Missing and Exploited Children

***Course #3275***

***LESSON PLAN***



Texas Commission On Law Enforcement

Hosted by



***Bexar County Constable Office PCT#4***

***Constable Robert M. (Mike) Blount***

**Deputy Chief George D. Little, *C.C.P.S.,***

**Primary – Lead Instructor & Mentor**

**INSTRUCTOR BIO**

 **George D. Little, *C.C.P.S.* – TCOLE Advanced Certified Instructor-Mentor**

**George D. Little has 44-years of diverse law enforcement experience, in which he has worked a myriad of assignments working literally in every aspect of law enforcement. He holds an Associate of Science Degree in Criminal Justice from Central Texas College, a Bachelor of Science in Occupational Education Criminology/Sociology from Wayland Baptist College and Associates of Science in Criminal Justice, a Bachelor of Science in Criminal Justice & Criminology and Master’s degree in Criminology and Human Services and Counter-Terrorism from the University of the State of New York(P). In addition, George received his Basic, Intermediate, Advanced and Masters (Peace Officer) Law Enforcement certifications from the Texas Commission On Law Enforcement (TCOLE). In 1972 he received specialized training at Camp Peary, Williamsburg, VA, prior to enlisting in the U.S. Army. George is a retired U.S. Army Military Police (ABN) First Sergeant/E-8 who served his country from Vietnam through Desert Storm for 21-years of honorable service. During his active duty service George served as a Military Policeman (95BV5MXH3 MOS) Patrol, Traffic and Tactical operations and has serve in several classified joint-assignments. He is a former apprentice U.S. Army Criminal Investigations Division (CID) Special Agent and Section Chief Military Police Investigations (MPI). George worked as an under-cover Drug and Narcotics investigator with the U.S. Drug Enforcement Administration (D.E.A.) overseas European operations; as well as serving on U.S. Army Protective Services Detail (PSD) working with United States Secret Service. A hallmark of this service is that George has provided personal protection for five U.S. Presidents and numerous Vice-Presidents and othern U.S. dignitaries. In addition to providing personal security & protection (inter-circle) for General Blanchard (USAEUR CG) during General Ivanasoky Soviet (Russian) Commanding General (General Blanchard’s counter-part) visit to Grafenwohr, 7th Army Training Command, Germany. He also served with the 532nd Military Intelligence Battalion at Grafenwohr, Germany as a field operator (Intelligence Collection). George received U.S. Army Airborne Training and “Jump Wings” from 10th U.S. Army Special Forces, Flint Kaserne, Bad-Tolz Germany. George has extensive practical veteran experience as a Counter-Terrorism operator having tracked down elements of both Bader-Meinhoff and Red Army Faction terrorist cells in Europe. George was a college adjunct professor for both Central Texas College (Overseas) and University of Maryland teaching Counter-Terrorism and Criminal Justice courses. He is an experienced veteran Physical Security and Crime Prevention specialist with expertise in Force Protection, and Counter-Terrorism, in addition to being a MP Special Operations Operator (Counter-Terrorism for 1988 Olympics in Seoul South Korea) trained by U.S. Army Special Forces ODA-131. George is a former Military Police School Drill Sergeant and Master Instructor. George served as a Deputy Provost Marshal USFK Area II, South Korea and as a First Sergeant for**

**several MP units where he turned numerous MP Units from inefficient units into stellar performing units passing numerous Inspector General (IG) inspections with highest operational readiness statuses. While in Korea he worked with U.S. Embassy Diplomatic**

**George D. Little – Instructor BIO, Cont’d:**

**Security Service (DSS) and United States Secret Service on numerous Protective Service Detail’s (PSD) guarding numerous U.S. and visiting foreign dignitaries. He ended his military career as the Operations Sergeant (NCOIC) for the U.S. Army Joint Counter Drug Operations Element (JCOE) providing federal, state and local military assistance for an 8-state area of responsibility. His consistent max Enlisted Efficiency Reports (EER) throughout his 21-years of service documents his tried, tested and proven leadership skills. Upon his retirement he was recruited by the Bexar County Sheriff’s Office where he served for 15-years as a Deputy Sheriff, School Resource Officer and the Drug Abuse Resistance Education (*D.A.R.E.*) Coordinator for Bexar County and was the 2004 National D.A.R.E. Officer-Of-The-Year (and former D.A.R.E. America- Texas D.A.R.E. State Coordinator). George has over 20 years’ veteran experience working in a school district environment. He retired from the Bexar County Sheriff’s Office San Antonio, Texas (2008) using five years of his military service allowing him to retire with 20-years honorable service from the Sheriff’s Office. George was selected to be the Director, of the Institute for Criminal Justice Studies(ICJS)-Texas School Safety Center at Texas State University. He has authored and co-authored numerous articles on Counter Terrorism and Law Enforcement, serving as a college adjunct professor, Instructor-Mentor-Facilitator-trainer, teaching criminal justice and counter-terrorism undergraduate courses. He has a passion for teaching; in addition to being a Texas Certified Crime Prevention Specialist (C.C.P.S.). AS the Director, ICJS he developed the first comprehensive School-Based Law Enforcement Officer (SBLE) holistic certified training program, a state-wide TCOLE certified Crime Prevention certification curriculum; as well as authored, researched and developed numerous state-of-the art, scientific and researched-based, “Best Practices” specialized law enforcement curriculums. George is a certified Federal Air Marshal Service (FAMS) Law Enforcement Flying Armed instructors, in addition to numerous other federal certifications. He is currently the Deputy Chief for INTEL, Homeland Security and Training for the Bexar County Constable Office, PCT#4. George was the 2011 TCOLE Professional Achievement Award recipient, and has received previous numerous awards/honors; U.S. Drug Enforcement Administration Awards and recognitions; International Narcotic Officers Association Meritorious Service Award; recipient of the Federal Bureau of Investigation - Directors Community Leadership Award; Federal Criminal Investigator Association (FCIA) Honors Award 1990; American Fraternal Order of Police “Medal of Valor” 1975; 8th MP Brigade NCO of Year Award; Embassy of the United State Diplomatic Security Service (DSS) “Letter of Commendation and Plaque” 1990; Bexar County Sheriff’s Office “Deputy of the Year” 1995; American Society for Industrial Security – Business Crime Council Award; Cambridge Who’s Who recognition for Law Enforcement Achievements Contributions 2011-2012; International Counter-Terrorism Officers Association (ICTOA) “Achievement of Merit” award; NRA Patriot Medal; and numerous other, medals, awards, plaques and letters of commendation. George is an appointed member of the U.S. Department of Justice – National Institute of Justice Technical Working Group for School Safety in addition to being a certified Honorary Tennessee and Kentucky Colonel and Texas Admiral. George is a Texas “Master Mason” of Texas 8 Lodge.**

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**Instructor’s Guide**

**TCOLE Course #3275**

**Missing & Exploited Children**

**Basic 4-Hour Overview**

This course is available to satisfy the requirements of Texas Occupations Code Section 1701.402(k).

**Introductory Remarks**

This course is intended as an introduction to issues related to responding to and investigating missing and exploited children cases. However, there are additional and advanced courses available on specific sub-topics included herein.

Additional resources, courses, best practices, and manuals should be considered and consulted to develop a particular area of expertise. Many of the most current resources available are included or referenced herein.

For statutory sections, all references to current codes have the date on which those codes were last accessed.

**Conducting the Course**

The Instructor should schedule at least 3 breaks. Included in this Instructor’s Guide:

* Background information on individual sections to supplement the outlined points in the accompanying instructional slides.
* References to additional resources for consultation as needed.
* Appendix of Texas Penal Code Sections 20 and 43.
* Instructional Activities Appendix (includes notes in each section to match the corresponding activity). There is also a Participant Worksheet to use throughout the course.
* Review and Evaluations materials include the participant worksheet and a final exam. Each includes an answer key for the Instructor.

Accompanying materials:

The Instructional Slides accompany this Instructor’s Guide. Within the sections, there are slides to signal when an activity is planned to occur. Activities are intended as individual or group brainstorming exercises to better understand victim perspectives, predator methodologies, and the circumstances in which children may be at increased risk.

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# Section 1.1: Abductions

**Objective:** Based on their role as a first responder, investigator or supervisor, by the end of this section the participant will be able to determine specific steps to take upon receiving a report of a missing child while considering factors such as child history, individuals at the scene, evidence collection, search procedure and available resources.

**Activity:** The activity for this section is included in the Instruction Slides at the end of Section 1.1. Be sure to pause where the red text on the Slides indicate as the slides that follow it have suggested answers for the activity. The answers to this activity can be much more detailed than the basic answer outline provided in the slides. The activity is intended to be completed in small groups/pairs. If there are more small groups/pairs than the number of prompts, then have multiple groups work separately on one prompt. See Appendix B for additional information.

All law enforcement agencies are required to report cases of missing children under the age of 21 reported to their agency to the National Crime Information Center (NCIC).0F[[1]](#footnote-1)A As detailed in Section 2.1, law enforcement agencies are required to enter the NCIC Missing Person File within two hours of receiving the missing child report where the “well-being of the child is in danger.”[[2]](#footnote-2)

**There is no waiting period for accepting missing child reports.** Federal law prohibits law enforcement agencies from establishing or maintaining a waiting period to accept a missing child or unidentified person report.1F[[3]](#footnote-3) Additionally, law enforcement agencies are prohibited from establishing or maintaining policies that require removal of missing person entries from state systems and the NCIC solely based on the age of the person.2F[[4]](#footnote-4)

*National Data on Missing Children*

Federal law also requires the United States Attorney General to provide an annual summary of missing children reports.3F[[5]](#footnote-5) Based on the most recent publication, “As of December 31, 2013, NCIC contained 84,136 active missing person records.  Juveniles under the age of 18 account for 33,849 (40.2 %) of the records and 9,706 (11.5 %) were for juveniles between the ages of 18 and 20.”4F[[6]](#footnote-6)

Based on data collected through NCIC in the year 2013, there were 462,567 entries for minors under the age of 18. Of those entries, 4,883 were entered as Involuntary or “missing under circumstances indicating that the disappearance may not have been voluntary i.e. abduction or kidnapping.”5F[[7]](#footnote-7) Other entries included:6F[[8]](#footnote-8)

* 9,617 for Endangered (physical safety may be in danger),
* 4,112 for Disability (physical or mental thereby subjecting to self or others to personal and immediate danger),
* 101 for Catastrophe (missing after catastrophe).

There is an optional field included in NCIC labeled the Missing Person Circumstances (MPC) field. For more than 600,000 entries across all ages, the field was utilized in nearly half of the entries.7F[[9]](#footnote-9) Based on that field, the report found that based on that subgroup of MPC field entries:

* 293,684 (95.8 %) were coded as Runaway,
* 2,310 (0.8 %) as Abducted by Non-custodial Parent,
* 335 (0.1 %) as Abducted by Stranger, and
* 10,209 (3.3 %) as Adult – Federally required entry.8F[[10]](#footnote-10)

As research has demonstrated and NCIC reports support, children are much more likely to be abducted by an acquaintance of the child or family than a complete stranger. Furthermore, children are more likely to be abducted by a family member than a non-family member. For this reason, the Instructional Slides begin with risk factors for family abductions.

The fact that the abductor is known to the child or family does not mitigate potential danger to the child:

With regard to family abductions, cases have shown again and again that children who have been taken by a noncustodial family member may be in significant danger. Desperate people sometimes do desperate things, including bringing harm to their own children.

[In resolved NCMEC family abductions cases between October 1, 1990 to September 30, 2005], 35 children were located deceased. A child abducted by a family member is likely to live a life “on the run” with that family member. Children may live with an altered name, appearance, and lifestyle; experience physical or medical neglect; experience unstable schooling; experience frequent moves or even homelessness; and/or are told lies about the left-behind parent.9F[[11]](#footnote-11)

*Understanding the Legal Definition of Abductions in Texas*

The Texas Penal Code includes offenses for Unlawful Restraint, Kidnapping, Aggravating Kidnapping. Each of these offenses relies on underlying definitions of the terms “restrain” and “abduct.” Before examining the individual offenses, therefore, it is important to understand the underlying components. Under the Texas Penal Code:

(2) "Abduct" means to **restrain** a person with intent to prevent his liberation by:

(A) secreting or holding him in a place where he is not likely to be found; or

(B) using or threatening to use deadly force.10F[[12]](#footnote-12)

In order to further define the conduct, the Texas Penal Code specifies the meaning of how one might “restrain” a person:

(1) "Restrain" means to restrict a person's movements without consent, so as to interfere substantially with the person's liberty, by moving the person from one place to another or by confining the person. Restraint is "without consent" if it is accomplished by:

(A) force, intimidation, or deception; or

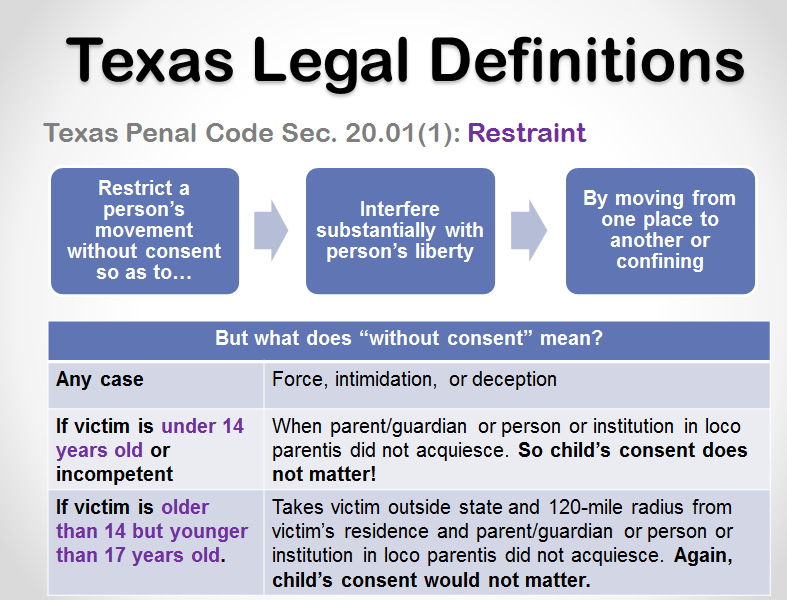
(B) any means, including acquiescence of the victim, if:

(i) the victim is a child who is less than 14 years of age or an incompetent person and the parent, guardian, or person or institution acting in loco parentis has not acquiesced in the movement or confinement; or

(ii) the victim is a child who is 14 years of age or older and younger than 17 years of age, the victim is taken outside of the state and outside a 120-mile radius from the victim's residence, and the parent, guardian, or person or institution acting in loco parentis has not acquiesced in the movement.11F[[13]](#footnote-13)

Especially for older teen victims, there are misconceptions about the nature of abductions when the child acquiesces in the movement. However, the child’s acquiescence is not at issue.12F[[14]](#footnote-14) The acquiescence of the parent, guardian or person or institution acting in loco parentis13F[[15]](#footnote-15) is the heart of the matter.

In the Instructional Slides, the following chart helps to explain the complicated dynamics of the term “restrain.”



Therefore, a person can restrain a child through movement or confinement even with the child’s cooperation as long as the child is under 14 years old and the child’s parent, guardian or person acting in loco parentis (such as the state) has not acquiesced. For victims ages 14-16 years old, the individual would need to take the child 120 miles from the child’s residence and outside the state without acquiescence from the same parties. The statute does not address acquiescence of 17 year olds.

Should the distance requirement not be met, the law enforcement agency could consider charging under the criminal attempt statute as appropriate.14F[[16]](#footnote-16) As to the specific offenses, the following chart includes a partial excerpt of the relevant sections of the Texas Penal Code. For a complete entry of the relevant sections of the Texas Penal Code, see the Appendix.

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| --- | --- | --- | --- |
| **Offense** | **Conduct & Punishment** | **Affirmative Defenses and other Defense Arguments** | |
| Unlawful Restraint | “A person commits an offense if he intentionally or knowingly **restrains** another person.”15F[[17]](#footnote-17)  Class A Misdemeanor unless:   * Restrained child under 17 years old (state jail felony) * Recklessly exposes victim (no age requirement) to substantial risk of serious bodily injury or in certain public servant cases (third degree felony).16F[[18]](#footnote-18) | “It is an affirmative defense to prosecution under this section that:  (1) the person restrained was a child younger than 14 years of age;  (2) the actor was a relative of the child; **and**  (3) the actor's sole intent was to assume lawful control of the child.”17F[[19]](#footnote-19) | |
| Kidnapping | “A person commits an offense if he intentionally or knowingly **abducts** another person.”18F[[20]](#footnote-20) | “It is an affirmative defense to prosecution under this section that:  (1) the abduction was not coupled with intent to use or to threaten to use deadly force;  (2) the actor was a relative of the person abducted; **and**  (3) the actor's sole intent was to assume lawful control of the victim.”19F[[21]](#footnote-21) | |
| **Offense** | **Conduct & Punishment** | | **Affirmative Defenses and other Defense Arguments** |
| Aggravated Kidnapping | “A person commits an offense if he intentionally or knowingly abducts another person with the intent to:  (1) hold him for ransom or reward;  (2) use him as a shield or hostage;  (3) facilitate the commission of a felony or the flight after the attempt or commission of a felony;  (4) inflict bodily injury on him or violate or abuse him sexually;  (5) terrorize him or a third person; **or**  (6) interfere with the performance of any governmental or political function.”20F[[22]](#footnote-22)  “A person commits an offense if the person intentionally or knowingly **abducts** another person and uses or exhibits a deadly weapon during the commission of the offense.”21F[[23]](#footnote-23) | | “At the punishment stage of a trial, the defendant may raise the issue as to whether he voluntarily released the victim in a safe place. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the offense is a felony of the second degree.”22F[[24]](#footnote-24)  [If the above does not apply, the offense is a first degree felony.]23F[[25]](#footnote-25) |

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| **Offense** | **Conduct & Punishment** | **Affirmative Defenses and other Defense Arguments** |
| Smuggling of Persons | “A person commits an offense if the person intentionally uses a motor vehicle, aircraft, or watercraft to transport an individual with the intent to:  (1) conceal the individual from a peace officer or special investigator; or  (2) flee from a person the actor knows is a peace officer or special investigator attempting to lawfully arrest or detain the actor.”24F[[26]](#footnote-26)  State jail felony unless:   * Commits for pecuniary benefit, or * Creates substantial likelihood that transported person will suffer serious bodily injury or death.   If either condition, then third degree felony.25F[[27]](#footnote-27) | “It is an affirmative defense to prosecution under this section that the actor is related to the transported individual within the second degree of consanguinity or, at the time of the offense, within the second degree of affinity.” |

*Responding to the Scene*

The following checklists for first responders, supervisory officers, and investigators responding to a report of a missing child are adapted from a two-page “pocket guide” published by NCMEC, OJJDP, and AMBER AlertTM.26F[[28]](#footnote-28) The list supplements a more than 200 page law enforcement guide available online entitled *Missing and Abducted Children: A Law Enforcement Guide to Case Investigation and Program Management*.27F[[29]](#footnote-29)

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| First Responders: |
| If circumstances warrant, activate patrol-vehicle-mounted video camera or body camera when approaching the scene to record vehicles, people, and anything else for later review. |
| Interview parent(s)/guardian(s)/person who made the initial report. |
| Confirm the child is in fact missing. |
| Attempt to verify the child’s custody status. |
| Identify the circumstances of the missing episode. |
| Determine when, where, and by whom the missing child was last seen. |
| Interview the individuals who last had contact with the child. |
| Identify the child’s zone of safety for his or her age and developmental stage. |
| Make an initial assessment, based on the available information, of the type of incident whether nonfamily abduction; family abduction; runaway; or lost, injured, or otherwise missing. |
| Obtain a detailed description of the missing child, abductor, and any vehicles used. |
| Secure photos/videos of the missing child/abductor, and don’t forget photos that may be available on cell phones. |
| Enter basic information regarding the missing child into the National Crime Information Center’s (NCIC) Missing Person File. Carefully select NCIC categories before entering the case, and be sure to use the Child-Abduction flag whenever appropriate. |
| Evaluate whether the circumstances meet AMBER AlertTM criteria and/or other immediate community notification protocol if not already activated. Discuss plan activation with supervisor. |
| Evaluate whether the circumstances warrant requesting the National Center for Missing & Exploited Children’s (NCMEC) Team Adam. If a Child Abduction Response Team (CART) is in the area, does the child’s case meet their activation criteria? |
| Relay detailed descriptive information to communications unit for broadcast updates. |
| Determine need for additional personnel including investigative and supervisory staff. |
| Brief and bring up-to-date all additional responding personnel. |
| Identify and separately interview everyone at the scene. Make sure their interview and identifying information is properly recorded. To aid in this process, if possible, take pictures or record video images of everyone present. Video cameras affixed to patrol vehicles may be helpful with this task.   * Note the name, address, home/business phone numbers of each person. * Determine each person’s relationship to the missing child. * Note information each person may have about the circumstances surrounding the missing episode. * Determine when/where each person last saw the child.   [Continued from interviewing everyone at the scene]:   * Ask each one, “What do you think happened to the child?” * Obtain names/addresses/phone numbers of the child’s friends/associates and other relatives and friends of the family. * Determine if any suspicious activity or people were seen in the area. * Determine if any people were seen who seemed unusual, strange, or out-of-place. |
| Continue to keep communications unit apprised of all appropriate developing information for broadcast updates. |
| Obtain and document permission to search home or building where incident took place even if the premises have been previously searched by family members or others. |
| Conduct an immediate, thorough search of the missing child’s home even if the child was reported missing from a different location. |
| Seal/protect scene and area of the child’s home, including the child’s personal articles such as hairbrush, diary, photos, and items with the child’s fingerprints/footprints/teeth impressions, so evidence is not destroyed during or after the initial search and to help ensure items that could help in the search for and/or to identify the child are preserved. Determine if any of the child’s personal items are missing. If possible, photograph/take videos of these areas. |
| Evaluate the contents and appearance of the child’s room/residence. |
| Inquire if the child has access to the Internet and evaluate its role. Do not overlook activity on social-networking websites and teen chat lines. |
| Ascertain if the child has a cell phone or other electronic communication device and obtain the most recent records of their use. |
| Extend search to surrounding areas and vehicles, including those that are abandoned, and other places of concealment such as abandoned appliances, pools, wells, sheds, or other areas considered “attractive nuisances.” |
| Treat areas of interest as potential crime scenes including all areas where the child may have been or was going to be located. |
| Determine if surveillance or security cameras in the vicinity may have captured relevant information. This information may be used to help locate the child and/or corroborate or refute witness statements. |
| Interview other family members, friends/associates of the child, and friends of the family to determine:   * When each last saw the child. * What they think happened to the child. * If the child had complained about being approached by anyone. |
| Review sex-offender registries to determine if registered individuals live/work in the area or might otherwise be associated with the case. You are able to call the NCMEC toll-free at 1-800-THE-LOST® (1-800-843-5678) to request assistance with this step. |
| Ensure information regarding the missing child is entered into the National Crime Information Center’s (NCIC) Missing Person File no more than two hours after receipt of the report and any information about a suspected abductor is entered into the NCIC Wanted Person File. Include additional information in the file as warranted. |
| Prepare flier/bulletin with the child/abductor’s photo and descriptive information. Distribute in appropriate geographic regions. Call NCMEC toll-free at 1-800-THE-LOST (1-800-843-5678) for assistance with this step. |
| Prepare reports/make all required notifications. Follow legal reporting requirements. |

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| Supervisory Officer: |
| Obtain briefing and written reports from the first responding officer and other personnel at the scene. |
| Decide if circumstances meet the protocol in place for activation of an AMBER Alert and/or other immediate community-notification systems if not already activated. |
| Determine if additional personnel are needed to assist in the investigation. |
| Establish a command post away from the child’s residence. |
| Determine if additional assistance is necessary from:   * State/Territorial Police. * Missing-Children Clearinghouse. * Federal Bureau of Investigation (FBI). * Specialized Units. * Victim-Witness Services. * NCMEC’s Project ALERT®/Team Adam. * CARTs. |
| Confirm all the required resources, equipment, and assistance necessary to conduct an efficient investigation have been requested and expedite their availability. |
| Ensure coordination/cooperation among all law-enforcement personnel involved in the investigation and search effort. |
| Verify all required notifications are made. |
| Ensure all agency policies and procedures are in compliance. |
| Be available to make any decisions or determinations as they develop. |
| Use media including radio, television, and newspapers to assist in the search throughout the duration of the case. Determine if social media could be used to aid the search. |

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| Investigators: |
| Obtain briefing from the first responding officer and other on-scene personnel. |
| Verify the accuracy of all descriptive information and other details developed during the preliminary investigation. |
| Initiate a neighborhood canvass using a standardized questionnaire. |
| Obtain a brief, recent history of family dynamics. |
| Correct and investigate the reasons for conflicting information offered by witnesses and other individuals. |
| Collect article(s) of the child’s clothing for scent-tracking purposes. |
| Review and evaluate all available information and evidence collected. |
| Secure the child’s latest medical and dental records. |
| Contact landfill management and request they delay or at least segregate garbage and dumping containers from key investigative areas in cases where it is suspected there may be imminent danger to the missing child. |
| Develop and execute an investigative plan. |
| Conduct a criminal-history background check on all principal suspects, witnesses, and participants in the investigation. |
| Determine what additional resources and specialized services are required. |
| Ensure details of the case have been reported to NCMEC. |
| Prepare and update bulletins for local law-enforcement agencies, missing-children clearinghouse, FBI, and other appropriate agencies. |
| Establish a phone hotline for receipt of tips and leads. Consider establishing an e-mail address and other methods of electronically receiving leads as well. |
| Establish a leads-management system to prioritize leads and help ensure each one is reviewed and followed up on. Note: NCMEC has developed software, named the Simple Leads Management System, designed to manage and prioritize leads associated with missing-child investigations. It is available at no cost by calling NCMEC’s Missing Children Division toll-free at 1-800-THE-LOST (1-800-843-5678). |

# Section 1.2: Attempted Abductions

**Objective:** The participant will recognize state legal requirements in the reporting of attempted abductions as well as review the stages of initial response to the scene of a missing child.

Texas Law recently changed requirements for law enforcement agencies when incidences of attempted abductions occur in Texas.

*Reporting Requirements*

The Texas Code of Criminal Procedure states that, effective September 1, 2013:

Art. 63.009(a-1) A local law enforcement agency, on receiving a report of an attempted child abduction, shall immediately, but **not later than eight hours** after receiving the report, provide any relevant information regarding the attempted child abduction to the clearinghouse. [emphasis added]

Art. 63.013. INFORMATION TO CLEARINGHOUSE.

Each law enforcement agency shall provide to the missing children and missing persons information clearinghouse:

(1) any information that would assist in the location or identification of any missing child who has been reported to the agency as missing; and

(2) any information regarding an attempted child abduction that has been reported to the agency or that the agency has received from any person or another agency.

Art. 63.0016. ATTEMPTED CHILD ABDUCTION BY RELATIVE.

For purposes of this chapter, "attempted child abduction" does not include an attempted abduction in which the actor was a relative, as defined by Section 20.01, Penal Code, of the person intended to be abducted.

Art. 63.0041. REPORTING OF ATTEMPTED CHILD ABDUCTION.

A law enforcement officer or local law enforcement agency reporting an attempted child abduction to the clearinghouse shall make the report by use of the Texas Law Enforcement Telecommunications System or a successor system of telecommunication used by law enforcement agencies and operated by the Department of Public Safety.28F[[30]](#footnote-30)

The Code of Criminal Procedure assigns the definition of “abduct” used in the Texas Penal Code. Therefore, refer to Section 1.1 herein to define abductions. To understand the elements required to show an attempt, the Texas Penal Code defines a criminal attempt as follows:

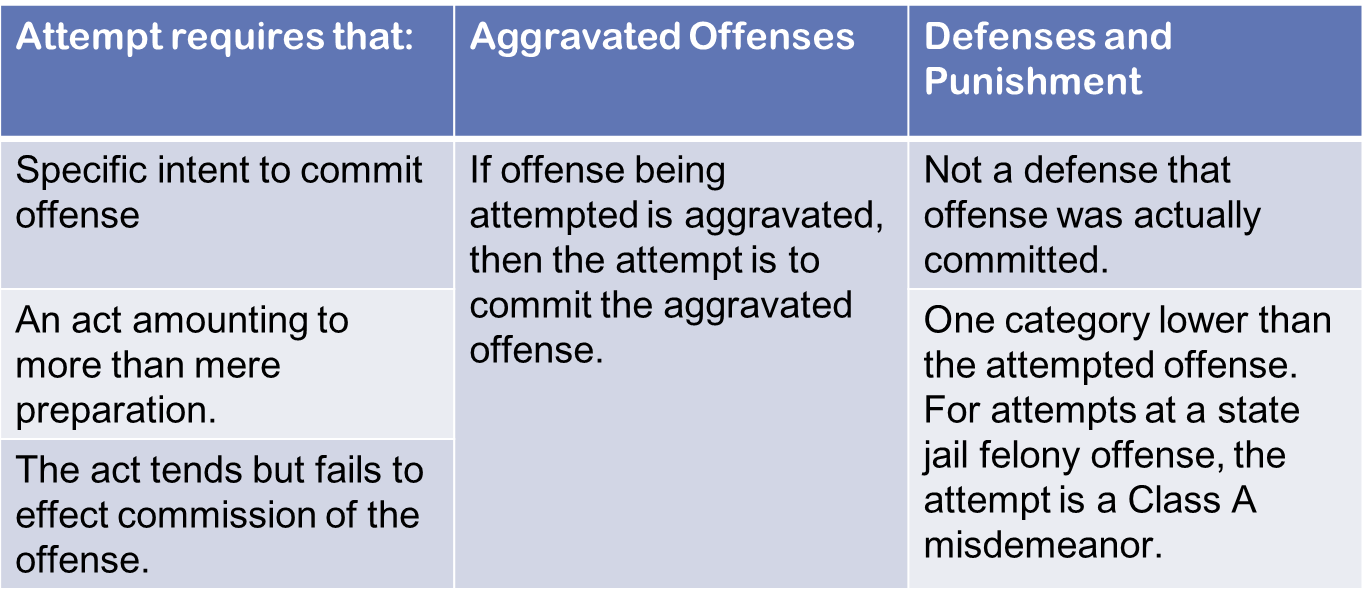
Sec. 15.01. CRIMINAL ATTEMPT.

(a) A person commits an offense if, with specific intent to commit an offense, he does an act amounting to more than mere preparation that tends but fails to effect the commission of the offense intended.

(b) If a person attempts an offense that may be aggravated, his conduct constitutes an attempt to commit the aggravated offense if an element that aggravates the offense accompanies the attempt.

(c) It is no defense to prosecution for criminal attempt that the offense attempted was actually committed.

(d) An offense under this section is one category lower than the offense attempted, and if the offense attempted is a state jail felony, the offense is a Class A misdemeanor.29F[[31]](#footnote-31)

**To summarize the statute on criminal attempts, the Instructional Slides provide the following chart:30F[[32]](#footnote-32)

*Process to Report*

The following guidelines were developed to fulfill the reporting requirements:

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| **Attempted Child Abductions - Senate Bill 742**31F**[[33]](#footnote-33)**  During the 83rd Legislative session, Senate Bill 742 was enacted and amended Article 63 of the Code of Criminal Procedure. This bill requires the Texas Missing Person Clearinghouse to collect information on attempted child abductions. Reporting requirements from a law enforcement agencies are defined in article 63.0041 (CCP), “A law enforcement officer or local law enforcement agency reporting an attempted child abduction to the clearinghouse shall make the report by use of the Texas Law Enforcement Telecommunications System or a successor system of telecommunication used by law enforcement agencies and operated by the Department of Public Safety.”  Upon receiving a report of attempted child abduction, an agency shall immediately but not to exceed eight hours after receiving the report, submit the information to the Texas Missing Person Clearinghouse. TLETS has created a specific administrative message format designed for this reporting requirement; however agencies can submit an administrative message to the clearinghouse for this purpose, as long as, all required information is included in the message.  This administrative message shall be sent to the TLETS group MPCA, which will be distributed to devices within the Texas Missing Persons Clearinghouse and TXDPS Fusion Center.  ***AM For Reporting Attempted Child Abduction***  **Agency/Case Data**  Reporting Agency ORI (RRI)  Reporting Agency (AGY)  Contact Person (ACN)  Phone Number (PHO)  Originating Case Number (OCA)  **Attempted Abduction Event Information**  Date of Event (DAT)  Time of Event (TME)  Street Number (SNU)  Street Name (SNA)  City Name (CTY)  State (STA)  Zip Code (ZIP)  Method of Operation Used to Lure Child (MOU)  **Victim and Witness Information**  Name (NAM)  Age (AGE)  Sex (SEX)  Race (RAC)  Date of Birth (DOB)  Witness Name (WNM)  Witness Contact Information – Address/Phone/Email/etc. (WCI)  **Suspect Information**  Sex (SSX)  Race (SRC)  Estimated Age (SAG)  Estimated Height (HGT)  Estimated Weight (WGT)  Scars, Marks and Tattoos (SMT)  Identifying Information (IDT)  Additional Descriptive Information - Clothing Description/Facial Hair/Glasses (DSC)  **Vehicle Information**  **\*\*if only PARTIAL PLATE information is known, include the consecutive digits in the LIC field, place an ‘X’ in the “Is this a Partial Plate?’ box, and state which part is known in the REMARKS field.\*\***  License Plate (LIC)  License State (LIS)  Is this a Partial Plate?  Vehicle ID Number (VIN)  Vehicle Year ((VYR)  Vehicle Make (VMA)  Vehicle Model (VMO)  Vehicle Style (VST)  Vehicle Color (VCO)  Identifying Marks on Vehicle (IDM)  **Remarks**  Remarks (REM)  **Special Options**  Control Field (CTL) |

*Modes of Attempted Abductions*

Coordinating efforts on attempted abductions is critical to linking connected criminal acts, addressing an ongoing and continuing threat to the local community, alerting surrounding communities of a potential threat in their area. Understanding the methodologies used by offenders in attempted abductions also helps to make community education and prevention more effective. Attempted abductions could include methods related to the following:

* Nonverbal actions
* A verbal exchange between the offender and child.
* Physical contact: sexual or otherwise.
* A physical struggle.
* A short abduction from which the child is able to escape.32F[[34]](#footnote-34)

Several trends have been noted by the National Center for Missing & Exploited Children (NCMEC). NCMEC has analyzed more than 9,000 attempted child abductions between February 2005 and January 2014. This analysis does not include attempted online enticements of children, which are handled through the CyberTipline**®** at [www.cybertipline.com](http://www.cybertipline.com).

Of the recorded attempted abductions:

* 73 percent involved the suspect driving a vehicle.
* 34 percent occurred between 2 p.m. - 7 p.m.
* 32 percent happened when the child was going to or from school or a school related activity.
* 18 percent involved sexual assault or indecent exposure.
* 68 percent involved a female child.
* 39 percent involved children between 10 and 14 years old.

Of the attempted abductions that had a known outcome of how the child escaped the suspect:

* 51 percent involved children walking or running away from the suspect with no physical contact.
* 32 percent involved children reporting some type of reaction such as yelling, kicking, pulling away or attracting attention.
* 17 percent involved either a parent or another individual rescuing the child.

For incidents in which a perpetrator was identified or arrested:

* 15 percent of perpetrators were registered sex offenders at the time of the incident.

There were more than 100 different methods used in the more than 9,000 attempted abduction reports reviewed since 2005. For the incidents in which the perpetrator used a known method to entice the child, the five used most often were:

* 34 percent offered the child a ride.
* 12 percent offered the child candy or sweets.
* 10 percent asked the child questions.
* 8 percent offered the child money.
* 8 percent used an animal (offering, looking for or showing).33F[[35]](#footnote-35)

In addition to fulfilling legal reporting requirements, law enforcement has the option to seek additional resources. These resources include that:

Law enforcement can request the technical assistance resources listed below or report an incident occurring in their jurisdiction by emailing [attempts@ncmec.org](mailto:attempts@ncmec.org).

* Distribution of a regionalized biweekly report summarizing the attempted abduction incidents confirmed in the previous 14 days.
* Identification and analysis of regional trends and patterns among cases using NCMEC databases, external data sources and geographic information databases.
* Analysis of similar incidents of attempted abductions occurring within a certain mile radius.
* Review of past crimes and unresolved long-term cases for similarities in an effort to develop investigative links.
* Preparation and dissemination of special bulletins, when necessary, to alert NCMEC staff members and law enforcement of emerging attempted abduction patterns.
* Confirmation of incident details for use in developing data driven safety tips.34F[[36]](#footnote-36)

Some law enforcement agencies provide community awareness and prevention education. Survey the participants to determine if any of them provide education as part of their routine duties. If so, this Section can emphasize teaching community members not to be bystanders by:

* Calling 911 if someone is in immediate danger.
* Asking the potential perpetrator if they are the child’s parent.
* Looking for cues for distress from the child.
* Seeking assistance from law enforcement to verify as needed.[[37]](#footnote-37)

# Section 1.3: Children Displaced by Disaster

**Objective:** By the end of this section, the participant will be able to predict challenges in the reunification of children with their guardians that take place before, during, and after the disaster as well as give examples of potential preventative and response solutions.

**Activity:** The prompts for the activity are at the end of the Instructional Slides for this section. They are printed in Appendix B along with a suggestion for how to lead group discussion (chart drawing example). This activity can be completed individually or in small groups/pairs.

When a disaster hits, natural or manmade, it is easy for children to get separated from their parents or guardians. Separation can occur in the evacuation or sheltering process. Separation can also occur because the children were already in a different location from parent(s), such as at a school, daycare, medical facility, juvenile justice center, recreational, religious campus, or other location.35F[[38]](#footnote-38)

In the following video, participants will hear from real families that were separated from their children for hours, days, and weeks following Hurricane Katrina. In one case, that process took up to 7 months before the last displaced child was reunited with their family in March of 2006.36F[[39]](#footnote-39) The video also features the professionals on the ground working to bring those children home and the lessons they learned from Katrina and the recommendations they have for all communities.

Play Video “Children Displaced by Disasters” by the National Center for Missing and Exploited Children, available at [http://vimeo.com/73468509 (17](http://vimeo.com/73468509%20(17) minutes).

* This video is also incorporated into the Instructional Slides.
* The Instructor should download or stream the video in advance of the training if possible to avoid technical difficulties.
* If for some reason the video does not play during the training, the Instructor should summarize the video resource during that part of the Instructional Slides.
* Depending on time remaining for the training, the Instructor has the ability to select the most relevant segment of the video to show during the training.37F[[40]](#footnote-40)

*Challenges to Reunification*

**Reunification** is “the process of assisting displaced disaster survivors, including children, in voluntarily reestablishing contact with family and friends after a period of separation.”38F[[41]](#footnote-41) The task of reunifying children with their primary caregiver(s) will often be more difficult in disaster situations.

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| --- | --- |
| **Challenges:** | **Examples:** |
| Scale of the disaster. | Hurricanes can affect multiple cities, counties, and states. Also, the larger the area affected often means a larger number of individuals impacted. |
| Mass evacuation of (densely populated) residential areas. | During Hurricane Rita, traffic was brought to a standstill as people tried to make their way north on I-45. According to a study by the Texas House of Representatives, of the 118 victims of Hurricane Rita, 60 people died in the evacuation from Rita before the storm even hit land.39F[[42]](#footnote-42) |
| Schools, universities, or hospitals affected. | In the case of a school shooting, parents are almost always away from their children when the tragedy occurs. It can be difficult for parents to learn the status of their child(ren) upon arriving at the school due to a lack of access to the scene.   * If the school is affected and that is the primary shelter in case of a disaster, what is the community’s back up shelter? Is there a backup shelter? * When a hospital is affected, especially in an area where there is only one facility, care to victims can be slowed and even halted. |
| Disaster happens during the school or workday. | During school and business hours, parents and children are usually separated. Many parents are commuters and may have to travel long miles to and from work. Their children are most likely in school near where they reside. |
| Disaster affects large public venues or events.  Disaster affects those large venues during a weekend or holiday. | Communities should consider situations such as:   * How would you safely evacuate a shopping mall on Black Friday? * How do you care for the wounded and safely evacuate a concert venue when part of the stage collapses? |
| Local resources are spread thin. | For a sparsely populated county with only a handful of officers, it does not take much for all the officers to be spread out over hundreds of miles evacuating the population.  In the case of a disaster in a large urban area, there are more officers available, but dealing with over 100,000 people in need of shelter and basic needs can stretch responders to the limits very quickly. |
| No reunification plan in place. | Communities without a reunification plan run the risk of bringing into contact children and individuals without background checks who could pose a separate threat to children. Whether through an individual who is a threat to a child, or lack of training and policies, the community may risk losing the children they are trying to reunite. |
| The parent(s) or guardian(s) lack transportation. | Disruptions of public transportation and/ or the lack of access to a personal vehicle can deter or even prevent the parent or guardian from reuniting with the child. |
| Age and language skills of lost children or unaccompanied minors may vary. | It will be difficult to communicate with preverbal or nonverbal children (including children with special needs). This can hinder the reunification with their parents, because the child cannot give the name of the parent(s) or even their own name. |

Sometimes the challenges to reunification are the complications from the disaster itself. Other times the caregiver can be the hindrance to reunification.

A study conducted by the National Center for Disaster Preparedness in 2008 found that:

**“Nearly half of parents, 45%, do not know the location to which their child would be evacuated as part of their school’s disaster plan.** This is despite the fact that 61% of parents say they are familiar with their school’s plan.

Fewer than one-third of parents, 31%, would evacuate from their home or place of employment and reunite with their children later, if so directed. By contrast, **63% would disregard an evacuation order and go directly to their child’s school in an attempt to collect their children**. These findings are consistent for all regions of the country (east, central, south, and west) and regardless of household income or parents’ education, age, or gender.”40F[[43]](#footnote-43)

*Before a Disaster Strikes – Community Preparedness Plan*

As stated by FEMA, “Individual and community preparedness is fundamental to the success of reunification efforts.”41F[[44]](#footnote-44) It is vital for every community to prepare a well thought-out response plan dealing with different possible disasters.

“Disasters "with warning," such as hurricanes, are generally predictable with a reasonable level of accuracy some days prior to the event. In contrast, disasters "without warning" present many more obstacles and substantially greater challenges for emergency planners. Examples of disasters without warning include earthquakes and large-scale terrorist attacks, such as coordinated bombings, widespread releases of chemical or biological agents, or a nuclear weapon detonation.”42F[[45]](#footnote-45)

A well-coordinated plan requires that several community players including law enforcement, area schools, service providers, hospitals, and nonprofits come together, share their expertise, and work together to ensure that when a disaster strikes, their community is prepared to serve any displaced, missing, and unaccompanied minors quickly and efficiently.

When reviewing or editing your area’s disaster response plan, be sure the plan includes the following to ensure the protection of minors separated from their parent(s) or guardians:43F[[46]](#footnote-46)

* A clear procedure outlining **WHO** is responsible for lost children and unaccompanied minors.
  + Which agency is in charge of monitoring and attending to the children’s basic needs while awaiting reunification?
  + Where will the children be sheltered? Do you have a long term plan for shelter of the child in addition to the short term plan?
  + Background checks and fingerprints collected on all individuals that will have access to the unaccompanied minors.
* When the parent(s) or guardians are located, have a precise **custodial release procedure** in place.
  + Standardized guidelines to verify the identity and custody rights of the person(s) claiming to be the child’s parent(s) or guardian.

*Before a Disaster Strikes – Family Preparedness Plan*

Difficulties with reunification can often be due to the lack of preparedness by the individual families. It is important to educate and encourage individual families to create their own emergency response plans. In addition to the community plan, law enforcement and community educators should encourage families to:

* Have an individual family plan to address emergencies and disasters.
* Encourage the public to review the plans for their workplace, children’s schools, child care provider, etc. . . .
* Teach children the basic safety concepts.
  + Based on the age and ability of the child, parent(s) or guardian(s) should teach the child their name, parents or guardian’s name(s), address, phone number, etc. . . .
  + Parents should practice “what if” scenarios to prepare for disasters.44F[[47]](#footnote-47)
    - What is a tornado strikes while you are at a friend’s house?
    - What if a hurricane will hit land near our home? Where do we go? When will we leave? What will you do if we get separated at the shelter?
* Parent(s) and guardian(s) should keep an up-to-date Child Id Kit for each child in the household. The kit should include:
  + A clear color photo that shows what the child really looks like. Pictures should not have any masks, disguises, or face paint, and should be updated at least every 6 months.
  + Name, Nicknames, Date of Birth, Sex, Hair/eye color, weight, height, glasses, braces, identifying marks.
  + Child ID Kits should be kept in a fire proof safe and be in a place that is easy for the parents/guardians to get to in an emergency.
  + Kits should be Included in the family’s evacuation bags.45F[[48]](#footnote-48)

It can be difficult to get groups of parents and guardians together in one place. In order to reach a large number individuals, consider hosting community preparedness drills with mock disasters. This not only helps prepare the community, but allows the first responders and emergency response teams to fine-tune their procedures. Media campaigns can also be very useful to repeatedly reach larger numbers of people.

*Following a Disaster*

A good preparedness plan will not only cover the immediate issues during a disaster, but also the long term concerns. When creating your plan for missing, separated, and unaccompanied minors, it is critical to include procedures covering the coordination with child welfare services, reporting the child into the National Crime Information Center (NCIC), and working with the Texas Missing Person’s Clearinghouse. In addition to those partners, the National Center for Missing & Exploited Children offers assistance in helping to law enforcement and families. One resource offered only to law enforcement from the National Center for Missing & Exploited Children is the Unaccompanied Minors Registry. The Unaccompanied Minors Registry is:

* A place for emergency management agencies, law enforcement, shelter staff, hospital employees and other organizations to report minors in their care during disasters.
* Accepts reports of children up to age 18.
* Allows agencies managing a large number of unaccompanied children to upload entire lists of names at once.
* Resources available at <https://umr.missingkids.com/umr/reportUMR?execution=e1s1>.

# Section 2.1: Runaways

**Objective:** After completing this section, the participant will be able to differentiate when reporting youth runaway cases is legally required as well as correlate youth runaway populations and risks for potential harm or exploitation.

**Activity:** Prior to beginning the slides and lecture, conduct the Activity included in Appendix B and the beginning of the Instructional Slides. The activity can be completed individually with large-group discussion to follow.

*Street Conditions*

The chapter on runaways focuses on when a minor voluntarily46F[[49]](#footnote-49) leaves their home or legal residence. However, youth can also end up on the street when their caregivers throw them out of their home, do not make adequate arrangements for their care, or fail to allow them entry into their home.47F[[50]](#footnote-50) These youth are termed “thrownaway” due to the failures of their caregivers.

Once on the street, youth face a variety of dangers as illustrated by the slide. The National Center for Missing & Exploited Children has found that, “Life ‘on the run’ for these children is extremely dangerous and harmful. The longer they are on the street, the greater their chances of falling victim to those who wish to exploit them.”48F[[51]](#footnote-51) In addition to risky street activities, they may be recruited into sex trafficking or become dependent on the trade of sex for means of survival.49F[[52]](#footnote-52) Multiple studies demonstrate the use of survival sex on the street by youth to meet their basic needs.50F[[53]](#footnote-53)

Equally disturbing, data from the National Center for Missing & Exploited Children shows a trend linking runaway cases to children who are found to be victims of child sex trafficking. The non-profit organization finds that of children intaked as runaways, 1 in 7 are likely victims of child sex trafficking.51F[[54]](#footnote-54) Victims of child sex trafficking face great risks and brutal street conditions, as shown in the final section of this training.

*Why Children Run*

If children and teens face such uncertainty and dangers on the street, what experiences could be pushing them away from their homes and onto the street? The Instructional Slides examine past life experiences that correlate with runaway behavior. In a study examining street youth and surveying more than 775 individuals ages 12-19, a strong history of physical and sexual abuse among girls before their first ever run was noted. The study noted that, “Among females, 70 percent reported sexual abuse, and 35 percent reported physical abuse. Among males, 24 percent reported sexual abuse, and 35 percent reported physical abuse. Sexual and physical abuse before leaving home were independent predictors of suicide attempts for females and males.”52F[[55]](#footnote-55) Similarly, another showed sexual abuse of females at 61 percent and sexual abuse of males at 34 percent prior to any runaway episode.53F[[56]](#footnote-56) The same study examined the relationship of reported sexual abusers to the child and noted a two-thirds likelihood of a report of a **male with access to the home**.54F[[57]](#footnote-57)

At times, runaways are lured into the street by those looking to exploit them. A major prosecution of traffickers in northern Virginia found traffickers using social media as well as in-person recruitment to lure teens to the street for involvement in commercial sex trafficking.55F[[58]](#footnote-58) As a case study from Texas shows, a trafficker from the Amarillo region was able to recruit a 15 year-old in Houston through social media.56F[[59]](#footnote-59) The deputy who intervened in the case began a consent search of the vehicle for drugs, but followed his instincts to rescue the minor victim who was in the company of an adult man. Evidence located on the man’s cell phone was critical to piecing together her purpose in the vehicle and background.

*Responding to Runaway Cases & Reporting Requirements*

In addition to the resources listed, other leads on information on the child or their family may be available through:

* Social services;
* Homeless and youth shelters;
* People the youth identified as seeing them at home or school;
* Family members, friends, neighbors and school officials; and
* Child’s place of employment, if applicable.

Law enforcement agencies are required to report to the state clearinghouse and enter an NCIC Missing Person File in the case of a missing child where “the well-being of the child is in danger.”[[60]](#footnote-60) Such action is required to be taken immediately, but not later than two hours after receiving the report of the missing child.[[61]](#footnote-61) These requirements apply to all missing child cases, not solely runaway cases.

Runaway cases also include specific reporting descriptors now available as HRF1 and HRF2 values for High Risk Factor. HRF1 refers to juveniles with histories of missing reports 4 or more times in the preceding 24 months. HRF2 refers to juveniles in foster care or conservatorship with 2 or more missing reports in the preceding 24 months.

The content in the Instructional Slides provides the relevant article from the Code of Criminal Procedure as well as instructional content from the Texas Department of Public Safety (DPS). As noted in the content provided by DPS, law enforcement reports may require modification as an investigation progresses due to the two hour reporting requirement.

The following text is directly quoted from the *Investigative Checklist for Law Enforcement When Helping Unsupervised and Runaway Children* from NCMEC’s *Investigator’s Package*:57F[[62]](#footnote-62)

**Field Interview: Initial Phase**

The initial phase of the field interview should be conducted in a manner so as to establish the child’s statements, which will form the basis in assessing the child’s level of risk.

* Conduct a field interview. If the child is in the company of other people, separate everyone before conducting the field interview(s).
* Obtain identifying information, such as name and address, and descriptors such as height, weight, and age. Remember the child may be reluctant to provide the information or may provide incorrect information.
* Query information obtained through the Federal Bureau of Investigation’s (FBI) National Crime Information Center’s (NCIC) database and the state/territorial law-enforcement system counterpart.
* If a record is located, determine the child’s status, such as missing or a charged offense, and determine whether grounds exist to immediately place the child in protective custody and transport the child for proper investigative follow-up, placement, or disposition. If no record is located, proceed with the field interview.
* Develop a timeline of the child’s whereabouts and activities by asking:
* Who have you associated with while on the street?
* What is your relationship with this/these individual(s)?
* Where have you stayed?
* With whom have you stayed?
* How long have you stayed with them?
* How long have you spent time on the street, and what have you done while on the street?
* Ask the child, in a direct manner, if he or she is missing, he or she is a runaway, or it is possible someone may be looking for him or her. Focus on deviations in behavior, both verbal and non-verbal, exhibited by the child during this initial interview phase. Keep in mind the child may be deceptive or fail to disclose information due to concerns such as fear, intimidation, or threats of reprisal.
* If the child indicates yes, consider placing him or her in protective custody and transporting him or her for proper investigative follow-up, placement, or disposition.
* If the child indicates no, proceed with the second phase of the field interview.

**Field Interview: Second Phase**

An in-depth interview of the child should be conducted based on information obtained during the initial phase of the field interview in order to further assess the child’s level of risk if allowed to remain unsupervised. Continue to look for discrepancies in information obtained in the initial phase of the field interview with information obtained during the second phase of the interview.

* Obtain detailed information about the child including
* Full name.
* Nickname(s).
* Full physical description to include clothing, body piercings, tattoos, and any personal items such as a backpack and wireless device. Note: NCIC online searches should be conducted on personal items.
* Date of birth/age. Note: Children 13 years old or younger do not have the survival skills necessary to protect themselves from exploitation on the streets.
* Place of birth.
* Addresses, both current and prior.
* Home phone number.
* Cell phone number.
* Last time the child was seen at home.
* Name of school attending or has attended.
* Date last attended school.
* Employment information, if the child is employed, including name, address, and phone number of the employer.
* Obtain full name, address, and home/business phone number(s) of last person/people to see the child at:
* Home.
* School.
* Ask the child if he or she is under the care of a doctor. If so obtain the doctor’s name, address, and phone number.
* Determine if the child is taking any prescription medication and/or other drugs, ranging from over-the-counter medications to illegal substances, and if he or she is in possession of any. Note any drug dependencies putting the child at risk.
* Ask the child if he or she has been involved in or the victim of any crimes since leaving home. Potential risk factors and/or indicators of trafficking and exploitation include:
* History of emotional, sexual, or other physical abuse.
* Signs of current physical abuse and/or sexually transmitted diseases.
* History of running away or current status as a runaway.
* Appearance of expensive gifts, clothing, or other costly items with no valid explanation of their source.
* Presence of an older boy-/girlfriend.
* Drug addiction.
* Withdrawal or lack of interest in previous activities.
* Gang involvement.
* Ask the child for information about family members, both immediate and extended, including name, address, home/business phone number(s), and place(s) of employment.
* Determine the relationship(s) the child has with the identified family members.
* Identify and explore any dysfunctional relationships between family member(s) and the child. Keep in mind the child may have left home due to mental, physical, or sexual abuse or exploitation at the hands of a family member or individual otherwise known to the child.
* Ask the child to provide names, addresses, and phone numbers of friends who live or lived nearby and those with whom he or she attends or attended school.
* Identify and determine if the child is out of his or her zone of safety based on the child’s age, the child’s level of maturity, and environment in which the child is found. If so consider placing the child in protective custody and transporting the child for proper investigative follow-up, placement, or disposition.

**Field Interview: Final Phase**

Additional information must be obtained, based on the initial and secondary information gathered, in order to make a determination about allowing the child to remain unsupervised or placing the child in protective custody.

* Ask communications to check for any prior contact or calls for service with the child or child’s family members
* Check with surrounding jurisdictions for prior contact with the child and the child’s family members
* Check with the National Center for Missing & Exploited Children® (NCMEC) at 1-800-THE-LOST®
* (1-800-843-5678) for previous intake or new intake of information regarding reports of missing and/or sexually exploited children
* Check with the appropriate state/territorial missing-child (person) clearinghouse(s) for any prior contact with the child or the child’s family members
* Check with the National Runaway Switchboard at 1-800-RUNAWAY (1-800-786-2929)
* Contact the National Human Trafficking Resource Center (NHTRC) at 1-888-373-7888 for assistance in cases of trafficking
* Query NCIC utilizing non-unique identifiers
* Check with social services for prior contact with the child or the child’s family members
* Check with homeless shelters for any prior contact with the child
* Check with the person/people the child identified as the last one(s) to see him or her at home
* Check with the person/people the child identified as the last one(s) to see him or her at school
* Check with the child’s family members to obtain additional information about the child
* Check with the child’s friends to obtain additional information about the child
* Check with the child’s school to obtain additional information about the child
* Check with the child’s place of employment, if employed, to obtain additional information about the child

# Section 2.2: Missing from Care

**Objective:** By the end of this section, the participant will be able to articulate conditions that may lead children to go missing from care as well as the manners in which offenders specifically target this population.

**Activity:** Note that this section begins with an individual Activity before you start the section title slide. The Instructional Slides include the prompts, but **there are additional notes for the Instructor to read aloud in Appendix B.**

**Bonus Activity:** There is also an Activity at the end of the section related to a case study as time permits**.** The activity can be completed in groups, pairs, or large-group discussion (with large-group discussion to follow if started in small groups).

Be sure to leave adequate time for both activities. Participants may need note paper for both activities.

Please note that definitions of children missing from care can vary between agencies. Some agencies may require certain lengths of time to pass before children are considered missing or runaways. The definition in the beginning of Instructional Slides is a broad description of any child not in the physical custody of the person or institution with whom the child has been legally placed.58F[[63]](#footnote-63) The broad definition is used to identify all children at higher risk for sexual exploitation on the street. All children should receive the same level of response and resource allocation despite their placement of origin.59F[[64]](#footnote-64)

*Running from Care*

Prior life experiences of foster children often leave them especially vulnerable to the risks of the street and specifically recruiters setting them up for sexual exploitation.60F[[65]](#footnote-65) As researchers note, “Youth in out-of-home care are particularly vulnerable to running away from care as they have already experienced a disruption in living arrangements stemming, in the majority of cases, from documented abuse or neglect.”61F[[66]](#footnote-66) Older youth could develop running as a default coping mechanism for placement instability or lack of influence over placement decisions.62F[[67]](#footnote-67)

Los Angeles County came to a realization on the vulnerability of foster youth in 2012 when it analyzed juvenile prostitution-related arrests.63F[[68]](#footnote-68) The county found that of 174 youth arrests, approximately two-thirds of youth came directly from the foster care system. Upon further investigation, officials found that traffickers were recruiting youth directly from care. As stated in a *Motion by Supervisor Michael D. Antonovich*: “[T]hey are victimized and terrorized by local pimps. Even more shocking is that pimps are using child sex workers to recruit fellow foster care children at the DCFS Emergency Response Command Post and group homes across the County.”64F[[69]](#footnote-69) In response, the County formed a local task force and created awareness videos available for public streaming.

The findings across the country reflect the conditions unearthed in LA County: As NCMEC’s CEO testified in fall of 2013, “Of the children reported missing to NCMEC in 2012 who are likely child sex trafficking victims, 67% were in the care of social services or foster care when they ran.”65F[[70]](#footnote-70)

Multiple studies document that once a child runs from care once, the likelihood of future runs greatly increases.66F[[71]](#footnote-71) Of course, de-mystifying the glamour of street life, establishing positive role model relationships and stabilizing a child’s placement67F[[72]](#footnote-72) can help prevent a first run from care. Placing siblings together dramatically reduced the risk of first runs for children in care.68F[[73]](#footnote-73) For those seeking to reduce runaway behavior, research supports a focus on youth who have run in the past, especially immediately following when they are returned to care.69F[[74]](#footnote-74)

The demographics of children running from care consistently show that older youth70F[[75]](#footnote-75) and female youth are more likely to run.71F[[76]](#footnote-76) Children from single-parent households are also more likely to run once removed into care.72F[[77]](#footnote-77) As to maintaining a stable family structure, “children in the placement type of kinship care were found to be less likely to run away.”73F[[78]](#footnote-78)

*Case Study*

The foster care case study for this section refers to the case of a 13 year-old girl who ran from care to live in an abandoned apartment with a friend. The following is from court records in the case:

When she was 13 years old, B.D. ran away from foster care to live with a friend in a vacant apartment, where they would smoke marijuana and "hang out." B.D. and her friend went to a party, and several boys asked B.D. to perform oral sex on them. When she refused, they beat her, and B.D. left in tears. As she walked down the street, Johnson approached and asked her what was wrong. B.D. testified that he told her his name was "Golden" or "Golden Boy." She told him what happened, and he drove her to an apartment, cared for her wounds, and let her take a shower. After she showered, Johnson asked to see B.D. naked, saying, "Let me see what you working with." B.D. obliged.

*Johnson v. State*, 2011 Tex. App. LEXIS 954 (Tex. App. Houston 1st Dist. Feb. 10, 2011) (appeal denied).

After sharing the initial case details, the Instructor can initiate group discussion on how an officer who comes into contact with B.D. on the street might proceed. The discussion prompts are included below for reference as needed:

* What basic information will you try to collect from the child?
* What agencies will you contact to try to verify child’s name, age and history?
* What other leads might you follow to identify a victim in this case?
* If you determine the child is in an unsafe situation, what steps do you follow?
* What are the important physical details of this case for future investigation?
* Who are potential witnesses who will need to be interviewed?

In the case, B.D. was later picked up by an undercover officer and agreed to cooperate against her trafficker. In this case, the trafficker received a 20-year sentence for compelling prostitution (the case pre-dated updated state legislation on child sex trafficking).

# Section 2.3: Children with Special Needs

**Objective:** Upon completing this section, the participant will be able to organize an appropriate response to the scene of a missing child with special needs based on best practices for recovery and available resources.

**Activity:** Use the prompts and the map slides at the end of the Instructional Slides to lead an activity simulated the search for a missing child with special needs. Be sure to review the full activity in Appendix B. This activity can be completed through small groups or active large-group discussion.

*Sexual Exploitation of Children with Special Needs*

The following conditions could complicate the recovery of a missing child or increase the vulnerability of the child to exploitation. While the public might perceive some children with special needs as asexual,74F[[79]](#footnote-79) some offenders specifically target children with special needs. The difficulties children may experience defending themselves from abuse or expressing themselves to seek help may bolster some offenders into thinking they can “get away with it.”75F[[80]](#footnote-80)

According to research published by the American Academy of Pediatrics, children with disabilities are 2 to 4 times more likely to suffer sexual abuse than children without disabilities.76F[[81]](#footnote-81) The Bureau of Justice Statistics also publishes data on persons age 12 and older in the United States.77F[[82]](#footnote-82) For all age categories, the rates for violent crimes78F[[83]](#footnote-83) for the year 2012 were:

|  |  |  |
| --- | --- | --- |
| Age group | 2012 Rate per 1,000 people with disabilities | 2012 Rate per 1,000 people without disabilities |
| 12-15 years old | 122.5 | 42.7 |
| 16-19 years old | 101.8 | 40.7 |
| All ages (total) | 34.2 | 22.7 |

Vulnerabilities could be caused by the condition itself, the treatment of the child by the community, or ways in which the offender attempts to manipulate the condition of the child.

|  |  |  |  |
| --- | --- | --- | --- |
| Condition | The Child79F[[84]](#footnote-84) | The Offender80F[[85]](#footnote-85) | The Community81F[[86]](#footnote-86) |
| Intellectual disabilities | May or may not have the capacity to understand the nature of the abuse. May have difficulty relaying the details of abuse to others.  May be overly trusting or susceptible to bribes, tricks, and offers of money, gifts, or friendship. | May seek victims with difficulties reporting the abuse. May seek out children with credibility issues, non-verbal children, or children who can be manipulated.  May seek out opportunities to interact with children who require help with basic functions or may seek positions that have increased unsupervised access to children.  May seek out children who cannot defend themselves from an abusive situation.  May have ready explanations trying to excuse or overlook the conduct based on the child’s condition.  Emotional dependence on offender may cause child fear of losing the relationship.82F[[87]](#footnote-87) | May view a child with such conditions as asexual. May not have provided child with accurate information on sexual topics (types of touches, personal safety, boundaries, right to say “no,” or how to report or seek help.  May have difficulties understanding the child when the child communicates about the abuse. May not have sensitivity training in place to encourage disclosure.  May not accept the credibility of the child or excuse the actions of the offender as relating to treating the child’s condition (such as a misunderstanding).  Lack of training may impair ability to recognize abuse or maltreatment.83F[[88]](#footnote-88) |
| Communication skills | Hearing, speaking, and communication skills may affect the child’s ability to report and be understood by others. |
| Autism Spectrum Disorder | May not understand nature of abuse or have difficulties disclosing. |
| Physical Disabilities | May limit the child’s ability to physically defend self from the abuse or escape.  May be highly dependent on others to meet basic needs. |
| Various conditions | May make it difficult or impossible for child to defend self from abuse.  May require child to be reliant on various caregivers, giving more opportunities to come into contact with an abuser. |

As to all types of crime, “[P]eople who have a disability are often victimized repeatedly by the same perpetrators, and these perpetrators may include their caregivers.”84F[[89]](#footnote-89) In an article published in Pediatrics, the authors demonstrated the complexity vulnerabilities that could increase risk for child sexual abuse:

Children with disabilities often have limited access to critical information pertaining to personal safety and sexual abuse prevention. Children who have increased dependency on caregivers for their physical needs may be accustomed to having their bodies touched by adults on a regular basis. Parents may object to their child being provided with education on human sexuality, because they may feel that their children will never be in sexually risky situations because of their special needs. However, children with disabilities may be unintentionally conditioned to comply with authority, which could result in them failing to recognize abusive behaviors as maltreatment.85F[[90]](#footnote-90)

The prevalence of crimes against individuals with disabilities and the dynamics that may make reporting and protection more difficult emphasize the importance of well-trained law enforcement responses to victimization reports.

For additional resources on appropriately responding to potential victims with special needs, including victims with specific conditions, see:

* *First Response to Victims of Crime*, National Sheriff’s Association, 13-37 (July 2010) available at <http://www.ovc.gov/publications/infores/pdftxt/2010FirstResponseGuidebook.pdf> (last accessed July 31, 2014).
* ACAI, at 114-124.

*Law Enforcement Responding to Reports of Missing Children with Special Needs: Focus on Autism Spectrum Disorder (ASD)*

While Autism Spectrum Disorder (ASD) does not in itself cause a lower life expectancy, individuals with ASD have twice the mortality risk as the general population. Much of this difference is the result of accidents, drowning incidents in particular.86F[[91]](#footnote-91) Therefore, law enforcement cannot discount the environmental risks posed to a child with ASD when responding to the scene of a search.

Every child with ASD is unique.87F[[92]](#footnote-92) ASD also now includes Asperger’s Disorder, which was eliminated in the DSM-V in order to place it under the umbrella of ASD.88F[[93]](#footnote-93) This group demonstrates milder forms of developmental brain disorders, with frequently good language and cognitive skills.89F[[94]](#footnote-94) By contrast, approximately 40 percent of all children with ASD do not speak.90F[[95]](#footnote-95) Individual with ASD often also suffer from “allergies, asthma, epilepsy, digestive disorders, persistent viral infections, feeding disorders, sensory integration dysfunction, sleeping disorders, and more.”91F[[96]](#footnote-96)

The environmental risks must be weighed for each individual child regardless of the diagnosis. It is also important to note the chronological age of individuals with ASD is often irrelevant to their level of functioning. The risk for children with ASD is elevated due to their propensity to wander, elope or bolt.

The National Autism Association defines wandering as, “When a person, who requires some level of supervision to be safe, leaves a supervised, safe space and/or the care of a responsible person and is exposed to potential dangers.”92F[[97]](#footnote-97)

Categories of wandering noted by the National Autism Association include:93F[[98]](#footnote-98)

|  |  |
| --- | --- |
| **Goal- directed** | Wandering with the purpose of getting to something (water, train tracks, park, an item or place of obsession, etc.) |
| **Bolting/Fleeing** | Suddenly running or bolting, usually to quickly get away from something, a negative reaction to an event, anxiety, fear, excitement, stress or uncomfortable sensory input. |
| **Other:** | Nighttime wandering; wandering due to disorientation, boredom, transition or confusion; or the individual simply loses their way/becomes lost |

In addition, the National Autism Association publishes the following data with regards to wandering and connected safety issues:

* Roughly half, or 48%, of children with an ASD attempt to elope from a safe environment, a rate nearly four times higher than their unaffected siblings.
* In 2009, 2010, and 2011, accidental drowning accounted for 91% total U.S. deaths reported in children with an ASD ages 14 and younger subsequent to wandering/elopement.
* More than one third of ASD children who wander/elope are never or rarely able to communicate their name, address, or phone number.
* Two in three parents of elopers reported their missing children had a “close call” with a traffic injury.
* 32% of parents reported a “close call” with a possible drowning.94F[[99]](#footnote-99)

The following text is directly quoted from the Special Needs Addendum of NCMEC’s Investigator’s Package (also published in the *First Responder Toolkit* of the National Autism Association):95F[[100]](#footnote-100)

Finding and safely recovering a missing child with special needs often presents a unique and difficult challenge for families, law enforcement, first responders, and search teams. The behaviors and actions of a missing child with special needs are often much different than those of a missing nonaffected child. While the behaviors will differ from child-to-child, missing children with certain special needs may:

* Wander away, run away, or bolt from a safe environment
* Exhibit a diminished sense of fear causing them to engage in high-risk behavior such as seeking water or active roadways
* Elude or hide from search teams
* Seek small or tightly enclosed spaces concealing themselves from search teams
* Be unable to respond to rescuers

A special-needs condition may be characterized by debilitating physical impairments, social impairments, cognitive impairments, or communication challenges.

…

In the event of an extended missing episode the children are also at risk of exposure to weather and environmental hazards; dehydration; lack of adequate nutrition such as food and medication; traffic-related injuries/accidents; falls, especially down steep terrain; and even potential encounters with child molesters or others who would intentionally try to take advantage of or harm them.

Because of the tendency for children with autism to wander or elope it is vitally important to quickly identify the unique interests of the child and create a list of their favorite places. It is imperative first responders talk to the parents, siblings, relatives, caregivers, and others who know the child well to ask for information about interests, fascinations, stimulations, or obsessions when developing search plans and determining where the child may go. This information could provide key clues leading to a speedy recovery.

Missing Children With Special Needs: Response Recommendations

While cases of missing children with special needs should be treated as critical incidents requiring elevated responses by law enforcement and first responders, children with autism have an unusually high mortality rate and are especially at risk. Certain exceptions may apply for those special-needs children who are considered high functioning and therefore should be assessed accordingly weighing all risk factors.

**Preliminary Considerations**

Because children with autism often have an extremely high attraction to water, it is strongly recommended first responders and search teams immediately check all nearby bodies of water in an effort to head-off the child. These include but are not limited to streams, ponds, lakes, rivers, creeks, storm-water retention/detention basins, and backyard and public swimming pools.

Children with autism typically have difficulty with verbal and nonverbal communication and in many cases may not be able to respond to their name being called. They will often hide to elude searchers, sometimes concealing themselves in small or tight spaces, and may display a diminished sense of fear about dangers in their environmental surroundings.

As with all critically missing children, time is a vitally important factor in a safe recovery. Public-safety telecommunicators are encouraged to obtain the information noted below and immediately share it with all first responders.

**Call-Intake Questions**

The recommendations noted below are offered to help public-safety telecommunicators when taking calls concerning children with special needs. First obtain a full description of the child including height, weight, hair color, and clothing worn. Then ask:

* Is the child wearing or carrying any tracking technology device? If so, which one and how is location information accessed?
* Is the child attracted to water? If so, can the child swim?
* Is the child attracted to active roadways/highways?
* Does the child have a fascination with vehicles such as trains, heavy equipment, airplanes, or fire trucks?
* Has the child wandered away before? If so, where was he or she found?
* Does the child have a sibling with special needs? If so, has that sibling wandered away before? If so, where was the sibling found?
* Where does the child like to go? Does the child have a favorite place?
* Is the child nonverbal? How will the child likely react to his or her name being called?
* Will the child respond to a particular voice such as that of his or her mother, father, other relative, caregiver, or family friend?
* Does the child have a favorite song, toy, or character? If so, what or who is it?
* Does the verbal child know his or her parents’ names, home address, and phone number?
* Does the child have any specific dislikes, fears, or behavioral triggers?
* How might the child react to sirens, helicopters, airplanes, search dogs, people in uniform, or those participating in a search team?
* How does the child respond to pain or injury?
* What is the child’s response to being touched?
* Does the child wear a medical ID tag?
* Does the child have any sensory, medical, or dietary issues and requirements?
* Does the child rely on any life-sustaining medication?
* Does the child become upset easily? If so, what methods are used to calm him or her?

**The Initial Response**

The recommendations noted below are offered to help guide law enforcement and other first responders in the initial response and search for the child.

* Identify hazards in the area where the child was last seen and dispatch personnel to those locations to search for the child, paying special attention to any bodies of water and specific locations of interest to the child such as his or her favorite places.
* Secure identified hazardous areas near where the child was last seen to prevent the child from entering those areas.
* Determine if the child was wearing/carrying a tracking device and, if so, immediately initiate tracking measures to locate the child.
* Determine if the child is frightened by aircraft, dogs, ATVs, or any other resources used to assist in searches. Remember using search dogs at the onset of the initial response will better ensure successful tracking.
* Determine if the child is sensitive to or frightened by noise and how he or she will typically react to that type of noise.
* Establish containment measures of the child’s known routes to prevent him or her from wandering further away from the place last seen using all appropriate means such as road, bike, and air patrol.
* Contact the National Center for Missing & Exploited Children without delay to request assistance from their search-and-rescue and search-management experts.
* Ensure the lead agency is using the services of a reverse 911 system, such as
* A Child Is Missing Alert at www.achildismissing.org. This service helps alert the local community via a rapid-response, neighborhood-alert program using high-tech phone systems.
* Determine if an Endangered Missing Child Alert has been issued.96F[[101]](#footnote-101)

**Investigative Measures**

The recommendations noted below are offered to help guide law enforcement’s search and investigative efforts.

* Contact the child’s parent/guardian to further assess the child’s special needs condition.
* Determine if the child has any history of wandering or eloping and, if so, where and what physical features associated with those episodes may have attracted the child.
* Identify additional physical features the child may be attracted to such as roadways/highways, trains, heavy equipment, fire trucks, park swings, and road signs.
* Determine if the child has any favorite places.
* Determine if the child has a favorite song, toy, or character.
* Determine if the child has any dislikes, fears, or behavioral triggers and, if so, how he or she will typically react to negative stimuli.
* Determine how the child reacts to sirens, dogs, vehicles used in searches, and people of authority/in uniform. Children with autism will sometimes avoid search teams or attempt to hide in small places.
* Determine the communication abilities of the child regarding verbal versus nonverbal skills.
* Determine if the child will respond to his or her name when being called.
* Determine if the child knows his or her parents’ names, home address, and phone numbers.
* Determine if the child has any other mental or physical conditions.
* Determine if the child has any dietary issues or requirements.
* Determine if the child is taking any medications, and, if so, the type of medications, risks involved with delayed or missed doses, and potential side effects if the medication is not taken as prescribed.
* Determine if the child wears a medical identification bracelet or tag.
* Determine how the child responds to pain or injury.
* Determine the child’s response to being touched.
* Determine what methods are used to calm the child.

**Search-and-Rescue Measures**

The deployment of personnel trained in search-and-rescue protocols is highly recommended to assist in the investigation to safely locate the missing child. Law enforcement should immediately provide information to search-and-rescue personnel about the child’s special-needs condition and any information about the specific behaviors or interests that may assist in searching for the child.

Law enforcement should consider immediately establishing an Incident

Command System (ICS) to help ensure all aspects of the investigative and search functions are properly managed and resources are used to their fullest potential.

Additionally a critical component of that ICS is the establishment of a search-and-rescue manager for all aspects of the search-and-rescue operation. The search measures noted below may help in safely locating a missing child with special needs.

* Preserve the place the child was last seen.
* Use search-and-rescue personnel accustomed to the existing geography whether urban, suburban, or rural.
* Provide a detailed briefing to search-and-rescue personnel arriving on scene about the behaviors of the missing child.
* Consider using the National Center for Missing & Exploited Children’s
* Missing Children With Special Needs Lost-Person Questionnaire.
* Initiate search-and-rescue efforts with an emphasis on bodies of water, high-hazard areas, travel corridors, routes to favorite places, previous locations visited, and any other areas of interest suggested by those who know the child.
* Attempt to attract the child by using his or her favorite things such as playing a favorite song or driving a favorite type of vehicle into the search area.
* Use night-search techniques, if appropriate, such as projected lights and patterns, especially spinning patterns, or other types of favorite visuals to attract the missing child. **Note**: Be aware night searches could be hazardous to the child if the terrain includes dangers such as cliffs, drop offs, mine shafts, or bodies of water. Attempting to draw a child into these areas could lead to tragic consequences if these are not identified by searchers and secured prior to using attraction devices.
* Extend search duration because the unique behaviors of some children with special needs may have a protective effect allowing the child to survive longer than what is considered to be a normal survival rate for a child.

**Considerations in the Event of a Prolonged Search**

In the event immediate search efforts have not resulted in the safe recovery of the missing child, begin to plan for the prolonged use of resources in order to sustain search efforts. The search-and-rescue manager should evaluate the overall effectiveness of the search operations and make necessary adjustments for a prolonged search operation. The recommendations noted below are provided to assist in the planning for a prolonged search-and-rescue effort.

* Evaluate the overall effectiveness of the search operations and adjust as necessary for the next operational phase.
* Estimate immediate and long-range resources and logistical requirements for deployment of those resources.
* Assign new or additional personnel for the prolonged search operation.
* Consider expanding the search area, taking into account the distance the child could have walked during the time frame he or she has been missing and his or her resiliency. Children with autism have been known to walk several miles, often exceeding the initially established search containment area.
* Determine if there are any gaps in the original search area and make arrangements to search those areas again.
* Consider using trained search-and-rescue personnel with volunteer searchers to enhance the search capabilities.

Additional Considerations Unique to Children With Special Needs

The unique behaviors of a child with special needs must be considered by law enforcement and first responders when planning and conducting searches. Past episodes have revealed children with special needs have a natural self-survival instinct and are often resilient, allowing them to survive long periods of time — sometimes longer than a nonaffected child. Additionally the children may have a diminished sense of fear of their surroundings and are highly mobile and thus may cover great distances, necessitating an expanded search parameter. The children may seek shelter or conceal themselves in confined spaces making it more difficult for searchers to locate them. In urban and suburban environments, it is highly recommended searchers focus their efforts on small confining spaces.

Missing children with special needs may also have a fascination with or fixation on particular sounds; objects, especially moving or spinning objects; or certain foods. Consider use of attraction tactics, based on the unique behaviors and interests of the child, as a means to draw the missing child to the search party. Take special care, however, to help ensure the missing child is not drawn into a hazardous environment such as water, a cliff or bluff, or an active roadway. Additionally discuss with family members and caregivers techniques that would best work to help bring the child out versus what measures could be detrimental to the search.

Recovery and Reunification Measures

With the understanding children with autism exhibit social and cognitive impairments, communication difficulties, and repetitive behaviors, keep in mind the interaction between law enforcement/search-and-rescue personnel and a child with autism at the time of recovery and subsequent reunification can be a traumatic experience.

The considerations noted below are recommended to deescalate and/or minimize any heightened emotions or anxieties the child may experience at the time of recovery.

* Maintain a calm and relaxed environment.
* Contain the child in a passive way to keep him or her from running or bolting and avoid use of restraints.
* Bring a parent or guardian immediately to the recovery site, whenever possible, and tell the child that person is on the way.
* Approach the child at his or her level, kneeling if necessary, and speak in a normal tone of voice using simple phrases.
* Use a task-and-reward process to ease anxiety and enhance compliance using phrases such as, “First we are going to stay here, and then your father is going to come here.”
* Avoid assuming the child understands everything being said and done at the recovery scene.
* Use communication aids, written instructions, drawings, or prompts if possible.
* Use humor and familiar topics when possible. For instance if the child is wearing a shirt with a cartoon character on it, talk to the child about the character to help lessen any anxiety the child may be feeling and calm the child if upset.
* Check for any identification such as a medical bracelet or tracking device.
* Contact the National Autism Association for further reunification assistance at 1-877-622-2884. For more information about children with autism and resources for families, such as the Big Red Safety Box, visit www.nationalautismassociation.org.
* Visit the National Autism Association’s websites at www.autismsafety.org and www.nationalautismassociation.org and the AWAARE Collaboration at www.awaare.org for additional information about children with autism.
* Consult Robert Koester’s Lost Person Behavior: A search and rescue guide on where to look - for land, air and water (2008) for additional general information.

# Section 3.1: Sexual Exploitation of Children

**Objective:** By the end of this section, the participant will be able to identify risks posed to children for sexual exploitation, potential offenses related to child sexual exploitation, and grooming techniques commonly used by offenders.

*Sexual Exploitation: Online and in the Real World*

While several studies vary in estimating the prevalence of child abuse in the United States, a meta-analysis of several studies published in 2013 found a reliable estimate to be 1 in 10 children on average will be sexually abused by the age of 18.97F[[102]](#footnote-102)

Forms of child sexual abuse can include fondling, lewd or lascivious exposure or behavior, intercourse, sodomy, oral intercourse, penetration of genital or anal opening by a foreign object, creation of child pornography, and child sex trafficking.98F[[103]](#footnote-103) While some of these specific offense types are covered in accompanying chapters, this chapter focuses on the behaviors surrounding child exploitation that may predate, occur alongside, or follow the abuse. Different forms of grooming and manipulation allow exploiters to gain access to children, avoid detection, and enlist community or family support despite allegations of illegal activities.

*Texas Law and Child Sexual Exploitation*

In Appendix A, both Sections 20 and 43 are included. Among Section 43 offenses are Sexual Performance by a Child and Employment Harmful to Children. The charts below outline the offenses in brief format and are included in the Instructional Slides. For the full iteration of the statutes, however, refer to the Appendix and current legal codes.

|  |  |  |
| --- | --- | --- |
| Offense | Action | Defense arguments |
| Sexual Performance by a Child\*  2nd degree felony unless victim was under age of 14 years, then a 1st degree felony.99F[[104]](#footnote-104) | “A person commits an offense if, knowing the character and content thereof, he employs, authorizes, or induces a child younger than 18 years of age to engage in sexual conduct or a sexual performance.“  “A parent or legal guardian or custodian of a child younger than 18 years of age commits an offense if he consents to the participation by the child in a sexual performance.”100F[[105]](#footnote-105) | It is an affirmative defense that the defendant was spouse of child, not more than two years older than child, or that “conduct was for a bona fide educational, medical, psychological, psychiatric, judicial, law enforcement, or legislative purpose.”101F[[106]](#footnote-106) |
| \*This offense is one of eleven possible offenses identified as the basis for a charge of trafficking of persons by causing a child under 18 years old to engage in or be a victim of the offense. See Texas Penal Code Sec. 20A.02. | | |

|  |  |  |
| --- | --- | --- |
| Offense | Action | Defense arguments |
| Employment Harmful to Children\*  2nd degree felony unless victim was under age of 14 years, then a 1st degree felony.102F[[107]](#footnote-107) | “A person commits an offense if the person employs, authorizes, or induces a child to work:  (1) in a sexually oriented commercial activity; or  (2) in any place of business permitting, requesting, or requiring a child to work nude or topless..”103F[[108]](#footnote-108) | No special defenses listed. |
| \*This offense is one of eleven possible offenses identified as the basis for a charge of trafficking of persons by causing a child under 18 years old to engage in or be a victim of the offense. See Texas Penal Code Sec. 20A.02. | | |

While Sections 20 and 43 of the Texas Penal Code are detailed throughout this curriculum, there are many more child abuse statutes in the state of Texas that would apply to the exploitation of children. For a detailed listing of offense types, definitions and charts, see the *Advanced Child Abuse Investigation Manual* published by the Texas Municipal Police Association, in particular pages 9-62. Some of the offenses available for review include:

|  |  |  |
| --- | --- | --- |
| **Offense(s)** | **Section(s)** | **Punishment** |
| Aggravated Sexual Assault of a Child (ASAC); or  Super Aggravated Sexual Assault of a Child | 22.021 | 1st degree |
| Continuous Sexual Abuse of a Child under 14 | 21.02 | 1st degree |
| Burglary of Habitat with Intent to Violate or Abuse Victim Sexually | 30.02 | 1st degree |
| Sexual Assault of a Child under 17 | 22.011 | 2nd degree |
| Indecency with a Child under 17 (contact) | 21.11 | 2nd degree |
| Improper Relationship between an Educator and Student | 21.12 | 2nd degree |
| Bigamy | 25.01 | 2nd degree\* |
| Prohibited sexual conduct (even after age of consent if blood/adopted relative) | 25.02 | 3rd degree\* |
| Online solicitation | 33.021 | 3rd degree\* |
| Indecency with a Child under 17 Exposure | 21.11 | 3rd degree |
| Improper Photography or Visual Recording | 21.15 | State jail felony |
| Failure to stop or report ASAC | 38.17 | Class A Misdemeanor |
| \*Baseline punishment (higher available based on facts of case) | | |

*Community or Institutional Grooming*

The most common exploiters are those who are known to the child and/or their family, and the exploiter may even hold a position of trust with the family.104F[[109]](#footnote-109) Some exploiters will expend great time and effort cultivating a position of trust among community members or specific families.

The grooming process targets the child, but at first may be focused on the child’s family or guardians to gain trust and access:

Grooming is a method of building trust with a child and adults around the child in an effort to gain access to and time alone with her/him. However, in extreme cases, offenders may use threats and physical force to sexually assault or abuse a child. More common, though, are subtle approaches designed to build relationships with families. The offender may assume a caring role, befriend the child, or even exploit their position of trust and authority to groom the child and/or the child’s family. These individuals intentionally build relationships with the adults around a child or seek out a child who may have fewer adults in her/his life. This increases the likelihood that the offender’s time with the child is welcomed and encouraged. . . . Additionally, sex offenders may groom criminal justice and other institutions into believing that they present no risk to children, which can be termed “institutional grooming.”

*-Dru Sjodin National Sex Offender Public Website, United States Department of Justice*105F*[[110]](#footnote-110)*

As discussed in Section 3.4 in more detail concerning sex offenders, research also demonstrates that institutional grooming can be attempted at youth-serving organizations in order to gain an access point to potential victims.

*Selecting Child Victims*

*Across multiple types of sexual exploitation, children with particular histories may demonstrate increased vulnerability to exploitation. Identified victims of child sex trafficking, for instance, have shown many common traits (see Section 3.5 for full explanation). While any child may ultimately be exploited, the following vulnerabilities may increase the risk for exploitation:*

***Family dynamics****: Lack of attention, dysfunction, prior history of abuse or neglect, lack of monitoring, inappropriate boundaries in family relationships, family history of victimization or family relationship to the abuser.*

***Individual characteristics****: Lack of bonding, self-esteem, assertiveness, awareness, bargaining power, self-confidence, trust in instincts or other self-protective traits. Lack of understanding of healthy relationships or personal boundaries, including effects of previous history of abuse. Disabilities, particularly those which might affect the child’s ability to understand the nature of the abuse, disclose to others, or be believed or understood if disclosing.*

***Community labels or status****: Child identified as “troubled,” “problem-child,” “at-risk,” “story-teller,” or otherwise lacking in credibility. Poverty and other stressors on the family or community that limit awareness, prevention or supervision resources.*106F*[[111]](#footnote-111)*

*Grooming Interactions with Children*

For a detailed discussion of pedophilia (pedophilic disorder), see Section 3.4 on Sex Offenders. For the purposes of this section, however, not all offenders remain confined to discrete categories. Given opportunity and access, the same person more inclined to offend against a teen or older adult may offend against much younger children.

Grooming behaviors of exploiters toward children may include:

* Building trust with the child, their family, and the community;
* Giving special attention to one child as compared to other children (including giving special privileges like private tutoring, coaching or rides home);
* Buying the child gifts or providing them with money (including seeking opportunities to give the child gifts);
* Making excuses or taking opportunities to be alone with the child;
* Playing doctor or other games with touching, tickling or wrestling to establish physical interactions and lead to more contact;
* Other touching (appropriate and/or inappropriate);
* Viewing child while nude or exposing child to nudity of self or others (including “accidental” walk-ins to restrooms or while changing);
* Bathing a child or being involved in child toileting (including having the child watch the adult toilet);
* Activities that involve clothing removal such as massages or swimming, or photographing children in underwear, bathing suits, dance wear and other clothing.
* Discussing sexual activity including activities involving others;
* Discussing explicit topics with children using the guise of education or teasing a child about their sexual development;
* Showing pornography to the child (can include child pornography to normalize abuse);
* Display of preferences for socializing with specific age group or gender;
* Providing the child with drugs or alcohol.107F[[112]](#footnote-112)

The tactics chosen by the offender may reflect the home dynamics, the age of the child, and the particular interests of the child. Grooming behaviors may be particularly pre-determined by the age of the child:

Offenders who prefer younger child victims are more likely to first “seduce” the victim’s parents/guardians to gain their trust and obtain increased access to the potential victim. The offender then relies more on techniques involving fun, games, and play to manipulate younger children into sex. Those who prefer older child victims are more likely to take advantage of normal time away from their family and then rely more on techniques involving ease of sexual arousal, rebelliousness, inexperience, and curiosity to manipulate the children into sex. Some offenders simultaneously befriend their victim’s parents/guardians

(e.g., telling parents/guardians they want to mentor or help their child) and work to alienate the child from the parents/guardians (e.g., telling children their parents/guardians don’t want them to have fun).

*-Kenneth Lanning, Former Supervisory Special Agent*108F*[[113]](#footnote-113)*

Additional suspicious behaviors may include:109F[[114]](#footnote-114)

|  |  |
| --- | --- |
| Behavior toward the child | Behavior toward others |
| Treating child as if they are more mature, including exposing child to inappropriate activity. Sexual content, joking or comments in front of child. | Offers to help and “too good to be true” including too much interest in sitting children (even for free), providing specialized attention, or taking children on special trips. |
| Insistent on touching or physical play despite discomfort/rejection by child. | Displaying jealousy, over-protectiveness or control (including towards friends, peers and healthy teen dating relationships). |
| Secret interactions. | Isolating the child or teen from family, friends, and other support networks. |
| Using the child for emotional support or dependent relationship. | Seeking access to groups or organizations that may allow individual access to children. |

*Efforts to avoid detection*

The grooming process is just one part of the process that exploiters utilize to avoid detection. By gaining the trust of the family or community, the exploiter attempts to elevate their credibility in comparison to the child. By assuming a trusted position, the exploiter gains undue influence over the child and may shame or blame the child into silence, as well as convince the child that the child will not be believed or that terrible consequences would follow the child’s telling about the abuse.

Even subsequent to grooming behavior, though, the exploiter may continue to avoid detection by:

* Purposefully fostering a positive community image or reputation;
* Distract, run-down, or encourage self-doubt for non-offending family members including spouses;
* Blame the child for the incident;
* Prepare a response or strategy in case of the child’s disclosure;
* Attempt to talk the family or child out of reporting to authorities after the disclosure (can include promises to seek treatments or claiming that the exploiter themselves was previously molested);
* Denials including that abuse was accidental or claiming that the abuse was the first time for the exploiter;
* Preparations to take polygraph or plethsmorgraph testing and preparing for court.110F[[115]](#footnote-115)

# Section 3.2: Child Pornography

**Objective:** After reviewing this section, the participant will be able to utilize resources designed to combat the child pornography industry as well as relate data pertaining to offender demographics and behaviors.

Child pornography is the physical evidence and recording of a sexual assault committed against a child.111F[[116]](#footnote-116) Data from the National Center for Missing & Exploited Children demonstrates that for the most popular images of child pornography across a five-year span:

* 84 percent of the series contained images depicting oral copulation;
* 76 percent of the series contained images depicting anal and/or vaginal penetration;
* 52 percent of the series contained images depicting the use of foreign objects or sexual devices;
* 44 percent of the series contained images depicting bondage and/or sado-masochism;
* 20 percent of the series contained images depicting urination and/or defecation; and
* 4 percent of the series contained images depicting bestiality.112F[[117]](#footnote-117)

Disturbingly, law enforcement has noticed a trend in declining victim ages.113F[[118]](#footnote-118) For identified victims of child pornography, more than 3 in 4 victims are depicted being abused while prepubescent and 10 percent being abused during infancy.114F[[119]](#footnote-119)

*Texas Penal Code and Child Pornography*

The following statutes from Texas Penal Code Section 43 apply to child pornography and related offenses. It is important to note that both possession and promotion of child pornography (Texas Penal Code Sec. 43.26) can serve as the basis for a charge of trafficking of persons by causing a child under 18 years old to engage in or be a victim of the offense.115F[[120]](#footnote-120)

|  |  |  |
| --- | --- | --- |
| Offense | Action | Defense arguments |
| Possession or Promotion of Child Pornography (Possession)  3rd degree felony.116F[[121]](#footnote-121) | “A person commits an offense if:  (1) the person knowingly or intentionally possesses, or knowingly or intentionally accesses with intent to view, visual material that visually depicts a child younger than 18 years of age at the time the image of the child was made who is engaging in sexual conduct, including a child who engages in sexual conduct as a victim of an offense under Section 20A.02(a)(5), (6), (7), or (8) [parts of trafficking of persons statute]; **and**  (2) the person knows that the material depicts the child as described by Subdivision (1).”117F[[122]](#footnote-122) | Same affirmative defenses as Sexual Performance by a Child (spouse, within two years of age, or bona fide list of purposes).118F[[123]](#footnote-123)  Summary:119F[[124]](#footnote-124)  It is a defense if law enforcement officer or a school administrator who:  (1) possessed or accessed in good faith [solely as result of minor sexting offense];  (2) allowed other law enforcement or school administrative personnel to possess or access the material only as appropriate; **and**  (3) took reasonable steps to destroy the material within an appropriate period. |

|  |  |  |
| --- | --- | --- |
| Offense | Action | Defense arguments |
| Possession or Promotion of Child Pornography (Promotion)  2nd degree felony.120F[[125]](#footnote-125) | “A person commits an offense if:  (1) the person knowingly or intentionally promotes or possesses with intent to promote material described by Subsection (a)(1); **and**  (2) the person knows that the material depicts the child as described by Subsection (a)(1).”121F[[126]](#footnote-126) | Same affirmative defenses as Sexual Performance by a Child (spouse, within two years of age, or bona fide list of purposes).122F[[127]](#footnote-127)  Same defense for law enforcement and school administrators as possession. |

The full text of each offenses represented in the charts above and below are included in Appendix A. Additional offenses related to obscenity in Section 43 include:

|  |  |  |
| --- | --- | --- |
| Offense | Action | Defense arguments |
| Obscene Display or Distribution  Class C Misdemeanor.123F[[128]](#footnote-128) | “A person commits an offense if he intentionally or knowingly displays or distributes an obscene photograph, drawing, or similar visual representation or other obscene material and is reckless about whether a person is present who will be offended or alarmed by the display or distribution.”124F[[129]](#footnote-129) | *Reliable Consultants* did not overturn statute. See *Reliable Consultants, Inc. v. Earle*, 517 F.3d 738, 747 (5th Cir. 2008) (“Nothing here said or held protects the public display of material that is obscene as defined by the Supreme Court — i.e., the language in Section 43.21(a)(1) of this statute, excluding the words in the provision defining as obscene any device designed or marketed for sexual stimulation.”). |

|  |  |  |
| --- | --- | --- |
| Offense | Action | Defense arguments |
| Obscenity (Texas Penal Code Sec. 43.23) | Statute was overturned by the 5th Circuit Court of Appeals. | 5th Circuit decision:  *Reliable Consultants, Inc. v. Earle*, 517 F.3d 738, 746-47 (5th Cir. 2008).125F[[130]](#footnote-130) |

|  |  |  |
| --- | --- | --- |
| Offense | Action | Defense arguments |
| Sale, Distribution, or Display of Harmful Material to Minor.  Minor is under age of 18.126F[[131]](#footnote-131)  Note that:  "’Harmful material’ means material whose dominant theme taken as a whole:  (A) appeals to the prurient interest of a minor, in sex, nudity, or excretion;  (B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and  (C) is utterly without redeeming social value for minors.”127F[[132]](#footnote-132)  Class A Misdemeanor except (3) is a 3rd degree felony.128F[[133]](#footnote-133) | “A person commits an offense if, knowing that the material is harmful:  (1) and knowing the person is a minor, he sells, distributes, exhibits, or possesses for sale, distribution, or exhibition to a minor harmful material;  (2) he displays harmful material and is reckless about whether a minor is present who will be offended or alarmed by the display; or  (3) he hires, employs, or uses a minor to do or accomplish or assist in doing or accomplishing any of the acts prohibited in Subsection (b)(1) or (b)(2).”129F[[134]](#footnote-134) | “It is an affirmative defense to prosecution under this section that the sale, distribution, or exhibition was by a person having scientific, educational, governmental, or other similar justification.”130F[[135]](#footnote-135)  “It is a defense to prosecution under this section that the actor was the spouse of the minor at the time of the offense.”131F[[136]](#footnote-136) |

For child pornography as well as child sex abuse offenders, the Internet has proven to be a gateway for not only distributing images, but soliciting live victims and engaging in child trafficking.132F[[137]](#footnote-137) Those who both produce and distribute child pornography dwell in the perceived relative anonymity of the Internet.133F[[138]](#footnote-138) Meanwhile the child victim is re-victimized when the images are viewed again and again and must live with the possibility that people they encounter in ordinary life may have seen their images.

The scale of the incidence of child pornography online is enormous; since the beginning of NCMEC’s Child Victim Identification Program in September 2002 through June 2014 authorities have submitted more than 115 million images of child pornography for review and analysis.134F[[139]](#footnote-139)

The United States is heavily affected by the pervasiveness of online child pornography. A yearlong study using *RoundUp*, an investigative tool for law enforcement, monitored the peer-to-peer network135F[[140]](#footnote-140) Gnutella for known images136F[[141]](#footnote-141) of child pornography. The study found that 32 percent of all computers in the world (over 775,000 computers) sharing known images were exclusively in US locations.137F[[142]](#footnote-142) On a single day on average, US computers shared 26,592 known images just on the Gnutella network (including duplicate images).138F[[143]](#footnote-143) A single person may be associated with multiple identified Internet Protocol addresses, hence the analysis focused on the number of computers involved. This is not the full extent of activity in the United States as there are multiple file sharing networks available as well as other means of sharing content online.

Although it may be difficult to accept, the offenders who photographed the sexual abuse of children are typically in a position of authority in the children’s life.139F[[144]](#footnote-144) Not surprisingly, some children do not disclose their abuse to a trusted adult. According to data collected by NCMEC, 64 percent of identified child victims in actively traded child pornography are prepubescent. Sadly, 10 percent of the identified children were only infants at the time the sexual abuse occurred and when the images were produced.140F[[145]](#footnote-145) More than 4,000 victims of child pornography have been identified by law enforcement, but with millions of images reported online, many more remain unidentified.141F[[146]](#footnote-146)

The Instructional Slides also contain federal data on recent child pornography offenders. The following charts were not included in the Instructional Slides, but provide additional reference materials for Instructors.[[147]](#footnote-147)

**Gender**

**(percent)**

**Age group  
(percent)**

**Race (percent)**

# Section 3.3: Online Solicitation

**Objective:** Upon review of this section, the participant will be able to contrast the dynamics of teen and youth communication trends with the increased risk for offenders to manipulate young people.

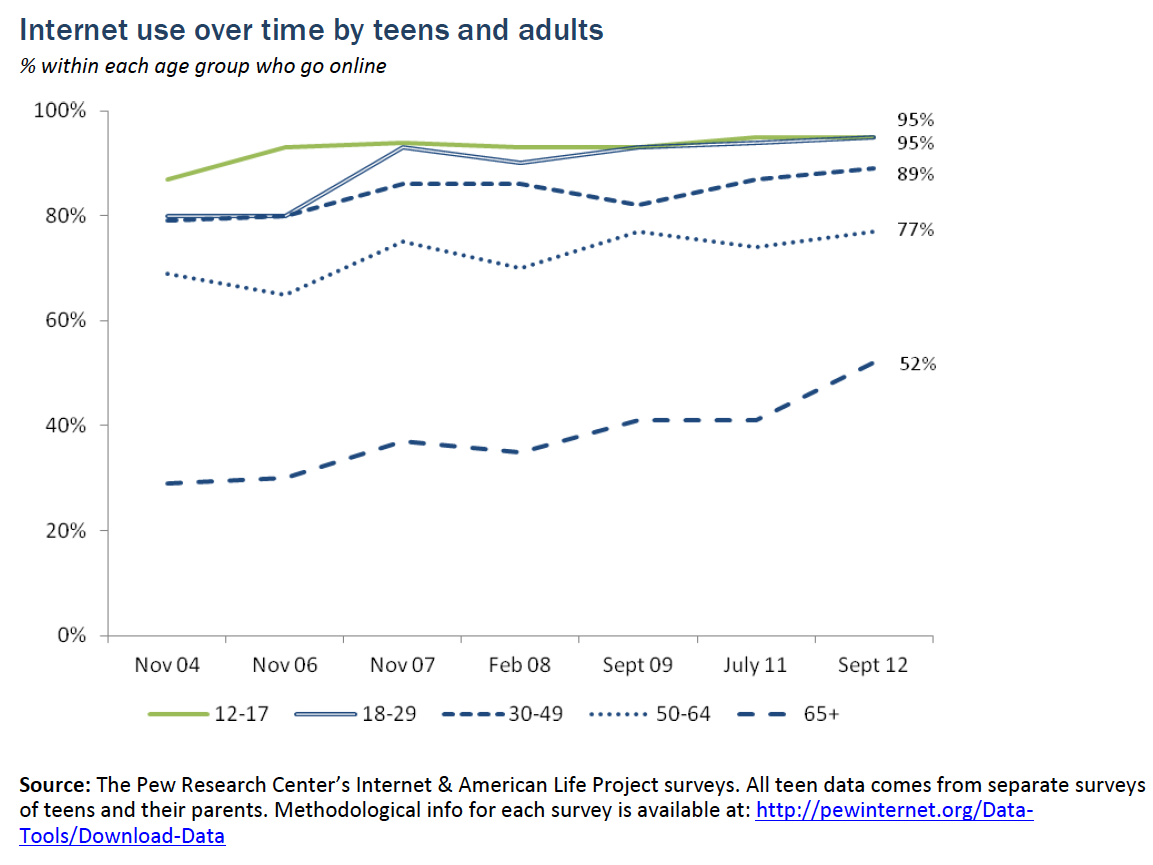
**Activity:** This Section contains a brief activity with all necessary prompts at the end of the Instructional Slides. The Activity is re-printed in Appendix B for convenience. The activity can be completed as individuals or small groups.

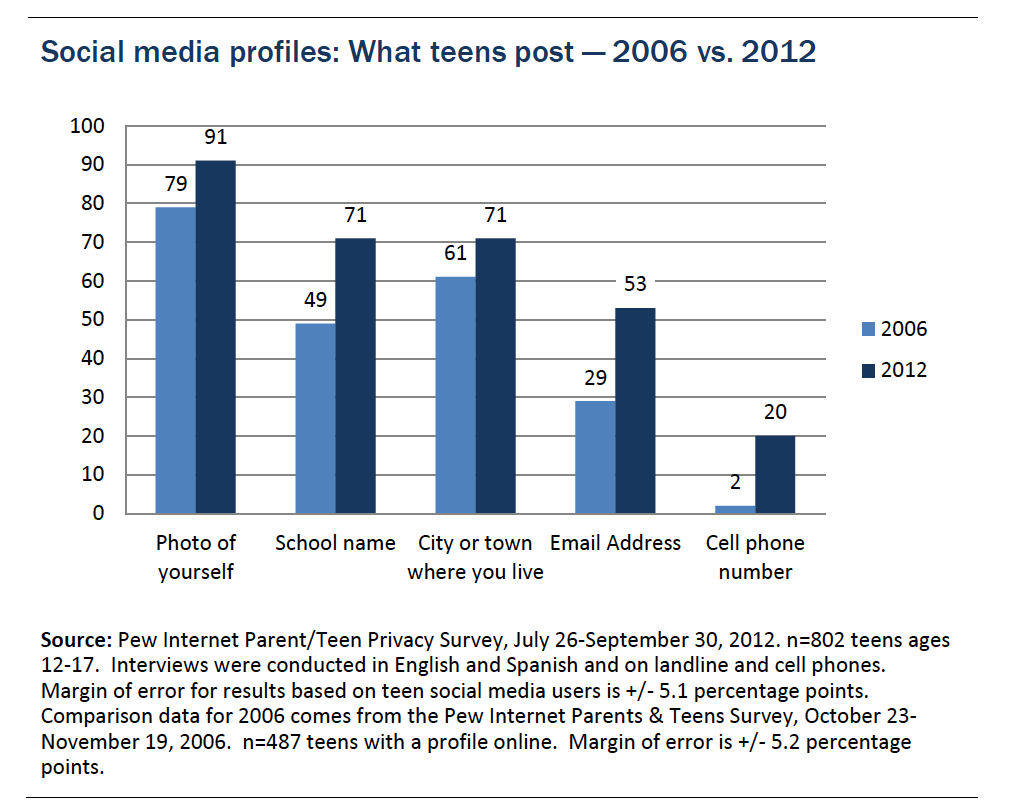
*Online Solicitation and Child Pornography*

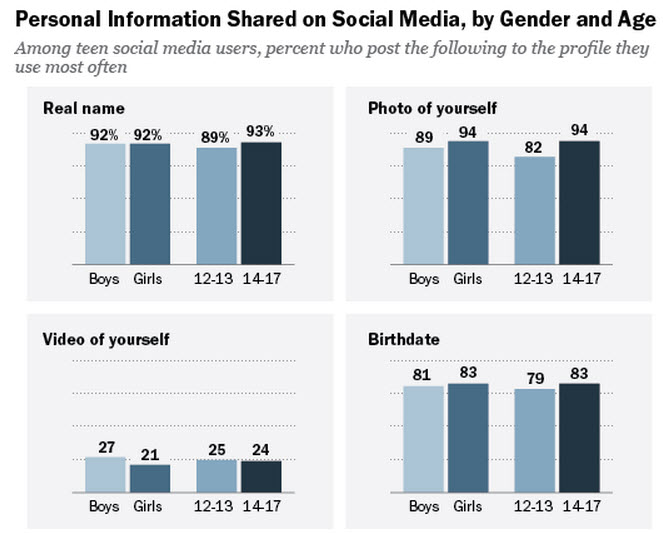
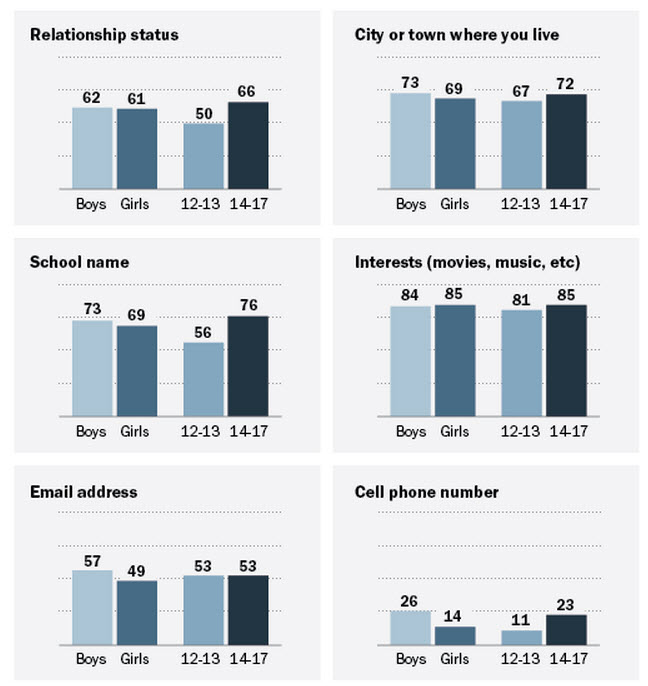
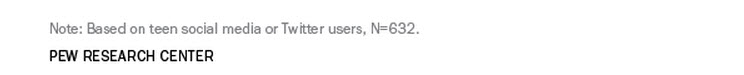
Online Solicitation is covered adjacent to child pornography because the two categories may overlap during the grooming process. A significant among of child pornography is currently created by the individuals shown in the images due to the prevalence of “sexting” behaviors.

Children and young adults are the most dedicated Internet users. Internet usage among those 12 to 17 years old is almost universal at 92 percent for ages 12 to 13 and 97 percent for ages 14 to 17.142F[[148]](#footnote-148)

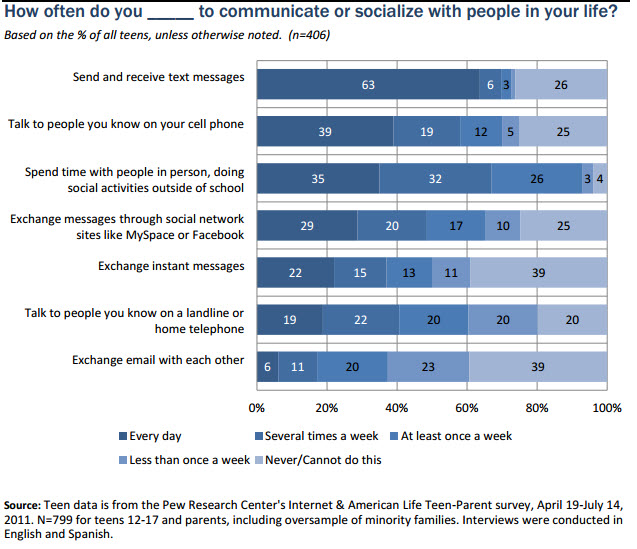
Youth and teens, more so than any other age group, live their lives and focus social interactions online. As the following charts demonstrate, the 12-17 age group has maintained a high internet usage over time.143F[[149]](#footnote-149) Not only are youth in this age group well-connected to the online access points, they also maintain a consistent social presence using primary electronic devices.144F[[150]](#footnote-150) Their presence and amount of information shared publicly make the online environment a fertile grounds for offenders looking to connect with potential victims. The charts below provide even more detailed information than is available in the Instructional Slides.







**May 21, 2013**



*Sexting, Sextortion and Social Media*

Sexting is the latest in the progression of trends youth transitioning their social behaviors, in this case sexual behaviors, online. In a study of over 900 high school students in Houston, 57 percent stated they had already been asked to send a sext by text or email (defined for the purposes of the study as a naked photo, not simply sexually explicit text messages).145F[[151]](#footnote-151) Of the teens in the sample, 28 percent reported having sent out a naked photo of themselves.146F[[152]](#footnote-152)

Offenders have taken advantage of the normalization of sexting among youth in order to incorporate naked images of the youth into the grooming process. Indeed, the high profile case exploitation of Amanda Todd served as a worldwide debut of this societal problem. The exploitation of Amanda Todd began when she was in seventh grade and led to her sharing a nude image with a person she met online. After years of harassment which led to a hostile bullying environment at her schools, Amanda committed suicide at age 15.147F[[153]](#footnote-153) Two years after her death, a thirty-five year-old man in Europe was arrested in connection to the online exploitation that occurred in Amanda’s case.148F[[154]](#footnote-154) Her case is not a unique situation; children in Texas have been exploited in a similar manner as in Amanda Todd’s case.149F[[155]](#footnote-155)

Therefore, in many cases of online exploitation, the production of child pornography may overlap with the solicitation behaviors of online offenders.

*Note on Texas Law*

Texas Penal Code Sec. 33.021(b), was ruled unconstitutional by the Texas Court of Criminal Appeals.150F[[156]](#footnote-156) This section dealt with sexually explicit communications or materials. However, part (c) of the Online Solicitation statute was left intact.151F[[157]](#footnote-157)

|  |  |  |
| --- | --- | --- |
| **Offense** | **Action** | **Defense arguments** |
| **Online Solicitation of a Minor (Texas Penal Code Sec. 33.021(b)): sexually explicit communication or material.** | Statute was ruled facially unconstitutional by Texas Court of Criminal Appeals. | Texas Court of Criminal Appeals case law:  *Ex Parte Lo*, 424 S.W.3d 10 (TX Ct. Crim. App. 2013). |

Of importance to note in the Online Solicitation statute, the age of the person being solicited (either by how they represent themselves or the age the offender believes them to be) must be younger than 17 years old.152F[[158]](#footnote-158) The remainder of the Online Solicitation Statute is produced below to show the effect on the relevant language:

Sec. 33.021. ONLINE SOLICITATION OF A MINOR.

(a) In this section:

(1) "Minor" means:

(A) an individual who **represents himself or herself to be younger than 17 years of age**; or

(B) an individual whom the **actor believes to be younger than 17 years of age**.

(2) "Sexual contact," "sexual intercourse," and "deviate sexual intercourse" have the meanings assigned by Section [21.01](http://www.statutes.legis.state.tx.us/GetStatute.aspx?Code=PE&Value=21.01&Date=6/28/2014).

(3) "Sexually explicit" means any communication, language, or material, including a photographic or video image, that relates to or describes sexual conduct, as defined by Section [43.25](http://www.statutes.legis.state.tx.us/GetStatute.aspx?Code=PE&Value=43.25&Date=6/28/2014).

(b) A person who is 17 years of age or older commits an offense if, with the intent to arouse or gratify the sexual desire of any person, the person, over the Internet, by electronic mail or text message or other electronic message service or system, or through a commercial online service, intentionally:

Part (b) found unconstitutional by *Ex Parte Lo*.

(1) communicates in a sexually explicit manner with a minor; or

(2) distributes sexually explicit material to a minor.

(c) A person commits an offense if the person, over the Internet, by electronic mail or text message or other electronic message service or system, or through a commercial online service, knowingly solicits a minor to meet another person, including the actor, with the intent that the minor will engage in sexual contact, sexual intercourse, or deviate sexual intercourse with the actor or another person.

(d) It is not a defense to prosecution under Subsection (c) that:

(1) the meeting did not occur;

(2) the actor did not intend for the meeting to occur; or

(3) the actor was engaged in a fantasy at the time of commission of the offense.

(e) It is a defense to prosecution under this section that at the time conduct described by Subsection (b) or (c) was committed:

(1) the actor was married to the minor; or

(2) the actor was not more than three years older than the minor and the minor consented to the conduct.

(f) An offense under Subsection (b) is a felony of the third degree, except that the offense is a felony of the second degree if the minor is younger than 14 years of age or is an individual whom the actor believes to be younger than 14 years of age at the time of the commission of the offense. An offense under Subsection (c) is a felony of the second degree.

(g) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.153F[[159]](#footnote-159)

|  |  |  |
| --- | --- | --- |
| **Offense** | **Action** | **Defense arguments** |
| **Online Solicitation of a Minor (Texas Penal Code Sec. 33.021(b) removed): solicitation to meet in person**  2nd degree felony | (c) A person commits an offense if the person, over the Internet, by electronic mail or text message or other electronic message service or system, or through a commercial online service, **knowingly solicits a minor to meet** another person, including the actor, with the **intent that the minor will engage** in sexual contact, sexual intercourse, or deviate sexual intercourse with the actor or another person. | Defense if:   * married to the minor; **or** * not more than 3 years older **and** minor consented.   **Not** a defense that:   * meet did not occur * no intent for the meet to occur; or * engaged in fantasy at offense time.154F[[160]](#footnote-160) |

# Section 3.4: Sexual Offenders

**Objective:** Upon completion of this section, the participant will be able to calculate the prevalence of sexual offending in the state of Texas based on registry data as well as formulate multiple outlets for resources in sexual offender investigations.

**Activity:** Mid-way through the Instructional Slides, there is an activity that can be completed through large-group discussion. All of the prompting and information necessary for the discussion is contained on the slides, but the large map the activity is based upon is re-printed in Appendix B for convenience.

*Registration Requirements*

The requirements for registration apply in Texas if a person:

1. Has "reportable conviction or adjudication,"
2. Is required to register as a condition of parole or release to mandatory supervision,
3. Is required to register as a condition of community supervision, **or**
4. Is an “extrajurisdictional registrant”155F[[161]](#footnote-161)

Generally, the following “reportable convictions or adjudications” involve sex offender registration requirements under the Texas Penal Code:156F[[162]](#footnote-162)

|  |  |  |  |
| --- | --- | --- | --- |
| Section | Offense | Section | Offense |
| 20.02\* | Unlawful restraint\* | **20.03\*** | Kidnapping\* |
| 20.04\* | Aggravated Kidnapping\* | **21.01** | Continuous sexual abuse of a young child or children |
| 21.08 | Indecent exposure – if 2nd violation and not a deferred adjudication on 2nd violation. Same rule applies to substantially similar acts in other jurisdictions. | **21.11** | Indecency with a child |
| 22.011 | Sexual assault | **22.021** | Aggravated sexual assault |
| 25.02 | Prohibited sexual conduct | **30.02\*** | Burglary\* |
| 43.05 | Compelling prostitution | **43.25** | Sexual performance by a child |
| 43.26 | Possession or promotion of child pornography |  | |
| An attempt, conspiracy, or solicitation of any of the above except indecent exposure. | | | |
| \*Also requires that certain other conditions be met to require registration. | | | |
| Violating the laws of another jurisdiction where substantially similar elements. Applies to all of the laws above (same rules for 2nd offenses for indecent exposure apply). | | | |

Additional information can be found regarding registration requirements in Chapter 62 of the Texas Code of Criminal Procedure.157F[[163]](#footnote-163) Furthermore, Texas Department of Public Safety maintains a report showing the relation of various offenses and the sex offender requirements for both Texas and the federal system.158F[[164]](#footnote-164)

In Texas, sex offenders are given numeric levels according to their risk to the community. According to the Texas Department of Public Safety:

**Level one (low):** indicates that the person poses a low danger to the community and will not likely engage in criminal sexual conduct.

**Level two (moderate):** indicates that the person poses a moderate danger to the community and may continue to engage in criminal sexual conduct.

**Level three (high):** indicates that the person poses a serious danger to the community and will continue to engage in criminal sexual conduct.159F[[165]](#footnote-165)

Federal, state and local law enforcement sex offender databases exist. As to the federal and state databases, the public can access information on registered sex offenders at:160F[[166]](#footnote-166)

|  |  |
| --- | --- |
| Federal: Dru Sjodin National Sex Offender Public Website | [www.NSOPW.gov](http://www.NSOPW.gov) |
| State: Texas Public Sex Offender Registry | <https://records.txdps.state.tx.us/sexoffender/> |

*Types of Sexual Offenders*

While pedophilia is used throughout common language, usage is often not consistent with medical definition of the term. Pedophilia (now termed pedophilic disorder by the American Psychiatric Association) describes a condition related to sexual attraction to **pre-pubescent children**.161F[[167]](#footnote-167)

To be diagnosed with a mental condition, the DSM-5162F[[168]](#footnote-168) requires elements beyond sexual interest alone.163F[[169]](#footnote-169) Furthermore, the DSM-5 excludes certain situations from the definition of pedophilic disorder. As demonstrated in the chart below, a person who is younger than 16 years old or within 5 years in age of the child or children would not meet the definition for pedophilic disorder.164F[[170]](#footnote-170)

The following chart demonstrates the complex definition of pedophilic disorder:165F[[171]](#footnote-171)

In addition to the categorization for pedophilic disorder, other experts have provided additional insight into the types of sexual offending.

Former FBI Supervisory Special Agent Kenneth Lanning developed a continuum showing the variety that extends between situational and preferential offenders.

The following chart is adapted from *Child Molesters: A Behavioral Analysis*:166F[[172]](#footnote-172)

|  |  |
| --- | --- |
| Situational Preferential | |
| Although they can be smart and rich, they tend to be less intelligent and are over represented in lower socioeconomic groups. | Although they can be unintelligent and poor, they tend to be more intelligent and are over represented in higher socioeconomic groups. |
| Their criminal sexual behavior tends to be in the service of basic sexual needs (i.e., “horniness,” lust) or nonsexual needs (i.e., power, anger). | Their criminal sexual behavior tends to be in the service of deviant sexual needs known as paraphilias. |
| [O]ften opportunistic and impulsive, but primarily thought-driven. Their thought-driven criminal sexual behavior tends to focus on general victim characteristics (e.g., age, race, gender) and their perception of themselves as entitled to the sex. | [O]ften persistent and compulsive and is primarily fantasy-driven. Their erotic imagery creates and repeated fantasy over time then fuels the needs. |
| Much of their criminal behavior is intended to simply obtain and control their victims. | Their criminal sexual behavior is often rooted in their sexual fantasies and need to turn fantasy into reality. |
| Their verbal skills are usually lower and they are more likely to use physical violence to control victims. They are more likely to have a history of varied crimes against both person and property. | Their verbal skills are usually higher, and they are less likely (unless sexual sadists) to use physical violence to control victims. They are more likely to have a history of primarily sex offenses. |
| Their victims tend to be targeted based primarily on availability and opportunity. | They tend to “audition” their potential victims, selecting them primarily based on their similarity to and consistency with that [fantasy-fueled and elaborate] script. |

|  |  |
| --- | --- |
| Situational Preferential | |
| They are more likely to use practical tools (e.g., weapons, lock picks, gloves, masks) and learn from and then modify their criminal sexual behavior. | They are more likely to use fantasy “props” (i.e., fetish items, costumes, toys) and critique the activity, but not necessarily learn from or then modify their criminal sexual behavior |
| Situational-type sex offenders victimizing children do not have a true sexual preference for children. They may molest them, however, for a wide variety of situational reasons. | As this descriptive term implies, preferential-type sex offenders have specific sexual preferences or paraphilias. . . . A preferential sex offender whose sexual preferences do not include children, and is therefore not a pedophile, can still sexually victimize children. |
| [F]requently molest readily available children they have easy access to and control over such as their own or any others living with them.   * Pubescent teenagers are high-risk, viable sexual targets. * Younger children may also be targeted because they are weak, vulnerable, or available. | Some preferential-type sex offenders without a preference for children do, however, molest children. They might do so in order to carry out their peculiar sexual fantasies and preferences with young, less threatening, less judgmental, and highly vulnerable victims they meet in person or online. |

The Analysis contains even greater level of detail on sexual offenders, including subgroups for both ends of the continuum from situational to preferential offending. Among the situational offenders, Lanning finds that three subgroups emerge including regressed, morally indiscriminate, and inadequate-based behavior patterns.167F[[173]](#footnote-173) Among the preferential subgroups are the seduction, introverted, sadistic, and diverse behavior-based patterns.168F[[174]](#footnote-174) Understanding the type of sexual offender can be useful in determining the potential threat to the community, conducting an investigation, finding the most effective forms of interacting with the offender, and forming a plan for prosecution.

*Prevalence of Registered Sex Offenders*

When discussing the prevalence of sexual offender, the Instructor should always note that this discussion is limited to offenders who have been detected, prosecuted, and are now required to register as sex offenders. More individuals come into contact with children in society than just those individuals who have been detected and prosecuted.

The map regularly updated by the National Center for Missing & Exploited Children serves as a comparison among the states of two levels of sex offender registering. The number of sex offenders registered per state (total population) and a per capita rating that compares states of varying population sizes. The June 2014 map is included in the Instructional Slides, and the most current map is available by visiting [www.missingkids.com/SOTT](http://www.missingkids.com/SOTT).

**Activity Break:**

The exercise for the sex offenders chapter is located partway through the Instruction Slides. After allowing all of the participants to have several moments to observe the map and note differences among the states, move to the next slide with three specific questions. See if any of the participants can recall the information asked in the three questions. Give the participants opportunity to provide their answers. Move between the next and the previous Instructional Slide (showing the Map) to discuss the answers.

The risk of sex offenders to the community and to children in particular is not wholly solved by the requirement to register. Among identified perpetrators of attempted child abductions, as noted in the first Section of this training, 15 percent were registered sex offenders. Additionally, the National Center for Missing & Exploited Children conducted a multi-year study of the applications of individuals seeking to join youth-serving organizations. Of the applicants identified in the study who had criminal histories:

* 42 percent had a criminal record in another state;
* 23 percent changed their name on their application;
* 6 percent changed their date of birth;
* 53.4 percent claimed to not have a criminal record.169F[[175]](#footnote-175)

*Interacting with Potential Child Sexual Offenders*

In many cases, child sexual offenders may have had little or no negative interaction with law enforcement officers (i.e. criminal arrests, search warrants, knock-and-talks, etc…). Once they realize the nature and seriousness of the investigation, some offenders may react in an extreme manner:

CSOs [child sex offenders] most likely will react to the stress physiologically and cognitively as they consider the consequences of arrest. This inverse relationship impacts the dynamics between investigators and offenders, as well as the potential outcome. As a result, CSOs’ stress levels could escalate, perhaps, to the point at which they formulate a plan to avoid capture (e.g., by escaping, attempting suicide, or harming an officer).

*-FBI Bulletin*170F*[[176]](#footnote-176)*

While offenders may not have criminal histories or any documented instances of violent conduct, child sexual offenders may present serious risk of harm to themselves or others. As part of its May 2013 Bulletin, the FBI offered the following suggestions for officers during interactions with child sexual offenders (CSOs).

|  |
| --- |
| Before Contact with a CSO |
| Prepare search or arrest team members for the CSO’s state of mind. |
| Brief the team on the plan, along with any contingencies. |
| Stress the importance of safety gear, such as body armor. |
| Use the Situation, Missions, Execution, Administration, and Communication model (SMEAC) to organize the search or arrest plan. |
| Employ a best-practices approach when interacting with a CSO to prepare for and prevent violence. |
| Conduct surveillance and other techniques to obtain information about the CSO. |
| Plan for how the approach and tactical response will impact the interview and balance with safety concerns. |
| Consider what themes to use if CSOs respond negatively and the team must negotiate with them. |
| Consider if, or when, a SWAT or crisis negotiation team would be requested. |
| Discuss and plan for seizing weapons for both the CSO’s and officers’ safety—when team members return to make an arrest, the CSO may be prepared. |

|  |
| --- |
| During Interaction with a CSO |
| Conduct an initial evaluation of the CSO’s reaction to investigators. |
| While keeping scene calm and controlled, attempt to slow the process to decrease the stress of the offender, as well as increase rational decision making. |
| Safely exercise appropriate physical control over the CSO, consistent with the law and the agency’s restraint policy. |
| Build rapport with CSOs by treating them with respect, thus encouraging them to cooperate with the interview and share information that could highlight potential risk factors or stressors. |
| Continue to evaluate stress levels for increased elevations throughout the period of contact or as long as law enforcement remains present. |
| Ask CSOs how they will be impacted; observe their reactions and responses. |
| Do not allow offenders to roam freely. |
| Keep CSO in sight if possible. However, if officers allow CSOs to leave during a search, one investigator must ensure that CSOs do not return and surprise the team. |
| Ask CSOs about the presence and location of any firearms. |
| If a CSO has access to firearms, secure all weapons by clearing them, emptying the magazines and separating them from the guns, or placing the weapons in a law enforcement officer’s vehicle until the team vacates the premises. |
| Ask the offender about prior suicidal thoughts or attempts, as well as details, such as where, when, and what triggered the behavior. |
| Ask CSOs directly if they are considering suicide. Asking will not give them the idea—suicidal individuals already have thought about it. |
| Obtain contact information for family members or close friends and notify them if the CSO exhibits concerning behaviors or makes remarks that indicate elevated suicide risk. |
| Ask CSOs if they see or have seen a mental health professional. Request consent to speak with that individual. |
| Coordinate with the prosecuting attorney with respect to what, if any, steps can and should be taken regarding firearms discovered during the execution of a warrant. |
| Assess the residence, such as its layout, to address contingencies in the event of an altercation with the CSO if officers need to return to the residence. |
|  |

|  |
| --- |
| After Meeting with a CSO |
| If local law enforcement officers are not involved in the operation, inform them of your contact with the offenders and the potential risk of harm by the individuals to themselves or others. |
| Conduct a debriefing with the team to discuss any potential issues regarding risk. |

*Serving the Community*

Law enforcement serves a variety of tasks related to the protection of the community. The following are steps that law enforcement takes, as well as strategies that can be shared with interested community members:

* Verify address & compliance checks
* Monitor/surveillance to facilitate compliance
* Community outreach, education & prevention
* Investigate reports of violations
* Partner with agencies to improve oversight171F[[177]](#footnote-177)

For community members interested in maintaining safe environments, they can also be encouraged to:

* Report violations (unregistered address, loitering in prohibited areas, engaging in prohibited behavior)
* Participate in law enforcement community meetings or follow law enforcement reports, websites, or newsletters.
* Educate the community on safety issues.172F[[178]](#footnote-178)

# Section 3.5: Child Sex Trafficking

**Objective:** By the end of this section, the participant will be able to specify methods used by traffickers to locate and manipulate potential victims as well as categorize trafficking crimes according to available state criminal provisions.

**Activity:** The Activity in this section requires the Instructor to make a copy of the blank handout in Appendix B for each participant. This exercise can be completed individually or in small groups/pairs.

Please note that this section of curriculum is not intended to replace instruction in more advanced courses dedicated to the topic of human trafficking. Rather, it is meant as a cursory review of how children can become victims of exploitation through sex trafficking.

One reason that this section appears at the end of the curriculum is that child sex trafficking interrelates to many of the other topics discussed throughout the course. Highly at-risk populations for sex trafficking include runaways and youth missing from care173F[[179]](#footnote-179) as well as any child with a prior history of abuse or neglect. Traffickers often utilize grooming techniques, commonly filling the role of a boyfriend, savior, father figure, older-sister figure, or any relational gap in the child’s life.174F[[180]](#footnote-180) Or the trafficker may already have an established place in the child’s life, including a family relationship.175F[[181]](#footnote-181)

Grooming tactics can include an online solicitation process, as some of the case studies below demonstrate. Traffickers, including gang members, use mixed forms of recruitment from street interactions with youth to social media and even enlisting other youth to act as recruiters.176F[[182]](#footnote-182) Of course, when a child goes missing and is suspected of being targeted for trafficking, many of the response techniques from Section 1 apply along with specialized resources detailed in this section.

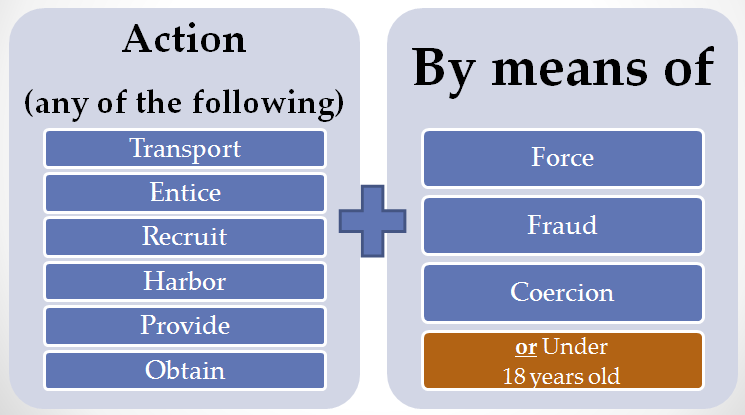
*Child Sex Trafficking and Texas Law*

In every case of a minor victim transported, enticed, recruited, harbored, provided or obtained by a person for the purpose of prostitution, a trafficking offense has occurred.177F[[183]](#footnote-183) There is no requirement that the person selling or buying the youth be aware of the child’s age.178F[[184]](#footnote-184) Unlike an adult victim, a minor victim of trafficking (under the age of 18) need not be affected by force, fraud, or coercion to make a case for trafficking.179F[[185]](#footnote-185) Furthermore, no minor under the age of 18 can consent to be a victim of trafficking despite the age of consent law in Texas.180F[[186]](#footnote-186)

The following tables summarize the components of Texas Penal Code Sec. 20A as it applies to child victims. However, the statute is available in full in Appendix A.

**Trafficking in Persons (Texas Penal Code Sec. 20A)**







In addition to Trafficking in Persons, the statute includes a second offense:

|  |  |  |
| --- | --- | --- |
| Offense | Conduct | Defense arguments |
| Continuous Trafficking of Persons (Sec. 20A.03)  First degree felony | A person commits an offense if, during a period that is 30 or more days in duration, the person engages two or more times in conduct that constitutes an offense under Section 20A.02. | No special arguments listed. |

The most essential parts of the statute are the action, means and purpose. Each of the three requires that one of the various conditions be met. The conditions for each of the three parts are listed in the table. In addition to those who fall under the statute as shown in the table, those who receive the benefits of trafficking can also be prosecuted under the same provisions.181F[[187]](#footnote-187)

*Real World Examples from Texas*

For members of the public, the term “prostitution” may bring to mind popular concepts of young, adult women acquiring a source of revenue, but the reality is more coercive and brutal.

In one **Texas Case Study detailed in the Instructional Slides**, the trafficker solicited a fourteen year-old online, convincing her to travel by bus from Houston to Amarillo. After he transported her to Midland, “[The victim] told Phea that she did not want to work as a prostitute. In response, Phea beat and tased [her], rupturing her eardrum.”182F[[188]](#footnote-188)

**In another Texas Case Study**, the National Center for Missing & Exploited Children (NCMEC) referred a case of online advertising of a minor for sex to the Texas Office of the Attorney General (OAG). Based on the information NCMEC provided, the OAG and DPS were able to track down the 16 year-old victim. A trafficker had allegedly forced her to endure more than 100 sexual assaults by customers in Dallas, San Antonio and Austin. The time on the road kept her isolated and she had to turn over all of the money from the encounters. Police were able to rescue her based on the tips provided by NCMEC. Her exploiter was arrested on charges related to trafficking.183F[[189]](#footnote-189)

As the case studies above demonstrate, the commercial sex industry preys on the young. In fact, the average age of recruitment nationwide is between the ages of 12 to 14 years old.184F[[190]](#footnote-190) Not only are traffickers adept at ensnaring minors, but they also often induct them into trafficking using a brutal seasoning process.185F[[191]](#footnote-191) Law enforcement and social services must work quickly to provide preventative education to children who are at risk of running or being recruited, report and locate missing children, and identify children at high risk of exploitation on the street (even when they do not wish to be helped).

When minor victims are under the control of a trafficker (often referred to as a pimp), the next myth of prostitution is proven untrue. Victims are not typically allowed to keep any revenue for their exploitation.186F[[192]](#footnote-192) Three in four children being commercially exploited are under the control of a pimp and do not receive any revenue for their involvement.187F[[193]](#footnote-193) Human trafficking has proven extremely lucrative for exploiters, and has climbed to one of the top three illegal industries nationwide.188F[[194]](#footnote-194) For this reason, and the relatively low risk of detection, multiple high-ranking gangs in Texas are becoming more involved in the trade of humans.189F[[195]](#footnote-195)

*Reaching Current and Potential Victims*

In addition to preventing runaway behavior as detailed in Section 2.1, law enforcement also has the task of identifying children currently being victimized by traffickers. Physical indicators of victimization can include branding tattoos or signs of physical abuse, carrying suspicious amounts of cash without explanation, the presence of hotel cards or a prepaid cell phone, possession of false driver’s license (or lying about age), injuries or signs physical abuse, as well as sexually explicit content on electronic devices.190F[[196]](#footnote-196)

Behavioral indicators can include inability or fear of social interaction, truancy or lack of enrolment in school, runaway behavior or homelessness, inconsistent stories, unwillingness to give local address or guardian information, fear of another person (often older controlling male/boyfriend), or young age with high number of sexual partners.191F[[197]](#footnote-197) More general outward signs can include fear, anxiety, depression, submissiveness, tenseness, or nervousness.192F[[198]](#footnote-198)

For the purposes of instruction, the three types of indicators that an officer may come into contact with while working with potential victims (physical, behavioral, and language) are outlined in table format in the Instructional Slides. While physical and behavioral indicators are listed, the potential language indicators are incorporated into an Activity at the beginning of the section. The Instructor should note that the language indicators are to be considered alongside of physical and behavioral indicators.

One behavioral indicator in particular is not always self-evident and requires an explanation related to the “rules of the game.” Lack of eye contact made by a potential victim could be caused by the precise training of her trafficker:

Victims are instructed to keep their eyes on the ground at all times. According to traditional pimping rules, when a victim makes eye contact with another pimp (accidentally or on purpose), she is choosing him to be her pimp. If the original pimp wants the victim back, he must pay a fee to the new pimp. When this occurs, he will force the victim to work harder to replace the money lost in transaction.

-Shared Hope International193F[[199]](#footnote-199)

Victims also often do not consider themself a victim and can demonstrate loyalty, possessiveness, or protectiveness toward their trafficker. This loyalty is purposefully developed by the trafficker through manipulation, disingenuous shows of affection, intimidation, threat or force.194F[[200]](#footnote-200) For these reasons, social services providers have described some victims as “love addicted.”195F[[201]](#footnote-201) As noted in multi-year data of federal investigations for trafficking, traffickers are typically but not always male, and also quite young.196F[[202]](#footnote-202) The prevalence at youth may be explained by gang involvement in human trafficking197F[[203]](#footnote-203) and the young age of recruitment into gang activities. Young adults likely also make more appealing or trustworthy lures when seeking to recruit young girls and teens.

To demonstrate how traffickers find recruitment zones, ask the participants to consider where someone in their community would have a chance to start a conversation with a middle school-aged girl.

* Where would they find girls that age to talk to?
* Where do middle school-aged girls spend their free time?
* What routes do they normally travel? (buses, trains, or parent drop-offs)
* What are their primary means of communicating with the world?

Traffickers often encourage victims to assume a recruitment role to lure other prospective victims. Cases have documented victimized girls returning to shelters or schools198F[[204]](#footnote-204) to seek out new victims. As one trafficker noted, vulnerable girls are more likely to trust, talk to and follow the lead of other girls.199F[[205]](#footnote-205)

Interacting with Potential Victims of Sex Trafficking:

The following outline was developed from referencing two guides on the issue of human trafficking.200F[[206]](#footnote-206)

1. Remain calm and avoid pity, judgment or patronization.
2. Build trust and rapport.
3. Use a conversational tone to obtain information.
4. Avoid victim-blaming statements, attitudes, body language, behaviors, or jargons.
5. Have them tell their story, but do not expect to hear the entire, full story at the first encounter.
6. Recognize that many victims are coached, so do not take offense at lies and try to recognize canned stories.
7. Avoid technical terms and do not expect them to recognize the term “human trafficking” or even that they are victims or survivors of a crime.
8. Maintain ongoing contact and be available for one-on-one interactions.
9. Conduct safety assessments and find suitable placement for the victim.

For additional exercises and case study scenarios involving law enforcement, the Office of the Attorney General of Texas published a guide for criminal justice professionals in 2013.201F[[207]](#footnote-207)

# Appendix A: Texas Penal Code

***Texas Penal Code Sections 20, 20A and 43\****202F***[[208]](#footnote-208)***

*Provided for Reference Purposes Only*

**Texas Penal Code Section 20**

Sec. 20.01. DEFINITIONS. In this chapter:

(1) "Restrain" means to restrict a person's movements without consent, so as to interfere substantially with the person's liberty, by moving the person from one place to another or by confining the person. Restraint is "without consent" if it is accomplished by:

(A) force, intimidation, or deception; or

(B) any means, including acquiescence of the victim, if:

(i) the victim is a child who is less than 14 years of age or an incompetent person and the parent, guardian, or person or institution acting in loco parentis has not acquiesced in the movement or confinement; or

(ii) the victim is a child who is 14 years of age or older and younger than 17 years of age, the victim is taken outside of the state and outside a 120-mile radius from the victim's residence, and the parent, guardian, or person or institution acting in loco parentis has not acquiesced in the movement.

(2) "Abduct" means to restrain a person with intent to prevent his liberation by:

(A) secreting or holding him in a place where he is not likely to be found; or

(B) using or threatening to use deadly force.

(3) "Relative" means a parent or stepparent, ancestor, sibling, or uncle or aunt, including an adoptive relative of the same degree through marriage or adoption.

(4) "Person" means an individual, corporation, or association.

(5) Notwithstanding Section 1.07, "individual" means a human being who has been born and is alive.

Sec. 20.02. UNLAWFUL RESTRAINT.

(a) A person commits an offense if he intentionally or knowingly restrains another person.

(b) It is an affirmative defense to prosecution under this section that:

(1) the person restrained was a child younger than 14 years of age;

(2) the actor was a relative of the child; and

(3) the actor's sole intent was to assume lawful control of the child.

(c) An offense under this section is a Class A misdemeanor, except that the offense is:

(1) a state jail felony if the person restrained was a child younger than 17 years of age; or

(2) a felony of the third degree if:

(A) the actor recklessly exposes the victim to a substantial risk of serious bodily injury;

(B) the actor restrains an individual the actor knows is a public servant while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant; or

(C) the actor while in custody restrains any other person.

(d) It is no offense to detain or move another under this section when it is for the purpose of effecting a lawful arrest or detaining an individual lawfully arrested.

(e) It is an affirmative defense to prosecution under this section that:

(1) the person restrained was a child who is 14 years of age or older and younger than 17 years of age;

(2) the actor does not restrain the child by force, intimidation, or deception; and

(3) the actor is not more than three years older than the child.

Sec. 20.03. KIDNAPPING.

(a) A person commits an offense if he intentionally or knowingly abducts another person.

(b) It is an affirmative defense to prosecution under this section that:

(1) the abduction was not coupled with intent to use or to threaten to use deadly force;

(2) the actor was a relative of the person abducted; and

(3) the actor's sole intent was to assume lawful control of the victim.

(c) An offense under this section is a felony of the third degree.

Sec. 20.04. AGGRAVATED KIDNAPPING.

(a) A person commits an offense if he intentionally or knowingly abducts another person with the intent to:

(1) hold him for ransom or reward;

(2) use him as a shield or hostage;

(3) facilitate the commission of a felony or the flight after the attempt or commission of a felony;

(4) inflict bodily injury on him or violate or abuse him sexually;

(5) terrorize him or a third person; or

(6) interfere with the performance of any governmental or political function.

(b) A person commits an offense if the person intentionally or knowingly abducts another person and uses or exhibits a deadly weapon during the commission of the offense.

(c) Except as provided by Subsection (d), an offense under this section is a felony of the first degree.

(d) At the punishment stage of a trial, the defendant may raise the issue as to whether he voluntarily released the victim in a safe place. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the offense is a felony of the second degree.

Sec. 20.05. SMUGGLING OF PERSONS.

(a) A person commits an offense if the person intentionally uses a motor vehicle, aircraft, or watercraft to transport an individual with the intent to:

(1) conceal the individual from a peace officer or special investigator; or

(2) flee from a person the actor knows is a peace officer or special investigator attempting to lawfully arrest or detain the actor.

(b) Except as provided by Subsection (c), an offense under this section is a state jail felony.

(c) An offense under this section is a felony of the third degree if the actor commits the offense:

(1) for pecuniary benefit; or

(2) in a manner that creates a substantial likelihood that the transported individual will suffer serious bodily injury or death.

(d) It is an affirmative defense to prosecution under this section that the actor is related to the transported individual within the second degree of consanguinity or, at the time of the offense, within the second degree of affinity.

(e) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

**Texas Penal Code Sec. 20A**

Sec. 20A.01. DEFINITIONS.

In this chapter:

(1) "Child" means a person younger than 18 years of age.

(2) "Forced labor or services" means labor or services, other than labor or services that constitute sexual conduct, that are performed or provided by another person and obtained through an actor's use of force, fraud, or coercion.

(3) "Sexual conduct" has the meaning assigned by Section 43.25.

(4) "Traffic" means to transport, entice, recruit, harbor, provide, or otherwise obtain another person by any means.

Sec. 20A.02. TRAFFICKING OF PERSONS.

(a) A person commits an offense if the person knowingly:

(1) traffics another person with the intent that the trafficked person engage in forced labor or services;

(2) receives a benefit from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services the person knows are forced labor or services;

(3) traffics another person and, through force, fraud, or coercion, causes the trafficked person to engage in conduct prohibited by:

(A) Section 43.02 (Prostitution);

(B) Section 43.03 (Promotion of Prostitution);

(C) Section 43.04 (Aggravated Promotion of Prostitution); or

(D) Section 43.05 (Compelling Prostitution);

(4) receives a benefit from participating in a venture that involves an activity described by Subdivision (3) or engages in sexual conduct with a person trafficked in the manner described in Subdivision (3);

(5) traffics a child with the intent that the trafficked child engage in forced labor or services;

(6) receives a benefit from participating in a venture that involves an activity described by Subdivision (5), including by receiving labor or services the person knows are forced labor or services;

(7) traffics a child and by any means causes the trafficked child to engage in, or become the victim of, conduct prohibited by:

(A) Section 21.02 (Continuous Sexual Abuse of Young Child or Children);

(B) Section 21.11 (Indecency with a Child);

(C) Section 22.011 (Sexual Assault);

(D) Section 22.021 (Aggravated Sexual Assault);

(E) Section 43.02 (Prostitution);

(F) Section 43.03 (Promotion of Prostitution);

(G) Section 43.04 (Aggravated Promotion of Prostitution);

(H) Section 43.05 (Compelling Prostitution);

(I) Section 43.25 (Sexual Performance by a Child);

(J) Section 43.251 (Employment Harmful to Children); or

(K) Section 43.26 (Possession or Promotion of Child Pornography); or

(8) receives a benefit from participating in a venture that involves an activity described by Subdivision (7) or engages in sexual conduct with a child trafficked in the manner described in Subdivision (7).

(b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:

(1) the applicable conduct constitutes an offense under Subsection (a)(5), (6), (7), or (8), regardless of whether the actor knows the age of the child at the time the actor commits the offense; or

(2) the commission of the offense results in the death of the person who is trafficked.

(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

(d) If the victim of an offense under Subsection (a)(7)(A) is the same victim as a victim of an offense under Section 21.02, a defendant may not be convicted of the offense under Section 21.02 in the same criminal action as the offense under Subsection (a)(7)(A) unless the offense under Section 21.02:

(1) is charged in the alternative;

(2) occurred outside the period in which the offense alleged under Subsection (a)(7)(A) was committed; or

(3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a)(7)(A).

Sec. 20A.03. CONTINUOUS TRAFFICKING OF PERSONS.

(a) A person commits an offense if, during a period that is 30 or more days in duration, the person engages two or more times in conduct that constitutes an offense under Section 20A.02.

(b) If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific conduct engaged in by the defendant constituted an offense under Section 20A.02 or on which exact date the defendant engaged in that conduct. The jury must agree unanimously that the defendant, during a period that is 30 or more days in duration, engaged in conduct that constituted an offense under Section 20A.02.

(c) If the victim of an offense under Subsection (a) is the same victim as a victim of an offense under Section 20A.02, a defendant may not be convicted of the offense under Section 20A.02 in the same criminal action as the offense under Subsection (a), unless the offense under Section 20A.02:

(1) is charged in the alternative;

(2) occurred outside the period in which the offense alleged under Subsection (a) was committed; or

(3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a).

(d) A defendant may not be charged with more than one count under Subsection (a) if all of the conduct that constitutes an offense under Section 20A.02 is alleged to have been committed against the same victim.

(e) An offense under this section is a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 25 years.

**Texas Penal Code Section 43**

Sec. 43.01. DEFINITIONS. In this subchapter:

(1) "Deviate sexual intercourse" means any contact between the genitals of one person and the mouth or anus of another person.

(2) "Prostitution" means the offense defined in Section [43.02](http://www.statutes.legis.state.tx.us//GetStatute.aspx?Code=PE&Value=43.02&Date=6/28/2014).

(3) "Sexual contact" means any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.

(4) "Sexual conduct" includes deviate sexual intercourse, sexual contact, and sexual intercourse.

(5) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.

Sec. 43.02. PROSTITUTION.

(a) A person commits an offense if the person knowingly:

(1) offers to engage, agrees to engage, or engages in sexual conduct for a fee; or

(2) solicits another in a public place to engage with the person in sexual conduct for hire.

(b) An offense is established under Subsection (a)(1) whether the actor is to receive or pay a fee. An offense is established under Subsection (a)(2) whether the actor solicits a person to hire the actor or offers to hire the person solicited.

(c) An offense under this section is a Class B misdemeanor, except that the offense is:

(1) a Class A misdemeanor if the actor has previously been convicted one or two times of an offense under this section;

(2) a state jail felony if the actor has previously been convicted three or more times of an offense under this section; or

(3) a felony of the second degree if the person solicited is younger than 18 years of age, regardless of whether the actor knows the age of the person solicited at the time the actor commits the offense.

(d) It is a defense to prosecution under this section that the actor engaged in the conduct that constitutes the offense because the actor was the victim of conduct that constitutes an offense under Section 20A.02.

(e) A conviction may be used for purposes of enhancement under this section or enhancement under Subchapter D, Chapter 12, but not under both this section and Subchapter D, Chapter 12. For purposes of enhancement of penalties under this section or Subchapter D, Chapter 12, a defendant is previously convicted of an offense under this section if the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision.

Sec. 43.03. PROMOTION OF PROSTITUTION.

(a) A person commits an offense if, acting other than as a prostitute receiving compensation for personally rendered prostitution services, he or she knowingly:

(1) receives money or other property pursuant to an agreement to participate in the proceeds of prostitution; or

(2) solicits another to engage in sexual conduct with another person for compensation.

(b) An offense under this section is a Class A misdemeanor, except that the offense is:

(1) a state jail felony if the actor has been previously convicted of an offense under this section; or

(2) a felony of the second degree if the actor engages in conduct described by Subsection (a)(1) or (2) involving a person younger than 18 years of age engaging in prostitution, regardless of whether the actor knows the age of the person at the time the actor commits the offense.

Sec. 43.04. AGGRAVATED PROMOTION OF PROSTITUTION.

(a) A person commits an offense if he knowingly owns, invests in, finances, controls, supervises, or manages a prostitution enterprise that uses two or more prostitutes.

(b) An offense under this section is a felony of the third degree, except that the offense is a felony of the first degree if the prostitution enterprise uses as a prostitute one or more persons younger than 18 years of age, regardless of whether the actor knows the age of the person at the time the actor commits the offense.

Sec. 43.05. COMPELLING PROSTITUTION.

(a) A person commits an offense if the person knowingly:

(1) causes another by force, threat, or fraud to commit prostitution; or

(2) causes by any means a child younger than 18 years to commit prostitution, regardless of whether the actor knows the age of the child at the time the actor commits the offense.

(b) An offense under Subsection (a)(1) is a felony of the second degree. An offense under Subsection (a)(2) is a felony of the first degree.

Sec. 43.06. ACCOMPLICE WITNESS; TESTIMONY AND IMMUNITY.

(a) A party to an offense under this subchapter may be required to furnish evidence or testify about the offense.

(b) A party to an offense under this subchapter may not be prosecuted for any offense about which he is required to furnish evidence or testify, and the evidence and testimony may not be used against the party in any adjudicatory proceeding except a prosecution for aggravated perjury.

(c) For purposes of this section, "adjudicatory proceeding" means a proceeding before a court or any other agency of government in which the legal rights, powers, duties, or privileges of specified parties are determined.

(d) A conviction under this subchapter may be had upon the uncorroborated testimony of a party to the offense.

SUBCHAPTER B. OBSCENITY

Sec. 43.21. DEFINITIONS.

(a) In this subchapter:

(1) "Obscene" means material or a performance that:

(A) the average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex;

(B) depicts or describes:

(i) patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality; or

(ii) patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs; and

(C) taken as a whole, lacks serious literary, artistic, political, and scientific value.

(2) "Material" means anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual three dimensional obscene device.

(3) "Performance" means a play, motion picture, dance, or other exhibition performed before an audience.

(4) "Patently offensive" means so offensive on its face as to affront current community standards of decency.

(5) "Promote" means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.

(6) "Wholesale promote" means to manufacture, issue, sell, provide, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purpose of resale.

(7) "Obscene device" means a device including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs.

(b) If any of the depictions or descriptions of sexual conduct described in this section are declared by a court of competent jurisdiction to be unlawfully included herein, this declaration shall not invalidate this section as to other patently offensive sexual conduct included herein.

Sec. 43.22. OBSCENE DISPLAY OR DISTRIBUTION.

(a) A person commits an offense if he intentionally or knowingly displays or distributes an obscene photograph, drawing, or similar visual representation or other obscene material and is reckless about whether a person is present who will be offended or alarmed by the display or distribution.

(b) An offense under this section is a Class C misdemeanor.

Sec. 43.23. OBSCENITY.

(a) A person commits an offense if, knowing its content and character, he wholesale promotes or possesses with intent to wholesale promote any obscene material or obscene device.

(b) Except as provided by Subsection (h), an offense under Subsection (a) is a state jail felony.

(c) A person commits an offense if, knowing its content and character, he:

(1) promotes or possesses with intent to promote any obscene material or obscene device; or

(2) produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.

(d) Except as provided by Subsection (h), an offense under Subsection (c) is a Class A misdemeanor.

(e) A person who promotes or wholesale promotes obscene material or an obscene device or possesses the same with intent to promote or wholesale promote it in the course of his business is presumed to do so with knowledge of its content and character.

(f) A person who possesses six or more obscene devices or identical or similar obscene articles is presumed to possess them with intent to promote the same.

(g) It is an affirmative defense to prosecution under this section that the person who possesses or promotes material or a device proscribed by this section does so for a bona fide medical, psychiatric, judicial, legislative, or law enforcement purpose.

(h) The punishment for an offense under Subsection (a) or (c) is increased to the punishment for a felony of the second degree if it is shown on the trial of the offense that obscene material that is the subject of the offense visually depicts activities described by Section 43.21(a)(1)(B) engaged in by:

(1) a child younger than 18 years of age at the time the image of the child was made;

(2) an image that to a reasonable person would be virtually indistinguishable from the image of a child younger than 18 years of age; or

(3) an image created, adapted, or modified to be the image of an identifiable child.

(i) In this section, "identifiable child" means a person, recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature:

(1) who was younger than 18 years of age at the time the visual depiction was created, adapted, or modified; or

(2) whose image as a person younger than 18 years of age was used in creating, adapting, or modifying the visual depiction.

(j) An attorney representing the state who seeks an increase in punishment under Subsection (h)(3) is not required to prove the actual identity of an identifiable child.

Sec. 43.24. SALE, DISTRIBUTION, OR DISPLAY OF HARMFUL MATERIAL TO MINOR.

(a) For purposes of this section:

(1) "Minor" means an individual younger than 18 years.

(2) "Harmful material" means material whose dominant theme taken as a whole:

(A) appeals to the prurient interest of a minor, in sex, nudity, or excretion;

(B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and

(C) is utterly without redeeming social value for minors.

(b) A person commits an offense if, knowing that the material is harmful:

(1) and knowing the person is a minor, he sells, distributes, exhibits, or possesses for sale, distribution, or exhibition to a minor harmful material;

(2) he displays harmful material and is reckless about whether a minor is present who will be offended or alarmed by the display; or

(3) he hires, employs, or uses a minor to do or accomplish or assist in doing or accomplishing any of the acts prohibited in Subsection (b)(1) or (b)(2).

(c) It is an affirmative defense to prosecution under this section that the sale, distribution, or exhibition was by a person having scientific, educational, governmental, or other similar justification.

(c-1) It is a defense to prosecution under this section that the actor was the spouse of the minor at the time of the offense.

(d) An offense under this section is a Class A misdemeanor unless it is committed under Subsection (b)(3) in which event it is a felony of the third degree.

Sec. 43.25. SEXUAL PERFORMANCE BY A CHILD.

(a) In this section:

(1) "Sexual performance" means any performance or part thereof that includes sexual conduct by a child younger than 18 years of age.

(2) "Sexual conduct" means sexual contact, actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sado-masochistic abuse, or lewd exhibition of the genitals, the anus, or any portion of the female breast below the top of the areola.

(3) "Performance" means any play, motion picture, photograph, dance, or other visual representation that can be exhibited before an audience of one or more persons.

(4) "Produce" with respect to a sexual performance includes any conduct that directly contributes to the creation or manufacture of the sexual performance.

(5) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do any of the above.

(6) "Simulated" means the explicit depiction of sexual conduct that creates the appearance of actual sexual conduct and during which a person engaging in the conduct exhibits any uncovered portion of the breasts, genitals, or buttocks.

(7) "Deviate sexual intercourse" and "sexual contact" have the meanings assigned by Section 43.01.

(b) A person commits an offense if, knowing the character and content thereof, he employs, authorizes, or induces a child younger than 18 years of age to engage in sexual conduct or a sexual performance. A parent or legal guardian or custodian of a child younger than 18 years of age commits an offense if he consents to the participation by the child in a sexual performance.

(c) An offense under Subsection (b) is a felony of the second degree, except that the offense is a felony of the first degree if the victim is younger than 14 years of age at the time the offense is committed.

(d) A person commits an offense if, knowing the character and content of the material, he produces, directs, or promotes a performance that includes sexual conduct by a child younger than 18 years of age.

(e) An offense under Subsection (d) is a felony of the third degree, except that the offense is a felony of the second degree if the victim is younger than 14 years of age at the time the offense is committed.

(f) It is an affirmative defense to a prosecution under this section that:

(1) the defendant was the spouse of the child at the time of the offense;

(2) the conduct was for a bona fide educational, medical, psychological, psychiatric, judicial, law enforcement, or legislative purpose; or

(3) the defendant is not more than two years older than the child.

(g) When it becomes necessary for the purposes of this section or Section 43.26 to determine whether a child who participated in sexual conduct was younger than 18 years of age, the court or jury may make this determination by any of the following methods:

(1) personal inspection of the child;

(2) inspection of the photograph or motion picture that shows the child engaging in the sexual performance;

(3) oral testimony by a witness to the sexual performance as to the age of the child based on the child's appearance at the time;

(4) expert medical testimony based on the appearance of the child engaging in the sexual performance; or

(5) any other method authorized by law or by the rules of evidence at common law.

Sec. 43.251. EMPLOYMENT HARMFUL TO CHILDREN.

(a) In this section:

(1) "Child" means a person younger than 18 years of age.

(2) "Massage" has the meaning assigned to the term "massage therapy" by Section 455.001, Occupations Code.

(3) "Massage establishment" has the meaning assigned by Section 455.001, Occupations Code.

(4) "Nude" means a child who is:

(A) entirely unclothed; or

(B) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the breasts below the top of the areola of the breasts, if the child is female, or any portion of the genitals or buttocks.

(5) "Sexually oriented commercial activity" means a massage establishment, nude studio, modeling studio, love parlor, or other similar commercial enterprise the primary business of which is the offering of a service that is intended to provide sexual stimulation or sexual gratification to the customer.

(6) "Topless" means a female child clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of her breasts below the top of the areola.

(b) A person commits an offense if the person employs, authorizes, or induces a child to work:

(1) in a sexually oriented commercial activity; or

(2) in any place of business permitting, requesting, or requiring a child to work nude or topless.

(c) An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if the child is younger than 14 years of age at the time the offense is committed.

Sec. 43.26. POSSESSION OR PROMOTION OF CHILD PORNOGRAPHY.

(a) A person commits an offense if:

(1) the person knowingly or intentionally possesses, or knowingly or intentionally accesses with intent to view, visual material that visually depicts a child younger than 18 years of age at the time the image of the child was made who is engaging in sexual conduct, including a child who engages in sexual conduct as a victim of an offense under Section [20A.02](http://www.statutes.legis.state.tx.us//GetStatute.aspx?Code=PE&Value=20A.02&Date=6/28/2014)(a)(5), (6), (7), or (8); and

(2) the person knows that the material depicts the child as described by Subdivision (1).

(b) In this section:

(1) "Promote" has the meaning assigned by Section 43.25.

(2) "Sexual conduct" has the meaning assigned by Section 43.25.

(3) "Visual material" means:

(A) any film, photograph, videotape, negative, or slide or any photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or

(B) any disk, diskette, or other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

(c) The affirmative defenses provided by Section 43.25(f) also apply to a prosecution under this section.

(d) An offense under Subsection (a) is a felony of the third degree.

(e) A person commits an offense if:

(1) the person knowingly or intentionally promotes or possesses with intent to promote material described by Subsection (a)(1); and

(2) the person knows that the material depicts the child as described by Subsection (a)(1).

(f) A person who possesses visual material that contains six or more identical visual depictions of a child as described by Subsection (a)(1) is presumed to possess the material with the intent to promote the material.

(g) An offense under Subsection (e) is a felony of the second degree.

(h) It is a defense to prosecution under Subsection (a) or (e) that the actor is a law enforcement officer or a school administrator who:

(1) possessed or accessed the visual material in good faith solely as a result of an allegation of a violation of Section 43.261;

(2) allowed other law enforcement or school administrative personnel to possess or access the material only as appropriate based on the allegation described by Subdivision (1); and

(3) took reasonable steps to destroy the material within an appropriate period following the allegation described by Subdivision (1).

Sec. 43.261. ELECTRONIC TRANSMISSION OF CERTAIN VISUAL MATERIAL DEPICTING MINOR.

(a) In this section:

(1) "Dating relationship" has the meaning assigned by Section 71.0021, Family Code.

(2) "Minor" means a person younger than 18 years of age.

(3) "Produce" with respect to visual material includes any conduct that directly contributes to the creation or manufacture of the material.

(4) "Promote" has the meaning assigned by Section 43.25.

(5) "Sexual conduct" has the meaning assigned by Section 43.25.

(6) "Visual material" has the meaning assigned by Section 43.26.

(b) A person who is a minor commits an offense if the person intentionally or knowingly:

(1) by electronic means promotes to another minor visual material depicting a minor, including the actor, engaging in sexual conduct, if the actor produced the visual material or knows that another minor produced the visual material; or

(2) possesses in an electronic format visual material depicting another minor engaging in sexual conduct, if the actor produced the visual material or knows that another minor produced the visual material.

(c) An offense under Subsection (b)(1) is a Class C misdemeanor, except that the offense is:

(1) a Class B misdemeanor if it is shown on the trial of the offense that the actor:

(A) promoted the visual material with intent to harass, annoy, alarm, abuse, torment, embarrass, or offend another; or

(B) except as provided by Subdivision (2)(A), has previously been convicted one time of any offense under this section; or

(2) a Class A misdemeanor if it is shown on the trial of the offense that the actor has previously been:

(A) convicted one or more times of an offense punishable under Subdivision (1)(A); or

(B) convicted two or more times of any offense under this section.

(d) An offense under Subsection (b)(2) is a Class C misdemeanor, except that the offense is:

(1) a Class B misdemeanor if it is shown on the trial of the offense that the actor has previously been convicted one time of any offense under this section; or

(2) a Class A misdemeanor if it is shown on the trial of the offense that the actor has previously been convicted two or more times of any offense under this section.

(e) It is an affirmative defense to prosecution under this section that the visual material:

(1) depicted only the actor or another minor:

(A) who is not more than two years older or younger than the actor and with whom the actor had a dating relationship at the time of the offense; or

(B) who was the spouse of the actor at the time of the offense; and

(2) was promoted or received only to or from the actor and the other minor.

(f) It is a defense to prosecution under Subsection (b)(2) that the actor:

(1) did not produce or solicit the visual material;

(2) possessed the visual material only after receiving the material from another minor; and

(3) destroyed the visual material within a reasonable amount of time after receiving the material from another minor.

(g) If conduct that constitutes an offense under this section also constitutes an offense under another law, the defendant may be prosecuted under this section, the other law, or both.

(h) Notwithstanding Section 51.13, Family Code, a finding that a person has engaged in conduct in violation of this section is considered a conviction for the purposes of Subsections (c) and (d).

Sec. 43.27. DUTY TO REPORT.

(a) For purposes of this section, " visual material" has the meaning assigned by Section 43.26.

(b) A business that develops or processes visual material and determines that the material may be evidence of a criminal offense under this subchapter shall report the existence of the visual material to a local law enforcement agency.

# Appendix B: Activities

The following pages contain activities to accompany the Instructional Slides and Lecture. Every activity also has Instructional Slide(s) to indicate when to conduct the respective activity.

While some slides contain all of the information and prompts needed to complete the activity, some activities have additional Instructor information contained in this Appendix.

Some activities also require to make copies from the Appendix in order to have handouts prepared for the participants.

Review the activities in full before the training in order to be prepared to implement the curriculum.

**Section 1.1 Activity: Missing Children, Abductions, and Attempted Abductions**

***Missing at the Mall***

Divide the room into small groups/pairs to work on the prompts (4 prompts total, so repeat the prompts among the groups/pairs as needed).

The activity for this section is combined with the previous section and included in the Instruction Slides at the end of Section 1.2.

**Be sure to stop where the red text on the Slides indicates** as the slides that follow it have suggested answers for the activity.

The answers to this activity can be much more detailed than the basic answer outline provided in the slides and below . The activity is intended to be completed in small groups/pairs. If there are more small groups/pairs than the number of prompts, then have multiple groups work separately on one prompt. See Appendix B for additional information. All of the information below is contained in the Instructional Slides.

**Activity Background:** You are called to a local mall concerning a missing child. The information you have is to meet the caller in the food court area of the mall adjacent to the coffee shop. The child is described as a 10-year old girl with brown hair, blue shirt, tan pants, and pink lace up sneakers. You arrive at the food court within 5 minutes and learn the caller is the missing girl’s mother and she has been missing 30 minutes. Additional law enforcement officers are also respond to the call.

**Group One Assignment: What are the initial steps you take? ANSWERS:**

* Interview the parent/reporting person.
* Confirm the child is missing.
* Determine when and where the child was last seen.
* Obtain and broadcast a detailed description of the child.
* Make an initial assessment based upon the information.
* Establish a perimeter.

**Group Two Assignment: As part of an initial assessment, what are the types of missing children cases that could apply (i.e. causes)? ANSWERS:**

* Determine the type of incident:
  + Nonfamily abduction,
  + Family abduction,
  + Runaway, and/or
  + Lost or otherwise missing.
* Determine if the child has special needs.
* Follow any applicable reporting requirements.

**Group Three Assignment: What are the types and places you may find digital evidence?**

* Mall and store surveillance camera video
* Other bystander or mall patron cell phone videos or pictures.
* Cell phone use records and locations:
  + Missing child,
  + Mother, and/or
  + Other family members or acquaintances.
* Patrol unit in-car video.
* Internet access by missing child:
  + Email, texting, texting applications,
  + Social networking, and/or
  + Any device the child had access to.

**Group Four Assignment: What are the initial investigative steps?**

* Enter the missing child into NCIC.
* Separate and interview everyone at the scene.
* Secure the child’s home, especially the child's room.
* Secure the vehicle used to arrive at the mall.
* Develop history of family dynamics.
* Conduct criminal history checks.
* Update area law enforcement agencies.
* Ensure that all state reporting requirements are followed.

**Section 1.3 Activity: Displaced by Disaster**

***Worst Case Scenario***

**Instructor:**

Split the room into groups or pairs. Small classes can have participants complete the activity individually.

All necessary instructions for this activity are included on the Instructional Slide at the end of the section.

For large groups, multiple groups may have the same type of disaster, so switch between groups for different types of challenges & solutions.

To supplement the activity, the Instructor can draw on a board/chart.

|  |  |  |  |
| --- | --- | --- | --- |
| *Disaster Type* | *Challenge* | *Pre-event solutions* | *Post-event solutions* |
| *Example:*  *Hurricane* | *#1 Anti-evacuation population (children separated)* | *#1 Public-service announcements* | *#1 Hotline services for routed for specific needs (emergencies, missing persons, etc…)* |
| *#2* | *#2* | *#2* |
| *#3* | *#3* | *#3* |
| *Next disaster type:* | *#1* | *#1* | *#1* |
| *#2* | *#2* | *#2* |
| *#3* | *#3* | *#3* |
| *Next disaster type:* | *#1* | *#1* | *#1* |
| *#2* | *#2* | *#2* |
| *#3* | *#3* | *#3* |
| *Next disaster type:* | *#1* | *#1* | *#1* |
| *#2* | *#2* | *#2* |
| *#3* | *#3* | *#3* |

**Section 2.1 Activity: Runaways**

***Rock and a Hard Place***

**Instructor:**

All necessary instructions for this activity are included on the Instructional Slide at the beginning of the section.

To add an extra interactive element, ask participants to share their “situations.” After a participant shares a situation, ask the room for a show of hands of how many people would leave the known environment based on the described situation.

Example:

Participant: “If my best friend was in immediate danger, I would leave despite known potential dangers.”

Instructor: “If you got a call that your best friend was in immediate danger, how many of you would take substantial risk to get to them?”

**Background on Exercise**

The exercise is designed to show the level of desperation necessary to cause a person to abandon their known environment. The exercise is intended to make participants think beyond labels of “problem kids,” “repeat runners,” or “troublemakers” when interacting with runaway youth in the future.

Although certain conditions are listed (lack of financial support, identification, assets or other supports and resources), other conditions are purposefully left unknown including:

* The status of any family members (i.e. separation scenarios)
* Unsafe home environments (i.e. prior abuse, neglect, etc…)
* Other physical threats
* Other coercive elements
* Lures from individuals

As participants consider what conditions could cause them to leave their known environment and traverse through dangerous conditions, they may identify some of the above conditions.

**Section 2.2 Activity: Missing from Care**

***Life in the Trash***

**Instructor:**

This activity will introduce the section. The prompt for the activity is copied in the Instructional Slides. Have one participant read the text aloud. It is also printed on the following page if you prefer to have a handout participants can take notes on (3 copies per page to save printing costs).

Allow the participants 5 minutes to complete the exercise (individually or in small groups).

Note: If the topic of family members in the household arises, the official is unwilling to make any guarantees about where the student or their family members will be taken *or even if they will be allowed to stay together.*

After the 5 minutes is up, ask them to share examples of some of their essential physical items. Then ask for volunteers to share their listed concerns in this simulation. Draw a diagram to list answers:

|  |  |
| --- | --- |
| Items (examples) | Concerns (examples) |
| Toothbrush | Where are we going? |
| Wallet, Phone | Where are my other family members? |
| Medications | What happens to the stuff I leave behind? |

**When the exercise is over, read this prompt:**

“This exercise is designed to simulate the feelings of a child or teen in foster care. The experience of being forced to pack your life’s possessions in a trash bag is so common across foster care that it is discussed in conferences and academic papers. **What message does the trash bag send to the child?** What about when they are pulled from school or other locations and not allowed to go home to collect their things?”

“Throughout this training course you will learn many things about children who runaway from their families, guardians or placements. One thing you will learn is that children are moved among placements for many reasons, many of them having nothing to do with the child’s behavior. **Regardless of the reason, each change in placement can increase the chance a child will run by up to 70%.”**

“Once a child is on the street, there is a high likelihood that they will be confronted with transactional sex, also called **survival sex**. This can be a gateway into longer term commercial sexual exploitation (commonly called prostitution).”

**“Let’s turn back to our exercise.”**

[Rhetorical questions (just ask and let the audience consider on their own):]

“What would you do if an authority figure forced you to leave your home? What if you had no power over where you would end up next? Then they separated you from your siblings, spouse or children? **What would *you* do to get back to them? What if you had no identification, no credit cards, you run out of cash, and if the police found you, they would just send you to another anonymous placement?”**

OPENING EXERCISE:

Imagine yourself at home in the evening on a regular weekday night. You have just had dinner when an official arrives at your door and knocks loudly. The official informs you that you are being evacuated and will have to come with him immediately. Assume that his authority and identification checks out, you have no choice but to follow his commands.

He hands you a plastic garbage bag and tells you that you have 5 minutes to grab your essentials. You can only fill the bag; that is all there is room for in his vehicle. He will not tell you where you are going.

You have 5 minutes to identify all of the things you would pack. What are your other concerns while you are packing your bag? List the items you would grab. Also list the primary concerns that are going through your mind while you pack.

OPENING EXERCISE:

Imagine yourself at home in the evening on a regular weekday night. You have just had dinner when an official arrives at your door and knocks loudly. The official informs you that you are being evacuated and will have to come with him immediately. Assume that his authority and identification checks out, you have no choice but to follow his commands.

He hands you a plastic garbage bag and tells you that you have 5 minutes to grab your essentials. You can only fill the bag; that is all there is room for in his vehicle. He will not tell you where you are going.

You have 5 minutes to identify all of the things you would pack. What are your other concerns while you are packing your bag? List the items you would grab. Also list the primary concerns that are going through your mind while you pack.

OPENING EXERCISE:

Imagine yourself at home in the evening on a regular weekday night. You have just had dinner when an official arrives at your door and knocks loudly. The official informs you that you are being evacuated and will have to come with him immediately. Assume that his authority and identification checks out, you have no choice but to follow his commands.

He hands you a plastic garbage bag and tells you that you have 5 minutes to grab your essentials. You can only fill the bag; that is all there is room for in his vehicle. He will not tell you where you are going.

You have 5 minutes to identify all of the things you would pack. What are your other concerns while you are packing your bag? List the items you would grab. Also list the primary concerns that are going through your mind while you pack.

**Section 2.3 Activity: Missing with Special Needs**

***Smart Mapping***

**Instructor:**

The instructions for this Activity are included in the Instructional Slides. Divide the room into small groups or individuals for the Activity as appropriate for the room size.

After reading the instructions, narrate the next three slides to show an aerial map of a close-up, a short-distance, and a mid-range distance from where the child was last reported missing. **Do not continue to the final map (with the markers).**

Leave the mid-distance blank map on the slide screen so that participants can use it as a reference for where they have located potential hazards. Also leave it in case they want to reference the slide for their strategy on the scene.

Once the participants have identified potential hazards, show the next map with the markers. Discuss their identified strategies and evaluate based on the materials in the previous slides.

Time permitting, you may wish to print out the full Checklist and use it as a note sheet to identify items the participants have remembered and major items they may be missing.

**Section 3.1: Sexual Exploitation**

***Reinventing the Wheel***

Instructor: This activity requires the use of the handout on the next page for each participant.

Pass out the blank copies of the Abuse of Children Wheel, as published by the Domestic Abuse Intervention Project and available in full at <http://www.theduluthmodel.org/training/wheels.html>.

Assign participants as individuals or small groups to fill out one section of the wheel with a description or examples. Have participants share their answer, and then read the examples used on the original wheel (shown below).

**ANSWERS:**

**Original from:**

Domestic Abuse

Intervention Programs

202 East Superior Street

Duluth, MN 55802

218.722.2781

[www.theduluthmodel.org](http://www.theduluthmodel.org)

***Section 3.1 Activity Handout***

**Section 3.3: Online Solicitation**

***The Viral Threat***

Instructor:

All of the instructions needed for this section to prompt the room are listed in the Instructional Slides at the end of the section.

Gauge the room and determine if you would like to structure with small group discussion or ask for individuals to raise their hands or shout out answers.

As you receive answers, if you have a chalk or marker board available, write out the answers you hear. Divide the answers into two columns: Purposeful and Accidental.

|  |  |
| --- | --- |
| Purposeful | Accidental |
| Example: Sibling sends out | Example: Phone gets stolen |
|  |  |
|  |  |

**Section 3.4 Activity: Sexual Offenders**

***Numbers Game***

**Instructor:**

All materials you will need for this Activity are included in the Instructional Slides.

When you reach the map of the United States in the slides, allow the participants several minutes to absorb the data on the map. Encourage classroom discussion if it is appropriate.

The next slide will include several questions to test their recall of the map data. See what the responses from the room include, then scroll forward to the next slide for the answers.

**Section 3.5 Activity**

***Street Smarts***

**Instructor:**

The following handout should be copied to have a page for each participant. When you reach the activity slide at the beginning of this section, allow the participants five minutes (or less time if they finish the activity quickly) to fill out their sheets.

This activity may be done individually or in small groups as appropriate.

Once the time is out, go through each definition using the attached Instructor Answer Sheet. Ask for a volunteer, or rotate between groups to hear the answers from the room. If they are incorrect, use the answer from the Answer Sheet.

The handout is based on an informational tip sheet from Children’s Advocacy Centers of Texas, which originally provided the tip sheet as a resource for the Texas Gang Investigators Association.

|  |  |
| --- | --- |
| The Life/The Game | ***Section 3.5 Activity Handout*** |
| Automatic |  |
| Bottom Bitch/Girl |  |
| Caught a Case |  |
| Choosing |  |
| Circuit (Track) |  |
| Daddy |  |
| Tricks |  |
| Escort Service |  |
| Exit Fee |  |
| Finesse Pimp |  |
| Gorilla Pimp |  |
| Ho Line |  |
| In House |  |
| Kiddie Stroll |  |
| Out of Pocket |  |
| P.I. |  |
| Pimp Circle |  |
| Pimps Up, Hos Down |  |
| Quota |  |
| Seasoning |  |
| Square |  |
| Squaring Up |  |
| Stable |  |
| Stay in Pocket |  |
| Survival Sex |  |
| Trade Up/Down |  |
| Turnout |  |
| Wife-in-Law |  |
| The Life/The Game | The commercial sexual exploitation or the sex industry  ***Section 3.5 Activity ANSWERS*** |
| Automatic | The victim’s routine when her pimp is out of town, in jail, or otherwise not in direct contact  with those he is prostituting |
| Bottom Bitch/Girl | The highest girl in the hierarchy; she may have extra responsibilities or advantages |
| Breaking | To give all of your money to your pimp |
| Caught a Case | Arrested and charged with a crime |
| Circuit (Track) | A set area known for prostitution activity |
| Daddy | Your own pimp (evoking images of fatherhood); some pimps force their girls to call them this or brand it on their bodies to mark their ownership. |
| Tricks | Buyers of commercial sex |
| Escort Service | Organization, operating via cell phone or via Internet, which sends a victim to a buyer’s location or arranges for the buyer to come to a location |
| Exit Fee | Money a pimp demands from a victim who is thinking about leaving |
| Finesse Pimp | Prides himself in controlling others primarily through psychological manipulation |
| Gorilla Pimp | A pimp who uses force or violence to get a child, or to keep the child with the pimp |
| Ho Line | A loose network of inter-city or interstate communications between pimps, chiefly by phone, used to trade, buy and sell prostituted women and children |
| In House | Someone who works from inside a house |
| Kiddie Stroll | An area featuring prostituted children under 16, often much younger |
| Out of Pocket | To look at or talk to another pimp |
| P.I. | In reference to another pimp |
| Pimp Circle | A group of pimps surrounding a girl for purposes of intimidation |
| Pimps Up, Hos Down | A reference to power and status or a rule of standing in the street and not being allowed on the sidewalk; pimps physically above the girls |
| Quota | Set amount of money a girl must make each night before she can come “home” |
| Seasoning | Combination of psychological manipulation; intimidation; gang rape; sodomy; beating; deprivation of food or sleep; isolation; and/or threatening victim’s children |
| Square | Those who were never in “the life” |
| Squaring Up | To get out of the game |
| Stable | A group of women/girls under pimp control |
| Stay in Pocket | To play by the rules of “the game (pimps often instill the rules of the game during the seasoning process) |
| Survival Sex | When a homeless youth trades a sex act with an adult in exchange for basic needs |
| Trade Up/Down | To move a victim like merchandise |
| Turnout | Someone who recruits you into the life |
| Wife-in-Law | A group of girls who work for the same pimp |

# Appendix C: Instructional Slides

The following pages include .pdf format handouts of the Instructional Slides for reference purposes only. The full Powerpoint Presentation is available to accompany the Instructor’s Guide and play during the training session.

1. *See* 42 U.S.C. § 5779. [↑](#footnote-ref-1)
2. Texas Code of Crim. Proc. Art. 63.009(a). [↑](#footnote-ref-2)
3. *See* 42 U.S.C. § 5780(1). [↑](#footnote-ref-3)
4. *See* 42 U.S.C. § 5780(2). [↑](#footnote-ref-4)
5. *See* 42 U.S.C. § 5779. [↑](#footnote-ref-5)
6. *NCIC Missing Person and Unidentified Person Statistics for 2013*, Federal Bureau of Investigation**,** <http://www.fbi.gov/about-us/cjis/ncic/ncic-missing-person-and-unidentified-person-statistics-for-2013> (last accessed July 31, 2014). [↑](#footnote-ref-6)
7. *Id.* [↑](#footnote-ref-7)
8. *Id.* [↑](#footnote-ref-8)
9. *Id.* stating that, “Of the 627,911 records entered in 2013, the MPC field was utilized in 306,538 (48.8 %).” [↑](#footnote-ref-9)
10. *Id.* List directly quoted from source. [↑](#footnote-ref-10)
11. *Children Missing from Care: The Law Enforcement Response*, NCMEC, OJJDP and Child Welfare League of America, 4 available at <http://www.missingkids.com/en_US/publications/NC162.pdf> (last accessed June 1, 2014). [↑](#footnote-ref-11)
12. Texas Penal Code Sec. 20.01 (emphasis added). [↑](#footnote-ref-12)
13. *Id.* [↑](#footnote-ref-13)
14. Texas Penal Code Sec. 20.01(1)(B). [↑](#footnote-ref-14)
15. Although Sec. 20.01 does not define “in loco parentis,” the definition used for Sec. 9.61 is as follows: “For purposes of this section, "in loco parentis" includes grandparent and guardian, any person acting by, through, or under the direction of a court with jurisdiction over the child, and anyone who has express or implied consent of the parent or parents.” Texas Penal Code Sec. 9.61(b). [↑](#footnote-ref-15)
16. *See generally* Texas Penal Code Sec. 15.01. [↑](#footnote-ref-16)
17. Texas Penal Code Sec. 20.02(a). [↑](#footnote-ref-17)
18. *See* Texas Penal Code Sec. 20.02(c). [↑](#footnote-ref-18)
19. Texas Penal Code Sec. 20.02(b) (emphasis added). [↑](#footnote-ref-19)
20. Texas Penal Code Sec. 20.03(a) (emphasis added). [↑](#footnote-ref-20)
21. Texas Penal Code Sec. 20.03(b) (emphasis added). [↑](#footnote-ref-21)
22. Texas Penal Code Sec. 20.04(a) (emphasis added). [↑](#footnote-ref-22)
23. Texas Penal Code Sec. 20.04(b) (emphasis added). [↑](#footnote-ref-23)
24. Texas Penal Code Sec. 20.04(d). [↑](#footnote-ref-24)
25. *See* Texas Penal Code Sec. 20.04(c). [↑](#footnote-ref-25)
26. Texas Penal Code Sec. 20.05(a). [↑](#footnote-ref-26)
27. *See* Texas Penal Code Sec. 20.05(b) and (c). [↑](#footnote-ref-27)
28. *See* *Investigative Checklist for First Responders*, NCMEC, available at <http://www.missingkids.com/publications/NC88> (last accessed July 31, 2014) (free resource and available in .pdf format in both English and Spanish). English version available at <http://www.missingkids.com/en_US/publications/NC88.pdf>. Each element of the adapted checklist is broken down into individual slides in the Instructional Slides. While the original checklist can be printed on two pages, it is increased in size below and in the Instructional Slides for educational purposes. [↑](#footnote-ref-28)
29. Adapted from *Missing and Abducted Children: A Law Enforcement Guide to Case Investigation and Program Management*, NCMEC and OJJDP 4th ed., 2011, available at <http://www.missingkids.com/en_US/publications/NC74.pdf> (last accessed July 31, 2014). [↑](#footnote-ref-29)
30. Texas Code of Criminal Procedure Articles 63.009(a-1); 63.013; 63.0016; and 63.0041. [↑](#footnote-ref-30)
31. Texas Penal Code Sec. 15.01. [↑](#footnote-ref-31)
32. *See id.*  [↑](#footnote-ref-32)
33. Language in this section courtesy of Texas Department of Public Safety. Full text of email attachment submitted by Michelle Farris, Texas Department of Public Safety on July 3, 2014 (emphasis as documented in original). [↑](#footnote-ref-33)
34. *See Attempted Abductions*, National Center for Missing & Exploited Children, available at <http://www.missingkids.com/attemptedabductions> (last accessed July 31, 2014). [↑](#footnote-ref-34)
35. *Id.* All data on attempted abductions, known outcomes, identified perpetrators, and methods directly quoted from source. [↑](#footnote-ref-35)
36. *Id.* [↑](#footnote-ref-36)
37. *See generally Safe to Compete: An Introduction to Sound Practices for Keeping Children Safer in Youth-serving Organizations*, 9, NCMEC, available at <http://www.missingkids.com/en_US/publications/PDF24A.pdf#page=2> (last accessed Aug. 4, 2014). The source states that:

    Child sexual abusers rely upon the silence of victims and the inaction of bystanders. While it is important to educate children about sexual abuse and encourage them to speak up if they are uncomfortable, preventing and responding to child sexual abuse is ultimately an adult responsibility. Therefore, an environment must be cultivated where the topic of child protection and adult responsibility is openly discussed and encouraged. [↑](#footnote-ref-37)
38. *Post Disaster Reunification of Children - A Nationwide Approach*, 1, FEMA, Department of Health and Human Services, American Red Cross, and NCMEC (Nov. 1, 2013) <https://s3-us-gov-west-1.amazonaws.com/dam-production/uploads/1384376663394-eef4a1b4269de14faff40390e4e2f2d3/Post%20Disaster%20Reunification%20of%20Children%20-%20A%20Nationwide%20Approach.pdf> (last accessed Aug. 4, 2014). [↑](#footnote-ref-38)
39. *Disaster Response*, NCMEC (2014) available at <http://www.missingkids.com/DisasterResponse> (last accessed Aug. 4, 2014). [↑](#footnote-ref-39)
40. *Video: Children Displaced by Disasters*, 17 minutes, National Center for Missing and Exploited Children (NCMEC), available at <http://vimeo.com/73468509> (last accessed Aug. 4, 2014). [↑](#footnote-ref-40)
41. *Post Disaster Reunification of Children - A Nationwide Approach, at 2.* [↑](#footnote-ref-41)
42. *Evacuation Planning in Texas: Before and After Rita*, 2, Texas House of Representatives (February 14, 2006) available at <http://www.hro.house.state.tx.us/interim/int79-2.pdf> (last accessed Aug. 4, 2014). [↑](#footnote-ref-42)
43. Redlener, M.D., et. al, *Why Parents May Not Heed Evacuation Orders and What Emergency Planners Families and Schools Need to Know*, 3, Columbia University (2008) available at <https://academiccommons.columbia.edu/catalog/ac%3A126155> (last accessed Aug. 4, 2014). [↑](#footnote-ref-43)
44. *Post Disaster Reunification of Children - A Nationwide Approach*, at 7. [↑](#footnote-ref-44)
45. Redlener, M.D., et. al, at 1. [↑](#footnote-ref-45)
46. A full guide on preparing your community disaster plan and incorporating processes for dealing with missing, separated, and unaccompanied minors is available from the *Post Disaster Reunification of Children - A Nationwide Approach.* [↑](#footnote-ref-46)
47. McBride, N., *Child Safety is More Than a Slogan*, NCMEC (2011) available at <http://www.missingkids.com/en_US/publications/PDF10A.pdf> (last accessed Aug. 4, 2014). [↑](#footnote-ref-47)
48. *See Child ID*, NCMEC (2014)available at <http://www.missingkids.com/ChildID> (last accessed Aug. 4, 2014). [↑](#footnote-ref-48)
49. Thomas B. Smith, Kenneth Buniak, Lee Condon, & Lee Reed, *Children Missing From Care: The Law-Enforcement Response, xi,* National Center for Missing & Exploited Children (2005) available at <http://www.missingkids.com/en_US/publications/NC162.pdf>. [↑](#footnote-ref-49)
50. *APCO International: Standard for Public Safety Telecommunicators when Responding to Calls of Missing, Abducted, and Sexually Exploited Children,* 10, National Center for Missing & Exploited Children and Association of Public-Safety Communications Officials (2010) available at <http://www.missingkids.com/en_US/documents/911standards.pdf>. [↑](#footnote-ref-50)
51. *Missing and Abducted Children: A Law-Enforcement Guide to Case Investigation and Program Management*, NCMEC, 111 (2011) available at <http://www.missingkids.com/en_US/publications/NC74.pdf> (“By finding these children and providing services to help safeguard them from these dangers, communities do a better job of preventing the commercial sexual exploitation of these children.”). [↑](#footnote-ref-51)
52. Thomas Smith, et. al, 4 (“Children who have left a caregiver are typically vulnerable. Regardless of the reasons for leaving they often become dependent on risky behavior for survival. For example they may be recruited by exploiters to engage in activity such as the sale of illicit drugs, prostitution, or theft.”) [↑](#footnote-ref-52)
53. *Sexual Abuse among Homeless Adolescents: Prevalence, Correlates, and Sequelae*, U.S. Department of Health & Human Services, p. 5-16 (Nov. 2002) available at <http://www.acf.hhs.gov/sites/default/files/opre/sex_abuse_hmless.pdf> (data significant for males and females) comparing these three studies:

    *Street Youth at Risk for AIDS (SYRA)*, conducted in San Francisco, Denver, and New York City by Beth E. Molnar, Alex H. Kral, Robert E. Booth, and John K. Watters, and colleagues;

    *The Seattle Homeless Adolescent Research and Evaluation Project (SHARE)*, conducted by Ana Mari Cauce and Les Whitbeck; and

    *The Midwest Homeless and Runaway Adolescent Project (MHRAP)*, conducted in Iowa, Nebraska, Missouri, and Kansas by Les B. Whitbeck and Dan R. Hoyt. [↑](#footnote-ref-53)
54. *Child Sex Trafficking*, NCMEC, available at [www.missingkids.com/CSTT](http://www.missingkids.com/CSTT) (last accessed Aug. 4, 2014); *Protecting Vulnerable Children: Preventing and Addressing Sex Trafficking of Youth in Foster Care, Testimony of John D. Ryan For the United States House of Representatives Committee on Ways and Means Subcommittee on Human Resources*, National Center for Missing & Exploited Children (October 23, 2013) available at <http://www.missingkids.com/Testimony/10-23-13>. [↑](#footnote-ref-54)
55. Molnar, et. al, *Suicidal behavior and sexual/physical abuse among street youth*, 22 Child Abuse & Neglect 213 (1998) (surveying 775 youth ages 12-19 in Denver, San Francisco and NYC in the early 1990s). See also *Homeless and runaway youth*, National Conference of State Legislatures, available at: <http://www.ncsl.org/default.aspx?tabid=18275> (finding 46% of homeless/runaway reported previous physical abuse, 38% emotional abuse, and 17% sexual abuse by a household member). [↑](#footnote-ref-55)
56. *Sexual Abuse among Homeless Adolescents: Prevalence, Correlates, and Sequelae*, U.S. Department of Health & Human Services, p. ES-2 (Nov. 2002) available at <http://www.acf.hhs.gov/sites/default/files/opre/sex_abuse_hmless.pdf>

    [↑](#footnote-ref-56)
57. *Id.* stating that:

    [N]on-relative adult acquaintances (i.e., teachers, neighbors, and friends of the family) were named by 32% of youth as perpetrators; peer acquaintances by 28%; and strangers by 25%. Biological relatives named by youths as abusers included fathers (for 9.9% of the youth), uncles (9.5%), cousins (6.8%), brothers (6.5%), and grandfathers (5.3%); non-biological relatives included stepfathers (14.4%), adoptive fathers (2.3%), stepbrothers (1.5%) and adoptive brothers (2.3%). Other individuals who might assume caregiving or supervisory roles also were named: mother’s boyfriend was named by 8% of these respondents; male babysitters by 4.6%; female babysitters by 4.9%; and foster fathers by 1.1%. Female relatives were named by only 6% of the respondents. Our findings also suggest that many of the youth who had been sexually abused were abused by more than one person: on average, 2.6 people. [↑](#footnote-ref-57)
58. *See* Marisa Kashino, *You’re Pretty. You Could Make Some Money*, Washingtonian (June 10, 2013) available at <http://www.washingtonian.com/articles/people/youre-pretty-you-could-make-some-money/> [↑](#footnote-ref-58)
59. Shelley *Childers, Man arrested for Child Trafficking/Prostitution in Odessa 4/12/12*, CBS 7 News (April 12, 2012) available at <http://www.cbs7kosa.com/news/details.asp?ID=33997> [↑](#footnote-ref-59)
60. Texas Code of Crim. Proc. Art. 63.009(a), available at http://www.statutes.legis.state.tx.us/Docs/CR/htm/CR.63.htm (last accessed Aug. 4, 2014). [↑](#footnote-ref-60)
61. *Id.* [↑](#footnote-ref-61)
62. *Investigative Checklist for Law Enforcement When Helping Unsupervised and Runaway Children*, National Center for Missing & Exploited Children, available at <http://www.missingkids.com/en_US/publications/NC03.pdf> (last accessed July 31, 2014). The checklist is available in a two-page printout, but is inserted herein and in the Instructional Slides in a format that is in larger text. [↑](#footnote-ref-62)
63. Thomas B. Smith, et. al, *Children Missing From Care: The Law-Enforcement Response, xi,* National Center for Missing & Exploited Children (2005) available at <http://www.missingkids.com/en_US/publications/NC162.pdf> (““A child is considered missing from care if he or she is not in the physical custody of the child-welfare agency or person or institution with whom the child has been placed.”). [↑](#footnote-ref-63)
64. *See id.* at 4 advocating that:

    The bottom line is all missing children – whether missing from a home, care, or any other setting or because they ran away, were abducted by a family or nonfamily member, or for any other reason – need to be immediately reported to law enforcement by caregivers and missing-children reports need to be immediately taken by law enforcement. [↑](#footnote-ref-64)
65. *See* Ching Hsuan Lin, *Children who run away from foster care: Who are the children and what are the risk factors?*, 34 Children & Youth Services Rev. 807 (2012) (“[R]unning away exposes foster youth to serious risk of criminal victimization, sexual exploitation, and substance or alcohol abuse.”). [↑](#footnote-ref-65)
66. Courtney & Zinn at 1298. [↑](#footnote-ref-66)
67. *See* Ching Hsuan Lin, at 812, stating that:

    Moreover, children with runaway behavior tended to be older (average age 11 years old) at first removal from their family of origin. An assumption is that they were first removed upon entering adolescence, so they were old enough to develop running away as a strategy to cope with difficulties in foster placements, victimization in families of origin, and/or to respond to their unwillingness to be placed. [↑](#footnote-ref-67)
68. *See* Kathleen Miles, *LA Teen Prostitutes Come From Foster homes A Majority of The Time, County Says*, Huffington Post (Nov. 28, 2012).

    <http://www.huffingtonpost.com/2012/11/28/la-teen-prostitutes-foster-homes-county-video_n_2207778.html> [↑](#footnote-ref-68)
69. *Motion by Supervisor Michael D. Antonovich: Establish a Sex Trafficking Task Force* (Nov. 27, 2012) available at <http://file.lacounty.gov/bos/supdocs/72846.pdf> [↑](#footnote-ref-69)
70. John D. Ryan, *Protecting Vulnerable Children: Preventing and Addressing Sex Trafficking of Youth in Foster Care*, Testimony for the United States House of Representatives Committee on Ways and Means Subcommittee on Human Resources (Oct. 23, 2013) <http://www.missingkids.com/Testimony/10-23-13> (last accessed July 31, 2014). [↑](#footnote-ref-70)
71. *See, e.g.,* Courtney & Zinn, at 1301 (finding that, “[O]ver 20% of youth who have run once before will run again within 30 days of reentering care, and over 30% of youth who have run twice before will run again within 30 days of reentry.); Ching Hsuan Lin, at 808 (“[F]oster youth with a history of running have higher odds of running again.”). *See also* Thomas Smith, et. al, at 4 (“[T]hey may run to their birth families prior to placement in care or some other familiar surroundings. . . . [T]here is a concern once a child runs away a pattern of running may develop and carry on throughout their placement history.”). [↑](#footnote-ref-71)
72. *See* Ching Hsuan Lin, at 809-810 (finding that “Children who ran away from foster care have experienced an average of approximately six placement settings, compared to three previous out-of-home care placements of children who did not run away[.]”);Courtney & Zinn, at 1305 (“Increased placement instability generally increased the estimated risk of first runs, with even one additional placement increasing the relative risk of running by nearly 70%.”). [↑](#footnote-ref-72)
73. Courtney & Zinn, at 1305. [↑](#footnote-ref-73)
74. *Id. See also* Ching Hsuan Lin, at 810 (stating that This finding supported results from previous studies . . . that running away is most likely to occur within the first few months of being placed in foster care[.]”). [↑](#footnote-ref-74)
75. Courtney & Zinn, at 1300 (“Not surprisingly, runaway behavior is overwhelmingly the province of older youth. . . . In fact, nearly half (47.6%) of the 12- to 18-year-olds that ran for the first time between 1993 and 2003 did so after their sixteenth birthday (see Table 2); Shalhevet Attar-Schwartz, *Runaway behavior among adolescents in residential care: The role of personal*

    *characteristics, victimization experiences while in care, social climate, and*

    *institutional factors*, 35 Children & Youth Services Rev. 258 (2012) (finding in an international study that, “Inclination to more frequent runaway behavior was found to be high for older adolescents, adolescents who had been in the institution for longer periods, those with more adjustment difficulties, those who had experienced more physical violence by peers and staff, . . . and those who perceived staff as strict and unsupportive.”). [↑](#footnote-ref-75)
76. *See* Ching Hsuan Lin, at 811 (“[C]hildren in foster care who are older, female, or a race other than White are more likely to run away from their placement.”); Courtney & Zinn, at 1304 (“Gender was a statistically significant predictor of runaway in both models, with girls being much more likely than boys to experience a first run and slightly more likely to experience a subsequent run[.]”). [↑](#footnote-ref-76)
77. Ching Hsuan Lin, at 811-12 (“[C]hildren from married-couple family are 23% less likely to run away than foster children who were removed from single-female families.”). [↑](#footnote-ref-77)
78. Ching Hsuan Lin, at 813. *See also* Courtney & Zinn, at 1305, detailing for a range of placement options that:

    [F]or both first and subsequent runs, being in a relative foster home substantially decreased the estimated risk of runaway compared with placement in a non-relative foster home, whereas placement in the most common residential care facilities was associated with a much higher risk than that experienced by children in nonrelative foster homes. Interestingly, corrections facilities, hospitals, and **“**other residential care facilities,**”** the most restrictive placement options, were associated with reduced risk of both first and subsequent runs, perhaps reflecting the difficulty of running from these settings. [↑](#footnote-ref-78)
79. *See* *Advanced Child Abuse Investigation Manual*, Texas Municipal Police Association, at 110 (labeling this idea as a “common misperception”). [↑](#footnote-ref-79)
80. *See* *The Risk and Prevention of Maltreatment of Children With Disabilities*, Child Welfare Information Gateway, U.S. Department of Health & Human Services, 7 (March 2012) available at <https://www.childwelfare.gov/pubs/prevenres/focus/focus.pdf> (last accessed Aug. 1, 2014) (internal citations removed). [↑](#footnote-ref-80)
81. Roberta Hibbard, et. al, *Maltreatment of Children with Disabilities*, 119 Pediatrics 1018, 1021 (2007), available at <http://pediatrics.aappublications.org/content/119/5/1018.full.pdf+html> (last accessed July 31, 2014) citing to research from Sullivan & Cork, *Developmental Disabilities Training Project*, Center for Abused Children With Disabilities, Boys Town National Research Hospital, Nebraska Department of Health and Human Services (1996), as well as Sullivan & Knutson, *Maltreatment and disabilities: a population-based epidemiologic study*, 24 Child Abuse & Neglect 1257 (2000). [↑](#footnote-ref-81)
82. Erika Harrell, *Crime Against Persons with Disabilities, 2009-2012, Statistical Tables*, Table 2 at 3, Bureau of Justice Statistics (Feb. 2014) available at <http://www.bjs.gov/content/pub/pdf/capd0912st.pdf> (last accessed July 31, 2014). [↑](#footnote-ref-82)
83. *Id.* at 1. The study examined both sexual and other types of violent crime: “Nonfatal violent crimes include rape, sexual assault, robbery, aggravated assault, and simple assault.” [↑](#footnote-ref-83)
84. Adapted from *Advanced Child Abuse Investigation Manual* at 114. [↑](#footnote-ref-84)
85. *See* *The Risk and Prevention of Maltreatment of Children With Disabilities*, at 1021 (stating that, “Children with disabilities are often perceived as easy targets[.]”). [↑](#footnote-ref-85)
86. *See* *Advanced Child Abuse Investigation Manual* at 110. [↑](#footnote-ref-86)
87. *The Risk and Prevention of Maltreatment of Children With Disabilities*, at 6. [↑](#footnote-ref-87)
88. *The Risk and Prevention of Maltreatment of Children With Disabilities*, at 5. [↑](#footnote-ref-88)
89. *First Response to Victims of Crime*, National Sheriff’s Association, 14 (July 2010) available at <http://www.ovc.gov/publications/infores/pdftxt/2010FirstResponseGuidebook.pdf> (last accessed July 31, 2014). [↑](#footnote-ref-89)
90. Roberta Hibbard, et. al, at 1021. [↑](#footnote-ref-90)
91. *Autism Fact Sheet*, National Autism Association, available at <http://nationalautismassociation.org/resources/autism-fact-sheet/> (last accessed Aug. 1, 2014). [↑](#footnote-ref-91)
92. *Id.* [↑](#footnote-ref-92)
93. *Asperger’s Disorder*, Autism Society, available at <http://www.autism-society.org/about-autism/aspergers-syndrome/> (last accessed July 31, 2014). [↑](#footnote-ref-93)
94. *Id.* (“In fact, individuals with Asperger’s Disorder often “possess average to above-average intelligence.”). *See also Advanced Child Abuse Investigation Manual*, at 112. [↑](#footnote-ref-94)
95. *Autism Fact Sheet*, National Autism Association, available at <http://nationalautismassociation.org/resources/autism-fact-sheet/> (last accessed Aug. 1, 2014). [↑](#footnote-ref-95)
96. *Id.*  [↑](#footnote-ref-96)
97. *First Responder Toolkit*, National Autism Association, 5, available at <http://nationalautismassociation.org/docs/BigRedSafetyToolkit-FR.pdf> (last accessed July 31, 2014). [↑](#footnote-ref-97)
98. *Id.* [↑](#footnote-ref-98)
99. Directly quoted from *Autism & Safety Facts*, National Autism Association, available at <http://nationalautismassociation.org/resources/autism-safety-facts/> (last accessed July 31, 2014). [↑](#footnote-ref-99)
100. *Special Needs Addendum, Investigator’s Package*, National Center for Missing & Exploited Children, available at <http://www.missingkids.com/en_US/publications/SpecialNeeds_Addendum.pdf> (last accessed July 31, 2014). [↑](#footnote-ref-100)
101. *See also the Missing Children with Special Needs Lost-Person Questionnaire* at <http://www.missingkids.com/en_US/publications/SpecialNeeds_Questionnaire.pdf> and the *Investigative Checklist for Law Enforcement When Responding to Children with Special Needs* available at <http://www.missingkids.com/en_US/publications/NC55.pdf>. [↑](#footnote-ref-101)
102. *Estimating a Child Sexual Abuse Prevalence Rate for Practitioners: A Review of Child Sexual Abuse Prevalence Studies*, Catherine Townsend (Darkness to Light) & Alyssa Rheingold (National Crime Victim Research and Treatment Center), August 2013, 21-22, available at <http://www.d2l.org/site/c.4dICIJOkGcISE/b.8756667/k.C204/Estimating_a_Child_Sexual_Abuse_Prevalence_Rate_for_Practitioners_A_Review_of_Child_Sexual_Abuse_Prevalence_Studies.htm> (last accessed July 1, 2014). [↑](#footnote-ref-102)
103. *See* *Advanced Child Abuse Investigation Manual*, Texas Municipal Police Association, 96. For a detailed listing of offense types, definitions and charts, *see id.* at 9-62. [↑](#footnote-ref-103)
104. Texas Penal Code Sec. 43.25(c). [↑](#footnote-ref-104)
105. Texas Penal Code Sec. 43.25(b). [↑](#footnote-ref-105)
106. Texas Penal Code Sec. 43.25(f). [↑](#footnote-ref-106)
107. Texas Penal Code Sec. 43.251(c). [↑](#footnote-ref-107)
108. Texas Penal Code Sec. 43.251(b). [↑](#footnote-ref-108)
109. *Common Questions*, Dru Sjodin National Sex Offender Public Website, available at <http://www.nsopw.gov/en-US/Education/CommonQuestions> (last accessed July 29, 2014) (“The child victim may be a boy or a girl; in most cases knows and trusts the abuser; may be an infant, toddler, preschooler, or school-aged child up to age 18.”). [↑](#footnote-ref-109)
110. *Common Questions*, Dru Sjodin National Sex Offender Public Website, available at <http://www.nsopw.gov/en-US/Education/CommonQuestions> (last accessed July 29, 2014). [↑](#footnote-ref-110)
111. Categories adapted from *Advanced Child Abuse Investigation Manual*, Texas Municipal Police Association, 89. [↑](#footnote-ref-111)
112. List adapted from the following sources:

     *Advanced Child Abuse Investigation Manual*, Texas Municipal Police Association, 81.

     *Common Questions*, Dru Sjodin National Sex Offender Public Website, available at <http://www.nsopw.gov/en-US/Education/CommonQuestions>

     Kenneth Lanning, *Child Molesters: A Behavioral Analysis for Professionals Investigating the Sexual Exploitation of Children*, 5th ed., NCMEC and OJJDP, 27-28, 2010. [↑](#footnote-ref-112)
113. Kenneth Lanning, *Child Molesters: A Behavioral Analysis for Professionals Investigating the Sexual Exploitation of Children*, 5th ed., NCMEC and OJJDP, 27-28, 2010, available at <http://www.missingkids.com/en_US/publications/NC70.pdf#page=11> (last accessed July 31, 2014). [↑](#footnote-ref-113)
114. List adapted from the following sources:

     *Advanced Child Abuse Investigation Manual*, Texas Municipal Police Association, 81-82;

     *Parents Presentation*, NetSmartz®, Slide 12, available at <http://www.netsmartz.org/Presentations/Parents> (last accessed June 1, 2014). [↑](#footnote-ref-114)
115. List adapted from *Advanced Child Abuse Investigation Manual*, Texas Municipal Police Association, 81. [↑](#footnote-ref-115)
116. Tresa Baldas, *Child Pornography Prosecutors: Victims are Getting Younger, Acts are More Vile*, Detroit Free Press (Jan. 31, 2011). [↑](#footnote-ref-116)
117. *Testimony of Michelle Collins  Before the U.S. Sentencing Commission*, National Center for Missing & Exploited Children (Feb. 15, 2012) available at <http://www.missingkids.com/Testimony/02-15-12> (noting that the percent total exceeds 100 due to series that included multiple types of acts). [↑](#footnote-ref-117)
118. *Id.*  [↑](#footnote-ref-118)
119. *See* *Testimony of Michelle Collins*. [↑](#footnote-ref-119)
120. *See* Texas Penal Code Sec. 20A.02. [↑](#footnote-ref-120)
121. Texas Penal Code Sec. 43.26(d). [↑](#footnote-ref-121)
122. Texas Penal Code Sec. 43.26(a). [↑](#footnote-ref-122)
123. Texas Penal Code Sec. 43.26(c). [↑](#footnote-ref-123)
124. *See* full text at 43.26(h). [↑](#footnote-ref-124)
125. Texas Penal Code Sec. 43.26(g). [↑](#footnote-ref-125)
126. Texas Penal Code Sec. 43.26(e). [↑](#footnote-ref-126)
127. Texas Penal Code Sec. 43.26(c). [↑](#footnote-ref-127)
128. Texas Penal Code Sec. 43.22(b). [↑](#footnote-ref-128)
129. Texas Penal Code Sec. 43.22(a) [↑](#footnote-ref-129)
130. *See also* <http://www.ca5.uscourts.gov/opinions%5Cpub%5C06/06-51067-CV0.wpd.pdf> for original decision. [↑](#footnote-ref-130)
131. Texas Penal Code Sec. 43.24(a)(1). [↑](#footnote-ref-131)
132. Texas Penal Code Sec. 43.24(a)(2). [↑](#footnote-ref-132)
133. Texas Penal Code Sec. 43.24(d). [↑](#footnote-ref-133)
134. Texas Penal Code Sec. 43.24(b). [↑](#footnote-ref-134)
135. Texas Penal Code Sec. 43.24(c). [↑](#footnote-ref-135)
136. Texas Penal Code Sec. 43.24(c-1). [↑](#footnote-ref-136)
137. Janis Wolak, et. al, *Child Pornography Possessors: Trends in Offender and Case Characteristics*, 23 J. Sex Abuse 22, 23-24 (Feb. 2011); Kimberly Mitchell, et. al, *Internet-Facilitated Commercial Sexual Exploitation of Children: Findings From a Nationally Representative Sample of Law Enforcement Agencies in the United States*, 23 J. Sex Abuse 43, 62 (March 2011). [↑](#footnote-ref-137)
138. Ethel Quayle & Max Taylor, *Model of problematic Internet use in people with a sexual interest in children*, CyberPsychology & Behavior, 6, 93-106, 2003. [↑](#footnote-ref-138)
139. *Child Sexual Exploitation*, National Center for Missing & Exploited Children, <http://www.missingkids.com/Exploitation> (last accessed August 1, 2014).

     The National Center for Missing & Exploited Children’s CyberTipline is the Congressionally authorized entity to receive reports of child sexual exploitation online. In a single week in 2013, NCMEC analysts reviewed more than 964,000 images and videos of child pornography. *Protecting Vulnerable Children: Preventing and Addressing Sex Trafficking of Youth in Foster Care, Testimony of John D. Ryan For the United States House of Representatives Committee on Ways and Means Subcommittee on Human Resources*, National Center for Missing & Exploited Children (October 23, 2013) available at <http://www.missingkids.com/Testimony/10-23-13>. [↑](#footnote-ref-139)
140. A peer-to-peer network allows users to share self-designated files and folders with everyone on the network or other selected users. See Definition of peer-to-peer network, PC Magazine, available at <http://www.pcmag.com/encyclopedia/term/49056/peer-to-peer-network> (last accessed July 31, 2014). See also Janis Wolak, et. al, *Measuring a year of child pornography trafficking by U.S. computers on a peer-to-peer network*, Child Abuse & Neglect (2013) available at <http://www.unh.edu/ccrc/pdf/Wolak_Liberatore_Levine_2013.pdf> (last accessed August 1, 2014). [↑](#footnote-ref-140)
141. Janis Wolak, et. al, *Measuring a year of child pornography trafficking by U.S. computers on a peer-to-peer network*, Child Abuse & Neglect, 4 (2013) available at <http://www.unh.edu/ccrc/pdf/Wolak_Liberatore_Levine_2013.pdf> (last accessed August 1, 2014). For an explanation of how hash values are used to track unique images, the authors state that, “RoundUp software recognizes known CP files based on cryptographic hash algorithms, or hash values, which are unique numeric identifiers generated by computer algorithms based on the content of digital files. Duplicate files will have the same hash value but a file that is even slightly different, for example a photograph that has been cropped or a video in which one frame has been edited, will have a different hash value.” [↑](#footnote-ref-141)
142. *Id.* at 5. [↑](#footnote-ref-142)
143. *Id.*  [↑](#footnote-ref-143)
144. According to data from the National Center for Missing & Exploited Children, of identified victims of child pornography as of December 2011, 79 percent were victimized by a known and trusted adult. In a breakdown of this figure:

     * 22 percent were exploited by a parent/guardian;
     * 10 percent were exploited by another relative; and

     47 percent were exploited by by a family friend.

     *Testimony of Michelle Collins*. [↑](#footnote-ref-144)
145. As the Congressionally mandated resource on online child pornography, the National Center for Missing & Exploited Children summarized the content of child pornography analyzed to identify victims:

     Of the identified victims whose images were frequently submitted by law enforcement, about half of the victims are boys (43%) and half are girls (57%). Seventy-six percent of these images depict the abuse of prepubescent children, of which 10% are infants and toddlers; and 24% depict pubescent children. To clarify, we use the term "prepubescent" to describe any child who does not show signs of sexual maturation. The term "pubescent" is used to describe children who show signs of sexual maturation – often these are middle or high school-age children.

     *-Testimony of Michelle Collins*. [↑](#footnote-ref-145)
146. *See id.* [↑](#footnote-ref-146)
147. *See Tables 4-5,* <http://www.ussc.gov/sites/default/files/pdf/research-and-publications/annual-reports-and-sourcebooks/2013/Table04.pdf> [↑](#footnote-ref-147)
148. *Demographics of Teen Internet Users*, Pew Research Center’s Internet & American Life Project, *Parent/Teen Digital Citizenship Survey* (July 2011) available at <http://www.pewinternet.org/Shared-Content/Data-Sets/2011/July-2011-Teens-and-Online-Behavior.aspx>. [↑](#footnote-ref-148)
149. *See* the first chart; image as published by Mary Madden, et. al, *Teens and Technology 2013*, Pew Research Center, 2, (March 13, 2013) available at <http://www.pewinternet.org/2013/03/13/teens-and-technology-2013/> (last accessed Aug. 1, 2014). [↑](#footnote-ref-149)
150. *See* the second chart; image as published by Amanda Lenhart, et. al, *Teens, Smartphones & Texting: Communication Choices*, Pew Research Center, 2, (March 19, 2012) available at <http://www.pewinternet.org/2012/03/19/communication-choices/> (last accessed Aug. 1, 2014). [↑](#footnote-ref-150)
151. Jeff R. Temple, et. al, *Teen Sexting* *and its association with sexual behaviors*, 166 J. Amer. Med. Assoc., Pediatrics, 828(Sept. 1, 2012). [↑](#footnote-ref-151)
152. *Id.* [↑](#footnote-ref-152)
153. Teen Presentation Video, Slides 26-27, NetSmartz® available at <http://www.netsmartz.org/Presentations> (last accessed June 1, 2014). [↑](#footnote-ref-153)
154. *Amanda Todd Bullying: Arrest Made in the Netherlands*, Huffington Post B.C., April 17, 2014, available at <http://www.huffingtonpost.ca/2014/04/17/amanda-todd-arrest-netherlands_n_5168784.html> (last accessed July 31, 2014). [↑](#footnote-ref-154)
155. For example, law enforcement a California man was indicted for sexually exploited young girls online, including middle school-age youth in El Paso. As the FBI’s press release stated:

     In June 2013, Caputo contacted a 12-year-old girl in El Paso, Texas, and threatened to distribute sexually explicit pictures of her 11-year-old friend unless she sent nude images of herself to Caputo. . . . Caputo’s cell phone contained hundreds of images of girls ages 11-15 undressing, nude, or engaging in sexually explicit conduct. Caputo then traded the images with other Internet users. To date, at least eight minor females have been identified, although law enforcement is attempting to confirm the identity of many other victims.

     *Kern County Man Charged with Sextortion of Minors Using Social Media*, Federal Bureau of Investigation (March 6, 2014) available at <http://www.fbi.gov/elpaso/press-releases/2014/kern-county-man-charged-with-sextortion-of-minors-using-social-media> (last accessed Aug. 1, 2014).

     *See also A Case of “Sextortion”: Cons Like ‘Bieber Ruse’ Targeted Minor Girls*, Federal Bureau of Investigation (Feb. 5, 2013) available at <http://www.fbi.gov/news/stories/2013/february/sextortion-cons-like-bieber-ruse-targeted-minor-girls> (last accessed on Aug. 1, 2014); *FBI Arrests Glendale Man in Sextortion Case: Defendant Allegedly Coerced Young Women to Expose Themselves on the Internet*, Federal Bureau of Investigation (Jan. 29, 2013) available at <http://www.fbi.gov/losangeles/press-releases/2013/fbi-arrests-glendale-man-in-sextortion-case> (last accessed Aug. 1, 2014). [↑](#footnote-ref-155)
156. *Ex Parte Lo,* 424 S.W.3d 10 (TX Ct. Crim. App. 2013). [↑](#footnote-ref-156)
157. *Id.* [↑](#footnote-ref-157)
158. Texas Penal Code Sec. 33.021(a)(1). [↑](#footnote-ref-158)
159. Texas Penal Code Sec. 33.021. [↑](#footnote-ref-159)
160. Texas Penal Code Sec. 33.021. (d) and (e). [↑](#footnote-ref-160)
161. Text directly quoted from *Frequently Asked Questions*, Texas DPS, available at <http://www.txdps.state.tx.us/administration/crime_records/pages/faq.htm#a1> (last accessed Aug. 1, 2014) (emphasis added). [↑](#footnote-ref-161)
162. *Frequently Asked Questions*, Texas DPS, available at <http://www.txdps.state.tx.us/administration/crime_records/pages/faq.htm#a1> (last accessed Aug. 1, 2014). [↑](#footnote-ref-162)
163. *See* Code of Crim. Proc. Ch. 62, available at <http://www.statutes.legis.state.tx.us/Docs/CR/htm/CR.62.htm> (last accessed July 31, 2014). [↑](#footnote-ref-163)
164. *Texas Offenses Tiered Under the Federal Adam Walsh Act* *(42 U.S.C. § 16911)*, April 2013, available at <https://records.txdps.state.tx.us/SexOffender/Registration%20periods%20SORP%20v%20SORNA%202-2013.pdf> (last accessed Aug. 1, 2014). [↑](#footnote-ref-164)
165. *Id.* [↑](#footnote-ref-165)
166. *See generally Texas Sex Offender Registration Program*, Texas DPS, available at <http://www.txdps.state.tx.us/administration/crime_records/pages/sexoffender.htm> (last accessed Aug. 1, 2014). [↑](#footnote-ref-166)
167. Historically, the DSM-5 has only included individuals with sexual interest of pre-pubescent children in the definitions related to pedophilic disorder. In the latest revision, the authors of the DSM-5 elected not to include a definition that would cover pubescent children as well. See Michael First, *DSM-5 and Paraphilic Disorders*, 42, J. Amer. Acad. Psychiatry & Law 191, Table 1, 192 (2014). [↑](#footnote-ref-167)
168. *See Diagnostic and statistical manual of mental disorders*, 5th ed., American Psychiatric Association (2013). [↑](#footnote-ref-168)
169. Hunter Stuart, *Not All Pedophiles Have Mental Disorder, American Psychiatric Association Says In New DSM*, Huffington Post (Nov. 1, 2013) available at <http://www.huffingtonpost.com/2013/11/01/dsm-pedophilia-mental-disorder-paraphilia_n_4184878.html> (last accessed June 1, 2014). Quoting the DSM-5, Stuart states that a mental condition would require:

     1. Feel personal distress about their interest, not merely distress resulting from society's disapproval; **or**
     2. Have a sexual desire or behavior that involves another person's psychological distress, injury, or death, or a desire for sexual behaviors involving unwilling persons or persons unable to give legal consent.

     [↑](#footnote-ref-169)
170. *See* Michael First, *DSM-5 and Paraphilic Disorders*, 42, J. Amer. Acad. Psychiatry & Law 191, Table 1, 194 (2014). [↑](#footnote-ref-170)
171. *Id.*  [↑](#footnote-ref-171)
172. Text in chart directly quoted from Kenneth Lanning, *Child Molesters: A Behavioral Analysis for Professionals Investigating the Sexual Exploitation of Children*, 5th ed., NCMEC and OJJDP, 33-35, 2010, available at <http://www.missingkids.com/en_US/publications/NC70.pdf#page=11> (last accessed June 1, 2014). [↑](#footnote-ref-172)
173. *Id.* at 35-37. [↑](#footnote-ref-173)
174. *Id.* at 37-39. [↑](#footnote-ref-174)
175. Data based on a national study with more than 100,000 checks run. *What You Need to Know About Background Screening*, *Appendix A: Child Safety Pilot Program*, 8, 15, Community Oriented Policing Services, U.S. Department of Justice (June 2013), available at <http://ric-zai-inc.com/Publications/cops-p260-pub.pdf> (last accessed July 31, 2014). [↑](#footnote-ref-175)
176. Joy Shelton, et. al, *Officers and Child-Sex Offenders: Operational Safety Considerations,* Federal Bureau of Investigation, May 2013, available at <http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/2013/May/officers-and-child-sex-offenders> (last accessed Aug. 1, 2014). *See also Operational Safety Considerations While Investigating Child Sexual Offenders: A Handbook for Law Enforcement*, Vol. I, Federal Bureau of Investigation (March 2012) available at <http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/2013/May/operational-safety-considerations-while-investigating.pdf> (last accessed Aug. 1, 2014). [↑](#footnote-ref-176)
177. *See* *What You Need to Know About Sex Offenders in Your Community,* 8-9, *Office of Community* Oriented Policing Services, U.S. Department of Justice (March 2012) available at <http://ric-zai-inc.com/Publications/cops-p220-pub.pdf> (last accessed Aug. 4, 2014). [↑](#footnote-ref-177)
178. *See id.* [↑](#footnote-ref-178)
179. *Child Sex Trafficking At-A-Glance*, Polaris Project, 3 available at <http://www.polarisproject.org/resources/resources-by-topic/sex-trafficking> (“Child victims can be isolated from friends and family and manipulated into believing that their only possible means of support is a pimp and his or her co-conspirators for all of life’s necessities. As a result, it is extremely difficult for a child victim of trafficking to extricate him or herself from a trafficking situation, and it may take repeated attempts to leave a situation.”). [↑](#footnote-ref-179)
180. *Commercial Sexual Exploitation of Children: A Fact Sheet*, NCMEC (CSEC Fact Sheet) available at <http://www.missingkids.com/en_US/documents/CCSE_Fact_Sheet.pdf> (“Often traffickers/pimps will create a seemingly loving and caring relationship with their victim in order to establish trust and allegiance. This manipulative relationship tries to ensure the youth will remain loyal to the exploiter even in the face of severe victimization. These relationships may begin online before progressing to a real-life encounter.”). [↑](#footnote-ref-180)
181. *Child Sex Trafficking At-A-Glance*, Polaris Project, 3, available at <http://www.polarisproject.org/resources/resources-by-topic/sex-trafficking> (stating that, “If the controller is a family member, it can be particularly difficult for the child to leave the situation or involve law enforcement due to shame, fear of repercussions within the family unit or fear of leaving, and emotional attachment to the family member.”). [↑](#footnote-ref-181)
182. *See, e.g*., Marisa Kashino, *You’re Pretty. You Could Make Some Money*, Washingtonian (June 10, 2013) available at <http://www.washingtonian.com/articles/people/youre-pretty-you-could-make-some-money/> (last accessed Aug. 4, 2014); *North Park Gang Members Indicted in Racketeering Conspiracy*, Federal Bureau of Investigation (Jan. 8, 2014) available at <http://www.fbi.gov/sandiego/press-releases/2014/north-park-gang-members-indicted-in-racketeering-conspiracy> (last accessed Aug. 4, 2014) (“[T]hey also used social media like Instagram, Facebook, YouTube, and Twitter to lure unwitting young girls into the lifestyle with rap videos and promises of a glamorous life.”). [↑](#footnote-ref-182)
183. *See* Texas Penal Code § 20A.02. [↑](#footnote-ref-183)
184. *Id.* [↑](#footnote-ref-184)
185. *See id.* [↑](#footnote-ref-185)
186. *Id.*  [↑](#footnote-ref-186)
187. *See* Texas Penal Code Sec. 20A.02(a)(8) stating that: “[A person commits an offense if the person knowingly:] (8) receives a benefit from participating in a venture that involves an activity described by Subdivision (7) or engages in sexual conduct with a child trafficked in the manner described in Subdivision (7).” [↑](#footnote-ref-187)
188. *See U.S. v. Phea*, [No. 12-51031](http://scholar.google.com/scholar?scidkt=2561137108017415779&as_sdt=2&hl=en) (5th Cir. June 13, 2014) (affirming conviction). [↑](#footnote-ref-188)
189. *See Greg Abbott's fugitive unit arrests man on human trafficking charges*, Examiner (Feb. 13, 2013) available at <http://www.examiner.com/article/greg-abbott-s-fugitive-unit-arrests-man-on-human-trafficking-charges> (last accessed Aug. 4, 2014). [↑](#footnote-ref-189)
190. *Commercial Sexual Exploitation of Children: A Fact Sheet*, NCMEC Fact Sheet (CSEC Fact Sheet) available at <http://www.missingkids.com/en_US/documents/CCSE_Fact_Sheet.pdf> (quoting *National Report on Domestic Minor Sex Trafficking: America’s Prostituted Children,* Shared Hope International, 30 (2009)). *See also* *Comparison Chart of Primary Sex Trafficking Networks in the U.S., Sex Trafficking Networks*, Polaris Project (column on Domestic Networks) (downloaded 2012) available at <http://www.polarisproject.org/resources/resources-by-topic/sex-trafficking>. [↑](#footnote-ref-190)
191. Shared Hope International defines “seasoning” as: “A combination of psychological manipulation, intimidation, gang rape, sodomy, beatings, deprivation of food or sleep, isolation from friends or family and other sources of support, and threatening or holding hostage of a victim’s children. Seasoning is designed to break down a victim’s resistance and ensure compliance.” *Glossary of Trafficking Terms*, Shared Hope International, available at <http://sharedhope.org/learn/traffickingterms/> (last accessed Aug. 4, 2014). [↑](#footnote-ref-191)
192. *See, e.g*., Bill Miller, *2 charged with sex-trafficking of child*, Fort Worth Star-Telegram (March 6, 2013) available at <http://www.star-telegram.com/2013/03/06/4663053/2-charged-with-sex-trafficking.html> (detailing a Fort Worth trafficking case in which a 15 year-old victim was forced into trafficking and giving alleged traffickers all the money from the acts). [↑](#footnote-ref-192)
193. *See, e.g.,* Bill Miller, *2 charged with sex-trafficking of child*, Fort Worth Star-Telegram (March 6, 2013) available at <http://www.star-telegram.com/2013/03/06/4663053/2-charged-with-sex-trafficking.html?rh=1> (last accessed Aug. 1, 2014); *Greg Abbott's fugitive unit arrests man on human trafficking charges*, Examiner (Feb. 13, 2013) available at <http://www.examiner.com/article/greg-abbott-s-fugitive-unit-arrests-man-on-human-trafficking-charges> (last accessed Aug. 4, 2014) (16 year-old runaway forced to turn over proceeds from more than 100 encounters). *See also* *Commercial Sexual Exploitation of Children: A Fact Sheet*, NCMEC Fact Sheet (CSEC Fact Sheet) available at <http://www.missingkids.com/en_US/documents/CCSE_Fact_Sheet.pdf> and quoting *Commercial Sexual Exploitation of Children in the U.S., Canada, and Mexico*, op. cit., n. 5, 60. [↑](#footnote-ref-193)
194. *HHS Fights to Stem Human Trafficking*, Fact Sheet, US DHHS (Aug. 15, 2006) available at <http://www.hhs.gov/news/factsheet/humantrafficking.html>; *Anti-Human Trafficking Task Force Initiative*, Overview, Bureau of Justice Assistance, US DOJ (accessed July 12, 2013) available at <https://www.bja.gov/ProgramDetails.aspx?Program_ID=51>. [↑](#footnote-ref-194)
195. *Texas Gang Threat Assessment*, Texas Department of Public Safety, 29-30 (April 2014) available at <http://www.txdps.state.tx.us/director_staff/media_and_communications/2014/txGangThreatAssessment.pdf> (last accessed Aug. 4, 2014) (stating that, “While many Tier 1 and Tier 2 gangs currently conduct human trafficking operations in Texas, we assess other Texas gangs have and will continue to operate in human trafficking due to the potential for large and renewable profits, and the assumed low risk of detection by law enforcement.”). [↑](#footnote-ref-195)
196. *Social Services Indicator Card*, NCMEC available at <http://www.missingkids.com/en_US/documents/Social_Services_Indicator_Card.pdf> and *Commercial Sexual Exploitation of Children: A Fact Sheet*, NCMEC Fact Sheet (CSEC Fact Sheet) available at <http://www.missingkids.com/en_US/documents/CCSE_Fact_Sheet.pdf>. [↑](#footnote-ref-196)
197. *Id.*  [↑](#footnote-ref-197)
198. *Id.* [↑](#footnote-ref-198)
199. *Glossary of Trafficking Terms*, Shared Hope International, available at <http://sharedhope.org/learn/traffickingterms/> (last accessed Aug. 4, 2014). [↑](#footnote-ref-199)
200. *See* *Protecting Vulnerable Children: Preventing and Addressing Sex Trafficking of Youth in Foster Care, Testimony of John D. Ryan For the United States House of Representatives Committee on Ways and Means Subcommittee on Human Resources*, National Center for Missing & Exploited Children (October 23, 2013) available at <http://www.missingkids.com/Testimony/10-23-13> (“They actively target runaways and then lure them into the sex trade using psychological manipulation, illegal drugs and violence. Any child may be vulnerable to someone who promises to meet their emotional or physical needs, but children with no permanent home are particularly vulnerable.”). [↑](#footnote-ref-200)
201. Rachel Lloyd, *Girls Like Us: Fighting for a World Where Girls Are Not for Sale, an Activist Finds Her Calling and Heals Herself* (New York: 2011). [↑](#footnote-ref-201)
202. Duren Banks & Tracey Kyckelhann, *Characteristics of Suspected Human Trafficking Incidents: 2008-2010*, US DOJ Bureau of Justice Statistics, 6, Table 6 (April 2011) available at <http://www.bjs.gov/content/pub/pdf/cshti0810.pdf> (sex trafficking was the overwhelming majority of documented cases, see Table 1, page 3). Cases analyzed originated from 18 task forces between January 2008-June 2010. The data showed that 82.1 percent of all human trafficking investigations were for sex trafficking and 40.4 percent of cases involved child victims (248 sex trafficking child victims, and 6 child victims for labor trafficking). 488 total sex trafficking suspects were categorized as follows:

     **Age of Sex Traffickers:** Under 18 (2.4 percent); 18-24 (35.4 percent); 24-35 (25.6 percent); Over 35 (15.9 percent); and Unknown (20.7 percent).

     **Gender:** Male (76.6 percent); Female (17.3 percent); and Unknown (6.1 percent).

     **Race:** White (5.4 percent); Black (53.4 percent); Hispanic (21.7 percent); Asian (4.4 percent); Other (1.2 percent); and Unknown (13.9 percent). [↑](#footnote-ref-202)
203. *See* *Texas Gang Threat Assessment*. [↑](#footnote-ref-203)
204. *See, e.g.*, *Motion by Supervisor Michael D. Antonovich: Establish a Sex Trafficking Task Force* (Nov. 27, 2012) available at <http://file.lacounty.gov/bos/supdocs/72846.pdf> (last accessed Aug. 4, 2014) (“Even more shocking is that pimps are using child sex workers to recruit fellow foster care children at the DCFS Emergency Response Command Post and group homes across the County. “); Marisa Kashino, *You’re Pretty. You Could Make Some Money*, Washingtonian (June 10, 2013) available at <http://www.washingtonian.com/articles/people/youre-pretty-you-could-make-some-money/>.

     The *You’re Pretty* story is a **Virginia Case Study** in which gang members utilized every available recruitment venue from public parks and places to private networks and social media. The message that, “You’re Pretty, you could make some money,” was sent out to at least 800 girls via social media by just one of the traffickers eventually arrested. *Id.* The case also demonstrates the difficultly of detecting victimization as some victims reportedly snuck out of their families homes during the night and returned in the morning before anyone noticed their departure. *Id.* [↑](#footnote-ref-204)
205. *See* Trafficker Phone Interview, Video Clip, Pamela Brown, *Gang sex trafficking, a growing trend in Northern Virginia*, ABC7 (Nov. 16, 2012) available at <http://www.wjla.com/articles/2012/11/gang-sex-trafficking-a-growing-trend-in-northern-virginia-82169.html> (last accessed Aug. 4, 2014). [↑](#footnote-ref-205)
206. *Domestic Sex Trafficking: The Criminal Operations of the American Pimp*, 6, Polaris Project available at <https://www.dcjs.virginia.gov/victims/humantrafficking/vs/documents/Domestic_Sex_Trafficking_Guide.pdf> (last accessed Aug. 4, 2014). I*ntroduction to Human Trafficking: A Guide to Criminal Justice Professionals*, 28-29, Texas Human Trafficking Prevention Task Force, Texas Office of the Attorney General (September 2013) available at <https://www.texasattorneygeneral.gov/files/agency/HT_CrimJust_GUIDE_2013.pdf> (last accessed Aug. 4, 2014). [↑](#footnote-ref-206)
207. I*ntroduction to Human Trafficking: A Guide to Criminal Justice Professionals*, Texas Human Trafficking Prevention Task Force, Texas Office of the Attorney General (September 2013) available at <https://www.texasattorneygeneral.gov/files/agency/HT_CrimJust_GUIDE_2013.pdf> (last accessed Aug. 4, 2014). [↑](#footnote-ref-207)
208. \* *Last accessed at* [*http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.43.htm*](http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.43.htm); <http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.20A.htm>; *and* [*http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.20.htm*](http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.20.htm) *respectively on July 31, 2014.* [↑](#footnote-ref-208)