



CANADIAN CENTRE *for* CHILD PROTECTION®
Helping families. Protecting children.

HOW WE ARE FAILING CHILDREN: CHANGING THE PARADIGM

*Framework for the Protection and Rights of Children
in the Removal of Child Sexual Abuse Images and
Harmful/Abusive Images of Children*

Survivor Edition



CANADIAN CENTRE *for* CHILD PROTECTION®

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TO THE SURVIVORS OF CHILD SEXUAL ABUSE:

One of the cornerstone commitments of the Canadian Centre for Child Protection is to better support survivors of child sexual abuse images and videos through advocacy and research in order to find solutions to what is a growing, global issue. With that in mind, it is important we share our findings with both the public and those who are in positions to effect change.

We acknowledge that the information in this document may be difficult to read. As you go through the report, allow yourself space to be aware of any strong emotions it stirs up in you. If the feelings get to be too much, take a break, reach out to supports in your circle, or do whatever else you might need to become centered again. It's important to pace yourself and to give yourself all the time you need.

A note about language and terms used in this document: Some people don't like to define their past and/or present experiences by labels and/or the label they give it may change over time. In this document we chose to use the term "survivor," but there is a wide spectrum of language that can range from "victim" to "thrivor" and even "warrior." Whatever word you choose (or if you choose no word at all), know that we understand human beings cannot be reduced to any single experience. We acknowledge this by standing with you and supporting you wherever you are in your journey.

If you wish, you may share any thoughts you have on this document or on your own personal experiences by contacting us at support@protectchildren.ca. You may also contribute information about your experience by completing the International Survivors' Survey at protectchildren.ca/survivors_survey.

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EXPERT PERSPECTIVES

“Child sexual abuse is a life changing adversity and an injury which research now reveals can manifest a harmful impact upon a child’s physical health, immunity, ability to learn, to grow, and mental well-being. Children with pre-existing health problems often have worsening of symptoms when they suffer this and other forms of abuse. Survivors tell us that the memorialization of child sexual abuse through the production of abusive images and videos and even worse, its distribution, constitutes a most egregious insult to an already severe injury. The rate of suicidal ideations is nearly twice as high for survivors of child sexual abuse images as compared to child sexual abuse without images. Eradication of this digital scourge against the successful recovery of children is within our reach and calls for action, child protection and justice.”

– Dr. Sharon Cooper, Developmental and Forensic Pediatrician and Adjunct Professor of Pediatrics, University of North Carolina at Chapel Hill School of Medicine

“For far too long, victims and survivors of child sexual abuse imagery have been invisible in debates over internet regulation. The framework is the first policy document to place the rights and needs of victims at the centre of government and industry responses to the misuse of technology in the abuse of children. This is a powerful blueprint for a safer and more just internet.”

– Dr. Michael Salter, Associate Professor of Criminology, University of New South Wales

“From its earliest days, the internet has been weaponized against children around the world. From its earliest days, the technology sector has been negligent in ensuring that their platforms are not used to post child sexual abuse images. From its earliest days, the technology sector has profited while turning a blind eye to the horrific action of millions of their users around the world. This shameful behavior must end. We must reclaim our online communities and hold the technology sector responsible for their actions and lack of action. With the emphasis where it belongs, on the young victims, the Canadian Centre for Child Protection is taking the long needed steps to reframe the problem and the solution.”

– Dr. Hany Farid, Professor, University of California, Berkeley

“Once again the Canadian Centre for Child Protection has provided international leadership in putting the focus on survivors of child sexual abuse images, rather than perpetrators. For over 30 years, the world has had the *UN Convention on the Rights of the Child* available to try to reframe society’s most challenging problems by placing the child’s best interests at the centre. Here the Canadian Centre shows the power of the children’s rights paradigm to provide guidance to industry and government by reframing child sexual abuse images not from a criminal paradigm focused on the perpetrators’ acts, but holistically from the child’s rights to privacy, identity, to be protected from harm, as well as to full psychological recovery and social reintegration — all of which are violated when these images remain accessible on the internet.”

– Warren Binford, Professor of Law, Willamette University

“Child abuse images immortalise abuse and are all too easily accessed, resurfacing time and again and acting as a constant reminder to the victim, forcing them to undergo the trauma repeatedly. Years of failure by the tech industry and social media platforms to acknowledge and respond effectively to children who experience such suffering has only compounded the cost to individuals, communities and society. It is vital tech giants cooperate and stamp out this material before it spreads and causes lifelong suffering.”

– Peter Wanless, Chief Executive, NSPCC

“Every act of sexual abuse perpetrated against a child harms that child. Every act of sexual abuse perpetrated against a child which is recorded in a still or moving picture that finds its way on to the internet magnifies and can substantially expand the harm. To the damage caused by the abuse is added a gross loss of privacy and human dignity. The adult world in general and internet businesses in particular owe it to the injured child to curtail the further distribution of the child’s humiliation to the greatest extent possible, in the shortest time possible. The Canadian Centre’s Framework is a global blueprint for doing just that.”

– John Carr, Technical Adviser, ECPAT International

“Internet freedom cannot mean freedom from accountability while child sex abuse images circulate freely in a worldwide cesspool of exploitation. This groundbreaking framework is just that—the beginning of a sensible discussion about what must be done to ensure the rights and responsibilities of both technology providers and their most vulnerable digital citizens. It is long past the time that children are placed at the center of this discussion. The time is now, too many lives have already been sacrificed.”

– James R. Marsh, Chair of the Board of Directors, CHILD USA

“We are not going to prosecute our way out of the epidemic of child pornography on the internet. Industry — which has benefited so much from the unfettered flow of content — must take responsibility for protecting children from the posting of child sex abuse images on its platforms. This framework is the needed action plan with concrete steps for industry, government, and all who care about the safety of our children.”

– Carol Hepburn, Attorney, Savage Law Firm

“Child sexual abuse irreparably changes a person’s life; nothing will ever be as it could have been. The sexual abuse of children has also been fundamentally and permanently altered by digital media. The digital documentation and dissemination of this abusive act infinitely increases the suffering of survivors. There is a sense of urgency to act, as we can no longer leave the protection and dignity of affected children at the mercy of industry. As a global community we must firmly commit to prioritizing children, which, first and foremost, includes adopting common standards for effective and proactive digital child and youth protection, and supporting tools such as Project Arachnid.”

– Julia von Weiler, Psychologist, Innocence in Danger e.V. Germany

“Each victimized child, each abusive exploitative image on the internet, represents a failure of our adult obligation to children. Each instance is exacerbated further by our reluctance and unwillingness to remove those offending images when we find them. This framework provides clear imperatives to all who are concerned that some of our children are subject to systematic abuse and trauma which lasts a lifetime, which by now is an undisputable fact. This is a call to action to hold ourselves, our government and the technology industry to account.”

– Dr. John Wiens, Past Chair, Canadian Centre for Child Protection

FRAMEWORK FOR ACTION¹

It is evident that child sexual abuse imagery² and its growing availability on the internet is a social epidemic substantially impacting the lives of children/survivors and all those trying to protect them. We must reverse this dynamic and start approaching the removal of child sexual abuse images and harmful/abusive images³ of children from a protection and rights framework.

After 17 years of working in the space of online child sexual abuse and exploitation, the Canadian Centre for Child Protection (Canadian Centre) believes a new approach to the removal of child sexual abuse images and harmful/abusive images of children is urgently needed. In our organization, a major turning point came when we established Project Arachnid – a web platform designed to detect online child sexual abuse images proactively rather than waiting for the public to report them. The evidence made available by Project Arachnid prompted us to write this framework.

Project Arachnid brought to light the prevalence of images made prior to, and following, sexual abuse incidents; images that may not depict abuse or nudity, but are part of the sequence of the abuse images. Project Arachnid has also found images of physical child abuse and torture that are not overtly sexualized. As far as the Canadian Centre is aware, both categories of images do not fall under criminal definitions of child sexual abuse images in jurisdictions worldwide, and therefore, technology companies are not obliged to remove them. However, they are depictions of abuse and profoundly harmful to the children captured in those images.

As such, we are proposing a set of principles for action that a) prioritizes the best interests and protection of children, b) clarifies key roles and responsibilities, and c) ensures a coordinated, standardized, and effective response across jurisdictions.



Model in image and intended as illustrative.

MEANING OF CHILD:

For the purpose of this framework, a child means any person under the age of 18. In the context of images/videos, if it is more likely than not that the person depicted is under 18, the material must be removed. Such removal will remain in place until the individual in the image or someone authorized to act on their behalf provides verifiable proof that the person is 18 OR OLDER.

¹ This document lays out a conceptual framework for the removal of child sexual abuse images and harmful/abusive images of children. The specific ways by which we operationalize this framework will be developed in the coming months.

² Within this framework, the term child sexual abuse images/imagery means those images or videos that fall within a criminal definition.

³ The term harmful/abusive images of children encompasses all images or videos associated with the abusive incident, nude or partially nude images or videos of children that have become publicly available and is used in a sexualized context or connected to sexual commentary. It also includes publicly available images or videos of children being physically abused, tortured or restrained.

I. THE BEST INTERESTS AND PROTECTION OF CHILDREN

By approaching the removal of child sexual abuse images and harmful/abusive images of children from a protection and rights framework, we are reaffirming the principle that every child is deserving of the rights to dignity, safety, privacy, freedom from harm, and security. Removal of child sexual abuse images and harmful/abusive images/videos of children should be guided by the answer to the following questions: Would a reasonable person believe the image is of a child? Would a reasonable person believe the child within the image(s)/video(s) was being harmed due to the public availability of the material? If the answer to those questions is yes, immediate removal of the image(s)/video(s) should occur.

II. CLARIFICATION OF ROLES AND RESPONSIBILITIES

We suggest that key roles in this response should be understood in the following ways:

- **Governments** must take a leadership role and provide the overarching policy framework to ensure the best interests of children are at the forefront of any content removal strategy. Unlike the current fractured criminal law approach, the framework must account for the global reality of the internet. Governments should work together to establish a framework for determining if an image or video should be removed.
- **Trusted/verified hotlines**⁴ should be tasked with working with governments to determine the global criteria for removal and assessing any child sexual abuse and harmful/abusive images/videos for the purpose of issuing notices to industry. Hotlines should work with each other and with industry to ensure this material is promptly removed.
- **Industry**⁵ should remove images/videos expeditiously upon request from a trusted/verified hotline or other appropriate authorities.⁶ Industry should also be proactive, work together to develop and share compatible tools and data with each other and with trusted/verified hotlines. Technology companies that do not directly provide services which allow for the creation, storage, or transmission of child sexual abuse images and harmful/abusive images/videos of children may nevertheless be in a position to support the wider strategy. They can do this by withdrawing facilities or service from entities shown to be negligent or complicit in engaging in such behaviour.

⁴ Trusted/verified hotlines are vetted (under an agreement) to work within Project Arachnid and/or well-established hotlines with proven practices for assessing images/videos that are a part of the INHOPE network of hotlines.

⁵ In this report, industry is defined as a group of businesses that intersect with user-generated content by way of the internet. It is used as a broad sweeping term, encompassing large and small technology companies.

⁶ Images/videos should also be removed when the request originates from the child or the family of the child.

III. PRINCIPLES FOR ACTION

In all cases, child sexual abuse images and harmful/abusive images of children will be assessed in accordance with the youngest child in the image/video, and those who have a role to play in the removal process (e.g., industry, hotlines) shall adhere to the following standards and guidelines:

1. All material recorded in the course of a sexually abusive scenario/incident⁷ involving a child victim (identified and unidentified) will be actioned and removed immediately by industry.

A set of images capturing an abusive incident will often include photos of the child that do not meet the legal definition of child sexual abuse material, but are part of the continuum of abuse. For instance, offenders may create a separate image of the child's face or feet from the abuse material. Under this principle, industry members are to take action and remove all images that are derived from illegal images/videos, in addition to the material meeting the legal definition of child sexual abuse images.

2. Nude or partially nude images/videos of children that have been made publicly available (typically stolen from unsecured social media accounts or surreptitiously taken images), **AND** are used in a sexualized context, will be actioned and removed immediately by industry.

3. Images/videos of a child being physically abused, tortured, or restrained will be actioned and removed immediately by industry.

With or without a sexual context, with or without nudity or semi-nudity, images or videos of children being physically abused, tortured, or restrained constitute an egregious breach of a child's right to dignity and privacy.

We want to remind industry that these are real children in these photos that they receive notices for. We want people to stop thinking of this as a victimless crime and separate child abuse imagery from pornography. Pornography is consensual between two adults. [Child sexual abuse material] is never a choice for that child; it is abuse and we never agreed to have it shared. The continuous trading of our imagery is a constant burden on our lives. We want governments to stop protecting the rights of these predators over the rights of the innocent children they are destroying. We are demanding that ALL images associated with a child's abuse be removed quickly. Because whether it is a smiling headshot, or a tearful action shot, I can tell you firsthand that the smile in the head shot is hiding just as many tears."

- A member of the Phoenix 11

⁷ This includes incidents that appear to be self-generated.

BACKGROUND

How We Are Failing Children: Changing the Paradigm is an urgent call to action for governments, industry, and hotlines around the world. The framework recognizes that children's interests and rights are transgressed by a range of abusive and harmful images that fall outside criminal definitions of child sexual abuse images, and the online protection of children requires significant clarification of roles and responsibilities in the removal of these images.

Current policies for the removal of child sexual abuse images have been focused on determining and removing material deemed illegal under criminal law. **In contrast, this framework is grounded in the best interests of the child, and the rights of children to dignity, privacy, and protection from harm.** The undeniable truth is the rights of a victimized child will be continually violated as long as images/videos of them being sexually harmed and abused are available on the internet.

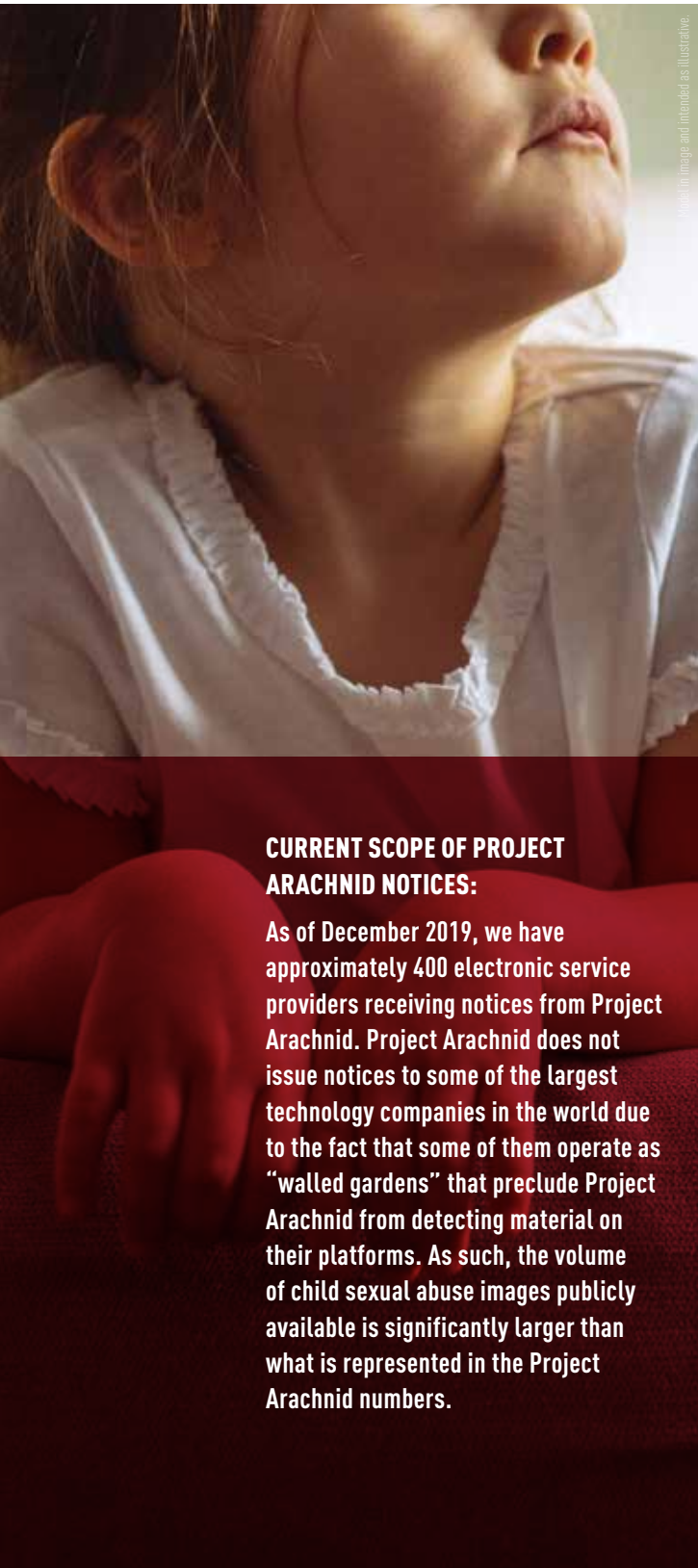
Model in image and intended as illustrative.

MEANING OF CHILD SEXUAL ABUSE IMAGES AND HARMFUL/ABUSIVE IMAGES:

Within this framework, the term child sexual abuse images means those images or videos that fall within a criminal definition. The term harmful/abusive images of children encompasses all images or videos associated with the abusive incident, nude or partially nude images or videos of children that have become publicly available in a sexualized context or connected to sexual commentary. It also includes publicly available images or videos of children being physically abused, tortured, or restrained.

Model in image and intended as illustrative.





CURRENT SCOPE OF PROJECT ARACHNID NOTICES:

As of December 2019, we have approximately 400 electronic service providers receiving notices from Project Arachnid. Project Arachnid does not issue notices to some of the largest technology companies in the world due to the fact that some of them operate as “walled gardens” that preclude Project Arachnid from detecting material on their platforms. As such, the volume of child sexual abuse images publicly available is significantly larger than what is represented in the Project Arachnid numbers.

While operating Project Arachnid, we have become deeply concerned by the varying levels of commitment demonstrated by technology companies to safeguarding children. There have been a range of responses to notices issued by Project Arachnid and companies can occupy multiple categories — for example, we encounter companies that are both proactive as well as resistant. The spectrum of responses include:

1. **Proactive:** Companies that actively seek to detect and prevent child sexual abuse imagery from being posted on their service. This typically involves the larger technology companies, but can include some smaller ones.
2. **Reactive:** Large and small companies that remove when notified, but do not actively seek to prevent child sexual abuse imagery on their service. Those that react to notices also have varying durations in removal time.
3. **Resistant:** Companies that debate/push back on removing the material, either not being satisfied that the image is a child or not agreeing that the image or video is illegal in nature.
4. **Non-compliant:** Companies that ignore takedown notifications or simply refuse to remove material that is clearly child sexual abuse imagery.
5. **Complicit:** Companies that knowingly allow child sexual abuse imagery on their services and may attempt to protect clients engaged in illegal activities.

Some companies will act on a wider set of images that are clearly harmful even if they are not necessarily illegal, while others base their response solely on statutory obligation. There is a lack of transparency and accountability in the process of image removal, and industry has had extensive discretion and authority on decisions tied to the removal of these images.

We are hopeful the paradigm shift called for in this report will result in the change necessary to curb and even reverse the growing number of children abused and harmed online. We have a global responsibility to children to make a distinctive impact in eradicating child sexual abuse images and harmful/abusive images of children on the internet. Through increased collaboration, new strategies, and a united resolve among stakeholders, we are determined to make this a reality.

WHAT ARE THE PROBLEMS WITH CURRENT RESPONSES?

The overwhelming pace of technological progression, along with the significant online offender population, has resulted in a lack of cohesiveness in responses to child sexual abuse imagery around the globe. This problem includes a rigid adherence to criminal law definitions and the criminal standard of proof (beyond a reasonable doubt) to determine criteria for removal, inconsistent assessment processes, a failure to consider the ongoing harm to a child victim when content is not removed, a failure to connect the continuum of harm to child victim(s), and other risks to the safety and rights of children. The lack of a standardized response is also reflected in the inconsistency with which industry's terms of service are being applied. While there are many ways in which this epidemic is not being addressed appropriately, there are several key areas of concern:



“If the choice is between protecting the privacy of the people taking pleasure from our pain, and protecting our privacy — and the privacy of all the children in child sexual abuse material — we want you to protect children.”

- Phoenix 11, a courageous group of survivors who have banded together to create change, and each of whom were exploited through the production (and in most instances distribution) of child sexual abuse imagery

Within many of the technology companies' terms of service, it is common to see broad language used about what the platform does not permit, for example, infringement upon another person's rights, infringement upon another person's intellectual property, content depicting acts of physical harm, content depicting sexual exploitation or sexual assault, content depicting child exploitation or child sexual abuse images. **Therefore, industry has the power to remove child sexual abuse images and harmful/abusive images of children by way of their own terms of service.**



Model in image and model as illustration

Lack of Context and Failure to Address Full Extent of Harm to Children

While industry assessment of what is, and is not, a child sexual abuse image is based on the characteristics of the image itself, context is key to determining whether an image is abusive and harmful. Within Project Arachnid, analysts are seeing a tremendous amount of historical content, some that has been available for decades, as well as other content tied to known victim series (identified or unidentified). Previously, without that sequential context, many images of known victims were not connected by hotlines with the more egregious images of those victims, and therefore, not prioritized for removal. Images can now be connected to a known incident of child sexual abuse because of what the child is wearing or the location that would not have been correlated by hotlines or industry to known victims prior to our archiving images/videos.

Often images produced at the beginning/end of a sexual assault are not viewed as a part of the abuse occurring to the child because they are being reviewed in isolation. While it may be true that some of these images alone may not technically meet a criminal threshold, or neatly fit within the industry threshold for removal, they are a part of a continuum of abuse experienced by the child.

Overly Reliant on Criminal Law Definitions to Address Removal

There are fundamental problems with using, in isolation, criminal law definitions of child sexual abuse images to determine what images/videos should be removed from public view. These laws were intended only for use in a criminal court context and were drafted narrowly and with precision to support the imposition of very serious criminal law sanctions. When those same definitions are relied upon to determine what content needs to be removed, it means a significant proportion of harmful/abusive images of children remains online.

Criminal definitions do not contemplate or account for the wide range of harmful and abusive images that are widely available and are far too restrictive when used to make decisions about image removal. Further, it is inappropriate to require proof to a criminal standard, and to remove only that which is unquestionably illegal, when the objective of removal is not disciplinary – it is to protect victims of child sexual abuse images from further victimization and harm.



Inconsistent and Subjective Assessment Process Coupled with Early Signs of Sexual Development Unduly Inhibiting Removal

Over the last number of years, hotlines and industry have been the primary agents tasked with assessing content to determine whether it meets the threshold of illegal material for the purpose of removal. This process typically relies on conducting a developmental age assessment of the child in question, along with whether there appears to be any sexual activity or purpose to the content. From our experience, this assessment process can be highly subjective, inconsistent, and is cautious to the point of absurdity in some instances.


As a result of inconsistencies in assessing a child's sexual maturation, hotlines may not issue notices to industry, industry may refuse to remove the image, or there may be reluctance to take it down without further verification the child in question is without a doubt under 18.

Additionally, industry has been able to create their own rules in relation to the use of their service (terms of service). The companies interpret and apply these rules without any real avenues for review or appeal by members of the public. Industry is operating independent of any meaningful oversight and this has inevitably resulted in arbitrary decisions associated with image removal. In fact, industry's own terms of service are typically broad enough to remove images involving a child(ren) that are of a sexual, abusive, or harmful nature which do not meet criminal definitions.

CONCLUSION

This framework is an urgent call to action for those in a position to make change happen for children. It is no longer an option to accept the status quo. We know too much about the ways in which children are being exploited and victimized online and we know we must change the path we are on. It is not enough to confine removal to what is clearly illegal. Adopting criteria that is focused on what is in the best interest of the victimized child, and for children in general, is required. It is their dignity rights, their privacy rights, and their right to be safe and secure from harm that must take precedence.

As we continue our fight against online child abuse, we cannot combat this complex problem without continued collaboration and an understanding of our shared responsibility. We have to continue to strive to do more to protect our children. They deserve nothing less.



“For the first time in those 20 years I now feel hopeful. I feel hopeful that people are fighting for me to be free of my abuse. To have the peace of mind of knowing that my abuse will one day be forgotten. Not so much forgotten by me, it will always be a part of me, but the public fact of my abuse — that can change.”

– A member of the Phoenix 11

In order to elicit change, awareness must be drawn to the issue of child sexual abuse images, its removal, and the profound impact it has on survivors. A compelling example is the series of articles recently released by *The New York Times* on the prevalence of child sexual abuse images, and industry's failure to address this rampant epidemic. Notably, the feature "Child Abusers Run Rampant as Tech Companies Look the Other Way"⁶ provided much public discussion and even prompted a bipartisan group of U.S. Senators to draft a call to action letter to American industry.




Model in image and intended as illustrative.


⁶ Dance, Gabriel J.X., Keller, Michael H. "Child Abusers Run Rampant as Tech Companies Look the Other Way." *The New York Times*. November 9, 2019.





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