Obscenity, Child Pornography & Child Abuse

CJ341 – Cyberlaw & Cybercrime
Lecture #5

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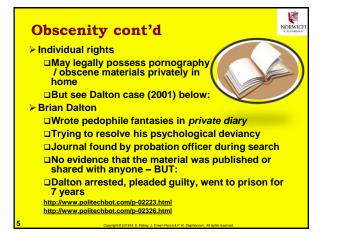**School of Business & Management**

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Topics

➢ Obscenity and Child Pornography
➢ Obscene, Indecent Transmission
➢ Child Exploitation
➢ Pedophiles Groom Victims
➢ Role of the Internet
➢ Law Enforcement's Response
➢ Volunteer Groups
➢ Combating Child Pornography
➢ CPPA
➢ Virtual Child Porn
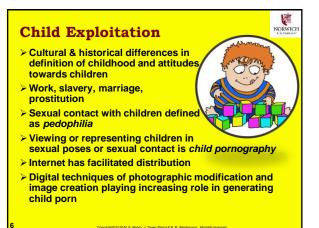➢ PROTECT Act

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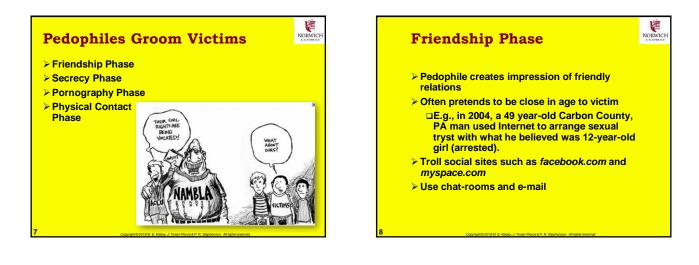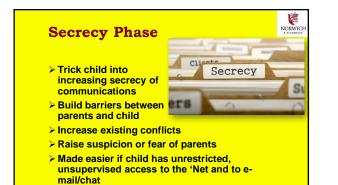## Obscenity and Child Pornography

➢ Obscenity difficult to define
  ❑ Average person
  ❑ Contemporary community standards
  ❑ Prurient interest
  ❑ Patently offensive depiction of sex acts
  ❑ Lacking in serious value
➢ Problems for the age of the Internet
  ❑ Which community? National and international differences prevalent
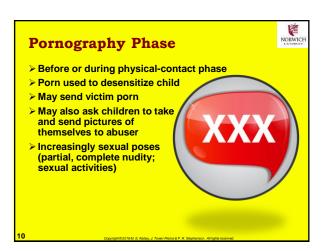 ❑ Whose standards? Differences in attitudes according to education, national origin, income

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Obscene, Indecent Transmission

➢ Obscenity not protected under 1st Amendment
➢ SCOTUS* 1973 ruling listed elements
  ❑ Average person
  ❑ Contemporary community standards
  ❑ Appealing to prurient interest
  ❑ Patently offensive depiction of sexual conduct
  ❑ Lacking serious literary, artistic, political or scientific value
➢ All of these elements are subjective and debatable

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* A common abbreviation for *Supreme Court of the United States*

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Obscenity cont'd

➢ Individual rights
  ❑ May legally possess pornography / obscene materials privately in home
  ❑ But see Dalton case (2001) below:
➢ Brian Dalton
  ❑ Wrote pedophile fantasies in *private diary*
  ❑ Trying to resolve his psychological deviancy
  ❑ Journal found by probation officer during search
  ❑ No evidence that the material was published or shared with anyone – BUT:
  ❑ Dalton arrested, pleaded guilty, went to prison for 7 years
  http://www.politechbot.com/p-02223.html
  http://www.politechbot.com/p-02326.html

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Child Exploitation

➢ Cultural & historical differences in definition of childhood and attitudes towards children
➢ Work, slavery, marriage, prostitution
➢ Sexual contact with children defined as *pedophilia*
➢ Viewing or representing children in sexual poses or sexual contact is *child pornography*
➢ Internet has facilitated distribution
➢ Digital techniques of photographic modification and image creation playing increasing role in generating child porn

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Pedophiles Groom Victims

- Friendship Phase
- Secrecy Phase
- Pornography Phase
- Physical Contact Phase

Friendship Phase

- Pedophile creates impression of friendly relations
- Often pretends to be close in age to victim
  - E.g., in 2004, a 49 year-old Carbon County, PA man used Internet to arrange sexual tryst with what he believed was 12-year-old girl (arrested).
- Troll social sites such as *facebook.com* and *myspace.com*
- Use chat-rooms and e-mail

Secrecy Phase

- Trick child into increasing secrecy of communications
- Build barriers between parents and child
- Increase existing conflicts
- Raise suspicion or fear of parents
- Made easier if child has unrestricted, unsupervised access to the 'Net and to e-mail/chat

Pornography Phase

- Before or during physical-contact phase
- Porn used to desensitize child
- May send victim porn
- May also ask children to take and send pictures of themselves to abuser
- Increasingly sexual poses (partial, complete nudity; sexual activities)

Physical Contact Phase

- Suggest meeting in realspace
- "Accidental" physical contacts
- Light touching progresses to more intimate and inappropriate contact
- Goal is variety of sexual encounters
- All sexual contact with minors is *statutory rape*
- Some statutory rapes involve violence
- Some pedophiles are murderers
- Pedophiles include both heterosexual and homosexual criminals

Role of the Internet

- Enormous increase in availability of pictorial porn
  - Peer-to-peer networks
  - Huge digital collections
  - Encrypted files
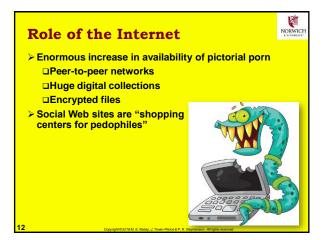- Social Web sites are "shopping centers for pedophiles"

Law Enforcement's Response

- **FBI, state police and local LEOs have child porn/exploitation units**
- **Perceived lack of resources for child-porn investigations**
- **But increasing number of trained specialists**
  - **Impersonate children online**
  - **Trap (but not *entrap*) criminals**
  - **Using specialized localization software**
  - **Honeypots attract child porn addicts**
- **But some "investigators" are actually pornographers**

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FEDERAL BUREAU OF INVESTIGATION
Celebrating a Century 1908-2008

Innocent Images National Initiative

FBI Innocent Images (2)

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Volunteer Groups

- **Vigilante groups have sprung up because they perceive LEOs as too slow**
- **E.g., Perverted Justice Foundation**
  - **http://pjfi.org/**
  - **Praised by some law-enforcement organizations**
    - ✓ **Have contributed to many arrests (623 since 2004)**
  - **Criticized by others**
    - ✓ **Contributed to bullying without legal convictions**
    - ✓ **Some volunteers have violated laws**
- **Hackers**
  - **Recently hacking Dark Web child-porn sites**

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Combating Child Pornography

- **Making, storing and transmitting child porn is illegal under CPPA (18 USC §2251 et seq.)**
- **Serious issues raised by creation of *digital* child pornography**
  - **"Adult" models made to look like children; or**
  - **Photos of children edited to look like porn; or**
  - **Entirely digital creations involving no children**
- **SCOTUS considered question of harm to children vs free speech rights**
  - **Are children in general harmed or only those in picture/movie?**
  - **Current ruling holds burden of proof on LEOs that real children involved**

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CPPA – Child Pornography Prevention Act
18 USC 2251(a), (b), (c) – Reversed by SCOTUS

- **Illegal to communicate with minor**
  - **Employ, use, persuade, induce, entice or coerce**
  - **With intent to engage in sexually explicit conduct for the purpose of**
  - **Creating a visual depiction of such conduct**
- **Illegal to make, receive, exchange, buy, display, distribute, or reproduce child porn**
- **Knowing possession of 3 or more such items transmitted by computer was offense**
- **Criminal penalties included fines, imprisonment, and forfeiture of property**
- **Struck down by SCOTUS in 2002 (Ashcroft v Free Speech Coalition): violation of 1st Amendment**

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More About Virtual Child Porn

- Can use specialized techniques to examine digital images
- Pixel examination can show inconsistencies between components of composites
- Image analysis techniques
  - Inconsistent shadows, reflections, glare
  - Accidental inclusion of backgrounds in poorly-trimmed cut-and-paste jobs
  - Edge effects such as excessively-sharp contours that don't show natural fuzziness of surfaces (e.g., arm hair missing)
- Large database of collected images available from US Customs Service

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PROTECT Act: 18 USC §2256(B) Supp. 2004

- 2003 – SCOTUS ruling on federal child-porn statutes – violated 1st amendment
- In April 2003, Congress approved *Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today* ("PROTECT") Act
- Explicitly criminalized creation, possession and distribution of images of
  - Real children engaged in sexual acts; or
  - "*Digital image, computer image, or computer-generated image that is, or is indistiguishable from, that of a minor engaged in sexually explicit conduct.*"

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Child Pornography Case at Norwich University

- Prof Peter R. Stephenson, PhD, CISSP, CISM, FICAF was CISO of NU as well as distinguished professor of digital forensics
- Investigated interesting case in late 2000s
- Student caught roommate viewing pornography in their room – told him to stop
- Irritated roommate downloaded thousands of images of porn (young boys in underwear) onto honest student's computer – and reported this innocent target to authorities for child pornography
- Victim investigated but not arrested (images were not child porn)
- CISO investigated & found evidence of innocence:
  - Images were downloaded to victim's desktop computer in one operation…
  - While owner of computer was in class…
  - With dozens of witnesses to confirm victim's presence at time
- Exonerated the accused; violator expelled for lying to Commandant

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DISCUSSION

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