



presents

# **Sex Crimes, Part 1: Child Pornography**

LETN-164-0102

Copyright 2009  
Law Enforcement Training Network  
a division of Critical Information Network, LLC



All rights reserved.  
Permission to duplicate granted to LETN subscribers only.

Release date: 4/04

Dr. Tory J. Caeti, Ph.D.

## **I. SYNOPSIS**

The problem of child pornography is increasing due to the proliferation of such material electronically and the perceived anonymity of the Internet. Law enforcement officials increasingly find themselves becoming “Internet police” in their efforts to control the spread of child pornography. The extent of child pornography and the true number of offenders who collect and distribute such materials is unknown; however, recent investigations have revealed that organizations of pedophiles routinely exchange these images electronically for sexual gratification and the exploitation of children. Indeed, these investigations are only the tip of the iceberg—one recent arrest of a pedophile in Utah revealed that he had more than 150,000 pornographic images of children on the hard drive of his computer. The images were categorized by age, gender, hair color, body type, and sexual act in a folder system that U.S. Customs Service officials estimated had taken weeks to develop. This show overviews the nature of the problem of child pornography, the extent of the problem, the effects of child pornography, and law enforcement efforts to combat child pornography.

## **II. OBJECTIVES**

Upon successful completion of this topic the trainee will be able to do the following:

1. Describe the nature and extent of the problem of child pornography.
2. Review and outline the negative effects and the problems child pornography creates.
3. Explain current law enforcement efforts targeting the distribution and exchange of child pornography over the Internet.
4. Introduce and discuss current problems and issues associated with detecting, investigating, and prosecuting child pornography cases.

### III. INTRODUCTION

Child pornography can be defined simply as depictions of children in a sexual act or in a sexual way. Most policymakers and researchers conclude that this applies to anyone younger than 18 years of age. Child pornography contains the same types of sexual activities as those depicted in adult pornography, except the media contain images or descriptions involving children, children and adults, or children and animals or objects (Osanka and Johann 1989). Two schools of thought exist concerning how narrowly or broadly this definition should be interpreted. A narrow definition of child pornography would limit the concept to mean only those images depicting sexual acts between real children and other children, adults, or some other sexual depiction. Broader definitions would include depictions of children that are sexually suggestive, drawings of children engaged in sexual acts, sexually graphic writings involving children, cartoons suggesting sex with children, and so on. Although certain forms of art and writing fall into a gray area that is subject to debate, clear visual depictions of children engaging in sexual conduct are child pornography and unilaterally prohibited. One study by the U.S. Department of Justice found a history of child pornography in three mainstream pornographic magazines: Playboy, Penthouse, and Hustler (Reisman 1994). The study found between 6,000 and 9,000 (depending on definitional criteria) child images in the three magazines, most involving sex or violence (Reisman 1994). Of these depictions, 29 percent involved nudity or genital display, 20 percent involved genital activity, 16 percent included sexual contact with an adult, 10 percent involved the use of force, and another 10 percent involved killing or maiming (Reisman 1994). Those in favor of a broader definition cite the link between pornography and subsequent violent or deviant acts. Those favoring a narrow definition cite the First Amendment's protection of free speech. Regardless of the definition, child pornography is a serious issue with long-term implications for the offender and child victims, and it has recently come to the forefront because of the Internet.

### IV. KEY POINTS

- The nature and extent of child pornography possession, manufacturing, distribution, and sale is becoming more prominent because of the ease and perceived anonymity provided by the Internet.

- Officials have successfully investigated and prosecuted several high profile cases, which led to the seizure of hundreds of thousands of child pornographic images and videos.
- The negative effects of child pornography are readily apparent and often lead to molestation, additional exploitation, and other victimizing of children.
- Although the link between child pornography and pedophilia is not causal, most pedophiles use child pornography prior to becoming pedophiles.
- Child pornography is use by pedophiles to desensitize their victims to sexual acts and to reinforce their own sexual paraphilia.
- Law enforcement efforts in this area are problematic and characterized by legal definitional issues, overlapping jurisdictions and efforts, and entrapment problems.

## V. OUTLINE

### Extent and Problems

No accurate statistical source currently exists that reports the extent of or numbers of arrests involving child pornography. Several sources and experts have, in the past, attempted to estimate the extent of and profit gleaned from child pornography, however, most of these estimates were made prior to the wide availability of the Internet. One recent estimate noted that at any given time there are, on average, around one million sexually explicit pictures of children on the Internet. In just one week in December 1995, 5,651 messages about child pornography were posted on just four electronic bulletin boards. Included in these messages were more than 800 graphic pictures of adults or teenagers engaged in sexual activity with children between the ages of eight and 10 years. (Henley 1996). Clearly, a child pornography “industry” is still working internationally that produces materials for sale and consumption. Various sources estimate that child pornography comprises anywhere from five to 10 percent of the pornography trade and results in millions of dollars in profits (Osanka and Johann 1989). Other sources conclude that the extent and profit estimates of the child porn industry are grossly exaggerated (Schuijjer and Rossen 1992). It is important to recognize that many

of these estimates and other writings concerning child pornography were made prior to the wide accessibility of the Internet. A search on the Internet reveals numerous Websites insinuating child pornography, a substantial number of newsgroups concerning child pornography, and a wide variety of writings and other material concerning access to child pornography. The most common forms, if a broad definition were used, are altered pictures and stories relating to sexual contact with children—both of which were extremely easy to find and document. More thorough investigation and monitoring reveals that child pornography is commonly posted to several newsgroups and can be accessed at some personal Websites internationally (Sevel 1999).

Child pornography exists for reasons similar to other forms of pornography; a demand exists for such materials. In contrast to other forms of pornography, little discussion occurs of child pornography's being a victimless crime or a protected form of free speech. It is fair to assume that very few people would advocate the ready availability and use of child pornography. Child pornography is clearly an abhorrent and unconscionable act for the vast majority of people. To the pedophile, however, the collection and use of child pornography is a source of pride, fantasy, and sexual gratification. Pedophiles use child pornography to feed and create sexual fantasies, lower the inhibitions of the children they are planning to molest, and to blackmail the children into remaining silent (Lanning and Burgess 1989). Pedophiles also use child pornography as a tool for profit and to barter with other pedophiles in order to add to their collection or access children to victimize (Lanning and Burgess 1989). The supply side of the child pornography trade consists largely of pedophiles willing to molest children as well as possess child pornography. As Campagna and Poffenberger (1988) note, the single most distinctive characteristic of habitual child molesters is a compelling interest in collecting child pornography. Habitual child molesters categorize their collections in a sophisticated and elaborate way and typically possess a variety of child pornography in several mediums, including computer files, videotapes, magazines, amateur pictures, books and novels, drawings and art, and several other types (Campagna and Poffenberger 1988; Lanning and Burgess 1989). Pedophiles also typically keep an annotated journal or diary to record molestations and other details of their crimes. Once apprehended, the pornography and diary become invaluable evidence for prosecution. To child molesters, their child pornography collection is equated with valuable family heirlooms and investments as the collections can be traded between pedophiles and used as payment for child prostitution (Campagna and Poffenberger 1988; Lanning and Burgess 1989). This underground system was maintained in the past through group asso-

ciations, the mail, and by telephone; today, the Internet serves as the primary mechanism.

Several national and international organizations exist that are dedicated to pedophiles and child sexual exploitation. The links between members in these organizations serve as a communication network for the exchange of child pornography. The North American Man-Boy Love Association (NAMBLA) advocates sexual and emotional relationships between adult males and underage boys. The North American Man-Boy Love Association has chapters in many large U.S. cities and publishes a variety of print media for its members (estimated anywhere between 500 and 1,000 in 1988—Campagna and Poffenberger 1988). This organization also has a Website and annual meetings. Undoubtedly, the membership—or at least those willing to access the Website—has increased with the expansion of the Internet. Another such organization is the Lewis Carroll Collector’s Guild, which publishes the newsletter *Wonderland* four times per year. *Wonderland* is a collection of articles and advertisements that promote interest in photographs and artwork pertaining to nude children on the premise that no exploitation is involved (Campagna and Poffenberger 1988). Several other organizations can be found on the Internet and have been documented by law enforcement officials. The common theme of these organizations is the promotion of sex and children. They are also undoubtedly useful for pedophiles to establish connections with others interested in their practices.

The U.S. Customs Service initiated an investigation of the *Wonderland* group and eventually executed search warrants in 31 cities in the United States. Cooperating with International law enforcement agencies led to searches and warrants in 13 different countries. At the time, customs officials noted that it was the most extensive ring of child pornographers ever uncovered, involving as many as 200 suspects around the world, with 34 of them in the United States. All suspects were members of a perverse network trading images depicting everything from sexual abuse to the actual rape of children. One of the requirements for membership was a stockpile of several thousand images of graphic child pornography. Customs agents tracked these suspects through cyberspace, sifting through a maze of Internet providers, servers, files and screen names. The case resulted in numerous arrests and numerous seizures of computers and other digital evidence. Such cases challenge the patience and capabilities of law enforcement due to the extensive distances between the conspirators and the difficulties associated with sifting through and processing digital evidence.

In testimony before Congress, Deputy Assistant Attorney General Kevin V. Di Gregory stated that “the trafficking in child pornography by computer users has, in some ways, challenged the progress of nearly eight years of aggressive child pornography investigation and prosecution. Whereas by the early 1990s the government had largely eradicated the cottage trade within the United States for this material and distribution was typically limited to trading or sharing between individual pedophiles who actually knew each other, today computer technology has reinvigorated both the commercial and non-commercial distribution of obscene child pornography. This reinvigoration means that child pornography produced in the 60s, 70s, and early 80s is now being re-released and distributed to an audience, the size of which pedophiles could not have envisioned ten or twenty years ago. Additionally, the ability to mass market child pornography with little or no overhead to huge populations has created an environment where pressures for new material exist. This demand, unfortunately, is being met by new material from sources which include the Pacific Rim, Mexico, and South America. Our investigation has also resulted in the discovery that substantial amounts of written obscenity containing graphic descriptions of torture, bondage, and rape of children are being posted and distributed on the Internet and on private on-line systems. As the World Wide Web, which is a major graphics component of the Internet, continues to grow, we expect that obscene visual images consisting of fantasy drawings or computer-generated images featuring similar themes of child sexual and physical abuse will also be created and made available for distribution. Obscene material, both written and visual, which can be used to seduce, lure, or train children to perform certain acts, must be highlighted and punished differently.

“The fact that there really is no way to gauge how extensive the exchange of child pornography is on the Internet underlies perhaps the most serious problem—that law enforcement is only hitting the tip of the iceberg in terms of the actual extent of this problem. As high profile prosecutions began to occur in the late 1990s, the message to pedophiles and purveyors of child pornography was that anonymity was not assured on the Internet. As a result, efforts to conceal their presence, secure their connections, and encrypt their files became more prevalent in recent years. Therefore, the job of law enforcement in this area has become increasingly difficult.”

**The Effects of Child Pornography**

Several experts have researched and debated the theoretical link between child pornography and child molestation (Malamuth and Donnerstein 1984; Marshall 1989; Osanka and Johann 1989; U.S. Department of Justice Office of the Attorney General 1986; Cline 1994; Lyons et al. 1994). The evidence is mixed and any causal statements that child pornography causes child molestation are not supported by the current research. Some revealing statistics do exist, however. One survey found that of 42,000 sex offenders, 42 percent reported the use of pornography either immediately prior to or during the commission of the act (Showers 1994). Although much of the research in this area is limited and of questionable methodology, the “best” research finds harmful effects of pornography exposure (Showers 1994). One field study found that between 77 percent and 87 percent of convicted child molesters used pornography to stimulate themselves, to lower the inhibitions of the child, or to teach the child to model the activity in real-life sexual encounters (Showers 1994). Several compilations and meta-analyses reveal that the link between pornography and sex offenses is present, it operates more like a correlate or risk factor than a causal factor, and it needs more research (Marshall 1989; Osanka and Johann 1989; Cline 1994; Lyons et al. 1994; Showers 1994).

The specific link between child pornography and child sex offenses is more pronounced than the pornography/sex offender link, yet it is still not a causal factor. A review of the current research and literature on child pornography and the link to child molestation reveals that child pornography is one of several potential facilitators in the crime of child molestation or sexual abuse (Marshall 1989; Cline 1994; Lyons et al. 1994). In other words, we cannot determine at this point whether viewing child pornography produces the impulse to molest children initially or whether child pornography is obtained to satisfy or heighten an already present desire to sexually abuse children. Odds are both of these statements are true to some extent. What produces the impulse to abuse children sexually is frequently researched and beyond the scope of this article, however, once such an impulse is attained, the individual may seek textual or visual stimulation to satisfy the impulse. The statement that not all people who view child pornography become child molesters is as true as the fact that a substantial number of child molesters possessed child pornography at the time of their detection. What also is true is that for the child molester, child pornography serves as a facilitator to the crime. Child pornography has been found to stimulate the impulse, provide fantasies, and stimulate pedophiles (Marshall 1989; Osanka and Johann

1989 Cline 1994; Lyons et al. 1994). Some people are particularly vulnerable to the influence of exposure to pornography, but this exposure in and of itself does not cause their sexually aberrant desires or acts (Marshall 1989). Importantly, however, several research studies have found that as a group child molesters are more aroused by sexual stimuli that depict children than any other forms of pornography (Marshall 1989 Cline 1994; Lyons et al. 1994). They use child pornography prior to and during their actual assault (Marshall 1989) as a stimulus and as a tool to entice children into the act.

Sexually abusing children is most commonly assumed to be a learned behavior, with child pornography serving several roles in the learning process. A noted clinical psychiatrist in testimony before Congress outlined the role that child pornography plays in the development of a pedophile (Cline 1996). Pedophiles are sexual in nature, highly addictive, compulsive and repetitive, very difficult to treat, and self control and self discipline don't stop their occurrence. The overwhelming majority use child pornography to stimulate their sexual appetites, to which they masturbate and then later use as a model for their own sexual acting out with children. Over time the use of child pornography desensitizes the viewer to its pathology, no matter how aberrant or disturbing, it becomes acceptable and preferred. Some also use it to seduce children into engaging in sexual acts with themselves. When they introduce it to children the suggestion is that it is normal behavior and many other young people, like themselves, also use it and do these things. Pedophiles often trade, lend, or sell the pictures they make of young people nude and having sex through an informal network. Pedophiles use the pornography during masturbation and eventually become at risk of conditioning themselves into sexual deviancy. In time the "high" obtained from masturbating to pornography becomes more important than real life relationships. It makes no difference if one were an eminent physician, attorney, minister, athlete, corporate executive, college president unskilled laborer, or an average 16-year-old boy. All can be self conditioned into deviancy. The process of masturbatory conditioning is inexorable and does not spontaneously remiss. The course of this illness may be slow and is nearly always hidden from view. It is usually a secret part of the man's life, and like a cancer, it keeps growing and spreading. It rarely ever reverses itself, and it is also very difficult to treat and heal. Denial on the part of the addict and refusal to confront the problem are typical and predictable. The presence of child pornography creates the potential for many types of harm in the community in creating sexual predators or pedophiles and later their victims (Cline 1996). Eventually, the sexually addicted male may move into actual molestation which is recorded and used for further fantasizing and reinforcement.

Evidence of the effect that child pornography has on its victims is much clearer than the role of pornography in sex offenses. The effects on the children involved in child pornography mirror those of children who are sexually abused, however, several added dimensions are present. Child victims depicted in child pornography are exploited just like other victims of child sexual abuse, but the exploitation doesn't stop when the abuse stops. The images produced are a permanent reminder of having been victimized, and even if the child never sees the images again, he knows that they exist. In short, it forever invades the child's privacy, complicating moral and normal sexual development (Osanka and Johann 1989; Silbert 1989). The children who are victimized are forever psychologically damaged and their self-image and future relationships with other people are affected as well (Osanka and Johann 1989; Silbert 1989; U.S. Department of Justice Office of the Attorney General 1986). In addition to the emotional problems, many children who are victimized in child pornography suffer physical damage to their bodies and illness over prolonged periods (Silbert 1989).

In conclusion, Dr. Shirley O'Brien concluded that pedophiles use child pornography for several reasons:

- For personal sexual stimulation.
  - Child pornography provides a powerful erotic stimulus to achieve sexual arousal, relive prior sexual acts, visualize fantasies, and focus attention during masturbatory manipulation when alone.
- To reduce the inhibitions of the child.
  - After a child's initial shock, a molester will point out that the children and adults in the pictures are enjoying their mutual sexual activities and that "lots of kids do it, pictures don't lie." the perpetrator can then convince the child that its normal for children to be sexually active with adults, and their fears are unfounded.
- As an instructional tool.
  - Pornography is used literally as a textbook of visual instructions to educate children to perform specific sex acts.

- For barter, trade, or sale.
  - Transactions may be for money, pornographic materials, or information about how to gain sexual access to children.
- To blackmail the child.
  - “Silence is golden when a child has been abused,” according to one molester. In addition to silence, a child may be required to recruit siblings or friends for the molester. Many times children are told that they will be ridiculed, disbelieved, or reprimanded by their parents and police if anyone finds out what has taken place. A pedophile knows how to put a heavy burden on the child, making child think he is to blame if his family is broken up, he’s taken away, or his parents break up if the incident ever becomes public.

### **The Process of Moving from Pornography to Molestation**

Although viewing child pornography does not automatically cause an individual to become a pedophile, most pedophiles use child pornography as a facilitator for their offenses. The pornography is also used to desensitize a potential child victim to sexual acts with the offender. Pedophile uses a combination of deception, desensitization, and psychological conditioning to lure potential child victims into a sexual molestation relationship. Before any sexual advances are made, the molester generally befriends the child through the use of such rewards as food, toys, movies, or money. This first step of becoming close to the child is part of an elaborate nurturing process leading to a friendly and trusted relationship between the pedophile, the victim, and often the parents or guardians of the child. Once the relationship is established, the entrance for sexual abuse and molestation is open. Most pedophiles do not use force or intimidation; rather, they use a long-term approach to gain the confidence of the child.

The molester has such success with children because he communicates with them at their emotional and psychological level. He plays their games, speaks their language, and even likes their toys. In the course of grooming potential victims, each pedophile develops a unique modus operandi, leaving behind valuable evidence for investigators. Often, the investigation in such cases reveals that the pedophile’s victims were approached in a similar way and the process leading to the abuse followed a similar pattern. Such evidence is crucial for a successful prosecution of the pedophile at a

later trial. The molestation process follows a typical pattern known as the cycle of victimization. First, adult pornography is casually shown to a target child in an effort to raise the child's curiosity level and provide a sex education of sorts. The child is often surprised and bewildered by the images in men's magazines but the molester explains that these images demonstrate that this kind of behavior is normal and acceptable. A number of children testified before the 1986 Attorney General's Commission on Pornography that what their molester showed them was to demonstrate that this was what "all big boys and girls did." Once the molester has used adult pornography to convince the child that sex is acceptable and even enjoyable for children, more deviant forms of pornography are introduced to further the learning process. Actual or simulated child pornography is shown to convince the child that other children regularly participate in sexual activities with adults or peers. Simulated child pornography includes pictures of youthful looking adults dressed up and acting as children or computer generated images of children involved in sexual activity. These images can be real or merely created out of the imagination of a computer user; either way, they have the same devastating effect on the children who see them. Continued exposure to the pornography lowers the inhibitions of the child to a point where he allows the molester to kiss and touch him sexually. Eventually, if successful, the seduction process progresses to more explicit activity between the child victim and adult or other children, using the pornography as instructional tools.

Once the desire is initiated in the child to view the pornographic materials and once the pedophile realizes that the child would not tell anyone that he had seen the material, the process of molestation progresses to the next level. The child is now exposed to increasingly more graphic pornography, typically depicting children engaging in sexual acts with each other or with adults. Inevitably, questions about the acts portrayed would arise and would be readily answered by the pedophile. Over time, viewing this material desensitizes the child to that acts being portrayed. The pedophile would then begin to demonstrate that the sexual acts feel good and it isn't wrong for the child to engage in them. At this point that the child victim is often photographed, innocently at first, but eventually progressing to nudity and sexually explicit types of pictures. The attention focused on the victim is especially damaging if the child has needs for attention and love that are not being fulfilled by family or friends. Such children are particularly vulnerable to a pedophile's advances.

**The “New” Child Pornographers**

The rapid expansion and availability of the Internet has changed the nature and extent of several types of deviant and criminal behavior. Perhaps the most prominent area involves the distribution, sale, and availability of obscene material and pornography. The Internet can be viewed as the ultimate free speech vehicle; however, it is also being used to promote child pornography and child sexual abuse. Indeed, all that has been written and researched about child pornography must now be re-examined in light of the changes brought about by the Internet. In the past, child pornography took the form of pictures, magazines, and videotapes—many homemade and collected during long periods of time by pedophiles. Pedophiles use the Internet for four primary purposes: trafficking child pornography, locating children to molest, engage in inappropriate sexual communication with children, and to communicate with other pedophiles (Durkin 1997). In the past, the distribution and sharing of child pornography was through clandestine newsletters or tightly controlled networks (Durkin 1997), whereas today the networking and distribution is online.

In the summer of 1996, a U.S. federal grand jury indicted 13 individuals from the United States and three individuals from Australia, Canada, and Finland, charging them with orchestrating and participating in an online molestation of 10-year-old girls. The defendants took part in real-time photo shoots where they typed messages requesting photos of the girls in certain poses while one member shot photos with a digital camera and transmitted the photos back to the group. The defendants were members of the “Orchid Club,” a private, online child pornography group that shared sexually explicit images and videos of girls as young as five years old. To be a member of the Orchid Club, members had to know the password to access photos and online chat sessions. Initiation to the club required a potential member to describe a personal sexual experience with a child. After the molestation, members “allegedly asked that the camera be aimed at the girl's pubic area, and then inquired about traveling to Monterey, California to molest her themselves.

As noted by Lanning and Burgess (1989), collectors of child pornography take great pride in their collections, which sometimes contain thousands of pictures, magazines, or videos. In a recent arrest by the U.S. Customs Service, a computer was seized that contained more than 100,000 images of child pornography (Sevel 1999). The images were catalogued and filed by age, gender, hair color, sex act, and several other variables. Customs officials estimated that it took endless

hours of work to enter and develop the file structure containing the images. In the past, distribution of such a collection would take endless hours of photocopying, film developing, or video processing. If done commercially, it was relatively easy to track the source. Today the individual with the 100,000 images could easily upload the files to the Internet through a variety of means and methods and distribute them to the masses in a matter of hours. Anyone could then download and save these images and redistribute them at a later date. Law enforcement officials played “catch-up” when learning how to track and gather evidence over the Internet and, as they become more successful, more roadblocks are developed to frustrate their efforts. Posting child pornography via Web pages has been curtailed substantially during the past decade; however, the distribution via e-mail, newsgroups, bulletin boards, file transfer protocols (ftps), and other direct-connect mechanisms continues. Advanced encryption programs and software are also now readily available and make detection even more difficult. These facts inevitably lead to the conclusion that the computer and the Internet are facilitating child pornography and changing the nature of manufacturing, distributing, and collecting child pornography.

### **Enforcement and Prevention**

Numerous state laws are in force that prohibit the possession, manufacturing, distribution, and sale of child pornography. In many instances, simple possession is a felony. United States federal law on child pornography (Title 18 Part I, Chapter 110, Section 2252) outlines the prohibited behavior and law concerning the distribution and possession of child pornography. The following is the text of this law.

Certain activities relating to material involving the sexual exploitation of minors.

- (a) Any person who —
  - (1) knowingly transports or ships in interstate or foreign commerce by any means including by computer or mails, any visual depiction, if —
    - (A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and
    - (B) such visual depiction is of such conduct

- (2) knowingly receives, or distributes, any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer, or knowingly reproduces any visual depiction for distribution in interstate or foreign commerce or through the mails, if –
- (A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and
  - (B) such visual depiction is of such conduct;
- (3) either –
- (A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country as defined in section 1151 of this title, knowingly sells or possesses with intent to sell any visual depiction; or
  - (B) knowingly sells or possesses with intent to sell any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means, including by computer, if –
    - (i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and
    - (ii) such visual depiction is of such conduct; or
- (4) either –
- (A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country as defined in section 1151 of this title, knowingly possesses 1 or more books, magazines,

periodicals, films, video tapes, or other matter which contain any visual depiction; or

(B) knowingly possesses 1 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means including by computer, if –

(i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(ii) such visual depiction is of such conduct; shall be punished as provided in subsection (b) of this section.

(b)

(1) Whoever violates, or attempts or conspires to violate, paragraphs (1), (2), or (3) of subsection (a) shall be fined under this title or imprisoned not more than 15 years, or both, but if such person has a prior conviction under this chapter, chapter 109A, or chapter 117, or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 5 years nor more than 30 years.

(2) Whoever violates, or attempts or conspires to violate, paragraph (4) of subsection (a) shall be fined under this title or imprisoned not more than 5 years, or both, but if such person has a prior conviction under this chapter, chapter 109A, or chapter 117, or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 2 years nor more than 10 years.

- (c) Affirmative Defense. It shall be an affirmative defense to a charge of violating paragraph (4) of subsection (a) that the defendant –
- (1) possessed less than three matters containing any visual depiction proscribed by that paragraph; and
  - (2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any visual depiction or copy thereof –
    - (A) took reasonable steps to destroy each such visual depiction; or
    - (B) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction

Unlike other forms of obscenity or pornography, child pornography laws are actively prosecuted. As noted in the U.S. Department of Justice Office of the Attorney General's Report on Pornography (1986), substantially more federal cases are prosecuted involving child pornography than for violating federal obscenity laws. A variety of factors complicate the enforcement of child pornography laws, including detection, the distribution networks, and the definition of child pornography itself. Detecting child pornography is difficult because those who actively possess and/or distribute the material take great pains to conceal their crimes. Many times the pornography is not discovered until after the individual has been arrested for a far more serious sexual offense involving a child, at which point the child pornography is used as evidence but is not likely to be prosecuted separately. The Internet has made detection and prosecution all the more problematic. In the past, distribution networks were characterized as "cottage industries" where child pornography was exchanged between pedophiles (U.S. Department of Justice Office of the Attorney General, 1986). Today, the Internet has produced what is currently described as a "global cottage industry." The formal publication and distribution is produced internationally outside the United States and law enforcement considered the domestic production of materials under control (U.S. Department of Justice Office of the Attorney General 1986). Child pornography in the United States was described as primarily amateur photographs and videotapes produced by pedophiles and exchanged through informal networks (U.S. Department of Justice Office of the Attorney General 1986). These conclusions must now be considered outdated given the extent and

nature of law enforcement activities currently on the Internet. A secondary issue involves the definition and nature of the material itself.

Several types of materials and media, in particular, fall into a gray area of enforcement and definition. For example, a variety of pornographic material found in magazines and on the Internet depicts adults in pornographic acts dressed or made-up to look like children. In addition, a variety of books and text stories on the Internet contain descriptions of incestuous acts, sexual acts between children, and sexual acts between children and adults. Finally, more and more “computer-altered” images are also appearing on the Internet that depict children sexually. The latter includes computer created images where no actual child was ever involved, computer altered images where a child’s face is superimposed on an adult naked body, and computer altered hard-core images where a child is superimposed into sexual acts. The question is, if no actual child were victimized, would this still be child pornography? Congress recently declared that it does and amended the definition of child pornography to include manufactured or altered images in the Child Pornography Prevention Act of 1996. Many experts and child pornography activists would include these types in a broad definition of child pornography (Osanka and Johann 1989). Free speech activists, however, would contend that if no actual child were involved then no harm occurred. Many individuals in law enforcement have argued that these cases are difficult to prosecute under existing law (U.S. Department of Justice Office of the Attorney General, 1986). These types of cases, wherein images are altered, are making their way into the court system; in two federal cases to date, one upheld the act and one ruled the portion of the law concerning computer-generated images unconstitutional. Both cases were under appeal at the time of this writing.

Despite the problems described above, the enforcement of child pornography laws continues with no shortage of cases. Lanning and Burgess (1989) identified several types of “sex rings” used by pedophiles to produce child pornography, victimize children, and prostitute children. Once detected, these rings involved multiple children and on occasion several adults. United States customs officials recently started the International Child Pornography Investigation & Coordination Center to aid the investigation of child pornography. One recent case involved a child pornography ring that was operating in 22 states and 14 countries and involved more than 100 suspects (U.S. Customs Service 1999). The suspects in this case and several others currently under investigation are using large hard disks, digital satellite links, cable modems, and up-to-date encryption technology to communicate and distribute child pornography over the

Internet (Sevel 1999). Between October 1st, 1997 and July 31st, 1998, customs officials had arrested 183 individuals on new charges, convicted another 189 individuals, and returned 181 indictments on cases involving the possession, manufacture and/or distribution of child pornography (U.S. Customs Service 1999). The numbers are increasing and do not reflect prosecutions by other federal agencies, including the Federal Bureau of Investigation (FBI), which has its own investigative unit called Innocent Images. The FBI, in cooperation with other federal and local law enforcement agencies, targets child pornography through the Innocent Images Program. Agents and local law enforcement personnel go into chat rooms, news groups, and Internet relay channels and assume fictitious screen names to document and engage individuals trading in or posting child pornography. As of June 1998, the FBI had executed 427 searches, filed 246 indictments, made 177 arrests, and convicted 201 people.

One indication of how serious the problem of child pornography has become as a result of the Internet is the fact that four recent international conferences were held to discuss the scope of the problem, the magnitude of the problem, and the strategies for prevention and law enforcement (World Congress Against Commercial Sexual Exploitation of Children 1999; UNESCO 1999; EPCAT 1999; Combating Child Pornography on the Internet—International Conference 1999). The information developed from these conferences and many of the papers and speeches presented are available online for further information (see references). Although the conferences were held at different times and in different locations, several important themes emerged. First, a consistent definition and understanding of what constitutes child pornography is needed. Second, all countries need to develop laws prohibiting the manufacture, sale, and possession of child pornography. Third, cooperation between countries and various enforcement agencies needs to be paramount. Finally, and most importantly, child pornography has progressed beyond dark rooms and limited exchanges between pedophiles. All the conferences and most of the experts agree that the magnitude and scope of the problem of child pornography has substantially increased as a result of the Internet. This has resulted in an increase in the abuse and victimizing of children internationally and an increase in profits resulting from the production of child pornography. Law enforcement officials are finding more commercially produced child pornography being stored on the computers of arrested pedophiles (Sevel 1999). Clearly, the scope and parameters of this problem are only beginning.

**Issues in Enforcement**

A recent U.S. Supreme Court decision centered on production of “virtual child porn” where no real children were used or abused. Such images are manufactured by a computer or depict children in suggestive, but not sexual, depictions. In response to these types of images, Congress enacted the Child Pornography Prevention Act of 1996 (CPPA) expanding the federal prohibition on child pornography to include not only pornographic images made using actual children, but also “any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture that is, or appears to be, of a minor engaging in sexually explicit conduct, and any sexually explicit image that is “advertised, promoted, presented, described, or distributed in such a manner that conveys the impression” that it depicts “a minor engaging in sexually explicit conduct.” The act bans a range of sexually explicit images sometimes called “virtual child pornography” that appear to depict minors but were produced by means other than using real children, such as through the use of youthful-looking adults or computer-imaging technology. The act was aimed at preventing the production or distribution of pornographic material pandered as child pornography. The U.S. Supreme Court reviewed the CPPA in the case of *Ashcroft v. Free Speech Coalition* 535 U.S. 234 (2002) and concluded that the act was unconstitutional. This decision underscored a substantial issue in the prosecution of these types of cases, is the material actually child pornography? In most cases, when the evidence is seized it generally must be shown to a medical doctor for a determination of if the individual in the picture or video is indeed a child. The fact that the pornography might be morphed, digitally created or altered, or in some other way created only serves to cloud this issue further.

Enforcement of the laws against child pornography often leads law enforcement officials to use sting operations over the Internet to catch pedophiles and to find child pornography. As such, issues of entrapment have been raised by civil rights groups. In one case, postal inspectors posed as an organization that dealt in sexual freedom and hedonism. They had seized several mail lists of individuals during raids of pornography distributors. They then sent out a sexual attitude questionnaire and a membership application to people on the mail list. One suspect completed and mailed in with his membership fee the sexual survey noting that he would like to receive additional material and that he was interested in sexual depictions of pre-teenagers. He was then mailed another survey and a list of "pen pals" who shared his sexual interests. The suspect began corresponding with one of these pen pals, an undercover postal inspector. During a

period of 27 months, the suspect received "two sexual attitude surveys, seven letters measuring his appetite for child pornography, and two sex catalogues" (Perez 1999). He was assured in the mailings that the materials were completely legal. Over the course of the investigation, he corresponded eight times with the inspectors and eventually ordered the magazine "Boys Who Love Boys" from a postal service catalogue and a set of sexually explicit photographs of young boys from a customs service brochure. Upon verifying that the man had received the magazine, postal inspectors searched his home, found the illicit magazine, and arrested him for receiving it through the mail in violation of federal law. At his trial the man raised two defenses. First, he argued that he had been entrapped as a matter of law, but the court found sufficient evidence of predisposition to submit the issue to the jury. Second, he asserted that the government's conduct was outrageous, thus violating his due process rights. The jury rejected his defenses and found him guilty of knowingly receiving through the mail sexually explicit material depicting a minor. He appealed his conviction to the 8th U.S. Circuit Court of Appeals, which affirmed the trial court by ruling that the government's actions did not constitute entrapment or outrageous governmental conduct despite the government's lack of a reasonable suspicion to target the man as a predisposed consumer (Perez 1999).

The final problematic area for law enforcement officials is the overlapping jurisdiction that is present in the investigation of child pornography crimes. The postal inspectors, U.S. Customs Service, Secret Service, and the FBI have all had cases and investigations into child pornography rings and possession cases. As one agent from the customs service noted, "we are overwhelmed and often refer cases to local law enforcement that typically are ill-equipped to deal with the technological nuances and issues that arise in these cases." Proceeds from the child pornography industry are thought to be used to fund organized crime and some terrorist activities; however, direct evidence of the latter is not currently available. Child pornography is the first step in the international crimes of sexual tourism and the trafficking of children in some parts of the world. The great difficulty is that the Internet cuts across all political boundaries and provides people who want child pornography with access to materials posted outside the United States. The overlapping jurisdictions and multitude of agencies investigating these crimes only serves to heighten the difficulties in successfully tracking and prosecuting these offenders.

## **VI. GLOSSARY**

There are no glossary terms for this lesson.

## **VII. REFERENCE LIST**

Campagna, Daniels S. and Donald L. Poffenberger (1988). *The Sexual Trafficking in Children: An Investigation of the Child Sex Trade*. Dover, MA: Auburn House Publishing.

Cline, Victor B. (1994). "Pornography Effects: Empirical and Clinical Evidence." Pgs. 229-248. In *Media, Children, and the Family: Social Scientific, Psychodynamic, and Clinical Perspectives*. Dolf Zillman, Jennings Bryant, and Althea C. Huston, eds. Hillsdale, NJ: Lawrence Erlbaum and Associates, Publishers.

Cline, Victor B. (1996). *Testimony on Child Pornography Prevention*. U.S. Senate Judiciary Committee Hearing on S 1237 "Child Pornography Prevention Act of 1995" 10 AM Rm 226, Dirksen Senate Office Bldg June 4, 1996.

*Combating Child Pornography on the Internet—International Conference* (1999). Vienna, Austria: September 29 – October 1, 1999. [http://www.stop-childpornog.at/conc\\_intro.asp](http://www.stop-childpornog.at/conc_intro.asp).

Durkin, Keith F. (1997). "Misuse of the Internet by Pedophiles: Implications for Law Enforcement and Probation Practice." *Federal Probation* 61 (3): 14-18.

EPCAT (1999). *Child Pornography on the Internet: Experts Meeting*. Lyon, France: May 28-29, 1999. <http://www.epcat.net/Childporn/cover.htm>

Henley, John (1996). "The Observer Campaign to Clean up the Internet: Hackers Called in as Cybercops to Drive Out Porn." *Observer*, Sept. 1, 1996.

Lanning, Kenneth V. and Ann W. Burgess (1989). "Child Pornography and Sex Rings." Pgs. 235-258. In *Pornography: Research Advances and Policy Considerations*. Dolf Zillman and Jennings Bryant, eds. Hillsdale, NJ: Lawrence Erlbaum and Associates, Publishers.

Lyons, John S., Rachel L. Anderson, and David B. Larson (1994). "A Systematic Review of the Effects of Aggressive and Nonaggressive Pornography." Pgs. 271-312. In *Media, Children, and the Family: Social Scientific, Psychodynamic, and Clinical Perspectives*. Dolf Zillman, Jennings Bryant, and Althea C. Huston, eds. Hillsdale, NJ: Lawrence Erlbaum and Associates, Publishers.

Malamuth, Neil M. and Edward Donnerstein eds. (1984). *Pornography and Sexual Aggression*. Orlando, FL: Academic Press.

Marshall, W.L. (1989). "Pornography and Sex Offenses." Pgs. 185-214. In *Pornography: Research Advances and Policy Considerations*. Dolf Zillman and Jennings Bryant, eds. Hillsdale, NJ: Lawrence Erlbaum and Associates, Publishers.

Osanka, Franklin M. and Sara Lee Johann (1989). *Sourcebook on Pornography*. Lexington, MA: Lexington Books.

Perez, Cynthia (1999). "United States v. Jacobson: Are Child Pornography Stings Creative Law Enforcement or Entrapment?" 46 U. Miami L. Rev. 235.

Reisman, Judith A. (1994). "Child Pornography in Erotic Magazines, Social Awareness, and Self-Censorship." Pgs. 313-326. In *Media, Children, and the Family: Social Scientific, Psychodynamic, and Clinical Perspectives*. Dolf Zillman, Jennings Bryant, and Althea C. Huston, eds. Hillsdale, NJ: Lawrence Erlbaum and Associates, Publishers.

Schuijjer, Jan and Benjamin Rossen (1992). "The Trade in Child Pornography." *Issues in Child Abuse Accusations* 4, 2: 55-107.

Sevel, James (1999). Personal Interview. U.S. Customs Service Agent. Cyber Smuggling Center.

Showers, Robert (1994). "Research, Public Policy, and Law: Combination for Change." Pgs. 327-339. In *Media, Children, and the Family: Social Scientific, Psychodynamic, and Clinical Perspectives*. Dolf Zillman, Jennings Bryant, and Althea C. Huston, eds. Hillsdale, NJ: Lawrence Erlbaum and Associates, Publishers.

Silbert, Mimi H. (1989). "The Effects on Juveniles of Being Used for Pornography and Prostitution." Pgs. 215-234. In *Pornography: Research Advances and Policy Considerations*. Dolf Zillman and Jennings Bryant, eds. Hillsdale, NJ: Lawrence Erlbaum and Associates, Publishers.

UNESCO (1999). Sexual Abuse of Children, Child Pornography, and Paedophilia on the Internet: An International Challenge—Expert Meeting. Paris, France: January 18-19 1999.  
[http://www.unesco.org/webworld/child\\_screen/conf\\_index.html](http://www.unesco.org/webworld/child_screen/conf_index.html).

U.S. Attorney General's Office (1986). Final Report of the Attorney General's Commission on Pornography. Nashville, TN: Rutledge Hill Press.

World Congress Against Commercial Sexual Exploitation of Children (1999). International Conference Proceedings.  
<http://193.135.156.14/webpub/csechome>.

**THIS PAGE WAS INTENTIONALLY LEFT BLANK.**

**VIII. TEST QUESTIONS**

1. Which of the following is true?
  - a. Statistics on the extent of child pornography are readily available.
  - b. Statistics on the extent of child pornography are inherently unreliable and underestimate the true numbers.
  - c. There is currently no accurate statistical source that reports the extent of or numbers of arrests involving child pornography.
  - d. There are several sources of statistical information on the nature and extent of child pornography, however the numbers reported are conflicting.
  
2. The narrow definition of child pornography
  - a. includes non-naked, non-sexual depictions of children.
  - b. includes computer generated “morphed” images.
  - c. includes any depiction of a child in a sexually suggestive manner.
  - d. is limited to only depictions of actual children in actual sexual activities or naked.
  
3. The single most distinctive characteristic of habitual child molesters is a compelling interest in
  - a. only sexually abusing young girls.
  - b. sexually abusing both boys and girls.
  - c. collecting child pornography.
  - d. gaining the confidence and trust of children.
  
4. The evidence of a link between child pornography and child molestation is
  - a. clear, child pornography leads to molestation.
  - b. clear, child pornography does not lead to molestation.
  - c. clear, among first time molesters all had viewed child pornography.
  - d. mixed and current research does not support any conclusions.
  
5. Sexually abusing children is most commonly thought to be a
  - a. learned behavior.
  - b. genetic trait.
  - c. problem of certain cultures.
  - d. situation associated with lower classes.

## Sex Crimes, Part 1: Child Pornography

LETN-164-0102

---

6. Which of the following is not one of the uses of child pornography by pedophiles?
  - a. Instructional tool
  - b. Status symbol
  - c. Blackmail the child
  - d. Personal sexual stimulation
  
7. Which of the following is true?
  - a. Pedophiles use a combination of deception, desensitization, and psychological conditioning to lure potential child victims.
  - b. Most pedophiles use force and intimidation in order to gain access to children for their sexual desires.
  - c. Pedophiles are generally not very good at interacting with children, hence their need and desire to molest them.
  - d. Very few pedophiles use child pornography for anything other than masturbation and sexual fantasy.
  
8. Which of the following “controversial” issues was banned by the Child Pornography Prevention Act of 1996?
  - a. Consensual sexual acts between teens aged 16 and 17
  - b. Digital images depicting teens (15–17) engaged in sexual acts
  - c. Digitally created or morphed graphic sexual images of children
  - d. The exchange of “art” that depicted naked children
  
9. The U.S. Supreme Court ruled in *Ashcroft v. Free Speech Coalition* that
  - a. portions of the CPPA were unconstitutional.
  - b. the CPPA did not violate the First Amendment.
  - c. the CPPA was wholly constitutional and passed the substantial government interest test.
  - d. the CPPA could force libraries to not provide Internet services.
  
10. Which of the following is not one of the issues facing law enforcement in the investigation and prosecution of child pornography?
  - a. Overlapping jurisdictions
  - b. Proving that the link between the pornography and molestation is causal
  - c. Determining what is and what is not child pornography
  - d. Entrapment