Non-Contact Child Porn Offenders

For a complete discussion on assessing sex offenders, please see Dr. Paul Simpson's CLE talk – "*Psychosexual Evaluations: What Every Attorney Should Know*" at www.arizonaforensics.com.

ATSA Policy Statement on Internet-Facilitated Sex Offending

Adopted by the ATSA Executive Board of Directors on September 7, 2010
http://www.atsa.com/internet-facilitated-sexual-offending

*"There is currently no risk measure specifically developed for use with Internet-facilitated offenders who have no official history of contact sexual offenses. Several overlapping, follow-up studies of child pornography offenders suggest these individuals present less risk for future hands-on offenses, on average, than undifferentiated samples of contact sex offenders.*http://www.atsa.com/internet-facilitated-sexual-offending… *Child pornography offenders also presented a relatively low risk to commit another child pornography offense. . . Studies that have compared Internet-facilitated sex offenders to contact sex offenders have found consistent differences. These studies suggest Internet-facilitated sex offenders are less antisocial and are; therefore, less of a risk to commit a new offense or a probation violation than contact sex offenders. These studies also suggest Internet-facilitated sex offenders are similar to or score lower than contact sex offenders on measures of clinical needs including offense-supportive attitudes and beliefs, intimacy deficits, and emotional problems. At the same time, child pornography offenders are more likely to show pedophilic sexual arousal on penile plethysmograph assessment than are contact sex offenders.*

Although researchers have suggested several typologies of Internet-facilitated offenders, we currently know very little about the treatment and supervision needs of Internet-related sex offenders. These typologies include individuals who are sexually interested in children, those who are more sexually indiscriminate, those who are curious, and those who opportunistically engage in Internet-facilitated offending (e.g., an adult male who uses the Internet to gain sexual access to adolescents). Effective intervention will need to be tailored to the type of offender and the risk they present. For example, an individual who viewed child pornography out of curiosity and is a low risk to offend in the future might require little (or no) treatment and minimal supervision while a pedophilic individual who opportunistically used the Internet to gain access to victims and who is a higher risk to offend in the future would require more intensive treatment and supervision. Regulation of access to the Internet would be expected to be a central consideration in treatment or supervision. Methodologically sound evaluation research is needed to develop effective treatment programs for Internet-facilitated sex offenders."

See Appendix B for the complete ATSA text.

Research reveals:

- Child pornography offenders are much larger in number than solicitation and contact offenders. On average, they are also less antisocial then contact sex offenders.
- Child pornography use can actually be a better indicator of pedophilia then having sexual contact with children. Some men who have contact offenses are not actual pedophiles. These can be antisocial or opportunistic offenders.
- Three quarters of the sexual recidivism identified by Wakeling et al. (2011) was Internet related. This was especially true for Internet "specialists" that is, those individuals who have no history of any other type of offending and thus tended to have low scores on the risk managers compared with the rest of the sample. Neither the Risk Matrix 2000 nor the OGRS3 (United Kingdom measures) significantly predicted recidivism among Internet-only offenders, due to the low base-rate of recidivism observed for this subgroup (There were few new offenses to predict and thus less statistical power to detect any real association). This is consistent with the findings reported by Seto et al. (2011) and Eke et al. (2011). (See Seto, 2013, p.209)

Recidivism Rates for CP / Non-contact Offenders (vs. offline/contact offenders).

- 3.4% committed new CP viewing, 2% committed future physical contact (Seto, 2011)
- 1.6% committed new CP viewing, 3% committed physical contact (N=638, Faust, 2015)
- 7% committed new CP viewing, 3% committed physical contact (N=135, Seto & Eke, 2015)
- 2.3% committed new CP viewing, 3.6% committed physical contact (N=610, Saris, 2013, from the US Sentencing Commission report)
- 2.9% committed new CP viewing, .5% committed "cross-over"/physical contact (N=125, MiKADO Study; Schuhmann, 2015)
- Any type of recidivism was uncommon in the Wakeling et al. study, at 8% after one year and 11% after two years.

Summary of Risk for Noncontact Online Offenders

These results were consistent with the idea that online offenders are low risk, as a group, and suggests further that online offenders are more likely to commit further online offenses than they are to commit contact sexual offenses, consistent with a specialist rather than general view of their criminal behavior. Dr. Michael Seto notes:

> *The low base rate of sexual recidivism among online-only offenders suggests that there is little variance in risk in this subgroup to predict. The most accurate risk statement is to assume that an online-only offender with no prior criminal history of any kind is not going to sexually reoffend. Because existing risk measures are already applicable to online offenders who have also committed contact-sexual offenses, the follow-up research to date has suggested that an online– offender-only risk measure is unlikely to be successful. (Seto, 2013, p. 211)*
>
> *There may appear to be a paradox in the risk in recidivism results … Among identified sex offenders, pedophilia is a robust and important risk factor, having one of the strongest associations with new sexual offenses in meta-analysis conducted by Karl Hanson and his colleagues (Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2005). Yet online child pornography offenders, many of whom are likely to be pedophiles, have a relatively low recidivism rate, at least in the studies we were able to examine in Seto et al. (2011).*
>
> *This seeming paradox is resolved when we remember that the motivation-facilitation model requires both motivation (such as pedophilia or hebephilia) as well as facilitation factors (such as antisocial personality traits) for contact sexual offenses to occur (Seto, 2008). Many online child pornography offenders may indeed be motivated to have sex with children, but many do not have the necessary facilitation factors for this to occur, given their relatively low scores on psychopathy, antisocial attitudes and beliefs, and criminal history.*
>
> *… child pornography offending can be viewed as a risk factor for sexual offending against children in the general population but as a 'protective' factor in the sexual offender population. This does not mean that child pornography use has a cathartic effect, only that it is a marker of lower risk of future offending within a sample of individuals identified for committing sexual crimes."* (Seto, 2013, p. 213-214)
>
> *The fact that bold claims about (online) sexual offending are made, and the fact that they are often unfounded or not supported in subsequent research, should give everyone great pause. American sex offender policies, in particular, are a baffling and frustrating mix of Draconian and/or ineffective, singling out sex offenders as special class of offenders… Sex offenders must register in publicly accessible databases, often for the rest their lives; they are often restricted by where they can live post-release, and they run the risk of civil commitment to a mental health facility after serving their prison sentence.*

These claims about sex offenders drive public policy and practice, and thus can lead to inefficient and ineffective responses to the problem of online sexual offending. Dollars and time spent on education campaigns warning youths about the dangers of communicating online with strangers, for example, are dollars and time that cannot be spent on education focusing on a-risk youth and on the right messages about the risks of exploitation or mistreatment by adults they interact with online. Dollars spent on incarcerating child pornography-only offenders for long periods of time are not available for other criminal justice purposes. Long sentences for child pornography only and fantasy-driven solicitation offenders means that these individuals cannot participate in the lives of their families and communities. If we, as a society, are going to make these choices, then we should strive to make them fairly and effectively in light of the scientific knowledge we have about online sexual offending. We would also want to use the information gained from risk assessment research to guide interventions, both in targeting higher risk individuals and in identify potential targets for offender treatment or supervision." (Seto, 2013, p. 216-217)

Seto et al (2006) suggested child pornography offending might be a stronger diagnostic indicator of pedophilia then sexual offending against a child. It may be that non-pedophilic men opportunistically offend against children. This includes antisocial men who seek sexual gratification from adolescents who show some signs of sexual development but are below the legally defined age of consent. (Graupner, 2000)

For an excellent rebuttal to this section, *every* prosecutor and *every* defense attorney should read Dr. Darrel Turner's article in the United States Attorneys' Bulletin, *"The Sentencing Battleground: Understanding the Current Psychology Research and Refuting Defense Psychology and Risk Assessment Reports at Sentencing."*

Dr. Turner's critique includes:

- Limited/inaccurate citation of the research literature
- Current research has limited follow up times
- Child molestation and pornography offenses go unreported
- Failure to conduct "case-by-case" assessments
- Failure to consider factors which increase risk in CP offenders (dynamic/mitigating factors) or misapplication of mitigating factors
- Failure/inadequate diagnosis of antisociality (including psychopathy)
- Failure to assess for sexual deviance by not conducting a complete psychosexual evaluation
- Use of various varying diagnoses to explain downloading/viewing of CP which are unsubstantiated by research
- Inappropriate application of risk assessment tools

Darrel Turner, Megan Hanks, Joey L. Blanch, Camille E. Sparks,
"The Sentencing Battleground: Understanding the Current Psychology Research and Refuting Defense Psychology and Risk Assessment Reports at Sentencing."
(July 2015), United States Attorneys' Bulletin, Vol. 63, #4, pp. 46-64.
https://www.justice.gov/usao/file/640226/download