



Children *and* Family
Research Center

UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN
SCHOOL OF SOCIAL WORK



The Criminal Justice Response to Child Abuse:
Lessons Learned and Future Directions
for Research and Practice

Ted Cross



Importance of research

- Criminal justice response to child maltreatment is important but complex and not well-understood
- Need data to understand it and inform policy
- However, development of policy and practice has not been data driven
- This presentation reviews a wide range of data relevant to policy and practice
- Most knowledge and discussion based on sensational cases that may not be representative



home » local/regional » child neglect trial set ...



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Child neglect trial set for Nov. 15 and other court briefs



by Chris Carroll
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Child neglect trial set for Nov. 15

A woman charged in connection with the death of her young daughter will face trial in November, court officials said Monday.

Traci Carpenter is charged with aggravated child neglect stemming from the death of her 18-month-old daughter Sierra. Her trial date is Nov. 15, and attorneys on both sides will meet Oct. 3 to debate pretrial motions.



photo

Prosecutors first went after Carpenter and her ex-boyfriend, Brian Rutherford, in connection with Sierra's 2006 death. But a jury acquitted Rutherford, and the focus turned to Carpenter.

At Rutherford's 2008 trial, a medical examiner testified that Carpenter's repeated poking of her finger to Sierra's head could have led to the child's death.

Several witnesses said they had seen Carpenter poke the child, but Hamilton County Criminal Court Judge Don Poole ruled that information about Carpenter's parenting that came out at Rutherford's trial cannot be presented to jurors at her trial.

Carpenter's attorney, Lee Davis, recently filed court documents claiming that police promised not to charge Carpenter if she passed a polygraph test, which she did.

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Haslam seeks review of TRA

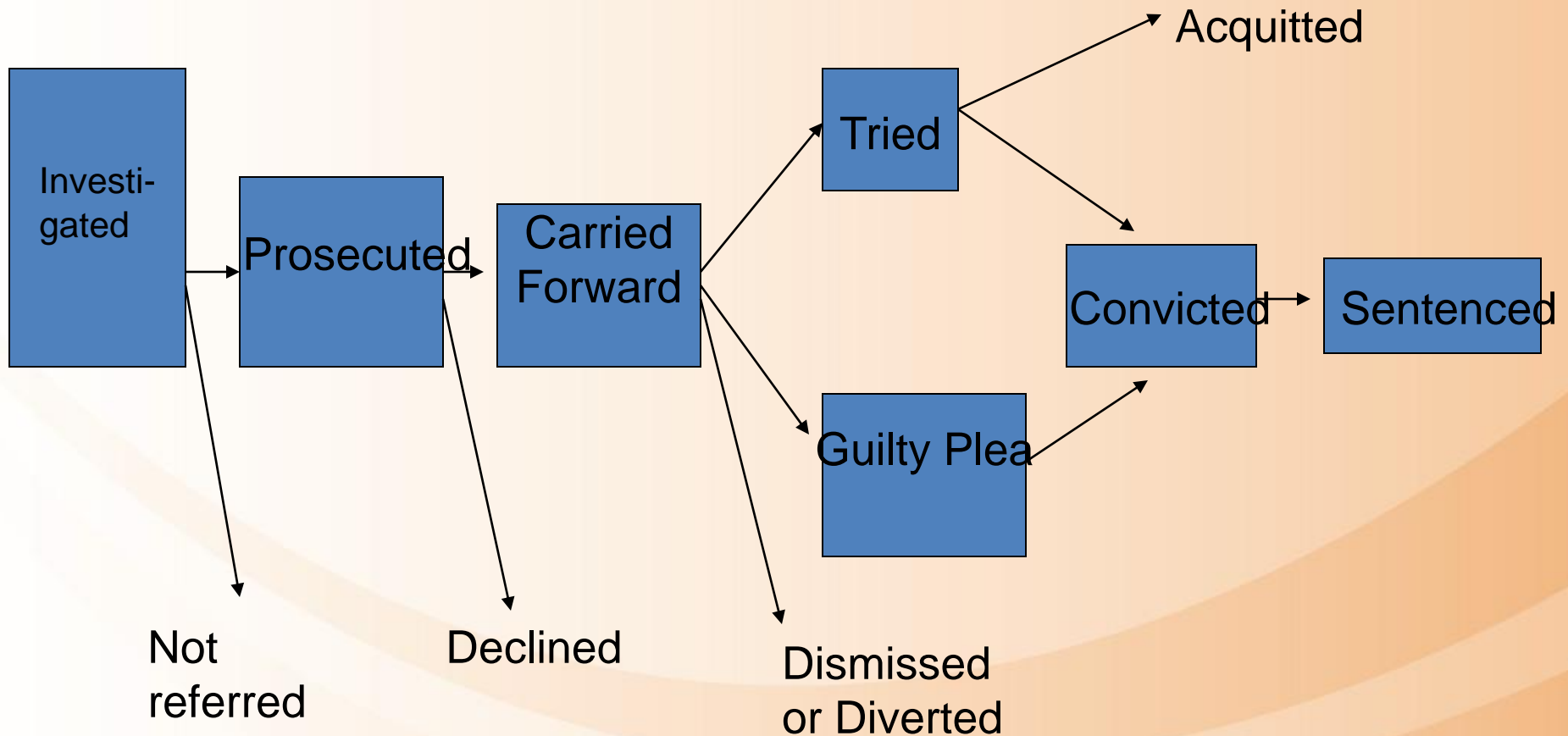


What happens to child abuse cases in the criminal justice system?

- Criminal justice events and outcomes
- Time to disposition



Prosecution Case Flow





Decision 1: How often is there a criminal investigation?

Data are only available on child protective services cases from the National Survey of Child and Adolescent Well-Being



Importance of criminal investigation (Cross, Finkelhor & Ormrod, 2005)

- Necessary for prosecution
- When there was a police investigation in CPS cases
 - Allegations were more likely to be judged as credible
 - Families were more likely to receive services
- Unclear whether this is a causal effect



National Survey of Child and Adolescent Well-Being (NSCAW)

NSCAW 1

(1999-2000 cases)

- 92 primary sampling units (communities)
- 5097 cases of CPS investigations

NSCAW 2

(2008-2009 cases)

- 81 primary sampling units (communities)
- 4939 cases of CPS investigations



Question asked in investigating protective caseworker interview

Sample	Question
NSCAW 1, (1999-2000 cases)	Tell me which child welfare or police department staff conducted this investigation/assessment? CODE ALL THAT APPLY. 1 = A CPS OR CHILD WELFARE INVESTIGATOR Y/N 2 = A POLICE DEPARTMENT INVESTIGATOR Y/N
NSCAW 2, (2008-2009 cases)	Was there a criminal investigation regarding this investigation?

Criminal investigation (CI) rates

NSCAW 1 (1999-2000 cases)

Group	N	Rate
All investigations	5097	24.0%
Sexual abuse	582	46.6%
Physical abuse	1142	27.5%
Neglect	2375	17.5%

NSCAW 2 (2008-2009 cases)

Group	N	Rate
All investigations	4939	21.0%
Sexual abuse	296	55.7%
Physical abuse	818	24.6%
Neglect	1398	11.2%



Predictor Variables Tested

Case Level Predictors Tested

- Type of Maltreatment
- Child Age
- Child Sex
- Level of Harm to Child
- Sufficiency of Evidence

Variables listed in red were statistically significant in a preliminary logistic regression with fixed and random factors

Community Level Predictors Tested

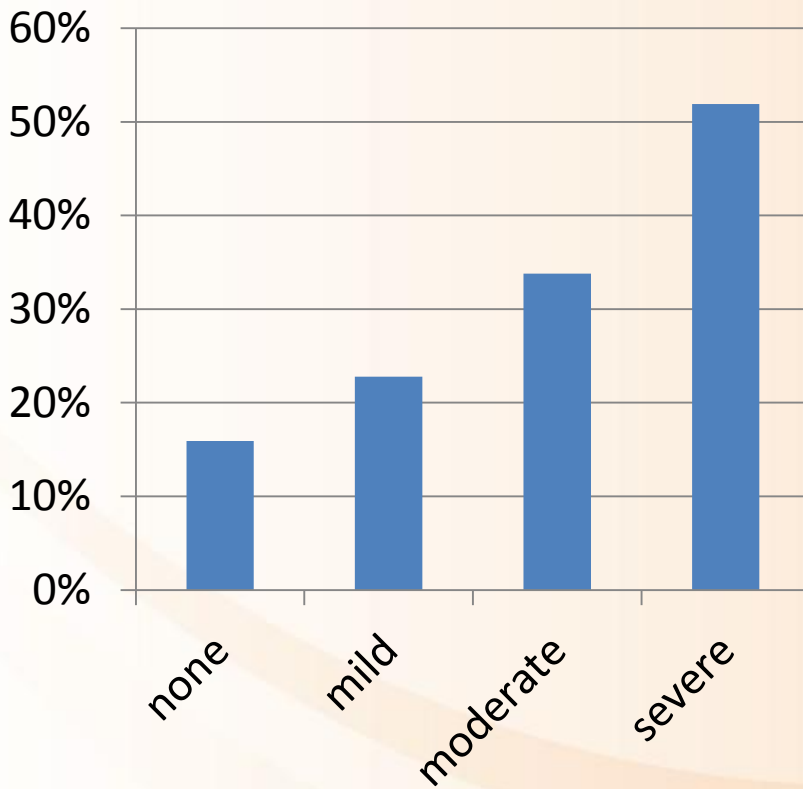
- Which Community is Involved
- CPS-Police Memorandum of Understanding
- CPS-Police Cross Training
- CPS-Police Co-location
- CAC Availability

NSCAW 2 only



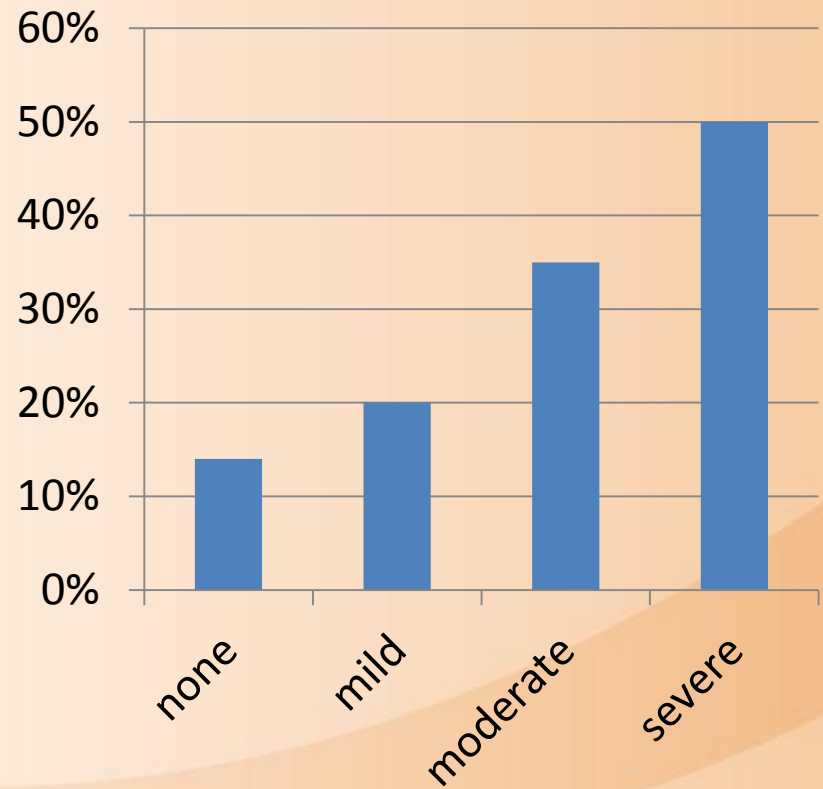
CI Rate by level of harm

NSCAW 1, (1999-2000 cases)



n 1306 1391 1468 868

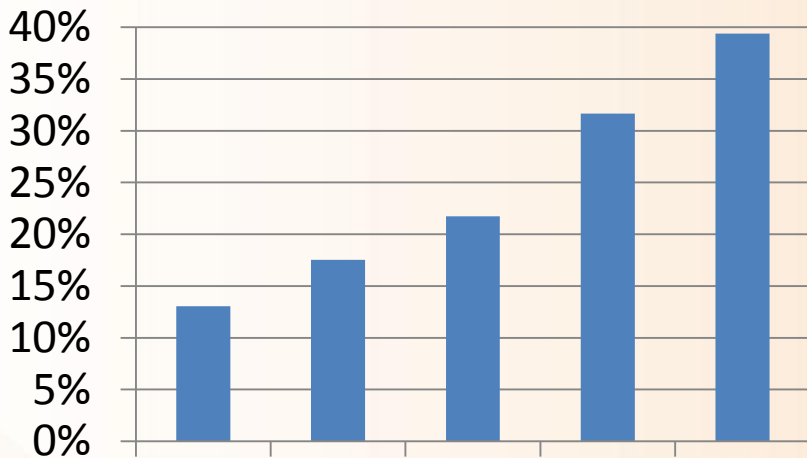
NSCAW2 (2008-2009 cases)



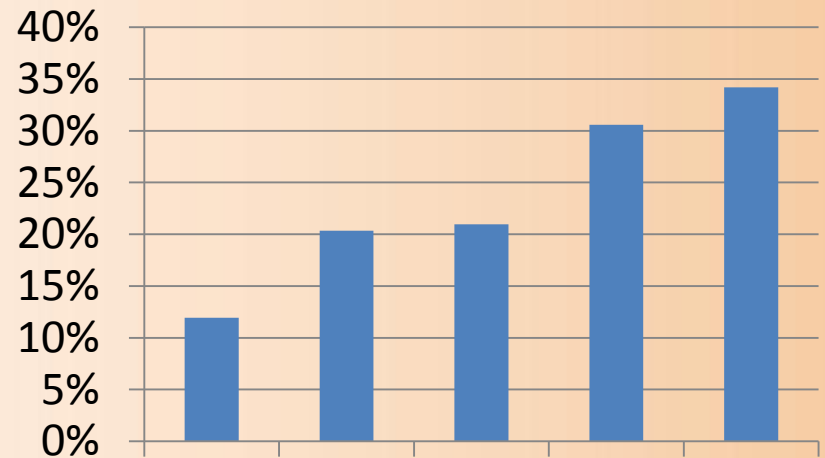
n 1444 1297 1417 843

CI rate by evidence of maltreatment

NSCAW 1, (1999-2000 cases)



NSCAW 2 (2008-2009 cases)

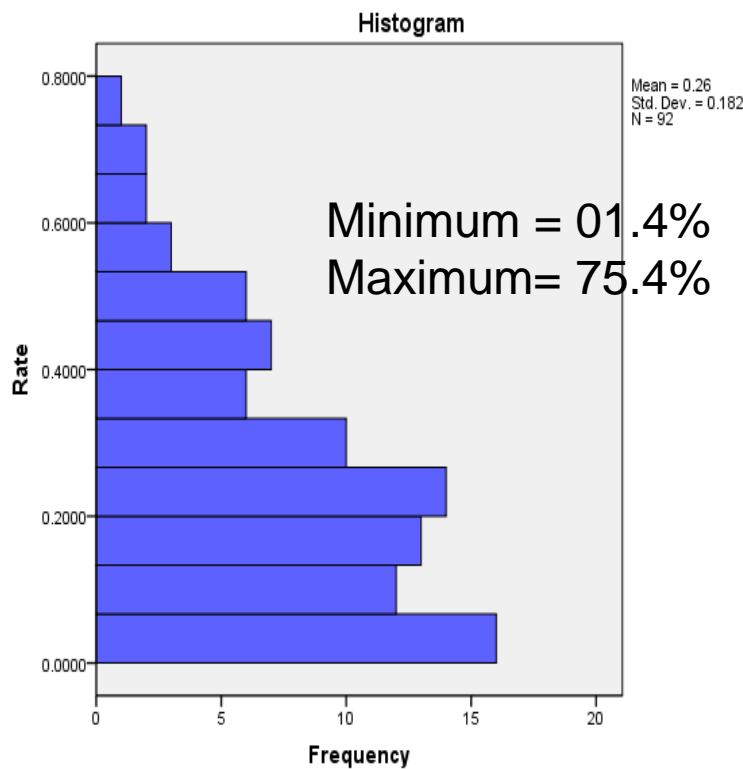


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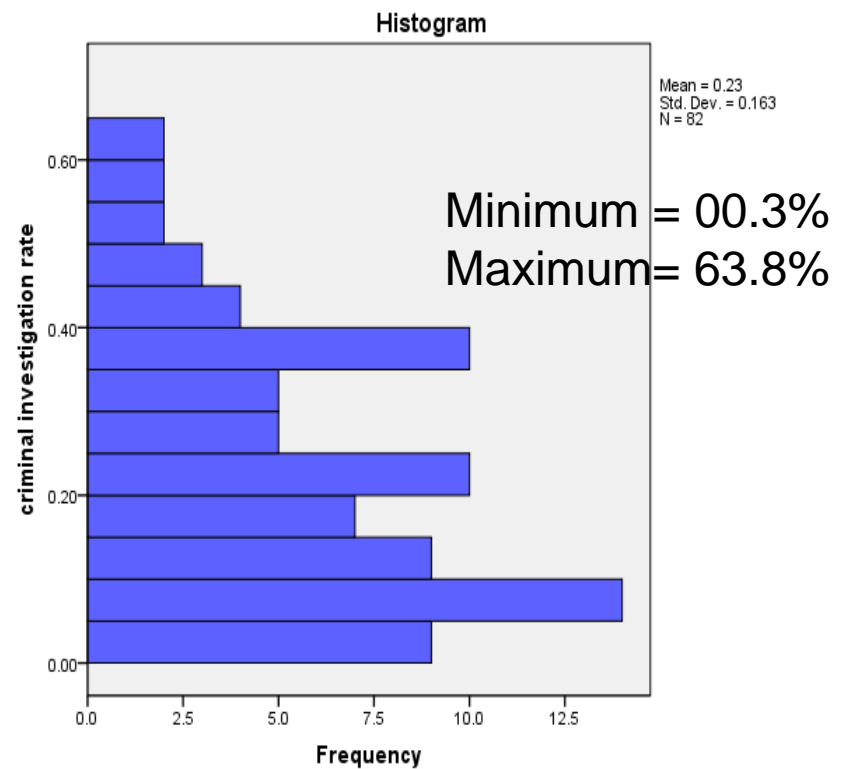
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Significant variation in CI rate across communities

NSCAW 1 (1999-2000 cases)

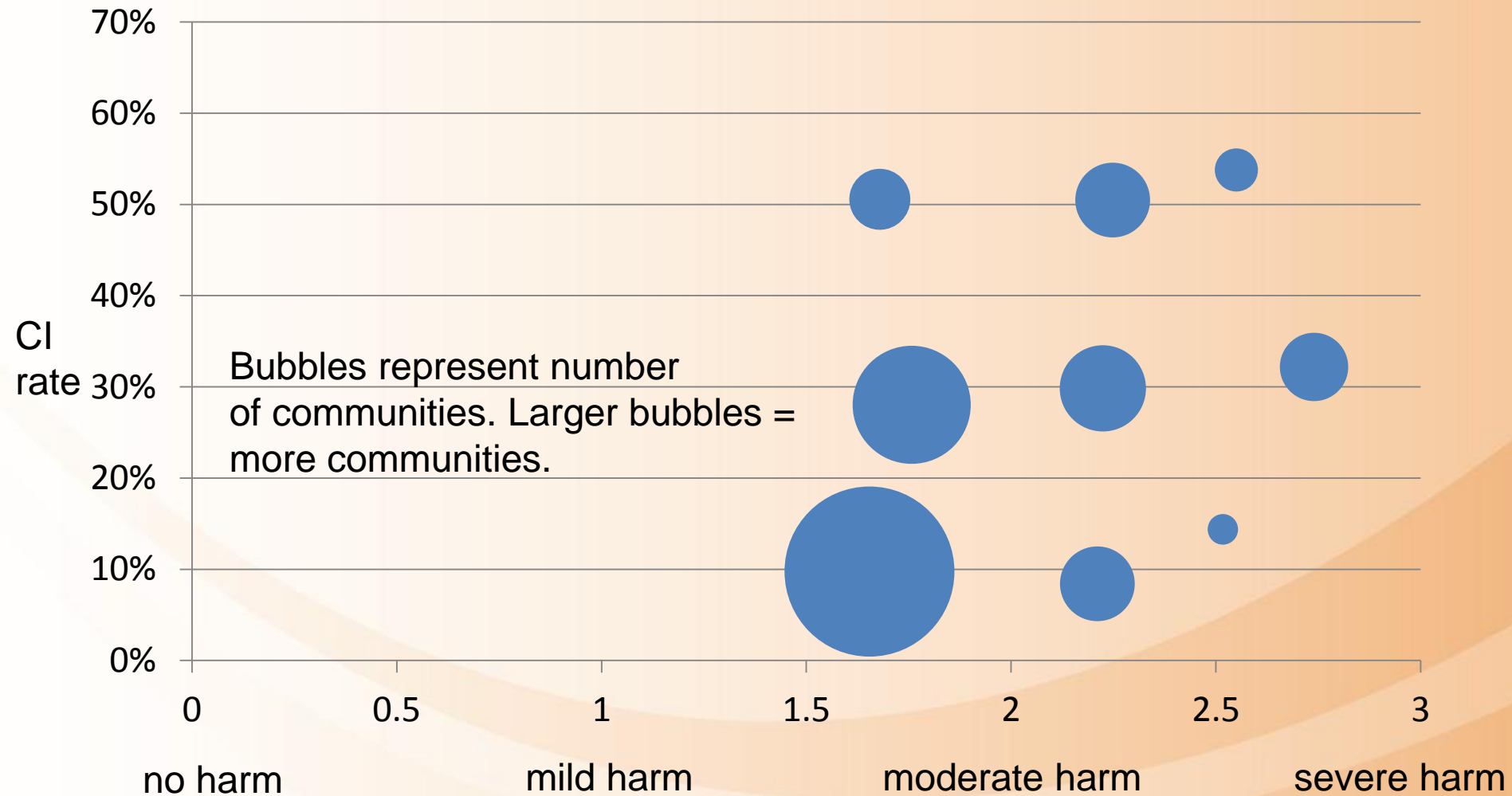


NSCAW 2, (2008-2009 cases)



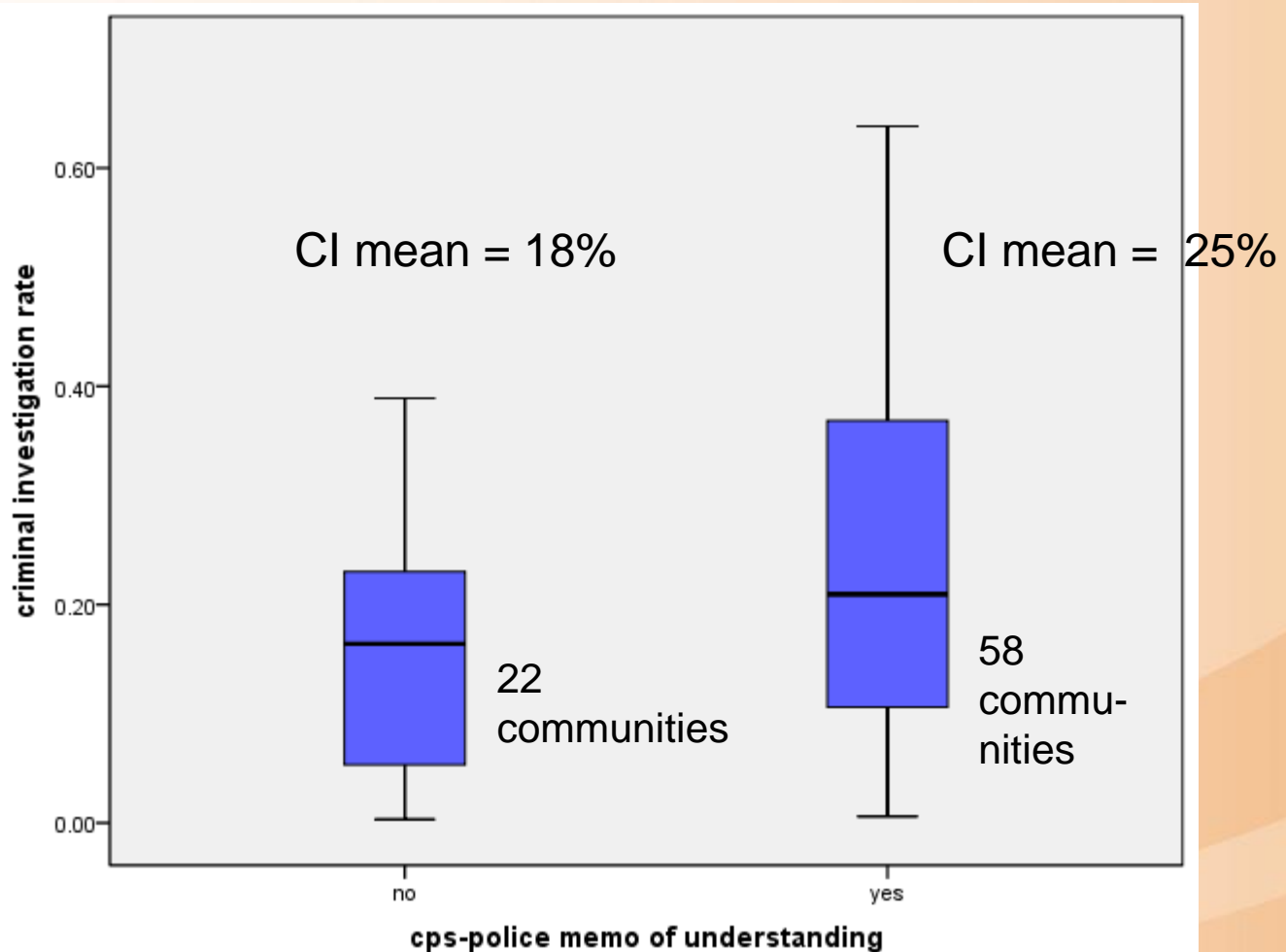


Significant differences in CI rate across communities even at same level of harm





CPS-Police memorandum of understanding explains some of the differences between communities





Significant predictors of CI in a logistic regression of NSCAW 2

Factor	Odds Ratio
Sexual abuse	8.03
Neglect	0.77
Level of harm to child	1.35
Level of evidence of maltreatment	1.30
CPS-Police memorandum of understanding	1.92
Community (Level 2 unit)	An odds ratio could not be calculated but this variable explained 7% of the variation in criminal investigation over and above case factors

Preliminary analysis pending multilevel weights



Summary on rates of criminal investigation

- 1/5 to 1/4 of CPS cases have criminal investigations
- Sexual abuse > physical abuse > neglect
- CI is more likely with greater harm and evidence
- Communities vary greatly in rate of criminal investigation
- Some community variation explained by CPS-police memo of understanding



Policy question

Is there equity for children and families when criminal investigation rates vary so much between communities?

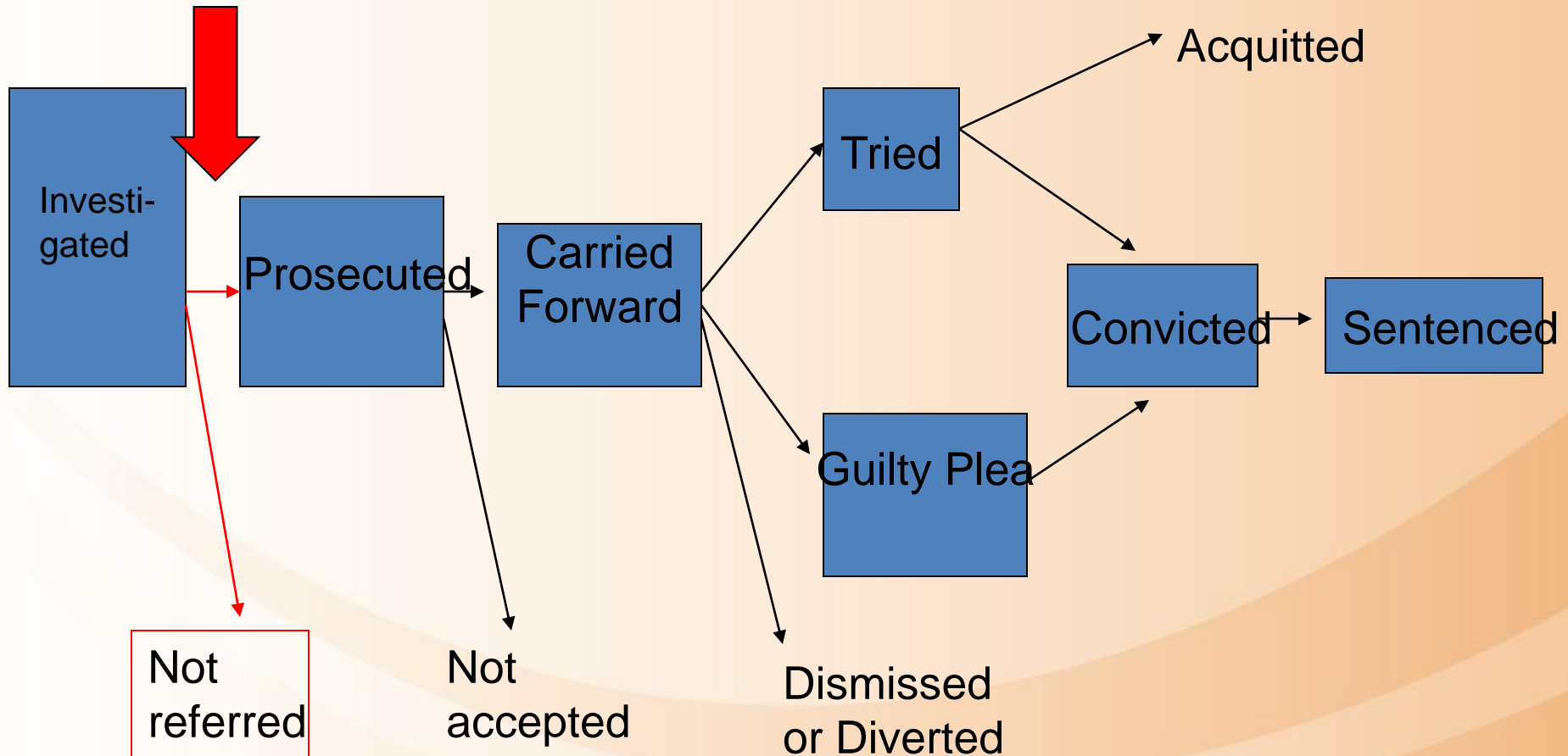
Data on 5 other criminal justice decisions come from a meta-analysis of multiple studies

Question #	Decision	Number of Studies
2	Referral to Prosecutors	4
3	Criminal Charges Filed	13
4	Carried Forward vs. Dismissed	18
5	Guilty Plea	19
6	Incarceration	14

Source: Cross, T.P., Walsh, W. , Simone, M. & Jones, L.M. (2003) Prosecution of child abuse: A meta-analysis of rates of criminal justice decisions. *Trauma, Violence and Abuse*, 4, 323–340.



Decision 2: Investigator Refers or Doesn't Refer for Prosecution





How Often Is Criminal Justice Action Taken Following Investigations?

- 4 studies
- Rates vary widely by the type of investigations studied and the criminal justice action measured
- ***This is essentially unknown***
- ***Better research is needed***

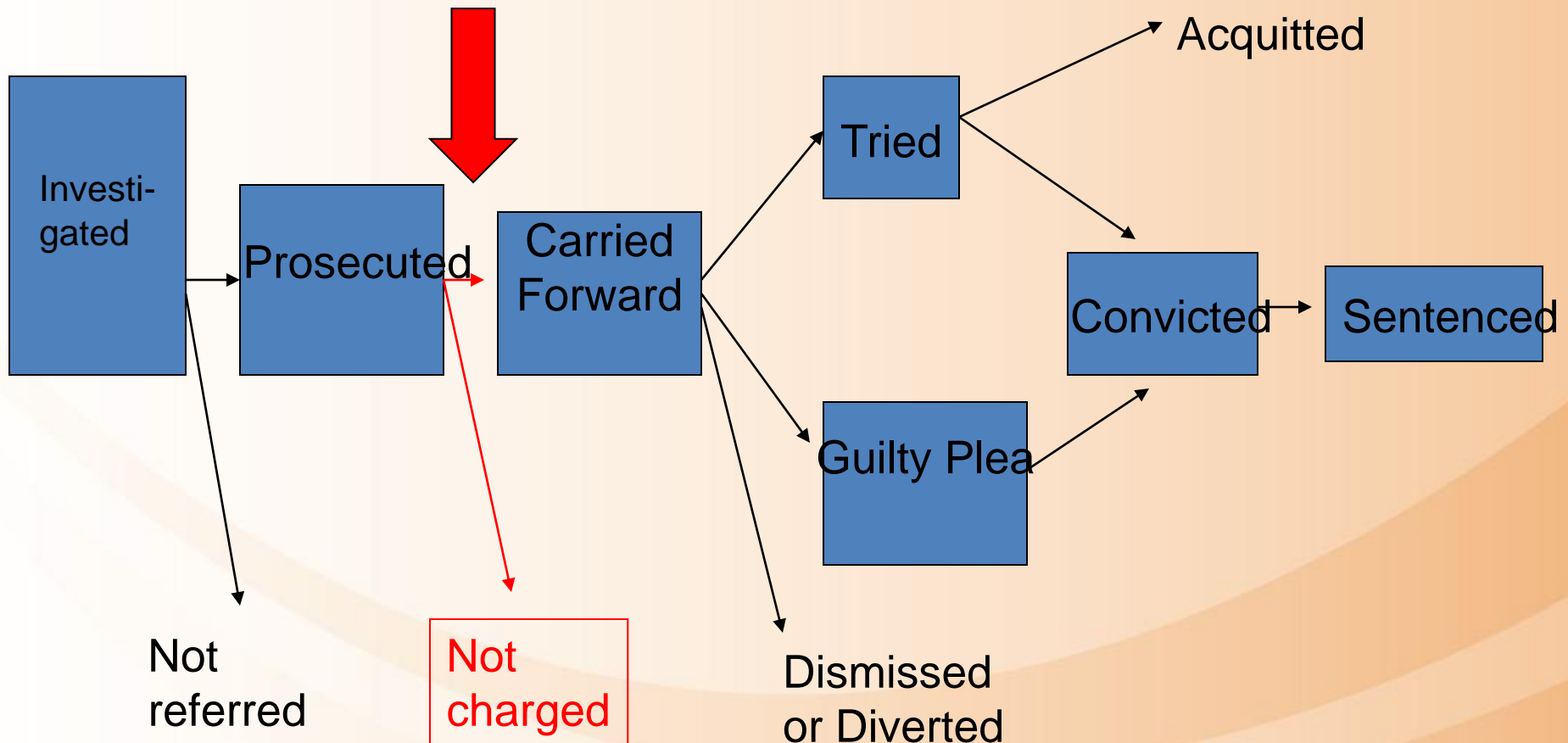


Rates of Criminal Justice Action on Investigated Cases

Study	Sample	N	Rate
Tjaden & Thoennes, 1992	CPS	833	4% prosecuted
Finkelhor, 1983	State clearing-house data	6096	24% criminal justice action taken
Stroud, Martens & Barker, 2000	Children's Advocacy Center	1043	56% referred to prosecutors
Rogers, 1982	Investigative center cases with police involvement	265	85% referred to prosecutors



Decision 3: Prosecutor Files Charges



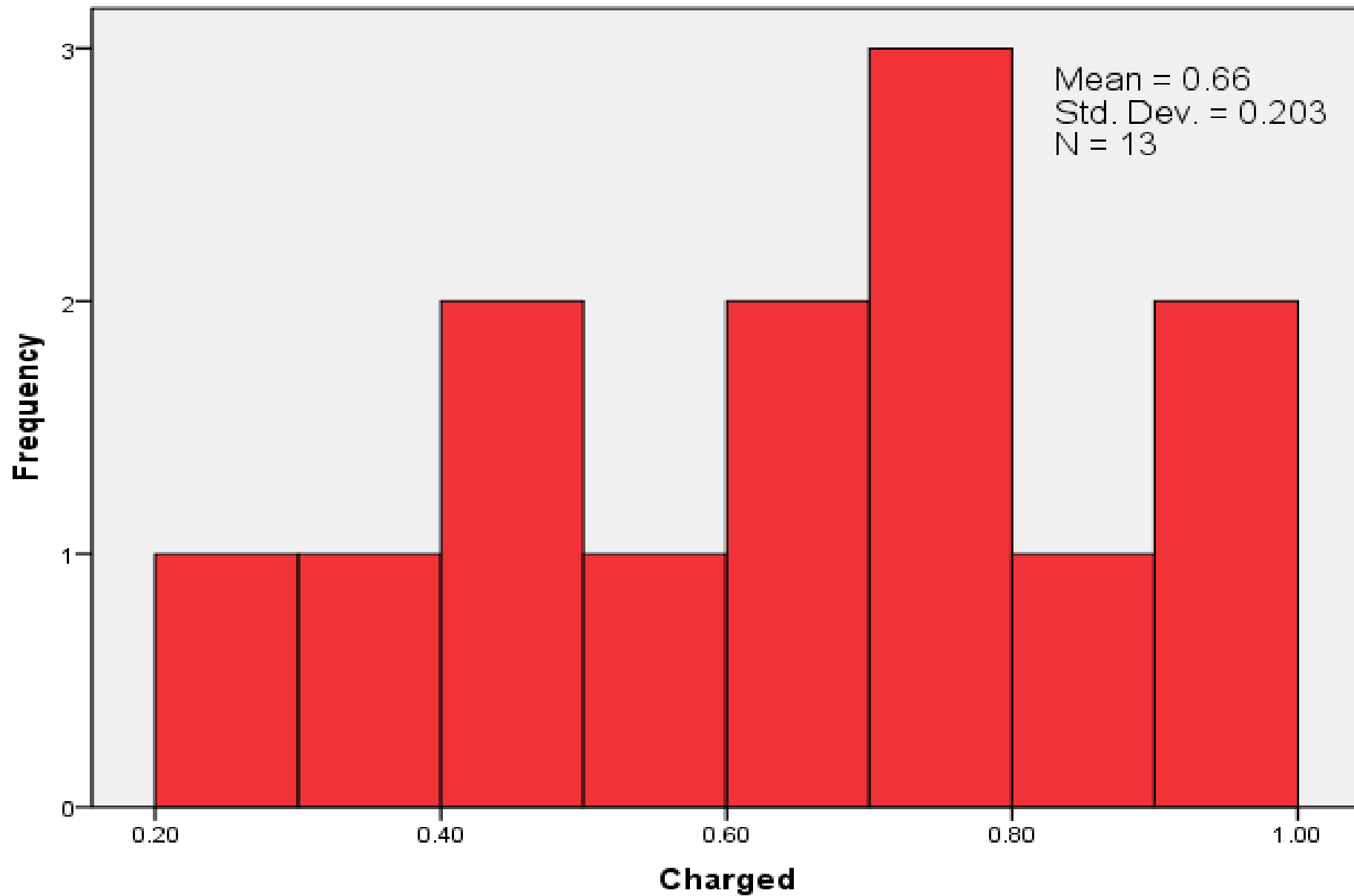


How Often Do Prosecutors File Charges?

- 13 studies
- Charging rate varied considerably, ranging from 28% to 94%
- Average rate was 66%
- Child abuse cases are somewhat less likely to get charged than other felonies

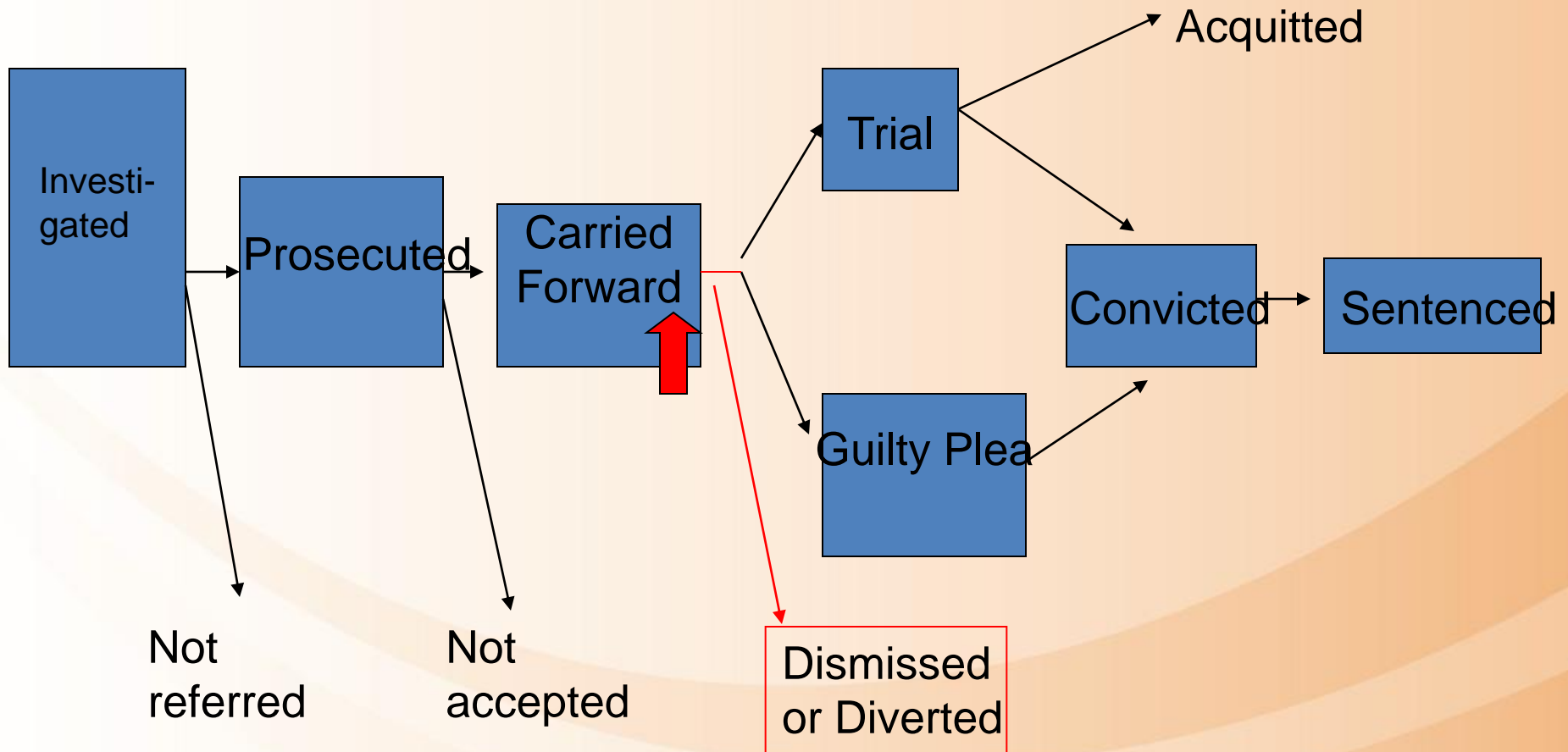


Charged





Decision 4: The Case Is Carried Forward or Dismissed



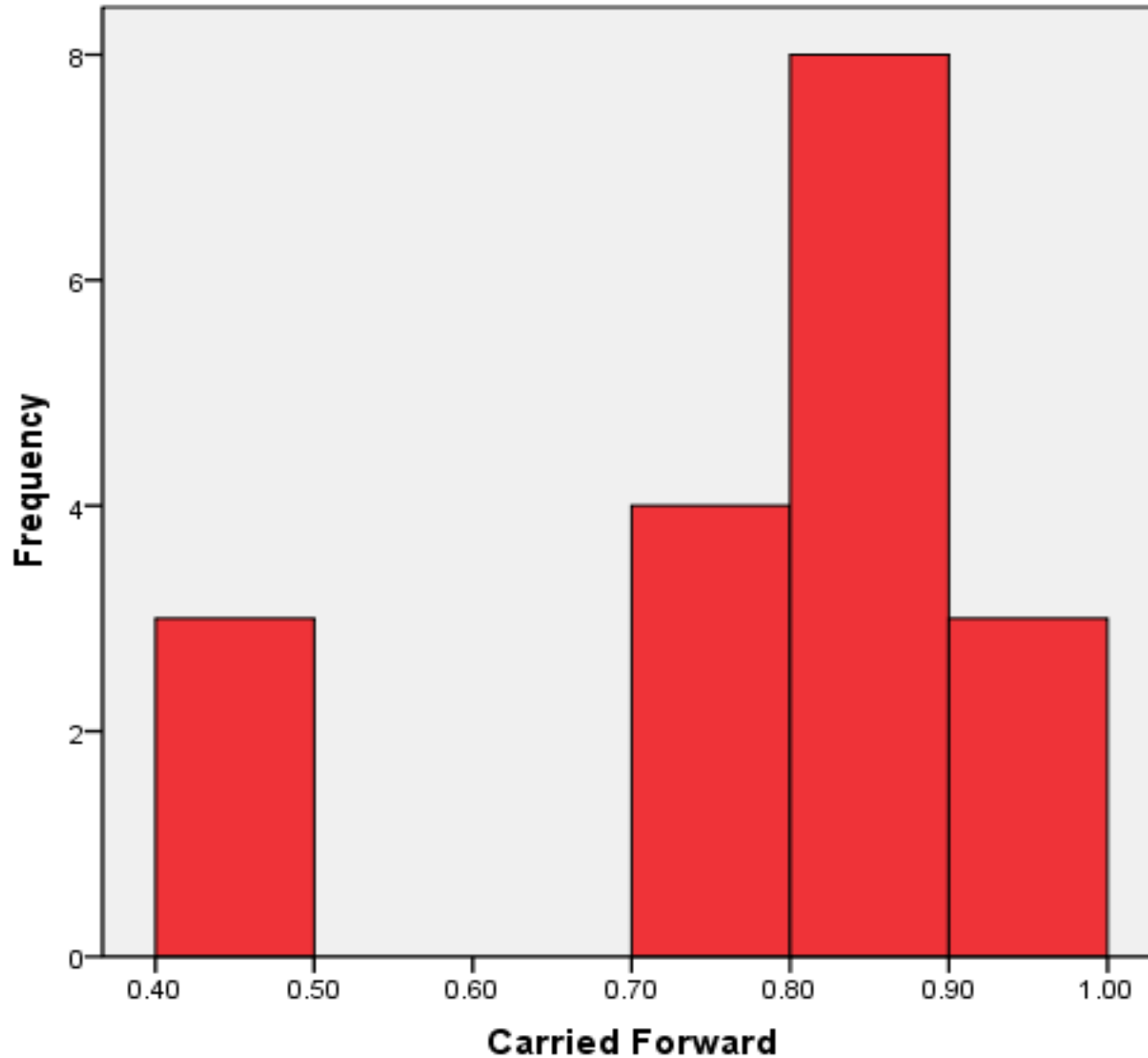


How Often Do Prosecutors Carry the Case Forward?

- 18 studies
- Case was carried forward in 43% to 99% of cases; (72% or higher in all but 3 studies)
- Average rate = 79%
- This is significantly higher than in violent offenses and rapes



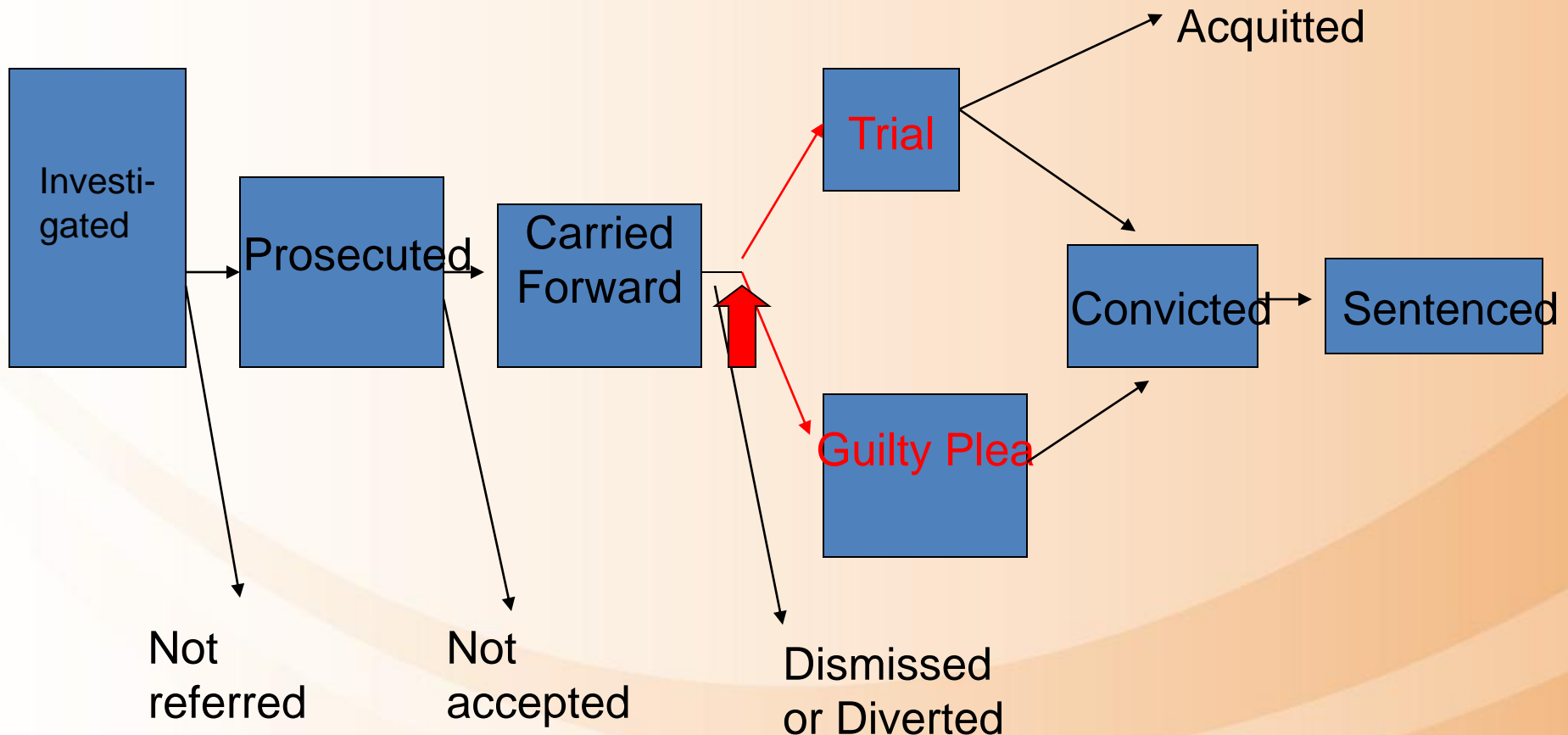
Carried Forward



Mean = 0.79
Std. Dev. = 0.158
N = 18



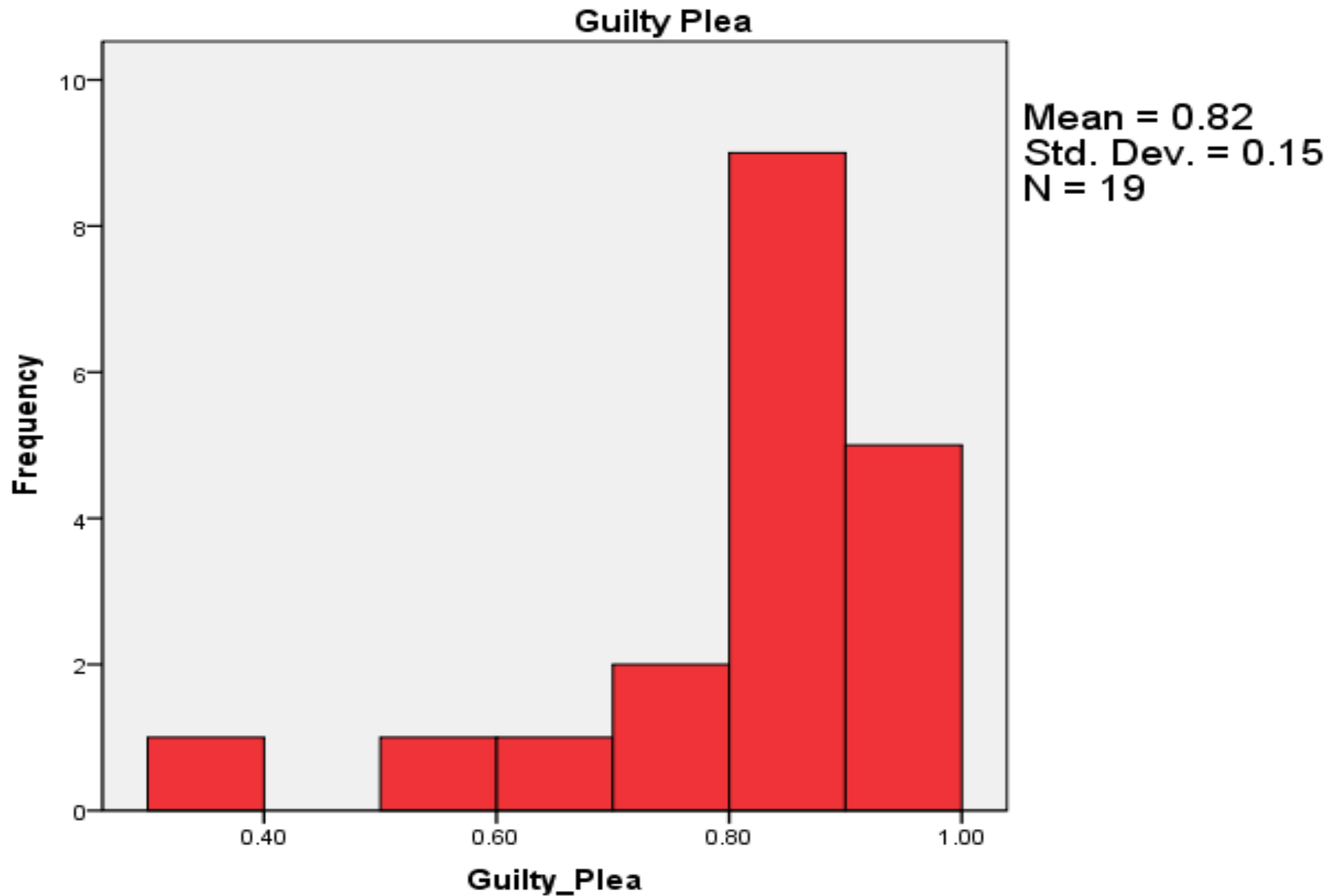
Decision 5: The Defendants Pleads Guilty or Goes to Trial





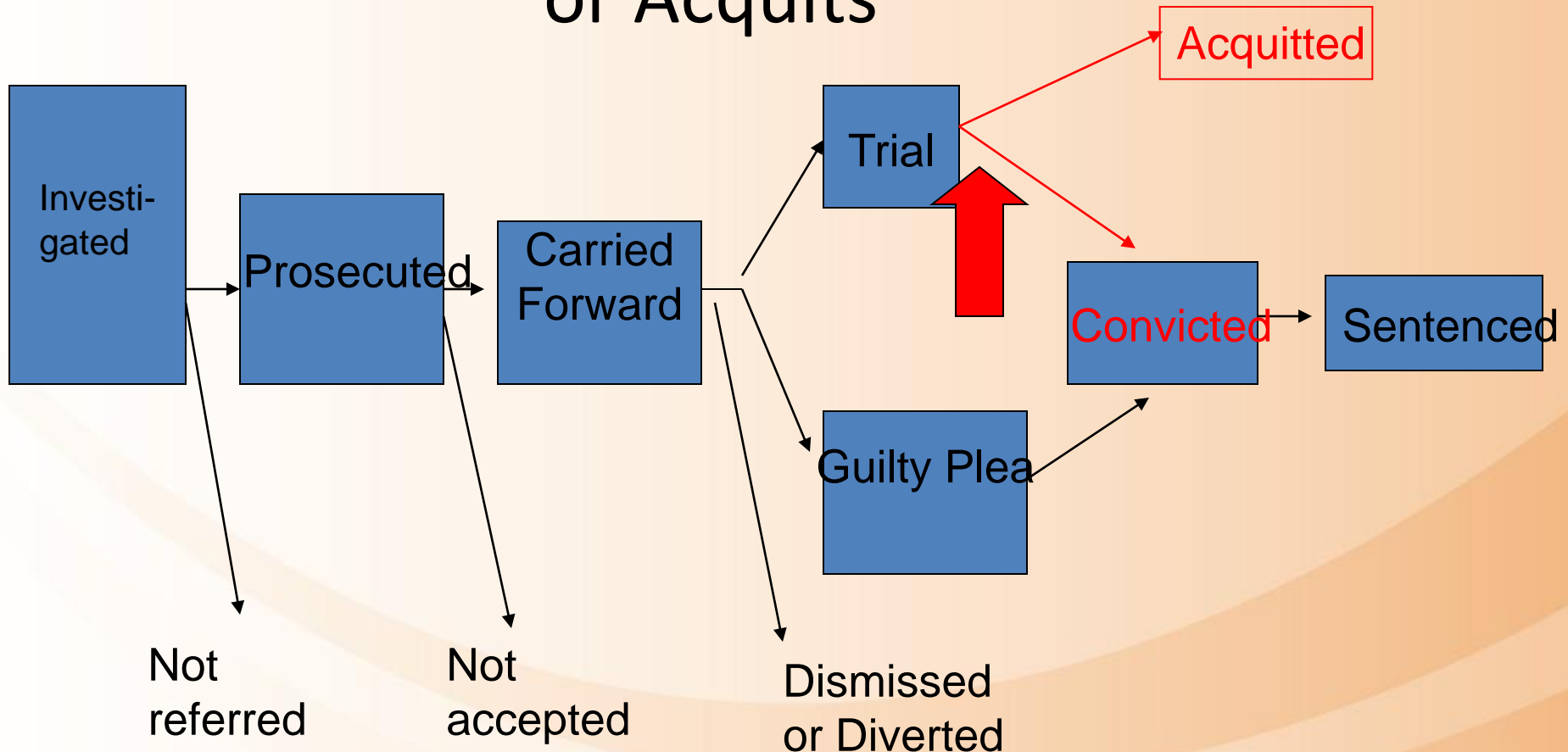
How Often Do Defendants Plead Guilty Versus Go to Trial?

- 19 Studies
- Plea rates of cases carried forward range from .39 to .97 (71% or higher in all but 3 studies)
- Mean plea rate = .79
- Comparable to rates in all felony cases





Decision 6 (for trials): The Judge or Jury Convicts or Acquits





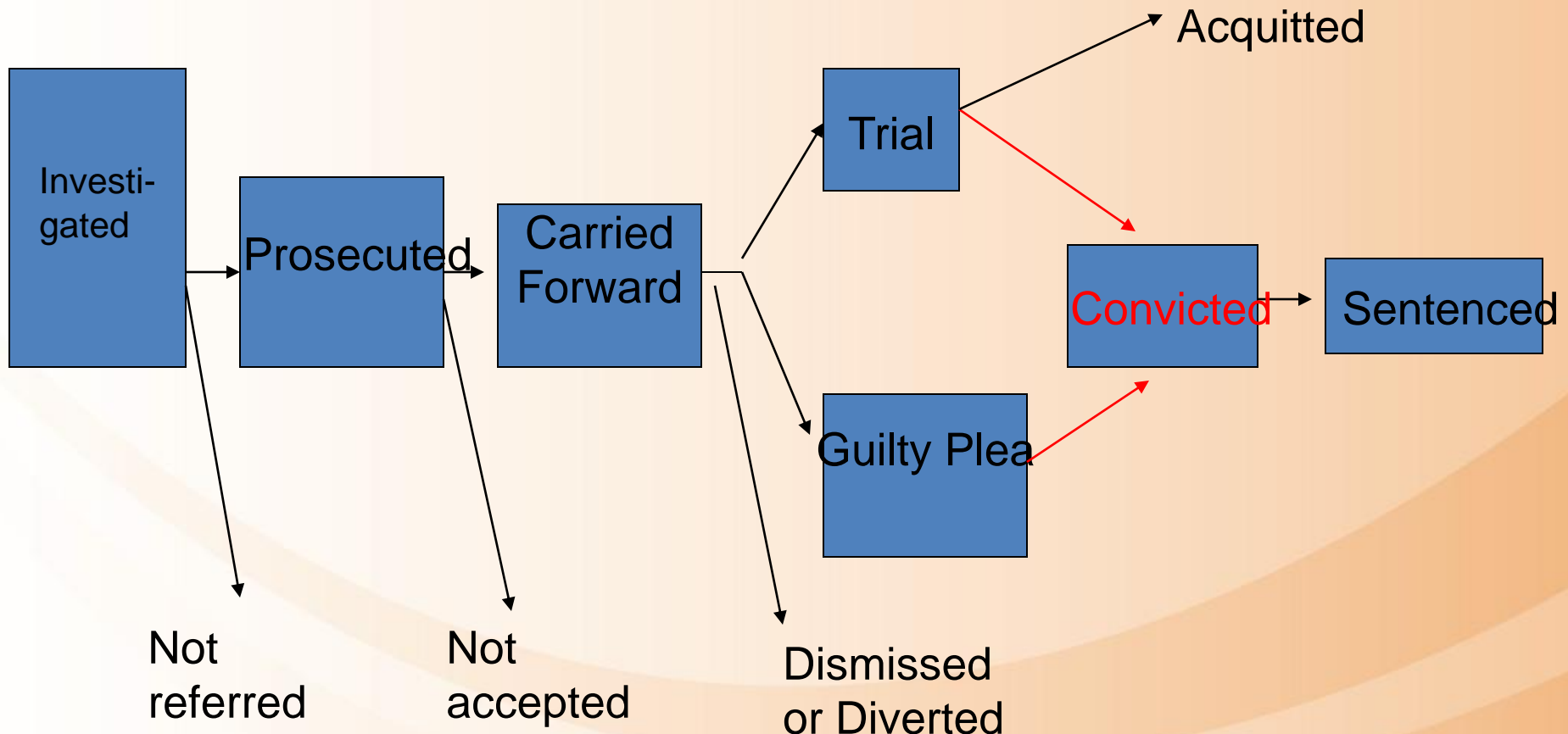
How Often Are Defendants Convicted at Trial?

- Conviction at trial rates vary
- Small N's make estimation difficult
- This has a small effect on overall distribution of outcomes because trials are infrequent



Conviction Rates

Conviction rates of cases carried forward can be calculated from guilty pleas and convictions at trial



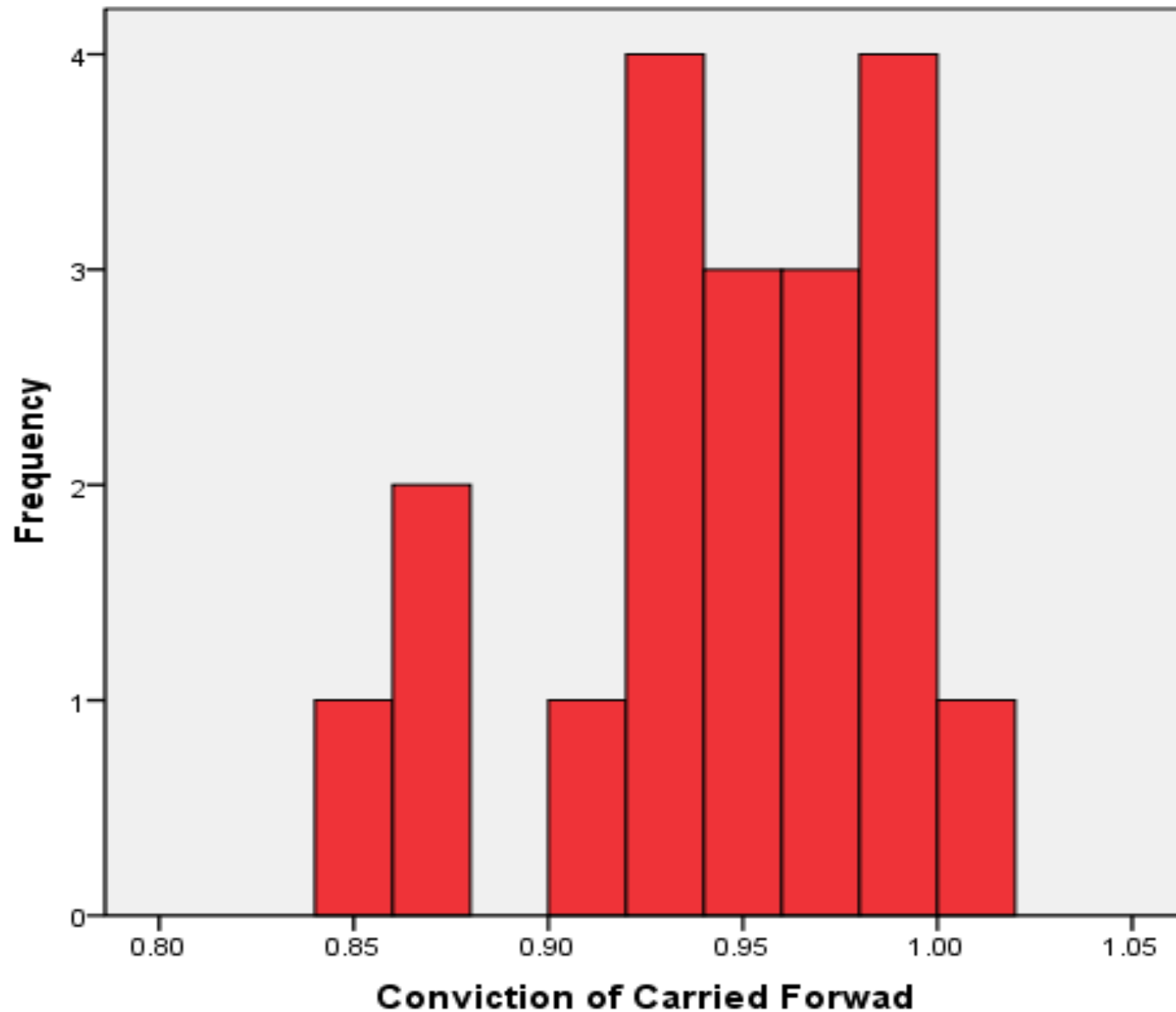


Overall Conviction Rates

- 19 studies
- Large % of cases carried forward (not dismissed) end in convictions either via guilty pleas or at trial
- Range from .85 to 1.0
- Mean = .94, almost identical to rates for felonies overall



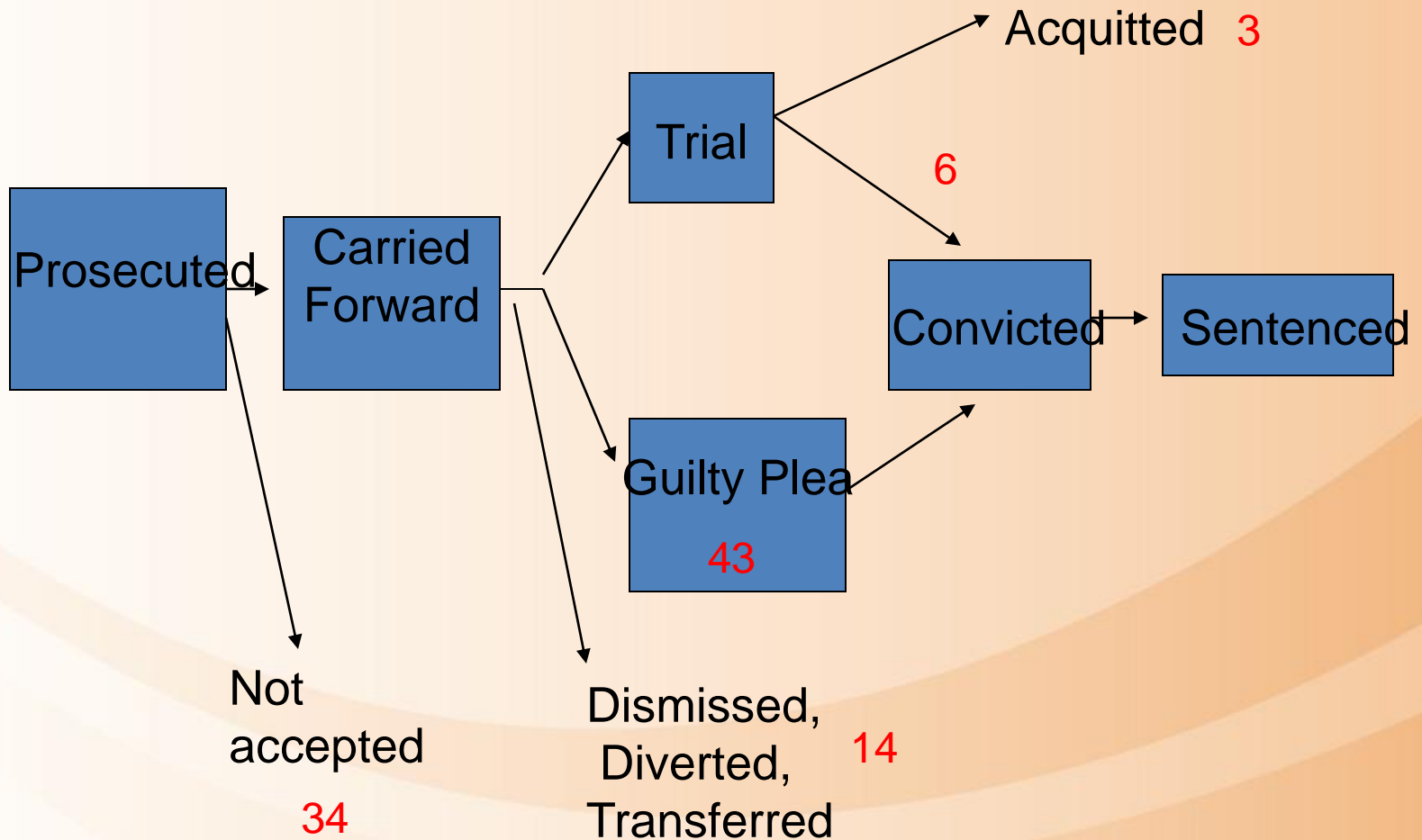
Conviction of Carried Forwad



Mean = 0.94
Std. Dev. = 0.045
N = 19

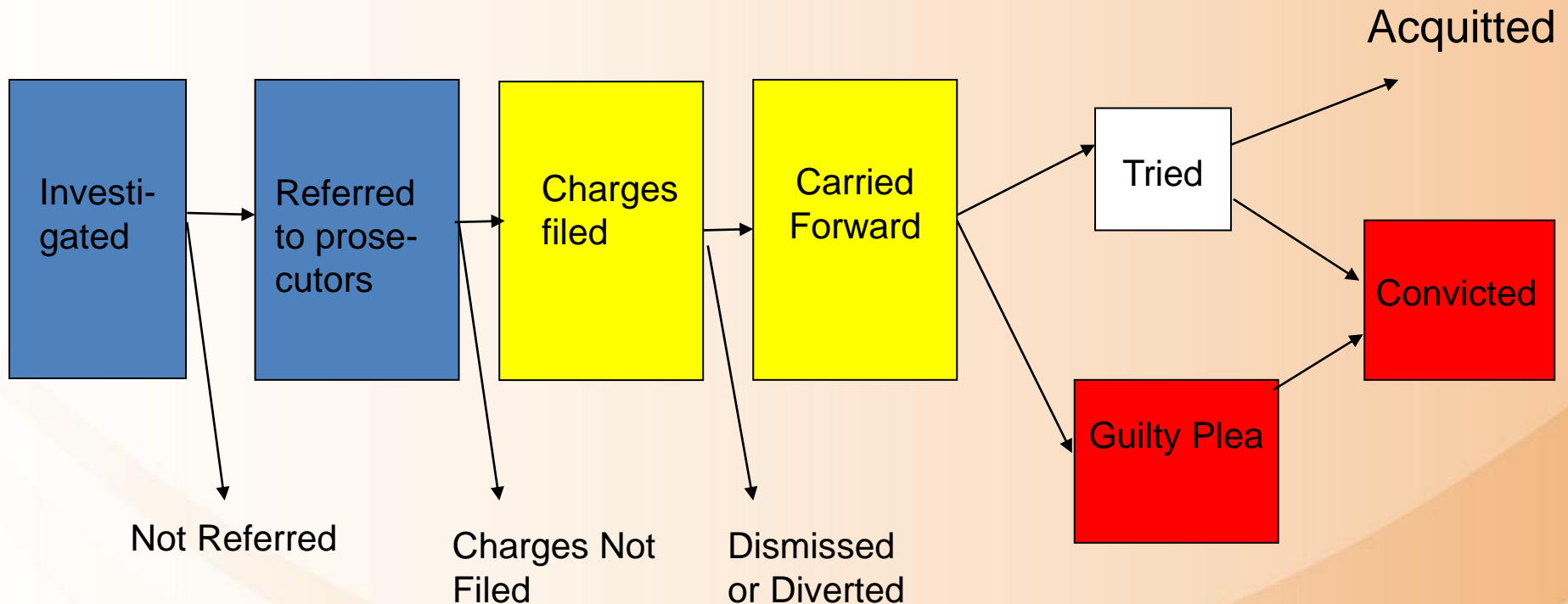


Average Breakdown of Outcomes Across Studies for 100 cases





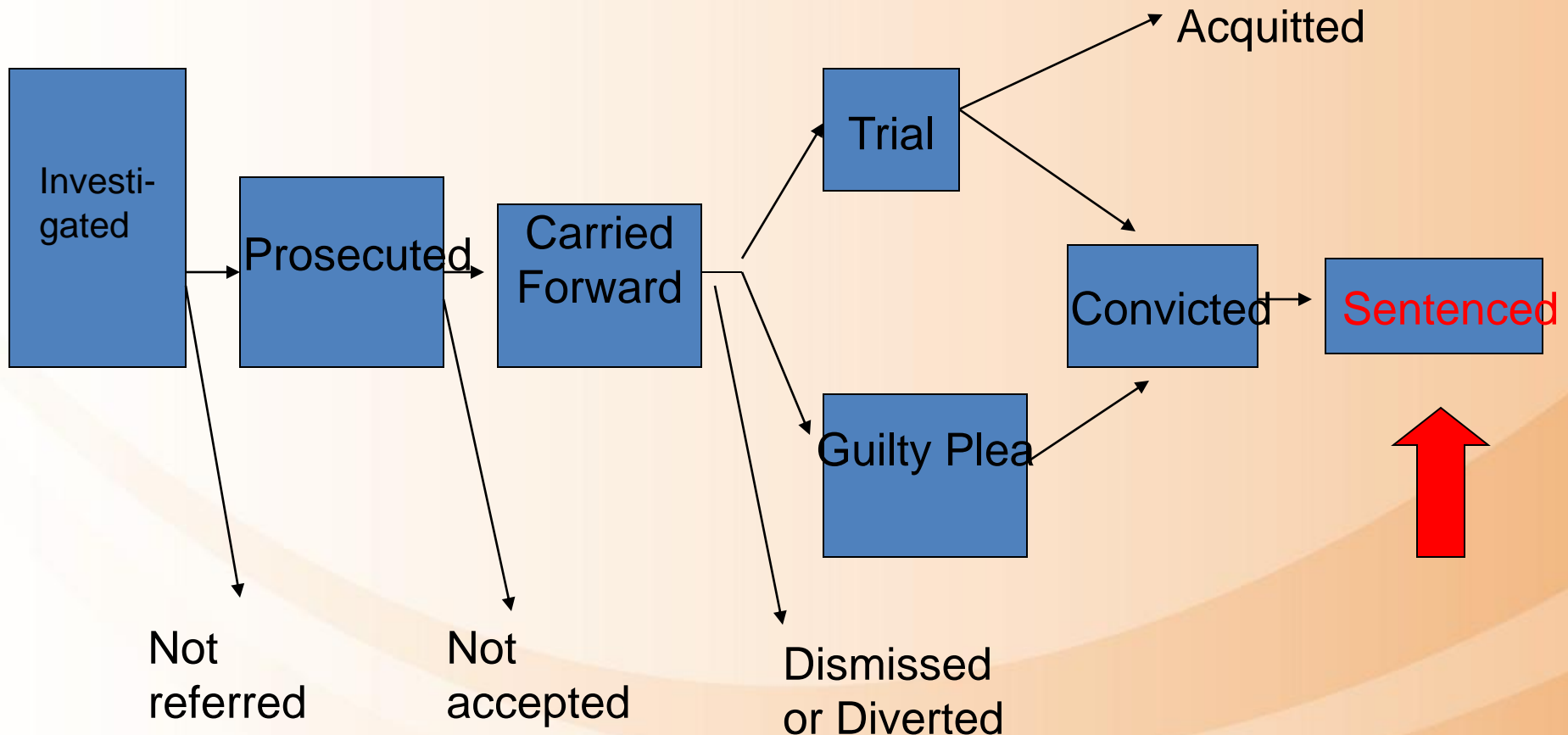
Contrast between front, middle and end of process



- Generally low rates, jurisdictions vary a lot
- Higher rates, jurisdictions vary a lot
- High rates, considerable consistency across jurisdictions



Decision 6 (for convictions): Sentence



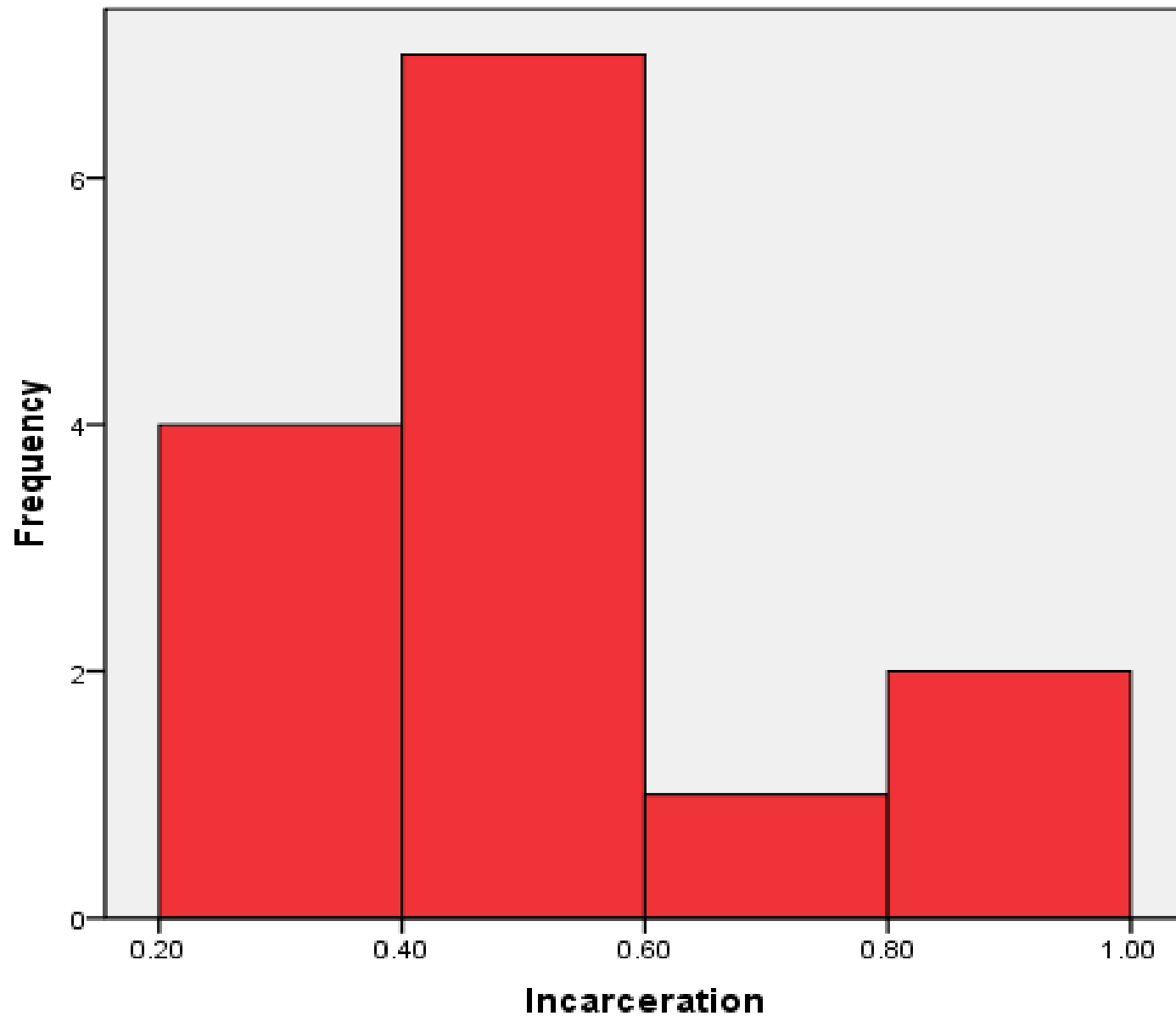


Sentencing

- Various types of sentencing are used, but a key decision is whether or not to incarcerate the offender
- 14 studies
- Incarceration rates range from 24% to 96%
- Mean incarceration rate of convicted = 54%
- Median incarceration rate of convicted=56%
- Lower incarceration rates than violent offenses or rape



Incarceration



Mean = 0.54
Std. Dev. = 0.226
N = 14



Comparison to other felonies

- Child abuse cases are somewhat less likely to get charged than other felonies
- More likely to be carried forward than other violent offenses or rapes
- Guilty plea rates are comparable to other felonies and conviction rates are almost identical



Time to disposition

- How long cases take to be adjudicated is a major concern of children and families
- Research suggests that a prolonged case associated with poorer children's mental health



Research on time to disposition

Study	Time Points	Time Span ¹
Martone et al., 1996	Arrest to disposition	338 days (501 days for trials) (236 days for non-trials)
Stroud et al., 2000	Child forensic interview to disposition	378 days
Gray, 1993	8 jurisdictions, intake to disposition	71 to 297 days
Walsh et al., 2008	Law enforcement report to disposition	29% 366 to 730 days 36% 731+ days

¹ Average or %



Breakdown on time to disposition – Walsh et al., 2008

Stage		
LE report to indictment	30 days or fewer	9%
	31 to 60 days	60%
	61 to 90 days	16%
	91 days or more and pending	15%
Indictment to disposition	Within 180 days	20%
	181 to 365 days	24%
	366 to 730 days	26%
	731 days or more and pending	30%



Summary on case flow

- Communities vary greatly in rate of investigation; MOU makes a difference
- Prosecutors vary greatly on rates of filing criminal charges
- Most charged cases are carried forward without dismissal, though a few communities dismiss at higher rates
- Most charged cases end in guilty pleas but 1/3 are not charged
 - Most predictive decision: whether charges are filed
 - Winnowing out at the front end



Summary on case flow (cont.)

- Trials are relatively rare, though more frequent than for other felonies
- Guilty pleas and conviction rates for cases carried forward generally resemble those of other felonies—prosecutors are neither feckless nor reckless
- Incarceration appears to be variable and not well researched
- Many cases take up to two years to reach disposition
- These studies date from 2000 – study needs updating



How do child victims and families experience the criminal justice system?

- Child disclosure
- Children's and families' experience of the criminal justice system
- Impact of testifying on children



Child disclosure in child sexual abuse investigations (Lippert et al., 2009)

	Disclosure Rate	
Prior Disclosure (Age 2 to 17)	62%	
Disclosure at Forensic interview	73% Full Disclosures 12% Partial Disclosure	
Full Disclosure at Forensic Interview by Child Age at Interview	Age 2 to 6	52%
	Age 7 to 12	75%
	Age 13 to 17	92%

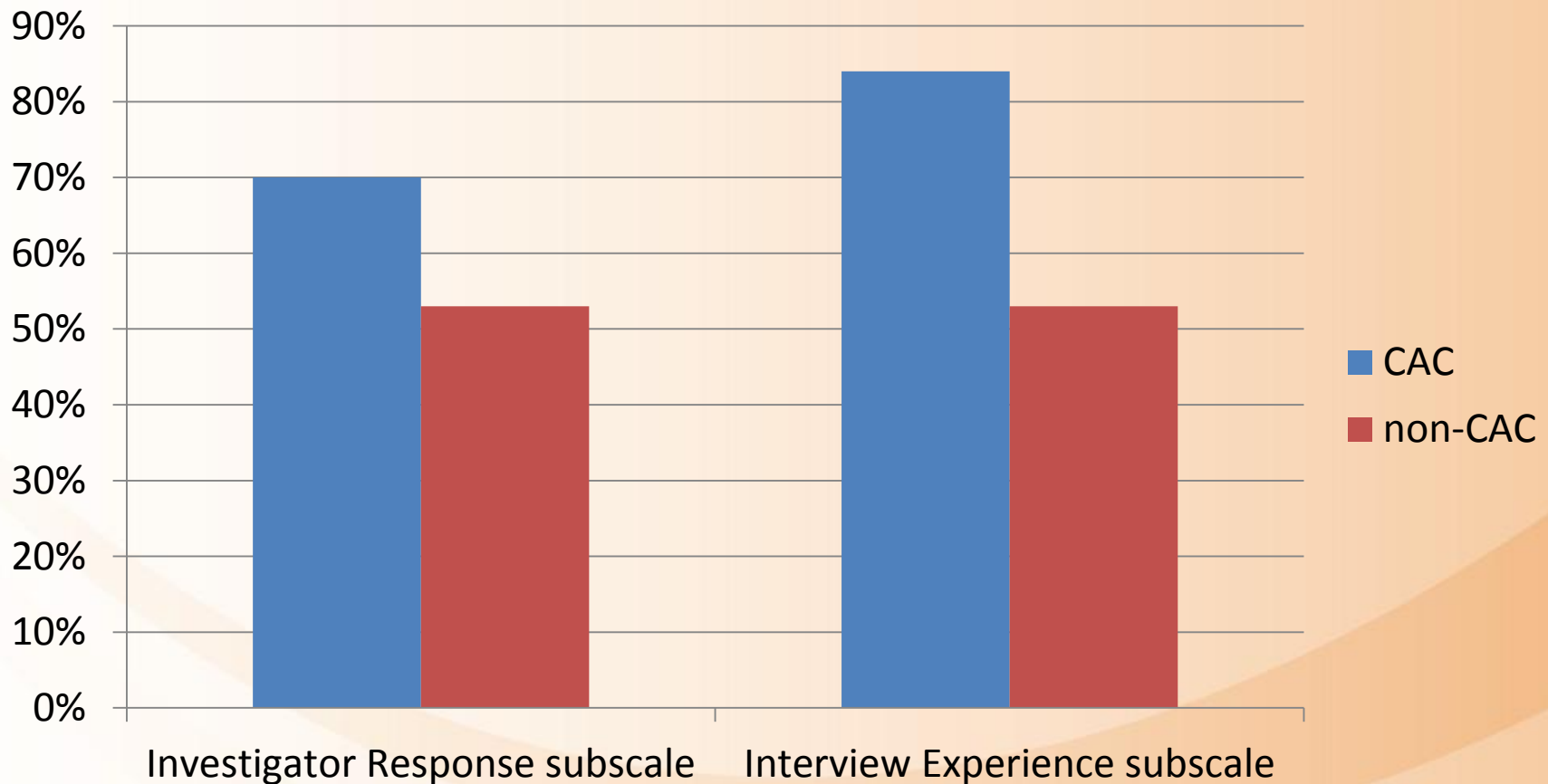


Child experiences of investigation

- Across multiple studies, most children express satisfaction with the investigation (Berliner & Conte, 1995; Davies, Seymour, & Read, 2000; Jones, et al., 2007; Sas et al., 1993)
- Perceived support from professionals a key factor. Having a trusted professional is related to...
 - Higher satisfaction ratings (Berliner & Conte, 1995)
 - Lower child trauma score (Henry, 1997)



Non-offending caregiver experience depends on having a CAC



% satisfied on Investigation Satisfaction Scale, Jones et al., 2007



Issues identified by non-offending caregivers (Jones et al., 2010)

- On open-ended question, “What was worse than expected?”, 55% identified investigator commitment and skill issues

“They do not really investigate. I had suspicions about one particular thing, and they did not really look at that. I know he is little and does not talk really well, but I feel they should have done more.”

“Well, the person who hurt my children was a family member, so I know for a fact that he has never been questioned and nothing has been done to him about this. But my children still have to see him every day and hear comments from him stating that he is untouchable.”



32% expressed dissatisfaction with communication about the case

“It was confusing, I did not understand what was going to happen or what needed to happen. The police and CPS have not provided any information—They do not return phone calls.”

“I think the DA’s Office should contact you beforehand...and prepare you for what will happen”

“The caseworker never really explained to me what they actually found out during the investigation. I don’t know what she actually did. I only got a letter saying it was indicated but it didn’t explain what they found out he actually did to my child.”



Psychological impact of prosecution on children

- Children are stressed and anxious at outset
- Children tend to improve with time, regardless of their experiences in court
- Maternal support a major factor in children's improvement
- Delay in case resolution negatively affected children's mental health in study of juvenile court, but not in a study of criminal court



Effect of testifying on children's mental health

- Study of child protection proceedings in juvenile court: children who testified had better mental health outcomes
- One study in criminal court:
 - Children who testified had poorer mental health 7 months later
 - No differences between testifiers and non-testifiers at case disposition, though some testifiers showed negative effects
 - Repeated testifying associated with poorer mental health
- Another study in criminal court found poorer mental health when:
 - Children testified more than once
 - Children experienced severe cross-examination



Study of child victims 12 years after court case (Quas et al., 2005)

- Testifying was associated with poorer mental health outcomes 12 years later
- **Not** testifying also associated with negative outcomes:
 - Higher levels of defensive avoidance in less severe abuse cases
 - More negative attitudes toward the legal system
 - Feeling that system was not harsh enough if defendant received lenient sentence



Challenges of prosecuting child sexual abuse

- Often the case hinges on children's testimony
- Children's limitations in understanding, memory, speech and their emotional reactions can make it difficult for them to assist investigation and to testify
- Other evidence can be lacking
- Children may be reluctant or ambivalent about prosecuting offender
- Families and others ones may oppose child



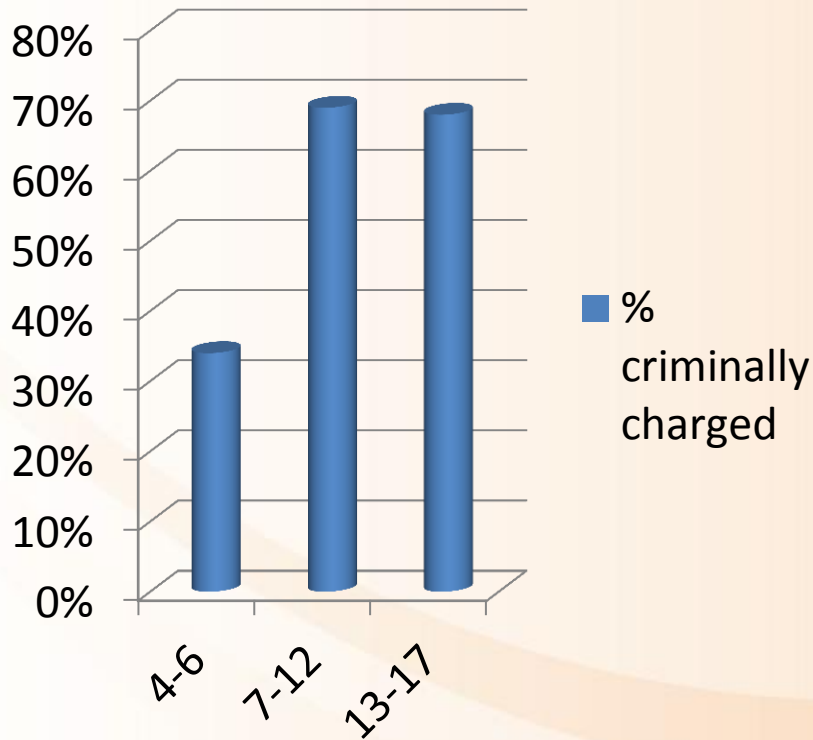
Two most extensive studies on filing criminal charges

Authors and Year Published	Location of research	Years Data Collected
Cross, DeVos & Whitcomb, 1994	Buffalo, Des Moines, St. Paul, San Diego	1988-1989
Walsh, Jones, Cross & Lippert, 2010	Dallas County	2001-2003

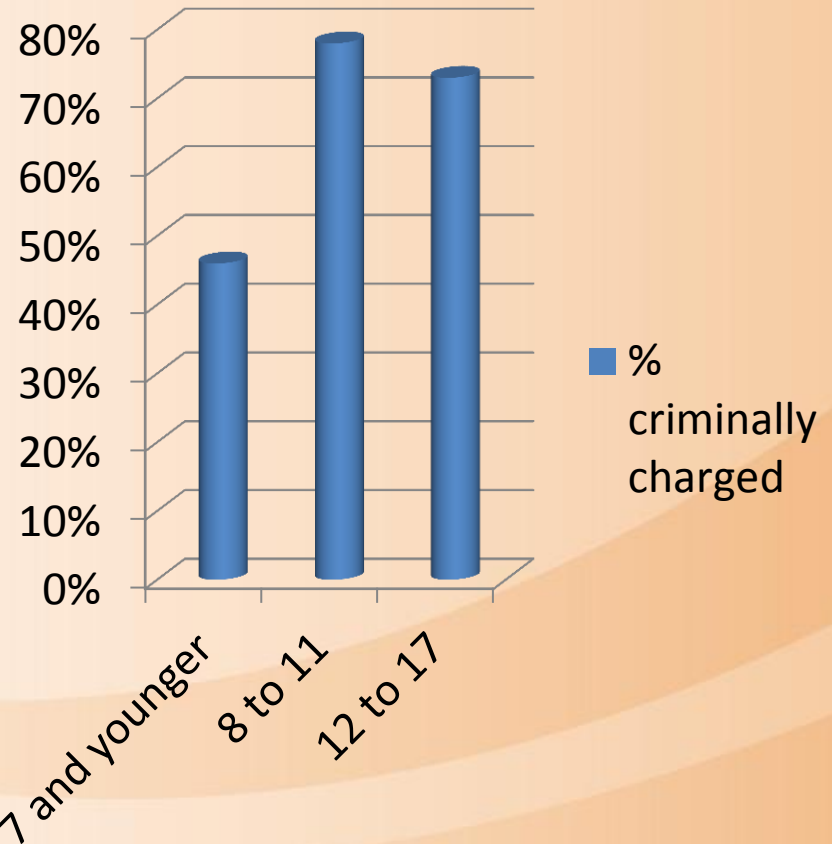


Cases with young children are much less likely to lead to charges

Cross et al., 1994



Walsh, et al., 2010

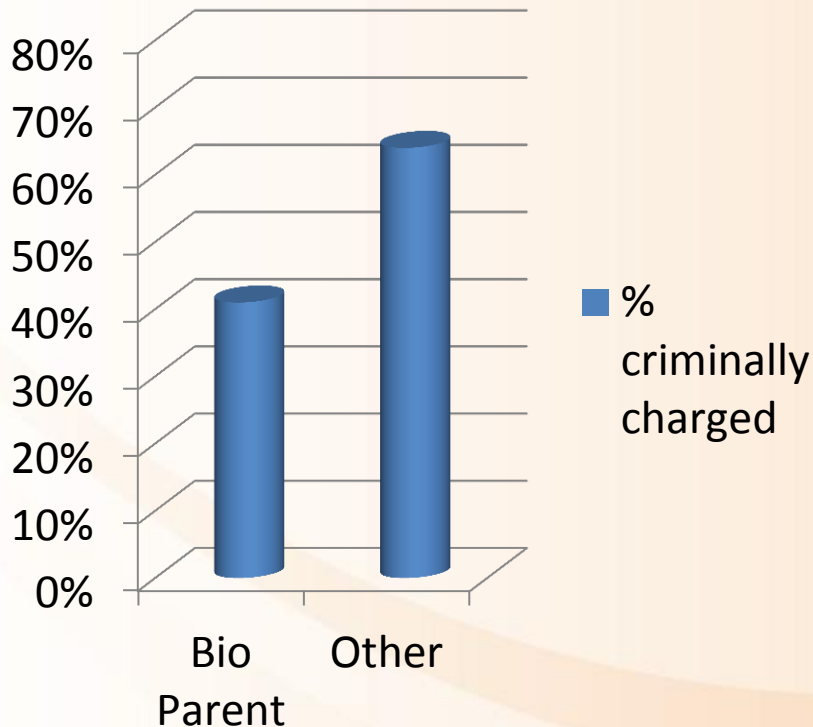


4 or 6 other studies have similar results

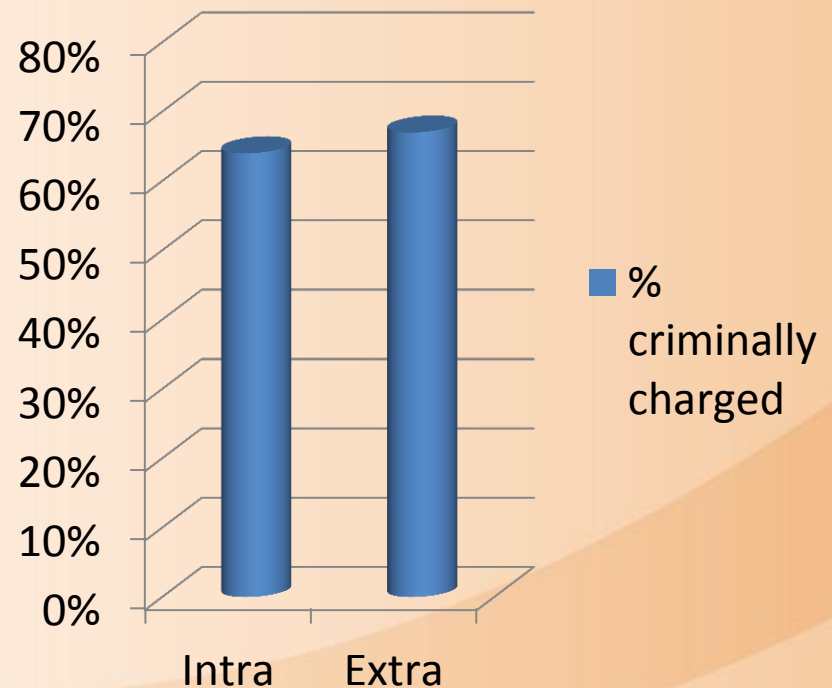


Most but not all studies found extrafamilial perpetrators are more likely to be charged

Cross et al., 1994



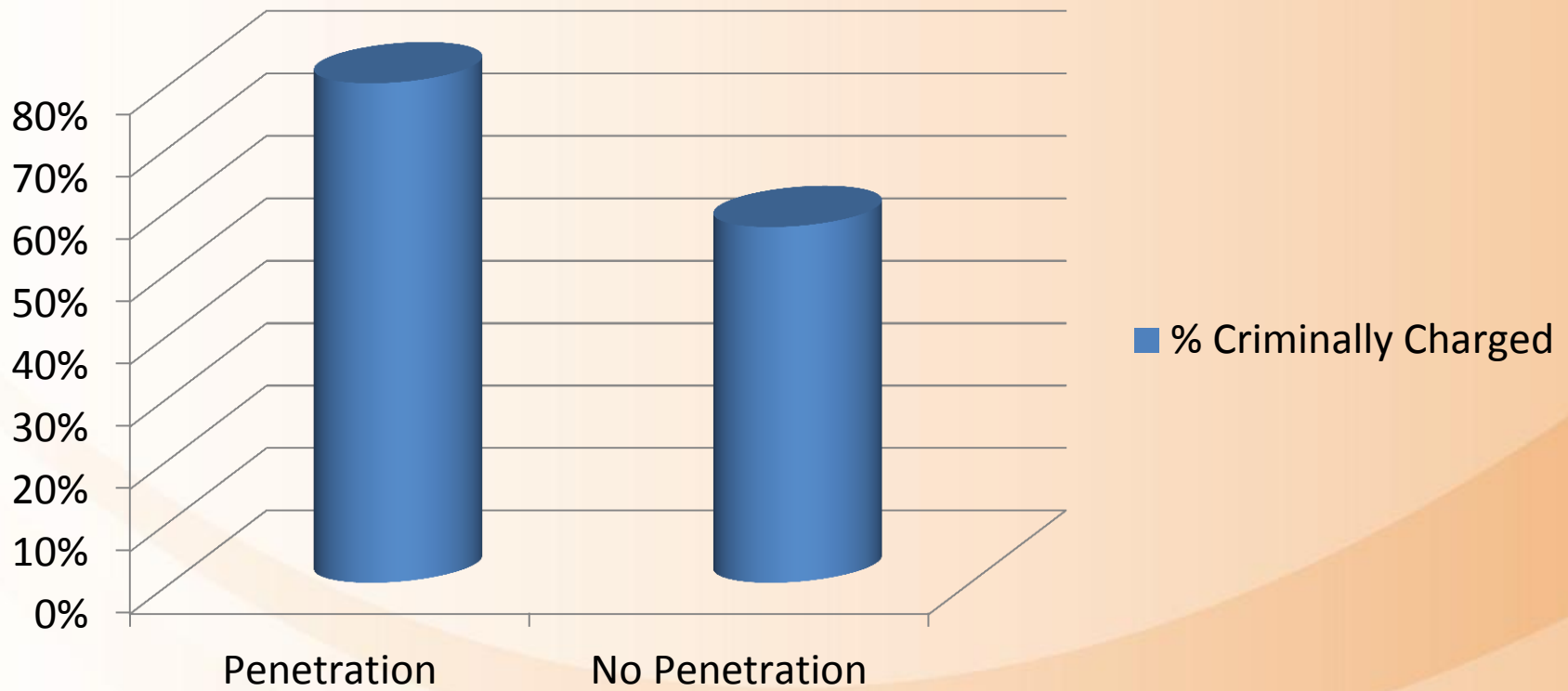
Walsh, et al., 2010



4 of 4 other studies found intrafamilial perpetrators less likely to be charged

Most studies have found that more severe abuse is more likely to be charged

Walsh et al., 2010

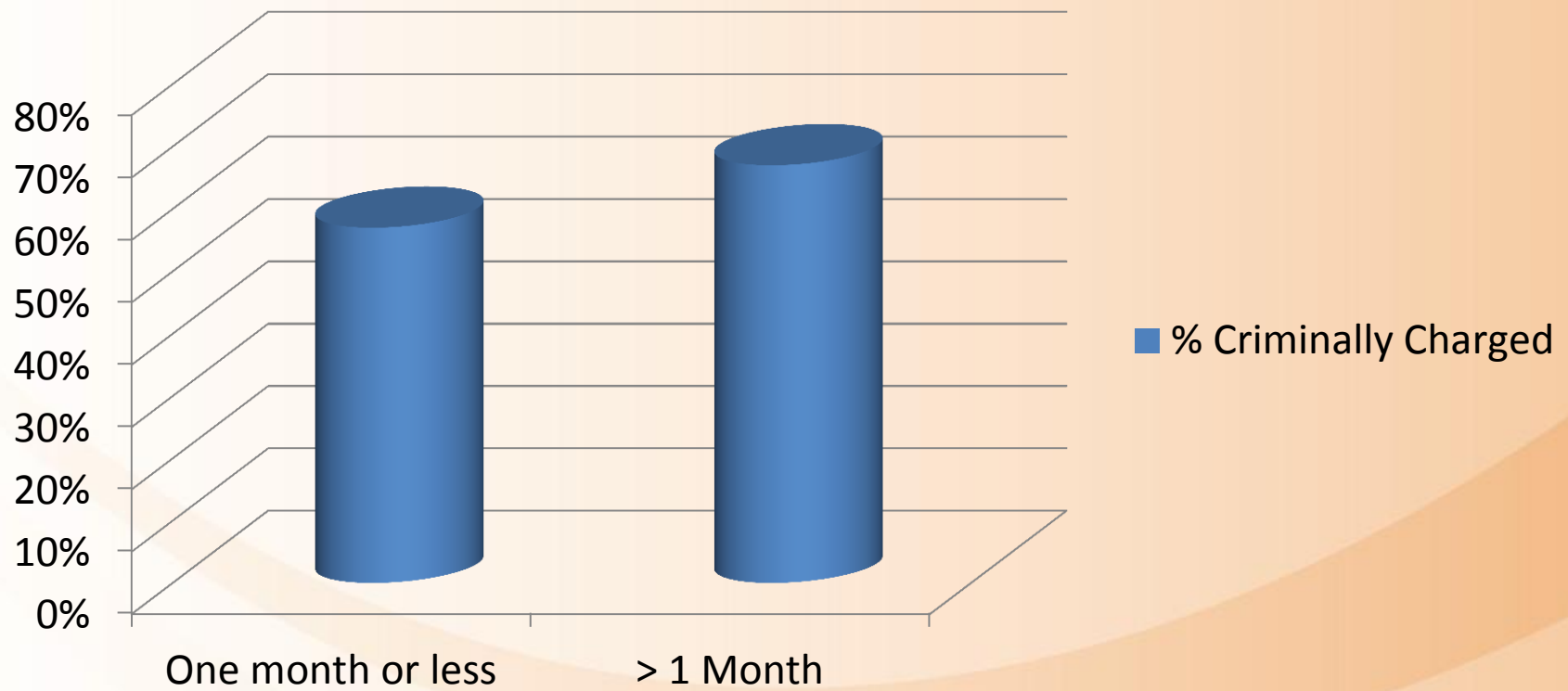


4 of 5 other studies found similar results



Filing charges is more likely with abuse of longer duration

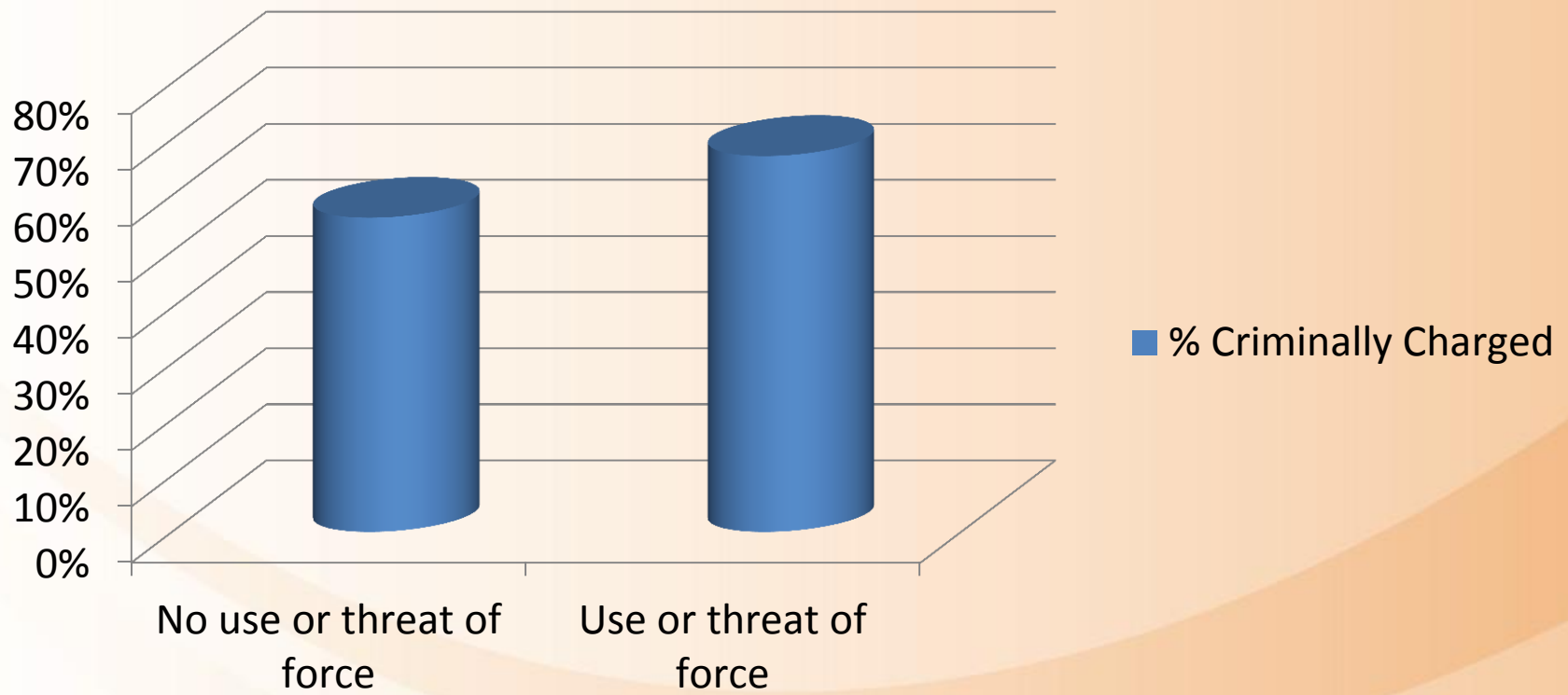
Cross et al., 1994





Filing charges is more likely when perpetrator uses or threatens force

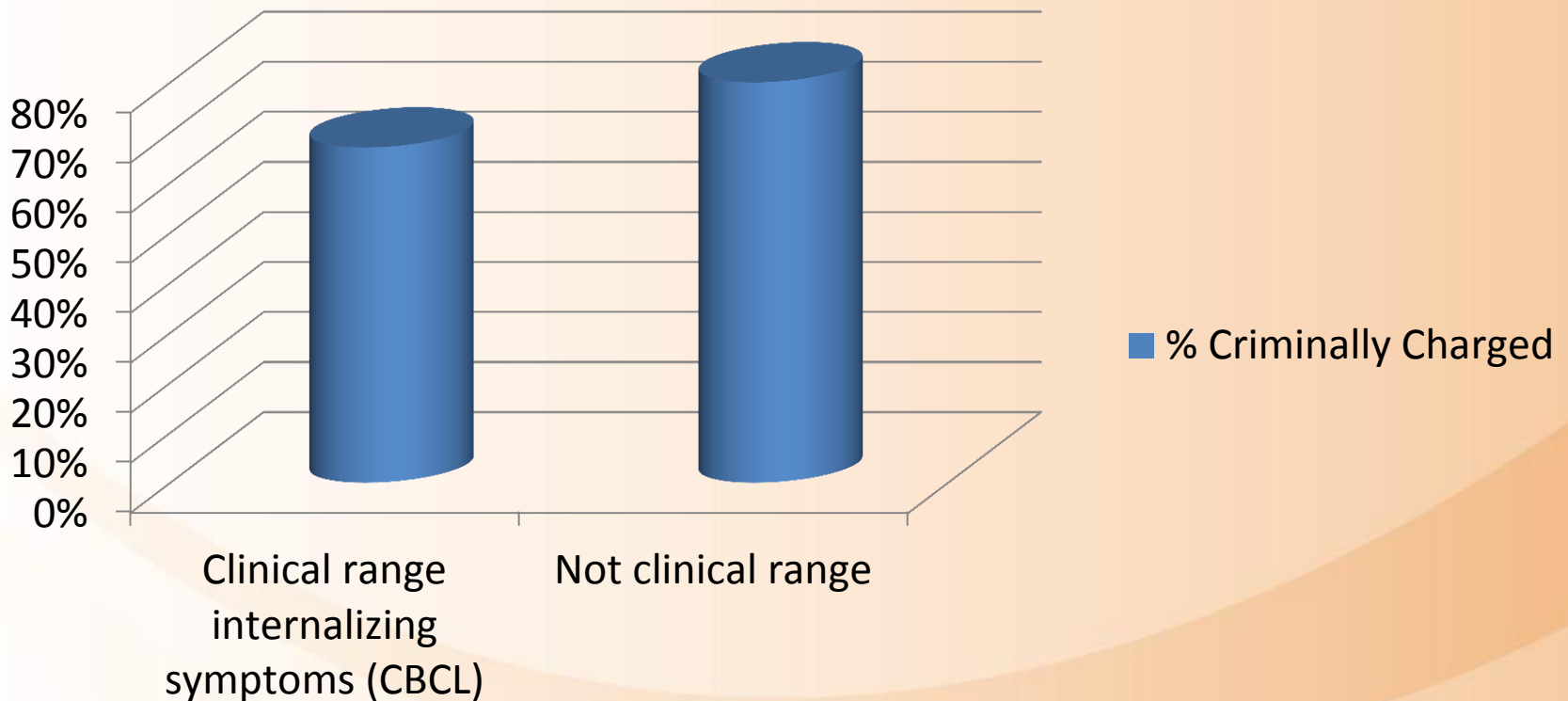
Cross et al., 1994





Child mental health to filing criminal charges in the one study that examined it

Cross et al., 1994

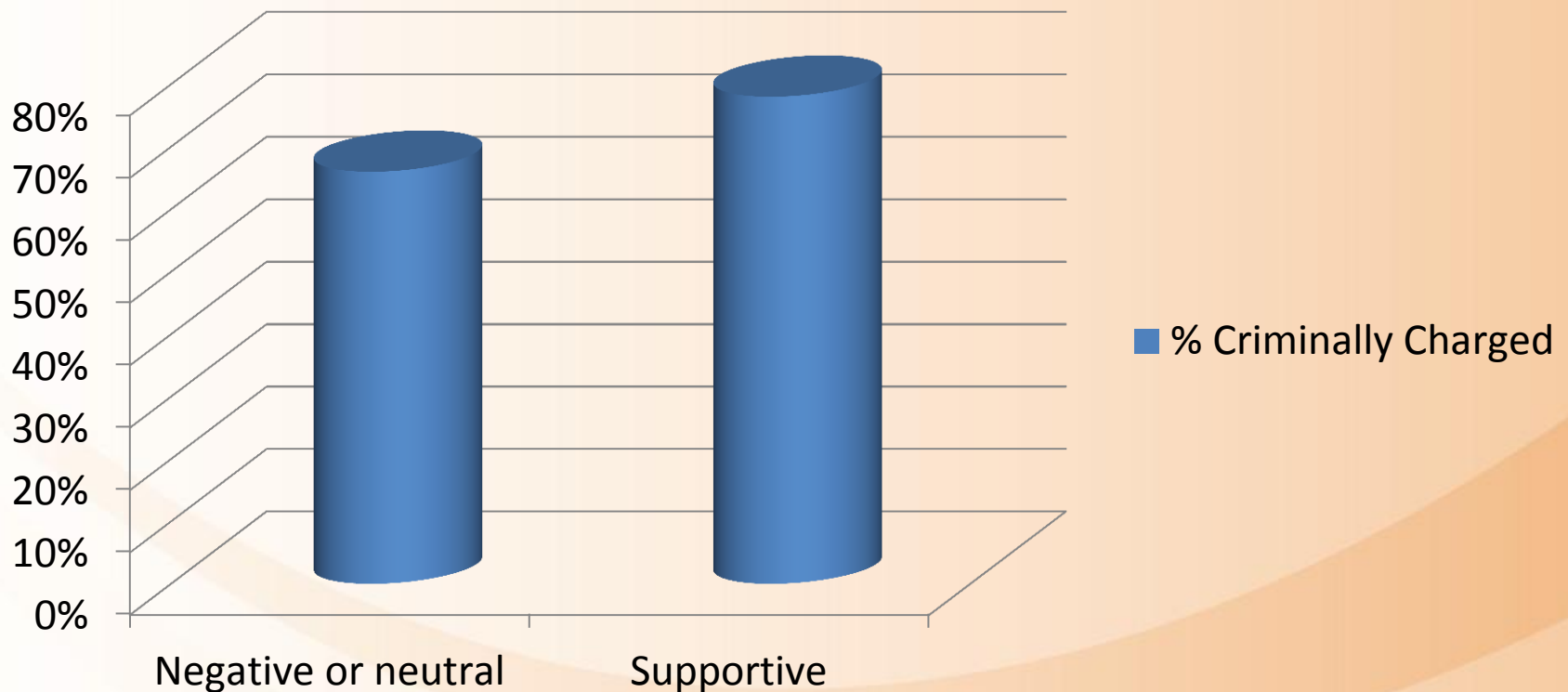


For a subsample of families who participated in interviews



Maternal support was also related to filing criminal charges in that study

Cross et al., 1994



For a subsample of families who participated in interviews

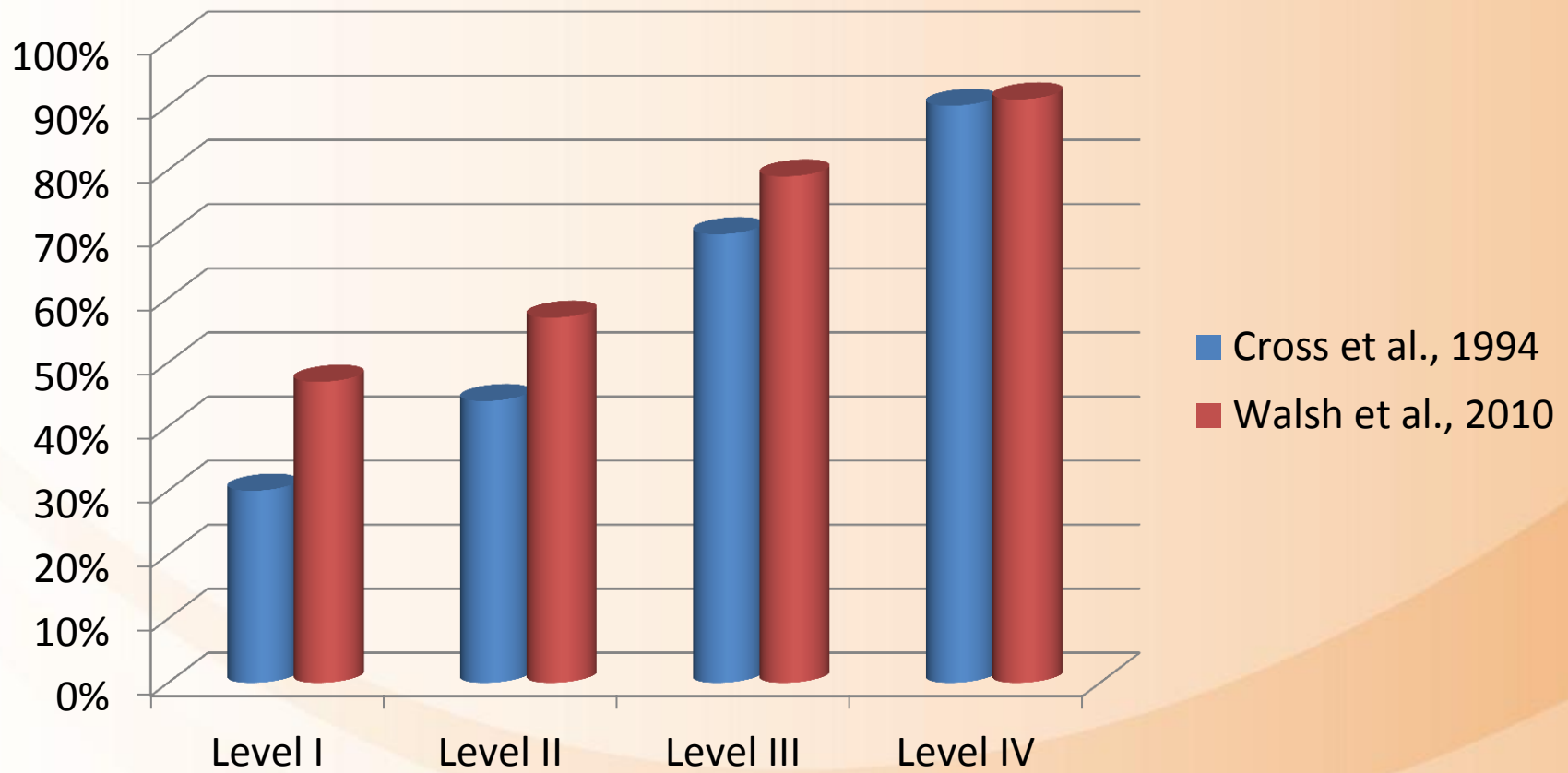


Method I developed for ranking level of evidence

Level	Types of Evidence
I	No evidence or victim report only
II	<ul style="list-style-type: none">• Psychological• Medical• Behavioral evidence• Additional child abuse report against offender• Corroborating witness
III	<ul style="list-style-type: none">• Physical evidence• Eyewitness
IV	<ul style="list-style-type: none">• Offender confession



Level of evidence and % charged





Corroborating witness a key factor in Walsh et al., 2010

- 46% of cases had a corroborating witness
- 85% of cases with a corroborating witness had criminal charges filed
- Corroborating witness variable was the biggest independent predictor of filing criminal charges in a logistic regression statistical model (relative risk ratio=1.71)



Do Children's Advocacy Teams and Multidisciplinary Teams impact prosecution?



Children's Advocacy Centers

- Coordinate investigation, criminal justice and service response to child abuse of multiple professionals (child protective service, police, medical etc.)
- Multiple professionals witness forensic interviews of child
- Provide child-friendly location, specialized interviewers, services to address children and families' needs)
- Multidisciplinary team coordinating actions is heart of CAC and actually pre-dates CACs historically



Do CACs and MDTs impact prosecution?

- Compared charging and conviction rates of CAC/MDT samples and comparison samples
- Because of the effect of sample source on outcome, separate analyses for:
 - Child protective services samples
 - Law enforcement samples
 - Combination samples
 - Prosecution samples

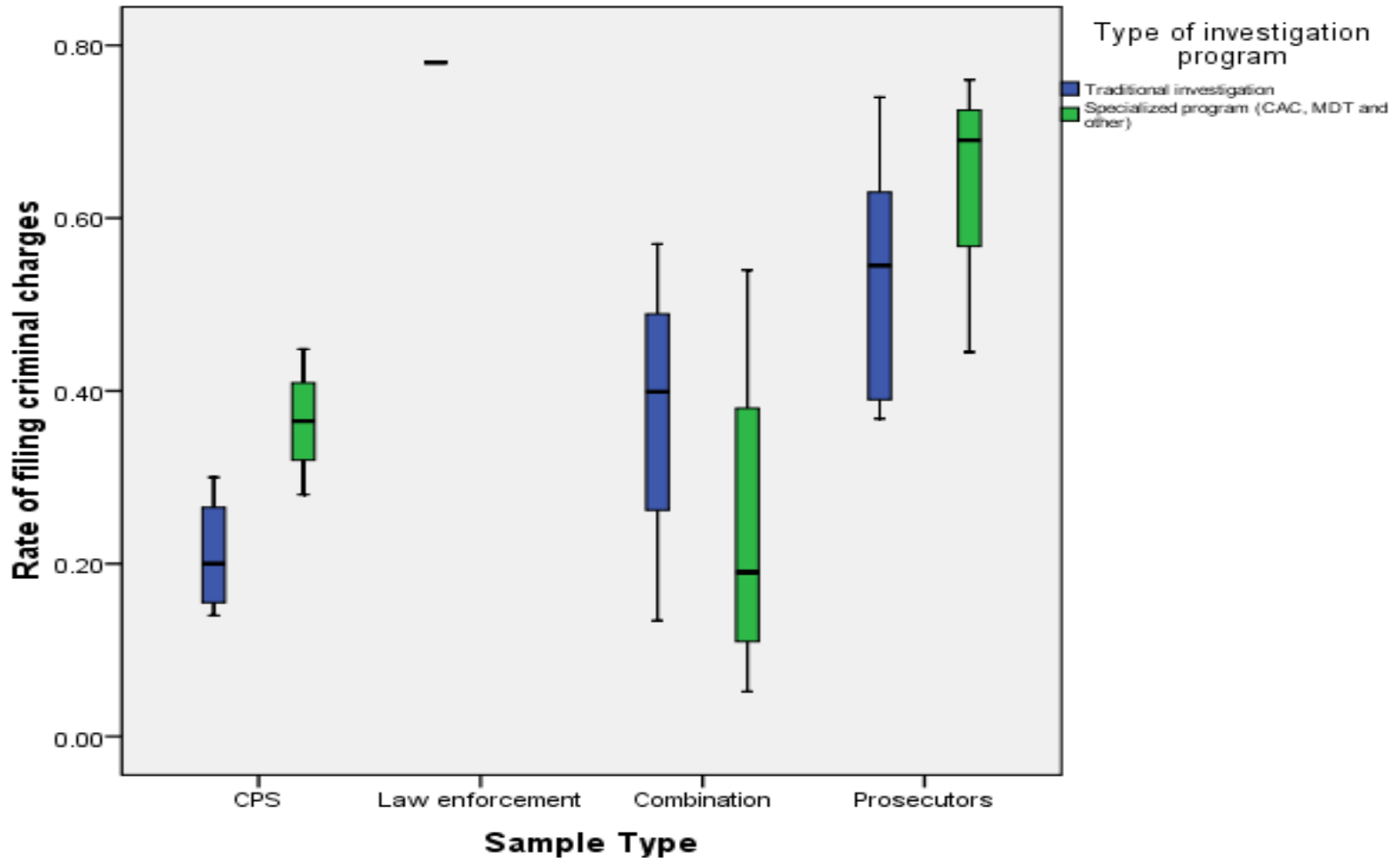


Results on charging and conviction rates

- Specialized programs MAY have higher charging rates depending on the program and type of sample
- No systematic difference on % of investigated cases that are convicted (fewer studies)
- Problems with the research: few studies, small samples, threats to validity
- Any impact depends on the specific specialized program – no “across the board” effect

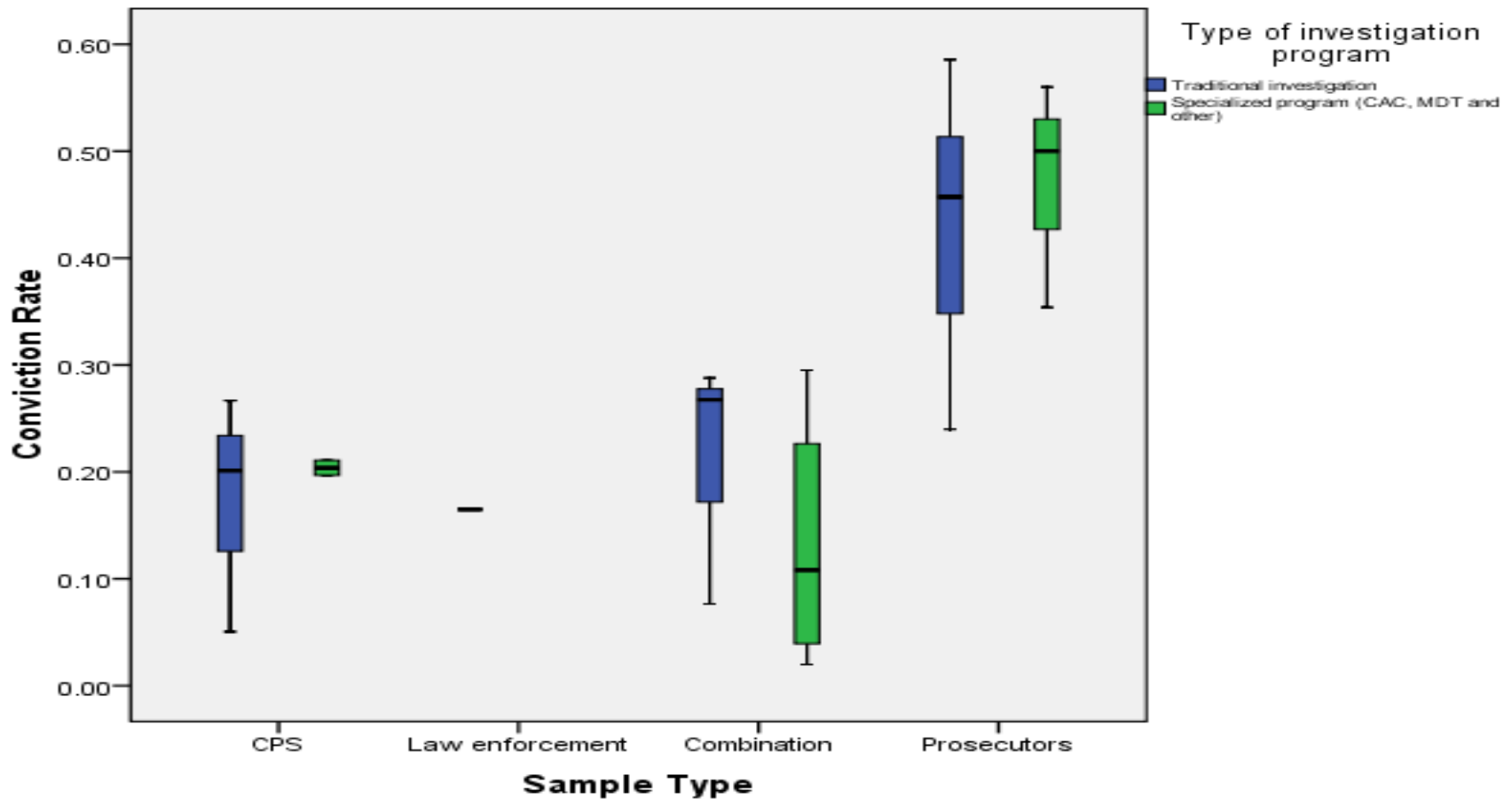


Comparison on charging rates





Comparison on % of investigated cases convicted





Reasons why specialized programs may not show prosecution advantages

- Specialized programs have multiple goals, vary in their investment in prosecution
- Impact of specialized programs on prosecution depends on the commitment and skills of prosecutor and police



Additional reasons why specialized programs may not show prosecution advantages

- Many agencies have elements of specialized programming, e.g., joint investigations, child forensic interviewing specialists
- Many experienced investigators may approximate specialized methods informally
- Effects may be modest given the wide range of factors influencing prosecution



Important strategy for prosecuting child abuse: Obtaining a true suspect confession

- As we have seen, other evidence can be difficult to obtain
- Relieves victims of burden of testifying
- Can facilitate treatment response
- Save the state time and money of a trial



Research needed on confession

- Only a handful of studies report confession rates in CSA cases
- Only one previous study has looked at factors that increase the likelihood of confession



Note on false confessions

- Some confessions can be false,
 - e.g., Central Park jogger case
- Research and advocacy suggest risk is higher than expected in felonies generally
- Little studied in relation to child abuse
 - But see, e.g. Wright, L. (1995) *Remembering Satan*
- Partial safeguard in the current study: 96% of confessions accompanied by child disclosure



Our analysis of confession

- Secondary analysis of data from the Multi-Site Evaluation of Children's Advocacy Centers
- Four communities included in this study
 - 1 Alabama CAC
 - 1 Texas CAC
 - 2 Texas comparison communities



Methods

- Population of cases referred to CAC (CAC community) or prosecutors offices (non-CAC communities)
- Limited to adult suspects known to have been investigated or interrogated
- Case record review; N=282
- Multiple child, abuse, suspect and investigation variables analyzed



Questions

- What is the confession rate for CSA cases referred to prosecutors?
- What variables predict confession?
- What can jurisdictions do to increase true confessions?



Overall Confession Rate

- 30% across four communities
- Ranged from 28% to 35% -- not much variation



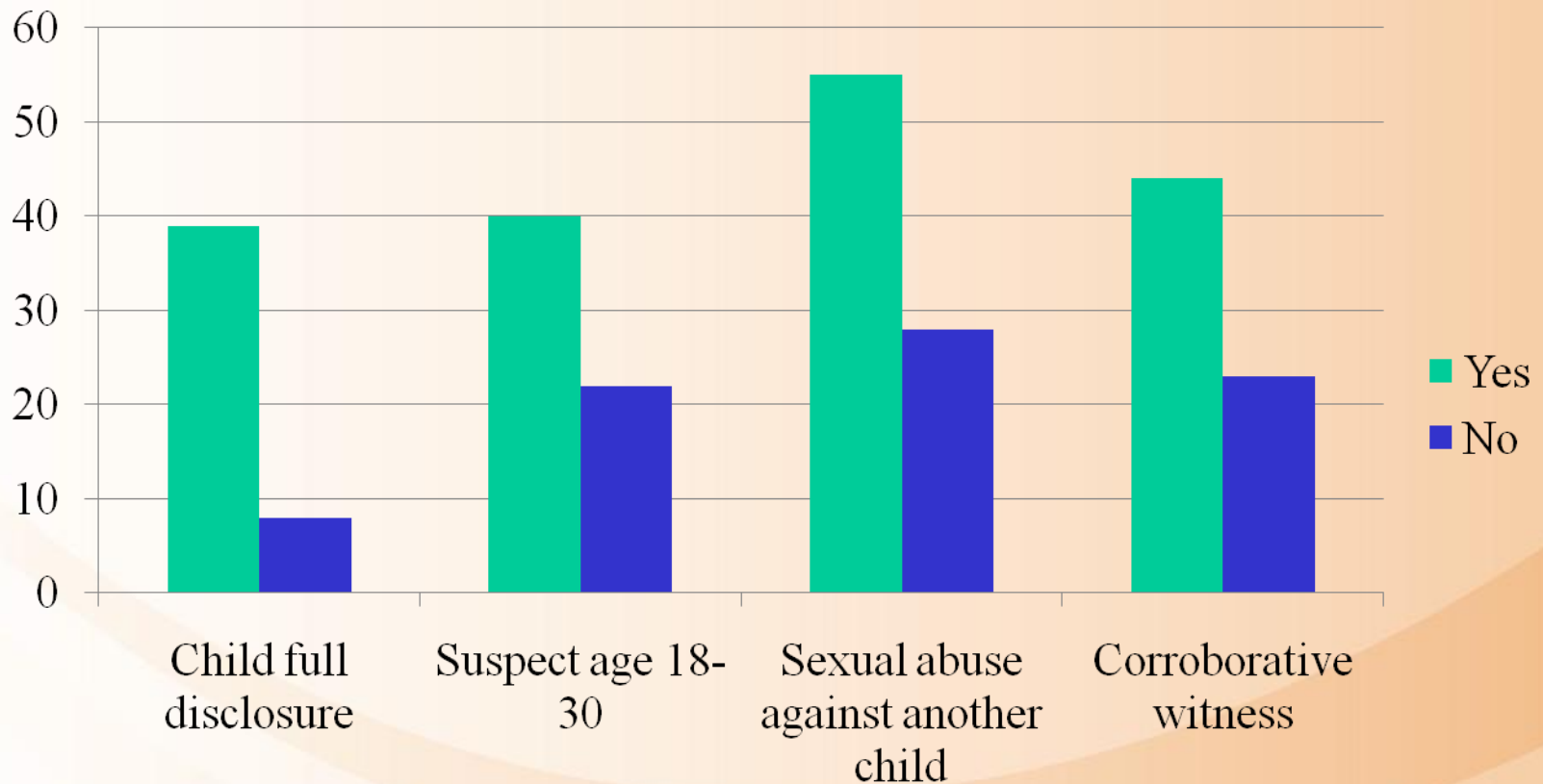
Significant Predictors of Confession

Multivariable Logistic Regression

Predictor	% of Cases	Odds Ratio	p
Full child disclosure	73%	3.54	.02
Suspect age	44% age 18-30	.96	.01
CSA against another child	8%	2.82	.06
Corroborative witness	33%	2.29	.01



Significant predictors in terms of confession rates





Implications of confession study

- Helping children disclose is even more important because of its link to suspect confession
- Seeking corroborative evidence is promising in terms of number of cases affected and impact on confession as well as filing charges
- Evidence from a report on a 2nd victim increased confessions but occurred rarely



Methods for obtaining corroborative evidence

- Enhanced crime scene evaluation, esp. photos
- Seek corroboration for every detail provided by child
- Seek to corroborate child's credibility as well as abuse
- Training in interviewing suspects and obtaining self-incriminating statements
- See National Child Protection Training Center at ncptc.org

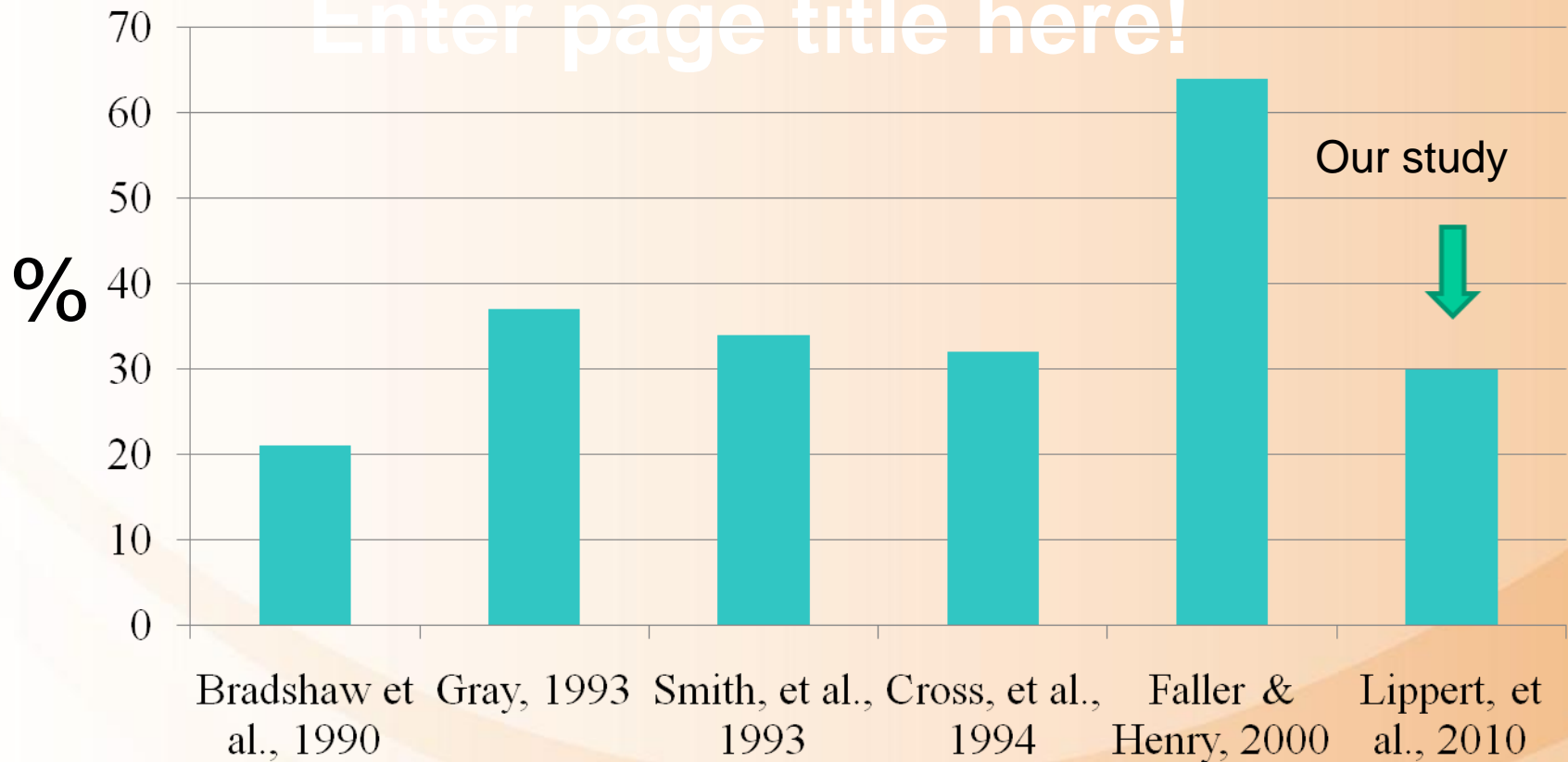


Comparing confession rates across studies offers additional insights



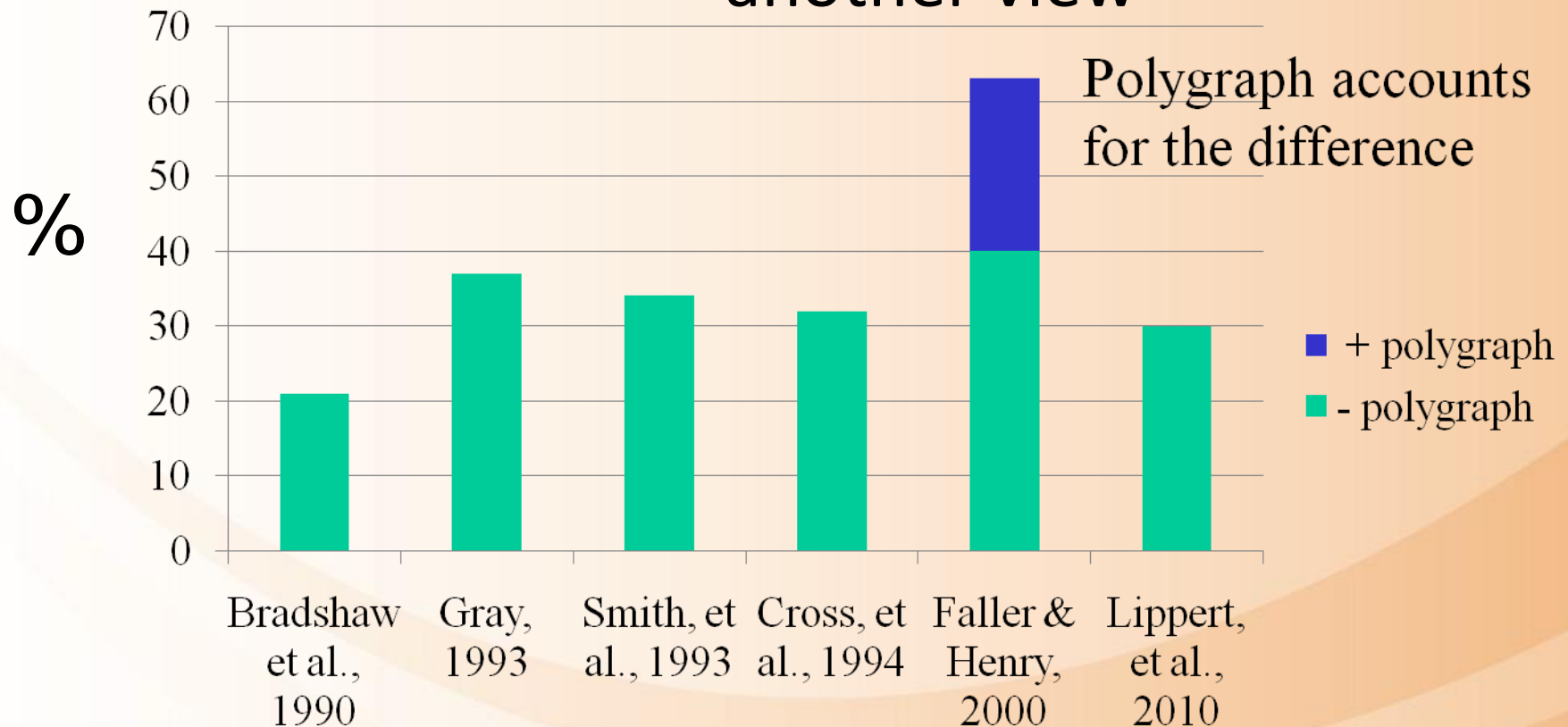
Confession rates across studies

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Confession rates across studies – another view





Protocol in community studied by Faller & Henry, 2000; Faller et al., 2001

- Child interviewed quickly
- Suspect interrogated quickly
- Suspects showed videotape of child interview
- Suspects still denying abuse were offered a polygraph test



More on role of polygraph in Faller & Henry, 2000

- Investigation was dropped for suspects who passed polygraph test
- But polygraph added to the confession rate: 22.6% confessed after taking a polygraph test (see Lippert et al., 2010)



Complicated role of polygraph

- Ample evidence that polygraph increases likelihood of confession (Cross & Saxe, 2001), particularly when used by skilled interrogator (see, e.g., Staller & Faller, 2010)
- However, Faller (1997) found no correlation between polygraph findings and other CSA evidence, and most scientists say polygraph testing lacks validity (National Research Council, 2003)
- Yet some jurisdictions drop investigations if suspects pass a polygraph test



Workshop conclusions

- Tremendous variation across jurisdictions in cases getting to prosecutors
- Cases tend to drop out in the front end of the process
- Prosecution is neither reckless nor feckless – case flow and outcomes of cases resemble those of other felonies once charges are filed
- Cases can take a very long time to reach disposition
- Testifying is stressful for children but that can be mitigated with parental support and management of the experience



Workshop conclusions (cont).

- **Not** testifying can be negative for children
- Communication with families a big issue
- Evidence suggests that CACs and MDTs do not automatically increase prosecution
- In my opinion, MDT is necessary but not sufficient condition for effective prosecution
- Enhanced corroborative evidence increases likelihood of criminal charges and suspect confession; may help avoid trial and child need to testify



Research needs

- Police involvement
 - Process of initiating law enforcement investigations
 - Development and impact of protocols and MOUs
- Investigation
 - How multidisciplinary teams support investigation
 - Studies of functioning of MDTs/CACs that have different CJ outcomes
- Evidence
 - Links to child interview
 - How evidence is collected
 - Effect of training on evidence collection
 - More detailed look at impact of evidence on prosecution



Research needs (cont.)

- Prosecution
 - Decision-making on filing and dismissing charges
 - Focused study of confessions, more data on false confessions
 - Descriptive study of use of polygraph testing
 - Specific decisions (e.g., continuances) that lead to delays
- Effects on children and families
 - Description and impact of communication and support to families over time, including impact of victim advocacy
 - Updated studies of psychological impact, tying it more closely to criminal justice events and outcomes
- Focused study on trial outcomes
- Descriptive study of sentencing



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