

# INVESTIGATING AND PROSECUTING CSAM: THE CRIME THAT NEVER ENDS

Taylor Willis, Assistant District Attorney, Dallas County District Attorney's Office

Brandon Poor, Detective and Task Force Officer, Grand Prairie Police Department

**DATA AND STATISTICS:** The creation, distribution, and possession of Child Sexual Abuse Material (CSAM) is a unique form of child abuse and exploitation that allows the revictimization of survivors on a daily basis, by thousands of perpetrators. However, CSAM cases are often under-investigated, under-prosecuted, and under-punished.

---

---

---

**ROLE OF LAW ENFORCEMENT:** Investigation of CSAM cases occurs on different jurisdictional levels within the legal system. Investigators and prosecutors should understand the differences in expertise and functionality of law enforcement at each level, in order to appreciate the resources that are available.

---

---

---

***Initiating the Investigation:*** Investigation of CSAM cases often begins with a Cybertip, P2P Download, or other report. Determining proper jurisdiction requires review and collaboration between a number of agencies.

---

---

---

***Search Warrants and On-Scene Operations:*** Once a case is opened at the appropriate jurisdictional level, an investigator should take advantage of every opportunity to gather information on-scene and thorough forensic examination.

---

---

---

***The Importance of the Interview and Common Defenses:*** A defendant's own statements can be instrumental in establishing ownership, access and control, pattern of use, and intent. Investigators should be familiar with common excuses given by defendants who are confronted with evidence of CSAM possession and promotion.

---

---

---

**PREPARATION OF THE CASE AND EVIDENTIARY CONSIDERATIONS:** Acquiring and understanding digital forensic evidence is paramount to the successful investigation and prosecution of CSAM cases. Investigators and prosecutors should understand basic terminology, which forensic acquisition method is appropriate for the device or platform involved, and how that evidence can be used in moving forward with prosecution.

---

---

---

---

**OVERLAP OF CSAM AND HANDS-ON OFFENSES: DATA AND RESEARCH:** The investigator and prosecutor should be familiar with the intersection of CSAM and hands-on child sexual abuse cases, and the concept of CSAM cases as a smaller subset of the child sexual abuse dynamic.

---

---

---

---

**PROSECUTOR'S CHARGING DECISIONS:** The statutory elements for CSAM offenses vary from jurisdiction to jurisdiction; however, CSAM offenses often fall into three broad categories of criminal activity.

---

---

---

---

**CONSTITUTIONALITY CONSIDERATIONS:** Statutes criminalizing CSAM offenses continue to be challenged for constitutionality under several different theories. Prosecutors should remain aware of caselaw interpreting CSAM statutes on both local and federal levels.

---

---

---

---

**EVALUATING CASE STRENGTH:** Not every case will be perfect. Prosecutors should maintain perspective in evaluating the strength of a case by considering the evidence from a potential juror's point of view. Prosecutors should maintain open communication with investigators to fully understand the evidence in any particular case.

---

---

---

---

**VOIR DIRE CONSIDERATIONS:** Jury selection is critically important in CSAM cases. Prosecutors may encounter panelists who are unwilling to serve on a jury because of the horrific nature of the evidence that may be presented. Conversely, prosecutors should identify panelists who view possession or distribution of CSAM as a victimless crime. Questionnaires and hypotheticals are useful in addressing both concerns.

---

---

---

---

**EVIDENCE PRESENTATION:** Expert testimony in CSAM cases is highly technical, and prosecutors should consider using demonstratives during direct examination. Prosecutors must also carefully consider options on how, and whether, to publish CSAM evidence in front of a jury at trial.

---

---

---

---

**ARGUMENT:** Prosecutors should be prepared to address a number of common defense arguments at trial. In order to persuasively counter these defenses, prosecutors must fully understand the nuances of the digital forensic evidence involved in their case.

---

---

---

---

**PUNISHMENT EVIDENCE:** Prosecutors must be able to convey the lasting impact CSAM has on survivors.

---

---

---

---