

Assessment and Treatment of Child Pornography Offenders

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Assessing and Treating CP Offenders

- What (Tyre)
- Who (Tyre)
- Why (Tyre)
- How (Rivera)
- Where and (Erdmann)
- When (Erdmann)

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**There seems to be nothing
funny about child porn**

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Porn Leads to School Shootings, GOP Congresswoman Says

HuffPost May 29, 2018

Pedophiles try to lure an 8-year-old girl into child porn on livestreaming app

PHOENIX - An 8-year-old girl was nearly coerced into taking her clothes off by pedophiles on an app called Live.me. The girl's mother Bethany, who asked that we do not reveal her last name, found the video saved on her tablet a week after it was livestreamed.

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Possession of any kind of pornography (including child pornography) legal
Possession of child pornography illegal
Possession of any kind of pornography illegal

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What ... Pornography defined

- Supreme Court Justice Potter Stewart famously defined hardcore pornography, a genre not constitutionally protected, by saying: "I know it when I see it."
- in the case *Miller v. California*, the Supreme Court developed a three-prong legal framework to determine obscenity — called the Miller test — based on what an average person would find offensive.

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- The Miller test... *Miller v. California* 1973
- Whether "the average person, applying contemporary **community standards**", would find that the **work**, taken as a whole, appeals to the **prurient** interest,
- Whether the work depicts or describes, in a **patently offensive** way, sexual conduct or excretory functions specifically defined by applicable state law,
- Whether the work, taken as a whole, lacks serious **literary, artistic, political, or scientific** value.
- The work is considered obscene only if *all three* conditions are satisfied.

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- **The legal status of drawn pornography depicting minors** varies from country to country and concerns **simulated pornography** and **child pornography**.

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Some analysts have argued whether **cartoon pornography** depicting **minors** is a "**victimless crime**".^[110] Laws have been enacted to criminalize "obscene images of children, no matter how they are made", for inciting abuse. An argument is the claim that obscene fictional images portray children as **sex objects**, thereby contributing to **child sexual abuse**. This argument has been disputed by the fact that there is no scientific basis for that connection as of 1999,^[111] and that restricting sexual expression in drawings or animated games and videos might actually increase the rate of sexual crime by eliminating an outlet for desires that could motivate crime.^[112]

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Currently, countries that have made it illegal to possess (as well as create and distribute) sexual images of fictional characters who are described as or appear to be under eighteen years old include Australia, Canada, the Philippines, South Africa, South Korea and the United Kingdom.^[113] At the upper edge, this encapsulates pornographic depictions of even seventeen-year-olds together, or adults where the predominant impression conveyed is of a person under the age of 18 (such as small-breasted women).

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The **Dost test** is a six-factor guideline established in 1986 in the **United States district court** case *United States v. Dost*^[114]

In order to better determine whether a visual depiction of a minor constitutes a "lascivious exhibition of the genitals or pubic area" under **18 U.S.C. § 2256(2)(B)**, the court developed six criteria. Not all of the criteria need to be met, nor are other criteria necessarily excluded in this test.^[115]

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- Whether the focal point of the visual depiction is on the child's genitalia or pubic area.
- Whether the setting of the visual depiction is sexually suggestive, i.e., in a place or pose generally associated with sexual activity.
- Whether the child is depicted in an unnatural pose, or in inappropriate attire, considering the age of the child.
- Whether the child is fully or partially clothed, or nude.
- Whether the visual depiction suggests sexual coyness or a willingness to engage in sexual activity.
- Whether the visual depiction is intended or designed to elicit a sexual response in the viewer.

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What about Wisconsin?

944.21 Obscene material or performance

- Obscene material means a writing, picture, film or other recording that:
 - The average person, applying contemporary community standards, would find appeals to the prurient interest if taken as a whole;
 - Under contemporary community standards, describes or shows sexual conduct in a patently offensive way; and
 - Lacks serious literary, artistic, political, educational or scientific value if taken as a whole.

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948.12 Possession of child pornography

- **948.12(1m) (1m)** Whoever possesses, or accesses in any way with the intent to view, any undeveloped film, photographic negative, photograph, motion picture, videotape, or other recording of a child engaged in sexually explicit conduct under all of the following circumstances may be penalized under sub. (3):
 - **948.12(1m)(a)** (a) The person knows that he or she possesses or has accessed the material.
 - **948.12(2m)(a)** (a) The person knows that he or she has exhibited or played the recording.

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948.12(1m)(b) (b) The person knows, or reasonably should know, that the material that is possessed or accessed contains depictions of sexually explicit conduct.

948.12(1m)(c) (c) The person knows or reasonably should know that the child depicted in the material who is engaged in sexually explicit conduct has not attained the age of 18 years.

948.12(2m) (2m) Whoever exhibits or plays a recording of a child engaged in sexually explicit conduct, if all of the following apply, may be penalized under sub. (3):

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948.12(3m)(b) (b) Before the person exhibited or played the recording, he or she knew the character and content of the sexually explicit conduct.

948.12(3m)(c) (c) Before the person exhibited or played the recording, he or she knew or reasonably should have known that the child engaged in sexually explicit conduct had not attained the age of 18 years.

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Act 129 As of December 2017 an act to create 942.09 (4)

942.09(4)(a) (a) Except as provided in par. (b) or (c), whoever solicits an intimate or private representation from a person who the actor believes or has reason to believe has not attained the age of 18 years is guilty of a Class I felony.

942.09(4)(b) (b) If the person who solicits the intimate or private representation has attained the age of 18 years but has not attained the age of 21 years and if the child solicited is not more than 3 years younger than the person who solicits the intimate or private representation, he or she is guilty of a Class A misdemeanor.

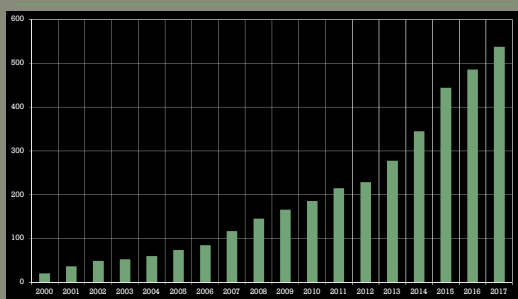
942.09(4)(c) (c) Paragraph (a) does not apply if the person who solicits the intimate or private representation has not attained the age of 18 years.

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WI DOC Sex Offenders

- The percentage of inmates with any active sex offense increased slightly from 20.1% in 2000 to 24.1% in 2016.

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Child porn offenders in WI DOC

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CP offenders: who are they in general

- Bourke and Hernandez (2009)
- Seto, Hermann, Kjellgren, et al (2015)
- Merdian, Wilson, Thakker, et al (2013)

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Relationship Among Child Pornography Offenders, Pedophiles, and Other Sex Offenders
United States Sentencing Commission, 2013
(does not reflect actual percentages)

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Bourke and Hernandez (2009)
Two groups of federally prosecuted CP offenders,
(Pretreatment)
Group 1, CP offenders with no known hands-on offenses at time of conviction (74%)
Group 2, CP offenders with at least one known hands-on child sex offense (26%)
(Posttreatment)
Group 1... down to 15% Group 2 ... grew to 85%
Overall, the hands-on group averaged 13.5 victims per offender
"Far from being innocent sexually curious men who through naivete or dumb luck" became entangled in the World Wide Web and involved in illegal pictures of children
"Collecting and trading behavior were simply behavioral manifestations of a larger, more pervasive, and enduring paraphilic lifestyle."

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Seto, Hermann et al (2015)
Attempted to understand prevalence and correlates in viewing CP in community sample of young Swedish men (N= 1,978 age range 17-20)
Findings...
77% response rate to anonymous survey of sexual behaviors, attitudes and beliefs including pornography use, sexual interests in children and coercive sex
84 respondents (4.2%) reported viewing CP
Cross-validation sample of Norwegian young men (N= 1,748 age range 17-20) (5.6% reported viewing CP)

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Seto et al, continued

- Potential risk factors for CP viewing (CP defined as images of adults with children)
 - Sexual interest in children (ages 12-14 and 12 and under)
 - Excessive sexual interest (hyper-sexuality frequent porn use)
 - Personality (ASPD factors aggressiveness and risk taking)
 - Peer influences (friends viewing CP)
 - Sexual victimization (ever have been victimized)
 - Sexual behavior with children

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Used the results of Swedish sample to construct Child Pornography Correlates Scales (6 dichotomous items, range 0-6)

- Ever had sex with male
- Likely to have sex with child 12-14 (if never detected)
- Likely to have sex with child 12 or less (if never detected)
- Friends watch CP
- Frequent porn use (less than daily or almost daily)
- Ever viewed violent pornography

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Merdian, Wilson, Thakker, et al (2013)

Why do you do it? explanations offered by CP offenders

Data from anonymous online survey of New Zealand CP offenders with and without hx of contact offenses (N= 39 22 CP only, 17 mixed)
Mean age= 43

- CP only offenders significantly more likely to have been diagnoses with mental health problem
- Mixed offenders significantly more convictions in their criminal history

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Three main themes emerged

- Emotional explanations
- Sexual Explanations
- Explanations referring to original triggers

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Emotional coping...

- Escape from depression
- Sexual frustration
- Emotional drought (loneliness)

Sexual explanations

- Sexual attraction to minors
- Sexual inadequacy or inexperience
- Children wouldn't reject me

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Initial triggers

- Accidental exposure, found it looking for other porn
- Just curious
- Curious to see the development of girls to women

Two sub-themes

- Sexual identity
- Progression from legal porn
