



PROTECTING CHILDREN ONLINE THROUGH POLICY


ONLINE SEXUAL EXPLOITATION
AND ABUSE OF CHILDREN POLICY
MAPPING SUMMARY REPORT



INTRODUCTION

The U.S.-based CyberTipline, operated by the National Center for Missing and Exploited Children¹ since 1998, has received more than 86 million reports of suspected child sexual exploitation. In the last year alone, they received 21.7 million reports, up from 16.9 million reports in 2019. Globally, the UNODC recorded a nearly 600 percent increase in the number of human trafficking victims (both adults and children) whose cases were perpetrated through the use of the internet from 2007 to 2018.² U.S.-based NGO Thorn conducted a study of survivors of domestic minor sex trafficking and found that after 2004, 75 percent of victims were advertised online, up from only 38 percent prior to 2004.³ With the increased use of technology over the last fifteen years, perpetrators have found a widening audience and simultaneously increased anonymity to operate with near impunity.

The New York Times published an investigative series beginning in September 2019⁴ documenting the spread of child sexual abuse material (CSAM) online. This article outlined the sharp increase in reports of CSAM to law enforcement over the last decade, while arrests increased only modestly and federal funding has remained flat. **Many of the provisions in the landmark law, the PROTECT Our Children Act of 2008, remain unimplemented, unfunded or largely ignored.** This New York Times series highlighted the intent that Congress expressed in 2008 and has spurred a recommitment by Congress to better oversight and possibly stronger enforcement.


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CHILD SEXUAL EXPLOITATION

OSEAC: Online Sexual Exploitation and Abuse of Children

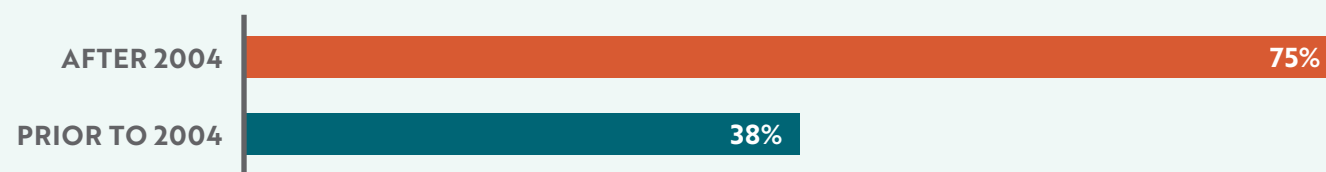
CSAM/ CSEM: Child sexual abuse and exploitation material

Since the new session began, Congress has been consumed with the economic and health repercussions of the COVID-19 pandemic, as well as their reaction to the events of January 6th, which complicates the landscape. But there is a window of opportunity to increase the effectiveness of the U.S. approach to combating online sexual exploitation and abuse of children (OSEAC). **The purpose of this mapping of U.S. Government initiatives related to OSEAC is to inform the drafting of a policy agenda to advocate Congress and the Administration to introduce policies and programs that better address OSEAC.**

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VICTIMS ADVERTISED ONLINE IN THE U.S.



¹ See National Center for Missing and Exploited Children, available at: <https://www.missingkids.org/gethelpnow/cybertipline>.
² See UNODC, Global Report on Trafficking in Persons 2020 (United Nations publication, Sales No. E.20.IV.3), p. 120, Fig. 86.
³ Bouché, Vanessa, *Survivor Insights: The Role of Technology in Domestic Minor Sex Trafficking* (2018) THORN, available at: https://www.thorn.org/wp-content/uploads/2019/12/Thorn_Survivor_Insights_090519.pdf; p 7.
⁴ Keller, Michael H. and Gabriel J.X. Dance, *The Internet is Overrun with Images of Child Sexual Abuse. What Went Wrong?*, New York Times, September 29, 2019.

METHODOLOGY

The mapping included desk research of all enacted U.S. Government laws, both domestically and internationally focused, as well as proposed legislation from the 115th, 116th and current 117th Congresses and past and current appropriations. This research also examined relevant Congressional Committees for past hearings and tracked bill sponsors and cosponsors to identify current and potential Congressional champions. Lastly, current U.S. Government efforts are outlined by implementing agency. To supplement the desk research, we conducted key informant interviews of selected Congressional staff, members of the NGO community, OSEAC technical experts and staff from relevant technology companies.

For purposes of this research, online child sexual exploitation (OCSE), or online sexual exploitation and abuse of children (OSEAC) as we refer to it in this report, is defined as: **“all acts of a sexually exploitative nature carried out against a child that have, at some stage, a connection to the online environment. It includes any use of information and communication technology that results in sexual exploitation or causes a child to be sexually exploited or that results in or causes images or other material documenting such sexual exploitation to be produced, bought, sold, possessed, distributed, or transmitted.”**^{5,6}

⁵ Interagency Working Group on Sexual Exploitation of Children, *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse* (June 2016), accessed at: <http://luxembourgguidelines.org/english-version/>.
⁶ Note that there is no universally accepted acronym; we mainly use online sexual exploitation and abuse of children (OSEAC) throughout this report.



KEYWORDS

- Child pornography
- Computer/digitally generated child sexual abuse material
- Self-generated sexual content/material involving children
- Live online child sexual abuse/ live streaming of child sexual abuse
- Online enticement/grooming of children for sexual acts
- Child sex tourism/webcam child sex tourism
- Webcam child sex abuse
- Unsolicited obscene materials sent to children
- Sexual extortion, or sextortion of children
- Sexting
- Sexualized images of children/ child erotica
- Virtual child sexual abuse
- Commercial sexual abuse of children

The initial mapping of U.S. enacted laws, proposed legislation, Congressional hearings, past appropriations, and executive agency efforts were conducted through desk research using key terms to search through records on Congress.gov, relevant Committee pages and U.S. Government agency pages. **Keywords** were developed from the Interagency Working Group on Sexual Exploitation of Children’s *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse* (“Luxembourg Guidelines”), as well as the National Center for Missing and Exploited Children’s (NCMEC) resource page about child sexual abuse material (CSAM).⁷

Following the desk research, interviews with identified experts were conducted from mid-May through August 2021. Respondents were asked to provide feedback and insight into what past efforts were successful, what the current challenges are and upcoming trends that might provide opportunities to improve existing policies or innovate new policy solutions.

FINDINGS

LEGISLATION

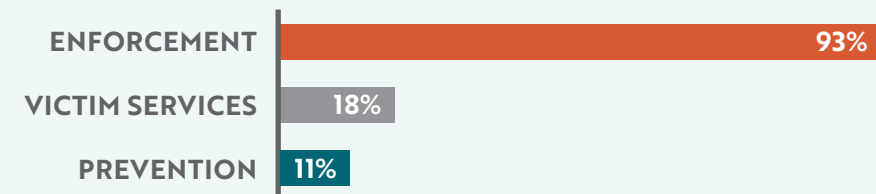
There have been 28 bills enacted into law that set the framework for the U.S. Government’s approach to combating OSEAC issues at home and abroad. Of these, eight bills passed prior to the **PROTECT Our Children Act of 2008, the landmark bill that directed the Attorney General to create and implement a National Strategy for Child Exploitation Prevention and Interdiction, established the Internet Crimes Against Children (ICAC) task forces and required additional reporting to the national CyberTipline, operated by NCMEC.** The prior bills were passed between 1984 and 2008 and laid the foundation for our current approach, as the internet became more widely accessible and more frequently used for illicit behaviors.

THERE HAVE BEEN **28 BILLS** ENACTED THAT SET THE FRAMEWORK FOR THE U.S. GOVERNMENT APPROACH TO COMBATING OSEAC ISSUES



⁷ Accessed at: <https://www.missingkids.org/theissues/csam>

FOCUS OF ENACTED BILLS RELATED TO OSEAC



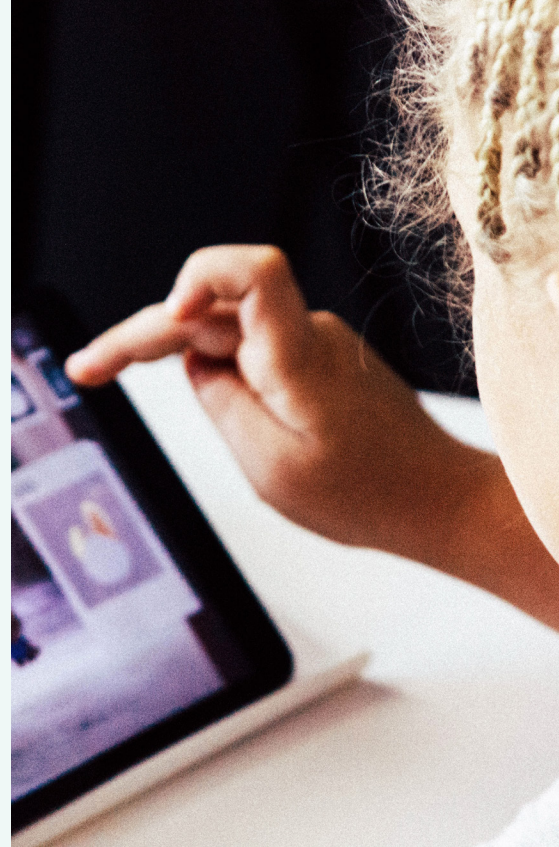
Of the enacted bills related to OSEAC, 93 percent focused on enforcement, 18 percent on victim services and protection, and 11 percent focused on prevention.⁸ Domestically-focused bills accounted for 93 percent, while 7 percent of the bills were internationally-focused. By contrast, 85 percent of proposed legislation from the 115th Congress to the current 117th Congress were domestically-focused, while 15 percent of proposed legislation was internationally-focused

Among proposed domestically-focused OSEAC-related legislation since the 115th Congress (not including legislation that commissions a study or requires a GAO report), 73 percent of the bills predominantly addressed enforcement, 21 percent addressed victim services and protection programs, and 15 percent addressed prevention.⁹

The Congressional Committees from the 115th Congress to the current one who have held the most hearings involving OSEAC are the House Judiciary Committee (4), Senate Commerce, Science, and Transportation Committee (3), Senate Foreign Relations Committee (2) and the Commission on Security and Cooperation in Europe (U.S. Helsinki Commission) (2). The Senate Judiciary Committee, Senate Banking, Housing, and Urban Affairs Committee, Senate Homeland Security & Government Affairs Committee, House Science, Space, and Technology Committee, House Energy & Commerce Committee, House Education & Labor Committee, and the Tom Lantos Human Rights Commission have all held one hearing on OSEAC issues since the 115th Congress. **Common themes amongst the hearings include assessing existing internet regulations, evaluating the efforts and failures of internet service providers and social media companies to prevent OSEAC on their platforms, using technological developments to combat OSEAC and examining the international response to OSEAC.**

⁸ Note that some bills fell into multiple categories so the percentages do not add up to 100 percent.

⁹ Note that some bills addressed more than one component so the total percentage does not equal 100 percent.



DOMESTIC VS. INTERNATIONAL FOCUS



ENACTED BILLS



PROPOSED LEGISLATION



CHAMPIONS

Historically, there is broad bipartisan support for OSEAC-related legislation. Looking at the top ten champions in both the House and the Senate, **there is nearly an even split between Republican and Democratic members that have sponsored past bills.**

Taking into account all OSEAC-related bills covered by this research (all relevant enacted laws and bills introduced since the 115th Congress), the Congress members who have consistently supported OSEAC-related legislation and also supported either the END Child Exploitation Act or the EARN IT Act include:

Senators:

- Sen. Lisa Murkowski (R-AK)
- Sen. Richard Durbin (D-IL)
- Sen. John Cornyn (R-TX)
- Sen. Dianne Feinstein (D-CA)
- Sen. Charles Grassley (R-IA)
- Sen. Bob Casey (D-PA)
- Sen. Richard Blumenthal (D-CT)
- Sen. Maggie Hassan (D-NH)
- Sen. Thomas Tillis (R-NC)

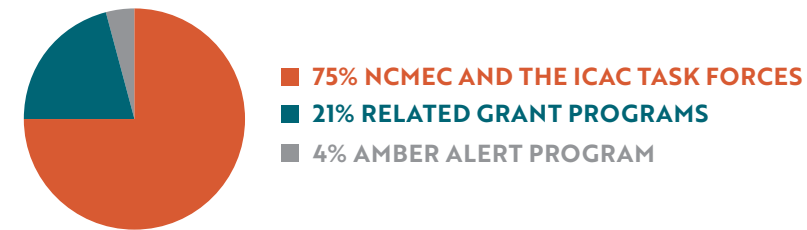
Representatives:

- Rep. Ann Wagner (R-MO-2)
- Rep. David Joyce (R-OH-14)
- Rep. Brian Fitzpatrick (R-PA-1)
- Rep. Debbie Wasserman Schultz (D-FL-23)
- Rep. Annie Kuster (D-NH-2)
- Rep. Anna Eshoo (D-CA-18)
- Rep. Steve Chabot (R-OH-1)

APPROPRIATIONS

In terms of appropriations, relevant programs are not funded at levels consistent with the sharp increase in illicit activity online. The Missing and Exploited Children programs funding, within the Commerce, Justice, Science, and Related Agencies Appropriations bill, is one of the main funding streams that is dedicated solely to combating OSEAC. These resources largely fund NCMEC and the ICAC task forces (representing about 75 percent of the pot), with some funding for related grant programs (about 21 percent) and a small amount of funding for the Amber Alert program (4 percent) at a total of \$94 million in FY 2021. For many years, these programs saw small increases of up to 2 percent. Then from 2011-2015, there was a decline in funding. In FY 2018, funding for these programs increased to FY 2011 levels, and the past two fiscal years have seen closer to a 10 percent increase.

MISSING AND EXPLOITED CHILDREN PROGRAMS FUNDING



Additional funding streams include the **Department of Homeland Security's Homeland Security Investigations (HSI) Child Exploitation and Investigations Unit**, which was funded at \$21 million in FY 2021. The **Secret Service** has about \$6 million set aside to investigate missing and exploited children, though this is not specific to OSEAC. **DOJ's Child Exploitation and Obscenity Section (CEOS)** prosecutes OSEAC-related cases, but their funding stream is not broken down. Similarly, the **Federal Bureau of Investigation (FBI)** investigates child exploitation cases and their funding is also not broken down by type of investigation. **The U.S. Marshals Service** also assists in investigating missing child cases per the Justice for Victims of Trafficking Act (P.L. 114-22).

Lastly, in terms of international programs, the **State Department Office to Monitor and Combat Trafficking in Persons (JTIP)** manages the **Child Protection Compact program**. These programs are multi-year commitments of \$5 million total to measurably reduce child trafficking by working collaboratively with the government. One of the compacts is with the Philippines and focuses on OSEAC. **The FY 2021 appropriations bill increased funding for the Child Protection Compacts program to \$10 million which will allow for two compacts each year.**

OPPORTUNITIES

While previous legislation has skewed significantly towards an enforcement approach, the number of enforcement actions in the United States indicates that perpetrators largely operate with impunity.¹⁰ As technology evolves and the tactics that criminals use change over time, our approach to enforcement similarly needs to adapt. In addition to improving enforcement, the U.S. approach to combating OSEAC needs to also focus on services for victims and survivors, as well as prevention programs that address vulnerable populations.

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IN FY 2021, THE MISSING AND EXPLOITED CHILDREN PROGRAMS FUNDING TOTALLED
\$94 MILLION

¹⁰ According to DOJ's National Strategy for Child Exploitation Prevention and Interdiction published in 2016, arrests have remained between 5,000 to 10,000 while there were 4.4 million reports to NCMEC's CyberTipline in 2015 alone. Available at: <https://www.justice.gov/psc/file/842411/download>



➔ **Throughout the interviews, the one area of work that everyone mentioned was appropriations. While every group has a unique focus or approach to the issue, there was unanimous agreement that there has been insufficient funding to keep pace with the exponentially growing issue.**

The programs within the Missing and Exploited Children programs funding all need more resources to deal with how quickly OSEAC issues are increasing. The two largest programs within this funding stream—NCMEC and the ICACs—rely on each other. As the number of reports to NCMEC’s CyberTipline grows, so do the number of potential investigations that the ICACs need to respond to. Conversely, as the number of investigations that the ICACs conduct increases, the number of victims and survivors that need services also grows. Child advocacy centers (CACs)—community-based multidisciplinary services available to child victims of sexual abuse and exploitation—are well-placed to provide services to the growing number of victims of OSEAC, though they are already overwhelmed by the current demand for services across the United States. Increasing services available through the Missing and Exploited Children programs, as well as increasing the funding available for local CACs that serve victims of OSEAC is critical to any victim-centered and trauma-informed enforcement and response strategy.

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THERE HAVE BEEN FIVE COMPACTS TO DATE—GHANA, JAMAICA, MONGOLIA, PERU, AND THE PHILIPPINES—AND THE NEXT COMPACT WILL BE IN BENIN.

THE **PHILIPPINES** COMPACT IS THE ONLY ONE FOCUSED ON OSEAC SO FAR. WITH EXPANDING TO TWO COMPACTS PER YEAR, THERE’S AN **OPPORTUNITY** TO PUSH FOR ONE OF THESE TO BE **FOCUSED ON OSEAC.**

Internationally, with the Child Protection Compact program expanding to two compacts per year, there’s an opportunity to push for one of these to be focused on OSEAC. There have been five compacts to date—Ghana, Jamaica, Mongolia, Peru, and the Philippines—and the next compact announced will be in Benin. As mentioned in the Findings sections, the Philippines compact is the only one focused on OSEAC to date and has been renewed 3 years in a row by JTIP.

Second, while there are many significant legislative changes needed to improve the U.S. Government’s enforcement response to OSEAC issues, political will within Congress is limited this session. The first several months of the new Congress were consumed by deliberating on bills to allocate additional resources related to the COVID-19 pandemic and a response to the events of January 6th. The annual appropriations process was months behind its usual schedule and even so-called “must pass” bills are pushed to and beyond their deadlines.



"Given the limited resources available to investigate these crimes and the increasing number of reports submitted to the CyberTipline, law enforcement often cannot begin an investigation within the 90-day timeframe."

In the short term, one important fix is addressed in the END Child Exploitation Act, which expands the time that electronic communication service and remote computing service providers are required to keep the contents of reports they make to the CyberTipline from 90 days to 180 days. This small change could be a significant help to law enforcement. Given the limited resources available to investigate these crimes and the increasing number of reports submitted to the CyberTipline, law enforcement often cannot begin an investigation within the 90-day timeframe. **This bill would extend the time that investigators have access to these reports, which often provide critical information for cases.**

There is robust support within the NGO community for the **EARN IT Act (Eliminating Abusive and Rampant Neglect of Interactive Technologies Act of 2020), S. 3398/ H.R. 8454**, which was introduced in the 116th Congress and a push to reintroduce it. This bill takes a comprehensive approach to the variety of enforcement challenges by amending section 230 of the Communications Decency Act to remove liability protections for technology companies that operate platforms that host CSAM. It would also establish a national commission that would include law enforcement, representatives from victim service providers, technology companies and technical experts. However, there is also tremendous opposition to this bill amongst the technology industry, human rights groups and others who view this bill as limiting privacy protections. Additionally, this Congress is a challenging environment for movement on this bill given how slowly policymakers are proceeding on regular business. Looking back at the immense amount of political capital that was required to pass SESTA/ FOSTA (P.L. 115-164), it may still be years away from passing in some form.

Another bill to consider for its focus on victim service funding is the **Invest in Child Safety Act (S.223/ H.R.807)**, which establishes the Office to Enforce and Protect Against Child Sexual Exploitation in the Executive Office of the President, establishes the Child Sexual Exploitation Treatment, Support, and Prevention Fund, and expands the time that providers are required to keep reports to the CyberTipline from 90 days to 180 days. This bill authorizes \$5 billion in funding over ten years for enforcement efforts as well as dedicated funding for victim services. Thus far, this bill only has Democratic cosponsors, which significantly decreases its chances for moving this Congress.

THE END CHILD EXPLOITATION ACT AIMS TO EXPAND THE AMOUNT OF TIME REQUIRED TO KEEP CONTENTS OF REPORTS MADE TO THE CYBERTIPLINE FROM

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THIS SMALL CHANGE COULD BE A SIGNIFICANT HELP TO LAW ENFORCEMENT.



Lastly, there is little U.S. Government inter-agency coordination on OSEAC issues.

The Department of Justice Office of Juvenile Justice and Delinquency Prevention coordinates the programs under the Missing and Exploited Children funding stream. DOJ's Child Exploitation and Obscenity Section (CEOS), under the Criminal Division, prosecute child exploitation cases. The Department of Homeland Security (DHS) Homeland Security Investigations (HSI) Cyber Crimes Center has a Child Exploitation Investigative Unit (CEIU). The Department of State Office to Monitor and Combat Trafficking in Persons (JTIP) manages Child Protection Compact programs overseas (the Philippines compact program focuses on OSEAC issues). U.S. Agency for International Development is midway through its Advancing Protection and Care for Children in Adversity Strategy (2019-2023), which is meant to further initiatives that safeguard children online globally. These are just to name some of the U.S. Government efforts and illustrate how varied the needed programs are to effectively address OSEAC in the United States and overseas. Pressing the Biden Administration to appoint a coordinator within the White House Domestic Policy Council, who could elevate the priority of OSEAC issues across the government, as well as coordinate efforts and allocate resources would be an important step towards catching up with the fast-growing pace of the crime.



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