

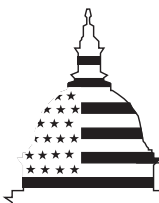
GAO

Report to the Ranking Minority
Member, Committee on Government
Reform, House of Representatives

November 2002

COMBATING CHILD PORNOGRAPHY

Federal Agencies
Coordinate Law
Enforcement Efforts,
but an Opportunity
Exists for Further
Enhancement



G A O

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Highlights of [GAO-03-272](#), a report to the Ranking Minority Member, Committee on Government Reform, House of Representatives

Why GAO Did This Study

The trafficking of child pornography through increasingly sophisticated electronic media, including Internet chat rooms, newsgroups, and peer-to-peer networks, has made such images more readily accessible. These technological advances have created more challenges for law enforcement, including requiring effective coordination to combat this crime. The federal law enforcement agencies that play a role in investigating child pornography are the FBI, Customs, Postal Inspection Service, and Secret Service.

This report provides information on the coordination of federal efforts to combat child pornography. Specifically, it (1) identifies mechanisms federal agencies have in place to combat child pornography and (2) provides information on an opportunity to further enhance coordination among federal law enforcement agencies.

What GAO Recommends

To further enhance coordination of key law enforcement agencies' efforts to combat child pornography, GAO recommends that the Attorney General include the Postal Inspection Service and Secret Service, as well as the FBI and Customs as agencies designated to receive direct access to child pornography tips reported to NCMEC by remote computing or electronic communication service providers.

www.gao.gov/cgi-bin/getrpt?GAO-03-272.

To view the full report, including the scope and methodology, click on the link above. For more information, contact Laurie Ekstrand on (202) 512-8777 or ekstrandL@gao.gov.

COMBATING CHILD PORNOGRAPHY

Federal Agencies Coordinate Law Enforcement Efforts, but an Opportunity Exists for Further Enhancement

What GAO Found

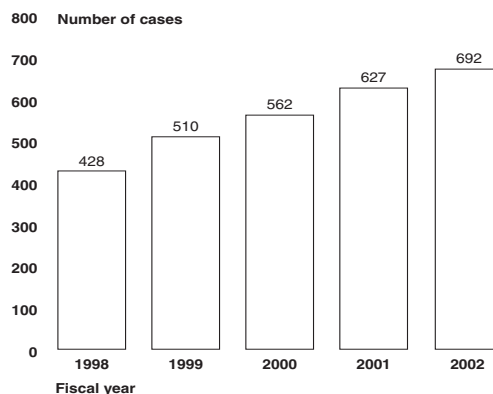
Federal agencies responsible for combating child pornography have various coordination mechanisms in place for combating this crime. These coordinated efforts have contributed to increases in the number of federal child pornography cases prosecuted over the past 5 years. Federal coordination mechanisms to combat child pornography include

- monthly meetings of officials from key federal law enforcement agencies,
- Justice attorneys' efforts to coordinate and consolidate prosecution of cases,
- multiple federal task forces to coordinate services and investigative activities,
- national program for sharing images of exploited children among law enforcement agencies, and
- National Center for Missing and Exploited Children (NCMEC) provides child pornography tips to designated law enforcement agencies.

Although law enforcement officials and leading communication service providers generally view current coordination mechanisms as effective, an opportunity exists to further enhance information sharing. Remote computing and electronic communication service providers are mandated under the Protection of Children from Sexual Predators Act of 1998 to report all instances of child pornography to NCMEC. Currently, FBI and Customs have direct access to these child pornography-related tips reported to NCMEC by communication service providers. Despite their role in combating child pornography, the Postal Inspection Service and the Secret Service lack direct access to these reports.

Representatives from the Customs Service, Postal Inspection Service, and Secret Service reviewed a draft of this report and concurred with the information presented in the report. However, Justice in its official comments believed that GAO's recommendation for more tip sharing was unnecessary, but agreed to continue to study the issue.

Federal Child Pornography Cases Prosecuted by Fiscal Year



Source: Department of Justice.

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Abbreviations

FBI	Federal Bureau of Investigation
CEOS	Child Exploitation and Obscenity Section
DOJ	Department of Justice
ECU	Exploited Child Unit
EOUSA	Executive Office for United States Attorneys
ICAC	Internet Crimes Against Children
NCMEC	National Center for Missing and Exploited Children
OJJDP	Office of Juvenile Justice and Delinquency Prevention
USAO	United States Attorneys Office



United States General Accounting Office
Washington, DC 20548

November 29, 2002

The Honorable Henry A. Waxman
Ranking Minority Member
Committee on Government Reform
House of Representatives

Dear Mr. Waxman:

The Internet, while changing the way our society communicates, has also changed the nature of many crimes, including child pornography. Child pornography, as defined by the Supreme Court, is material “that *visually* depict[s] sexual conduct by children below a specified age.”¹ The trafficking of child pornography through increasingly sophisticated electronic media, including Internet chat rooms, newsgroups, and peer-to-peer networks,² has made these images more readily accessible. Multiple federal agencies play roles in combating child pornography, many of them as a part of an overall effort to combat child exploitation in general.³ Additionally, state and local law enforcement agencies may also have jurisdiction over certain child exploitation cases and may work collaboratively with federal agencies to combat child pornography. While technology has created more challenges for law enforcement, it also requires federal agencies to coordinate efforts to work well together in identifying crimes, targeting suspects, investigating cases, and gathering evidence.

This report responds to your request that we assess the coordination of federal efforts to combat child pornography. As agreed with your office,

¹See *New York v. Ferber*, 458 U.S. 747, 764 (1982) (emphasis in original). The age is under 18 years old for federal child pornography statutes, which are codified at 18 U.S.C. 2251 to 2260.

²These networks allow users to share material by transmitting data directly from computer to computer rather than through a central server. Additional information regarding the ease of access to child pornography on peer-to-peer networks, the risk of inadvertent exposure of juvenile users of peer-to-peer networks to child pornography, and the extent of federal law enforcement resources available for combating child pornography on peer-to-peer networks will be forthcoming in a GAO report to be issued in early 2003.

³Child exploitation includes activities such as child molestation, child prostitution, and online enticement of children for sexual acts, in addition to child pornography.

our objectives for this report were to (1) identify mechanisms federal agencies have in place to coordinate their efforts to combat child pornography and (2) determine whether opportunities exist to enhance coordination among federal law enforcement agencies. To achieve these objectives, among other things, we (1) interviewed appropriate officials from federal agencies involved in combating child pornography; the private sector, including a nonprofit organization; and leading electronic communications companies; (2) collected budgetary, resource allocation, and caseload data from each of the key federal agencies involved in combating child pornography; and (3) reviewed child pornography cases involving multiple federal agencies. We limited our scope to the domestic efforts of key federal law enforcement agencies involved in combating child pornography. We do not address coordination of federal agencies with state and local efforts. For additional detail on our objectives, scope, and methodology, see appendix I.

Results in Brief

Federal agencies have various mechanisms in place to coordinate their efforts to combat child pornography. These include, (1) monthly meetings of officials from key federal agencies involved in combating child pornography; (2) the sharing of expertise among federal prosecutors and the consolidation of federal investigative efforts; (3) task forces to coordinate federal investigative activities; (4) a national program to facilitate the sharing of images of exploited children among federal agencies working to combat child pornography; and (5) the federally sponsored National Center for Missing and Exploited Children (NCMEC) that, among other things, serves as a mechanism to coordinate child pornography tips among federal law enforcement agencies.

Although these coordination efforts are working well, some improvements to information sharing can be made. Agency officials we interviewed involved in combating child pornography view federal coordination efforts to combat this crime as effective. Specifically, the federal law enforcement agencies with primary jurisdiction in the area of child pornography (Department of Justice (DOJ), Federal Bureau of Investigation (FBI), U.S. Customs Service, and the U.S. Postal Inspection Service) generally view their current coordination mechanisms as effective.⁴ In addition,

⁴The Secret Service does not have a primary investigative role and describes their activities in this area as providing technical expertise and forensic support on an “as needed” basis. The Secret Service defers to those agencies with primary jurisdiction in the area of child pornography to answer the question of effectiveness of coordination mechanisms.

three of the leading electronic communications service providers, including two of the largest Internet service providers, report no significant problems with the coordination of federal law enforcement efforts. These entities report that it has been rare that they receive duplicate subpoenas from the federal law enforcement community relating to the same investigation. However, an opportunity exists to improve information sharing that could further enhance federal coordination efforts. Not all relevant federal agencies have direct access to child pornography-related tips reported to NCMEC by remote computing service and electronic communication service providers⁵ under the Protection of Children from Sexual Predators Act of 1998. To obtain direct access, the agency must be designated by the Attorney General.

We make a recommendation in this report regarding the designation of additional federal agencies to receive direct access to child pornography tips reported to NCMEC by remote computing service and electronic communication service providers

We provided a draft of this report to the Attorney General, Secretary of the Treasury, and the Chief of the Postal Inspection Service for comment. Officials from the Customs Service, U.S. Postal Inspection Service, and Secret Service generally agreed with the report's findings and supported our recommendation. The Department of Justice, while agreeing with our finding that federal agencies have mechanisms in place to coordinate their efforts, did not fully support our conclusion and recommendation that providing the Postal Inspection Service and Secret Service direct access to tips reported to NCMEC by remote computing service and electronic communication service providers would further enhance federal coordination efforts. DOJ commented that FBI and Customs, the agencies that currently have direct access, can and do share these tips with Secret Service and Postal Inspection Service, as appropriate, and DOJ believes that this coordination has been effective. However, DOJ is studying this issue as it finalizes regulations implementing the statute. DOJ also commented that our report does not address the impact that current statutory restrictions have on the sharing of these tips with state and local Internet Crimes Against Children (ICAC) task forces.

⁵These remote computing service and electronic communication service providers would include major Internet service providers, such as America Online and Microsoft, as well as major Web sites such as Yahoo.

We recognize that, although the Postal Inspection Service and Secret Service have not been designated to receive tips reported by remote computing service and electronic communication service providers directly from NCMEC, they may receive tips from a designated agency if a government attorney makes a determination under the statute that it is necessary to grant access to assist the attorney in enforcing federal criminal law. Although DOJ questions whether the Postal Inspection Service and Secret Service, therefore, need direct access, we fail to see how such indirect access fully facilitates law enforcement efforts. Because we believe that the Postal Inspection Service and Secret Service, which continue to be actively involved in child pornography investigations, should have direct access to such tips to better enable them to (1) pursue leads or coordinate efforts with other law enforcement agencies that may require their expertise and (2) avoid possible duplication, we did not modify or delete our recommendation. Concerning DOJ's suggestion that we address the impact of a statutory restriction that prohibits sharing tips with state and local ICAC task forces absent a court order, it should be pointed out that a review of the quality or enhancement of federal-to-state law enforcement coordination efforts was outside the scope of our review. The scope of our objectives was limited to a review of federal-to-federal law enforcement agencies' coordination mechanisms.

Background

As shown in table 1, several federal law enforcement agencies are involved in the U.S. efforts to combat child pornography. These agencies have specific units devoted to combating child exploitation, of which child pornography is a part.

Table 1: Federal Agencies Involved in Combating Child Pornography

Department	Unit	Law enforcement effort
DOJ	FBI ^a	Proactively investigates crimes against children. Crimes Against Children Unit coordinators are in each of the 56 field offices. Also has a national “Innocent Images Initiative” to combat Internet-related sexual exploitation of children.
	Child Exploitation and Obscenity Section	A specialized group of attorneys within DOJ who, among other things, prosecute those who possess, manufacture, or distribute child pornography and provide prosecutorial guidance to other law enforcement agencies.
	United States Attorneys Offices	Ninety-four United States Attorneys Offices can prosecute federal child exploitation-related cases.
	Office of Juvenile Justice and Delinquency Prevention	Funds the Internet Crimes Against Children Task Force Program that encourages multi-jurisdictional and multi-agency responses to crimes against children involving the Internet.
Treasury	U.S. Customs Service CyberSmuggling Center ^a	Focuses Customs’ resources on Internet-related crimes, including child sexual exploitation.
	U.S. Secret Service ^a	Provides forensic and technical assistance in matters involving missing and sexually exploited children.
U.S. Postal Service	Postal Inspection Service ^a	Investigates all child pornography and child sexual exploitation cases that involve U.S. mail, as well as Internet-related offenses in cases where there is a mail nexus.

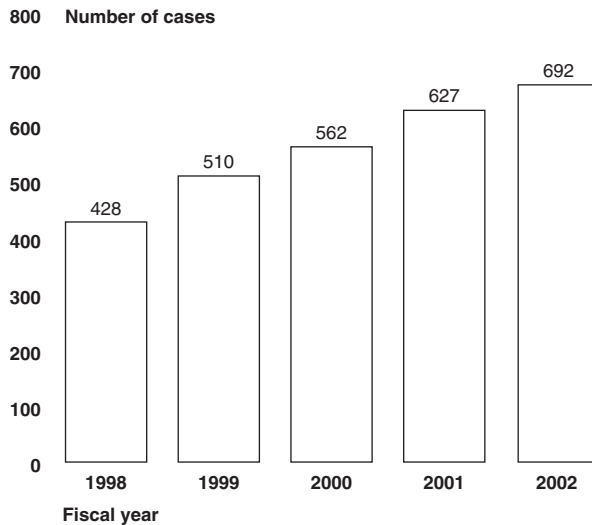
^aAgency has staff resources assigned to NCMEC.

Source: GAO.

Appendix II provides additional details on the mission, role, and level of resources of these agencies.

As shown in figure 1, the number of federal child pornography cases prosecuted has continued to increase over the past 5 years.

Figure 1: Federal Child Pornography Cases Prosecuted by Fiscal Year



Source: Department of Justice.

Note: Fiscal year 2002 figures as of September 2002.

Appendix III provides additional information on the caseload of key federal law enforcement agencies involved in efforts to combat this crime.

Mechanisms in Place Have Coordinated Federal Efforts

Federal agencies have mechanisms in place to coordinate their law enforcement efforts to combat child pornography. These mechanisms include (1) regularly scheduled monthly meetings among key officials for the purpose of sharing current information and expertise; (2) the sharing of expertise among federal prosecutors and the consolidation of federal investigative efforts; (3) task forces to coordinate federal investigative activities; (4) a national program to facilitate the sharing of information and images among agencies for the purpose of investigation and prosecution; and (5) NCMEC, a federally funded, nonprofit organization.

Monthly Coordination Meetings

Officials from the respective child exploitation units of the FBI, the Child Exploitation and Obscenity Section (CEOS), Customs Service, and U.S. Postal Inspection Service, hold monthly meetings to share information and

expertise on their efforts to combat child pornography.⁶ The focus of these meetings usually involves general trends and issues related to child exploitation and law enforcement strategies. Specific investigations of mutual interest or those that require extensive coordination among agencies, including efforts of multiagency federal task forces, may also be discussed.

Justice Attorneys Coordinate and Consolidate Prosecution of Cases

Attorneys from CEOS and the various USAOs facilitate the coordination of investigations by multiple federal law enforcement agencies in multiple districts. The U.S. Attorneys' Manual, among other things, outlines DOJ's policy on coordination between CEOS and USAOs in multidistrict investigations and prosecution of cases involving child pornography, child sexual abuse, and child exploitation and obscenity.⁷ For example, in one large child pornography case that involved suspects from multiple jurisdictions in the United States and abroad, CEOS attorneys provided guidance to ensure that subpoenas and search warrant affidavits were legally sound and executed by multiple agencies in a coordinated fashion. CEOS attorneys also coordinated the prosecution of multiple defendants in the case, taking the lead on some and referring others to various prosecutors across the country.

Multiagency Federal Task Forces

Multiagency task forces are also in place to coordinate investigative activities among federal agencies as well as with state and local law enforcement officials. The Federal Agency Task Force for Missing and Exploited Children and the Internet Crimes Against Children Program are examples of multiagency task forces with federal agency involvement.

The Federal Agency Task Force for Missing and Exploited Children includes representatives from 16 federal agencies and NCMEC. Officials participating in this task force coordinate their activities on cases involving missing and exploited children and provide a consolidated resource guide that identifies federal resources and provides information

⁶At the time of our review, the Secret Service was not attending monthly child pornography coordination meetings. As previously noted, the Secret Service does not have a primary investigative role and described its activities in this area as providing technical expertise and forensic support on an "as needed" basis.

⁷See U.S. Attorneys' Manual, sec. 9-75.030, 9-75.100, 9-75.110.

on technical assistance and support, and services related to child exploitation, including child pornography.

Table 2 shows the federal agencies involved in this effort.

Table 2: Agencies Participating in the Federal Agency Task Force for Missing and Exploited Children

Department	Agency
Department of Defense	Family Advocacy Program Legal Assistance Offices
Department of Education	Office of Elementary and Secondary Education/Safe and Drug-Free School Program
Department of Health and Human Services	Family and Youth Services Bureau National Center on Child Abuse and Neglect
Department of Justice	Child Exploitation and Obscenity Section Executive Office for U.S. Attorneys Federal Bureau of Investigation Office for Victims of Crime OJJDP's Prevention/Child Protection Division Immigration and Naturalization Service U.S. National Central Bureau
Department of State	Office of Children's Issues
Department of Treasury	Customs Service Secret Service's Forensic Services Division
Postal Service	Postal Inspection Service

Source: Federal Agency Task Force for Missing and Exploited Children.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) provides funding for the ICAC Program, which coordinates federal and regional responses to Internet crimes against children. This program is designed to enhance the national response by developing a state and local law enforcement network composed of regional task forces, each with a federal law enforcement presence. For example, the successful conclusion to one 2-year investigation was announced in August 2001. Thirty ICACs throughout the United States partnered with Postal Inspectors in an undercover operation aimed at eliminating child pornography through the mail and via the Internet. Searches were conducted in 37 states and resulted in 130 arrests for trafficking in child pornography. Currently, there are 30 ICAC task forces nationwide, with an additional 6 planned.

Victim Identification Program

To facilitate more effective coordination of federal, state, and local investigation and prosecution of child pornography cases, federal law

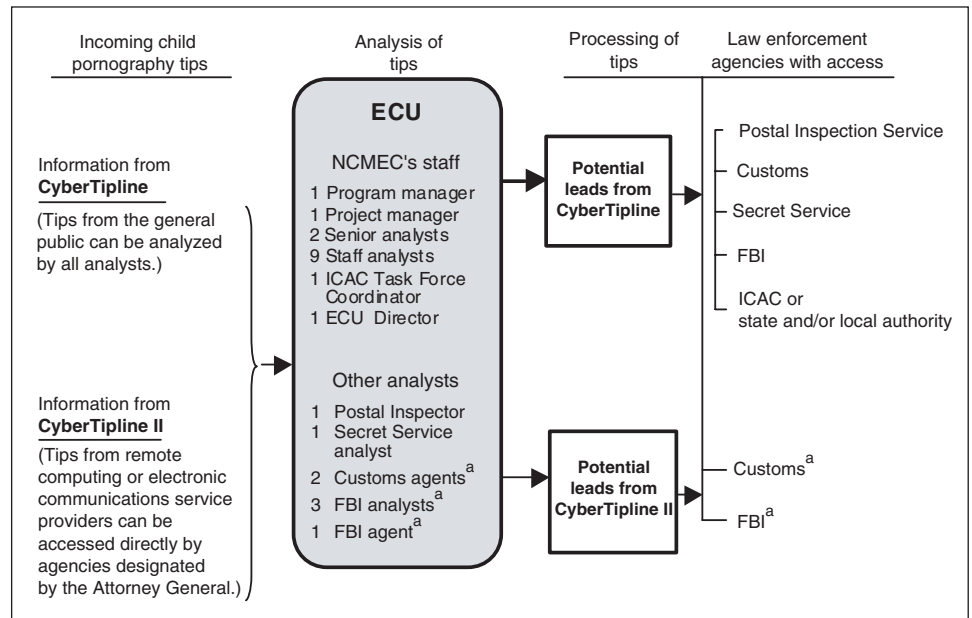
enforcement agencies have developed a national program that allows law enforcement officials to share information on images of child victims. This includes new images from child pornography traffic uncovered amongst the various law enforcement agencies that may identify a child victim. The program permits law enforcement officials to search stored images to determine if an image found during the course of an investigation is that of an actual child whose image has been used in previous cases.⁸ The sharing of these images helps law enforcement agencies better utilize resources, coordinate their efforts, and aid in criminal prosecutions, according to federal law enforcement officials. The Victim Identification Program is also intended to aid law enforcement agencies in their efforts to find and save a child depicted in the images.

National Center for Missing and Exploited Children

NCMEC, a federally funded, nonprofit organization, serves as a national resource center for information related to crimes against children. Its mission is to find missing children and prevent child victimization. NCMEC's Exploited Child Unit (ECU) provides technical assistance and services to enable federal, state, local, and international law enforcement agencies to effectively coordinate child pornography investigations. Analysts in this unit investigate and process tips provided by the public and electronic communications service providers to determine if the material constitutes a violation of law. This information is then made available to designated federal law enforcement agencies for follow-up. Figure 2 shows the makeup of NCMEC's ECU and the presence of multiple federal law enforcement agencies. Appendix II provides additional detail on NCMEC.

⁸In *Ashcroft v. Free Speech Coalition*, 535 U.S. 234 (2002), the Supreme Court declared certain provisions of the Child Pornography Prevention Act unconstitutional to the extent that they defined child pornography by reference to images that appear to depict, or convey the impression that they depict, minors. See 18 U.S.C. 2256(8)(B),(D). As a result of this ruling, the government has an affirmative burden to prove, as an element of its case, that the images were produced using real children. According to DOJ, where a defendant claims that technology currently exists to create computer-generated images that appear to depict real children, it is more challenging for the government to meet its burden of proof. DOJ states that one manner of meeting that burden is to identify the child depicted in the image, which may be facilitated through the Victim Identification Program.

Figure 2: NCMEC's Exploited Child Unit



Source: GAO-generated based on information provided by NCMEC, DOJ, Customs Service, Secret Service, and Postal Service.

^aIn May 1999, the Office of the Attorney General published a proposed rule that designated the FBI and the U.S. Customs Service as the law enforcement agencies that are to receive reports under the Protection of Children from Sexual Predators Act. 64 Fed. Reg. 28422, 28424 (1999). The proposed rule has not been finalized.

Opportunity Exists to Further Enhance Coordination

Officials from key federal agencies that we interviewed said that they see no significant impediments to federal coordination of efforts to combat child pornography. Specifically, officials from federal law enforcement agencies, namely, the FBI, U.S. Customs Service, and the Postal Inspection Service, said that mechanisms currently in place to coordinate federal efforts were effective.⁹ Additionally, representatives from remote computing and electronic communication service providers reported that there were no significant problems with coordination among federal law enforcement agencies. These entities report that duplication of subpoenas in support of child pornography investigations by federal law enforcement agencies is rare.

⁹The Secret Service deferred to the views of federal agencies with primary jurisdiction over child pornography-related investigations.

Although we found no significant impediments to federal law enforcement efforts, an opportunity exists to further enhance coordination by additional information sharing. Under the Protection of Children from Sexual Predators Act of 1998, as amended, electronic communication service or remote computing service providers must report suspected federal child pornography crimes to NCMEC, which must then forward such reports to a law enforcement agency or agencies designated by the Attorney General.¹⁰ As previously noted, the Attorney General published a proposed rule that designated the FBI and the U.S. Customs Service as the law enforcement agencies that are to receive reports under the act. NCMEC has informed us that it only allows these two agencies access to these reports or “tips.” NCMEC does not grant the Postal Inspection Service or the Secret Service access to these tips.¹¹ Officials from federal law enforcement agencies we spoke with, as well as officials from NCMEC and some of the leading electronic communication service providers, said that access to these tips should be expanded to include the U.S. Postal Inspection Service and the U.S. Secret Service because some of the tips may involve the U.S. mail or require forensic investigative efforts that could best be provided by the U.S. Postal Inspection Service or the U.S. Secret Service.

Conclusions

Although no significant impediments to coordination were found and agencies generally view current mechanisms as effective, the lack of access to remote computing and electronic communication service providers’ tips by the Postal Inspection Service and Secret Service may limit the ability of these agencies to pursue leads or coordinate efforts with other law enforcement agencies. Currently, the Attorney General’s proposed rule, while not finalized, has only designated the FBI and Customs as agencies that are to receive such information. As a result, NCMEC does not grant access to the Postal Inspection Service or the Secret Service. Without this designation, all of the federal law enforcement agencies involved in combating child pornography will not have access to information that could enable them to avoid future duplication of efforts.

¹⁰42 U.S.C. 13032(b)(1).

¹¹In addition, the statute prohibits designated agencies from disclosing the tips unless a statutory exception applies. Among other things, designated agencies may not share tips with personnel from other agencies unless an attorney for the government determines that such information sharing is necessary to assist the attorney in enforcing federal criminal law. *Id.* 13032(f)(1)(C). Tips that may relate to state crimes may not be shared with state or local officials absent a court order. *Id.* 13032(f)(1)(D).

Recommendation for Executive Action

To further enhance the coordination of the various law enforcement agencies' efforts to combat child pornography, we recommend that the Attorney General designate the Postal Inspection Service and Secret Service as agencies that should receive reports of child pornography under the Protection of Children from Sexual Predators Act of 1998 in addition to FBI and Customs.

Agency Comments and Our Evaluation

We requested comments on a draft of this report from the Attorney General, Secretary of the Treasury, and the Chief of the Postal Inspection Service. Officials from the Customs Service, U.S. Postal Inspection Service, and Secret Service generally agreed with the report's findings and supported our recommendation. The Department of Justice, while agreeing with our finding that federal agencies have mechanisms in place to coordinate their efforts, did not fully support our conclusion and recommendation that providing the Postal Inspection Service and Secret Service direct access to tips reported to NCMEC by remote computing service and electronic communication service providers would further enhance federal coordination efforts. DOJ said that FBI and Customs, the agencies that currently have direct access, can and do share these tips with Secret Service and Postal Inspection Service, as appropriate, and DOJ believes this coordination has been effective. DOJ questions whether coordination will be further enhanced by adding Secret Service and the Postal Inspection Service as agencies designated to receive access to these tips directly from NCMEC; however, DOJ said that it is studying this issue as it finalizes regulations implementing the statute.

We recognize that the Protection of Children from Sexual Predators Act allows designated agencies to share tips with other government personnel if an attorney for the government determines that such information-sharing is necessary to assist the attorney in enforcing federal criminal law and that the Postal Inspection Service and Secret Service may be able to obtain indirect access to tips reported by remote computing service and electronic communication service providers in this manner.¹² Although DOJ questions whether the Postal Inspection Service and Secret Service, therefore, need direct access, we fail to see how indirect access fully facilitates law enforcement efforts. Because we believe that the Postal Inspection Service and Secret Service, which continue to be actively involved in child pornography investigations, should have direct access to

¹²See 42 U.S.C. 13032(f)(1)(C).

such tips to better enable them to (1) pursue leads or coordinate efforts with other law enforcement agencies that may require their expertise and (2) avoid possible duplication, we did not modify or delete our recommendation.

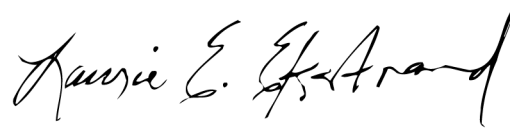
DOJ also said that our report does not address the impact that current statutory restrictions have on the sharing of these tips with federally funded Internet Crimes Against Children task forces that involve state and local law enforcement officers. The Protection of Children from Sexual Predators Act prohibits federal law enforcement agencies from sharing tips reported to NCMEC by remote computing and electronic communication service providers concerning possible state crimes with state or local officials absent a court order.¹³ Concerning DOJ's suggestion that we address the impact of this statutory prohibition on sharing tips with state and local ICAC task forces, it should be pointed out that a review of the quality or enhancement of federal-to-state law enforcement coordination efforts was outside the scope of our review. Our scope was limited to a review of federal-to-federal law enforcement agencies' coordination mechanisms.

Copies of this report are being sent to the Attorney General, Director of the FBI, the Secretary of the Treasury, U.S. Postal Service, and other interested parties. We will also make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

¹³See *Id.* 13032(f)(1)(D).

If you or your staff have any questions about this report, please contact Charles Michael Johnson or me at (202) 512-8777 or at johnsoncm@gao.gov or ekstrandl@gao.gov. Key contributors to this report are acknowledged in appendix IV.

Sincerely yours,

A handwritten signature in black ink that reads "Laurie E. Ekstrand". The signature is written in a cursive style with a large, sweeping initial "L".

Laurie E. Ekstrand
Director, Justice Issues

Appendix I: Objectives, Scope, and Methodology

Our overall objective for this review was to assess the coordination efforts of federal agencies to combat child pornography. Specifically, we focused on (1) identifying mechanisms federal agencies have in place to coordinate their efforts to combat child pornography and (2) determining whether opportunities exist to enhance coordination among federal law enforcement agencies. We limited our scope to the domestic efforts of key federal law enforcement agencies involved in combating child pornography.

We interviewed officials from various components of the Department of Justice (DOJ). Specifically, we interviewed officials from the Crimes Against Children Unit of the Federal Bureau of Investigation (FBI); the Child Exploitation and Obscenity Section (CEOS) within DOJ's criminal division; as well as officials from the Office of Juvenile Justice and Delinquency Prevention (OJJDP), which funds the Internet Crimes Against Children (ICAC) Program. We also interviewed officials from the Executive Office for United States Attorneys (EOUSA). To obtain information on the Department of the Treasury's efforts to combat child pornography, we interviewed officials from the U.S. Customs Service's CyberSmuggling Investigations Center, Child Exploitation Unit, and the Secret Service. To obtain information on the U.S. Postal Service's efforts to combat child pornography, we interviewed officials from the Postal Inspection Service and the Postal Inspection Service's Washington Metro Child Exploitation Unit. In addition, we interviewed officials from the National Center for Missing and Exploited Children (NCMEC) and officials and representatives from the following providers of electronic communications services: America Online, Microsoft, and Yahoo and an antichild pornography watchdog group, Wired Patrol, to obtain their views on the effectiveness of federal coordination efforts.

We collected budgetary, resource allocation, and caseload data from each of the key federal agencies involved in efforts to combat child pornography. Also during our review, we reviewed congressional testimonies, statutes, and the history of child pornography cases involving multiple federal agencies.

We conducted our work between May and October 2002 in accordance with generally accepted government auditing standards.

Appendix II: Key Federal Agencies and Federally Funded Entities Involved in Combating Child Pornography

U.S. Department of Justice

Federal Bureau of Investigation

The Federal Bureau of Investigation (FBI) investigates various crimes against children, including federal child pornography crimes involving interstate or foreign commerce.¹ For example, FBI investigates violations of federal statutes generally relating to

- producing child pornography;
- permitting a minor within one's custody or control to be used in child pornography;
- selling or buying children for use in child pornography; and
- transporting, shipping, receiving, or distributing child pornography by any means, including by computer.

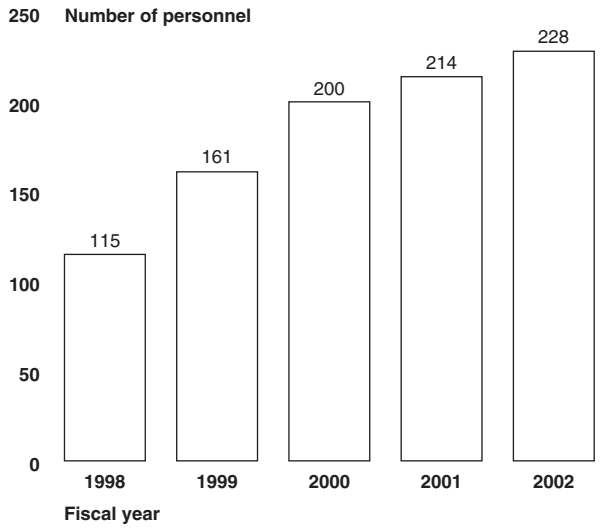
As shown in figures 3 and 4, the amount of human and fiscal resources the FBI has allocated to combating child exploitation increased steadily from fiscal year 1998 to fiscal year 2002.²

¹Federal child pornography crimes are set forth at 18 U.S.C. 2251, 2251A, 2252, 2252A, and 2260.

²The FBI is unable to provide us with the number of personnel assigned or funds obligated to combating child pornography from the larger category of child exploitation.

Appendix II: Key Federal Agencies and Federally Funded Entities Involved in Combating Child Pornography

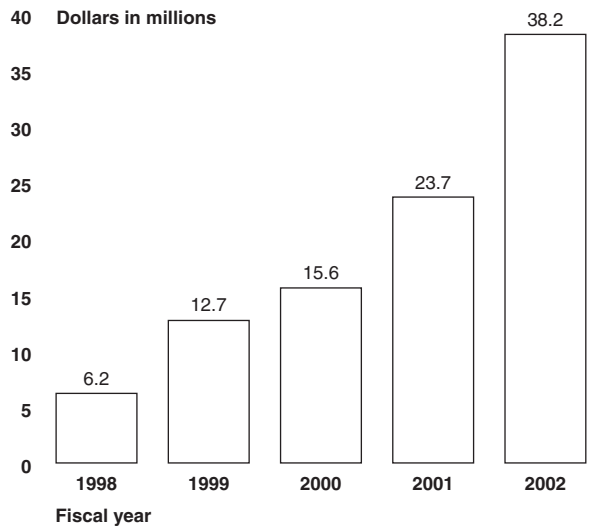
Figure 3: FBI Personnel Dedicated for Combating Child Exploitation



Source: FBI.

Note: Represents agents from FBI's Crimes Against Children and Innocent Images National Initiative units.

Figure 4: FBI Funds Obligated for Combating Child Exploitation



Source: FBI.

Note: Represents funds obligated by FBI's Innocent Images National Initiative unit.

**Office of Crimes Against
Children**

The Office of Crimes Against Children became operational in March 1997 within the Violent Crime and Major Offenders Section, Criminal Investigations Division, of the FBI. The Office expanded into the Crimes Against Children Unit in January 2000 in response to an increased awareness and nationwide growth of crimes against children. The unit's mission is to provide a quick, effective response to reported incidents of crimes against children thereby increasing the number of victims rescued and reducing the number of crimes in which children are victimized. The unit's program strategy is implemented through multidisciplinary and multiagency resource teams that, among other things, investigate and prosecute crimes against children; facilitate interagency sharing of intelligence information; and provide specialized skills and services.

**Innocent Images National
Initiative**

The FBI established a nationwide initiative to combat the proliferation of online child sexual exploitation. The Innocent Images National Initiative, a component of the FBI's Crimes Against Children Unit, is a proactive, investigative initiative to combat the proliferation of child pornography/child exploitation facilitated by computer. This initiative is composed of agents working at regional offices nationwide and may involve agents from any of the FBI's 56 field office locations.

Innocent Images provides centralized coordination and analysis of case information that is national and international in scope and requires coordination with state, local, and international governments as well as among FBI field offices and legal attaches. The mission of Innocent Images is to

- identify, investigate, and prosecute sexual predators who use the Internet and online services to sexually exploit children;
- establish a law enforcement presence on the Internet as a deterrent to subjects that use the Internet to exploit children; and
- identify and rescue witting and unwitting child victims.

EOUSA and U.S. Attorneys

The Executive Office of the United States Attorney (EOUSA) and the 94 United States Attorney Offices (USAOs) have a multifaceted role in coordinating federal law enforcement efforts to combat child pornography. Among other things, EOUSA provides the 94 USAOs with guidance for coordinating child exploitation-related cases with other components of the Department of Justice as well as with other federal agencies. One function of EOUSA is to oversee the designation of an

Assistant U.S. Attorney in each of the USAOs to work as a CEOS Coordinator. These Assistant U.S. Attorneys are the main point of contact within each USAO for guidance on child exploitation-related cases. They also facilitate the exchange of information on pending cases that may have multiple jurisdictional aspects to them. EOUSA also publishes and maintains the United States Attorneys' manual, which provides internal guidance to the U.S. Attorneys and others on, among other things, investigating criminal matters and prosecuting cases. Attorneys in the 94 USAOs prosecute the majority of federal child pornography-related cases. The exceptions would be certain multijurisdictional cases prosecuted by the Child Exploitation and Obscenity Section (CEOS) or others that the USAO would recuse itself from or refer to CEOS for prosecution.

**Criminal Division's Child
Exploitation and
Obscenity Section**

CEOS is a unit within DOJ's Criminal Division that specializes in the prosecution of child sex offenses, trafficking of women and children for sexual exploitation, and obscenity. Among other things, CEOS is primarily responsible for the development of prosecution, policy, and legislative initiatives in those areas. CEOS' professional staff consists of attorneys and information technology specialists dedicated to combating the sexual exploitation of children and obscenity.

Established in 1987, CEOS focuses on individuals who, in the context of child exploitation,

- possess, manufacture, produce, or distribute child pornography;
- travel interstate or internationally to sexually abuse children, or cause children to travel interstate or internationally for that same purpose;
- use the Internet to lure children to engage in prohibited sexual conduct;
- abuse children on federal and Indian lands; or
- traffic women and children interstate or internationally to engage in sexually explicit conduct.

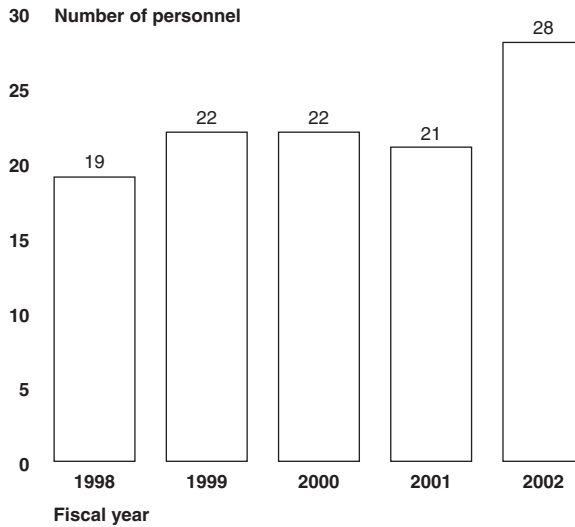
CEOS attorneys work closely with federal law enforcement agencies and prosecutors on investigations, trials, and appeals.

As shown in figures 5 and 6, the amount of fiscal and human resources at CEOS dedicated to combating child exploitation, including resources

Appendix II: Key Federal Agencies and Federally Funded Entities Involved in Combating Child Pornography

available to assist with and prosecute child pornography and obscenity-related cases, grew from fiscal year 1998 to fiscal year 2002.³

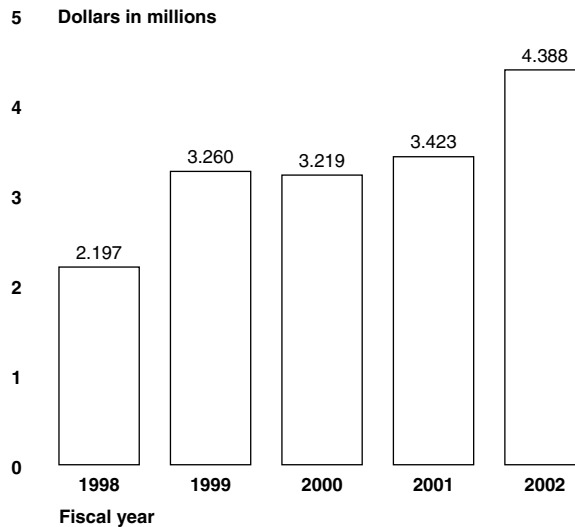
Figure 5: CEOS Personnel Dedicated for Combating Child Exploitation and Obscenity Offenses



Source: DOJ's Child Exploitation and Obscenity Section.

³CEOS was unable to separate out the number of personnel or funds specifically obligated to combating child pornography from those directed to combating child exploitation and obscenity offenses.

Figure 6: CEOS Funds Obligated for Combating Federal Child Exploitation and Obscenity Offenses



Source: DOJ's Child Exploitation and Obscenity Section.

Office of Juvenile Justice and Delinquency Prevention

Created by the Department of Justice in 1998, the Internet Crimes Against Children (ICAC) program, administered and funded through the OJJDP, encourages communities nationwide to develop regional, multijurisdictional, and multiagency responses to Internet crimes against children. The program provides grants to state and local law enforcement agencies to build regional task forces that address and combat Internet-related crimes against children. ICAC program grants are used to ensure that investigators receive specialized training and technological resources to combat Internet-related crimes. Additionally, ICAC task forces have been established to serve as sources of prevention, education, and forensic investigative assistance to those who work on Internet crimes against children.

ICAC's objectives include:

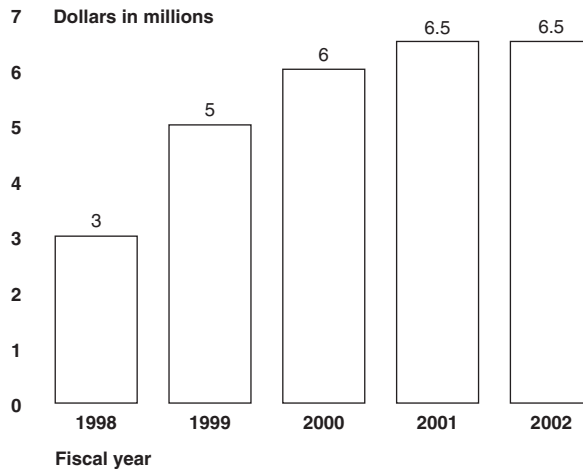
- Developing or expanding multiagency, multijurisdictional task forces that include representatives from law enforcement, prosecution, victim services, and child protective services, among others.

- Ensuring investigative capacity by properly equipping and training ICAC taskforce investigators.
- Developing and maintaining case-management systems to document reported offenses and investigative results.
- Developing response protocols or memorandums of understanding to foster collaboration, information sharing, and service integration among public and private organizations to protect children from being sexually exploited.

A number of federal agencies are also involved in the ICAC Task Force Program through membership on various task force units and through participation on the ICAC Task Force Board. These partners include: DOJ's CEOS, FBI, EOUSA, Customs Service's CyberSmuggling Center, and the Postal Inspection Service.

Figure 7 provides information on OJJDP grants awarded to state and local jurisdictions to fund ICAC task forces.

Figure 7: OJJDP Grants to ICAC Task Forces



Source: DOJ's Office of Juvenile and Delinquency Prevention.

U.S. Department of Treasury

U.S. Customs Service

Customs targets the illegal importation and trafficking of child pornography and is the country's front line of defense to combat the illegal importation and proliferation of this material. The agency becomes involved in cases with foreign links, primarily focusing on child pornography that enters the United States from abroad.

Customs Service's Office of Investigations established the CyberSmuggling Investigations Center to more effectively focus Customs' resources on Internet crimes. The center brings together all Customs' resources dedicated to the investigation of international criminal activity conducted on or facilitated by the Internet, including the sharing and distribution of child pornography. The center also continually trains personnel and upgrades their techniques to combat the diverse ways in which offenders download, possess, and distribute child pornography. The center acts as a clearinghouse and directs investigations to applicable areas within the United States and foreign countries.

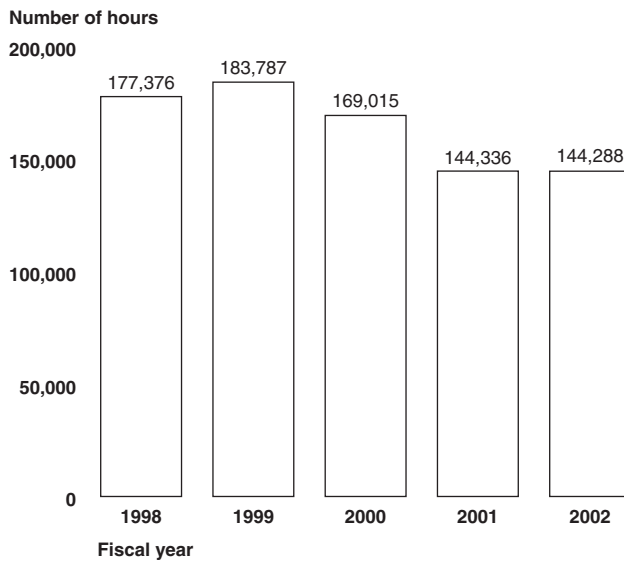
Through the CyberSmuggling Center, Customs acts as a first line of defense against smuggling over "traditional" borders as well as smuggling associated with the Internet. Customs maintains a reporting link to NCMEC, a telephone reporting line, and acts on tips from callers reporting Web sites, individual servers, or chat rooms trafficking in suspected child pornography as well as instances of other related crimes. The center has developed a national victim identification program of images for use by law enforcement agencies in the investigation and prosecution of individuals charged with child pornography-related crimes.

As shown in figures 8 and 9, Customs' staff hours devoted to combating child exploitation increased from fiscal year 1998 to fiscal year 1999, but declined thereafter.⁴ An official from Customs explained that while Customs' cases are now much more significant and complex in scope, its investigators are more knowledgeable and technologically proficient, so it generally takes less time to work an Internet case than it once did.

⁴Customs is unable to separate the staff hours devoted or funds obligated to combating child pornography from those dedicated to combating child exploitation in general.

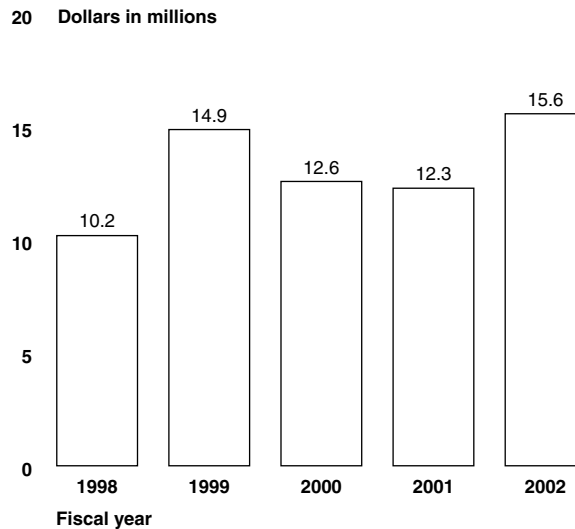
Furthermore, the events of September 11, 2001, caused a temporary shift in Customs' resources to terrorism-related activities. Consequently, many child pornography cases that Customs would ordinarily have investigated were passed to state and local law enforcement for prosecution under state pornography statutes. Fiscal resources also show a similar trend. This same official told us that much of the funds expended in earlier years were for initial infrastructure costs associated with developing Customs' current technological capabilities, and costs in current years are for upgrades or rotating replacement of equipment.

Figure 8: Hours Spent by Customs Agents on Child Exploitation Investigations



Source: U.S. Customs Service.

Figure 9: Customs Estimated Child Exploitation Obligations



Source: U.S. Customs Service.

U.S. Secret Service

The Secret Service provides forensic and technical assistance in matters involving missing and sexually exploited children through its Office of Investigations. The Secret Service's Forensic Investigative Response and Support Team (FIRST) consists of a group of technical and forensic experts, including agents from the Electronic Crimes Special Agent Program (ECSAP), who are available to respond to requests from any law enforcement agency within the United States to perform forensic and technical examinations.

Forensic and technical services provided by the U.S. Secret Service include, among others, access to the following:

- The Forensic Information System for Handwriting database, which allows material to be searched against previously recorded writings.
- FBI's Automated Fingerprint Identification System, a nationwide network with access to the largest collection of automated fingerprint databases in the United States.
- Polygraph examinations to help detect deception.
- Visual information services, such as image enhancement, age progression and regression, video and audio enhancement, and graphic and photographic support.
- Crime scene, document, and other forensic examinations.

Section 105 of the USA Patriot Act⁵ requires the Secret Service to develop a national network of electronic crime task forces to combat various forms of electronic crimes. In response to this requirement, the Secret Service has designated eight major metropolitan areas where assets and resources are being directed to establish a network of regional Electronic Crimes Task Forces. The regional task forces work directly with other federal, state, and local law enforcement agencies in the area of child pornography as well as other electronic crimes.

Since fiscal year 1997, the Secret Service, through its Investigative Services Division and Forensic Services Division, has overseen and administered grants to NCMEC's Exploited Child Unit. However, since fiscal year 2002, all Secret Service-related grant activities associated with NCMEC have been consolidated into the Forensic Services Division.

The Secret Service has four full-time personnel assigned to NCMEC. They include one Special Agent, who is a coordinator of the program, and three analysts, one of which is assigned to the Exploited Child Unit.

U.S. Postal Service

U.S. Postal Inspection Service

The Postal Inspection Service is the federal law enforcement arm of the U.S. Postal Service that is responsible for investigating crimes involving the U.S. mail, including child pornography and child sexual exploitation offenses. Postal Inspectors, specially trained to conduct child exploitation investigations, are assigned to each of its field divisions nationwide.

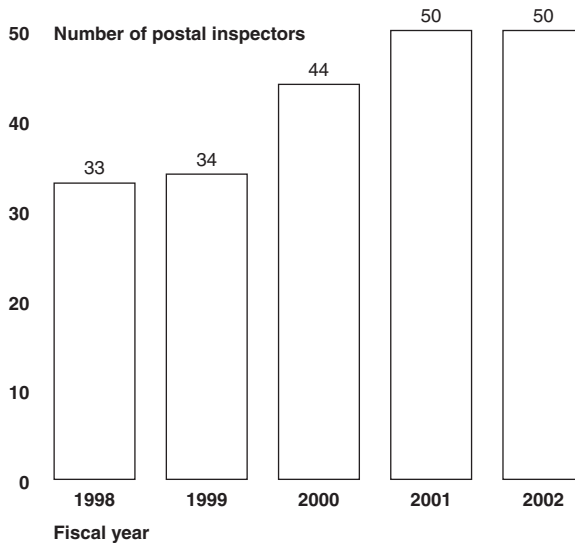
The use of mail to traffic in child pornography, or to sexually exploit children, continues to be a significant societal problem, according to Postal officials. The exchange of child pornography by mail is now often preceded by use of the Internet to communicate with like-minded individuals or to locate sources of child pornography. Over the past several years, there has been an increase in the number of unlawful computer transmissions and ads for child pornography on the Internet, which occur hand-in-hand with the trafficking of child pornography videotapes and computer disks through the mail.

⁵P.L. 107-56 (Oct. 26, 2001).

The objective of the child exploitation program is to reduce and deter the use of the postal system for the procurement or delivery of materials that promote the sexual exploitation of children. In carrying out its mission, the Postal Inspection Service works with DOJ, FBI, Customs Service, NCMEC, and other national and international law enforcement agencies.

As shown in figures 10 and 11, the number of Postal Inspectors dedicated to combating child exploitation, including child pornography, has increased steadily from fiscal years 1998 to 2001. However, the overall budget for combating these crimes dropped in fiscal year 2002.⁶ A Postal Inspection Service official explained that as a result of the terrorist attack on September 11, 2001, and recent anthrax investigations, resources were diverted.

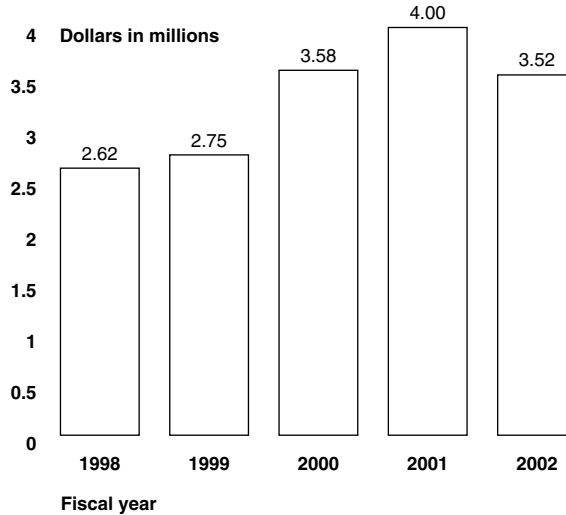
Figure 10: Postal Inspectors Assigned to Child Exploitation Investigations



Source: Postal Inspection Service.

⁶Postal Service was unable to provide us with the number of inspectors assigned to child pornography or the specific funds obligated to combat this crime from the larger category of child exploitation.

Figure 11: Postal Inspection Service Funds Obligated for Combating Child Exploitation



Source: Postal Inspection Service.

Federal Agency Task Force on Missing and Exploited Children

The Federal Agency Task Force on Missing and Exploited Children was created to improve the federal response to missing and exploited children. The task force serves as an advocate for child victims and their families, coordinates federal resources and services, and fosters increased cooperation and communication among federal agencies. The task force includes representatives from 16 federal agencies and 1 private agency, including representatives from the following DOJ offices: CEOS, EOUSA, FBI, Office for Victims of Crime, OJJDP's Child Protection Division, Immigration and Naturalization Service, and National Central Bureau (Interpol); Department of Treasury's Custom Service and Secret Service, Forensic Services Division; Department of State's Office of Children's Issues; Department of Health and Human Services' Family and Youth Service Bureau and Children's Bureau/Office on Child Abuse and Neglect; the U.S. Postal Service, Department of Defense's Family Advocacy Program Legal Assistance Offices; Department of Education's Office of Elementary and Secondary Education and Secondary Education/Safe Schools Program; and NCMEC.

National Center for Missing and Exploited Children

NCMEC is a private, nonprofit organization that serves as the nation's resource center for child protection. NCMEC's mission is to assist in the location and recovery of missing children and to prevent the abduction, molestation, sexual exploitation, and victimization of children. NCMEC operates under a congressional mandate through OJJDP funding.⁷

In addition, NCMEC operates its Exploited Child Unit through a separate cooperative agreement between Treasury and NCMEC for the establishment of this unit.

NCMEC maintains a 24-hour, toll-free tipline for leads from individuals reporting the sexual exploitation of children and information on the possession, manufacture, and/or distribution of child pornography. NCMEC also maintains the CyberTipline to receive statutorily required tips on child pornography from remote computing service and electronic communication service providers, such as America Online, Microsoft, and Yahoo.⁸ NCMEC's case analysts assess and track leads, identify patterns among cases, help coordinate investigations, and make such information available to the designated law enforcement agencies. The FBI, Customs Service, Postal Inspection Service, and Secret Service have employees assigned directly to NCMEC.

⁷The Missing Children's Assistance Act of 1984, as amended, directs OJJDP to make an annual grant to NCMEC to carry out various responsibilities related to missing and exploited children. In general, these responsibilities include operating a 24-hour, toll-free tip line to receive tips about missing children; serving as the official national resource center and information clearinghouse for missing and exploited children; coordinating public and private programs to locate missing children; providing technical assistance and training; and providing a variety of information and assistance services. *See* 42 U.S.C. 5773(b)(1).

⁸*See* 42 U.S.C. 13032(b).

**Appendix II: Key Federal Agencies and
Federally Funded Entities Involved in
Combating Child Pornography**

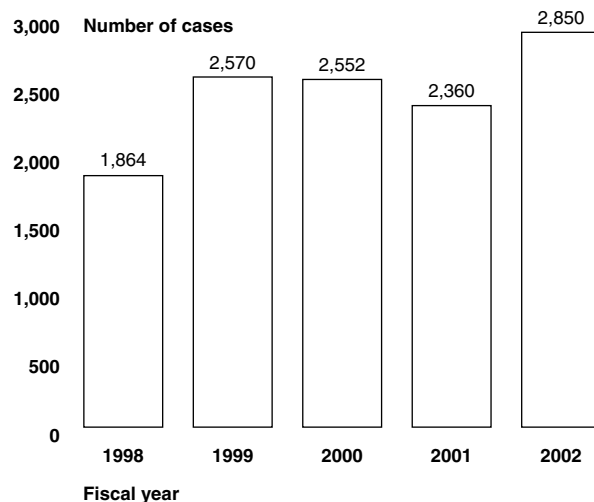
NCMEC also offers technical assistance, training, and consultation to law enforcement agencies. NCMEC has developed specialized training programs, materials, and curriculum designed for law-enforcement personnel. In addition, NCMEC provides extensive referrals serving as a source of contact for statewide, national, and global investigations.

Appendix III: Federal Law Enforcement Agencies Child Pornography-Related Caseload

In addition to the increases in the number of child pornography cases prosecuted from fiscal years 1998 through 2002, the investigative caseload of key federal law enforcement agencies has generally increased above fiscal year 1998 levels. Figures 12 through 16 provide caseload trend data from fiscal years 1998 through 2002.

An FBI official said that the best method by which to measure its activity was the number of child exploitation-related cases opened.¹ Figure 12 shows the increase in the number of cases the FBI opened over the past 5 years.

Figure 12: Child Exploitation Cases Opened by the FBI



Source: FBI.

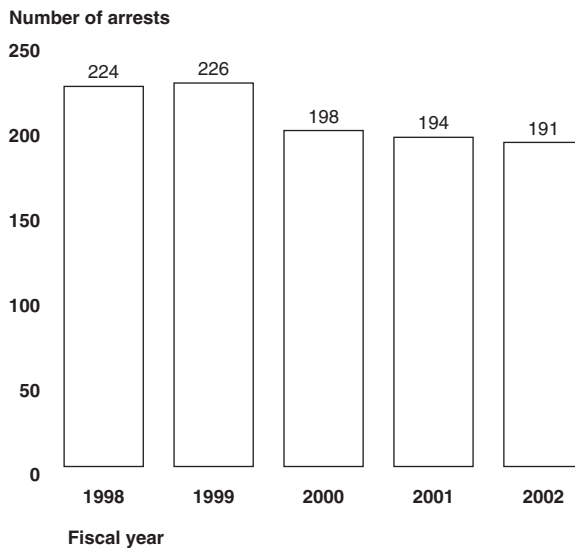
Note: Represents cases opened by FBI's Crimes Against Children and Innocent Images National Initiative units.

Customs and Postal Inspection Service both record arrest data to indicate the results of their level of effort in combating child pornography. As

¹FBI was unable to provide us with the number of child pornography cases opened from their larger category of child exploitation cases.

shown in figure 13, the number of Custom Service child exploitation-related arrests has decreased since fiscal year 1998.²

Figure 13: Customs Arrests for Child Exploitation



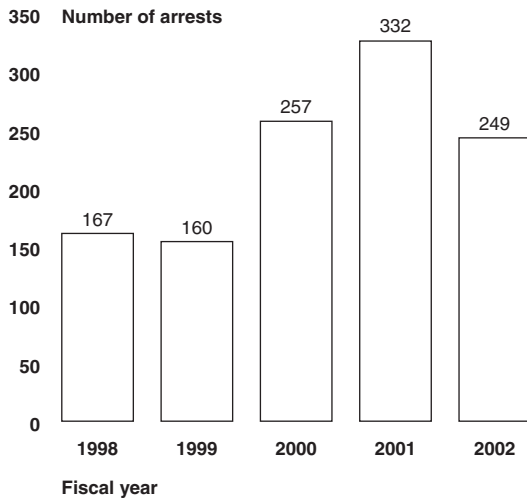
Source: U.S. Customs Service.

Customs officials report that the decreasing number of arrests are a result of changes in strategy for combating child pornography cases. Customs officials said that the agency has shifted to focusing on cases that are more complex and larger in scope, thus their overall number of arrests has dropped. The more straightforward cases are turned over to state and local law enforcement agencies and ICACs, according to Customs officials.

As shown in figure 14, the number of Postal Service arrests has increased over fiscal year 1998 levels.

²Customs was unable to separate arrests for child pornography from the larger number of arrests for child exploitation in general.

Figure 14: Postal Inspection Service Arrests for Child Pornography



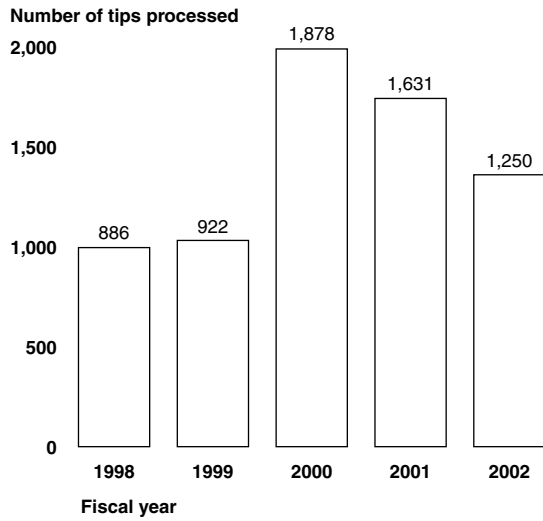
Source: U.S. Postal Inspection Service.

The Postal Inspection Service reported that, due to the difficulty of defining what constitutes an “investigation,” it does not maintain at headquarters, the number of investigations conducted by field personnel. An official explained that an investigation could be interpreted as simply following up on a piece of information provided to child exploitation specialists about a potential suspect where the end result is determined to be noncredible. The difficulty is determining when following up on a tip becomes a “case.”

U.S. Postal officials also said that an arrest might not be unique to one agency. In some instances, such as in large or multijurisdictional cases where more than one law enforcement agency is involved, arrests may be credited to more than one agency. This occurs when more than one law enforcement agency makes a meaningful and significant contribution to a particular case.

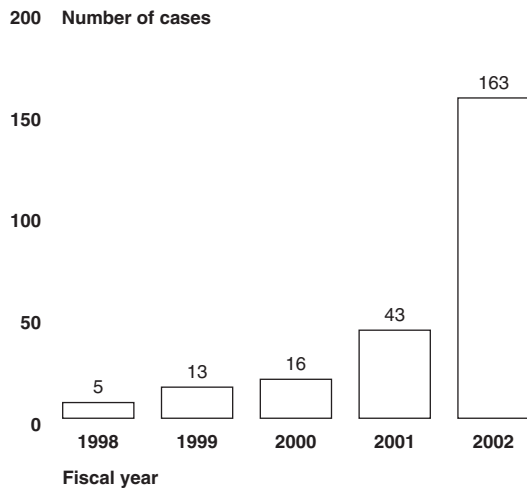
As shown in figures 15 and 16, the number of Secret Service tips processed increased over fiscal year 1998 levels, and the number of investigations opened increased significantly in fiscal year 2002.

Figure 15: Secret Service Cyber Tips Processed



Source: U.S. Secret Service.

Figure 16: Secret Service Field Office Child Pornography Investigative Caseload



Source: U.S. Secret Service.

Appendix IV: GAO Contacts and Staff Acknowledgments

GAO Contacts

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Staff Acknowledgments

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