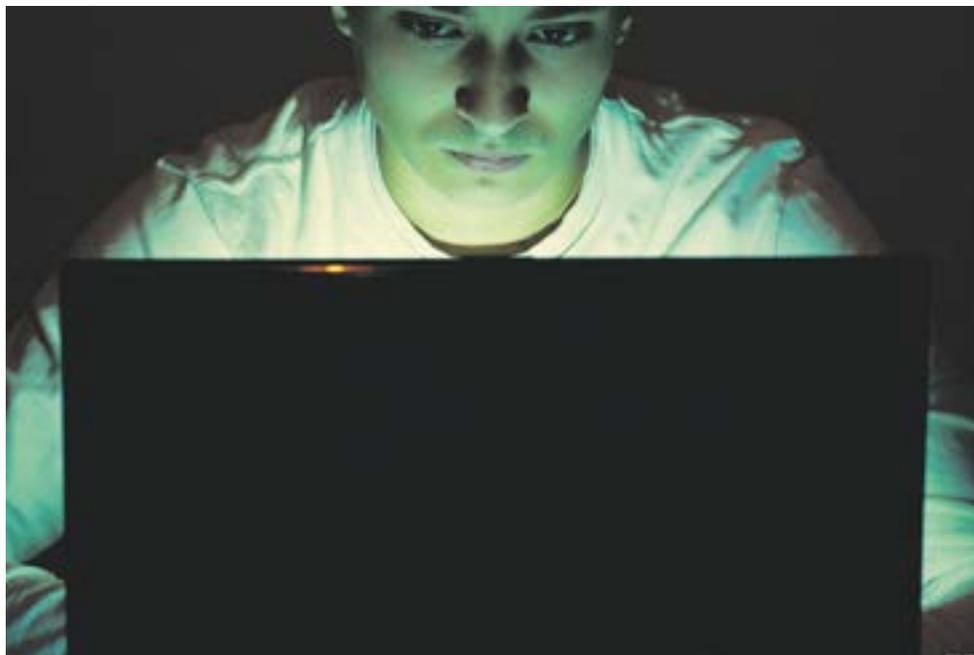


Child pornography: computer convictions

Anecdotal evidence tells us that over 90% of people accused of having child-porn on their computer will eventually plead guilty.

The accused can protest all they want - "it wasn't me guv, I know nothing about this". But the evidence of illegal images can be recovered from a computer's disc-drive even after a defendant tries to delete them. Court-proceedings under Sections 1 (1) (a) of the Protection of Children Act 1978 and Section 160 (1) of the Criminal Justice Act 1988 are settled by hard forensics. Those pleading guilty will face public odium, job-loss, marital-breakdown, homelessness and the removal of children. They may do time. Implications go beyond identifying paedophiles who indulge themselves on the internet. Take the proverbial step-father accused of sexual offences: it's her word against his. But if his computer is infested with child-pornography, the case acquires scientific foundations. Or so it seems.

Computer child-porn cases follow a familiar pattern. The indictment will have its expert-report attached, listing what images were found where on the accused's computer. When a defendant continues to protest his innocence, the defence lawyer instructs a defence expert. And, back comes the defence report - confirming the incriminating evidence is truly there. Underneath all the jargon, the issue is straightforward: it is no use saying something isn't there when it is. The client pleads - often continuing to insist to all-and-sundry he had



nothing to do with the illegal images.

On this conventional scenario, he may be right.

His guilt remains an open question. The defence report has merely confirmed that the images were present. But that is what we already knew. The defendant was charged because the images were there.

The conventional expert-dialogue (Prosecution: "we say these pictures are there" - Defence: "why yes, so they are!") adds little. The core issue is not addressed. Is the defendant guilty? The experts' traditional focus on fact rather than opinion (how did the images get there?) means that every key sentence in a technical report can stop short of the explanation.

Here's an easy place to start: a CP image found on a computer's disc-drive (fact) bears a different significance (opinion) depending on whether it is:

- computer in pursuance of a knowing request for child porn
- an unenlarged thumbnail that the defendant never saw on a website that the defendant never entered

Are the offending images just thumbnails - perhaps located off-screen, on lower rows of the same page as the adult image that the defendant actually wanted? How did the defendant get to that page? How did he get to that site? Was it because he clicked on an adult image on the page before - and, when the next page appeared, it came from a different site along with dozens of unrequested and unenlarged thumbnails - one of which was CP? How could the defendant know that would happen? Did he know it had happened? Did he enlarge any of the illegal images? Is an unenlarged thumbnail a picture that the viewer does not want to see (if he did, he'd enlarge it)? And, what is "downloaded" when a user goes online to view adult porn? Is it just the pictures saved by a deliberate click on "save"? Or, the pictures clicked for enlargement? Or, is every tiny image alongside, in the rows above and below, stored automatically?

CG LAW
SOLICITORS

61 Birkenhead Street,
London WC1H 8BB
020 7843 4344

enquiries@cg-law.co.uk www.cg-law.co.uk

CG Law Solicitors is a London based firm of criminal defence lawyers and can assist in all defence cases regardless of where the court may be. We specialise in the following types of offences:

- Murder • Serious Drug Cases • Cannabis Cultivation
- Fraud Charges • Money Laundering • Confiscation Matters

Clients can be represented at the Magistrates or the Crown Courts and a team of lawyers are available to undertake representation on all types of criminal cases. They can also advise on matters of :

Appeals against a Conviction and/or Sentence

When representing you, you can be assured of the very best attention at all times and commitment to achieve the desired outcome.

Only the best barristers are employed to assist and represent you.

We will not turn our back on you, you will not be alone.

Please write to us at the above address.



Kendi dilinizde davanizin hazirlanmasini istiyorsaniz bizi arayin veya bize mektup gonderin gelip sizi gorelim, sizi dinleyelim, size yardim edelim cunku bizimle yalnız olduğunuzu unutacaksınız. Turk vatandaslari cezani Turkiyede tamamlamak istiyorsaniz bizi arayin size yardımcı olalım.



Nese ju duhet ndihma yne ne gjuhen tuaj na kontaktoni.

penrose

Getting your life back on track
after you leave prison isn't easy.
We understand.

Are you residing or being released in London?

Our service will support you with:

- Benefits and Housing advice • Getting identification documents •
- GP registration • Mental health advice • Drug and Alcohol advice •
- Employment and training advice •

We will help you develop a plan for positive change



If you are being released in London,
contact the Offender Advice Line
0800 085 4869



If you are being released in the South
London area, visit our resource centre for
One to One Support



100 - 114 Loampit Vale,
London SE13 7SN
solutions@penrose.org.uk

Penrose
Solutions
www.penrose.org.uk

A defence lawyer who does not know what evidence his client faces can hardly write proper instructions for a defence expert. Two years back, we reached this impasse. Our client was the proverbial stepfather. His accuser's verbal evidence was flakey: the "disclosure" came out in Drama Class after her teacher told pupils to pair off and devise attention-grabbing scenarios. A more serious hurdle was the 2,613 unambiguous images of child-porn on his computer.

Our client accessed adult pornography several times a week on the internet.

A visit to the expert's CP "laboratory" clarified within seconds that the images charged were, without exception, unenlarged thumbnails. The roll-up count of 2,613 images was created by stripping these unwanted thumbnails from the myriad different webpages on which they originally featured to make a single consolidated mass (there were 22 other charges).

It transpired we were the first lawyers since "the year before last" to come and see the evidence on-screen. This particular computer-lab processed a couple of hundred cases a year: in their guilty-plea cases, neither the defence solicitors, nor the defence barrister - nor the prosecution's - nor the judge, nor the jury, nor the defendant, saw the evidence.

When we said to our experts, "These are just thumbnails", they were puzzled: what were "thumbnails?" From their perspective, images were already perfectly designated - e.g., as "96AB76764EB669A987B2 4D9672CDB5E9.jpeg - full path 55064 CSL M-1504 -11 6.14IJW-HI C4P" (etc). The concept of an "unenlarged" thumbnail was another novelty - how did that work? There was no professional familiarity with unrequested

"redirections" from one site to another - or with Unrequested Picture Z supplied in place of the Requested Picture A. The idea that mainstream sites might be contaminated by an element of CP, or lead off to CP, was considered esoteric.

It turned out that forensic computer experts were bound by their remit: neither to seek out child porn, nor put themselves in harm's way, by engaging in activities that might result in viewing child porn.

Our experts (on internet pornography) were frank in admitting that they had not and would not view pornography on the internet. It was too dangerous.

The limitations were graphically illustrated on the day we spotted the mainstream adult site YouPorn flying a CP image among the thumbnails on its front-page. Our experts said this could not be verified: to look would criminalise them. Nor could they confirm that viewers of adult porn were flipped from site to site. "Redirection chains" and "click-trading" were unheard of. There was no discernible grasp of the dizzying arithmetic. The first click on an adult site (in the first second of a one-hour "porn session") can produce a 200-image page crammed with thumbnails, many off-screen. Click Two may summon another 200 images. By Click Three (in the first ten seconds of the session) there may already be 600 images on the disc-drive: only a fraction of them seen and only two selected, if that. The viewer might already be on a different site without knowing it.

CP investigations run on a production-line basis. The police use specialised programs to examine every part of the suspect's computer and extract everything that is, or was, or could

be an image or video. This is an automatic process: it runs without human intervention and it prepares an automatic report.

What counts as a downloaded "image" is every front-page, and every other page, and every individual image on every one of those pages - including every unenlarged thumbnail, and every graphic, and every advertisement, and every border-decoration - clicked or no, wanted or no, enlarged or no, requested or no, visible or no, seen or no, down to 1cm x 1cm - from sites the viewer did not enter, sites he was redirected to, whether he knew what would be there or not, sites he deleted the moment they appeared - and any other source. Software programs can attempt to sort images by content but they cannot assess these other factors.

In short, our client might be innocent as charged - provided the relevant considerations featured in our expert's report. But no: on receipt, our experts' report merely reconfirmed that the illegal images were there. Despite repeated promptings, redrafts came back in the same form. Almost our first question, at our first conference, was, "Can a picture get onto a disc-drive without first being visible on screen?" The answer was a repeated negative. Advice from every source outside the CP industry was the reverse. In due course we parted company with our experts. Finding a replacement was not easy. There is a connection between prosecution experts and defence experts. They tend to be police-trained, working down tick-box tramlines.

An independent expert was eventually located. We have now successfully defended four consecutive cases. There is a new pattern: first, the prosecution report, then the defence

expert's reply contending that the images were neither made nor possessed. Then, after a rethink, the prosecution amends the indictment. These new charges too are eroded or defeated at or before trial. Cases are immensely time-consuming. The arguments surrounding each count involve higher metaphysics.

Paedophiles scouring the net for repulsive images are caught in this net - as are ordinary blokes with no sexual interest whatever in children. Court of Appeal case-law is all about deviants refining their searches to reach the material they want. Practical experience is the reverse: - punters inundated in cascades of material they do not want.

The concept of "making" images dates back to before the internet. It was thought better to criminalise "making" an illegal photo rather than "taking" one - to prevent the creation of CP images by sellotaping two pictures together. As our last hearing (about the finer points of a 1 a.m. adult porn-session two years back) lumbered into a second week, displacing a trial about a woman whose skull was fractured in a convenience-store raid, we wondered if everything was absolutely 'comme il faut' (as it should be).

Chris Saltrese Solicitors
mail@chrissaltrese.co.uk

Inside Justice, part of Inside Time, is funded by charitable donations from the Esmee Fairbairn Foundation, Newsum Charitable Trust, Inside Time and the Roddick Foundation.
Website: www.insidejusticeuk.com
Facebook: [insidejusticeUK](https://www.facebook.com/insidejusticeUK)
Twitter: [@insidejusticeUK](https://twitter.com/insidejusticeUK)

Shearman Bowen & Co Solicitors

CONFISCATION SPECIALISTS

In the past year we have acted in more than 20 cases where the prosecution sought confiscation orders of £1m+. In all of the concluded cases we succeeded in obtaining a significant reduction in the final sum ordered to be paid. We also persuaded the Court of Appeal to quash a £1m order and substitute an order for less than £300.

CONFISCATION CASES CAN BE FOUGHT AND CAN BE WON

- WE KNOW THE LAW
- WE WORK HARD
- WE GET RESULTS

We deal with all aspects of POCA, the CJA and the DTA, including, Restraint Orders, Applications to Vary and Certificates of Inadequacy.

We also specialise in serious fraud and serious crime and are 'ranked' for both types of work in Chambers Guide and the Legal 500.

WRITE TO RICK SHEARMAN OR MARK BOWEN
SHEARMAN BOWEN & CO
37-41 Bedford Row London WC1R 4JH
tel. 020 7025 4450
info@shearmanbowen.co.uk
www.shearmanbowen.co.uk

Have you ever served in the Armed Forces? Do you or your partner need help?

If the answer is yes, you may be eligible for advice and support from The Royal British Legion and SSAFA - two charities assisting the Service and ex-Service community, working together to reach all those eligible for assistance.

Whether you are still serving your sentence or are due for release, we may be able to provide support to you and your family.

Regretfully we cannot make cash grants.
Nor can we offer legal or appeals advice.

If you would like further information, or a visit from one of our caseworkers to talk about the support that is available please write to:

TRBL / SSAFA
(Ref Inside Time)
Freeport SW1345,
199 Borough High Street
London SE1 1AA



Or tell your partner to telephone
The Royal British Legion Contact Centre on
0808 802 8080 (Mon - Sun 8am - 8 pm)
or SSAFA on 0207 403 8783 or they can log on to
www.britishlegion.org.uk or www.ssafa.org.uk