

Exports
(Ken Lanning)

Child Molesters: A Behavioral Analysis

For
Law-Enforcement
Officers
Investigating
the Sexual Exploitation
of Children by
Acquaintance Molesters



In cooperation with the

Child Molesters: A Behavioral Analysis

**For Law-Enforcement Officers
Investigating the
Sexual Exploitation of Children
by Acquaintance Molesters**

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September 2001

Kenneth V. Lanning
Former Supervisory Special Agent
Federal Bureau of Investigation (FBI)

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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., FBI (Retired)

Mr. Lanning is a 30-year veteran of the FBI who spent 20 years in the Behavioral Science Unit and National Center for the Analysis of Violent Crime at the FBI Academy in Quantico, Virginia. He is a founding member of the Board of Directors of the American Professional Society on the Abuse of Children (APSAC) and current member of the Advisory Board of the Association for the Treatment of Sexual Abusers (ATSA). He is the 1990 recipient of the Jefferson Award for Research from the University of Virginia, 1996 recipient of the Outstanding Professional Award from APSAC, and 1997 recipient of the FBI Director's Award for Special Achievement for his career accomplishments in connection with missing and exploited children. He has testified on seven occasions before the U.S. Congress and many times as an expert witness in state and federal courts. He has consulted on thousands of cases involving deviant sexual behavior and the sexual victimization of children. He has authored numerous articles and publications including one monograph titled *Child Molesters: A Behavioral Analysis* and another titled *Child Sex Rings: A Behavioral Analysis* that have been widely distributed by the National Center for Missing & Exploited Children (NCMEC). He has made numerous presentations at major national and regional conferences on the sexual victimization of children, child abuse and neglect, and missing and exploited children and has lectured before and trained thousands of criminal-justice and mental-health professionals.

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Introduction

Caution

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 stranger abduction of toddlers to prostitution of teenagers. This discussion will focus **primarily** on sexual exploitation of children perpetrated by "acquaintance molesters." This and other related terms will be defined and insight will be provided into the behavioral patterns of offenders and victims in such cases.

The 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 the investigation. The material presented here may not be applicable to every case or circumstance. Although these investigative techniques may be utilized in other cases of sexual victimization of children, they are intended to be applied primarily to the investigation of molestation of children by adult acquaintances. Many real-world constraints, including lack of time and personnel, make following all the techniques discussed here impossible. General principles 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," even though their victimization 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 information in this publication and its application are based on my education, training, and more than 27 years of experience studying the criminal aspects of deviant sexual behavior and interacting with investigators and prosecutors. Although I understand that data is not the plural of anecdote, the information and opinions are based primarily on the totality of my acquired knowledge and expertise. My database is the thousands of cases on which I have consulted or studied. Its validity is the fact that its application has worked for all these many years. I have great confidence in its behavioral accuracy and reliability. **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 criminal-justice system. It is not intended to be a precise legal analysis with technical legal definitions. The use of terms also utilized in mental health (e.g., impulsive, compulsive, 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 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 difficulties encountered in these cases.

In the United States, society's historical attitude about 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 that such victimization just does not occur. Today, however, it is difficult to pretend that it does not happen. Stories and reports about child sexual abuse and exploitation are daily occurrences. Investigators dealing with sexual victimization of children must 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.

A complex problem such as the sexual victimization of children can be viewed from the 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.

*In general ...
sexually victimized children
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The personal and political perspectives tend to dominate emotional issues like 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, manpower). 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 about one in three children being sexually molested, the \$5 billion child-pornography industry, organized child slavery rings, and 50,000 stranger-abducted children are 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. Operational definitions for terms (e.g., child, pedophile, 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.

"Stranger Danger"

Especially during the 1950s and 1960s the primary focus in the limited literature and discussions on 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 that the danger is external.

During this time the FBI distributed a poster that epitomized 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.

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 walking down the street minding her own business. 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.

Society seems to have a problem dealing with any sexual-victimization case in which the adult offender is not completely "bad" or the child victim is not completely "good." The idea that 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 victim. Child prostitutes, by definition, participate in and sometimes initiate their victimization. Child prostitutes and the participants in exploitation cases involving multiple victims are frequently boys. A therapist once told me that a researcher's data on child molestation were "misleading" because many of the child victims in question were child prostitutes. This seems to imply that child prostitutes are not "real" child victims. Whether or not it seems fair, when adults and children have 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.

Intrafamilial Child Sexual Abuse

During the 1970s and 1980s society began to learn more about the sexual victimization of children. In my opinion this was primarily as a result of the women's movement. We began to realize that 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 that 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 that can be easily and effectively communicated in 50 minutes to hundreds of kids of varying ages packed into a school auditorium. These are difficult 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 on 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. But 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 dealing with 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 (*i.e.*, prosecutors, social workers, investigators) the sexual victimization of children still means 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" seems to be stranger abduction. To them child molesters are sick perverts 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. This seems to be the most difficult manifestation of the problem for society and the law to face. People seem more willing to accept a sinister 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, or volunteer with direct access to children. The acquaintance molester, by definition, is one of us. He is not just an external threat. We cannot easily distinguish him from us or identify him by physical traits. These kinds of molesters have always existed, but society 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. Sadly one of the main reasons that the criminal-justice system and public were forced to confront the problem of acquaintance molestation was the preponderance of lawsuits arising from the negligence of many prominent organizations.

One of the unfortunate outcomes of society's preference for the "stranger-danger" concept has a direct impact on the investigation of many acquaintance-exploitation cases. It is what I call, "say no, yell, and tell" guilt. This is the result of societal attitudes and prevention programs that tell potential child victims to avoid sexual abuse by saying no, yelling, and telling. This might work with the stranger lurking behind a tree. Children who are seduced and actively participate in their victimization, however, often feel guilty and blame themselves because they did not do what they were "supposed" to do. These seduced and, therefore, compliant victims may feel a need to sometimes describe their victimization in more socially acceptable but inaccurate ways that relieve them of this 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 sexual exploitation of children by adult acquaintances is complex and more difficult to implement. How do you warn children about pedophiles who may be their teachers, coaches, clergy members, or neighbors and whose only distinguishing characteristics are that they will treat the children better than most adults, listen to their problems and concerns, and fill their emotional and physical needs? Will parents, society, and the criminal-justice system understand when the victimization is discovered or disclosed? Much prevention advice simply does not distinguish to which types of sexual victimization it applies. The right to say "no" would be applied differently to a stranger, parent, or teacher.

Although stranger, intrafamilial, and acquaintance child molesters have been described here as seemingly separate and distinct offenders, reality is not so simple. Who is a stranger, a family member, or an acquaintance should all be viewed on a continuum. The concept of who exactly is a "stranger" is not always clear-cut and obvious. It 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, 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 utilize 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, to mom's roommate. An intrafamilial offender can molest children other than his own. He may be either a stranger 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, in addition to or in lieu of these methods, some romance or marry women who already have children. Such molesters may technically be intrafamilial offenders, but dynamically they are not. An acquaintance molester can be a neighbor the child sees every day or friend the child regularly communicates with on the Internet but sees for the first time when they finally meet in person.

In this publication the determination of who is an "acquaintance" child molester, therefore, will be based more on the process and dynamics of the child victimization and less on the technical relationship between the offender and child victim. Stranger offenders can use trickery to initially lure their child victims, but tend to control them more through confrontation, threats of force, and physical force. Intrafamilial offenders tend to control their victims more through their private access and family authority. Acquaintance child molesters, although sometimes violent, tend to control their victims through the grooming or seduction process. 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 or caretakers to gain their trust and confidence. An acquaintance molester who uses violence is more likely to be quickly reported to law enforcement. An acquaintance molester who seduces his victims can sometimes go unreported for 30 years or more.

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 easily linked to him 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 a high-risk criminal behavior. Investigators can more easily identify this abductor and, therefore, find the missing child.

Peers who are acquaintances also sexually victimize many adolescents. 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.

The sexual victimization of children by family members and "strangers" are serious and significant problems. This publication, however, will focus on the problem of sexual exploitation of children by adult acquaintances. 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 extrafamilial, acquaintance offenders who sexually exploit children through seduction and/or the collection, creation, or distribution of child pornography. With increasing frequency such offenders are also using online computers 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. In theory the law recognizes their developmental limitations 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 exploitation of children assumes or implies in the minds of many that all child victims resist sexual advances by adults and are then overpowered by coercion, threats, weapons, or physical force. Although cases with these elements certainly exist, when adults and children have sex, lack of "consent" can exist simply because the child is legally incapable of giving consent. Whether or not the child resisted, said no, and was overpowered are, therefore, not necessarily elements in determining if a crime has occurred. Understanding this is especially problematic for the public (*i.e.*, potential jurors) and professionals (*i.e.*, physicians, therapists) who lack specialized training in criminal law and may not rely on strict legal analysis.

Both halves 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, however, that 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

- failure to disclose and even denial of victimization
- incomplete, inaccurate, distorted disclosures when they do happen
- lifetime of victim shame, embarrassment, and guilt
- offenders with numerous victims over an extended period of time
- ineffective prevention programs that also make the first four problems even worse

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 and get solid convictions.

Definitions

Need

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 that pedophiles can be treated, and others claim that they cannot. Some say there is a connection between missing children and child pornography, and others say there is not. Some people say that communities should be notified when sex offenders move into a neighborhood, others say it is an unproductive violation of privacy. This is not simply a matter of a difference of opinion.

Referring to the same thing by different names and different things by the same name frequently creates confusion. For example the same 15-year-old individual can be referred to as a(n) "baby," "child," "youth," "juvenile," "minor," "adolescent," "adult," or (as in one forensic psychological evaluation) "underage adult." 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" or "pedophile."

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

In written and spoken communication definitions are crucial to understanding. The problem is that when we use basic or common terms, we rarely define them. 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 that 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 that people using the terms should communicate their definitions, whatever they might be and then **consistently** use those definitions. In order to alert investigators to potential confusion and clarify the intended meaning, below is a discussion of some key terms as used in this publication.

Defining the Terms Used

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 deal with or realize the wide diversity of ways that children can be sexually victimized. More importantly they may not recognize how these forms of victimization are alike and unlike.

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, including the United States federal government, it often implies sexual victimization of a child perpetrated by someone other than a family member or legal guardian. It is contrasted with the term "sexual abuse" of children, which is used most often 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 computers, sex tourism, and child prostitution. Other than child prostitution, the exploitation does not necessarily involve commercial or monetary gain. In fact, in the United States, child pornography and sex-ring activity most often result in a net financial loss for offenders. Cases of sexual exploitation of children may involve intrafamilial offenders and victims although this is not typical. Depending on definitions it could be argued that 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.

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 that child prostitution is not a serious problem or form of sexual victimization and exploitation of children.

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 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 the problem. Seemingly "sexual" behaviors (*i.e.*, vaginal or anal intercourse) can be in the service of nonsexual needs and may, in fact, be more motivated by power and/or anger. This is why it is often said that rape, a crime involving obvious sexual activity, 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 also include deviant sexual acts involving behavior such as sadomasochism, bondage, urination, and defecation. A sexual act for one person might not be a sexual act for another, or it might not be illegal. Some would argue, therefore, that a sex crime is one motivated by sexual gratification.

Some 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, or cutting a child's hair sexual acts? Are a physical examination by a doctor, hands-on wrestling instructions by a coach, or photographing a child playing dead 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."). All these acts could be sexual acts if you could prove the intent was for sexual gratification. 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 that offenders are more reluctant to admit sexual motives than other types of motives (*i.e.*, 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 that 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. Do 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 abuse 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? Yes, the specific motivation might have important investigative or prosecutive significance in some cases.

Investigators and prosecutors obviously must look to the law to determine what is a sex offense and the elements of the offense. Some states allow wider latitude in looking at motivation to determine what is a sex crime. In any case, when evaluating the significance and relevance of offender behavior and children's allegations, investigators should always consider **both** the activity and its motivation.

Child

There clearly can be a conflict between the law and society when it comes to defining a child. 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 like adults, but who may or may not be considered children under some laws and by society. Pubescent teenagers can be viable sexual targets of a much larger population of sex offenders. Unlike one-on-one intrafamilial sexual abuse in which the victim is most often a young female, in many sexual-exploitation cases the victim is a boy between the ages of 10 and 16.

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

Under federal law a sexually explicit photograph of a mature-looking, 16-year-old girl or boy is legally child pornography. 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 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 dealing with 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. Issues such as whether the victim consented or whether the offender was a guardian or caretaker can have important legal significance. Sixteen year olds may be able to consent to have sex with the man down the street, but not with their father or schoolteacher. It is unclear to me how the law evaluates consent when dealing with a 14-year-old boy seduced by a 55-year-old adult. The easiest way for an adult to have sex with a child and come under no legal scrutiny is to marry the child. The age and circumstances under which a child can marry an adult also vary from state-to-state.

To determine who is a child, investigators and prosecutors must again turn to the law. The penal code will legally define who is a child or minor. But they must still deal with 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 eighteenth birthday. One of the problems in using this broad, but sentimentally appealing, definition of a child is that it lumps together individuals who may be more unlike than alike. In fact 16 year olds may be socially and physically more like 26-year-old young adults than 6-year-old children.

Paraphilia

Paraphilias are psychosexual disorders defined for clinical and research purposes in the *Diagnostic and Statistical Manual of Mental Disorders*, 4th edition, Text

Revision (*DSM-IV-TR*) (American Psychiatric Association, 2000). They are defined there as recurrent, intense, **and** sexually arousing fantasies, urges, **or** behaviors that generally involve 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.

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 or NAMBLA, Diaper Pail Fraternity, Internet newsgroups and chat rooms); 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 chat rooms.

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.*, with consenting adult partners or objects), or they can act out their fantasies illegally (*e.g.*, with nonconsenting partners or 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 of a paraphilia.

MO and Ritual

On an investigative level the presence of paraphilias often means highly repetitive and predictable behavior patterns focused on specific sexual interests that go well beyond a "method of operation" (MO). The concept of an MO—something done by an offender because it works and will help him get away with the crime—is well known to most investigators. MO usually involves patterns of behavior intended to ensure success, protect identity, and facilitate escape. An MO is fueled by thought and deliberation. Most offenders change and improve their MO over time and with experience.

The repetitive behavior patterns of some 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 the repeated engaging in an act or series of acts in a certain manner because of a sexual need; that is, in order to become fully 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 causes the offender to make need-driven mistakes.

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 their psychological, cultural, spiritual, or sexual ritual, even when their experience tells them they should or they suspect law-enforcement scrutiny. The ritual patterns of sex offenders have far more significance as prior and subsequent like acts than the MO of other types of offenders. Understanding sexual ritual is the 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, 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 they 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. Although *Webster's New World Dictionary* defines molest as "annoy, interfere with, or meddle with so as to trouble or harm," it has generally come to convey sexual activity of some type with children.

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 utilizes the services of an adolescent prostitute. For law-enforcement officers 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 evaluation 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. The rule of thumb that psychiatrists and others use is that 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. One of the most difficult cases to evaluate is that involving a younger and an older adolescent—for example a 13-year-old girl and a 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? 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 the idea that the cycle of abuse only means that child victims grow up and become adult offenders. It can also mean that the same individual is both a victim and offender at the same time. For example say that 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 is commonplace, publicity and awareness concerning sexual victimization of children has resulted in increasing use of the term pedophile. In the *DSM-IV-TR*, pedophilia is classified as a paraphilia, one of the psychosexual disorders. It is important for investigators to understand that the *DSM-IV-TR* diagnostic criteria for pedophilia require that there be recurrent, intense, **and** sexually arousing fantasies, urges, **or** behaviors involving **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 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 continue to apply the term to those with a sexual preference for pubescent teenagers. In addition reaching puberty is a complex phenomenon that does not occur overnight or during everyone's thirteenth 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.

Technically pedophilia 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” as the “ped” in “pedestrian” (from the Latin for foot), the correct pronunciation is “ped” 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, or law-enforcement officer can refer to an individual who has sexually victimized a child as a pedophile. *Webster's New Collegiate Dictionary* contains a good layperson's definition for pedophilia: “sexual perversion in which children are the preferred sexual object.”

For the purposes of this publication the term “pedophile” when used will be defined as a significantly older individual who **prefers** to have sex with individuals legally considered 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.

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 that someone is not a pedophile simply because he is nice, goes to church, 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 that 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 that 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 ensure continued access to her children.

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.'

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.

Not all pedophiles are child molesters. 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, 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.

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 statured, 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. 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 via an online computer), 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.

Not all child molesters are 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.

Are child molesters with adolescent victims pedophiles? Is an individual who collects both child and adult pornography a pedophile? Is everyone using a computer to facilitate having sex with children or trafficking in child pornography a pedophile? 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 and prosecutors are not qualified to apply the term with its diagnostic meaning. 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 *DSM-IV-TR* diagnostic system usually require that the offender be identified and available for evaluation. This publication will set forth a model for law enforcement 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 and prosecutors in evaluating cases and developing the evidence needed to identify, arrest, and convict child molesters. If the investigating officer 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 recent 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 that 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 war-

rant?" "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. These typologies, such as the *DSM-IV-TR*, primarily serve the needs of mental-health professionals and have limited application to those of law enforcement. These typologies are usually 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

After consulting on hundreds of cases in my work at the FBI Academy and not finding a typology that fit law-enforcement 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 descriptive terms into my typology and expanded on his ideas.

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

Table 1

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.)

New Typology

Although my old typology was still useful, its limitations gradually became evident to me. I realized that complex human behavior did not easily fit into neat little boxes. I, therefore, slowly began to revise it, and it has been updated by the typology presented here. This newer typology places all sex offenders, not just child molesters, along a motivational continuum (Situational to Preferential) instead of into one of two categories. It is a continuum, not one or the other. 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 must be 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.)

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 more likely from lower socioeconomic groups. Their criminal sexual behavior tends to be in the service of basic sexual needs (i.e., "horniness" and lust) or nonsexual needs (i.e., power and 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 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 low 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.

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 such as their own or those they may live with or have control over. Pubescent teenagers are high-risk, viable sexual targets. Younger children may also be targeted because they are weak, vulnerable, or available. Morally indiscriminate 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 more likely from 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 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 & Warren, 2001). Their criminal sexual behavior is rooted in their sexual fantasies and need to turn fantasy into reality. Their verbal skills are usually high, and they are less likely 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. For instance 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 limit the use of these diagnostic terms for investigators and prosecutors. Preferential-type sex offenders are more likely to view, be aroused by, and collect theme pornography. 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 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.

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 are 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 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.

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. These regressed, morally indiscriminate, and inadequate patterns are described below.

Regressed Such an offender usually has low self-esteem and poor coping skills; 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. 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 who lacks conscience, 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.

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 FBI have involved situational-type child molesters who display 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, 1995).

Preferential-Type Child Molesters

Preferential-type child molesters have definite sexual inclinations. For many that preference includes 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 bizarre sexual fantasies and preferences with young, less threatening, less judgmental, and highly vulnerable victims. Some of these offenders' sexual activity with children may involve deviant acts they are embarrassed or ashamed to request or do with a more experienced adult partner they actually prefer. 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 behavior.

Those with a definite preference for children (*i.e.*, pedophiles) have sexual fantasies and erotic imagery that focus 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. For many of them their problem is not only the nature 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 31.) Preferential-type child molesters seem to prefer more boy than girl victims. Within this category at least four major patterns of behavior emerge. The seduction, introverted, sadistic, and diverse patterns are described below.

Seduction This pattern characterizes the offender who engages children in sexual activity by "seducing" them—grooming them with attention, affection, and gifts. Just as one adult courts another, he seduces children over a period of time by gradually lowering their sexual inhibitions. His victims arrive at the point where they are willing to trade "sex" for the attention, affection, and other benefits they receive from the offender. Offenders with a preference for younger children might also spend time "seducing" the parent(s). When victimizing such young children, the sex is often made part of a game or horseplay and usually not completely understood as real sex by the children. Most of these offenders are simultaneously involved with multiple victims. (See the chapter titled "Acquaintance-Exploitation Cases" beginning on page 47.) 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 are also 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 strangers 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 utilize 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 that 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 far 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 aroused or gratified. He is 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. In any case it is fortunate that sadistic child molesters do not appear to be large in number.

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 molestation of the child 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, 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 that 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 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.

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 criminal-justice, descriptive 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 "perverts," "sickos," 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. 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. How to recognize and identify such offenders will be discussed shortly.

Investigators might argue that 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 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.

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 rec-

*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.*

ognizable 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 "investigators' heaven."

Need-driven behavior leads to bewildering mistakes. For example why would a reasonably intelligent individual do such things as use his computer at work to download child pornography, deliver his computer filled with child pornography for repair, send his film with child pornography on it to a store to be developed, appear in child-pornography images he is making, discuss engaging in serious criminal activity with a "stranger" he met 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 it contains incriminating evidence, give investigators the names of victims or former victims as character references, agree to be interviewed without his lawyer?

Many investigators like to jokingly refer to such behavior as examples of "criminal stupidity." Defense attorneys might argue that such 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 has little to do with thinking. It is what makes preferential sex offenders so vulnerable to proactive investigations even though the techniques used have been well publicized. If necessary an expert could be used to educate the court concerning certain patterns of behavior. The use of such an expert was upheld in *United States v. Romero*, 189 F.3d 576 (7th Cir. 1999).

Problem Areas

In applying any typology the law-enforcement officer 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 difficulties. 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 work loads, 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 law-enforcement typology described in the chapter titled "Law-Enforcement Typology" (beginning on page 19) involves placing sex offenders along a motivational continuum (Situational to Preferential) instead of into one of two categories and then child molesters into seven subcategories of patterns of behavior. As previously stated these patterns of behavior are not necessarily mutually exclusive.

Combination Offenders

A pedophile 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 deal with is the morally indiscriminate pedophile. If an offender has a sexual preference for children and at the same time has no conscience, 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 abduct or murder children. While his preferential sexual interest in children affects his victim selection, however, most of his behavior is determined by a stunning lack of 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 crimes often involve minor violations of the law

Importance

Investigators dealing with 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 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 the child victims can also be because the pedophile has other paraphilias and a sexual interest 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 things such as urine, feces, enemas, bondage, and 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 that the only explanation for allegations of this type was that the offenders were "satanists." The only paraphilia that many professionals dealing with child sexual abuse have heard of is pedophilia. Knowledge of this kind of behavior can also assist in evaluating narrative material found in the possession or on the computer of child molesters. 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 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.

Evaluation

Some "nuisance" sex offenses against children are more common than others. Some of the more bizarre ones that I have dealt with 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 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 videotapes of children's autopsies; having children spit in cups; buying soiled underwear from adolescent boys; and soliciting body fluids from boys on the Internet. The investigative priority of these types of crimes can change rapidly when it is discovered that 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 that a nuisance sex offender might progress to more serious crimes in the future, but they ignore the possibility that he already has.

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 that the subjects involved could include different kinds of molester patterns. The staff 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 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 deal with 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 the marriage or children in previous "marriages." The possibility that 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 indicate otherwise.

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 that the baby will be of the preferred sex.

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 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 law-enforcement 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.

Female Offenders

Where do female child molesters fit into this typology? The answer is unknown at this time. I have not consulted on a sufficient number of cases involving female offenders to properly include them in this typology. Although certainly a minority of cases, I believe that 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 as 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, and touch children with little suspicion.

Many of the cases involving alleged sexual abuse in daycare centers involve female offenders. The apparent sexual activity in some of these cases 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 on female sex offenders see "Female Sex Offenders: A Typological and Etiological Overview" (Warren & Hislop, 2001).

Adolescent Offenders

Another area that has received increased attention involves adolescent offenders. In past years adolescent child molesters were usually dismissed with "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 that 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 on adolescent sex offenders see "The Sex Crimes of Juveniles" (Hunter, 2001).

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, their sexual behavior is repetitive and highly predictable. Knowledge of these sexual-behavioral patterns or characteristics is extremely valuable to the law-enforcement 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-behavioral patterns of preferential sex offenders or pedophiles. It is important that investigators 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. One does not have proof beyond a reasonable doubt, but "probable cause" exists.

A classification system or typology to determine the type of offender with whom one is dealing 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 that 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, and sexual behavior) of the crime are not available and known. Law-enforcement reports that sanitize or describe, 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 dealing with 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 offender. Relatives, friends, associates, current and former sex partners can be identified and interviewed. Other investigative techniques (*e.g.*, mail cover, pen

Although a variety of individuals sexually abuse children, preferential-type sex offenders, and especially pedophiles, are the primary acquaintance sexual exploiters of children.

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

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 (i.e., souvenirs, videotapes)
- records fantasies
- acts to turn fantasy into reality

Investigators must not over- nor underreact to reported allegations. They must understand that 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 that 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 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 (*i.e.*, pedophiles). 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 indicators will assist the investigator in identifying these pedophiles. 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 probable cause to believe the individual is a pedophile-type preferential sex offender. I generally recommend that 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 the 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 that many offenders are former victims. It might 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 the 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, he will often be 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 Military If an individual was dishonorably discharged 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 with no specific reason given or available. The military, like most organizations, was frequently interested only in getting rid of such individuals and not necessarily in prosecuting them. Fortunately this attitude seems to be changing.

Frequent and Unexpected Moves When they are identified, pedophiles are frequently "asked" to leave town by someone in authority, by the parent 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 deal with 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. 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.

Prior Arrests 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 that 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. The investigator should attempt to get all possible details, including copies of the reports concerning the arrests, in order to evaluate their significance properly.

Multiple Victims Molesting numerous child victims of similar characteristics is a strong indicator that the offender is a pedophile. More importantly, if other factors indicate that the offender is a pedophile, then a 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 that 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.

Planned, Repeated, or High-Risk Attempts Bold and repeated attempts to obtain children or molest them that have been carried out in a cunning and skillful manner (*i.e.*, neighbor beginning seduction in front of child's parents, teacher molesting children during class in a room full of students) are a strong indication that 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. Some pedophiles, though, do enter into marriage for specific reasons, and 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 that some man lives alone does not mean he is a pedophile. The fact that 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 that 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 of an offender. 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 should beware of anyone who wants to be with their children more than they do.

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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 schoolyards, arcades, shopping centers—any place that children frequent. 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 behavior. If a suspected pedophile has a close adult friend, the possibility that the friend is also a pedophile must be considered. Today pedophiles can use the Internet to easily find hundreds of individuals who share and support their sexual interest in children.

Age and Gender Preference Most pedophiles prefer children of a certain sex in a certain age range. In contrast to situational-type child molesters, "true" pedophiles seem to be more likely to prefer boys. The older the age preference of the pedophile, the more exclusive the gender preference. 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

seems to be an important dividing line for many pedophiles. This is only an age and gender preference, however, and not an exclusive limitation. 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 as "Clean," "Pure," "Innocent," "Impish," or 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 typical 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 from a dysfunctional home or the victim of emotional or physical neglect. This skill is developed through practice and experience.

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 particularly useful in befriending children on the Internet.

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. Also a pedophile may seek employment where he will be in contact with children (*e.g.*, teacher, camp counselor, babysitter, school-bus driver) or where he can eventually specialize in dealing 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, at which he molested them. He was a coach for a girls' softball team, and he molested the players. He was a dentist who specialized in child patients, and he molested 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.

Seduces With Attention, Affection, and Gifts 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 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 chapter titled "Acquaintance-Exploitation Cases" beginning on page 47.)

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 alcohol, drugs, or pornography.

Shows Sexually Explicit Material to Children Any adult who shows sexually explicit material 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. One pedophile bragged that 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. Such a pedophile might frequent playgrounds, youth

athletic contests, child beauty pageants, or child exercise classes with his camera (i.e., 35mm, "instant," video, digital).

Collecting Child Pornography or Erotica This is one of the most significant characteristics of pedophiles, discussed in detail in the chapter titled "Collection of Child Pornography and Erotica" beginning on page 61.

Application

If, after evaluating the indicators, law-enforcement investigators have reason to suspect that a particular subject or suspect is a pedophile, investigators should utilize 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 that any investigator can have. The effects on a jury of viewing seized child pornography are 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
- utilizing an expert search warrant
- addressing staleness
- 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

Exaggerated Example

An investigation determines that 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 that describes himself as a 14-year-old; has for the last 5 years daily spent many hours online in chat rooms and the "alt.sex.preteen" newsgroup 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 that the above-described applications of this typology have little, if anything, to do with "profiling." As used by the FBI's Behavioral Science Unit and National Center for the Analysis of Violent Crime, the term "profiling" refers to analyzing the criminal behavior of an **unknown** subject and arriving at 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** that someone is guilty of child molestation because he or she fits a certain "profile." It would be inappropriate and improper to claim that because someone has certain traits and characteristics, we know with certainty that 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 *United States v. Romero*, 189 F.3d 576 (7th Cir. 1999).)

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" it happened, and then comparing that to the known behavioral characteristics of "who" is suspected for consistency. 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 the 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 mean group sex. Although that has happened in some cases, it is more likely that the offender is sexually interacting with the children one at a time. The offender more than likely 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 that 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 that 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 of the nation's experts on the "sexual abuse of children" have little or no experience dealing 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 dealing with one-on-one, intrafamilial-child sexual abuse has only limited application when dealing with 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 that I was asked to evaluate a military officer had sexually molested his own daughter from shortly after birth to shortly before her seventh 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 that 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 female children 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 too old to be a preferred sexual partner, and any young female child in the neighborhood fitting his preferences 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 is a difficult and important judgment call by investigators. The need to protect society must be weighed against the rights of the accused and 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 of high-risk victims, only parents who had contact with the suspected offender, or only parents of children allegedly molested? Alerting parents too soon or improperly can result in destroying the life of an innocent individual, vigilante "justice," and contamination of a valid case.

Role of Parents

The role of the child victim's parents is a third major difference between acquaintance-exploitation cases and intrafamilial-child sexual abuse. In intrafamilial cases there is usually an abusing and a nonabusing parent. 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 that the father does not go to jail. Dealing with these dynamics is important and can be difficult.

Since parents 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 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 that 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 that 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 that 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 female, in acquaintance-exploitation cases an adolescent boy victim is common.

Sexual Exploitation Versus Sexual Abuse Cases

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

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, female victims into sexual activity. 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.

Almost by definition, acquaintance-exploitation cases tend to be "extrafamilial." As previously mentioned, however, some true "acquaintance" molesters gain access to their victims through marriage. Acquaintance-exploitation cases are more likely to involve preferential sex offenders who seduce a large number of victims, often older, male victims, 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
> Female Victims	> Male Victims
< 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," "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 will not be discussed in this publication. Those seeking such information should obtain a copy of the monograph titled *Investigator's Guide to Allegations of "Ritual" Child Abuse* from the FBI's National Center for the Analysis of Violent Crime (NCAVC) at the FBI Academy, Quantico, Virginia (Lanning, 1992c). Investigative techniques specific to these "historical" multiple-victim cases are described in more detail in the chapter titled "Investigating Acquaintance Sexual Exploitation" beginning on page 101.

"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 25 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 manpower and 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 As many as 95 percent or more 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.

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 19.) 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.

Male Victims More than half of the victims in these cases are male. Many of these males are boys between the ages of 10 and 16.

Sexual Motivation Although pedophiles frequently claim that sex is only a small part of their "love" for children, the fact is that 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, that sex is their only motivation. Some pedophiles truly care about children and enjoy spending time with them.

Child Pornography and Child Erotica Pedophiles 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 computer disks. Child erotica (pedophile paraphernalia) 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 on pedophilia, and ordinary photographs of children. (See the chapter titled "Collection of Child Pornography and Erotica," beginning on page 61, 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. 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 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. These seduced and compliant victims 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 was outraged and demanded that the judge be removed from the bench. The sad reality is that 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 the **result** of abuse, not the cause. It should, however, make no difference 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.

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.

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 that 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. 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 the lack of consent criteria
- avoid embarrassment

Sexual-victimization cases where the child victim is not forced or threatened and cooperates or "consents" are more troubling and harder for society and investigators to deal with. Although "consent" is supposed to be irrelevant in child-sexual-victimization cases, there are "unspoken" preferences in these cases as well. The most preferred are cases where the victim can explain that the cooperation was due to fear or ignorance. The child was afraid to tell or did not understand what was happening. Fear seems to work more effectively as a tactic with younger victims. The next most preferred are cases where the child was tricked, "duped," or "indoctrinated." If the offender was an authority figure, this "brainwashing" concept is even more appealing. Next are the cases where the victim was willing to trade sex for attention and affection. Much less acceptable are cases where the child willingly traded sex for material rewards or money (*i.e.*, prostitution). Almost unacceptable are cases where the child engaged in the sexual activity with an adult because the child enjoyed the sex. It is almost a sacrilege to even mention such a possibility. These societal and criminal-justice preferences prevail in spite of the fact that 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 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 these seduced or compliant victims. 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 that many children, especially those victimized through the seduction process, often

- trade sex for attention, affection, or gifts
- are confused over their sexuality and feelings
- are embarrassed and guilt-ridden over their activity
- describe victimization in socially acceptable ways
- minimize their responsibility and maximize the offender's
- deny or exaggerate their victimization

All these things do not mean the child is not a victim. What they do mean is that children are human beings with human needs. Society seems to prefer to believe that children are pure and innocent. Even the FBI's national initiative on computer exploitation of children is named "Innocent Images." 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 as in *United States v. Romero*, 189 F.3d 576 (7th Cir. 1999). The ability to make these explanations, however, is being undermined by the fact that 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' permission or be charged as adults when they commit certain crimes. Can the same 15-year-old be both a "child" and an "adult" in the criminal-justice system?

Offender Strategies

Control

Maintaining control is important in the operation of a case with multiple child victims. 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 operate a child sex ring, an offender must know how to control and manipulate children.

As stated above, control is maintained primarily through attention, affection, and gifts—part of the seduction process. Preferential child molesters seduce children much the same way adults seduce one another. This technique is no great mystery. Between two adults or two teenagers it is simply called dating. 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 previously stated these techniques must also be adjusted for the varying developmental stages, needs, and vulnerabilities of children of different ages.

*Preferential child molesters
seduce children much
the same way adults
seduce one another.*

The Seduction Process

The seduction process begins when the preferential child molester sees a potential victim who fits his age, gender, and other preferences. It may be a 6-year-old girl or a 14-year-old boy. Child molesters, however, can and do have sex with children and sometimes adults who do 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.

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 victim. Other preferential child molesters 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. 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, sex-ring operators often "seduce" the victim's parents, gaining their trust and confidence, so that 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 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.

The true pedophile often possesses an important talent in the seduction process: his ability to identify with children. He knows the "in" video games, toys, television shows, movies, music, computers, and Internet sites. He is skilled at recognizing and then temporarily filling the emotional and physical needs of children. This is why such offenders can be the Big Brother of the Year, the most popular teacher, or the best soccer coach. They are sometimes described as "pied pipers" who simply attract children. This is not to say that in some cases children will not sense that some adult is "weird" or has a "problem" before other adults or parents recognize it. Parents 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 to these offenders.

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 key. 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 at home. 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. 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 boy the easiest victim of this seduction. It takes almost nothing to get an adolescent boy sexually aroused. An adolescent boy 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 that 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 that 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. Sexual activity can begin with conversation about sex. 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. The introduction of photography or video cameras during this process is common. Innocent pictures 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 the primary 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. Alcohol and drugs are also used, especially with adolescent boys, to lower inhibitions. 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.

Most preferential child molesters 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 objective 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 with the child is the best way for the sexual activity to progress.

Some victims come to realize that 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, 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.

Operation of 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, sometimes focusing on sexual acts, is also an effective control technique. 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, 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, audiotapes, videotapes, and photographs are effective insurance for a victim's silence. Victims worried about disclosure of illegal acts such as substance abuse, joyriding, petty thefts, and vandalism are also subject to blackmail. 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 that 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 that 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 pedophile who prefers older children. The victim now enters a new pipeline as a "pre-seduced" victim. "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 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 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 that 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. 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 that 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 that victims do not disclose are **stigma of homosexuality, lack of societal understanding, presence of positive feelings for the offender, embarrassment or fear over their victimization, or do not believe they are victims**. Since most of the offenders are male, the stigma of homosexuality is a serious problem for male victims. 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 believes that he is risking significant ridicule by his peers and lack of acceptance by his family.

These seduced or compliant child victims 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 that the offender found a younger victim. They disclose because the abuse has ended, not to end the abuse.

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 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. Such recruiters or "graduate" victims can and should be considered subjects of investigation. Their offenses, however, should be viewed in the context of their victimization and the child sex ring.

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, especially those who are not the parents of children involved, 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, religious leaders, 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 101.)

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 that 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 that preferential sex offenders in general almost always collect theme pornography and paraphernalia related to their sexual preferences. Preferential 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 only a small portion of their potentially large and varied collection with the children often portrayed in their paraphilic interests. Pedophiles almost always collect predominately child pornography or erotica.

Situational-type child molesters might also collect pornography but not with the high degree of predictability of 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 probably will not save the same material year after year. Investigators should always consider the possibility that any child molester might collect child pornography or erotica; however, it is almost a certainty with the pedophile type.

Especially for preferential-type sex offenders, **collection** is the key word here. It does not mean that 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, videotapes and equipment, personal letters, diaries, clothing, sexual aids, souvenirs, toys, games, lists, paintings, ledgers, photographic and computer equipment all relating to their preferences 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.

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 has changed all of this. Almost anyone with an online computer can, in a relatively short time and at minimal expense, have a large collection of theme pornography especially child pornography. A short time ago it would have taken years at great expense to accumulate such a collection. In a computer the collection can also be easily hidden from family and friends. With an online computer a 20-year-old, blue-collar worker living with his parents can have a collection as large as a 55-year-old executive living alone in a mansion. The older, more affluent offender, however, is more likely to have more of his collection not on the computer.

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

Preferential sex offenders with the economic means previously converted parts of their collections to videotape when that technology became available. They converted their books, magazines, photographs, and movies to videotape. For a seemingly ever-decreasing price, an offender could have his own video camera and two video recorders, which gave him the capability to produce and duplicate obscene material or child pornography with little fear of discovery. Although videotape still has a significant appeal, an ever-increasing portion of most collections is now being digitally stored or duplicated on computers and disks.

Child Pornography

What the pedophile collects 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 and includes sexually explicit photographs, negatives, slides, magazines, movies, videotapes, and computer disks. In essence it is, or was, 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.

Legal definitions of the term "child pornography" vary from state-to-state and under federal law. Under most definitions child pornography usually involves a **visual depiction** (not the written word) of a **child** (a minor as defined by statute) that is **sexually explicit** (not necessarily obscene unless required by state law). The federal child-pornography law (18 U.S.C.A. § 2256) defines a child or minor as someone who has not yet reached his or her eighteenth birthday. In contrast to adult pornography, but consistent with the gender preference of many pedophiles, there is a high percentage of boys in child pornography.

Because true child pornography once was hard to obtain, some pedophiles have or had only child erotica in their collections (see discussion of child erotica beginning on page 65); however, because of online computers, child pornography is now more readily available in the United States than it has been since the late 1970s. 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. Because it represents his sexual fantasies (e.g., age and gender preferences, desired sexual acts) the collection of any child molester should be carefully examined and evaluated.

Previous research I conducted with Drs. Carol R. Hartman and Ann W. Burgess identified four kinds of child-pornography collectors. They are "closet,"

The online computer and Internet ... 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.

"isolated," "cottage," and "commercial" (Hartman, Burgess, & Lanning, 1984). The "closet collector" keeps his collection a secret and is not actively involved in molesting children. Materials are usually purchased discreetly through commercial channels. The "isolated collector" is actively molesting children as well as collecting child pornography or erotica. Fear of discovery overrides his need for active validation and causes him to keep his activity a secret between only himself and his victims. His collection may include pictures of his victims taken by him as well as material from other sources. The "cottage collector" shares his collection and sexual activity with other individuals. This is usually done primarily to validate his behavior, and money or profit is not a significant factor. Photographs, videotapes, and "war stories" are swapped and traded with other child molesters, and sometimes, unknowingly, with undercover investigators. The "commercial collector" recognizes the monetary value of his collection and sells his duplicates to other collectors. Although profit is an important motive, these individuals are usually active sexual molesters themselves. It is important to recognize that the patterns identified in this research predated widespread public use of the Internet.

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* discussion beginning on page 64), the primary producers, distributors, and consumers of child pornography in the United States are child molesters, pedophiles, and sexual deviants. Child pornography is not a multibillion-dollar industry run by organized crime or satanic cults. With the advent of the Internet, however, it does appear that profit-motivated, child-pornography distribution has returned and is growing.

Commercial Versus Homemade

Child pornography can be divided into two subcategories. They are **commercial** and **homemade**. 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 on 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. Some commercial child pornography being distributed in the United States was smuggled in from foreign countries by pedophiles. Commercial child pornography is more readily available in foreign countries. United States citizens, however, seem to be the main customers 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, scanned 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.

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. 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, of doctors, lawyers, teachers, clergy members, and other apparent pillars of the community. There is, however, a connection between commercial and homemade child pornography. Sometimes homemade child pornography is sold or winds up in commercial child-pornography magazines, movies, and videos or uploaded on the Internet. The same pictures are reproduced and circulated again and again. With rapidly increasing frequency, more and more of both commercial and homemade child pornography is found in digital format on computers and disks. 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.A. § 2256) defines a **child** 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, 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 females than males. In essence, because it looks like adult pornography, it is more like adult pornography.

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 may not be. (See discussion below.) It is designed to appeal to the pedophile but it usually is not legally child pornography because the individuals portrayed are older than 18. This 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 that is 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 persons in them. Computer-manipulated and, soon, 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.*, possession, advertising) child-pornography laws. In an attempt to deal with this problem, the Child Pornography Prevention Act (CPPA) of 1996, 18 U.S.C.A. § 2252A, 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 criminalizes simulated child pornography. Although this new law makes prosecution of cases involving manipulated computer images easier, it also means that it is no longer possible in every case to argue that 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. This law is currently being challenged in a variety of cases and jurisdictions, and the U.S. Supreme Court will ultimately establish its constitutionality. If this law is found unconstitutional, only existing obscenity laws may apply to such manipulated/simulated child pornography.

With other than simulated and/or virtual child pornography, it could be effectively argued that child pornography requires a child to be victimized. A child had to be sexually exploited 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 deal 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 videotape 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 cases prosecuted under that portion of the 1996 CPPA.

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. Such child erotica might also be referred to as "pedophile paraphernalia." This type of material is usually not illegal to possess or distribute.

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. (See Lanning, 1992a.) Later my 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. Many investigators had begun using the term "child erotica" to refer only to visual images of naked children that were not considered pornography. These two different approaches were eventually reconciled in a book chapter by Hazelwood and Lanning titled, "Collateral Materials in Sexual Crimes" (Hazelwood & Lanning, 2001).

For investigative purposes child erotica or collateral evidence can be divided into the categories noted below.

Published Material Relating to Children

Examples of this include books, magazines, articles, or videotapes dealing typically with any of 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. Detective magazines saved by pedophiles usually contain stories about crimes 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. Although the possession of information on missing children should be carefully investigated to determine possible involvement in abduction, most pedophiles collect this material to help rationalize their behavior as child "lovers," not abductors. 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," and "barely legal." 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 dealing with sex abuse; arrested, convicted, or acquitted child molesters; or investigative techniques used by law enforcement are common.

Unpublished Material Relating to Children

Examples include items such as

- personal letters
- audiotapes
- diaries
- fantasy writings
- manuscripts
- financial records
- ledgers
- telephone and address books
- pedophile manuals
- newsletters and bulletins
- directories
- adult pornography
- computer chat
- electronic mail (E-mail)

Any or all of this material could be on a computer or floppy disk. Much of it can now be obtained on the Internet. Directories usually contain information on where to locate children. Pedophile support groups, such as the North American Man/Boy Love Association (NAMBLA) and other similar support groups, distribute newsletters and bulletins. 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 and E-mail can be especially valuable to investigators. Because it may help to prove the offender's paraphilic interests involving children, 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 Videotapes 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 computer or compact disks, read-only memory (CD-ROMs)

Cut-and-paste involves creating new pictures by cutting and pasting parts of old ones. This can be done more easily with a computer and the right software. Seized videotapes should always be viewed or scanned in their entirety because a variety of material, including hard-core child pornography, could be on any one tape. Some pedophiles cut out pictures of children from magazines and put them in albums as if they were photographs. Such visual images of children can be obtained on the Internet and stored on hard drives, floppy disks, CD-ROMs, or digital video discs (DVDs).

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 computer files
- letters and notes
- charts and records

This material all relates to 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. Audiotapes, letters, and notes 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 can now be made and stored on a computer. 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 constitute a potential gold mine of evidence and will be discussed in more detail in the chapter titled "Use of Computers by Sex Offenders" beginning on page 89.

Motivation for Collection

It is difficult to know with certainty why preferential 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 needs for **validation**. Many preferential sex offenders collect academic and scientific books and articles on 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. Preferential sex offenders get **passive** validation from the books and articles they read and collect.

Many preferential sex offenders swap pornographic images the way boys 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. Preferential 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 enclosing photographs and describing his sexual activities with children. At the letter's or E-mail's conclusion he asks the recipient to destroy the letter or E-mail because it could be damaging evidence against him. Six months later law enforcement finds the letter or E-mail—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 correspondence an offender states

that he suspects the recipient is an undercover law-enforcement officer and asks for assurances that the recipient is not. The recipient who is in fact an undercover officer sends a reply assuring the offender that 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 met online, 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 preferential 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 videotapes 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 preferential 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 pedophiles.

Child pornography and erotica are used for the **sexual arousal** and gratification of pedophiles. They use child pornography the same way other people use adult pornography—to feed sexual fantasies. Some pedophiles 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.

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 that the activity is acceptable. When the pornography is used to lower inhibitions, the children portrayed will usually appear to be having a good time.

Books on 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 that 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 collections is **blackmail**. If a pedophile already has a relationship with a child, seducing the child into sexual activity is only part of the plan. The pedophile must also ensure that the child keep the secret. Children are often most afraid of pictures being shown to their

friends. Pedophiles use many techniques to blackmail; one of them is through photographs taken of the child. If the child threatens to tell his or her parents or the authorities, the existence of sexually explicit photographs can be an effective silencer.

A fourth use of child pornography and erotica is as a **medium of exchange**. Some pedophiles exchange images of children for other images or access to telephone numbers of 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 pedophile may exchange a small part, usually duplicates, of his collection. Digital images on a computer 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 value of the pornography.

A fifth use of the collected material is **profit**. Some people involved in the sale and distribution of child pornography are not pedophiles; they are profiteers. In contrast most pedophiles seem to collect child erotica and pornography for reasons other than profit. Some pedophiles 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 magazines 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. Thus the image of a child taken with or without parental knowledge by a neighborhood pedophile in any community in the United States can wind up in a commercial child-pornography magazine or on the Internet with worldwide distribution.

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 pedophiles make no profit from their collections. After release from prison many pedophiles 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 has enough. He rarely throws anything away. If law enforcement has evidence that 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.

Organized

The preferential sex offender usually maintains detailed, neat, orderly records. There are exceptions, but the collections of many offenders are carefully organized and maintained. As will be discussed, many of these offenders now use computers for this purpose.

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. Although he might, he is not likely to destroy the collection because it is his life's work. In some cases he might even prefer that 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 to go to the prosecutor's office to put his magazines in covers and dividers so they would not be damaged.

Concealed

Because of the hidden or illegal nature of the preferential 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. 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 well concealed. It might be in a trunk, box, cabinet, bookcase, out in the open, or on a computer. The 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 pedophile'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, computer technology has changed much of this. Computers and various types of disks 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.

The Role of Law Enforcement

Investigators should not expect to find child pornography or erotica in all or even most cases involving the 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** that there might be child pornography. The investigation of child pornography should always consider the **possibility** that there might be child molestation.

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 evidence. The recognition and evaluation of the significance of this type of material requires insight, common sense, and good judgment.

The investigative experience of some law-enforcement officers dealing with pornography is often limited to commercial pornography distributed by individuals motivated by monetary profit. The direct connection between the 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. The photograph of a fully dressed child may not be evidence of a pornography violation, but it could be evidence of an offender's sexual 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, photographed or videotaped. As with child pornography, this type of material is increasingly being stored on computers and floppy disks. The investigative and prosecutive 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 that 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 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 increases the likelihood of a guilty plea.
- **sentencing** - even if not admissible at trial, it can be introduced at the time of sentencing to demonstrate the full scope of the defendant's behavior and interests.

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 pedophile 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 pedophile has 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 filled with pictures of the suspect's own fully dressed children probably has no significance. Possession of 15 albums 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, or newspaper clippings 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 that includes 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.

Evaluation of Child Pornography

Determining Age

Proving that 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 that the person portrayed is younger than a certain age. Although they can use something called the

Tanner Scale or their own 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 angle 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 stage of sexual development, it may be impossible for any doctor to reliably testify that the individual is younger than 18 years of age.

One obvious, but often difficult, 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 on 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 that the person in the sexually explicit image is a child or minor. (See the chapter titled "Use of Computers by Sex Offenders," beginning on page 89, for further discussion of the issue of computer manipulation of images.)

Identifying Child Pornography and Erotica Victims

Every effort should be made to attempt to identify the children, even those fully dressed, in photographs or videotapes found in the possession of a pedophile. 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 photographs with names, descriptions, addresses, dates, and even sex acts performed. This is good lead information, but it is not always accurate. Many offenders exaggerate their sexual exploits or misidentify children in their fantasy material.

In most child-pornography cases, especially computer cases, investigators and prosecutors are dealing with subjects who possess, receive (download), or distribute (upload) the images, and 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 in apparent agony. 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 Guidelines for Victim and Witness Assistance* indicates that U.S. Department of Justice investigators and prosecutors are responsible for identifying and contacting all the victims of a crime (U.S. Department of Justice, 2000). Although the *Guidelines* state, "what constitutes a sufficient effort to identify, notify, and assist crime victims will necessarily vary with the facts of a particular violation," I am not sure exactly how this applies to child-pornography cases. An informed decision must be made based on a totality of the facts. The policy concerning identification of children in these images must be defensible and consistent.

As of now there is no easily retrievable national database of identified child pornography against which newly recovered images can be compared. It is extremely difficult and impossibly time-consuming to positively identify children in pornography by comparing the images to photographs of missing children. It is important for investigators to realize that 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 took the pictures or made them available for others to take the pictures. Children in pubescent or technical child pornography, however, are more likely to be missing children especially runaways or throwaways being exploited by morally indiscriminate pimps, profiteers, or pedophiles.

One cannot arbitrarily try to identify a child by putting his or her face on the popular television show "America's Most Wanted: America Fights Back" and thereby announce to the country that 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.

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 that they had been photographed. Others are so embarrassed and ashamed they may claim that they were drugged or asleep or may vehemently deny that the images actually portray them. Dates identifiable on material in the images (*i.e.*, television viewing guide, magazine, adult pornography) may place the sexual activity within a time period or the statute of limitations.

Sexually Explicit Conduct and Lasciviousness

Most people have photographs 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.A. § 2256), pictures of children portraying simple nudity are not generally considered sexually explicit or obscene. The federal law requires at least "lascivious exhibition of the genitals or pubic area" to be considered sexually explicit and therefore to constitute child pornography. 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. In some cases the child may not need to be naked in order for the depiction to be covered by this definition. 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) chooses to specifically recognize only three of the many paraphilias (i.e., sadism, masochism, bestiality) as constituting sexually explicit conduct. The producing and collecting of child pornography and erotica visual images could also be considered possible indicators of the paraphilia voyeurism.

It is important to understand that the lasciviousness often mentioned in child-pornography cases is **not** in the child's mind or even necessarily the photographer's, but 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 young girl's vagina. 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, videotapes 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. Often investigators and prosecutors want to make a decision about the nature of a visual depiction of a child based only on looking at it. The difference between simple nudity (e.g., innocent family photographs, works of art, medical images) and the lascivious exhibition of the genitals, I believe, is often not in the visual depiction itself but in the context.

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 does the "lasciviousness" in question lie. There appear to be only three possibilities. They are in the

- child portrayed
- photographer/producer
- recipient/collector

The courts seem to be in clear agreement that the lasciviousness is not necessarily a characteristic of the child portrayed (first bullet above). In fact, other than attorneys defending child pornographers, some of the few lawyers taking a public position that the child must be acting or posing lasciviously were the U.S. Department of Justice attorneys in their 1993 brief to the Supreme Court concerning *United States v. Knox*, 510 U.S. 939 (1993) (case below, *U.S. v. Knox*, 977 F.2d 815 (3rd Cir. 1992)). Their opinion was ridiculed by the U.S. Congress, experts in the field, the public, and it was eventually rejected in *United States v. Knox*, 32 F.3d 733 (3rd Cir. 1994).

The lasciviousness of the photographer/producer (second bullet above), however, is the area where the appellate courts have focused most of their attention and decisions. It appears that evidence the creator of the image intended to elicit a sexual response in the viewer greatly increases the likelihood that the material in question will be found to be lascivious. The often-cited 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 courts state, however, that this "analysis is qualitative and no single factor is dispositive." (See e.g. *Knox*, 32 F.3d at 746.)

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 that 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 states, "child pornography is not created when the pedophile derives sexual enjoyment from an otherwise innocent photo" and "we must, therefore, look at the photograph, rather than 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 child pornography is a federal offense, and the defendant in most computer 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*, 928 F.2d 1030, 1042-43 (11th Cir. 1991), the court stated, "...photographs [of nude children]...qualified as 'lewd' within 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." 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 that 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 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 could not have found them to be lewd (lascivious). Without knowing the total facts of the case, which cannot be ascertained by just looking at 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 is one of the primary focuses of the CPPA of 1996. Does the individual who makes such modifications become the producer? 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 that 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*, 945 F. Supp. 441, 450 (N.D.N.Y. 1996), 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*." In *United States v. Hilton*, 167 F.3d 61, 75 (1st Cir. 1999), the court states that "a jury must decide based on the totality of circumstances."

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. What then is the difference between simple nudity and art and what the law describes as lewd or lascivious exhibition of the genitals or pubic area?

Because I am not a lawyer, I am not sure that I totally understand the subtleties of what the appellate courts have said about this issue. Some of it even appears to be contradictory. But after more than 20 years of studying this area, I am sure of what investigators, prosecutors, and the courts should say and what common sense demands.

The court in *Knox* concluded by stating that "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 caused 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 synopsise this controversy, consider this set of hypothetical facts based on several actual cases. A mother or father innocently photographs their naked 1-year-old daughter getting out of the bathtub, they send the film to the store to be developed, and they then put the returned print in the family album with all the other photographs of their child's life. Under these circumstances, in their family album, this photograph showing the child's genitals is clearly not child pornography.

Unknown to them, however, a pedophile working at the store made an extra print of the photograph, took it home, and put it in one of his photo albums 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 are the words "Hot Lolitas." In the album, below the photograph of this naked 1-year-old, is a handwritten caption indicating how sexually aroused the pedophile gets when he looks at this picture. Above this photograph he has added a "balloon" with words indicating that the child wants to have sex with him. There are also semen stains on the pages. 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.

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 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? If prosecutors believe such a photograph cannot be considered child pornography, are they prepared to publicly say so? 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 seems to correctly be that the material in question must be evaluated in context on a case-by-case basis. When the totality of facts 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 utilize 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 that 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. The problem is that while courts sometimes rule that borderline material should be evaluated in context, other times they rule that the context material is inadmissible because its prejudicial value 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 computer images. The criteria can also be used to evaluate child erotica.

How They Were Produced/Obtained Because photographs are well taken and have artistic value or merit does not preclude the possibility that 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.

Pedophiles 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 to believe that 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. Many pedophiles even collect photographs of children who are complete strangers to them. They take these pictures at swimming meets, wrestling matches, child beauty pageants, parks,

parades, rock concerts, and other events open to the public. These photographs are usually of children of a certain age and gender.

Pedophiles are also more likely to take and possess photographs that focus 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 taken 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, which can sometimes be determined from the negatives, can be an important part of the evaluation. Recovered videotapes 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 that the offender knowingly purchased, traded, exchanged, or downloaded the photographs in a sexually explicit context or setting is significant. This is most easily determined in online-computer cases. The fact that 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 names. Volume is also a significant factor here. Pedophiles are more likely to have large numbers of photographs of children. 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 or albums. These may be photographs they cut out of magazines, catalogs, or newspapers. Sometimes sexually explicit captions are written above, below, or on the pictures.

Photographs are frequently marked 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 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.

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 that jurors understand the pedophile's collection of photographs of naked children is not the same as those saved by some normal parents 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 is important in evaluating their significance. Computer chat logs and E-mail messages provide invaluable insight into the context of how the images were used.

In one case the defendant was claiming that 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.

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. Some claim that as law-enforcement officers, lawyers, doctors, therapists, or researchers they had a professional use for the material. Some claim they are artists and that 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 male infant's genitals shown by a physician to a medical-school class learning this technique or a colposcope slide of a female child'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 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 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 can and 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

The government certainly has to prove that the offender believed the individual portrayed is a child and, therefore, the possibility outlined in the first bullet above should not result in conviction. Although the controversial CPPA of 1996 may not always require it (the possibility outlined in the second bullet above), a case has far greater appeal if the government can also prove the image portrays an actual child and the subject believed it (the possibility outlined in the third bullet above). Under most statutes, the third bullet above should be the standard. The burden to prove that the subject **knew** with certainty the individual portrayed is an actual child, the possibility outlined in the fourth bullet above, is an impossibly difficult and absurd standard especially in an Internet-collector case. If required it would essentially only allow the prosecution of production cases.

"Expert" Search Warrants

One controversial and misunderstood 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, is much more legally questionable and should be done only in full awareness of the potential judicial consequences. In spite of the legal uncertainties of its application, there is little behavioral doubt that probable cause to believe that a given individual is a preferential sex offender is, by itself, probable cause to believe that the individual collects pornography or paraphernalia related to his preferences, which may or may not include child pornography. If it is used, the expert's opinion should be the smallest possible percentage of the probable cause. 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 unlikelihood 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 videotapes.

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.

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 that the subject is a preferential sex offender and deficiencies in the warrant cannot be addressed in other ways, investigators can always attempt to get a 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 computer. Their need to explain and validate their behavior overcomes their fear of discovery.

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. 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.

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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. Not all children depicted in child pornography have been sexually abused. For example some have been surreptitiously photographed while undressing or bathing, and others have been

manipulated or tricked into posing nude or exhibiting their genitals. Depending on the use of the material, however, all can be considered exploited. For this reason even 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.

This issue 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 that his client "just" collected preexisting images from the Internet and did nothing but type and click a mouse. Some prosecutors want to counter that by claiming that looking at child pornography "turns your brain to mush" and all collectors are or will become child molesters. I have been asked to testify to this on numerous occasions. Testifying on this issue is problematic for me because I have been viewing 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 real research that unequivocally supports this position. In fact anecdotal evidence based on actual cases investigated by federal law enforcement currently suggests that the majority of child-pornography collectors are not active molesters. This anecdotal evidence has some real limitations, but the fact remains that some significant portion of child-pornography collectors do not appear to be molesting children. Maybe they might in the future, but such conjecture is difficult to argue in court. 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, still fuels "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).

The possibility that a child molester is collecting child pornography or child-pornography collector 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. Child pornography does harm in and of itself. The issue should be the harm it does to the child portrayed, not to the viewer. Victims must live with the longevity and circulation of these images for the rest of their lives. 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.

Child pornography has traditionally been defined as the permanent record of the abuse or exploitation of an **actual** child; however, the CPPA of 1996 changed 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 **by itself** may be insufficient 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 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, virtual child pornography has no socially redeeming value.

Collecting child pornography 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.

Offenders who "just" traffic in child pornography are committing serious violations of the law that do not necessarily require proving that 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.

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 that 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 to "bring them the broomstick of the wicked witch." Instead of declining unwanted cases, they avoid them by asking for more and more evidence without ever really intending to prosecute.

Part of this problem is due to distorted and exaggerated information disseminated at "professional" training conferences. Some seem to feel that 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 that these cases are about a religious agenda rather than enforcing the law.

Investigators and prosecutors should have an objective and rational understanding of the nature of child pornography. 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 deal with 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.