Understanding and Preventing Online Sexual Exploitation of Children

Edited by
Ethel Quayle and **Kurt M. Ribisl**

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Routledge
Taylor & Francis Group
LONDON AND NEW YORK

First published 2012
by Routledge
2 Park Square, Milton Park, Abingdon, Oxon, OX14 4RN

Simultaneously published in the USA and Canada
by Routledge
711 Third Avenue, New York, NY 10017

Routledge is an imprint of the Taylor & Francis Group, an informa business

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British Library Cataloguing in Publication Data
A catalogue record for this book is available from the British Library

Library of Congress Cataloging in Publication Data
A catalog record for this book has been requested

ISBN: 978–0–415–68940–3 hbk
ISBN: 978–0–415–68941–0 pbk
ISBN: 978–0–203–12776–6 ebk

Typeset in Times New Roman
by Keystroke, Station Road, Codsall, Wolverhampton

Printed and bound in Great Britain by
CPI Antony Rowe, Chippenham, Wiltshire

Foreword

I have been a prosecutor for nearly twenty-five years, and in my career I have handled a full range of criminal offenses, everything from simple larceny to international drug trafficking. I have incarcerated rapists, airline hijackers, armed career criminals, and corrupt federal agents. From my experience with these cases, an offender's motive, intent, and purpose are generally clear from the facts and easily grasped. The grade of seriousness attributed to these offenses is not a matter of real dispute. And, when it comes to sentencing factors, lawyers, probation officers, and sentencing judges typically disagree only at the margins. Child pornography collectors, however, seem to stand in distinct contrast to this norm because the seriousness of their crimes is not commonly understood.

Within the realm of judges, lawyers, and probation officers in the United States, child pornography offenders are currently the subject of significant debate, largely flowing from differing opinions concerning how dangerous these offenders are. For those of us who are witness to these crimes through investigation and prosecution, however, evidence suggests that many of these offenders are quite dangerous, especially if they participate in an online group, forum, or social networking site centered on pedophilic interests. In these online forums the discussion of child sexual abuse flows as freely as might the discussion of hydrangeas in a gardening forum. The talk in child abuse forums, however, is distinctively worrisome. In one online group investigated recently, for instance, a member posted a survey asking, "have you thought about whether or not you would abduct a preteen girl/boy," with over 50 percent of the responders answering, "I would absolutely do it" or "if the circumstances were right, I'd do it." In another investigation, a member of an online assemblage of producers and traders of child pornography talked about how he was eagerly anticipating the opportunity to molest his daughter, who had not been born yet. He posted a message exclaiming "o man do i have some news i have a new baby about to be added to the game i will share her pics when i get some." Shortly thereafter, a sonogram image of his unborn daughter in the womb was posted. And a member of yet another online forum posted a solicitation to his fellow members offering to pay $1,000 per hour, up to a maximum of $50,000, for access to a child, with the restriction that the child be a blond-haired, blue-eyed girl between 7 and 9 years of age.

The US Department of Justice's Child Exploitation and Obscenity Section, which I have led for the last ten years, is a group of prosecutors, computer forensic specialists, and other experts dedicated to addressing federal crimes against children. Our investigative efforts are conducted in close partnership with the Federal Bureau of Investigation's Innocent Images National Initiative, the U.S. Immigration and Customs Enforcement Child Exploitation Section, and the U.S. Postal Inspection Service's child exploitation unit, as well as our foreign law enforcement colleagues, since online child exploitation offenses are increasingly international in scope. In recent years, much of our investigative effort has been directed towards child pornography offenders operating online in groups.

Forums with large memberships dedicated to the sexual abuse of children and the exchange of its graphic imagery are ubiquitous on the Internet. Indeed, groups of people with pedophilic interests have taken extensively to social networking platforms. In all of these groups, we consistently find certain common characteristics: they are a thriving marketplace for the exchange of child pornography; they are hierarchical and members' upward progression is achieved most readily by producing child pornography and distributing it to other members; and communication between members typically normalizes, encourages, and facilitates the sexual abuse of children. Given these characteristics, law enforcement officers addressing child pornography are confident that online collectives like these and the individuals who belong to them are worthy of careful attention because they pose a real risk to children.

This attention may be well placed against online forums, but what about individual collectors? Law enforcement in the United States has been bringing prosecutions against child pornography possessors for decades now, and our record indicates that many collectors are abusing children as well. But there are more primary reasons to address child pornography collectors. Even if collectors never abused children (which, of course, is not the case), they would still directly contribute to the exploitation and even the sexual abuse of children, and would merit criminal justice action. Our Supreme Court long ago noted that the heart of a child pornography case is the endless sexual exploitation of a child through the ongoing mass circulation of images of their abuse. *New York* v. *Ferber*, 458 U.S. 747, 758 (1982) ("the use of children as subjects of pornographic materials is harmful to the physiological, emotional, and mental health of the child"). In the words of one victim, a child who was raped and bound repeatedly by her father for two years starting when she was 10:

> thinking about all those sick perverts viewing my body being ravished and hurt like that makes me feel like I was raped by each and every one of them. I was so young . . . It terrifies me that people enjoy viewing things like this . . . Each person who has found enjoyment in these sick images needs to be brought to justice . . . even though I don't know them, they are hurting me still. They have exploited me in the most horrible way.

The Supreme Court also observed that perhaps the only practical way to stop the production of child pornography is to give severe sentences to child pornography

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offenders, the individuals who stimulate the demand for a constant stream of new images that can only be produced by sexually abusing a child. *Ferber*, 458 U.S. at 760 ("The most expeditious if not the only practical method of law enforcement may be to dry up the market for this material by imposing severe criminal penalties on persons selling, advertising, or otherwise promoting the product"). The traffic of child pornography on the Internet indeed exhibits the characteristics of a marketplace, and each person who draws from this virtual market is compelling the production of new images. Many offenders compulsively collect images. The collections are often meticulously organized by name of the child, sex of the child, age of the child, or type of sexual activity depicted in the image of the child. Collectors use these images much like currency, trading images for new ones that are highly coveted. The drive in this underground market is to collect new images. It is easy to see how this would drive the abuse of children to satisfy the never-ending demand for new images, and would turn collectors into producers, creating images of their own sexual abuse of children in order to have new, and therefore valuable currency on the Internet. In full view of this condition, law enforcement is convinced that collectors of child pornography should be addressed seriously.

Others with professional interest in the matter of child pornography offenders, however, are far less convinced. In February of this year the Associated Press published an article on the debate that is simmering in the United States. Among other things, the article claimed, "[d]efense attorneys, legal scholars and even some federal judges bemoan the prosecution and sentencing developments as draconian for failing to distinguish between hardcore producers of child pornography and hapless Web surfers with mental problems" (Paul Elias, "Child Porn Prosecutions Soaring," Associated Press, February 5, 2011, available in Westlaw at 2/5/11 ALPERTCA 19:05:25). An article appearing in the ABA Journal entitled "A reluctant rebellion," raised questions about the child pornography sentencing guidelines (Mark Hansen, "A reluctant rebellion," ABA Journal, June 2009 at http://www.abajournal.com/magazine/article/areluctantrebellion/). The author acknowledges that producers of child pornography – those known to be molesting a child – are committing serious offenses, but cites a number of critics who depict the individuals collecting, trading, viewing, and possessing these images as "otherwise law abiding" citizens who merely enjoy an odd and even deviant form of sex, but do so in the "privacy of [their] own home." The article suggests that serious sentences for these offenses are motivated by a puritan ideal and "polite society's disgust and revulsion" with pornography. This sentiment is summed up by one jurist, who commented, "our federal legal system has lost its bearings on the subject of computer-based child pornography. Our 'social revulsion' against these 'misfits' downloading these images is perhaps somewhat more rational than the thousands of witchcraft trials and burnings conducted in Europe and here from the Thirteenth to the Eighteenth Centuries, but it borders on the same thing" (*United States* v. *Paull*, 551 F.3d 516, 533 (6th Cir. 2009) (Merritt, J., dissenting)).

It may not be a "rebellion," but the intellectual debate in the United States about the nature of child pornography offenses, what penalties are appropriate for those crimes, and the risks posed by those who commit those crimes is rising. The debate

is understandable, because research concerning issues such as the link between child pornography offenses and contact sexual abuse offenses and the extent to which child pornography offenses stimulate a demand for the production of new child pornography images, has not yet definitively resolved these questions. Moreover, it is clear to even the hard enforcement end of this debate that we cannot prosecute this crime problem to eradication. We must instead try to prevent it.

Recognizing that a better understanding of child pornography offenders will help us not only better to investigate and prosecute these offenders but also better to prevent their crimes in the first place, in 2007 I began to pursue the goal of organizing a symposium of experts from around the world who have examined child pornography offenses and offenders through psychology, social science, and analytical research. In November 2007, as part of the US delegation to the Roma/Lyon Group of the G8, I put forth such a proposal to the Law Enforcement Projects Subgroup. As proposed, the purpose of the symposium was to provide an opportunity for experts from G8 countries and beyond to share their individual research findings and experiences and to develop international consensus on the risks to children associated with child pornography, among other things. The project was formally approved by the Heads of Delegation in February 2008.

The Global Symposium for Examining the Relationship Between Online and Offline Offenses and Preventing the Sexual Exploitation of Children was hosted in the United States by the University of North Carolina Chapel Hill, Injury Prevention Research Center, in Chapel Hill, North Carolina, from April 5 to April 7, 2009. It was made possible through the financial and administrative support of the US Department of Justice's Office of Justice Programs. Participating in the symposium were forty-five substantive experts from the fields of psychology, social science, and analytical research, with expertise in child pornography crimes, offenders, and/or victims. Eleven countries were represented. The main objectives of this symposium were to: examine the risk factors associated with child pornography offenders; develop findings on the role of the Internet and child pornography in child sexual abuse offenses; develop findings on the broader context in which child pornography offenses occur; and develop areas for further research.

The substantive portions of the symposium were divided into three theme sessions, spanned over two days. The three themes were: (1) the broader context; (2) conceptualizing risk; and (3) the relationship between online and offline sexual offenses against children. Within each thematic session, three experts chosen on the basis of their research and analytical work in the thematic area gave plenary presentations on that work. Each symposium participant was provided an abstract of the presentations before the symposium and also received position papers to assist in preparing for the symposium. After the presentations, all symposium participants were divided into small discussion groups that conducted a critical examination of the presentations and developed a synthesis of current knowledge, identified gaps in knowledge in the subject area, and analyzed future research needs. The participants then developed a final synthesis on all three themes, and during the final plenary session, short presentations were made by three of the facilitators on the various points of consensus and divergence, and the recom-

mendations for future research that arose from the various breakout groups. After each of these presentations, participants engaged in a general discussion, among the entire group of experts, on the points of consensus and divergence and recommendations. In this way, the group ensured that there was indeed consensus on the points and recommendations. These points and recommendations were later shared with the G8 Justice Ministers, who on May 30, 2009, issued a Minster's Declaration announcing the results of the symposium.

From this gathering of experts also sprung the idea for this book. *Understanding and Preventing Online Sexual Exploitation of Children* responds to the growing call for help across all practice areas, from judicial to therapeutic. The book broadens our understanding of the complex nature of online sexual exploitation in meaningful and directly useful ways. And, particularly with its view on a public health approach to addressing online sexual exploitation of children, this book may change professional discourse on the problem entirely. Debate will continue, but each chapter of this book and the research supporting it will bring answers to those who seek them.

The debaters and anyone looking for a better understanding of online child sexual exploitation owe a profound debt of gratitude to the book's many contributors and especially its editors, Professors Ethel Quayle and Kurt Ribisl. Professors Quayle and Ribisl provided the vision and will that made the symposium a success and this extremely valuable book a reality

Drew Oosterbaan
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Part 1

Abusive images and their emergence as a significant problem

1 An introduction to the problem

Ethel Quayle, University of Edinburgh School of Health in Social Science

Roberta Sinclair, National Child Exploitation Coordination Centre

Overview

This chapter is about photographs: still and moving sexualized images of children, variously called child pornography, abuse images or child exploitation materials. In the chapter we will look critically at some of the assumptions which underlie the criminalization of these materials; the ways in which they are used by offenders; the content of these images; desistance from their use; social contexts for their use; and, the thorny problem of self-generated content. Inevitably, in trying to address these issues, we will touch upon areas covered by other chapters in this book as well as making reference to some of the same literature, much of it written since 2000.

The last ten years have seen a substantial increase in the number of international research publications, policy documents and legislative changes in relation to these photographs. This increased interest in part reflects the growing number of people in the criminal justice system convicted of crimes related to the production, distribution and possession of child pornography (Wolak et al., 2008), a perceived threat that children are at risk of victimization related to technological change (Altobelli, 2010) and possible concern about children and young people's engagement with Internet media, and their capacity to generate content (Ostrager, 2010). However, as early as 2001, Adler was raising concerns as to whether the proliferation of laws in the United States related to child pornography was potentially problematic, making us look at children through paedophilic eyes and, more recently, McKee (2010) has asserted that there is no element of culture today that is not claimed by someone to cause harm to children. There are many reasons underlying such concerns. In May 2008 the Australian Federal police removed a series of artworks by internationally renowned photomedia artist Bill Henson from the walls of a Sydney gallery just hours before his exhibition was due to open. They did so in response to an allegation that the invitation to the opening carried an image of child pornography (Hinkson, 2009). In addition there are very different concerns that a preoccupation with media and harm to children diverts attention and resources away from the more substantial problems related to contact sexual offences against children (Wolak et al., 2008). At times it appears that there is a polarization of opinion expressed as concerns about either the presence of

(Internet Safety Technical Taskforce, 2008), or lack of (Jenkins, 2009), moral panic about these crimes.

One of the challenges in talking about these photographs, and the people who produce and use them, relates to language. Whilst most national and supranational laws use the term child pornography (Akdeniz, 2008), we still see reference to obscenity (Adler, 2008) and indecent content. Outside the United States, and the legal system, there is a growing preference for calling these photographs child abuse images (Jones and Skogrand, 2005), child exploitation materials (Carr, 2009) and indecent images of children (IIOC: Long et al., under review). This is thought to more adequately capture the content of these images and the ways that they are used, and moves us away from uncritical comparisons with adult pornography (Taylor and Quayle, 2003). There are equally a variety of terms used to describe the producers and users of such materials: paedophiles (Seto, 2010; Holt et al., 2010); online sex offenders (Babchishin et al., 2010; Bourke and Hernandez, 2008); Internet sexual offenders (Elliott, Beech, Mandeville-Norden et al., 2009); and Internet-based sexual offenders (Henry et al., 2010). This becomes even more confusing with reference to people whose offences involve downloading abusive images of children as well as the commission of a contact offence or the sexual abuse of a child who is photographed and the image uploaded onto the Internet. Sheldon and Howitt (2008) described these people as 'mixed offenders' as they had committed both contact and Internet child pornography offences, while Wolak et al. (2005) used the term 'dual offenders'. Does this matter? At its most simplistic, it makes comparison between samples a challenge as it is not immediately apparent whether reference is being made to populations with the same characteristics. However, on another level it reflects some concerns as to whether we are adopting a criminal justice stance or a clinical stance (Kramer, 2010), which is also reflected in the use of language such as minor-attracted people or adults (Goode, 2009) and whether we should always define such children as 'victims' (e.g. Riegel, 2010; Malón, 2009).

Harm or rights?

One assumption underpinning the interest in abuse images is that of harm. This may be expressed as harm towards the child who was depicted in the image, but equally harm has been argued to take place when someone views the image of the child, even without any contact having taken place. The reasoning is that there is the potential for additional harm, as looking at images may increase the likelihood of the commission of a contact offence against a child at some point in the near, or distant, future. Such arguments have become enshrined in the laws of many countries with, for example, the US Department of Justice prosecuting possession under the rationale that (1) possession leads to contact offences; (2) demand drives supply; and (3) the availability constitutes continued and indirect abuse of the child depicted (Bausbaum, 2010). Mirkin (2009) has challenged assumptions of harm, arguing that the majority of images depict children not engaged in acts that are harmful in themselves (such as individual or group masturbation), with Malón's

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