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Janis Wolak

University of New Hampshire - Main Campus, Janis.Wolak@unh.edu

David Finkelhor

University of New Hampshire - Main Campus, David.Finkelhor@unh.edu

Kimberly J. Mitchell

University of New Hampshire - Main Campus

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Trends in Arrests for Child Pornography Production: The Third National Juvenile Online Victimization Study (NJOV-3)

Janis Wolak, David Finkelhor & Kimberly J. Mitchell

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Arrests for child pornography (CP) production more than doubled between 2006 and 2009. This rise was driven largely by a dramatic increase in cases involving “youth-produced” sexual images – pictures taken by minors, usually of themselves, which met legal definitions of child pornography. In most of these cases, an adult offender who solicited images from a minor was the person arrested. Reflecting this trend, there were also increases in the proportion of adolescent victims and of cases in which victims and offenders were face-to-face acquaintances.

This bulletin tracks trends in arrests in cases involving the production of child pornography (CP), including characteristics of victims and offenders and dynamics of cases. The data come from 3 waves of the National Juvenile Online Victimization (NJOV) Study that examined arrests in 2000, 2006 and 2009. See the end of this report for a description of the methodology of the NJOV Study.

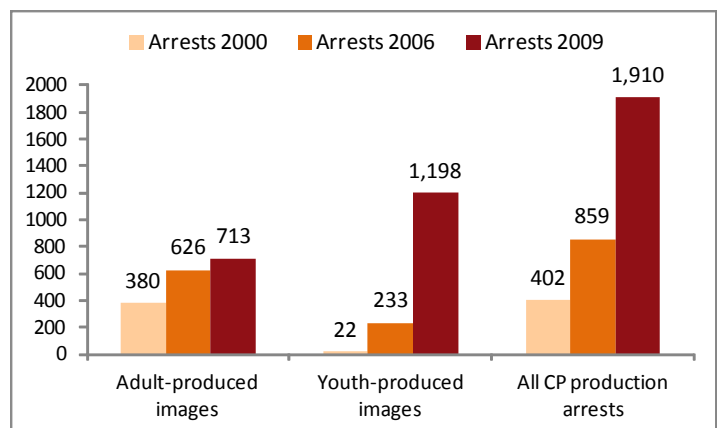
What is child pornography production?

US federal law states that “any person who employs, uses, persuades, induces, entices or coerces” a minor to engage in sexually explicit conduct for the purpose of producing an image of such conduct commits a felony (18 USC 2251). Federal statutes that criminalize child pornography define “child” as age 17 or younger, and CP as the “visual depiction ... of sexually explicit conduct” (18 USCS 2256). Sexually explicit conduct includes acts such as intercourse, bestiality and masturbation, as well as “lascivious exhibition of the genitals or pubic area.” Because the federal statute defines child to include 16 and 17 year old teenagers, youth under 18 who can legally consent to sexual intercourse (16 in most states) cannot consent to being photographed in sexually explicit poses. Further, adults who persuade or induce minors to create sexually explicit images of themselves are generally considered CP producers. Many states mirror federal law, although there is some variation in the definition of child and the content that is proscribed.

Arrests for crimes involving CP production more than quadrupled between 2000 and 2009; the growth is largely attributable to cases of “youth-produced sexual images” solicited from minors by adult offenders.

In 2009, US law enforcement agencies made an estimated 1,910 arrests for crimes that included CP production, almost 5 times as many as in 2000 and more than twice as many as in 2006 (Figure 1). The largest part of the recent growth came from a sharp increase in arrests involving youth-produced sexual images, from an estimated 233 in 2006 to 1,198 in 2009. Cases of youth-produced sexual images are diverse (Box 2), but most cases that end in arrest are perpetrated by adult offenders who seduce underage adolescents and solicit sexual images from their victims [1]. Arrests for cases with adult-produced images almost doubled between 2000 and 2006, but did not increase significantly between 2006 and 2009.

Figure 1. Estimated number of arrests for CP production, by year



What are youth-produced sexual images?

Youth-produced sexual images are images created by minors (age 17 or younger) that meet legal definitions of child pornography. These images can be created in so-called “sexting” incidents, which have been sensationalized in the media as being widespread among youth, and as resulting in serious criminal charges for production, possession and distribution of child pornography. However, research shows that few youth actually participate in sexting [2] and most police do not arrest youth in cases that come to police attention [3].

Types of youth-produced image cases

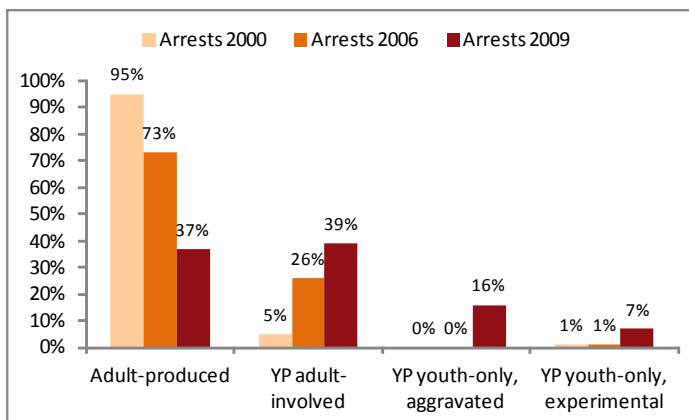
Youth create sexual images in a diverse range of situations. To assist in understanding these incidents, we created a typology of youth-produced sexual images cases based on incidents described by law enforcement to researchers for the NJOV3 Study [4]. The typology divides cases into three categories: “adult-involved,” “youth-only aggravated” and “youth-only experimental.”

- **Adult-involved** cases were generally perpetrated by adult offenders who seduced underage adolescent victims and solicited sexual images from them.
- **Youth-only aggravated** cases involved youth who sexually abused and photographed other youth, used sexual pictures to embarrass or blackmail other youth, or engaged in reckless misuse of images by distributing them without knowledge or permission of pictured youth.
- **Youth-only experimental incidents** did not involve adults or any aggravating circumstances. Rather, these incidents involved pictures taken in romantic relationships or for sexual attention-seeking among adolescents.

Despite the increase in youth-produced sexual images, most CP producers arrested in 2009 were adults.

In 2000 and 2006, there were few cases of youth-produced sexual images and virtually all of them involved adult sex offenders, most of whom solicited images from adolescent victims (Figure 2). The balance of cases involved CP produced by adult offenders. In 2009, again most arrested CP producers were adults who either created images of minors (37% of CP production arrests) or enticed minors to produce images (39%). While “youth-only” incidents made up almost one-quarter of 2009 arrests, most of these arrests were for serious criminal activity by juvenile offenders that included sexual abuse or blackmail or other malicious acts (aggravated incidents, 16% of arrests). Seven percent of 2009 arrests involved youth-produced images that could be categorized as “sexting” – images created by minors in the context of romantic relationships or for sexual attention-seeking among adolescents.

Figure 2. Types of CP production cases, by year



Note: YP=youth-produced sexual images; some percentages do not add to 100 due to rounding.

2009 adult-produced image cases differed from youth-produced image cases.

In 2009, compared to cases of youth-produced images, cases of adult-produced images were *more likely to*

- Be perpetrated by a family member (51% of adult-produced image cases versus 6% of youth-produced)
- Have victims younger than 12 years of age (54% of adult-produced cases versus 14% of youth-produced)
- Be perpetrated by offenders age 26 or older (75% of adult-produced image cases versus 33% of youth-produced; these latter were “adult-involved” cases)
- Be perpetrated by offenders that also possessed CP downloaded from the Internet (49% of adult-produced cases versus 22% of youth-produced)
- Be discovered by law enforcement activity rather than through reports by individuals (22% of adult-produced cases versus 12% of youth-produced)

Images were distributed online in about one-quarter of adult-produced image cases.

Because sex offenders have used the Internet to create a market for trading child pornography, there is concern that CP producers will upload the images they create into this online marketplace, making victims’ pictures available for online viewing and trade.

In 2009, about one-quarter of offenders in cases of adult-produced images distributed images they produced; almost all distribution was online. In about 70% of cases, law enforcement investigators said “no” when asked if offenders distributed adult-produced images. In the balance of cases, investigators did not know if images were distributed. Similar rates of distribution were found in 2006 and 2000 [1].

In 2009, most youth-produced images were distributed, usually by youth who took pictures of themselves and sent them to others; images were posted online in about 1 in 10 cases.

In 2009, most youth-produced images (83%) were distributed, but most of the distribution involved youth who took pictures of themselves and sent the images to adult offenders or other youth.

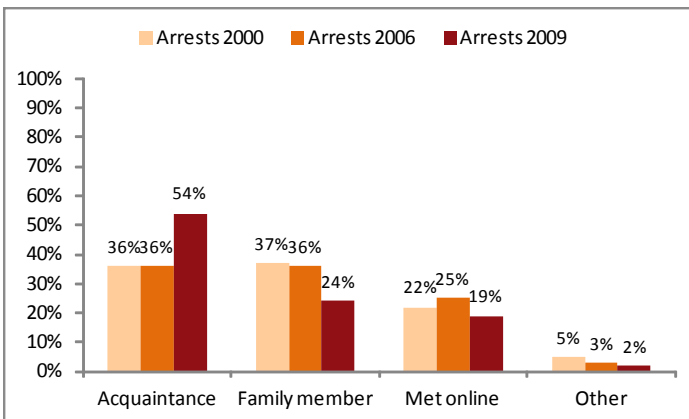
Of 2009 youth-produced image cases where images were distributed

- In 87%, youth took pictures of themselves and sent them to others
- In 56%, the distribution was by cell phone only
- In 15%, images were forwarded to others by a recipient
- In 11%, images were posted online

In 2009, more arrested offenders were acquaintances of victims.

Half of offenders arrested in 2009 were acquaintances of victims rather than family members or persons met online, a significant increase when compared to the percentage of acquaintance offenders in 2006 and 2000 (Figure 3). This shift probably reflects the dynamics of youth-produced image cases, which tend to involve offenders who are acquainted with adolescent victims, while adult-produced image cases more often have familial offenders and younger victims.

Figure 3. Relationships between offenders and victims, by year



Note: Some percentages do not add to 100 due to rounding. "Other" includes strangers and pimps who produced images of prostituted youth.

More than half of CP producers arrested in 2009 committed contact sexual offenses.

Sex crimes that include CP production vary widely. In some cases the CP production, which is a "non-contact" offense, is the entire crime. Without suffering contact sexual abuse, victims may be coaxed, seduced or coerced into taking pictures of themselves or posing for pictures, or they may be

photographed covertly, for example while showering. In some cases, offenders commit additional non-contact crimes such as using the Internet to solicit a minor for sex, showing pornography to a minor or exposing themselves. Most contact sexual offenses that are committed in conjunction with CP production are non-violent – offenders use their authority as adults to persuade or pressure child victims to acquiesce to sexual contact, or they use flattery, gifts, or promises of romance. The photographs taken by these offenders often document their contact sexual offenses. Also, a small number of CP producers commit violent contact offenses such as forcible rape. In 2009, there was a decrease in the proportion of CP production cases that involved contact offenses (Table 1).

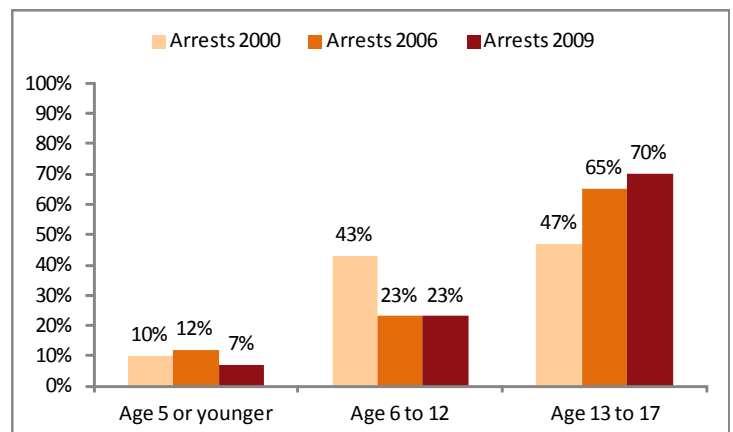
Table 1 CP production, contact sexual offenses, by year

| | Arrests 2000-1 | Arrests 2006 | Arrests 2009 |
|---|----------------|--------------|--------------|
| CP production included contact sexual offense | 63% | 69% | 53% |
| <u>Contact offense was:</u> | | | |
| Fondling | 9% | 13% | 7% |
| Penetrative offense | 53% | 55% | 45% |
| Violent sexual assault | 1% | <1% | 1% |

In 2009, most victims of CP production were teenagers.

In 2009, the majority of victims of CP production were ages 13 to 17 (Figure 4). This proportion is similar to that found among 2006 arrests, but a significant increase over arrests in 2000, in which slightly less than half of victims were teens. Arrest cases with victims ages 6 to 12 made up a significantly smaller proportion of cases in 2006 and 2009 compared to 2000, while the proportion of cases with victims ages 5 or younger did not change significantly. Overall, the proportions of arrests for each age group did not significantly shift between 2006 and 2009.

Figure 4 Percent of arrests involving CP production by age of victim photographed and year



Although the percentage of teenage victims increased and the percentage of younger victims decreased or stayed the same, the absolute numbers of arrests grew between 2000 and 2009 in each age group because the number of overall arrests grew so dramatically (Table 2).^{*} For cases with teen victims, the number of arrests grew at all three time points we measured (2000, 2006 & 2009).

Table 2 Numbers of arrests involving CP production by age of victim photographed and year

| | Arrests 2000-1 | Arrests 2006 | Arrests 2009 |
|---|----------------|----------------|----------------------|
| Age 5 or younger 95% Confidence Interval | 39 17—60 | 99 59—139 | 123 81—165 |
| Age 6 to 12 95% Confidence Interval | 173 130—216 | 201 147—255 | 413 316—509 |
| Age 13 to 17 95% Confidence Interval | 190 147—233 | 553 470—635 | 1,255 1,140—1,369 |

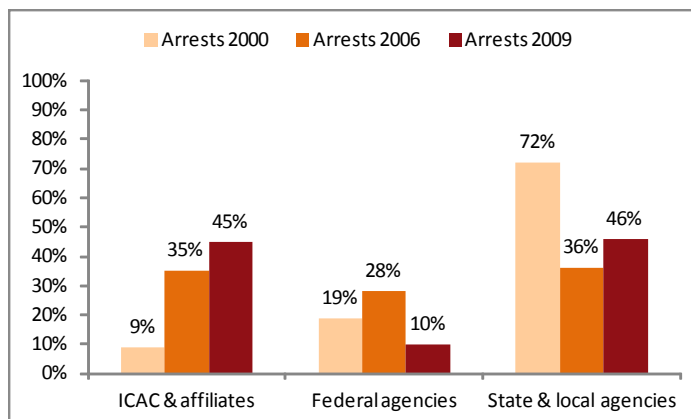
Produced CP continued to play a substantial role in the disclosure of child sexual exploitation crimes.

Produced CP led to the disclosure of sex crimes in a considerable number of cases. In both 2006 and 2009, about 40% of cases started when someone found sexual pictures that CP producers had taken of victims. For example, family members or housemates found incriminating pictures and reported offenders to police, or police investigating possession of child pornography or other crimes found images of an offender abusing a child.

ICAC Task Forces and their affiliates made an increasing proportion of arrests -- close to half of all arrests for CP production in 2009.

The percentage of arrests for CP production by Internet Crimes Against Children (ICAC) Task Forces^{**} increased sharply in 2006 and again in 2009 (Figure 5). The percentage of arrests made by federal agencies decreased between 2006 and 2009. Arrests by state and local agencies declined, then increased; in 2006 and 2009, they were similar to arrests by ICAC Task Forces and affiliates.

Figure 5 CP production arrests by type of agency and year



Discussion

Arrests for production of child pornography continued to grow from 2006 to 2009, with the increase largely driven by cases in which youth themselves produced images, usually at the behest of adult offenders. In most such cases, adults were considered the producers when they solicited images from minors or enticed minors to exchange images in the context of sexual offenses against underage adolescents. The dynamics in these cases rarely involve coercion or blackmail; rather they tend to involve underage adolescent victims who may have strong romantic attachments to adult offenders and may not see themselves as sex crime victims. These cases show the need for more education targeted to both adults and teenagers about why adults who seek sexual relationships with underage youth are criminals. It may also be useful to educate the general community about how CP production includes enticing underage youth to create sexual images and the serious penalties that can ensue.

Although the percentage of teenage victims increased and the percentage of younger victims decreased or stayed the same, the absolute numbers of arrests for CP production grew between 2000 and 2009 in each age group because of the overall increase in arrests. There are several possible explanations for this overall increase.

^{*} Our survey of law enforcement agencies has a margin of error, also known as a "95% confidence interval." This confidence interval shows the range of possible numbers within which the true number of arrests is likely to fall in 95 out of 100 attempts to estimate it with a sample of the size we used. For example, our estimate of the number of victims age 6 to 12 in 2000 is 173, with possible estimates ranging from 130 to 216. The estimate for 2006 is 201 with possible estimates ranging between 147 and 255. These ranges overlap, which indicates that the estimated number of arrests in 2000 could be similar to the number in 2006. In other words, 2006 arrests did not increase significantly in comparison to those in 2000. In 2009, however, arrests in this age group did increase to an estimated 412 with a possible range of 316 to 509.

^{**} The ICAC Task Force program is funded by the US Department of Justice. Its aim is to provide training and technical assistance to state and local law enforcement agencies to enhance their ability to respond to technology-facilitated child sexual exploitation crimes.

First, CP production may be growing as a standalone crime or as a proportion of child sexual abuse cases. Our data showing the growth in cases with no contact offenses and in cases of youth-produced images provide some support for the idea that CP production may be growing as a standalone crime. While it is possible that the proportion of child sexual abuse cases that include CP production has grown, sexual abuse and other sexual offenses against children *declined* substantially during the time period covered by the NJOV Study [5, 6], so this explanation is less likely.

Increases in arrests may also be related to high levels of law enforcement activity, which are particularly apparent with cases involving adult-produced images. One in 5 such cases came to light as a result of law enforcement activity. Also, the increasing number of law enforcement agencies trained to respond to technology-facilitated child sexual exploitation crimes may be a factor. About 45% of all CP production arrests were made by Internet Crimes against Children Task Forces and affiliates, which are trained to specialize in technology-facilitated crimes. Finally, our methodology may account for at least part of the increase seen in youth-produced image cases because we included a specific question in our 2009 mail survey asking about “sexting” cases, which was not included in previous surveys.

ABOUT THE RESEARCH

The National Juvenile Online Victimization (NJOV) Study collected information from a national sample of law enforcement agencies about the prevalence of arrests for and characteristics of technology-facilitated sex crimes against minors during three 12 month periods: July 1, 2000 through June 30, 2001 (NJOV1), and calendar years 2006 (NJOV2) and 2009 (NJOV3).

We used a two-phase process of mail surveys followed by telephone interviews to collect data from a national sample of the same local, county, state and federal law enforcement agencies. First, we sent mail surveys to a national sample of more than 2,500 agencies. The surveys asked if agencies had made arrests for technology-facilitated sex crimes against minors during the respective 12 month timeframes. Then we conducted detailed telephone interviews with law enforcement investigators about a random sample of arrest cases reported in the mail surveys. In NJOV2 and NJOV3 “technology-facilitated” was defined to include Internet use and electronic technologies such as cell phones used for texting and taking and sending photographs.

The data, weighted to account for sampling procedures and non-response, includes 612 cases from NJOV1, 1,051 cases from NJOV2 and 1,299 cases from NJOV3. Having weighted data that is based on a representative sampling of law enforcement agencies and arrest cases allows us to estimate the incidence of arrests for specific types of crimes during the timeframes of the three NJOV Studies.

NJOV1 includes 122 interviews about CP production cases ending in arrests that occurred between July 1, 2000 and June 30, 2001; NJOV2 includes 197 interviews about such cases ending in arrest in 2006 and NJOV3, 387 interviews about arrests in 2009.

Table 3 provides details about the dispositions of the mail survey and telephone interview samples for the 3 waves of the NJOV Study. Study procedures were approved by the University of New Hampshire Human Subjects Review Board and complied with all Department of Justice research mandates.

Table 3. Final dispositions and response rates for the National Juvenile Online Victimization (NJOV) Study

| | NJOV1 | NJOV2 | NJOV3 |
|---|---------------------|-----------------------|-----------------------|
| # agencies in sample | 2,574 | 2,598 | 2,653 |
| No jurisdiction | 65 | 282 | 190 |
| Eligible agencies | 2,509 | 2,316 | 2,463 |
| Responded to mail survey | 2,205 (88%) | 2,028 (87%) | 2,128 (86%) |
| Reported cases | 383 (15%) | 458 (20%) | 590 (24%) |
| # cases reported | 1,723 | 3,322 | 4,010 |
| Not selected for sample | 646 (37%) | 1,389 (42%) | 1,522 (38%) |
| Ineligible | 281 (16%) | 276 (8%) | 459 (11%) |
| Total # cases in sample | 796 | 1,657 | 2,029 |
| Non-responders | 101 (13%) | 446 (27%) | 471 (23%) |
| Refusals | 25 (3%) | 118 (7%) | 159 (8%) |
| Invalid or duplicate cases | 40 (5%) | 30 (2%) | 100 (5%) |
| Completed Interviews | 612 (79%) | 1,051 (64%) | 1,299 (64%) |
| Did not involve CP production | 490 | 847 | 892 |
| CP production but victims were not identified | 0 | 7 | 20 |
| Subsample of CP production cases | 122 | 197 | 387 |

NJOV Study papers, methodology reports and other reports are available at the website of the Crimes against Children Research Center: <http://www.unh.edu/ccrc/internet-crimes/papers.html>.

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We welcome inquiries about our research. Please contact Janis.Wolak@unh.edu.



Crimes against Children Research Center

126 Horton Social Science Center
Durham, NH 03824

(603) 862-1888
(603) 862-1122 FAX

www.unh.edu/ccrc

