

NATIONAL
CENTER FOR



**MISSING &
EXPLOITED**

C H I L D R E N[®]



National Center for Missing & Exploited Children[®]

Analytical and Legal Resources for Prosecutors

Association of State Prosecutors
Webinar
May 30, 2014

- Introduction to NCMEC
- NCMEC Resources
 - Exploited Children Division
 - Missing Children Division
 - Case Analysis Division
 - Office of Legal Counsel
 - Other resources

Serves as the U.S. resource center for issues of missing and sexually exploited children

Was founded in 1984

Is a private, nonprofit organization

Designated by Congress to perform specific duties pertaining to missing and exploited children

**Learn more at
www.missingkids.com**



NCMEC Programs and Services

- 24-hour, toll-free hotline:
1-800-THE-LOST (1-800-843-5678)
- Missing Children Division
- Family Abduction Unit
- Forensic Services Unit
- Age enhancement, facial reconstruction and imaging identification services
- www.missingkids.com
- Photo and poster distribution
- Project ALERT®
- Team Adam
- Case Analysis Division
- Sex Offender Tracking Team
- Infant Abduction Prevention Program
- Exploited Children Division
- Child Victim Identification Program®
- CyberTipline® at www.cybertipline.com
- Child protection and prevention education
- AMBER Alert
- Family Advocacy Division
- Training and Outreach
- Public Relations
- Corporate partnerships
- NetSmartz® Workshop
- Legal technical assistance

- NCMEC serves as the central repository in the U.S. for information related to child pornography reports
- Two core ECD programs
 - CyberTipline[®]
 - Child Victim Identification Program[®]

- Child pornography
- Online enticement of children for sexual acts
- Prostitution of children
- Child sexual molestation
- Child sex tourism
- Unsolicited obscene material sent to a child
- Misleading domain names
- Misleading words/digital images

MAKE A REPORT

CYBER TIPLINE
www.cybertipline.com
1-800-843-5678

CHILD PORNOGRAPHY TIPLINE
1-800-843-5678

Please contact us if you have information to help in the fight against child sexual exploitation. Your information will be forwarded to law enforcement for investigation and review and, when possible, to the appropriate Electronic Service Provider(s).

Watch the CyberTipline Video

The CyberTipline

Reporting Categories

Congressionally Mandated CyberTipline Reporting Categories

Possession, Manufacture, and Distribution of Child Pornography
Child pornography is defined as a visual depiction of a minor under the age of 18 engaged in sexually explicit conduct (18 U.S.C. 2256). It is a federal crime to possess, manufacture and/or distribute child pornography (18 U.S.C. 2251 et seq.).

Online Enticement of Children for Sexual Acts
It is a federal crime to use the Internet to knowingly persuade, induce, entice, or coerce a child under the age of 18 to meet for sexual acts, or to attempt to arrange such a meeting (18 U.S.C. 2422(b)).

Child Prostitution
It is a federal crime to knowingly recruit, entice, harbor, transport, provide or obtain by any means a child under the age of 18 to engage in a commercial sex act. It is also illegal to benefit, either financially or by receiving anything of value, from participation in a child prostitution venture (18 U.S.C. 1591).

Sex Tourism Involving Children
It is a federal crime for a U.S. citizen to travel abroad intending to engage in sexual activity with a child younger than 18 that would be illegal if it occurred in the U.S. (18 U.S.C. 2423). Individuals who commit these crimes are subject to prosecution in the U.S. even if the crime was committed on foreign soil.

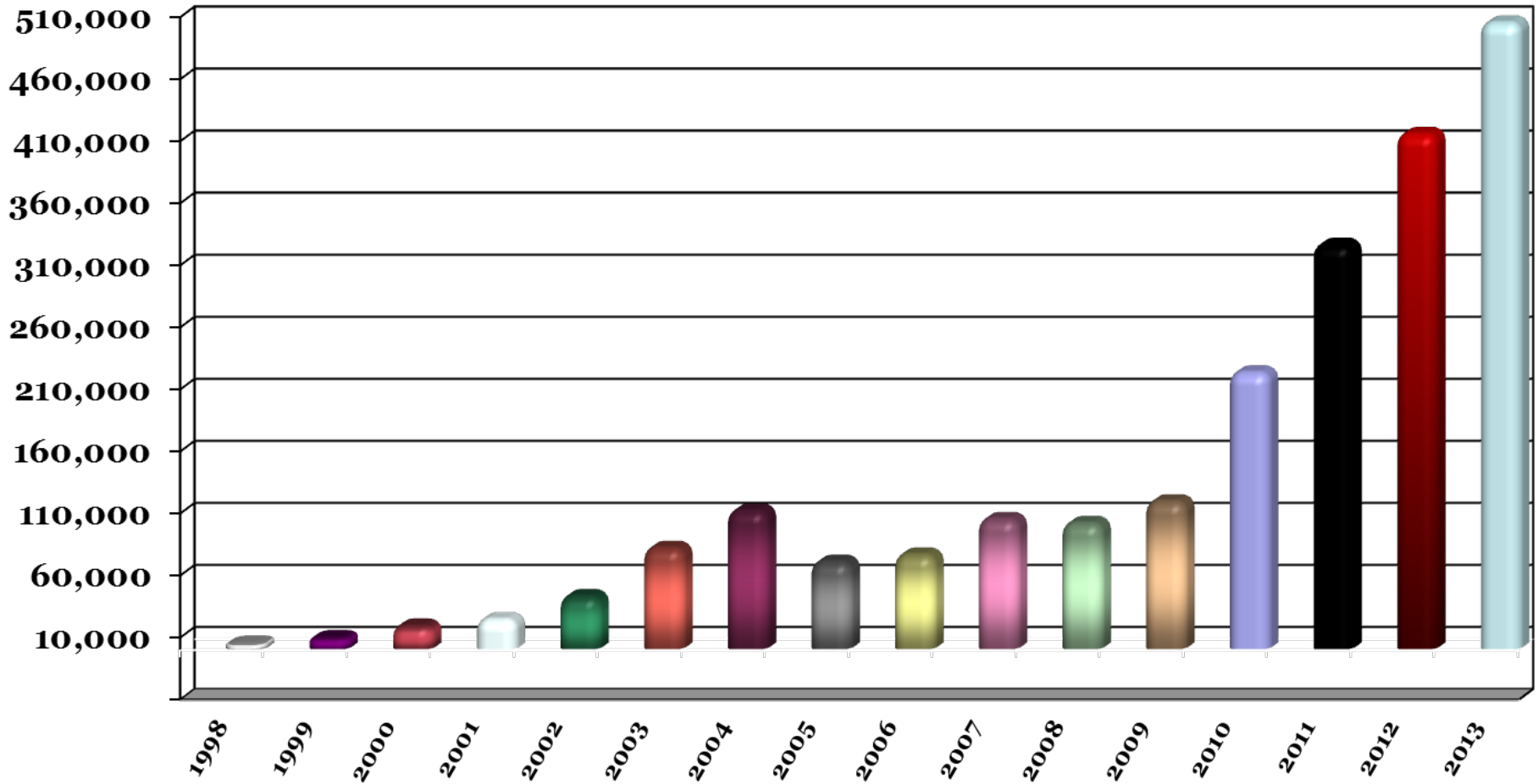
Extrafamilial Child Sexual Molestation
Extrafamilial child sexual molestation is the sexual molestation of a child by someone other than a family member.

Unsolicited Obscene Material Sent to a Child
It is a federal crime to send obscene material to a child under the age of 16 if the sender knows that the recipient is under the age of 16 (18 U.S.C. 1470). Adults concerned about adult obscenity not involving children on the Internet should make a report to www.obscenitycrimes.org.

Misleading Domain Names
It is a federal crime to knowingly use a misleading domain name on the Internet with the intent to deceive a minor into viewing material that is harmful to minors (18 U.S.C. 2252B(b)).

Misleading Words or Digital Images on the Internet
It is a federal crime to knowingly embed words or digital images into the source code of a website with the intent to deceive a minor into viewing material that is harmful to minors (18 U.S.C. 2252C).

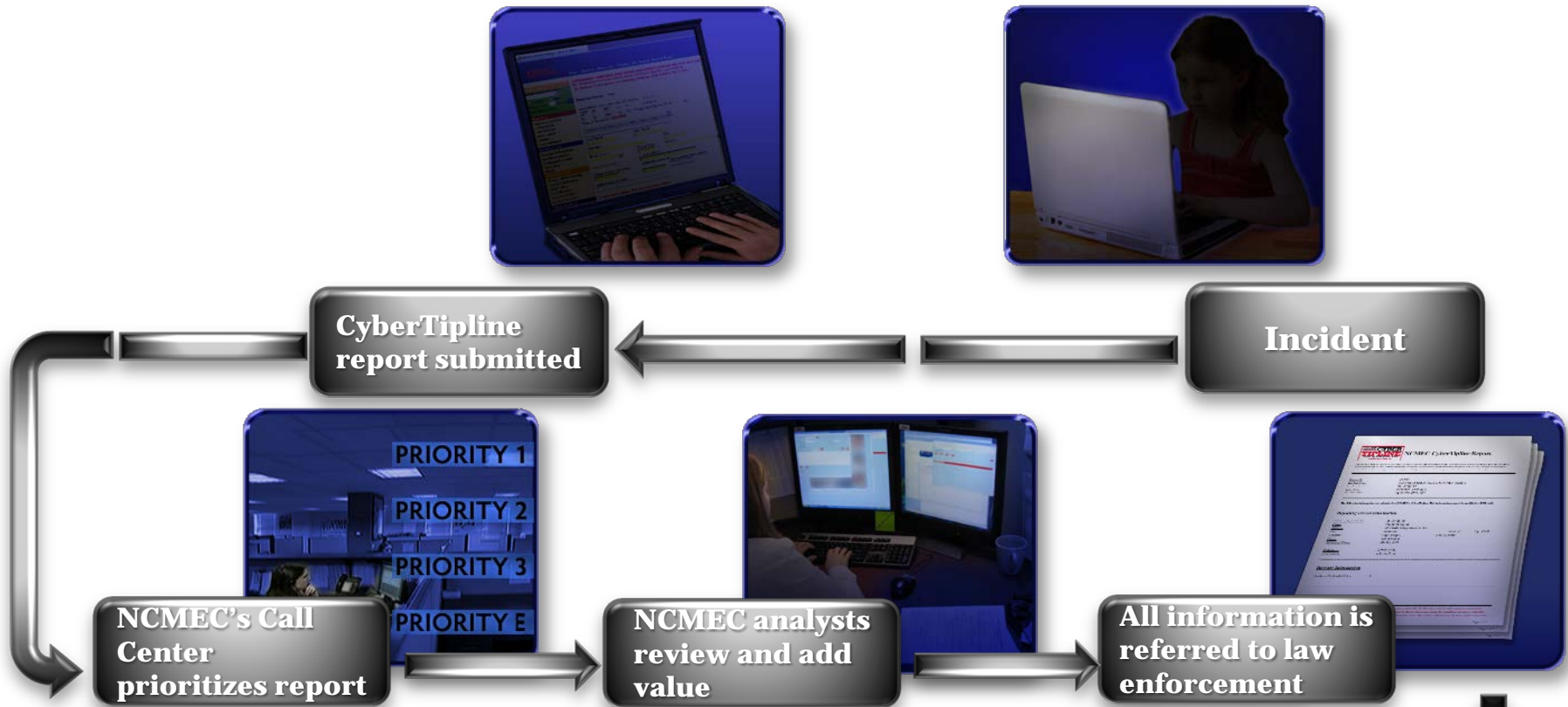
CyberTipline reports continue to rise



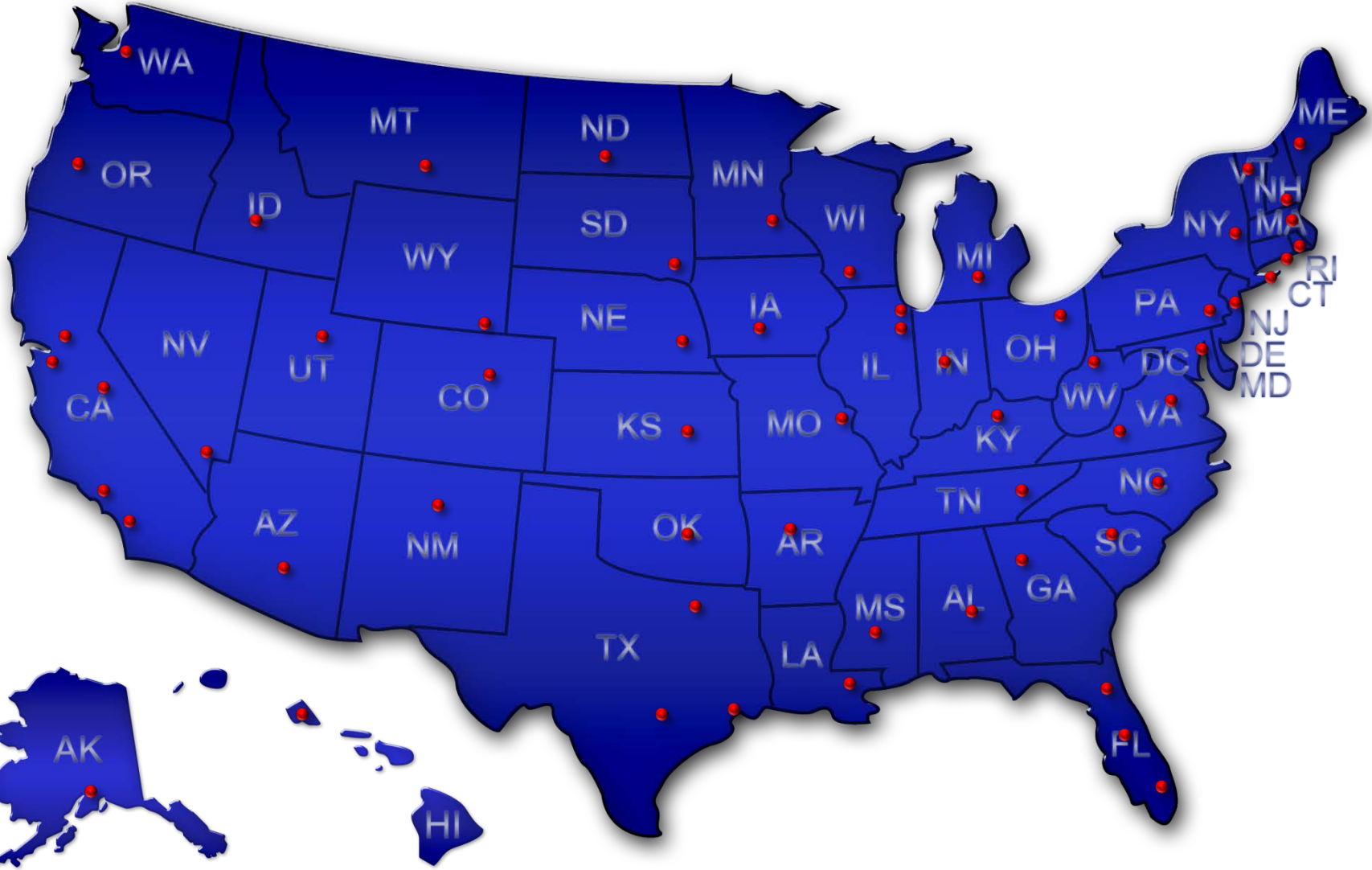
2013 Reporting Category by Type

Child Pornography:	489,453
Online Enticement:	5,699
Child Sex Trafficking:	4,358
Child Sex Tourism:	261
Child Molestation:	2,513
Unsolicited Material:	592
Misleading Domains:	471
Misleading Words/Images	<u>1,933</u>
	505,280

Exchange of Information



VPN Access to CyberTipline



BRAZIL

- BOLIVIA

COLOMBIA

COSTA RICA

ECUADOR

- PERU

EL SALVADOR

EUROPOL

- BELGIUM
- DENMARK
- ESTONIA
- FINLAND
- LATVIA
- LITHUANIA
- LUXEMBOURG
- POLAND
- SWEDEN

FRANCE

- MONACO

GERMANY

- ARMENIA
- AZERBAIJAN
- BELARUS
- NORWAY

GUATEMALA

- BELIZE

HONG KONG

- MACAU
- TAIWAN

INDONESIA

MEXICO

SINGAPORE

- BRUNEI
- FIJI
- MALAYSIA
- NEW CALEDONIA
- PAPUA NEW GUINEA
- SOLOMON ISLANDS
- TIMOR-LESTE
- VANUATU

SOUTH KOREA

SPAIN

- PORTUGAL

THAILAND

- BURMA
- CAMBODIA
- LAOS
- VIETNAM

VPN Access to CyberTipline: International





ESP Reporting

18 U.S.C. § 2258A

- ESPs shall report all instances of “apparent child pornography” to NCMEC’s CyberTipline
- ESPs provided immunity
- NCMEC allowed to refer ESP reports to foreign law enforcement agencies
- ESPs can be fined if they deliberately do not report an incident

Content of Reports

ESPs **shall** report instances of “apparent child pornography” to the CyberTipline; specifically the company **may** provide in each report:

- Time/date of the reporting incident
- Email address/screen name of person being reported
- IP address associated with the reported incident
- All images and videos being reported

Upon submission, treat receipt of CyberTipline report as “preservation” request for 90 days



Enhanced Reporting for ESPs

Updated Web Services Reporting Platform

New fields added in April 2013 include additional incident types and allow for:

- Escalation to high priority
- ESP identifier
- URL profile
- Prior CyberTipline reports
- Group identifier
- Child Victim Information

For each uploaded file:

- Location where apparent child pornography file was found

And:

- Uploaded IP address and time/date stamp (UTC)
- Associated metadata of apparent child pornography
- Additional note field for each uploaded file

Update sent to the companies in February 2014 allows for additional voluntary elements:

- **Relevant Terms of Service**
- **Was the uploaded file viewed by the company?**
- **Was the uploaded file publicly accessible?**
- **Industry Classification**
- **Original File Name**
- **Original Hash Value**
- **Device ID**

Sample Uploaded Files (Section A)

Uploaded File Information

Filename: Image1.jpg
Original Filename Associated with File: BadPicture.jpg
Was File Reviewed by Company? Yes
Was File Publicly Available? Yes
Child Pornography Categorization by ESP: A1
 (See Section B for further explanation)
Original Binary Hash of File (MD5): 0123456789abcdeffedcba9876543210
Original Binary Hash of File (SHA1): 0123456789abcdeffedcba987654321012345678
Original URL Where File was Located: http://company.com/photos/mypictures
Additional Information: text associated with image can be included here

Source Information:

Type	Value	Event	Date/Time
IP Capture	69.171.224.11	Upload	01-04-2012 21:00:00 UTC
Device ID (ICCID)	1234567890	Upload	01-04-2012 21:00:00 UTC
Device ID (IMEI)	0987654321	Upload	01-04-2012 21:00:00 UTC

Industry Categorization Scale (Section B)

Further Information on Uploaded Files

Number of uploaded files in each categorization category:

A1: 1

B2: 1

The following categorization system was created by various ESPs in January 2014:

	Content Ranking	1	2
A	Prepubescent Minor	A1	A2
B	Pubescent Minor	B1	B2

Rank	Term	Definition
1	Sex Act	Any image of sexually explicit conduct (actual or simulated sexual intercourse including genital-genital, oral-genital, anal-genital, or oral-anal whether between person of the same or opposite sex), bestiality, masturbation, sadistic or masochistic abuse, degradation, or any such depiction that lacks serious literary, artistic, political, or scientific value.
2	Lascivious Exhibition	Any image depicting nudity and one or more of: restraint, sexually suggestive poses, focus on genitals, inappropriate touching, adult arousal, spreading of limbs or genitals, and such depiction lacks serious literary, artistic, political, or scientific value.

- ✓ Decrease duplication of efforts
- ✓ Corroborate ongoing cases
- ✓ Link screen names and law enforcement investigations
- ✓ Request comprehensive online searches
- ✓ Receive free public record database reports

Call 1-877-446-2632, extension 6702, or email ecuassistance@ncmec.org to make queries.

- United States v. James Cameron
699 F.3d 621 (1st Cir. 2012)
- United States v. David Keith
2013 U.S. Dist. LEXIS 158282 (D. Mass. November 5, 2013)
- United States v. Derrick Drivdahl 2014 U.S. Dist. LEXIS 29233 (D. Mont. March 6, 2014)

U.S. v. Cameron

- Assistant Attorney General for Maine
- Yahoo! submitted 11 CyberTipline reports to NCMEC
- NCMEC forwarded reports to Northern New England ICAC
- Search warrant executed
- Over 540 images of child pornography located
- Bench trial – convicted of 13 of the 16 counts filed against him
- Government relied on the CyberTipline reports to prove the image upload data
 - Did not obtain information directly from Yahoo!
 - Yahoo! owned and generated that data into the CyberTipline reports
- Judge admitted the records of Yahoo!, Google and CyberTipline reports as business records

U.S. v. Cameron

- Cameron appealed to the 1st Circuit arguing that the admission of the child pornography report and subscriber records violated his 6th Amendment rights under the Confrontation Clause and Yahoo! was acting as an agent of LE
- 2-1 Decision by the Court
- ESP did not act as agent of government when it searched Cameron's account after receiving tip it contained child pornography
 - No evidence government had any role in instigating or participating in search or exercised any control over Yahoo! or search. Evidence showed Yahoo! conducted search pursuant to its own interests.
- Records relating to Cameron's Yahoo! and Google account were not testimonial in nature because they were unrelated to any trial or law enforcement purpose and therefore were properly admitted into evidence as business records.
 - Yahoo! Account Management Tool data
 - Yahoo! Login Tracker data
 - Google Hello Connection Logs

U.S. v. Cameron

- Yahoo! CP reports and CyberTipline reports not admissible as business records
 - Testimonial in nature
 - Records prepared for a law enforcement investigation
 - Court focused on image upload data
 - Emphasis on role of a person in creating reports
 - Court determined reports were themselves statements, made by a person who was not available for cross-examination
- Cameron's 6th amendment right of confrontation violated because original authors did not testify
- Court vacated 6 of 13 convictions

- AOL submitted CyberTipline report to NCMEC
 - IDFP technology detected image through recognized hash value
- NCMEC sent report to Massachusetts ICAC
- Law enforcement issued administrative subpoenas to AOL and Verizon
- During same timeframe, Keith took computer to New Hampshire Staples store for repair
 - Employees discovered child pornography
 - Contacted New Hampshire law enforcement

- Defense counsel filed motion to suppress arguing:
 - Keith had privacy interest in his emails
 - Search violated his 4th Amendment rights
 - AOL and NCMEC acted as agents of law enforcement
 - AOL mandated to report pursuant to 18 USC § 2258A
 - NCMEC operates as agent of law enforcement
 - Law enforcement liaisons co-located at NCMEC
 - Law enforcement agencies serve as board members
 - NCMEC receives federal funding to operate CyberTipline
 - Basis for probable cause was stale

- District court judge denied Keith's motion to suppress
 - AOL was private actor
 - AOL not obligated to search its systems
 - Government exercised no control over AOL's monitoring
 - AOL motivated by own interests in detecting and removing child pornography files
 - NCMEC acted as agent of law enforcement in examining contents of Keith's emailed image file sent to CyberTipline
 - NCMEC's sole purpose in CyberTipline is to assist with child pornography prosecutions and there is no private purpose
 - NCMEC receives federal funding and partners with law enforcement, therefore government exercises control in instigating or participating in search
 - NCMEC expanded scope of AOL's search when it opened uploaded file
 - Warrant had sufficient basis for probable cause based on Staples information

- Google sent a CyberTipline report in February 2013
 - LE executed search warrant
 - Warrant based on
 - CyberTipline report
 - User information reported by Google
 - Additional information derived from investigation by Google employee after CyberTipline report was submitted
 - Google employee had opened and viewed the apparent CP images
 - Drivdahl filed motion to suppress arguing that Google acted as an agent of LE when making the CyberTipline report and conducting a subsequent investigation after submitting the report

U.S. v. Drivhahl

- The Google employee testified that he did not speak to any government entity or officer regarding the subject matter of that report prior to sending the CyberTipline report to NCMEC
- Defendant offered no contradicting evidence
- No evidence to support that any Government agent was aware or encouraged the Google employee's investigation
- Court found that Google was not acting as an agent of LE
 - Distinguished Keith
 - Because Google had opened the image, there was no expansion of a private party searched and no 4th Amendment violation
- Court denied motion to suppress

Positive aspects of Cameron and Keith decisions

- ESPs are private actors
- Account and subscriber information not testimonial in nature and can be admitted as business records
- ESP customer account information and activity records can be admitted without violating Confrontation Clause because they are pre-existing records (e.g., IP addresses from which account was created and accessed)
- Records preserved to serve business functions, unrelated to trial or law enforcement purpose, can be admitted through records custodian
 - Designed to provide reliable data about customer/subscriber accounts

- Cameron decision cited in other cases concerning admission of business records
- Keith decision limited and has no precedential value
 - Involved only a single evidentiary ruling
 - Ruling limited only to issue of NCMEC opening uploaded files/images and not CyberTipline process itself
 - Court commented on acceptable good faith basis for reports processed prior to ruling

- Keith decision relied on several assertions that can be countered
 - Judge compared hash values to label on outside of box that does not necessarily reveal box contents
 - Found hash values insufficient to support finding of probable cause, which is contrary to other published opinions

- Court relied on NCMEC's receipt of federal funding in its decision
- Government has no role in instigating reports and is unaware of reports made to CyberTipline until they receive CyberTipline report
- NCMEC has private purpose in operating CyberTipline

CyberTipline reporting mechanism contains new voluntary reporting elements ESPs can submit with a report:

- Relevant Terms of Service
- Was the uploaded file viewed by the company?
- Was the uploaded file publicly accessible?
- Industry Classification
- Original File Name
- Original Hash Value
- Device ID

Best practices in light of Cameron *and* Keith?

- Use new fields in CyberTipline reports to distinguish Keith
 - Did ESP open uploaded file?
 - Was uploaded file publically accessible?
 - Were hash values submitted with report?
 - Were original file names submitted with report?
 - Review ESP Terms of Service
- Provide specific information on automated/routine processes by which data in reports is generated, including source of data such as Suspect IP Address

Court decisions which can assist to distinguish Keith

- Lazaridis v. U.S. Department of Justice, 713 F. Supp.2d 64 (D.D.C. 2010)
- U.S. v. Richardson, 607 F.3d 357 (4th Cir. 2010)
- U.S. v. Green, 857 F. Supp.2d 1015 (S.D. Cal. 2012)
- U.S. v. Maurer, 07cr000811 (E.D. Ky. 2007)
- U.S. v. Stevenson, 727 F.3d 826 (8th Cir. 2013)

Upcoming case – U.S. v. Walter Ackerman, No. 13-10176-01-EFM (D. Kan. 2014)

- AOL CyberTipline report
- IDFP technology
- Ackerman has filed motion to suppress
 - Asking Court to adopt the holding in Keith
 - Arguing that AOL and NCMEC are government actors
 - Motion hearing scheduled for May 19, 2014



Resources for Your Child Pornography Investigations

Mission of CVIP:

- Provide assistance to law enforcement in their efforts to locate unidentified child victims featured in sexually abusive images
- Review images/videos at law enforcement's request to provide information concerning previous law enforcement who has identified a child victim

NCMEC statutorily designated to operate Child Victim Identification Program per 42 U.S.C. § 5773

Co-located at NCMEC



Overall CVIP Statistics

- 5,600+ identified children
- 42,000+ requests for victim identification
- 112+ million images/videos processed through CRIS

What Is a Series?

- Photo grouping of the same child/children being sexually exploited
- Offenders refer to series as various names online so they can keep their collections of photos organized.
- Series often contain both illegal and legal images of the child victim



A1010003_TA25095_5



crop



CT#260582_dalmation_CONFI...



Jayplay001_CONFIRMED



LoverBoyz027_CONFIRMED



Noname00_CONFIRMED



P1010008_confirmed



P1010088_CONFIRMED



P3080069_CONFIRMED



P3080071_CONFIRMED



P5050019_CONFIRMED



P10100131_2_confirmed



PC290008_CONFIRMED



Sleepover014_CONFIRMED

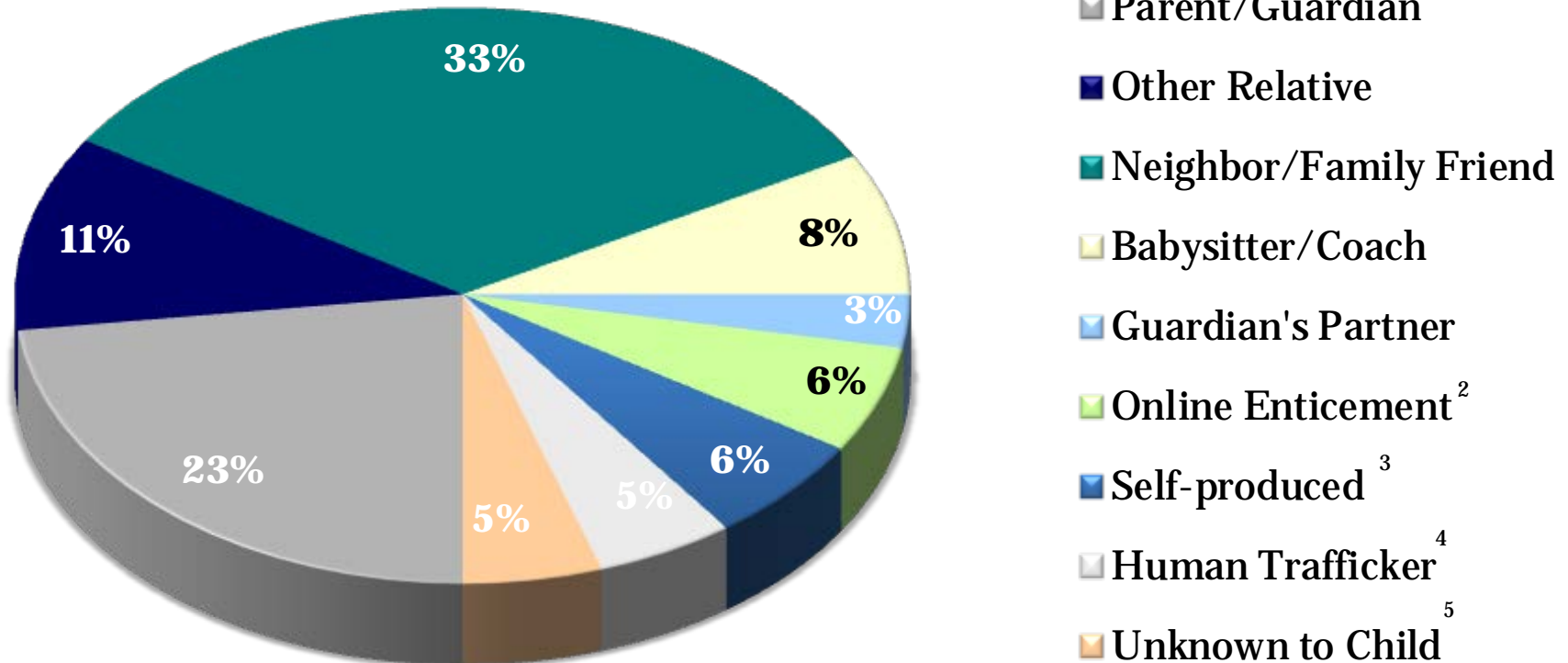


YOUNG LOVE-001_TA27463



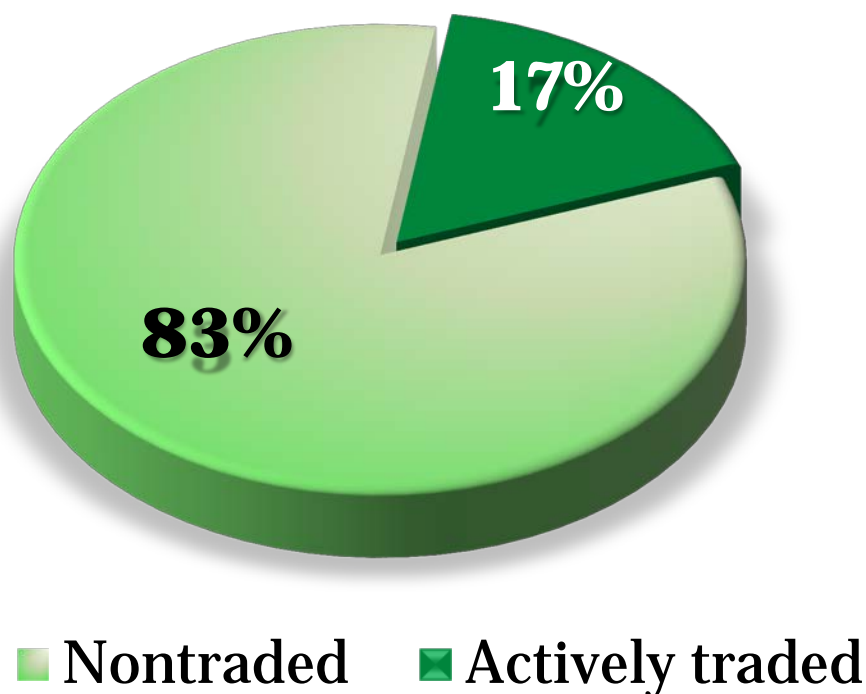
ZX1010003_CONFIRMED

Actively Traded: Relationship of Abuser to Child¹



1. Data based upon information submitted to NCMEC by law enforcement (as of December 31st, 2013). The data represent the known relationships from 522 actively distributed series (930 identified victims).
2. "Online Enticement" includes either (1) victims who met a n offender online and transmitted self-produced images or (2) victims and offenders who met online and then met offline, producing images.
3. "Self-produced" includes those victims who have produced and distributed images of themselves.
4. "Human Trafficker" includes victims of commercial sex trafficking.
5. "Unknown to Child" includes un-established relationships, i.e. photographers, runaways, etc.

Identified Children – Actively Traded



Gender
60 percent female
40 percent male

Age of victim
9 percent infant/toddler
66 percent prepubescent
25 percent pubescent

Data based upon victim information submitted to NCMEC by law enforcement as of Dec 31, 2013. Data represent 930 children. Actively traded are those series seen in five or more CyberTipline® reports and/or CRIS reviews.

Types of Exploitation Depicted*

- 60 percent of the series contained images depicting manual stimulation
- 45 percent of the series contained images depicting oral copulation
- 52 percent of the series contained images depicting anal and/or vaginal penetration
- 11 percent of the series contained images depicting bondage and/or sadomasochism
- 11 percent of the series contained images depicting urination and/or defecation
- 2 percent of the series contained images depicting bestiality

Delayed Distribution

Child identified in 2001

Images not actively traded
for eight years

NCMEC began seeing the
images circulate in 2009

CRIS exams revealed
imag seen 38,500+
times* since then



- Child Pornography Victim Assistance, known as CPVA, is the U.S. Department of Justice's program responsible for notification to victims
- Victims of federal crimes may be entitled to resources and assistance
- Newly identified series are entered at NCMEC, which begins the process of victim notification by the U.S. Department of Justice's Office for Victims of Crime

Continued Victimization



Victim Impact Statements

- Collected by Executive Office for U.S. Attorneys; process initiated after series entered at NCMEC
- Stored at the U.S. Department of Justice's Child Exploitation & Obscenity Section
- Made available in federal or state cases
- Indicated on NCMEC child identification reports for federal cases if series may have victim impact statements

Victim Impact Statement

A statement by Amy

I am a 19 year old girl and I am a victim of child sex abuse and child pornography. I am still discovering all the ways that the abuse and exploitation I suffer has hurt me, has set my life on the wrong course, and destroyed the normal childhood, teenage years, and early adulthood that everyone deserves.

My uncle started to abuse me when I was only 4 years old. He used what I now know are the common ways that abusers get their victims ready for abuse and keep them silent: he told me that I was special, that he loved me, that I was his favorite, that I was his princess, that I was his little girl.

Remember the pictures.

After the abuse he would take me to buy my favorite snack which was beef jerky. Even now when I eat beef jerky I get feelings of panic, guilt, and humiliation. It's like I can never get away from what happened to me.

At the time I was confused and knew it was wrong, but I didn't know how to stop it.

I am a 19 year old girl and I am a victim of child sex abuse and child pornography.

My uncle started to abuse me when I was only 4 years old...He told me that I was special, that he loved me, and that we had our own special secrets.

When they first discovered what my uncle did, I went to therapy and thought I was getting over this. I was very wrong. My full understanding of what happened to me has only gotten dearer as I have gotten older. My life and my feelings are worse now because the crime has never really stopped and will never really stop.

It is hard to describe what it feels like to know that at any moment, anywhere, someone is looking at pictures of me as a little girl being abused by my uncle and is getting some kind of sick enjoyment from it. It's like I am being abused over and over and over again.

Victim Impact Statement

A statement by Amy

I am a 19 year old girl and I am a victim of child sex abuse and child pornography. I am still discovering all the ways that the abuse and exploitation I suffer has hurt me, has set my life on the wrong course, and destroyed the normal childhood, teenage years, and early adulthood that

There is a lot I don't remember, but now I can't forget because the disgusting images of what he did to me are still out there on the Internet.

At the time I was confused and knew it was wrong and that I didn't like it, but I also thought it was wrong for me to tell anything bad about my uncle.

It hurts me to know someone is looking at them -- at me -- when I was just a little girl being abused for the camera. I did not choose to be there, but now I am there forever in pictures that people are using to do sick things. I want it all erased. I want it all stopped. But I am powerless to stop it just like I was powerless to stop my uncle.

- Paroline v. United States, 2014 U.S. LEXIS 2936 (2014)
 - 5-4 decision
 - Court ruled that an individual convicted of possessing child pornography images is not required to pay full restitution to the victim
 - must pay more than a “trivial” amount
 - cannot be required to pay the full amount of losses suffered
 - trial judges should use “discretion and sound judgment” to determine the proper amount of restitution
 - “rough guideposts for determining an amount that fits the offense”
 - number of individuals previously possessing her images
 - an estimate of individuals who may possess her images in the future
 - defendant’s conduct in contributing to her harm

- NCMEC submitted amicus brief in Paroline supporting the victim's argument
- Provided the Court with statistical information concerning the size and scope of the epidemic issues surrounding child sexual abuse images in general and the victim depicted in the series
- NCMEC's Office of Legal Counsel has resources for prosecutors and victim attorneys
 - Geographic, description and distribution information concerning specific series
 - Contact information for attorneys representing victims