

Handbook of Research on Trends and Issues in Crime Prevention, Rehabilitation, and Victim Support

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MISSION

From stealing identities, to domestic abuse, to serial murder, crime and victimization continue to remain an unfortunate staple of society. With the rapid expansion and availability of technology, as well as the inability to effectively monitor and regulate such emerging tools as the deep web, criminals have continually advanced and altered their methods to avoid detection and locate new victims. As officials work to predict and prevent crimes, as well as apprehend offenders, they will need to devise new tools and strategies to preserve the safety of society and ensure proper justice is served.

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Chapter 13

Online Child Pornography: Conceptual Issues and Law Enforcement Challenges

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ABSTRACT

This chapter presents some challenges faced by the police in identifying child pornography images. In particular, three main problems will be discussed throughout this chapter. The first lies in deciding whether an image is explicit enough to be considered pornographic. The second issue lies in determining whether the victim is a child or someone who appears to be a child. A final challenge concerns how to deal with sexually explicit images produced by someone who is a child themselves. It will be argued that despite emerging investigative and forensic methods, the decision-making process engaged in by police officers still presents some specific challenges. These aspects will be discussed through an analysis of semi-structured interviews with 23 French police officers and forensic analysts working in departments specialising in policing cybercrime and online child sexual abuse.

INTRODUCTION

Since the late 1990s, alongside utopian rhetoric about the opportunities new technologies would foster, there has been growing concern about the Internet and child safety. Increased awareness of the child pornography issue has been associated with a simultaneous recognition of the Internet as a medium for the distribution of abusive materials and the facilitation of a number of sexual offences against children (Taylor, Holland, & Quayle, 2001).

Although child pornography existed long before the emergence of information technology (Tate, 1990), there is a general consensus that its development has increased the availability of child sexual abuse images (Taylor & Quayle, 2003; Wolak, Finkelhor, & Mitchell, 2011; Fortin & Corriveau, 2015). The Internet and digital technologies have facilitated the production, distribution and possession of such material, allowing offenders to operate across borders and to take advantage of the unique qualities of

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Online Child Pornography

the online environment, namely anonymity, accessibility and affordability (Cooper, 1998). Simultaneously, information technology has provided a new space where offenders can communicate, share criminal experiences and find justifications for their criminal behavior, as well as easily contact the victims (Quayle & Taylor, 2002; Fortin & Corriveau, 2015; Macilotti, 2018b). As a result, online child pornography has become a truly global problem and one of the most concerning forms of cybercrime (Yar & Steinmetz, 2019).

In response, in the late 1990s and early 2000s most Western countries introduced legislative measures designed to protect children and young people from Internet abuse, primarily addressing the production, exchange and possession of child pornography through the use of information and communication technology. The main purpose of these measures is to combat those who promote child sexual abuse by creating and disseminating child pornography, as well as those who contribute to child sexual exploitation by collecting such material. To tackle online child sexual abuse and more generally cybercrime, many governments have also formed specialized police units that investigate these offences through a broad range of reactive and proactive methods. In addition, international and national efforts have been made to increase the level of cooperation and coordination among police forces, as well as between public and private sectors (Yar & Steinmetz, 2019). Yet despite the considerable resources committed to tackling online child pornography, policing this crime can still encounter a number of problems.

This chapter aims to explore the challenges faced by the police in identifying child pornography images, as well as the way in which law enforcement personnel respond to the growing complexity of this phenomenon. These aspects will be discussed through an analysis of semi-structured interviews with 23 French police officers and forensic analysts drawn from a doctoral study on online child pornography (Macilotti, 2018b), and postdoctoral research on law enforcement's response to cybercrime. On a national level, the interviews were conducted with police officers working in departments specializing in policing cybercrime and online child sexual abuse (n=15)¹. On a local level, interviews were conducted with law enforcement officers operating in cybercrime units or in forensic investigation divisions (n=8).

Three main dilemmas were underlined by the interviewees and will be discussed throughout this chapter. The first lies in deciding whether an image is explicit enough to be considered pornographic. The second issue lies in determining whether the victim is a child or someone who appears to be a child. A final challenge concerns how to deal with sexually explicit images produced by someone who is a child themselves. It will be argued that despite emerging investigative and forensic methods, the decision-making process engaged in by police officers still presents some specific challenges.

LEGISLATIVE AND POLICING MEASURES TO TACKLE ONLINE CHILD PORNOGRAPHY

Defining Child Pornography

Child pornography can be behaviorally defined as *the sexually explicit reproduction of a child's image* (Lanning, 2010, p. 80). It usually refers to visual depictions (e.g. photographs, videos, magazines) showing a minor subjected to a broad range of abusive acts, including forced sexual poses, masturbation, oral and penetrative sex. These types of representation involve a number of criminal behaviors ranging from the production to the possession of this material, through its commercialization and distribution. As such, children are victimized not only when the images and videos are produced, but also every time

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