments of tension among team members, but we believe these squabbles ultimately make the work stronger and frankly speak to larger structural issues. These differences expose important disciplinary or professional sensibilities and priorities. For example, the attorneys on the team tended to express concerns about suspects' rights, while child advocates worried primarily about child safety.

One memorable example of these differences came when attorney Frank Vandervort used the word "manipulative" to describe a polygraph operator's tactics in seeking a confession in one case. Jim Henry and Kathleen Faller, first and foremost child advocates, strenuously objected to this interpretation. They favored characterizing it as "persuasive" rather than manipulative. This is no small matter. With each word selected, we send a message to the reader about how we understand and judge what we saw. At the heart of this particular interpretive dispute are important differences in disciplinary sensibilities. Attorneys, particularly defense

attorneys, and child victim advocates have different levels of sympathy for the suspect's position.

This dispute was not settled in the first instance and flared up again as we began to finalize chapters of this manuscript for publication. Evidence is drawn from a flurry of emails between team members exchanged under a subject heading reading, "My two cents on the poly chapter." It started with attorney Frank Vandervort raising two concerns about a draft of the "polygraph chapter." In it, he accused Faller of being "too easy on the polygraphists when it comes to the question of whether they use coercive techniques when questioning the subject and as evidenced in their behavior before, during, and after the polygraph." Vandervort pointed to a number of "psychologically coercive" tactics. He noted that the practices are lawful but argued that we should "grapple with the normative question—is this behavior acceptable, desirable, to be encouraged? Do the ends justify the means? Perhaps. Perhaps not." Faller responded by pointing to the evidence and argued that it was important to "watch some of the polygraphs before concluding they are more coercive than community professionals describe them," and she noted that, "those descriptions are in the chapter." Vandervort's response is worth considering both for its specific rebuttal and because it carries with it larger messages for thinking about the material in this book:

I think we would lose credibility if we don't recognize forthrightly that the police use manipulative and psychologically coercive techniques when questioning suspects. The evidence that they do is clear—even overwhelming—both generally and in our study. . . .

If a social worker used the sorts of techniques in questioning a teenaged victim of sexual abuse that the police routinely use in questioning teenage suspects, they would be tortured on the stand and the case thrown out with the suggestion that the social worker led the kid into making a false allegation. But the police not only get away with this sort of questioning, but are encouraged by the law to engage in it. I think we should be straightforward in recognizing this inconsistency.

In jest, Faller ultimately teased she was going to "ramp up the discourse" by characterizing the confrontation as one between "those on the side of the angels and those on the dark side." Henry weighed in by proposing that we include a section about our "philosophical differences on 'manipulation.'"

We do so here, and we have tried to be transparent about these differences and others throughout the text, although we admit we have primarily taken a child-friendly lens to the material. In our text, the word “manipulation” has remained, but not without comment about its contentious nature. We hope by making these disputes present in the text we bring a richer and more transparent approach to our interpretation of the material.

However, we also feel strongly that readers recognize that these philosophically based practitioner differences do not merely reflect methodological disputes to be ironed out for presenting the work in this book. These differences exist and play out in real-world contexts and practice as well. As noted by Elana Buch, in one of her emails in response to this discussion:

Personally, I’m not sure we need to settle our philosophical differences regarding these important issues as much as we need to share them with the reader. Part of what is interesting to me is that the differences in our group are reflected in our interviews, suggesting that these issues are perhaps similarly problematic for many U.S. communities grappling with the consequences of child sexual abuse. These tensions are themselves an important finding.

This has serious implications for understanding the findings presented in this book and considering their application to other communities. These philosophical differences of opinion are deeply engrained in professional education, training, and practice. They reflect ideological positions conveyed from the earliest days of professional socialization into a discipline and are perpetuated through the institutionalization of professional practice. These philosophical differences—in whatever form they may arise—cannot be ignored if communities are interested in working toward some sort of integrated approach to justice in CSA cases. However, other communities will need to make their own decisions about how to resolve these tensions.

WRITING UP THE STUDY

We had several false starts in writing up this study—or perhaps they are better understood as preliminary analyses that ultimately led us to this

final product. We had choices to make about how to organize the material and how to report what we were finding. Like every other aspect of this project, this too was negotiated. We circulated drafts of chapters in their different forms, and everyone has influenced the final outcome of each. Authorship is assigned to the primary writers of each chapter and was agreed upon as a team; however, the influence of all team members on the final overall product should be recognized. Nonetheless, because every chapter was primarily penned by a different research team member, each retains a distinct voice that reflects the disciplinary training and professional sensibilities of its writer. For example, Faller's chapters reflect a more formal social-science format, Buch's chapter on narratives reflects her anthropology training, and Vandervort's defense chapter indicates his legal background. We have left these different voices in place, in part, as an important reminder of the interdisciplinary nature of this project that did not attempt to smooth over difference but rather paused to take note of them.

For their parts, the study participants were sent a copy of the book prospectus and annotated table of contents. They were invited to ask questions or request chapters if they so desired. In addition, Rick Rivers and Ed Williams received a copy of chapter 3 and were invited to comment.

As we analyzed the data, arguing over its organization, interpretation, and presentation, we came to realize that we had several separate but interrelated stories to tell. One was about the protocol as a written policy and as a form of professional practice. As written policy, the protocol articulated a series of innovative approaches to investigating CSA cases. However, with time the specific written policy became less significant than the values that were at its heart. These values were institutionalized through iterative, ongoing, community-based practice as professionals tackled individual cases. It is this incorporation of the policy's basic value structure, in particular its child-centered focus, which came to animate the entire operation of justice in the St. Mary community. So we discovered that as either a written policy or a professional practice, the protocol was conceived and implemented by committed individual law-enforcement officers, CPS workers, and prosecutors. This led us to a fundamental question: "Is it the people or the protocol that are making the community so successful?" This question is, of course, inextricably intertwined with another crucial question: "Could this approach to investigating and prosecuting cases of child sexual abuse be replicated in other jurisdictions?"

In the first part (chapters 2–3), we provide a profile of the extraordinarily dedicated professionals who conceived, refined, and applied the protocol. We turn to the written protocol as a policy and its implementation as a practice tool in the second part (chapters 4–9). In the third part (chapters 10–11), we examine the overall practice in St. Mary County and provide study conclusions. In addition, throughout the text we measure what we were learning in the community against what we knew from the academic and social-science literature. Scholz and Tietje once again provide some guidance: “Case study work has to be conceived of as a collective activity, both within the study team and between science and society. This promotes a kind of cooperative learning and collective rationality” (2002:24). Certainly our study was a collective activity within the study team, but in this final product we hope that it also serves as a connective link between “science” and “society.”

We discovered that, unlike most jurisdictions in which the burden of proving CSA cases rests directly on child victims, St. Mary County has shifted it onto the shoulders of professional practitioners, including prosecutors, police officers, polygraph operators, CPS workers, and mental-health specialists. Once shifted, the burden is also shared among all the community professionals who act in their own professional capacity, of course, but must also act within the parameters of the community’s established norms for handling cases. While other jurisdictions have sought ways to accommodate children—for example, by allowing them to testify outside the eyeshot of the defendant or by developing a forensic interview protocol (involving structured interviews designed to withstand adult scrutiny in court)—these accommodations tinker only at the margins in an otherwise unmodified legal process. St. Mary County took a more radical and comprehensive approach to the problem. The community found a way to achieve justice by renegotiating the relative power of the players within the process in ways that enhance the protection of children while protecting the defendants’ constitutional rights. It does so by maximizing procedural advantages for child victims.

What St. Mary County practices have done, in essence, is to shift that margin of error in favor of the child victims of sexual predation. In this one county, children have a more level playing field in the criminal-justice system because the adults in the community have assumed responsibility and developed a system that seeks to prevent that abuse, to respond in a quick and coordinated fashion when sexual abuse is alleged,

and to protect the child from further abuse and from the trauma that sometimes results when the communal systems set up to protect children actually result in harm to them. The protocol also protects the rights of the suspect, although it gives him or her no more protection than is insisted upon by the law and takes pains to ensure that innocent people are not charged or convicted. It also focuses its sentencing authority on meting out retribution in proportion to the crimes found to have occurred, as well as on providing treatment to act as a tertiary form of prevention (Faller et al., 2006).

We do not mean to give an inaccurate impression that St. Mary County is alone in its understanding of the importance of shifting the burden from children to professionals when, in fact, professionals across the country are committed to taking steps toward the goal of reducing trauma to children. However, we do believe that St. Mary County has acted dramatically on this concern and thus conceptualized a holistic approach to CSA cases that begins at initial disclosure and is consistent through final prosecution. In short, this county has moved beyond individual professionals taking steps within their disciplinary silos and has instead embraced and acted on the public value of reallocated burdens.

What follows is the story of how this one small community has responded to the needs of its sexually abused children by making these cases a priority. This is a story about a community agreeing on priorities, sticking to them, and acting on them. It is a tale about a set of particularly charismatic people who forged a policy, as well as dedicated professionals who kept it alive for decades. There are lessons here for other communities: lessons about what kind of trade-offs must be made, what kind of buy-ins must be achieved, what kind of charismatic characters are more likely to make it work, and what kind of energy is required to keep all the pieces at play in place.

Although we had started the entire project with a very basic overall research question —Why was this community so successful in its dealing with child sexual abuse?— in the years since our initial foray into the community, the interplay between questions and answers got much more complicated. We now seek to answer this question: How is power reallocated within the community of professionals in ways that enhance protection of children, secure convictions of offenders, and facilitate the treatment of both victim and offender in a timely manner? We address this question, in all its complexity, on the following pages.

This book explores our findings by closely examining the policy, practices, and players in this small and anomalous community to illuminate how it shifted much of the burden of criminal cases off the shoulders of its smallest and most vulnerable victims and shared it among adults. It also looks at some of the community's failures. In doing so, this case study raises critical issues about justice and fairness. What is just? How is justice best served? For whom? This case study should serve as a metric for other communities and for other professional practitioners in evaluating their own stance toward the questions of what is just and how their personal and professional values put that notion of justice into practice.