

Whatever the prosecutors' views of child pornography might be, it is important that they clearly communicate their criteria for prosecuting or not prosecuting a particular case. Some of the possible criteria to consider in a child-pornography case not involving production include

- amount of time and energy put into it by the subject
- size of the collection
- format (*i.e.*, videotapes, magazines, digital images)
- sexual themes (*e.g.*, sadism, urination, bondage)
- age of the children portrayed or of the subject
- percentage of child pornography in the total collection
- amount of erotica or other paraphernalia collected
- quality of images
- receipt, distribution, or both
- profit
- solicitation (*i.e.*, requesting/encouraging others to produce)
- access to children (*i.e.*, teacher, coach, youth volunteer)
- molestation of children (*i.e.*, past, present, or future)

The prosecutive criteria should be communicated and consistent. If a case meets the set-forth criteria, the investigator should have a reasonable expectation the case will be prosecuted. The criteria, however, should be viewed as policy with some degree of flexibility. The policy should reflect what is usually done and not necessarily what is always done.

In order to evaluate child pornography or determine what and how many prosecutive criteria it meets, investigators and prosecutors must have facts and details. Many of those facts and details are best obtained from executing a valid search warrant or obtaining a consent to search. For some reason many prosecutors seem to believe that executing such a search warrant should be the final step in the investigation. They want all the answers to the evaluation and prosecutive criteria before the search when, in fact, many of the answers will come from the search itself. The execution of the search warrant and subsequent search should be viewed not as the **last** step, but simply **one** step in the investigation. Obviously there must be probable cause and/or consent to conduct such a search.

# Use of Computers by Sex Offenders

## Overview

We have historically warned our children about the dangers associated with strangers, but often neglected to help them understand that sex offenders are often people they have come to know either in person or now online. Throughout history nonfamily members who sexually exploit children have frequented the places where children gather. Schoolyards, parks, and malls have been prime contact places. Offenders have also used technological advancements (*e.g.*, cameras, telephones, automobiles) to facilitate their sexual interests and behavior. Starting in the 1990s, home computers, online services, and the Internet have become new points of contact and technological tools.

Although most of the offenders currently utilizing computers in their sexual victimization of children would generally be considered to be "acquaintance molesters," some might be family members and others might be strangers. Some of these offenders might also be sexually victimizing children without using computers. For example they may also be sexually abusing readily available children, including their own, or trafficking in or collecting child pornography in magazine, book, photograph, or videotape formats and utilizing the mail. Although it is the focus of this discussion, the focus of the investigation cannot be only on the computer. The computer is only a tool. Also, as the capabilities and availability of computers change, their role in the sexual victimization of children will also change.

Some may wonder why a discussion of acquaintance molesters would include a section on the use of computers. That is because, like most acquaintance molesters, individuals attempting to sexually exploit children through the use of computer online services or the Internet tend to gradually seduce their targets through the use of attention, affection, kindness, and gifts. They are behaviorally like acquaintance molesters and best viewed as such for investigative and prevention purposes. They are often willing to devote considerable amounts of time, money, and energy to this process. They will listen to and empathize with the problems of children. They will be aware of the music, hobbies, and interests of children. Unless the victims are already engaged in sexually explicit computer conversation, offenders will usually lower any inhibitions by gradually introducing the sexual context and content. Some offenders use the computer primarily to collect and trade child pornography, while others seek online contact with other offenders and children. Some do both. Offenders who do either or both with a computer can also do either or both without the computer.

Children, especially adolescents, are often interested in and curious about sexuality and sexually explicit material. They will sometimes use their online access to actively seek out such material. They are moving away from the total control of parents and trying to establish new relationships outside the family. Sex offenders targeting children will use and exploit these characteristics and needs. Adolescents may also be attracted to and lured by online offenders closer to their age who, although not technically "pedophiles," may be dangerous.

## Illegal Sexual Activity

Computer-related sexual exploitation of children usually comes to the attention of law enforcement as a result of individual/victim complaints, referrals from

commercial service providers, and inadvertent discovery during other investigations. Increasingly, cases are being proactively identified as a result of undercover investigations that target high-risk computer sites or utilize other specialized techniques. Sexual activity involving the use of computers that is usually illegal and, therefore, the focus of law-enforcement investigations includes

- producing or possessing child pornography
- uploading and downloading child pornography
- soliciting sex with "children"

In the vernacular of computer-exploitation investigators, those who traffic in online child pornography are known as "traders" and those who solicit sex with children online are known as "travelers." Using the computer to solicit sex with "children" could include communicating with actual children as well as with law-enforcement officers who are taking a proactive investigative approach and pretending to be children or pretending to be adults with access to children. After using the computer to make contact with the "child," other illegal activity could involve traveling to meet the child or having the child travel to engage in sexual activity.

Cases involving adolescents using the computer to solicit sex with other adolescents and traffic in child pornography that portrays pubescent "children" are a problem area for the criminal-justice system especially the federal system. For purposes of illegal sexual activity and child pornography, the federal statutes and many local statutes define children or minors as individuals who have not yet reached their sixteenth or eighteenth birthdays. Such behavior, therefore, may be technically illegal, but may not be sexually deviant.

### **Legal Sexual Activity**

Sexual activity involving the use of computers that may be of concern, but is usually legal includes

- validating sexually deviant behavior and interests
- reinforcing deviant arousal patterns
- storing and sharing sexual fantasies
- lying about one's age and identity
- collecting adult pornography that is not obscene
- disseminating "indecent" material, talking dirty, "cyber-sex," and providing sex instructions
- injecting oneself into the "problem" of computer exploitation of children to rationalize interests

Although many might find much of this activity offensive and repulsive and special circumstances and specific laws might even criminalize some of it, it is for the most part legal activity.

### **Understanding Behavior**

The investigation of child-sexual-exploitation cases involving computers requires knowledge of the technical, legal, and behavioral aspects of computer use. Because each of these areas is so complex, however, investigators must also iden-

tify experts and resources available to assist in these cases. Exploitation cases involving computers present many investigative challenges, but they also present the opportunity to obtain a great deal of corroborative evidence and investigative intelligence. This discussion will focus primarily on the dynamics of offender and victim behavior in the computer exploitation of children.

### Computer Offenders

Offenders using computers to sexually exploit children tend to fall into the three broad categories of situational, preferential, and miscellaneous "offenders."

### Situational Offenders

Situational offenders include a

- **"normal" adolescent/adult** - usually a typical adolescent searching online for pornography and sex or an impulsive/curious adult with newly found access to a wide range of pornography and sexual opportunities.
- **morally indiscriminate** - usually a power/anger-motivated sex offender with a history of varied violent offenses. Parents, especially mothers, who make their children available for sex with individuals on the Internet would also most likely fit in this category.
- **profiteers** - with the lowered risk of identification and increased potential for profit, the criminal just trying to make easy money has returned to trafficking in child pornography.

*Exploitation cases involving computers present many investigative challenges, but they also present the opportunity to obtain a great deal of corroborative evidence and investigative intelligence.*

When situational-type offenders break the law, they can obviously be investigated and prosecuted, but their behavior is not as long-term, persistent, and predictable as that of preferential offenders. They are a more varied group.

### Preferential Offenders

Preferential offenders include a

- **pedophile** offender, as previously discussed, with a definite preference for children.
- **diverse** offender with a wide variety of paraphilic or deviant sexual interests, but no strong sexual preference for children. This offender was previously referred to in my original typology as the sexually indiscriminate.
- **latent** individuals with potentially illegal, but previously latent sexual preferences who have more recently begun to criminally act out when their inhibitions are weakened after their arousal patterns are fueled and validated through online computer communication.

The essential difference between the pedophile type and diverse type of preferential offender is the strength of his **sexual** preference for children. As previously stated the pedophile type is primarily interested in sex with children that might, in some cases, involve other sexual deviations or paraphilias. The diverse type is primarily interested in a variety of sexual deviations that might, in some cases, involve children. For example the pornography and erotica collection of

the diverse preferential offender will be more varied, usually with a focus on his particular sexual preferences or paraphilias and sometimes involve children, whereas a pedophile's collection will focus predominately on children and sometimes involve other paraphilias. Searching a computer for this varied adult-theme pornography can sometimes be justified if it helps identify the person using the computer or is linked to and helps explain the victimization of children. If children are directly molested, the diverse offender is more likely to victimize pubescent children. More naive prepubescent children, however, are sometimes selected to minimize confronting possible challenges to or embarrassment over their deviant sexual interests.

With an absence of prior criminal sexual activity, latent offenders present problems concerning what prosecution and sentence is appropriate. A thorough investigation and good forensic psychological evaluation, possibly aided by the use of the polygraph or other deception-assessment devices, are helpful in evaluating such apparent "latent" offenders.

### Miscellaneous "Offenders"

Miscellaneous "offenders" include

- **media reporters** - individuals who erroneously believe they can go online and traffic in child pornography and arrange meetings with suspected child molesters as part of an authorized and valid news exposé.
- **pranksters** - individuals who disseminate false or incriminating information to embarrass the targets of their "dirty tricks."
- **older "boyfriends"** - individuals in their late teens or early twenties attempting to sexually interact with adolescent girls or boys.
- **overzealous civilians** - members of society who go overboard doing their own private investigations into this problem. As will be discussed, investigators must be cautious of all overzealous civilians who offer their services in these cases.

Although these miscellaneous "offenders" may be breaking the law, they are obviously less likely to be prosecuted. This category includes media reporters breaking the law as part of a bona-fide news story. It does **not** include reporters, or any other professionals, who engage in such activity to hide or rationalize the fact that they have a personal interest in it. They would be situational or preferential offenders. Media reporters frequently do not notify law enforcement of their "undercover" activity until it reaches a crisis point, and then they want law enforcement to respond immediately. Overzealous civilians could also include sex-offender therapists and researchers engaging in this type of activity. **Only** law-enforcement officers as part of official, authorized investigations should be conducting proactive investigation or downloading child pornography on a computer. No one should be uploading child pornography. It should be noted that federal law does allow an affirmative defense for the possession of child pornography **only** if **less than three matters** are possessed **and** it is **promptly**, in good faith and without retaining or allowing access to any other person, **destroyed** or **reported to a law-enforcement agency** that is afforded access to **each depiction** (18 U.S.C. § 2252(c)). As previously stated the test for those claiming professional use of child pornography 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.

Using a computer to fuel and validate interests and behavior, facilitate interacting with child victims, or possess and traffic in child pornography usually requires the above-average intelligence and economic means more typical of preferential sex offenders. The computer sex offenders discussed here have tended to be white males from a middle class or higher socioeconomic background. As computers and use of the Internet have become more commonplace, however, there are now increasing numbers of the more varied situational sex offenders.

In computer cases, especially those involving proactive investigative techniques, it is often easier to determine the type of offender than in other kinds of child-sexual-exploitation cases. When attempting to make this determination, it is important to evaluate all available background information. The information noted below from the online computer activity can be valuable in this assessment. This information can often be ascertained from the online service provider and through undercover communication, pretext contacts, informants, record checks, and other investigative techniques (e.g., mail cover, pen register, trash run, surveillance).

- screen name
- screen profile
- accuracy of profile
- length of time active
- amount of time spent online
- number of transmissions
- number of files
- number of files originated
- number of files forwarded
- number of files received
- number of recipients
- site of communication
- theme of messages and chat
- theme of pornography

A common problem in these cases is that it is often easier to determine a computer is being used than to determine who is using the computer. It is obviously harder to conduct a background investigation when multiple people have access to the same computer. Pretext telephone calls can be useful in such situations.

#### **“Concerned Civilians”**

Many individuals who report information to the authorities about deviant sexual activity they have discovered on the Internet must invent clever excuses for how and why they came upon such material. They often start out pursuing their own sexual/deviant interests, but then decide to report to law enforcement either because it went too far, they are afraid authorities might have monitored them, or they need to rationalize their perversions as having some higher purpose or value. Rather than honestly admitting their own deviant interests, they make up elaborate explanations to justify finding the material. Some claim to be journalists;

researchers; or outraged, concerned members of society trying to protect a child or help law enforcement. In any case, what they find may still have to be investigated. If information from such "concerned civilians" is part of the basis for an expert's opinion in the warrant, there could be questions concerning its reliability and accuracy.

Investigators must consider the true motivations of these "concerned civilians" who report such activity. They may be individuals who, among other things, have

- embellished and falsified an elaborate tale of perversion and criminal activity on the Internet based on their need to deny or rationalize their own deviant sexual interests
- uncovered other people using the Internet to validate and reinforce bizarre, perverted sexual fantasies and interests (a common occurrence), but these other people are not engaged in criminal activity
- uncovered other people involved in criminal activity

One especially sensitive area for investigators is the preferential sex offender who presents himself as a concerned civilian reporting what he inadvertently "discovered" in cyberspace or requesting to work with law enforcement to search for child pornography and protect children. Other than the obvious benefit of legal justification for their past or future activity, most do this as part of their need to rationalize their behavior as worthwhile and gain access to children. When these offenders are caught, instead of recognizing this activity as part of their preferential pattern of behavior, the courts sometimes give them leniency because of their "good deeds." Preferential sex offenders who are also law-enforcement officers sometimes claim their activity was part of some well-intentioned, but unauthorized investigation.

In the best-case scenario, these "concerned civilians" are well-intentioned, overzealous, and poorly trained individuals who are, therefore, more likely to make mistakes and errors in judgment that may jeopardize a successful prosecution. In the worst-case scenario these "concerned civilians" are pedophiles attempting to justify and get legal permission for their deviant sexual behavior. In any case, investigators should **never** sanction or encourage civilians to engage in "proactive investigation" in these cases. Investigators should always encourage civilians to immediately and honestly report any criminal activity they inadvertently discover online.

### **Use of Computers**

The great appeal of a computer becomes obvious when one understands sex offenders especially the preferential sex offender. The computer could be a stand-alone system or one utilizing an online-service capability. Whether a system at work, a library, a cyber café, or home, the computer provides preferential sex offenders with an ideal means of filling their needs to

- obtain and organize their collections, correspondence, and fantasy material
- communicate with victims and other offenders
- store, transfer, manipulate, and create child pornography
- maintain business records

The sex offender using a computer is not a new type of criminal. It is simply a matter of modern technology catching up with long-known, well-documented behavioral needs. In the past they were probably among the first to obtain and use, for their sexual needs, new inventions such as the camera, telephone, automobile, "instant" camera, and the video camera and recorder. Because of their traits and needs, they are willing to spend whatever time, money, and energy it takes to obtain, learn about, and use this technology. They are usually among the first to obtain and utilize any new technology that fills their needs.

### **Organize**

Offenders use computers to organize their collections, correspondence, and fantasy material. Many preferential sex offenders in particular seem to be compulsive recordkeepers. A computer makes it much easier to store and retrieve names and addresses of victims and individuals with similar interests. Innumerable characteristics of victims and sexual acts can be easily recorded and analyzed. An extensive pornography collection can be cataloged by subject matter. Even fantasy writings and other narrative descriptions can be stored and retrieved for future use. Such detailed records can be invaluable in determining the ages of children in pornography images, identifying additional victims, identifying additional subjects, and proving intent.

One problem the computer creates for law enforcement is determining whether computer text describing sexual assaults are fictional stories, sexual fantasies, diaries of past activity, plans for future activity, or current threats. This problem can be compounded by the fact that there are individuals who believe that cyberspace is a new frontier where the old rules of society should not apply. They do not want this "freedom" scrutinized and investigated. For general guidance in evaluating this material, in texts that are just fantasy, everything seems to go as planned or scripted with no major problems. Reality rarely works out so well. There is, however, no easy solution to this problem. Meticulous analysis, documentation, and investigation are the only answers.

### **Communicate, Fuel, and Validate**

Many offenders are drawn to online computers to communicate and validate their interests and behavior. This validation is actually the most important and compelling reason that preferential sex offenders are drawn to the online computer. In addition to physical contact and putting a stamp on a letter or package, they can use their computer to exchange information and for validation. Through the Internet, national and regional online services, or specialized electronic bulletin boards, offenders can use their computers to locate individuals with similar interests.

The computer may enable them to obtain active validation (*i.e.*, from living humans) with less risk of identification or discovery. The great appeal of this type of communication is perceived anonymity and immediate feedback. They feel protected as when using the mail, but get immediate response as when meeting face-to-face.

Like advertisements in "swinger magazines," computer online services are used to identify individuals of mutual interests concerning age, gender, and sexual preference. The offender may use an electronic bulletin board to which he has authorized access or illegally enter a system. The offender can also setup his own

underground online bulletin boards or Internet sites or participate surreptitiously or openly in those of others.

In addition to adults with similar interests, offenders can sometimes get validation from the children they communicate with online. Children needing attention and affection may respond to an offender in positive ways. They may tell the offender he is a "great guy" and that they are grateful for his interest in them. They appreciate the fact that he is willing to listen to and nonjudgmentally discuss sex with them. In communicating with children, and in a few cases with adults, offenders can easily assume the identities of other adults and one or more children.

*Because of [the] validation process and the fueling of sexual fantasy with online pornography, I believe that some individuals with potentially illegal, but previously latent sexual preferences have begun to criminally 'act out.' Their inhibitions are weakened after their arousal patterns are fueled and validated through online computer communication.*

Validation is also obtained from the fact that they are utilizing the same cutting-edge technology used by the most intelligent and creative people in society. In their minds the time, technology, and talent it takes to engage in this activity is proof of its value and legitimacy. Because of this validation process and the fueling of sexual fantasy with online pornography, I believe that some individuals with potentially illegal, but previously latent sexual preferences have begun to criminally "act out." Their inhibitions are weakened after their arousal patterns are fueled and validated through online computer communication. This does not in any way suggest we should blame the computer and that offenders are not legally accountable for their behavior.

As previously stated offenders' need for validation is the foundation on which proactive investigative techniques (e.g., stings, undercover operations) are built and the primary reason they work so often. Although their brains may tell them not to send child pornography or reveal details of past or planned criminal acts to a stranger they met online, their need for validation and to fulfill their sexual fantasies often compels them to do so.

#### **Maintenance of Business Records**

Offenders who have turned their child pornography into a profit-making business use computers the same way any business uses them. Things such as lists of customers, dollar amounts of transactions, descriptions of inventory can all be recorded on the computer. Because trafficking in child pornography by computer lowers the risks, there has been an increase in profit-motivated distribution.

#### **Child Pornography**

An offender can use a computer to transfer, manipulate, and even create child pornography. With the typical home computer and modem, still images can easily be digitally stored, transferred from print or videotape, and transmitted with each copy being as good as the original. Visual images can be stored on hard drives, floppy disks, CD-ROMs, or DVDs. With newer technology, faster modems, digital cameras, and more powerful computers, similar things can now be done with moving images. Increasingly available, high-speed Internet connec-

tions are now making it possible to even transmit the most preferred child-pornography format—high-quality, lengthy moving images (e.g., videotape, films).

The other invaluable modern inventions for pornographers, the video camera and recorder, are now being used with the computer. Real-time video images, multimedia images with motion and sound, and virtual-reality programs can provide added dimensions to pornography. The data that is stored and transmitted can also be encrypted to deter detection.

The ability to manipulate digital visual images can make it more difficult to determine the ages of the persons in them. Television commercials can now employ techniques to make it appear that Paula Abdul is dancing with Gene Kelly and John Wayne is talking to a drill sergeant. Halfway through the movie *Forrest Gump*, Lieutenant Dan's legs are no longer visible. With computer-graphics programs, images can easily be changed or "morphed." This is similar to the technology that is used to "age" the photographs of long-term missing children.

Whatever the burden of proof, computers make evaluating questionable child pornography much easier. Rarely is the context of its possession and distribution (i.e., how it was produced, saved, and used) as well documented as in cases involving computers. With a computer, investigators and prosecutors can usually evaluate and consider

- sources of the images
- how it was traded
- other material transmitted with the images
- amount of material sent and/or received
- overall themes of the images
- use of zip files
- directory and file names assigned by suspect
- messages with the images
- content of related chat (by far the most valuable)
- manipulation of images

### **Interact and Solicit Sex With Children**

Offenders can use the computer to troll for and communicate with potential victims with minimal risk of being identified. The use of a vast, loose-knit network like the Internet can sometimes make identifying the actual perpetrator difficult. On the computer the offender can assume any identity or characteristics he wants or needs. Children from dysfunctional families and families with poor communication are at significant risk for seduction. Older children are obviously at greater risk than younger children. Adolescent boys confused over their sexual orientation are at particularly high risk of such contacts.

By no reasonable definition can an individual with whom a child has regularly communicated online for months be called a "stranger," even if that individual has lied about his true identity. Many offenders, however, are reasonably honest about their identity and some even send recognizable photographs of themselves. They spend hours, days, weeks, and months communicating, including a lot of listening, with children. In the world of the Internet, someone you never met in person is not only not a stranger, but can be your "best friend." Warning potential

victims about online "predators" can communicate a false impression of the nature of the danger.

The child can be indirectly "victimized" through conversation (e.g., "chat," "instant messages") and the transfer of sexually explicit information and material. The child can also be evaluated for future telephonic or face-to-face contact and direct victimization. The latest technology allows real-time group participation in child molestation by digital teleconferencing on a computer.

After developing a relationship online, offenders who are arrested attempting to meet with children, or individuals they believe to be children, to engage in illegal sexual activity often claim that they were not really going to have "sex." They claim the discussed sex was just a fantasy or cyber sex, part of their undercover "investigation," or a means of communicating with a troubled child. Some claim that because of their vast online experience they always knew that the person they were communicating with was really not a child. This is highly unlikely for a need-driven offender. In addressing these issues of intent, motivation, or knowledge, investigators must objectively weigh all of the offender's behavior (i.e., past history, honesty about identity, collection of pornography or erotica, nature of communications, who was notified about activity, overt actions taken). The idea that all communication about sex on the Internet is just fantasy or cyber sex is absurd and not consistent with the reality of many Internet relationships. Ultimately a judge or jury will decide this question of fact.

Investigators must recognize that many of the children lured from their homes after online computer conversations are not innocents who were duped while doing their homework. Most are normal, curious, rebellious, or troubled adolescents seeking sexual information or contact. Society has to stop focusing on the naive belief that teenagers are "accidentally" getting involved. Most teenagers deliberately go to web sites such as "www.whitehouse.com" to find pornography, not to find information about the president. Investigation will sometimes discover significant amounts of adult and child pornography and other sexually explicit material on the computer of the child victim. Investigation will sometimes discover that the child victim has made as many, if not more, misrepresentations than the offender; nevertheless, they have been seduced and manipulated by a clever offender and usually do not fully understand or recognize what they were getting into. The child victim may, however, believe that the offender is a "true love" or rescuer with whom they want to have sex. Even if they do fully understand, the law is still supposed to protect them from adult sexual partners. Consent should not be an issue with child victims. Investigators must recognize and deal with these dynamics when interviewing these online child victims. (See the chapters titled "Acquaintance-Exploitation Cases," beginning on page 47, and "Investigating Acquaintance Sexual Exploitation" beginning on page 101.)

Identified victims, even those whose abuse did not involve a computer, should be interviewed about their knowledge of the offender's use of a computer. In particular they may know details such as the offender's passwords.

When law-enforcement officers are pretending to be children as part of authorized and approved proactive investigations, they must remember that the

number of potential offenders is proportional and the "appeal" of the case is inversely proportional to the "age" of the "victim." Because there are far more potential offenders interested in older children, pretending to be a 15- or 16-year-old will result in a larger online response. The resulting case, however, will have far less jury appeal. Pretending to be a 5- or 6-year-old is unrealistic. Most online undercover investigators claim to be 12, 13, or 14 years old. If you can effectively pretend to be a 12-year-old, it seems to make less sense to pretend to be a 13- or 14-year-old. One alternative used by many investigators is to pretend to be an adult with access to young children. Investigators must also remember that when pretending to be a boy online, the "relationship" usually moves a lot faster, and they must be prepared to take appropriate action faster.

### **Staleness of Probable Cause**

Because of delays in communicating details from proactive investigations, staleness is a common problem in computer-exploitation cases. It may take weeks or months for the details learned from an undercover Internet investigation in one part of the country to be disseminated to investigators with jurisdiction over the target computer in another part of the country. Obviously the best way to address the staleness of probable cause is to "freshen" it up with current investigation and information.

As stated in the chapter titled "Collection of Child Pornography and Erotica," beginning on page 61, staleness can also be addressed with an "expert" search warrant, but before doing so prosecutors should do legal research and be aware of appellate decisions that support this approach. They should also be aware of Congressional "Finding" #12 in the Child Pornography Prevention Act of 1996 which states, "prohibiting the possession and viewing of child pornography will encourage the possessors of such material to rid themselves of or destroy the material..." I am not sure what this "finding" is based on, but it is contrary to what I have learned in my many years of studying preferential sex offenders and their demonstrated need to collect and possess child pornography. It has been my experience that the true preferential sex offender will not rid himself of or destroy his collection simply because possessing it is illegal. Most importantly this finding is contrary to what is usually stated in such expert search warrants.

Another way to address "staleness" is to recognize that the information in question may not be stale. It is a matter of differing opinion as to when the informational basis for probable cause in a computer case becomes stale. Some prosecutors say in days. Others say weeks, and most say months. I believe that the time interval varies based on the type of information. Because of characteristics of technology and human behavior, probable cause about information on a computer should not even be considered stale **for at least one year**. It is not easy to effectively delete the information on a computer even when you try. Furthermore most people do not delete the information on a regular basis. Such editing of a computer is likely to occur less often than cleaning out the garage, attic, or basement. Because this is a common human characteristic, it should not require the opinion of an expert.

# Investigating Acquaintance Sexual Exploitation

## Overview

This chapter is intended to offer general guidelines on how to apply the previously discussed behavioral dynamics to the investigation and prosecution of cases of sexual exploitation of children perpetrated by acquaintance molesters.

Intrafamilial, child-sexual-abuse cases can be difficult to prove in a court of law. Frequently there is only the word of one child against that of an adult. This is, however, rarely the case in child-sexual-exploitation cases especially those involving preferential sex offenders. With multiple victims, no one victim should have to bear the total burden of proof, and cases should rarely, if ever, be severed for prosecution. The best victims and cases should be selected for prosecution. It will be extremely difficult to convict a prominent, well-respected member of the community based only on the testimony of one troubled, delinquent adolescent or one confused, naive young child.

It is commonly accepted that child sexual victimization is a complex problem requiring the efforts and coordination of many agencies and disciplines. No one agency or discipline possesses the personnel, resources, training, skills, or legal mandate to deal effectively with every aspect of child maltreatment. In this context law enforcement interacts with a variety of professions and agencies during the investigation process. For example some offenders cross jurisdictional boundaries, and many violate a variety of state and federal laws when exploiting children. This often will mean working with other local, state, and federal law-enforcement agencies in multijurisdictional investigative teams and with prosecutors, social services, and victim assistance in multidisciplinary teams. This can be done as part of informal networking or a formal task force.

The multidisciplinary approach not only is advantageous in avoiding duplication and making cases but is also in the best interests of the child victim. It may minimize the number of interviews and court appearances and provide the victim with needed support. The team approach can also help investigators deal with the stress and isolation of this work by providing peer support. The multidisciplinary approach is mandated statutorily or authorized in the majority of states and under federal law (U.S. Department of Justice, 1993).

Working together as part of a multidisciplinary team means coordination not abdication. Each discipline performs a function for which it has specific resources, training, and experience. Although each discipline must understand how its role contributes to the team approach, it is equally important that it understands the respective responsibilities and limitations of that role. For example child-protection agencies usually cannot get involved in cases in which the alleged perpetrator is not a parent or caretaker (*i.e.*, acquaintance molester).

The team approach is a two-way street. Just as medical and psychological professionals are charged with evaluating and treating the abused or neglected child, law-enforcement investigators are responsible for conducting criminal

*With multiple victims, no one victim should have to bear the total burden of proof, and cases should rarely, if ever, be severed for prosecution.*

investigations. Just as law-enforcement officers need to be concerned that their investigation might further traumatize a child victim, therapists and physicians need to be concerned that their treatment techniques might hinder the investigation.

### **The Law-Enforcement Perspective**

The law-enforcement perspective deals with criminal activity and legally defensible fact-finding. The process must, therefore, focus **more on**

- admissible evidence of **what** happened than on emotional belief that **something** happened
- the accuracy than on the existence of repressed memory
- objective than on subjective reality
- neutral investigation than on child advocacy

In their desire to convince society that child sexual victimization exists and children do not lie about it, some professionals interpret efforts to seek corroboration for alleged sexual victimization as a sign of denial or disbelief. Corroboration, however, is essential. Investigators cannot just accept that something sexual happened to a child and ignore the context details that are necessary if it is to be proven in a court of law. 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. It is not the job of law-enforcement officers to believe a child or any other victim or witness. The child victim should be carefully interviewed. The information obtained should be assessed and evaluated, and appropriate investigation should be conducted to corroborate any and all aspects of a victim's statement. The investigator should always be an objective fact-finder considering all possibilities and attempting to determine what happened with an open mind. As previously stated, in a valid case, the best and easiest way to avoid child-victim testimony in court is to build a case so strong that the offender pleads guilty. Most children, however, can testify in court if necessary.

### **Emotion Versus Reason**

Regardless of intelligence and education, and often despite common sense and evidence to the contrary, adults tend to believe what they want or need to believe. The greater the need, the greater the tendency. The extremely sensitive and emotional nature of child sexual exploitation makes this phenomenon a potential problem in these cases. For some no amount of training and education can overcome this zealotry. Some people seem to be incapable of becoming objective fact-finders in some sexual-victimization-of-children cases. Investigators must evaluate this tendency in other interveners and minimize it in themselves by trying to do their job in a rational, professional manner.

*Regardless of intelligence and education, and often despite common sense and evidence to the contrary, adults tend to believe what they want or need to believe. The greater the need, the greater the tendency.*

In order to be effective interviewers, investigators must be both aware of and in control of their own feelings and beliefs about victims and offenders in child-sexual-exploitation cases. People in the United States tend to have stereotypical concepts of the innocence of children and malevolence of those who sexually victimize them. Most investigators now know that a child molester can look like anyone else and may even be someone we know and like. As previously discussed the stereotype of the child victim as a completely innocent

little girl, however, is still with us and less likely to be addressed by lay people and even professionals. In reality child victims of sexual abuse and exploitation can be boys as well as girls, and not all victims are "angels" or even "little." The idea that some children might enjoy certain sexual activity or behave like human beings and engage in sexual acts as a way of receiving attention, affection, gifts, and money is troubling for society and many investigators.

Depending on the nature of the abuse and techniques of the offender, investigators must understand that the victim may have many positive feelings for the offender and even resent law-enforcement intervention. The investigator must be able to discuss a wide variety of sexual activities, understand the victim's terminology, and avoid being judgmental. Not being judgmental is much more difficult with a delinquent adolescent engaged in homosexual activity with a prominent clergyman than with a sweet 5-year-old girl abused by a "low-life" stranger. Investigators often nonverbally communicate their judgmental attitude through gestures, facial expressions, and body language. Many investigators do a poor job of interviewing children because deep down inside they really do not want to hear the detailed answers.

Another emotion-related problem that occurs frequently during subject and suspect interviews is the inability of some investigators to control or conceal their anger and outrage at the offender's behavior. They often want to spend as little time as possible with the offender. Occasionally investigators have the opposite problem and are confused that they have sympathetic feelings for the offender. Many investigators also find it difficult to discuss deviant sexual behavior calmly, objectively, nonjudgmentally, and in detail with anyone much less an alleged child molester or a child.

An investigator who gets too emotionally involved in a case is more likely to make mistakes and errors in judgment. He or she might wind up losing a case and allowing a child molester to go free because the defendant's rights were violated in some way. The officer is also less likely to interview and assess a child victim properly and objectively. Investigators must learn to recognize and control these feelings. If they cannot, they should not be assigned to child-sexual-victimization cases or, at least, not to the interview phase.

### **The "Big-Picture" Approach**

Although this chapter cannot cover in detail the investigation of all types of cases, it can serve to alert investigators to the "big-picture" approach to the sexual victimization of children. Investigators must stop looking at child sexual exploitation through a keyhole—focusing only on one act by one offender against one victim on one day. Law enforcement must "kick the door open" and take the "big-picture" approach—focusing on offender typologies, patterns of behavior, multiple acts, multiple victims, child pornography, and proactive techniques.

*The idea that some children might enjoy certain sexual activity or behave like human beings and engage in sexual acts as a way of receiving attention, affection, gifts, and money is troubling for society and many investigators.*

*Investigators must stop looking at child sexual exploitation through a keyhole—focusing only on one act by one offender against one victim on one day. Law enforcement must 'kick the door open' and take the 'big-picture' approach—focusing on offender typologies, patterns of behavior, multiple acts, multiple victims, child pornography, and proactive techniques.*

The "big-picture" approach starts with recognizing four basic but often ignored statements about child molesters.

- child molesters sometimes molest multiple victims
- intrafamilial child molesters sometimes molest children outside their families
- sex offenders against adults sometimes molest children
- other criminals sometimes molest children

These elements are not always present or even usually present; nevertheless, their possibility should be incorporated into the investigative strategy. Offenders, unfortunately, often ignore neat categories of offenders and crime. A window peeper, an exhibitionist, or a rapist also can be a child molester. "Regular" criminals can also be child molesters. A child molester put on the FBI's "Ten Most-Wanted" list was later arrested for burglarizing a service station. Although most professionals now recognize that an intrafamilial child molester might victimize children outside his or her family and identifying other victims can be an effective way to corroborate an allegation by one victim, few seem to incorporate a search for additional victims into their investigative approaches. An acquaintance molester may also use marriage as a method of access to children.

In numerous cases offenders have not been effectively prosecuted or continued to operate for many years after first being identified because no one took the "big-picture" approach. Convicting an acquaintance child molester who is a "pillar of the community" is almost impossible based only on the testimony of one confused 5-year-old girl or one delinquent adolescent boy. Investigation, especially of preferential sex offenders, should never be "he said, he or she said," but "he said, they said." To stop the offender, law enforcement must get details; be willing to evaluate the allegations; conduct background investigation; document patterns of behavior; review records; identify other acts and victims; and, as soon as possible, develop probable cause for a search warrant. Simply interviewing the child or obtaining the results of someone else's interview, asking the offender if he did it, polygraphing him, and then closing the case does not constitute a thorough investigation and is certainly not consistent with the "big-picture" approach.

The "big-picture" investigative process consists of three phases. They are **interview**, **assess and evaluate**, and **corroborate**. These three phases do not always happen in this sequence and even may occur simultaneously or intermittently.

### **Interview**

This section will not include a detailed discussion of the latest research and specific techniques for interviewing children. (See Saywitz, Goodman, & Lyon, 2002). Only the law-enforcement perspective of child-victim interviewing and some general guidelines will be discussed here.

### **Law-Enforcement Role**

For some the criminal investigation of child sexual victimization has evolved into using newly acquired interviewing skills to get children to communicate and then believing whatever they say. For others it has become letting someone else do the

interview and then blindly accepting the interviewer's opinions and assessments. Law-enforcement officers should take advantage of the skills and expertise of other disciplines in the interviewing process. If the primary purpose of an interview of a child is to gain investigative information, however, law enforcement must be actively involved. This involvement can range from actually doing the interview to carefully monitoring the process. Although there is nothing wrong with admitting shortcomings and seeking help, law enforcement should **never** abdicate its control over the investigative interview.

The solution to the problem of poorly trained investigators is better training, not therapists and physicians independently conducting investigative interviews. Even if, for good reasons, an investigative interview is conducted by or with a forensic interviewer, social worker, or therapist, law enforcement must be in control.

### **The Disclosure/Reporting Continuum**

Before applying interviewing research, training, and skills, investigators first must attempt to determine where the child is on the disclosure/reporting continuum. This determination is essential to developing a proper interview approach that maximizes the amount of legally defensible information and minimizes allegations of leading and suggestive questioning. The disclosure process is set forth as a continuum because there can be many variations, combinations, and changes in situations involving the disclosure status of child victims. Training material and presentations often fail to consider and emphasize the determination of this disclosure/reporting status prior to conducting a child-victim interview.

At one end of the continuum are children who already have made voluntary and full disclosures to one or more people. These are generally the easiest children to interview. The child has made the decision to disclose, and the child has done so at least once. It is, of course, important to determine the length of time between the abuse and disclosure.

At another point along the continuum are children who have voluntarily decided to disclose but it appears have made only incomplete or partial reports. For understandable reasons, some children fail to disclose, minimize, or even deny all or part of their victimization; however, not every child who discloses sexual victimization has more horrible details yet to be revealed.

Further down the continuum are children whose sexual victimization was discovered rather than disclosed (*e.g.*, recovered child pornography, medical evidence). This can often be the situation in cases in which child pornography or computer records are found. These interviews can be more difficult because these children have not decided to disclose and may not be ready to disclose. They also can be easier, however, because the investigator knows with some degree of certainty that the child was victimized. The interview can now focus more on determining additional details.

At the far end of the continuum are children whose sexual victimization is only suspected. These may be the most difficult, complex, and sensitive interviews. The investigator must weigh a child's understandable reluctance to talk about sexual victimization against the possibility that the child was not victimized. The need to protect the child must be balanced with concern about leading or suggestive questioning. This is often the situation in acquaintance-exploitation cases.

### **Establishing Rapport and Clarifying Terms**

The interviewer's first task, with any age child, is to establish rapport. Investigators should ask primarily open-ended questions that encourage narrative responses. It is hoped that this will set the stage for more reliable responses to investigative questions that follow.

Part of developing rapport with victims of acquaintance molestation is to subtly communicate the message that the child is not at fault. If they think they are going to be judged, many children will deny their victimization and some may exaggerate it by alleging threats, force, and even abduction that did not occur to make the crime more socially acceptable. Although many of the same interview principles apply to the interview of adolescent victims, it can be far more difficult to develop rapport with an older child than with a younger child.

Another critical task early in the interview is to clarify the suspected victim's terminology for various body parts and sexual activities. If this clarification is not achieved early on, much misunderstanding can occur. Similarly, although it is just as important to find out exactly what the adolescent victim means by the terms he or she uses for sexual activity, terms such as "head job" and "rim job" are not so readily acceptable as the 5-year-old's "pee-pee" and "weiner." The interview of an adolescent boy victim of sexual exploitation is extremely difficult at best. The stigma of homosexuality and embarrassment over victimization greatly increase the likelihood that the victim may deny or misrepresent the sexual activity. The investigator must accept the fact that even if a victim discloses, the information is likely to be incomplete minimizing his involvement and responsibility and, in some cases, exaggerating the offender's.

### **Videotaping**

The taping of victim interviews was once thought to be the ultimate solution to many of the problems involving child victim interviews and testimony. Many legislatures rushed to pass special laws allowing it. Aside from the constitutional issues, **there are advantages and disadvantages to videotaping or audiotaping child victims' statements.** The advantages include the

- knowledge of exactly what was asked and answered
- potential ability to reduce the number of interviews
- visual impact of a videotaped statement
- ability to deal with recanting or changing statements
- potential to induce a confession when played for an offender who truly cares for the child victim

The disadvantages include

- the artificial setting created when people "play" to the camera instead of concentrating on communicating.
- determining which interviews to record and explaining variations between them.
- accounting for the tapes after the investigation. Copies are sometimes furnished with little control to defense attorneys and expert witnesses. Many are played at training conferences without concealing the identity of victims.
- because there are conflicting criteria on how to conduct such an interview, each tape is subject to interpretation and criticism by "experts."

Many experts now feel that child-victim interviews must be videotaped in order to be assessed and evaluated properly. Some judges and courts now require videotaping of child-victim interviews. Many people in favor of videotaping argue, "If you are doing it right, what do you have to hide?" When videotaping a victim interview, however, a piece of evidence is created that did not previously exist, and that evidence can become the target of a great deal of highly subjective scrutiny. Every word, inflection, gesture, and movement become the focus of attention rather than whether or not the child was molested. Unreliable information and false denials can be obtained from "perfect" interviews, and reliable information and valid disclosures can be obtained even from highly imperfect interviews. This fact can be lost in an excessive focus on how the interview was conducted. This in no way denies the fact that repetitive, suggestive, or leading interviews are real problems and can produce false or inaccurate information.

Many videotaping advocates do not seem to recognize the wide diversity of circumstances and dynamics comprising sexual-victimization-of-children cases. Interviewing a 12-year-old boy who is suspected of having been molested by his coach is far different from interviewing a 9-year-old girl who has disclosed having been sexually abused by her father. Interviewing a runaway 15-year-old inner-city street prostitute is far different from interviewing a middle-class, 5-year-old kidnapped from her backyard by a child molester. Interviewing a Native American child in a hogan without electricity on a remote reservation is far different from interviewing a white child in a specially designed interview room at a child advocacy center in a wealthy suburb. In addition videotape equipment can be expensive, and it can and does malfunction.

Although some of the disadvantages can be reduced if the tapes are made during the medical evaluation, it is still my opinion that the disadvantages of taping generally outweigh the advantages. This is especially true of the interviews of adolescents who are only suspected of having been sexually exploited because of their known contact with an acquaintance child molester and have not previously disclosed.

Many experienced child-sexual-victimization prosecutors oppose the taping of child-victim statements, although special circumstances may alter this opinion on a case-by-case basis. One such special situation might be the interview of a child who is younger than the age of 7. Departments should be careful of written policies concerning taping. It is potentially embarrassing and damaging to have to admit in court that such interviews are usually taped but wasn't in this case. It is better to be able to say that such interviews usually aren't taped but was in a certain case because of some special circumstances that can be clearly articulated. In this controversy over videotaping, investigators should be guided by their prosecutors' expertise and preferences, legal or judicial requirements, and their own common sense.

### **General Rules and Cautions**

Investigative interviews should always be conducted with an open mind and the assumption that there are multiple hypotheses or explanations for what is being described, alleged, or suspected. Investigative interviews should emphasize open-ended, age-appropriate questions that are hoped to elicit narrative accounts of events. All investigative interaction with victims must be documented carefully and thoroughly.

The interview of an alleged or potential child victim as part of a criminal investigation should always be conducted as quickly as possible. It is important to interview as many potential victims as is legally and ethically possible. This is especially important in cases involving adolescent boy victims, most of whom will deny their victimization no matter what the investigator does. Unfortunately for victims, but fortunately for the investigative corroboration, men who victimize adolescent boys in my experience are the most persistent and prolific of all child molesters. The small percentage of their victims who disclose still may constitute a significant number.

The investigation of allegations of recent activity from multiple young children should begin quickly with interviews of all potential victims being completed as soon as possible. The investigation of adult survivors' allegations of activity 10 or more years earlier presents other problems and should proceed, unless victims are at immediate risk, more deliberately with gradually increasing resources as corroborated facts warrant.

Children rarely get the undivided attention of adults, even their parents, for a long period of time. Investigators must be cautious about subtly rewarding a child by allowing this attention to continue only in return for furnishing additional details. The investigator should make sure this necessary attention is unconditional.

Interviews of children younger than 7 years of age are potentially problematic and should be done by investigators trained and experienced in such interviews. Because suggestibility is potentially a bigger problem in younger children, the assessment and evaluation phase is especially important in cases involving these young victims and videotaping is more justified.

### **Assess and Evaluate**

This part of the investigative process in child-sexual-victimization cases seems to have gotten lost. Is the victim describing events and activities that are consistent with law-enforcement-documented criminal behavior and prior cases, or are they more consistent with distorted media accounts and erroneous public perceptions of criminal behavior? Investigators should apply the "template of probability." Accounts of child sexual victimization that are more like books, television, and movies (*e.g.*, big conspiracies, snuff films, child sex slaves, highly organized sex rings) and less like documented cases should be viewed with skepticism, but **thoroughly investigated**. It is the investigator's job to consider and investigate all possible explanations of events. In addition the information learned will be invaluable in counteracting the defense attorneys when they raise alternative explanations.

The so-called "backlash" has had both a positive and negative impact on the investigation and prosecution of child-sexual-victimization cases. In a positive way it has reminded criminal-justice interveners of the need to do their jobs in a more professional, objective, and fact-finding manner. Most of the damage caused by the backlash actually is self-inflicted by well-intentioned child advocates. In a negative way it has cast a shadow over the validity and reality of child sexual victimization and influenced some to avoid properly pursuing cases (Lanning, 1996).

For many years the statement, "Children never lie about sexual abuse. If they have the details, it must have happened," almost never was questioned or

debated at training conferences. During the 1970s, there was a successful crusade to eliminate laws requiring corroboration of child-victim statements in child-sexual-victimization cases. It was believed that the way to convict child molesters was to have the child victims testify in court. If we believe them, the jury will believe them. Any challenge to this basic premise was viewed as a threat to the progress made and denial that the problem existed. Both parts of this statement—"Children never lie about sexual abuse" and "If they have the details, it must have happened"—are receiving much-needed reexamination; a process that is critical to the investigator's task of assessing and evaluating the alleged victim's statements.

*Children are not adults in little bodies. Children go through developmental stages that must be evaluated and understood. In many ways, however, children are no better or worse than other victims or witnesses of a crime. They should not be automatically believed or dismissed.*

### **"Children Never Lie"**

The available evidence suggests that children rarely lie about sexual victimization, if a lie is defined as a statement deliberately and maliciously intended to deceive. If children in exploitation cases do lie, it may be because factors such as shame or embarrassment over the nature of the victimization increase the likelihood that they misrepresent the sexual activity. Seduced victims sometimes lie to make their victimization more socially acceptable or please an adult. Occasionally children lie because they are angry and want to get revenge on somebody. Some children, sadly, lie about sexual victimization to get attention and forgiveness. A few children may even lie to get money or as part of a lawsuit. This can sometimes be influenced by pressure from their parents. Objective investigators must consider and evaluate all these possibilities. It is extremely important to recognize, however, that because children might lie about part of their victimization does not mean that the entire allegation is necessarily a lie and they are not victims. As previously discussed acquaintance-exploitation cases often involve complex dynamics and numerous incidents that often make it difficult to say "it" is all true or false.

In addition just because a child is not lying does not mean he or she is making an accurate statement. Children might be telling you what they have come to believe happened to them, even though it might not be literally true. Other than lying, there are many possible alternative explanations for why victims might allege things that do not seem to be accurate. The

- child might be exhibiting distortions in traumatic memory
- child's account might reflect normal childhood fears and fantasy
- child's account might reflect misperception and confusion caused by deliberate trickery or drugs used by perpetrators
- child's account might be affected by suggestions, assumptions, and misinterpretations of overzealous interveners
- child's account might reflect urban legends and shared cultural mythology

Such factors, alone or in combination, can influence a child's account to be inaccurate without necessarily making it a "lie." Children are not adults in little bodies. Children go through developmental stages that must be evaluated and understood. In many ways, however, children are no better or worse than other victims or witnesses of a crime. They should not be automatically believed or dismissed.

Of what victims allege **some may be**

- true and accurate
- misperceived or distorted
- screened or symbolic
- "contaminated" or false

The problem and challenge, especially for law enforcement, is to determine which is which. This can be done only through evaluation and active investigation.

The investigator must remember, however, that almost anything is possible. Just because an allegation sounds farfetched or bizarre does not mean it did not happen. The debate over the literal accuracy of grotesque allegations of ritual abuse has obscured the well-documented fact that there are child sex rings, bizarre paraphilias, and cruel sexual sadists. Even if only a portion of what these victims allege is factual, it still may constitute significant criminal activity.

#### **"If They Have the Details, It Must Have Happened"**

The second part of the basic statement also must be evaluated carefully. The details in question in some cases have little to do with sexual activity. Investigators must do more than attempt to determine how a child could have known about sex acts. Some cases involve determining how a child could have known about a wide variety of bizarre activity. Young, nonabused children usually might know little about sex, but they might "know" more than you realize about monsters, torture, kidnapping, and even murder.

When considering a child's statement, investigators should remember that lack of sexual detail does not mean abuse did not happen. Some children are reluctant to discuss the details of what happened. In evaluating reported details it is also important to consider that victims might supply details of sexual or other acts using information from sources other than their own direct victimization. Such sources must be evaluated carefully and may include the items noted below.

**Personal Knowledge** The victim might have personal knowledge of the activity, but not as a result of the alleged victimization. The knowledge could have come from participating in cultural practices; viewing pornography, sex education, or other pertinent material; witnessing sexual activity in the home; or witnessing the sexual victimization of others. It also could have come from having been sexually or physically abused by someone other than the alleged offender(s) and in ways other than the alleged offense.

**Other Children or Victims** Young children today interact socially more often and at a younger age than ever before. Many parents are unable to provide possibly simple explanations for their children's stories or allegations because they were not with the children when the explaining events occurred. They do not know what videotapes their children might have seen, games they might have played, and stories they might have been told or overheard. Some children are placed in daycare centers for 8, 10, or 12 hours a day, starting as young as 6 weeks of age. The children share experiences by playing house, school, or doctor. Bodily func-

tions such as urination and defecation are a focus of attention for these young children. To a certain extent each child shares the experiences of all the other children. Children of varying ages are also sharing information and experiences on the Internet. The possible effects of the interaction of such children prior to the disclosure of the alleged abuse must be evaluated.

**Media** The amount of sexually explicit, bizarre, or violence-oriented material available to children in the modern world is overwhelming. This includes movies, videotapes, music, books, games, and CD-ROMs. Cable television, computers, the Internet, and the home VCR make all this material readily available to even young children. There are numerous popular toys and video games on the market with bizarre or violent themes.

**Suggestions and Leading Questions** This problem is particularly important in cases involving children who are younger than the age of 7 and especially those stemming from custody/visitation disputes. This is not to suggest that custody/visitation disputes usually involve sex-abuse allegations, but when they do and when the child in question is young, such cases can be difficult to evaluate. It is my opinion that most suggestive, leading questioning of children by interveners is done inadvertently as part of a good-faith effort to learn the truth.

Not all interveners are in equal positions to potentially influence allegations by children. Parents and relatives are in the best position to subtly cause their children to describe their victimization in a certain way. They sometimes question children in a suggestive and accusatory style that casts doubt on the child's statements. In most cases, parents and relatives are well meaning and do not realize that their style of questioning might influence their child to make inaccurate or false statements. Family members sometimes misinterpret innocuous or ambiguous statements as evidence of sexual abuse. Children also might overhear their parents discussing the details of the case. They might be trying to prolong the rarely given undivided attention of an adult.

Children often tell their parents what they believe their parents want or need to hear. For example a parent may be able to accept oral sex, but not anal sex. Some parents may need to believe that their child would engage in sex with an adult of the same gender only if confronted with overwhelming physical force. In one case a father gave law enforcement a tape recording to "prove" that his child's statements were spontaneous disclosures and not the result of leading, suggestive questions. The tape recording indicated just the opposite. Why, then, did the father voluntarily give it to law enforcement? Probably because he truly believed he was not influencing his child's statement—but he was.

Usually well-meaning interveners have subtly as well as overtly rewarded some victims for furnishing certain details. Intervenors who excessively or emotionally refer to the child's sexual victimization as "rape" may, for example, influence the child's version of events to conform to that view. Some "details" of a child's allegation even might have originated as a result of interveners making assumptions about or misinterpreting what the victim actually said. The interveners then repeat and possibly embellish these assumptions and misinterpretations, and eventually the victims come to agree with or accept this "official" version of what happened.

Therapists also can be in a good position to influence the allegations of children and adult survivors. Types and styles of verbal interaction useful in therapy might create significant problems in a criminal investigation. Some therapists may have beliefs about sexual abuse or be overzealous in their efforts to help children in difficult circumstances. It should be noted, however, that when a therapist does a poor investigative interview as part of a criminal investigation, it is the fault of the criminal-justice system that allowed it—not of the therapist who did it.

**Misperception and Confusion by the Victim** Sometimes what seems unbelievable has a reasonable explanation. In one case a child's description of the apparently impossible act of walking through a wall turned out to be the very possible act of walking between the studs of an unfinished wall in a room under construction. In another case pennies in the anus turned out to be copper-foil-covered suppositories. The children might describe what they believe happened. It is not a lie, but neither is it an accurate account. It might be due to confusion deliberately caused by the offender or misperception inadvertently caused by youthful inexperience.

Many young and some older children have little experience or frame of reference for accurately describing sexual activity. They might not understand the difference between "in" and "on" or the concept of "penetration." Drugs and alcohol also might be used deliberately to confuse the victims and distort their perceptions.

**Education and Awareness Programs** Some well-intentioned awareness and sex-education programs designed to prevent child sex abuse and child abduction or provide children with information about human sexuality may, in fact, unrealistically increase fears and provide some of the details that children are telling interveners. Children may describe the often-discussed stranger abduction rather than admit they made an error in judgment and went voluntarily with an offender. The answer to this potential problem, however, is to evaluate the possibility, not to stop education and prevention programs.

### **Areas of Evaluation**

As part of the assessment and evaluation of victim statements, it is important to determine how much time has elapsed between when the victim first made the disclosure and that disclosure was reported to law enforcement or social services. The longer the delay, the greater the potential for problems. The next step is to determine the number and purpose of all prior interviews of the victim concerning the allegations. The more interviews conducted before the investigative interview, the greater the potential difficulties. Problems can also be created by interviews conducted by various interveners after the investigative interview(s).

The investigator must closely and carefully evaluate events in the victim's life before, during, and after the alleged victimization. Events occurring before the alleged exploitation to be evaluated might include

- background of the victim
- abuse or drugs in the home
- pornography in the home
- play, television, VCR, computer, and Internet habits.

- attitudes about sexuality in the home
- religious beliefs and training
- extent of sex education in the home
- cultural and subcultural attitudes and practices
- activities of siblings
- need or craving for attention
- childhood fears
- custody/visitation disputes
- victimization of or by family members
- interaction between victims
- family disputes or discipline problems

Events occurring during the alleged exploitation to be evaluated include

- use of fear or scare tactics
- degree of trauma
- use of magic, deception, or trickery
- use of rituals
- use of drugs and alcohol
- use of pornography
- use of grooming and seduction

Events occurring after the alleged exploitation to be evaluated include

- disclosure sequence
- other interviews
- background of prior interviewers
- background of parents
- comingling of victims
- type of therapy received
- contact by offender
- shame and guilt
- lawsuits

### **Contagion**

Investigators must also evaluate possible contagion. Consistent statements obtained from different interviews and multiple victims are powerful pieces of corroborative evidence—that is, as long as those statements were not “contaminated.” Investigation must evaluate both pre- and post-disclosure contagion and both victim and intervener contagion carefully. Are the different victim statements consistent because they describe common experiences/events or reflect contamination or shared cultural mythology?

The sources of potential contagion are widespread. Victims can communicate with each other both prior to and after their disclosures. Interveners can communicate with each other and the victims. The team or cell concepts are attempts to deal with potential investigator contagion in multivictim cases. The same individuals do not interview all the victims, and interviewers do not necessarily share information directly with each other (Lanning, 1992b).

Documenting existing contagion and eliminating additional contagion is crucial to the successful investigation and prosecution of many cases. There is no way, however, to erase or undo contagion. The best you can hope for is to identify and evaluate it and attempt to explain it. Mental-health professionals requested to evaluate suspected victims must be carefully selected and evaluated.

Once a case is contaminated and out of control, little can be done to salvage what might have been a prosecutable criminal violation. A few cases have even been lost on appeal after a conviction because of contamination problems.

In order to evaluate the contagion element, investigators must investigate these cases meticulously and aggressively. Whenever possible, personal visits should be made to all locations of alleged exploitation and the victims' homes. Events prior to the alleged exploitation must be evaluated carefully. Investigators might have to view television programs, movies, video games, computer games, and videotapes seen by the victims. In some cases it might be necessary to conduct a background investigation and evaluation of everyone who, officially or unofficially, interviewed the victims about the allegations prior to and after the investigative interview(s).

Investigators must be familiar with the information about sexual victimization of children being disseminated in magazines, books, television programs, conferences, and the Internet. Every alternative way that a victim could have learned about the details of the activity must be explored, if for no other reason than to eliminate them and counter defense arguments. There may, however, be validity to these contagion factors. They might explain some of the "unbelievable" aspects of the case and result in the successful prosecution of the substance of the case. Consistency of statements becomes more significant if contagion is identified or disproved by independent investigation.

Munchausen syndrome and munchausen syndrome by proxy are complex and controversial issues in child-victimization cases. No attempt will be made to discuss them in detail (*see* Feldman & Ford, 1994), but they are well-documented facts. Most of the published literature about them, however, focuses on their manifestation in the medical setting as false or self-inflicted illness or injury. They are also manifested in the criminal-justice setting as false or self-inflicted crime victimization. A child might allege sexual victimization to get attention or forgiveness. If parents would poison their children to prove an illness, they might sexually abuse their children to prove a crime and get attention. These are the unpopular but documented realities of the world. Recognizing their existence does not mean that child sexual victimization is any less real and serious.

### **Summary of Evaluation and Assessment**

As much as investigators might wish otherwise, there is no simple way to determine the accuracy of a victim's allegation. Investigators cannot rely on therapists, evaluation experts, or the polygraph as shortcuts to determining the facts. Many mental-health professionals might be good at determining that something traumatic happened to a child, but determining exactly **what** happened is another matter. Mental-health professionals are now more willing to admit that they are unable to determine, with certainty, the accuracy of victim statements in these cases. There is no test or statement-analysis formula that will determine with absolute certainty how or whether a child was sexually abused. Although resources such as expert opinion, statement-validity analysis, phallometric devices (sexual-

arousal evaluation), voice-stress analysis, and the polygraph might be potentially useful as part of the evaluation process, none of them should **ever** be the sole criterion for pursuing or not pursuing an allegation of child sexual victimization. Law enforcement must proceed with the investigation and rely primarily on the corroboration process.

The criminal-justice system must identify or develop and use fair and objective criteria for evaluating the accuracy of allegations of child sexual victimization and filing charges against the accused. Just because it is possible does not mean it happened. The lack of corroborative evidence **is** significant when there should be corroborative evidence. With preferential sex offenders there is almost always corroborative evidence. Blindly believing everything in spite of a lack of logical evidence or simply ignoring the impossible or improbable and accepting the possible is **not** good enough. If some of what the victim describes is accurate, some misperceived, some distorted, and some contaminated, what is the court supposed to believe? Until we come up with better answers, the court should be asked to believe what a thorough investigation can corroborate, understanding that physical evidence is **only one form of corroboration**. (See next section.) In those cases in which there simply is no corroborative evidence, the court may have to make its decision based on carefully assessed and evaluated victim testimony and the elimination of alternative explanations.

### **Corroborate**

As a general principle valid cases tend to get "better" and false cases tend to get "worse" with investigation. The techniques noted below are offered as ways to corroborate allegations of child sexual exploitation and avoid child-victim testimony in court. If child-victim testimony cannot be avoided, at least the victim will not bear the total burden of proof if these techniques are used. These techniques can, to varying degrees, be used in any child-sexual-victimization case, but the main focus here is on acquaintance molesters. The amount of corroborative evidence available might depend on the type of case, sexual activity, and offender(s) involved. Corroboration might be more difficult in an isolated one-on-one case perpetrated by a situational sex offender and easier in a sex-ring case perpetrated by an acquaintance-preferential sex offender.

### **Document Behavioral Symptoms of Sexual Victimization**

Because the behavioral and environmental indicators of child sexual victimization are set forth in so many publications elsewhere (see Myers & Stern, 2002), they will not be set forth here in detail. Developmentally unusual sexual knowledge and behavior, however, seem to be the strongest symptoms. The documentation of these symptoms can be of assistance in corroborating child-victim statements. It must be emphasized, however, that these are only symptoms, and objective experts must carefully evaluate their significance in context. Many behavioral symptoms of child sexual victimization are actually symptoms of trauma, stress, and anxiety that could be caused by other events in the child's life. Almost every behavioral indicator of sexual victimization can be seen in nonabused children. Because of variables such as the type and length of abuse, the resiliency of the child victim, and society's response to the abuse, not all children react to being abused in the same way; therefore, just as the presence of behavioral symp-

toms does not prove that a child was sexually victimized, the absence of them does not prove that a child was not.

The use of expert witnesses to introduce this evidence into a court of law is a complex legal issue that will also not be discussed here in detail (but *see* Myers & Stern, 2002). Mental-health professionals, social workers, child-protective service-workers, and law-enforcement investigators can be the source of such expert testimony regarding symptoms of sexual victimization. Experts might not be allowed to testify about the guilt and innocence of the accused but might be able to testify about the apparent validity of a case by explaining or offering opinions about the nature of the offense and its consistency with documented cases and offender/victim patterns of behavior. One commonly accepted use of such expert testimony is to impeach defense experts and rehabilitate prosecution witnesses after their credibility has been attacked by the defense. An expert might be able to testify concerning such symptoms to rebut defense allegations that the prosecution has no evidence other than the testimony of a child victim or child's disclosure is totally the result of leading and improper questioning.

These and other possible uses of expert testimony should be discussed with the prosecutor of each case. Even if not admissible in court, the symptoms of sexual victimization still can be useful as part of investigative corroboration, particularly when symptoms **predate** any disclosure. Ongoing research reveals that sexually abused girls also may experience physiological changes and symptoms (DeBellis, Lefter, Trickett, & Putnam, 1994). The investigative and prosecutive significance of these findings is unknown at this time.

#### **Document Patterns of Behavior**

Two patterns of behavior should be documented. They are victim and offender patterns.

**Victim Patterns** By far the most important victim pattern of behavior to identify and document is the disclosure process. Investigators must verify, through active investigation, the exact nature and content of each disclosure, outcry, or statement made by the victim. Secondhand information about disclosure is not good enough. To whatever extent humanly possible the investigator should determine exactly when, where, to whom, in precisely what words, and why the victim disclosed.

It can be important to determine why the child did not disclose sooner and why the child did disclose now. A well-documented, convincing disclosure, especially a spontaneous one with no secondary gain, can be corroborative evidence. The fact that a victim does not disclose the abuse for years or recants previous disclosures might be part of a pattern of behavior that in fact helps to corroborate sexual victimization. The documentation of the secrecy, the sequence of disclosures, the recantation of statements, and the distortion of events can all be part of the corroboration process.

More specific behavior patterns of seduced or cooperating victims are described in greater detail in the chapter titled "Acquaintance-Exploitation Cases" beginning on page 47.

**Offender Patterns** Documenting offender patterns of behavior is one of the most important and overlooked steps in the corroboration process. Investigators must

make every reasonable effort to document offender patterns of behavior and attempt to determine the type of offender involved.

Because their molestation of children is part of a long-term persistent pattern of behavior, preferential sex offenders are like human evidence machines. During their lifetime they leave behind a string of victims and collection of child pornography and erotica. In these cases a wealth of evidence is available to investigators and prosecutors. All they need to uncover it is an understanding of how to recognize these offenders and how these offenders operate and the full commitment of agency/department time and resources. Comparing the consistency between "what" is alleged to have happened and "who" is suspected of doing it is an important application of the offender typology. If a victim describes his or her victimization as involving what clearly sound like the behavior patterns of a preferential sex offender, then the fact that the alleged offender fits that pattern is corroborative. If he does not, there is an inconsistency that needs to be resolved. The inconsistency could be because the alleged "what" is inaccurate (e.g., distorted account from victim, insufficient details); the suspected "who" has been misevaluated (e.g., incomplete background, erroneous assessment); or the alleged "who" is innocent (e.g., suspect did not commit alleged crime).

It is obviously better to convict a child molester based on his or her past behavior. If all else fails, however, preferential child molesters usually can be convicted in the future based on their continuing molestation of children. (See the chapters titled "Definitions" [beginning on page 9] through "Use of Computers by Sex Offenders" [ending on page 99] for a complete discussion of these patterns.)

*Because their molestation of children is part of a long-term persistent pattern of behavior, preferential sex offenders are like human evidence machines.*

### **Identify Adult Witnesses and Suspects**

Not all sexual victimization of children is "one-on-one." There are cases with multiple offenders and accomplices. One benefit of a multioffender case is that it increases the likelihood that there is a weak link in the group. Do not assume that accomplices will not cooperate with the investigation. The conspiracy model of building a case against one suspect and then using that suspect's testimony against others can be useful. Because of the need to protect potential child victims, however, the conspiracy model of investigation has limitations in child-sexual-victimization cases. Investigators and prosecutors cannot knowingly allow children to be molested as the case is built by "turning" suspects. Corroboration of a child victim's statement with adult-witness testimony, however, is an important and valuable technique.

### **Medical Evidence**

Whenever possible all children suspected of having been sexually victimized should be afforded a medical examination by a trained and competent physician (Jenny, 2002). The primary purpose of this examination is to assess potential injury, assess the need for treatment, and reassure the patient. A secondary purpose is to determine the presence of any corroborating evidence of acute or chronic trauma. The ability and willingness of medical doctors to corroborate child sexual victimization has improved greatly in recent years, primarily due to better training and the use of protocols, rape kits, the colposcope, toluidine blue dye, ultraviolet-light photography, and other such techniques.

When used with a camera the colposcope can document the trauma without additional examinations of the child victim. Positive laboratory tests for sexually transmitted diseases can be valuable evidence especially in cases involving young children. Statements made to doctors by the child victim as part of the medical examination might be admissible in court without the child testifying.

Law-enforcement investigators should be cautious of doctors who have been identified as child-abuse crusaders or always find—or never find—medical evidence of sexual victimization. Medical doctors should be objective scientists doing a professional examination. The exact cause of any anal or vaginal trauma needs to be evaluated carefully and scientifically. Also many acts of child sexual victimization do not leave any physical injuries that can be identified by a medical examination. In addition children's injuries can heal rapidly. Thus lack of medical corroboration does not mean that a child was not sexually victimized or it cannot be proven in court.

### **Other Victims**

The simple understanding and recognition that a child molester might have other victims is one of the most important steps in corroborating an allegation of child sexual victimization. There is strength in numbers. If an investigation uncovers one or two victims, each will probably have to testify in court. If an investigation uncovers multiple victims, the odds are that none of them will testify because there will not be a trial. With multiple victims the only defense is to allege a flawed, leading investigation.

Because of the volume of crime, limited resources, and lack of knowledge about the nature of the crime, many law-enforcement agencies are unable or unwilling to continue an investigation to find more than a couple of victims. If that is the case they must try to identify as many victims as possible. Other victims are sometimes identified through publicity about the case. Consistency of statements obtained from multiple victims, independently interviewed, can be powerful corroboration.

With preferential acquaintance molesters, especially those who prefer boys, the potential for multiple victims can be overwhelming. If there are a dozen disclosing victims, a mountain of corroborative evidence, and an offender who is going to jail for many years, does the investigator have to continue to investigate until "all" the victims are found? As previously stated 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). The exact meaning of this statement is subject to interpretation, but common sense says a decision must be made based on a totality of the facts.

Some unidentified victims may be in need of therapy and counseling. Some, however, may be doing fine and dredging up the victimization may cause more problems. Some victims may not know or realize that they are victims until informed by investigators. Can victims suffer the psychological consequences of being victimized if they do not know that they are victims? These are difficult issues with no easy answers. Investigators and prosecutors must think about these issues and make the best-informed decision.

### **Search Warrants**

The major law-enforcement problem with the use of search warrants in child-sexual-victimization cases is that they are not obtained soon enough. In many cases investigators have probable cause for a search warrant but don't know it. Because evidence can be moved, hidden, or destroyed so quickly, search warrants should be obtained as soon as legally possible. Waiting too long and developing, in essence, too much probable cause also might subject investigative agencies to criticism or even lawsuits charging that this delay allowed additional victims to be molested. This is a potentially significant problem in sexual-exploitation cases. "What did you know and when did you know it" can become a big issue in defending an investigative response as correct and reasonable. Investigators often do not recognize the value and significance of child erotica, pedophile paraphernalia, and other collateral evidence. (See the chapter titled "Collection of Child Pornography and Erotica" beginning on page 61.)

As previously discussed the expertise of an experienced investigator and well-documented behavior patterns of preferential sex offenders sometimes can be used to add to the probable cause, expand the scope of the search, or address the legal staleness problem of old information. Such "expert" search warrants should be used only when necessary and there is probable cause to believe the alleged offender fits the preferential pattern of behavior.

### **Physical Evidence**

Physical evidence can be defined as objects that corroborate anything a child victim did, said, saw, heard, tasted, smelled, drew, or had done to him or her. It can be used to prove offender identity and type and location of activity. It could be items such as sheets, articles of clothing, sexual aids, lubricants, fingerprints, and documents. It also could be an object or sign on the wall described by a victim. If the victim says the offender ejaculated on a doorknob, ejaculate on the doorknob becomes physical evidence if found. If the victim says the offender kept condoms in the nightstand by his bed, they become physical evidence if found. An adult-pornography magazine with a page missing as described by the victim is physical evidence. Satanic occult paraphernalia is evidence if it corroborates criminal activity described by the victim. Positive identification of a subject through deoxyribonucleic acid (DNA) analysis of trace amounts of biological evidence left on a child or at a crime scene might result in a child victim not having to testify because the perpetrator pleads guilty.

### **Child Pornography and Child Erotica**

Child pornography, especially that produced by the offender, is one of the most valuable pieces of corroborative evidence of child sexual victimization that any investigator can have. Many collectors of child pornography do not molest children, and many child molesters do not possess or collect child pornography. Investigators should, however, always be alert for it. Child erotica 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 drawings, fantasy writings, diaries, souvenirs, letters, books about children, psychological books on pedophilia, and ordinary photographs of children. It must be evaluated in the context in which it is found using good judgment and common sense. Child erotica is not as significant as child pornography, but it can be of value. (See

the chapter titled "Collection of Child Pornography and Erotica," beginning on page 61, for a detailed discussion of child pornography and erotica.)

### **Computers**

Investigators must be alert to the rapidly increasing possibility that a child molester with the intelligence, economic means, or employment access might use a computer in a variety of ways as part of his sexual victimization of children. As computers have become less expensive, more sophisticated, and easier to operate, the potential for this abuse is growing rapidly. (See the chapter titled "Use of Computers by Sex Offenders," beginning on page 89, for a more detailed discussion on the use of computers.)

### **Consensual Monitoring**

Consensual monitoring is a valuable but often underused investigative technique. It includes the use of body recorders and pretext telephone calls. Because of the legal issues involved and variations in state laws, use of this technique should always be discussed with prosecutors and law-enforcement legal advisers.

It is important to remember that children are not small adults and must never be endangered by investigators. The use of this technique with child victims presents ethical issues as well as legal considerations. Its use with victims who have emotional problems or are in therapy, for example, should be carefully evaluated. Pretext telephone calls are more suitable than body recorders with child victims but are obviously not appropriate in all cases. They might not be suitable for use with extremely young victims or victims who have developed a strong bond with the offender. Because victims who are seduced or compliant may feel pressured by parents or investigators to furnish a more socially acceptable, stereotypical version of their victimization, they may falsely pretend no such bond with the offender exists and/or feign a desire to have the offender arrested and prosecuted. If the child victim states one thing but feels differently, "participating" in the investigation in this way could lead to the child "tipping off" the alleged offender or more serious consequences for the child ranging from further victimization to suicide.

The use of this technique usually should be discussed with the parents of a victim who is a minor. The parent, however, might not be trusted to be discreet about the use of this technique or even be a suspect in the investigation. Although there is the potential for further emotional trauma, many victims afterward describe an almost therapeutic sense of empowerment or return of control through their participation in pretext telephone calls.

Investigators using the pretext telephone call should ensure that they have a telephone number that cannot be traced to law enforcement and method to verify the date and time of the calls. In addition to victims, investigators can also make such calls themselves by impersonating a wide variety of potentially involved or concerned individuals. Sometimes victims or their relatives or friends do the monitoring and recording on their own. Investigators need to check appropriate laws concerning the legality of such taping and admissibility of the material obtained.

Consensual monitoring with body recorders is probably best reserved for use with undercover investigators and adult informants. Under no circumstance should an investigative agency produce or wind up with a videotape or audiotape

of the actual or simulated molestation of a child as part of an investigative technique; however, the child victim might be used to introduce the undercover investigator to the subject.

Inappropriate responses obtained through consensual monitoring can be almost as damaging as outright admissions. When told by a victim over the telephone that law enforcement or a therapist wants to discuss the sexual relationship, "Let's talk about it later tonight" is an incriminating response by a suspect.

### **Subject Confessions**

Getting a subject to confess obviously can be an effective way to corroborate child sexual victimization and avoid child-victim testimony in court. Unfortunately many investigators put minimal effort into subject interviews. Simply asking an alleged perpetrator if he molested a child does not constitute a proper interview. Any criminal investigator needs effective interviewing skills. In view of the stakes involved, child-sexual-victimization investigators must do everything reasonably possible to improve their skills in this area. Entire books and chapters have been written about interview techniques and strategies. In this limited space only a brief review of some basic interviewing issues will be offered.

Investigators need to collect background information and develop an interview strategy before conducting a potentially important discussion with the alleged offender. Many sexual offenders against children really want to discuss either their behavior or at least their rationalization for it. If treated with professionalism, empathy, and understanding, many of these offenders will make significant admissions. If the offender is allowed to rationalize or project some of the blame for his behavior onto someone or something else, he is more likely to confess. Most sex offenders will admit only what they can rationalize and that which has been discovered. Revealing **some** irrefutable "facts," therefore, can be an effective strategy. In a computer case this might involve showing him some of the chat logs of his online conversations. If investigators do not confront the subject with all available evidence, the suspect might be more likely to minimize his acts rather than totally deny them. Many child molesters admit their acts but deny the intent. A tougher approach can always be tried if the soft approach does not work. Investigators should consider noncustodial (*i.e.*, no arrest), nonconfrontational interviews of the subject at home or work. Interviews during the execution of a search warrant also should be considered. Investigators should not overlook admissions made by the offender to wives, girlfriends, neighbors, friends, and even the media.

The polygraph and other lie-detection devices can be valuable tools when used as part of the interview strategy by skilled interviewers. Their greatest value is in the subject's belief that they will determine the truth of any statement he makes. Once used their value is limited by their lack of legal admissibility. The polygraph, or any lie-detection device, should never be the sole criterion for discontinuing the investigation of child-sexual-victimization allegations.

### **Surveillance**

Surveillance can be a time-consuming and expensive investigative technique. In some cases it also can be an effective technique. Time and expense can be reduced if the surveillance is not open-ended but is based on inside information

about the subject's activity. One obvious problem, however, is what to do when the surveillance team comes to believe that a child is being victimized. How much reasonable suspicion or probable cause does an investigator on physical or electronic surveillance need to take action? If a suspected child molester simply goes into a residence with a child, does law enforcement have the right to intervene? What if the offender is simply paying the newspaper boy or watching television with a neighborhood child? These are important legal and ethical issues to consider when using this surveillance technique. Sometimes the surveillance may discover that the offender is making contact with children in violation of his parole. In spite of potential problems, surveillance is a valuable technique especially in the investigation of multiple-victim-exploitation cases.

### **Investigating Multiple-Victim Cases**

The general investigative techniques just discussed are applicable in varying degrees to the acquaintance-exploitation cases involving multiple victims. The "big-picture" approach is the key to the successful investigation and prosecution of these cases. Multiple victims corroborated by child pornography, erotica, and other physical evidence make a powerful case likely to result in a guilty plea, no trial, and therefore no child-victim testimony. The techniques noted below apply **primarily** to the investigation of acquaintance-exploitation cases involving multiple victims.

### **Understanding the Seduction Process**

Most child victims in multiple-victim-exploitation cases were seduced or groomed over time. The seduction process was discussed in depth in the chapter titled "Acquaintance-Exploitation Cases" beginning on page 47. True understanding of this process must be incorporated into the investigation of these cases. After understanding the seduction process, the investigator must be able to communicate this understanding to the victim. This is the difficult part. An investigator once contacted me and described what sounded like a classic case involving an acquaintance-seduction preferential offender. The investigator stated, however, that his first disclosing victim, a 12-year-old boy, described being gagged and tied up by the offender. While this is certainly possible, it is not typical of such offenders. When asked when and how the victim furnished this information, the investigator admitted that it was after he had asked the boy why he did not scream or fight when the offender abused him sexually.

By asking such questions in this way, the investigator is communicating to the boy that the investigator has no insight into the nature of this crime nor an understanding or acceptance of the subtle seduction of the boy. The investigator is back in the world of dirty old men in wrinkled raincoats jumping out from behind trees. Obviously the investigator did not understand that the molester was probably the boy's best friend who seduced him with attention and affection. The victim realized that the investigator would not understand what happened, and so the boy "adjusted" the story and tried to explain with an excuse that the investigator would accept and understand. The boy was suffering from the "say no, yell, and tell" guilt.

I have given many presentations describing the dynamics of multiple-victim cases and seduction techniques of preferential child molesters (pedophiles). After

many of these presentations, adult male members of the audience have approached me in private and admitted that they were victimized as boys. Most stated they had never before told anyone of their victimization, but were now able to tell because they realized I understood the problem and that they were not the only ones so victimized. The key then to getting child victims who were compliant to disclose their victimization is to communicate subtly to them your understanding of the seduction process without engaging in repetitive, leading, or suggestive interviewing that might damage the reliability and credibility of the information obtained. After the first few victims disclose the others usually come forward more readily. Some individuals, however, may come forward and falsely claim to be victims in order to get attention, forgiveness, or part of a financial settlement in a civil law suit. All allegations must be thoroughly and objectively evaluated and investigated.

Investigators and prosecutors must understand and learn to deal with the incomplete and contradictory statements of seduced victims of acquaintance molesters. The dynamics of their victimization must be considered. They are embarrassed and ashamed of their behavior and rightfully believe that society will not understand their victimization. Many younger child victims are most concerned about the response of their parents and often describe their victimization in ways they believe will please their parents. Adolescent victims are typically more concerned about the response of their peers. Investigators who have a stereotyped concept of child-sexual-abuse victims or who are accustomed to interviewing younger children molested within their family will have a difficult time interviewing adolescents molested in a sex ring. Many of these victims will be troubled or even delinquent children from dysfunctional homes. Such victims should not be blindly believed, but should not be dismissed because the accused is a pillar of the community and they are delinquent or troubled. Such allegations should be objectively investigated.

When attempting to identify potential victims in a multiple-victim-exploitation case, I recommend trying to start with victims who are about to or have just left the offender's "pipeline." The victim most likely to disclose would be one who has just left the ring and has a sibling or close friend about to enter the ring. The desire to protect younger victims from what they have endured is the strongest motivation for overcoming their shame and embarrassment. The next best choice would be a victim who has just entered the "pipeline."

Before beginning the interview the investigator must understand that the victim may have many positive feelings for the offender and even resent law-enforcement intervention. Because of the bond with the offender, victims may even warn the offender. Even the occasional victim who comes forward and discloses may feel guilty and then warn the offender. They may even return to law enforcement with a hidden tape recorder to try to catch the investigator making inappropriate comments or utilizing improper interview techniques. Reluctance to disclose may be more due to affection for the offender than to fear of the offender.

Time must be spent attempting to develop a working relationship with the victim. The investigator must be able to discuss a wide variety of sexual activity, understand the victim's terminology, and not be judgmental. Not being judgmental, as with developing rapport, may be much more difficult with a delin-

quent adolescent who actively participated in his victimization. Investigators often nonverbally communicate their judgmental attitude unknowingly through gestures, facial expressions, and body language.

In interviewing victims of acquaintance sexual exploitation, law enforcement should consider—in their own minds—pretending that the victim is a subject or suspect, and expect the victim to deny or minimize his or her acts. Some victims will continue to deny their victimization no matter what the interviewer says or does. Some children even deny victimization that the offender has admitted or other evidence discloses. Some will make admissions but minimize the quality and quantity of the acts. They may minimize their compliance and maximize the offender's involvement by claiming he drugged them, threatened them, had a weapon, or had even abducted them. Of course some of these allegations may be accurate and should be investigated. They are, however, not typical of acquaintance-exploitation cases. Violence is most likely used to prevent disclosure. Sadistic preferential offenders may also use violence during sex, but this is relatively rare in cases involving seduction. As previously discussed these potential inaccuracies in the details of the allegations of seduced victims may explain some of the inconsistencies between the alleged "what" and suspected "who."

The investigator must communicate to the victim that he or she is not at fault even though the victim did not say no, did not fight, did not tell, initiated the sex, or even enjoyed it. When the victim comes to believe that the investigator understands what he experienced, he or she is more likely to talk. Victims often reveal the details little by little, testing the investigator's response. The investigator must recognize and sometimes allow the victim to use face-saving scenarios when disclosing victimization. For example such victims might claim they were confused, tricked, asleep, drugged, drunk, or tied up when they were not. Adolescents, who pose special challenges for the interviewer, use these face-saving devices most often. The investigator must accept the fact that even if a victim discloses the information is likely to be incomplete, minimizing his involvement and acts. Some of these victims simply do not believe they were victims.

In the absence of some compelling special circumstance, the interview of a child possibly seduced by an acquaintance molester should **never** be conducted in the presence of parents. The presence of the parent increases the likelihood that the child will just deny or give the socially or parentally acceptable version of the victimization. This is especially true of younger victims. Investigators should also consider unannounced interviews of victims of acquaintance molesters.

If all else fails the investigator can try the no-nonsense approach. No matter what the investigator does, most adolescent boy victims will deny they were victims. It is important, therefore, that as many potential victims as legally and ethically possible are interviewed. It is also possible that some troubled teenagers may exaggerate their victimization or even falsely accuse individuals. Allegations must be objectively investigated considering all possibilities. After disclosing, some victims will later recant or change their stories.

The offender may also continue to manipulate the victims after investigation and disclosure. The offender may appeal to the victim's sympathy. He may make a feeble attempt at suicide to make the victims feel guilty or disloyal. Some offenders may threaten the victims with physical harm or disclosure of the blackmail material. Some offenders may bribe the victim and his family. Even after they disclose and testify in court, some victims then recant and claim they per-

jured themselves. Although in some cases the recantation may be valid, it is most likely the result of blackmail, feelings of guilt about the offender being in prison, or shame over their behavior.

Some victims in acquaintance-child-exploitation cases disclose incomplete and minimized information about the sexual activity. This creates significant problems for the investigation and prosecution of such cases. For instance when the investigator finally gets a victim to disclose the exploitation and abuse, the victim furnishes a version of his victimization that he or she swears is true. Subsequent investigation then uncovers additional victims, child pornography, or computer chat logs—directly conflicting with the first victim's story. A common example of this is that the victim admits the offender sucked his penis, but denies that he sucked the offender's penis. The execution of a search warrant then leads to the seizure of photographs of the victim sucking the offender's penis. Additional victims may also confirm this, but then lie when they vehemently deny that they did the same thing.

The allegations of multiple victims often conflict with each other. Each victim tends to minimize their behavior and maximize the behavior of other victims or the offender. Some victims continue to deny the activity even when confronted with the pictures. Today investigators must be especially careful in computer cases where easily recovered chat logs, records of communication, and visual images may directly contradict the socially acceptable version of events that the victim is now giving.

### **Understanding the Preferential Molester**

Preferential sex offenders may be "pillars of the community" and are often described as "nice guys." They almost always have a means of access to children (*e.g.*, marriage, neighborhood, occupation). Determining their means of access helps identify potential victims. Investigation should always verify the credentials of those who attempt to justify their acts as part of some "professional" activity. It must be understood, however, that just because an offender is a doctor, clergy member, or therapist, for example, does not mean he could not also be a child molester.

As previously stated, because the molestation of children is part of a long-term persistent pattern of behavior, preferential child molesters are like human evidence machines. During their lifetime they leave behind a string of victims and collection of child pornography and erotica. The preferential child molester, therefore, can be thoroughly investigated and corroborative evidence easily found if investigators understand how to recognize him and how he operates—**and if their departments give them the time and resources.**

Men sexually attracted to young adolescent boys are the most persistent and prolific child molesters known to the criminal-justice system. Depending on how one defines molestation, they can easily have dozens if not hundreds of victims in a lifetime. They usually begin their activity when they are teenagers themselves and continue throughout their lives as long as they are physically able.

Many pedophiles spend their entire lives attempting to convince themselves and others that they are not evil sexual perverts, but good guys who love and nurture children. That is a major reason why they do such things as join organizations where they can help troubled children and volunteer to search for missing children. Because so many of them have successfully hidden their activities for so

long, when identified and prosecuted they try to convince themselves that they will somehow continue to escape responsibility. This is why they often vehemently proclaim their innocence right up to the time of their trial. If, however, the investigator and prosecutor have properly developed the case, preferential offenders almost always change their plea to guilty. (See the chapter titled "After Identification" beginning on page 129.)

Investigators and prosecutors should also be aware of offenders too eager to plead guilty. They may be hiding much more extensive or serious behavior that they hope will not be discovered by additional investigation.

### **Proactive Approach**

Because this publication is available to the public, specific details of proactive investigative techniques will not be set forth. In general, however, proactive investigation involves the use of surveillance, mail covers, undercover correspondence, "sting" operations, reverse "sting" operations, and online computer operations. For example, when an offender who has been communicating with other offenders is arrested, investigators can assume his identity and continue the correspondence.

It is not necessary for each law-enforcement agency to "reinvent the wheel." Federal law-enforcement agencies such as the U.S. Postal Inspection Service, U.S. Customs Service, the FBI, and some state and local departments have been using these techniques for years. Because child prostitution and the production and distribution of child pornography frequently involve violations of federal law, the U.S. Postal Inspection Service, U.S. Customs Service, and FBI all have intelligence information about such activity. It is recommended that any law-enforcement agency about to begin the use of these proactive techniques, especially those involving online Internet activity, contact nearby federal, state, and local law-enforcement agencies to determine what is already being done and what protocols and policies have been developed. Many areas of the country have organized task forces on sexual abuse, exploitation, and computer exploitation of children. Law-enforcement agencies must learn to work together in these proactive techniques, or else they may wind up "investigating" each other. Some child molesters also are actively trying to identify and learn about these proactive techniques.

Investigators must give careful thought and consideration before utilizing a child in any way in any proactive investigation. Child safety and protection come first. As previously stated investigators should **never** put child pornography on the Internet or in the mail because of the harm of such uncontrolled circulation. The end does not justify the means. Investigators must also ensure that their undercover activity does not cross the line into entrapment or outrageous government conduct. This is even more important if the investigator forwards his or her investigative "findings" to another law-enforcement agency for appropriate action.

The proactive approach also includes the analysis of records and documents obtained or seized from offenders during an investigation. In addition to possibly being used to convict these offenders, such material can contain valuable

intelligence information about other offenders and victims. This material must be evaluated carefully in order not to over- or underestimate its significance.

### **Establish Communication With Parents**

The importance and difficulty of this technique in extrafamilial cases cannot be overemphasized. Because the parents are not the alleged perpetrators their investigative significance is different, not less than in intrafamilial cases. Parents should be advised of the general nature of the investigation. Investigators should also seek their cooperation and maintain ongoing communication with them. Not all parents react the same way to the alleged sexual victimization of their children. Some are supportive and cooperative. Others overreact, and some even deny the victimization. Sometimes there is animosity and mistrust among parents with differing reactions. Some parents even rally to the support of the accused perpetrator. Others want him immediately put in jail.

Parents must be told that in the absence of some extraordinary circumstance investigators need to interview their children outside of their presence. In some cases departmental policy or the law may give parents the right to be present during the interview of their minor children. If that is the situation, every effort should be made to get parental and/or departmental permission to waive that right. If parents are present during the interviews, any information so obtained must be carefully assessed and evaluated with the understanding of the parents' potentially significant influence on their children's statements. Compromises involving one-way mirrors, video cameras, and out-of-eye-contact sitting positions may be possible. Eventually parents will have to be told something about what **their** children disclosed. It is best if this happens after the information is obtained in a way that increases the likelihood of its accuracy and reliability. Parents should not be given the details of the disclosures of any other victims. Parents should be told of the importance of keeping the details of their child's disclosures confidential especially from the media and other parents.

Parents should be interviewed regarding any behavioral indicators of possible abuse they observed and the history of their child's contact with the alleged offender. They must be reminded, however, that their child's credibility will be jeopardized when and if the information was obtained through repetitive or leading questioning and/or turns out to be exaggerated, unsubstantiated, or false. To minimize these problems, within the limits of the law and without jeopardizing investigative techniques, parents must be told on a regular basis how the case is progressing. Parents can also be assigned constructive things to do (*e.g.*, lobbying for new legislation, working on awareness and prevention programs) to channel their energy, concern, and guilt.

If the parents lose faith in law enforcement or the prosecutor and begin to interrogate their children and conduct their own investigation, the case may be lost forever. Parents from one case communicate the results of their "investigation" with each other, and some have even contacted the parents in other cases. Such parental activity, however understandable, is an obvious source of potential contamination.

In addition it must be remembered that children sexually exploited outside the home can also be sexually victimized inside the home.

## **Conclusion**

It is the job of the professional investigator to listen to all victims, assess and evaluate the relevant information, and conduct an appropriate investigation. Corroborative evidence exists more often than many investigators realize. Investigators should remember that not all childhood trauma is abuse, and not all child abuse is a crime. There can be great frustration when, after a thorough investigation, an investigator is convinced that something traumatic happened to the child victim but does not know with any degree of certainty exactly what happened, when it happened, or who did it. That is sometimes the price we pay for a criminal-justice system in which people are considered innocent until proven guilty beyond a reasonable doubt.

## After Identification

When a child-molestation case is uncovered and an offender identified, there are certain fairly predictable reactions by the child molester. This is especially true of acquaintance molesters who are pedophiles or other types of preferential sex offenders. Knowledge and anticipation of these reactions will help the investigation and prosecution of such difficult cases.

### Pedophile Defenses

#### Denial

Usually the first reaction of a child molester to discovery is complete denial. The offender may act shocked, surprised, or even indignant about an allegation of sexual activity with children. He may claim to know nothing about it or that he does not remember. He might admit to an act, but deny the intent was sexual gratification saying, "Is it a crime to hug a child?" He may imply that his actions were misunderstood, and a mistake has been made. Relatives, friends, neighbors, and coworkers may aid his denial. These associates may be uncooperative and even hinder investigation of the offender. In any case the investigator should anticipate and not be thrown off by strong initial denial by a suspect.

#### Minimization

If the evidence against him rules out total denial, the offender may attempt to minimize what he has done both in quantity and quality. He might claim that it happened on one or two isolated occasions or he only touched or caressed the victim. He may be knowledgeable about the law and admit to acts that he knows are lesser offenses or misdemeanors. Some molesters minimize their activity by emphasizing the older age of their victims. Such victims might be referred to as "teens" rather than children. It is important to recognize that even seemingly cooperative victims may also minimize the quantity and quality of acts. If a certain sexual act was performed 30 times, the victim might claim it happened only 5 times, and the offender might claim it happened only once or twice.

#### Justification

Many child molesters, especially preferential molesters, spend their lives attempting to convince **themselves** that they are not immoral, sexual deviants, or criminals. They prefer to believe that they are high-minded, loving individuals whose behavior is misunderstood or politically incorrect at this time in history. They refer to themselves as "boy lovers" not child molesters. Plugging into this justification system is the key to interviewing such offenders.

Rationalization usually involves trying to convince himself or others that the sexual activity with children was not harmful. Validation usually involves trying to convince himself or others that the sexual activity with children was beneficial. Child molesters frequently attempt to justify their behavior to law enforcement. They might claim that they care for children more than the children's parents do and what he does is beneficial to the child. They love to talk about starving, abused children in third-world countries. If he is the father or stepfather of the victim, he might claim the child is better off learning about sex from him. In other cases he

might claim to be under tremendous stress or have a drinking problem. He might claim he did not know how old a certain victim was.

His efforts to justify his behavior often center on blaming the victim. This is probably the single most common rationalization of all child molesters. The offender may claim that the victim seduced him, wanted and initiated the sexual activity, enjoyed and needed the sexual activity, or is promiscuous or even a prostitute. In some cases it might even be true. They often go into great detail explaining the difference between "consenting" and forced sex with children. But such justification should have no meaning. A crime has still been committed. As previously stated the major legal difference between sex crimes committed against children and adults is that with child victims consent is not supposed to matter.

### **Fabrication**

Some of the more clever child molesters come up with ingenious stories to explain their behavior. Many incest offenders claim to be providing sex education for their children. One father claimed he was teaching his daughter the difference between a "good touch" and "bad touch."

These stories work even better for an acquaintance molester who is a professional such as a clergy member, teacher, doctor, or therapist. One offender, a doctor, claimed he was conducting research on male-youth prostitution. A professor claimed he was conducting research on pedophilia and collecting and distributing child pornography for scientific research. A teacher said that his students had such a desperate need for attention and affection that they practically threw themselves at him and misunderstood his affection and response as sexual advances. A minister claimed he was doing research on adolescent growth. In another case a nursery-school operator, who had taken and collected thousands of photographs of young, nude or seminude children in his care, claimed they were not for sexual purposes; he simply admired the anatomy of children. Another offender claimed his sadomasochistic photographs of children were part of a child-discipline program. One offender claimed the children made a sexually explicit videotape without his knowledge and that he had kept it only to show their parents. Another offender claimed he was merely keeping the child warm in his bed on a cold night. A lawyer claimed his child-pornography collection was part of his legal research. Several offenders have recently claimed they are artists victimized by censorship and their collections are works of art protected by the First Amendment. Another offender claimed unwanted child pornography was sent to his computer, and he kept it because he is a compulsive pack rat. One offender claimed he had child pornography not because of a sexual interest, but because he liked to collect "forbidden material." Investigators and prosecutors must be prepared to confront such stories and attempt to disprove them. Finding child pornography, child erotica, and other collateral evidence in the possession of the offender and determining the context in which it was produced, obtained, maintained, and used are the most effective ways to do this.

### **Attack**

It is important not to overlook this reaction of the identified child molester. It can be used many times during the investigation or prosecution. This reaction consists of attacking or going on the offensive. The pedophile may harass, threaten, or bribe victims and witnesses; attack the reputation and personal life of the

investigating officer; attack the motives of the prosecutor; claim the case is selective prosecution or a witch hunt; raise issues such as gay rights if the child victim is the same sex as the offender; and enlist the active support of parents, groups, and organizations.

The investigator also must consider the possibility of physical violence. It would be a terrible mistake for any investigator or prosecutor to think that all child molesters are passive people who are easily intimidated. I am aware of several cases in which the arrested child molester was a paranoid survivalist with a massive arsenal of weapons and explosives. In addition there are cases in which child molesters murdered their victims, including their own children, to keep them from disclosing the sexual victimization. Two different child molesters who had each killed several of their child victims stated that the only way society could have prevented the murders would have been to legalize sex between adults and children. They claimed that they killed their victims only to avoid identification.

### **After Conviction**

After being convicted and sentenced to incarceration, some pedophiles may exhibit another reaction. This involves asking to speak to law-enforcement investigators and claiming to have important information about more serious offenses against children. They might claim to know about organized child sex rings, child pornography, child prostitution, abduction of children, snuff films, satanic cults, or child murders. Some investigators are vulnerable to accept these claims because it is what they want or need to believe. Although this reaction is not as common as the others discussed here, there are numerous cases in which this has happened. In many of these cases the information furnished has turned out to be exaggerated, distorted, or patently false. Investigators have no choice but to investigate and check out such allegations because they might be partially or totally true. Investigators, however, must be skeptical and cautious in their response. Such stories should be carefully evaluated and assessed, and investigators should consider an early use of the polygraph by an examiner experienced in interviewing child molesters.

### **Suicide**

One other reaction should also be anticipated in certain cases. An offender, especially from a middle-class background with no or one prior arrest, should be considered a high suicide risk at any time after arrest or conviction. The law-enforcement investigator should be prepared to be blamed for the offender's death. Because "macho" investigators are supposed to laugh and joke about losing a "statistic" when a child molester commits suicide, some investigators are ashamed or embarrassed because they had positive feelings for the offender and did not necessarily want him to die. Investigators need to remind themselves that they were doing their jobs by enforcing the law and suicide was the offender's decision. The crucial issue for investigators is to try to ensure that the offender does not commit suicide while in their custody or kill or injure them or anyone else.

A wide variety of criminals may react in similar ways when their activity is discovered or investigated. The reactions described above, however, have been seen in child molesters time and time again, particularly in preferential sex offenders.

## **Bond Hearing**

Many prosecutors attempt to increase or deny bond to acquaintance child molesters based on dangerousness to the community. I have been asked on numerous occasions to testify at such hearings that I know or believe that a particular offender is a danger. Predicting future behavior is difficult. It often comes down to the simple fact that the best predictor of future behavior is past behavior.

In these situations prosecutors rarely need an "expert" to speculate about the future. What they need is a clear and organized presentation of the facts. As previously stated 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. If such a collection has been recovered, it must be reviewed, analyzed, and synopsised. The prosecutor then needs to communicate to the judge or magistrate, community, and media what this and other evidence, not some expert's speculation, indicates the offender fantasizes about and wants to do. Prosecutors should resist the temptation to embellish, exaggerate, or speculate.

For example if the collection included 30 pairs of children's underpants, that does not necessarily mean the offender molested or murdered these 30 children. He may have molested them and taken their underpants, fantasized about molesting them and taken their underpants, stolen the underpants without knowing whose they were, or bought them. If you know or have evidence of how he obtained them, inform the judge of the facts. If you do not know, simply inform the judge of the **facts** such as that he had them, where he had them, and how many he had. The same would be true if the offender had narrative stories about having sex with children. If the offender has also demonstrated that he is clever, manipulative, and organized with specific sexual preferences, the judge needs to know the facts that support that.

In essence inform the judge of the facts of the case. The judge then must decide if he or she is willing to release on bond a clever, manipulative individual who regularly fantasizes about having sex with and keeping the underpants of children in the community. The evaluation is based on evidence, not speculation. Some judges or magistrates, however, will not or cannot understand these facts. They have their minds made up and do not want to be confused by the facts. Many of these same dynamics also apply to sentencing hearings.

## **Sentencing Issues**

In many ways acquaintance-sexual-exploitation cases, especially those involving preferential sex offenders, are "slam dunks" or "like shooting fish in a barrel." Defense attorneys may claim entrapment or outrageous government conduct and file motions to suppress evidence. Defendants will deny the charges and make bold, public statements about their innocence. If the case has been put together properly, however, when the dust settles, most of these offenders plead guilty. Confronted with overwhelming evidence, many child molesters prefer to plead guilty to charges with vague names (*e.g.*, contributing to the delinquency of minors, lewd and lascivious conduct, indecent liberties) so that the public will not know what they really did. The last thing they want is all the details of their behavior to come out in open court. They work the best plea bargain they can, say they are guilty when the judge asks, and then tell everyone else why they are really not guilty.

This sometimes involves a plea of *nolo contendere* to avoid civil liability. The offender may make public statements that he is pleading guilty because he does not want to put the children through the trauma of having to testify or has no more money to defend himself. In some cases offenders claimed they pleaded guilty because they knew a jury would convict them, but they "could not remember committing the crime." This problem is compounded by the fact that it is possible, under the provisions of a U.S. Supreme Court decision (*North Carolina v. Alford*, 400 U.S. 25, 1970), for an offender to plead guilty to a charge while at the same time not acknowledge that he committed the crime. Although it is understandable why a prosecutor might accept such a plea in some cases, its use prevents the offender from having to accept public responsibility for his behavior. He is able to plead in essence "guilty, but not guilty" and further confuse the child victim as to who is guilty and innocent.

Another variation of this is that the child molester pleads not guilty by reason of insanity. If state insanity criteria allow it, he will claim he knew his acts were wrong, but he lacked the ability to conform his behavior to the law. The judge and jury will then be given the difficult task of differentiating between an irresistible impulse and an impulse not resisted. When other tactics fail the child molester may claim some type of mental illness. It is interesting to note that few child molesters admit mental illness until relatives, friends, or neighbors identify them; law enforcement identifies and arrests them; or other tactics fail and the courts convict them. If, as previously discussed, all pedophiles are not necessarily child molesters, then pedophilia alone cannot be the cause of their child molesting. Such mental-health defenses rarely work during a trial, but can be more effective at sentencing.

The real battle then takes place at sentencing where sex offenders effectively play the "sick and sympathy" game. In this game the offender expresses deep regret and attempts to show he is a pillar of the community, a devoted family man, a military veteran, a churchgoer/leader, nonviolent, without prior arrests, and a victim of abuse with many personal problems. They get the courts to feel sorry for them by claiming they are hard-working "nice guys" or decorated career military men who have been humiliated and lost everything. In view of the fact that many people still believe in the myth that child molesters are evil weirdos or social misfits, this tactic can unfortunately be effective especially at sentencing. Many traits introduced by the offender as evidence of his good character (e.g., dedication to children, volunteer work, conducting child-sex-abuse prevention programs, offers to assist law enforcement) in fact contribute to his ability to access and seduce children and/or rationalize his behavior.

In addition some seduced victims do not want the perpetrator prosecuted or sent to prison. At sentencing they may even write a letter to the judge indicating their "consent" in the sexual activity and expressing their love for the defendant. Should such a letter get the same consideration as a letter from a victim requesting harsh punishment?

Although convicted of a sex offense, they will sometimes produce forensic mental-health evaluations that will diagnose no sexual disorders. The diagnosis of numerous mental disorders such as depression, bipolar disorder, anxiety disorder, obsessive-compulsive disorder (OCD), personality disorders, and "Internet addiction syndrome" is often introduced as mitigating circumstances for consideration in the sentencing phase of the case. If there is a diagnosis of one or more

sexual disorders, it is rarely disorders such as **pedophilia** or **sadism** and more often disorders such as addiction to pornography, hebephilia or ephebophilia, and other paraphilias.

If the forensic evaluation of a defendant in a child-sexual-exploitation case does not include sexual disorders, especially pedophilia, among the diagnoses, the prosecutor should always determine **exactly** why they were not included. It is often based on the fact that the offender preferred pubescent children. One forensic evaluation I reviewed for a prosecutor stated that the defendant was not a pedophile because he had a sexual preference for "underage adults." Sometimes the lack of a diagnosis of pedophilia is corroborative and may help the prosecution if admitted. If the allegations indicate the situational, nonpreferential selection of a child victim, the lack of pedophilia is consistent with the facts of the case. Interestingly in the guilt or innocence phase of most cases few of these diagnoses would be admissible.

All the persistent patterns of behavior used in the investigation and prosecution may now be used by the defense prior to sentencing. The defense attorney now wants to talk about the unexplainable, bizarre, compulsive, reckless, bewildering, out-of-character behavior of the defendant. This is the proof that he is not bad, but has a "disorder." The defendant is not in the "heartland of offenders" (*i.e.*, the typical offender that the law intended to target) and needs a lighter sentence (*i.e.*, downward departure) and treatment. Under the federal sentencing guidelines and *United States v. McBroom*, 124 F.3d 533 (3<sup>rd</sup> Cir. 1997), a certain amount of this nonsense can be considered by the courts in determining the appropriate sentence for a "nonviolent" offender. The courts would never give a bank robber a lighter sentence because he claimed he was driven by excessive greed. If anything, he should get a longer sentence. Some argue that although these compulsive disorders might indicate that a defendant is more dangerous, he is somehow less culpable. Interestingly the *DSM-IV-TR* states that activities such as "sexual behavior (*e.g.*, paraphilias) when engaged in excessively" are not to be diagnostically considered compulsions "because the person usually derives pleasure from the activity and may wish to resist it only because of its deleterious consequences" (American Psychiatric Association, 2000).

If paraphilic, compulsive, preferential sex offenders are not fully accountable for their behavior nor considered to be in the "heartland of offenders," there is not much sense in prosecuting most sexual-exploitation cases. For now that is the vast majority of the computer "traders" and "travelers" and other acquaintance molesters. See *United States v. Motto*, 70 F.Supp.2d 570 (E.D. Pa. 1999), affirmed in *United States v. Motto*, 225 F.3d 651 (3<sup>rd</sup> Cir. 2000). See also *United States v. Stevens*, 197 F.3d 1263 (9<sup>th</sup> Cir. 1998).

When confronted with claims of mental disorders either at a trial or sentencing, my advice to prosecutors is to assess the items noted below.

- was there a proper forensic evaluation?
- is the diagnosis a recognized, valid condition?
- is the diagnosis a "mental disease or defect" or mental disorder?
- does the diagnosis have criminal-justice significance?
- does the diagnosis address the criminal behavior charged?

There are potential conflicts of interest if a therapist who is also providing treatment to the defendant conducts a forensic evaluation. Poor forensic evaluations involve viewing the defendant as a patient who is called by his first name and uncritically accepting the patient's version of events with minimal exposure to nonmedical evidence. Proper forensic evaluations involve viewing the defendant as a subject called by Mr. and his last name and comparing the subject's version of events with medical and nonmedical evidence (e.g., law-enforcement reports, crime-scene photographs, physical evidence). Proper forensic evaluations are also recorded verbatim and should be supplemented with techniques to identify deception such as the polygraph and tests to measure sexual arousal to certain themes. Prosecutors should determine what type of forensic evaluation has taken place.

The *DSM-IV-TR* contains the generally accepted mental diseases and disorders and their diagnostic criteria. Any alleged diagnosis should be compared against the *DSM-IV-TR*. Many highly publicized or convenient mental conditions (e.g., "Internet addiction syndrome," hebephilia) simply are not listed in the *DSM-IV-TR*. It is therefore harder to know their diagnostic criteria and professional acceptance. There is also a difference between serious mental diseases and the numerous other mental disorders also in the *DSM-IV-TR*. Mental diseases such as psychoses involve hallucinations, delusions, and the inability to distinguish fantasy from reality and are more likely to be considered by the courts. The vast array of mental disorders in the *DSM-IV-TR* usually has no criminal-justice significance.

People may be depressed and suffering from anxiety disorder and still be completely accountable for their criminal behavior. People may in fact be bipolar, tortured by obsessive-compulsive disorder, and suffering from "Internet addiction syndrome," but none of that explains why they are downloading child pornography and trying to have sex with 13 year olds. "Internet addiction syndrome" might be of some significance if someone were charged with spending 16 hours a day on the Internet. Prosecutors also have the difficult choice of deciding whether to counter such claims with common sense, their own experts, or both. Investigators and prosecutors should be aware of a "Cautionary Statement" that appears on page xxxvii of the *DSM-IV-TR* (American Psychiatric Association, 2000) and reads in part

It is to be understood that inclusion here, for clinical and research purposes, of a diagnostic category such as **Pathological Gambling or Pedophilia** does not imply that the condition meets legal or other nonmedical criteria for what constitutes mental disease, mental disorder, or mental disability. The clinical and scientific considerations involved in categorization of these conditions as mental disorders may not be wholly relevant to legal judgments, for example, that take into account such issues as individual responsibility, disability determination, and competency. [Emphasis added]

Sentencing of acquaintance molesters who present as "intrafamilial" molesters can be a special problem. Many professionals have stereotypical views about incest offenders and what the courts should do with them. Many believe that they should be placed in diversion programs and constitute a minimal risk to the

community. This might be true much of the time, but it is not true all the time. A compulsive preferential sex offender who, as part of a long-term pattern of behavior, used marriage as a method of access to a child he molested, should be dealt with differently than an impulsive situational sex offender who, as part of an isolated pattern of behavior, molested his daughter. Many interveners are not aware of or do not recognize the difference.

### **Treatment**

Of course, if they are mentally ill, they need treatment and not a jail term. Although engaging in sexual activity is a basic, fundamental, and normal human need, sex offenders are seemingly more likely to be considered "sick" and in need of treatment than other criminals. If the behavior of a child molester is considered the result of a mental illness, however, then it must out of necessity be treated as a "contagious" disease that is, at best, difficult to cure. Courts most often consider this "sickness" even after the defendant has been found guilty and criminally responsible. Courts must carefully evaluate the seriousness of the offenses and effectiveness of any proposed treatment.

Treatment and punishment are not mutually exclusive. Some sex offenders seem to be motivated to seek treatment only when it is a substitute for incarceration. Do the evidence and facts of the case indicate that prior to identification the child molester had recognized the harm of his sexual behavior and wanted to stop it, or do they indicate he had spent considerable time and energy attempting to rationalize and justify his behavior? Punishment is about the past and seriousness of the offense. Treatment is about the future and desire to reduce recidivism. Since the vast majority of sex offenders will not be serving a life sentence, prosecutors must give some thought to treatment issues. The most effective approach is usually some combination of punishment and treatment. Punishment communicates the seriousness and demonstrates the consequences of the offending behavior. Treatment can reduce recidivism and protect children. Most cases call for both.

Accountability for any treatment is an important issue for prosecutors to consider. This is best achieved when the criminal-justice system maintains some control over the treatment through incarceration, probation, and parole. The criminal-justice system needs to be aware if the defendant fails to cooperate in or terminates the treatment and if the therapist significantly alters the understood and agreed-upon treatment. Drugs to reduce the sex drive have a chance of working only if the offender is taking them.

When a convicted sex offender requests consideration for treatment and presents defense expert witnesses, the prosecution has the right to ask questions such as how was the diagnosis made, exactly what conditions are being treated, what kind of treatment is going to be used, what is the success rate for this treatment, why does it fail, who measured the success rate, what is the measure of success? In many treatment programs the treatment is considered a success if the subject does not report reoffending or is not rearrested. Treatment for sex offenders who deny they have sexual disorders by therapists who agree with them is more difficult to evaluate.

To paraphrase Rebecca Roe, a former prosecutor in King County, Washington, some sex offenders can be treated and some cannot. The problem and challenge is to determine which is which. A proper, competent, and objective forensic evaluation of the defendant is an invaluable tool for the prosecutors in these cases. In evaluating treatment options within the criminal-justice system, prosecutors have the right to consider

- willingness to submit to a thorough forensic evaluation including a polygraph
- admission of guilt through a guilty plea (no Alford pleas)
- acceptance of full responsibility for behavior with minimal excuses
- recognition of the harm of the criminal behavior with minimal evidence of attempts to rationalize and validate it (*e.g.*, NAMBLA material, claims he helped children)
- consequences for offending—some punishment is doing the defendant a favor and helping his treatment

## Investigative Difficulties

I have observed three major problems that make the investigation of child sexual exploitation difficult for law-enforcement officers and the criminal-justice system. Some of these investigative difficulties are not unique to child-sexual-victimization cases, but only their impact on and relevance to such cases will be discussed here.

### The "Ideal" Victim

Children in general have certain characteristics that make them "ideal" victims from the offender's point of view. Some of these characteristics are listed below.

#### Naturally Curious

Children have a natural curiosity about the world around them. As they grow older they become increasingly curious about sex and develop an active sex drive. For most children sex is a taboo subject about which they receive little accurate information especially from their parents. Most parents find it difficult to discuss sex with their children. A clever child molester, to lower children's inhibitions and gradually seduce them into sexual activity, can easily exploit this natural curiosity and the lack of available information.

#### Easily Led by Adults

Many parents specifically instruct their children to respect and obey adults. Children are aware that their very survival depends on these powerful adults. In addition to fulfilling the physical and emotional needs of children, adults are bigger and stronger. Any adult child molester can simply exploit his or her size and adult status to influence and control a child's behavior. Some child molesters exploit their status as individuals such as stepfathers, guardians, volunteers, youth leaders, and counselors to entice children into sexual activity. Child molesters who do not have this added adult authority sometimes impersonate individuals who do. For example they may falsely claim to be law-enforcement officers and clergy members.

#### Need for Attention and Affection

This is by far the most significant characteristic of children that makes them ideal victims especially for the seduction-acquaintance child molester. Even when they are getting attention and affection at home, children still crave and need it from others in their lives. It is important to realize that **all** children, even those from "normal" homes and "good" families, are at risk from such seduction techniques. Although all children are at some risk, it seems that the child from a dysfunctional home, who is the victim of emotional neglect or has strong feelings of alienation, is most vulnerable. Many victims get to the point where they are willing to trade sex for the attention and affection they get from some child molesters. It is sad but true that in many ways some child molesters treat their victims better than the victim's own parents do. The seduction child molester exploits the child's need for attention and affection to his advantage; however, the child molester is usually willing to supply all this attention and affection only as long as the child meets his age preferences. When the child gets too "old," the attention and affection usually turn to neglect and rejection.

Large numbers of children are being raised in single-parent families. This is an ideal situation for the seduction-acquaintance child molester. Many working parents are desperate for affordable daycare and readily available babysitters. Many parents are not only **not** suspicious of adults who want to spend time with their children, but they welcome them. Parents should at least be suspicious of individuals who want to be together with their children for long periods of time. Beware of anyone who wants to be with your children more than you do.

### **Need to Defy Parents**

Many children, especially when they reach adolescence, go through a rebellious period. The child molester can exploit this to his advantage. Children who are victimized as a result of disobeying parental guidelines or rules will be reluctant to admit their error and may misrepresent the nature of their victimization. This is especially true of adolescent boys.

### **Children as Witnesses**

Many children are not believed when they report being sexually abused and may be subject to harassment in court. The truth is that children are not poor witnesses. Neither are they ideal witnesses. Although child witnesses have many of the same traits as adult witnesses, the criminal-justice system must make special allowances for the developmental stages of children. Information furnished by children must be evaluated and assessed like the information furnished by any other victim or witness. If possible, as an early step in this assessment, consideration should be given to having a young child victim or witness evaluated by an objective mental-health professional in order to determine the child's developmental progress. This information can be of assistance in evaluating the information and details furnished by the child; however, this is not always possible or practical.

### **Maligned Investigator**

Any law-enforcement officer assigned to the investigation of child sexual exploitation should be a volunteer, even if reluctant at first, who has been carefully selected and trained in this highly specialized work. This kind of work is not for everyone. Investigators must decide for themselves if they can deal with it. Just as importantly the investigators working these cases must monitor themselves continually. The strong emotional reactions provoked by this work and the isolation and prejudice to which they may expose the investigator can make this work "toxic" psychologically and socially.

*Any law-enforcement officer assigned to the investigation of child sexual exploitation should be a volunteer, even if reluctant at first, who has been carefully selected and trained in this highly specialized work.*

Law-enforcement officers investigating the sexual victimization of children must learn to cope with the stigma within law enforcement attached to sex crime and sexual-victimization-of-children investigations. Because there is so much ignorance about sex in-general and deviant sexual behavior specifically, fellow officers frequently joke about sex crime and vice investigators. This phenomenon is often most problematic for officers working child-sexual-exploitation cases especially in medium or small departments. Investigators frequently become isolated from their peer group because fellow officers do not want to hear about

child sexual exploitation. The "reward" for spending days reviewing seized child pornography and other collateral evidence is to become the brunt of jokes about their sexual interests.

This is a problem that supervisors as well as individual investigators must recognize and address. Investigators must be alert to the early warning signs of overexposure or stress. By using appropriate humor, limiting exposure, maintaining good physical fitness, nurturing and seeking peer support, and feeling a sense of self-accomplishment, the investigator can turn a job perceived as "dirty" into a rewarding assignment. A more detailed discussion of this problem is contained in a book chapter titled "The Maligned Investigator of Criminal Sexuality" (Lanning & Hazelwood, 2001).

### **Societal Attitudes**

As previously discussed in the "Introduction," society has a particularly difficult time dealing with cooperating child victims and acquaintance child molesters.

There are also several organizations in this country and around the world that openly voice a far different attitude about adult sex with children. The Rene Guyon Society, North American Man/Boy Love Association (NAMBLA), Pedophile Information Exchange (PIE), Child Sensuality Circle, the Pedo-Alert Network (PAN), and Lewis Carroll Collector's Guild are all examples of groups that at one time or another have openly advocated adult-child sex and changing the laws that make it a crime. These groups usually restrict their advocacy to "consenting" sexual activity with children and claim to be opposed to forced sex with children. Such groups move in and out of existence as active members come and go, but the attitudes persist.

In spite of the attention that many of these organizations have received in the past, it is doubtful that they have had any significant impact on public opinion in general within the United States. Their greatest threat to society, other than the criminal acts of individual members, is as a source of support and validation for child molesters and pedophiles. These groups and the material they publish help child molesters justify their behavior. Many pedophiles are openly proud of their behavior. In her outstanding article, "The Indignant Page: Techniques of Neutralization in the Publications of Pedophile Organizations," Dr. Mary De Young identifies the three neutralization techniques of such pedophiles as **denial of injury** (no harm done to child victim); **denial of the victim** (child deserved or brought on the behavior); and **appeal to higher loyalty** (insistence that behavior serves the interests of a higher principle such as liberation of children or artistic freedom) (De Young, 1988). To some extent the Internet has made such groups obsolete. One no longer needs to join NAMBLA to get active validation for a sexual attraction to children. People can go on the Internet anytime of the day and find hundreds of others willing to actively validate their commonly held perverted interests.

Interestingly a few academics, mental-health professionals, and sexologists express similar views. These so-called "experts" on human sexual behavior sometimes equate the existing laws that prohibit sex with children with laws that prohibit masturbation, fornication, and homosexuality. They advocate changing the laws so that children can choose their sexual partners freely, but under the guise of children's rights and freedom.

Also law-enforcement investigators must be prepared to deal with the fact that the identification, investigation, and prosecution of many child molesters may not be welcomed by their communities—especially if the molester is a prominent individual. Individuals may protest, and community organizations may rally to the support of the offender and even attack the victims. City officials may apply pressure to halt or cover up the investigation. Many law-enforcement supervisors, prosecutors, judges, and juries cannot or do not want to deal with the details of deviant sexual behavior. They will do almost anything to avoid these cases. Some federal judges believe cases involving sexual exploitation of children belong in state, not federal court. Some people would like to believe that downloading child pornography from the Internet is about “dirty” pictures that should be a private, not criminal matter.

As has been repeatedly stated, sympathy for victims is inversely proportional to their age and sexual development. We often focus on adolescent victims when we want volume and impact, but we do little to address the nature of their victimization. We want to view them as innocent children when they are sexually victimized, but then try them as fully accountable adults when they commit a violent crime. The greatest potential to worsen societal attitudes about child victims who comply in their sexual exploitation comes from societal attitudes about child offenders. If increasing numbers of younger and younger children are held fully accountable for their criminal behavior and tried in court as adults, it becomes harder and harder to argue that the “consent” of children of the same ages is irrelevant when they engage in sexual activity with adults.

The final frustration for the law-enforcement officer often comes in the sentencing of a convicted child molester. There are serious sex offenses, such as murder, torture, and sadistic rape, which are generally dealt with severely by the criminal-justice system. And there are nuisance sex offenses, such as indecent exposure and window peeping, which are generally dealt with lightly by the criminal-justice system. The problem is that the nonviolent sexual victimization of children involving seduction by acquaintance molesters is often dealt with as a nuisance offense. It is even worse if the “child” victim is actually an undercover law-enforcement officer who the offender only thought was a child. The bottom line is that society condemns child molestation in the abstract, but how it responds to individual cases depends on who the offender is, who the victim is, and whether the case fits their stereotypical ideas.

## Summary Quotes: "The Cliff Notes"

The essence of this publication can be summarized in the key quotes noted below.

*In general ... sexually victimized children need more people addressing their needs from the professional perspective and fewer from the personal and political perspectives.*

Page 2

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

Page 9

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

Page 12

*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.'*

Page 17

*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.*

Page 29

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

Page 37

*Parents should beware of anyone who wants to be with their children more than they do.*

Page 41

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

Page 55

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

Page 62

*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.*

Page 62

*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.*

Page 85

*Exploitation cases involving computers present many investigative challenges, but they also present the opportunity to obtain a great deal of corroborative evidence and investigative intelligence.*

Page 91

*Because of [the] validation process and the fueling of sexual fantasy with online pornography, I believe that some individuals with potentially illegal, but previously latent sexual preferences have begun to criminally 'act out.' Their inhibitions are weakened after their arousal patterns are fueled and validated through online computer communication.*

Page 96

*With multiple victims, no one victim should have to bear the total burden of proof, and cases should rarely, if ever, be severed for prosecution.*

Page 101

*The idea that some children might enjoy certain sexual activity or behave like human beings and engage in sexual acts as a way of receiving attention, affection, gifts, and money is troubling for society and many investigators.*

Page 103

*Investigators must stop looking at child sexual exploitation through a keyhole—focusing only on one act by one offender against one victim on one day. Law enforcement must 'kick the door open' and take the 'big-picture' approach—focusing on offender typologies, patterns of behavior, multiple acts, multiple victims, child pornography, and proactive techniques.*

Page 103

*Children are not adults in little bodies. Children go through developmental stages that must be evaluated and understood. In many ways, however, children are no better or worse than other victims or witnesses of a crime. They should not be automatically believed or dismissed.*

Page 109

*Because their molestation of children is part of a long-term persistent pattern of behavior, preferential sex offenders are like human evidence machines.*

Page 117

*Any law-enforcement officer assigned to the investigation of child sexual exploitation should be a volunteer, even if reluctant at first, who has been carefully selected and trained in this highly specialized work.*

Page 140

**Last and most importantly**

*Regardless of intelligence and education, and often despite common sense and evidence to the contrary, adults tend to believe what they want or need to believe. The greater the need, the greater the tendency.*

Page 102

## Appendix I: References

- American Psychiatric Association (2000). *Diagnostic and statistical manual of mental disorders (4th ed)*. Text Revision. Washington, DC.
- Burgess, A.W. (Ed.) (1984). *Child pornography and sex rings*. Lexington, MA: Lexington Books.
- DeBellis, M., Lefter, L., Trickett, P., & Putnam, F. (1994). Urinary catecholamine excretion in sexually abused girls. *Journal of the American Academy of Child and Adolescent Psychiatry*, 33, 320-327.
- De Young, M. (1988). The indignant page: Techniques of neutralization in the publications of pedophile organizations. *Child Abuse and Neglect*, 12, 583-591.
- Dietz, P.E. (1983). Sex offenses: Behavioral aspects. In S.H. Kadish et al. (Eds.), *Encyclopedia of crime and justice*. New York: Free Press.
- Feldman, M.D., & Ford, C.V. (1994). *Patient or pretender*. New York, NY: John Wiley & Sons.
- Hartman, C.R., Burgess, A.W., & Lanning, K.V. (1984). Typology of collectors. In Ann Wolbert Burgess (Ed.), *Child pornography and sex rings* (pp. 93-109). Lexington, MA: Lexington Books.
- Hazelwood, R.R., & Lanning, K.V. (2001). Collateral materials in sexual crimes. In R.R. Hazelwood & A.W. Burgess (Eds.), *Practical aspects of rape investigation (3rd ed)* (pp. 221-232). Boca Raton, FL: CRC Press.
- Hazelwood, R.R., & Warren, J.I. (2001). The sexually violent offender: impulsive or ritualistic. In R.R. Hazelwood & A.W. Burgess (Eds.), *Practical aspects of rape investigation (3rd ed)* (pp. 97-113). Boca Raton, FL: CRC Press.
- Hunter, J.A. (2001). The sexual crimes of juveniles. In R.R. Hazelwood & A.W. Burgess (Eds.), *Practical aspects of rape investigation (3rd ed)* (pp. 401-419). Boca Raton, FL: CRC Press.
- Jenny, C. (2002). Medical issues in child sexual abuse. In Myers, J.E.B., Berliner, L., Briere, J., Hendrix, C.T., Jenny, C., & Reid, T.A. (Eds.), *APSAC handbook on child maltreatment (2nd ed)* (pp. 235-248). Thousand Oaks, CA: Sage.
- Lanning, K.V. (1986). *Child molesters: A behavioral analysis*. Alexandria, VA: National Center for Missing & Exploited Children.
- Lanning, K.V. (1987). *Child molesters: A behavioral analysis (2nd ed)*. Alexandria, VA: National Center for Missing & Exploited Children.

- Lanning, K.V. (1992a). *Child molesters: A behavioral analysis (3rd ed)*. Alexandria, VA: National Center for Missing & Exploited Children.
- Lanning, K.V. (1992b). *Child sex rings: A behavioral analysis (2nd ed)*. Alexandria, VA: National Center for Missing & Exploited Children.
- Lanning, K.V. (1992c). *Investigator's guide to allegations of "ritual" child abuse*. Quantico, VA: U.S. Department of Justice.
- Lanning, K.V., & Burgess, A.W. (1995). *Child molesters who abduct*. Alexandria, VA: National Center for Missing & Exploited Children.
- Lanning, K.V. (1996). The "witch hunt," the "backlash," and professionalism. In *The apsac advisor*, V. 9-n.4, 8-11.
- Lanning, K.V., & Hazelwood, R.R. (2001). The maligned investigator of criminal sexuality. In R.R. Hazelwood & A.W. Burgess (Eds.), *Practical aspects of rape investigation (3rd ed)* (pp. 243-257). Boca Raton, FL: CRC Press.
- Myers, J.E.B., & Stern, P. (2002). Expert testimony. In Myers, J.E.B., Berliner, L., Briere, J., Hendrix, C.T., Jenny C., & Reid, T.A. (Eds.), *APSAC handbook on child maltreatment (2nd ed)* (pp. 379-402). Thousand Oaks, CA: Sage.
- Saywitz, K.J., Goodman, G.S., & Lyon, T.D. (2002). Interviewing children in and out of court: Current research and practice implications. In Myers, J.E.B., Berliner, L., Briere, J., Hendrix, C.T., Jenny C., & Reid, T.A. (Eds.), *APSAC handbook on child maltreatment (2nd ed)* (pp. 349-378). Thousand Oaks, CA: Sage.
- U.S. Department of Justice (1993). *Joint investigations of child abuse: Report of a symposium*. Washington, DC.
- U.S. Department of Justice (2000). *Attorney general guidelines for victim and witness assistance*. Washington, DC.
- Warren, J.I., & Hislop, J. (2001). Female sex offenders: A typological and etiological overview. In R.R. Hazelwood & A.W. Burgess (Eds.), *Practical aspects of rape investigation (3rd ed)* (pp. 421-434). Boca Raton, FL: CRC Press.

## Appendix II: The Investigator's Basic Library

The 10 publications noted below are recommended for inclusion in the basic reference library of a law-enforcement investigator of sexual victimization of children.

Goodman, G.S., & Bottoms, B.L. (Eds.) (1993). *Child victims, child witnesses: Understanding and improving testimony*. New York: Guilford.

Hazelwood, R.R., & Burgess, A.W. (Eds.) (2001). *Practical aspects of rape investigation (3rd ed)*. Boca Raton, FL: CRC Press.

Heger, A., & Emans, S.J. (1992). *Evaluation of the sexually abused child: A medical textbook and photographic atlas*. New York: Oxford University Press.

Myers, J.E.B. (1998). *Legal issues in child abuse and neglect practice (2nd ed)*. Thousand Oaks, CA: Sage.

Myers, J.E.B., Berliner, L., Briere, J., Hendrix, C.T., Jenny, C., & Reid, T.A. (Eds.) (2002). *APSAC handbook on child maltreatment (2nd ed)*. Thousand Oaks, CA: Sage.

Ney, T. (Ed.) (1995). *True and false allegations of child sexual abuse*. New York: Brunner/Mazel.

Office of Juvenile Justice and Delinquency Prevention (1996-1999). *Portable guides to investigating child abuse*. Washington DC: U.S. Department of Justice.

Pence, D., & Wilson, C. (1994). *Team investigation of child sexual abuse: The uneasy alliance*. Thousand Oaks, CA: Sage.

Poole, D., & Lamb, M. (1998). *Investigative interviews of children*. Washington, DC: American Psychological Association.

Stern, P. (1997). *Preparing and presenting expert testimony in child abuse litigation*. Thousand Oaks, CA: Sage.

## National Center for Missing & Exploited Children

The National Center for Missing & Exploited Children (NCMEC), established in 1984 as a private, nonprofit organization, serves as a clearinghouse of information on missing and exploited children; provides technical assistance to individuals and law-enforcement agencies; offers training programs to law-enforcement and social-service professionals; distributes photographs and descriptions of missing children worldwide; coordinates child-protection efforts with the private sector; networks with nonprofit service providers and state clearinghouses on missing-person cases; and provides information on effective legislation to help ensure the protection of children per 42 USC § 5771 and 42 USC § 5780.

A 24-hour, toll-free telephone line is available for those who have information on missing and exploited children at **1-800-THE-LOST** (1-800-843-5678). This toll-free number is available throughout the United States and Canada. The toll-free number when dialing from Mexico is 001-800-843-5678, and the "phone free" number when dialing from Europe is 00-800-0843-5678. The CyberTipline is available for online reporting of these crimes at [www.cybertipline.com](http://www.cybertipline.com). The TDD line is 1-800-826-7653. The NCMEC business number when dialing within the United States is 703-274-3900, and the facsimile number is 703-274-2200. The business number when dialing from any other country is 001-703-522-9320.

For information on the services offered by our NCMEC branches, please call them directly in California at 714-508-0150, Florida at 561-848-1900, Kansas City at 816-756-5422, New York at 716-242-0900, and South Carolina at 803-254-2326.

A number of publications addressing various aspects of the missing- and exploited-child issue are available free of charge in single copies by contacting the National Center for Missing & Exploited Children's Publications Department.



Charles B. Wang International Children's Building  
699 Prince Street  
Alexandria, Virginia 22314-3175  
[www.missingkids.com](http://www.missingkids.com)



Printed on Recycled Paper

# Compliant Child Victims: Confronting an Uncomfortable Reality

By

**Kenneth V. Lanning**  
(FBI Retired)

*2/6/02: A 41-year-old man was arrested at a shopping center on Monday night after a security guard allegedly saw him molesting a teenager in a mall restroom. County police said the man grabbed a 14-year-old boy about 6:00 p.m. Police said the boy was held in the restroom against his will. A security guard on his regular rounds walked into the restroom as the man was molesting the boy. The man was arrested and charged with abduction and forcible sodomy.*

*2/8/02: A 14-year-old boy who told police that he was molested in a mall restroom at a shopping center on Monday was charged with filing a false report after police determined that his contact with the stranger was **consensual** (emphasis added). County police said yesterday that the boy originally reported that he had been held in the restroom against his will and molested. Detectives later learned that the boy was not abducted and agreed to the sexual contact. The man was arrested at the time and now faces charges of unlawful carnal knowledge after police dropped charges of abduction and forcible sodomy.*

*2/22/02: "A child does whatever it takes to be noticed, and if he can get more attention for bad behavior than for good behavior, he's going to behave badly." (Response concerning 4-year-old boy, Family Almanac, Style Section)*

*3/1/02: "California's highest court upheld a voter-approved measure that was designed to crack down on juvenile crime by, among other things, letting prosecutors decide whether to try children as adults."*

(The above narratives were adapted from articles that appeared in the *Washington Post* and are included here only to typify issues discussed and to stimulate discussion.)

REPRINT

Published in the "APSAC Advisor"  
Volume 14, No 2 (Spring 2002)

In this discussion, the term *compliant* will be used to describe those children who cooperate in or "consent" to their sexual victimization. Because children cannot legally consent to having sex with adults, this compliance should not in any way alter the fact that they are victims of serious crimes. The term *compliant* is being used because at this time I cannot think of a better one. For the sake of child victims and professional interveners, it is important to bring out into the open possible reasons for and the complexity and significance of this compliance.

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. For many child advocates and professionals in the field (*i.e.*, police, prosecutors, social workers, physicians, therapists), the sexual victimization of children 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 be children molested by family members. For the public, however, the "default setting" seems to be stranger abduction. To them, child molesters for the most part are sexually perverted strangers 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 even professionals 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 access to children. 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. For example, it confuses us to see the victims in child pornography giggling or laughing.

### **Pitfalls in Understanding the Compliant Child Victim**

The sexual victimization of children by family members and by "strangers" can, of course, involve compliant child victims. In my experience, however, this compliance occurs most often in cases involving children sexually victimized by adult acquaintances. In other words, stranger offenders can use trickery to initially lure their child victims, but they tend to control them more through confrontation, threats of force, and physical force. Likewise, intrafamilial offenders tend to control their victims more through their private access and family authority. The concept of child compliance is obviously much harder to define and evaluate when the offender is a parent.

In contrast, acquaintance child molesters, although sometimes violent, tend by necessity 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 age 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 easily identified and likely to be quickly reported to law enforcement, but an acquaintance molester who seduces his victims can sometimes go unreported for 30 years or more. The greater the skill in selecting and seducing vulnerable victims, the more successful the acquaintance molester. For this discussion, the determination of who is an "acquaintance" child molester 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. An offender who is a stepfather, for example, might be an acquaintance molester who used "marriage" just to gain access to children.

One of the unfortunate outcomes of society's preference for the "stranger-danger" concept has a direct impact on intervention into many acquaintance-sexual-exploitation cases. It is what I call, "say no, yell, and tell" guilt. This is the result of societal attitudes and prevention programs that focus only on "unwanted" sexual activity and tell potential child victims to avoid sexual abuse by saying no, yelling, and telling. This technique might work with the stranger lurking behind a tree, but 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 sometimes feel a need to describe their victimization in more socially acceptable but inaccurate ways that relieve them of this guilt.

Advice to prevent sexual exploitation of children by adult acquaintances is very complex and difficult to implement. How do you warn children about offenders 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, physical, and sexual needs? Will parents, society, and professionals 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" and "good touch/bad touch" would be applied differently to a stranger, parent, teacher or physician.

Children at an early age learn to manipulate their environment to get what they want. Almost all children seek attention and affection. Children, especially adolescents, are often interested in and curious about sexuality and sexually explicit material. In today's world, they will sometimes use their computer and online access to actively seek out such material. They are moving away from the total control of parents and trying to establish new relationships outside the family.

In almost all criminal cases I know of where an adolescent left home to personally met with an adult they had first met online, they did so **voluntarily** in the hope they were going to have sex (not to get help with their homework) with someone they felt they **knew** and who cared about them. In spite of this reality, prevention material dealing with online child safety continues to repeatedly warn only about not talking to strangers and advise children to tell their parents if someone they meet online makes them feel uncomfortable. Is it realistic or even accurate to suggest that someone you regularly communicate with for weeks or months is a "stranger" just because you have not met them in person? Further, ask any adult what was the number one thing on their mind when they were

adolescents and the answer is always the same: sex. Yet parents seem to want to believe their children are asexual and, I suppose, children want to believe their parents are asexual.

Both halves of this problem must be recognized, understood, and addressed if these cases are going to be effectively investigated, prosecuted, and prevented. We must understand that the offenders often are "nice guys" who typically sexually exploit children by befriending and seducing them. Equally important, we must also understand that the child victims are 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 little or no criminal-justice significance.

In theory, the law recognizes the developmental limitations of children 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, trickery, 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 it. 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. The sad reality is, nonetheless, that such victim behavior does have significance in the perception of society and in the "real world" of the criminal justice system.

Society's lack of understanding and acceptance of the reality of compliant child victims often results in the following:

1. Victims failing to disclose and even denying their victimization
2. Incomplete, inaccurate, distorted victim disclosures when they do happen
3. Lifetime of victim shame, embarrassment, and guilt
4. Offenders being able to have numerous victims over an extended period of time
5. Ineffective prevention programs that also make the first four problems even worse

This discussion intends to cast some light on the issue and encourage dialogue to address and improve this situation for the benefit of the victims and interveners. Although society has become increasingly more aware of the problem of the acquaintance molester and related problems, such as child pornography and the use of computers, a voice still persists that calls the public to focus only on "stranger danger" and calls many child-abuse professionals to focus only on intrafamilial sexual abuse. This narrow focus often leads to a misperception of the entire spectrum of the sexual victimization of children.

## Mixed Definitions

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 *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*.

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?

There clearly can be a conflict between the law and society's viewpoint when it comes to defining a *child*. Many people using the term *sexual abuse of children* have a mental image of children 12 or younger. The main problem, therefore, is often 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. There can be national, cultural, and ethnic variations in attitudes about who is a child. 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 acquaintance sexual-exploitation cases the victim is a boy between the ages of 10 and 16.

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. To legally determine who is a child, investigators and prosecutors turn to the law. That is, 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 other professionals, juries, and society as a whole. In general, a *child* will be defined for this discussion 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 like 6-year-old children.

## Issues About Age of Consent

In the early 1980s, an infamous case involved a judge who sentenced an adult convicted of child molestation to a minimal sentence because the judge felt the 5-year-old victim was "sexually promiscuous." Society and professionals were 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. Of course, this is more likely the **result** of some maltreatment, not the cause. Instead, we should have been outraged because it makes no difference whether or not the 5-year-old child was sexually promiscuous, a fact that 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. For example, those interested in minimizing such sexual activity might emphasize referring to the victims as *minors* rather than as *children*.

In sex crimes, the fundamental legal difference between victimization of an adult and a child is the issue of **consent**. In cases of sexual activity between adults, with a few rare exceptions, a lack of consent must be established for there to be a crime. In sexual activity between children and adults, a crime can exist 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 do the following: 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 or girlfriend?

In the United States, society and criminal investigators and prosecutors 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 compliant child victims may inaccurately claim they were asleep, drunk, drugged, or abducted in part to meet these lack of consent criteria and in part to avoid embarrassment.

Sexual-victimization cases in which the child victim is not forced or threatened and cooperates or "consents" are more troubling and harder for society and investigators to deal with. If such victims were adults, there usually would not even be a crime. 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 consent cases where the victim can explain that the cooperation was due to some general fear or ignorance about the nature of the activity. That is, the child was afraid to tell or did not understand what was happening. 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 on this preference scale are the cases in which the victim was willing to trade "sex" for attention and affection. Much less acceptable are cases in which the child willingly traded sex for material rewards (e.g., clothes, shoes, trips) or money (*i.e.*, prostitution). Almost totally unacceptable are cases in which the child engaged in the sexual activity with an adult because the child enjoyed the sex. In fact, 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. Although any of these reasons for compliance are possible, many seduced child victims inaccurately claim they were afraid, ignorant, or indoctrinated in part to meet these societal preferences for cooperation and in part to avoid embarrassment. Many victims 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 children.**

A young adolescent boy appearing on a television talk show focusing on the topic of sexual victimization of child athletes by their adult coaches was asked by the host why the abuse went on for so long without him telling anyone. The boy, who had been nonviolently seduced by his coach, answered that he was frightened of his coach. Although seemingly inconsistent with the facts, everyone gladly accepted and applauded his answer. What would have been the reaction of the television host and the audience had the boy provided more plausible answers, such as he did not tell because by having sex with the coach he got to play more or because he enjoyed the sex? Such answers are reasonable and perfectly understandable and should not change the fact that the boy was the victim of a crime. Maybe anticipation of society's response and not the molester is what most "frightened" the boy into not telling sooner.

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. The offender, the victim, or the intervener may perceive what constitutes compliance differently. Investigators and prosecutors always need to attempt to determine what actually happened, not attempt 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, individuals 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 and prosecutors 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 their 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, however, seems to prefer to believe that children are pure and innocent. Child abuse conferences often have subtitles such as "Betrayal of Innocence." Bags with children's endearing crayon drawings on them are distributed to attendees to carry handout material. The FBI's national initiative on computer exploitation of children is named "Innocent Images." This preference for idealistic innocence persists in spite of the fact that anyone who has spent time with children, even infants and toddlers, knows they quickly and necessarily learn to manipulate their environment to get what they want.

Many children have only a vague or inaccurate concept of "sex." They 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 and sexual development. 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* (7<sup>th</sup> 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" victim and an "adult" offender in the criminal-justice system?

## Offender-Victim Bond

Because victims of acquaintance exploitation usually have been carefully seduced and often do not realize or believe 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 neighbor, teacher, or clergy member molests a boy, why does he "allow" it to continue and not immediately report it? Most likely he may not initially realize or believe 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, and the offender may be treating them better than anyone else ever has. But, they may come to realize they are victims when the offender ends the relationship. Then they recognize that all the attention, affection, and gifts were just part of a plan to use and exploit them. This may be the final blow for a troubled child who has had a difficult life.

Many 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. Victims not only do not disclose, but they often 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 on his behalf were also among his victims.

In my experience, the most common reasons that compliant 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 the belief they are not really victims.** Because 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 risks significant ridicule by his peers and lack of acceptance by his family.

These seduced or compliant child victims obviously do sometimes disclose, often because the sexual activity is discovered (*e.g.*, abduction by offender, recovered child pornography, overheard conversations) or suspected (*e.g.*, statements of other victims, association with known sex offender, proactive investigation), after which an intervener confronts them. Others disclose because the offender misjudged them, got too aggressive with them, or is seducing a younger sibling or their close friend. Compliant 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 new, younger victim. They sometimes disclose because the abuse has ended, not to end the abuse.

In addition some compliant victims do not want the perpetrator prosecuted or sent to prison. At sentencing, they may even write a letter to the judge indicating their "consent" in the sexual activity and expressing their love for the defendant. Should such a letter get the same consideration as a letter from a victim requesting harsh punishment?

## Children Never Lie?

The available evidence suggests that children rarely lie about sexual victimization, if a *lie* is defined as a statement deliberately and maliciously intended to deceive. If children in these cases do lie, it may be because factors such as shame or embarrassment over the nature of the victimization increase the likelihood that they misrepresent the sexual activity. Seduced victims sometimes lie to make their victimization more socially acceptable or to please an adult's concept of victimization. Occasionally children lie because they are angry and want to get revenge on somebody. Some children, sadly, lie about sexual victimization to get attention and forgiveness. A few children may even lie to get money or as part of a lawsuit. This can sometimes be influenced by pressure from their parents. Objective investigators must consider and evaluate all these possibilities. It is extremely important to recognize, however, that because children might lie about part of their victimization does not mean that the entire allegation is necessarily a lie and they are not victims. Acquaintance-exploitation cases often involve complex dynamics and numerous incidents that often make it difficult to say an allegation is all true or all false.

An important part of the evaluation and assessment of allegations of sexual victimization of children is comparing the consistency of allegations: 1) among *what* multiple victims allege to have happened and 2) between *what* is alleged and *who* is suspected of doing it is. If a victim describes his or her victimization as involving what clearly sound like the behavior patterns of a certain type of sex offender, then the fact that the alleged offender fits that pattern is corroborative. If he does not, there is an inconsistency that needs to be resolved. The inconsistency could be because the alleged *what* is inaccurate (*e.g.*, distorted account from victim, insufficient details), the suspected *who* has been misevaluated (*e.g.*, incomplete background, erroneous assessment), or the alleged *who* is innocent (*e.g.*, suspect did not commit alleged crime). In my experience, distorted accounts from victims are frequently caused or influenced by various interveners (*e.g.*, therapists, physicians, parents, law enforcement) who are unwilling to nonjudgmentally accept the reality of the nature of the actual molestation of children. Instead, they influence, pressure, or lead the children to describe the victimization in a way that fits their agenda or needs and in the process destroy the prosecutive potential of a valid case.

## Understanding the Seduction Process

Most compliant child victims were courted, groomed, or seduced over time by an adult. True understanding of this process must be incorporated into the intervention of these cases. For example, pediatricians or therapists who only discuss forced or unwanted sexual activity with their patients are potentially missing a significant area of sexual victimization of children. Because a child wanted to have sex with an adult, does not mean it is not abuse and a crime. After understanding the seduction process, the intervener must be able to communicate this understanding to the victim. This is the difficult part.

Interveners need to be careful about asking questions that communicate a judgment about the

nature of the victimization (e.g., How scared were you? When did he threaten you? Is it hard to remember such terrible things?). If *why* questions are asked (e.g., Why didn't you immediately tell? Why didn't you resist? Why did you return to the offender? Why are you smiling in this photograph?), every effort should be made to communicate to the victim that **any** truthful answer is acceptable, including "because I enjoyed it."

Interveners must understand and learn to deal with the incomplete and contradictory statements of seduced victims of acquaintance molesters. The dynamics of their victimization must be considered. Any behavior of victims must be understood and evaluated in the context of the entire process. Compliant victims are embarrassed and ashamed of their behavior and correctly believe that society will not understand their victimization. Many younger child victims are most concerned about the response of their parents and often describe their victimization in ways they believe will please their parents. Adolescent victims are typically also concerned about the response of their peers. Victims and their families from higher socioeconomic backgrounds may be even more concerned about the public embarrassment of any disclosure. Interveners who have a stereotyped concept of child-sexual-abuse victims or who are accustomed to interviewing younger children molested within their family will have a difficult time interviewing adolescents seduced by an acquaintance. Many of these victims will be street-wise, troubled, or even delinquent children from dysfunctional homes. Such victims should not be blindly believed, but should not be dismissed because the accused is a pillar of the community and they are delinquent or troubled. Such allegations should be objectively investigated and evaluated.

Some victims will continue to deny their victimization no matter what the interviewer says or does. Some children even deny victimization that the offender has admitted or other evidence clearly discloses. Some will make admissions but minimize the quality and quantity of the acts. They may minimize their compliance and maximize the offender's involvement by claiming he drugged them, threatened them, had a weapon, or had even abducted them. Of course some of these allegations may be accurate and should be investigated. They are, however, not typical of acquaintance-exploitation cases. Violence is most likely used to prevent disclosure. Sadistic offenders may also use violence during sex, but this is relatively rare in cases involving seduction. As previously mentioned, these potential inaccuracies in the details of the allegations of seduced victims may explain some of the inconsistencies between the alleged *what* and the suspected *who*.

The intervener must communicate to the victim that he or she is not at fault even though the victim did not say "no," did not fight, did not tell, initiated the sex, or even enjoyed it. When the victim comes to believe that the intervener understands what he experienced, he or she is more likely to talk. Victims often reveal the details little by little, testing the intervener's response. The intervener must recognize and sometimes allow the victim to use face-saving scenarios when disclosing victimization. As stated, such victims might claim they were confused, tricked, asleep, drugged, drunk, or tied up when they were not. Adolescents, who pose special challenges for the interviewer, use these face-saving devices most often. The intervener must accept the fact that even if a victim discloses, the information is likely to be incomplete, minimizing his or her involvement and acts. Some of these victims simply do not believe they were victims.

In the absence of some compelling special circumstance or requirement, the interview of a child possibly seduced by an acquaintance molester should **never** be conducted in the presence of parents. The presence of the parent increases the likelihood that the child will just deny or give the socially or parentally acceptable version of the victimization. This is especially true of younger victims.

Some victims in acquaintance-child-exploitation cases disclose incomplete and minimized information about the sexual activity that is contradicted by further investigation. This creates significant problems for the investigation and prosecution of such cases. For instance, when the investigator finally gets a victim to disclose the exploitation and abuse, the victim furnishes a version of his victimization that he or she swears is true. Subsequent investigation then uncovers additional victims, child pornography, or computer chat logs and other records--directly conflicting with the first victim's story. A common example of this is that the victim admits the offender sucked his penis, but denies that he sucked the offender's penis. The execution of a search warrant then leads to the seizure of photographs of the victim sucking the offender's penis. Additional victims may also confirm this, but then lie when they vehemently deny that they did the same thing.

The allegations of multiple victims often conflict with each other. Each victim tends to minimize their behavior and maximize the behavior of other victims or the offender. Some victims continue to deny the activity even when confronted with the pictures. Today, investigators must be especially careful in computer cases where easily recovered chat logs, records of communication, and visual images may directly contradict the socially acceptable version of events that the victim is now giving. In my experience, the primary reason compliant child victims furnish these false and misleading details about their victimization is their correct recognition that society does not understand or accept the reality of their victimization. This happens so often that distorted and varying details in such cases are almost corroboration for the validity of the victimization.

### Can We Come To Conclusions?

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 one of the easiest victims of sexual 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.

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 should be an issue only for adult victims.

As has been stated, sympathy for victims is inversely proportional to their age and sexual development. We often focus on adolescent victims when we want volume and impact, but we do little to address the nature of their victimization. We want to view them as innocent children when they are sexually victimized, but then try them as fully accountable adults when they commit a violent crime. The greatest potential to worsen societal attitudes about child victims who comply in their sexual exploitation comes from societal attitudes about child offenders. If increasing numbers of ever younger children are held fully accountable for their criminal behavior and tried in court as adults, it becomes harder and harder to argue that the "consent" of children of the same ages is irrelevant when they engage in sexual activity with adults.

The reality of compliant child victims is subtly and discreetly dealt with everyday in this country by investigators, prosecutors, judges, juries, and others. Some professionals feel that this controversy is best dealt with by overtly pretending that it really does not exist. They believe that to explicitly admit or discuss it would be harmful to child victims. Many would certainly object to the use of a term or label like *compliant child victim*. I believe, however, that this reality must be openly recognized, discussed, and addressed. We cannot continue to hold increasing numbers of ever younger juveniles accountable as adults for their criminal behavior and simultaneously argue that their consent to engage in sexual behavior does not matter. I have come to believe the best way to deal with the problem is to change, not fuel, people's unrealistic expectations about the sexual victimization of children. The criminal sexual assault of an adult is, by definition, almost always violent. The criminal sexual assault of a child may or may not be violent. Unfortunately, too many lay people and even professionals hearing terms such as *sexual assault* or *rape* in the sexual victimization of children seek out or expect evidence of physical violence.

In this discussion, I have focused primarily on the problems (i.e., false denials, delayed disclosures, incomplete and inaccurate details, etc.) that compliant child victims present for the criminal justice system. I believe, however, such victims also present considerable problems and challenges for therapists, physicians, social workers, and other professionals. Awareness and prevention programs that focus on recognizing evil sexual "predators" and "pedophiles" and on advising victims to say "no," yell, and tell are not only ineffective in preventing compliant victimization, but they also make the problem worse. Such programs decrease the likelihood of victim disclosure and increase the shame and guilt of such victims. In almost every case involving compliant child victims that I have evaluated, true victims have had to distort varying aspects of their victimization in statements to parents, investigators, therapists, physicians, attorneys, and the court. Each subsequent statement often requires increasing deceptions to defend the previous ones. What are the long-term emotional and psychological consequences for child victims who are exposed to prevention and awareness programs that seem to deny the reality of their victimization or who must distort, misrepresent, and lie about what actually happened to them in order to have it accepted as "real" victimization?