MEDICAL EVIDENCE IN CHILD SEXUAL ABUSE CASES

EVIDENCE IN CHILD SEX ABUSE CASES

- Courts have always regarded medical evidence as crucial
- In absence of medical evidence, wary of convicting
- Possibly lack of understanding of children resulted in need to have concrete evidence
- BUT medical evidence often not available or inconclusive
- Move towards accessing other types of evidence

MEDICAL EVIDENCE

MYTH	REALITY	REASON
• That if a child has been sexually assaulted, medical evidence will be able to conclusively corroborate the fact	• While a medical examination can sometimes confirm sexual abuse has happened, IT CAN NEVER EXCLUDE IT	• Unique medical issues present in child sexual abuse cases • Dynamics of child sexual abuse

MEDICAL EXAMINATION

CASE STUDY 1

- 12 year old girl brought for medical exam
  - Withdrawn
  - Uncommunicative
  - Weight gain
- Given genital exam and pregnancy test
- Genital exam normal (hymen intact) BUT pregnant
- Child discloses she was raped about 25 times over a 5 week period by an adult family member

MEDICAL EXAMINATION

CASE STUDY 2

- 9 month old female infant brought in for medical exam
- Mother suspicious of an adult family member
- Offender confesses to penile penetration
- EXAM FINDINGS NORMAL

How can these findings be normal?

CLASSIFICATIONS AND FINDINGS

Four possible classifications of medical findings resulting from a sexual abuse examination

CATEGORY 1

- Normal or normal variant
- No medical evidence whatsoever of penetrative or traumatic sexual assault
- Includes conditions mistaken for abuse

CATEGORY 2

- Non-specific findings
- Findings may be caused by sexual abuse or by other non-abusive medical conditions
- Redness of genital area, vaginal discharge

CLASSIFICATIONS AND FINDINGS

CATEGORY 3

- Raises concern for abuse or trauma
- Findings should prompt examiner to question child carefully about possible abuse
- Insufficient data to indicate abuse as the only possible cause of the condition
- Acute abrasions, lacerations, bruising of genital area

CATEGORY 4

- Clear evidence of blunt force or penetrating trauma
- Findings can have no other explanation
- Acute laceration of the hymen
- Perianal laceration extending deep into external anal sphincter

CLASSIFICATIONS AND FINDINGS

4 classes of overall assessment of likelihood of sexual abuse

CLASS 1

- No indication of abuse
- Includes: normal exam; no history of abuse; no witnesses to any abuse; no behavioural changes

CLASS 2

- Possible abuse
- May include: tentative/accidental disclosure; inconsistent statement; category 1 or 2 findings with behavioural changes but no information from victim

CLASSIFICATIONS AND FINDINGS

CLASS 3

- Probable abuse
- May include: clear, consistent detailed history of abuse; with or without abnormal physical findings; or positive cultures for Herpes or Chlamydia (perinatal transmission ruled out)

CLASS 4

- Definitive sexual abuse or contact
- May include: finding sperm or seminal fluid; witnessed abuse (pornography); pregnancy; HIV infection (other sources of infection ruled out)

RESEARCH AND MEDICAL FINDINGS

Findings consistently show:

- Clear and definitive medical findings present in a minority of child sexual abuse cases
- Child's statement/history plays a vital role in determining whether or not abuse has occurred
- Must also be aware of the trauma of the medical examination and its impact on the child's report

RESEARCH ON NORMAL FINDINGS

It's normal to be normal

Review of 236 children's case files and colposcope photographs

Confirmed sexual abuse cases (offender convicted)

Average age 9 years (8 months-17 years)

63% reported penile-genital penetration

- Normal findings in 28%
- Non-specific findings in 49%
- Suspicious findings in 9%
- Abnormal findings in 14%

Study gave rise two issues:

- The importance of proper interviewing techniques for medical personnel
- Physical exam should not be relied on to provide proof of abuse

RESEARCH ON MEDICAL FINDINGS

- Forensic Evidence in Prepubertal Victims
  - Medical records of 273 children reviewed
  - All children under the age of 10
  - All children examined within 44 hours of assault
  - Only 24% had any form of positive forensic findings
  - 90% seen within 24 hours of assault
  - 23% had genital injuries
    - 88% were examined within 24 hours
  - Rapid healing of superficial mucosal injury
  - Study argued early examination of victims more likely to yield identifiable physical evidence

RESEARCH ON MEDICAL FINDINGS

2384 children referred for medical exam of possible sexual abuse

Low rate of findings:

- Only 4% of the children had abnormal examinations
- Only 5.5% of children with chronic history of vaginal and anal penetration showed abnormal medical results

RESEARCH ON MEDICAL FINDINGS

Normal Does Not Mean Nothing Happened

- Retrospective study of 36 pregnant teenagers who presented for sexual abuse examinations
- Only 2 girls had definitive findings of penetration
- One girl was pregnant with her second child
- 64% showed normal or non-specific findings
- 22% were inconclusive
- 8% had suggestive findings
- Average time between most recent sexual contact and examination
  - 2,9 months for inconclusive results
  - 1,75 months for suggestive group
  - 1 month for definitive group
- Concluded: Penetration does not result in visible tissue damage and acute injuries heal quickly

“Physical injury is only one component of the trauma sustained and sexual abuse can never be ruled out on the basis of normal findings on physical examination”

WHY NO MEDICAL EVIDENCE?

- Some reasons include:
  - Delay in reporting
  - Abuse consistent with no medical findings
  - Lack of training
  - Elasticity
  - Healing
  - Oestrogen

DELAY IN REPORTING

- Delay in disclosure
- Injuries heal quickly
- Evidence of injury may be minimal or absent where delay of days or weeks

NO MEDICAL FINDINGS

Type of abuse itself may be consistent with no medical findings

Non-contact abuse

- Exhibitionism
- Voyeurism
- Viewing or creating pornography
- Fondling
- Oral sex

Vaginal redness will resolve in a very short time

Washing, urinating, brushing teeth will eradicate a lot of evidence

LACK OF TRAINING

- Lack of training results in age and developmentally inappropriate forensic interviews
- Child asked questions cannot answer accurately
- Can’t describe something they don’t understand
- Child’s language development is limited
- ‘In’ may not mean penetration
- Vulvar coitus (genital-to-genital contact) does not necessarily result in physical trauma

ELASTICITY AND OESTROGEN

- Child sexual abuse perpetrators do not always deliberately intend to injure their victims:
- Want further access to child
- Use lubricants
- If medical exam takes place 48 hours or more after the assault, minor injuries will have healed

ELASTICITY AND OESTROGEN

When a girl is born, her vagina will be elastic due to the presence of her mother's oestrogen

Lasts up until about the age of 2 years

Gradually, this oestrogen disappears and the hymen becomes less elastic

Prior to puberty, the hymen does not have much stretch, so may be damaged if a large object is forced into vagina

During puberty, child's own oestrogen causes the hymen to become thicker and more elastic

Easily accommodate an object such as a tampon or penis and simply stretch out and back

NEED TO FIND OTHER AVENUES OF EVIDENCE IN CHILD SEXUAL ABUSE CASES

DIFFICULTIES WITH CHILD SEXUAL ABUSE CASES

- Crime committed in private
- No witnesses
- Child usually only witness

POSSIBLE EVIDENCE

Child	Crime scene	Other witnesses
Forensic evidence	Dynamics of abuse	Scientific evaluation of evidence

CHILD

Research that children, including very young children, capable of testifying accurately

Difficulty is that interviewing requires specialisation

All role-players have to be trained and have knowledge of child development

Children have capacity to provide accurate information

Need a paradigm shift to view children as capable witnesses

CHILD

Evidence of child experiencing trauma

Sexualised behaviour in young children

CRIME SCENE

Crime scenes generally overlooked when investigating child sexual abuse

Particularly in cases of intra-familial abuse or where the child has been abused over a period by somebody known

Crime scene can still provide really useful info that can be used to corroborate what the child has said

Crime scene has very valuable evidence to offer, especially in child sexual abuse cases

But not necessarily traditional forensic evidence that investigators have been taught to look for

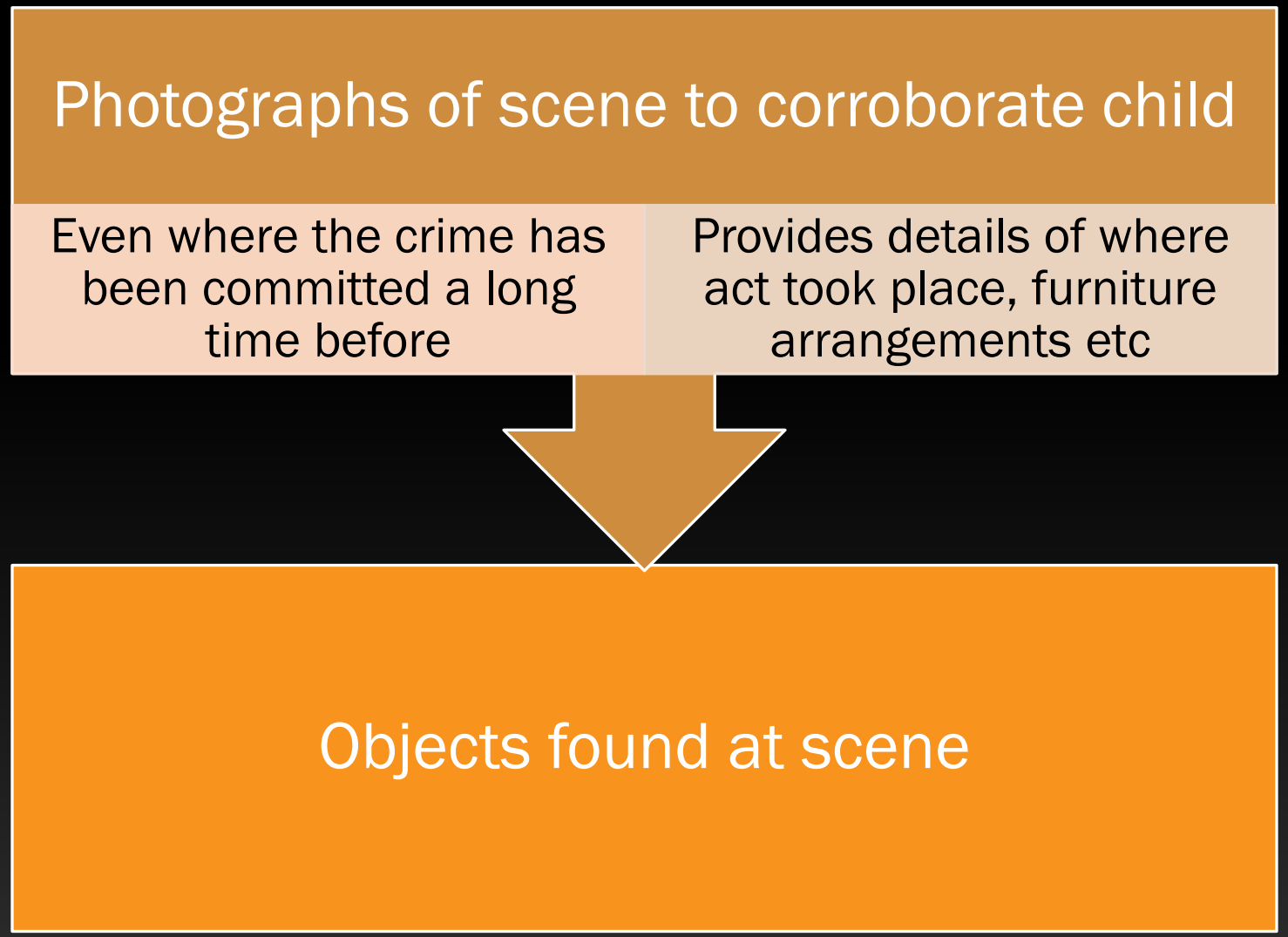
CRIME SCENE INVESTIGATION

- Must look for evidence that crime has been committed
- Children often viewed with suspicion by courts
- Necessary to find evidence that supports what child is saying
- Credibility of child enhanced in this way
- E.g. If child tells you that uncle has a box under his bed with books in it. If the police find a box under the uncle's bed with books in, this supports what the child is saying and makes it clear that child was in that room even though it does not necessarily prove that the crime was committed

CRIME SCENE EVIDENCE

- Must look for evidence that:
  - confirms crime was committed
  - shows perpetrator's method of operation
  - corroborates what child has said

CRIME SCENE EVIDENCE



OTHER WITNESSES

Witnesses who can testify about:

- Seeing the abuse
- The relationship between the child and the accused
- Trauma exhibited by child

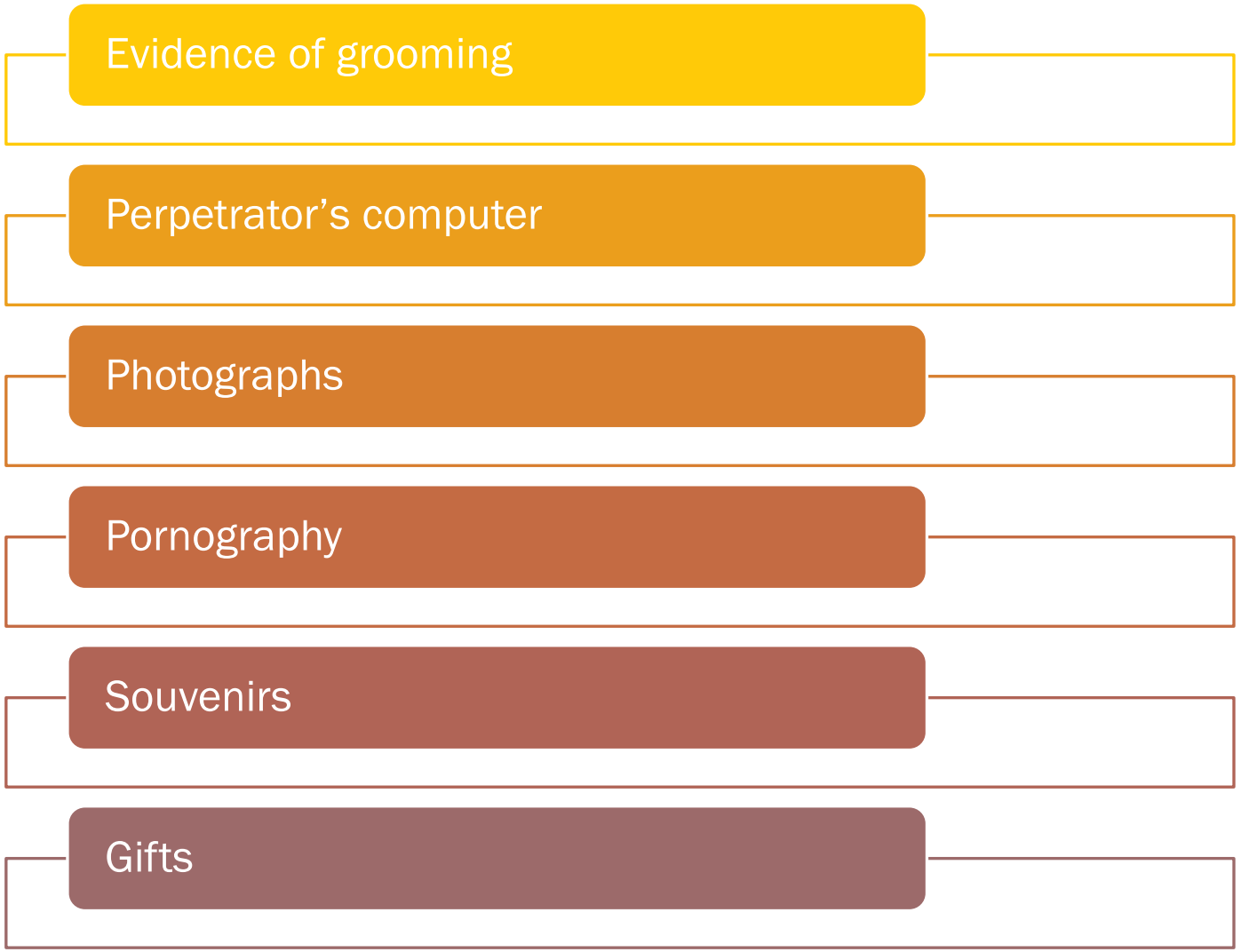
Expert witnesses who:

- Have evaluated child
- Can explain child's behaviour
- Can highlight trauma symptoms

FORENSIC EVIDENCE

- Medical examination
- Blood samples (alcohol, drugs)
- Hair
- Fibres

DYNAMICS OF ABUSE



SCIENTIFIC EVALUATION

Judicial officers having access to more scientific methods of evaluating evidence

Statement Validity Analysis

More accurate methods of determining truthfulness of children’s evidence

Since medical evidence often inconclusive, important to focus on other types of evidence that can assist in evaluating a child's testimony