

‘Adult Industry’ Is No Friend of Children or the Family, Despite ASACP Effort to Curb Child Abuse and Label Smut (How the floodtide of ‘adult pornography’ on the Internet is hurting kids)

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March 24, 2009

Introduction

Federal and state law enforcement agencies and prosecutors, Internet service providers, credit card companies, banks, and nonprofits are finally working together to curb sexual exploitation of children on the Internet. They are to be commended for doing so.

For the most part, however, these same government and private entities have chosen to turn a blind eye towards the ever-expanding problem of “adult pornography” on the Internet. The latter does not depict actual children but does include hardcore pornographic depictions of sex with persons who look like children, sex with barely legal teens, sex with excrement, sex with multiple partners, sex with prostitutes, sex with she-males, sex with someone else’s spouse, and sexual violence against women, including rape and torture.

I decided to write this article for two reasons: first, because I think that those who fight sexual exploitation of children but turn their backs to the “adult pornography” problem are making a tragic mistake; and second, because I think some government and private entities have not only turned their backs to the “adult pornography” problem. Increasingly, they are cozying up to the “adult entertainment industry” as if it were a friend of children.

In 2008 the *California Western Law Review* [44 *Cal. W. L. Rev.* 511] published an article extolling the work of the Association of Sites Advocating Child Protection (ASACP). Two professors at Penn State authored the article, “Untangling Child Pornography from the Adult Entertainment Industry: An Inside Look at the Industry’s Efforts to Protect Minors.”

According to the article, ASACP (formerly named *Adult Sites Against Child Pornography*) was founded in 1996 by Alec Helmy, president of XBIZ, to fight the explosion of child pornography on the Internet and to change the perception held by some people that the “adult entertainment industry” was helping to fuel that explosion.

Funded by companies in the “adult entertainment industry,” including Adam & Eve, Hustler and Playboy, ASACP provides an online hotline for web surfers and webmasters to report suspected child pornography. ASACP reviews reports submitted to the hotline and forwards information about meritorious reports to law enforcement agencies, ISPs and financial institutions.

Following a January 2006 hearing in the U.S. Senate Commerce Committee, during which two Senators threatened government intervention if the “adult industry” didn’t do something to restrict children’s access to Internet pornography, ASACP also launched an effort to encourage online pornographers to utilize its Restricted To Adults (RTA) label to designate website content for “adults only” so that filters keyed to the RTA label can block children’s access to the content.

In singing the praises of ASACP's work, the two Penn State professors say in their article:

The magnitude of the [child porn] problem requires law enforcement to not only redouble its own efforts, but also seek help from private organizations devoted to eradicating child pornography. One such group, the Association of Sites Advocating Child Protection (ASACP), founded in 1996, proclaims dedication "to eliminating child pornography from the Internet." ASACP works in tandem with likeminded organizations, such as the Financial Coalition Against Child Pornography (FCACP), and is a member of the Congressional Internet Caucus Advisory Committee, "a diverse group of public interest, non profit and industry groups working to educate the Congress and the public about important Internet-related policy issues." ASACP has a second prong to its mission: "working to help parents prevent children from viewing age-inappropriate material online." [At 517-518]

ASACP is a key player in the fight against child pornography and a leader in preventing minors from viewing inappropriate content. In September 2007, the organization reached the 250,000 mark in terms of processing reports of child pornography...If [ASACP] uncovers suspected child pornography, "red flag reports are...forwarded to domestic and international agencies and...the National Center for Missing & Exploited Children." [At 521]

In response to the question "What can ASACP do to help the adult entertainment industry change the public perception among some people that adult movies and child pornography are somehow linked?" Joan Irvine, CEO of ASACP, is quoted in the article as saying:

First, having both the child pornography reporting hotline and the analytical data prove they are not linked. Second, we are part of the Financial Coalition Against Child Pornography that is hosted by the International Centre for Missing & Exploited Children; all of the credit card companies, billing companies and banks are involved in that. We are part of that, we go to the meetings and we are part of the analytical committee, so we provide them with our data...At one of the last meetings that I went to, Dan Larkin, an FBI forensic specialist, said "We know the ["adult"] industry is not involved in this and that it is organized crime that is involved in child pornography..." This is coming from an FBI agent. [At 526]

In response to the question, "So is it an easy sell to the American public?" Irvine responds:

Absolutely...You now have programs on [cable channels] E! and Showtime. You have [participants in hardcore pornographic videos] doing mainstream movies. [At 544-545]

In response to the question, "As ASACP continues to grow...do you think any stigma of being attached to the adult entertainment industry might go away?" Irvine responds:

Absolutely. Once we have a chance to spend more time in Washington, people will get to know us. People like to do business with people they know...They have to see that I'm a nice, normal businessperson...Once they see that...they will feel more comfortable with it. The ["adult"] business continues to mainstream, and the reality is that people are making a lot of money off this industry. They may not be publicly promoting their relationship with the industry, but in the background, they're happy to be making the money. [At 549]

In November 2005, ASACP's Joan Irvine attended the European Union and Virtual Global Taskforce (VGT) Conference on "Protecting Children On-Line," which was held in Belfast. This event brought together representatives from law enforcement, government, industry, and non-government organizations from around the world, including representatives from the U. S. Department of Justice and the National Center for Missing and Exploited Children.

In a report on that Conference ("Taskforce Conference WRAPS in Belfast, ASACP Attends," *XBIZ News Report*, 11/21/05, available at <http://www.xbiz.com/news/11364>), we read:

Joan Irvine, executive director for ASACP, said the conference provided a beneficial platform to show the adult industry's support in the battle against child pornography. "People were surprised but pleased that the adult [industry] was being proactive in [this] battle, protecting children and establishing best practices," Irvine said... Irvine said she even briefly spoke with Andrew Oosterbaan, Chief of the [U.S. Justice Department's] Child Exploitation and Obscenity Section... "I introduced the ASACP to Mr. Oosterbann and let him know how the adult industry was working to combat child pornography," Irvine said.

In defending ASACP's presence at the Virtual Global Taskforce Conference, Jim Gamble, VGT Chairman and CEO of the United Kingdom's Child Exploitation and Online Protection (CEOP) Centre, stated in a February 27, 2007 letter to Dr. Esmond Birnie:

[W]e cannot endorse any association drawn between adult pornography and child sex abuse. The first in the UK is a lawful, legitimate industry with morally questionable content... [W]hen lawful, it involves consensual sexual activity between one or more adults. Nothing could be further removed from the horrendous crimes that involve the rape and sexual exploitation of innocent young children... Finally, a range of individuals and organizations are interested in the work of the VGT and wider issues of child protection... We welcome such support and interest. This provides an opportunity to constructively influence and interact with a representative audience, raise awareness and ultimately assist making the Internet a safer place for children. However, this should not be taken as an indication that we endorse any particular corporate enterprise or individuals view.

As further indications that ASACP is winning acceptance, the ASACP website has a link for "Awards and Partners," where it boasts that the Mayor of Los Angeles presented it with a Certificate of Recognition, the Mayor of San Diego presented it with a City Proclamation, four California state legislators presented it with Certificates of Recognition, and a California Congressman presented it with a Congressional Commendation. In 2008, the American Society of Association Executives presented ASACP with its "Associations Make A Better World Award" ("*Overall Winner U.S./Developed Nations Category*").

So What's the Problem? – Part 1

Many adults who sexually exploit children display 'adult pornography' to their victims

Adult predators often use "adult pornography" to arouse, desensitize, and instruct their child victims. Kenneth Lanning, a retired FBI Supervisory Special Agent, had this to say about the

use of “adult pornography” in the molestation of children in his booklet, “Child Molesters: A Behavior Analysis” (National Center for Missing & Exploited Children, 1-148, 2001):

Adult pornography is frequently left out for the child to “discover.” A collection of adult pornography is effective in sexually arousing and lowering the inhibitions of adolescent boys. This is the primary reason why preferential molesters collect adult pornography... Much of this process can take place online without even meeting in person. [At 57]

According to a study reported in the *International Journal of Offender Therapy and Comparative Criminology* (R. Langevin & S. Curnoe, “The Use of Pornography During the Commission of Sexual Offenses,” 48, 572-586 (2004):

The 96 offenders who used pornography during the commission of their crimes were examined for how they employed the pornographic materials in the crimes...The majority (53 cases or 55%) showed available pornographic materials to child victims as part of the grooming process in the crimes...Of the offenders showing pornographic materials, 26 (49%) showed commercially available heterosexual adult pornography and 3 (6%) showed illegally available child pornography... [At 581]

See also, R.W. Bennett & Chief D.F. Gates (LAPD), “The Relationship Between Pornography and Extramarital Child Abuse,” *The Police Chief*, 14-20, Feb. 1991, where we read:

Members of the Sexually Exploited Child (SEC) Unit of the Los Angeles Police Department (LAPD) have long known that pornography is often employed by offenders in extra-familial sexual victimization of children. In the Unit’s 14 -year history, pornography has been documented in case after case... [At 14]

The specific question addressed in the study was, “How often is pornography employed by offenders in the extra-familial sexual victimization of children?” For purposes of this study, “employed” is deemed to include anything from the casual availability of pornography to overt display or the actual production of pornography during victimization. Casual availability would include those situations where pornography is conspicuously present in the same room as a child. Investigations have shown that this is often the manner in which an offender introduces pornography to a child – piquing his or her interest. For purposes of this study, pornography is deemed to be anything from soft-core erotica to hardcore pornography. No differentiation was made in this study because both types serve identical purposes – to desensitize the child and lower his or her inhibitions. [At 17, 19]

The study revealed that 320 adults...arrested for crimes previously specified were handled by the SEC Unit...Pornography was indicated in the preliminary investigation in 199 cases (62.2 %). Child pornography was indicated in 74 cases (23.1%), adult pornography in 69 cases (21.6%), and both adult and child pornography in 56 cases (17.5%). [At 19]

According to a study reported in *Sexual Abuse: A Journal of Research and Treatment* (R.A. Lang & R.R. Frenzel, “How Sex Offenders Lure Children,” 1, 303-317, 1988):

Fifteen percent of incestuous fathers and nine percent of pedophiles showed the children adult (not child) pornographic books or videos to arouse their curiosity... [At 309]

Lieutenant Thomas R. Rodgers of the Indianapolis Police Department testified in Miami before the U.S. Attorney General's Commission on Pornography in 1985. Lt. Rodgers presented a case that he had just investigated that involved two girls under the age of five, who had been approached by a man outside their home. The girls were playing when the man walked up to them and gave them a child's storybook entitled, "The Speedy Little Taxi." The girls told their mother what happened. The man could not be found. The mother discovered that the book was a story about a little taxi, but the original illustrations had been altered to include sexually explicit color photographs that had been cut out of a hardcore pornographic magazine. Although the children were not molested, it is believed that he was using this book as a tool to desensitize the children about issues of sex and to show them it is okay to do these things with adults.

I would add that newspaper accounts of sexual abuse cases routinely mention that the perpetrator showed the victim pornography. For example, according to a report in the Minneapolis *Star Tribune* (H.M. Estrada, "Ex-Skate park owner charged in teen porn case," 12/15/08):

[Defendant] was charged on Friday with showing pornography to teenage boys and inappropriately touching them...During that time, he is accused of making the boys sit on his lap, rubbing their shoulders and thighs, discussing sex in detail and showing them pornography on the skate park's computer.

According to a report in the Chambersburg (PA) *Public Opinion* (V. Taylor, "This is a life sentence," 12/13/08), the defendant was convicted of "sexually molesting six girls and providing two more with marijuana and alcohol, showing them pornography on his home computer."

According to a report in the *Buffalo News* ("Police & Courts: Science teacher faces more sodomy charges," 11/27/08):

Additional charges have been filed against a seventh-grade...science teacher now accused of sodomizing at least three boys since 2002...Other charges...include four counts of disseminating indecent material to minors...in connection with the showing of pornographic materials to 12- and 13-year old boys in 2007, in Salamanca Middle School."

Many adults who sexually exploit children use 'adult pornography' to arouse themselves

Many adult predators use "adult pornography" to arouse themselves. In a March 24, 1988 letter to Dr. Judith A. Reisman, John B. Rabun, Jr., then Deputy Director of the National Center for Missing & Exploited Children, had this to say about predators' use of "adult pornography:"

Prior to my coming to the National Center...I was the Program Manager for the Louisville-Jefferson County, Kentucky Exploited and Missing Children Unit...From July 1980 through February 1984, the police/social work Team of E.M.C.U. investigated about 1400 cases of children suspected of being victims of sexual exploitation...During this period, the E.M.C.U prosecuted hundreds of adults for various crimes involving sexual exploitation of children ...At the time of arrest of and/or service of search warrants, ALL of these adult predators were found with various forms of adult pornography and in most cases child nudes and/or child pornography. Over four years, the E.M.C.U. Team learned to expect to always find adult pornography, as such was used by the adult offenders for their own sexual arousal... and for the deliberate and planned lowering of inhibitions of child victims.

See also, D.A. Kingston, P. Fedoroff, P. Firestone, S. Curry, & J.M. Bradford, "Pornography Use and Sexual Aggression: The Impact of Frequency and Type of Pornography Use on Recidivism Among Sexual Offenders," *Aggressive Behaviors*, 34, 341-351 (2008), where we read:

Participants were adult men who had been convicted of a hands-on sexual offense against an individual under the age of 16...Self reported pornography use was collected at the time of assessment...Specifically, individuals were asked to rate the frequency with which they had viewed sexually explicit films and/or books over the course of their lifetime...Next, the individuals responded to a question concerning the type of pornography used and response categories were (1) heterosexual sex, (2) homosexual sex, (3) lesbian sex, (4) children engaged in sexual activity, and (5) depictions of violence...[D]eviance was defined as any self-reported use of pornography involving children and/or violence. [At 343-345]

Of the 341 child molesters in this study, 337 responded to the questions pertaining to the type of content. Among these individuals, 303 (90%) reported viewing only non-deviant pornography, whereas 34 (10%) indicated viewing deviant pornography. [At 347-348]

The purpose of this study was to examine the relationship between pornography and aggressive behavior within the context of an important moderating variable – risk to re-offend...Specifically, we found that among men who scored high on general and specific risk characteristics, frequent pornography consumption increased risk of aggression...Next, we examined the degree to which self-reported use of deviant pornography was predictive of the overall comprehensive measure of criminal recidivism...Specifically, results indicated that individuals who viewed deviant pornography were more likely to recidivate...and this difference was consistent across levels of risk. [At 348-349]]

See also, R. Langevin & S. Curnoe, "Use of Pornography During the Commission of Sexual Offenses," *Intern. Jrnl. of Offender Therapy & Comparative Criminology*, 48, 572-586 (2004):

In the current study, the majority of offenders who used pornography employed heterosexual adult materials. Perhaps for some that was all that was available...However, a number of men...used the adult materials for a combination of self-stimulation and to groom and entice their victims. Another possible explanation is that these men were aroused by heterosexual adult pornography as well as child pornography. Men who sexually assault children are a mixed group, some of whom are attracted to adult women as to children...It may be that the adult pornography complements the arousal experienced to the child, or the offender may be using the child as a surrogate for the more desired adult woman. [At 584]

See also, W.L. Marshall, "Revisiting the use of pornography by sexual offenders: Implications for theory and practice," *Journal of Sexual Aggression*, 6, 67-77 (2000):

Marshall (1988) limited his examination to particular classes of sexually explicit pornography (i.e., consenting adults heterosexual stimuli, rape stimuli and depictions involving children). Subjects were not asked about their exposure to...“soft-core” pornography...The following data reflect the percentage of subjects who reported frequent current use: 22% of rapists, 26% of child molesters, and 13% of nonoffenders...It is also important to note that the pornography these subjects used frequently was primarily highly explicit images of adult consenting sex...[F]ew of the sexual offenders used pornographic

images that matched their offense category...only 7 of the 51 child molesters claimed to have ever used pornography depicting children, with 3 of these 7 indicating they kept a collection of “kiddie porn.” What is perhaps most relevant from Marshall’s (1988) report is the fact that a substantial number of the offenders were prompted to commit a sexual crime by exposure to pornography. Between 36% and 38% of the child molesters...said that exposure to pornography did, on at least one occasion, serve as an instigator to offend. However, in almost all cases the instigating stimuli depicted adult consenting sex.

See also, D.L. Wheeler, “The Relationship Between Pornography Usage and Child Molesting,” Ph.D. Dissertation submitted to and approved by Texas A&M University, Aug. 1996 (published by UMI Dissertation Services, Ann Arbor, MI, 1-167, 2001) (cited in N. Malamuth & M. Huppin, “Drawing the Line on Virtual Child Pornography: Bringing the Law in Line with Research Evidence,” 31 *N.Y.U. Rev. L. & Soc. Change* 773, 797 (2007)):

This study was designed to investigate the relationship between reported pornography usage and reported child molesting behavior. A sample of 150 child molesters was compared to a sample of 122 non-molesters...Child molesters reported more exposure to different types of pornography and more exposure at different stages of [age] development. Child molesters reported a greater tendency to fantasize about what they viewed in pornography and to imitate behaviors learned about from pornographic materials... [At 109-112]

For child molesters, there were several surprising findings...Soft-core [defined in this study to encompass “images of nude adults” and “images of sexual acts between consenting adults,” at p. 113] was reportedly the most frequently used type of pornography shortly before or during the offense...A surprising finding was that sexual fantasies about children were almost as strongly related to soft-core pornography as child pornography usage. It may be that the nature of the pornographic stimuli does not always relate to the behavior, i.e., fantasizing. However, another possibility is the eroticization of adult-child sexuality in standard pornography. Adult women [at least 18 years of age] may be presented in a manner to make them appear as children... [At 120-122]

Children may not be the primary or initial source of sexual interest for the incestuous fathers or many other offenders in this study, as measured by their reported fantasies and choice of pornographic imagery. However...a child might be the most accessible sexual outlet and may be more easily controlled...The primary sexual orientation might be to adults, with the interest in children typically developing in adulthood. Female children are the typical target of abuse and may be used to substitute for adult females...The current research supports this typology, in that soft-core pornography was far more commonly used by most of the child molesters than other forms... [At 133]

Many adults who violate sexual exploitation laws begin by viewing ‘adult pornography’

Many men who violate sexual exploitation of children laws begin their downward spiral by viewing not child pornography but rather “adult” pornography. See, for example:

“Child Pornography Fact Sheet,” National Center for Missing & Exploited Children, available at http://www.missingkids.com/missingkids/servlet/PageServlet?LanguageCountry=en_US&PageId=2451:

Limited research about the motivations of people who possess child pornography suggests that child pornography possessors are a diverse group, including people who are sexually interested in prepubescent children or young adolescents, who use child pornography for sexual fantasy and gratification[, and the] sexually “indiscriminate,” meaning they are constantly looking for new and different sexual stimuli[, and the] sexually curious...

“Internet contacts increase pedophilia: Spanish Experts Say,” *Expatica.com*, 11/2//08:

Detentions of pedophiles have gone up rapidly in Spain, where experts attribute the increase of such crimes to the opportunities the Internet offers to child molesters or pornography consumers. The web not only provides an outlet for people with deep-rooted pedophilic tendencies, but can also create a sexual attraction to children, expert Guillermo Canovas says... “Studies show that some pedophiles feel attracted to children from an early age, but the majority of them develop the tendency later on,” Canovas explains. The Internet can become a catalyst for people belonging to the latter group. “Thousands of people are constantly looking for pornography on the web,” Canovas says. “As their stimulation threshold rises, they feel the need for stronger and stronger material until their search leads them to child pornography.”

P. O’Hare, “Waging the war on child porn,” *Houston Chronicle*, 12/2/07:

Child pornography arrests have surged in recent years because of the easy access and anonymity that Web surfing offers. Sitting at computers in the privacy of their homes, people sometimes take chances they normally wouldn’t take or act on impulses they previously might have resisted, attorneys and police officers say... Much like drug abusers constantly in search of a new high, some men reported building up such a “tolerance effect” to adult pornography that they needed something new to achieve the same thrill, said a local clinical psychologist who treats sexual offenders...

L. Michel & D. Herbeck, “Confessions of a child porn addict,” *Buffalo News*, 10/17/07:

Clarence once enjoyed the adult pornography sites he viewed on the Web. But after a while, the thrill was gone. So he started clicking on some of the ads that popped up on his computer above the naked adults he was watching. He was seeing something new – young teenagers and even young children, posing in the nude, having sex with each other, or being molested by adults. At first, [Clarence] was appalled. But once the shock wore off, he couldn’t get enough. Like thousands of other men...he was hooked.

J. Scheeres, “Porn Spam: It’s Getting Raunchier,” *Wired News*, 9/30/02:

Al Cooper, a California psychologist who recently published a book that explores the Internet’s effect on sexuality, said the rise in offensive porn spam may be due in part to some surfers’ dwindling interest in mainstream fare. “There are only so many naked women’s breasts you can see until you get tired of it,” Cooper said. “For sex sites to make money, they need to supply people with...something new and exciting”... “We’re seeing a tremendous increase in people looking for child porn online...,” Cooper said.

L. Kelleher, “Irish Lawyer leading fight in Asia against evil perverts,” *Sunday Mirror*, 9/9/01:

Muireann O'Brian is helping to lock up child pornographers and child traffickers in the world's most deprived countries. The Dublin woman, who heads the Bangkok office of the worldwide organization, End Child Prostitution in Asian Tourism, helps police and lawyers nail pedophiles and charts the extent of child sex abuse...Mrs. O'Brien said the number of children being sold for sex each day is staggering...She said disturbing studies show heterosexual men are becoming addicted to child porn through the Internet. She revealed: "Studies and arrests have shown men with perfectly normal sexual proclivities become seduced, then involved and finally addicted to child pornography. Their addiction may manifest itself by them just keeping and looking at the images...But it has been found that the addiction leads many men into seeking out children to abuse."

"What makes a pedophile?" *The Express* (London), 12/6/00:

Ray Wyre, a leading expert in Britain on pedophilia, has produced a guide to identifying the behavior of pedophiles. He warns that computer technology, Internet, videos, the prevalence of adult porn may all be stimulants...

M.L. Healy, "Child pornography: an international perspective" (This paper was prepared for ECPAT as a working document for the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm Sweden in 1996):

Preferential child molesters often possess large collections of child pornography that are meticulously catalogued and carefully guarded. They, however, are not the only ones who produce or consume child pornography. A much broader segment of the population is interested in pornography featuring pubescent children in their teens. Additionally, with the emergence of the use of computers to traffic in child pornography, a new and growing segment of producers and consumers is being identified. They are individuals who may not have a sexual preference for children, but who have seen the gamut of adult pornography and who are searching for more bizarre material.

I would add that while it is true that not everyone who views child pornography commits or attempts to commit a sexual offense against a minor, it is also true that many individuals who commit or attempt to commit a sexual offense against a minor do view child pornography. In support of the latter position, see the following:

J. Sher and B. Carey, "Debate on Child Pornography's Link to Molesting," *New York Times*, 7/19/07 ("Experts have often wondered what proportion of men who download explicit sexual images of children also molest them. A new government study of convicted Internet offenders suggests that the number may be startlingly high: 85 percent of the offenders said they had committed acts of sexual abuse against minors, from inappropriate touching to rape...Previous studies, based on surveys of criminal records, estimated that 30 percent to 40 percent of those arrested for possessing child pornography also had molested children.").

M.C. Seto, J.M. Cantor and R. Blanchard, "Child pornography offenses are a valid diagnostic indicator of pedophilia," *J. Abnorm. Psychol.* 115, 610-615, 2006, abstract available at <http://psycnet.apa.org/index.cfm?fa=main.doiLanding&uid=2006-09167-022>

J. Wolak, D. Finkelhor and K. Mitchell, "Child Pornography Possessors Arrested in Internet-Related Crimes," National Center for Missing & Exploited Children, 2005, available at http://www.missingkids.com/en_US/publications/NC144.pdf

D.E.H. Russell and N.J. Purcell, "Exposure to Pornography as a Cause of Child Sexual Victimization," in *Handbook of Children, Culture, and Violence* 59, (N.E. Dowd, D.G. Singer and R.F. Wilson, eds., 2006), available at <http://www.dianarussell.com/chapter.html>.

I would also add that according to the National Center for Missing and Exploited Children, child pornography "has become a multi-billion dollar commercial enterprise and is among the fastest growing businesses on the Internet" ("Financial Coalition Against Child Pornography – Fact Sheet," available at www.missingkids.com). Those who purchase child pornography contribute to the demand for it and thereby help ensure that new material will be supplied.

Some adults addicted to 'adult pornography' act out sexually with child prostitutes

Many men who are addicted to "adult pornography" act out their porn-fuelled sexual fantasies with prostitutes. See generally, R.W. Peters, "Sexual Trafficking and Pornography: The Link Between the Two," *Morality in Media*, 2008, available at <http://www.obscuritycrimes.org/news/SexualTraffickingandPornography.pdf>.

To the extent that viewing "adult pornography" on the Internet is linked to prostitution, it is also linked to sexual exploitation of children trafficked into prostitution, if for no other reason than that so many prostitutes are now children. There is also evidence that some "johns" look for child prostitutes. See, e.g., M. Corwin, "Life on the Street: New Wave of Prostitution With More Violence Is Overwhelming Los Angeles Authorities," *Los Angeles Times*, 12/8/85:

[A]bout 30 madams and call girls gathered to discuss a significant change in their business...[A] North Hollywood madam told the women that a number of customers had asked her to procure 12- or 13-year-old girls. And more customers, she said, were beating, torturing and even killing out-call prostitutes.

An increasing number of customers are requesting violent or kinky sexual service and seeking younger girls, prostitutes and call girls say...

The sexual revolution has contributed to the change prostitutes have seen, said Dr. Michael Grinberg, a psychiatrist, sex therapist and chairman for the Society for the Scientific Study of Sex... "Prostitutes have always been around to provide any sexual behavior that is not generally available," he said. "At one time, for many men, that could have been just intercourse or oral sex. But with a lot of sexual freedom, there is no need for those men to go to prostitutes. So many of the men who began seeing prostitutes wanted things that were considered impermissible with other partners."

There are no definitive studies, but Grinberg is convinced that kinky sexual behavior is on the rise... There are several possible reasons for the change, Grinberg said. Our society is more violent now... Pornography is more graphic and readily available and some behavior displayed "can become incorporated in one's sexual fantasies."

There is also evidence that pimps show pornography to child prostitutes to instruct them. See generally, “A facilitator's guide to prostitution: A matter of violence against women,” WHISPER (“Women Hurt in Systems of Prostitution Engaged in Revolt”), Minneapolis, MN, 1990 (30% of prostitution survivors “reported that their pimps regularly exposed them to pornography in order to indoctrinate them into acceptance of the practices depicted”), available at <http://www.prostitutionresearch.com/factsheet.html>; see specifically, J. Tomassini, “Hotels target of police sting,” *Gaithersburg Gazette*, 12/24/08, available at http://www.gazette.net/stories/12242008/montnew114835_32483.shtml, where we read:

Within the binder that [Assistant State’s Attorney for Montgomery County Maura] Lynch brought to the December 16 community meeting was a litany of offenses that have occurred at the hotels...Another case outlined the use of the motel by [defendant], who was convicted of illegal sex trafficking throughout the Metro area in 2006. [Defendant] used girls as young as 14 to conduct a prostitution ring...[A]ccording to a news release from the U.S. Attorney’s Office for the District of Columbia, which prosecuted the case...[Defendant] would drive around the streets surrounding the hotels showing the girls pornographic DVDs in order to illustrate how to perform sex acts...They would then meet men inside the hotel rooms.

I would add that one website that describes itself as a “proud sponsor of ASACP” is devoted to adults having sex with teen prostitutes, with promotional material like this:

[Names omitted] are two lecherous old goats that will do, say, and pay just about anything to get fresh-faced [name omitted] to fondle them. Flirting finally freezes her fears, [she] opens up her mouth, and her s---- to their pay-for-play offers...[W]atch this teen learn as she earns the title of teen for cash!

So What’s the Problem? – Part 2

Many online distributors of ‘adult pornography’ market depictions of sex with ‘teens’

Many online distributors of “adult pornography,” including those that display the ASACP logo or “Restricted To Adults” (RTA) label, market depictions of sex with “teens” or young females.

For example, one website displaying the ASACP logo has a “Teen category” with promos for “jailbait,” “young teen,” “very young,” “incest,” “braces,” “sister,” and “school.” Another site displaying the same logo is devoted to “teens in 100% hardcore action,” with promos like “Hardcore teens in amazing 3 way sex...Nothing too wild for our dirty perverts.”

A website that displays the “ASACP – Protect Children” logo is devoted entirely to “Hot Teen F-- Films” with promos like “Voyeur Dorm: Spy on Hot Teens,” “Young Slutty Amateurs,” and “Innocent Teens F-----”. Another site with the same logo includes promos like this:

The finest black teen a---- are featured in the most steamy hardcore xxx content. The only black teen sex online you’ll ever need...Whether you’re looking for amateurs...hot explicit orgies and pretty black girls playing with toys, we’ve got them all for you...Check out some of our fine black teen booties...Barely Legal Fine A-- Nubians!

A website that provides a link to Association of Sites Advocating Child Protection and which promotes itself as “Just Hardcore Teen Action,” includes promotional material like this:

What is it about a hot blonde in pigtails that drives men crazy? Is it the sweet innocence of the look? Is it the cheerleader-ish type hairstyle that brings you back to your youth?...[Name omitted here] has one of the sweetest and most innocent looks I have ever seen. But don't let that fool you; this is one experienced teenage whore...

A website that is “proudly labeled” with the ASACP “Restricted To Adults” (RTA) label and that has a category for “Teachers Pictures,” includes promotional material like this:

Ever wish you could go back to high school?...We can make those dreams come true with our high school sex movies. We have found these sexy and naughty schoolgirls that love to stay after school for extra-curricular activities...Each scene features a smoking hot young chick dressed like a slut having sex with an older man...Each girl is dressed in a varying schoolgirl outfit that always includes a slutty little skirt and sexy top. The guys f----- them are generally the teacher or another authority figure...

Even pornography businesses whose logos appear on the ASACP website as “Sponsors” promote sex with “teens” or young/young looking females.

The “Adam & Eve” logo appears on the ASACP site under the “title sponsors” heading. The Adam & Eve website, which displays the “ASACP – Protect Children” logo, includes an “Amateur” category with videos like, “Sweet Young Things,” “Bubble Gum Cuties,” “Tight & Fresh,” “Never Been Touched,” “Badass School Girls,” and “Baby Faced.”

The “Hustler” logo also appears on the ASACP site under the “corporate sponsors” subheading. Larry Flynt's porn empire includes a website which displays the “ASACP – Protect Children” logo and which bills itself as “America's #1 Teen Megasite Online.” This website includes promos like, “Barely 18 and Ready for Some Action,” “Anal Teen Horny Force,” “Cracked Wide Open,” and “Daddy's Little Girl All Grown Up and Horny.”

Wicked Pictures, another “corporate sponsor” listed on the ASACP website, offers hundreds of pornographic videos with the word “teen” in the title. Here are just a few of the titles: “Couples Seduce Teens,” “Teens for Cash,” “My Teen's a Whore,” “Pigtail Party Teens,” “Tamed Teens,” “Teens Corrupted,” “Lollipop Teens,” and “Teens Next Door.”

In California, a jury convicted a defendant of 18 sexual offenses against his stepdaughter. The sexual abuse began when the child was 10 and ended when the child was 15. The trial court sentenced him to prison for more than 100 years, and the defendant appealed. In affirming his conviction, the Court of Appeal of California wrote the following in an unpublished opinion, *People v. Pierce*, 2005 Cal. App. Unpublished, LEXIS 4520 (2005):

[Defendant] made her watch pornographic videos and act out what was depicted... [At 3]

Defendant accessed pornography geared toward those who wish to see younger women, or women with shaved pubic regions, which tends to show [he] lusted after young females generally and corroborates the victim's story that defendant shaved her public region. [At 6]

Defendant moved to exclude evidence that he accessed the pornographic websites, in part because there was no evidence the sites contained child pornography and the evidence would prejudice him. The People argued the evidence tended to show his sexual interest in the victim and was admissible under Evidence Code sections... [At 8]

[The victim] testified she once saw defendant looking at pornographic pictures of "teenagers" on the Internet. [The victim's mother] testified that when defendant had access to her computer, several pornographic sites had been accessed...[T]heir titles lead to a reasonable inference that defendant had a sexual interest in young women, which bolsters the idea that he had a lewd intent toward his stepdaughter. We decline to advertise the websites by giving their titles in this opinion, but they suggest depictions of youthful or youthful-looking females, including teenagers, albeit not necessarily minors. [At 8]

....

The Internet evidence rationally tended to show that defendant had a sexual interest in young females generally. In particular, the victim testified defendant had her shave her pubic hair, and the title of one site indicated it was devoted to pictures of females without pubic hair. Defendant's taste in pornography tends to prove that if he did touch the victim as she testified, he did so with lewd intent, a necessary element of the People's case. [At 9]

And it isn't just young females that are marketed online! One website displaying the ASACP logo has a category for "Sweet Young Boys," with promotional material like this:

Fresh faces, sweet mouths, they are bursting with endless energy and enthusiasm. Especially when you tell them to bend over and...Sex is the only thing on their minds. You f----- them is their only pleasure.

It must be emphasized that what I have just described is the proverbial tip of the iceberg when it comes to commercial websites that are either devoted to content that depicts hardcore sex with "teens" or young/young looking females or males or that include a category that does so. Some of these sites display the ASACP logo or RTA label; others do not display the logo or label.

I would add here that to my knowledge the United States Justice Department has never prosecuted a commercial website that promotes sex with "teens" or young/young looking males or females. This failure to prosecute is in part the result of an FBI policy that permits Agents to investigate obscenity cases only when the most "extreme" material is involved.

So What's the Problem? – Part 3

Addiction to 'adult pornography' destroys marriages and that harms children

Addiction to "adult pornography" is harming and destroying countless marriages, and whatever harms or destroys a marriage can adversely affect a child who is part of the family unit or who no longer enjoy(s) the protection of two parents.

See, e.g., "One-parent Households Double Risk of Child Sexual Abuse," ScienceDaily.com, 3/14/07 ("Children being raised by one parent are at a greater risk for many things as they grow up...," said [William C. Holmes, MD, MSCE, Assistant Professor of Medicine and

Epidemiology at the University of Pennsylvania]. ‘We now must add childhood sexual abuse to part of this risk picture.’”).

See also, “Children under 12 years with sexual behavior problems in London and Middlesex County: Trends and professional perceptions,” Center for Research on Violence Against Women and Children [Canada], Feb. 2005 (41.2% of children identified as having exhibited sexual behavior problems in their interactions with other children, resided with a single mother; only 4.9% resided with both biological parents).

In a marriage it is usually the husband who becomes addicted to pornography. This addiction can harm or destroy a marriage in a number of ways. A husband may lose sexual interest in his wife; or he may act out his perverse or violent porn fueled fantasies with his spouse; or he may choose instead to act out his porn fueled fantasies with a prostitute(s). He may also spend thousands (tens of thousands) of dollars a year feeding his sexual addiction.

Many women are also concerned about the effects a father’s porn addiction may have on their children. A child may see the father viewing pornography or may find it on his computer (or elsewhere). In some cases there is concern about sexual abuse. In particular, the latter becomes a concern when dad’s interest in pornography includes “teens,” incest, or pseudo child porn.

For more information about pornography’s effects on marriages, see the following:

Testimony of J. Manning, *Hearing on Pornography’s Impact on Marriage and the Family*, Subcommittee on the Constitution, Committee on Judiciary, U.S. Senate, 11/11/05, available at <http://www.heritage.org/research/family/tst111405a.cfm>

Dr. V.B. Cline, “Treatment & Healing of Pornography & Sexual Addictions,” *Morality in Media*, 2001, available at <http://www.obscenitycrimes.org/vbctreat.cfm>

C.W. Fall, *Pornography’s Harms from a Catholic Therapist’s Perspective*, 2003, available at <http://www.obscenitycrimes.org/CraigFall.cfm>

J.W. Kennedy, “Help for the Sexually Desperate,” *Christianity Today*, Mar. 2008, available at <http://www.christianitytoday.com/ct/2008/march/18.28.html>

R.S. Whitehead, “What Do the Courts Say? Child Custody, Visitation Rights & Pornography,” *Morality in Media*, 2006, available at <http://www.obscenitycrimes.org/visitation.cfm>.

P. Paul, *Pornified: How Pornography Is Transforming Our Lives, Our Relationships, And Our Families*, Henry Holt & Company, 2005; Rory Reid & Dan Gray, *Confronting Your Spouses Pornography Problem*, Silverleaf Press, 2006.

So What’s the Problem? – Part 4

RTA labeling effort provides little protection for children from Internet smut

As mentioned above, in 2006 ASACP launched an effort to encourage online pornographers to utilize the Restricted To Adults (RTA) label to designate website content for “adults only” so that filters can block children’s access. Two years later, an article published in *XBIZ News* (S.

Yagielowicz, "RTA Celebrates 2 Years of Success," *XBIZ News*, 11/7/08, available at <http://www.rtalabel.org/index.php?content=news&item=642>), described the effort as follows:

RTA now boasts of having more than 3 million participating web pages; accounting for an incredible 3 billion daily visits to pages labeled with RTA...But RTA isn't about traffic — it's about protecting children; doing the right thing...responding to Congressional demands that the industry take proactive measures to ensure that minors don't access our wares...

According to statistics published at <http://www.internet-filter-review.toptenreviews.com/internet-pornography-statistics.html>, however, there are 421 million "pornographic pages." That means that hundreds of millions of pornographic web pages do not use the RTA label.

Furthermore, filters are helpful only to the extent that parents use them; and according to the latest survey that I am aware of ("Parents, Children & Media," Kaiser Family Foundation, June 2007), only 41% of parents said that they "use parental controls to block their children's access to certain websites," despite the fact that for more than a decade government agencies, media outlets, online services, technology companies, and nonprofits have promoted use of filters.

Moreover, as children get older they can access the Internet outside the home (e.g., at a school, library, friend or relative's house or a job). Increasingly, children can also access the Internet via mobile devices, and all it takes is one child in a group of friends to have unrestricted access to the Internet for all to have access. And as the following surveys show, large numbers of children are being exposed to Internet pornography.

C. Sabina, J. Wolak & D. Finkelhor, "The Nature and Dynamics of Internet Pornography Exposure for Youth," *CyberPsychology & Behavior*, 11, Dec. 2008, report these findings: "Overall, 72% of participants (93.2% of boys, 61.1% of girls) had seen online pornography before age 18...Most exposure began when youth were ages 14 to 17, and boys were significantly more likely to view online pornography more often and to view more types of images..." (<http://www.liebertonline.com/doi/abs/10.1089/cpb.2007.0179>)

J. Wolak, K. Mitchell & D. Finkelhor, "Online Victimization of Youth: Five Years Later," National Center for Missing & Exploited Children, 2006: The percentage of Internet users ages 10 to 17 who were exposed to unwanted pornography in the previous year increased from 25% in 2000 to 34% in 2005; 13% of these youthful Internet users said they had "gone to an X-rated site on purpose in the past year," compared to 8% in 2000; among 16- and 17-year old boys, 38% said they had visited X-rated sites on purpose in the past year. (http://www.missingkids.com/en_US/publications/NC167.p)

National Center on Addiction & Substance Abuse at Columbia Univ., "National Survey of Attitudes on Substance Abuse IX: Teen Dating Practices and Sexual Activity," 2004: 45% of teens have friends who regularly view and download pornography from the Internet. (<http://www.casacolumbia.org/absolutenm/templates/PressReleases.aspx?articleid=366&zoneid=61>)

Not every child who is exposed to pornography gets a wrong idea about sex from it or becomes addicted to it; but many children do get wrong ideas, while many others become addicted. For information about the effects of pornography on children see the following:

Testimony of M.A. Layden, *Hearing on the Brain Science Behind Pornography Addiction*, Subcommittee on Science, Committee on Commerce, Science and Transportation, U.S. Senate, 11/18/04 (“Pornography...is an equal opportunity toxin...It is more toxic the more you consume, the ‘harder’ the variety you consume, and the younger and more vulnerable the consumer.”), available at <http://www.obscuritycrimes.org/Senate-Reisman-Layden-Etc.pdf>).

E.M. Alexy, A.W. Burgess & R.A. Prentky, “Pornography Use as a Marker for an Aggressive Pattern of Behavior Among Sexually Reactive Children & Adolescents,” *Journal of the American Psychiatric Nurses Association*, 14, 442-453, 2009 (juvenile sex offenders “may be more vulnerable and likely to experience damaging effects of pornography use...”)

S. Kraus & B. Russell, “Early Sexual Experiences: The Role of Internet Access and Sexually Explicit Material,” *CyberPsychology & Behavior*, 11, 162-168, 2008 (“males with Internet access during the ages of 12 to 17 reported significantly younger ages for first oral sex compared to males without Internet access”), available at http://www.liebertpub.com/publication.aspx?pub_id=10).

E. Landau, “When sex becomes an addiction,” www.cnn.com, 9/5/08 (“A lot of teenagers develop their sexuality with pornography and then discover that relational sex isn’t as satisfying, [Doug] Weiss said. Porn gives them a ‘very strong chemical hit,’ and alters ways of thinking about sex...”), available at <http://www.cnn.com/2008/HEALTH/09/05/sex.addiction/index.html>.

H. Neill, “Male sex addict cases ‘increase,’” *BBC Radio*, 1/10/08 (“Christine Lacy, Relate Sex therapy consultant, said those with sex addiction problems felt their lives were: ‘spiraling out of control.’ She said...“Relate counselors working with teenagers have reported that the instant availability of pornographic images on the internet and mobile phones has worrying implications for their ability to have normal sexual relationships as they grow up.”), available at <http://news.bbc.co.uk/1/hi/uk/7180401.stm>

T. DeAngelis, “Web Pornography’s Effect on Children,” *Monitor on Psychology*, 38, No. 10, Nov. 2007 (“investigators see links between young people who access Web porn and unhealthy attitudes toward sex”), available at <http://www.apa.org/monitor/nov07/webporn.html>.

K. Kurtis, “Sex Offenders Younger, More Violent,” Associated Press, 6/9/07 (“42 percent have been exposed to hardcore pornography”), available at <http://origin.foxnews.com/wires/2007Jun09/0,4670,YouthSexOffenders,00.html>.

“Web is blamed for 20 per cent leap in sex attacks by children,” *Evening Standard* (“This is London,” UK), 3/307 (“Internet pornography was blamed yesterday for a dramatic rise in the number of sex offences committed by children...Experts said the behavior of youngsters was being changed by ready access to sexual imagery... A shocking 143 cases involved 12-year-olds.”), available at <http://www.thisislondon.co.uk/news/article-23387540-details/Web+is+blamed+for+20+per+cent+leap+in+sex+attacks+by+children/article.do>

N. Wallace, “Net helps children start sex attacks,” *Sydney (AU) Morning Herald*, 11/26/03 (“Internet pornography was helping to spawn a new generation of sexual predators as young as six, child protection experts warned...There had been an alarming increase in children under 10 sexually abusing other children over the past few years, most of whom had used the Internet

specifically to browse porn sites, the Child At Risk Assessment Unit based at Canberra Hospital said.”), available at <http://www.smh.com.au/articles/2003/11/25/1069522606196.html>.

S. Gilbert, “A Conversation with Lynn Ponton: An Expert’s Eye on Teenage Sex, Risk & Abuse,” *New York Times*, 01/15/02 (“I see boys who are addicted to sex on the Internet... [I]t affects those boys’ sexual lives”), available at <http://query.nytimes.com/gst/fullpage.html?res=9402E6D61438F936A25752C0A9649C8B63>.

“Internet Safety 101: Empowering Parents,” Enough is Enough, 2008 (the DVD segment focusing on pornography includes scenes where teenage boys and girls talk about how pornography affected them), available at <http://www.enough.org/inside.php?id=9LEZ249LA>.

One concern that I have about today’s youth and young adults [See, Carroll et al., “Generation XXX: Pornography Acceptance and Use Among Emerging Adults,” *J. Adolesc. Res.*, 23, 6-30, 2008 (study found that 48.4% of male college students reported viewing pornography at least weekly)] is the effect that this exposure is going to have on their ability to make a marriage work and even their willingness to enter into a marriage. See, e.g., D. Amsden, “Not Tonight, Honey. I’m Logging On,” *New York Magazine*, 10/20/03; N. Wolf, “The Porn Myth: In the end, porn doesn’t whet men’s appetites – It turns them off to the real thing,” *N.Y. Magazine*, 10/20/03.

So What’s the Problem? – Part 5

Legitimate governmental interests, other than protecting children, are at stake

While protecting children from predators and pornography should be a top priority, it is by no means the only concern. In *Paris Adult Theater I v. Slaton*, 413 U.S. 49, 57 (1973), the Supreme Court held that there are “legitimate state interests at stake in stemming the tide of commercialized obscenity, *even assuming it is feasible to enforce effective safeguards against exposure to juveniles...*” [Italics added] These include:

- (1) protecting “the quality of life and total community environment” (at 58);
- (2) protecting “public safety” (at 58);
- (3) maintaining “a decent society” (at 59-60);
- (4) protecting “the social interest in order and morality” (at 61); and
- (5) protecting “family life” (at 63).

In addition to these governmental interests, our nation’s role in polluting the world with pornography is also making the war against religiously based terrorism more difficult [See, e.g., R. Burkholder, “Iraq and the West: How Wide is the Morality Gap,” *GALLUP*, 11/25/03 (“Gallup’s Poll of Baghdad asked a representative sample of adults to describe -- in their own words -- what, if anything, they most resent about the West... More than a third (36%) of Baghdad residents said they believe Western culture has undermined moral standards by spreading sexually indecent influences [‘pornography’ and ‘fornication’].” Available at <http://www.gallup.com/poll/9763/Iraq-West-How-Wide-Morality-Gap.aspx>)]

The display of pornography is also a frequent component in workplace sexual harassment cases, and the time wasted viewing Internet pornography reduces worker productivity. See, e.g.,

“Increased Visits to Porn Sites At Work,” *Industry News*, Wavecrest Computing, 2/24/09, available at <http://www.wavecrest.net/editorial/issues.html#pr27>, where we read:

“[A]ccording to a study by Nielson Online in October 2008, visits to porn sites at work is up 23 percent from the previous year. This means that almost one quarter of employees are visiting porn sites during the workday. “Hits to porn sites are highest during office hours than at any other time of day,” according to M.J. McMahon, publisher of *AVN Online* magazine, which tracks the adult video industry...Regardless, porn surfing at work poses a major legal liability risk for businesses. This type of activity puts the employer at serious risk of being sued by *other* workers who are offended or upset by being exposed to pornographic images. Such suits usually take the form of ‘sexual harassment’ or ‘hostile workplace’ litigation and can be very costly...In addition to the legal costs, businesses also have to be concerned about costs due to loss of productivity... According to Salary.com, the average employee wastes 2.09 hours a day on the Internet...

Furthermore, as Roger Young, Special Agent, FBI retired, points out:

It was my own experience from working obscenity cases as a Special Agent of the FBI (1975 - 2001), as well as my understanding from speaking to other Agents who investigated these cases, that there is no such thing as *just* an obscenity case. Crimes associated with obscenity crimes include arson, bribery, conspiracy, domestic terrorism, drugs, extortion, involuntary servitude, jury tampering, kidnapping, mail fraud, money laundering, murder, obstruction of justice, prostitution, public corruption, racketeering, rape, robbery, sexual assault, sexual exploitation of children, tax evasion, and witness intimidation.

For more information about the harms that “adult pornography” causes not just to children but also to adults, see resources and links to other resources at www.obscenitycrimes.org (“Porn Problem & Solutions” and “Help for Porn Victims & Addicts”); “Social Costs of Pornography Consultation,” Witherspoon Institute, December 2008, pre-Consultation paper drafts available at http://www.winst.org/family_marriage_and_democracy/social_costs_of_pornography/consultation2008.php; “The Question of Harm,” *Attorney General’s Commission on Pornography: Final Report*, 299-351, 1986, available at <http://www.communitydefense.org/lawlibrary/agreport.html>.

Concluding Thoughts

I do not fault ASACP for encouraging individuals to report possible violations of sexual exploitation of children laws. Nor do I fault ASACP for encouraging online porn distributors to label their “adults only” content so that filters can block it. Nor do I fault law enforcement agencies for accepting reports received from ASACP. Nor do I fault technology companies for enabling their filters to block access to web pages labeled with RTA.

What I do find fault with is the notion that ASACP and the Internet pornographers that cooperate with it are valuable allies in the battle to protect children from Internet predators and from exposure to Internet pornography. The “adult entertainment industry” is not now and never has been a friend of children. In declaring itself committed to the fight against child pornography, Internet pornographers are attempting to divert attention from their harmful and often illegal businesses and to portray themselves as responsible corporate citizens.

Prior to the enactment of a federal law in 1978 that specifically prohibited child pornography, the “adult entertainment industry” was up to its neck in child pornography. Roger Young, Special Agent, FBI retired, describes those pre-1978 years:

It was my own experience from working obscenity cases as a Special Agent of the FBI (1975 - 2001), as well as my understanding from other sources, that prior to the enactment in 1978 of a federal law prohibiting child pornography, child pornography was commercially produced and distributed by major “adult pornography” commercial entities and was openly sold in “adult bookstores” throughout our nation. An example of the latter was seen by viewers on national television in 1976, when the "60 Minutes" program aired the filming of the purchase of 8mm child pornography films over the counter at an “adult bookstore” in the San Fernando Valley area just north of Los Angeles, California.

The *Police Chief* article (cited above at page 4) described the pre-1978 years as follows:

From the late 1950s through the early 1970s there was a pornographic revolution in America...On the heels of this pornographic revolution came a new and disturbing phenomenon – child pornography...Child pornography proliferated in the city of Los Angeles throughout the 1970s and into the early 1980s. Early on it could be purchased openly from adult bookstores and vendors...By 1978, after the presidential signing of the Protection of Children Against Sexual Exploitation Act of 1977, federal and state laws were taking shape to deter the production and distribution of child pornography... [At 14]

In 1996, the Free Speech Coalition, a front group for the “adult entertainment industry” and an ASACP “association sponsor,” successfully challenged the federal “pseudo child porn” law that would have prohibited distribution and possession of visual images, including computer-generated images, that appear to depict a minor engaging in sexually explicit conduct. The invalidation of this law in 2002 made it *more difficult* to prosecute many child porn offenders.

In June 2005, the Free Speech Coalition (FSC) filed a lawsuit challenging the federal law (18 USC 2257 and accompanying regulations) that requires producers of “adult pornography” to create a record for each participant used in a depiction of sexually explicit conduct in order to verify that they are at least 18 years old and to maintain a record of this age verification.

In November of 2005, the Free Speech Coalition filed a lawsuit challenging the constitutionality of Utah’s anti-spam “Child Protection Registry” law. This law would establish a “do not email” registry containing email addresses that belong to or can be accessed by Utah minors and criminalize the sending of prohibited email to any address listed in the registry.

Many commercial websites, including those that display the ASACP logo or RTA label, continue to distribute hardcore pornographic content that celebrates sex with “teens” and young females.

According to statistics published at <http://www.internet-filter-review.toptenreviews.com/internet-pornography-statistics.html>, in 2006, 1.97 million website pages contained the keyword “teen porn” and another 2.1 million web pages contained the keyword “teen sex.” These aren’t the only “keywords” that lead to websites that promote sex with teens or young females and males.

As for ASACP's effort to shield children from "age-inappropriate material" on the Internet, even Joan Irvine, the CEO of ASACP, acknowledges that this effort isn't working very well. Here is what she said in the above-mentioned *California Western Law Review* article [At 542-543]:

Question: Can you please talk a little bit about parental responsibility as part of the equation here for protecting children?

Irvine: Parents have a responsibility. There actually are three groups who have responsibilities. First, this is about sites being labeled RTA or however they want to be labeled for filtering. Second, it is about filtering companies recognizing those labels. And then it is about parents using those labels. We've done the first part – we have the RTA label out there. We're working with a number of the larger parental filtering software companies. Now, it is on the parents...Any place you go that has anything to do with the Internet, there is always information about what parents can do. There is so much education out there...

I don't know how much more you can be educating parents. What else can you be doing to educate them? There is so much information out there. I know parents are confused by a lot of this technology, but part of their responsibility as parents is to, at least, do whatever they can to prevent their children from unknowingly viewing age-inappropriate material....

Last week, at the press conference, I mentioned a Kaiser Family Foundation...study that found that only forty-one percent of parents were using some kind of parental control filter on their computer...I'm just thinking, "How can you even have a computer in your home then?" What kind of a parent would even admit to that? I bet the number is even a little bit lower because I'm sure some parents said, "Oh, of course we are using this."

What Irvine failed to mention is that online distributors of pornography could do more than just label their smut. They could also implement age-verification systems. That, however, might cut into profits. For a balanced discussion of age-verification technology, see, "Background Report on Cross Media Rating and Classification and Age Verification Solutions," European Commission Information Society, Safer Internet Forum, Luxembourg, Sept. 2008, available at http://ec.europa.eu/information_society/activities/sip/index_en.h

Nor did Irvine mention that federal Internet obscenity laws could be enforced against commercial websites that permit children to view hardcore pornography free of charge and without age-verification. That would not only cut into "adult industry" profits; it would also result in hardcore pornographers going out of business and going to jail.

Even assuming that individuals associated with ASACP are themselves concerned about the welfare of children, the organization itself serves as a front group for online commercial distributors of "adult pornography," and the proliferation of "adult pornography" on the Internet poses a significant risk to children in a variety of ways, as well as to society.

Imagine a major city where the Mafia has historically controlled traffic in illegal drugs and where this traffic has corrupted public officials, brought ruin to neighborhoods and harmed countless families and individuals of all ages, despite the fact that the Mafia no longer targets children for drug sales. Imagine further that an ethnic gang challenges Mafia control of the drug

traffic and begins to target children for drug sales. The Mafia then steps forward and offers to work with law enforcement agencies to curb the sale of illegal drugs to children.

Questions: Should law enforcement agencies accept help from the Mafia to protect children? If so, should these agencies and others concerned about the welfare of children treat the Mafia like a valuable ally for doing so, and ignore all the harm the Mafia has done and continues to do?

Personally, I think law enforcement agencies should treat information received from the Mafia in much the same way they would treat it from anyone else. I also think these agencies and others concerned about the welfare of children would do a great disservice to the citizens of my mythical city if they treated the Mafia as an ally and turned a blind eye to the harm it is doing.

But increasingly, ignoring the harm is what national and international law enforcement agencies, the Congressional Internet Caucus Advisory Committee, the Financial Coalition, and others have been doing when it comes to the “adult entertainment industry.”

But, someone may say, unlike the Mafia in your mythical city, businesses that produce and distribute “adult pornography” online are not breaking any laws.

Ignorance of the law is undoubtedly part of the explanation for why so many seemingly responsible individuals turn a blind eye to the problem of “adult pornography.” But the truth is that in a 1973 obscenity case, *Miller v. California*, 413 U.S. 15, the Supreme Court held that our nation’s federal and state obscenity laws can constitutionally be enforced against “hardcore” adult pornography; and most commercially distributed adult pornography is now “hardcore.”

In 1996, Congress also enacted an amendment to the federal obscenity laws (specifically 18 U.S.C. 1462 & 1465) to clarify that distribution of obscene matter is prohibited online. While the Bush Administration was in large measure a disappointment when it came to enforcement of federal obscenity laws, it proved that these laws can be successfully enforced against the sale of hardcore “adult pornography,” whether off line or online, when there is a will to do so.

Earlier this month a purveyor of hardcore “adult pornography” pled guilty in Pittsburgh to federal obscenity charges, including distribution of obscenity over the Internet. In 2008, a federal jury in Tampa convicted a purveyor of hardcore “adult pornography” of distributing obscene materials in the mails and over the Internet. In 2007, a federal jury in Phoenix convicted a porn spammer on obscenity charges. In April 2008, a grand jury in Washington, DC indicted a purveyor of hardcore “adult pornography” on obscenity charges, including one count of using an interactive computer service to display obscene matter in a manner available to minors.

The public also supports enforcement of federal obscenity laws. In 2004, 2005 and 2008, Morality in Media commissioned a national market research firm to ask various questions about enforcement of federal obscenity laws. Depending on the question asked, the percentages of adults (18 and over) who expressed support for enforcement ranged from 75% to 82%.

But, someone may say, because of limited resources the Justice Department and FBI are right to focus their energies almost exclusively on child molesters and child pornography.

There are a number of problems with this “justification” for doing next to nothing to curb distribution of hardcore “adult pornography” on the Internet. In the first place, I would argue

(see pages 3-13) that the explosion of hardcore “adult pornography” online is helping to fuel online sexual exploitation of children. In the second place, I would argue (see pages 13-14) that the explosion of hardcore “adult pornography” on the Internet is ruining countless marriages and this also harms children. In the third place, I would argue (see pages 14-17) that children aren’t just harmed by adults who use the Internet to prey on children for sexual purposes; children are also harmed by exposure to online hardcore “adult pornography.” In the fourth place, I would argue (see pages 17-18) that while protecting children from online harm of whatever nature should be a top priority, it is not the only legitimate governmental concern.

The following factors also call into question the “limited resources” justification for doing next to nothing about the explosion of “adult pornography” on the Internet.

First, the sale of obscenity is profitable; and a frequent result of a successful federal obscenity prosecution is a significant fine and/or forfeiture of property. This can offset in whole or part (and even more than offset) the cost of investigating and prosecuting these cases. See, e.g.:

Associated Press, “Porn King Sentenced to Four Years in Prison,” *Columbus Dispatch*, 6/11/92 (“Sturman was sentenced under a plea bargain agreement that called for... a \$ 1 million fine. In addition, Sturman agreed to forfeit his interests in over a dozen adult bookstores, movie theaters and buildings...”);

P. Gustafson, “Supreme Court says Alexander’s rights weren’t violated,” *Star Tribune* (Minneapolis), 6/29/93 (“After the convictions, federal authorities used the RICO statute to seize from Alexander \$ 8.9 million in cash and inventory, 10 bookstores valued at more than \$ 2 million, his interest in 18 other businesses and proceeds from 15 other businesses.”);

S. Bardwell, “HPD gets \$400,000 in assets seized in porn case,” *Houston Chronicle*, 11/14/96 (“Houston Police Department received \$400,000..., its share of assets seized during a local and federal investigation into the sale and distribution of pornography...”);

(J. Accola and J. Abbott, “Porn Broker Enters Guilty Plea,” *Rocky Mountain News*, 11/5/05 (“As part of a plea bargain, the...[Defendant] agreed to forfeit a half-dozen adult bookstores and video arcades in Texas. The deal also includes forfeiture of \$1.25 million that federal authorities seized during search raids of some of those businesses earlier this year.”); and

C. Kahn, “Men get 5 years in prison for sending pornographic spam emails,” Associated Press, 10/13/07 (“[Defendants] were also ordered to forfeit \$1.3 million.”).

Second, last year Congress enacted Senator Joe Biden’s “Protect Our Children Act of 2008,” which authorized \$325 million over the next 5 years to fight sexual exploitation of children on the Internet. In so doing, Congress again ignored the admonition of the Congressionally created COPA Commission, which included the following Recommendation in its October 2000 *Final Report*, (available at <http://www.copacommission.org/report/recommendations.shtml>):

Government at all levels should fund, with significant new money, aggressive programs to investigate, prosecute, and report violations of federal and state obscenity laws, including efforts that emphasize the protection of children from accessing materials illegal under current state and federal obscenity law. Specifically, the Commission recommends that

Government at all levels fund aggressive programs to investigate and prosecute violations of obscenity laws...*This investigation and prosecution program should supplement the Government's existing effort to investigate and prosecute child sexual exploitation, sexual abuse, and child pornography...*Such a program should be of sufficient magnitude to deter effectively illegal activity on the Internet. [Italics added by author]

Were Congress to now appropriate even \$25 million over the next five year to fund the U.S. Justice Department's Obscenity Prosecution Task Force, for the purpose of combating "adult pornography" on the Internet, much good would come from the effort for children and society.

Third, prior to a court decision invalidating the federal record keeping statute, 18 USC 2257, the FBI had budgeted two teams consisting of five agents a piece (with an expectation of increasing the number of agents) to inspect U.S. producers of "adult pornography" to ensure compliance with Section 2257, which requires producers to verify the age of each participant in a photo or video shoot and to create and maintain age verification records.

I don't fault the FBI for attempting to ensure that producers of "adult pornography" are in compliance with Section 2257; but I tend to agree on one point with Joan Irvine, the CEO of ASACP, who responded as follows to a question about whether there is "a problem with underage performers in the adult movie business in Southern California," which is still the porn capital of the world and where most if not all the 2257 inspections had taken place:

No, I don't see one...The adult industry is by adults and for adults...[P]eople aren't doing it, and it is not worth it. [44 *Cal. W. L. Rev.* 511, 523]

And it would appear that the FBI would also tend to agree with Joan Irvine on this point. In response to the question "What can ASACP do to help the adult entertainment industry change the public perception among some people that adult movies and child pornography are somehow linked?" Irvine stated in part (44 *Cal. W. L. Rev.* 511, 526):

[W]e are part of the Financial Coalition Against Child Pornography that is hosted by the International Centre for Missing & Exploited Children...At one of the last meetings that I went to, Dan Larkin, an FBI forensic specialist, said "We know the ['adult'] industry is not involved in this and that it is organized crime that is involved in child pornography."

After the Supreme Court upheld laws prohibiting child pornography in 1982 and the Traci Lords' scandal exploded in the late 1980s, established U.S. producers of "adult pornography" would have to be out of their minds to knowingly hire a minor for the reasons that they could make money hand over fist without the use of minors and that the criminal penalties for hiring a minor are draconian. This isn't to say that no U.S. based producer of "adult pornography" is presently using minors. But these producers are causing far more harm to minors (and society) from the glut of "adult pornography" they distribute than they are from any hiring of minors.

Were the FBI to now assign even one team of five Agents to work full-time investigating major Internet distributors of hardcore "adult pornography" for violations of federal obscenity laws, much good would come from the effort for both children and society.

Addendum

As I was writing this article, the Senate confirmed David Ogden, President Barack Obama's choice for Deputy U.S. Attorney General, the number two position at the Justice Department.

When Mr. Ogden was in private practice, he submitted legal briefs (1) in defense of a child pornographer, (2) in opposition to a law intended to shield children from the display of sexual material that is harmful to minors and (3) in opposition to a law that requires public libraries that receive federal funds to filter pornography. He also represented one of the nation's largest commercial distributors of hardcore pornography, which is now an ASACP "Sponsor." He also served under former Attorney General Janet Reno, who turned a blind eye to the explosion of hardcore pornography on the Internet that occurred during her years in office.

In fairness to Mr. Ogden, lawyers do not necessarily agree with their clients. Furthermore, as Deputy Attorney General, he should put aside his personal views. Ultimately the final say about obscenity law enforcement rests with President Obama and Attorney General Eric Holder.

But at least one hardcore pornographer thinks David Ogden will be a friend of the "adult industry." As quoted in an article by Mark Kernes ("Ira Isaacs: Prosecutors Stalling in Obscenity Case," www.avn.com, 3/17/09, available at <http://business.avn.com/articles/34726.html>), Ira Isaacs stated: "Ogden seems to be a real civil liberties guy...I think Ogden is going to look at all this...and is going to ask, 'Do we want to get involved in cases where it's just adults.'"

We hope Mr. Isaacs, who sells hardcore pornography depicting sex mixed with excrement and sex with animals, is wrong about the Obama Administration.

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In 2002, MIM launched the www.obscenitycrimes.org website to provide citizens with a means online to report possible violations of federal Internet obscenity laws. Complaints to the website (more than 70,000 in number) are forwarded by MIM to the Justice Department in Washington and to each local U.S. Attorney where a report originated. MIM also retained the services of two retired law enforcement agents who follow up on select complaints submitted to the site. Their detailed investigative reports are also sent to the Justice Department and local U.S. Attorneys.