



Responding to the Crime of Child Sexual Abuse Materials

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Preview:

Recently, in the United States, technology companies, academics and the National Center for Missing and Exploited Children (NCMEC) have been using the words “Child Sexual Abuse Material” or “CSAM” to describe the horrific videos or photos of children being sexually abused rather than the phrase of “child pornography.”

Article:

Introduction

Laws against what has been historically referred to as “child pornography” are some of the strictest in the federal court system. Title 18 of the United States Code, Section 2252, makes it a federal crime to possess, distribute, or transport child pornography. In addition, every state in the United States has laws regarding child pornography. Child pornography is essentially defined as the visual depiction of a minor (under 18 years of age), that is, or by simulation, appears to be engaged in sexually explicit conduct or the lewd exhibition of the genitals.

The general public may be confused regarding the term “child pornography.” For instance, some people believe that one can accidentally stumble across child pornography when one is just browsing on the web. That is false. Others believe so-called “children” depicted in child pornography images are really twenty-one-year-olds who appear to look like sixteen-year-olds, which is also false.

The terminology of “child pornography” is no longer acceptable, because using the word “child” connected with the word “pornography” minimizes the horrific videos or photos of children and youth being sexually abused.

Through my time leading the Cook County Sheriff's Police Child Exploitation Unit and then working at INTERPOL's headquarters in Lyon, France and at Scotland Yard's Hi-Tech Crime Center in England, I learned that law enforcement outside of the United States has been using the words “Child Abuse Images” to describe the horrific videos or photos of children being sexually abused. As a result, when I testify as an expert witness, I always use the phrase “Child Abuse Images” to describe the videos or photos of children being sexually abused, rather than the term child pornography.

Recently, in the United States, technology companies, academics and the National Center for Missing and Exploited Children (NCMEC) have been using the words “Child Sexual Abuse Material” or “CSAM” (pronounced, “see-sam”) to describe the horrific videos or photos of children being sexually abused, rather than the term child pornography. By using the terminology of sexual abuse within the definition of CSAM, it



better highlights the fact that it is considered actual child sexual abuse, and that the children and youth depicted in it are victims of a crime—despite any perception of consent. Furthermore, the children and youth in CSAM continue to be re-victimized every time a video or image of them is viewed or shared.

History of CSAM Legislation and Response

In the United States, Congress passed the first legislation against child sexual abuse materials (at the time, referred to as child pornography) with the *Protection of Children against Sexual Exploitation Act of 1977*, which made it a crime to knowingly to use a minor under 16 years of age in obscene depictions of sexually explicit conduct.

Congress subsequently toughened the statute with the *Child Protection Act of 1984* by omitting the obscenity requirement, raising the minor's age from 16 to 18, and including not-for-profit distribution.

Congress next revised the law with the Child Sexual Abuse and Pornography Act of 1986, which proscribed advertising for child sexual abuse materials and created a civil liability for personal injuries to minors from the production of CSAM.

From 1988 to 1992, the producers of CSAM in the United States found that as the result of aggressive law enforcement, the commercial production and the distribution of child abuse images became more difficult, expensive and very risky. Additionally, the reproduction of the child abuse images by child molesters became equally difficult and expensive.

By 1992, the commercial trafficking of child pornography within the United States had been almost completely eradicated through a series of proactive, undercover campaigns that were waged across the United States by law enforcement. One of the most aggressive, full-time law enforcement units in that campaign was the Chicago-based Federal Child Exploitation Strike Force, of which I was a member. During the years it was in existence, the members of the Strike Force were involved in the rescue of sexually abused children and the arrest of hundreds of child molesters and exploiters across the United States.

The Internet and Technology

Everything changed in 1997 with the explosion of the Internet. The Internet allowed child sexual abuse images and videos to be reproduced and disseminated to tens of thousands of molesters and individuals with just the click of a button. The distribution and receipt of the images could now be done almost anonymously. As a result, child sexual abuse materials quickly became readily available through virtually every type of technology involving the Internet.

The first law that was passed to address the Internet and the ever-expanding technological developments of child sexual abuse materials was the *Child Protection and Obscenity Enforcement Act* in 1988, which criminalized transporting, distributing, or receiving CSAM via computer. Unfortunately, while laws may have been on the books, CSAM still proliferated on the Internet.

The technological ease, lack of expense, and apparent anonymity in obtaining and distributing CSAM resulted in an explosion in the availability, accessibility, and volume of CSAM. Even worse, with the use of commercially available flatbed scanners and the introduction of inexpensive digital cameras and digital video, the production and reproduction of child abuse images became simple, inexpensive and a booming business.

The introduction of cell phones with high-quality digital cameras presented a new CSAM problem called “sexting,” the sending of sexually explicit messages or images by cell phone.¹ Sexting commonly occurs between teens and tweens, and consists of texts that are filled of nude or semi-nude self images (“selfies”). Sexually explicit “selfies,” when mixed with social media platforms such as TikTok, Instagram, Tinder, Snapchat, WhatsApp, etc., has only increased the problem.

When sexting occurs only between minors, it may still violate federal and some state CSAM laws. Promoting awareness in the schools regarding the ramifications of minors taking or texting sexually explicit selfies can be an effective prevention technique. Attorneys defending these minors have often criticized the strict mandatory punishment for what they refer to as a consensual crime between minors. As a result, some states have legal provisions to treat sexting between minor’s offenses without mandatory sex offender registration or a criminal conviction.

Unfortunately, child molesters, who are masters of manipulation, will groom or even blackmail teens and tweens to send nude or semi-nude selfies. On January 1, 2020, the Internet Watch Foundation (IWF) in England reported that one in three child abuse images that were found online are now selfies with girls as young as 11 years of age who were tricked into performing sex acts via web cameras.

When images like this are placed on the Internet and then disseminated online, *the victimization of the teens and tweens continues in perpetuity*. The U.S. Department of Justice reports that the production of CSAM actually creates a permanent record of a child’s sexual abuse, often causing the victims to suffer an extremely long period of re-victimization by knowing the images of their sexual abuse are on the Internet forever.

¹ Merriam Webster Dictionary



Conclusion

In order to make the reporting of child exploitation allegations easier, Congress mandated that the National Center for Missing and Exploited Children create the CyberTipline. The CyberTipline is the reporting mechanism, either by telephone or online, for anyone in the United States to report cases of child sexual exploitation including CSAM, online enticement of children for sex acts, molestation of children outside the family, sex tourism of children, child victims of sex trafficking, and unsolicited obscene material sent to a child. Reports may be made 24-hours per day, 7 days per week online at www.cybertipline.com or by calling 1-800-843-5678. When reports are made to the CyberTipline, they are investigated involving any local or federal agencies that the depictions and/or crimes may involve.

Over the years, law enforcement has found that child molesters are always on the cutting edge of technology and use technology for the sexual exploitation of children. If you ever encounter any type of CSAM materials, please report them to the CyberTipline. And, take a look at that website ahead of time for helpful tips, so that you know how best to protect children online. You can make a big difference in doing your part to keep children and youth safe.