

# **CHILD SEXUAL EXPLOITATION AND THE INTERNET**

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Centre for Victims of Crime  
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## CHILD SEXUAL EXPLOITATION AND THE INTERNET

On January 25, 2000, the *Toronto Star* reported that information about Vancouver's city street "kiddie strolls" is available on the Internet, complete with prices. In March of this year, two men were charged with pimping on line in Halifax. A 15-year-old girl had been lured into hooking by two men who took digital photos of her and posted them on the Web. Clients were then solicited through a chat line.

Also in March, an adult female in Saskatchewan lured a 14-year-old boy from Vancouver through a chat room. She drove to Vancouver and the boy was living with her in her vehicle for a week. He is still seeing her and has gone recently missing again.

On March 6, 2000, the *Ottawa Sun* published a story entitled *Cyber porn alert* about an 18-year-old man charged with possession and distribution of child pornography. He was arrested after an undercover officer met him on line while the accused was looking for a partner in a plot to kidnap, rape and kill a child.

On July 13, an *Ottawa Sun* story entitled *Cyber sting busts teen* reported that an online German police officer identified a 17 year old boy distributing child pornography from Aylmer, Ontario.

On July 26, 2000, the *Vancouver Province* ran a story entitled *Cop: Stalked girl naïve* about a 28 year-old Washington man who had met a 14 year-old BC girl on line. Police found her in his van as he was in a line-up for the ferry to leave Vancouver Island. They communicated for several months and he convinced her to give her phone number. He has been charged with abduction of a person under the age of 16.

On August 9, 2000, the *National Post* reported a story entitled *Web stalker tracks, threatens girl* about a 13 year-old BC girl whose life was threatened by someone she met in an Internet chat room. The *Vancouver Province* reports that he told the young girl, "I will butcher you just to see what your insides look like." Although she used a false name, the stalker was able to get enough information about her to get her phone number.

On August 11, 2000, a *Edmonton Sun* headline read, *John access Net for teen sex* which reports that police believe young prostitutes are making themselves available on the Internet.

On August 22, 2000, a *Vancouver Province* headline read, *Internet threats spark new warning*. The story revealed that a 16 year-old girl was threatened, possibly by a 17 year-old boy she met in a chat room although the police do not know if the boy is really 17.

On September 7, 2000, the *Vancouver Province* reported that an American porn hacker got into a school website and distributed pornographic images. The hacker sent an email to the Province's editor-in-chief.

On September 20, 2000, the *National Post* and *Toronto Star* both reported on a child pornography ring, allegedly run by a federal inmate who had been declared a dangerous offender and had a history of sexually abusing children. Christopher Wigginbottom is reported to have sent instructions to members of the "family" to lure young people into doing sexually explicit photos, and the material would be then sent through the mail and the Internet. Police estimate that at least 20 individuals were part of this group.

## **Introduction**

While the World Wide Web has made the world a smaller place, it has also made it more dangerous for our children. The above stories remind us there is a dark side to the Internet. While we should encourage our children to take advantages of the benefits of the net, we must also ensure that they are aware of the dangers and that we take the necessary steps to protect them.

Chat rooms have opened up our homes to virtual strangers who can pretend to be anyone, any age and either sex. They can talk to children in complete secrecy. They can prey on a child as their parents sit in the next room. They can entice a child to meet in person, where the risk of sexual abuse becomes imminent. Paedophiles who used to be isolated can now find victims without leaving the security of their own homes, at little expense and little risk of being caught.

Millions of children are "online," either in their own homes, in public libraries, schools or at a friend's house. Children who come home from school to an empty house may turn to the Internet as much as they used to turn on the television. They may not feel any threat by "talking" to someone online, and after a few weeks or months of communication, they are not strangers anymore.

The Internet is not governed by anyone and it does not respect any global boundaries. This makes it difficult to police. Experienced users can operate with virtual anonymity, although law enforcement in some parts of the world are struggling to catch up. Those countries have recognized this new form of child sexual exploitation and have begun to dedicate the necessary resources and attention to this growing problem. Unfortunately, Canada is not one of those countries and has been slow to react with the proper resources and tools for law enforcement.

Governing is about making choices and setting priorities. It is a delicate balance to try to determine which areas will get funding and which may not. Health care, social services, taxation and education are all issues Canadians have consistently identified as priorities.

The protection of children has always been a priority for Canadians as well. And as more and more Canadians recognize the value of the Internet and get online in their homes, the risks to their children increases as online predators go searching for new victims. Canada has been slow to respond to this new problem as Canadians begin to recognize it as an emerging priority for law enforcement. There is an acknowledgement, both inside and outside Canada that we need a coordinated law enforcement to deal with this problem. The above noted incidents only represent a very small part of the problem.

In a brief similar to this, we requested the Standing Committee on Finance consider more resources for the issues discussed in this brief. In particular, we asked that the next budget reflect the need for more resources to allow Canada's law enforcement agencies to address to the growing problem of child sexual exploitation on the Internet.

### **The Potential Dangers**

Paedophiles may use the Internet for a variety of reasons, including validation (communication with like-minded people), to find potential victims and to trade child pornography. Paedophiles who use the Internet to search new victims may be the predatory type, who have above average intelligence and have the economic means to operate the Internet (*Use of Computers in the Sexual Exploitation of Children*, Office of Juvenile Justice and Delinquency Prevention, June/99).

The potential dangers facing children (and adults) on the Internet, include:

1. Children may be exposed to inappropriate material that is sexual, hateful or violent in nature, or encourages activities that are dangerous or illegal (i.e. there are sites that instruct people how to build pipe bombs);
2. Paedophiles may "meet" a child online through E-mail, bulletin board systems (which are the most popular source of child pornography), and chat rooms. They gain a child's confidence and then arrange a face-to-face meeting. They target kids who are lonely or having trouble at home (just as they do in the real world). With Canada's low age of consent for sexual activity (14), teens are a target for Americans willing to travel (the age of consent in most American states is 16);
3. Children may not feel threatened talking to someone online, and after a few weeks or months of communication, they are no longer strangers. The young person may feel comfortable and provide personal information. If they send a photo, the predator may alter or "morph" it to put the child into explicit positions and use it as blackmail;
4. Internet provides an underground market for child pornography;

5. Adults who normally would not actively seek child pornography may become interested through the easy access of the net;
6. Paedophiles will share methods and means to reduce a child's inhibitions and facilitate exploitation;
7. The Internet can be used to facilitate the sex trade/tourism- websites offer information about locations of places/countries to go to where laws protecting children from sexual abuse may be lax or not enforced;
8. Children, or adults, may be "stalked" or harassed on the Internet through unsolicited emails, mail bombs, spreading of rumours, negative web pages, impersonation of victim, providing personal information online, etc. In one reported US case, a man posted the name and number of a 9-year-old girl on the net saying she wanted to have sex. In another case, a man impersonated a woman and posted her name and address saying she wanted to be raped - six men showed up at her door in the middle of the night.

Some online services and Internet Service Providers (ISPs) allow parents to limit their children's access to certain services and features such as adult-oriented web sites and "chat" rooms and bulletin boards. In addition, there are filtering features built into the popular Internet browsers that empower parents to limit their children's access only to those sites that have been rated appropriate for children. Other useful tools are software programs that block web sites, newsgroups, and chat areas that are known to be inappropriate for children. Most of these programs can be configured by the parent to filter out sites that contain nudity, sexual content, hateful or violent material, or that advocate the use of drugs, tobacco, or alcohol. Some can also be configured to prevent children from revealing information about themselves such as their name, address, or telephone number.

They help, but are not foolproof. Some websites offer advice on instructing children to defeat some of these tools (*Vancouver Province*, August 6, 2000). Children and young people can also go to libraries, friend's houses, Internet cafes, etc. where there are no filters.

## **Education**

Children benefit from being online, but can also be targets of crime and exploitation in this as in any other environment. Just like there are good and bad people in schools, parks and our homes, there are good and bad people on the net.

The fact that crimes are being committed online, however, is not a reason to avoid using these services. To tell children to stop using these services would be like telling parents not to send their kids to school because of some high-profile cases of teachers preying on their students. Parents need to instruct children about both the benefits and dangers of cyberspace and how to protect themselves.

Governments, Internet Service Providers, educators and others should focus resources and efforts into educating children and parents about the dangers that the Internet presents.

### **Scope of the Problem**

There are over a hundred million Internet users across the world. The overwhelming majority is people who use the net for work, research, or to communicate with family and friends. But even if cyberstalkers and predators represent only a small percentage of users, we are still talking about a significant number of offenders and potential victims.

The *2000 Annual Report of the Criminal Intelligence Service Canada* (CISC) warns that the “distribution of child pornography is expanding proportionately with the Internet use in Canada. Chat rooms available throughout the Internet global community further facilitate and compound this problem.”

The report presents the following statistics:

- Interpol Ottawa (which coordinates international investigation of child pornography) received 164 requests for assistance in 1999 (101 from international law enforcement);
- In the first six months of 2000, 89 cases were received and forwarded to Canadian jurisdictions (78 from international law enforcement);
- In the first six months of 2000, one pornography unit investigated 100 incidents and laid 92 charges (in 1999 for the same time period, they did 52 investigations and laid 55 charges);
- In 1999, one police service handled 116 files relating to child pornography on the Internet;

The report concludes that the “sexual exploitation of children and child pornography...remains an area of criminal activity that is largely undetected or not reported.” The report warns that as “technology provides more opportunities for anonymity and the easy transfer of images and information on the Internet, the distribution of child pornography by paedophiles may increase.” The report recommends “partnerships among police forces, governments and other agencies will be increasingly required to facilitate provincial, national and international investigations.”

Prior to the Internet, it was more difficult for paedophiles to find child pornography and to link with others who had similar interests. By the late 1980's, police had cut the flow of child pornography to a trickle (*Innocence Exploited: Child Pornography in the Electronic Age*, Canadian Police College/May 1998, p.16). The Internet clearly changed all that.

“It is a massive global industry, the size of which cannot be estimated, but it is safe to say it is a market increasing in size and accessibility, aided significantly by the sudden rise in the use of the Internet for the dissemination of material. Porn magnates no longer need to rely on hard copies changing hands, running the risks associated with customs controls, and storing vast quantities of film and pornographic images, but have embraced technology, using electronic super highway both to peddle and access their wares (*Tracking down child*

*pornographers, Voice of Service Publication of the Police Federation of England and Wales).*”

Given the secretive nature of this type of activity, the size of the Internet and the anonymity it provides, accurate estimates are virtually impossible, although some say there are over 1 million sexually explicit images of children on the Internet (*Innocence Exploited: Child Pornography in the Electronic Age*, Canadian Police College/May 1998, p.16).

The policing of child pornography should be considered as pro-active police work. According to a report from the Attorney General of New Jersey, about 70% of convicted child molesters also collect child pornography (*Computer Crime*, Attorney General of New Jersey, June 2000). The former director of the US Customs CyberSmuggling Center says that 75% of registered sex offenders routinely surf the Internet (*Computer Crime*, Attorney General of New Jersey, June 2000).

About half of the 700 paedophiles arrested in LA had child pornography in their possession, and a study in England showed nearly all child molesters arrested had child pornography in their possession (*Innocence Exploited: Child Pornography in the Electronic Age*, Canadian Police College/May 1998, p.8). When US Customs set up a child porn web page for investigative purposes, it had over 70,000 visitors in the first two months (*Innocence Exploited: Child Pornography in the Electronic Age*, Canadian Police College/May 1998, p.16).

In 1997, the FBI probed 301 child pornography cases, 698 in 1998 and 1500 in 1999 (Ottawa Sun, April 11, 2000). In 1999, the FBI opened 1497 new cases and obtained over 185 search warrants, made almost 200 arrests and had over 100 convictions (*Congressional Statement – Federal Bureau of Investigation*, February 16, 2000).

In 1998, there were 700 documented cases of sexual predators working the Internet in the US in 1998 (*Vancouver Province*, August 22, 2000). There were almost 800 traveler (someone who meets a potential victim on the Internet and is willing to travel to meet them) cases identified in 1999 alone, with over 300 being investigated by the FBI (*Online Victimization – A Report on the Nation’s Youth*, Crimes Against Children Research Centre, June/2000).

US federal prosecutions have increased 10% every year since 1995, with over 400 cases per year now being prosecuted in federal courts alone (remarks by US Deputy Attorney General Eric Holder at the *International Conference on Combating Child pornography on the Internet*, Vienna, Australia, September 29/1999). Child pornography offences have increased over 129% in 1996 (*Computer Crime*, Attorney General of New Jersey, June 2000). The US Postal Inspection Service and the FBI made over 450 arrests involving the exchange of child pornography on the Internet (*Computer Crime*, Attorney General of New Jersey, June 2000).

Ninety-five percent of the child pornography that comes into the US is via the Internet (*Computer Crime*, Attorney General of New Jersey, June 2000).

By May/1999, there were over 21,000 documented web sites on the Internet devoted to child pornography and paedophilia, which was up from only four months earlier (*Computer Crime*, Attorney General of New Jersey, June 2000).

In 1999, a US report, *Cyberstalking: a New Challenge for Law Enforcement and Industry*, acknowledged that cyberstalking was a serious and growing problem. Both the Los Angeles and Manhattan DA's offices said that 20% of their stalking cases involved cyberstalking. Twenty-five percent of female college students have been cyberstalked. The majority of victims do not report it to the police. When they do, many police officers do not know how to investigate and do not take it seriously.

The National Center for Missing and Exploited Children (NCMEC) *CyberTipline* receives over 200 leads a week from parents and concerned citizens about child pornography, child solicitation of enticement, child prostitution, child sex-tourism, etc. Since March/1998, the tipline has received over 10,000 tips about online child pornography alone (remarks by US Deputy Attorney General Eric Holder at the *International Conference on Combating Child pornography on the Internet*, Vienna, Australia, September 29/1999). Because Canada has no such tipline, some Canadians have reportedly called the NCMEC line.

In Canada, the problem seems to be growing as well. For example, the workload of the Ontario Provincial Police's Child Pornography Unit has doubled in the last year. The unit has grown to 14 full time officers.

Vancouver's Organized Crime Agency of BC has seen an increasing consumer demand from Canada to child pornography and access to children. They point to an increase in the use of computers in child pornography offences and to help facilitate other offences. They have had a least ten "luring" cases in the last year including one case involving a 12-year-old boy and a 55-year-old man from the US.

Ottawa Carleton Regional Police Staff Sergeant Randy Brennan told the *Ottawa Sun* (March 6, 2000) that if all his five-person team did was deal with Internet child pornography and paedophiles on line, they "could take someone down everyday."

Canadian Customs intercepts over 200 shipments of child pornography and obscenity with children every year. Follow-up investigations reveal many importers to be working or volunteering with children (teachers, volunteers, etc.) and most are unknown to police.



A recent study done in the US (*Online Victimization – A Report on the Nation’s Youth*, Crimes against Children Research Centre, June/2000) sampled 1500 youth that regularly uses the Internet and found that:

- 1/5 received a sexual solicitation or approach over the Internet in the last year;
- 1/33 received an aggressive sexual solicitation - asked to meet, called them on the phone, sent them mail or gifts;
- 1/4 had unwanted exposure to pictures of naked people or people having sex in the last year;
- 1/17 was threatened or harassed;
- less than 10% of sexual solicitation and only 3% of unwanted exposure episodes were reported to authorities such as a law-enforcement agency, an Internet service provider, or a hotline;
- 0.4% were offered help in running away;
- almost 800 travelers cases were identified;

### **Concerns About Policing the Internet**

The complexity of the Internet means the solutions will be as equally complex. The net is truly international, and laws about crimes committed against children, in particular child pornography, vary from country to country.

We owe it to our children to do what we can to protect them from predators, whether it is a family friend, a camp counselor or a paedophile on the net. It is only logical that Canada would enforce the same laws on the net that we do in the real world. Any suggestion to the contrary indicates an abdication of our responsibility to the most vulnerable group in society. While this may be a difficult challenge, society's efforts to protect children must not change simply because technology has.

It will be impossible to catch everyone but there is no law that catches every offender, but to stop enforcing laws simply because we don't catch everyone would mean we would have to repeal the entire *Criminal Code*.

The global nature of the Internet makes any police response difficult because offenders and/or victims may not be in the same country. When child pornography is transmitted from one country to another and there are differing national laws, the situation becomes more complex. This underscores the need for an international approach to this problem, but before Canada can truly be a player on the international scene, we must develop a better national approach.

Several warnings and arguments have been raised against attempts to deal with this problem by civil libertarians and freedom of speech advocates. Given the recent debate in Canada about the child pornography laws, it is clear that while there may be some people prepared to sacrifice children to potential abusers simply to protect someone's freedom of expression rights, the public is not. They seem willing to do the same regarding crimes against

children on the Internet and the extent to which some of these groups will go is evident in the ACLU's recent decision to defend NAMBLA (North American Man Boy Love Association). NAMBLA advocates sex between adult men and boys and is being sued by the family of a murdered boy. The boy's killer viewed NAMBLA's website shortly before the murder and had NAMBLA publications in his possession;

### **Internet Service Providers (ISP)**

In 1998, the New York District Attorney's office seized servers at Dreamline Online and another ISP. The DA accused the firms of knowingly providing access to newsgroups in which child pornography was exchanged.

In 1997, Germany passed a law that said that ISPs could be held legally accountable for illegal material on their services if they know about the content and blocking it is technically possible. Not long after, the general manager of CompuServe was convicted of 13 counts of distributing online pornography and other illegal material. He was not directly involved in the transmission of the material but a third party sent it over the company's network.

In 1997, European Internet service providers associations established **Eurolspa**, which deals with illegal content transmitted on the net. Police in Britain provided ISPs with a list of newsgroups which contained obscene materials and told them they could be held legally responsible if these groups were not removed (*Innocence Exploited: Child Pornography in the Electronic Age*, Canadian Police College/May 1998, p.23). Holland and Belgium have ISP hotlines for users to report offensive material, and the ISP then warns the offending parties they may be reported to the police if the activity continues (*Innocence Exploited: Child Pornography in the Electronic Age*, Canadian Police College/May 1998, p.23).

In 1998, the US government passed the *Child Protection and Sexual Predator Punishment Act* requiring ISPs to report incidents of suspected child pornography to authorities.

*America Online* does attempt to enforce its terms of service, which prohibits child pornography. It has cyber-patrols and will terminate the accounts of customers who violate the terms. In 1996, iSTAR, Canada's largest Internet provider, voluntarily deleted 35 newsgroups from their service. The deleted sites contained information about bestiality, child pornography and other illegal materials.

Others have not followed suit, claiming that they had no legal obligation to do so and although they may be right, there is a moral one. To date, most have chosen to hide behind self-imposed technical and financial constraints that they say make it virtually impossible to find out what information is on their servers.

The 2000 CISC report says the ISP industry in Canada “is largely unregulated and no standards exist to ensure that the fundamental police requirements can be met” regarding maintaining a proper evidentiary trail. The report says the law enforcement community and the Canadian Association of Internet Providers is addressing this problem.

While some would rather rely on self-regulation, it is clearly not an acceptable alternative. We obligate doctors and social workers to report suspected cases of child abuse. A recent consultation document from the Department of Justice asked for input into expanding this obligation to non-professionals. We allow no other means of self-regulation for illegal behaviour in the real world, so why would we permit it in the virtual world? Advocates are not asking them to police the net – just to act appropriately when they become aware of sites which contain illegal material.

The International Association of Prosecutors recommends that ISPs be required by law to report child pornography to the police when they learn of it on their systems.

The role and responsibilities of ISPs needs to be examined to ensure they:

- accept their responsibility in keeping illegal material off the Internet;
- are required to report any illegal material on their sites to law enforcement;
- are required to deny access to any person who posts illegal material;
- if directed to do so by police, remove any illegal material from their sites;
- set up hotlines for customers to report offensive and illegal material;
- are required to standardize subscriber and transactional records they maintain to record IP logging, caller ID, web hosting, etc;

### **A Coordinated Law Enforcement Response**

During the investigation of the abduction of a ten-year old boy in 1993 in which the offenders were utilizing computers to transmit pornographic images of minors and lure minors into illicit sexual activity, the FBI recognized that computer telecommunications was rapidly becoming the weapon of choice for predators to share child pornography and identify and recruit children (*Congressional Statement- Federal Bureau of Investigation*, November 7, 1997).

As a result of that investigation, the FBI created the Innocent Images unit, which focuses on those who will to travel for the purpose of engaging in sexual activity with a child, those who produce and/or distribute child pornography and those who post illegal images. FBI agents and task force officers go on-line undercover to identify and investigate those individuals who are victimizing children through the Internet and on-line service providers.

Innocent Images involves federal, state and local law enforcement agencies working together. It has an annual budget of \$10 million with undercover operations in 11 field offices

assisting and conducting investigations (*Congressional Statement- Federal Bureau of Investigation*, February 16, 2000).

In addition to Innocent Images, the United States Office for Juvenile Justice and Delinquency Prevention (OJJDP) has created 30 *Internet Crimes Against Children* task forces that track paedophiles and child pornographers on line. The US Customs Service's CyberSmuggling Unit deals with all child pornography related complaints stemming from the NCMEC's tipline. It patrols the Internet for signs of illegal importation and proliferation of child pornography. The US Postal Inspection Service conducts undercover operations to investigate individuals who use the Internet or a Bulletin Board Service to exchange pornography or who correspond with others who do the same.

By the end of the year 2000, a task force will exist in every state (*Computer Crime*, Attorney General of New Jersey, June 2000).

Europe and Belgium also have federal task forces and the Scotland Yard Paedophilia Unit also advocates units to cover all geographical areas of the country.

The same cloak of secrecy that benefits predators online can also benefit undercover police officers, but that requires pro-active work. "Canada is very much a reactive enforcement country, i.e., it often relies on complaints from individuals before its enforcement agencies react. Resources are limited, and a proactive approach to obscene communications would be very expensive." (retired S/Sgt. Jan Wolynski, *Obscene Communications on the Net*).

Canada currently lacks the coordinated response we see in the US and other countries. The RCMP *Report on Plans and Priorities for 1999/2000 - 2001/2002* (p.28) recognizes the need to "formulate policy options for a coordinated national law enforcement strategy designed to combat the sexual victimization of children, without compromising existing efforts of individual jurisdictions."

The CISC lists "sexual abuse of children and electronic warfare" among its current and emerging objectives and priorities. CISC has 9 provincial coordinators to "facilitate" law enforcement efforts but they do not provide direct assistance. CISC's role is limited to simply sharing intelligence with local law enforcement agencies. While this is a useful service, it is of little practical assistance for many police services who have no officers trained to deal with these types of offences. CISC also provides some limited training for law enforcement officers.

The Ontario Provincial Police Child Pornography Unit, "Project P," is considered Canada's leading law enforcement agency dealing with child pornography. With the growth of the Internet, the unit has grown to 14 full-time officers keep up with the amount of child pornography being traded on-line.

The OCABC has one or two dedicated officers who deal with child sexual victimization on the Internet. The Ottawa Carleton Regional Police (OCRP) has a five-person team that deals with all Internet related crime, not just child sexual victimization. Peel Regional Police Service recently formed computer crime unit, with a focus on child pornography. Calgary, Winnipeg and Montreal all have officers who specialize in this type of law enforcement and Saskatoon may soon have someone as well. The Toronto Police Service is also looking at creating a unit to deal with computer crime.

Various police services point out that the problem is only going to get worse. Already, they are seeing:

- ◆ a rapidly escalating volume of child pornography/paedophilia;
- ◆ more organization;
- ◆ a growing consumer demand from Canada for materials relating to children and for access to children themselves;
- ◆ a growing number of children being lured via internet, including Americans who prefer the lower age of consent in Canada;
- ◆ child pornography/paedophilia is linked to child sexual molestation;
- ◆ proactive work in this area is the key and should be the focus with limited resources but many smaller services do not do any pro-active work and have no resources, knowledge or skill to deal with this type of crime;
- ◆ CISC is of little practical assistance to enforcement agencies;

At the same time, risks and penalties from prosecution remain minimal. Due to limited resources, proactive work in this area is non-existent for many police services that lack the resources, knowledge or skill to deal with this type of crime. Unfortunately, CISC is of little practical assistance to enforcement agencies.

There is no doubt that the Canadian system can make cooperation between federal, provincial and municipal law enforcement agencies difficult, but when a need is acknowledged, it can be done. For example, there was the task force on smuggling in Cornwall, which involved the Cornwall Police Service, the OPP and the RCMP. In 1997, there were 13 Integrated Proceeds of Crime units established involving the RCMP, local and provincial police services, Customs Canada Revenue Agency officers, Crown counsel and forensic accountants. The RCMP has also set up a Technological Crime Unit which will investigate computer attacks on the federal government, apparently regardless of what jurisdiction the attacker is living in.

The federal government must acknowledge this is a national problem and the only way to address it is with a coordinated approach that involves law enforcement from different jurisdictions. The example set by the US is a model worth looking at.

Also of concern is the lack of a coordinate effort to identify children found in child pornography. One predator may have thousands of images on his computer, and much of this may be dated material that has been traded for years. However, some of the images may involve children who are being abused now, and if no one is trying to find out who they are and where they are, the victimization may still be going on. Canada needs a national database of images coupled with an attempt to identify those images that may involve ongoing abuse.

Sweden began to deal with this problem in 1997, when the Swedish National Crime Intelligence Division established a central image bank of known child pornography pictures (*Tracking down child pornographers, Voice of Service Publication of the Police Federation of England and Wales*). It was identified as an issue when Swedish police met with German police concerning a large seizure of video film and found out that the German police were already aware of most of the material that Sweden had seized.

The objective of the bank is to learn more about the origin and distribution of pornographic material with the hope of clamping down on producers and stop the abuse of child. Originally, the bank contained over 5000 images (*Tracking down child pornographers, Voice of Service Publication of the Police Federation of England and Wales*).

One of the limitations of Sweden's bank is that they cannot compare images with other forces that either had their own bank or had none at all. Clearly, this is an area where countries must work together and coordinate their efforts. Since a meeting in 1998 (of which Canada was merely an observer), images have been collected from England Denmark, Finland, the Netherlands, Norway, Portugal, Switzerland and Germany (*Tracking down child pornographers, Voice of Service Publication of the Police Federation of England and Wales*). One of the recommendations flowing from this project is that all countries set up their own national databases.

In recognition of their role as Canada's national police force, the RCMP wants to set up its own special web crime unit (National Post, October 9, 2000). The application is for \$600,000 to get started, and the unit would deal with fraud, online harassment, offences against children and computer break-ins. Among other things, the proposal says the unit would provide a repository of Internet crime complaints, track trends, develop crime prevention methods and investigative techniques and exchange information with foreign law enforcement agencies.

### **Legislative Reform**

While it may be premature to determine what, if any, amendments to the *Criminal Code* may be necessary as there has been little case law to date, we should be aware that changes may

be necessary. Most accused plead guilty and therefore we have not had the chance to see if the law will stand up to the challenges the Internet presents. However, other countries are further ahead of Canada on this issue, so we may be able to learn something from what steps they have taken.

Some states have amended their stalking legislation to include cyberstalking and the US report recommends that all states review their legislation with an eye towards cyberstalking. A number of states have also made it a criminal offence to lure or solicit a child via the Internet.

Cyberporn expert Keith Daniels, formerly with the Ottawa Carleton Regional Police Service, now trains police officers in the US. He says luring laws provide an "extra weapon in the war against online-perverts and cyber-stalkers (*Ottawa Sun*, April 1, 2000)." In Canada, where there are no such laws, police must wait until a predator distributes child pornography, molests or abducts a child or is deemed a likely threat. Police may use the child abduction provisions, but they have not been tested in court and there is concern as to whether they would be successful.

We were pleased to learn the Minister of Justice had committed to the creation of a luring type offence during the recent federal-provincial-territorial Justice ministers' meetings.

Also of concern is the current age of consent, which in Canada is 14. More and more US citizens are travelling to Canada to meet 14 and 15 year olds for sexual purposes. The age of consent in most US states is 16. Therefore, there is nothing illegal about a 40 year old man meeting a 14 year old girl in a chat room and coming to visit her and having sex with her.

The federal Department of Justice raised the issue of the age of consent in a recent consultation document on child victims. The federal government is expected to raise the age, and it would be difficult to imagine who would oppose such a move (as long as the provisions to protect those close in age are maintained so we don't criminalize young people). Courts have expressed concern as to why it is illegal for a 40 year old man to take nude photos of a 15 year-old girl, but it is perfectly legal for him to have sex with her. The only people who would argue against such a change may be those who are likely to take advantage of the low age of consent (and maybe their lawyers). It is our position that the government would have the support of the majority of Canadians, many of whom don't even realize it is so low right now.

## **Conclusion**

A Federal/Provincial/Territorial Task Force on Offensive Content on the Internet has been in operation since 1997. It is co-chaired by officials from the Department of Justice and the Department of Industry. The Task Force has been looking at issues related to child pornography

and hate propaganda, as well as the transnational aspects of cases, assistance in investigation and prosecution of these offences.

Society is only now beginning to learn of the dark side of the Internet. The cases referred to at the beginning of this brief make it clear that this is an emerging problem, and the sexual exploitation of children is only one of many other types of crimes being committed online. Sabotage, fraud, hacking all present major problems for companies, individuals and governments, and all deserve a law enforcement response. However, there is no more precious commodity than our children, and no more important priority than their well being.

On behalf of the Canadian Resource Centre for Victims of Crime, we hope that you will give the issues raised in this report and following recommendations serious consideration. We are not trying to re-invent the wheel or do anything that is not already being done by police on the streets. We want to ensure the same laws that protect our children in the real world and the same efforts that are made to enforce those laws are paralleled on the Internet. Our children deserve no less than our best efforts, and to date, we have let them down.

## **RECOMMENDATIONS**

### **Internet Service Providers:**

- i. create a legal obligation of ISPs to inform law enforcement if they become aware of any illegal material as defined by the *Criminal Code* on their server (just as we require doctors and social workers to report suspected cases of child abuse);
- ii. examine the practicality of licensing ISP's by the Canadian Radio and Television Commission (CRTC). A license for an ISP may be cancelled if the licensee is convicted of a specified sex offence involving a child or an offence under this act;
- iii. create the offence of an ISPs **knowingly** permitting the use of its service for placement of child pornography or any other illegal material as defined by the *Criminal Code*;
- iv. require service providers to block access to identified portions of the Internet that carry child pornography;
- v. enact legislation requiring preservation of evidence, upon written request to ISPs, until the formal process can be completed;
- vi. ISPs should distribute educational material about the dangers of the Internet to clients and such material should accompany the sale of all computers;

### **Criminal Code:**

- vii. create offence of "conspiracy to possess" child pornography;
- viii. create a new offence of luring/child solicitation via computer;
- ix. amend the definition of "publishes" under s.163 (child pornography) of the *Criminal Code* to deal with transmission by electronic mail or posting material on the Internet or any other electronic net;
- x. codify decision in *R. v. Pecciarich* which stated "the uploading of files onto bulletin boards, which the public can access through an application process, is clear evidence of distribution."



- xi. allow a court that convicts someone of child pornography offences to order that anything used in relation to the offence be forfeited. This would cover computer equipment if the offender used the net (Bill C-321);
- xii. amend s.161 of the *Criminal Code* to include offences related to child pornography;
- xiii. amend s.161 of the *Criminal Code* to allow a court to ban someone from the Internet as a condition of probation or bail;
- xiv. amend the *Criminal Code* to raise the age of consent;
- xv. review section 7(4.2) (Bill C-27) to remove the requirement that the country where the offence took place request Canada's intervention for the prosecution of Canadian citizens who produce child pornography abroad with the intention of selling it in Canada;
- xvi. allow for special powers under search warrants to facilitate electronic searches;

**Law enforcement:**

- xvii. establish task forces involving federal, provincial and municipal law enforcement agencies (including Customs), Crown Attorneys with expertise and experience in prosecuting such case and civilians with computer expertise to assist with reviewing and removing computer material to provide focal point for intelligence, investigations and computer forensic support;
- xviii. a coordination of undercover investigations as they relate to the internet and the development of a central repository to record all police officers in Canada who have been cleared to actively work on the Internet;
- xix. increase efforts to identify and locate the children whose images are found in child pornography, including the creation of a national photo image database to help identify victims;
- xx. create a national tipline;

**RECOMMENDATION FOR IMMEDIATE ACTION**

**The Commons Justice Committee hold a series of hearings, including a national roundtable, on combating the child sexual exploitation of children via the internet, including experts from local and federal law enforcement/policing agencies (including representatives from the FBI and OJJDP), internet service providers, Crown Attorneys, victims advocates, Canada Customs, Interpol, provinces, etc. The hearings should examine the following issues:**

- ◆ **how to better educate the public and media about the possible risks children face;**
- ◆ **training issues for law enforcement officers regarding undercover operations;**
- ◆ **the role of the federal government to work in conjunction with provincial and local police services;**
- ◆ **need for legislative reform;**
- ◆ **role and responsibility of IPS;**