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Child Molesters: A Behavioral Analysis

For Professionals Investigating the Sexual Exploitation of Children

In cooperation with the

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Fifth Edition
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Dedication

This publication is dedicated to child victims of sexual exploitation and the organization that allowed me to devote most of my 30-year career as a Special Agent to fighting "crimes against children."

To the Federal Bureau of Investigation

I also dedicate this publication to my wife and children, without whose support for all these years I could not have maintained my objectivity and balance.

To Kathy, Melissa, and Rick

Kenneth V. Lanning, M.S.
Federal Bureau of Investigation (Retired)

Mr. Lanning is currently a consultant in the area of crimes committed against children. He was a Special Agent with the Federal Bureau of Investigation (FBI) for more than 30 years before he retired in 2000. He has been involved in the professional study of the criminal aspects of deviant sexual behavior since 1973. He specialized in the study of the sexual victimization of children after being transferred to the FBI Academy in Quantico, Virginia, in 1981. He was assigned to the Behavioral Science Unit from 1981 to 1996, Missing and Exploited Children's Task Force from 1996 to 1998, and National Center for the Analysis of Violent Crime (NCAVC) from 1998 to 2000. He is a founding member of the Board of Directors of the American Professional Society on the Abuse of Children (APSAC) and former member of the APSAC Advisory Board. He is a current member of the Advisory Board of the Association for the Treatment of Sexual Abusers (ATSA).

Mr. Lanning has made numerous presentations at major national and regional conferences about the sexual victimization of children, child abuse and neglect, and missing and exploited children. He has testified before the U.S. Attorney General's Task Force on Family Violence, President's Task Force on Victims of Crime, and U.S. Attorney General's Commission on Pornography. Mr. Lanning has also testified on seven occasions before the U.S. Senate and House of Representatives and many times as an expert witness in state and federal court. He has consulted on thousands of cases involving deviant sexual behavior, the sexual victimization of children, missing and exploited children, and the use of computers and the Internet to facilitate the sexual exploitation of children.

Mr. Lanning has published articles in the *FBI Law Enforcement Bulletin* and other professional journals. He is a chapter author in *Child Pornography and Sex Rings*; *Pornography: Research Advances and Policy Considerations*; *Practical Aspects of Rape Investigation*; *Out of Darkness; Viewing Child Pornography on the Internet*; *Medical, Legal, & Social Science Aspects of Child Sexual Exploitation*; and the *APSAC Handbook on Child Maltreatment*. He has authored monographs titled *Child Molesters: A Behavioral Analysis* and *Child Sex Rings: A Behavioral Analysis* that have been widely distributed by the National Center for Missing & Exploited Children® (NCMEC). He was the Project Manager for research projects on *An Analysis of Infant Abductions* and *Child Molesters Who Abduct* whose findings were edited by Mr. Lanning and Dr. Ann Wolbert Burgess and published by NCMEC.

Mr. Lanning is the 1990 recipient of the Jefferson Award for Research from the University of Virginia, 1996 recipient of the Outstanding Professional Award from APSAC, 1997 recipient of the FBI Director's Annual Award for Special Achievement for his career accomplishments in connection with missing and exploited children, and 2009 recipient of the Lifetime Achievement Award for Outstanding Service from the National Children's Advocacy Center. He has lectured before and trained thousands of law-enforcement officers and criminal-justice professionals.

Acknowledgments

In addition to the unfailing support of my family and the Federal Bureau of Investigation (FBI), this publication would not be possible without the support and assistance of many colleagues who, over the past 35 years, helped me commit my reflective experience to paper in a way that I hope will continue to be a critical tool for law-enforcement officers, prosecutors, and other fact-finding professionals on the "front line" to objectively intervene in cases involving the sexual victimization of children.

My knowledge and insight concerning this subject matter has been greatly influenced through my interaction and dialogue over the years with law-enforcement pioneers, especially Bill Walsh (retired Dallas [Texas] Police Department), Donna Pence (retired Tennessee Bureau of Investigation), Brian Killacky (retired Chicago [Illinois] Police Department), Toby Tyler (retired San Bernardino County [California] Sheriff's Office), Beth Dickinson (retired Los Angeles County [California] Sheriff's Department), Bill Dworin (retired Los Angeles [California] Police Department), Robert Hoever (retired New Jersey State Police), and Rick Cage (retired Montgomery County [Maryland] Police Department); the FBI Behavioral Analysis Unit 3 Crimes against Children, especially Supervisory Special Agents Jim Beasley, Jim Clemente, Kathy Canning, and Jennifer Eakin; my colleagues in the old FBI Behavioral Science Unit, especially Roger Depue and Roy Hazelwood; prosecutors, especially Paul Stern (Snohomish County, Washington), Jim Peters (Assistant United States Attorney [AUSA] Boise, Idaho), and Steve DeBrota (AUSA Indianapolis, Indiana); and noncriminal-justice professionals, especially Park Dietz, MD; David Finkelhor; Bette Bottoms; Ann Burgess, and Lucy Berliner. I would also like to express a special acknowledgment to Jan Hindman who passed away in late 2007 and was a soul mate in my journey of addressing the problem of sexual victimization of children with compassion, professionalism, and objectivity and occasionally by sometimes "rocking the boat."

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Introduction

Cautions

For emphasis and because I know many individuals will not read this publication cover-to-cover, key concepts described in earlier chapters will be restated, reinforced, or summarized as they are applied in later chapters. In the interest of readability, children alleging sexual abuse or who are suspected of being sexually exploited will sometimes be referred to as "victims" and adults suspected or accused of being perpetrators will sometimes be referred to as "offenders" even though the allegations or suspicions may not have been proven in a court of law. This shorthand should not blur the fact that investigators are expected to keep an open mind and maintain complete objectivity. Although females can and do molest children, offenders will generally be referred to by the pronoun "he."

The term "child prostitution," because it implies simply conventional prostitution with child subjects, may not be an appropriate term to describe the true nature and extent of this type of sexual exploitation of child victims. The use of this term in this publication should not be taken to imply children can "consent" to the sexual acts involved. At this point in time, however, it is the term most readily recognized by the public to describe this form of child sexual exploitation. It will be used in this publication to refer to illegal use of children in prostitution under the standards developed by statute, case law, and law-enforcement-agency protocols. It is hoped a more accurate term will be recognized, understood, and accepted for use in the future. The term "stranger" has been over-used when discussing the sexual victimization of children. For many it conjures up the stereotype image of a "dirty old man in a wrinkled raincoat" or an obviously "evil" predator. In this publication the term "stranger" will be used simply to identify those offenders not well known to potential child victims. It will be explained, discussed, and used primarily to distinguish the behavior of such offenders from that of offenders who are family members or acquaintances. Use of this stereotypical and potentially misleading term should be kept to a minimum, especially when communicating with parents/guardians and children.

As will be explained in detail *(see* page 24), the term "compliant" will be used to describe the behavior of certain child victims of sexual exploitation. Because so many nonprofessionals and professionals alike seem to believe that all child victims are forced or tricked into sexual activity with adults and because the lack of understanding of the behavior of such victims creates major problems in the investigation and prosecution of these cases, the significance of this compliance will be extensively discussed. The use of this term, however, should in no way be interpreted by any reader as suggesting or implying that such children are not real victims or should somehow be blamed for their victimization. To the contrary, the reason the term is used and discussed is to emphasize that such children are true criminal-justice victims depending on applicable statutes and to communicate the importance for interveners to recognize and understand their specific behavior patterns.

The sexual victimization of children involves varied and diverse dynamics. It can range from one-on-one intrafamilial abuse to multioffender/multivictim extrafamilial sex rings and from nonfamily abduction of toddlers to prostitution of teenagers. Sexual victimization of children can run the gamut of "normal" sexual acts from fondling to intercourse. The victimization can also include deviant sexual behavior involving more unusual conduct *(e.g.*, urination, defecation, playing dead) that often goes unrecognized, including by statutes, as possibly being sexual in nature. There are, therefore, no step-by-step, rigid investigative standards that are applicable to every case or circumstance. Investigative approaches and procedures have to be adjusted based on the dynamics of the case. Larger law-enforcement agencies tend to have more specialized investigative units that investigate the different types of cases. One unit might investigate intrafamilial, child-abuse cases; another might investigate missing-, abducted-, or murdered-children cases; and another might investigate extrafamilial, sexual-exploitation cases. Offenders, however, sometimes cross these investigative categories. For example a father might produce and distribute child pornography images of his own child or might molest other children in addition to his own. Investigators have to be trained and prepared to address these diverse realities.

This discussion will focus primarily on the **behavioral** aspects of the sexual exploitation of children perpetrated by adult offenders who have an acquaintance relationship *(i.e.*, not strangers or family members) with their child victims. Some of the information, however, could have application to acquaintance juvenile offenders and other types of child-molestation cases. Although some **legal** and **technical** aspects involved in these cases will be discussed, those are not my areas of expertise. The law and emerging technology can change rapidly and significantly in a short time. Experts in those areas should be consulted before applying this information, but underlying human behavior tends to remain the same.

The concept of the **acquaintance molester** and other related terms will be defined and insight will be provided into the behavioral patterns of offenders and victims in such cases. For purposes of this publication, **investigation** is defined as any objective, fact-finding process. This certainly includes the work of law enforcement and prosecutors, but may also sometimes include the work of other professionals such as social workers, forensic mental-health or medical personnel, and youth-serving organizations. One major goal of this publication is to increase objectivity and professionalism in these investigations.

This is the fifth edition of this publication. It concludes a journey of discovery, research, and behavioral analysis I began in 1973. The first edition was published by the National Center for Missing & Exploited Children® (NCMEC) in 1986 (Lanning, 1986) and to date more than 200,000 copies of its various editions have been disseminated in hard copy. Thousands more have been downloaded from NCMEC's website. The term **child molester** is used in the title to be consistent with the prior editions. It should be noted, however, that some of the sex offender behavior patterns discussed in this publication may not constitute child molestation as the term is commonly used.

Another goal of this publication is to describe, in plain language, the behavioral dynamics of these cases. Because of the complexity of human behavior, these

dynamics will often be described on a continuum rather than as either/or categories. It is not intended to be a detailed, step-by-step investigative manual, nor does it offer rigid standards for investigation. The material presented here may not be applicable to every case or circumstance. Although the investigative techniques discussed may be used in other cases of sexual victimization of children, they are intended to be applied primarily to the investigation of sexual victimization of children by adult acquaintances. Many real-world constraints, including lack of time and personnel, make following all the techniques discussed here impossible.

While assigned to the Federal Bureau of Investigation's (FBI) Behavioral Science Unit, my work involved conducting **training**, **research**, and **case consultation** concerning the behavioral and criminal aspects of deviant sexual behavior. Each of these components of my work complemented and supplemented the other. As an FBI Agent, when doing training, research, and case consultations, I had access to detailed law enforcement and other records *(i.e.*, investigative reports, interviews of offenders and victims, crime-scene photographs, laboratory reports, medical reports, computer records, child pornography, child erotica, collateral evidence, background information, pre-sentence evaluations, prison records) that are not normally available to mental-health professionals and academic researchers. My observations, analysis, and conclusions concerning offender and victim patterns of behavior are therefore not based on self-reported information by offenders or victims but on objective evaluation of the totality of the most detailed, reliable, and corroborated information available.

I am extremely skeptical of any research concerning human behavior that is overly reliant on self-reported information. This may be due in part to a professional lifetime spent interviewing and talking with individuals who repeatedly lie about, misrepresent, and rationalize their behavior for a wide variety of reasons. Although such research is highly regarded in some circles, this publication is not based on such uncorroborated, self-reported information. Although I understand data is not the plural of anecdote, the information and opinions set forth in this publication are primarily based on my training, education, and more than 35 years of experience studying the criminal aspects of deviant sexual behavior and the totality of my acquired knowledge and expertise. My database for this behavioral analysis is the thousands of cases on which I have objectively consulted or studied.

This publication is, therefore, based on my reflective experience. I believe the key to the validity of this "anecdotal" information is its foundation on objective and factual analysis of large numbers of well-documented cases over a very long period of time. The validity of the analysis also comes from the fact its application has worked for all these many years. It has been regularly tested in the real world for more than 25 years by me and many other fact-finding professionals who have used and applied my analysis. It has withstood peer review, publication, and repeated presentations to a wide variety of professionals from many disciplines. Although there may be no known rate of error because of the limits of human-subject research and the social sciences, this analysis has been objectively applied to many cases in which the resulting indications were that allegations were false or inaccurate or the alleged offenders were not guilty. Because it is difficult to identify and study a group that is defined by something they claim they did not do *(i.e.*, men considered

nonoffenders simply because they claim they did not view child pornography or sexually molest children), there is no comparison control group in my analysis.

Some of what is set forth is simply my opinion. Hopefully, such purely personal opinions will be clear and obvious by the context of their presentation. I have great confidence in the behavioral accuracy and reliability of the information set forth. **Its legal acceptance and application, however, must be carefully evaluated by investigators and prosecutors based on departmental policy, rules of evidence, and current case law**. This publication is intended to be a practical behavioral analysis with application to the fact-finding process. It is not intended to be a precise legal analysis with technical legal definitions. The use of any terms in this publication, which are also used in the mental-health field *(i.e.*, impulsive, compulsive, paraphilia, pedophilia), is not meant to imply a psychiatric diagnosis or lack of legal responsibility.

Overview

In order to understand and investigate allegations of what constitutes "acquaintance" molestation, it is important to have a historical perspective of society's general attitudes about the sexual victimization of children. A brief synopsis of these attitudes in the United States is provided here in order to give a context to this discussion. That context, hopefully, will help investigators better understand some of the problems and investigative challenges encountered in these cases.

In the United States, society's historical attitude about the sexual victimization of children can generally be summed up in one word: **denial**. Most people do not want to hear about it and would prefer to pretend such victimization just does not occur. Today, however, it is difficult to pretend it does not happen. Media stories and reports about child sexual abuse and exploitation are daily occurrences. Investigators working with the sexual victimization of children must still recognize and learn to address this denial. They must try to overcome it and encourage society to address, report, and prevent the sexual victimization of children. They must attempt to do so, however, without misrepresenting or exaggerating the problem.

A complex problem such as the sexual victimization of children can be viewed from three major perspectives of **personal**, **political**, and **professional**. The **personal** perspective encompasses the emotional — how the issues affect individual needs and wants. The **political** perspective encompasses the practical — how the issues affect getting elected, obtaining funding or pay, and attaining status and power. The **professional** perspective encompasses the rational and objective — how the issues affect sexually victimized children and what is in their best interest. Often these perspectives overlap or are applied in combination. Because most of us use all three, sometimes which perspective is in control may not be clear.

Unfortunately the **personal** and **political** perspectives tend to dominate emotional issues such as the sexual victimization of children. The **personal** and **political** perspectives are reality and will never go away. In fact many positive things can and have been achieved through them *(e.g.*, attention, adequate funding, equipment, human resources, passage of legislation). One of the biggest obstacles to clearly understanding the sexual exploitation of children by acquaintances is the need of so many to view it from their political or emotional perspective. In general, however,

sexually victimized children need more people addressing their needs from the **professional** perspective and fewer from the **personal** and **political** perspectives.

In their zeal to overcome denial or influence opinion, some individuals allow the personal or political perspectives to dominate by exaggerating or misrepresenting the problem. Presentations and literature with poorly documented or misleading claims are inappropriate and still common. The documented facts in the United States are bad enough and need no embellishment. True professionals, when communicating about the problem, should clearly define their terms and then consistently use those definitions unless indicating otherwise. Professionals should understand and cite reputable and scientific studies, noting the sources of information. They should never rely for any significant purposes on the mass media. Operational definitions for terms *(e.g.*, child, pedophile, predator, pornography, sexual exploitation) used in cited research should be clearly expressed and not mixed to distort the findings. Once someone is caught using distorted or misleading information and labeled an extremist, people may not listen to what he or she says no matter how brilliant or profound. When the exaggerations and distortions are discovered, the credibility of those people and the issue are diminished. In addition, as will be more fully discussed later, accused and convicted offenders use their failure and the perceived failure of their alleged victims to meet these exaggerated expectations as evidence they are not guilty or are less significant offenders *(i.e.*, not fitting the "profile" or not in the "heartland" of offenders).

*In general…sexually victimized children need more people addressing their needs from the **professional** perspective and fewer from the **personal** and **political** perspectives.*

"Stranger Danger"

Especially during the 1950s and 1960s the primary focus in the limited literature and discussions of the sexual victimization of children was on "stranger danger" — the dirty old man in the wrinkled raincoat approaching an innocent child at play. If one could not totally deny the existence of child sexual victimization, one could describe the victimization in simplistic terms of good and evil. The investigation and prevention of this "stranger danger" are more clear-cut. We immediately know who the good and bad guys are, what they look like, and the danger is external.

During this time the FBI distributed a poster epitomizing this attitude. It showed a man, with his hat pulled down, lurking behind a tree with a bag of candy in his hands. He was waiting for a sweet little girl walking home from school alone. At the top it read, "Boys and Girls, color the page, memorize the rules." At the bottom it read, "For your protection, remember to turn down gifts from strangers, and refuse rides offered by strangers." The poster clearly contrasts the evil of the offender with the goodness of the child victim. When confronted with such an offender the advice to the child is simple and clear — say no, yell, and tell.

The myth of the typical child molester as the dirty old man in the wrinkled raincoat has been reevaluated based on what we have learned about the kinds of people who sexually victimize children. The fact is child molesters can look like anyone else and even be someone we know and like. In my opinion, however, the growing preference today to refer to sex offenders against children as **predators** has mitigated this recognition and progress.

The other part of this myth, however, is still with us, and it is far less likely to be discussed. It is the myth of the typical child victim as a completely innocent young girl participating in wholesome all-American activities. It may be more important to confront this part of the myth than the part about the "evil" offender especially when addressing the sexual exploitation of children and acquaintance child molesters. Child victims can be boys as well as girls, and older as well as younger. Not all child victims are "little angels." They are, however, human beings afforded special protection by our laws.

Society seems to have a problem addressing any sexual-victimization case in which the adult offender is not completely "bad" or the child victim is not completely "good." The idea child victims could simply behave like human beings and respond to the attention and affection of offenders by voluntarily and repeatedly returning to an offender's home is a troubling one. It confuses us to see the victims in child pornography giggling or laughing. At professional conferences on child sexual abuse, child prostitution is rarely discussed. It is the form of sexual victimization of children most unlike the stereotype of the innocent child victim. Child prostitutes, by definition, participate in and sometimes initiate their victimization but often do so rather than face subsequent consequences such as abuse at home, homelessness, and violence at the hands of those manipulating them to participate in this illegal activity. Child prostitutes and the participants in exploitation cases involving multiple victims are frequently boys. A therapist once told me a researcher's data about child molestation were "misleading" because many of the child victims in question were "prostitutes." This seems to imply children involved in prostitution are not "real" child victims. Whether or not it seems fair, when adults and children have nonforced sex, the child is **always** the victim.

Although no longer the primary focus of sexual-victimization-of-children literature and training, "stranger danger" still maintains a disproportionate concern for society and is regularly perpetuated in the media.

Intrafamilial Child Sexual Abuse

During the 1970s and 1980s society became more aware of the sexual victimization of children. We began to increasingly realize someone they know who is often a relative — a father, stepfather, uncle, grandfather, older brother, or even a female family member — sexually molests most children. Some mitigate the difficulty of accepting this by adopting the view that only family members of socioeconomic groups other than their own commonly engage in such behavior.

It quickly became apparent warnings about not taking gifts or rides from "strangers" were not good enough to realistically try to prevent most child sexual abuse. Consequently we began to develop prevention programs based on more complex concepts such as "good touching" and "bad touching," the "yucky" feeling, and the child's right to say no. These are not the kinds of things easily and effectively communicated in 50 minutes to hundreds of kids of varying ages packed into a school auditorium. These are challenging issues, and prevention programs must be carefully developed and evaluated.

By the 1980s child sexual abuse for many professionals had become almost synonymous with incest, and incest meant father-daughter sexual relations;

therefore, the focus of child-sexual-abuse intervention and investigation turned to one-on-one, father-daughter incest. Even today a large portion of training materials, articles, and books about this topic refer to child sexual abuse only in terms of intrafamilial, father-daughter incest.

Incest is, in fact, sexual relations between individuals of any age too closely related to marry. It need not, however, necessarily involve an adult and a child, and it goes beyond child sexual abuse. More importantly child sexual abuse goes beyond father-daughter incest. Intrafamilial incest between an adult and child may be the most common form of child sexual victimization, but it is not the only form.

The progress of the 1970s and 1980s in recognizing that child sexual victimization was not simply a result of "stranger danger" was an important breakthrough in addressing society's denial. The battle, however, is not over. The persistent voice of society luring us back to the simpler concept of "stranger danger" never seems to go away.

Acquaintance Child Molestation

Today, for many child advocates and professionals in the field, especially social workers, the sexual victimization of children is still perceived primarily as one-on-one, intrafamilial sexual abuse. Although they are certainly aware of other forms of sexual victimization of children, when discussing the problem in general their "default setting" *(i.e.*, that which is assumed without an active change) always seems to go back to children molested by family members. For the public the "default setting" still seems to be stranger abduction. To them child molesters are sick perverts or "predators" who physically overpower children and violently force them into sexual activity.

The often forgotten piece in the puzzle of the sexual victimization of children is acquaintance molestation. A few insightful professionals have recognized the problem of acquaintance child molesters for a long time. For example the Boys' Club handbook published in 1939 discussed the behavior patterns of such men trying to gain access to boys through youth-serving organizations (Atkinson, 1939). Between 1975 and 1985 law enforcement in the United States began to increasingly become aware of these offenders and the investigative challenges they present. In 1977 the Los Angeles (California) Police Department established a specialized unit, the Sexually Exploited Child Unit, to investigate cases in which children who were sexually victimized by offenders from outside their family. Several other law-enforcement agencies around the country soon learned from and copied the work of this Unit. In March 1977 the Illinois Legislative Investigating Commission submitted a report about the sexual exploitation of children to the Illinois General Assembly. This report states, "most of the child molesters whom we encountered during our investigation follow certain patterns. Frequently, these individuals will look for children involved in legitimate groups — Boy Scouts, summer camps, the Big Brothers — and the molesters will become involved in these groups themselves, thus providing freer access to a wide range of children" *(Sexual Exploitation of Children*, Illinois Legislative Investigating Commission, August 1980). In 1982 the Big Brothers Big Sisters of America published a monograph about child sexual abuse addressing the issue of child molesters becoming involved in

their organization (Wolf, 1982). In January 1984 the *FBI Law Enforcement Bulletin* published a special issue about "Pedophilia." In this issue two articles specifically addressed the sexual exploitation of children and discussed the issue of offenders gaining access to victims through their occupation or vocation (Lanning and Burgess, 1984, and Goldstein, 1984).

Since 1985 knowledge and insight concerning such acquaintance offenders and their behavior has grown and been more widely disseminated. For example editions of this monograph were published in 1986, 1987, 1992, and 2001 and were widely distributed by NCMEC in hard copy and by Internet download. Professionals whose job it is to protect children can no longer believably claim ignorance about this problem.

Acquaintance molesters are still, however, one of the most challenging manifestations of sexual victimization of children for society and professionals to face. People seem more willing to accept a sinister, unknown individual or "stranger" from a different location or father/stepfather from a different socioeconomic background as a child molester than a clergy member, next-door neighbor, law-enforcement officer, pediatrician, teacher, coach, or volunteer. Acquaintance molesters often gain access to children through youth-serving organizations. The acquaintance molester, by definition, is one of us. He is not simply an anonymous, external threat. He cannot be identified by physical description and, often, not even by "bad" character traits. Without specialized training or experience and an objective perspective, he cannot easily be distinguished from others.

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These kinds of molesters have always existed, but society, organizations, and the criminal-justice system have been reluctant to accept the reality of these cases. When such an offender is discovered in our midst, a common response has been to just move him out of our midst, perform damage control, and then try to forget about it or demonize them as "evil" deceivers. Sadly one of the main reasons the criminal-justice system, institutions, and the public have been forced to confront the problem of acquaintance molestation has been the proliferation of lawsuits arising from the negligence of many prominent faith-based and youth-serving organizations.

One of the unfortunate outcomes of society's preference for a "stranger-danger" concept of victimization is its direct impact on the prevention of the sexual exploitation of children by acquaintances. The victims experience what I call, "say no, yell, and tell" guilt. This is the result of societal attitudes and prevention programs focusing only on "unwanted" sexual activity and telling potential child victims to avoid sexual abuse by saying no, yelling, and telling. This technique might work with the "stranger" lurking behind a tree. Children who are seduced or actively participate in their victimization, however, often feel guilty and blame themselves because they did not do what they were "supposed" to do. They did not recognize,

resist, and report. When humans do something they know they were not supposed to do, they tend not to tell others they did it and lie when asked about it. These seduced and manipulated victims may also feel a need to sometimes describe their victimization in more socially acceptable, but inaccurate ways that relieve them of this shame and guilt. Except for child prostitution, most sexual-exploitation-of-children cases in the United States involve acquaintance molesters who rarely use physical force on their victims.

Advice to prevent the sexual victimization of children by adult acquaintances is more complex and challenging to implement. How do you warn children about molesters who may be their teacher, coach, clergy member, therapist, or Internet "best friend forever" (BFF) and whose only distinguishing characteristics are they will treat the children better than most adults; listen to their problems and concerns; and fill their emotional, physical, and sexual needs? Will families, society, and professionals understand when the victimization is suspected, discovered, or disclosed? A great deal of prevention advice simply does not distinguish to which types of sexual victimization it applies. For example the right to say "no" would be applied differently to an unknown individual or stranger, family member, teacher, or coach.

Continuum of Relationship

Although stranger, intrafamilial, and acquaintance child molesters have been described here as seemingly separate and distinct offenders, reality is not so simple and clear-cut. Each of these relationships should be viewed on a continuum. A "stranger" can range from someone never seen before and unknown to someone seen but nameless to someone named but unknown to someone named and slightly known to someone known from the Internet but never seen in person and anyone in between. Every acquaintance offender started as a stranger the first time he met any potential child victim. In addition an offender molesting children to whom he is an acquaintance can also molest children to whom he is a stranger. He might use the services of a child prostitute who may or may not know him. The "intrafamilial" molester can range from the biological father to the stepfather to mom's live-in boyfriend or roommate. He can molest children other than his own. He may be either unknown or an acquaintance to these additional victims. Most acquaintance child molesters use their occupations, hobbies, neighborhoods, or online computers to gain access to child victims; however, some befriend, romance, or marry women who already have children. Such molesters may technically be intrafamilial offenders, but dynamically they are not. That is an important distinction. An acquaintance molester can be a neighbor the child sees every day or an Internet "friend" the child regularly communicates with but sees for the first time when they finally meet in person.

Recognizing this diversity and continuum for purposes of this publication, the term "stranger" will be defined as someone who has had limited if any prior contact or interaction with a child victim — an unknown individual. The term is most problematic and confusing when used in communicating with children, but since this publication is intended for professional adults the term will be used. Sex offenders who are strangers can use trickery to initially lure their child victims, but tend to control them more through confrontation, threats of force, and physical

force. Long-term access to the child is not necessary. They have been labeled in one publication as "grabbers" (van Dam, 2006). Intrafamilial sex offenders tend to control their victims more through their private access and family authority. This relationship usually gives them long-term access. Their control stems from the fact that they have authority and status over the child and provide or grant developmental necessities such as food, clothing, shelter, and attention. Because they are the source of the child's very survival and to continue with a consistent pattern of labeling *(i.e.*, "gr" words), I refer to such offenders as "granters." In contrast, acquaintance child molesters, although sometimes violent, tend by necessity to control their victims primarily through the grooming or seduction process and by exploiting the immaturity of their victims. They usually need long-term access to do this. They have been labeled as "groomers" (van Dam, 2006). This process not only gains the victim's initial cooperation, but also decreases the likelihood of disclosure and increases the likelihood of ongoing, repeated access. Acquaintance offenders with a preference for younger victims (younger than 12) are more likely to also have to spend time seducing the potential victim's parents/guardians or caretakers to gain their trust and confidence. An acquaintance molester who uses violence to control victims is more likely to be quickly reported to law enforcement and easily identified. An acquaintance molester who seduces his victims can sometimes go unreported for years if not indefinitely. The short-term techniques used by some strangers to draw children close *(e.g.*, "help to look for my puppy," "do you want some candy") so they can use force are examples of luring, not grooming.

From a behavioral-analysis perspective, the determination of who is an "acquaintance" child molester should be based more on the process and dynamics of the child victimization and less on the technical relationship between the offender and child victim. An offender who is a stepfather, for example, might be an acquaintance molester who used "marriage" just to gain access to children. The acquaintance child molester might get involved in "abduction," usually by not allowing a child he knows and has seduced to return home. He may wind up abducting or not returning this child because he wants or needs the child all to himself away from a "judgmental" society. Such missing children often voluntarily go with the offender. Abducting or running away with a child with whom you can be linked is high-risk criminal behavior. Investigators can more easily identify this abductor and therefore more easily find the missing child. Some acquaintance molesters get violent because they misevaluated their victim or want to prevent discovery of the sexual activity.

In a nonfamily-abduction case where the child does not leave or escape voluntarily and is kept alive for a long time, the offender must also have a long-term method of control beyond just threats and violence. This could involve the use of physical controls *(i.e.*, remote location, sound-proof room, underground chamber, or elaborate restraining devices) or one or more accomplices. It could also involve the relationship (and therefore the primary control techniques) between the offender and the child victim evolving and changing over time. The offender gradually moves from being a stranger using force to an acquaintance using seduction to a father-like or domestic figure using a family-like bond. Some prefer to believe this evolution-of-control mechanism is the result of a mysterious process called "brain-washing" or the "Stockholm Syndrome." I see it as a perfectly understandable result of

adult/child interaction and influence over time. A survival and interdependency bond may develop. It is a kind of adaptation or learned helplessness. This process can vary significantly based on the personality characteristics of both the offender and victim.

The sexual victimization of children by family members and strangers are serious and significant problems. This publication, however, will focus primarily on the problem of sexual exploitation of children by **adult** acquaintances. Peers who are acquaintances also sexually victimize many adolescent children. In order for sexual activity between peers to be a prosecutable crime, it would usually have to involve lack of consent in some form. This is a significant and overlooked problem. The focus of this publication, however, will **not** include adolescents sexually victimized by acquaintances who are peers. It will provide insight into the two sides of this relatively common, but poorly understood, type of child victimization.

The **first** side involves understanding the predatory, serial, and usually extra-familial, sex offenders who sexually exploit children through seduction and/or the collection, creation, or distribution of child pornography. With increasing frequency such offenders are using digital technology and traveling to underdeveloped countries to facilitate their sexual activity with children. The **second** side involves understanding the child victims as human beings with needs, wants, and desires. Child victims cannot be held to idealistic and superhuman standards of behavior. Their frequent cooperation in their victimization must be viewed as an understandable human characteristic that should have no criminal-justice significance.

Both sides of this form of sexual exploitation of children must be recognized, understood, and addressed if these cases are going to be effectively investigated and prosecuted. The sad reality is such behavior does have significance in the perception of society and "real world" of the courtroom.

Society's lack of understanding and acceptance of the reality of acquaintance molestation and exploitation of children often results in

- Victims failing to disclose and even denying their victimization
- Incomplete, inaccurate, distorted victim disclosures when they do happen
- Degrees of shame, embarrassment, and guilt felt by victims
- Offenders being able to exploit numerous victims over an extended period of time
- Unrealistic prevention programs that render them ineffective and compound the first four problems mentioned above

This publication hopes to address and improve this situation for the benefit of the victims, investigators, and prosecutors. While society has become increasingly more aware of the problem of the acquaintance molester and related problems such as child pornography, the voice calling the public to focus only on "stranger danger" and many child-abuse professionals to focus only on intrafamilial sexual abuse still persists. Sexual-exploitation cases involving acquaintance molesters present many investigative challenges, but they also present the opportunity to obtain a great deal of corroborative evidence, get solid convictions, and prevent continued victimization.

Definitions

Annoying Nitpicking Or Important Necessity?

In the last chapter a variety of terms were used and deliberately left undefined in order to make a point. Many of these terms are thought to be basic and are, therefore, frequently not defined. Both nonprofessionals and professionals use them regularly.

Seeming disagreements and differences of opinion are often the result of confusion over definitions. Some say pedophiles can be treated, and others claim they cannot be treated. Some say there is a connection between missing children and child pornography, and others say there is not. Some people say communities should be notified when sex offenders move into a neighborhood, others say it is an unproductive violation of privacy. This is not always simply a matter of a difference of opinion. The selection of terminology can also affect understanding and reaction. The exact same incident could be referred to as "a teacher had a physical relationship with a teenage student," "a pedophile molested a child," or "a predator raped a baby."

Referring to the same thing by different names and different things by the same name frequently creates confusion.

Referring to the same thing by different names and different things by the same name frequently creates confusion. For example the same 13-year-old can be referred to as a(n) "baby," "child," "youth," "juvenile," "minor," "adolescent," "adult," or (as in one forensic psychological evaluation) "underage adult." The same sex offense against a child can be referred to as "contributing to the delinquency of a child," "indecent liberties or lewd conduct," "sodomy," "aggravated sexual battery," or "statutory rape." A father who coerces, a violent abductor, an acquaintance who seduces, a child-pornography collector, or an older boyfriend can all be referred to as a "child molester," "pedophile," or "predator." Looking or peeping, indecent exposure, petting or kissing, oral-genital or anal contact, and vaginal or anal intercourse can all be referred to as "sex."

In written and spoken communication definitions are crucial to understanding. What is the difference between the sexual abuse of children and sexual exploitation of children? What is the difference between child molestation and child rape? What does it mean to someone who reads in the newspaper that a child was the victim of "indecent assault," a child was "sodomized," or an offender was convicted of "indecent liberties" with a child? Terms such as "sexual exploitation of children and youth" or "sexual exploitation of children and adolescents" imply a youth or an adolescent is not a child. At what age does a child become a youth or adolescent? If such a person is sexually victimized, is that considered youth molestation or sexual abuse of adolescents?

Although many recognize the importance of definitions, a major problem is the fact that many terms do not have one universally accepted definition. They have different meanings on different levels to different disciplines. For example the dictionary or lay person's definition of a "pedophile" is not the same as the psychiatric definition in the *Diagnostic and Statistical Manual of Mental Disorders*, 4th Edition, Text Revision, commonly referred to as the *DSM-IV-TR*® (American

Psychiatric Association, 2000). Legal definitions may not be the same as societal attitudes. The definition problem is most acute when professionals from different disciplines come together to work or communicate about the sexual victimization of children. Definitions are **less** important when investigating and prosecuting cases and **more** important when discussing, researching, and writing about the nature and scope of a problem. This publication is an example of the latter.

The important point, then, is not that these terms have or should have only one definition but people using the terms should communicate their definitions, whatever they might be, and then **consistently** use those definitions. Failure to consistently use a definition is often a bigger problem than defining a term. Many will define a child as anyone younger than 18 years old but then make recommendations such as "never leave your children unattended," which clearly does not apply to all children meeting that definition. When we use basic or common terms, we rarely even define them. Especially problematic are terms with a wide range of possible definitions — all correct but often different. I call them "fill-in-the-blank" terms. Each person thinks he or she knows the definition so each does not question it. When people hear or read the term, they just insert their own mental definition. These are terms commonly used such as **sick, casualty, missing, violence, abuse, pornography, predator, sodomy, sex**, and **child**. Some subtly change the definitions of such terms when it suits their purpose. Suddenly "violence" includes emotional violence, "abuse" is any activity they disapprove of, "missing" is abducted by a sex offender, and "pornography" is any sexually explicit material they did not like to view. It is unprofessional and confusing to arbitrarily change the definition of common words to make a point. I will provide another example of this problem when I discuss those wanting to change the term **child pornography** to the term **child-abuse images**.

In order to alert investigators to potential confusion and clarify the intended meaning, below is a discussion of some key terms and concepts used in this publication.

Defining Terms

Sexual Victimization of Children

The term **sexual victimization of children** is used as the broadest term to encompass all the ways in which a child can be sexually victimized. Under this umbrella term are the wide variety of forms of sexual victimization such as **sexual abuse of children, sexual exploitation of children, sexual assault of children**, and **sexual abduction of children**. Many professionals do not address or realize the wide diversity of ways children can be sexually victimized. More importantly they may not recognize how these forms of victimization are alike and unalike.

Sexual Exploitation of Children

The term **sexual exploitation of children** is difficult to precisely define. This difficulty is usually addressed by giving examples instead of a definition. It means different things to different people. For some it implies a commercial or monetary element in the victimization. For many it often implies sexual victimization of a child perpetrated by someone other than a family member or legal guardian. It is

frequently contrasted with the term **sexual abuse of children**, which is more often used to refer to one-on-one intrafamilial abuse.

As used in this publication **sexual exploitation of children** refers to forms of victimization involving significant and complex dynamics that go beyond an offender, a victim, and a sexual act. It includes victimization involving sex rings; child pornography; the use of information technology *(e.g.*, computers, the Internet, digital-memory storage devices); sex tourism; and child prostitution. Other than the child prostitution, the exploitation does not necessarily involve commercial or monetary gain. In fact, in the United States, child pornography and sex-ring activity frequently result in a net financial loss for offenders. Cases of sexual exploitation of children may involve intrafamilial offenders and victims. Intrafamilial cases involving child pornography and information technology appear to be occurring with increasing frequency. Depending on definitions it could be argued all sexually abused children are exploited, but not all sexually exploited children are abused. For example a child who has been surreptitiously photographed in the nude has been sexually exploited but not necessarily sexually abused.

Sympathy for victims is inversely proportional to their age and sexual development.

Child prostitution is a significant and often ignored aspect of sexual exploitation. Due to its complexity and the narrow focus of this publication, child prostitution will not be discussed here in any detail. This should in no way be interpreted as meaning child prostitution is not a serious problem or form of sexual victimization and exploitation of children.

Child

There clearly can be a conflict between the law and society when it comes to defining a child. Who is considered a child can be based on the law, sexual development, mental/emotional maturity, and parental/guardian perspective. Sympathy for victims is inversely proportional to their age and sexual development. Many people using the term sexual abuse of **children** have a mental image of children 12 or younger. The main problem, therefore, is with the 13- to 17-year-old age group. Those are the child victims who most likely look, act, and have sex drives similar to adults, and who may or may not be considered children under some laws and by society. The difference in mental and emotional maturity will be discussed later *(see* the discussion of "Compliant Child Victims" beginning on page 24). There can also be national, cultural, and ethnic variations in attitudes and/or practices regarding who is considered a child. Pubescent teenagers can be viable sexual targets of a much larger population of sex offenders. In my experience, unlike one-on-one intrafamilial sexual abuse in which the victim is often a young girl, in many acquaintance-sexual-exploitation cases the victim is a boy between the ages of 10 and 16.

Under federal law a sexually explicit photograph of a mature-looking, 16-year-old girl or boy is legally child pornography (18 U.S.C. § 2256). Such photographs are not, however, what most people think of when they think of child pornography. This again reflects the problem of definitions. Arguments about child pornography, such as whether it is openly sold or of interest only to pedophiles, may be primarily the result of confusion over its definitions.

Adolescents are frequently considered and counted by child advocates as children in order to emphasize the large scope of the child-victimization problem. But then often little or nothing said or done about addressing the problem seems to apply to the reality of adolescent victims. If adolescents are considered child victims of sexual exploitation, then their needs, interests, and desires must be realistically recognized and understood when addressing the problem.

Legal definitions of who is considered a child or minor vary from state-to-state and even statute-to-statute when it comes to adolescent victims. During a prosecution the definition can even vary from count-to-count in the same indictment. The age of the child may determine whether certain sexual activity is a misdemeanor or felony and what degree felony.

To determine who is a child for criminal-investigative purposes, investigators and prosecutors must look to the law and the elements of each statute. The law, not puberty, determines who is a child or minor. But they must still address their own perceptions as well as those of the jury and society as a whole. In general a **child** will be defined here as someone who has not yet reached his or her 18th birthday. One of the problems in using this broad, but sentimentally appealing, definition of a child is it lumps together individuals who may be more unalike than alike. In fact 16 year olds may be socially and physically more like 26-year-old young adults than 6-year-old children.

Paraphilias and Sexual Ritual

Paraphilias are psychosexual disorders defined for clinical and research purposes in the *DSM-IV-TR*. They are defined there as recurrent, intense, **and** sexually arousing fantasies, urges, **or** behaviors generally involving nonhuman objects, the suffering or humiliation of oneself or one's partner, **or** children or other nonconsenting persons, **and** that occur over a period of at least six months. Better known and more common paraphilias include exhibitionism (exposure), fetishism (objects), frotteurism (rubbing), pedophilia (child), sexual masochism (self pain), sexual sadism (partner pain), and voyeurism (looking). Less known and less common paraphilias include scatologia (talk), necrophilia (corpses), partialism (body parts), zoophilia (animals), coprophilia (feces), klismaphilia (enemas), urophilia (urine), infantilism (baby), hebephilia (female youth), ephebophilia (male youth) and theoretically many others "not otherwise specified" (NOS).

In the real world each of the paraphilias typically has slang names *(e.g.*, "big baby," "golden showers," "S&M"); an industry that sells related paraphernalia and props *(e.g.*, restraining devices, dolls, adult-sized baby clothing); a support network *(e.g.*, North American Man/Boy Love Association [NAMBLA], Diaper Pail Fraternity, Internet newsgroups and chatrooms); and a body of literature *(e.g.*, pornography, newsletters). In fact the paraphilias are the organizational framework or the "Dewey Decimal System" of pornography, obscenity, adult bookstores, and Internet sex chatrooms.

Individuals can and frequently do have more than one of these paraphilias. Paraphilias are psychosexual disorders and not types of sex crimes. They may or may not involve criminal activity. Individuals suffering from one or more of these paraphilias can just engage in fantasy and masturbate, or they can act out their

fantasies legally *(e.g.*, consenting adult partners, objects), or they can act out their fantasies illegally *(e.g.*, nonconsenting partners, underage partners). It is their choice. In addition not everyone committing a sex offense has a paraphilia. Their behavior patterns may be criminal, but not fit the specific diagnostic criteria for a paraphilia. Sex offenders with paraphilias seem to have higher rates of misconduct and recidivism. Many rapists and incest offenders are not suffering from paraphilias.

Although any of the paraphilias could become elements of a child-sexual-exploitation case, **pedophilia** is the most obvious and best known to investigators working on these cases. It is important for investigators to understand the *DSM-IV-TR* diagnostic criteria for pedophilia. These specific criteria, as well as the related terms **hebephilia** and **ephebophilia** *(i.e.*, sexual preference for pubescent children) will be discussed shortly in the section titled "Pedophile" beginning on page 19.

On an investigative level the presence of **paraphilias** often means highly repetitive and predictable behavior focused on specific sexual interests that go well beyond a **method of operation** (MO). The concept of MO — a repeated pattern of behavior engaged in by an offender because it works and will help him get away with the crime — is well-known to most investigators. An MO is fueled by thought and deliberation. Most offenders change and improve their MO over time and with experience.

The repetitive patterns of behavior of sex offenders can and do involve some MO, but are more likely to also involve the less-known concept of sexual **ritual**. Sexual **ritual** is a repeated pattern of behavior engaged in by an offender because of a sexual need; that is, in order to become aroused and/or gratified a person must engage in the act in a certain way. If repeated often enough during sexual activity, some aspects of the MO of sex offenders can, through behavioral conditioning, become part of the sexual ritual. Other types of ritual behavior can be motivated by psychological, cultural, or spiritual needs or some combination. Unlike an MO, ritual is necessary to the offender but not to the successful commission of the crime. In fact, instead of facilitating the crime, **ritual** often increases the odds of identification, apprehension, and conviction because it contributes to the offender making need-driven mistakes.

*The repetitive patterns of behavior of sex offenders can and do involve some MO, but are more likely to also involve the less-known concept of sexual **ritual**.*

Sexual **ritual** and its resultant behavior are determined by erotic imagery, are fueled by fantasy, and can often be bizarre in nature. Most important to investigators, offenders find it difficult to change and modify **ritual**, even when their experience tells them they should or they suspect law-enforcement scrutiny. The ritual patterns of many sex offenders have far more significance as prior and subsequent like acts than the MO of other types of offenders. Understanding sexual ritual is one key to investigating certain sex offenders. The courts in this country have, however, been slow to recognize and understand the difference between **MO** and **ritual**.

From an investigative point of view it is not always easy to distinguish between MO and ritual. Every morning putting on your shoes and socks is a noncriminal/nonsexual example of MO. It serves a practical, functional purpose. Every morning putting on your right sock, then your right shoe, hopping once, and then

putting on your left sock, then your left shoe is a noncriminal/nonsexual example of ritual. It serves only a psychological need. Depending on the offender's intention, blindfolding or tying up a victim could be either **MO** or **ritual**. Tying up someone so he or she cannot resist or escape is MO. Tying up someone for sexual gratification is called bondage and is ritual. The ability to interpret this distinction is in the detailed analysis of the behavior. Investigators must, therefore, keep an open mind and continually accumulate and evaluate even the small details of offender physical, sexual, and verbal behavior.

Child Molester

The term **child molester** is fairly common and used by professionals and nonprofessionals alike including law-enforcement officers. Molest has historically been defined as to bother, interfere with, or annoy. It has, however, increasingly come to convey some type of sexual activity with children. In fact, a current dictionary defines it as "to annoy, interfere with, or meddle with so as to trouble or harm, or with intent to trouble or harm; to make improper advances to, especially of a sexual nature; or to assault or attack (especially a child) sexually" *(Webster's New World College Dictionary*, 2009).

In spite of its common usage, it is surprising how many different images and variations of meanings the term **child molester** has for different individuals. For many it brings to mind the image of the dirty old man in a wrinkled raincoat hanging around a school playground with a bag of candy waiting to lure little children. For some the child molester is a stranger to his victim and not a father having sex with his daughter. For others the child molester is one who exposes himself to or fondles children without engaging in vaginal or anal intercourse. Still others believe the child molester is a nonviolent offender. Some differentiate between nonviolent child "molesters" who coax or pressure the child into sexual activity and violent child "rapists" who overpower or threaten to harm their victims. Most would probably not apply the term child molester to a man who uses the services of an adolescent prostitute. For law enforcement the term child molester is more likely to conform to various legal definitions of sexual molestation set forth in the penal code.

For the purposes of this publication a **child molester** will be defined as a significantly older individual who engages in any type of sexual activity with individuals legally defined as children. When using only the term **child molester**, no distinctions will be made between male and female, single and repeat offenders, or violent and nonviolent offenders. No distinctions will be made as to whether the child victims are prepubescent or pubescent, known or unknown, related or unrelated to the offender. Finally no distinctions will be made based on the type of sexual activity engaged in by the offender. Although such distinctions may have important legal and evaluative significance, they have no bearing on whether or not an individual is labeled a **child molester**. In this publication a **child molester** is simply a significantly older individual who engages in illegal sexual activity with children.

How much older is "significantly older"? Clearly, in many cases, the dynamics of the case may be more important than simply the chronological age of the individuals. There are, however, some working guidelines. In many state statutes and the *DSM-IV-TR* there must be an age difference of five years. There are, however,

cases in which the age difference is less than five years and yet the sexual behavior seems to fit the power-abuse dynamics of child sexual exploitation. There are also cases in which the age difference is greater than five years, but the behavior does not seem to fit the dynamics. Some of the most difficult cases to evaluate are those involving younger and older adolescents — for example a 13-year-old girl and 19-year-old boy. It is more than five years' difference, but is it child sexual exploitation? What does the law say? What does society say? In evaluating such cases, investigators and prosecutors should consider such things as the number of underage sex partners and whether the age of the younger sexual partners advances as the older partner does. As previously stated the focus of this publication will not include adolescents sexually victimized by acquaintances who are clearly peers.

A central theme of this publication is to emphasize the "big-picture" approach to investigation. In short a reported case of a 12-year-old child molester requires an investigation of more than just the reported crime. Many people have an idea the cycle of abuse only means child victims grow up and become adult offenders. It can also mean the same individual is both a victim and offender at the same time. For example say a man sexually molests a 13-year-old boy. The 13-year-old boy goes home and molests his 7-year-old brother. The 7-year-old brother then molests the baby his mother is babysitting. The investigation of the last activity should lead back to the first crime.

Pedophile

Although the use of the term **child molester** has been commonplace for a long time, publicity and awareness concerning sexual victimization of children has resulted in more frequent use of the term **pedophile**. One problem is the fact the term **pedophile** has both a less precise lay definition and a more precise diagnostic definition. In the *DSM-IV-TR* pedophilia is classified as a paraphilia, one of the psychosexual disorders. It is important for investigators to understand the *DSM-IV-TR* diagnostic criteria for **pedophilia** require there be fantasies, urges, **or** behaviors that are recurrent, intense, **and** sexually arousing and all of which involve **prepubescent** children, generally **age 13** or younger.

The absence of **any** of the key criteria could technically eliminate the diagnosis. For example an individual who has a strong preference for and repeatedly engages in sex or communicates online with large numbers of 14 year olds could correctly be evaluated by a mental-health professional as **not** a pedophile. In spite of this some mental-health professionals do apply the term to those with a sexual preference for pubescent teenagers. Others do not. An individual who has over a period of time collected child-pornography images portraying prepubescent children but never engaged in hands-on molestation may still fit the diagnostic criteria for pedophilia. The *DSM-IV-TR* criteria clearly states, "fantasies, urges, **OR** behaviors" (emphasis added) and not "and behavior." In addition reaching puberty is a complex phenomenon that does not occur overnight or during everyone's 13th year.

The terms **hebephilia** and **ephebophilia** (*i.e.*, sexual preference for pubescent children) are not specifically mentioned in the *DSM-IV-TR* and are used far less often, even by mental-health professionals. They are, however, being increasingly used in forensic evaluations submitted to the court by defendants attempting to

minimize their sexual behavior with teenagers. If you can be a **hebephile**, then you can have a mental disorder but not be a **pedophile**, and you may be able to confuse the court. Although sexual attraction to pubescent children by adults has the obvious potential for criminal activity, it does not necessarily constitute a sexual perversion as defined by psychiatry. It is obvious to me that the vast majority of men can be sexually stimulated by the physical appearance of pubescent children. Most men, however, do not repeatedly and persistently engage in such fantasies or act on these urges and there are many reasons, other than a long-term sexual preference, why an adult might have sex with an adolescent child.

Technically being labeled a pedophile is a psychiatric diagnosis that can be made only by qualified psychologists or psychiatrists. For many, therefore, the word is a diagnostic term, not a legal one. At one time the term **pedophile** was almost exclusively used by mental-health professionals. Today many people, including the media, routinely refer to those who sexually abuse children as pedophiles. The term pedophile is also being used more and more by law enforcement and prosecutors. It has even entered their slang usage — with some talking about investigating a "pedo case" or being assigned to a "pedo squad." Although people in the United States most often pronounce the "ped" in "pedophilia" with a short "e" as the "ped" in "pedestrian" (from the Latin for foot), the more correct pronunciation is "ped" with a long "e" as in "pediatrician" (from the Greek for child).

This increasing use has to some degree brought this term outside the exclusive purview of psychiatric diagnosis. Just as someone can refer to another as being "paranoid" without implying a psychiatric diagnosis or assuming psychiatric expertise, a social worker, prosecutor, law-enforcement officer, or media reporter can refer to an individual who has sexually victimized a child as a pedophile. *Webster's New World College Dictionary* (2009) contains a good layperson's definition for pedophilia. It is "sexual desire in an adult for a child."

Draft changes for a new *DSM-5* were posted by the American Psychiatric Association on www.dsm5.org in January 2010. This proposed *DSM-5* would make a distinction between **paraphilias**, "manifested by fantasies, urges, or behaviors," and **paraphilic disorders**. The proposed changes state, "A paraphilia by itself would not automatically justify or require psychiatric intervention. A **paraphilic disorder** is a paraphilia that causes distress or impairment to the individual or harm to others." This appears to be consistent with my view that being a pedophile and being a child molester are not always interchangeable concepts, but also seems to suggest a pedophile who only has nondistressing fantasies or urges may not require treatment. In addition they propose the diagnosis of pedophilia, erotic preference for prepubescent children, be revised to include hebephilia, erotica preference for children in early puberty, and the revised entity be named **Pedohebephilic Disorder**. This disorder would then have the three types of **Pedophilic Type** — sexually attracted to prepubescent children (generally younger than 11); **Hebephilic Type** — sexually attracted to pubescent children (generally age 11 through 14); and **Pedohebephilic Type** — sexually attracted to both. The proposed definition of a "child" would be raised to age 14 years or younger. Having the disorder would require one or more of three specified signs or symptoms. Interestingly, one of the proposed signs or symptoms for this disorder would require seeking sexual stimulation from two or

more different prepubescent children but three or more different pubescent children. Significantly, another proposed disorder sign or symptom would require "use of child pornography in preference to adult pornography, for a period of six months or longer." Therefore, someone whose sexual fantasies include using child pornography could be diagnosed as having the **Pedohebephilic Disorder**. Any of these proposals could be modified before final publication, which is not scheduled until May 2013.

For the purposes of this publication, when the term **pedophile** is used it will be defined as a significantly older individual who **prefers** to have sex with individuals legally considered to be children. Pedophiles are individuals whose erotic imagery and sexual fantasies focus on children. They do not settle for child victims, but, in fact, clearly prefer to have sex with children. The law, not puberty, will determine who is a child. The term, therefore, will be applied to those whose sexual behavior involves pubescent children as long as it is part of a true sexual preference and pattern of behavior and not just an isolated opportunity. As previously stated this is inconsistent with the strict diagnostic criteria for pedophilia in the *DSM-IV-TR*. As will be discussed later, a pedophile is just one example or subcategory of what I refer to as a "preferential sex offender." The term **preferential sex offender** is merely a descriptive label used only to identify, for investigative and prosecutive purposes, a certain type of offender. The term **preferential sex offender** does not appear in the *DSM-IV-TR* and it is not intended to imply or to be used for clinical diagnosis.

It is important to realize that to refer to someone as a **pedophile** is to say only that the individual has a sexual preference for children. It says little or nothing about the other aspects of his character and personality. To assume someone is not a **pedophile** simply because he is nice, actively practices his faith, works hard, is kind to animals, helps abused children, reports finding child pornography on the Internet to law enforcement, and/or searches for missing children is absurd. Pedophiles span the full spectrum from saints to monsters. In spite of this fact, over and over again pedophiles are not recognized, investigated, charged, convicted, or sent to prison simply because they are "nice guys." One of the best indicators of the continuing lack of understanding of the nature of pedophilia is the media and society still view as a contradiction the fact that someone could be a caring, dedicated teacher *(e.g.*, clergy member, coach, doctor, children's volunteer) and sexually victimize a child in his care. The vast majority of dedicated schoolteachers are not pedophiles, but many pedophiles who become schoolteachers are dedicated teachers.

It is also important to recognize while pedophiles **prefer** to have sex with children, they can and do have sex with adults. Adult sexual relationships are more difficult for some pedophiles than for others. Some pedophiles have sex with adults as part of their effort to gain or continue their access to preferred children. For example one might have occasional sex with a single mother to help ensure continued access to her children.

Key Concepts

In order to effectively investigate and prosecute cases involving sexual exploitation of children by acquaintance child molesters, four significant behavioral concepts of this relatively common but poorly comprehended type of child sexual victimization

must be understood. These **key dimensions include Sexual Activity, "Nice-Guy" Offender, Compliant Child Victims**, and **Grooming/Seduction**.

Sexual Activity

The first concept involves understanding the nature and scope of behavior that can constitute **sexual activity**. Defining sexual activity is not as easy as many people think. Is a sex crime determined by the motivation for the acts or the specific acts performed? Sexual victimization of children can run the gamut of "normal" sexual acts from fondling to intercourse; however, looking solely at the nature of the acts performed does not necessarily solve this problem. Obvious "sexual" behaviors *(e.g.*, vaginal or anal intercourse) can be motivated by nonsexual needs *(e.g.*, power and/or anger). This is why it is often said rape, which traditionally may require proof of sexual penetration, is not a sex crime but a crime of violence. Obviously such acts may still be considered sexual assaults by the law even if they were motivated by nonsexual needs.

Sex can, however, also include deviant sexual acts involving behavior such as sadomasochism, bondage, urination, defecation, peeping, and indecent exposure. Seemingly "nonsexual" behavior can be motivated by sexual needs. Some would argue, therefore, that a sex crime is one motivated by sexual gratification.

Some acts are "strict liability" offenses *(i.e.*, an adult engages in vaginal penetration of a child with his erect penis) where the act speaks for itself and there is no need to prove the sexual motivation. Other acts can be sexual acts if you can prove the intent or motivation of the individual. Are kissing, hugging, or appearing naked in front of a child sexual acts? Are giving a child an enema, taking a child's rectal temperature, having a child spit in a cup, cutting a child's hair, massaging a child's feet, or giving a child a back rub sexual acts? Are a physical examination by a doctor, hands-on wrestling instructions by a coach, photographing a child playing dead, surreptitiously video recording children changing clothing, or teaching religious rituals sexual acts? It is common for child molesters when interviewed to admit their acts but deny the intent *(i.e.*, "I was demonstrating a wrestling hold with the child." "I was taking measurements for a study on adolescent growth." "It was part of an initiation ceremony." "I was checking for the effects of steroids."). All these acts could be sexual acts if you could prove the intent was for sexual gratification. As previously discussed such "weird" or unusual sexual behaviors are referred to by mental-health professionals as sexual **paraphilias**. Seemingly "nonsexual" behavior can be in the service of sexual needs.

How does an investigator prove intent or motivation? Can a crime have more than one motivation? Can we determine motivation from the offender? We know offenders are more reluctant to admit sexual motives than other types of motives *(e.g.*, profit, revenge, anger, power). Does the offender always know his motivation? Potential ways to address this problem will be discussed later in this publication.

It is important for investigators to realize some acts may not be crimes even if they can prove they were done for sexual gratification. Photographing children on the playground, tape recording the belching of boys, or listening to children urinate in a public bathroom can be sexual acts for some individuals, but they are most likely not crimes.

Other acts involve societal and cultural judgments. Does allowing children to watch adults have sex or gain access to pornography constitute child sexual abuse or

child neglect? Should artists, photographers, and therapists have special privileges under child-pornography statutes? Can a high-quality artistic photograph taken with an expensive camera and printed on expensive paper still be child pornography? Is it child abuse to ask a child to reenact sexual acts the child has described? Is it a crime to photograph the reenactment? Is burning a child's genitals with a lit cigarette physical abuse, sexual abuse, or both? Does it ever matter? The specific motivation might have important investigative or prosecutive significance in some cases.

The criminal-justice system must look to the law to determine what a sex offense is and what the statutory elements of the offense are. Some states allow wider latitude in looking at motivation to determine what is a sex crime. To what or whom do others look to make this determination? Untrained individuals and organizations all too frequently dismiss questionable activity as "public displays of affection," "boundary violations," or "inappropriate conduct." Although such activity is obviously not always sexual in nature, it can be. Some "inappropriate" activity adults engage in with children can be part of a "grooming" or seduction process. Such grooming activity can sometimes also provide sexual gratification for the adult. In addition the goal of the grooming is not always to eventually engage in sexual intercourse with a child. Some offenders are content with or even prefer other types of sexual activity (*e.g.*, paraphilias). Touching that might be foreplay (fondling) for most offenders can be the ultimate objective for some offenders (frotteurism).

Lay people and uninformed organizations rarely make the effort to evaluate such behavior in totality and in the context of past behavior. When evaluating the significance and relevance of offender behavior and children's allegations, interveners should always consider both the activity and its possible motivations. Such activity, criminal and noncriminal, might even constitute legally admissible prior or subsequent like acts.

Having a broader conceptualization and understanding of what could constitute sexual behavior should also improve the ability of professionals to evaluate questionable behavior and set proper boundaries for interaction with children.

"Nice-Guy" Offender

The second key concept involves understanding the **nice-guy offender** who seems to love and is often loved by children. Acquaintance offenders typically sexually exploit children through seduction and/or the collection, creation, or distribution of child pornography. They are typically serial offenders who are extremely predatory, but rarely violent. These acquaintance offenders are frequently described as "nice guys" and "pillars of the community" and quite often they actually are. Many individuals do not prevent, recognize, or accept the sexual victimization of a child by a respected member of society because they cannot believe a man who is good and spiritual and who seems to truly care for children could be a child molester.

Such offenders can be the Big Brother of the Year, most popular teacher, or best soccer coach. It is not uncommon for these offenders to be viewed as "child magnets" or "pied pipers" who have an extraordinary ability to relate to children and to whom many children are drawn. This is not to say in some cases children will not sense some adult is "weird" or has a "problem" before the adults in their lives do. Parents/guardians who desperately want their children to get good grades,

become star athletes, get into modeling or show business, have an adult male role model, or have a good babysitter, may actually push their children toward such offenders. As will be explained later, these offenders usually groom and seduce their child victims. Being "nice" has little to do with being a child molester except that it increases the likelihood of repeatedly committing the crime and getting away with it. A desire to work with or help children and an ability to relate to them does not necessarily mean someone is a child molester, but it does not mean someone is not.

Such nice-guy offenders usually have strong needs to rationalize and validate their sexual behavior. This seems to be especially true of more intelligent, better educated individuals who molest children. Most of them seem to have an overwhelming need to convince, primarily themselves, the behavior they engaged in is not really sex, the child doesn't understand or remember the activity and is therefore not harmed, this is an expression of love and caring, and/or they are entitled to this because of all the good they do. Their need to rationalize their sexual interests and behavior often leads them to be involved in "good works" that help troubled, needy children. They may become teachers, coaches, missionaries, child-protection advocates, or cyber vigilantes. Obviously such pursuits also give them convenient access to vulnerable children and socially acceptable reasons for interaction with them. The psychological need to validate their sexual interest in children *(i.e.*, **ritual**) and the functional need to gain access to potential victims *(i.e.*, **MO**) are not mutually exclusive.

In the United States during the early 21st century the term most commonly used to refer to any adult who sexually victimizes a child is **predator**. Many child molesters are certainly predatory in their behavior, but the widespread use of this term can be unfortunate and counter-productive. The term has a very negative connotation and conjures up an image of disguised evil and inevitable violence. In my experience the most prolific and persistent child molesters rarely use violence to manipulate and control their victims. Some child molesters are described as "nice guys" not because they are successfully disguising their true wickedness but because overall they actually are nice. When used in prevention programs, the term **predator** will often be inconsistent with the perceptions of potential child victims. Moreover it may incorrectly suggest to staff members, parents, guardians, and program participants that people who are pleasant, kind, and helpful cannot be sex offenders. If the term is used, any discussion should clearly include the possibility such **predators** may regularly practice their faith, work hard, be kind to neighbors, love animals, and help children.

Recognizing that even "nice guys" can be child molesters should improve the ability of professionals to investigate these cases. Knowing these types of offenders will generally try to conceal their sexual behavior from anyone they believe will not accept their rationalizations for it, but often disclose, at least in part, their sexual behavior to those they believe will accept their rationalizations should assist in interview situations. It is important for professionals attempting to elicit incriminating information from such offenders to communicate, at least to begin with, in a nonjudgmental, nonthreatening, and receptive demeanor.

Compliant Child Victims

The third concept involves understanding children who are or were compliant in their victimization. In sex crimes the fundamental legal difference between

victimization of an adult and a child is the issue of **consent**. With sexual activity between adults, with a few rare exceptions, there must be a lack of consent in order for there to be a crime. With sexual activity between children and adults, there can be a crime even if the child cooperates or "consents." But the reality of age of consent is not so simple.

As previously stated there can often be a conflict between the law and society's viewpoint when it comes to defining a child and many people using the term have a mental image of children 12 or younger. Adolescent child victims often look, act, and have sex drives like adults and may or may not be considered children under different statutes or by society. Issues such as whether the victim consented or was the offender a guardian or caretaker can have important legal significance. In some jurisdictions 16 year olds may be able to consent to have sex with the man down the street, but not with their father or schoolteacher. There is sometimes inconsistency in how the law evaluates consent when addressing cases involving sexual partners of varying age differences. To make things more complicated, the age and circumstances under which a child can marry an adult also vary from state-to-state. Laws determining when a child can marry are not the same as laws determining the age of consent for sex. In some instances the easiest way for an adult to have sex with a child and come under no legal scrutiny is to marry the child.

The term **compliant** is used to describe those child victims who in any way, partially or fully, cooperate in their sexual victimization without the threat or use of force or violence. Some of the sexual acts engaged in with a child might be considered violent in nature, but violence is not used as the primary access and control mechanism. In essence, if such victims were adults, the activity would not be a crime. Since I first began to speak out about this issue, some people have objected to my use of the term **compliant**. They have suggested terms such as **manipulated, voluntary, cooperating, accommodating, willing, statutory, sexualized**, and **Romeo and Juliet cases**. Several have recommended I use the term **groomed** child victim *(see* discussion of grooming beginning on page 26). The problem is grooming may be the most common reason children are compliant in these situations but not the only reason. My response to these suggestions is they pick whichever one they like. Although labels can be important, the most important thing is to identify and understand the behavior involved and recognize these children **ARE** real victims of crime. Such children are victims not because they may have been manipulated or groomed, been brain-washed, or come from dysfunctional homes, but simply because of their date of birth.

Children are human beings with normal needs, wants, and desires. As human beings many children are willing to trade sex, whether or not they understand what it is, for the affection and attention of a "nice guy." In theory the law recognizes developmental limitations of minors and affords them with special protection. The repeated use, however, of terms such as rape, sexual violence, assault, attack, sexually violent predator, and unwanted sexual activity, when discussing or inquiring about the sexual victimization of children assumes or implies in the minds of many that all **real** child victims resist sexual advances by adults; are then overpowered by coercion, trickery, threats, weapons, or physical force; and then report it the first chance they can. The real reason we protect children and do not recognize their

"consent" to have sex with adults is not because they are "innocent," but because they are developmentally immature *(e.g.*, brain development, cognitive decision-making, judgment).

Whether or not the child resisted, said "No," was overpowered, immediately reported it, or even enjoyed the sexual activity are not necessarily elements in determining if a child was criminally sexually victimized by an adult. Those children who nonviolently initiate the sexual activity with an adult can be victims. It is the adult who has the legal obligation and maturity to say "No" to such advances. Understanding all this is especially problematic for the public *(i.e.*, potential jurors) and professionals *(i.e.*, teachers, physicians, therapists, clergy members) who lack specialized training in criminal law and may not rely on strict legal analysis. They have also been influenced by the media, professionals, and prevention programs that either state or imply erroneously all child victims are forced or tricked into unwanted sexual activity with adults. These child victims, even after becoming adults, often either deny their victimization or disclose it in inaccurate, but more socially acceptable ways because they suffer from varying degrees of shame, guilt, and embarrassment. Society tells them in so many ways they are not "real" victims. **When an adult and child have sex under these circumstances, the adult is always the offender and the child is always the victim**.

Interveners cannot rely on or expect all children to resist and report their sexual victimization. It makes no sense to ask children to tell parents/guardians or authority figures only about "unwanted" sexual contacts. They are children. Sexual activity with adults is a problem whether or not it is wanted. It is more difficult to develop reasonable strategies to try to prevent things a child may think he or she wants to happen. Young children are more likely to listen to what adults say but less likely to truly understand. Older children are more likely to understand, but less likely to listen. If we are going to count adolescent children as victims, some of what is said and done to prevent their sexual victimization must incorporate the reality of adolescent development and behavior. Making children safer from sexual victimization by acquaintances should rely less on hardware, software, simplistic rules, and dire warnings about sexual predators and more about involvement in their lives, communication, and love. **Editor's Note**: While it may be a challenge in families to have discussions with older children about responsibility and the consequences of their choices and actions, it is important for parents and guardians to take the time to do so. Older children need to understand they are at risk for victimization and their desire for freedom and autonomy may put them at greater risk. Parents and guardians should engage in a discussion in which everyone has a chance to talk and listen, so the older children will understand the need for the rules and be made to feel part of the family's safety plan. For more tips and information, please visit www.missingkids.com.

Investigative suggestions for working with these types of child victims and the challenges they present will be discussed later in this publication.

Grooming/Seduction

The fourth and final key concept for developing an enhanced insight into acquaintance molesters involves understanding the **grooming/seduction** process. As previously

stated acquaintance child molesters, although sometimes violent, tend by necessity to control their victims primarily through the grooming or seduction process. In sexual-exploitation-of-children cases, this is today more commonly referred to as grooming, but historically the process has been more often called seduction. Although some people see a subtle distinction, in this publication both terms will be used interchangeably. I actually prefer the term **seduction** because it is better known and more understandable. These offenders seduce children much the same way adults seduce one another. This technique is no great mystery. Between two adults or two teenagers it is usually called dating. Years ago it was called courting. The major difference, however, is the disparity between the adult authority of the child molester and vulnerability of the child victim. It is especially unfair if the child molester is a prestigious authority figure *(i.e.*, teacher, law-enforcement officer, clergy member, youth volunteer) and the child is an easily sexually aroused, curious, rebellious adolescent or an easily confused, naive, trusting young child.

As used in this publication, **grooming/seduction** is defined as a variety of techniques used by a sex offender to access and control potential and actual child victims. This process takes access, time, and interpersonal skill. How much time depends on the needs of the child and skills of the adult. If done well the process not only gains the victim's initial cooperation, but also decreases the likelihood of disclosure by the victim and increases the likelihood of ongoing, repeated access. The greater the skill of the offender in selecting and seducing vulnerable victims, the more successful the acquaintance molester is and the longer he avoids discovery. How long such offenders get away with this type of victimization is usually determined by how well they select their victims, how good they are at identifying and filling their victims' needs, how much time they have to invest in the process, how proficient they are at seducing and controlling their victims, and how proficient others who might observe the process are at recognizing and responding to it. Although it is possible to manipulate and control child victims through the infliction of nonviolent stress, pressure, and pain, these techniques will generally not be considered grooming for purposes of this publication.

These offenders seduce children much the same way adults seduce one another.

Acquaintance child molesters typically groom and seduce their child victims with the most effective combination of attention, affection, kindness, privileges, recognition, gifts, alcohol, drugs, or money until they have lowered the victims' inhibitions and gained their cooperation and "consent." The exact nature of this seduction depends in part on the developmental stages, needs, and vulnerabilities of the targeted child victims and nature of the relationship with the offender. The skilled offender adjusts his methods to fit the targeted child. Offenders who prefer younger child victims are more likely to first "seduce" the victim's parents/guardians to gain their trust and obtain increased access to the potential victim. The offender then relies more on techniques involving fun, games, and play to manipulate younger children into sex. Those who prefer older child victims are more likely to take advantage of normal time away from their family and then rely more on techniques involving ease of sexual arousal, rebelliousness, inexperience, and curiosity to manipulate the children into sex. Some offenders simultaneously

befriend their victim's parents/guardians *(e.g.*, telling parents/guardians they want to mentor or help their child) and work to alienate the child from the parents/guardians *(e.g.*, telling children their parents/guardians don't want them to have fun).

The grooming or seduction process usually consists of identifying preferred or acceptable child targets; gathering information about interests and vulnerabilities; gaining access *(i.e.*, sports, religion, education, online computer); filling emotional and physical needs; lowering inhibitions; and gaining and maintaining control *(i.e.*, bonding, competition, challengers, peer pressure, sympathy, threats). Although the vulnerability may be greater when a troubled child from a dysfunctional family is groomed by an adult authority figure, the fact is **any** child can be groomed by **any** reasonably nice adult with interpersonal skills.

Many children have only a vague or inaccurate concept of "sex." They are seduced and manipulated by more experienced adult offenders and often, depending in part on their age and intellect, do not fully understand or recognize what they were getting into. As previously stated some "inappropriate" activity that is part of this "grooming" or seduction process can also provide sexual gratification for the adult. Victims who are seduced or engaged in compliant behavior are less likely to disclose their victimization and more likely to voluntarily return to be victimized again and again. Younger children may believe they did something "wrong" or "bad" and are afraid of getting into trouble. Older children may be more ashamed and embarrassed. Some victims not only do not disclose what happened, but they often strongly deny it happened when confronted.

Recognition and understanding of the concepts of grooming and compliance must be applied to all child victims and not just those who fit some preconceived stereotype of innocence. Whether children come from a "good" or dysfunctional home and do or do not get attention and affection at home should not be the determining factors in accepting their vulnerability to grooming and seduction. Child victims cannot be held to idealistic and superhuman standards of behavior. Their frequent cooperation in their victimization must be viewed as an understandable human characteristic and must be addressed when developing investigative and prevention strategy (Lanning, 2005).

Law-Enforcement Typology

Child Molester Versus Pedophile

There is still confusion, even among professionals, with regard to the terms **child molester** and **pedophile**. For many the terms have become synonymous. For them the word pedophile is just a fancy term for a child molester. The public, the media, and many child-abuse professionals frequently use the terms interchangeably and simplistically refer to all those who sexually victimize children as pedophiles. There is no single or uniform definition for the word **pedophile**.

As previously stated, for mental-health professionals, it is a psychiatric diagnosis with specific criteria. Labeling all child molesters as pedophiles is, however, confusing. There are clear differences between the types of individuals who sexually abuse children, and law-enforcement officers handling these cases need to understand that and make such distinctions when appropriate.

For me, not all pedophiles are child molesters. A person suffering from any paraphilia can legally engage in it simply by fantasizing and masturbating. A child molester is an individual who sexually molests children. A pedophile might have a sexual preference for children and fantasize about having sex with them, but if he does not act on that preference or those fantasies with a child, he is not a child molester. Whether or not a person acts on deviant sexual fantasies and urges may be influenced by other factors such as personality traits, the severity of psychosocial stressors, personal inhibitions, substance abuse, or opportunities. Inhibiting factors such as guilt, moral beliefs, or fear of discovery may limit or reduce the sexual activity with children. For many of them their problem is not only the nature or **quality** of the sex drive (attraction to children) but also the **quantity** (need for frequent and repeated sex with children).

Some pedophiles might act out their fantasies in legal ways by simply talking to or watching children and later masturbating. Some might have sex with dolls and mannequins that resemble children. Some pedophiles might act out their fantasies in legal ways by engaging in sexual activity with adults who **look** (small stature, flat-chested, no body hair), **dress** (children's underwear, school uniform), or **act** (immature, baby talk) **like young children**. Others may act out child fantasy games with adult prostitutes or online partners. A difficult problem to detect and address is that of individuals who act out their sexual fantasies by socially interacting with children *(i.e.*, in-person or online), or by interjecting themselves into the child-sexual-abuse or exploitation "problem" as overzealous child advocates *(i.e.*, cyber vigilantes). It is almost impossible to estimate how many pedophiles exist who have never molested a child. What society can or should do with such individuals is an interesting area for discussion but beyond the role of investigators or prosecutors. People cannot be arrested and prosecuted just for their fantasies.

In addition not all child molesters are pedophiles. In my experience, many child molesters are not pedophiles. A pedophile is an individual who prefers to have sex with children. A person who prefers to have sex with an adult partner may, for any number of reasons, decide to have sex with a child. Such reasons might

include simple availability, opportunity, curiosity, or a desire to hurt a loved one of the molested child. The erotic imagery and sexual fantasies of such individuals are not necessarily recurrent, intense, and focused on children; therefore, these people are not pedophiles.

Is an individual with adolescent victims a pedophile? Is everyone using a computer to facilitate having sex with children or trafficking in child pornography a pedophile? Is an adult soliciting sex with adolescents (or law-enforcement officers pretending to be adolescents) that are met online a pedophile? Is a 19-year-old dating a 14-year-old online a pedophile? Is an individual who has both child and adult pornography in his possession or on his computer a pedophile? Is an adult who has sexually explicit images of pubescent 16 year olds a pedophile? There are many reasons why an adult might have sex with an adolescent child. They range from a long-term sexual preference *(i.e.*, **hebephilia**) to situational dynamics *(i.e.*, forbidden nature makes it exciting, brings back memories of their own less stressful adolescent years, adolescent children are less judgmental or threatening, adolescent children are less likely to have sexually transmitted diseases).

Many child molesters are, in fact, pedophiles, and many pedophiles are child molesters. But they are not necessarily one and the same. Often it may be unclear whether the term is being applied with its diagnostic or some other definition. Most investigators are not qualified to apply the term with its diagnostic meaning. In addition labeling all child molesters as pedophiles is potentially confusing and counterproductive. Not everyone using the Internet to facilitate having sex with children or trafficking in child pornography is a pedophile. To avoid confusion with a mental-health diagnosis and possible challenges in court use of the term pedophile by law enforcement and prosecutors should be kept to a minimum. Distinctions between the types of child molesters, however, can have important and valuable implications for the law-enforcement investigation of sexual exploitation of children.

Most classification systems for child molesters were developed for and are used primarily by psychiatrists and psychologists evaluating and treating them. These systems and the diagnostic system in the *Diagnostic and Statistical Manual of Mental Disorders*, 4th Edition, Text Revision *(DSM-IV-TR®)* (American Psychiatric Association, 2000) usually require the offender be identified and available for evaluation. This publication will set forth a model for investigators that places sex offenders along a motivational continuum and into several patterns of behavior. These categories are **not** intended for use by mental-health professionals or clinicians. They are intended for use by law-enforcement officers, prosecutors, and other professionals in evaluating cases and developing the evidence needed to identify, arrest, and convict child molesters. If the investigator already has enough evidence to convict a child molester, then it may be of little importance whether or not the molester is a **pedophile** or any other category of offender. But if the investigator is still attempting to develop incriminating evidence, such distinctions can be invaluable. Even if there is enough evidence to convict a child molester, the fact that a molester is a certain type of sex offender could still be important in evaluating the potential for additional child victims and other types of criminal behavior.

Needs of Law Enforcement

When the only evidence offered is the word of a child against the word of an adult, child sexual victimization can be difficult to prove in a court of law. Moreover, many factors combine to make testifying in court difficult and possibly traumatic for children. Children seduced by acquaintance molesters are particularly ashamed, embarrassed, or guilt-ridden about their victimization. They often have conflicted feelings about the offender and may find it particularly difficult to confront him in court. Despite some advances that make such testimony easier for the child victim or witness, the primary objective of every law-enforcement investigation of child sexual abuse and exploitation should be to prove a valid case without child-victim testimony in court. Obviously, in a valid case, the best and easiest way to avoid child-victim testimony in court is to build a case that is so strong the offender pleads guilty. Failing that most children can testify in court if necessary, and the additional evidence bolsters their testimony. Frequently there is more evidence available than the investigator realizes. Much of this evidence can be identified and located only if the investigator has a solid understanding of offender motivations, behavior patterns, and the different kinds of child molesters.

There is one answer to the questions investigators most commonly ask about child molesters, such as "What is the best way to interview them?" "Do they collect child pornography?" "How many victims do they have?" "Can they be reliably polygraphed?" "Can they be treated?" "Can I use an expert search warrant?" "Should the community be notified if one lives in the area?" The answer to all these questions is —"It depends." It depends on what kind of child molester you have. Understanding and documenting offender patterns of behavior is one of the most important and overlooked steps in the assessment and corroboration of cases. If investigators and prosecutors accept the fact that there are different kinds of child molesters and those differences can have criminal-justice significance, then they need a classification system or typology to label and distinguish among them. Obtaining the kind of comprehensive, accurate, and reliable information necessary to effectively apply a typology, however, is far more difficult than developing a typology.

Law enforcement has frequently accepted offender categories and characteristics developed by therapists and criminologists. Classifications, such as those in the *DSM-IV-TR*, primarily serve the needs of mental-health professionals and have limited application to investigation. Many typologies are developed after data collection **from** offenders **after** arrest or conviction and often reflect unsubstantiated information about prearrest behavior. It is the prearrest or preidentification behavior of child molesters that is of most value to law enforcement.

In addition law enforcement usually does not have the luxury of having a known, confessed offender in front of them. Law enforcement and prosecutors need a typology that can be applied before the perpetrator is identified or case is proven in court. Too often the terms child molester and pedophile are simplistically used interchangeably or without defining them. As previously stated not all child molesters are pedophiles, and there is a definite need for a law-enforcement typology to clear up the confusion.

Old Typology

In the early 1980s, after consulting on hundreds of cases in my work at the FBI Academy and not finding a typology that fit investigative needs, I decided to develop my own typology of child molesters for criminal-justice professionals. I deliberately avoided all use of diagnostic terminology *(e.g.*, pedophile, psychopath, antisocial-personality disorder) and used instead descriptive terms. After developing the basic categories, I consulted with Dr. Park Dietz, a forensic psychiatrist. Similarly Dr. Dietz advised that in his work he sometimes divided sex offenders into the two broad categories of **situational** and **preferential** (Dietz, 1983). His concept was totally consistent with my new typology. With his permission I then incorporated the use of these two descriptive terms into my typology and expanded on his ideas.

My original typology of child molesters was developed in the mid-1980s and published and widely disseminated by the National Center for Missing & Exploited Children® (NCMEC) in a monograph titled *Child Molesters: A Behavioral Analysis* (Lanning, 1986). It was revised in April 1987 (Lanning, 1987), and again in December 1992 (Lanning, 1992a). It divided child molesters into two categories (Situational or Preferential) and into seven patterns of behavior. In the years that followed, I presented this typology at training conferences all over the world, and I applied it to and continued to learn from thousands of cases *(see* "Table 1" below).

Child Molesters: A Behavioral Analysis	
Situational Child Molester	**Preferential Child Molester**
Regressed	Seduction
Morally Indiscriminate	Introverted
Sexually Indiscriminate	Sadistic
Inadequate	(1985-1992)

Table 1

Newer Typology

Although still useful, several limitations in this old typology gradually became evident to me. I realized complex human behavior did not easily fit into neat little boxes. I, therefore, slowly began to revise it, and it was updated by the typology published by NCMEC in September 2001 (Lanning, 2001) and again here. This revised typology places all sex offenders, not just child molesters, along a motivational continuum (Situational to Preferential) instead of into one of two discrete categories. It is a continuum, not a choice between two categories. The patterns are not necessarily mutually exclusive. Because an offender is motivated predominately by deviant sexual needs, does not mean he cannot also be motivated by some nonsexual needs. Offenders can demonstrate both situational and preferential motives and behavior patterns, but with usually one more dominant. Offenders are placed along the continuum based on the totality of known facts. It is a motivational continuum and motivation can be difficult to determine.

Motivation is most often evaluated and determined by behavior patterns as well as other indicators and evidence *(see* "Table 2" below).

Motivation Continuum	
Biological/Physiological Sexual Needs	**Psychosexual/Deviant**
Power/Anger Nonsexual Needs	**Sexual Needs**
(Not one or the other, but a continuum)	
Situational Sex Offender: (>More Likely)	**Preferential Sex Offender**: (>More Likely)
Less Intelligent	More Intelligent
Lower Socioeconomic Status	Higher Socioeconomic Status
Personality Disorders Such As	Paraphilias Such As
■ Antisocial/Psychopathy	■ Pedophilia
■ Narcissistic	■ Voyeurism
■ Schizoid	■ Sadism
Varied Criminal Behavior	Focused Criminal Behavior
Violent Pornography	Theme Pornography
Impulsive	Compulsive
Considers Risk	Considers Need
Sloppy Mistakes	Needy Mistakes
Thought-Driven	Fantasy-Driven
Spontaneous or Planned	Scripted
■ Availability	■ Audition
■ Opportunity	■ Rehearsal
■ Tools	■ Props
■ Learning	■ Critique
Method of Operation (MO) Patterns of Behavior	Ritual Patterns of Behavior
■ Works	■ Need
■ Dynamic	■ Static

Table 2

At one end of the continuum are the more "situational" sex offenders. Although they can be smart and rich, they tend to be less intelligent and are over represented in lower socioeconomic groups. Their criminal sexual behavior tends to be in the service of basic sexual needs *(i.e.*, "horniness," lust) or nonsexual needs *(i.e.*, power, anger). Their sexual behavior is often opportunistic and impulsive, but primarily thought-driven. They are more likely to consider the risks involved in their behavior, but often make stupid or sloppy mistakes. If they collect pornography,

it is often violent or demeaning in nature, reflecting their power and anger needs. Their thought-driven criminal sexual behavior tends to focus on general victim characteristics *(e.g.*, age, race, gender) and their perception of themselves as entitled to the sex. Much of their criminal behavior is intended to simply obtain and control their victims. Their verbal skills are usually lower and they are more likely to use physical violence to control victims. They are more likely to have a history of varied crimes against both person and property. Their sex crimes are usually either spontaneous or planned. Their victims tend to be targeted based primarily on availability and opportunity. They are more likely to use practical tools *(e.g.*, weapons, lock picks, gloves, masks) and learn from and then modify their criminal sexual behavior. Their patterns of criminal sexual behavior are more likely to involve the previously discussed concept of **method of operation** (MO).

Situational-type sex offenders victimizing children do not have a true sexual preference for children. They may molest them, however, for a wide variety of situational reasons. They are more likely to view and be aroused by adult pornography, but might engage in sex with children in certain situations. Situational sex offenders frequently molest readily available children they have easy access to and control over such as their own or any others living with them. Pubescent teenagers are high-risk, viable sexual targets. Younger children may also be targeted because they are weak, vulnerable, or available. Morally indiscriminate *(i.e.*, psychopathic or antisocial) situational offenders may select children, especially adolescents, simply because they have the opportunity and think they can get away with it. Social misfits may situationally select child victims out of insecurity and curiosity. Others may have low self-esteem and use children as substitutes for preferred adults.

At the other end of the motivation continuum are the more "preferential" sex offenders. Although they can be unintelligent and poor, they tend to be more intelligent and are over represented in higher socioeconomic groups. Their criminal sexual behavior tends to be in the service of **deviant** sexual needs known as paraphilias. This behavior is often persistent and compulsive and is primarily fantasy-driven. Their erotic imagery creates and repeated fantasy over time then fuels the needs. They are more likely to consider these needs rather than the risks involved and therefore make "needy" mistakes that often seem almost stupid. When they collect pornography and related paraphernalia, it usually focuses on the themes of their paraphilic preferences. Their fantasy-driven behavior tends to focus not only on general victim characteristics and their entitlement to sex, but also on their paraphilic preferences including specific victim preferences; their relationship to the victim *(i.e.*, teacher, rescuer, mentor); and their detailed scenario *(i.e.*, education, rescue, journey) (Hazelwood and Warren, 2009). Their criminal sexual behavior is often rooted in their sexual fantasies and need to turn fantasy into reality. Their verbal skills are usually higher, and they are less likely (unless sexual sadists) to use physical violence to control victims. They are more likely to have a history of primarily sex offenses. Their sex crimes usually stem from a fantasy-fueled and elaborate script that is far more detailed and elaborate *(i.e.*, dialogue, exact sequence, clothing) than the "plan" of a situational-type sex offender or common criminal. They tend to "audition" their potential victims, selecting them primarily based on their similarity to and consistency with that script. There can be a lengthy "rehearsal"

or grooming process leading up to the victimization. They are more likely to use fantasy "props" *(i.e.*, fetish items, costumes, toys) and critique the activity, but **not** necessarily learn from or then modify their criminal sexual behavior. Their patterns of behavior are more likely to involve the previously discussed concept of **ritual**.

As this descriptive term implies, preferential-type sex offenders have specific sexual preferences or paraphilias. Those with a preference for children could be called "pedophiles." Those with a preference for peeping could be called "voyeurs," and those with a preference for suffering could be called "sadists." But one of the purposes of this typology is to avoid or limit the use of these diagnostic terms. Preferential-type sex offenders are more likely to view, be aroused by, and collect pornography with specific themes. A pedophile would be just one example or subcategory of a preferential sex offender. A preferential sex offender whose sexual preferences do not include children, and is therefore not a pedophile, can still sexually victimize children.

As previously stated this new typology is a continuum. A preferential sex offender can have some of the motives and behavior patterns of a situational sex offender and vice versa. It is a matter of degree. For example in one case an offender who was a schoolteacher had a child-pornography videotape mailed to him at the school where he worked. The "smart" thing to do would have been to take it home and view it in privacy; however, the teacher took it to a videocassette recorder (VCR) at the school for immediate viewing. This was a fantasy-driven, "needy" mistake more typical of preferential sex offenders. To make it worse he forgot to move a switch, and the tape was shown on numerous monitors around the school leading to his identification. This was a "sloppy" mistake more typical of situational sex offenders.

Although this typology continuum will be applied here primarily to child molesters, it can be applied to any sex offender. Nuisance sex offenders *(e.g.*, window peepers, fetish burglars, obscene telephone callers, flashers) are the sex offenders most likely to exhibit predominately preferential motives and patterns. Child molesters seem to be more evenly distributed between offenders exhibiting predominately preferential and situational motives and patterns. Offenders who rape adults are the sex offenders most likely to exhibit predominately situational motives and patterns. In my opinion this is why one hears it said so often that rape is not about sex and is not really a sex crime. In spite of this common and "politically correct" view, some rapists are preferential-type sex offenders and for them rape is primarily about sex. One rarely hears it said, however, that child molesting is not about sex or is not a sex crime. This is most likely due to the fact that more child molesters exhibit preferential patterns of sexual behavior and do not use physical force or violence to control their victims. Lack of consent or violence are also not necessary elements in criminal sexual activity with children.

Situational-Type Child Molesters

The situational-type child molester does **not** usually have compulsive-paraphilic sexual preferences including a preference for children. He may, however, engage in sex with children for varied and sometimes complex reasons. For such a child molester, sex with children may range from a "once-in-a-lifetime" act to a long-term pattern of behavior. The more long-term the pattern, the further down the continuum he may move. He will exhibit more and more of the behavior patterns of

the preferential-type offender. The situational-type molester usually has fewer child victims. Other vulnerable individuals, such as the elderly, sick, or disabled, may also be at a risk of sexual victimization by him. For example the situational-type child molester who sexually abuses children in a daycare center might leave that job and begin to sexually abuse elderly people in a nursing home. Situational offenders are not "better" than nor as "bad" as preferential offenders; they are just different. Within this category at least three major patterns of behavior emerge of **regressed, morally indiscriminate**, and **inadequate**. These patterns are described below.

Regressed Such an offender usually has low self-esteem and poor coping skills, and he turns to children as a sexual substitute for the preferred peer sex partner. Precipitating stress may play a bigger role in his molesting behavior. His main victim criterion seems to be availability, which is why many of these offenders molest their own children. His principal method of operation is to coerce the child into having sex. This type of situational child molester may or may not collect child or adult pornography. If he does have child pornography it will usually be the "best kind" from an investigative point of view — homemade photographs or videos of the child he is molesting.

Morally Indiscriminate For this offender the sexual victimization of children is simply part of a general pattern of abuse in his life. Mental-health clinicians refer to this type of individual as a **psychopath** or having **anti-social personality disorder**. He is a user and abuser of people. He abuses his wife, friends, and coworkers. He lies, cheats, or steals whenever he thinks he can get away with it. He molests children for a simple reason — "Why not?" His primary victim criteria are vulnerability and opportunity. He has the urge, a child is available, and so he acts. He typically uses force, lures, or manipulation to obtain his victims. He may abduct his victims using trickery or physical force. Although his victims frequently are strangers or acquaintances, his victims can also be his own children or those of his live-in girlfriend. An incestuous father (or mother) might be this morally indiscriminate offender. Because he is an impulsive person whose conscience is inconsistent with society standards, he is an especially high risk to molest pubescent children. Such acts may be criminal but not necessarily sexually deviant. He frequently collects detective magazines or adult pornography of a violent nature. He may collect some child pornography especially that which depicts pubescent children. Even when his child victims are acquaintances, he may still use threats and force to overpower or control those victims.

Inadequate This pattern of behavior is difficult to precisely define and includes those suffering from psychoses, eccentric personality disorders, mental retardation, and senility. In layperson's terms he is the social misfit, the withdrawn, the unusual. He might be the shy teenager who has no friends of his own age or eccentric loner who still lives with his parents. Although most such individuals are harmless, some can be child molesters and, in a few cases, even child killers. This offender seems to become sexually involved with children out of insecurity or curiosity. He finds children to be nonthreatening objects with whom he can explore his sexual interests. The child victim could be someone he knows or a random stranger. In some cases the child victim might be a stranger selected as a substitute for a specific adult, possibly a relative of

the child, whom the offender is afraid of approaching directly. Often his sexual activity with children is the result of built-up impulses. Some of these individuals find it difficult to express anger and hostility, which then builds until it explodes — possibly against their child victim. Because of mental or emotional problems, some might take out their frustration in cruel sexual torture. His victims, however, could be among the elderly as well as children — anyone who appears helpless at first sight. He might collect pornography, but it will most likely be of adults. This offender usually lacks the interpersonal skill to effectively groom or seduce his child victims.

Almost any child molester might be capable of violence or even murder to avoid identification. In spite of a few notable exceptions, most of the sexually motivated child murderers profiled and assessed by the Federal Bureau of Investigation (FBI) have involved situational-type child molesters who display the morally indiscriminate and inadequate patterns of behavior. Low social competence seems to be the most significant risk factor in why a child molester might abduct his victims (Lanning and Burgess, 1995).

Preferential-Type Child Molesters

Preferential-type child molesters have definite sexual inclinations. For many those inclinations or preferences include children, and they are the ones it would be most appropriate to refer to as pedophiles. Some preferential-type sex offenders **without** a preference for children do, however, molest children. They might do so in order to carry out their peculiar sexual fantasies and preferences with young, less threatening, less judgmental, and highly vulnerable victims they meet in person or online. Some of these offenders' sexual activity with children may involve deviant acts they are embarrassed or ashamed to request or do with a preferred adult partner. Such offenders, even if they do not have a sexual preference for children, would still be preferential sex offenders and, therefore, engage in similar patterns of need-driven behavior.

Those with a definite preference for children *(i.e.*, **pedophiles**) have sexual fantasies and erotic imagery focusing on children. They have sex with children not because of some situational stress or insecurity but because they are sexually attracted to and prefer children. They have the potential to molest large numbers of child victims. As previously stated for many of them their problem is not only the nature or **quality** of the sex drive (attraction to children), but also the **quantity** (need for frequent and repeated sex with children). They usually have age and gender preferences for their victims. Their sexual preference for children may also be accompanied by other paraphilic preferences *(see* the chapter titled "Problem Areas" beginning on page 43). Many preferential-type child molesters seem to prefer more boy than girl victims. Within this category at least four major patterns of behavior emerge of **seduction, introverted, sadistic**, and **diverse**. These patterns are described below.

Seduction This pattern of behavior characterizes the offender who engages children in sexual activity by "seducing" them — grooming them with attention, affection, and gifts. The grooming/seduction process was previously discussed beginning on page 26 and because of its importance will be further discussed in later chapters. Just as one adult courts another, he seduces children over a period of time by gradually

lowering their sexual inhibitions. His victims usually arrive at the point where they are willing to trade "sex" for the attention, affection, and other benefits they receive from the offender. Most of these offenders are simultaneously involved with multiple victims *(see* the chapter titled "Acquaintance-Exploitation Cases" beginning on page 63). This may include a group of children in the same class at school, scout troop, or neighborhood. The characteristic that seems to make this individual a master seducer of children is his ability to identify with them. He knows how to talk to children but, more importantly, he knows how to listen to them. His adult status and authority can also be an important part of the seduction process. All children are at risk from such seduction, but offenders frequently select as targets children who are from dysfunctional homes or victims of emotional or physical neglect. The biggest problem for this child molester is not how to obtain child victims but how to get them to leave after they are too old. This child molester is likely to use threats and physical violence only to avoid identification and disclosure **or** prevent a victim from leaving before he is ready to "dump" the victim. The majority of acquaintance child molesters fall into this pattern of behavior.

Introverted This pattern of behavior characterizes the offender whose preferences include children but he lacks the interpersonal skills necessary to seduce them. He, therefore, typically engages in a minimal amount of verbal communication with his victims and usually molests children he doesn't know, or especially young children. He is like the old stereotype of the child molester in that he is more likely to hang around playgrounds and other areas where children congregate, watching or engaging them in brief sexual encounters. He may expose himself to children or make obscene telephone calls to children. He may use the services of a child prostitute, travel to a foreign country, or use the Internet to communicate with children. Unable to figure out any other way to gain access to a child, he might even marry a woman and have his own children, very likely molesting them from the time they are infants. He is similar to the inadequate situational-type child molester, except he has more definite deviant sexual preferences, and his selection of children as victims is more predictable. His victims could be acquaintances, but he is less likely to be simultaneously involved with multiple child victims.

Sadistic This pattern of behavior characterizes the offender whose sexual preferences predominately include the need to inflict psychological or physical pain or suffering on his victims in order to be sexually aroused or gratified. He is sexually aroused by his victim's response to the infliction of pain or suffering. He typically uses lures or force to gain access to his victims. He is more likely than other preferential-type child molesters to abduct and even murder his victims. In order to escape detection a sexual sadist, even one with extraordinary interpersonal skills, may try to abduct victims who are not acquaintances and to whom he cannot be linked. There have been some cases where seduction acquaintance molesters have become sadistic molesters. It is not known whether the sadistic needs developed late or were always there and surfaced for some reason *(i.e.*, inhibitions overcome, sadistic interests fueled and validated on the Internet). Once a sadistic offender engages in **severe** sexual sadism with an acquaintance child victim, it is difficult to prevent disclosure

and escape identification without killing or otherwise disposing of the victim. As previously stated, keeping the victim alive for a long time requires extraordinary physical control measures. In any case it is fortunate that sadistic child molesters do not appear to be large in number. Investigators must understand that being extremely cruel *(e.g.*, physical abuse, control through violence) by itself is not the same as and does not necessarily indicate sexual sadism.

Diverse This pattern was called the "sexually indiscriminate" in my old typology and was under the situational-child molester category. Although the general pattern was always preferential, the selection of a child victim was situational and described as such in the old typology. Because so many of these varied sexual-behavior patterns are preferential, however, they are more clearly described as such in this new typology.

Although the previously described morally indiscriminate offender can also be a sexual experimenter, this diverse offender differs in that he often appears to be discriminating in his behavior except when it comes to sex. He is the "try-sexual" — willing to try anything sexual that he prefers. While he may have clearly defined paraphilic or sexual preferences such as bondage, peeping, and fetishism — he has no strong sexual preference for children. The sadistic offender could be included in this category, but his criminal sexual behavior is so significant that it merits its own category. The basic motivation of this diverse offender in victimizing children is often sexual experimentation. His main criteria for including children may be that they are new or less threatening. He usually involves children in his previously existing sexual interests and activity. Such offenders may victimize children as part of some humiliating, taboo, or forbidden sex. It is important to realize these children may be his own or ones he has gained access to through "marriage." Although much of his paraphilic sexual activity with adults may not be criminal, such an individual may provide his children to other adults or use the children of other adults as part of group sex, spouse-swapping activity, or even as part of some bizarre sexual ritual. He may be involved in Internet communication with a woman who he encourages to have sex with her children as part of their "kinky" sex and let him watch online or send him the visual images.

*The purpose of this descriptive typology is not to gain insight or understanding about **why** child molesters have sex with children in order to help or treat them, but to recognize and evaluate **how** child molesters have sex with children in order to identify, arrest, and convict them.*

Who Cares?

The purpose of this descriptive typology is not to gain insight or understanding about **why** child molesters have sex with children in order to help or treat them, but to recognize and evaluate **how** child molesters have sex with children in order to identify, arrest, and convict them. Things such as what evidence to look for, whether there are additional victims, how to identify those victims, and how to interview a suspect depend on the type of child molester involved.

There are many advantages to the use of this descriptive, nonclinical typology. If there is a need to distinguish a certain type of sex offender, this typology provides

a name or label instead of just calling them "these guys." The label is professional in contrast to referring to them as "predator," "pervert," "sicko," or worse. Because the terms are descriptive, not diagnostic, and probative, not prejudicial, they may be more acceptable in reports, search warrants, and testimony by criminal-justice professionals. For example the currently popular term **predator** might be considered too prejudicial for some court testimony. As previously stated the terms **situational** and **preferential sex offender** are merely descriptive labels to be used only to identify, for investigative and prosecutive purposes, a certain type of offender. The terms do **not** appear in the *DSM-IV-TR*, and they are **not** intended to imply or be used for a clinical diagnosis.

Under the Federal Rules of Evidence, evidence may be excluded if its probative value is substantially outweighed by the risk of unfair prejudice. Prosecutors and law enforcement should exercise caution when using derogatory labels. Terms such as **pervert** and **predator** tend to be prejudicial and of little probative value. Terms such as **collector, child molester**, and **sex offender** may be less prejudicial but may only have limited probative value. Terminology based on a **situational** to **preferential sex offender continuum** is, in my opinion, less prejudicial and of greater probative value. This continuum is more probative because it allows for the recognition and understanding of significant variations in offender behavior.

The continuum concept also better addresses the complexity of and changes in human behavior. Using the term **preferential sex offender** instead of **preferential child molester**, addresses the issue of applying it to offenders who collect child pornography without physically molesting children. The one term, **preferential sex offender**, eliminates the need for investigators and prosecutors to distinguish between child-pornography collectors and child molesters, between pedophiles and hebephiles, and among numerous other paraphilias in applying certain patterns of behavior. How to recognize and identify such offenders will be discussed shortly.

Investigators might argue it is their job to investigate individuals who violate the law, and whether or not that offender is a **pedophile** or **preferential sex offender** is of little importance to them. There is no legal requirement to determine that a subject or suspect in a case is a pedophile or preferential-type sex offender. Often it is irrelevant to the investigation or prosecution. There are, however, clear differences between the types of individuals who sexually victimize children, and investigators and prosecutors handling these cases sometimes need to make such distinctions.

The amount, type, nature, and significance of corroborative and collateral evidence you are likely to find is often related to the type of offender you are investigating. It is improper to simplistically state all "these guys" or all "sexual predators" have extensive child-pornography collections that they never discard. Although there is not **a** "profile" that will determine if someone is a child molester, preferential sex offenders tend to engage in highly predictable and recognizable behavior patterns. The potential evidence available as a result of the long-term, persistent, and ritualized behavior patterns of many sexual exploiters of children makes these cases almost heaven for investigators.

Need-driven behavior leads to almost bewildering mistakes. Why would a reasonably intelligent individual use his computer at work to download child pornography, deliver his computer filled with child pornography to be repaired, send

his film or CD with child pornography on it to a store to be developed or printed using his correct name and address, appear in child-pornography images he is making, discuss engaging in serious criminal activity with a "stranger" he met for the first time on the Internet, transmit identifiable photographs of himself to such an individual, maintain incriminating evidence knowing investigators might soon search his home or computer, give investigators permission to search his home or computer knowing they contain incriminating evidence, give investigators the names of victims or former victims as character references, agree to be interviewed without his attorney, and confess to crimes not yet identified? Which offenders with child pornography on their computer are more likely to be molesting children? Which online offenders are more likely to have multiple victims? Which are more likely to respond to a "knock and talk" approach? All sex offenders are not equally likely to engage in these behaviors or respond to certain investigative techniques.

Many investigators like to jokingly refer to such behavior as examples of "criminal stupidity." Defense attorneys might even argue some of this behavior indicates their clients are innocent, lack criminal intent, or are not criminally responsible. Why else would an intelligent individual do something so obviously stupid? Such behavior does not necessarily mean the offender is stupid, insane, or not criminally responsible. Another explanation is much more probable. It is need-driven. The fantasy- or need-driven behavior of preferential sex offenders often has little to do with thinking. It is more a matter of being motivated by carnal urges rather than intelligent thought. The offenders' emotional and sexual needs and desires drive their actions, conduct, and behavior. It is what makes preferential sex offenders so vulnerable to proactive investigations even though the techniques used have been well publicized. The three most significant needs of such sex offenders are continued access to new child victims, turn repeated fantasy into reality, and rationalize and validate their sexual interests and behavior. If necessary an expert could be used to educate the court concerning certain patterns of behavior. The use of an education expert witness in this way was upheld in several cases in which I have testified *(see* "Appendix II: Appellate Case Decisions" on page 191).

Summary of Typology

Although there are few absolutes in human behavior, situational-type sex offenders tend to be less predictable; more "criminally" intelligent; less likely to intentionally retain corroborative evidence; more vulnerable to appeals to their need to have their egos flattered; and, when confronted with the facts of the case, more willing to make a thought-driven deal with the criminal-justice system to limit the legal consequences of their behavior.

Preferential-type sex offenders tend to be more predictable; less "criminally" intelligent; more likely to intentionally retain corroborative evidence; more vulnerable to appeals to their need to have their activities validated; and, when confronted with the facts of the case, more willing to make a need-driven deal with the criminal-justice system to avoid public disclosure of the details of their behavior.

Problem Areas

In applying any typology the investigator must recognize the difficulty of attempting to put complex human behavior into neat categories. There are few absolutes in human behavior. The words "always" and "never" rarely apply, except to say there will always be exceptions and challenges. One of the biggest problems with any diagnostic or classification system is taking the time to carefully and properly apply it. Because of lack of training or heavy workloads, investigators, social workers, and prosecutors frequently do not take the time to adequately evaluate offender patterns of behavior. Split-second decisions and stereotypes often determine how an alleged perpetrator is classified and investigated. The typology described in the chapter titled "Law-Enforcement Typology" (beginning on page 29) involves placing sex offenders along a motivational continuum (Situational to Preferential) instead of into one of two categories and then into seven subcategories of patterns of behavior. As previously stated these patterns of behavior are not necessarily mutually exclusive.

Combination Offenders

Sometimes society seems to respond to allegations as if it believes a criminal makes an irrevocable decision at sometime to either be a "regular" criminal or a sex offender but not both; if a sex offender, then a nuisance sex offender or a serious sex offender but not both; if a serious sex offender, then committing offenses against adults or children but not both; if against children, then against his children or someone else's but not both. Such beliefs are absurd but very prevalent even in professionals and so-called experts. Many judges are reluctant to admit probative evidence about a defendant's sexual interests or activity with adults in a case involving alleged sexual victimization of children. Many interveners in child-sexual-abuse cases fail to consider victims outside the family and many interveners in child-exploitation cases fail to consider victims inside the family.

A child molester might have other psychosexual disorders, personality disorders, or psychoses or may be involved in other types of criminal activity. A pedophile's sexual interest in children might be combined with other sexual deviations (paraphilias), which include indecent exposure (exhibitionism), peeping (voyeurism), obscene telephone calls (scatologia), exploitation of animals (zoophilia), urination (urophilia), defecation (coprophilia), binding (bondage), baby role-playing (infantilism), infliction of pain (sadism, masochism), and real or simulated death (necrophilia). The pedophile is interested in sex with children that might, in some cases, involve other sexual deviations. The morally indiscriminate or diverse-type child molester is interested in a variety of sexual deviations that might, in some cases, involve children. There are cases in which pedophiles are also psychopathic con artists, paranoid survivalists, or even serial killers. One particularly difficult offender to evaluate and investigate is the morally indiscriminate (psychopathic) pedophile. If an offender has a sexual preference for children and at the same time does not have a conscience based on a societal consensus of right and wrong, there

is no limit to how he might sexually victimize children. He does not have to spend a lot of time validating his behavior. Such an offender is more likely to use violence and abduct or murder children. While his preferential sexual interest in children affects his victim selection, most of his behavior is determined by a stunning self-serving "conscience." He is best viewed as a morally indiscriminate offender and should be investigated and interviewed as such. When an offender seems to fit into more than one pattern of behavior, it is best to choose the broadest or most comprehensive one.

Nuisance Sex Offenders

The word "nuisance" is an unfortunate but descriptive term commonly applied to sex offenses that occur frequently and are viewed as causing little or no harm *(i.e.*, financial loss or physical injury). Examples with which most investigators are familiar include window peepers (voyeurism), flashers (exhibitionism), and obscene callers (scatologia). Nuisance sex offenders are often linked to the sexual paraphilias. As previously stated nuisance sex offenders are the sex offenders most likely to exhibit predominately preferential motives and patterns. These cases, therefore, are highly solvable if the cases can be captured and linked and the patterns and rituals can be identified. They are usually given a low priority and not solved because

- Most incidents are not reported to law enforcement
- When they are reported they are either not recorded or recorded in a way that makes retrieval difficult
- Little, if any, manpower and resources are committed to the investigation
- Law-enforcement agencies frequently do not communicate and cooperate with each other concerning these cases
- The specific crimes often involve minor violations of the law

Importance

Professionals investigating the sexual exploitation of children need to be interested in and concerned about nuisance sex offenses because of **progression, substitution, assessment and evaluation**, and **corroboration**.

Progression Sex offenders can progress in **types of victims; types of acts; frequency, intensity, skill of crimes**; and **physical and emotional harm to a victim**. Many sex offenders progress in gaining confidence and acting out their deviant sex fantasies by moving from inanimate objects to paid adult partners (prostitutes) to compliant adult partners and then to crime victims who are family members, acquaintances, or strangers. Although prostitution is a crime, the acting-out behavior itself is usually criminal only when the victims are children or nonconsenting adults. The violence used by sex offenders can also progress. They can progress to violence and in violence. Their sexual violence can be part of general aggression or true sexual sadism. It can be incidental to the sex crime or an integral part of it. Almost any sex offender can become violent to avoid discovery or identification. If the sex offender's preference includes children *(i.e.*, pedophilia), this progression can obviously lead to child victims.

Nuisance sex offenses with child victims can be part of the evolving process of a pedophile developing his criminal skills and overcoming inhibitions. The nuisance offenses with child victims can also be a pedophile who has other paraphilias and a sexual interest in engaging in these particular behaviors *(i.e.*, indecent exposure, obscene calls, peeping) with children.

Substitution Many preferential sex offenders who commit these nuisance sex offenses do not have a sexual preference for children but often select child victims because they are ashamed and embarrassed over their deviant sexual preferences or because the children are more vulnerable and less intimidating. Some of them select children as victims when the true target or victim is a relative of the child or someone linked to the child in some way. This indirect victimization is even more likely if the child victim is especially young and incapable of understanding and providing the anticipated reaction to the "nuisance" sexual behavior *(i.e.*, obscene notes and photographs, indecent exposure).

Assessment and Evaluation Understanding the paraphilias and considering both the activity and its motivation are an important part of assessing and evaluating the significance and relevance of offender behavior and children's allegations. This can be useful when child victims describe what sounds like bizarre activity involving such things as urine, feces, enemas, bondage, playing dead. It is often said at child-abuse conferences that when a young child talks about "pee pee" coming out of an offender's penis, they are actually referring to semen. If the offender is into urophilia, however, the child may in fact be referring to urine, and it is still sexual activity. A few child-sexual-abuse experts decided the only explanation for allegations of this type was that the offenders were "satanists." The only paraphilia many professionals concerned with child sexual abuse have heard of is **pedophilia**. Knowledge of these kinds of paraphilic interests and behavior can also assist in evaluating narrative material found in the possession or on the computer of sex offenders. Even noncriminal behavior related to sexual preferences can and should be used to assess and evaluate allegations of child sexual victimization. When children are the victims of this unusual, bizarre sexual activity, it is still sometimes considered to be a "nuisance" sex offense *(see* below).

Corroboration Understanding the paraphilias and nuisance sex offenses can sometimes help investigators to prove intent, identify prior and subsequent like acts, and recognize collateral evidence in sexual-exploitation-of-children cases. Because a high percentage of nuisance sex offenders are preferential sex offenders, they engage in similar patterns of predictable and persistent sexual behavior and are vulnerable to the same investigative techniques discussed in this publication. These techniques can be used to help prove the sexual motivation of some of these poorly understood nuisance sex offenses as well as evaluating their possible connection to sexual-exploitation-of-children cases.

Case Evaluation

Some "nuisance" sex offenses against children are more common than others. Some of the more bizarre ones I have worked on over the years include an offender

engaging in behaviors for sexual gratification such as stealing soiled diapers being worn by a baby; photographing children wearing diapers; squirting children with a water pistol filled with semen; listening to children urinate in a school bathroom; videotaping cheerleaders at a football game; having parents/guardians send photographs of their children getting an enema; playing the master/servant game by having children rest their feet on his prone body; tape recording boys belching; window peeping at his own children; urinating on prostitutes, girlfriends, and his own child; masturbating to videos of children's autopsies; having children spit in cups; buying soiled underwear from adolescent boys; leaving sexually explicit images or communications for children or their parents/guardians to find; and soliciting body fluids from boys on the Internet. The investigative priority of these types of crimes can change rapidly when it is discovered the offender carries the human immunodeficiency virus (HIV) or is entering homes in the middle of the night. In many of these cases it is difficult to prove the sexual motivation unless one understands preferential sex offenders. Some are still not considered sex crimes or not crimes at all, even if one can prove the sexual motivation.

A big investigative issue in nuisance sex offenses is always the question of progression to more serious offenses. Some nuisance sex offenders progress little over the years in their criminal sexual behavior. Some progress to more serious sex crimes and some move back and forth. Many investigators consider the possibility a nuisance sex offender might progress to more serious crimes in the future, but they ignore the possibility that he **already** has. An offender who has committed serious sex offenses in the past might later engage in nuisance sex offenses for a variety of reasons ranging from expediency to guilt and need-driven specific sexual preferences.

When evaluating nuisance sex offenders, investigators should consider **focus, escalation, theme**, and **response to identification**. The fact that a nuisance sex offender moves from victims meeting general criteria to specific victims is a potential danger sign. Escalation over time is also a danger sign. Escalation can be evaluated only when there are multiple offenses. Because of the low priority of the cases enumerated above, this can be difficult to do. The cases that the investigator believes are the first, second, and third, may actually be the tenth, sixteenth, and twenty-second. Investigators should also consider the theme of the nuisance sex offenses. Not all obscene calls or indecent exposures are the same. As will be discussed later in this publication, specific details, not general labels, are needed. Lastly, in evaluating dangerousness, investigators should consider the nuisance sex offender's reaction to identification. Did he become violent and aggressive? Is he indifferent to or aroused by the response of his victims? Is he cooperative? Whatever their personal feelings, investigators will almost always get more information, details, and admissions from these offenders when they treat them with respect, dignity, and empathy.

Multiple Offenders

When investigations involve multiple offenders, the investigator must recognize the subjects involved could include different kinds of molester patterns. Staff members at a daycare center where children are being molested might include inadequate, seduction, morally indiscriminate, or any other combination of the previously

discussed situational and preferential sex offenders. A religious group or "cult" involved in sexually abusing children might include morally indiscriminate, diverse, inadequate, and sadistic patterns of behavior. The behavior of the individuals involved must be carefully evaluated in order to develop appropriate investigative and interview strategies.

An important application of this typology is the simple recognition that not all child molesters are the same. Not all child molesters are pedophiles. Not all child molesters are passive, nonaggressive people. Child molesters can look like everyone else and are motivated by a wide variety of influences. There is no single investigative or interview technique to address all of them.

Incest Cases

It is commonly accepted that incestuous fathers are typically regressed child molesters who molest only their own children, do not collect child pornography, and are best dealt with in noncriminal treatment programs. This may be true some of the time, maybe even most of the time, but it is not true all of the time. There are cases in which the incestuous father is a seduction or introverted preferential-type child molester *(i.e.*, pedophile) who "married" simply to gain access to children. In many cases he has molested children outside of the marriage or children in previous "marriages." Such individuals frequently look for women who already have children who meet their age and gender preferences. Their marriages or relationships usually last only as long as there are children in the victim preference range. In today's more liberal society, such an offender frequently no longer marries the woman, but simply moves in with her and her children. On some occasions they merely befriend the mother and do not even pretend romantic interest in her, but only express a desire to be a "father figure" for her children and help with expenses. Another technique is to marry a woman and adopt children or take in foster children. The last and least desirable stratagem he uses is to have his own children. This is the least desirable method because it requires the offender to have frequent sex with his wife, and then there are few guarantees the baby will be of the preferred gender.

In order to engage in sexual relations with his wife, the true pedophile must create a fantasy. To aid in this fantasy some pedophiles have their wives or girlfriends dress, talk, or behave like children. After the birth of a baby of the preferred sex, such pedophiles may terminate or greatly reduce sexual relations with their wives. Of course these facts are difficult for the investigator to learn. Most wives or even ex-wives would be embarrassed to admit these sexual problems. Some ex-wives or ex-girlfriends might even exaggerate or embellish such information. Although such offenders are technically intrafamilial molesters, they are more properly and effectively investigated and prosecuted as acquaintance molesters.

Many incestuous fathers and live-in boyfriends, however, are morally indiscriminate individuals whose sexual abuse of children is only a small part of their problems. They have no real sexual preference for children, but sexually abuse the available children because they can. They sometimes victimize the children in the home because they are competition for mom's attention and time. They can be cunning, manipulative individuals who can convincingly deny the allegations

against them or, if the evidence is overwhelming, claim they need "help with their problem." Their personality disorder is more serious than even pedophilia and probably more difficult to treat.

The possibility an incestuous father might molest children outside the home or commit other sex offenses seems to be beyond the comprehension of many child-abuse professionals. Even when they intellectually admit the possibility, their professional actions often indicate otherwise.

Female Offenders

Where do female child molesters fit into this typology? The answer is still definitively unknown to me at this time. I have not consulted on a sufficient number of cases involving female offenders to properly and confidently include them in this typology. Although certainly a minority of cases, I believe the sexual victimization of children by females is far more prevalent than most people believe.

Many people view sex between an older woman and acquaintance adolescent boy not as molestation but a "rite of passage." Furthermore sexual activity between women and young children is difficult to identify. Females are the primary caretakers in our society and can dress, bathe, change, examine, touch, and breast feed children with little suspicion.

Many of the cases involving alleged sexual abuse in daycare centers involve female offenders. In some cases involving female offenders, the apparent sexual activity may in fact be physical abuse directed at sexually significant body parts (*e.g.*, genitals, nipples). There are many cases in which females actively participate in the sexual abuse of children with an adult male accomplice. Sometimes the female assumes the role of "teaching" the child victim about sexual activity. In other cases the female appears to be motivated by more serious emotional and psychological problems. It is rare to find a case, however, in which a female offender fits the dynamics of the preferential-type child molester. This may be due to the fact that preferential molesting (*i.e.*, multiple victims, paraphilias, theme pornography) has been defined from a male-sexual-behavior perspective.

This is an area that still needs additional research and study. For additional information about female sex offenders *see* the chapter titled "Patterns of Female Sexual Offending and Their Investigatory Significance to Law Enforcement and Child Protective Services" (Warren and Hislop, 2009).

Adolescent Offenders

Another area that has received increased attention involves adolescent offenders. In past years adolescent child molesters were usually dismissed as "boys will be boys" or "he's just going through a stage." Adolescent child molesters can fit anywhere along the continuum and into any of the patterns of behavior described in this book. Frighteningly, though, many cases involving adolescent child molesters seem to fit the morally indiscriminate pattern of behavior. These adolescent offenders must be carefully evaluated for proper intervention and treatment whenever possible.

In addition adolescent (and even younger) sex offenders should **always** be viewed as past or current victims of sexual victimization in the broadest sense. This might also include psychological sexual abuse, inappropriate exposure to sexually explicit material, and the repeated or inappropriate witnessing of adult sexual activity. Recognizing and then investigating this victimization can lead to the identification of additional offenders and victims. The sexual abuse of younger children by an older child should always be viewed as a **possible** indication the older child was also sexually victimized.

As previously stated this publication will not address the issue of children, especially adolescents, sexually victimized by peers. For additional information about adolescent sex offenders *see* the chapter titled "The Sexual Crimes of Juveniles" (Hunter, 2009) and *Juveniles Who Commit Sex Offenses Against Minors* (Finkelhor, Ormrod, and Chaffin, 2009).

Identifying Preferential Sex Offenders

Overview

Although a variety of individuals sexually abuse children, preferential-type sex offenders, and especially pedophiles, are the **primary** acquaintance sexual exploiters of children. A preferential-acquaintance child molester might molest 10, 50, hundreds, or even thousands of children in a lifetime, depending on the offender and how broadly or narrowly child molestation is defined. Although pedophiles vary greatly in personality characteristics, their sexual behavior is often repetitive and highly predictable. Knowledge of these sexual-behavioral patterns is extremely valuable to an investigator.

These highly predictable and repetitive behavior patterns make cases involving preferential-type offenders far easier to investigate than those involving situational-type offenders. An important step in investigating cases of sexual exploitation of children by adult acquaintances is to recognize and identify, if present, the highly predictable sexual-behavior patterns of preferential sex offenders or pedophiles. To do this it is important for investigators to continually attempt to place a suspected acquaintance child molester along the motivational continuum. If the investigation identifies enough of these patterns, many of the remaining ones can be assumed; however, no particular number constitutes "enough." A few may be enough if they are especially significant. Most of these indicators mean little by themselves, but as they are identified and accumulated through investigation, they can constitute reason to believe a certain offender is a preferential sex offender.

A classification system or typology to determine the type of offender with whom one is investigating cannot be applied unless the most complete, detailed, and accurate information possible is obtained. In order to properly evaluate the significance of any offender or victim behavior, investigators must have and be able to professionally process the **details** of that behavior. The fact a suspect was previously convicted of "sodomizing" or engaging in "indecent liberties" with a child is almost meaningless if the **details** *(i.e.*, verbal, physical, sexual behavior) of the crime are not available and known. Reports sanitizing or describing, in politically correct terms, an offender's language and sexual behavior are almost worthless in evaluating sex offenses. This is one reason why investigators who cannot easily and objectively communicate about regular and deviant sex have problems addressing sex crimes.

The investigator must understand that doing a background investigation on a suspect means more than obtaining the date and place of birth and credit and criminal checks. School, juvenile, military, medical, driving, employment, bank, sex-offender and child-abuse registry, sex-offender assessment, computer, and prior investigative records can all be valuable sources of information about an alleged offender. Careful analysis of data, both images and text, and browsing history on the offender's seized computer may also reveal valuable background information and insights. Relatives, friends, associates, and current and former sex partners can be identified and interviewed. Other investigative techniques *(e.g.*, mail cover, pen

register, trash run, surveillance) can also be used. Indicators and counter indicators must be identified and evaluated.

Preferential Sex Offenders

Characteristics

A preferential sex offender can usually be identified by the behaviors noted below.

Long-Term and Persistent Pattern of Behavior

- Begins pattern in early adolescence
- Is willing to commit time, money, and energy
- Commits multiple offenses
- Makes ritual- or need-driven mistakes

Specific Sexual Interests

- Manifests paraphilic preferences (may be multiple)
- Focuses on defined sexual interests and victim characteristics
- Centers life around preferences
- Rationalizes sexual interests and validates behavior

Well-Developed Techniques

- Evaluates experiences
- Lies and manipulates, often skillfully
- Has method of access to victims
- Is quick to use modern technology *(e.g.*, computer, video) for sexual needs and purposes

Fantasy-Driven Behavior

- Collects theme pornography
- Collects paraphernalia, souvenirs, visual images, narratives
- Records fantasies
- Acts to turn repetitive fantasies into reality

Investigators must not over- or under-react to reported allegations. They must understand not all acquaintance molesters are stereotypical "pedophiles" who fit some common profile. Keeping an open mind and objectively attempting to determine the type of offender involved can be useful in minimizing embarrassing errors in judgment and developing appropriate interview, investigative, and prosecutive strategies. For example the fact preferential offenders, as part of sexual ritual, are more likely to commit similar multiple offenses, make need-driven mistakes, and compulsively collect pornography and other offense-related paraphernalia can be used to build a stronger case. Information about even **legal** paraphilic behavior *(i.e.*, with consenting adults, objects, theme adult pornography) can and should be used to evaluate any offender suspected of being involved in criminal sexual behavior. This type of information is most readily available in cases involving the use of online computers.

"True" Pedophiles

A high percentage of acquaintance child molesters are preferential sex offenders who have a true sexual preference for children. No distinction is made here as to whether this preference is for prepubescent (pedophile) or pubescent (hebephile) children, but only that it be a true sexual preference and not an opportunistic or isolated attraction. In addition to the behavior patterns of preferential sex offenders set forth above, these pedophile-type preferential offenders often exhibit many indicators of their particular preference for children. These behavioral indicators will assist the investigator in identifying these pedophiles. They are not character traits but patterns of behavior. It must be again stated and emphasized that **the indicators alone mean little**. Their significance and weight come as they are accumulated and come to form a pattern of behavior. If the investigator determines the existence of enough of these indicators, there is reason to believe the individual might be a pedophile-type preferential sex offender. It certainly does not constitute proof beyond a reasonable doubt. Without a specific disclosing victim, simply demonstrating these patterns of behavior alone may not be sufficient suspicion to conduct a criminal investigation or may significantly limit such an investigation.

As previously stated I generally recommend investigators and prosecutors minimize the official use *(i.e.*, reports, court documents, press releases) of the term **pedophile**. Rarely is it necessary to assert even for investigative or prosecutive purposes that an offender is specifically a "pedophile." Below are some possible indicators of a sexual preference for children.

Sexual Abuse in Background Although most victims of child sexual abuse do not become offenders, research indicates many offenders are former victims. This research, however, usually relies on self-reported information and may be of questionable validity. It might still be worth the investigator's time and effort to determine, if possible, whether a suspect had ever been sexually victimized as a child and, more importantly, what was the nature of that victimization *(i.e.*, age it occurred, relationship with offender, acts performed).

Limited Social Contact as Teenagers The pedophile's sexual preference for children usually begins to manifest itself in early adolescence; therefore, during his teenage years he may have exhibited little sexual interest in people his own age. Since so much teenage socialization revolves around dating, at that age he may have been described as quiet or a loner. This situation will become more apparent as he moves through the teenage years. A 13-year-old's sexual interest in a 12-year-old is harder to identify as problematic. As with several of these indicators, this fact **alone** means little if anything.

Premature Separation from Organizations Such as the Military If an individual was dishonorably discharged or fired for molesting children, there is not much doubt about the significance. It was far more common, though, for this type of individual to be prematurely separated from the military or asked to leave an organization with no specific reason given or available. The military, like most organizations, frequently only got rid of such individuals and did not necessarily prosecute them. Fortunately

this approach seems to be changing. The military is specifically mentioned here only because they maintain more readily available and retrievable records.

Frequent and Unexpected Moves When they are identified, pedophiles are frequently "asked" to leave town by someone in authority, by the parent/guardian of one of the victims, or by an employer. They were "caught" but not arrested or convicted. Although getting better, this is still a common way to handle the problem. The result is that pedophiles frequently show a pattern of living in one place for several years with a good job and then suddenly, and for no apparent reason, moving and changing jobs. Chances are the investigator will find no official record of what happened or discover his employment was terminated for some vague reasons that do not clearly indicate sexual misconduct. The pedophile will usually have an explanation for the move, but it probably will not reflect the true circumstances. This moving pattern can sometimes be determined from examination of drivers' license records. Alternative explanations for repeated moves must always be considered.

Prior Arrests and Investigations In some cases pedophiles have previously been arrested for child molestation or sexual abuse. Certainly such an arrest record is a major indicator particularly if the arrest goes back many years or is repeated. Investigators must also be alert to the fact pedophiles may have arrest records for actions that do not appear to involve sexual activity. These might include impersonating a law-enforcement officer, writing bad checks, violating child-labor laws, trespassing, or other violations that may indicate a need to check further. Any arrest of an adult in the company of a child not his own should be evaluated with suspicion. Arrests for "nuisance" sex offenses should also be carefully examined. Such offenders are also sometimes victims of crimes indirectly related to their sexual activity with children, especially adolescent boys. They can be victims of blackmail, vandalism, and assault. Their victims may commit burglaries or arsons to retrieve or destroy evidence of the sexual activity or to get even for the offender now ignoring them. The investigator should attempt to get all possible details, including copies of the reports concerning the arrests and investigations, in order to properly evaluate their significance.

Multiple Victims Molesting numerous child victims of similar characteristics is a strong indicator the offender is a pedophile. More importantly, if other factors indicate the offender is a pedophile, then a more concerted effort should be made to identify the multiple victims. If you know of only one victim, but have reason to believe the offender is a pedophile, then begin looking for the other victims. For instance if a teacher who is a suspected pedophile molests one child in his class, the chances are high he has molested or attempted to molest other children in the class as well as children in all the other classes he has taught. This is also true of incest offenders suspected of being pedophiles. How much investigation and how many such interviews are justified is a difficult judgment decision that must be considered with appropriate legal guidance.

Planned, Repeated, or High-Risk Attempts Bold and repeated attempts to obtain children or molestations that have been carried out in a cunning and skillful manner *(i.e.*, neighbor beginning seduction in front of child's parents/guardians, teacher molesting children during class in a room full of students) are a strong indication the offender is a pedophile.

Older Than 25, Single, Never Married By itself this indicator means nothing. It has significance only when combined with several other indicators. Because they have a sexual preference for children, pedophiles often have some degree of difficulty in performing sexually with adults; therefore, they frequently are not married or are married for only brief periods of time. Many pedophiles, though, do enter into marriage for a variety of reasons, and some of these have been and will be discussed again.

Lives Alone or With Parents This indicator is closely related to the above. Again, by itself, it has little meaning. The fact a man lives alone does not mean he is a pedophile. The fact an individual who possesses many of the other traits discussed here and also lives alone or with his parents might be significant.

Limited Dating Relationships If Not Married A man who lives alone, has never been married, and does not date adults should arouse suspicion if he possesses other characteristics discussed here.

If Married, "Special" Relationship With Spouse When they do marry, pedophiles often marry either a strong, domineering woman or a weak, passive woman-child. In any case they will marry a woman who does not have high sexual expectations or needs. A woman married to a pedophile may not realize her husband is a pedophile, but she does know he has a "problem" – a sexual-performance problem. Because she may blame herself for this problem and because of the private nature of people's sex lives, most wives will usually not reveal this information to an investigator; however, a wife, ex-wife, or girlfriend should always be considered as possible sources of information concerning the sexual preferences and interests of an offender. Interviews should be conducted and documented as soon as reasonably possible to lock in the information. Investigators must also recognize the possibility that information from ex-sexual partners may be distorted or exaggerated for a variety of reasons *(e.g.*, embarrassment, shame, anger, revenge). Pedophiles sometimes marry for convenience or cover. Pedophiles' marrying to gain access to children was previously discussed and is further discussed below.

Excessive Interest in Children How much interest is excessive? This is a difficult question. The old adage, "If it sounds too good to be true, maybe it is" may apply here. If someone's interest in children seems too good to be true, maybe it is. This is not proof that someone is a pedophile, but it is a reason to be suspicious. It becomes more significant when this excessive interest is combined with other indicators discussed here. Parents/guardians should beware of anyone who wants to be with their children more than they do.

Parents/guardians should beware of anyone who wants to be with their children more than they do.

Associates and Circle of Friends are Young In addition to sexual activity, pedophiles frequently socialize with children and get involved in youth activities. They may hang around neighborhoods, schoolyards, arcades, shopping centers, and the Internet – any place children frequent. For most pedophiles, just hanging around is not sufficient. They need and want interaction and ongoing access *(see* the section titled "Access to Children" on page 57). Their young "friends" may be male, female, both sexes, very young, or teenagers, all depending on the age and gender preferences of the pedophile.

Limited Peer Relationships Because they cannot share the most important part of their life, their sexual interest in children, with most adults, pedophiles may have a limited number of close adult friends. Only other pedophiles will validate their sexual interests and behavior. If a suspected pedophile has a close adult friend, the possibility that the friend is also a pedophile or will validate his sexual interests must be considered. Today pedophiles use the Internet to easily find large numbers of individuals who share, support, and validate their sexual interest in children.

Age and Gender Preference Most pedophiles prefer children of a certain gender in a certain age range. In contrast to situational-type child molesters, "true" pedophiles seem to more often prefer boys. The older the age preference of the pedophile, the more exclusive the gender preference usually is. Pedophiles attracted to toddlers are more likely to molest boys and girls indiscriminately. A pedophile attracted to teenagers is more likely to prefer either boys or girls exclusively. The preferred age bracket for the child can also vary. One pedophile might prefer boys 8 to 10, while another might prefer boys 6 to 12. A pedophile's age preference might not even correspond exactly with the legal definitions of a child or minor. For example a pedophile might prefer sexual partners 13 to 19. How old a child looks and acts is more important than actual chronological age. A 13-year-old child who looks and acts like a 10-year-old child could be a potential victim target for a molester preferring 8 to 10 year olds. For the introverted preferential molester, how old the child looks is more important than how old the child acts. Puberty does seem to be an important dividing line for many pedophiles. As previously stated this is reflected in the diagnostic criteria for pedophilia. It must be understood this is only an age and gender preference and not some exclusive limitation. Pedophiles, like most people, do not always get their preference and often settle for what is available or attainable. Any individual expressing a strong desire to care for, adopt, or gain access to only a child of a very specific sex and age, other than an infant, should be viewed with significant suspicion.

Refers to Children Using Words Such as "Clean," "Pure," "Innocent," "Impish," or as Objects Pedophiles sometimes have an idealistic view of children that is expressed in their language and writing. Others sometimes refer to children as if they were objects, projects, or possessions. "This kid has low mileage," and "I've been working on this project for six months" are examples of such comments.

Skilled at Identifying Vulnerable Victims Some pedophiles can watch a group of children for a brief period of time and then select a potential target. More often

than not the selected child turns out to be a high-risk target from a dysfunctional home or the victim of emotional or physical neglect. This skill is developed through practice and experience. Additional details concerning this selection process are also discussed throughout this publication in the sections describing the grooming/seduction process.

Identifies With Children (Better Than With Adults) Pedophiles usually have the ability to identify with children better than they do with adults – a trait that makes most pedophiles master seducers of children. They especially know how to **listen** to children. Many pedophiles are described as "pied pipers" who attract children. This ability often helps them become exceptionally good teachers, coaches, or youth volunteers. This skill is also useful in befriending children on the Internet. The ability to access, evaluate, and communicate online with large numbers of potential child victims within a short time helps to develop this skill.

Access to Children This is one of the most important indicators of a pedophile. The pedophile will almost always have a method of gaining access to children. Other than simply hanging around places children congregate, pedophiles sometimes marry or befriend women simply to gain access to their children. They are more than happy to help with chores around the house and be a father figure or babysitter for the children. Pedophiles are frequently the "nice guys" in the neighborhood who like to entertain the children after school or take them on day or weekend trips. A pedophile may also seek employment where he will be in contact with children *(e.g.*, teacher, camp counselor, babysitter, school bus driver, coach) or where he can eventually specialize in working with children *(e.g.*, physician, dentist, clergy member, photographer, social worker, law-enforcement officer). The pedophile, with or without a spouse, may adopt children or become a foster parent. He may become one or more of many types of volunteers who works directly with children. The pedophile may operate a business that hires adolescents. In one case a pedophile married, had a daughter, and molested her. He was the "nice guy" in the neighborhood who had the neighborhood girls over to his house for parties and he molested some of them. He was a coach for a girls' softball team, and he molested some of the players. He was a dentist who specialized in child patients, and he molested some of them.

Activities With Children, Often Excluding Other Adults The pedophile is always trying to get children into situations where there are no other adults, other than other pedophiles, present. On a scout hike he might suggest the fathers go into town for a beer. He will "sacrifice" and stay behind with the boys. Although having two adults present is a good idea, it does not guarantee safety as much as some people think. The other adult present may not recognize what is happening or might share the sexual interest in children.

Seduces With Attention, Affection, and Gifts As repeatedly discussed this is the most common technique used by pedophiles. They literally seduce the children by befriending, talking to, listening to, paying attention to, spending time with, and

buying gifts for them. If you understand this courtship process, it should not be difficult to understand why some child victims develop positive feelings for the offender. Many people can understand why an incest victim might not report his or her father, but they cannot understand why a victim not related to the offender does not immediately report molestation. There are many reasons for a victim not immediately reporting molestation *(e.g.*, fear, blackmail, embarrassment, confusion), but the results of the seduction process are often ignored or not understood at all.

Skilled at Manipulating Children In order to be involved in simultaneous sexual relations with multiple victims, a pedophile must know how to manipulate and control children. The pedophile uses seduction techniques, competition, peer pressure, child and group psychology, motivation techniques, threats, and blackmail. The pedophile must continuously recruit children into and move children out of the ring without his activity being disclosed. Part of the manipulation process is lowering the inhibitions of the children. A skilled pedophile who can get children into a situation where they must change clothing or stay with him overnight will almost always succeed in seducing them. Not all pedophiles possess these skills. For example an introverted pedophile typically lacks these abilities *(see* the chapter titled "Acquaintance-Exploitation Cases" beginning on page 63).

Hobbies and Interests Appealing to Children This is another indicator that must be considered for evaluation only in connection with other indicators. Pedophiles might collect toys or dolls, build model planes or boats, or perform as clowns or magicians to attract children. A pedophile interested in older children might have a "hobby" involving the Internet, computers, alcohol, drugs, or pornography.

Shows Sexually Explicit Material to Children Any adult who shows sexually explicit material or tells "dirty jokes" to children of any age should be viewed with suspicion. This is generally part of the seduction process in order to lower inhibitions. A pedophile might also encourage or allow children to call a dial-a-porn service or use the Internet to access sexually explicit material. He might send them such material via a computer as part of this process.

Youth-Oriented Decorations in House or Room Pedophiles attracted to teenage boys might have their homes decorated the way a teenage boy would. This might include items such as toys, games, stereos, and posters of "rock stars." The homes of some pedophiles have been described as shrines to children or as miniature amusement parks.

Photographing of Children This includes photographing children fully dressed, in specific poses, or from unusual angles. One pedophile bragged he went to rock concerts with 30 or 40 rolls of film in order to photograph young boys. After developing the pictures he fantasized about having sex with the boys. Digital cameras have pretty much eliminated film and the problem of developing and duplicating such images. Such a pedophile might frequent playgrounds, youth athletic contests, child beauty pageants, county fairs, or child exercise classes with his camera *(i.e.*,

35mm, "instant," video, digital) and take "candid" shots. Although offensive to most people, especially the parents/guardians of these children, this is usually not illegal.

Collecting Child Pornography or Child Erotica This is one of the most significant characteristics of pedophiles and will be discussed in great detail in the chapter titled "Collection of Child Pornography and Erotica" beginning on page 79.

Application

If, after evaluating the indicators, law-enforcement investigators have reason to suspect a particular subject or suspect is a pedophile, investigators should use the three most important indicators to their investigative advantage. These three indicators are access to children, multiple victims, and collection of child pornography or erotica.

The investigator must attempt to identify additional victims to strengthen the case against the offender. The more victims identified, the less likely that any of them will have to testify in court. But, even more importantly, **as soon as legally possible**, the investigator must obtain a warrant to search for child pornography or erotica, which is invaluable as evidence. There is a certain urgency in this because the more interviews conducted to obtain the needed probable cause for a search warrant, the greater the chance the pedophile will learn of the investigation and move or hide his collection. Child pornography, especially that produced by the offender, is one of the most valuable pieces of evidence of child sexual victimization any investigator can have. The effects on a jury of viewing seized child pornography are usually devastating to the defendant's case. The investigator must also attempt to develop a good interview strategy based on knowledge of the preferential offender's need to rationalize and justify his behavior.

Knowing the kind of offender being investigated can help determine investigative and prosecutive strategy. For example it might be useful in

- Anticipating and understanding need-driven mistakes
- Comparing consistency of victim statements with offender characteristics
- Developing offender and victim interview strategies
- Determining the existence, age, and number of victims
- Recognizing where and what kind of corroborative evidence might be found
- Evaluating the likelihood of possessing child pornography or utilizing a computer
- Using an expert search warrant
- Addressing staleness
- Evaluating and proving intent
- Determining appropriate charging and sentencing
- Evaluating dangerousness at a bond hearing
- Assessing the admissibility of prior and subsequent like acts
- Explaining behavior patterns to a jury
- Determining suitability for treatment options
- Notifying the community
- Making supervisory probation and parole officers aware of what to watch for

Exaggerated Example

An investigation determines a suspect is a 50-year-old single male who does volunteer work with troubled boys; has two prior convictions for sexually molesting young boys in 1974 and 1986; has an expensive state-of-the-art home computer; has an online "screen" name of "Boy lover"; has at least one online profile describing himself as a 14-year-old; has for the last 5 years daily spent many hours online in chatrooms and a newsgroup catering to those interested in sex with preteens justifying and graphically describing his sexual preference for and involvement with young boys; and brags about his extensive pornography collection while uploading hundreds of child-pornography files all focusing on preteen boys in bondage to dozens of individuals all over the world. If such a determination were relevant to the case, these facts would constitute more than enough probable cause to believe this suspect is a preferential sex offender.

Profiling?

It should be noted the above-described applications of this typology have little, if anything, to do with "profiling." As used by the Federal Bureau of Investigation's (FBI) Behavioral Analysis Unit (BAU) and National Center for the Analysis of Violent Crime (NCAVC), the term "profiling" refers to analyzing the criminal behavior of an **unknown** subject and determining likely personality and behavioral characteristics of that offender. It has nothing to do with cases in which a particular suspect is identified.

In addition this typology is not intended to be used in a court of law to **prove** someone is guilty of child molestation because he or she fits a certain "profile." It would be inappropriate and improper to claim because someone has certain traits and characteristics, we know with certainty he or she is a child molester and should therefore be convicted. The level of proof necessary to take action on information is dependent on the consequences of that action. The level of proof necessary to convict somebody in a court of law and incarcerate him is very high: proof beyond a reasonable doubt.

Applying this typology, however, in the ways discussed here *(e.g.*, to evaluate allegations, develop interview strategies, address staleness of probable cause, assess prior and subsequent like acts, educate juries, compare consistency) has less direct and immediate severe consequences for a suspected offender. Any additional evidence obtained from applying this typology can hopefully be used in court. Even if an expert educates a jury about certain patterns of behavior, the jury still decides how it applies, if it applies, and if the evidence constitutes proof beyond a reasonable doubt. The expert is not giving an opinion about the guilt of the accused *(see* "Appendix II: Appellate Case Decisions" on page 191).

In essence the criminal-investigative analysis involved in applying this typology to the investigation of acquaintance-molestation cases consists of determining and assessing the **details** *(i.e.*, verbal, physical and sexual behavior) of "what" happened; evaluating and deciding "why" something did or did not happen *(i.e.*, motivation continuum); and then comparing that for consistency to the known behavioral patterns and characteristics of "who" is identified or suspected. This, of course, can only be done if you have accurate, detailed information about "what" allegedly

happened and comprehensive, reliable information about "who" allegedly did it. As previously stated there is not one "profile" that will determine if someone is a child molester. But there are some child molesters who tend to engage in highly predictable and recognizable behavior patterns. The potential evidence available as a result of the long-term, persistent, and ritualized behavior patterns of many preferential sex offenders makes the understanding and recognition of these patterns important and useful to investigators and prosecutors in legally appropriate ways.

Acquaintance-Exploitation Cases

Overview

This chapter, formerly titled "Child Sex Rings," discusses cases in which multiple children are sexually exploited by acquaintances. The majority of offenders who simultaneously sexually victimize multiple children are acquaintance child molesters and most acquaintance child molesters who victimize multiple children are preferential sex offenders. Recognizing, understanding, and managing these dynamics are crucial to the proper investigation and prosecution of these cases. Cases involving multiple child victims are sometimes referred to as **child sex rings**. Many people have extreme and stereotypical ideas of what a child sex ring is. They believe it must involve organized groups buying and selling children and shipping them around the country or world for sexual purposes. In this publication the term **child sex ring** is simply defined as one or more offenders simultaneously involved sexually with several child victims. Because of the stereotypical images conjured up by the term, however, its use will be kept to a minimum.

Acquaintance-exploitation cases with multiple victims need not have a commercial component or involve group sex. Although that has happened in some cases, it is more likely the offender is sexually interacting with the children one at a time. The offender most often has sex with other children before terminating the sexual relationship with prior victims. The activity can involve any of the wide range of "sexual" behaviors discussed in this publication. The various child victims being molested during a certain period of time usually know each other but may or may not know the offender is having sex with the other children. Some may believe they are the only ones having a "special" relationship with the offender. Other victims may actually witness the sexual activity of the offender with other children. Offenders may have favorite victims they treat differently than the other victims.

Acquaintance-exploitation cases with multiple victims need not involve highly structured or organized groups such as organized crime, satanic cults, or pedophile organizations. In *Child Pornography and Sex Rings*, Dr. Ann W. Burgess set forth the dynamics of child sex rings (Burgess, 1984). Dr. Burgess's research identified three types of child sex rings. They are **solo, transition**, and **syndicated**. In the solo ring the offender keeps the activity and photographs completely secret. Each ring involves one offender and multiple victims. In the transition ring offenders begin to share their experiences, pornography, or victims. Photographs and letters are traded, and victims may be tested by other offenders and eventually traded for their sexual services. In the syndicated ring a more structured organization recruits children, produces pornography, delivers direct sexual services, and establishes an extensive network of customers. In the United States even the syndicated-type rings rarely have a hierarchical structure with a clear chain of command. They are more likely to be informal networks of individuals who share a common sexual interest and will betray each other in a minute if it helps their criminal case.

Dynamics of Cases

Cases in which children are exploited by acquaintances have many dynamics different from "typical" intrafamilial-abuse cases.

"Experts"

Many experts on the "sexual abuse of children" have little or no experience with acquaintance-exploitation cases especially those involving multiple victims. Almost all their experience is with one-on-one, intrafamilial-incest cases. The investigation of acquaintance-exploitation cases requires specialized knowledge and techniques. The intervention model for addressing one-on-one, intrafamilial-child sexual abuse has only limited application when addressing multiple-victim, extrafamilial, child-sexual-exploitation cases.

Risk to Other Children

Preferential sex offenders are more likely to have multiple victims. Those who focus on intrafamilial abuse rarely think of the danger to other children in the community because, in their minds, intrafamilial offenders molest only their own children. In one case I was asked to evaluate a military officer who had sexually molested his own daughter from shortly after birth to shortly before her 7th birthday. He was convicted and sent to prison. After several years he was released and returned to live with his wife and daughter. When I describe this case during a presentation, most people operating only from the intrafamilial perspective of child sexual abuse react with disgust or outrage at the notion the offender is back in the home with the victim. Although that is of some concern to me, it is minor compared with my concern for other young girls in the community where the offender now lives. Having reviewed and analyzed the offender's behavior patterns and extensive collection of child pornography and erotica, I know a great deal about the sexual fantasies and desires of this clearly preferential sex offender. His daughter is now outside his documented age preference, but any young girl in the neighborhood fitting it is at significant risk of victimization. If neighborhood children were molested, he would be both an intrafamilial and acquaintance offender.

How and when to notify the community of this possible risk to other children prior to conviction is a very difficult and important judgment call by investigators. The need to protect society must be weighed against the rights of the accused and the opportunity to obtain reliable evidence. Investigators must carefully consider what and how much information can be disseminated to the public. Do you notify everyone in the neighborhood, only parents/guardians of high-risk victims, only parents/guardians who had contact with the suspected offender, or only parents/guardians of children allegedly molested? Alerting parents/guardians too soon or improperly can result in destroying the life of an innocent individual, vigilante "justice," or contamination of a valid case.

Role of Parents/Guardians

The role of the child victim's parents/guardians is a third major difference between acquaintance exploitation cases and intrafamilial-child sexual abuse. In intrafamilial cases there is often an abusing and a nonabusing parent/guardian. In such cases a nonabusing mother may protect the child, pressure the child not to talk about the abuse, or persuade the child to recant the story so the father does not go to jail. Working through these dynamics is important and can be difficult.

Since parents/guardians are usually not the abusers in these acquaintance cases, their role is different. It is a potentially serious mistake, however, to underestimate the importance of that role. Their interaction with their victimized child can be crucial to the case. If the parents/guardians pressure or interrogate their children or conduct their own investigation, the results can be damaging to the proper investigation of the case. It is also possible a child sexually exploited by an acquaintance also was or is being sexually, physically, or psychologically abused at home.

Disclosure Continuum Status

When investigators interview children in intrafamilial cases, the victim has usually already disclosed the abuse to someone. In cases involving sexual exploitation by acquaintances the children interviewed usually have not previously disclosed their victimization. They are most likely being interviewed only because the victimization was discovered or a suspected or known sex offender had access to them. These types of interviews are extremely difficult and sensitive.

Multiple Victims

There is frequently interaction among the multiple victims in acquaintance-exploitation cases. In intrafamilial cases the sexual activity is usually a secret the victim has discussed with no one until disclosure takes place. In a child sex ring there are multiple victims whose interactions, **before** and **after** discovery, must be examined and evaluated.

Multiple Offenders

Interaction among multiple offenders is another major difference. Offenders sometimes communicate with each other and trade information and material. Offender interaction is an important element in the investigation of these cases. The existence of multiple offenders can be an investigative difficulty, but it can also be an advantage. The more offenders involved, the greater the odds there is a "weak link" who can be used to corroborate the alleged abuse.

Gender of the Victim

The gender of the victim is another major difference between intrafamilial- and extrafamilial-sex cases. Unlike intrafamilial sexual abuse, in which the most common reported victim is a young girl, in acquaintance-exploitation cases an adolescent boy victim is more common.

Sexual-Exploitation Versus Sexual-Abuse Cases

Because so many investigators and prosecutors have more training and experience with intrafamilial, child-sexual-abuse cases, a synopsis of this comparison with acquaintance-exploitation cases can be useful *(see* "Table 3" below). This contrast is only a typical tendency. There are always exceptions and many variations.

Based on common usage of the term, child-sexual-abuse cases tend to be "intrafamilial." They are more likely to involve situational sex offenders who often coerce a small number of usually younger girls into sexual activity. Although increasing in frequency with Internet access, the offenders are less likely to collect child pornography or erotica. They tend to rationalize their sexual activity with children as not being harmful. When investigators interview victims in these cases, the children have usually first disclosed or reported the abuse to someone else. Family members frequently pressure the child to keep the family "secret" and either not report or recant it once reported. In general there is usually less corroborative evidence.

Based on common usage, acquaintance-exploitation cases tend to be "extrafamilial." As previously mentioned, however, some true "acquaintance" molesters gain access to their victims through marriage or a live-in relationship. Acquaintance-exploitation cases are more likely to involve preferential sex offenders who seduce a larger number of victims, often older boys, into sexual activity. The offenders are more likely to collect child pornography or erotica. They tend to validate their sexual activity with children as good or beneficial to the victims. When investigators in these cases interview victims, the children have usually not disclosed the exploitation and victimization is only suspected. Family members frequently "interrogate" the child about the exploitation, pressuring the child to describe the victimization in a more socially "acceptable" way. In general there is usually more corroborative evidence.

Comparison (>More) (< Less)	
Child Sexual Abuse	**Child Sexual Exploitation**
> "Intrafamilial"	> "Extrafamilial"
> Situational Offenders	> Preferential Offenders
> Victims Who Are Girls	> Victims Who Are Boys
< Years of Age	> Years of Age
< Number of Victims	> Number of Victims
> Coercion	> Seduction
> "Disclosure"/Report Interviews	> Suspicion Interviews
> Family Secrecy	> Family "Interrogation"
> Rationalization	> Validate Behavior
< Child Pornography	> Child Pornography
< Erotica	> Child Erotica
< Evidence	> Evidence

Table 3

Types of Multiple-Victim Cases

After many years of evaluating and analyzing child-sexual-exploitation cases involving multiple victims, I have identified two major patterns or types. They are **historical** and **multidimensional**. These terms were adopted because they give a descriptive and generic name to each type of case yet avoid such loaded labels as "traditional," or "ritualistic," or "satanic" child sexual abuse and exploitation. The dynamics and characteristics of the far more common "historical" multiple-victim cases are described below. The highly controversial dynamics and characteristics of multidimensional cases (often called **Satanic Ritual Abuse** or **Ritual Abuse**) will not be discussed in this publication (Lanning, 1992c). Investigative techniques specific to "historical" multiple-victim cases are described in more detail in the chapter titled "Investigating Acquaintance Sexual Exploitation" beginning on page 137.)

"Historical" Multiple-Victim Cases

Overview

"Historical" multiple-victim cases can involve a daycare center, a school, a scout troop, a little-league team, or neighborhood children. Although viewed predominately as acquaintance-exploitation cases, they can also involve marriage as a method of access to children, intrafamilial molestation of children, and the use of family children to attract other victims.

There is much we know about this kind of case. The information is well documented by law-enforcement investigation and based on my involvement in many hundreds of corroborated cases for more than 35 years. The investigation of these cases can be challenging and time-consuming. Once a law-enforcement agency understands the dynamics and is willing to commit the personnel and other resources, however, it can be easier in these cases to obtain convictions than in one-on-one, intrafamilial cases.

Characteristics

Acquaintance-exploitation cases with multiple child victims have the general characteristics described below.

Male Offenders The vast majority of the offenders in these cases are male. Even in those few cases where there is a female offender, she will most likely have one or more male accomplices who are the ringleaders or be victimizing children one at a time.

Preferential Sex Offenders Most of the offenders in these cases are true pedophiles or other preferential sex offenders *(see* the chapter titled "Law-Enforcement Typology" beginning on page 29). Most of the preferential molesters will be in the seduction pattern of behavior. The main characteristics of preferential-type child molesters are multiple victims, access to children, and collection of child pornography and/or erotica. These offenders will almost always be acquaintances of the victims.

Victims Who Are Boys Many of the victims in these cases are boys and often between the ages of 10 and 16.

Sexual Motivation Although pedophiles frequently claim sex is only a small part of their "love" for children, the fact is when the sexual attraction is gone, the relationship is essentially over. If it were not for the time spent having sex, they would not be spending the other time with the child. Their primary reason for interacting with the children is to have sex. This is not to say, however, sex is their only motivation. Some pedophiles truly care about children and enjoy spending time with them.

Child Pornography and Child Erotica Pedophiles, as the term is used in this publication, almost always collect child pornography and/or erotica. Child pornography can be defined as the sexually explicit visual depiction of a minor including sexually explicit photographs, negatives, slides, magazines, movies, videotapes, or digital-memory storage devices. Child erotica (pedophile paraphernalia, collateral evidence) can be defined as any material, relating to children, that serves a sexual purpose for a given individual. Some of the more common types of child erotica include toys, games, computers, drawings, fantasy writings, diaries, souvenirs, sexual aids, manuals, letters, books about children, psychological books about pedophilia, and ordinary photographs of children *(see* the chapter titled "Collection of Child Pornography and Erotica," beginning on page 79, for a detailed discussion of child pornography and erotica).

Control Through Seduction Child molesters control their victims in a variety of ways. In acquaintance-exploitation cases with multiple victims, they control them primarily through the seduction or "grooming" process. As previously stated they seduce their victims with attention, affection, kindness, gifts, and money until they have lowered the victims' inhibitions and gained their cooperation and "consent." The nature of this seduction is partially dependent on the developmental stages, needs, and vulnerabilities of the targeted child victims. Offenders who prefer younger child victims are more likely to first "seduce" their parents/guardians and then rely more on techniques involving fun, games, and play to manipulate the children into sex. Those who prefer older child victims are more likely to take advantage of normal time away from their family and then rely more on techniques involving ease of sexual arousal, rebelliousness, and curiosity to manipulate the children into sex. Child victims who are seduced or engaged in compliant behavior are less likely to disclose their victimization and more likely to voluntarily return to be victimized again and again.

Age of Consent

There was an infamous case in the early 1980s involving a judge who sentenced a convicted child molester to a minimal sentence because the judge felt the 5-year-old victim was "sexually promiscuous." Society and professionals were outraged and demanded the judge be removed from the bench. The sad reality is most people were outraged for the wrong reason – because they thought it was impossible for a

5-year-old child to be sexually promiscuous. Although not typical or probable, it is possible for such a child to be "sexually promiscuous." Of course this is most often the **result** of victimization, not the cause. It should make no difference, however, whether or not the 5-year-old child was sexually promiscuous. It in no way lessens the offender's crime or responsibility. If you change the case slightly and make the victim 9 years old, does that make a difference? Most people would probably say no. If you change it again and make the victim 12 years old, many people would still say it makes no difference, but might want to see a picture of the victim. If you change it again and make the victim 13, 14, 15, or 16 years old, the response of society and the law would vary greatly.

With sexual activity between children and adults there can be a crime even if the child cooperates or "consents." But the reality of age of consent is not so simple. Age of consent can vary depending on the type of sexual activity and individual involved. At what age can a child consent to get married, engage in sexual activity, appear in sexually explicit visual images, or leave home to have sex with an unrelated adult without parental permission? Federal case law seems to suggest the consent of a 14-year-old who crosses state lines after running off and having sex with a 40-year-old man she met on the Internet is a valid defense for the kidnapping charge, but not for the sexual assault charge. *See United States v. Toledo*, 985 F.2d 1462 (10th Cir. 1993). The abductor, however, could be charged under 18 U.S.C. § 2422 (Enticement and Coercion of Minors) and 18 U.S.C. § 2423 (Transportation of Minors). At what age can an adolescent consent to have sex with a relative, a teacher, a coach, an employer, or a 21-year-old boyfriend?

In the United States, society and criminal investigators seem to have a preference for sexual-victimization cases where the victim, adult or child, clearly does not consent. Among lack-of-consent cases, the least preferred are cases where the victim could not consent because of self-induced use of drugs or alcohol. Cases where the victim was just verbally threatened are next, followed by cases where a weapon was displayed. For purposes of ease of proof, the most preferred lack-of-consent cases are those where the victim has visible physical injuries or is, sad to say, dead. Many seduced child victims may inaccurately claim they were asleep, drunk, drugged, or abducted **in part to**

- Meet this lack of consent criteria
- Avoid embarrassment

Sexual-victimization cases in which the child victim is not forced or threatened and cooperates or "consents" are more troubling and harder for society and interveners to address. If such victims were adults, there usually would not even be a crime. Although "consent" is supposed to be irrelevant in child-sexual-victimization cases, there are unspoken preferences held by society and professionals in these cases as well. The most preferred cases are those "consent" cases where the victim's cooperation can be explained as being due to some general fear or ignorance about the nature of the activity. That is the child was afraid to resist or tell or did not understand what was happening. The next most preferred are those cases where the child was tricked, duped, or indoctrinated. If the offender was an authority figure, this "brainwashing" concept is even more appealing. Next on this preference

continuum are those cases in which the victim was willing to trade "sex" for attention, affection, and romance. Much less acceptable are those cases in which the child willingly traded sex for material rewards *(e.g.*, clothes, shoes, trips) or money *(i.e.*, prostitution). Almost totally unacceptable to many, including some child-abuse professionals, are those cases in which the child engaged in the sexual activity with an adult because the child enjoyed the sex. In fact it is almost a sacrilege to even mention such a possibility. These societal and criminal-justice preferences prevail in spite of the fact almost all human beings trade sex for attention, affection, privileges, gifts, or money. Many seduced child victims may inaccurately claim they were afraid, ignorant, or indoctrinated **in part to**

- Meet the societal preferences for such compliance, manipulation, or cooperation
- Avoid embarrassment

Any of the above scenarios in various combinations are certainly possible. A child might cooperate in some sexual acts and be clearly threatened or forced into others. All are crimes. Investigators and prosecutors should always attempt to determine what actually happened, not to confirm their preconceived beliefs about sexual victimization of children.

Most acquaintance-exploitation cases involve victims who are seduced or engaged in compliant behavior. Although applicable statutes and investigative or prosecutive priorities may vary, officers investigating sexual-exploitation cases must generally start from the premise that the sexual activity is not the fault of the victim even if the child

- Did not say no
- Did not fight
- Actively cooperated
- Initiated the contact
- Did not tell
- Accepted gifts or money
- Enjoyed the sexual activity

Investigators must also remember many children, especially those victimized through the seduction process, may have

- Traded sex for attention, affection, or gifts
- Been confused over their sexuality and feelings
- Been embarrassed, ashamed, and guilt-ridden over their activity
- Described the victimization in socially acceptable ways
- Minimized their responsibility and maximized the offender's
- Denied or exaggerated their victimization
- Minimized the offender's role and emphasized his or her own role to protect the offender

All these things do not mean the child is not a victim. What they do mean is children are human beings with human needs. Society seems to prefer to believe children are pure and innocent. The Federal Bureau of Investigation's (FBI) national initiative regarding online computer exploitation of children is named "Innocent Images." The U.S. Department of Justice (DOJ) initiative about child prostitution

is named "Innocence Lost." Many children are seduced and manipulated by clever offenders and usually do not fully understand or recognize what they were getting into. Even if they do seem to understand, the law is still supposed to protect them from adult sexual partners. Consent should not be an issue with child victims. Sympathy for victims is, however, inversely proportional to their age. As with poorly understood offender patterns of behavior, the dynamics of these "consenting" victim patterns of behavior can be explained to the court by an education expert witness *(see* "Appendix II: Appellate Case Decisions" on page 191). The ability to make these explanations, however, is being undermined by the fact children at an age when they cannot legally choose to have sex with an adult partner can choose to have an abortion without their parents/guardians' permission or be charged as adults when they commit certain crimes. Can the same 15-year-old be considered both a "child" and an "adult" in the criminal-justice system?

Offender Strategies

Control

Maintaining control is important in the ongoing sexual exploitation of children. It takes a significant amount of ability, cunning, and interpersonal skill to maintain a simultaneous sexual relationship with multiple partners. It is especially difficult if you have the added pressure of concealing illegal behavior. In order to avoid detection and disclosure, an offender must know how to control and manipulate children. As previously stated control is maintained primarily through attention, affection, and gifts – part of the seduction process. Also as previously stated these techniques must also be adjusted for the varying developmental stages, needs, and vulnerabilities of children of different ages.

The Seduction Process

For a longer term relationship the seduction process is the most effective control technique. An overview of this process was set forth in the chapter titled "Definitions" beginning on page 13. The seduction process begins when the offender finds or sees a potential victim who fits his age, gender, and other preferences. It can be in person or online. It can be a 6-year-old girl or a 14-year-old boy. Child molesters, however, can and do have sex with children and sometimes with adults who may not fit their preferences. A child molester may be experimenting or unable to find a child who fits his preference. Child molesters who prefer adolescent boys sometimes become involved with adolescent girls as a method of arousing or attracting the boys. In addition child molesters may not molest some children to whom they have access and opportunity because the children did not meet their preferences or were not vulnerable to their advances or seduction techniques.

The offender's next step in the seduction process is to gather information about the potential victim. This may involve nothing more than a 10-minute spot evaluation of the child's demeanor, personality, dress, and financial status. Through practice, many child molesters have developed a real knack for spotting the vulnerability in each potential victim. Other offenders may have access to school, medical, mental-health, or court records. These records could be valuable in determining a child's

interests or vulnerabilities. Almost any child can be seduced, but the most vulnerable children tend to be those who come from dysfunctional homes or are victims of emotional neglect.

The seduction process takes place over time and usually requires ongoing access to the targeted child. The offender who is operating a sex ring has many other victims. He is willing to put in the time it takes to seduce a child. It may take a few minutes or years. Some molesters may even start grooming a potential victim long before the child has reached his age preference.

In addition to seducing his child victims, offenders often "seduce" the victim's parents/guardians, gaining their trust and confidence, so they will allow him free access to their children. A favorite target victim is a child living with a single mother. He may offer to babysit or watch her children after school. The offender will sometimes pretend romantic interest in the mother or express a desire to be a father figure or mentor for her child. He may even marry her or move in with her. The relationship with the mother can be used as a cover for his interest in children, and her child can be used as bait to lure or gain access to other children. For example most parents/guardians would not be reluctant to allow their child to go on an overnight trip with the "father" of one of their child's friends. In this case, however, the man in question is not the child's father or even the stepfather. He is just a man who lives with the mother. Some offenders legally adopt or become the legal guardian of potential victims. Once a molester has put in the time and effort to seduce a child, he will be reluctant to give up access to the child until he is finished with the child.

Many offenders possess an important talent in the seduction process: the ability to identify with children. They know the "in" video games, toys, television shows, movies, music, computers, and Internet sites. They are skilled at recognizing and then temporarily filling the emotional and physical needs of children. The essence of the seduction process is the offender providing attention, affection, and gifts to the potential victim. Gifts and financial incentives are important, especially for kids from lower socioeconomic backgrounds, but attention and affection are the real keys. How do you tell a child not to respond to attention and affection? All children crave it, but especially children who are not getting it. Moreover, because the offender is interested only in short-term gain, he may allow his victims to "break the rules" – play basketball or football in the house, make a mess, swim without a bathing suit, view pornography, drink alcohol, use drugs, drive a car, or go to bars or restaurants known to have physically well-endowed female staff members. The homes of many preferential child molesters are miniature amusement parks filled with games, toys, computers, and athletic equipment appealing to children of their age preference.

The typical adolescent, especially a boy, is **easily sexually aroused, sexually curious, sexually inexperienced**, and **somewhat rebellious**. All these traits combine to make the adolescent child an easy victim of this seduction. It takes almost nothing to get an adolescent boy sexually aroused. An adolescent child with emotional and sexual needs is simply no match for an experienced 50-year-old man with an organized plan. Yet adult offenders who seduce them, and the society that judges them, continue to claim these victims "consented." The result is a victim who feels responsible for what happened and embarrassed about his actions. Once a victim

is seduced, each successive sexual incident becomes easier and quicker. Eventually the child victim may even take the initiative in the seduction.

The next step in the seduction process is the lowering of inhibitions. It is easy to be judgmental toward victims when you look at only the end product of their seduction. At the beginning of the relationship the child is looking for friendship, emotional support, a job, or just some fun. The lowering of sexual inhibitions is usually done so gradually and skillfully the victim does not realize he or she is a victim until it is too late. It may begin with simple affection such as a pat, hug, or kiss on the cheek. In addition to being part of the seduction process, such activity can also be sexual acts themselves. Sexual activity can begin with conversation about sex. This might include "dirty" jokes and encouraging children to share their sexual attitudes and feelings. The activity can progress to fondling while wrestling, playing hide-and-seek in the dark, playing strip poker, swimming nude in the pool, drying the child with a towel, massaging an injury, giving a back rub, tickling, playing a physical game, or cuddling in bed. Some offenders may have no interest in progressing beyond such acts. They are not a means to an end, but an end in themselves as their preferred sexual activity. The introduction of photography or video cameras during this process is common. Pictures of innocent situations progress to pictures of the "fun and games" or playing movie star/model that then progress to pictures of the nude or partially nude child that then escalate into more sexually explicit pictures.

Adult pornography is frequently left out for the children to "discover." A collection of adult pornography is effective in sexually arousing and lowering the inhibitions of adolescent boys. This is an important reason why preferential child molesters collect adult pornography. Some of them may even attempt to use this collection as proof that they do not have a sexual preference for children and judges may prevent its admissibility as not being probative. Alcohol and drugs are also used, especially with adolescent boys, to lower inhibitions. As with most sexual seduction, the process often involves attempted sexual acts and rejection, followed by negotiation and compromise, and then renewed attempts with no physical violence. By the time the victims realize what is going on, they are in the middle of it and ashamed of their complicity. They did not "say no, yell, and tell." Much of this process can even take place online with a computer without even meeting in person.

Offenders usually work toward a situation in which the child has to change clothing, spend the night, or both. If the child molester achieves either of these two objectives, the success of the seduction is almost assured. The objectives of changing clothes can be accomplished by such ploys as squirting with the garden hose, turning up the heat in the house, exercising, taking a bath or shower, physical examination of the child, or swimming in a pool. Spending the night *(i.e.*, field trips, camping, babysitting) with the child is the best way for the sexual activity to progress. Elaborate, scripted seduction techniques specifically targeted at children are more consistent with the behavior patterns of preferential sex offenders than with those of opportunistic situational sex offenders.

Some victims come to realize the offender has a greater need for this sex than they do, and this gives them great leverage against the offender. The victims can use sex to manipulate the offender or temporarily withhold sex until they get things they want. A few victims even blackmail the offender especially if he is married or

a pillar of the community. Although all of this is unpleasant and inconsistent with our idealistic views about children, as previously stated, when adults and children have "consensual" sex the adult is always the offender, and the child is always the victim. Consent is an issue only for adults.

Cases Involving Multiple Child Victims

The ongoing sexual victimization of multiple children is dynamic and ever-changing. It is like a pipeline. At any given moment there are victims being recruited, seduced, molested, and let go or "dumped." For most acquaintance offenders it is easy to recruit, seduce, and molest the victims, but it is difficult to let the victims go without their turning against the offender and disclosing the abuse.

The offenders control the victims once they are in the pipeline through a combination of bonding, competition, and peer pressure. Most children, especially adolescent children, want to be a part of some peer group. Any offender operating a sex ring has to find a way to bind the victims together. Some offenders use an existing structure such as a scout troop, sports team, or school club. Other offenders create their own group such as a magic club, computer club, or religious group. Some offenders just make up a name and establish their own rules and regulations. They may call themselves the "88 Club" or the "Winged Serpents." Some offenders have used religion, satanism, and the occult as a bonding and controlling mechanism.

Competition and creating challenges, sometimes focusing on sexual acts, are also effective control techniques. Victims may compete over who can do an act first or longest. A series of sexual acts may result in some special reward or recognition. The offender may use peer pressure to control his victims, and the children will enforce the rules on each other. No victim wants to be the one to ruin it for anyone else or embarrass others, and each victim may think he or she is the offender's "favorite." All these techniques simply capitalize on the developmental needs of children of different ages.

Violence, threats of violence, and blackmail are most likely used by the offender when pushing a victim out or attempting to hold onto a still-desirable victim who wants to leave. Sexually explicit notes, audio recordings, video recordings, and photographs are effective insurance for a victim's silence. Victims worried about disclosure of illegal acts such as substance abuse, joyriding, petty theft, and vandalism are also subject to blackmail. Some victims even commit crimes *(e.g.*, burglary, arson) to retrieve or destroy evidence of their behavior. Victims and their families from higher socioeconomic backgrounds may be more concerned about the public embarrassment of any disclosure. Many victims, however, are most concerned over disclosure of and therefore more likely to deny **engaging in sex for money**, **bizarre sex acts**, **homosexual acts in which they were the active participant**, and **sex with other child victims**. In child sex rings not only does the offender have sex with the child but, in some cases, the children have sex with each other. While children may report they were forced by the offender to perform certain acts with him, they find it hard to explain sexual experiences with other children; therefore, they frequently deny such activity. One offender told me if you select your victims and seduce them "properly," the secret takes care of itself.

When trying to push a victim out the end of the pipeline, the offender may pass the child to another offender who prefers older children. The victim now enters a new pipeline as a "pre-seduced" victim requiring little grooming. "Dumping" the child can also be made easier and safer if the child is promoted to another grade or school, moves onto another level of scouting or sports, or moves out of the neighborhood.

Offender-Victim Bond

Because victims of acquaintance exploitation usually have been carefully seduced and often do not realize or believe they are victims, they repeatedly and voluntarily return to the offender. Society and the criminal-justice system have a difficult time understanding this. If a boy is molested by his neighbor, teacher, or clergy member, why does he "allow" it to continue? Most likely he may not initially realize or believe he is a victim. Some victims are simply willing to trade sex for attention, affection, and gifts and do not believe they are victims. The sex itself might even be enjoyable. The offender may be treating them better than anyone has ever treated them. They may come to realize they are victims when the offender pushes them out. Then they recognize all the attention, affection, and gifts were just part of the master plan to use and exploit them. This may be the final blow for a troubled child who has had a difficult life.

Most of these victims never disclose their victimization. As previously stated younger children may believe they did something "wrong" or "bad" and are afraid of getting into trouble. Older children may be more ashamed and embarrassed. Many victims not only do not disclose, but they strongly deny it happened when confronted. In one case several boys took the stand and testified concerning the high moral character of the accused molester. When the accused molester changed his plea to guilty, he admitted the boys who testified for him were also victims. In another case a 16-year-old victim tried to murder the man who had sexually exploited him but still denied he was sexually victimized. He pled guilty rather than use the abuse as a mitigating circumstance and publicly admit he had engaged in sexual activity with a man. He privately admitted his victimization to a prosecutor, but said he would always publicly deny it.

The most common reasons victims do not disclose are a fear of the **stigma of homosexuality; lack of societal understanding; presence of positive feelings for the offender; embarrassment, shame, or fear over their victimization**; or **do not believe they are victims**. Since most of the offenders are male, fear of the stigma of homosexuality is usually a significant issue for victims who are boys. Although being seduced by a male child molester does not necessarily make a boy a homosexual, the victims do not understand this. If a victim does disclose, he risks significant ridicule by his peers and lack of acceptance by his family.

Victims who are seduced or engaged in compliant behavior obviously do sometimes disclose. Such victims often disclose because the sexual activity is discovered *(e.g.*, abduction, recovered child pornography, overheard conversations) or suspected *(e.g.*, statements of other victims, association with known sex offender, proactive investigation) and they are then confronted. Others disclose because the offender misjudged them, got too aggressive with them, or is seducing a younger sibling or close friend of theirs. Victims sometimes come forward and

report because they are angry with the offender for "dumping" them. They might be jealous the offender found a younger victim. They often disclose because the abuse has ended, not to end the abuse. Victims also disclose months to years later when their life situation changes *(i.e.*, new girlfriend/boyfriend, marriage, birth/death of child, personal crisis).

The behavior and reactions of such child victims should not be evaluated for consistency with that of victims who have been forced against their will, but with that of victims who have been manipulated into their victimization. Failure to immediately report it, initial denials when questioned about it, attempts to describe it in more socially acceptable ways, varying versions of what happened, embarrassment and shame, and reluctance to tell their parents/guardians and others, and anger over the relationship ending are all consistent with child victims seduced and manipulated by an adult offender who is an acquaintance. When many of these child victims eventually do disclose their victimization, they are often mad and feel deceived and used when they find out the offender had a new "girlfriend" or will no longer respond to their contacts. Similar behavior *(e.g.*, denial, lying, changing versions, inconsistencies), however, can be seen in cases involving false allegations. Juries have the right to hear and consider all explanations for such behavior. Making some false allegations does not necessarily mean an entire allegation is false. The court can sometimes be assisted in this evaluation through the use of an education expert witness.

A particular aspect of this offender-victim bond is especially troubling for the criminal-justice system. Some older child victims, when being pushed out, or while still in the pipeline, may assist the offender in obtaining new victims. They may still want to trade sex for attention, affection, gifts, or money, but their sexual worth has diminished in value. They have to come up with something else of value. They then become the bait to lure other victims. They may sexually victimize younger children and provide webcam or recorded images of the activity to the offender. Such recruiters or "graduate" victims can and should be considered subjects of investigation. Although their victimization does not excuse their behavior, it should be viewed and evaluated *(i.e.*, role of adult offender, age of victim offender) within the context of their ongoing victimization.

High-Risk Situations

There are certain high-risk situations that arise in investigating acquaintance-exploitation cases. Unfortunately certain youth organizations inadvertently provide the child molester with almost everything necessary to operate a child sex ring. A scouting organization, for example, fulfills the offender's needs for **access to children of a specific age or gender, a bonding mechanism to ensure the cooperation and secrecy of victims**, and **opportunities to spend the night with a victim or have a victim change clothing**. The bonding mechanism of the scouts is especially useful to the offender. Loyalty to the leader and group, competition among boys, a system of rewards and recognition, and indoctrination through oaths and rituals can all be used to control, manipulate, and motivate victims. Leaders in such organizations should be carefully screened and closely monitored.

Another high-risk situation involves high-status authority figures. As stated above, child molesters sometimes use their adult authority to give them an edge in the

seduction process. Adults with an added authority *(e.g.*, teachers, camp counselors, coaches, clergy members, law-enforcement officers, doctors, judges) present even greater problems in the investigation of these cases. Such offenders are in a better position to seduce and manipulate victims and escape responsibility. They are usually believed when they deny any allegations. In such cases the law-enforcement investigator must always incorporate understanding of the seduction process into interviews, take the "big-picture" approach, and try to find multiple victims or recover child pornography or erotica in order to get a conviction *(see* the chapter titled "Investigating Acquaintance Sexual Exploitation" beginning on page 137).

The most difficult case of all involves a subject who has an ideal occupation for any child molester: a therapist who specializes in treating troubled children. This offender need only sit in his office while society preselects the most vulnerable victims and brings them to him. The victims are by definition "troubled" and unlikely to be believed if they do make an allegation. In addition such therapists, especially if they are psychiatrists or physician's assistants, can claim certain acts of physical touching were a legitimate part of their examination or treatment. They may also claim to be conducting research on child development or sexual victimization. Again such a case could probably be proven only through the identification of patterns of behavior, multiple victims, and the recovery of child pornography or erotica. Fortunately for law enforcement in the United States, but unfortunately for children in the United States, such offenders almost always have highly predictable behavior patterns, multiple victims, and child-pornography and erotica collections.

Collection of Child Pornography and Erotica

Collection

Law-enforcement investigations have verified preferential sex offenders in general tend to collect theme pornography and/or paraphernalia related to their sexual preferences. Preferential-type sex offenders without a preference for children can have extensive collections. Such offenders will collect images and paraphernalia focusing primarily on their particular sexual preferences or paraphilias rather than predominantly on children. Child pornography will usually be a smaller portion of their potentially large and varied collection with the children often portrayed in their paraphilic interests. Preferential sex offenders with a sexual preference for children (**pedophiles**) tend to collect predominately child pornography or erotica. This correlation between child pornography and pedophilia, which was recognized by law enforcement and documented in my presentations and publications for many years, has been corroborated by research conducted in Canada (Seto, Cantor, and Blanchard, 2006).

Situational-type child molesters might also collect pornography but not with the same degree of predictability as the preferential sex offender. The pornography they do have will often be of a violent and degrading nature. In the child pornography collected by situational sex offenders and nonpedophile-preferential sex offenders, the children might be dressed up *(i.e.*, stockings, high heels, makeup) to look like adults or be pubescent teenagers. Situational sex offenders might collect pornography or erotica of a predominately violent theme but may not save the same material year after year. The Internet and digital cameras have made finding child pornography more likely in more cases. Investigators should always consider the possibility any child molester might collect child pornography or erotica; however, it is much more likely with the pedophile type.

Especially for preferential-type sex offenders, **collection** is the key word. It does not mean they merely view pornography. They save it. It comes to define, fuel, and validate their most cherished sexual fantasies. They typically collect things such as books, magazines, articles, newspapers, photographs, negatives, slides, movies, albums, digital images, drawings, audiotapes, video recordings and equipment, personal letters, diaries, clothing, sexual aids, souvenirs, toys, games, lists, paintings, ledgers, and photographic and computer equipment all relating to their preferences and interests in a sexual, scientific, or social way. Not all preferential sex offenders collect all these items, and their collections can vary significantly in size and scope. Because it represents his sexual fantasies *(e.g.*, age and gender preferences, desired sexual acts) the collection of any offender should be carefully examined and evaluated.

Factors that **formerly** seemed to influence the size of an offender's collection included **socioeconomic status, living arrangements**, and **age**. Better educated and more affluent offenders tended to have larger collections. Offenders whose living or working arrangements gave them a high degree of privacy tended to have larger collections. Because collections are accumulated over time, older offenders tended to have larger collections. Today, however, the computer, the Internet,

and digital-memory storage devices have changed all of this. Almost anyone with online access can, in a relatively short time and at minimal expense, have a large collection of pornography including child pornography. A short time ago it would have taken years at great expense to accumulate such a collection. The ability to easily download or share large files online containing digital images may have even re-defined what constitutes a "large" collection. On a computer or peripheral, digital-memory storage devices the collection can also be easily hidden from family members and friends. With online access a 20-year-old, blue-collar worker living with his parents can now have a collection as large as a 55-year-old executive living alone in a mansion. The older, more affluent offender, however, may still have some of his collection not on a computer or digital-memory storage device.

Preferential sex offenders with the economic means were quick to convert parts of their collections to videotape when that technology became available. They converted their books, magazines, photographs, and movies to videotape. This made it easier to duplicate and share material. Although videotape may still have some appeal, an ever-increasing portion of most collections is now being digitally stored or duplicated on computers and varying types of memory devices such as CDs, DVDs, flash drives, thumb drives, and memory cards.

Child Pornography

What an offender collects related to children can be divided into two categories. They are **child pornography** and **child erotica**. Child pornography can be behaviorally, **not legally**, defined as the sexually explicit reproduction of a child's image. It includes sexually explicit books, magazines, periodicals, photographs, negatives, slides, films, movies, videotapes, computer discs, and digital images. In essence it is the permanent record of the sexual abuse **or** exploitation of an **actual** child. Child pornography, by itself, represents an act of sexual abuse or exploitation of a child and, by itself, does harm to that child. The online computer and Internet, however, have radically changed most of what could have been said about the possession and distribution of child pornography in the United States in the 1980s and early 1990s. While the gender ratio may fluctuate, there are significant numbers of boys in child pornography.

The perception of many people and the definition in the federal law concerning what is child pornography is significantly different. Many perceive and assume child pornography includes both words and images portraying prepubescent children (younger than 13 years old) being sexually abused *(i.e.*, penetration, violence). The federal law defines it as only visual depictions, portraying any child (younger than 18) engaging in sexually explicit conduct *(i.e.*, lascivious exhibition of genitals) (18 U.S.C. § 2256). This disconnect creates problems with enforcement and prosecution of cases. A term as important as **child pornography** needs to be clearly defined, and then that definition needs to be consistently applied to any research or communication. Various organizations *(e.g.*, businesses, faith-based

Child pornography, by itself, represents an act of sexual abuse or exploitation of a child and, by itself, does harm to that child.

groups, youth-serving groups) or concerned individuals are free to define child pornography in a variety of ways to suit their needs. The term **child-abuse images** *(see* discussion beginning on page 110) is a good example of a nonlegal, emotional definition of child pornography. Professionals who study the criminal-justice system and focus on the illegal nature of child pornography, however, have an obligation to define it according to the law. In the United States the term **child pornography** now has fairly well-established legal definitions.

Legal definitions of the term **child pornography** also vary from state-to-state and under federal law. Because of these variations, this chapter will predominately refer to and use the federal definitions. Child pornography usually involves a **visual depiction** (not the written word) of a **child** (a minor as defined by statute) engaged in **sexually explicit** conduct (not necessarily obscene, unless required by state law). For purposes of offenses involving child pornography, federal law (18 U.S.C. § 2256) defines a child or minor as someone who has not yet reached his or her 18th birthday. There is significant case law that helps us understand what is and is not defined as **child pornography** under the law. When making broad statements about the nature and scope of child pornography, the three elements of the definition should be considered and applicable. Are common statements such as "Child pornography is of sexual interest only to pedophiles and sexual predators" or "Child pornography is the permanent record of the sexual abuse of a child" consistent with all material meeting the legal definition? Discussing the nature of child pornography in broad terms and generalizations may minimize the impact to the child victim and the responsibility and culpability of individual offenders. That is why it is important to keep in mind what child pornography is and what it is not. Consistently using a specific legal definition such as the federal one assists in maintaining the proper focus for child-pornography offenses.

Because true child pornography once was hard to obtain, some offenders have or had only **child erotica** in their collections *(see* discussion of **child erotica** beginning on page 85); however, because of online computers and the Internet, child pornography is now more readily available in the United States than it has ever been. Child pornography is so readily available on the Internet, it is possible to "store" a collection in cyberspace and download it anytime one wants to view it. Knowingly accessing child pornography with the intent to view it is a federal offense (18 U.S.C. § 2252A(a)(5)(B)).

As with most forms of human behavior it is probably best to view the behavior of collecting child pornography on a continuum. It ranges from those who "just" collect to those who collect and noncriminally interact with children to those who collect and actively seek validation for their interests to those who collect and swap, trade, or sell child pornography to those who collect and produce child pornography to those who collect and molest children to those who collect and abduct children. All possibilities must be considered and evaluated.

With the exception of **technical** child pornography *(see* the discussion beginning on page 83), the primary producers, distributors, and consumers of child pornography within the United States are child molesters, pedophiles, sexual deviants, and others with a sexual interest in children. As risks have gotten lower and potential profits have gotten larger with the advent of the Internet, profit-motivated,

child-pornography distribution has returned to the United States and is growing. Internationally the situation involves more significant profit-motivated activity. To produce the material being distributed for profit, however, children still must be sexually exploited or abused. The estimates of financial profit from commercial child pornography vary widely. It is commonly understood by law enforcement, however, that the majority of child-pornography production involves an offender who has physical access to the child being exploited in the images.

Commercial Versus Homemade

Child pornography can be divided into two subcategories. They are **commercial** and **homemade**. The distinction between these subcategories, however, has become increasingly unclear with online production and distribution.

Commercial child pornography is that which is produced and intended for commercial sale. Because of strict federal and state laws today, there is no place in the United States where commercial child pornography is knowingly openly sold. What child pornography is now being commercially distributed in the United States is most often sold via the Internet. For other than Internet distribution, the risks are usually too high for the strictly commercial dealer or common criminal. Because of their sexual and personal interests, however, preferential sex offenders are more willing to take those risks. Their motive goes beyond just profit. In the United States it is primarily a cottage industry run by pedophiles and child molesters. United States' citizens seem to be major consumers for much of this material. Some offenders collect their commercial child pornography in ways *(e.g.*, photographs of pictures in magazines, pictures cut up and mounted in photo albums, names and descriptive information written below, homemade labels on commercial videotapes or DVDs, images scanned or stored into a computer) that make it appear to be homemade child pornography. If necessary highly experienced investigators and forensic laboratories could be of assistance in making distinctions between homemade and commercially produced child pornography. Making this distinction could help in evaluating whether a subject is a producer/photographer, recipient/collector, or both.

Contrary to what its name implies, the quality of homemade child pornography can be as good if not better than the quality of any commercial pornography. This is especially true with the rapidly growing use of digital technology to take and reproduce images. The pedophile has a personal interest in the product. **Homemade** simply means it was not originally produced primarily for commercial sale. Although commercial child pornography is not openly sold in "brick and mortar" stores anywhere in this country, homemade child pornography is continually produced, swapped, and traded in almost every community in the United States primarily via the Internet. Although rarely found in "adult" bookstores, child pornography is frequently found in the homes and offices, especially on the computers and digital-memory storage devices, of doctors, lawyers, teachers, clergy members, and other apparent pillars of the community. There is, however, a connection between commercial and homemade child pornography. Often homemade child pornography is sold or traded and winds up on commercial child-pornography websites or in magazines, movies, and videos. These visual images are then reproduced and circulated again and again, sometimes for profit. Many adolescent

children who took or allowed sexually explicit images of themselves to be taken are learning this the hard way.

With rapidly increasing frequency, more and more of both commercial and homemade child pornography is found in digital format on computers and digital-memory storage devices. In this format there is no loss of quality when it is reproduced. This actually increases the odds of finding child pornography in any investigation. Again the Internet has tended to blur the distinction between commercial and homemade child pornography.

Technical Versus Simulated

In understanding the nature of child pornography, investigators must also recognize the distinction between **technical** and **simulated** child pornography. As previously stated the federal, child-pornography law (18 U.S.C. § 2256) defines a child or **minor** as anyone younger than the age of 18; therefore a sexually explicit photograph of a pubescent, mature looking 15-, 16-, or 17-year-old girl or boy is what I call **technical** child pornography. Technical child pornography does not look like child pornography, but it is. The production; distribution; and, in some cases, the possession of this child pornography could and should be investigated under appropriate child-pornography statutes. Technical child pornography is an exception to much of what we say about child pornography. It often is produced, distributed, and consumed by individuals who are not child molesters or pedophiles; is more openly sold in stores and distributed around the United States; and more often portrays girls than boys. In essence, because it looks like adult pornography, it is more like adult pornography. Also, like adult pornography or obscenity, it is often not prosecuted because of legal difficulties and personal beliefs.

On the other hand, sexually explicit photographs of 18-year-old or older males or females may not legally be child pornography, but, if the person portrayed in such material is young looking, dressed youthfully, or made up to look young, the material could be of interest to pedophiles. This is what I call **simulated** child pornography. Simulated child pornography looks like child pornography, but it is not. It is designed to appeal to those with a sexual interest in children but it usually is not legally child pornography because the individuals portrayed are older than 18. As will be discussed later, some individuals want **simulated** child pornography to legally be child pornography.

Simulated child pornography illustrates the importance and sometimes the difficulty in proving the age of the child in the photographs or videotapes. Particularly difficult is pornography portraying underage children pretending to be overage models pretending to be underage children and "virtual" child pornography created with computer software that does not involve the depiction of actual children. The ability to manipulate digital visual images with a computer can make it more difficult to determine the ages of the people in them.

Computer-manipulated and computer-generated visual images of individuals who appear to be, but are not, children engaging in sexually explicit conduct may call into question the basis for highly restrictive *(i.e.*, possessing, accessing, advertising) child-pornography laws. In an attempt to address this problem, Public Law No. 104-208, known as the Child Pornography Prevention Act (CPPA) of 1996

(18 U.S.C. § 2251 *et seq*.), expanded the federal definition of "child pornography" to include not only a sexually explicit visual depiction using a minor, but also any visual depiction that "has been created, adapted, or modified to **appear** (emphasis added) that an identifiable minor is engaging in sexually explicit conduct." This expanded definition, in essence, federally criminalized what I call "simulated" child pornography. Although this new law made the prosecution of cases involving manipulated computer images easier, it also meant it was no longer possible in every case to argue child pornography is the permanent record of the abuse or exploitation of an **actual** child. The significance of being able to make that argument will be discussed shortly.

In a decision I predicted and agree with, the portions of this law addressing virtual or what I call "simulated" child pornography were eventually found unconstitutional by the U.S. Supreme Court *(Ashcroft v. Free Speech Coalition*, 535 U.S. 234 (2002)). The federal Prosecutorial Remedies and Other Tools to end the Exploitation of Children (PROTECT) Act of 2003 was then passed to correct the constitutional flaws and address this problem. I am not an attorney but I personally do not see how some of its revised elements are different from those in portions of the CPPA. The Public Law No. 108-21, commonly referred to as the PROTECT Act, definition of child pornography includes computer-generated images "indistinguishable from that of a minor" and images "created, adapted, or modified to appear" to be an identifiable minor (P. L. 108-21, as codified in 18 U.S.C. § 2256). The PROTECT Act further defines indistinguishable to mean virtually indistinguishable, in that the depiction is such that an ordinary person viewing the depiction would conclude that the depiction is of an actual minor engaged in sexually explicit conduct. *Id*. The Act also provides for prosecution of simulated child pornography and related material by criminalizing the production, possession, distribution, receipt of, or possession with intent to distribute, obscene drawings, cartoons, sculptures, paintings, or other obscene visual representation of the sexual abuse of children. Notably this statute requires prosecutors prove images are both visual representations of the sexual abuse of children and obscene (18 U.S.C. § 1466A). The PROTECT Act (18 U.S.C. § 2252A(c)) allows for an affirmative defense to specific charges that the child pornography in question was produced using actual adults or without using an actual child. The Act also provides for prosecution of what I refer to as "simulated" child pornography (including drawings, cartoons, and paintings) as obscene material (18 U.S.C.A. § 1466A). This seems to achieve the desirable goal of keeping the child in "child pornography" while allowing for the prosecution of related materials that may not rise to the level of being child pornography by using the higher legal standard of obscenity.

With other than simulated and/or virtual child pornography, it could be effectively argued child pornography requires a child to be victimized. A child had to be sexually exploited, but not necessarily sexually abused, to produce the material. Children used in pornography are desensitized and conditioned to respond as sexual objects. They are frequently ashamed of their portrayal in such material. They must live with the permanency, longevity, and circulation of such a record of their sexual victimization. Some types of sexual activity can be repressed and hidden from public knowledge. When this happens child victims can imagine that

some day the activity will be over and they can make a fresh start. Many children, especially adolescent boys, vehemently deny their involvement with a pedophile. But there is no denying or hiding from a sexually explicit photograph or videotape. The child in a photograph or video image is young forever, and the material can be used over and over again for years. Some children have even committed crimes in attempts to retrieve or destroy the permanent records of their molestation. The fact that none of these points can be argued about simulated child pornography greatly weakens the jury and sentencing appeal of such cases even if a statute allows prosecution. Simulated or virtual child pornography can be brought in as other-acts evidence in the trial and also be used for sentencing to demonstrate the defendant's threat to the community.

Child Erotica ("Pedophile Paraphernalia")

In addition to theme pornography, preferential sex offenders are also highly likely to collect other paraphernalia related to their sexual interests. Focusing on child molesters, in the early 1980s I started calling this other material **child erotica**. In *Child Molesters: A Behavioral Analysis* (Lanning, 1986), I defined it as "any material, relating to children, that serves a sexual purpose for a given individual." It is a broader, more encompassing, and more subjective term than child pornography. It includes things such as fantasy writings, letters, diaries, books, sexual aids, souvenirs, toys, costumes, drawings, and nonsexually explicit visual images. Although many of these offenders may not be diagnostically pedophiles, such child erotica is also referred to by some as "pedophile paraphernalia." This type of material is usually not illegal to possess or distribute.

Many investigators eventually began using the term **child erotica** to refer only to visual images of naked children that were not legally considered child pornography. Some have cautioned that use of the term could imply a legal definition of innocuous or artistically valuable images of children in sexually explicit contexts (Leary, 2009). I never intended the term **child erotica** to be a specific legal term but rather a term the criminal-justice system could functionally use to understand and evaluate criminal behavior. It should not be understood to mean only visual images that are not child pornography because my definition includes many materials that are not images at all. When material is properly evaluated to truly be **child erotica**, for that offender it is not innocuous or simply art. It may not be child pornography but it could be evidence of criminal behavior.

Because of the diversity of material that could be considered **child erotica**, there was no way to develop a comprehensive itemization; therefore, I divided it into categories defined by its nature or type. These categories are published material, unpublished material, pictures, souvenirs and trophies, and miscellaneous (Lanning, 1992a). Later my FBI partner of many years, former FBI Special Agent Roy Hazelwood, applied the same concept to sexual sadists (also preferential sex offenders) and called this type of material "collateral evidence." Hazelwood, however, divided it by its purpose or use such as educational, introspective, and intelligence. Hazelwood's term was probably better because, for many professionals, the term "erotica" implies only a sexual use for the material. These two different approaches

are currently reconciled in a chapter by Hazelwood and me titled, "Collateral Materials in Sexual Crimes" (Hazelwood and Lanning, 2009).

For investigative purposes **child erotica** or collateral evidence (in hardcopy, on computers, on the Internet, or stored on digital-memory storage devices) can be divided into the categories noted below.

Published Material Relating to Children

Examples of this include books, magazines, articles, or visual images typically addressing the areas noted below.

- Child development
- Sex education
- Child photography
- Sexual abuse of children
- Incest
- Child prostitution
- Missing children
- Investigative techniques
- Legal aspects
- Access to children
- Sexual disorders
- Pedophilia
- Man-boy love
- Personal ads
- Detective magazines
- "Men's" magazines
- Nudism
- Erotic novels
- Catalogs/brochures
- Internet

Listings of foreign sex tours, guides to nude beaches, and material on sponsoring orphans or needy children provide them with information about access to children or help them validate their sexual interests. Detective magazines saved by pedophiles usually contain stories about crimes committed against children. The "men's" magazines collected may have articles about sexual victimization of children. The use of adult pornography to lower inhibitions is discussed elsewhere in this publication. Theme adult pornography may help to prove the offender's interest in similar paraphilic behavior involving children. Personal ads include those in "swinger" magazines, video magazines, newspapers, and on the Internet. These ads may mention "family fun," "family activity," "European material," "youth training," "unusual and bizarre," "better life," "barely legal," and other ever-changing slang terminology. Sites on the Internet are somewhat less likely to use this "code" language. Erotic novels may contain stories about sex with children but without sexually explicit photographs. They may contain sketches or drawings. Materials concerning current or proposed laws addressing sex abuse; arrested, convicted, or acquitted child molesters; or investigative techniques used by law enforcement

are common. Investigators especially need to understand and evaluate the possible significance of information about missing children in the possession of offenders. Although the possession of such should be carefully investigated to determine possible involvement in abduction, most pedophiles collect this material (and the other similar material described here) to help them understand, rationalize, and validate their behavior as child "lovers," not abductors.

Unpublished Material Relating to Children

Examples include items such as

- Personal letters
- Audiotapes/files
- Diaries
- Fantasy writings
- Manuscripts
- Financial records
- Ledgers
- Telephone and address records
- Pedophile manuals
- Newsletters, bulletins, weblogs
- Directories
- Adult pornography
- Computer chat and texting
- Electronic mail (e-mail)

Much of this material is now posted and obtained on the Internet or kept digitally. Unpublished directories usually contain information about where to locate children. Although the existence of such lists of children's physical locations causes shock and outrage on the part of the public, I know of no case in which an offender was unable to molest children because he could not find them. Pedophile support groups, such as the North American Man/Boy Love Association (NAMBLA) and other similar support groups, distribute newsletters and bulletins. Many individuals "blog" online about sexual exploitation of children issues. Ledgers and financial records might include canceled checks used to pay victims or purchase erotica or pornography and details of credit-card transactions. Manuscripts are writings of the offender in formats suitable for real or imagined publication. Logs of computer chat, texting, and e-mail can be especially valuable to investigators. Because it may help to prove the offender's paraphilic interests involving children and corroborate victim statements, theme adult pornography should be considered as possible collateral evidence. Any of this material could be encoded to make evaluation more difficult. Codes could range from simple substitution and invented symbols to more complicated encryption.

Pictures, Photographs, and Videos of Children

Examples include children found in

- Photography, art, or sex-education books
- Photography albums, displays, collages

- Candid shots
- Photocopies of photographs or pictures
- Drawings and tracings
- Posters and paintings
- Advertisements
- Children's television programs or videos
- Cut-and-paste pictures
- Computer-manipulated images
- Digitally encoded images on computers or digital-memory storage devices

Cut-and-paste involves creating new pictures by cutting and pasting parts of old ones. Today this is done more easily with better quality with a computer and the right software. Seized moving images on videotapes, DVDs, and other devices should always be viewed or examined in their entirety because a variety of material, including hard-core child pornography, could be contained on them. Some pedophiles obtain images from other sources and store them as if they were personally created by them. Any of these visual images of children can be obtained on the Internet and digitally stored on hard drives and other digital-memory storage devices.

Souvenirs and Trophies

Examples may include the mementos of children such as

- Photographs of "victims"
- Articles of clothing
- Jewelry and personal items
- Audio- and videotapes and digital files
- Letters, notes, and digital communications
- Charts and records

This material relates to both real or fantasy "victims." Photographs of "victims" collected by pedophiles are often labeled or marked. Charts and records might include astrology, growth, or biorhythm charts. Audio, video, letters, notes, communications, and digital files collected for souvenir purposes are usually from past child victims and discuss what the two did together and how much the victims like the offender. These communications *(i.e.*, e-mail, texting, chat) can now be sent and stored digitally. Personal items could even include victims' fingernails, hair, or underwear.

Miscellaneous

This category can include items used in seducing children such as

- Computers and peripheral equipment
- Sexual aids
- Toys, games, and dolls
- Costumes
- Child- or youth-oriented decorations
- Video, film, and digital photography equipment
- Alcohol and drugs

Costumes include those worn by the offender and children. Toys, games, drugs, and alcohol can all be used as part of the seduction process to lower inhibitions. Dolls of varying sizes and types can also be used for simulated and autoerotic sexual activity. The photography equipment may be hidden in such a way as to surreptitiously record children performing acts such as going to the bathroom or undressing. Computers and peripheral equipment constitute a potential gold mine of evidence and will be discussed in more detail in the chapter titled "Technology-Facilitated Cases" beginning on page 117.

Motivation for Collection

It is difficult to know with certainty why sex offenders collect theme pornography and related paraphernalia. There may be as many reasons as there are offenders. Collecting this material may help them satisfy, deal with, or reinforce their **compulsive**, persistent sexual fantasies. Some child erotica is collected as a substitute for preferred but unavailable or illegal child pornography.

Collecting may also fulfill important needs for **validation**. Many preferential sex offenders collect academic and scientific books and articles about the nature of their paraphilic preferences in an effort to understand and justify their own behavior. For the same reason pedophiles often collect and distribute articles and manuals written by pedophiles in which they attempt to justify and rationalize their behavior. In this material pedophiles share techniques for finding and seducing children and avoiding or dealing with the criminal-justice system. Sex offenders get **passive** validation from the books, articles, and text material they read and collect.

Many preferential sex offenders swap pornographic images the way children swap baseball cards. As they add to their collections they get strong reinforcement from each other for their behavior. The collecting and trading process becomes a common bond. Sex offenders get **active** validation from other offenders, some victims, and occasionally from undercover law-enforcement officers operating "sting" operations. The Internet makes getting active validation easier than ever before. Fear of discovery or identification causes some offenders to settle only for passive validation.

The need for **validation** may also partially explain why some preferential sex offenders compulsively and systematically save the collected material. It is almost as though each hour spent on the Internet and each communication and image is evidence of the value and legitimacy of their behavior. For example one offender sends another offender a letter or e-mail attaching pictures and describing his sexual activities with children. At the letter's or e-mail's conclusion he asks the recipient to destroy the communication because it could be damaging evidence against him. Six months later law enforcement finds the communication – carefully filed as part of the offender's organized collection. Offenders' need for validation is the foundation on which proactive investigative techniques *(e.g.*, stings, undercover operations) are built, and it is also the primary reason they work so often. In a letter or during Internet communication an offender states he suspects the recipient is an undercover law-enforcement officer and asks for assurances the recipient is not. The recipient, who is in fact an undercover officer, sends a reply assuring the offender he is not.

The offender accepts his word and then proceeds to send child pornography and make incriminating statements. Although their brains may tell them not to send child pornography or reveal details of past or planned criminal acts to someone they have not met in person, their need for validation often compels them to do so. They believe what they need to believe.

Some of the theme pornography and erotica collected by sex offenders is saved as a souvenir or trophy of the relationships with victims. All child victims will grow up and become sexually unattractive to the pedophile. In a photograph, however, a 9-year-old child stays young forever. This is one reason why many pedophiles date and label their pictures and video images of children. Images and personal items become trophies and souvenirs of their relationships – real or fantasized.

The offenders' needs to validate their behavior and have souvenirs of their relationships are the motivations most overlooked by investigators when evaluating the significance of the pornography and erotica collections of pedophiles and other preferential sex offenders.

Use of Collection

Although the reasons sex offenders collect pornography and erotica are conjecture, we can be more certain as to how this material is used. Study and law-enforcement investigations have identified certain criminal uses of the material by offenders.

Child pornography and erotica are used for the **sexual arousal** and gratification of offenders. They use child pornography the same way other people use adult pornography – to feed sexual fantasies. Some offenders only collect and fantasize about the material without acting out the fantasies, but for others the arousal and fantasy fueled by the pornography is only a prelude to actual sexual activity with children. All sexual fantasies are not acted out, but to suggest regular, repeated, time-consuming sexual fantasies accompanied by masturbation have nothing to do with behavior is absurd.

A second use of child pornography and erotica is to **lower children's inhibitions**. A child who is reluctant to engage in sexual activity with an adult or pose for sexually explicit photographs can sometimes be convinced by viewing other children having "fun" participating in the activity. Peer pressure can have a tremendous effect on children. If other children are involved, the child might be led to believe the activity is acceptable. Adolescent children seem to be increasingly taking or allowing to be taken sexually explicit images of themselves and then sending or posting them online. When an offender uses child pornography to lower a child's inhibitions he will select images that depict children having or appearing to be having a good time participating in their sexual exploitation.

Books about human sexuality, sex education, and sex manuals are also used to lower inhibitions. Children accept what they see in books, and many pedophiles have used sex education books to prove to children such sexual behavior is acceptable. Adult pornography is also used, particularly with adolescent boy victims, to arouse them or lower inhibitions.

A third major use of child pornography and erotica collections is **blackmail**. If an offender already has a relationship with a child, seducing the child into sexual activity is only part of the plan. The offender must also ensure the child keeps the

secret. Children are often most afraid of embarrassing visual images being shown to their family members or friends. Offenders use many techniques to blackmail; one of them is through visual images taken of the child. If the child threatens to tell his or her parents/guardians or the authorities, the existence of sexually explicit images can be an effective silencer.

A fourth use of child pornography and erotica is as a **medium of exchange**. Some offenders exchange images of children for other images or access to other children. The quality and theme of the material determine its value as an exchange medium. Rather than paying cash for access to a child, the offender may exchange a part of his collection. Digital images make the production of duplicates, equal in quality to the original, easier than ever. The younger the child and more bizarre the acts, the greater the potential value of the pornography. Much of this activity today takes place on peer-to-peer (P2P) online networks. Files containing audio, video, data and other digital formats is shared computer-to-computer through this technology.

A fifth use of the collected material is **profit**. Some people involved in the sale and distribution of child pornography are not preferential sex offenders; they are profiteers. In contrast most pedophiles seem to collect child erotica and pornography for reasons other than profit. Some sex offenders may begin nonprofit trading, which they pursue until they accumulate certain amounts or types of images, which are then sold to distributors for reproduction in commercial child pornography or made available on the Internet for downloading. Others combine their pedophilic interests with their profit motive. Some collectors have their own photographic reproduction equipment, but digital photography has changed the nature or need of such equipment. Thus the image of a child taken with or without the knowledge of parents/guardians by a neighborhood sex offender in any community in the United States can wind up in commercially distributed child pornography or on the Internet with worldwide distribution. As profits increase and risks decrease with the use of the Internet there clearly is growing profit-motivated, child-pornography activity.

Characteristics of Collection

Important

The preferential sex offender's collection is usually one of the most important things in his life. He is willing to spend considerable time and money on it. Most offenders make no profit from their collections. After release from prison many offenders attempt to get their collections back. State and federal laws banning its mere possession will most likely prevent the return of the child pornography. But unless denial is made a condition of treatment, probation, or parole, the child erotica may have to be returned.

Constant

No matter how much the preferential sex offender has, he never seems to have enough. He rarely throws anything away. If law enforcement has evidence an offender had a collection 5 or 10 years ago, chances are he still has the collection now – only it is larger. This is a significant characteristic to consider when evaluating the staleness of information used to obtain a search warrant.

Permanent

The preferential sex offender will try to find a way to keep his collection. He might move, hide, or give his collection to another offender if he believes law enforcement is investigating him. Physically small, digital-memory storage devices make moving a collection much easier. Although he might, he is not likely to destroy the collection because it is a cherished possession and his life's work. In some cases he might even prefer law enforcement seize and keep it intact in an evidence room where he might retrieve at least some of it when released from prison. One offender is known to have willed his collection to a fellow pedophile. Another offender, knowing he would never get his child pornography back, still requested he be allowed to go to the prosecutor's office to put his magazines in covers and dividers so they would not be damaged. Constancy and permanency are similar but distinct characteristics of a collection. They are interesting characteristics to consider when evaluating the deterrent value of child-pornography laws and well-publicized enforcement efforts.

Organized

The preferential sex offender usually maintains detailed, neat, orderly records. There certainly are exceptions, but the collections of many offenders are carefully organized and maintained. This may be related to a compulsive need for order or simply a functional need to better retrieve what they have. As will be discussed, many of these offenders now use computers making this task much easier.

Concealed

Because of the hidden or illegal nature of the sex offender's activity, he is concerned about the security of his collection. But this must always be weighed against his access to the collection, because it does him no good if he cannot get to it.

Where offenders hide their collections often depends on their living arrangements. If living alone or with someone aware of his illegal preferences, the collection will be less concealed. It might be in a trunk, box, cabinet, bookcase, out in the open, or on some digital-memory storage device *(e.g.*, computer, thumb drive, memory card). The child pornography might be better hidden than the erotica. If living with family members or others not aware of his activity, it will be better concealed. The collection might be found behind a false panel, in the ductwork, under insulation, or on a password-protected computer. The collection is usually in the offender's home, but it could be in an automobile or a camper, at his place of business, in a safety deposit box, or in a rented storage locker. The most difficult location to find is a secret place in a remote rural area. The investigator should search any area that is under the control of the offender. Again, digital technology has changed much of this. Computers and various types of digital-memory storage devices make it possible to hide illegal and incriminating material in "plain sight."

Shared

The preferential sex offender frequently has a need or desire to show and tell others about his collection. He is seeking validation for all his efforts. The investigator can use this need to his or her advantage by showing interest in the collection during any interview of an offender. The offender might appreciate the opportunity to brag

about how much time, effort, and skill went into his collection. This need can also be exploited during proactive or undercover investigations. This need-driven collection characteristic helps explain why many offenders cannot follow the security measures they have created or know about.

The Role of Law Enforcement

Investigators should not expect to find child pornography or erotica in all or even most cases involving sexual victimization of children. It can be found in intrafamilial cases. It is most often found in cases involving preferential sex offenders especially pedophiles. Investigators can always attempt to get a warrant to search based on reliable case-specific information that a particular suspect possesses child pornography or other evidence of criminal behavior.

During any investigation of child sexual victimization the possible presence of child pornography and erotica must be explored. For law-enforcement officers the existence and discovery of a child-erotica or child-pornography collection can be of invaluable assistance to the investigation of any case involving the sexual victimization of children. Obviously child pornography itself is usually evidence of criminal violations. Child pornography should always be viewed as both a violation of the law and possible corroboration of child sexual victimization. The investigation of child molestation should always consider the **possibility** there might be child pornography. The investigation of child pornography should always consider the **possibility** there might be child molestation. These are, however, separate crimes and the seriousness of a child-pornography case should **never** be based primarily on whether or not the offender is also a child molester.

Value of Erotica

Few law-enforcement officers would ignore or fail to seize sexually explicit child pornography found during a search. But, over and over again, officers ignore and leave behind the **child erotica** and collateral evidence. In some cases even adult pornography can be child erotica and, therefore, of investigative interest. Although not as significant or damaging as child pornography, **child erotica** is valuable evidence of intent and a source of valuable intelligence information. The ledgers, diaries, letters, books, souvenirs, adult pornography, or nonsexually explicit images of children that can be part of a child-erotica collection can be used as supportive or corroborative evidence. The recognition and evaluation of the significance of this type of material requires insight, common sense, and good judgment.

The investigative experience of the few law-enforcement officers investigating adult pornography/obscenity is often limited to commercial material distributed by individuals motivated more clearly by monetary profit. The direct connection between the adult pornography and sex crimes is rarely a factor in these kinds of cases. In an investigation narrowly focused only on the pornography or obscenity violations, officers might have legal problems justifying the seizure of child erotica and collateral evidence found when executing a search warrant or consent to search.

In an investigation more broadly focused on child pornography and its role in the sexual exploitation of children by child molesters, however, officers should recognize the evidentiary value of child erotica. If the facts of the case justify it, this relationship between child pornography and the sexual exploitation of children can be set forth in the affidavit for a search warrant. Both the child pornography and erotica should be seized as evidence when found in such cases. Child pornographers are sometimes child molesters *(see* discussion beginning on page 107). The photograph of even fully dressed children could be evidence of an offender's sexual motivation or involvement with children.

Because child erotica usually is not illegal to possess, the legal basis for its seizure must be carefully considered. If there is doubt about the legality of the seizure, its presence should be noted and, if possible, visually documented/recorded. As with child pornography, this type of material is increasingly being stored on computers and digital-memory storage devices. The investigative and prosecutorial value of such "child erotica" or "collateral evidence" is for the purposes of

- **Intelligence** – Insight into the scope of the offender's activity; names, addresses, and pictures of additional victims; dates and descriptions of sexual activity; names, addresses, telephone numbers, and admissions of accomplices and other offenders; and descriptions of sexual fantasies, background information, and admissions of the subject are frequently part of a child-erotica collection.
- **Intent** – It can be useful in proving an offender's activity with a child or collection of visual images of children was for sexual gratification. It can be part of the context used to evaluate child pornography *(i.e.*, shed light on the distinction between innocent nudity or art and lascivious exhibition of the genitals).
- **Bond** – It can be used at a bond hearing to help indicate the nature of the subject's sexual fantasies and interests and his potential dangerousness.
- **Guilty Plea** – The seizure and documentation of such material negates many common defenses and may increase the likelihood of a guilty plea.
- **Sentencing** – Even if not admissible at trial, it may be introduced at the time of sentencing to demonstrate the full scope of the defendant's behavior and interests. The legal admissibility at sentencing of evidence not used in the trial needs to be discussed with the prosecutor.

Child erotica must be evaluated in the context in which it is found. Although many people might have some similar items in their home, it is only the sex offender who collects such material for sexual purposes as part of his seduction of and fantasies about children. Many people have a mail-order catalog in their home, but only a preferential sex offender is likely to have albums full of children's underwear ads he clipped and saved from past catalogs.

The law-enforcement investigator must use good judgment and common sense. Possession of an album or computer file filled with pictures of the suspect's own fully dressed children probably has no significance. Possession of 15 albums/files filled with pictures of fully dressed children unrelated to the suspect probably has significance. Possession of his own children's underwear in their dresser probably is normal. Possession of a suitcase full of little girls' underwear probably is suspicious. Possession of a few books about child development or sex education on a

bookshelf probably has no significance. Possession of dozens of such books together in a box probably is significant.

Possession of numerous books, magazines, articles, newspaper clippings, or Internet downloads about the sexual development and abuse of children or about pedophilia in general can be used as evidence of intent at a subsequent trial. It is difficult to disprove the claim of a wrestling coach that his touching was legitimate athletic training or the claim of a teacher that his or her touching was normal, healthy affection. This difficult task can be made easier if law enforcement has seized a child-erotica collection including items such as a diary or fantasy writings describing the sexual stimulation experienced when touching a child to demonstrate a wrestling hold or fondling a student. Possession of text material stating such motivations is not uncommon for preferential sex offenders.

Evaluation of Child Pornography

Determining Age

Proving the person in a sexually explicit image is a child or minor can sometimes be difficult. With young, clearly prepubescent victims, the trier of fact can make the determination based simply on looking at the images. Pediatricians or pediatric endocrinologists can be brought in as experts to evaluate the sexual development of the persons portrayed in the visual images. Such doctors cannot determine a precise age, but can testify to the probability the person portrayed is younger than a certain age. Although they might use some sexual-maturation scale to describe the stages of sexual development, correlation to age must be based on the doctor's own clinical experiences. This might have to include experience with specific races and ethnic groups. Often the quality and perspective of the visual images make such a determination by even a qualified doctor difficult or impossible. In addition, even if still a minor, once the person portrayed has entered the last stages of sexual development, it may be impossible for any doctor to reliably testify the individual is younger than 18 years of age.

One obvious way to prove the age of the person in the image is to identify the person and determine the date the image was created. This is usually easier if the offender is the producer of the child pornography *(see* section below for further discussion about identifying victims). Sometimes newly recovered images can be matched with old identified images in which the age of the child has already been determined or proven. Markings and notations made by the offender on or near the images or the computer file names can be useful in justifying seizure if not as proof in court. As previously stated the ability to manipulate digital visual images has made it even more difficult in "computer" cases to prove the person in the sexually explicit image is a child or minor. This approach can be greatly facilitated by use of the National Center for Missing & Exploited Children®'s (NCMEC) Child Victim Identification Program® (CVIP) and Child Recognition and Identification System (CRIS). This program serves as the clearinghouse in the United States for child-pornography cases and victim identification by working directly with the federal law-enforcement liaisons assigned to NCMEC. Law-enforcement agencies can submit copies of seized visual images for review for identified children in their

database. Images of children identified by investigation should be submitted for inclusion in the database.

Identifying Child Pornography and Erotica Victims

Every effort should be made to attempt to identify the children, even those fully dressed, in visual images found in the possession of an offender. This is especially true if these items appear to have been produced by the offender himself. The children in the pornography were sexually abused or exploited. The children in the erotica images are possibly, but not necessarily, victims. This identification must be done discreetly in order to avoid potential public embarrassment to the children, whether or not they were sexually victimized. School yearbooks can occasionally be useful in identifying children. Sometimes the pedophile makes the identification unbelievably easy by labeling his images with names, descriptions, addresses, dates, and even sex acts performed. This is good lead information, but it is not always accurate. Some offenders exaggerate their sexual exploits or misidentify children in their fantasy material.

In many child-pornography cases, especially those involving computers, investigators and prosecutors are investigating subjects who possess, receive (download), or distribute (upload) the images, but are not the producers of the images. To what extent should investigators go to try to identify the children in the seized images? Some of the images seized have repeatedly been seen by experienced investigators, and others have never been seen before. Some were produced years ago, and others seem to have been recently made. Some of the images portray children who have been identified in another investigation, but that fact may not be known in a current investigation. Some images portray children smiling and laughing, and other images portray children who appear to be suffering. Some images appear to have been produced by the offender, and others appear to have only been received. Some images seem to portray children from other countries, and other images seem to portray children from the United States. Some images portray toddlers, and others portray teenagers. Many images are still photographs, but a growing number are moving images. How do any of these variables affect an obligation to try to identify the children in the images? How do investigators and to what extent is it possible to identify them?

These are difficult questions with no simple answers. The U.S. *Attorney General's Guidelines for Victim and Witness Assistance* indicates U.S. Department of Justice (DOJ) investigators and prosecutors are responsible for identifying and contacting all the victims of a crime (U.S. Department of Justice, 2005). The guidelines also state, "what constitutes a sufficient effort to identify, notify, and assist crime victims will necessarily vary with the facts of a particular violation." An informed decision about efforts to identify the children in these images must be made on the totality of the facts. Any policy concerning identification of children should be defensible and consistent. Dates identifiable on material in the images, *(i.e.*, television viewing guide, magazine, adult-pornography publications) may place the sexual activity within a time period or the statute of limitations and help identify victims.

As stated above, NCMEC's CVIP and CRIS now provide assistance to law enforcement looking to determine which images contain identified child victims. It is extremely difficult and impossibly time-consuming to positively identify children

in pornography by comparing the images to school photographs or those of missing children. It is important for investigators to realize most of the children from the United States who are in prepubescent child pornography were not abducted into sexual slavery. They were most likely seduced into posing for these pictures or videos by an offender they probably knew. They were never abducted children. The children in child pornography are frequently smiling or have neutral expressions on their faces because they have been seduced into the activity after having had their inhibitions lowered by clever offenders. In some cases their own parents/guardians took the pictures or made them available for others to take the pictures.

As of the end of 2009 NCMEC's CVIP database indicates of the children identified in child pornography the relationship to the offender was 35% by parents or relatives, 31% by acquaintances, 16% by online enticement, and (startling to many) 14% self-produced by the child in the image with no adult involvement.

One cannot arbitrarily try to identify a child by putting his or her face on the popular television show "America's Most Wanted" and thereby announce to the country the child has been sexually exploited. The benefit of doing so must outweigh the potential harm to the child portrayed. The circumstances under which children from other countries are exploited in child pornography is more varied, and they are obviously more difficult to identify. NCMEC's CVIP also serves as a point of contact to international agencies seeking assistance with these identifications. INTERPOL, NCMEC, and U.S. law enforcement collaborate with international law-enforcement agencies that are working to identify child victims in their respective countries.

When the children portrayed in child-pornography or child-erotica images are identified and located, care and thought must be given to how and if they will be confronted with this information. Some children may not even know they had been photographed. Others are so embarrassed and ashamed they may claim they were drugged or asleep or may vehemently deny the images actually portray them. Federal law now gives children identified in child pornography the right to be notified each time images portraying them are recovered in an investigation or used in a prosecution. Victims or their guardians can opt out of this notification (The Justice for All Act of 2004 (H.R. 5107, Pub. L. No. 108-405)).

Sexually Explicit Conduct and Lasciviousness

Most people have photographs (digital or prints) of children somewhere in their homes, and many people also possess photographs of naked children. Under most state statutes and the current federal law (18 U.S.C. § 2256) pictures of children portraying simple nudity are not generally considered sexually explicit or obscene. Federal law allows for the prosecution of images of children as child pornography if the image depicts a "lascivious exhibition of the genitals or pubic area." How then can an investigator evaluate the possible significance of photographs of naked children and other questionable photographs of children found in the possession of a suspected offender during a search?

According to federal law, sexually explicit conduct means actual or simulated sexual intercourse, including vaginal, oral, and anal; bestiality; masturbation; sadistic or masochistic abuse; or lascivious exhibition of the genitals or pubic area of any person (18 U.S.C. 2256(2)(A)). In some cases the child may not need to be

naked in order for the depiction to be covered by this definition. *See United States v. Knox*, 32 F.3d 733 (3rd Cir. 1994). Legal definitions of sexually explicit conduct are not necessarily synonymous with behavioral definitions. For example visual images of children engaged in a wide variety of conduct portraying and appealing to paraphilic sexual interests *(e.g.*, getting an enema, wearing diapers, playing dead, urinating, wearing socks) may not meet legal definitions of sexually explicit conduct. As indicated above, current federal law (18 U.S.C.A. § 2256) clearly recognizes certain commonly known sexual acts, but apparently chooses to specifically recognize only four of the many but less known paraphilias *(i.e.*, sadism, masochism, bestiality, exhibitionism) as constituting sexually explicit conduct. In addition the producing and collecting of child pornography and erotica visual images could also be considered possible indicators of the paraphilia voyeurism.

I am not sure why the federal law chose to recognize only four paraphilias as being part of sexually explicit conduct. The only explanation I can think of is that no society can pass laws to deal with behavior it is not prepared to admit goes on. Activity involving things such as urination, defecation, and enemas is bizarre and unpleasant to contemplate. On the other hand, so is sexual intercourse with toddlers. Some have told me criminalizing the visual portrayal of questionable activity that most often does not involve sexual gratification would create a "thought police." They understandably would prefer to prove their case based on the sexual activity portrayed within the "four corners" of the visual image. Federal law, however, does not now limit sexually explicit conduct to strict liability sexual behavior. By using terms such as **lascivious, bestiality, sadistic**, or **masochism abuse** in the context of sexually explicit conduct, the current federal law already strongly implies the need to make a judgment about the context of the conduct that may not be clear from the visual image alone.

For example, if you leave out the need to prove that the sadistic or masochistic abuse mentioned in the statute was for the purpose of sexual gratification and just assume it is from only the image, all kinds of nonsexual images *(e.g.*, fighting, malnutrition, physical injuries) of children potentially become child pornography. In my opinion, if a prosecutor can prove beyond a reasonable doubt that a visual image of a child pretending to be dead or tied-up was created for the sexual gratification of an offender, the law should allow for its potential prosecution as child pornography. Proving this is often not as difficult as some think, but it is unpleasant and distasteful.

It is important to understand that the lasciviousness often mentioned in child-pornography cases may **not** be in the child's mind or even necessarily in the photographer's, but can be in the mind of each producer, distributor, and collector of the material. This discussion of "lasciviousness" is not intended to be an exhaustive legal analysis of the issue. It is intended only to increase a common-sense understanding of this complex legal issue. This understanding is subject to change by more recent appellate court decisions.

Some grossly explicit visual depictions of children clearly and obviously are **always** child pornography. The conduct portrayed is so sexually explicit that the visual depiction stands on its own. This might include a photograph of a man inserting his erect penis in a very young girl's vagina (strict liability offense). Some visual depictions of children, no matter the context or use, do not meet the minimum

legal threshold and are **never** child pornography. This might include hundreds of photographs of children fully dressed in clothing ads from store catalogs, video of children in television programs or commercials, or photographs of children's feet or shoes *(i.e.*, partialism, fetishism) that an offender collected for sexual arousal and/or paraphilic interest. Such material might constitute child erotica and still be of evidentiary value. Some visual depictions of children, however, may or may not be child pornography depending on the totality of facts. Such "**sometimes**" child pornography might include photographs of children naked or in their underwear. As previously stated most investigators and prosecutors would understandably prefer to make a decision about the sexual nature of a visual depiction of a child based only on looking "within the four corners." Whether we like it or not the difference between simple nudity *(e.g.*, innocent family photographs, works of art, medical images) and the lascivious exhibition of the genitals or between common cruelty *(e.g.*, physical abuse, crying) and sexual sadism is often not determined by the visual depiction alone but by the total context. There is a difference between tying up a child as part of a game of "cowboys and Indians" or so a child cannot get away and doing so for sexual gratification *(i.e.*, sexual bondage) and that difference may not be obvious from a visual image of the tied up child.

Interpreting the meaning of "lascivious" has been an ongoing problem for investigators, prosecutors, and the courts. The appellate courts seem to be in agreement that

- Although the meaning of the term is less readily discernible than other types of defined sexually explicit conduct, it is not unconstitutionally vague or overbroad
- The terms "lewd" and "lascivious" are virtually interchangeable
- The standard for lascivious is clearly less than that for obscenity
- Whether a given visual depiction is lascivious is a question of fact

The major area of controversy focuses on the question of wherein the "lasciviousness" in question lies. There appear to be only three possibilities. They are in

- Child portrayed
- Photographer/producer
- Recipient/collector

Courts have held that lasciviousness is not necessarily a characteristic of the child portrayed (first bullet above). The lasciviousness of the child portrayed was addressed by the U.S. Supreme Court in *United States v. Knox*, 510 U.S. 939 (1993). This opinion caused a strong reaction by the public and experts in the field. On remand by the U.S. Supreme Court, the lower court subsequently held that the child-pornography statute's element of lasciviousness is not a characteristic of the child portrayed *United States v. Knox*, 32 F.3d 733 (3rd Cir. 1994).

The lasciviousness of the photographer/producer (second bullet above) is an area that has been raised in many appellate cases. It appears that evidence the creator of the image intended to elicit a sexual response in the viewer greatly increases the likelihood the material in question will be found to be lascivious. The criteria set forth in *United States v. Wiegand*, 812 F.2d 1239, 1243-45 (9th Cir. 1987) and *United States v. Dost*, 636 F. Supp. 828, 832 (S.D. Cal. 1986) are primarily an attempt to determine this lascivious intent of the photographer by only examining the visual

depictions themselves. Determining intent can be difficult if the photographer or circumstances of production are unknown. The *Knox* court stated this, "analysis is qualitative and no single factor is dispositive" *(see e.g., United States v. Knox*, 32 F.3d at 733 (3rd Cir. 1994)).

This focus on the intent of the photographer is most obvious in *United States v. Villard*, 885 F.2d 117, 124 (3rd Cir. 1989). In its decision the court even states it is ignoring the clear evidence that the defendant, who was not the photographer, was in fact aroused by the material in question. *Id.* at 125. The court reasoned, "child pornography is not created when the pedophile derives sexual enjoyment from an otherwise innocent photo" and "we must, therefore, look at the *intended* effect on the viewer." *Id.* The significance of this decision must be viewed with the knowledge that the pictures in question were not available for the jury or court to view.

It is the possible lasciviousness in the recipient/collector (third bullet above) of child pornography where there is the greatest controversy and confusion. This is especially problematic in view of the fact that mere possession of and accessing with intent to view child pornography is a federal offense (18 U.S.C. 2252A), and the defendant in many computer-related, child-pornography prosecutions is not the photographer/producer of the material.

There is also the legal issue of what constitutes "production" of child pornography. It certainly goes beyond just the photographer who took the picture. In *United States v. Cross*, the appellate court, in affirming the conviction of an offender who hired a photographer to take images of nude female children, stated the photographs, "qualified as 'lewd' within the meaning of the child pornography statute, even though children were not portrayed as sexually coy or inviting, and even though the professional photographer who had been tricked into taking photographs did not knowingly or intentionally exhibit children in lewd poses; photographs displayed preadolescent girls fully nude from frontal view, and were arranged by defendant in order to be used to satisfy his sexual interests or those of other pedophiles" and therefore the images satisfied the requirements of constituting child pornography *(United States v. Cross*, 928 F.2d 1030, 1042-43 (11th Cir. 1991)). The court also found that correspondence with the codefendant was of considerable probative value in proving the defendant's intent to create and market child pornography. *Id.* at 1047-48. The court also found the codefendant actively participated in the scheme by processing and modifying these photographs in order to render them suitable for commercial distribution, and photographs of nude children were **arranged** by the defendant in order to be used to satisfy the sexual interests of himself and other pedophiles. During the commission of all these offenses the defendant himself was in custody in the state penitentiary. The court also upheld expert testimony by me about "whether Cross obtained the photos with the intention of using them to produce and distribute child pornography." *Id*. at 1050.

If the court in the *Cross* decision had followed the *Villard* case, which it cited, and looked only at the photographs and photographer, they most likely would not have found them to be lewd (lascivious). Without knowing the total facts of the case, which cannot be ascertained by just looking within the "four corners" of the photographs, most courts and individuals would consider many of the photographs in the *Cross* case to be "innocent nudes" or art.

How does the law apply to individuals who "modify" the images originally produced by someone else? The facts in *United States v. Arvin*, 900 F.2d 1385, 1391 (9th Cir. 1990), involve a defendant who was not the photographer. The court in *Arvin* mentions the criteria for lasciviousness of "captions on the pictures." *Id.* This determination seems to clearly imply that factors not in the picture or modifications made to it after it was taken can be considered in determining its lascivious nature. The importance of such subsequent modifications to existing images was addressed by the CPPA of 1996. Does the individual who makes such modifications become the producer? In my opinion, the law should clearly say if such modifications constitute production. What if the modifier/producer and the intended viewer are the same person?

In *Knox* the court states, "we adhere to the view that 'lasciviousness' is an inquiry that the finder of fact must make using the *Dost* factors and **any other relevant factors given the particularities of the case**, which does not involve an inquiry concerning the intent of the child subject." (32 F.3d at 747). The court in *Knox* also mentions the defendant's handwritten descriptions on the outside of the film boxes as evidence that Knox was aware the videotapes contained sexually oriented materials designed to sexually arouse a pedophile. *Id*. at 754.

The intent of the "collector" is also referred to in *United States v. Lamb*, where, in discussing affirmative defenses it states, "this court presumes that Special Agent Ken Lanning, who according to the affidavits in the search warrants in this case is an expert in the field of child pornography and pedophilia, could not be subject to prosecution consonant with the First Amendment for violations of this statute, even if he literally transgressed its boundaries in the writing of his book, *Child Pornography and Sex Rings*." *United States v. Lamb*, 945 F. Supp. 411, 450 (N.D.N.Y 1996).

There is an understandable reluctance to admit that some visual depictions of children may or may not be child pornography depending on the totality of the facts. Looking only at the visual depiction of the child, however, often does not resolve the issue. How can you determine the difference between cruelty and sadism or between simple nudity and art and what the law describes as lewd or lascivious exhibition of the genitals or pubic area without considering the total context of the visual depiction? It is difficult for me to totally understand the subtleties of what the appellate courts have said about this issue. Some decisions even appear to be contradictory. It would be helpful to investigators and prosecutors if the laws were clearer as to the role the intent and behavior of the recipient/collector can play in determining the lascivious nature of questionable visual images.

The court in *Knox* concluded by stating "we reject any contention, whether implied by the government or not, that the child subject must be shown to have engaged in the sexually explicit conduct with a lascivious intent." (32 F.3d at 747). In my opinion the government contributed to this "error," in part, by a cold, analytical examination of words on a page instead of a reasonable interpretation of them based on some understanding of the nature of the crime and intent of the statute to protect children and prosecute those who sexually exploit them.

Hypothetical Example

To synopsize this controversy, consider this set of hypothetical facts based on several actual cases. A mother and father innocently photograph their naked 1-year-old

daughter getting out of the bathtub, they take the film/memory card to the store to be developed/printed, and they then put the resulting photograph in the family album with all the other photographs of their child's life. Under these circumstances, in their family album and in a digital display frame, this photograph showing the child's genitals clearly is not and should not be considered child pornography.

Unknown to the parents, however, a pedophile working at the store made an extra print of that photograph, took it home, and put it in one of his photo albums and on his computer containing hundreds of other similar photographs of naked little girls he had previously stolen after they were turned in for developing. Printed in big letters on the cover of this album and on the computer file folder are the words "Hot Lolitas." In the album and on the computer, below the photograph of this naked 1-year-old, is a caption indicating how sexually aroused the pedophile gets when he looks at this picture. Above this photograph, outside the image, and by modifying the digital image, he has added a "balloon," with words indicating the child wants to have sex with him. There are also semen stains on the pages of the album and near the computer. He has modified some of the other photographs by cropping out the children's faces or adding sexual characteristics/activity with a marker or pen. Is this image child pornography? The law seems to be uncertain about this point and may need to be clarified.

Can the exact same picture of the naked 1-year-old girl getting out of the tub that was an innocent nude in her family's album or on their computer now be considered child pornography in the possession of this pedophile? Can it be child pornography if the original photographer/producer did not intend to elicit a sexual response in the viewer? Do we evaluate the potential lascivious nature of it by looking only at the picture? Does the theft of the photograph, the surrounding materials in the albums, or the modifications to the picture play a role in this decision? Is lascivious interest on the part of the collector of no importance? These are factors investigators and prosecutors should consider when reviewing these images. It seems like a waste of time to attempt to determine if a questionable photograph is child pornography only by staring at it and applying the *Dost*/*Wiegand* criteria when so many other details concerning its existence are available.

Evaluation Criteria

The essence of the *Dost*, *Wiegand*, *Arvin*, *Cross*, and *Knox* decisions is that the material in question must be evaluated in context on a case-by-case basis. When the totality of circumstances is known, I have never seen a case where there was any doubt whether a visual depiction of a child was simple nudity *(i.e.*, innocent family photograph, work of art, medical research, image for sex therapy) or lascivious exhibition of the genitals. Those claiming there is a doubt are often attempting to cover up sexual exploitation of children by creating a smokescreen to confuse the issue. I know of no investigators or prosecutors in the United States with so little work that they would use child-pornography laws to try and convict true professionals who use this material in a professional way or normal parents who simply have photographs of their nude, young children.

It is inappropriate and wrong for investigators or prosecutors, based **only** on viewing visual images of children's genitals, to state such material is **not** child

pornography. It may be appropriate and correct, however, for investigators or prosecutors, based **only** on viewing such images, to state the material does not meet their investigative or prosecutive criteria.

Assuming it meets the minimum legal criteria, potential child pornography must always be evaluated in the total context in which it is discovered, and it must be objectively investigated. As previously discussed the evaluation criteria for visual images produced by a subject may be different from those for visual images received or downloaded by a subject. One subject could have in his collection both images he produced and images he obtained from others. One dilemma is courts sometimes rule the context material valuable in evaluating the images in question is inadmissible because its prejudicial value unfairly outweighs its probative value.

The criteria noted below are offered for the evaluation of such photographs. As used here the term **photograph** includes any visual depiction such as negatives, prints, slides, movies, videotapes, and digital images. The criteria can also be used to help evaluate **child erotica**.

How They Were Produced/Obtained Because photographs are well-taken and have artistic value or merit does not preclude the possibility they are sexually explicit. Because someone is a professional photographer or artist does not preclude the possibility that he or she has a sexual interest in children. The lascivious exhibition of the genital or pubic area is characteristic of the photographer or collector, not the child, in order to satisfy his voyeuristic needs and sexual interest.

Preferential sex offenders are more likely to use trickery, bribery, or seduction to take their photographs of children. They sometimes photograph children under false pretenses, such as leading them or their parents/guardians to believe modeling or acting jobs might result. Some offenders even hide and surreptitiously photograph children. One pedophile hid above the ceiling of a boys' locker room and photographed boys through a moved ceiling tile. A coach hid a video camera in the locker room and then had his team members go inside it to try on new uniforms. Many pedophiles even collect photographs of children who are completely unknown to them. They take these pictures at swimming meets, wrestling matches, child beauty pageants, parks, parades, rock concerts, county fairs, and other events open to the public. These photographs are usually of children of a preferred age and gender.

Preferential sex offenders are also more likely to take and possess photographs focusing on certain parts of a child's anatomy of particular sexual interest to a certain offender. In some photographs the children may be involved in strange or bizarre behavior, such as pretending to be dead or simulating unusual sex acts. In one case a pedophile photographed young boys with painted bondage-like markings on their bodies.

Investigators should make every effort to determine the circumstances under which recovered photographs were produced in order to evaluate their investigative significance as child pornography. Any photograph that can be linked to abuse or exploitation has a greater chance of being found sexually explicit by the courts. The sequence in which the photographs were taken can be an important part of the evaluation. Recovered video must be listened to as well as observed to evaluate their significance.

As previously stated many offenders did not "produce" any or many of the photographs in their collections. For these recipient/collectors how, when, where, why, and with what they obtained their photographs is important. The fact the offender knowingly purchased, traded, exchanged, or downloaded the photographs in a sexually explicit context, setting, or online site is significant. This is most easily determined in online-computer cases. The fact the offender used false pretenses or theft to obtain the photographs could also be significant.

How They Were Saved Investigators should consider factors such as the location where the images were found, labels on the images, package markings, modifications, and computer file/folder names. Volume is also a significant factor here. Pedophiles are more likely to have large numbers of photographs of children. What constitutes a "large" number may have changed in the age of easy access on the Internet. One pedophile had 27 large photo albums filled with pictures of children partially or fully dressed. They are more likely to have their photographs carefully organized, cataloged, and mounted in binders, albums, or computer folders. These may be photographs they cut out of magazines, catalogs, or newspapers or download online. Sometimes sexually explicit captions are written or typed above, below, or on the pictures.

Photographs are frequently labeled with the children's names and ages and the dates taken. Sometimes they are also marked with the children's addresses, physical descriptions, and even the sexual acts they performed. Most people who have photographs of their naked children or grandchildren save them as a small part of a wide collection. The pedophile who collects photographs of children is more likely to have hundreds of such photographs together, and all the children portrayed will be of the same general age. There will be few, if any, photographs of these same children when they are younger or older. The pedophile offender is also more likely to have enlargements or carefully arranged groupings of these photographs – even arranged on the wall as a kind of shrine to children. Some material may be placed where child victims will have easy access to it.

With digital images, electronically stored information (ESI), and so-called "hash values" may provide useful information for investigative evaluation. Because this context is potentially so important, investigators should carefully observe and meticulously document for future testimony how the offender saved such photographs and where they recovered them. Prosecutors must ensure jurors understand the pedophile's collection of photographs of naked children is not the same as those saved by some normal parents/guardians and relatives.

How They Were Used Pedophiles often use these photographs to help seduce and lower the inhibitions of children. Pictures of naked children could be used to convince children to remove their clothing. Investigators should attempt to determine how the offender used such material in his interaction with children. In addition investigators should attempt to determine if the offender sold, traded, or pandered this material. The way the photographs were advertised or traded is important in evaluating their significance. Computer chatlogs, text messages, and e-mail messages provide invaluable insight into the context of how the images were used.

In one case the defendant was claiming many of the images of children found on his computer were actually works of art or innocent nudes. The prosecutor presented the computer evidence showing the sexually explicit nature of how, where, and with what the images in question were obtained and also argued the importance of context as set forth in *Arvin, Cross*, and *Knox*. The defendant quickly realized his claims were absurd and changed his plea to guilty. In another similar case, however, the judge ruled such context information about sexually explicit online sites visited by the defendant was too prejudicial and could not be heard by the jury. The defendant was eventually acquitted.

Guilty Knowledge

When caught with child pornography, offenders come up with a wide variety of responses. Some deny any knowledge and ask for their lawyer. Most, however, come up with a vast array of explanations and excuses. They claim they did not know they had it or did not know it was child pornography. They claim they downloaded a large volume of image files and the child pornography was buried in the middle. Some claim as law-enforcement officers, lawyers, doctors, therapists, or researchers they had a professional use for the material. Some claim they are artists and the images in question are works of art. Some claim they were conducting investigations as concerned members of society. A few claim to have no sexual interest in the material. They downloaded it out of curiosity or inadvertently received it and kept it because they are compulsive "pack rats."

On some occasions such claims might be valid. Should professionals such as law-enforcement officers, lawyers, doctors, therapists, researchers, artists, and photographers have special privileges under child-pornography statutes? Can a high-quality photograph taken with an expensive camera and printed on expensive paper still be child pornography? Can a medical or colposcope photograph of a child's genitals still be child pornography?

Whether particular visual images are child pornography and certain individuals who "use" them should be immune from prosecution are two separate, but related issues. Some images can be child pornography depending on who has them and how they are being used. A medical photograph depicting the circumcision of a newborn boy's genitals shown by a physician to a medical-school class learning this technique or a colposcope slide of a girl's genitals shown by a physician to other doctors at a child-abuse training conference are not child pornography. The same photograph pandered on the Internet by the same physician to a newsgroup focusing on the sexual torture of the genitals or collected by the same physician in a sexually explicit album with graphic captions underneath are (or should) be child pornography. In the second scenario the physician's unprofessional use of the photograph is a significant factor in both whether or not the image is considered child pornography and he or she should be prosecuted.

The test for those claiming professional use should be twofold. Do they have a professional use for the material and were they using it professionally? Both standards must be met in order to seriously consider the claim. Not every artist, professional photographer, therapist, law-enforcement officer, and lawyer has a professional use for sexually explicit images of children. If such individuals do

have a professional use for the images, but are also showing them to neighborhood children, masturbating with them, or trading them on the Internet in sexually oriented newsgroups they should be prosecuted.

The possibilities concerning a child portrayed in pornography and subject's state of mind are the sexually explicit image was

- Of a child, but the subject believed it was not a child
- Not of an actual child, but the subject believed it was a child
- Of a child, and the subject believed it was a child
- Of a child, and the subject **knew** it was a child

"Expert" Search Warrants

One controversial and misunderstood, but useful application of an offender typology is its use in so-called "expert" search warrants. In such search warrants an expert's opinion is included in the affidavit to address a particular deficiency. The expert's opinion is usually intended to

- Address legal staleness problems
- Expand the nature and scope of the search *(i.e.*, for erotica-type material or more than one location) or
- Add to the probable cause

Addressing staleness and expanding the scope of the search are probably the most legally defensible uses of such opinions. Using the expert's opinion as part of the probable cause, however, may be more questionable and should be done only in full awareness of the potential legal consequences. In spite of the legal uncertainties of its application, there is little behavioral doubt that probable cause to believe a given individual is a preferential sex offender is, by itself, probable cause to believe the individual collects pornography **or** paraphernalia related to his preferences, which may or may not include child pornography. If it is used as part of the probable cause, the expert's opinion should be the smallest possible percentage of it. As the portion of the probable cause based upon the expert's opinion increases, the expectation of a much more closely scrutinized, critical review should increase.

The affidavit should set forth **only** those offender characteristics necessary to address a specific deficiency. For example if the expert opinion is needed only to address staleness, the only trait that matters is the tendency to add to and the unlikeliness to discard collected pornography and erotica. The expert's opinion concerning other behavioral traits could be used to justify searching a storage locker or computer at work. It could also be used to justify searching for related paraphernalia or video recordings.

Not all offenders who might traffic in child pornography have these traits; therefore, the affidavit **must** set forth the reasons for the expert's conclusion that the subject of the search is **among** the particular group of offenders with the stated characteristics. The informational basis for the expert's opinion must be reliable, sufficient, and documented. The information must be from reliable sources and in sufficient quantity and quality to support the belief. Details concerning the information must be meticulously recorded and retrievable especially if it is the basis for a warrant sought by another agency or department. If an investigator prepares an affidavit for a search warrant asserting **all** sex offenders against children or **all**

sexual **predators** they investigate collect certain related items and then the search fails to find them, the offender can then claim he is clearly not like most of the offenders being investigated and he deserves special consideration.

At this point it is useful to have a name for "these guys" with these distinctive characteristics. Although investigators have frequently called them "pedophiles" or "child-pornography collectors," the term **preferential sex offender** is recommended for the reasons previously stated. Expert search warrants describing highly predictable offender characteristics should be used only for subjects exhibiting preferential sexual-behavior patterns. The characteristics, dynamics, and techniques (*i.e.*, expert search warrant) discussed concerning preferential sex offenders should be considered with any of the preferential-type offenders. It is usually unnecessary to distinguish which type of preferential offender is involved.

If the available facts do not support the belief the subject is a preferential sex offender and deficiencies in the warrant cannot be addressed in other ways, investigators can always attempt to get consent to search. Believe it or not, many sex offenders, especially preferential offenders, will give such consent. This is often true even if they have child pornography and other incriminating evidence in their home or on their computer. Their need to explain and validate their behavior overcomes their fear of discovery.

Expert search warrants should be used only when there is probable cause to believe the suspect is a **preferential sex offender** (or whatever other term an investigator prefers) and the term is clearly defined, the relevant behavior patterns are set forth, and the specific reason to believe the suspect is one of them is set forth. Whenever possible affidavits for search warrants should be based on reliable, case-specific facts. Because of legal uncertainties, expert search warrants should be used only when absolutely necessary. They should not be a replacement for reasonable investigation, and they sometimes create unnecessary legal issues. When such warrants are used, the affidavit must reflect the specific facts and details of the case in question. Boilerplate warrants, "ponies," or "go-bys" should be avoided. It is also best if the expert used is part of the investigation or from the local area. Regional or national experts should be used only when a local expert is unavailable.

Child Pornographer or Molester?

An offender's pornography and erotica collection is the single best indicator of what he **wants** to do. It is not necessarily the best indicator of what he **did** or **will** do. Not all collectors of child pornography physically molest children and not all molesters of children collect child pornography.

*An offender's pornography and erotica collection is the single best indicator of what he **wants** to do. It is not necessarily the best indicator of what he **did** or **will** do.*

Those who "just" receive or collect child pornography produced by others play a role in the sexual exploitation of children; even if they have not physically molested a child. Failure to understand this is most apparent in the plea bargaining and sentencing of offenders charged with possessing, receiving (downloading), or distributing (uploading) child pornography with no evidence of child molesting. Some defense attorneys want

to argue their client "just" collected pre-existing images from the Internet and did nothing but type and click a mouse. Some prosecutors want to counter that by claiming looking at child pornography "turns your brain to mush" and all collectors are or will soon become child molesters. I have been asked to testify about this point on numerous occasions. Testifying about this issue is problematic for me because I did view child pornography myself for more than 20 years and have never molested, or had the urge to molest, a child. I am also aware of no research unequivocally supporting this position. Men tend to view and collect pornography that is consistent with their existing erotic imagery not to change it. Seeking child pornography is the result of a sexual interest in children not the cause of it.

Research and Court Findings

There are two questions of importance to which I do not know the answer with a significant degree of certainty. The first question is what percentage of child molesters collect child pornography? The second question is what percentage of child-pornography collectors molest children? In my opinion the answer to the first question is less than 25% but growing. I believe this because pornography is primarily about sexual fantasies and the sexual fantasies of many child molesters do not focus on children. My belief in a possible increase is due to computers and the Internet making it easier to obtain child pornography. Interestingly, however, the findings from the second wave of the *National Juvenile Online Victimization (N-JOV) Study* found the proportion of offenders arrested for online solicitation of children who possessed child pornography decreased from 40% in 2000 to 21% in 2006 (Wolak, Finkelhor, and Mitchell, 2009). Answering this question is also complicated by the fact that **technical** child pornography is often not recognized as or determined to be child pornography and many investigations of child molestation do not pursue the possibility of child-pornography collection.

In an attempt to answer the second question, many anti-child pornography advocates have focused on (often without fully reading the findings) the research studies conducted at the Federal Corrections Facility in Butner, North Carolina. The two versions (2000 and 2007) of this "Butner Study" have been much discussed, debated, and misrepresented but only recently has the second study been formally published (Bourke and Hernandez, 2009). These studies found a significantly high percentage of inmates convicted of violating federal, child-pornography laws admitted during a voluntary treatment program to previously undetected acts of "hands-on" sexual molestations of children. Other research and unpublished anecdotal evidence based on actual cases investigated by law enforcement seems to suggest a very wide range of child-pornography collectors are, were, or may have been active molesters. This research and anecdotal evidence has some real limitations, but the fact remains some portion of child-pornography collectors may not be molesting children. They may have in the past and might in the future, but such conjecture may be difficult to argue in court. The major point should be that the harm and seriousness of child-pornography offenders should not be determined by whether or not they have sexually molested children. Whatever the percentage, it is simply wrong to say those who "only" collect child pornography and have not in the past or will not in the future engage in contact sex offenses with children are not a threat to or do not harm children.

Many investigators and prosecutors like to cite this "research" or anecdotal evidence showing a direct connection between child pornography and child molesting. The good news is that it seems to demonstrate the significance and seriousness of "just" collecting child pornography and it provides added justification for investigation to identify possible victims in the absence of actual disclosures. Some potential problems are rarely mentioned. If it is "proven" a very high percentage of child-pornography offenders have molested children, investigators must carefully consider how quickly they take protective action in cases where such an offender is identified or suspected. Action may have to be taken as soon as an individual's involvement with child pornography is merely suspected and long before probable cause or a solid case is developed. Delaying so long that the information ascertained gets stale may not only create problems in getting a search warrant, but may also result in a lawsuit. In addition the emphasis on offenders who both collect and molest provides attorneys representing defendants who have "only" collected with an effective argument about the less serious nature of their client's criminal behavior (*i.e.*, not in the "heartland of offenders"). With or without a computer, some offenders only collect child pornography, some offenders only molest, and some offenders do both. All are serious violations of the law and offenders should be accordingly prosecuted for what they have done. The seriousness of child-pornography violations, however, should not be dependent on whether the offender involved is molesting children. That is an important but separate matter.

The possibility a child molester is collecting child pornography or child-pornography collector has or is molesting children should always be aggressively investigated; however, collecting child pornography should be viewed as significant criminal behavior by itself. Molesting children is not an element of the offense. The issue should be the harm child pornography does to the child portrayed, not to the viewer. Child pornography does harm in and of itself. In decisions upholding child-pornography cases, the U.S. Supreme Court stated, "The material produced are a permanent record of the children's participation and the harm to the child is exacerbated by their circulation" *(New York v. Ferber* 458 U.S. 747, 759 (1982)) and "The pornography's continued existence causes the child victim continuing harm by haunting the children for years to come" *(Osborne v. Ohio* 495 U.S. 103, 111 (1990)).

The impact on child victims of continued circulation of these images may last a long time. The best proof of this is the reaction of the victims and their families when they learn the images have been put into circulation or uploaded to the Internet. Collecting child pornography also validates the behavior of and provides incentive for those who do produce it. The number of "hits" on a site almost always measures status and success on the Internet. Every time individuals download child pornography on the Internet, they are leaving an implied message behind that the material has value and they will be back to get more. Since there is a limited amount of existing material, at some point someone has to produce new images.

Child pornography has traditionally been defined as the permanent record of the abuse or exploitation of an **actual** child. The CPPA of 1996 expanded the definition for certain cases. The importance of this statement now becomes obvious. Without this traditional definition, it becomes more difficult, but not impossible, to argue why child-pornography collecting should be considered a "significantly punishable"

offense. The argument that images without "real" children could be used to lower the inhibitions of and seduce children may be insufficient **by itself** to justify the seriousness of the mere possession or collection of such images. Because many items such as candy bars can be used for the same purpose and we do not outlaw them, arguments about the seriousness of such images must be expanded to also include the fact that "virtual" or **simulated** child pornography fuels and validates the sexual fantasies of child molesters and pedophiles, potentially harms nondepicted children, and can be traded for images involving "real" children. Unlike items such as candy bars, **simulated** child pornography has no socially redeeming value.

In the absence of evidence of molestation, simply informing the court of the **fact** that the defendant fantasizes about such activity is the most reasonable approach. Zealotry, however well intended, fuels the "backlash" and damages credibility. The "backlash" is a subjective, judgmental term used by some child advocates to label and characterize those who are repeatedly critical of official intervention into the problem of sexual victimization of children. The "backlash" tends to excessively focus on specific examples of professionals exaggerating or distorting the problem of child sexual victimization and the criminal-justice system pursuing "false" and "unfounded" allegations (Lanning, 1996). Not every offender who collects child pornography deserves 10 years in the penitentiary and a lifetime as a registered sex offender. On the other hand, all such offenders should not be viewed as harmless collectors of "dirty pictures" deserving of only treatment and little or no punishment. Each case should be evaluated based on a meticulous review of the **details** of the **totality** of the evidence.

Offenders who "just" traffic in child pornography are committing serious violations of the law that do not necessarily require proving they are also child molesters. If it is relevant and the facts support it, such individuals can be considered **preferential sex offenders** because such behavior is an offense. Some offenders who traffic in child pornography, especially the diverse-preferential sex offender, may have significant collections of adult pornography as well. In some cases they may even have far more adult pornography than child pornography. Such offenders may not be "pedophiles," but can still be **preferential sex offenders** with many similar behavior patterns.

Child-Abuse Images?

One of the problems in discussing the seriousness of child pornography is the varied response to the term **pornography**. As previously mentioned, it is difficult yet important to define a "fill-in-the-blank" kind of term. **Adult pornography** is a subjective, judgmental term with little legal meaning. Obscenity is the term and standard used when such material is illegal. **Child pornography** is, however, a legal term but with varying subjective definitions. People have widely varying opinions about pornography and often think of it as no big deal. To convince people *(i.e.*, investigators, prosecutors, judges, juries) of the seriousness of the child-pornography problem, some are now suggesting the term and the law be changed to **child-abuse images**. This appears to have started in Europe and has now spread to the United States. In theory it seems to more effectively convey the perception these are images of abused children and not just "dirty pictures." There is just one problem with this emotional approach – not all children depicted in illegal child pornography have been sexually abused and the current law does not require that they be.

Examples of children not abused but considered child-pornography victims under current federal law include children surreptitiously photographed while undressing or bathing; adult video recording his naked body next to sleeping children; children unknowingly manipulated or tricked into posing nude or exhibiting their genitals; fully dressed children in the background of an image of adults lasciviously exhibiting their genitals; children in images they have created; and children old enough to legally consent to have sex with an adult but not to be in sexually explicit images. Depending on the use of the material, such children may not have been **abused** but all can be considered **exploited**. This assumes the use of generally accepted definitions of what constitutes child sexual abuse and not some emotionally inspired variations. Arguing all images that legally constitute child pornography are **child-abuse images** can only be maintained by changing the generally understood definition of child abuse.

Because some people think "pornography" is not an important issue does not justify changing from a term (child pornography) with 30 years of case law to a term (child-abuse images) with no legal history and requiring an added burden of proof. Why start using a new term of unclear meaning that will further confuse people? The term **child-abuse images** is emotionally appealing and emphasizes the link to serious child abuse, but it is vague, imprecise, and inconsistent with current federal law. Federal law does not now require the children in child pornography to be sexually abused. The current federal definitions of what constitute sexually explicit conduct does not necessarily equate to what constitute child sexual abuse. If it did, this could require further proof and evidence to prosecute a case. The efforts to encourage use of this new term is a good example of well-intentioned people trying to solve a problem by emotionally exaggerating the problem. It just creates unrealistic expectations, makes the problem worse, and could result in limiting potential cases and fewer prosecutions. Limiting **child pornography** to **child-abuse images** theoretically causes more material that is actually child pornography to be considered only **child erotica**. The term **child pornography** is well-defined in the penal code and through case law. It is interesting to note some of those advocating for use of the term **child-abuse images** also advocate for criminalizing as child pornography visual images that do not even portray actual children. You cannot have it both ways. The solution to this problem is to calmly and objectively explain that offenders who possess, receive, and distribute child pornography are a threat to children because they sexually exploit children by encouraging and validating the behavior of those who produce it. Inventing a new, confusing term makes no sense except to help a few individuals emotionally justify their efforts.

Investigative and Prosecutive Priorities

Many investigators and prosecutors do not like child-pornography cases. Some do everything they can to deny the problem and avoid these cases. Some federal investigators and prosecutors (also some federal judges and federal law-enforcement administrators) do not believe child-pornography cases are the business of the federal courts. Many prosecutors are up-front and honest about their feelings. Others, however, avoid these cases by sending investigators on impossible stalling missions. Instead of declining unwanted cases, they avoid them by asking for more

and more evidence without ever really intending to prosecute. Many prosecutors when presented with images of children of less apparent severity *(e.g.*, older child victims, minimal sexual activity, smiling faces) decline prosecution by stating the images are not prosecutable child pornography instead of the more accurate reason that the images do not meet prosecutive priorities.

Part of this problem is due to distorted and exaggerated information disseminated at "professional" training conferences. Some seem to feel investigating and prosecuting child pornography is a divine mission from God to save the moral character of the country. This motivates some investigators and prosecutors, but turns off many others. It enables many to argue these cases are about a personal or religious agenda rather than enforcing the law.

Investigators and prosecutors should have an objective and rational understanding of the nature of child pornography. All child-pornography offenders are not the same. Based on what they do with the child pornography, offenders can be divided into one or more categories of producer, receiver, distributor, and possessor. There is no legal requirement that collectors of it be **physically molesting children, making money, part of organized crime**, or **totally "evil" sexual predators**. There is no legal requirement that the children portrayed in it be **abducted, suffering in pain, nonconsenting**, or **totally "good" victims**. Investigators and prosecutors must be able to professionally address the subject matter of deviant sexual behavior. This usually requires a willingness to view at least a reasonable quantity of the images being prosecuted. It is hard for investigators, prosecutors, judges, and juries to make legal decisions about something they refuse to look at.

Whatever the prosecutor's views of child pornography might be, it is important he or she clearly communicates the criteria for prosecuting or not prosecuting a particular case. Some of the possible criteria to consider in a child-pornography case not involving production include

- Amount of time and energy put into it by the subject
- Size of the collection
- Format *(i.e.*, magazines, digital images, moving images)
- Sexual themes *(e.g.*, sadism, urination, bondage)
- Age of the children portrayed or of the subject
- Percentage of child pornography in the total collection
- Amount of erotica or other paraphernalia collected
- Quality of images
- Receipt, distribution, or both
- Profit
- Solicitation *(i.e.*, requesting/encouraging others to produce)
- Access to children *(i.e.*, teacher, coach, youth volunteer)
- Molestation of children *(i.e.*, past, present, or future)

Many people seem to use personal and emotional criteria *(e.g.*, young victims, penetration, violence) for determining the seriousness of a child-pornography case. In dividing recovered pornography collections between adult and child, many investigators and prosecutors use the appearance of secondary sex characteristics *(e.g.*, breast development, pubic hair) as the determining factor. Although this may

be expedient, it is not consistent with the law. Many children younger than 18 years of age have secondary sex characteristics. I also believe the category system for child pornography developed by Taylor and Quayle to help society understand the wide diversity of conduct portrayed in child pornography, has been misused by the criminal-justice system as a scale of harm/seriousness (Taylor and Quayle, 2003). Whatever prosecutive criteria is developed and used it should be communicated and consistent. If a case meets the set-forth criteria, the investigator should have a reasonable expectation the case will be prosecuted. The criteria, however, should be viewed as policy with some degree of flexibility. The policy should reflect what is usually done and not necessarily what is always done.

In order to evaluate child pornography or determine what and how many prosecutive criteria it meets, investigators and prosecutors must have facts and details. Many of those facts and details are best obtained from executing a valid search warrant or obtaining consent to search. For some reason many prosecutors seem to believe executing such a search warrant should be the final step in the investigation. They want all the answers to the evaluation and prosecutive criteria before the search when, in fact, many of the answers will come from the search itself. The execution of the search warrant and subsequent search should be viewed not as the **last** step, but simply **one** step in the investigation. Obviously there must be probable cause and/or consent to conduct such a search.

Summary and Recommendations

Public Awareness and Prevention

The term **pornography** brings with it a great deal of emotional baggage. For many it raises concepts such as, "What's the big deal, they're just dirty pictures," "Pornography is a money-making business run by organized crime," "Pornography is protected by the first amendment." Many people are confused by and interchange the terms **pornography** and **obscenity. Adult pornography** is essentially a subjective, judgmental term with little legal meaning. **Child pornography** is essentially a term with legal meaning often discussed using various subjective definitions. A wide variety of individuals may refer to things such as narratives about sex with children, images of fully dressed children, and advertisements portraying children as child pornography. Thanks in part to me, there is also a great deal of confusion over the term **child erotica**. Linking child pornography and adult pornography is not an effective approach to addressing the problem of child pornography.

The seriousness of the child-pornography problem is hard to quantify *(i.e.*, money/profit; number of items, children, or websites; size of computer files). Addressing any public-policy concern, however, necessarily requires an attempt to quantify its impact. It is important to recognize that the child-pornography problem involves a myriad of unquantifiable aspects such as the Internet. Policymakers should focus on what we know about the problem rather than what we don't know. Emphasizing young children forced into the activity increases the shame and guilt of child victims who engaged in compliant behavior and decreases the likelihood of disclosure by them. Such distortions may even cause investigators and prosecutors to conclude that sexually explicit images of older, smiling children are not "really"

child pornography. In addition emphasis on child pornographers who molest and child molesters who use violence may help child pornographers and child molesters who do neither to rationalize their sexual behavior *(i.e.*, "I'm not as bad as those guys"). Any prevention programs directed at potential child victims must recognize the reality of children, especially adolescent children. Simplistic warnings about "strangers" and predators are likely to have little impact.

Recommendations

Because this chapter is lengthy, I summarize my recommendations below to help professionals and society understand and address the seriousness of the child-pornography problem as noted below.

Definition Issues The summary of definitional issues includes

- Use legal definitions of child pornography whenever possible
- If any statement made about child pornography does not apply to all material fitting the legal definition, clearly communicate that fact
- Significant variations among state laws and between state and federal law should be openly discussed and communicated
- Avoid the use of emotional and personal definitions of child pornography
- Avoid or minimize the use of the term **child-abuse image**
- Resolve the controversy by telling those who prefer "abuse images" about the problems and inconsistencies in its use
- Educate professionals concerning the definition of and proper use of the term child erotica

Child Victims The summary about child victims is

- Minimize the emphasis on only visual images of very young children.
- Minimize the emphasis on visual images of children obviously being forced into the activity.
- Resist the temptation to expand the definition of child pornography to include images without actual children. Keep the "child" in child pornography.

Offenders The summary about offenders is

- Minimize use of the term **predator** when referring to child-pornography offenders
- If necessary, refer to the predatory nature of the behavior of some, but not all, child-pornography offenders
- Do not simplistically refer to all offenders as "these guys" or by one-dimensional terms or prejudicial *(e.g.*, pervert, sicko, predator) terms implying characteristics or behaviors that some of them do not have
- Evaluate convicted offenders based on the recognition of varying patterns of offender behavior (**offender-based**) and not simply on the crime for which the offender was convicted (**offense-based**)
- Carefully consider the terminology used in expert search warrant affidavits to refer to the offender being targeted and set forth reasons to believe this offender is in that population of offenders

Harm/Impact Issues The summary about harm and impact issues includes

- Minimize focus on the effect of child pornography on the viewer and focus primarily on the effect/harm on the child portrayed
- Minimize use of personal criteria for harm/seriousness
- Use and cite research properly and accurately
- Establish and set forth defensible criteria for attempting to identify the children portrayed in recovered child pornography

Legal Issues Legal issues include the items noted below. In order to protect more sexually exploited children, study and consider identifying ways to

- Address the narrow statutory definitions of sexually explicit conduct in order to include a wider range of paraphilic *(e.g.*, necrophilia, coprophilia, infantilism) behavior or a comprehensive definition of any activity with a child that the producer finds sexually gratifying
- Address narrow definitions of producing child pornography in order to include activity by the recipient/collector to alter *(e.g.*, how collected, modifications, notations, editing, splicing) the original intent of the photographer/producer
- Improve the legal admissibility, as more probative than unfairly prejudicial, of context information and material *(e.g.*, how taken, how saved, how used) to determine whether questionable images *(e.g.*, images of naked children) are in fact sexually explicit and therefore child pornography

Prosecutors should clearly

- Differentiate between images that "do not meet prosecutive priorities" and images that are "not child pornography" when declining prosecution
- Set forth and communicate the criteria, such as quantity, quality, activity, age, format, for images they prefer to prosecute

In addition legal issues should include the study and clarification of policy criteria concerning the use of the collection of child pornography by an individual as a valid basis to conduct investigation into the possibility that the individual may be sexually molesting children and set forth the acceptable parameters of such investigation.

Public-Awareness and Prevention Issues The summary of public-awareness and prevention issues includes

- Resist the temptation to exaggerate a serious problem
- Educate people about the reality of child pornography without changing its name
- Emphasize how child pornography is different from adult pornography
- Increase reporting by communicating to children that any perceived participation or cooperation in their victimization does not make what happened legal

Technology-Facilitated Cases

Overview

The use of computers and the Internet to facilitate the sexual exploitation of children needs to be addressed from the three important perspectives of **legal, technical**, and **behavioral**. The technical aspects of this problem change almost daily and laws are multifaceted and evolving. The underlying human needs being met by the technology, however, remain pretty much the same. This chapter will focus predominately on the **behavioral** aspects of this problem. No attempt will be made to explain the details of complex and rapidly changing technology or the fine points of the law and appellate case decisions. Other sources of knowledge and expertise concerning these important perspectives of this problem should be sought out elsewhere.

A wide variety of digital-memory devices, including those in portable audio recorders or an automobile, now can be used to store visual-image files.... Collections that used to be stored in a home or office may now be stored in cyberspace or on the person of the offender.

Not too long ago the method most likely used to access the Internet was a desktop or laptop computer at home or work. Methods most likely used to store digital information were the hard drive of the computer and a few portable devices *(e.g.*, floppy disks, CDs, DVDs). Now common methods used to access the Internet also include netbooks, video-game systems, smart phones, and Wifi mobile platforms. A wide variety of digital-memory devices, including those in portable audio recorders or an automobile, now can be used to store visual-image files. Common digital-memory storage devices currently include external hard drives; digital, audio, or video player/recorders (including cable box, TiVo®); USB flash drives ("thumb drive," "jump drive"); flash memory cards (varying in format, capacity, and physical size); MP3 players or iPods; digital cameras; cell phones; and even wireless routers. Collections that used to be stored in a home or office may now be stored in cyberspace or on the person of the offender. Some have noted a return of the bulletin boards of the early days of the Internet. To save time and space in this chapter, these varying items will most often simply be referred to as computers and digital-memory storage devices. This technology will undoubtedly continue to change at a rapid pace.

We have historically warned our children about the dangers associated with "strangers," but often neglected to help them understand sex offenders are often people they have come to know either in person or now online. Throughout history nonfamily members who sexually exploited children have frequented the places where children gather. Schoolyards, parks, and malls have been public contact places for some offenders. Many offenders with better interpersonal skills, however, have gained access to children through their occupations, hobbies, and volunteer work. Over the years offenders have also utilized technological advancements *(e.g.*, cameras, telephones, automobiles, videocassette recorders) to facilitate their sexual interests, needs, and behaviors. Starting in the 1990s computers, online services, and the Internet have increasingly become points of contact and information-technological tools for sex offenders. The use of this technology continues to grow and expand. In

many ways, however, the offenders utilizing computers and the Internet to facilitate their sexual exploitation of children are more like the "nice-guy" acquaintances who groom the children inside the schoolhouse rather than the "predatory strangers" who lure them outside on the schoolyard.

Many individuals with a sexual interest in children appear to be drawn to computers and the Internet because the technology provides them with added convenience and perceived anonymity, another method of access to children, an easier way to obtain and exchange child pornography, and the most effective method ever invented to locate and communicate with others who share and will validate these interests.

Some may wonder why a discussion of acquaintance molesters would include a section about the use of computers. A "friend" with whom a child regularly communicates with on the Internet, but sees for the first time only when they finally meet in person, should be viewed as an acquaintance offender, not a "stranger." Like most acquaintance molesters, individuals attempting to sexually exploit children through the use of computer online services or the Internet tend to gradually seduce their targets through the use of attention, affection, kindness, and gifts. They are often willing to devote time, money, and energy to this process. They will listen to and empathize with the problems of children. They may be aware of the music, hobbies, and interests of children. Unless the victims are already engaged in sexually explicit computer conversations and activity, offenders will usually lower any inhibitions by gradually introducing the sexual context and content. Some offenders use the computer primarily to collect and trade child pornography, while others also seek online contact with other offenders and children, and some do all of these things.

Children, especially adolescents, are often interested in and curious about sexuality and sexually explicit material and interaction. They will sometimes use their online access to actively seek out such material and contacts. They are moving away from the total control of parents/guardians and trying to establish new relationships outside the family. Sex offenders targeting children will use and exploit these characteristics and needs. Children also furnish false information and lie during their online activity. Adolescent children may also be attracted to and lured by online offenders closer to their age who, although not technically "pedophiles," may be exploitive or dangerous.

Although most of the offenders currently utilizing computers in their sexual victimization of children would generally be considered to be "acquaintance molesters," some might be family members and others might be strangers. Some of these offenders might also be sexually victimizing children without using computers. For example they may also be sexually abusing readily available children, including their own, or trafficking in or collecting child pornography in magazine, book, photograph, videotape, or DVD formats and using the mail. The focus of the investigation should not be only on the computer. The computer is only a tool. Also, as the capabilities and availability of this technology changes, their role in the sexual victimization of children will also change.

Illegal Sexual Activity

Computer-related sexual exploitation of children has come to the attention of law enforcement as a result of civilian/victim complaints, referrals from commercial service providers, and inadvertent discovery during other investigations. Increasingly,

cases are proactively identified as a result of undercover investigations targeting high-risk areas of the Internet or use of other specialized investigative techniques.

Sexual activity involving the use of computers and the Internet that is usually illegal and therefore, the focus of law-enforcement investigations includes

- Producing child pornography
- Possessing and accessing child pornography
- Uploading and downloading child pornography
- Soliciting sex with "children"

As previously discussed, child pornography can generally be legally defined as the sexually explicit (lascivious intent) visual depiction *(e.g.*, photographs, negatives, slides, magazines, movies, videotapes, or computer discs) of a minor (younger than 18 years of age). In the vernacular of computer-exploitation investigators, those who traffic in online child pornography are known as **traders** and those who solicit sex with children are known as **travelers**. Using the computer to solicit sex with "children" could include communicating with actual children as well as with law-enforcement officers taking a proactive investigative approach and pretending to be either children or adults with access to children. After using the computer to make contact with the "child," other related illegal activity could involve traveling to meet the child or having the child travel to engage in sexual activity.

Although the focus of this chapter is the use of this technology in sexual exploitation of children, investigators must understand any offender may molest children or collect child pornography and may do either or both with or without a computer or the Internet. In 1984 I first coauthored an article discussing a child molester utilizing a stand-alone computer to store information and details about his sexual victimization of boys (Lanning and Burgess, 1984). From that time forward, during training programs, I attempted to convince investigators to search for, seize, and analyze computers they might come across in cases of child sexual abuse. By the early to mid-1990s, cases involving the use of computers and the Internet in the sexual exploitation of children exploded and received significant media attention. Now the problem seems to be convincing investigators to look beyond the located computer and consider and search for evidence, child pornography, and victim information not on a computer or digital-memory storage device. The Federal Bureau of Investigation's (FBI) Behavioral Analysis Unit (BAU) has been conducting a long-term study of Internet sexual exploitation of children that includes more than 200 cases involving the use of the computer to facilitate the sexual victimization of children, both contact and noncontact offenses. As of March 2007 it found that of the 28% of online offenders who had actual contact with child victims only 20% of their victims were the result of their Internet activity. The other 80% of their child victims came from family, neighborhood, and community (Eakin, 2009). The sexual victimization of children, not the technology, should be the focus of any investigation.

Sexting

Any of the illegal activity described above can be engaged in by individuals who are legally children themselves. There is growing controversy over what is commonly called "**sexting**." Although this term is increasingly used, it is rarely precisely

defined. It is usually used to refer to the practice of adolescent children creating and "texting" to other adolescent children *(e.g.,* boyfriend or girlfriend) messages of a sexual nature and visual images of themselves naked or in "sexy" poses. Sexting could involve "sexy" pictures that do not rise to the level of being "sexually explicit." Therefore "sexting" could in some cases be legal or illegal depending on the exact nature of any images involved. As with all digital images placed in cyberspace, the dissemination of such images can spread easily and rapidly and have unanticipated implications for these adolescent children. The images cannot be easily controlled, taken back, or destroyed like an old-fashioned photographic print. As indicated by the term "**sexting**," there is a sexual component to this activity. If visual images are involved, they usually were created and sent to elicit a sexual response. If the genitalia or pubic area of children are portrayed in these images and they were created by the adolescent photographer/producer for a sexual or lascivious purpose, such images would seem to clearly meet the legal criteria to be considered child pornography and would not be simply "innocent nudes."

Cases involving adolescents using the computer to solicit sex with other adolescents and traffic in child pornography portraying pubescent "children" are a problem area for the criminal-justice system, especially the federal system. As previously stated federal statutes define children or minors as individuals who have not yet reached their 18th birthdays. How such offenders should be addressed within the criminal-justice system is a complex matter. Each such case must be evaluated on its merits and facts avoiding extreme stereotypes claiming all such adolescents are innocuous children or emerging sexual predators. A case involving an 18-year-old boy downloading sexually explicit images of his 16-year-old girlfriend needs to be objectively evaluated so scarce resources are not wasted. Such behavior may be technically illegal, but may not be sexually deviant. Pubescent children might be of sexual interest to many individuals who are not diagnostically "pedophiles." As previously stated, the focus of this publication does not include sexual exploitation of children by peers.

It is possible, in addition to simply being typical teenagers, a factor in why so many adolescent children see no problem with their "**sexting**" activity is they see their behavior as having nothing to do with "sexual predators" and the disgusting images of very young "abused" children they have heard so much about. What they are doing meets legal criteria for production and dissemination of child pornography, but it does not meet the extreme stereotypes often presented by the media and some professionals. A permanent record, juvenile or criminal, for any sex-related charge can have serious lifetime consequences for the adolescent child. Law enforcement and prosecutors should give considerable thought before any filing of juvenile or criminal charges. Additionally, noncriminal courts, such as family or juvenile courts, may be a more appropriate forum to address a "sexting" type of offense.

Legal Sexual Activity

Sexual activity involving the use of computers and the Internet that is usually legal includes

- Validating sexually deviant behavior and interests
- Reinforcing deviant arousal patterns
- Storing and sharing sexual fantasies

- Obtaining fetish items and other child erotica
- Lying about one's age and identity
- Collecting adult pornography that is not obscene
- Disseminating "indecent" material, talking dirty, "cybersex," some "sexting," and providing sex instructions
- Injecting yourself into the "problem" of computer exploitation of children to rationalize your interests

Although many might find much of this activity offensive and repulsive and special circumstances and specific laws might even criminalize some of it, it is for the most part legal activity. Whether illegal or not, engaging in graphic "cybersex" with children, asking them to masturbate themselves, and other types of sexualized online conversations are potentially dangerous and harmful behaviors. Illegal or not, this type of activity may still be of concern to parents/guardians and society. The use of the Internet to validate specific sexual interests may be its most significant function in the sexual victimization of children.

Understanding Behavior

Exploitation cases involving the use of information technology *(e.g.*, computers, the Internet, digital-memory storage devices) present many investigative challenges, but they also present the opportunity to obtain a great deal of corroborative evidence and investigative intelligence. This discussion will focus primarily on the dynamics of offender and victim behavior in cases involving the computer or online sexual exploitation of children.

Information-Technology Offenders

In relationship to the age of child victims, potential offenders can be peers, slightly older adolescents, young adults, and significantly older adults. The *National Juvenile Online Victimization (N-JOV) Study* that looked at an estimated 2,577 arrests by law enforcement for Internet sex crimes committed against minors during the 12 months starting July 1, 2000, (Wolak, Mitchell, and Finkelhor, 2003) found the vast majority of offenders were non-Hispanic White males, older than 25, acting alone. The findings from the second wave of the *N-JOV Study*, however, indicated the percentage of young adult offenders (ages 18 to 25) arrested for online solicitation of actual child victims increased from 23% in 2000 to 40% in 2006 (Wolak, Finkelhor, and Mitchell, 2009). In evaluating cases involving peers and near-peers, investigators should consider the place and amount of contact and association, patterns of behavior, physical and emotional development of individuals, age differences, type and size of any identified collection, and any evidence of hebephilia. In my experience offenders using computers to sexually exploit children usually fall into the three broad categories of situational, preferential, and miscellaneous "offenders."

Exploitation cases involving the use of information technology… present many investigative challenges, but they also present the opportunity to obtain a great deal of corroborative evidence and investigative intelligence.

Situational Offenders

Situational offenders include

- **"Normal" Adolescent/Adult** – Usually a typical adolescent searching online for pornography and sex or an impulsive/curious adult with newly found access to a wide range of pornography and sexual opportunities. This could include many, but not necessarily all, adolescents using information technology to share sexually explicit images of adolescent children ("sexting"), including some they created themselves.
- **Morally Indiscriminate** – Usually a power/anger-motivated sex offender with a history of varied criminal offenses. Parents/guardians, especially mothers, who make their children available for sex with individuals on the Internet would also most likely fit in this pattern.
- **Profiteers** – With the lowered risk of identification and increased potential for profit, the criminal just trying to make easy money has returned to trafficking in child pornography. This could include those who blackmail their victims after getting them to engage in embarrassing sexual conduct. Profit and sexual motives are not necessarily mutually exclusive.

When situational-type offenders break the law, they can obviously be investigated and prosecuted, but their behavior is not as long-term, persistent, and predictable as that of preferential offenders. Behaviorally they are a more varied group. The sexual activity can be related to bullying and extortion activity.

Preferential Offenders

Preferential offenders include

- **Pedophile (Hebephile)** – Offender, as previously discussed, with a definite preference for individuals legally defined as children or minors.
- **Diverse** – Offender with a wide variety of paraphilic or deviant sexual interests, but no strong sexual preference for children. This offender was previously referred to in my original typology as the **sexually indiscriminate** or "try-sexual," someone willing to try anything sexual.
- **Latent** – Individuals with potentially illegal, but previously latent sexual preferences who have more recently begun to criminally act out when their inhibitions are weakened after their arousal patterns are fueled and validated through online computer communication.

Preferential sex offenders are usually quick to gravitate to the use of new technology. They have tended to be serial offenders who prey on children through the operation of child sex rings and/or the collection, creation, or distribution of child pornography. Utilizing a computer to fuel and validate interests and behavior, facilitate interacting with child victims, or possess and traffic in child pornography usually requires the above-average intelligence and economic means more typical of preferential sex offenders. Sex offenders who use information technology have tended to be from a middle-class or higher socioeconomic background and more intelligent. As computers have become more commonplace, however, this is increasingly changing, and there are growing numbers of the more situational sex offenders of varied backgrounds.

The essential difference between the **pedophile/hebephile** type and the **diverse** type of preferential offender is the strength of his **sexual** preference for children. As previously stated the pedophile type is primarily interested in sex with children that might, in some cases, involve other sexual deviations or paraphilias. The diverse type is primarily interested in a variety of sexual deviations that might, in some cases, involve children. For example the pornography and erotica collection of the diverse preferential offender will be more varied, usually with a focus on his particular sexual preferences or paraphilias and sometimes involve children, whereas a pedophile's collection will focus predominately on children and sometimes involve other paraphilias. Searching a computer for adult-theme pornography can sometimes be justified if it helps identify the person using the computer or is linked to and helps explain the victimization of children. If children are directly molested, the diverse offender is more likely to victimize pubescent children. More naive prepubescent children, however, are sometimes selected by the diverse offender to minimize confronting possible challenges to or embarrassment over their deviant or "weird" sexual interests.

With an absence of prior criminal sexual activity, **latent** offenders present problems concerning what prosecution and sentence is appropriate. Sometimes an investigation identifies such an online offender with no apparent history of a sexual interest in children that predates his current use of the Internet. Such cases have less jury appeal or are more likely to result in defense claims of conditions such as "Internet-addiction syndrome" or "it was only a fantasy." I do not believe the Internet created or caused this behavior. I suspect some individuals with potentially illegal, but previously latent sexual preferences have begun to criminally act out when their inhibitions are weakened after their arousal patterns are fueled and validated through online computer communication. A thorough investigation and good forensic psychological evaluation, possibly aided by the use of the polygraph or other deception-assessment devices, are helpful in evaluating such apparent **latent** offenders.

Miscellaneous "Offenders"

Miscellaneous offenders include

- **Media Reporters** – Individuals who erroneously believe they can go online and traffic in child pornography and arrange meetings with suspected child molesters as part of authorized and valid news exposé.
- **Pranksters** – Individuals who disseminate false or incriminating information to embarrass the targets of their "dirty tricks."
- **Older "Boyfriends"** – Individuals in their late teens or early twenties attempting to sexually interact with adolescent girls or boys.
- **Overzealous Civilians** – Members of society who go overboard doing their own private investigations into this problem. As will be discussed investigators must be cautious of all overzealous civilians who offer their services in these cases.

Although these miscellaneous "offenders" may be breaking the law, they are obviously less likely to be prosecuted. This category includes media reporters breaking the law as part of a bona-fide news story. It does **not** include reporters, or any other professionals, who engage in such activity to hide or rationalize that they have a personal interest in it. They would be situational or preferential offenders. Media reporters frequently do not notify law enforcement of their "undercover" activity

until it reaches a crisis point and then they want law enforcement to immediately respond. Overzealous civilians could also include therapists and researchers engaging in this type of activity in an attempt to educate themselves. As previously stated simply accessing child pornography with the intent to view it is now a federal offense. **Only** law-enforcement officers as part of official, authorized investigations should be conducting proactive investigation or downloading child pornography on a computer. No one, including law enforcement, should be uploading child pornography. It should be noted federal law does allow an affirmative defense for the possession of child pornography **only** if **less than three matters** are possessed **and** it is **promptly**, in good faith and without retaining or allowing access to any other person, **destroyed** or **reported to a law-enforcement agency** that is afforded access to **each depiction** (18 U.S.C. § 2252(c)). As previously stated, the test for those claiming professional use of child pornography should be twofold. Do they have a professional use for the material and were they using it professionally? Both standards must be met in order to seriously consider the claim.

Evaluating Sex Offenders Who Use Information Technology

Utilizing a computer to fuel and validate interests and behavior, facilitate interacting with child victims, or possess and traffic in child pornography usually requires the above-average intelligence and economic means more typical of preferential sex offenders. The sex offenders discussed here have tended to be White males from a middle class or higher socioeconomic background. As computers and use of the Internet have become more commonplace, however, there are now increasing numbers of the more varied situational sex offenders.

In computer cases, especially those involving proactive investigative techniques, it is often easier to determine the type of offender than in other kinds of child-sexual-exploitation cases. When attempting to make this determination, it is important to evaluate all available background information. The information noted below from the online computer activity can be valuable in this assessment. This information can often be ascertained from the online service provider and through undercover communication, pretext contacts, informants, record checks, and other investigative techniques *(e.g.*, mail cover, pen register, trash run, surveillance).

- Screenname and profile
- Accuracy of profile
- Length of time active
- Amount of time spent online
- Number of transmissions
- Number of files
- Number of files originated
- Number of files forwarded
- Number of files received
- Number of recipients
- Sites of communication
- Theme of messages, chat, and texting
- Theme of pornography
- Percentage of child pornography

A common problem in these cases is it is often easier to determine a computer is being used than to determine who is using the computer. It is obviously harder to conduct a background investigation when multiple people have access to the same computer. Pretext telephone calls can be useful in such situations.

"Concerned Civilians"

Many individuals who report information to the authorities about deviant sexual activity they have discovered on the Internet must invent clever excuses for how and why they came upon such material. They often start out pursuing their own sexual/deviant interests, but then decide to report to law enforcement either because it went too far, they are afraid they may have been monitored by authorities, or they need to rationalize their perversions as having some higher purpose or value. Rather than honestly admitting their own deviant interests, they make up elaborate explanations to justify finding the material. Some claim to be journalists, researchers, or outraged and concerned members of society trying to protect a child or help law enforcement. In any case, what they find may still have to be investigated. If information from such "concerned civilians" is part of the basis for an expert's opinion in the warrant, there could be questions concerning its origin, reliability, and accuracy.

Investigators must consider the true motivations of these "concerned civilians" who report such activity. They may be individuals who, among other things, have

- Embellished and falsified an elaborate tale of perversion and criminal activity on the Internet based on their need to rationalize or deny their own deviant sexual interests
- Uncovered other people using the Internet to validate and reinforce bizarre, perverted sexual fantasies and interests (a common occurrence), but these other people are not engaged in criminal activity
- Uncovered other people involved in criminal activity

One especially sensitive area for investigators is the preferential sex offender who presents himself as a concerned civilian reporting what he inadvertently "discovered" in cyberspace or requesting to work with law enforcement to search for child pornography and protect children. Other than the obvious benefit of legal justification for their past or future activity, most do this as part of their need to rationalize and validate their behavior as worthwhile and gain access to children. When these offenders are caught, instead of recognizing this activity as part of their preferential pattern of behavior, the courts sometimes give them leniency because of their "good deeds." Preferential sex offenders who are also law-enforcement officers sometimes claim their activity was part of some well-intentioned, but unauthorized investigation.

In the best-case scenario, these "concerned civilians" are well-intentioned, overzealous, and poorly trained individuals who are, therefore, more likely to make mistakes and errors in judgment that may jeopardize a successful prosecution. In the worst-case scenario these "concerned civilians" can be sex offenders attempting to justify and get legal permission for their deviant sexual interests. In any case investigators should **never** sanction or encourage civilians to engage in "proactive investigation" in these cases, even if they are working with the media and the department thinks they want potentially positive publicity. Investigators

should always encourage civilians to immediately and honestly report any criminal activity they inadvertently discover online.

What About "Predators"?

For a variety of reasons the term **predator** appears to have increasingly become the term of choice for the public in the United States, the media, politicians, child advocates, and law enforcement when referring to sex offenders who commit these crimes against children. State and federal statutes have included the term in their titles. Popular television programs have used the term to attract viewers and added to this trend. Publications targeted at law-enforcement officers responding to such cases have recommended referring to all sexual offenders who act on their sexual interest directed toward children as child predators. It would be hard to objectively justify to an ordinary person the label "predator" for an individual who sat in his house and used his computer to download pre-existing child pornography from the Internet for his sexual gratification. The behavior would, however, constitute a serious violation of the law and the individual would still be a sex offender.

Use of the term **predator** makes things simple and labeling offenders with it even seems to provide emotional gratification on some level. Many sex offenders are certainly predatory in their behavior, but the widespread and indiscriminant use of this term is unfortunate and counterproductive for two main reasons. First the term has little probative value. Referring to all offenders by the same name makes it harder to recognize and address variations in their behavior. As previously discussed all sex offenders are not the same. Distinctions among the behavior patterns of different types of sex offenders can have important and valuable implications for the investigation of the sexual exploitation of children. You cannot make these distinctions when necessary and important *(e.g.*, interrogation strategy, expert search warrant) if all offenders are referred to by the same term. Second the term is extremely prejudicial. Although the term is nonclinical and can be used by anyone, its use might be restricted as too prejudicial for court documents and testimony. The term has a very negative connotation and conjures up an image of evil in disguise and inevitable violence. Many offenders who repeatedly sexually victimize children appear to be "nice" because they actually are nice and rarely, if ever, use violence as it is traditionally defined. The *N-JOV Study* indicated online offenders used violence in only 5% of the episodes (Wolak, Finkelhor, and Mitchell, 2004).

When used in prevention programs the term **predator** will often be inconsistent with the perceptions of potential child victims. As previously stated, if the term is used, any discussion should clearly include the possibility that such **predators** may regularly practice their faith, work hard, be kind to neighbors, love animals, and help children. As with the term **pedophile** I recommend the use of the term **predator** by law enforcement and prosecutors should be carefully considered and kept to a minimum.

Use of Information Technology

The great appeal of information technology, computers in particular, becomes obvious when you understand sex offenders, especially the preferential sex offender. Whether a system at work, at a library, at a cyber café, at home, or a handheld

device, the computer provides preferential sex offenders with an ideal means of filling many of their needs.

The sex offender utilizing a computer or the Internet is not a new type of criminal or cyber "pedophile." It is simply a matter of modern technology catching up with long-known, well-documented behavioral needs. In the past they were probably among the first to obtain and use, for their sexual needs, any new inventions and technology. Because of their traits and needs, they are willing to spend whatever time, money, and energy it takes to obtain, learn about, and utilize this technology. They are usually among the first to obtain and utilize any new technology that fills their needs. The use of information technology may be more significant and pervasive, but the underlying offender needs are the same.

The most **criminally** significant sexually exploitive uses of the computer and the Internet are to produce and collect child pornography and interact with and solicit sex with children. Because of their importance and complexity, of the uses noted below, those two will be discussed in the greatest detail.

Organization

Offenders use computers to organize their collections, correspondence, and fantasy material. Many preferential sex offenders in particular seem to be compulsive recordkeepers. A computer makes it much easier to store and retrieve names and addresses of victims and individuals with similar interests. Innumerable characteristics of victims and sexual acts can be easily recorded and analyzed. An extensive pornography collection can be cataloged by subject matter. Even fantasy writings and other narrative descriptions can be stored and retrieved for future use. Such detailed records can be useful in determining the ages of children in pornography images, identifying additional victims, and proving intent.

One problem the computer creates for law enforcement is determining whether computer text describing sexual assaults are fictional stories, sexual fantasies, diaries of past activity, plans for future activity, or current threats. This problem can be compounded by the fact there are individuals who believe cyberspace is a new frontier where the old rules of society should not apply. They do not want this "freedom" scrutinized and investigated. For general guidance in evaluating this material, in texts that are just fantasy, everything seems to go as planned or scripted with no major problems. Reality rarely works out so well. There is, however, no easy solution to this problem. Meticulous analysis, documentation, and investigation are the only answers.

Communicate, Fuel, and Validate

Many offenders are drawn to online computers to communicate and validate their interests and behavior. This validation is actually the most important and compelling reason many sex offenders are drawn to the online computer, but such activity is usually not a crime. In addition to physical contact and putting a stamp on a letter or package, they can use their computer to exchange information and for validation. Through the Internet offenders can use their computers to locate individuals with similar interests. Like advertisements of old in "swinger magazines," computer online services are used to identify individuals of mutual interests concerning age, gender, and sexual preferences. The ongoing study by the FBI's BAU of Internet

sexual exploitation of children found 95% of online offenders communicated with like-minded individuals or organizations (Eakin, 2009).

The computer may enable them to obtain active validation *(i.e.*, from living humans) with less risk of identification or discovery. The great appeal of this type of communication is perceived anonymity and immediate feedback. They feel protected as when using the mail, but get immediate response as when meeting face-to-face. The ease with which individuals with a sexual interest in children can now get validation through the Internet has made validation support groups such as the North American Man/Boy Love Association (NAMBLA) far less relevant.

Because of this validation process and the fueling of sexual fantasy with online pornography, I believe some individuals with potentially illegal, but previously latent sexual preferences have begun to criminally act out. Their inhibitions are weakened after their arousal patterns are fueled and validated (not created) through online computer communication.

In addition to adults with similar interests, offenders can sometimes get validation from the children they communicate with online. Children needing attention and affection may respond to an offender in positive ways. They may tell the offender he is a "great guy" and they are grateful for his interest in them. In communicating with children, and in a few cases with adults, offenders can assume the identities of one or more children.

Validation is also obtained from the fact they are utilizing the same cutting-edge technology used by the most intelligent and creative people in society. In their minds the time, technology, and talent it takes to engage in this activity is proof of its value and legitimacy. Because of this validation process and the fueling of sexual fantasy with online pornography, I believe some individuals with potentially illegal, but previously latent sexual preferences have begun to criminally act out. Their inhibitions are weakened after their arousal patterns are fueled and validated (not created) through online computer communication.

The need for validation is not some abstract psychological concept of little significance to investigators. Offenders' need for validation is the foundation on which proactive investigative techniques *(e.g.*, stings, undercover operations, proactive investigations) are built and the primary reason they work so often. Although their brains may tell them not to send child pornography to, reveal details of past or planned criminal acts to, or travel to meet someone they don't know in person whom they only communicated with online, their need for validation often compels them to do so. Playing to this need is also the key to the most effective interrogation strategy that results in confessions.

Maintenance of Business/Financial Records

Offenders who have turned their child pornography into a profit-making business use computers the same way any business uses them. Things such as lists of customers, dollar amounts of transactions, credit-card information, and descriptions of inventory can all be recorded on the computer. Because trafficking in child pornography by computer lowers the risks and increases access to potential customers, there has been an increase in profit-motivated distribution. It could be argued those who use computers and the Internet to facilitate the sexual exploitation of children for profit

only are not real sex offenders. It is my experience, however, that even those offenders with a significant profit incentive may also have some sexual motive for their activity.

Child Pornography

The *N-JOV Study* of reported law-enforcement cases found 67% of offenders who committed any of the types of Internet sex crimes against minors possessed child pornography (Wolak, Mitchell, and Finkelhor, 2003). The *N-JOV Study* also found that of an estimated 1,713 arrests during the 12 months beginning July 1, 2000, by law enforcement for Internet-related crimes involving possession of child pornography, 40% were "dual offenders" who sexually victimized children and possessed child pornography (Wolak, Finkelhor, and Mitchell, 2005). An additional 15% attempted to sexually victimize children by soliciting undercover investigators who posed online as minors. More than one in three (39%) had at least one video with moving images of child pornography. Although reliable estimates about the percentage of all child-pornography collectors who also molest children vary, it is generally agreed that the percentage is significant – but not 100%. The possibility should always be investigated. The *N-JOV Study* found one in six investigations of child-pornography possession discovered dual offenders (Wolak, Finkelhor, and Mitchell, 2005). Obviously an offender's motivation to produce, collect, and disseminate child pornography can be influenced separately or in combination by sex, power, or money.

An offender can use a computer to transfer, manipulate, and even create child pornography. Some child pornography is self-produced by the children in the images and disseminated online. Images can easily be digitally stored, transferred from print or videotape, and transmitted with each copy being as good as the original. Visual images can be digitally stored in a variety of ways *(e.g.*, hard drives, external drives, memory cards, flash drives, CDs, or DVDs). Some of this activity can be conducted without a traditional "computer" using handheld devices, smart phones, and cell phones with digital cameras. Video cameras and recorders can be easily integrated with computer systems. High-speed Internet connections and file sharing make it possible to transfer high-quality, high definition, lengthy moving images *(e.g.*, videos, films). Real-time video images, multimedia images with motion and sound, and virtual-reality programs can provide added dimension to pornography. Webcams can transmit sexually explicit conduct *(e.g.*, voyeurism, exhibitionism) with or by a child or offender as it is happening and the resulting visual images can be captured and saved. The data is stored, and transmitted information can be encrypted to deter detection. Files can be transferred, stored, and printed wirelessly.

The ongoing study by the FBI's BAU of Internet sexual exploitation of children found 97% of online offenders were collectors of child pornography with 72% of the collections containing both adult and child pornography. Only 18% of the collections were exclusively dedicated to children. In 10% of cases there was insufficient case data to make a conclusion about the specific nature of the collection. It found 78% of child-pornography files were not protected by encryption or passwords and almost half (47%) of the collections included child erotica. The vast majority of the child-pornography collections contained depictions of prepubescent children, with slightly more girls than boys. Most collections also contained multiple paraphilic themes such as bestiality, bondage sadism, urophilia (Eakin, 2009).

Under the federal Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today (PROTECT) Act of 2003 the term "child pornography" was re-defined to include "a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct or such visual depiction that has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct." An "identifiable minor" is defined as a person "who was a minor at the time the visual depiction was created" or "whose image as a minor was used" and "who is recognizable as an actual person" (18 U.S.C. § 2256(8)(b)). Readers should seek advice from qualified attorneys to interpret the precise meanings of these legal definitions under federal law and their application to child-sexual-exploitation cases involving computers and the Internet. State laws defining child pornography obviously also vary.

Computers can sometimes make evaluating questionable child pornography much easier. Rarely is the context of its possession and distribution *(i.e.*, how it was produced, saved, used) as well documented as in cases involving computers. With a computer, investigators and prosecutors can usually evaluate and consider

- Sources of the images
- How they were traded
- Other material transmitted with the images
- Amount of material sent and/or received
- Overall themes of the images
- Use of compressed files
- Directory and file names assigned by suspect
- Messages with the images
- Content of related chat or text messages (by far the most valuable)
- Manipulation of images

Interact and Solicit Sex With Children

The second *Youth Internet Safety Survey (YISS-2)*, conducted in 2005 of children ages 10 to 17, indicated 13% of youth reported receiving unwanted sexual solicitations online (Wolak, Mitchell, and Finkelhor, 2006). In addition 4% reported close online relationships with adults they met online, and, of those, 29% had face-to-face meetings with the adults they met online. The *N-JOV Study* of reported law-enforcement cases found in 49% of the arrests for Internet sex crimes committed against identified minors, the offender was a family member or prior acquaintance of the victim. The Internet was not used to initiate the relationship. Most victims who met offenders in person went to such meetings expecting to have sex (Wolak, Mitchell, and Finkelhor, 2003). The second wave *N-JOV Study* indicates a decrease from 80% in 2000 to 40% in 2006 in contacts initiated in chatrooms and the emergence of social-networking sites (33%) as a contact point. There was also an increase in offenders claiming to be minors at some point in the online communication from 5% in 2000 to 20% in 2006 (Wolak, Finkelhor, and Mitchell, 2009).

The ongoing study by the FBI's BAU of Internet sexual exploitation of children found 28% of the offenders were determined to be child molesters and 14% (**travelers**) traveled, usually interstate, to have sex with a child he communicated with online. Of those communicating online 60% requested a meeting with the child,

46% sent child pornography to the child, 44% got on the telephone with the child, 42% requested a picture of the child, 35% provided attention/social support to the child, 28% engaged in cybersex with the child, and 27% offered gifts (Eakin, 2009).

Offenders can use the online computer to troll for and communicate with potential victims with less risk of being identified. The use of a vast, loose-knit network like the Internet can sometimes make identifying the actual perpetrator difficult. On the computer the offender can assume any identity or characteristics he wants or needs and gain access to a large reservoir of potential child victims. Much of the grooming/seduction process can now begin and progress utilizing online text, voice, and visual communication. Although children from dysfunctional families and families with poor communication might be at higher risk for seduction, all children are vulnerable. Older children are obviously at greater risk than younger children. Adolescent boys confused over their sexual orientation are at particularly high risk of such contacts.

By no reasonable definition should an individual with whom a child has regularly communicated online for months be considered a "stranger," even if that individual has lied about his true identity. In the world of the Internet, someone you never met in person is not a stranger, but can be a "BFF" (best friend forever). Many offenders are in fact reasonably honest about their identity and some even send recognizable photographs of themselves. They spend hours, days, weeks, and months communicating, including a lot of listening, with children. The child can be indirectly "victimized" through conversation *(e.g.*, "e-mail," "chat," "instant messages," "blogs," "cybersex," "sexting") and the transfer of sexually explicit information and material. Through the use of webcams, offenders can, in real-time, display sexually explicit behavior to children (exhibitionism) and observe children engaging in suggested sexually explicit behavior (voyeurism). This interaction can be enhanced by digital teleconferencing that allows for online voice and visual participation, even by multiple offenders, in the sexual victimization of children. Such "cybersex" can call into question traditional definitions of child molestation as "hands-on" contact. The child can also be evaluated for future face-to-face contact and direct victimization.

Investigators must recognize many of the children lured from their homes after online computer conversations are not innocents who were duped while doing their homework. Most are normal, curious, rebellious, or troubled adolescents seeking sexual information or contact. Society has to stop focusing on the naive belief that teenagers are "accidentally" getting involved. Many adolescent children go online to deliberately find pornography. Investigation will sometimes discover significant amounts of adult and child pornography and other sexually explicit material on the computer of the child victim. Investigation can also sometimes discover the child victim has made as many, if not more, misrepresentations as the offender. Most of them have been seduced and manipulated by a clever offender and usually do not fully understand or recognize what they were getting into. The child victim may believe the offender is a "true love" or rescuer with whom they want to have sex. Even if they do fully understand, the law is still supposed to protect them from adult sexual partners. Consent should not be an issue with child victims even if they are "compliant" (Lanning, 2005). Investigators must recognize and address these dynamics when interviewing these online child victims *(see* the chapters titled "Acquaintance-Exploitation Cases," beginning on page 63, and "Investigating Acquaintance Sexual Exploitation" beginning on page 137).

Identified victims, even those whose abuse did not involve a computer, should be interviewed about their knowledge of the offender's use of a computer. In particular they may know details such as the offender's passwords.

Comments Concerning Prevention

Reality about documented cases and child development should be incorporated into awareness and prevention programs intended to keep children safer when on the Internet. The reason we protect children and limit their accountability is because they are developmentally immature, not because they are innocent. Children are human. They learn to manipulate their environment from birth. Adolescent children are interested in sex and often engage in high-risk behavior without considering or comprehending the consequences. Generally speaking children younger than 12 years of age tend to listen to adults, but do not fully understand what they are saying *(i.e.*, "why can I talk to this stranger but not this other stranger?"); children older than 12 years of age tend to better understand, but no longer listen. Many adolescent children believe "rules are made to be broken." Maybe one reason parents/guardians should not trust their teenage children is simply because they are teenagers. To quote from President Reagan, the best strategy may be "trust but verify."

The *N-JOV Study* found the prevalent image of Internet sex crimes being committed against minors by "strangers" who are pedophiles and deceive and lure unsuspecting children into situations where they can be forcibly abducted or sexually assaulted is not accurate. Most offenders in these Internet cases did not deceive their victims about the fact they were adults who were interested in sexual relationships. The victims in these cases were young adolescents with 99% being age 13 to 17, and none younger than 10. Most victims met and had sex with the adults on more than one occasion and half the victims were described as being in love with or feeling close bonds with the offender. The *N-JOV Study* also found because in most cases the offenders had communicated extensively with victims, both on- and offline, before they actually met in person, it would be misleading to characterize them as "strangers" to their victims. There was no evidence the online offenders were stalking or abducting unsuspecting victims based on information they posted at social-networking sites. Most offenders were open about their sexual motives in their online communication with youth. (Wolak, Finkelhor, and Mitchell, 2004; Wolak, Finkelhor, Mitchell, and Ybarra, 2008; and Wolak, Finkelhor, and Mitchell, 2009). Using the terminology defined in this publication, they are child victims who engaged in compliant behavior.

Many children have developed and use online shorthand. Abbreviations such as P911 (my parents are coming), PAW (parents are watching), POS (parent over shoulder), and PIR (parent in room) are used to let people with whom they are communicating online know their parents are around. This type of behavior should help remind us of the obvious – children often do things they want to do but their parents/guardians do not want them to do. That is what it means to be a teenager! Most online child victims take risks on- and offline and see the online relationships as romances and sexual adventures. It appears some of the most risky behavior involves being rude or nasty online, discussing sex online with persons they do not know in person, sending ("sexting") sexy images, engaging in cybersex, and receiving online sexual

solicitation (Wolak, Finkelhor, Mitchell, and Ybarra, 2008). Children creating, sending, and receiving sexually explicit images of children (including themselves) also involves serious violations of the law for which they could be prosecuted.

It is easier to prevent things that both the parent/guardian and child do not want to happen *(i.e.*, forced sex with a sexual predator you met online). It is harder to prevent things the parent/guardian does not want to happen, but the child does *(i.e.*, romantic sex or a good time with an exciting adult friend you met online). Public-service announcements warning about online dangers occasionally appear on television. Commercials for online sites where you can find the love of your life or your soul mate, however, run all day long. Parents/guardians also recognize the problem of asking your children to "do as I say, not as I do." It is hard to expect children to abide by rules for online safety when parents/guardians download pornography and disclose private information, exchange photographs by e-mail, and travel to meet an online "stranger."

Simplistic or unrealistic advice based on the belief teenagers only accidentally or inadvertently find sexually explicit images online, recommending putting the family computer in the middle of the family room, or asking adolescent children to tell their parents/guardians if something or someone online makes them feel scared, uncomfortable, or confused is unlikely to have significant impact on the problem. With the computer in the family room, many children will simply use another computer or some portable high-tech device to engage in their high-risk behavior. Adolescent children are unlikely to tell about sexual contacts and solicitations when they perceive this activity to be fun, adventurous, or desirable. They are children. Sexual activity with adults is a problem whether or not it is "wanted" by the child.

Warning children about online "predators" can communicate a false impression of the nature of the danger. From the potential child victim's perspective the typical online offender is less like the weirdo at the playground and more like the nice acquaintance who lives in the neighborhood. Making children safer online should rely less on hardware, software, and dire warnings about online predators and more about involvement in their lives, communication, and love. **Editor's Note**: While it may be a challenge in families to have discussions with older children about responsibility and consequences of online choices and actions, it is important for parents and guardians to take the time to talk to their older children about the potential risks, in order to help make them part of your family's plan for safer Internet use. For more tips and discussion starters, please visit www.NetSmartz.org, and to answer your questions about the Internet, please visit www.NetSmartz411.org.

Proactive Investigations

When law-enforcement officers are pretending to be children as part of authorized and approved proactive investigations, they must remember the number of potential offenders is proportional and the "appeal" of the case is inversely proportional to the "age" of the "victim." Because there are far more potential offenders interested in older children, pretending to be a 15- or 16-year-old will result in a larger online response. The resulting case, however, will have far less jury appeal. Pretending to be a 5- or 6-year-old is unrealistic. Most online undercover investigators claim to be 12 to 15 years old. If you can effectively pretend to be a 12-year-old, it makes less sense

to pretend to be a 13- or 14-year-old. One alternative used by some investigators is to pretend to be an adult with access to young children. Posing as an adult with access to children can be more productive in eliciting corroborative evidence and identifying additional victims after meeting the offender. Investigators must also remember when pretending to be a boy online, the "relationship" usually moves a lot faster and they must be prepared to take appropriate action faster. The findings from the second wave of the *N-JOV Study* indicated there was close to a fivefold increase in arrests for online solicitation of undercover investigators from 2000 to 2006. The percentage of arrested offenders who solicited undercover investigators online increased sharply among young adults (ages 18 to 25) from 7% of arrests in 2000 to 34% in 2006 (Wolak, Finkelhor, and Mitchell, 2009).

To suggest such responses to proactive investigations are not or should not be crimes because no real child is involved or harmed is ridiculous. In addition, in spite of their current popularity and the cooperation of some law-enforcement agencies, proactive investigations should never be conducted by civilian groups or the media. Only law-enforcement officers as part of official, authorized investigations should be conducting proactive investigation or downloading child pornography on a computer. No one should be uploading child pornography. When caught in these proactive investigations, some offenders claim it was all part of their own undercover "investigation" or a means of communicating with and helping a troubled child.

Behavioral Defenses

When caught in these proactive investigations, some offenders claim to be suffering from "Internet-addiction syndrome." The Internet is somehow to blame for their behavior because it created these urges or lowered their inhibitions after they became addicted. This might be of some relevance if they were charged with the "crime" of spending too much time on the Internet. Since it is often claimed this condition is like "pathological gambling," the cautionary statement from page xxxvii of the *Diagnostic and Statistical Manual of Mental Disorders*, 4th Edition, Text Revision (*DSM-IV-TR*®) about claims of pathological gambling might be useful (American Psychiatric Association, 2000) (*see* also the section titled "Sentencing Issues" beginning on page 173).

After developing a relationship online, some offenders who are arrested attempting to meet with children (or individuals they believe to be children) to engage in illegal sexual activity claim they were not really going to have "sex." Some claim because of their vast online experience they actually knew the person they were communicating with was really not a child. This is highly unlikely for a need-driven offender and few offenders are willing to submit to an objective test of this skill. They claim the discussed sex was just a fantasy or cybersex. They point to their lack of a psychiatric or criminal history of child molestation. Their sexual activity is supposed to be more about escaping stress and less about sexual gratification and influenced by the anonymity, convenience, and escape of the Internet. It is hard to understand why the forbidden activity they are drawn to involves sex with children. This so-called "fantasy defense" is popular among better educated, wealthier defendants.

There are mental-health experts who claim to know how to distinguish true "pedophiles" from the "fantasy user" and will so testify. According to many of these experts, true "pedophile" offenders frequent children's chatrooms and sites, pose

as children, discuss things of interest to children, slowly reveal their real identity, and establish a special bond with the child. In contrast the "fantasy user" frequents adult chatrooms or sites, role plays as a child with adults, quickly and bluntly discusses sex, openly admits his identity, and is indifferent to the relationship. This theory has two major problems. First is the fact the so-called "pedophile" pattern is a stereotype that although commonly circulated does not represent many valid cases. These mental-health experts seem to have uncritically accepted an invalid stereotype. The current research concerning actual cases and documented online behavior indicates many "true" offenders do not follow these claimed "pedophile" patterns and do follow the claimed "fantasy-user" patterns *(e.g.*, blunt discussion of sex, minimal identity deception). Many of these so-called "fantasy-user" behavior patterns are in fact consistent with criminal interaction with actual adolescent victims. In addition most actual online victims are pubescent adolescent children who are of sexual interest to many individuals who are not diagnostically pedophiles.

The second and biggest problem with this theory, however, is the basis for the "fantasy-user" pattern. Of necessity it is based on the study of people who claim they do not do something. It is apparently "research" concerning self-reported, nonbehavior that is difficult to document. How does the mental-health expert know the "fantasy users" studied have never offended? How do you document a negative based on self-reported information and arrest? Most arrested online offenders have no prior arrests and were theoretically "fantasy users" until caught.

Some of these experts even claim sexual fantasies have nothing to do with sexual behavior. My 35 years of studying criminal sexual behavior tells me not all sexual fantasies are acted out but many sex crimes are born in sexual fantasy. Documented sexual behavior has been compared with the seized collections and fantasy material of sex offenders. The ongoing study by the FBI's BAU of Internet sexual exploitation of children found when the collector was also a child molester there was a striking similarity between the children and the sex acts depicted in the collection and the actual hands-on offenses (Eakin, 2009). To suggest regular, repeated, time-consuming sexual fantasies accompanied by masturbation have nothing to do with behavior is absurd.

Investigators and prosecutors must objectively weigh all aspects of an offender's behavior when addressing these issues of intent, motivation, or knowledge. They should evaluate such things as the offender's past history, collection of pornography or erotica, the nature of communications, overt actions taken consistent with online communication, use of identification cues for a scheduled meeting, and items brought to any in-person meeting. The idea that all communication about sex on the Internet is just fantasy is absurd and not consistent with the reality of many Internet relationships. There is not always a clear line between what is fantasy and what is behavior. Activities such as masturbation, viewing pornography, use of props and dolls, verbal role-playing, and cybersex often involve both. Ultimately a judge or jury will decide this question of fact. In my opinion, however, no expert should ever be allowed to testify there is a profile of people who do not do something and a defendant on trial is not guilty because he fits that profile. Those wanting to read an appellate decision discussing the admissibility of defense expert testimony concerning the fantasy defense from a legal perspective should *see United States v. Curtin*, 588 F.3d 993 (9th Cir. 2009).

Staleness of Probable Cause

Because of delays in communicating details from proactive investigations, staleness is a common problem in computer-exploitation cases. It may take weeks or months for the details learned from an undercover Internet investigation in one part of the country to be disseminated to investigators with jurisdiction over the target computer in another part of the country. The informational basis for a search warrant may constitute probable cause, but it may be so old that it is now considered stale.

Obviously the best way to address the staleness of probable cause is to "freshen" it up with current investigation and information. Staleness of probable cause can also be addressed with an "expert" search warrant setting forth an opinion that certain types of offenders may be an exception to the staleness doctrine. It has been my experience that true preferential sex offenders will rarely destroy their collections, even if they believe they are under investigation. Before using this technique, investigators and prosecutors should do legal research and be aware of appellate decisions that support or deny this approach.

Another way to address "staleness" is to recognize the information in question may not be stale. It is a matter of differing opinion as to when the informational basis for probable cause in a computer case becomes stale. Some prosecutors say in days. Others say weeks, and most say months. I believe this time interval varies based on the type of information and evidence. Because of characteristics of technology and human behavior, in my opinion, probable cause about evidence on a computer should not even be considered stale for at least one year. It is not easy to effectively delete the data and files on a computer even when you try. Furthermore most people do not delete the material on a regular basis. Such editing of a computer is likely to occur less often than cleaning out the garage or basement. Because this is a common human characteristic, it should not require the opinion of an expert.

Investigators who believe or accept any data or research indicating child-pornography collectors are highly likely to also be involved in actively molesting children must also address another aspect of this staleness dilemma. Knowing children were at high-risk of being sexually victimized, they must be prepared to explain why the probable cause about the child-pornography activity was allowed to get stale before appropriate action was taken.

Summary

Investigators must be alert to the fact that any sex offender with the intelligence, economic means, or employment access might be using a "computer," the Internet, and digital-memory storage devices in any or all of the above described ways. Preferential sex offenders, however, seem to be the most likely to do so. As computer and digital technology continues to become less expensive, more sophisticated, smaller in physical size, and easier to operate the potential for abuse will grow rapidly with a more diverse population of offenders increasingly using them to sexually exploit children. Although child-sexual-exploitation cases present many investigative and prosecutive problems and obstacles, suspects using this technology increase the likelihood large amounts of corroborative evidence will be uncovered by investigators. Need-driven behavior is the good news of many cases involving the sexual exploitation of children and use of computers and the Internet.

Investigating Acquaintance Sexual Exploitation

Overview

This chapter is intended to offer general guidelines about how to apply the previously discussed behavioral dynamics to the investigation and prosecution of cases of sexual exploitation of children perpetrated by acquaintance molesters.

Intrafamilial, child-sexual abuse cases can be difficult to prove in a court of law. Frequently there is only the word of one child against that of an adult. This is, however, rarely the case in child-sexual-exploitation cases especially those involving preferential sex offenders. With multiple victims no one victim should have to bear the total burden of proof, and cases should rarely, if ever, be severed for prosecution. The strongest victims and cases should be selected for prosecution. It will be extremely difficult to convict a prominent, well-respected member of the community based only on the testimony of one troubled, delinquent adolescent or one confused, naive young child.

It is commonly accepted that child sexual victimization is a complex problem requiring the efforts and coordination of many agencies and disciplines. No one agency or discipline possesses the personnel, resources, training, skills, or legal mandate to effectively address every aspect of child maltreatment. In this context law enforcement interacts with a variety of professions and agencies during the investigation process. For example some offenders cross jurisdictional boundaries, and many violate a variety of state and federal laws when exploiting children. This often will mean working with other local, state, and federal law-enforcement agencies in multijurisdictional investigative teams and with prosecutors, social services, and victim assistance in multidisciplinary teams. This can be done as part of informal networking or a formal task force.

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The multidisciplinary approach not only is advantageous in avoiding duplication and making cases but is also in the best interests of the child victim. It may minimize the number of interviews, decrease the length of the investigation process, and provide the victim with needed support. The team approach can also help investigators address the stress and emotional challenges of this work by providing peer support. The multidisciplinary approach is mandated statutorily or authorized in the majority of states and under federal law (Ells, 2000).

Working together as part of a multidisciplinary team means **coordination** not **abdication**. Each discipline performs a function for which it has specific jurisdiction, resources, training, and experience. Although each discipline must understand how its role contributes to the team approach, it is equally important to understand the respective responsibilities and limitations of that role. For example child-protection agencies often cannot get involved in cases in which the alleged perpetrator is not a parent/guardian or caretaker (*i.e.*, acquaintance molester).

The team approach is a two-way street. Just as medical and psychological professionals are charged with evaluating and treating the abused or neglected

child, law-enforcement investigators are responsible for conducting criminal investigations. Just as law-enforcement officers need to be concerned their investigation might further traumatize a child victim, therapists and physicians need to be concerned their treatment techniques might hinder the investigation.

The Law-Enforcement Perspective

The law-enforcement perspective investigates criminal activity and carries out legally defensible fact-finding. The process must, therefore, focus **more on**

- Admissible evidence of **what** happened than on emotional belief that **something** happened
- The accuracy than on the existence of repressed memory
- Objective than on subjective reality
- Neutral investigation than on child advocacy

In their desire to convince society that child sexual victimization exists and children do not lie about it, some professionals interpret efforts to seek corroboration for alleged sexual victimization as a sign of denial or disbelief. Corroboration, however, is essential. Investigators cannot just accept something sexual happened to a child and ignore the context details that are necessary if it is to be proven in a court of law. If a child makes a disclosure, investigators must attempt to determine not just what is alleged but also the details of the context in which that disclosure took place. When the only evidence offered is the word of a child against the word of an adult, child sexual victimization can be difficult to prove in a court of law. It is not the job of law-enforcement officers to believe a child or any other victim or witness. The child victim should be carefully interviewed. The information obtained should be assessed and evaluated, and appropriate investigation should be conducted to corroborate any and all aspects of a victim's statement. The investigator should always be an objective fact-finder considering all possibilities and attempting to determine what happened with an open mind. As previously stated, in a valid case, the best and easiest way to avoid child-victim testimony in court is to build a case so strong the offender pleads guilty. Most children, however, can testify in court if necessary.

Regardless of intelligence and education and often despite common sense and evidence to the contrary, adults tend to believe what they want or need to believe. The greater the need, the greater the tendency.

Emotion Versus Reason

Regardless of intelligence and education and often despite common sense and evidence to the contrary, adults tend to believe what they want or need to believe. The greater the need, the greater the tendency. The extremely sensitive and emotional nature of child sexual exploitation makes this phenomenon a potential problem in these cases. For some no amount of training and education can overcome emotion and zealotry. Some people seem to be incapable of becoming objective fact-finders in some sexual-victimization-of-children cases. Investigators must evaluate this tendency in other interveners and minimize it in themselves by trying to do their job in a rational, professional, and objective manner.

In order to be effective interviewers, investigators must be both aware of and in control of their own feelings and beliefs about victims and offenders in child-sexual-exploitation cases. People in the United States tend to have stereotypical concepts of the innocence of children and malevolence of those who sexually victimize them. Even some trained professionals seem to have an emotional or political need to believe all child victims are forced into unwanted sex by violent predators. Most investigators now know a child molester can look like anyone else and may even be someone we know and like. As previously discussed the stereotype of the child victim as a completely innocent little girl, however, is still with us and less likely to be addressed by lay people and even professionals. In reality child victims of sexual abuse and exploitation can be boys as well as girls, and not all victims are "angels" or even "little." The idea that some children might enjoy certain sexual activity or behave like human beings and engage in sexual acts as a way of receiving attention, affection, gifts, and money is troubling for society and many investigators. The standard for adult victims of sex crimes should not be automatically applied to child victims.

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Depending on the nature of the abuse and techniques of the offender, investigators must understand the victim may have many positive feelings for the offender and even resent law-enforcement intervention. The investigator must be able to discuss a wide variety of sexual activities, understand the victim's terminology, and avoid being judgmental. Not being judgmental is much more difficult with a delinquent adolescent boy engaged in homosexual activity with a prominent clergy member than with a sweet 5-year-old girl abused by a "low-life" drifter. Investigators often nonverbally communicate their judgmental attitude through gestures, facial expressions, and body language. Many investigators do a poor job of interviewing children because deep down inside they really do not want to hear the detailed answers.

Another emotion-related problem that occurs frequently during subject and suspect interviews is the inability of some investigators to control or conceal their anger and outrage at the offender's behavior. They often want to spend as little time as possible with the offender. Occasionally investigators have the opposite problem and are confused that they have sympathetic feelings for the offender. Many investigators also find it difficult to discuss deviant sexual behavior calmly, objectively, nonjudgmentally, and in detail with anyone much less an alleged child molester or a child victim.

An investigator who gets too emotionally involved in a case is more likely to make mistakes and errors in judgment. He or she might wind up losing a case and allowing a child molester to go free because the defendant's rights were violated in some way. The officer is also less likely to interview and assess a child victim properly and objectively. Such emotionalism may also damage credibility in the courtroom and community. Investigators must learn to recognize and control these feelings. If they cannot, they should not be assigned to child-sexual-victimization cases or, at least, not to the interview phase.

The "Big-Picture" Approach

Although this chapter cannot cover in detail the investigation of all types of cases, it can serve to alert investigators to the "big-picture" approach to the sexual victimization of children. Investigators must stop looking at child sexual exploitation through a keyhole — focusing only on one act by one offender against one victim on one day. Law enforcement must "kick the door open" and take the "big-picture" approach — focusing on offender typologies, patterns of behavior, multiple acts, multiple victims, child pornography, and proactive techniques.

The "big-picture" approach starts with recognizing four basic but often ignored statements about child molesters.

- Child molesters sometimes molest multiple victims
- Intrafamilial child molesters sometimes molest children outside their families
- Sex offenders against adults sometimes molest children
- Other criminals sometimes molest children

These elements are not always present or even usually present; nevertheless, their possibility should be incorporated into the investigative strategy. There is no graduation ceremony at which criminals must choose to be "regular" criminals or sex offenders, nuisance or serious sex offenders, sex offenders against adults or against children, and sex offenders against their own or someone else's children. Offenders often ignore neat categories of criminals and crime. A window peeper, an exhibitionist, or a rapist also can be a child molester. "Regular" criminals can also be child molesters. A child molester put on the Federal Bureau of Investigation's (FBI) "Ten Most Wanted" list was later arrested for burglarizing a service station. Although most professionals now recognize an intrafamilial child molester might victimize children outside his or her family and identifying other victims can be an effective way to corroborate an allegation by one victim, few seem to incorporate a search for additional extrafamilial victims into their investigative approaches. An acquaintance molester may also use marriage as a method of gaining access to children.

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In numerous cases offenders have not been effectively prosecuted or continued to operate for many years after first being identified because no one took the "big-picture" approach. Convicting an acquaintance child molester who is a "pillar of the community" is almost impossible based only on the testimony of one confused 5-year-old girl or one delinquent adolescent boy. Investigation, especially of preferential sex offenders, should never be "he said, or she said," but "he said, they said." To stop the offender, law enforcement must get details; be willing to evaluate the allegations; conduct background investigation; document patterns of behavior; review records; identify other acts and victims; and, as soon as possible, develop probable cause for a search warrant. Simply interviewing the child, or obtaining the

results of someone else's interview, asking the offender if he did it, polygraphing him, and then closing the case does not constitute a thorough investigation and is certainly not consistent with the "big-picture" approach.

The "big-picture" investigative process consists of three phases. They are **interview, assess and evaluate**, and **corroborate**. These three phases do not always happen in this sequence and even may occur simultaneously or intermittently.

Interview (Listen)

This section will not include a detailed discussion of the latest research and specific techniques for interviewing children *(see* Saywitz, Goodman, and Lyon, 2002). A recently published article specifically focuses on interviewing adolescent compliant victims (Connell and Finnegan, 2010). Only a few thoughts about the law-enforcement perspective of child-victim interviewing and some general guidelines will be discussed here.

Law-Enforcement Role

For some the criminal investigation of child sexual victimization has evolved into using newly acquired interviewing skills to get children to communicate and then believing whatever they say. For others it has become letting someone else do the interview and then blindly accepting the interviewer's opinions and assessments. Law-enforcement officers should take advantage of the skills and expertise of other disciplines in the interviewing process. If the primary purpose of an interview of a child is to gain investigative information, however, law enforcement should be actively involved. This involvement can range from actually doing the interview to carefully monitoring the process. Although there is nothing wrong with admitting shortcomings and seeking help, law enforcement should **never** abdicate its control over the investigative interview.

The solution to the problem of poorly trained investigators is better training, not therapists and physicians independently conducting investigative interviews. Even if, for good reasons, an investigative interview is conducted by or with a forensic interviewer, social worker, or therapist, law enforcement should be in control.

The Disclosure/Reporting Continuum

Before applying interviewing research, training, and skills, investigators first must attempt to determine where the child is on the disclosure/reporting continuum. This determination is essential to developing a proper interview approach that maximizes the amount of legally defensible information and minimizes allegations of leading and suggestive or repetitive questioning. The disclosure process is set forth as a continuum because there can be many variations, combinations, and changes in situations involving the disclosure status of child victims. Training material and presentations often fail to consider and emphasize the determination of this disclosure/reporting status prior to conducting a child-victim interview.

At one end of the continuum are children who already have made voluntary and full disclosures to one or more people. These are generally the easiest children to interview. The child has made the decision to disclose, and the child has done

so at least once. It is, of course, important to determine the length of time between the abuse and disclosure.

At another point along the continuum are children who have voluntarily decided to disclose but it appears have made only incomplete or partial reports. For understandable reasons, some children fail to disclose, minimize, or even deny all or part of their victimization; however, not every child who discloses sexual victimization has more horrible details yet to be revealed.

Further down the continuum are children whose sexual victimization was discovered rather than disclosed *(e.g.*, recovered child pornography, medical evidence). This can often be the situation in cases in which child pornography or computer records are found. These interviews can be more difficult because these children have not decided to disclose and may not be ready to disclose. They also can be easier, however, because the investigator knows with some degree of certainty that the child was victimized. The interview can now focus more on determining additional details.

At the far end of the continuum are children whose sexual victimization is only suspected. These may be the most difficult, complex, and sensitive interviews. The investigator must weigh a child's understandable reluctance to talk about sexual victimization against the possibility that the child was not victimized. The need to protect the child must be balanced with concern about damaging the reputation of an innocent suspect and leading or suggestive questioning. This is often the situation in acquaintance-exploitation cases. This leads to the complex question of whether and what type of an investigation can be conducted to identify victims when there are no disclosing victims or only vague, nonspecific complaints. The indication that the behavior of someone with access to children seemingly fits some suspicious pattern would justify what amount of investigation? Does the mere collection (not production) of child pornography justify an investigation into the possibility the identified collector has molested children? Do you interview both intrafamilial and extrafamilial potential victims? How many interviews can you conduct? The answers to these questions are not as simple as many think. Such issues should be discussed with supervisors and legal advisors.

Establishing Rapport and Clarifying Terms

The interviewer's first task, with any age child, is to establish rapport. Investigators should ask primarily open-ended questions that encourage narrative responses. It is hoped this will set the stage for more reliable responses to investigative questions that follow.

Part of developing rapport with victims of acquaintance molestation is to subtly communicate the message that the child is not at fault. If they think they are going to be judged, many children will deny their victimization and some may exaggerate it by alleging threats, force, and even abduction that did not occur to make the crime more socially acceptable. Although many of the same interview principles apply to the interview of adolescent victims, it can be far more difficult to develop rapport with an older child than with a younger child.

Another critical task early in the interview is to clarify the suspected victim's terminology for various body parts and sexual activities. If this clarification is not achieved early on, much misunderstanding can occur. Similarly it is just as important

to find out exactly what the adolescent victim means by the terms he or she uses for sexual activity *(e.g.*, "head job," "rim job," "sexting"), even though they are not as readily acceptable as the 5-year-old's "pee-pee" and "weiner." The interview of an adolescent boy victim of sexual exploitation is extremely difficult at best. The stigma of homosexuality and embarrassment over victimization greatly increase the likelihood the victim may deny or misrepresent the sexual activity. The investigator must accept the fact that even if a victim discloses, the information is likely to be incomplete minimizing his involvement and responsibility and, in some cases, exaggerating the offender's.

Video Recording

The video recording of victim interviews was once thought to be the ultimate solution to many of the problems involving child-victim interviews and testimony. There are advantages and disadvantages to video or audio recording child victims' statements. The **advantages** include the

- Knowledge of exactly what was asked and answered
- Potential ability to reduce the number of interviews
- Visual impact of a video-recorded statement
- Ability to address recanting or changing statements
- Potential to induce a confession when played for an offender who truly cares for the child victim

The **disadvantages** include

- The artificial setting created when people "play" to the camera instead of concentrating on communicating.
- Determining which interviews to record and explaining variations between them.
- Accounting for the recordings after the investigation. Copies are sometimes furnished with little control to defense attorneys and expert witnesses. Many are played at training conferences without concealing the identity of victims.
- Because there are conflicting criteria about how to conduct such an interview, each recording is subject to interpretation and criticism by "experts."

Many experts now feel child-victim interviews must be video recorded in order to be assessed and evaluated properly. Some judges and courts now require video recording of child-victim interviews. Many people in favor of video recording argue, "If you are doing it right, what do you have to hide?" When video recording a victim interview, however, a piece of evidence is created that did not previously exist, and that evidence can become the target of a great deal of highly subjective scrutiny. Every word, inflection, gesture, and movement become the focus of attention rather than whether or not the child was molested. Unreliable information and false victim denials can be obtained from "perfect" interviews and reliable information and valid disclosures can be obtained even from highly imperfect interviews. This fact can be lost in excessive focus on how the interview was conducted. This in no way denies the fact that repetitive, suggestive, or leading interviews are real problems and can produce false or inaccurate information. The process by which information is obtained is important, but the focus should not be on whether an interview was conducted "improperly" but whether it resulted in unreliable information.

Many video-recording advocates do not seem to recognize the wide diversity of circumstances and dynamics comprising sexual-victimization-of-children cases. Interviewing a 12-year-old boy who is suspected of having been molested by his coach is far different from interviewing a 9-year-old girl who has disclosed having been sexually abused by her father. Interviewing a runaway, 15-year-old, inner-city street prostitute is far different from interviewing a middle-class, 5-year-old kidnapped from her backyard by a child molester. Interviewing a Native American child in a hogan without electricity on a remote reservation is far different from interviewing a White child in a specially designed interview room at a child advocacy center in a wealthy suburb. In addition video-recording equipment can be expensive, and it can and does malfunction. I was recently involved in a case where a child had to be moved to several interview rooms because the installed recording equipment malfunctioned. Opposing counsel eventually implied various sinister motives as to why there was no video recording of the eventual interview.

Although some of the disadvantages can be reduced if the recordings are made during a medical evaluation, it is still my opinion the disadvantages of video recording generally outweigh the advantages. This is especially true of the interviews of adolescents who are only suspected of having been sexually exploited because of their known contact with an acquaintance child molester and have not previously disclosed. Some experienced child-sexual-victimization prosecutors oppose the video recording of child-victim statements, although special circumstances may alter this opinion on a case-by-case basis. Interviews of children younger than 7 years of age are potentially problematic and should be done by investigators trained and experienced in such interviews. Because suggestibility is potentially a bigger problem in younger children, the assessment and evaluation phase is especially important in cases involving these young victims and video recording is more justified. It is my opinion forensic interviews of children younger than 7 years of age should be video recorded unless there are reasons to do otherwise and interviews of children older than 7 years of age should not be video recorded unless there are reasons to do otherwise. My personal opinions on this issue, however, are probably now superseded by mandated or existing practice and policy.

Departments should be careful of written policies concerning such recording. It is potentially embarrassing and damaging to have to admit in court that interviews are usually recorded but wasn't in this case. It is better to be able to say such interviews usually aren't recorded but was in a certain case because of some special circumstances that can be clearly articulated. In this controversy over video recording, investigators should be guided by their prosecutors' expertise and preferences, legal or judicial requirements, and their own common sense.

General Rules and Cautions

Investigative interviews should always be conducted with an open mind and the assumption there are multiple hypotheses or explanations for what is being described, alleged, or suspected. Investigative interviews should emphasize open-ended, age-appropriate questions that are hoped to elicit narrative accounts of events. All investigative interaction with victims must be carefully and thoroughly documented.

The interview of an alleged or potential child victim as part of a criminal investigation should always be conducted as quickly as possible. It is important to interview as many potential victims as is legally and ethically possible. This is especially important in cases involving adolescent boy victims who engaged in compliant behavior, most of whom will deny their victimization no matter what the investigator does. Unfortunately for victims, but fortunately for the investigative corroboration, men who victimize adolescent boys in my experience are the most persistent and prolific of all child molesters. The small percentage of their victims who disclose still may constitute a significant number.

The investigation of allegations of recent activity from multiple young children should begin quickly with justified interviews of all potential victims being completed as soon as possible. The investigation of adult survivors' allegations of activity 10 or more years earlier presents other problems and should proceed, unless victims are at immediate risk, more deliberately with gradually increasing resources as corroborated facts warrant.

Children rarely get the undivided attention of adults, even their parents/guardians, for a long period of time. Investigators must be cautious about subtly rewarding a child by allowing this attention to continue only in return for furnishing additional details. The investigator should make sure this necessary attention is unconditional.

Assess and Evaluate

This part of the investigative process in child-sexual-victimization cases seems to have gotten lost. Is the victim describing events and activities that are consistent with law-enforcement-documented criminal behavior and prior cases, or are they more consistent with distorted media accounts and erroneous public perceptions of criminal behavior? Investigators should apply the "template of probability." Accounts of child sexual victimization that are more like books, television, movies, or the exaggerated fear-mongering of zealots *(e.g.*, big conspiracies, snuff films, child sex slaves, highly organized sex rings, ordering children from catalogs) and less like documented cases should be viewed with skepticism, but **thoroughly investigated**. It is the investigator's job to consider and investigate all possible explanations of events. In addition the information learned will be invaluable in counteracting defense attorneys when they raise alternative explanations.

The so-called "backlash" has had both a positive and negative impact on the investigation and prosecution of child-sexual-victimization cases. In a positive way it has reminded criminal-justice interveners of the need to do their jobs in a more professional, objective, and fact-finding manner. Most of the damage caused by the backlash actually is self-inflicted by well-intentioned child advocates. In a negative way it has cast a shadow over the validity and reality of child sexual victimization and influenced some to avoid properly pursuing cases (Lanning, 1996).

For many years the statement, "Children never lie about sexual abuse. If they have the details, it must have happened," almost never was questioned or debated at training conferences. During the 1970s there was a successful crusade to eliminate laws requiring corroboration of child-victim statements in child-sexual-victimization cases. It was believed the way to convict child molesters was to have the child victims

testify in court. If we believe them, the jury will believe them. Any challenge to this basic premise was viewed as a threat to the progress made and denial the problem existed. Both parts of this statement — "Children never lie about sexual abuse" and "If they have the details, it must have happened" — have received much-needed reexamination; a process that is critical to the investigator's task of assessing and evaluating the alleged victim's statements.

"Children Never Lie"

The available evidence suggests children rarely lie about sexual victimization, if a lie is defined as a statement deliberately and maliciously intended to deceive. If children in exploitation cases do lie, it may be because factors such as shame or embarrassment over the nature of the victimization increase the likelihood they will misrepresent the sexual activity. In my opinion victims who are seduced, manipulated, or engaged in compliant behavior often lie to varying degrees to make their victimization more socially acceptable or please an adult. Occasionally children lie because they are angry and want to get revenge on somebody. Some children, sadly, lie about sexual victimization to get attention and forgiveness. A few children may even lie to get money or as part of a lawsuit. This can sometimes be influenced by pressure from their parents/guardians. Objective investigators must consider and evaluate all these possibilities. It is extremely important to recognize, however, that because children might lie about part of their victimization does not mean the entire allegation is necessarily a lie and they are not victims. Based on my experience the lying of child victims who engaged in compliant behavior concerning varying aspects of their victimization is so common it can be corroborative. As previously discussed acquaintance-exploitation cases often involve complex dynamics and numerous incidents that often make it difficult to say it is all true or false. Disclosures by victims may involve some false allegations. In spite of what a defense attorney may argue, however, that does not necessarily mean it is a totally false allegation. Allegations must be evaluated in totality based on the type of case.

Children are not adults in little bodies. Children go through developmental stages that must be evaluated and understood. In many ways, however, children are no better or worse than other victims or witnesses of a crime. They should not be automatically believed or dismissed.

In addition just because a child is not lying does not mean he or she is making an accurate statement. Children might be telling you what they have come to believe happened to them, even though it might not be literally true. Other than lying, there are many possible alternative explanations for why victims might allege things that do not seem to be accurate. The

- Child might be exhibiting distortions in traumatic memory
- Child's account might reflect normal childhood fears and fantasy
- Child's account might reflect misperception and confusion caused by deliberate trickery or drugs used by perpetrators
- Child's account might be affected by suggestions, assumptions, and misinterpretations of overzealous interveners
- Child's account might reflect urban legends and shared cultural mythology

Such factors, alone or in combination, can influence a child's account to be inaccurate without necessarily making it a "lie." Children are not adults in little bodies. Children go through developmental stages that must be evaluated and understood. In many ways, however, children are no better or worse than other victims or witnesses of a crime. They should not be automatically believed or dismissed. Of what victims allege **some may be**

- True and accurate
- Misperceived or distorted
- Screened or symbolic
- "Contaminated" or false

The problem and challenge, especially for law enforcement, is to determine which is which. This can be done only through evaluation and active investigation.

The investigator must remember, however, that almost anything is possible. Just because an allegation sounds farfetched or bizarre does not mean it did not happen. The debate over the literal accuracy of grotesque allegations of ritual abuse has obscured the well-documented fact that there are child sex rings, bizarre paraphilias, and cruel sexual sadists. Even if only a portion of what these victims allege is factual, it still may constitute significant criminal activity.

"If They Have the Details, It Must Have Happened"

The second part of the basic statement also must be evaluated carefully. The details in question in some cases have little to do with sexual activity. Investigators must do more than attempt to determine how a child could have known about sex acts. Some cases involve determining how a child could have known about a wide variety of bizarre activity. Young, nonabused children usually might know little about sex, but they might "know" more than you realize about monsters, torture, kidnapping, and even murder.

When considering a child's statement, investigators should remember that lack of sexual detail does not mean abuse did not happen. Some children are reluctant to discuss the details of what happened. In evaluating reported details it is also important to consider that victims might supply details of sexual or other acts using information from sources other than their own direct victimization. Such sources must be evaluated carefully and may include the items noted below.

Personal Knowledge The victim might have personal knowledge of the activity, but not as a result of the alleged victimization. The knowledge could have come from participating in cultural practices; viewing pornography, sex education, or other pertinent material; witnessing sexual activity in the home; or witnessing the sexual victimization of others. It also could have come from having been sexually or physically abused by someone other than the alleged offender(s) and in ways other than the alleged offense.

Other Children or Victims Children today interact socially more often and at a younger age than ever before. Many parents/guardians are unable to provide possibly simple explanations for their children's stories or allegations because they were not with the children when the explained events occurred. They do not know what videotapes

or DVDs their children might have seen, games they might have played, and stories they might have been told or overheard. Some children are placed in daycare centers for 8, 10, or 12 hours a day, starting as young as 6 weeks of age. The children share experiences by playing house, school, or doctor. Bodily functions such as urination and defecation are a focus of attention for these young children. To a certain extent each child shares the experiences of all the other children. Children of varying ages are also sharing information and experiences on the Internet and through texting. The possible effects of the interaction of such children prior to the disclosure of the alleged abuse must be evaluated.

Media The amount of sexually explicit, bizarre, or violence-oriented material available to children in the modern world is overwhelming. This includes movies, DVDs, music, books, games, and CD-ROMs. Cable television, computers, the Internet, and home VCRs and DVD players make all this material readily available to even young children. There are numerous popular toys and video games on the market with bizarre or violent themes.

Suggestions and Leading Questions This problem is particularly important in cases involving children who are younger than the age of 7 and especially those stemming from custody/visitation disputes. This is not to suggest custody/visitation disputes usually involve sex-abuse allegations, but when they do and when the child in question is young, such cases can be extremely difficult to evaluate. It is my opinion that most suggestive, leading questioning of children by interveners is done inadvertently as part of a good-faith effort to learn the truth.

Not all interveners are in equal positions to potentially influence allegations by children. Parents/guardians and other relatives are in the best position to subtly cause their children to describe their victimization in a certain way. They sometimes question children in a suggestive and accusatory style that casts doubt on the child's statements. In most cases, parents/guardians and other relatives are well meaning and do not realize their style of questioning might influence their child to make inaccurate or false statements. Family members sometimes misinterpret innocuous or ambiguous statements as evidence of sexual abuse. Parents/guardians often hear what they want or need to hear. Children also might overhear their parents/guardians discussing the details of the case. They might be trying to prolong the rarely given undivided attention of an adult.

In addition children often tell their parents/guardians what they believe their parents/guardians want or need to hear. For example a parent/guardian may be able to accept oral sex, but not anal sex. Some parents/guardians may need to believe their child would engage in sex with an adult of the same gender only if confronted with overwhelming physical force. In one case a father gave law enforcement a tape recording to "prove" his child's statements were spontaneous disclosures and not the result of leading, suggestive questions. The tape recording indicated just the opposite. Why, then, did the father voluntarily give it to law enforcement? Probably because he truly believed he was not influencing his child's statement — but he was.

Usually well-meaning interveners have subtly as well as overtly rewarded some victims for furnishing certain details. Interveners who excessively or emotionally refer to the child's sexual victimization as "rape" may, for example, influence the

child's version of events to conform to that view. Some "details" of a child's allegation even might have originated as a result of interveners making assumptions about or misinterpreting what the victim actually said. The interveners then repeat and possibly embellish these assumptions and misinterpretations, and eventually the victims come to agree with or accept this "official" version of what happened.

Therapists also can be in a good position to influence the allegations of children and adult survivors. Types and styles of verbal interaction useful in therapy might create significant problems in a criminal investigation. Some therapists may have a need to believe their patient or be overzealous in their efforts to help children in difficult circumstances. It should be noted, however, when a therapist does a poor investigative interview as part of a criminal investigation, it is the fault of the criminal-justice system that allowed it — not of the therapist who did it.

Misperception and Confusion by the Victim Sometimes what seems unbelievable has a reasonable explanation. In one case a child's description of the apparently impossible act of walking through a wall turned out to be the very possible act of walking between the studs of an unfinished wall in a room under construction. In another case, pennies in the anus turned out to be copper-foil-covered suppositories. The children might describe what they believe happened. It is not a lie, but neither is it an accurate account. It might be due to confusion deliberately caused by the offender or misperception inadvertently caused by youthful inexperience.

Many young and some older children have little experience or frame of reference for accurately describing sexual activity. They might not understand the difference between "in" and "on" or the concept of "penetration." Drugs and alcohol also might be used deliberately to confuse the victims and distort their perceptions.

Education and Awareness Programs Some well-intentioned awareness and sex-education programs designed to prevent child sex abuse and child abduction or provide children with information about human sexuality may, in fact, unrealistically increase fears and provide some of the details that children are telling interveners. Children may describe the often-discussed "stranger" abduction rather than admit they made an error in judgment and went voluntarily with an offender. The answer to this potential problem, however, is to evaluate the possibility, not to stop education and prevention programs.

Areas of Evaluation

As part of the assessment and evaluation of victim statements, it is important to determine how much time has elapsed between when the victim first made disclosure and that disclosure was reported to law enforcement or social services. The longer the delay, the greater the potential for problems. The next step is to determine the number and purpose of all prior interviews of the victim concerning the allegations. The more interviews conducted before the investigative interview, the greater the potential difficulties. Problems can also be created by interviews conducted by various interveners after the investigative interview(s).

The investigator must closely and carefully evaluate events in the victim's life before, during, and after the alleged victimization. Events occurring before the alleged exploitation to be evaluated might include

- Background of the victim
- Abuse or drugs in the home
- Pornography in the home
- Play, television, DVD, video game, computer, and Internet habits
- Attitudes about sexuality in the home
- Religious beliefs and training
- Extent of sex education in the home
- Cultural and subcultural attitudes and practices
- Activities of siblings
- Need or craving for attention
- Childhood fears
- Custody/visitation disputes
- Victimization of or by family members
- Interaction between victims
- Family disputes or discipline problems

Events occurring during the alleged exploitation to be evaluated include

- Use of fear or scare tactics
- Degree of trauma
- Use of magic, deception, or trickery
- Use of ritual
- Use of drugs and alcohol
- Use of pornography
- Use of grooming and seduction

Events occurring after the alleged exploitation to be evaluated include

- Disclosure sequence
- Other interviews
- Background of prior interviewers
- Background of parents/guardians
- Comingling of victims
- Type of therapy received
- Contact by offender
- Shame and guilt
- Lawsuits

Contagion

Investigators must also evaluate possible contagion. Consistent statements obtained from different interviews and multiple victims are powerful pieces of corroborative evidence — that is as long as those statements were not "contaminated." Investigation must evaluate both pre- and post-disclosure contagion and both victim and intervener contagion carefully. Are the different victim statements consistent because they describe common experiences/events or reflect contamination or shared cultural mythology?

The sources of potential contagion are widespread. Victims can communicate with each other both prior to and after their disclosures. Interveners can communicate with each other and the victims. The team or cell concepts are attempts to address

potential investigator contagion in multivictim cases. The same individuals do not interview all the victims, and interviewers do not necessarily share information directly with each other (Lanning, 1992b).

Documenting existing contagion and eliminating additional contagion is crucial to the successful investigation and prosecution of many cases. There is no way, however, to erase or undo contagion. The best you can hope for is to identify and evaluate it and attempt to explain it. Mental-health professionals requested to evaluate suspected victims must be carefully selected and evaluated.

Once a case is contaminated and out of control, little can be done to salvage what might have been a prosecutable criminal violation. A few cases have even been lost on appeal after a conviction because of contamination problems.

In order to evaluate the contagion element, investigators must investigate these cases meticulously and aggressively. Whenever possible, personal visits should be made to all locations of alleged exploitation and the victims' homes. Events prior to the alleged exploitation must be evaluated carefully. Investigators might have to view television programs, movies, video games, computer games, and DVDs seen by the victims. In some cases it might be necessary to conduct a background investigation and evaluation of everyone who, officially or unofficially, interviewed the victims about the allegations prior to and after the investigative interview(s).

Investigators must be familiar with the information about sexual victimization of children being disseminated via magazines, books, television programs, conferences, and the Internet. Every alternative way a victim could have learned about the details of the activity must be explored, if for no other reason than to eliminate them and counter defense arguments. There may, however, be validity to these contagion factors. They might explain some of the "unbelievable" aspects of the case and result in the successful prosecution of the substance of the case. Consistency of statements becomes more significant if contagion is identified or disproved by independent investigation.

Munchausen syndrome and **munchausen syndrome by proxy** are complex and sometimes controversial issues in child-victimization cases. No attempt will be made to discuss them in detail *(see* Feldman and Ford, 1994, and Parnell, 2002), but they are well-documented facts. Unfortunately most of the published literature about them focuses only on their manifestation in the medical setting as false or fabricated illness or injury involving a child. For example munchausen syndrome by proxy is repeatedly and erroneously defined as "a form of child abuse" in which "mothers" deliberately physically harm their children and then under false pretenses seek medical attention. This may be a common manifestation of the condition, but it is neither the definition of the condition nor the only manifestation of the condition. Individuals suffering from **munchausen syndrome by proxy** can manifest their condition in ways that do not involve falsified claims concerning their child's illness, injury, or abuse and individuals can knowingly make falsified claims concerning their child's illness, injury, or abuse without it being rooted in **munchausen syndrome by proxy**.

Munchausen syndrome is a psychological disorder (factitious disorder) in which an individual seeks secondary gain *(i.e.*, attention, forgiveness) by falsely claiming to have done something *(e.g.*, heroic rescue, awards, furnish information to solve crime) or have had something happen to them *(e.g.*, illness, vandalism, hate crime, assault, rape). **Munchausen syndrome by proxy** is a variation of this psychological disorder

in which one individual seeks this same secondary gain, but through something done by or to another individual associated with them *(e.g.*, child, parent/guardian, friend). This syndrome can be caused or influenced by a wide variety of psychological conditions and disorders, but by definition the individual making the claim knows it is a lie. Adults can be the victims and nonparents/guardians and children can be perpetrators. **Munchausen syndrome** and **munchausen syndrome by proxy** can and are often manifested in the criminal-justice setting as false or fabricated crime victimization. A child might falsely allege sexual victimization to get attention or forgiveness. If parents/guardians would poison their children to prove an illness, they might abuse their children in other ways to provide "proof" a crime occurred and therefore get attention.

Investigators are often baffled by **munchausen syndrome** and **munchausen syndrome by proxy** cases because they cannot imagine why the individual would be lying about these events. They are usually looking for traditional motives such as money, anger, jealousy, and revenge. The key to identifying these syndromes is understanding people sometimes lie to get attention and forgiveness and then being alert for such motives and needs. These are the unpopular but documented realities of the world. Recognizing the existence of these syndromes does not mean child sexual victimization is any less real and serious.

Summary of Evaluation and Assessment

As much as investigators might wish otherwise, there is no simple way to determine the accuracy of a victim's allegation. Investigators cannot rely on therapists, evaluation experts, or the polygraph as shortcuts to determining the facts. Many mental-health professionals might be good at determining something traumatic happened to a child, but determining exactly **what** happened is another matter. Mental-health professionals are now more willing to admit they are unable to determine, with certainty, the accuracy of victim statements in these cases. There is no test or statement-analysis formula that will determine with absolute certainty how or whether a child was sexually abused. Although resources such as expert opinion, statement-validity analysis, phallometric devices (sexual-arousal evaluation), voice-stress analysis, and the polygraph might be potentially useful as part of the evaluation process, none of them should **ever** be the sole criterion for pursuing or not pursuing an allegation of child sexual victimization. Law enforcement must proceed with the investigation and rely primarily on the corroboration process.

The criminal-justice system must identify or develop and use fair and objective criteria for evaluating the accuracy of allegations of child sexual victimization and filing charges against the accused. Just because it is possible does not mean it happened. The lack of corroborative evidence **is** significant when there should be corroborative evidence. With preferential sex offenders there is almost always corroborative evidence. Blindly believing everything in spite of a lack of logical evidence or simply ignoring the impossible or improbable and accepting the possible is **not** good enough. If some of what the victim describes is accurate, some misperceived, some distorted, and some contaminated, what is the court supposed to believe? Until we come up with better answers, the court should be asked to believe what a thorough investigation can corroborate, understanding that physical evidence is **only one form of corroboration** *(see* next section). In those cases in which there simply is no corroborative evidence,

the court may have to make its decision based on carefully assessed and evaluated victim testimony and the elimination of alternative explanations.

Allegations involving multiple acts, on multiple occasions, over an extended period of time must be evaluated in their totality and context. Cases involving long-term sexual contact with child victims who engaged in compliant behavior should not be assessed and evaluated by comparisons to cases involving isolated, forced sexual assaults. Indicators suggesting a false allegation in a typical rape case have little application to the evaluation of most acquaintance, child-molestation cases, especially those involving repeated access and prolonged sexual activity. Such child-molestation cases are very hard to classify as either a valid or false allegation. Victim claims may include allegations that appear to be false, but that does not mean the case can be labeled in totality as "a false allegation." In my experience, many valid claims of child sexual molestation, especially those by this type of child victim, involve delayed disclosures, inconsistencies, varying accounts, exaggerations, and lies often associated with false allegations. Inconsistencies in allegations are significant but can sometimes be explained by factors other than that the allegation is false. What is consistent and logical in these circumstances must be based on experience and knowledge of cases similar to the case being evaluated.

Any indicators of a potential false claim must be applicable to the type of case in question and not based on cases involving one-time, violent sexual assaults. There is a difference between an unsubstantiated/unproven allegation and a false allegation. There may be many reasons to believe the allegations are not accurate and should not sustain a conviction in court beyond a reasonable doubt, but that does not mean the allegations of sexual victimization can be labeled as totally "false." Labeling an allegation as false should mean **nothing** of a criminal/sexual nature occurred between the child victim and the alleged adult offender at any time.

Corroborate

As a general principle valid cases tend to get "better" and false cases tend to get "worse" with investigation. The techniques noted below are offered as ways to corroborate allegations of child sexual exploitation and avoid child-victim testimony in court. If child-victim testimony cannot be avoided, at least the victim will not bear the total burden of proof if these techniques are used. These techniques can, to varying degrees, be used in any child-sexual-victimization case, but the main focus here is on acquaintance molesters. The amount of corroborative evidence available might depend on the type of case, sexual activity, and offender(s) involved. Corroboration might be more difficult in an isolated one-on-one case perpetrated by a situational sex offender and easier in a sex-ring case perpetrated by an acquaintance-preferential sex offender.

Document Behavioral Symptoms of Sexual Victimization

Because the behavioral and environmental indicators of child sexual victimization are set forth in so many publications elsewhere (Myers and Stern, 2002), they will not be set forth here in detail. Developmentally unusual sexual knowledge and behavior, however, seem to be the strongest symptoms. The documentation of these

symptoms can be of assistance in corroborating child-victim statements. It must be emphasized, however, these are only symptoms, and objective experts must carefully evaluate their significance in context. Many of the so-called behavioral symptoms of child sexual victimization are actually symptoms of trauma, stress, and anxiety that could be caused by other events in the child's life. Almost every behavioral indicator of sexual victimization can be seen in nonabused children. Because of variables such as the type and length of abuse, the resiliency of the child victim, and society's response to the abuse, not all children react to being abused in the same way; therefore, just as the presence of behavioral symptoms does not prove a child was sexually victimized, the absence of them does not prove a child was not.

The use of expert witnesses to introduce this evidence into a court of law is a complex legal issue that will also not be discussed here in detail (Myers and Stern, 2002). Mental-health professionals, social workers, child-protective service workers, and law-enforcement investigators can be the source of such expert testimony regarding symptoms of sexual victimization. Experts might not be allowed to testify about the guilt and innocence of the accused but might be able to testify about the apparent validity of a case by explaining or offering opinions about the nature of the offense and its consistency with documented cases and offender/victim patterns of behavior. One commonly accepted use of such expert testimony is to impeach defense experts and rehabilitate prosecution witnesses after their credibility has been attacked by the defense. An expert might be able to testify concerning such symptoms to rebut defense allegations that the prosecution has no evidence other than the testimony of a child victim or the child's disclosure is totally the result of leading and improper questioning.

These and other possible uses of expert testimony should be discussed with the prosecutor of each case. Even if not admissible in court, the symptoms of sexual victimization still can be useful as part of investigative corroboration, particularly when symptoms **predate** any disclosure.

Document Patterns of Behavior

Two patterns of behavior should be documented. They are victim and offender patterns.

Victim Patterns By far the most important victim pattern of behavior to identify and document is the disclosure process. Investigators must verify, through active investigation, the exact nature and content of each disclosure, outcry, or statement made by the victim. Secondhand information about disclosure is not good enough. To whatever extent humanly possible the investigator should determine exactly when, where, to whom, in precisely what words, and why the victim disclosed. Efforts to determine answers to these questions are not limited to and sometimes do not even involve asking the child.

It can be important to determine why the child did not disclose sooner and why the child did disclose now. A well-documented, convincing disclosure, especially a spontaneous one with no secondary gain, can be corroborative evidence. The fact a victim does not disclose the abuse for years or recants previous disclosures might be part of a pattern of behavior that in fact helps to corroborate sexual victimization. The documentation of the secrecy, the sequence of disclosures, the recantation of

statements, and the distortion of events can all be part of the corroboration process. Child victims who engaged in compliant behavior may exhibit many of the characteristics *(e.g.*, denial, delayed disclosure, ever-changing allegation, lying) understandably associated with false allegations. The patterns of behavior of these child victims can sometimes be explained to the court by an education expert witness *(see* "Appendix II: Appellate Case Decisions" on page 191).

More specific behavior patterns of seduced or cooperating victims are described in greater detail in the chapter titled "Acquaintance-Exploitation Cases" beginning on page 63.

Offender Patterns Documenting offender patterns of behavior is one of the most important and overlooked steps in the corroboration process. Investigators must make every reasonable effort to document offender patterns of behavior and attempt to determine the type of offender involved.

Because their molestation of children is part of a long-term persistent pattern of behavior, preferential sex offenders are like human evidence machines. During their lifetime they leave behind a string of victims and collection of child pornography and erotica. In these cases a wealth of evidence is available to investigators and prosecutors. All they need to uncover it is an understanding of how to recognize these offenders and how these offenders operate and the full commitment of agency/department time and resources. Comparing the consistency between "what" is alleged to have happened and "who" is suspected of doing it is an important application of the offender typology. If a victim describes his or her victimization as involving what clearly sound like the behavior patterns of a preferential sex offender, then the fact the alleged offender fits that pattern is corroborative. If he does not, there is an inconsistency that needs to be resolved. The inconsistency could be because the alleged "what" is inaccurate *(e.g.*, distorted account from victim, insufficient details), the suspected "who" has been misevaluated *(e.g.*, incomplete background, erroneous assessment), or the alleged "who" is innocent *(e.g.*, suspect did not commit alleged crime).

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It is obviously better to convict a child molester based on his or her past behavior. If all else fails, however, preferential child molesters usually can be convicted in the future based on their continuing molestation of children *(see* the chapters titled "Definitions," [beginning on page 13], through "Technology-Facilitated Cases," [ending on page 136], for a complete discussion of these patterns).

Identify Adult Witnesses and Suspects

Not all sexual victimization of children is "one-on-one." There are cases with multiple offenders and accomplices. One benefit of a multioffender case is that it increases the likelihood there is a weak link in the group. Do not assume accomplices will not cooperate with the investigation. The conspiracy model of building a case against one suspect and then using that suspect's testimony against others can be useful. Because of the need to protect potential child victims, however, the conspiracy model of investigation has limitations in child-sexual-victimization cases.

Investigators and prosecutors cannot knowingly allow children to be molested as the case is built by "turning" suspects. Corroboration of a child victim's statement with adult-witness testimony, however, is an important and valuable technique.

Medical Evidence

Whenever possible all children suspected of having been sexually victimized should be afforded a medical examination by a trained and competent physician (Jenny, 2002). The primary purpose of this examination is to assess potential injury, assess the need for treatment, and reassure the patient. A secondary purpose is to determine the presence of any corroborating evidence of acute or chronic trauma. The ability and willingness of medical doctors to corroborate child sexual victimization has improved greatly in recent years, primarily due to better training and the use of protocols, rape kits, the colposcope, toluidine blue dye, ultraviolet-light photography, and other such techniques.

When used with a camera, the colposcope can document the trauma without additional examinations of the child victim. Positive laboratory tests for sexually transmitted diseases can be valuable evidence especially in cases involving young children. Statements made to doctors by the child victim as part of the medical examination might be admissible in court without the child testifying.

Law-enforcement investigators should be cautious of doctors who have been identified as child-abuse crusaders or always find — or never find — medical evidence of sexual victimization. Medical doctors should be objective scientists doing a professional examination. The exact cause of any anal or vaginal trauma needs to be evaluated carefully and scientifically. Also many acts of child sexual victimization do not leave any physical injuries that can be identified by a medical examination. In addition children's injuries can heal rapidly. Thus lack of medical corroboration does not mean a child was not sexually victimized or it cannot be proven in court. In evaluating the significance of the lack of medical findings, investigators should not consider the research concerning their presence in all sexual-victimization-of-children cases, but only in those cases with similar dynamics *(i.e.*, nature and number of alleged acts, timeliness of medical examination, quality of examination).

Other Victims

The simple understanding and recognition that a child molester might have other victims is one of the most important steps in corroborating an allegation of child sexual victimization. There is strength in numbers. If an investigation uncovers one or two victims, each will probably have to testify in court. If an investigation uncovers multiple victims, the odds are none of them will testify because there will not be a trial. With multiple victims the only defense is to allege a flawed, leading investigation.

Because of the volume of crime, limited resources, and lack of knowledge about the nature of the crime, many law-enforcement agencies are unable or unwilling to continue an investigation to find more than a couple of victims. If that is the case they must try to identify as many victims as possible. Other victims are sometimes identified through publicity about the case. Consistency of statements obtained from multiple victims, independently interviewed, can be powerful corroboration.

With preferential acquaintance molesters, especially those who prefer boys, the potential for multiple victims can be overwhelming. If there are a dozen disclosing victims, a mountain of corroborative evidence, and an offender who is going to jail for many years, does the investigator have to continue to investigate until "all" the victims are found? As previously stated the U.S. *Attorney General's Guidelines for Victim and Witness Assistance* indicate U.S. Department of Justice (DOJ) investigators and prosecutors are responsible for identifying and contacting all the victims of a crime (U.S. Department of Justice, 2005). The exact meaning of this statement appears to be subject to some interpretation, but common sense would say a decision must be made based on a totality of the facts and the interest of the child victims should always be a paramount concern.

Some unidentified victims may be in need of therapy and counseling. Some, however, may be doing fine and dredging up the victimization may cause more problems. Some victims may not know or realize they are victims until informed by investigators. Can victims suffer the psychological consequences of being victimized if they do not know they are victims? These are difficult issues with no easy answers. Investigators and prosecutors must think about these issues and make the best-informed decision.

Search Warrants

The major law-enforcement problem with the use of search warrants in child-sexual-victimization cases is that they are not obtained soon enough. In many cases investigators have probable cause for a search warrant but don't know it. Because evidence can be moved, hidden, or destroyed so quickly, search warrants should be obtained as soon as legally possible. Waiting too long and developing, in essence, too much probable cause also might subject investigative agencies to criticism or even lawsuits claiming this delay allowed additional victims to be molested. This is a potentially significant problem in sexual-exploitation cases. "What did you know and when did you know it" can become a big issue in defending an investigative response as correct and reasonable. Investigators often do not recognize the value and significance of child erotica, pedophile paraphernalia, and other collateral evidence *(see* the chapter titled "Collection of Child Pornography and Erotica" beginning on page 79).

As previously discussed the expertise of an experienced investigator and well-documented behavior patterns of preferential sex offenders sometimes can be used to add to the probable cause, expand the scope of the search, or address the legal staleness problem of old information. Such "expert" search warrants should be used only when necessary and there is probable cause to believe the alleged offender fits the preferential pattern of behavior.

Physical Evidence

Physical evidence can be defined as objects that corroborate anything a child victim did, said, saw, heard, tasted, smelled, drew, or had done to him or her. It can be used to prove offender identity and type and location of activity. It could be items such as sheets, articles of clothing, sexual aids, lubricants, fingerprints, and documents. It also could be an object or sign on the wall described by a victim. If the victim says the offender ejaculated on a doorknob, ejaculate on the

doorknob becomes physical evidence if found. If the victim says the offender kept condoms in the nightstand by his bed, they become physical evidence if found. An adult-pornography magazine with a page missing as described by the victim is physical evidence. Satanic occult paraphernalia is evidence if it corroborates criminal activity described by the victim. Positive identification of a subject through deoxyribonucleic acid (DNA) analysis of trace amounts of biological evidence left on a child or at a crime scene might result in a child victim not having to testify because the perpetrator pleads guilty.

Child Pornography and Child Erotica

Child pornography, especially that produced by the offender, is one of the most valuable pieces of corroborative evidence of child sexual victimization any investigator can have. Many collectors of child pornography do not molest children, and many child molesters do not possess or collect child pornography. Investigators should, however, always be alert for it. Child erotica can be considered to be any material, relating to children, that serves a sexual purpose for a given individual. Some of the more common types of child erotica include drawings, fantasy writings, diaries, souvenirs, letters, books about children, psychological books about pedophilia, and ordinary photographs of children. It must be evaluated in the context in which it is found using good judgment and common sense. Child erotica is not as significant as child pornography, but it can be of value *(see* the chapter titled "Collection of Child Pornography and Erotica," beginning on page 79, for a detailed discussion of child pornography and erotica).

Information Technology

Investigators must be alert to the rapidly increasing possibility a child molester with the intelligence, economic means, or employment access might use information technology in a variety of ways as part of his sexual victimization of children. As computers have become less expensive, smaller, more sophisticated, and easier to operate, the potential for this abuse is expanding rapidly *(see* the chapter titled "Technology-Facilitated Cases," beginning on page 117, for a more detailed discussion about the use of computers).

Consensual Monitoring

Consensual monitoring is a valuable but often underused investigative technique. It includes the use of body recorders and pretext telephone calls. Because of the legal issues involved and variations in state laws, use of this technique should always be discussed with prosecutors and law-enforcement legal advisers.

It is important to remember children are not small adults and must never be endangered by investigators. The use of this technique with child victims presents ethical issues as well as legal considerations. Its use with victims who have emotional problems or are in therapy, for example, should be carefully evaluated. Pretext telephone calls are more suitable than body recorders with child victims but are obviously not appropriate in all cases. They might not be suitable for use with extremely young victims or victims who have developed a strong bond with the offender. Because victims who are seduced, manipulated, or engaged in

compliant behavior may feel pressured by parents/guardians or investigators to furnish a more socially acceptable, stereotypical version of their victimization, they may falsely pretend no such bond with the offender exists and/or feign a desire to have the offender arrested and prosecuted. If the child victim states one thing but feels differently, "participating" in the investigation in this way could lead to the child "tipping off" the alleged offender or more serious consequences for the child ranging from further victimization to suicide.

The use of this technique usually should be discussed with the parents/guardians of a victim who is a minor. The parent/guardian, however, might not be trusted to be discreet about the use of this technique or even be a suspect in the investigation. Although there is the potential for further emotional trauma, many victims afterward describe an almost therapeutic sense of empowerment or return of control through their participation in pretext telephone calls.

Investigators using the pretext telephone call should ensure they have a telephone number that cannot be traced to law enforcement and method to verify the date and time of the calls. In addition to victims, investigators can also make such calls themselves by impersonating a wide variety of potentially involved or concerned individuals. Sometimes victims or their relatives or friends do the monitoring and recording on their own. Investigators need to check appropriate laws concerning the legality of such taping and admissibility of the material obtained.

Consensual monitoring with body recorders is probably best reserved for use with undercover investigators and adult informants. Under **no** circumstance should an investigative agency produce or wind up with a video or audio recording of the actual or simulated molestation of a child as part of an investigative technique; however, the child victim might be used to introduce the undercover investigator to the subject.

Inappropriate responses obtained through consensual monitoring can be almost as damaging as outright admissions. When told by a victim over the telephone that law enforcement or a therapist wants to discuss the sexual relationship, "Let's talk about it later tonight" is an incriminating response by a suspect.

Subject Confessions

Getting a subject to confess obviously can be an effective way to corroborate child sexual victimization and avoid child-victim testimony in court. Unfortunately many investigators put minimal effort into subject interrogations. Simply asking an alleged perpetrator if he molested a child does not constitute a proper interview. Any criminal investigator needs effective interviewing skills. In view of the stakes involved, child-sexual-victimization investigators must do everything reasonably possible to improve their skills in this area. Entire books and chapters have been written about interview and interrogation techniques and strategies. In this limited space only a brief review of some basic issues will be offered.

Investigators need to collect background information and develop an interview strategy before conducting a potentially important discussion with the alleged offender. Many sexual offenders against children really want to discuss either their behavior or at least their rationalization for it. If treated with professionalism, empathy, and understanding, many of these offenders will make significant admissions. If the offender is allowed to rationalize or project some of the blame for his behavior

onto someone or something else, he is more likely to confess. Most sex offenders will admit only what they can rationalize and that which has been discovered *(i.e.*, that which you know or they think you know). Revealing **some** irrefutable "facts," therefore, can be an effective strategy. In a computer case this might involve showing him some of the chatlogs of his online conversations. If investigators do not confront the subject with all available evidence, the suspect might be more likely to at least minimize his acts rather than totally deny them. Many child molesters admit their acts but deny the intent. A tougher approach can always be tried if the soft approach does not work. Investigators should consider noncustodial *(i.e.*, no arrest), nonconfrontational interviews of the subject at home or work. Interviews during the execution of a search warrant also should be considered. Investigators should not overlook admissions made by the offender to wives, girlfriends, neighbors, friends, and even the media.

The polygraph and other lie-detection devices can be valuable tools when used as part of the interview strategy by skilled interviewers. Their greatest value is in the subject's belief they will determine the truth of any statement he makes. Once used their value is limited by their lack of legal admissibility. The polygraph, or any lie detection device, should never be the sole criterion for discontinuing the investigation of child-sexual-victimization allegations.

Surveillance

Surveillance can be a time-consuming and expensive investigative technique. In some cases it also can be an effective technique. Time and expense can be reduced if the surveillance is not open-ended but is based on inside information about the subject's activity. One obvious problem, however, is what to do when the surveillance team comes to believe a child is being victimized. How much reasonable suspicion or probable cause does an investigator on physical or electronic surveillance need to take action? If a suspected child molester simply goes into a residence with a child, does law enforcement have the right to intervene? What if the offender is simply paying the newspaper boy or watching television with a neighborhood child? These are important legal and ethical issues to consider when using this surveillance technique. Sometimes the surveillance may discover the offender is making contact with children in violation of his parole. In spite of potential problems, surveillance is a valuable technique especially in the investigation of multiple-victim-exploitation cases.

Investigating Multiple-Victim Cases

The general investigative techniques just discussed are applicable in varying degrees to the acquaintance-exploitation cases involving multiple victims. The "big-picture" approach is the key to the successful investigation and prosecution of these cases. Multiple victims corroborated by child pornography, erotica, and other physical evidence make a powerful case likely to result in a guilty plea, no trial, and therefore no child-victim testimony. The techniques noted below apply **primarily** to the investigation of acquaintance-exploitation cases involving multiple victims.

Understanding the Seduction Process

Most child victims in multiple-victim-exploitation cases were seduced or groomed over time. The seduction process was discussed in more detail in the chapters titled "Definitions" beginning on page 13 and "Acquaintance-Exploitation Cases" beginning on page 63. True understanding of this process must be incorporated into the investigation of these cases. After understanding the seduction process, the investigator must be able to communicate this understanding to the victim. This is the difficult part. An investigator once contacted me and described what sounded like a classic case involving an acquaintance-seduction preferential offender. The investigator stated, however, the first disclosing victim, a 12-year-old boy, described being gagged and tied up by the offender. While this is certainly possible, it is not typical of such offenders. When asked when and how the victim furnished this information, the investigator admitted it was after he had asked the boy why he did not scream or fight when the offender abused him sexually.

By asking such questions in this way, the investigator is communicating to the boy that the investigator has no insight into the nature of this crime nor an understanding or acceptance of the subtle seduction of the boy. The investigator is back in the world of dirty old men in wrinkled raincoats jumping out from behind trees. Obviously the investigator did not understand the molester was probably the boy's best friend who seduced him with attention and affection. The victim realized the investigator would not understand what happened, and so the boy "adjusted" the story and tried to explain with an excuse the investigator would accept and understand. The boy was suffering from "say no, yell, and tell" guilt.

I have given many presentations describing the dynamics of multiple-victim cases and seduction techniques of preferential child molesters (pedophiles). After many of these presentations, adult male members of the audience have approached me in private and admitted they were victimized as boys. Most stated they had never before told anyone of their victimization, but were now able to tell because they realized I understood the problem and they were not the only ones so victimized. The key then to getting child victims who were seduced, manipulated, or engaged in compliant behavior to disclose their victimization is to communicate subtly to them your understanding of the seduction process without engaging in repetitive, leading, or suggestive interviewing that might damage the reliability and credibility of the information obtained. After the first few victims disclose the others usually come forward more readily. Some individuals, however, may come forward and falsely claim to be victims in order to get attention, get forgiveness, or be part of a financial settlement in a civil law suit. All allegations must be thoroughly and objectively evaluated and investigated.

Some victims may describe activity that sounds like the grooming process, but then add details about also being drugged, threatened, or brutalized by the same offender. It makes little sense to groom a child over an extended time period if you are going to drug or force the child into sexual activity. Why waste the time? Grooming is a technique used so the offender does not have to use force. As previously stated use of violence is especially risky for acquaintance molesters. Victims may also try to explain their failure to disclose the victimization by claiming the offender threatened to kill them or a loved one. Acquaintance offenders are far more likely

to threaten they will kill themselves if the victim tells. In a relationship founded on seduction, the most likely threat is not to use force or violence but to withhold attention and affection or end the relationship. Although anything is possible, these false claims of threats and force are usually caused by shame and embarrassment over what actually happened and the desire to tell interviewers the socially acceptable version they prefer to hear.

Investigators and prosecutors must understand and learn to address incomplete and contradictory statements of seduced victims of acquaintance molesters. The dynamics of their victimization must be considered. They are embarrassed and ashamed of their behavior and rightfully believe society will not understand their victimization. Many younger child victims are most concerned about the response of their parents/guardians and often describe their victimization in ways they believe will please their parents/guardians. Adolescent victims are typically more concerned about the response of their peers. Investigators who have a stereotyped concept of child-sexual-abuse victims or who are accustomed to interviewing younger children molested within their family will face challenges when interviewing adolescents molested in a sex ring. Many of these victims will be troubled or even delinquent children from dysfunctional homes. Such victims should not be blindly believed, but should not be dismissed because the accused is a pillar of the community and they are delinquent or troubled. Such allegations should be objectively investigated.

When attempting to identify potential victims in a multiple-victim-exploitation case, I recommend trying to start with victims who are about to or have just left the offender's "pipeline." The victim most likely to disclose would be one who has just left the ring and has a sibling or close friend about to enter the ring. The desire to protect younger victims from what they have endured is the strongest motivation for overcoming their shame and embarrassment. The next best choice would be a victim who has just entered the "pipeline."

Before beginning the interview the investigator must understand the victim may have many positive feelings for the offender and even resent law-enforcement intervention. Because of the bond with the offender, victims may even warn the offender. Even the occasional victim who comes forward and discloses may feel guilty and then warn the offender. They may even return to law enforcement with a hidden tape recorder to try to catch the investigator making inappropriate comments or using improper interview techniques. Reluctance to disclose may be more due to affection for the offender than to fear of the offender.

Time must be spent attempting to develop a working relationship with the victim. The investigator must be able to discuss a wide variety of sexual activity, understand the victim's terminology, and not be judgmental. Not being judgmental, as with developing rapport, may be much more difficult with a delinquent adolescent who actively participated in his victimization. Investigators often nonverbally communicate their judgmental attitude unknowingly through gestures, facial expressions, and body language. The victim must come to understand any truthful answer is acceptable, including "because I enjoyed it."

In interviewing victims of acquaintance sexual exploitation, law enforcement should consider — in their own minds — pretending the victim is a subject or suspect, and expect the victim to deny or minimize his or her acts. Some victims will continue

to deny their victimization no matter what the interviewer says or does. Some children even deny victimization the offender has admitted or other evidence discloses. Some will make admissions but minimize the quality and quantity of the acts. Like offenders, victims often describe activity *(e.g.*, wrestling, back rub, horsing around) that gives them plausible deniability concerning its sexual nature. They may minimize their participation and maximize the offender's involvement by claiming he drugged them, threatened them, had a weapon, or had even abducted them. Of course some of these allegations may be accurate and should be investigated. They are, however, not typical of acquaintance-exploitation cases. Violence is most likely used to prevent disclosure. Sadistic preferential offenders may also use violence during sex, but this is relatively rare in cases involving seduction. As previously discussed these potential inaccuracies in the details of the allegations of seduced victims may explain some of the inconsistencies between the alleged "what" and the suspected "who."

The investigator must communicate to the victim he or she is not at fault even though the victim did not say no, did not fight, did not tell, initiated the sex, or even enjoyed it. When the victim comes to believe the investigator understands what he experienced, he or she is more likely to talk. Victims often reveal the details little-by-little, testing the investigator's response. The investigator must recognize and sometimes allow the victim to use face-saving scenarios when disclosing victimization. For example such victims might claim they were confused, tricked, asleep, half-asleep, drugged, drunk, or tied up when they were not. Adolescents, who pose special challenges for the interviewer, use these face-saving devices most often.

With child victims who engaged in compliant behavior, interviewers must be especially careful of certain "why" questions *(i.e.*, "Why didn't you tell right away?" "Why didn't you resist?" "Why are you smiling in the picture?") and other questions that imply judgment and an anticipated response *(i.e.*, "Did he threaten you?" "Were you scared?" "Is it hard to remember such terrible things?"). Victims may also communicate the offender wanted to perform certain sexual acts they found unpleasant and when they refused the offender stopped. Investigators and prosecutors must now be prepared to address the fact they may have a sex-crime victim who did not engage in unwanted sex. If the victim had just said "no" there would have been no crime. What kind of victim is this? The answer is a seduced child victim whose "consent" to have sex with adults is not supposed to matter. The investigator must accept the fact that even if such victims do disclose information it is likely to be incomplete, minimizing their involvement and acts. Some of these victims simply do not believe they were victims. With these child victims, distorted and varying details in their disclosures not only do not necessarily mean the allegations are false but can be almost corroborative of their validity.

In the absence of some compelling special circumstance, the interview of a child possibly seduced by an acquaintance molester should **never** be conducted in the presence of parents/guardians. The presence of the parent/guardian increases the likelihood the child will just deny or give the socially or parentally acceptable version of the victimization. This is especially true of younger victims. Investigators should also consider unannounced interviews of victims of acquaintance molesters.

If all else fails the investigator can try the no-nonsense approach. No matter what the investigator does, most adolescent boy victims will deny they were victims. It is

important, therefore, that as many potential victims as legally and ethically possible are interviewed. It is also possible some troubled teenagers may exaggerate their victimization or even falsely accuse individuals. Allegations must be objectively investigated considering all possibilities. After disclosing, some victims will later recant or change their stories.

The offender may also continue to manipulate the victims after investigation and disclosure. The offender may appeal to the victim's sympathy. He may make a feeble attempt at suicide to make the victims feel guilty or disloyal. Some offenders may threaten the victims with physical harm or disclosure of the blackmail material. Some offenders may bribe the victim and his family. Even after they disclose and testify in court, some victims then recant and claim they perjured themselves. Although in some cases the recantation may be valid, it is most likely the result of blackmail, feelings of guilt about the offender being in prison, or shame over their behavior.

Some victims in acquaintance-child-exploitation cases disclose incomplete and minimized information about the sexual activity. This creates significant problems for the investigation and prosecution of such cases. For instance when the investigator finally gets a victim to disclose the exploitation and abuse, the victim furnishes a version of his victimization that he or she swears is true. Subsequent investigation then uncovers additional victims, child pornography, or computer chatlogs — directly conflicting with the first victim's story. A common example of this is that the victim admits the offender sucked his penis, but denies he sucked the offender's penis. The execution of a search warrant then leads to the seizure of photographs of the victim sucking the offender's penis. Additional victims may also confirm this, but then lie when they vehemently deny they did the same thing.

The allegations of multiple victims often conflict with each other. Each victim tends to minimize his or her behavior and maximize the behavior of other victims or the offender. Some victims continue to deny the activity even when confronted with the pictures. Today investigators must be especially careful in computer cases where easily recovered evidence *(e.g.*, chatlogs, records of communication, visual images) from both the victim and offender may directly contradict the socially acceptable version of events the victim is now giving.

Understanding the Preferential Offender

Preferential sex offenders may be "pillars of the community" and are often described as "nice guys." They almost always have a means of access to children *(e.g.*, marriage, neighborhood, occupation). Determining their means of access helps identify potential victims. Investigation should always verify the credentials of those who attempt to justify their acts as part of some "professional" activity. It must be understood, however, that just because an offender is a doctor, clergy member, or therapist, for example, does not mean he could not also be a child molester.

As previously stated, because the molestation of children is part of a long-term persistent pattern of behavior, preferential child molesters are like human evidence machines. During their lifetime they leave behind a string of victims and collection of child pornography and erotica. The preferential child molester, therefore, can be thoroughly investigated and corroborative evidence easily found if investigators

understand how to recognize him and how he operates — **and if their departments give them the time and resources**.

Men sexually attracted to young adolescent boys are the most persistent and prolific child molesters known to the criminal-justice system. Depending on how one defines molestation, they can easily have dozens if not hundreds of victims in a lifetime. They usually begin their activity when they are teenagers themselves and continue throughout their lives as long as they are physically able.

Many pedophiles spend their entire lives attempting to convince themselves and others they are not sexual perverts, but good guys who love and nurture children. That is a major reason why they do such things as join organizations where they can help troubled children and volunteer to search for missing children. Because so many of them have successfully hidden their activities for so long, when identified and prosecuted they try to convince themselves they will somehow continue to escape responsibility. This is why they often vehemently proclaim their innocence right up to the time of their trial. If, however, the investigator and prosecutor have properly developed the case, preferential offenders almost always change their plea to guilty *(see* the chapter titled "After Identification" beginning on page 169).

Investigators and prosecutors should also be aware of offenders too eager to plead guilty. They may be hiding much more extensive or serious behavior they hope will not be discovered by additional investigation.

Proactive Approach

Because this publication is available to the public, specific details of proactive investigative techniques will not be set forth. In general, however, proactive investigation involves the use of surveillance, mail covers, undercover correspondence, "sting" operations, reverse "sting" operations, and online computer operations. For example, when an offender who has been communicating with other offenders is arrested, investigators can assume his identity and continue the correspondence.

It is not necessary for each law-enforcement agency to "reinvent the wheel." Federal law-enforcement agencies such as the U.S. Postal Inspection Service (USPIS), U.S. Immigration and Customs Enforcement (ICE), the FBI, and some state and local departments have been using these techniques for years. Because child prostitution and the production and distribution of child pornography frequently involve violations of federal law, the USPIS, ICE, and FBI all have intelligence information about such activity. It is recommended that any law-enforcement agency about to begin the use of these proactive techniques, especially those involving online Internet activity, contact nearby federal, state, and local law-enforcement agencies and Internet Crimes Against Children (ICAC) Task Forces to determine what is already being done and what protocols and policies have been developed. Many areas of the country have organized task forces addressing sexual abuse, exploitation, and computer exploitation of children. Law-enforcement agencies must learn to work together in these proactive techniques, or else they may wind up "investigating" each other. Some child molesters also are actively trying to identify and learn about these proactive techniques.

Investigators must give careful thought and consideration before using a child in any way in any proactive investigation. Child safety and protection come first. As

previously stated investigators should **never** put child pornography on the Internet or in the mail because of the harm of such uncontrolled circulation. The end does not justify the means. Investigators must also ensure their undercover activity does not cross the line into entrapment or outrageous government conduct. This is even more important if the investigator forwards his or her investigative "findings" to another law-enforcement agency for appropriate action.

The proactive approach also includes the analysis of records and documents obtained or seized from offenders during an investigation. In addition to possibly being used to convict these offenders, such material can contain valuable intelligence information about other offenders and victims. This material must be evaluated carefully in order not to over- or underestimate its significance.

Establish Communication With Parents/Guardians

The importance and difficulty of this technique in extrafamilial cases cannot be overemphasized. Because the parents/guardians are not the alleged perpetrators their investigative significance is different, not less than in intrafamilial cases. Parents/guardians should be advised of the general nature of the investigation. Investigators should also seek their cooperation and maintain ongoing communication with them. Not all parents/guardians react the same way to the alleged sexual victimization of their children. Some are supportive and cooperative. Others overreact, and some even deny the victimization. Sometimes there is animosity and mistrust among parents/guardians with differing reactions. Some parents/guardians even rally to the support of the accused perpetrator. Others want him immediately put in jail.

Parents/guardians must be told that in the absence of some extraordinary circumstance investigators need to interview their children outside of their presence. In some cases departmental policy or the law may give parents/guardians the right to be present during the interview of their minor children. If that is the situation, every effort should be made to get parental/guardian and/or departmental permission to waive that right. If parents/guardians are present during the interviews, any information so obtained must be carefully assessed and evaluated with the understanding of the parents/guardians' potentially significant influence on their children's statements. Compromises involving one-way mirrors, video cameras, and out-of-eye contact sitting positions may be possible. Eventually parents/guardians will have to be told something about what **their** children disclose. It is best if this happens after the information is obtained in a way that increases the likelihood of its accuracy and reliability. Parents/guardians should not be given the details of the disclosures of any other victims. Parents/guardians should be told of the importance of keeping the details of their child's disclosures confidential, especially from the media and other parents/guardians.

Parents/guardians should be interviewed regarding any behavioral indicators of possible abuse they observed and the history of their child's contact with the alleged offender. They must be reminded, however, that their child's credibility will be jeopardized when and if the information was obtained through repetitive or leading questioning and/or turns out to be exaggerated, unsubstantiated, or false. To minimize these problems, within the limits of the law and without jeopardizing investigative techniques, parents/guardians must be told on a regular basis how

the case is progressing. Parents/guardians can also be assigned constructive things to do *(e.g.*, lobbying for new legislation, working on awareness and prevention programs) to channel their energy, concern, and guilt.

If the parents/guardians lose faith in law enforcement or the prosecutor and begin to interrogate their children and conduct their own investigation, the case may be lost forever. Parents/guardians from one case communicate the results of their "investigation" with each other, and some have even contacted the parents/guardians in other cases. Such parental/guardian activity, however understandable, is an obvious source of potential contamination.

In addition it must be remembered children sexually exploited outside the home can also be sexually victimized inside the home.

Conclusion

It is the job of the professional investigator to listen to all victims, assess and evaluate the relevant information, and conduct an appropriate investigation. Corroborative evidence exists more often than many investigators realize. Investigators should remember that not all childhood trauma is abuse, and not all child abuse is a crime. There can be great frustration when, after a thorough investigation, an investigator is convinced something traumatic happened to the child victim but does not know with any degree of certainty exactly what happened, when it happened, or who did it. That is sometimes the price we pay for a criminal-justice system in which people are considered innocent until proven guilty beyond a reasonable doubt.

After Identification

When a child-molestation case is uncovered and an offender identified, there are certain fairly predictable reactions by the child molester. This is especially true of acquaintance molesters who are pedophiles or other types of preferential sex offenders. Many sex offenders are especially good at inventing all kinds of explanations and excuses to deny, minimize, rationalize, or validate their sexual interests and behavior. Knowledge and anticipation of these reactions will help the investigation and prosecution of such difficult cases. I find highly trained mental-health professionals with limited forensic experience are especially gullible in accepting these uncorroborated claims. My biased perspective is to assume everyone is lying unless I know otherwise.

Pedophile Defenses

Denial

Usually the first reaction of a child molester to discovery is complete denial. The offender may act shocked, surprised, or even indignant about an allegation of sexual activity with children. He may claim to know nothing about it or that he does not remember. He might admit to an act, but deny the intent was sexual gratification saying, "Is it a crime to hug a child?" He may imply his actions were misunderstood, and a mistake has been made. An offender who has engaged in sexual activity with a child victim who is compliant may even convince himself his denial about not sexually "assaulting" the child is the truth. In child-pornography cases some of the classic lines are, "I did not know that was on my computer," "I did not know it was a child in the picture." Relatives, friends, neighbors, and coworkers may aid his denial. These associates may be uncooperative and even hinder investigation of the offender. In any case the investigator should anticipate and not be thrown off by strong initial denial by a suspect.

Minimization

If the evidence against him rules out total denial, the offender may attempt to minimize what he has done both in quantity and quality. He might claim it happened on one or two isolated occasions or he only touched or caressed the victim. He may be knowledgeable about the law and admit to acts he knows are lesser offenses or misdemeanors. Some molesters minimize their activity by emphasizing the older age of their victims. Such victims might be referred to as "teens" rather than children. It is important to recognize even seemingly cooperative **victims** may also minimize the quantity and quality of acts. If a certain sexual act was performed 30 times, the victim might claim it happened only 5 times, and the offender might claim it happened only once or twice. In cases involving online solicitation to have sex with a child, the two classic lines are, "I have never done this before" and "I was just curious to see who showed up, I never intended to have sex."

Justification

Many child molesters, especially preferential molesters, spend their lives attempting to convince **themselves** they are not immoral, sexual deviants, or criminals. They

prefer to believe they are high-minded, loving individuals whose behavior is misunderstood or politically incorrect at this time in history. They refer to themselves as "boy lovers" not child molesters. Plugging into this justification system is the key to interviewing such offenders.

Rationalization usually involves trying to convince himself or others the sexual activity with children was not harmful. Validation usually involves trying to convince himself or others the sexual activity with children was beneficial. Child molesters frequently attempt to justify their behavior to law enforcement. They might claim they care for children more than the children's parents/guardians do and what he does is beneficial to the child. They love to talk about starving, abused children in third-world countries. If he is the stepfather or foster parent of the victim, he might claim the child is better off learning about sex from him. In other cases he might claim to be under tremendous stress or have a drinking problem. He might claim he did not know how old a certain victim was.

His efforts to justify his behavior often center around blaming the victim. This is probably the single most common rationalization of all child molesters. The offender may claim the victim seduced him, wanted and initiated the sexual activity, enjoyed and needed the sexual activity, or is promiscuous or even a prostitute. In some cases it might even be true. They often go into great detail explaining the difference between "consenting" and forced sex with children. But such justification should have no meaning. A crime has still been committed. As previously stated the major legal difference between sex crimes committed against children and adults is that with child victims consent is not supposed to matter.

Fabrication

Some of the more clever child molesters come up with ingenious stories to explain their behavior. Many intrafamilial sex offenders claim to be providing sex education for their children. One father claimed he was teaching his daughter the difference between a "good touch" and a "bad touch." Others claim to be nudists or naturists who walk around in front of their children in the nude all the time.

These stories work even better for an acquaintance molester who is a professional such as a clergy member, teacher, doctor, or therapist. One offender, a doctor, claimed he was conducting research about male youth prostitution. A professor claimed he was conducting research about pedophilia and collecting and distributing child pornography for scientific research. A school coach claimed he was having male team members masturbate in front of him as a test to determine if they were using steroids that cause impotence. A teacher said his students had such a desperate need for attention and affection they practically threw themselves at him and misunderstood his affection and response as sexual advances. A minister claimed he was doing research about adolescent growth. In another case a nursery-school operator, who had taken and collected thousands of photographs of young, nude or seminude children in his care, claimed they were not for sexual purposes; he simply admired the anatomy of children. A lawyer claimed his child-pornography collection was part of his legal research.

Even when not professionals, acquaintance offenders still come-up with inventive claims. One offender claimed his sadomasochistic photographs of children were

part of a child-discipline program. Another offender claimed the children made a sexually explicit videotape without his knowledge and he had kept it only to show their parents. Another claimed he was merely keeping the child warm in his bed on a cold night. A friend claimed he thought the young adolescent daughter of his neighbor whom he had fondled while she slept at his house was actually his wife. Several offenders have claimed they are artists victimized by censorship and their collections are works of art protected by the First Amendment. Another offender claimed unwanted child pornography was sent to his computer and he kept it because he is a compulsive pack rat. One offender claimed he had child pornography not because of a sexual interest, but because he liked to collect "forbidden material." In a case involving online solicitation, the offender claimed he was going to help the child who showed up. Another claimed he was conducting his own undercover investigations to protect children.

It could be argued in many of these cases whether some of these explanations are just deliberate, intentional lies or part of what clinicians might call "cognitive distortions" *(i.e.*, exaggerated and irrational thoughts and logical fallacies used to perpetuate psychological disorders) or "cognitive dissonance" *(i.e.*, an uncomfortable feeling caused by holding contradictory ideas simultaneously and attempting to resolve it through justification or rationalization). This distinction might be important for purposes of a polygraph examination, but it is probably less significant for a law-enforcement interrogation. The importance of understanding offenders' use of rationalization and validation during interrogations is discussed elsewhere *(see* "Subject Confessions" beginning on page 159). Investigators and prosecutors must be prepared to confront such stories and attempt to disprove them. Looking at the totality of the case; finding child pornography, child erotica, and other collateral evidence in the possession of the offender; and determining the context in which it was produced, obtained, maintained, and used are the most effective ways to do this.

Attack

It is important not to overlook this reaction of the identified child molester. It can be used many times during the investigation or prosecution. This reaction consists of attacking or going on the offensive. The pedophile may harass, threaten, or bribe victims and witnesses; attack the reputation and personal life of the investigating officer; attack the motives of the prosecutor; claim the case is selective prosecution or a witch hunt; raise issues such as gay rights if the child victim is the same sex as the offender; and enlist the active support of parents/guardians, groups, and organizations.

The investigator also must consider the possibility of physical violence. It would be a terrible mistake for any investigator or prosecutor to think all child molesters are passive people who are easily intimidated. I am aware of several cases in which the arrested child molester was a paranoid survivalist with a massive arsenal of weapons and explosives. In addition there are cases in which child molesters murdered their victims, including their own children, to keep them from disclosing the sexual victimization. Two different child molesters who had each killed several of their child victims stated the only way society could have prevented the murders would have been to legalize sex between adults and children. They claimed they killed their victims only to avoid identification.

After Conviction "Cooperation"

After being convicted and sentenced to incarceration, some pedophiles may exhibit another reaction. This involves asking to speak to law-enforcement investigators and claiming to have important information about more serious offenses against children. They might claim to know about organized child sex rings, child pornography, child prostitution, abduction of children, snuff films, satanic cults, or child murders. Some investigators are vulnerable to accept these claims because it is what they want or need to believe. Although this reaction is not as common as the others discussed here, there are numerous cases in which this has happened. In many of these cases the information furnished has turned out to be exaggerated, distorted, or patently false. Investigators have no choice but to investigate and check out such allegations because they might be partially or totally true. Investigators, however, must be skeptical and cautious in their response. Such stories should be carefully evaluated and assessed, and investigators should consider an early use of the polygraph by an examiner experienced in interviewing child molesters.

Suicide

One other reaction should also be anticipated in certain cases. An offender, especially from a middle-class background with no or one prior arrest, should be considered a high suicide risk at any time after arrest or conviction. The law-enforcement investigator should be prepared to be blamed for the offender's death. Because "macho" investigators are supposed to laugh and joke about losing a "statistic" when a child molester commits suicide, some investigators are ashamed or embarrassed because they had positive feelings for the offender and did not necessarily want him to die. Investigators need to remind themselves they were doing their jobs by enforcing the law and suicide was the offender's decision. The crucial issue for investigators is to try to ensure the offender does not commit suicide while in their custody and/or kill or injure them or anyone else first.

A wide variety of criminals may react in similar ways when their activity is discovered or investigated. The reactions described above, however, have been seen in child molesters time and time again, particularly in preferential sex offenders.

Bond Hearing

Many prosecutors attempt to increase or deny bond to acquaintance child molesters based on dangerousness to the community. I have been asked on numerous occasions to testify at such hearings that I know or believe a particular offender is a danger. Predicting future behavior is difficult. There are few things that reliably predict who will be a child molester. There are things, however, indicating an increased risk. It often comes down to the simple fact that the best predictor of future behavior is past behavior. Under most federal sexual exploitation statutes there is a rebuttable presumption of dangerousness (18 U.S.C. § 3142(E)(3)(E)) if there is probable cause to believe the person committed an offense involving minors.

In these situations prosecutors rarely need an "expert" to speculate about the future. What they need is a clear and organized presentation of the facts. As previously stated an offender's pornography and erotica collection is the single best

indicator of what he **wants** to do. It is not necessarily the best indicator of what he **did** or **will** do. If such a collection has been recovered, it must be reviewed, analyzed, and synopsized. The prosecutor then needs to communicate to the court what this and other evidence, not some expert's speculation, indicates the offender fantasizes are about and what he wants to do. Prosecutors should resist the temptation to embellish, exaggerate, or speculate. The evaluation is based on evidence, not speculation.

For example if the collection included 30 pairs of children's underpants, that does not necessarily mean the offender molested or murdered these 30 children. He may have molested them and taken their underpants, fantasized about molesting them and taken their underpants, stolen the underpants without knowing whose they were, or bought them. If you know or have evidence of how he obtained them, inform the judge of the facts. If you do not know, simply inform the judge of the **facts** such as that he had them, where he had them, and how many he had. The same would be true if the offender had narrative stories about having sex with children. If the offender has also demonstrated he is clever, manipulative, and organized with specific sexual preferences, the judge needs to know the facts that support that.

In essence inform the judge of the facts of the case. The judge then must decide if he or she is willing to release on bond a clever, manipulative individual who regularly fantasizes about having sex with and keeping the underpants of children in the community. The evaluation is based on evidence, not speculation. Some judges or magistrates, however, will not or cannot understand these facts. I am also baffled by conditions of release requiring the subject have no contact with children other than his own and not to use a computer for other than work. These conditions are difficult to enforce and assume the subject is a risk to other people's children but not his own and would never use the computer at work for such activity. Many of these same dynamics also apply to sentencing hearings.

Sentencing Issues

In many ways acquaintance-sexual-exploitation cases, especially those involving preferential sex offenders, are "slam dunks" or "like shooting fish in a barrel." Defense attorneys may claim entrapment or outrageous government conduct and file motions to suppress evidence. Defendants will deny the charges and make bold, public statements about their innocence. Possibly as a result of stronger mandatory sentences, more of these cases may now be going to trial. If the case has been put together properly, however, when the dust settles, most of these offenders plead guilty. Confronted with overwhelming evidence, many child molesters prefer to plead guilty to charges with vague names *(e.g.*, contributing to the delinquency of minors, lewd and lascivious conduct, indecent liberties) so the public will not know what they really did. The last thing they want is for all the details of their behavior to come out in open court. Some offenders will plead guilty in return for being placed in a diversion program that results in probation and delayed adjudication. Others often work the best plea bargain they can, say they are guilty when the judge asks, and then tell everyone else why they are really not guilty.

This sometimes involves a plea of *nolo contendere* to avoid civil liability. The offender may make public statements that he is pleading guilty because he does not want

to put the children through the trauma of having to testify or he has no more money to defend himself. In some cases offenders claimed they pleaded guilty because they knew a jury would convict them, but they "could not remember committing the crime." This problem is compounded by the fact it is possible, under the provisions of a U.S. Supreme Court decision *(North Carolina v. Alford*, 400 U.S. 25 (1970)), for an offender to plead guilty to a charge while at the same time not acknowledge he committed the crime. Although it is understandable why a prosecutor might accept such a plea in some cases, its use prevents the offender from having to accept public responsibility for his behavior. He is able to plead in essence "guilty, but not guilty" and further confuse the child victim as to who is guilty and innocent. Prosecutors should always be wary of offenders who seem overly anxious to plead guilty. They are sometimes trying to short circuit a "big-picture" investigation that might uncover the full scope of their criminal sexual activity.

The child molester sometimes pleads not guilty by reason of insanity. If state insanity criteria allow it, he will claim he knew his acts were wrong, but he lacked the ability to conform his behavior to the law. The judge and jury will then be given the difficult task of differentiating between an irresistible impulse and an impulse not resisted. When other tactics fail the child molester may claim some type of mental illness. It is interesting to note few child molesters admit mental illness until relatives, friends, or neighbors identify them; law enforcement identifies and arrests them; or other tactics fail and the courts convict them. If, as previously discussed, all pedophiles are not necessarily child molesters, then pedophilia alone cannot be the cause of their child molesting. Such mental-health defenses rarely work during a trial, but can be more effective at sentencing.

The real battle then takes place at sentencing where sex offenders effectively play the "sick and sympathy" game. In this game the offender expresses deep regret and attempts to show he is a pillar of the community, is a devoted family man, is a military veteran, actively practices his faith, is a clergy member, is nonviolent, has no prior arrests, and/or is a victim of abuse with many personal problems. They get the courts to feel sorry for them by claiming they are hard-working "nice guys" or decorated career military men who have been humiliated and lost everything. In view of the fact many people still believe in the myth that child molesters and child-pornography collectors are usually weirdos or social misfits, this tactic can unfortunately be effective especially at sentencing. As previously discussed this problem is worsened by well-intentioned child advocates who perpetuate and promulgate these myths of sexual predators. Many traits introduced by the offender as evidence of his good character *(e.g.,* dedication to children, volunteer work, conducting child-sexual-abuse prevention programs, offers to assist law enforcement) in fact contribute to his ability to access and seduce children and/or rationalize his behavior. Anything indicating the offender is trying to justify or minimize his activity makes him more dangerous and likely to reoffend. Typical offenders in child-sexual-exploitation cases are often nice guys with no prior arrests who victimize adolescent children. Having these characteristics should not qualify them as atypical offenders in need of special sentencing consideration.

In addition some seduced victims do not want the perpetrator prosecuted or sent to prison. At sentencing they may even write a letter to the judge indicating

their "consent" in the sexual activity and expressing their love for the defendant. Should such a letter get the same consideration as a letter from a victim requesting harsh punishment?

Although convicted of a sex offense, they will sometimes produce forensic, mental-health evaluations diagnosing no sexual disorders. The diagnosis of numerous mental disorders such as depression, bipolar disorder, attention-deficit disorder, anxiety disorder, asperger's disorder, obsessive-compulsive disorder (OCD), personality disorders, and "Internet-addiction syndrome" is often introduced as mitigating circumstances for consideration in the sentencing phase of the case. If there is a diagnosis of one or more sexual disorders, it is rarely disorders such as **pedophilia** or **sadism** and more often disorders such as addiction to pornography, hebephilia or ephebophilia, and other paraphilias.

If the forensic evaluation of a defendant in a child-sexual-exploitation case does not include sexual disorders, especially pedophilia, among the diagnoses, the prosecutor should always determine **exactly** why they were not included. It is often based on the fact the offender preferred pubescent children. One forensic evaluation I reviewed for a prosecutor stated the defendant was not a pedophile because he had a sexual preference for "underage adults." In an online solicitation case in which an undercover investigator claimed to be a 14-year-old child, a mental-health professional may testify the defendant is diagnostically not a **pedophile**. This may be true but it is irrelevant because wanting to have sex with a pubescent 14-year-old is not diagnostically pedophilia. A mental-health professional may also testify that a defendant who solicited sex online with a prepubescent child is diagnostically not a **pedophile** because he did not and would not actually have sex with the child. This would ignore the *Diagnostic and Statistical Manual of Mental Disorders*, 4th Edition, Text Revision *(DSM-IV-TR®)* criteria clearly stating "fantasies, urges, **OR** behaviors" (emphasis added) and not "and behavior." (American Psychiatric Association, 2000) *(see* also the chapter titled "Definitions" beginning on page 13). Sometimes the lack of a diagnosis of pedophilia is corroborative and may help the prosecution if admitted. If the allegations indicate the situational, nonpreferential selection of a child victim, the lack of pedophilia is consistent with the facts of the case. Interestingly in the guilt or innocence phase of most cases few of these diagnoses would be admissible.

All the persistent patterns of behavior used in the investigation and prosecution may now be used by the defense prior to sentencing. The defense attorney now wants to talk about the unexplainable, bizarre, compulsive, reckless, bewildering, out-of-character behavior of the defendant. This is the proof that he is not bad, but has a "disorder." The defendant is not in the "heartland of offenders" *(i.e.*, the typical offender the law intended to target) and needs a lighter sentence *(i.e.*, downward departure) and treatment. Under federal sentencing guidelines courts can consider the appropriate sentence for such a "nonviolent" offender. The courts would never give a bank robber a lighter sentence because he claimed he was driven by excessive greed. If anything he should get a longer sentence. Nonviolent offenders with compulsive sexual disorders and good interpersonal skills are very dangerous. Some argue although these compulsive disorders might indicate a defendant is more dangerous, he is somehow less culpable. Interestingly the *DSM-IV-TR* states activities such as "sexual behavior *(e.g.*, paraphilias)

when engaged in excessively" are not to be diagnostically considered compulsions "because the person usually derives pleasure from the activity and may wish to resist it only because of its deleterious consequences" (American Psychiatric Association, 2000).

If paraphilic, compulsive, preferential sex offenders are not fully accountable for their behavior nor considered to be in the "heartland of offenders," there is not much sense in prosecuting most sexual-exploitation cases. For now that is a high percentage of the computer "traders" and "travelers" and other acquaintance molesters. *See United States v. Motto*, 70 F.Supp.2d 570 (E.D. Pa. 1999). *See* also *United States v. Stevens*, 197 F.3d 1263 (9th Cir. 1998).

When confronted with claims of mental disorders either at a trial or sentencing, my advice to prosecutors is to assess the items noted below.

- Was there a proper forensic evaluation?
- Is the diagnosis a recognized, valid condition?
- Is the diagnosis a "mental disease or defect" or mental disorder?
- Does the diagnosis have criminal-justice significance?
- Does the diagnosis address the criminal behavior charged?

There are potential conflicts of interest if a therapist who is also providing treatment to the defendant conducts a forensic evaluation. Poor forensic evaluations involve viewing the defendant as a patient who is called by his first name and uncritically accepting the patient's version of events with minimal exposure to nonmedical evidence. Proper forensic evaluations involve viewing the defendant as a subject called by Mr. and his last name and comparing the subject's version of events with medical and nonmedical evidence *(e.g.*, law-enforcement reports, crime-scene photographs, physical evidence). Proper forensic evaluations are also recorded verbatim and should be supplemented with techniques to identify deception such as the polygraph and tests to measure sexual arousal to certain themes. Prosecutors should determine what type of forensic evaluation has taken place.

The *DSM-IV-TR* contains the generally accepted mental diseases and disorders and their diagnostic criteria. Any alleged diagnosis should be compared against the *DSM-IV-TR*. Many highly publicized or convenient mental conditions *(e.g.*, "Internet-addiction syndrome," hebephilia) simply are not listed in the *DSM-IV-TR*. It is therefore harder to know their diagnostic criteria and professional acceptance. There is also a difference between serious mental diseases and the numerous other mental disorders also in the *DSM-IV-TR*. Mental diseases such as psychoses involve hallucinations, delusions, and the inability to distinguish fantasy from reality and are more likely to be considered by the courts. The vast array of mental disorders in the *DSM-IV-TR* usually has no criminal-justice significance.

People may be depressed and suffering from anxiety disorder and still be completely accountable for their criminal behavior. People may in fact be bipolar, tortured by obsessive-compulsive disorder, and suffering from "Internet-addiction syndrome," but none of that explains why they are downloading child pornography and trying to have sex with 13 year olds. "Internet-addiction syndrome" might be of some significance if someone were charged with spending 16 hours a day on the Internet. Prosecutors also have the difficult choice of deciding whether to

counter such claims with common sense, their own experts, or both. Investigators and prosecutors should be aware of a "Cautionary Statement" appearing on page xxxvii of the *DSM-IV-TR* and reads in part

> It is to be understood that inclusion here, for clinical and research purposes, of a diagnostic category such as **Pathological Gambling or Pedophilia** does not imply that the condition meets legal or other nonmedical criteria for what constitutes mental disease, mental disorder, or mental disability. The clinical and scientific considerations involved in categorization of these conditions as mental disorders may not be wholly relevant to legal judgments, for example, that take into account such issues as individual responsibility, disability determination, and competency. (Emphasis added.)

Sentencing of acquaintance molesters who present as "intrafamilial" molesters can be a special problem. Many professionals have stereotypical views about incest offenders and what the courts should do with them. Many believe they should be placed in diversion programs and constitute a minimal risk to the community. This might be true much of the time, but it is not true all the time. A compulsive preferential sex offender who, as part of a long-term pattern of behavior, used marriage as a method of access to a child he molested, should be dealt with differently than an impulsive situational sex offender who, as part of an isolated pattern of behavior, molested his daughter. Many interveners are not aware of or do not recognize the difference.

Because use of the Internet has become the predominate means of child-pornography distribution in the United States, an increasing percentage of child-pornography cases are being prosecuted in federal court. The use of the Internet provides the interstate aspect usually necessary in federal cases and in each of the most recent Congresses legislation has passed specifically addressing the Internet as a tool to victimize children and providing the resources to focus on the problem. Special sentencing enhancements enacted for utilizing a computer make less sense when you consider almost all federal, child-pornography cases now involve the use of computers. The U.S. sentencing guidelines and the federal mandatory minimum sentences for child-pornography violations now result in many offenders facing considerably longer sentences for downloading pre-existing child pornography from the Internet than they would get if they were convicted of sexually molesting children.

The U.S. sentencing guidelines that were once mandatory now serve as only one factor among several judges can consider for first-time offenders for possessing or accessing child pornography. After giving both sides an opportunity to argue for the sentence they believe is appropriate, the federal judge then independently evaluates the sentencing purposes and factors set forth in 18 U.S.C. § 3553(a) and determines an appropriate sentence. Federal judges may be giving sentences with significant downward departure in part because of seemingly excessive sentence guidelines (Stabenow, 2008) and in part because overzealous child advocates have created unrealistic expectations of what constitutes a typical child-pornography offender. In my experience the typical child-pornography offender is a hard working, nice guy with no prior arrest record. The *National Juvenile Online Victimization*

Study indicates less than 5% of the online offenders were registered sex offenders with prior arrests. The mandatory minimum sentences for production, advertising, distribution, and receipt of child pornography and for online coercion and enticement of minors and interstate travel may be indirectly "negotiated" through various plea bargaining agreements *(i.e.*, plea to possession rather than receipt) or motion by federal prosecutor at or prior to sentencing.

In order for an offender to receive the most appropriate sentence for violating various child-pornography laws, it is important for investigators to obtain, prosecutors to evaluate, and judges to understand a great deal of information concerning the offender's conduct. This must be more than traditional concepts of prior convictions, poor character, and sexual molestation of children. As previously stated child-pornography violations should be viewed on their own merits independent of whether or not the offender is also molesting children.

Appropriate punishment is not necessarily limited to incarceration. Significant consequences could include a felony conviction, sex-offender registration, a suspended sentence with monitored probation, and pre-trial diversion with specific terms and conditions. Ideally the criminal-justice consequences should include some control or monitoring of any included treatment program.

Sex-offender registration and community notification will not be discussed in any detail in this publication. I will simply state I believe that sex-offender registration should be **offender**-based not **offense** based. A sex-offender registry that does not distinguish between the total pattern of behavior of a 50-year-old man who violently raped a 6-year-old girl and an 18-year-old man who had "compliant" sexual intercourse with his girlfriend a few weeks prior to her 16th birthday is misguided. The offense an offender is technically found or pleads guilty to may not truly reflect his dangerousness and risk level. The best-known laws determining how the criminal-justice system responds to all convicted sex offenders, Megan's Law, Jessica's Law, and the Adam Walsh Act, were named for victims who were abducted and murdered. Most child molesters do not abduct their victims and most offenders who abduct their victims do not kill them.

Treatment

Of course, if offenders are mentally ill, they need treatment and not a jail term. Although engaging in sexual activity is a basic, fundamental, and normal human need, sex offenders are seemingly more likely to be considered "sick" and in need of treatment than other criminals. If the behavior of a child molester is considered the result of a mental illness, however, then it must out of necessity be treated as a "contagious" disease that is, at best, difficult to cure. Courts most often consider this "sickness" even after the defendant has been found guilty and criminally responsible. Courts must carefully evaluate the seriousness of the offenses and effectiveness of any proposed treatment.

Treatment and punishment are not mutually exclusive. Some sex offenders seem to be motivated to seek treatment only when it is a substitute for incarceration. Do the evidence and facts of the case indicate prior to identification the child molester had recognized the harm of his sexual behavior and wanted to stop it, or do they

indicate he had spent considerable time and energy attempting to rationalize and justify this behavior? Punishment is about the past and seriousness of the offense. Treatment is about the future and desire to reduce recidivism. Since the vast majority of sex offenders will not be serving a life sentence, prosecutors must give some thought to treatment issues. Appropriate punishment is not limited to incarceration and can be an important element in motivating compliance with treatment.

Accountability for any treatment is an important issue for prosecutors to consider. This is best achieved when the criminal-justice system maintains some control over the treatment through incarceration, probation, or parole. The criminal-justice system needs to be aware if the defendant fails to cooperate in or terminates the treatment and if the therapist significantly alters the understood and agreed-upon treatment. Drugs to reduce the sex drive have a chance of working only if the offender is taking them. The most effective approach is usually some combination of punishment and treatment. Punishment communicates the seriousness and demonstrates the consequences of the offending behavior. Treatment can reduce recidivism and protect children. Most cases call for some combination of both.

When a convicted sex offender requests consideration for treatment and presents defense expert witnesses, the prosecution has the right to ask questions such as how was the diagnosis made, exactly what conditions are being treated, what kind of treatment is going to be used, what is the success rate for this treatment, why does it fail, who measured the success rate, what is the measure of success? In many treatment programs the treatment is considered a success if the subject does not report reoffending or is not rearrested. Treatment for sex offenders who deny they have sexual disorders by therapists who agree with them is more difficult to evaluate.

Some sex offenders can be treated and some cannot. The problem and challenge is to determine which is which. A proper, competent, and objective forensic evaluation of the defendant is an invaluable tool for the prosecutors in these cases. In evaluating treatment options within the criminal-justice system, prosecutors have the right to consider

- Willingness to submit to a thorough forensic evaluation including a polygraph
- Admission of guilt through a guilty plea (no Alford pleas)
- Acceptance of full responsibility for behavior with minimal excuses
- Recognition of the harm of the criminal behavior with minimal evidence of attempts to rationalize and validate it *(e.g.*, North American Man/Boy Love Association [NAMBLA] material, claims he helped children)
- Consequences for offending – some punishment is doing the defendant a favor and helping his treatment

Investigative Challenges

I have observed three major problems that make the investigation of child sexual exploitation difficult for law-enforcement officers and the criminal-justice system. Some of these investigative challenges are not unique to child-sexual-victimization cases, but only their impact on and relevance to such cases will be discussed here.

The "Ideal" Victim

Children in general have certain characteristics making them "ideal" victims from the offender's point of view. Some of these characteristics are listed below.

Naturally Curious

Children have a natural curiosity about the world around them. As they grow older they become increasingly curious about sex and develop an active sex drive. For most children sex is a taboo subject about which they receive little accurate information especially from their parents/guardians. Most parents/guardians find it difficult to discuss sex with their children. A clever child molester, to lower children's inhibitions and gradually seduce them into sexual activity, can easily exploit this natural curiosity and the lack of available information.

Easily Led by Adults

Many parents/guardians specifically instruct their children to respect and obey adults. Children are aware their very survival depends on these powerful adults. In addition to fulfilling the physical and emotional needs of children, adults are bigger and stronger. Any adult child molester can simply exploit his or her size and adult status to influence and control a child's behavior. Some child molesters exploit their status as individuals such as stepfathers, guardians, volunteers, youth leaders, and counselors to entice children into sexual activity. Child molesters who do not have this added adult authority sometimes impersonate individuals who do. For example they may falsely claim to be law-enforcement officers and clergy members.

Need for Attention and Affection

This is by far the most significant characteristic of children that makes them ideal victims especially for the seduction-acquaintance child molester. Even when they are getting attention and affection at home, children still crave and need it from others in their lives. It is important to realize **all** children, even those from "normal" homes and "good" families, are at risk from such seduction techniques. Although all children are at some risk, it seems the child from a dysfunctional home, who is the victim of emotional neglect or has strong feelings of alienation, is most vulnerable. Many victims get to the point where they are willing to trade sex for the attention and affection they get from some child molesters. It is sad but true in many ways some child molesters treat their victims better than the victim's own parents/guardians do. The seduction child molester exploits the child's need for attention and affection to his advantage; however, the child molester is usually willing to supply all this attention and affection

only as long as the child meets his age preferences. When the child gets too "old," the attention and affection usually turn to neglect and rejection.

Large numbers of children are being raised in single-parent families. This is an ideal situation for the seduction-acquaintance child molester. Many working parents/guardians are desperate for affordable daycare and readily available babysitters. Many parents/guardians are not only **not** suspicious of adults who want to spend time with their children, but they welcome them. Parents/guardians should at least be suspicious of individuals who want to be together with their children for long periods of time. Beware of anyone who wants to be with your children more than you do.

Need to Defy Parents/Guardians

Many children, especially when they reach adolescence, go through a rebellious period. The child molester can exploit this to his advantage. Children who are victimized as a result of disobeying parental/guardian guidelines or rules will be reluctant to admit their error and may misrepresent the nature of their victimization. This is especially true of adolescent boys.

Children as Witnesses

Many children are not believed when they report being sexually abused and may be subject to harassment in court. The truth is children are not poor witnesses. Neither are they ideal witnesses. Although child witnesses have many of the same traits as adult witnesses, the criminal-justice system must make special allowances for the developmental stages of children. Information furnished by children must be evaluated and assessed like the information furnished by any other victim or witness. If possible, as an early step in this assessment, consideration should be given to having a young child victim or witness evaluated by an objective mental-health professional in order to determine the child's developmental progress. This information can be of assistance in evaluating the information and details furnished by the child; however, this is not always possible or practical.

Maligned Investigator

Any law-enforcement officer assigned to the investigation of child sexual exploitation should be a volunteer, even if reluctant at first, who has been carefully selected and trained in this highly specialized work. This kind of work is not for everyone. Investigators must decide for themselves if they can handle it. Just as importantly, the investigators working these cases must monitor themselves continually. The strong emotional reactions provoked by this work and the isolation and prejudice to which they may expose the investigator can make this work "toxic" psychologically and socially.

Any law-enforcement officer assigned to the investigation of child sexual exploitation should be a volunteer, even if reluctant at first, who has been carefully selected and trained in this highly specialized work.

Law-enforcement officers investigating the sexual victimization of children must learn to cope with the stigma within law enforcement attached to sex-crime and sexual-victimization-of-children investigations. Because there is so much ignorance about sex in

general and deviant sexual behavior specifically, fellow officers frequently joke about sex crime and vice investigators. This phenomenon is often most problematic for officers working child-sexual-exploitation cases especially in medium or small departments. Investigators frequently become isolated from their peer group because fellow officers do not want to hear about child sexual exploitation. The "reward" for spending days reviewing seized child pornography and other collateral evidence is to become the brunt of jokes about their sexual interests.

This is a problem supervisors as well as individual investigators must recognize and address. Investigators must be alert to the early warning signs of overexposure or stress. By using appropriate humor, limiting exposure, maintaining good physical fitness, nurturing and seeking peer support, and feeling a sense of self-accomplishment, the investigator can turn a job perceived as "dirty" into a rewarding assignment. A more detailed discussion of this problem is contained in a chapter titled "The Maligned Investigator of Criminal Sexuality" (Lanning and Hazelwood, 2001).

Societal Attitudes

As previously discussed in the "Introduction," society has a particularly difficult time understanding cases involving cooperating child victims and acquaintance child molesters.

There are also several organizations in this country and around the world that openly voice a far different attitude about adult sex with children. The Rene Guyon Society, North American Man/Boy Love Association (NAMBLA), Pedophile Information Exchange (PIE), Child Sensuality Circle, Pedo-Alert Network (PAN), KRP2 (Kids R People Too), Uncommon Desires, and Lewis Carroll Collector's Guild are all examples of groups that at one time or another have openly advocated adult-child sex and changing the laws making it a crime. These groups usually restrict their advocacy to "consenting" sexual activity with children and claim to be opposed to forced sex with children. Such groups move in and out of existence as active members come and go, but the attitudes persist.

In spite of the attention many of these organizations have received in the past, it is doubtful they have had any significant impact on public opinion in general within the United States. Their greatest threat to society, other than the criminal acts of individual members, is as a source of support and validation for child molesters and pedophiles. These groups and the material they publish help child molesters justify their behavior. Many pedophiles are openly proud of their behavior. In her outstanding article, "The Indignant Page: Techniques of Neutralization in the Publications of Pedophile Organizations," Dr. Mary De Young identifies the three neutralization techniques of such pedophiles as **denial of injury** (no harm done to child victim), **denial of the victim** (child deserved or brought on the behavior), and **appeal to higher loyalty** (insistence behavior serves the interests of a higher principle such as liberation of children or artistic freedom) (De Young, 1988). To some extent the Internet has made such groups obsolete. One no longer needs to join NAMBLA to get active validation for a sexual attraction to children. People can go on the Internet anytime of the day and find hundreds of others willing to actively validate their commonly held perverted interests.

Interestingly a few academics, mental-health professionals, and sexologists express similar views. These so-called "experts" on human sexual behavior sometimes equate the existing laws that prohibit sex with children with laws prohibiting masturbation, fornication, and homosexuality. They advocate changing the laws so children can choose their sexual partners freely, but under the guise of children's rights and freedom.

Also, law-enforcement investigators must be prepared to address the fact the identification, investigation, and prosecution of many child molesters may not be welcomed by their communities – especially if the molester is a prominent individual. Individuals may protest, and community organizations may rally to the support of the offender and even attack the victims. City officials may apply pressure to halt or cover up the investigation. Many law-enforcement supervisors, prosecutors, judges, and juries cannot or do not want to hear the details of deviant sexual behavior. They will do almost anything to avoid these cases. In my opinion it appears some federal judges believe cases involving sexual exploitation of children belong in state, not federal court. Some people would like to believe downloading child pornography from the Internet is about "dirty" pictures that should be a private, not criminal matter.

As has been repeatedly stated, sympathy for victims is inversely proportional to their age and sexual development. We often focus on adolescent victims when we want volume and impact, but we do little to address the nature of their victimization. We want to view them as innocent children when they are sexually victimized, but then try them as fully accountable adults when they commit a violent crime. The greatest potential to worsen societal attitudes about child victims who comply in their sexual exploitation comes from societal attitudes about child offenders. If increasing numbers of younger and younger children are held fully accountable for their criminal behavior and tried in court as adults, it becomes harder and harder to argue the "consent" of children of the same ages is irrelevant when they engage in sexual activity with adults.

The final frustration for the law-enforcement officer often comes in the sentencing of a convicted child molester. There are serious sex offenses, such as murder, torture, and sadistic rape, which are generally dealt with severely by the criminal-justice system. And there are nuisance sex offenses, such as indecent exposure and window peeping, which are generally dealt with lightly by the criminal-justice system. The problem is the nonviolent sexual victimization of children involving seduction by acquaintance molesters is often dealt with as a nuisance offense. It is even worse if the "child" victim is actually an undercover law-enforcement officer who the offender only thought was a child. The bottom line is society condemns child molestation in the abstract, but how it responds to individual cases depends on who the offender is, who the victim is, and whether the case fits their stereotypical ideas.

Summary Quotes: "The Cliff Notes"

The essence of this publication can be summarized in the key quotes noted below.

*In general…sexually victimized children need more people addressing their needs from the **professional** perspective and fewer from the **personal** and **political** perspectives.*

Pages 4-5

People seem more willing to accept a sinister, unknown individual or 'stranger' from a different location or father/stepfather from a different socioeconomic background as a child molester than a clergy member, next-door neighbor, law-enforcement officer, pediatrician, teacher, coach, or volunteer.

Page 8

Referring to the same thing by different names and different things by the same name frequently creates confusion.

Page 13

Sympathy for victims is inversely proportional to their age and sexual development.

Page 15

*The repetitive patterns of behavior of sex offenders can and do involve some MO, but are more likely to also involve the less-known concept of sexual **ritual**.*

Page 17

These offenders seduce children much the same way adults seduce one another.

Page 27

*The purpose of this descriptive typology is not to gain insight or understanding about **why** child molesters have sex with children in order to help or treat them, but to recognize and evaluate **how** child molesters have sex with children in order to identify, arrest, and convict them.*

Page 39

Parents/guardians should beware of anyone who wants to be with their children more than they do.

Page 55

Child pornography, by itself, represents an act of sexual abuse or exploitation of a child and, by itself, does harm to that child.

Page 80

*An offender's pornography and erotica collection is the single best indicator of what he **wants** to do. It is not necessarily the best indicator of what he **did** or **will** do.*

Page 107

A wide variety of digital-memory devices, including those in portable audio recorders or an automobile, now can be used to store visual-image files.... Collections that used to be stored in a home or office may now be stored in cyberspace or on the person of the offender.

Page 117

Exploitation cases involving the use of information technology…present many investigative challenges, but they also present the opportunity to obtain a great deal of corroborative evidence and investigative intelligence.

Page 121

Because of this validation process and the fueling of sexual fantasy with online pornography, I believe some individuals with potentially illegal, but previously latent sexual preferences have begun to criminally act out. Their inhibitions are weakened after their arousal patterns are fueled and validated (not created) through online computer communication.

Page 128

With multiple victims no one victim should have to bear the total burden of proof, and cases should rarely, if ever, be severed for prosecution.

Page 137

The idea that some children might enjoy certain sexual activity or behave like human beings and engage in sexual acts as a way of receiving attention, affection, gifts, and money is troubling for society and many investigators.

Page 139

Investigators must stop looking at child sexual exploitation through a keyhole — focusing only on one act by one offender against one victim on one day. Law enforcement must 'kick the door open' and take the 'big-picture' approach — focusing on offender typologies, patterns of behavior, multiple acts, multiple victims, child pornography, and proactive techniques.

Page 140

Children are not adults in little bodies. Children go through developmental stages that must be evaluated and understood. In many ways, however, children are no better or worse than other victims or witnesses of a crime. They should not be automatically believed or dismissed.

Pages 146 and 147

Because their molestation of children is part of a long-term persistent pattern of behavior, preferential sex offenders are like human evidence machines.

Page 155

Any law-enforcement officer assigned to the investigation of child sexual exploitation should be a volunteer, even if reluctant at first, who has been carefully selected and trained in this highly specialized work.

Page 182

Last and most importantly

Regardless of intelligence and education and often despite common sense and evidence to the contrary, adults tend to believe what they want or need to believe. The greater the need, the greater the tendency.

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Appendix II: Appellate Case Decisions

In cases noted below, my expert testimony concerning various aspects of the behavioral analysis set forth in this publication was affirmed on subsequent appeal.

- *United States v. Cross*, 928 F.2d 1030 (11th Cir. 1991)
- *United States v. Romero*, 189 F.3d 576 (7th Cir. 1999)
- *State v. Kos*, 15 S.W. 3d 633 (Ct. App. TX 2000)
- *United States v. Long*, 328 F.3d 655 (9th Cir. 2003)
- *United States v. Hayward*, 359 F.3d 631 (3rd Cir. 2004)
- *United States v. Hays*, 62 M.J. 158 (C.A.A.F. 2005)
- *United States v. Davenport*, 149 Fed. Appx. 536 (7th Cir. 2005)
- *United States v. Forrest*, 429 F.3d 73 (4th Cir. 2005)
- *State v. Sorabella*, 277 Conn.155; 891 A.2d 897 (2006)
- *State v. Torres*, 999 So. 2d 1077 (2009)

Appendix III: The Investigator's Basic Library

The publications noted below are recommended for inclusion in a basic reference library of a law-enforcement investigator of sexual victimization of children.

Hazelwood, R.R., and Burgess, A.W. (Eds.) (2009). *Practical aspects of rape investigation* (4th Ed.). Boca Raton, FL: CRC Press.

Myers, J.E.B. (1998). *Legal issues in child abuse and neglect practice* (2nd Ed.). Thousand Oaks, CA: Sage.

Myers, J.E.B., Berliner, L., Briere, J., Hendrix, C.T., Jenny, C., and Reid, T.A. (Eds.) (2002). *APSAC handbook on child maltreatment* (2nd Ed.). Thousand Oaks, CA: Sage.

Office of Juvenile Justice and Delinquency Prevention (1996-2006). *Portable guides to investigating child abuse*. Washington DC: U.S. Department of Justice.

Pence, D., and Wilson, C. (1994). *Team investigation of child sexual abuse: The uneasy alliance*. Thousand Oaks, CA: Sage.

Quayle, E., and Taylor, M. (Eds.) (2005). *Viewing child pornography on the Internet*. Dorset, United Kingdom: Russell House Publishing.

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National Center for Missing & Exploited Children

The National Center for Missing & Exploited Children® (NCMEC) was established in 1984 as a private, nonprofit organization. Per 42 U.S.C. § 5773 and other federal legislation NCMEC fulfills 20 core federal mandates including the operation of a national, 24-hour, toll-free telephone line by which individuals may report information regarding the location of a missing child and request information about the procedures necessary to reunite a child with his or her legal custodian; operation of the national resource center and information clearinghouse for missing and sexually exploited children; coordination of programs to locate, recover, or reunite missing children with their families; provision of technical assistance and training in the prevention, investigation, prosecution, and treatment of cases involving missing and sexually exploited children; and operation of a CyberTipline® for reporting Internet-related, child sexual exploitation.

A 24-hour, toll-free telephone line, **1-800-THE-LOST® (1-800-843-5678)**, is available in Canada and the United States for those who have information regarding missing and sexually exploited children. The "phone free" number is 001-800-843-5678 when dialing from Mexico and 00-800-0843-5678 when dialing from many other countries. For a list of other toll-free numbers available when dialing from specific countries visit www.missingkids.com, and from the home page respectively click on the "More Services" and "24-Hour Hotline" links. The CyberTipline is available worldwide for online reporting of these crimes at www.cybertipline.com. The TDD line is 1-800-826-7653. The NCMEC business number is 703-224-2150. The NCMEC facsimile number is 703-224-2122. The NCMEC website address is www.missingkids.com.

For information about the services offered by NCMEC's other offices, please call them directly in California at 714-508-0150, Florida at 561-848-1900, Florida/Collier County at 239-566-5801, New York/Buffalo at 716-842-6333, New York/Mohawk Valley at 315-732-7233, New York/Rochester at 585-242-0900, and Texas at 512-465-2156.

To learn more about the existence and nature of other programs being carried out by federal agencies to assist missing and sexually exploited children and their families visit www.ncjrs.gov or call 1-800-851-3420 to obtain *Federal Resources on Missing and Exploited Children* (NCJ 216857).

A number of NCMEC publications, addressing various aspects of the missing- and sexually exploited-child issue, are available free-of-charge in single copies by contacting the

Charles B. Wang International Children's Building
699 Prince Street
Alexandria, Virginia 22314-3175
U.S.A.
www.missingkids.com
1-800-THE-LOST (1-800-843-5678)

Printed on recycled paper.

Child Molesters: A Behavioral Analysis

For Professionals Investigating the Sexual Exploitation of Children

2-86-005-5/NCMEC Order #70