



United Nations Educational, Scientific and Cultural Organization
Organisation des Nations Unies pour l'Education, la Science et la Culture

Expert Meeting on :
Sexual Abuse of Children, Child Pornography and
Paedophilia on the Internet :
an international challenge
UNESCO, Paris, Room II, 18-19 January 1999

Sexual Abuse of Children on the Internet: A New Challenge for INTERPOL

by

Agnès Fournier de Saint Maur
Specialized Crime Unit
Interpol General Secretariat

(The author is responsible for the choice and presentation of the facts contained in this paper and for the opinions expressed therein , which are not necessarily those of UNESCO and do not commit the Organisation).

CII-98/CONF.605/19 (E)

Ladies and gentlemen,

I would like to thank the Secretary General, Mr. Federico Mayor, for organising this conference and, in particular, for committing his organisation, UNESCO, to a struggle that needs an ever-increasing number of activists. It is important for child welfare defenders to know that from now on they can count on UNESCO to support them in their actions.

Already in 1995, a study by the University of Pittsburgh (USA) highlighted the enormous quantities of child pornography available on the Internet. The University estimated was able to download about one million the number of sexually explicit photos and video clips involving children from specialised Internet sites. Some of these sites are visited several thousands of times a day by persons interested in the exchange and distribution of child pornography. These figures should make us think and ponder on the consequences on children, on our children, of the production and circulation of child pornography around the world.

How can one define child pornography? The Interpol standing working group on offences against minors, which works on these matters, has established the following definition:

"Child pornography is the consequence of the exploitation or sexual abuse perpetrated against a child. It can be defined as any means of depicting or promoting sexual abuse of a child, including print and/or audio, centred on sex acts or the genital organs of children"

Computer technology has transformed the production of child pornography into a sophisticated, universal and home-cottage industry. Anyone with access to a computer and a modem can connect to on-line commercial services and the Internet, this remarkable network linking some 100 million people to each other in the four corners of the globe. In this way, the Internet is fast becoming the most significant factor in the sexual abuse of children and the principal means of exchange of child pornography. It excludes any simple analogy with existing media or with the other traditional modes of communication. It would be a tedious, pointless exercise to list all the techniques available to paedophiles for exchanging and/or selling their material. I could name image capture, data encryption, anonymous re-mailing through specialised companies as but a few examples. Ongoing progress means that fixed images are now increasingly mobile, recorded productions are more and more live productions, meaning that children are raped and tortured to order, with simultaneous transmission to the computers of interested parties, images are modified to create new ones, etc., etc. The boundaries of horror will continue to be pushed back with the assistance, albeit unintentional, of technological progress.

The World Congress against the Sexual Abuse of Children for Commercial Purposes, held in Stockholm in 1996, drew attention to the problem of the circulation of child pornography on communication networks and strongly argued that the time had come to criminalise the simple possession of such content. In most cases, production, distribution, importation and advertising are proscribed by States but unfortunately, rarely possession. It is, therefore, important at the outset to define a set of common standards on what should be considered illegal. Some will say,

however, that whatever we may do, the law is impotent given the extreme flexibility of the network which will make any identification and, by extension, assertion of recognisable responsibility, impossible. This argument is purported by the mass media and by many legal experts, but not by technicians who believe that the possibilities for control go much further than what is claimed.

As an International Police Organisation, Interpol has a duty to ensure that criminals cannot act with impunity and are prevented from exploiting technological advances to their own ends believing themselves immune from prosecution. What are the problems, from the legal and law enforcement standpoints, that we face today? What solutions or, more modestly, beginnings of responses can we offer? These two fundamental questions will form the basis of my presentation to you today.

Legal Aspects

Although computers can be made to undertake quite remarkable tasks, their increase and the advent of on-line communications pose considerable challenges in all legislative areas. According to international criminal law, the State that has jurisdiction is the one on whose territory the offence was committed. The real problem with the Internet is, therefore, localisation of the offence, which is complicated by the international scope of the network.

Indeed, in a universal context in which illicit information crosses several different legal administrations at the speed of light, what criteria should be used to localise the offence? Can we deem as effective rules which apply to only a single territory and, therefore, only partially address the question of the facts? Further, the question of competence in respect of child pornography is even more complex as the rules applied in each society are entirely subjective. The terms «child» and «child pornography» have different legal definitions the world over and sometimes even under different jurisdictions within the same State.

In international criminal law, three theories overlap and intertwine with regard to the problem of localisation of the offence committed via the Internet:

- The theory of Action according to which the offence is located in the very place it was committed in the strictest sense of the word,
- The theory of Result which, in turn, is based on the criterion of the place where damage has been suffered.
- And lastly, the theory of Ubiquity, a kind of addition of the two preceding ones, which makes law enforcement possible wherever information is accessible, from issue to reception.

According to this theory, we could, therefore, be faced with a plethora of laws that could be applied, as there will be as many laws as the number of States traversed via the network, if only for a fraction of a second.

This multiplicity of legislation and of theories might make the idea of creating a legal instrument with supranational scope vested with the authority to regulate everything seem attractive. However, given the wide diversity of States, no single regulatory body could feasibly win the confidence of them all. The best solution, and the one

advocated by Interpol, would be to work on the basis of the criminal law of each State and strive to achieve a degree of legal harmonisation first at the regional and then at the international level. We have effectively noted that, despite the inherently international context of the Internet network, it is first and foremost at the national level that authority and competence are centred.

One final legal aspect concerns the way in which offences are handled by the many and varied legal systems. Although France and the United States, for instance, agree that child pornography and sexual abuse of minors constitute serious offences, the two countries have a very different approach in keeping with their respective legal traditions. Indeed, in the United States, the First Amendment of the Constitution, guaranteeing freedom of expression, can lead to certain excesses which, unfortunately, benefit, in some instances, criminals.

Hence our role is to determine what is technically possible and economically reasonable and to strike a balance between the protection of freedom of expression and the right to a private life, on the one hand, and, on the other hand, the protection of the dignity and rights of children, mindful that, according to the terms of the United Nations Convention on the Rights of the Child, the superior interest of the child must take precedence over all other considerations.

Law enforcement aspects

Our responsibility, that of law enforcement agencies, is to identify offenders and then demonstrate their alleged responsibility. It often proves difficult, however, to search for the respective responsibilities in the chain of communication, from the input of content to its access by the end user, for lack of available resources and specialist personnel.

The Interpol working group dedicated to these issues has for a long time now been stressing the need for specially trained police officers but this brings us to another problem, namely, that the specialists in crimes against children are not always specialists in computing. They quite often do not have the necessary equipment to track offenders on the Internet. There is, therefore, a disproportionate knowledge gap between criminals and police services when it comes to using the Internet. This situation is happily about to change thanks to the pressure of events and to that of law enforcement officers themselves commitment to doing their work. Thus, increasingly, national units are being set up specifically to combat criminal use of the Internet. Lastly, despite the existence of national law banning the acts in question, still too many culprits are situated outside its scope of application through the interplay of borders and the limitation of the territorial competence of members of the police force.

In the light of this situation, Interpol recognises the fundamental role of police co-operation and its own role in the definition of strategies for action at the international level. Interpol's primary mission is to facilitate and strengthen international police co-operation so as to increase the effectiveness of the fight against international crime and also against the illegal use of new technologies. In keeping with this, we believe that priority must be given to the adequate training of law enforcement officers so as to heighten their specialist skills as well to supplying them with high-performance computer equipment.

In parallel, more proactive than reactive police intervention techniques, such as infiltration techniques used to identify and track criminals, will offer additional guarantees of efficiency. These investigation techniques must be widely utilised so that the current disparities existing at this level do not hinder the success of police operations. The Internet must be the object of careful and reasonable police surveillance so as to protect our children without encroaching on the freedom of communication and information. Because of its mission, Interpol must play a catalytic and centralising role in this field.

Lastly, we would strongly like to see the Internet remain a communication and information exchange system accessible to all but free from criminal use. Private enterprises must take a determined stance alongside law enforcement agencies to put an end to the activities of criminals and thus work together towards a common goal.

It is essential that the computer industry quickly come to the realisation that it has a responsibility and a role to play in the conservation of evidence of traffic in child pornography on the Internet as well as in the transmission of these data to the competent law enforcement services. In this way, these companies could make an effective contribution to the prevention of sexual abuse of children. Computer industry leaders are unfortunately not yet convinced that this responsibility is incumbent on them and still too often refuse to support police efforts on various and sundry pretexts.

Before concluding and in order to support my arguments with a concrete illustration, I would like to return briefly to a case which hit newspaper headlines last September and prompted an indignant reaction from Mr. Federico Mayor, a case which is still ongoing in several countries. This case is known by the code name "Operation Cathedral".

The case began in San José (California) in 1996 when American law enforcement officers revealed the activities of paedophiles filming rapes of children and broadcasting them live to subscribers to their Internet network. These criminals called themselves the Orchid Club. Subscribers included a British subject whose details were given to the UK Police. During his interrogation this man was found not only to be in possession of child pornography from the Orchid Club but also to be behind the creation of another much more extensive network known by the name of "wOnderland".

This case has given rise to the first concrete and large scale example of international police co-operation in this field with Interpol assistance. Law enforcement officers from 12 countries have been working together since June 1998 to update all the activities of members of the network and to exploit the material seized during the simultaneous arrests made in September 1998. Without going into the details of a case, which is not only long but still ongoing today, I will conclude by giving you a few figures.

On 2 September 1998, 96 people were arrested in 12 countries. The biggest equipment seizure involved a Finn at whose home 48 gigabytes of child pornography files were seized. In the United Kingdom, the size of the seizure was estimated at around a minimum of 250,000 images. In the United States, the biggest seizure at an individual's home was 75,000 images, total seizures amounted to 500,000 images

and more than 120 videos of child pornography. Once collected, the aggregate total of seizures for all of the countries will therefore, as you can imagine, run to huge amounts which, even if one considers that images have been duplicated many times over, give an insight into the suffering of the children involved in the production of this material and the role played by the Internet in the transmission and exchange of child pornography.

Conclusion

I will end by addressing the need to educate the public. Indeed, it is important to provide the public with clear explanations concerning the advantages and the dangers of the Internet so that it too can adopt a responsible attitude. We, as professionals of the law and its application, have a duty to sensitise net users and mobilise society as a whole. Interpol stands ready to work jointly with the designated persons to establish an international code of conduct and ethics banning criminal use of this fantastic means of communication that is the Internet.

In 1997, Interpol signed a co-operation agreement with the Universal Postal Union recognising the importance of trafficking in child pornography through the postal services and the need for close co-operation between the two international organisations. It is our wish and hope that, in the near future, a representative body of the private enterprises managing the Internet will be created heralding the possibility of concluding a similar partnership on trafficking in child pornography by computer.

One should not philosophise on the subject of the recording of sexual abuse of children nor consider this a source of entertainment or expression of sexual fantasy. It is a shameful abuse of power. It is for this reason that we, the civil society, the private sector and governmental authorities must commit ourselves to a merciless war on criminals who abuse children. The dissemination and commercialisation of the visual representation of sexual abuse committed against the person of a child is a phenomenon that can and must cease thanks to our joint action to assure our children's future. It is intolerable that they could be treated and utilised as mere sexual objects, consumer goods to satisfy the criminal sexual impulses of some people, as tradable goods for profit. It is all the more intolerable that modern societies accept this deadly trade through their silence and their passive complicity.

It is for this reason that Interpol has committed itself to this struggle and has risen to the challenge, to ensure nowhere in the world is safe for criminals and other exploiters of children.

Thank you for your attention.

This document is the exclusive property of I. C. P. O.- Interpol. No reproduction, copy or impression may be made of it without prior permission.