



EFFECTIVE LAW IN AN EFFECTIVE STATE

*Local conditions in the global context in the face
of 21st century challenges of fighting crime.*

The *Project Safe Childhood* (PSC) as an Example of the Implementation of the US Legislation *PROTECT Our Children Act*

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Preface

The *Project Safe Childhood* is an American, nationwide initiative to combat the growing epidemic of sexual abuse and physical and psychological violence against children, launched in May 2006 by the US Department of Justice. It is led by the United States Attorneys' Offices and the Criminal Division's Child Exploitation and Obscenity Section, the *Project Safe Childhood* marshals federal, state and local resources to better locate, apprehend and prosecute individuals who sexually abuse children, as well as help identify and rescue victims of crime. The US Department of Justice is committed to the safety and well-being of children and has placed a high priority on protecting and combating sexual exploitation of minors¹.

¹ <https://www.justice.gov/psc/about-project-safe-childhood> (accessed on: 12.07.2023, 18:00).

1. The *Project Safe Childhood (PSC)* as an example of the implementation of the US legislation *PROTECT Our Children Act*

Since its inception in 1987, the mission, operating within the US Department of Justice, of the Child Exploitation and Obscenity Section (CEOS) has been to protect the well-being of American children and communities by enforcing federal criminal laws against child exploitation and other forms of depravity. CEOS and the High Technology Investigative Unit (HTIU), established in 2002, are US entities that are experts in prosecuting child abuse cases and investigating high-tech child abuse crimes. CEOS attorneys and HTIU computer forensic specialists support the US Department of Justice's efforts to continuously improve the enforcement of federal child abuse prevention laws. CEOS attorneys and HTIU specialists investigate and prosecute accused individuals who have violated federal child exploitation laws, and assist 94 US Attorneys' offices with ongoing investigations, trials and appeals related to such crimes. In addition, CEOS attorneys and HTIU specialists perform other functions in the Criminal Division of the US Department of Justice, including providing advice and training to federal prosecutors, law enforcement personnel and government officials, as well as attending national and international meetings on training and prevention policy development. CEOS also works to develop and refine proposals for prosecution policies, legislation, government practices, and agency regulations. In all aspects of their work, CEOS attorneys and HTIU computer forensic specialists seek to combine investigative and prosecutorial experience with policy expertise in order to create innovative solutions to the threats posed by those who violate federal child exploitation laws².

The *Project Safe Childhood* is a unified and comprehensive strategy to combat child exploitation. Launched in May 2006, the *Project Safe Childhood* combines law enforcement efforts, community action, and public awareness. The goal of the PSC is to reduce the incidence of sexual exploitation of children. The PSC consists of five essential components:

1. building partnerships;
2. coordinating law enforcement;
3. training PSC partners;

² <https://www.justice.gov/criminal-ceos> (accessed on: 14.07.2023, 19:00).

4. public awareness;
5. accountability³.

The US Department of Justice is committed to the safety and well-being of children and has placed a high priority on protecting and combating sexual exploitation of minors. Since the launch of the *Project Safe Childhood* in 2006, the number of cases and defendants prosecuted by United States Attorney's Offices has increased by 40%. The PSC prosecutions by United States Attorneys' Offices have increased each year since the launch of the initiative⁴.

Congress passed the *Providing Resources, Officers, and Technology to Eradicate Cyber Threats to Our Children Act* of 2008 (*PROTECT Our Children Act*). As mandated by the Act, in February 2010, the US Department of Justice, working with the National Drug Intelligence Center, completed a yearlong and first of its kind threat assessment of the magnitude of child exploitation. The result of this assessment reports a disturbing trend showing increases, and in some instances significant increases, in all types of child sexual exploitation, including:

1. child pornography;
2. online enticement of children for sexual purposes;
3. commercial sexual exploitation of children;
4. child sex tourism.

In April 2016 the US Department of Justice submitted the second *National Strategy for Child Exploitation Prevention and Interdiction* to Congress, building on the work of the first strategy the Department issued. The National Strategy describes in detail the current efforts of the Department of Justice and its law enforcement partners to find, prosecute, and punish those who prey on the nation's children. It also describes efforts by those agencies and others to engage in public outreach and awareness to prevent children from being victimized in the first place, whether through enticement of the unwary online or through their exploitation on the streets of the US cities and towns. It addresses the unique circumstances that lead to child exploitation in Indian Country and the responses that are necessary to protect tribal victims. It further details the efforts by the Department of Justice and other agencies to provide services

³ <https://www.justice.gov/coronavirus/keeping-children-safe-online> (accessed on: 15.07.2023, 20:00).

⁴ <https://www.justice.gov/psc/about-project-safe-childhood> (accessed on: 12.07.2023, 18:00).

to children that account for the complex, intersecting, and long-lasting harms that exploitation causes. And it forecasts a future of greater technological and global threats. In order to face those threats, the National Strategy outlines a series of goals for law enforcement, prosecutors, and victim service providers, among others, for protecting children in the USA. Most importantly, the National Strategy reaffirms its unwavering commitment to ensuring that all children in America are able to reach their potential and are protected from violence and abuse⁵.

One of the chief mandates of the *PROTECT Our Children Act* and the National Strategy is to expand their efforts to coordinate and cooperate with federal, tribal, state, local, and international organizations and agencies in the combat to prevent and interdict in the sexual exploitation of children. Working closely with each other, they will pool their intelligence and resources to ensure that those offenders who seek to entice and compromise children are brought to justice. The *National Strategy for Child Exploitation Prevention and Interdiction*, required by the *PROTECT Our Children Act* of 2008, builds on previous strategies and reflects the input of experts from many different professions. In preparing the strategy, the US Department of Justice held numerous listening sessions consisting of subject-matter experts from federal, state, local and tribal government agencies, law enforcement professionals, academics and professionals from the private as well as non-profit sectors. The aforementioned professionals brought unique experience and perspectives on the dynamics of child exploitation crimes. Several listening sessions were dedicated to hearing from survivors and carers who have been affected by crimes of child exploitation. These sessions, along with countless hours of formulating, reviewing and editing documents among subject-matter experts, resulted in the publication of working group reports, each focusing on a different topic related to child abuse:

- Child sexual abuse material;
- Child sex trafficking in the USA;
- Child exploitation in special areas and population;
- Extraterritorial child sexual abuse;
- Livestreaming and virtual child sex trafficking;
- Sextortion, crowdsourcing, enticement, and coercion;

⁵ https://www.justice.gov/d9/2023-06/2023_national_strategy_for_child_exploitation_prevention_interdiction_-_a_report_to_congress.pdf (accessed on: 18.07.2023, 18:00).

- Unique resource and enforcement issues;
- Technology;
- Offender Psychology;
- Partnerships;
- Prevention;
- Sex offender registration violations;
- Survivors, caretakers, and access to survivor care;
- Wellness challenges for law enforcement personnel⁶.

A significant moment was October 2008, when Congress passed legislation that introduced the *National Strategy for Child Exploitation Prevention and Interdiction*⁷. To indicate the broader context for the importance of this document, it should be noted that at that point Twitter was only two years old and Facebook only four. The first iPhone had been launched a year earlier, and other smartphones appeared on the market in subsequent years. Apple and Google had just launched their app shops, and the Tor Project had just started developing its browser. Bitcoin will not exist for another two years, and end-to-end encrypted messaging services will only appear in about five years. Due to these technological advances, the scale, complexity and danger of the threats facing children today are unprecedented and much more difficult to secure. In simple terms, modern technology is the perfect tool for child sex offenders, giving them easy access to children around the world and enabling them to interact with other sex offenders/paedophiles. They can communicate and conspire with one another, all while concealing their identities and locations and frequently, but not always, their activities. It is a fact that technology creates two realities. On the one hand, law enforcement officials can watch offenders who gather on the Dark Web, committing child sex crimes openly and notoriously, without fear of being caught. On the other hand, there is a real risk that criminals exploit children online and in real life - they are caught, even though their crimes are protected by encrypting the connection and personal data as well as IP details are anonymised. Although law enforcement agencies have a qualitative picture of the nature of child sexual

⁶ <https://www.justice.gov/criminal-ceos/project-safe-childhood> (accessed on: 20.07.2023, 10:00).

⁷ PROTECT Our Children Act of 2008, Pub. L. nr 110-401, 122 Stat. 4229 (2008) - <https://www.govinfo.gov/content/pkg/PLAW-110publ401/pdf/PLAW-110publ401.pdf> (accessed on: 16.07.2023, 20:00).

exploitation in encrypted and anonymous spaces and have evidence to suggest that the risks to children are increasing, they do not have full quantitative information on its scope and prevalence⁸.

It is essential to recognise that the benefits of technology that prioritises encryption, anonymisation, connecting adult and child users and unrestricted information sharing carry a relevant cost. In the multi-million-dollar game that shapes the current technology discussion, efforts to increase privacy often also have a hidden price - the risk of harm to our children. Children are at serious risk in these unmonitored, shuffled, frequently encrypted and anonymous spaces.

Strategic Response to date, as shown in the prosecution statistics and case examples above, is provided and the US Department of Justice has never diminished its efforts directed at identifying, investigating and prosecuting online child sex offenders. As the cases demonstrate, there is a constant effort by US authorities to develop cutting-edge investigative techniques to infiltrate and dismantle online spaces where offenders gather, prevent mutual sexual interest in children, as well as promoting and facilitating online child sex offences. The actions taken must also constantly adapt to the conditions of the changing world, as, for instance, in the case of the COVID-19 pandemic and the actions as a consequence of it⁹.

Apart from investigating and prosecuting crimes, the US Department of Justice, is also tireless in its efforts to provide comprehensive training to ensure adequate investigative and prosecutorial capacity among federal, state, local and tribal partners to combat online child sexual exploitation. The flagship of this effort is the annual *National Law Enforcement Training on Child Exploitation*, which in 2015-2019 included a total of nearly 7,300 law enforcement personnel, prosecutors and other professionals working in the field. In 2020 and 2021, due to the pandemic, the National Training was converted to a virtual format and covered a total of 4,855 people. Each year, the programme is carefully designed to provide instruction on cutting-edge technological and legal issues regarding online child sexual abuse¹⁰.

⁸ https://itlaw.fandom.com/wiki/PROTECT_Our_Children_Act_of_2008 (accessed on: 18.07.2023, 18:00).

⁹ <https://www.justice.gov/psc/about-project-safe-childhood> (accessed on: 12.07.2023, 18:00).

¹⁰ <https://www.justice.gov/psc/about-project-safe-childhood> (accessed on: 12.07.2023, 18:00).

The US Department of Justice is also intensively engaged in working with its international partners to generate a global response to this worldwide crime. This work includes significant support for the *WeProtect Global Alliance*, which aims to increase efforts to identify victims, reduce the online availability of child sexual abuse material (CSAM) and re-victimisation of children, as well as increase public awareness of the dangers of children's online activity. The organisation is currently supported by 100 governments, 65 technology companies, 87 civil society organisations and 9 international organisations¹¹.

The US Department of Justice has worked extensively with the *WeProtect Global Alliance* to develop three distinctive products: Global Threat Assessment (referred to above), Model National Response and Global Strategic Response. The Model National Response is designed to enable the US authorities to assess their current response and identify gaps, prioritise national efforts to fill the gaps and increase international understanding and cooperation. The Global Strategic Response reflects the international nature of the issue and provides goals and a comprehensive strategy for collaboration, coordination and shared learning to eliminate online child sexual exploitation and abuse at the global and regional level. Developed in consultation with several leading technology companies and a wide range of experts from industry, civil society and academia, the *11 Voluntary Principles* set out measures that technology companies can implement to protect children using their platforms from online sexual exploitation, as well as to make it more difficult for child sex offenders to use their platforms. The Voluntary Principles provide a common and consistent framework to guide the digital industry in its efforts to counter the spread of online child abuse¹².

However, something more is required. Despite all these efforts, the US society still has significant work to do in terms of its ability to protect children online. As expressed in both of the *WeProtect Global Alliance's* threat assessments, the rise of online child sexual exploitation is outpacing the ability to respond it. Establishing and maintaining a workforce of dedicated law enforcement officers, digital forensic analysts, prosecutors and victim support personnel is crucial, but has always been and remains a challenge. There are many, often related, aspects of technology that create risks for children and opportunities for offenders:

¹¹ <https://www.weprotect.org/> (accessed on: 18.07.2023, 20:00).

¹² <https://www.weprotect.org/issue/child-sexual-abuse-material/> (accessed on: 18.07.2023, 22:00).

- uneven response from the technology sector to children’s online safety;
- overloaded *CyberTipline* system;
- anonymisation of offenders;
- encryption of data storage and communications;
- online environments in which children and adults interact without supervision or control;
- globalised, often sovereignty-free platforms;
- remote, often extraterritorial data storage;
- deepening lack of public awareness of such risks.

It is important to understand that these issues are often contradictory. Some of them, such as encryption or anonymisation, relate to the lack of information about the perpetrator due to the all-too-common inability to obtain even basic information to detect or deter criminal activity or to initiate and conduct an investigation, despite a legally binding warrant or court order. Others, particularly the inconsistent priority of child safety, may relate to information that is available to platforms but has never been used or reported to law enforcement agencies. Yet others, notably *CyberTips*, are creating an ever-increasing database of information regarding the possession and trafficking of data of children - potential victims.

It should be emphasised that each of these issues must be solved in order to meaningfully address online child sexual abuse. None of the issues can be solved solely by providing the increased funding stream or personnel resources necessary to investigate and prosecute perpetrators, nor can they be solved solely by the US government. They rather require a whole-of-society approach to develop a culture of online child safety¹³.

Although there are numerous technology companies committed to protecting children online, the data reveals a very divergent response from the Internet Service Providers (ISPs) in the field of ensuring children’s safety online. According to the *National Center for Missing & Exploited Children* (NCMEC)¹⁴, more than 1,400 companies were registered and eligible for *CyberTipline* in 2019 and 2020. However, in 2019, only 148 companies (around 10% of

¹³ <https://www.justice.gov/psc/about-project-safe-childhood> (accessed on: 12.07.2023, 18:00).

¹⁴ <https://www.missingkids.org/cybertiplinedata>.

registered companies) sent *CyberTips*. The results in 2020 are unfortunately not much better, with 168 companies sending *CyberTips* (around 12% of registered companies). Although the number of companies registered to send *CyberTipline* submissions increased in 2021, exceeding 1,800 companies, the response rate remained the same, as only 230 companies sent any submissions (around 12.8% of registered companies)¹⁵.

¹⁵ 2023_national_strategy_for_child_exploitation_prevention_interdiction_-_a_report_to_congress.pdf (justice.gov).

Summary

Preventing and deterring heinous and destructive acts of child exploitation is extremely difficult and requires the involvement of a number of entities and individuals. Child exploitation crimes and the risks children face are exploding in scale, complexity and danger with the rapid development of digital technology. While federal agents, prosecutors, forensic analysts, victim services coordinators and many other professionals have made significant progress in protecting the most vulnerable in American society, but there is still more work to be done. The combat against child exploitation cannot be led solely by the US Department of Justice or the US government. An ongoing public health crisis is being observed and a strategic and multifaceted response from the whole society is required. Actions by ISPs, NGOs and foreign partners, as well as parents and caregivers, are essential. In partnership at all levels of government and local government, the struggle to protect children from child exploitation, assert the rights of victims, empower victims and hold perpetrators to account will continue.

The *Project Safe Childhood* has also proven to be very effective in detaining and convicting offenders who have travelled or attempted to travel across interstate or foreign borders with the intent either to sexually exploit a minor or to engage in other illegal behaviour.

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