

TEXAS CRIMINAL DEFENSE GUIDE E-BOOK



NEAL DAVIS

LAW FIRM, PLLC

A close-up photograph of a black computer keyboard with silver handcuffs resting on it. The handcuffs are positioned diagonally across the keyboard, with one cuff on the left and the other on the right. The keys are clearly visible, including 'Enter', 'Home', 'End', 'Pg Dn', and '0'. The lighting is dramatic, highlighting the metallic texture of the handcuffs against the dark keys.

**COMPUTER CRIMES &  
CHILD PORNOGRAPY**

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# COMPUTER CRIMES AND CHILD PORNOGRAPHY

The purpose of the Neal Davis Law Firm E-book series is designed to provide basic, accessible information that is relevant to those who have been charged with a particular type of crime. Those facing charges will be better prepared to make informed decisions if they understand the nature and implications of the charges against them, and have more clarity about what the court process will involve.

## WHAT IS A COMPUTER CRIME?

“Computer crimes” refers to criminal offenses related to downloading, possessing or distributing child pornography, as well as soliciting minors (or someone posing as a minor) online. These are serious felonies that have become more frequently charged due to advances in computer forensics and the relative ease of investigation.

These offenses are viewed harshly under both state and federal law, and punishments can extend to decades in prison depending on the nature of the offense. A person convicted of child pornography or online solicitation can be required to register as a sex offender and be prevented from living close to schools or spending time near children.

Child pornography covers a variety of state and federal offenses. The most influential factors affecting whether charges are filed in state or federal court are the number of images, whether the defendant actually produced or disseminated images as opposed to downloading and possessing them, and potentially aggravating factors such as a prior history of child sex abuse.

## CHOOSING A CHILD PORNOGRAPHY DEFENSE ATTORNEY

When charged with one of these offenses, it is crucial to consult a qualified attorney as soon as possible. Speaking with police before consulting a defense lawyer could seriously damage your case. Special issues in computer crime cases include:

- Computer forensics
- Mental health issues
- How police conducted their investigation
- How to persuade a prosecutor or grand jury to dismiss the charges before the case gets to trial

If you would like a free consultation to discuss your situation with a qualified attorney, please contact the [Neal Davis Law Firm](https://nealdavislaw.com) as soon as possible.

# COMPUTER CRIMES: CHARGES

## ONLINE SOLICITATION OF A MINOR

A minor is any person younger than 17 years old or someone who the defendant believes is under 17 years old. It is a crime for a person who is at least 17 years old to communicate in a sexually explicit manner, with the intent to commit a sex offense, with a minor or to distribute sexually explicit material to a minor.

It is also illegal to use electronic means to invite or solicit a minor to meet with the intent that the minor will engage in sexual behavior. A person charged with this latter crime can also be charged with another crime (e.g., sexual assault of a child), if that occurs on top of soliciting a minor.

Continue reading to learn more about [online solicitation of a child](#).

### LAW

Texas Penal Code [Chapter 33, Section 33.021](#):

ONLINE SOLICITATION OF A MINOR. (a) In this section:

(1) "Minor" means:

(A) an individual who is younger than 17 years of age; or

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

(2) "Sexual contact," "sexual intercourse," and "deviate sexual intercourse" have the meanings assigned by Section 21.01.

(3) "Sexually explicit" means any communication, language, or material, including a photographic or video image, that relates to or describes sexual conduct, as defined by Section 43.25.

(b) A person who is 17 years of age or older commits an offense if, with the intent to commit an offense listed in Article 62.001(5)(A), (B), or (K), Code of Criminal Procedure, the person, over the Internet, by electronic mail or text message or other electronic message service or system, or through a commercial online service, intentionally:

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

(2) distributes sexually explicit material to a minor.

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

(d) It is not a defense to prosecution under Subsection (c) that the meeting did not occur.

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

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

- (2) the actor was not more than three years older than the minor and the minor consented to the conduct.
- (f) An offense under Subsection (b) is a felony of the third degree, except that the offense is a felony of the second degree if the minor is younger than 14 years of age or is an individual whom the actor believes to be younger than 14 years of age at the time of the commission of the offense. An offense under Subsection (c) is a felony of the second degree.
- (g) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.



## PUNISHMENT

Online solicitation of a minor is a second or third-degree felony, depending on the circumstances. Further, the defendant faces registration as a sex offender for ten years after being discharged from prison or community supervision.



## DEFENSE STRATEGY

Lots of possible defense strategies exist - from the defendant not believing the person he or she was communicating with was actually a minor, to there being no intent to engage in sexual behavior.

Entrapment is also a defense under Texas Penal Code [Section 8.06](#), which states, "It is a defense to prosecution that the actor engaged in the conduct charged because he was induced to do so by a law enforcement agent using persuasion or other means likely to cause persons to commit the offense. Conduct merely affording a person an opportunity to commit an offense does not constitute entrapment."



## PROCESS

Investigations in these cases can occur as part of an undercover sting operation where law enforcement pose as minors. When actual minors are involved, an investigation begins when a third party learns about the online contact. For example, the minor discusses the allegations with a parent, teacher or friend, or a family member discovers the online contact by finding messages on a cell phone or social media account.

As part of their investigation, police will try to obtain records concerning the accused person's cell phone, social media and Internet accounts, email, IP address (a numerical label assigned to a computer) and anything else that could help the prosecution prove its case.

During the investigation, police often try to interview the person accused. For example, police may attempt to interrogate the person accused when he arrives at the location to meet the minor. Other times, the police may arrive at the person's residence with a search warrant for any computers allegedly used for the solicitation and try to interview him there.

IT IS CRUCIAL THAT THE PERSON ACCUSED DOES NOT SPEAK TO POLICE AND HIRES A QUALIFIED ATTORNEY.

Police are trained to be skilled interrogators. Some officers are so effective that they have been able to coerce false confessions from suspects. To protect the outcome of the investigation, it is very important that the person accused does not speak with police. Police have often already decided to file charges against the person accused and will attempt to get the person to provide information that hurts his or her chances of being proven innocent.

If the person accused of the abuse has been proactive and hired a defense lawyer, the lawyer will conduct an investigation as well, which will include talking to the police. The lawyer will be able to determine whether cooperation with the police can help, or hurt, the case of the person accused.

Some individuals mistakenly believe that hiring an attorney will make them look guilty. This is untrue, and can lead to unfortunate consequences. It is the primary job of a defense attorney to protect the rights of those accused of committing a crime. Police frequently engage with defense attorneys, and it is not unusual for police to decline charges against suspects whose lawyers convince police that prosecution is not warranted. Police often hire attorneys when they themselves come under investigation. Most police officers understand even innocent people hire attorneys to help guide and counsel them through a process that is both foreign and frightening.



## **SPECIAL BOND CONDITIONS**

If charges are filed, the defendant is arrested and taken to jail. In jail, the defendant will often see a magistrate who may set a bond at that time. However, if the jail magistrate does not set bond, the defendant will go to court and the trial judge will set a bond.

A defendant charged with online solicitation of a minor is legally entitled to a bond in Texas. Unfortunately, given the sensationalized and high-publicity nature of these cases, judges are often inclined to set high bonds so they appear “tough on crime.” Even if a high bond is set initially, the judge will often lower the bond after any media coverage dies down. Or, if the bond is illegally high, the defendant can ask the appeals court to lower the bond.

# CHILD PORNOGRAPHY: STATE OFFENSES

It is a crime for a person to knowingly possess any visual material either depicting a child under 18 years old engaging in sexual conduct, or that is sufficiently sexual in nature. It is also a crime to distribute such material. Possession of child pornography is a third degree felony. If there is possession along with intent to promote or distribute the material, the offense is a second-degree felony.

Generally, the number of images, along with third-party access to the images (e.g., whether file sharing or peer-to-peer networking is used), determines whether a defendant is charged with mere possession or with intent to promote or distribute.

Continue reading to learn more about [child pornography](#).

## LAW

Texas Penal Code Chapter 43, Section 43.26 states:

“(a) A person commits an offense if:

(1) the person knowingly or intentionally possesses [meaning they have “care, custody or management”], or knowingly or intentionally accesses with intent to view, visual material that visually depicts a child younger than 18 years of age at the time the image of the child was made who is engaging in sexual conduct, including a child who engages in sexual conduct as a victim of [a trafficking offense]; and

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

(b) In this section:

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

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

(3) ‘Visual material’ means:

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

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

(d) An offense [of possession as described above] is a felony of the third degree.

(e) A person commits an offense if:

(1) the person knowingly or intentionally promotes or possesses with intent to promote material described [above]; and

(2) the person knows that the material depicts the child as described [above].

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

(g) An offense [of promoting or possessing with intent to promote] is a felony of the second degree.

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

(1) possessed or accessed the visual material in good faith solely as a result of an allegation of a violation of [this section];

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

(3) took reasonable steps to destroy the material within an appropriate period following the allegation described [above].



## PUNISHMENT

Possession of child pornography is a third degree felony. Such a felony carries a term of imprisonment from 2 to 10 years, plus a fine up to \$10,000. Possession with intent to promote or distribute the material is a second-degree felony. Such a felony carries a term of imprisonment from 2 to 20 years, plus a fine up to \$10,000.

Sentences for child pornography offenses can be stacked. For example, if a defendant is charged with possessing 20 images of child pornography, and can be proven to have had intent to promote or distribute, they could face up to 400 years in prison.



## DEFENSE STRATEGY

Denying that the offense occurred (i.e., “It never happened.”) is a viable defense strategy when facing child pornography charges. A mistake of fact (i.e., the child appeared to be over the age of 18) and lack of intent or knowledge regarding possession or distribution are also possible defenses. Other viable defenses include entrapment (i.e., a scenario was set up with the intention of luring a person to commit the crime) and age of the defendant.

Addressing lack of intent or knowledge (the “I didn’t do it” defense) requires that an attorney know and understand current computer forensics, including the latest guidelines for forensic digital evidence examinations. A qualified lawyer will be able to address the following questions and their implications for a particular case:

- Was the wireless network secured?
- Did a third party have access to the computer?
- Did another person download or view child pornography on your computer, leading to a false accusation?
- Is there a chance the material in question was accidentally downloaded or sent in a spam email?
- Could another person have hacked into the computer and downloaded the images, or hijacked your computer to be used as a server?

Regardless of the best defense strategy, it is crucial that you hire an experienced attorney as soon as possible after you become aware of charges against you.



## PROCESS

A child pornography investigation often begins with police trolling peer-to-peer (P2P) internet sites searching for child pornography. Once child pornography is found, the police will attempt to download the images or videos and locate the IP address of the computer where the images originated. After locating the IP address, police will either continue to investigate and collect further evidence, or they will immediately obtain a search warrant.

Police may continue an investigation by using electronic surveillance to monitor a suspect's residence. This can allow police to determine who was in the residence when child pornography was uploaded or downloaded and possibly curtail the "it wasn't me" defense. However, such surveillance is not the norm for child pornography investigations.

Generally, police obtain a search warrant and arrive at the location of the computer linked to the pornography. Police then execute the warrant and seize anything authorized, including computers, cell phones, thumb drives and any other items that could store images electronically. Police typically aim to execute the warrant when the suspect is at home. This gives them an opportunity to interrogate the suspect and potentially gather passwords needed to access the contents of the seized devices.

**IT IS CRUCIAL THAT THE PERSON ACCUSED DOES NOT SPEAK TO POLICE AND HIRES A QUALIFIED ATTORNEY.**

Police are trained to be skilled interrogators. Some police officers are so effective that they can coerce false confessions from suspects. To protect the outcome of the investigation, it is very important that the person accused does not speak with police. Police have often already decided to file charges and will attempt to get the person to provide information that hurts his or her chances of being proven innocent.

Some individuals mistakenly believe that hiring an attorney will make them look guilty. This is untrue and can lead to unfortunate consequences. It is the job of a defense attorney to protect the rights of those accused of committing a crime. Police frequently engage with defense attorneys, and it is not unusual for police to decline charges against suspects whose lawyers convince police that prosecution is not warranted.

All items seized in the search will be analyzed to determine if child pornography is present. This process can take several months. There is a myth that deleting images is sufficient to erase them from a device. However, law enforcement will almost certainly find such files using state-of-the-art equipment to recover deleted files and bypass passwords and encryption.

If charges are filed, the defendant is arrested and taken to jail. In jail, the defendant will often see a magistrate who may set a bond at that time. However, if the jail magistrate does not set bond, the defendant will go to court and the trial judge will set a bond.

# CHILD PORNOGRAPHY: FEDERAL OFFENSES

Under federal law, it is a crime to knowingly possess, manufacture, distribute or sell any visual depictions of a minor - defined as someone under 18 years old engaging in sexually explicit conduct. The legal definition of “sexually explicit” does not require that an image depict a child actually engaging in sexual activity. A picture of a naked minor could be considered child pornography if it is sufficiently sexually suggestive.

Furthermore, the age of consent for sexual activity in a given state (including Texas) is irrelevant. Any depiction of a minor under 18 years of age that is sufficiently sexually suggestive is considered child pornography and is illegal.

Continue reading to learn more about [child pornography](#).

## LAW

Title 18 of the US Code, Section 1466A states:

“(a) In General — Any person who, in a circumstance described in subsection (d) [below], knowingly produces, distributes, receives, or possesses with intent to distribute, a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that —

(1)

- (A) depicts a minor engaging in sexually explicit conduct; and
- (B) is obscene; or

(2)

(A) depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and

(B) lacks serious literary, artistic, political, or scientific value; or attempts or conspires to do so, shall be subject to ... penalties provided ..., including the penalties provided for cases involving a prior conviction.

(b) Additional Offenses — Any person who, in a circumstance described in subsection (d) [below], knowingly possesses a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that —

(1)

- (A) depicts a minor engaging in sexually explicit conduct; and
- (B) is obscene; or

(2)

(A) depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and

(B) lacks serious literary, artistic, political, or scientific value; or attempts or conspires to do so, shall be subject to ... penalties provided ..., including the penalties provided for cases involving a prior conviction.

(c) Nonrequired Element of Offense — It is not a required element of any offense under this section that the minor depicted actually exist.

(d) Circumstances — The circumstance referred to in subsections (a) and (b) is that —

- (1) any communication involved in or made in furtherance of the offense is communicated or transported

by the mail, or in interstate or foreign commerce by any means, including by computer, or any means or instrumentality of interstate or foreign commerce is otherwise used in committing or in furtherance of the commission of the offense;

(2) any communication involved in or made in furtherance of the offense contemplates the transmission or transportation of a visual depiction by the mail, or in interstate or foreign commerce by any means, including by computer;

(3) any person travels or is transported in interstate or foreign commerce in the course of the commission or in furtherance of the commission of the offense;

(4) any visual depiction involved in the offense has been mailed, or has been shipped or transported in interstate or foreign commerce by any means, including by computer, or was produced using materials that have been mailed, or that have been shipped or transported in interstate or foreign commerce by any means, including by computer; or

(5) the offense is committed in the special maritime and territorial jurisdiction of the United States or in any territory or possession of the United States.

(e) Affirmative Defense — It shall be an affirmative defense to a charge of violating subsection (b) that the defendant —

(1) possessed less than 3 such visual depictions; and

(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any such visual depiction —

(A) took reasonable steps to destroy each such visual depiction; or

(B) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.

(f) Definitions — For purposes of this section —

(1) the term ‘visual depiction’ includes undeveloped film and videotape, and data stored on a computer disk or by electronic means which is capable of conversion into a visual image, and also includes any photograph, film, video, picture, digital image or picture, computer image or picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means;

(2) the term ‘sexually explicit conduct’ has the meaning given the term in section 2256 (2)(A) or 2256 (2)(B); and

(3) the term ‘graphic’, when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted.”



## PUNISHMENT

Punishment ranges vary according to the specific offense. For example, a first-time offender convicted of producing child pornography would face fines and a statutory minimum of 15 years to a maximum of 30 years in prison. A first-time offender convicted of transporting child pornography in interstate or foreign commerce would face fines and a statutory minimum of 5 years to maximum of 20 years in prison.

Convicted offenders can face harsher penalties if there are prior convictions, or if the offense occurred in certain aggravated situations. In such circumstances, a convicted offender could face up to life in prison.

In sentencing, the courts consider the [United States Sentencing Guidelines](#). Under these guidelines, the major factors that determine the sentence are the number of images and whether the defendant has any intent to distribute. There are also six sentencing enhancements based on aggravating circumstances:

- 1. the ages of the children depicted in the images;
- 2. whether the acts depicted involved sadistic or masochistic acts or other violence;
- 3. the number of images;
- 4. whether the defendant used a computer in the commission of the offense;
- 5. whether the defendant distributed child pornography; and
- 6. whether the defendant engaged in a “pattern of activity” involving the sexual exploitation or abuse of minors.

In recent years, both attorneys and judges have been critical of the guidelines as being too severe in child pornography cases. For this reason, it is not unusual for trial courts to vary or reduce the sentences in cases where there are no aggravating factors.



## DEFENSE STRATEGY

If the person accused possesses fewer than three images that can be considered child pornography and has taken reasonable steps to destroy the images and/or report them to law enforcement, this can be used as a defense.

A mistake of fact (i.e., that the child appeared to be over the age of 18) or a lack of intent or knowledge regarding the possession and/or distribution of the images are also possible defenses. Other viable defenses include entrapment (i.e., that a scenario was set up with the intention of luring a person to commit the crime) and the age of the defendant. Another defense is if the images did not travel in interstate commerce.

Addressing lack of intent or knowledge (the “I didn’t do it” defense) requires that an attorney know and understand computer forensics, including the latest guidelines for forensic digital evidence examinations. A qualified lawyer will be able to address the following questions and their implications for a particular case:

- Was the wireless network secured?
- Did a third party have access to the computer?
- Did another person download or view child pornography on the computer, leading to a false accusation?
- Is there a chance the material in question was accidentally downloaded or sent in a spam email?
- Could another person have hacked into the computer and downloaded the images, or hijacked your computer to be used as a server?

Regardless of the best defense strategy, it is crucial to hire an experienced attorney as soon as possible after you become aware of charges.



## PROCESS

A federal child pornography investigation often begins with police trolling peer-to-peer (P2P) internet sites searching for child pornography. Once it is found, the authorities will attempt to download the images or videos, and then locate the IP address of the computer where the images were located. After locating the IP address, police will either continue investigating and collecting further evidence, or immediately obtain a search warrant.

Police may continue an investigation by using electronic surveillance to monitor a suspect's residence. This can allow police to determine who was in the residence when child pornography was uploaded or downloaded and possibly curtail the "It wasn't me" defense. However, such surveillance is not the norm for child pornography investigations.

Police generally obtain a search warrant and arrive at the location of the computer linked to the pornography. Police will then execute the warrant and seize anything authorized, including computers, cell phones, USB drives and any other item that could store images electronically. Police typically aim to execute the warrant when the suspect is at home. This allows police an opportunity to interrogate the suspect and potentially gather passwords needed to access the contents of the seized devices.

IT IS CRUCIAL THAT THE PERSON ACCUSED DOES NOT SPEAK TO POLICE AND CHOOSES TO TALK TO A QUALIFIED ATTORNEY INSTEAD.

Police are trained to be skilled interrogators. Some police officers are so effective that they can coerce false confessions from suspects. To protect the outcome of the investigation, it is very important that the person accused does not speak with police. Police have often already decided to file charges and will attempt to get the person to provide information that hurts his chances of being proven innocent.

Some individuals mistakenly believe that hiring an attorney will make them look guilty. This is untrue, and can lead to unfortunate consequences. It is the job of a defense attorney to protect the rights of those accused of committing a crime. Police frequently engage with defense attorneys, and it is not unusual for police to decline or drop charges against suspects whose lawyers convince police that prosecution is not warranted. Police hire attorneys themselves when they come under investigation, and most officers understand that even innocent people hire attorneys to help guide and counsel them through a process that is both foreign and frightening.

All items seized are analyzed to determine if child pornography is present. This process can take several months. There is a myth that merely deleting images is sufficient to erase them from a device. However, law enforcement will almost certainly find such files by utilizing state-of-the-art equipment to recover deleted evidence and bypass passwords and encryption.

If charges are filed, the defendant is arrested and taken to jail. In most federal cases, bond is not an option.

# COMPUTER CRIMES: PROCEDURE

## BOND CONDITIONS

For most state offenses, including child pornography, a defendant is entitled to bond pending resolution of the case. Texas Code of Criminal Procedure Article 17.15 states the factors that courts must consider in setting a bond:

- The bail shall be sufficiently high to give reasonable assurance that the undertaking will be complied with.
- The power to require bail is not to be so used as to make it an instrument of oppression.
- The nature of the offense and the circumstances under which it was committed are to be considered.
- The ability to make bail is to be regarded, and proof may be taken upon this point.
- The future safety of a victim of the alleged offense and the community shall be considered.

Texas appeals courts have held that other factors can be considered. These factors include the defendant's work record, community ties, family ties, length of residency, prior criminal history, conformity with any prior bonds and the existence of any outstanding bond.

The trial court cannot just set any bond. Instead, the court must set a reasonable bond. If the bond is unreasonable, then the defendant can appeal. These appeals are "expedited" or sped up, since the defendant is in custody.

Defendants usually hire a bonding company to post the bond. Bonding companies typically want the defendant to pay ten percent or so of the total bond amount and put up some collateral to make sure the defendant does not jump bond (e.g., fail to appear in court).

For example, if the trial court sets a \$20,000 bond, a bonding company would charge \$2,000 and require the remaining bond amount to be secured by property, such as a house. Like any business, some bonding companies are reputable and some are not. An experienced defense attorney will be able to advise on which companies are reputable.

In setting a bond, a court may impose certain bond conditions over and above the amount of bond a defendant must post to be released. A defendant charged with child pornography, for instance, may be prohibited from having Internet access.

Unlike in state court, a defendant facing child pornography charges in federal court will likely be presumptively detained. This means the defendant will not receive a bond in federal court.

# SEX OFFENDER REGISTRATION

An offender who has a conviction, deferred adjudication, or adjudication on or after September 1, 1970, for a reportable sex offense has a duty to register as a sex offender. A defendant therefore has to register for certain offenses, even if they received deferred adjudication with probation and the case was dismissed upon completion of the probation. For child pornography offenses, the defendant must register for life. Sex offender records are open to the public. Any person can view the sex offender database and see the face, address, and offense record of the person charged.

## COMPUTER CRIMES: FAQs

### **Q: I have been arrested for a child pornography offense. What should I do?**

A: You should immediately contact an experienced attorney to protect your rights. If you can afford the bond and an attorney, then post the bond as well. If you cannot afford both, then spend your money on an attorney. Bond is a short-term gain; hiring the right attorney carries long-term consequences.

### **Q: The police or CPS have contacted me and want me to meet to answer some questions. I didn't do anything wrong, and I don't have anything to hide. Should I do it?**

A: No! These individuals are skilled interrogators. Some police officers are so effective that they can coerce false confessions from suspects. According to the Innocence Project, approximately 30% of people who confessed to police were later found actually innocent. To protect the outcome of the investigation, it is very important that you do not speak with police. If contacted by police or other individuals seeking information relating to the accusations, you should immediately contact an experienced attorney to protect your rights.

### **Q: Won't it look bad to police if I hire an attorney while being investigated?**

A: No. The job of a defense attorney is to protect the legal rights of those accused of a crime. Police are used to lawyers representing suspects and understand that innocent suspects hire lawyers to protect themselves.

### **Q: I'm an emotional wreck and can't handle the stress of this situation. What can I do?**

A: The emotional toll of a child pornography allegation can be overwhelming. Getting to a reputable mental health provider can help you deal with the stress. Over the many years of handling these cases, Neal Davis has developed strong personal relationships with outstanding mental health experts. He can refer you to someone who can help you through this time.

### **Q: How long will it take before the case is over?**

A: A child pornography case can take anywhere from a few months to two years to resolve. Prosecutors in larger counties (such as Harris County and surrounding counties) have many cases to address, and they prioritize older cases over newer ones. An effective defense investigation often takes time and includes a forensic examination of the digital devices that allegedly contain child pornography as well as researching any search or seizure issues. Cases are set for trial depending on

their age and if the defendant is in custody. If a defendant is suspect in a newer case and is also out on bond, his case will not be at the front of the line to be tried quickly.

**Q: I hired a lawyer, but I no longer have any confidence in them. What do I do?**

A: It is not unusual for a person to hire a lawyer shortly after being accused of a crime—sometimes because the lawyer is inexpensive—and later make the unfortunate discovery that the lawyer is not adequately qualified to handle a case as serious and complicated as a child pornography case. At this point, there is no question that it wise to hire a more qualified lawyer to step in and take over the case. This happens frequently. The new lawyer contacts the first lawyer and informs them of the client’s decision. The new lawyer then handles the case from that point forward.

**Q: I’ve talked to several lawyers. How can I feel certain I’m choosing the right one for my case?**

A: This is an important question. You should hire the lawyer you feel is the most qualified and with whom you feel most comfortable. Examine the lawyer’s experience. Has he or she practiced for just a few years, or for many years? Have they handled many of these types of cases? What is their record of success?

Also, consider the lawyer’s credentials and their ratings. Are they Board Certified in Criminal Law? Look at the lawyer’s peer ratings. Among the most reputable and prestigious ratings are an AV Rated by Martindale Hubbell and admission into the Best Lawyers in America. Client reviews can also be helpful.

Do NOT hire an attorney based on price alone. Hiring an attorney because of a low price can cost you your freedom, your career, your family relationships and your reputation.

Continue reading: [Questions to Ask When Hiring a Criminal Defense Lawyer](#)

**Q: How much will this cost?**

A: The short answer to “how much is the cost” may not be satisfying: it depends. Many factors, from the experience, qualifications and ability of the criminal lawyer, to the charges and the complexity of the case, determine the fee. Some cases may, aside from attorney fees, require expenses for experts and investigation.

The custom and practice of Texas criminal attorneys is to generally charge a flat fee. We typically charge one fee to handle the case up to the point of it being set for trial, then an additional fee if the case is set for trial. The client is responsible for any expenses, such as experts, and any bond. The benefit of a flat fee is that clients know at the outset how much to pay an attorney, and there will not be any surprise monthly billing statements based on hours spent.

**Q: What can you guarantee?**

A: Ethically, no attorney can guarantee any outcome, but we can guarantee we will do everything we can to achieve the best possible outcome. While each case is different and involves its own unique set of facts, we have had a proven track record of obtaining extraordinary results in all types of cases. We are proud of our record of dismissals in misdemeanors and felonies in state and federal court.