Part 2

Methodology

Background and Development

In early 2000 the Department of Internal Affairs Censorship Compliance Unit (CCU) sought to develop a tool for collecting specific information about Internet Censorship offenders. The CCU had identified the paucity of information in this area and anticipated that improved data collection and management procedures would enhance the operational capacity of the unit. CCU officers commented on the need to gain a better understanding of offender behaviour. This information would not only be useful in future investigations but would be valuable in prosecuting offenders. The officers also identified patterns of offender behaviour that they believed were indicative of an increased risk of re-offence or sexual offending. They suggested that being able to specifically target resources towards such cases, and provide evidence in support of their judgements, would enhance the effectiveness of their activities and increase recognition of the need for collaboration with other law enforcement agencies.

Despite this desire to gather information on offenders, CCU staff were concerned that any research process should not impinge on its operational or ethical responsibilities. While the small number of officers employed by the unit meant that any initiative could be easily communicated and monitored, it also meant that each officer was responsible for managing a workload that included detecting, identifying, investigating and processing offenders through the justice system. Apart from that which could be included in their day-to-day activities, they did not have time to spare for data collection. Neither did they possess significant experience in the collection of research data. Furthermore, the nature of their work together with the sensitivity of the information involved precluded the introduction of a third party to undertake data collection for them.

Therefore, it was decided that the data collection tool would take the form of a checklist/comment sheet that could be completed by CCU Inspectors during the investigation of offences. In designing the checklist, it was recognised that law enforcement officers are interested in different behaviours and activities than social science researchers. It was also accepted that neither the justice system, nor time, permitted the officers to obtain information about the offenders that was not directly relevant to legal prosecution. The information collected by the inspectors would need to be limited to that which could be observed during the investigation of the offence. It was also acknowledged that these observations would be subject to the inherent biases and biasing influences of the inspectors' roles. However, given the fact that they had access to significantly more information about censorship offenders than any research initiative was likely to obtain, these limitations were accepted. Indeed, given the credibility of previous research efforts using significantly less structured law enforcement data as the basis for analysis (see Canter, 1995), and the development of data analysis methods that account for the limitations inherent in such data, these limitations were justifiable.

Furthermore, a number of studies have criticised the assumption of objectivity implicit in research initiatives involving the types of criminal offenders generally made accessible to social scientists. The ethical limitations imposed on many university based research efforts mean that most offenders who are studied have already been convicted of the crimes that form the focus of the research initiative. Therefore, the research is automatically biased towards the constraints imposed by the criminal justice system and the constructs conveyed in the consideration of legal evidence.

The research process occurred largely within the offenders' natural environments rather than in clinical or experimental settings. Although not strictly naturalistic in nature, it was anticipated that lack of explicit research intervention, and the fact that many of the individuals identified in the current research had not yet been convicted, would yield data that better demonstrated the scope of the general offender population under consideration. While many offenders were convicted, other offenders were warned, diverted from the justice system, or absconded or died prior to prosecution[2]. None were acquitted. Several others were still in the prosecution process at the time the research was undertaken. However, all were found to be trading and or in possession of material classified as objectionable, and therefore illegal, under the Classification Act. The remainder of the document refers to them as offenders, regardless of the legal outcome of their investigation.

The CCU is in a prime position to collect important information about what is currently an under researched and misunderstood area of offending. The CCU employs seven officers, all of whom work solely on the issue of censorship offending. This enables CCU staff to devote time to gathering detailed data about offenders and, given the specialised focus of their activities and the small number of officers involved, variation in the way in which they collect, categorise and assess data is kept to a minimum.

Materials

The data collection tool was intended to collect both qualitative and quantitative data. A range of academic literature and various professionals working in the fields of criminology, clinical psychology, justice administration, censorship regulation, law, and the prevention of international child sex trading were consulted during its development. Some of these resources are discussed in the introduction, however, of most significance in terms of increasing the reliability and validity of the tool was collaboration with the CCU inspectors themselves. All of the questions included in the data collection tool were reviewed by (and in some cases proposed by) the CCU. Where questions were generated as a result of other information and relevant literature, discussion regarding the importance of their application was ongoing. In all cases, inclusion of a question involved considering it in the light of known cases to check consistent interpretation of its meaning. Where appropriate, all possible answers were identified and included in tick lists.

Most commonly, data was elicited using a range of open and closed ended questions followed by a series of options from which inspectors could chose the answer that most closely fitted the information they possessed. Inspectors were also provided with open-ended question and answer options in which they could provide additional details regarding their responses.

The questionnaire was divided into sections, described as "parts" to avoid confusion with the various "Sections" of the Classification Act. These parts pertained to offender demographics, offender lifestyle and isolation factors, offence details including the nature of the objectionable material and its acquisition,

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[2] See chapter 3 for further details of prosecution outcomes

organisation and storage, information about any other material that was found in the offender's possession that could not be classified objectionable but was deemed suspicious given the nature of the offending, offender reaction to the investigating officer and the outcomes of the investigation, prosecution and (where appropriate) conviction. In addition, questions relating to the nature of the objectionable material (Part 4) were organised according to the category identified in Section 3(2) of the Classification Act to which it pertained.

Because of the exploratory nature of the research, the questionnaire was quite extensive. It was anticipated that as data was collected, the relative usefulness of specific questions would become easier to gauge and those that were not useful could be discarded.

Procedure

The data were entered into the data collection tool by the inspectors on the basis of existing records, information obtained since prosecution, and notes taken by the investigators at the time of the offence investigation. Where information pertaining to prior convictions or legal outcomes was required, court and police records reviewed during the investigation and judicial proceedings were referred to. When describing the material and images upon which the prosecution was based, inspectors were required to apply general age estimates to those portrayed. There is a tendency to err on the side of caution and to ensure that certain indicators of age and activity will withstand scrutiny in a court of law. Visual indicators of age include the development of muscle tone and sexual characteristics, presence of body hair, physical size and facial characteristics of the subjects. Similarly, when assessing the nature of specific activities portrayed in objectionable material inspectors are required to refer to both explicit and contextual information, including notes and labels that had been attached by the offenders.

One of the main purposes of the research was to identify offender preferences and therefore description of the images was aimed at showing what the images appeared to portray, rather than what they actually portrayed. For example images that looked like they involved sex with or upon the body of a dead person were coded under Section 3(2)(c) of the Classification Act even if it could not be established that the subject of the image was dead. Supporting evidence for such classifications included written descriptions accompanying the material (for example "Jane's funeral") and the presence of props or imagery related to death (such as coffins, graves, wounds). In the case of the incest category, evidence included written descriptions of relationships (such as "father and son at play"), serial images conveying stories consistent with incest (for example, father making breakfast, father picking son up from school, father joining son in bed, father performing sexual act on son). Obviously, some classifications are extremely difficult to prove and where the nature of the image was ambiguous, images were not categorised. It is important to note that the Classification Act deems material to be objectionable if it promotes or supports certain activities rather than if it simply depicts or discusses the activities.

Furthermore, the data collection tool was designed to identify whether offenders demonstrated particular behaviours or conformed to particular social identities, but did not attempt to quantify the incidence of behaviours or the level of conformity. It focused on identifying general differences and similarities between offenders but did not measure these in degrees. By limiting responses to yes or no questions the

researcher hoped to reduce the scope for response discrepancies based on individual differences in qualitative interpretation of the significance of particular observations. Such differences will still affect the data and it is anticipated that readers will recognise this.

Much of the information collected using the data collection tool involved concepts that were defined by the Classification Act or consistently requested during prosecution proceedings (such as cost of computer equipment, applications and software employed during the commission of the offence, size of offenders' collections of objectionable material, way in which material was organised). The inspectors' familiarity with these concepts reduced the likelihood that they would be inconsistently interpreted. Although legal concepts and social concepts tend to be quite different in terms of the way they are applied, the primary purpose of the research was to serve the officers within the legal context. Furthermore, as indicated earlier, the fact that social scientists tend to rely on the justice system to provide them with access to criminal subjects, much social science research is implicitly influenced by legal definitions pertaining to the nature of offending.

In many cases, inspectors were required to make estimates or judgements regarding offender details such as socio-economic status, computer literacy and residential maintenance. These questions were deliberately left "vague" for the purpose of developing the questionnaire and inspectors were encouraged to provide feedback regarding their means of definition. This information was provided in a largely qualitative format and recoded by the research analyst. It was anticipated that following the pilot project, this detail could be used to further develop the questionnaire. Changes to the questionnaire resulting from the pilot research are identified in Appendix C. Ongoing data collection will employ the new questionnaire.

Across all questionnaires, inconsistencies exist in the reporting of ethnic data because this information is not routinely collected from offenders, and offenders are often loath to supply it. Therefore, responses to the ethnic identity question were often based on the perceptions of the investigating officer using information collected from family, friends, the New Zealand Customs Service, and the offender's name.

For the purpose of assessing the reliability of the CCU officers' ratings regarding the nature of individual offending (part 4 of the checklist) a random sample of 20 case files[3] was selected and their contents were re-rated by the researcher responsible for the study. During this process, case files were identified on the basis of offender names as opposed to the numbers used by the researcher during the analysis process. As a result, at the time of re-rating, the researcher was blind to the ratings given by the CCU officers. Upon examination of the ratings given by the CCU officers it was found that the one of the selected cases could not be used to test inter-rater reliability because the CCU officer who had originally submitted it had not provided sufficient details for comparison. The ratings given by the CCU officers and the research officer for the remaining 19 cases were each subjected to reliability analysis using Chronbach's Alpha as the measure of similarity. This analysis yielded an average (mean) Alpha correlation

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[3] Of note is that where large amounts of objectionable material were found in the possession of offenders, only a sample of it was included in the contents of the case files.

of 0.800774 (range = 0.5056 – 1, median = 0.8282) suggesting a high level of inter-rater reliability. Further examination of the individual cases revealed that for the six comparisons in which the Chronbach's Alpha correlation coefficient fell below 0.75 differences between the researcher's ratings and the CCU officers ratings were often due to the research officer categorising the objectionable material as falling under a greater number of sections of the Act than the CCU officers. The CCU officers tended to be more conservative in their categorisation than the researcher. This finding reflects the fact that the officers tended to focus on those sections of the act under which they believed they could definitely obtain a conviction. Additional comparison between the categorisations of the researcher and those of the CCU officers after the categorisations pertaining to the sections of the Act that were not identified by the CCU officers had been removed from individual checklists revealed an average (mean) Alpha correlation of 0.849121 (range = 0.6830 – 1, median = 0.8619).

Sample

In order to test the usefulness of the censorship offender questionnaire, it was piloted using the data from 109 out of 380 cases investigated by the CCU between 1996 and 2001, including three cases of re-offending. The subjects were all offenders who had been investigated by the CCU. Of the 106 offenders sampled, 100 had been involved in Internet-related offences and six had been investigated with regards to objectionable material in the form of video recordings (with two of these also found to be in possession of objectionable photographs, magazines, and letters/stories). Although the data pertaining to these individuals did not relate specifically to the issue of the Internet-based trade in objectionable material, the cases fell under the jurisdiction of the CCU and therefore the Unit wished to include them in the study. However, it should be noted that their cases were not included in the analysis of Internet-related issues such as computer use and skill levels.

Inspectors were asked to use existing cases to complete as many questionnaires as possible during the three-month period ending 31 December 2000. No specific criteria were used to select offenders for the pilot study. However, inspectors were encouraged to focus on recent offences and to use examples where investigation had resulted in ongoing involvement of the CCU (for example, investigations that generated sufficient evidence to support prosecution).

Table 2.1 provides details of the number of sampled offenders for whom warrants were executed between 1996 and 2000. One offender was charged without a search warrant being executed after he admitted his offending and voluntarily submitted to a search of his home and computer. In one case the date of the search warrant was not provided by CCU staff.

Table 2.1: Year That Censorship Compliance Warrants Were Executed For Sampled Offenders

Year Warrant Executed	Number of Offenders
1996	5
1997	18
1998	19
1999	20
2000	24
2001	18
No warrant	1
No details provided	1

Table 2.2 shows the regional location of the Censorship Compliance Offices responsible for investigating the offenders that were sampled in the Internet Censorship Profiling Study. Comparison between the location of offenders and the regional distribution of the New Zealand population suggests an under-representation in the more urbanised areas of the upper North Island and a slight over-representation of offenders in the lower North Island and South Island.

Table 2.2: Regional Location Of The Sampled Censorship Compliance Offenders

Location	Number of Offenders	Percentage of Offenders	Percentage of total New Zealand population residing in the area identified[4]
Upper North Island	46	43%	52%
Lower North Island	31	29%	24%
South Island	29	27%	24%

All three of the repeat offenders were located in the South Island.

Data Analysis

The pilot research yielded information about the social, demographic and behavioural characteristics of Internet censorship offenders. This information was analysed using descriptive statistics, qualitative content analysis, and multidimensional scaling techniques. Multidimensional scaling techniques were chosen because they are able to represent non-metric relationships between relatively large numbers of

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[4] Percentages of New Zealand population based on Statistics New Zealand regional population data http://www.statisticsnz.govt.nz/domino/external/web/WebMapInfo.nsf/65783b5b213ea02fcc256b36007a0699?OpenView. Accessed 7/2/2002.

variables across minimal dimensions, and because they have previously been applied to similar data sets (for example, data obtained from police records) (see Canter and Heritage, 1990). A more detailed explanation of the use of the multidimensional scaling techniques employed is provided in Chapter 4 of this publication.

Analysis of the pilot research findings resulted in a number of conclusions about offender behaviour. These are described in the following chapters.