



### E45 Child Pornography and Risk Assessment for Contact Offenses

William K. Hillman, PsyD\*, 1114 West Columbia Avenue, #1E, Chicago, IL 60626-4559

After attending this presentation, attendees will acquire a greater understanding of evaluations of risk assessment for defendants charged with possession or distribution of Internet child pornography.

This presentation will impact the forensic science community by increasing awareness of penalties and criminogenic factors associated with child pornography.

Child pornography refers to any visual depiction of a minor engaged in sexually explicit conduct [Title 18, USC, Section 2256(8)]. Over the past ten years, due to easy availability of child pornography and ease of trading files from the Internet, greater numbers of cases of child pornography are being prosecuted. Acquisition and trading of child pornography from the Internet involves interstate commerce; consequently, these cases are prosecuted in federal courts. Federal statutes mandate increased prison sentences when possession involves larger numbers of image files (e.g., an extra five years is added to the sentence for possession of more than 600 images) [Title 18, USC, sect. 2G2.2(b)(7)(D)]. Distribution, a charge stemming from trading files, is a separate enhancement of five years [Title 18, USC, sect. 2G2.2(b)(3)(B)]. Ease of internet access and the use of public domain software facilitate the acquisition (possession) of child pornography and trading of files (distribution) from the internet.

The purpose of a risk assessment is to provide information to court regarding risk for future criminal activity. To conduct a risk assessment, a range of empirically based factors associated with general criminal activity is reviewed in a written report for the court. Customarily, the defense provides this information to the court for mitigation. When sentencing a defendant for possession or distribution of child pornography, a question arises concerning the risk of a future contact sexual offense by the defendant is upon release. Risk assessments in child pornography cases involve two questions: (1) future risk related to the recidivism specific to possession or distribution of child pornography; and, (2) risk related to the possibility of a contact sex offense with a minor.

Extensive research exists concerning risk of recidivism in contact sex offenses. By comparison, research of risk posed by defendants in child pornography cases regarding risk for future contact sex offenses is nominal and unreliable. Empirical findings to date are limited to correlations derived from surveys and anecdotal accounts of contact sex offenders during mandatory treatment programs while incarcerated.

The connection between child pornography and contact sex offenses may lie in both the function and use of child pornography. The widespread availability of child pornography from the Internet enables an offender to rationalize the use of child pornography. The use of child pornography for sexual arousal may be secondary to its use in grooming. An offender may test a minor's reaction upon being shown pornographic material. This provides clues about the minor's receptivity. Empirical findings have not confirmed the assumption that sexual arousal from child pornography increases risk for a contact offense.

When compared with contact sex offenders, data on defendants charged solely with possession or distribution of child pornography has shown these individuals to have fewer factors associated with increased risk of criminal recidivism in general. Factors that reduce risk of recidivism include the absence of criminal histories, absence of destabilizing mental health difficulties (e.g. substance or alcohol abuse), the presence of a stable family support system, and a history of stable employment. These factors account for the lower rates of recidivism for individuals convicted solely for possession or distribution of child pornography.

Based on the information available, risk assessment for defendants in cases of child pornography must be based on factors common to risk of general criminal behavior and risk for future contact cannot be based solely on sexual arousal from child pornography.

#### **Risk, Recidivism, Child Pornography**