

# The Inclusion of Child Pornography in the DSM-5 Diagnostic Criteria for Pedophilia: Conceptual and Practical Problems

Michael B. First, MD

The proposal to add use of child pornography to Criterion B of pedophilia is in direct conflict with the newly proposed distinction between paraphilia and paraphilic disorder, muddying rather than clarifying the diagnostic definition of pedophilia. The proposal to distinguish paraphilic disorder from paraphilia derives from the fact that the diagnostic criteria for the paraphilias have two components: Criterion A, defining the presence of a paraphilic erotic interest, and Criterion B, requiring clinically significant distress, impairment, or acting out the paraphilia with a nonconsenting person. Meeting Criteria A and B is necessary for a diagnosis of paraphilic disorder; meeting only Criterion A indicates a paraphilia. Use of pornography is better placed within Criterion A, perhaps as an example of a behavioral manifestation of pedophilia. If the Sexual and Gender Identity Disorders Work Group's true intent was to add a third prong to Criterion B, then the criterion must be modified to restrict it to the use of illegal forms of pornography (i.e., visual depictions of real children), excluding written or aural forms or virtual images.

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Among the proposals for paraphilias listed on the DSM-5 website ([www.dsm5.org](http://www.dsm5.org)) are those to create a categorical diagnostic distinction between a paraphilia and a paraphilic disorder and to incorporate the use of child pornography into the diagnostic criteria for pedophilia. While the proposal of the Sexual and Gender Identity Disorders Work Group to distinguish between paraphilia and paraphilic disorder has strong conceptual and practical advantages, adding the use of child pornography to Criterion B of pedophilia is in direct conflict with the distinction between paraphilia and paraphilic disorder, muddying rather than clarifying the diagnostic definition of pedophilia. This commentary begins with a presentation of the conceptual basis for the distinction between paraphilia and paraphilic disorder and then focuses on the conceptual and practical problems as-

sociated with the proposal to include use of child pornography in the diagnostic criteria for pedophilia. It concludes with a presentation of some options for rectifying the problem.

## Conceptual Basis for the Distinction Between Paraphilia and Paraphilic Disorder

The most significant change in the paraphilia section in Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV)<sup>1</sup> was the application of the DSM-IV-wide effort to add a clinical significance criterion (i.e., “. . . causes clinically significant distress or impairment in social, occupational, or other important areas of functioning”) to the diagnostic criteria for each specified paraphilia. Reflecting concerns that nonpathological presentations on the milder end of the severity spectrum were being inappropriately mislabeled as disorders,<sup>2</sup> this criterion was added to most of the DSM-IV disorders to help “establish the threshold for a diagnosis of a disorder in those situations in which that symptomatic presentation by itself (particularly in its milder forms) is not inherently pathological and may be

Dr. First is Professor of Clinical Psychiatry, Department of Psychiatry, Columbia University and Department of Clinical Phenomenology, New York State Psychiatric Institute, New York, NY. Address correspondence to: Michael B. First, MD, Department of Psychiatry, Columbia University and Department of Clinical Phenomenology, New York State Psychiatric Institute, Unit 60, 1051 Riverside Drive, New York, NY 10032. E-mail: [mbf2@columbia.edu](mailto:mbf2@columbia.edu).

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encountered in individuals for whom a diagnosis of ‘mental disorder’ would be inappropriate” (Ref. 3, p 8). A clinical significance criterion was thus added to the definitions of each of the paraphilias in DSM-IV in recognition of the fact that the presence of a paraphilic arousal pattern by itself may not be sufficient to justify a diagnosis of a clinical paraphilia. For example, individuals with a fetishistic sexual arousal pattern who are able to incorporate their fetish into their sexual repertoire with a willing partner should not qualify for a diagnosis of a sexual disorder. It is only when the fetishistic focus causes clinically significant problems (e.g., rejection of an obligatory fetish by an unwilling spouse resulting in significant strain in a marriage) that it should be considered worthy of a psychiatric diagnosis.

Consequently, the criteria sets for the DSM-IV paraphilias have two distinct components: Criterion A, which defines the presence of an abnormal sexual focus (i.e., “over a period of at least 6 months, recurrent intense sexually arousing fantasies, sexual urges, or behaviors involving . . .” (Ref. 3, p 569), and Criterion B, which involves clinically significant distress or impairment. Both criteria must be met to justify a diagnosis of a paraphilia. Fulfilling both criteria ensures that the DSM construct of paraphilia falls within the DSM-IV definition of mental disorder, which requires that the psychological syndrome or pattern be associated with “present distress (e.g., a painful symptom), or disability (i.e., impairment in one or more important areas of functioning) or with an increased risk of suffering, pain, disability or an important loss of freedom” (Ref. 3, p xxxi). Confusion regarding what constitutes distress and impairment in paraphilic individuals,<sup>4</sup> however, led to a revision of Criterion B in DSM-IV-TR,<sup>3</sup> with various wording, depending on whether acting out the paraphilia involves the victimization of nonconsenting individuals. Specifically, the wording of the DSM-IV-TR B Criteria for exhibitionism, frotteurism, pedophilia, sexual sadism, and voyeurism indicates that the diagnosis is justified if “the person has acted on the sexual urges or the sexual urges or fantasies cause marked distress or interpersonal difficulty” (Ref. 3, p 569).

The definitional requirement that the paraphilic pattern of sexual arousal cause distress and impairment, however, has resulted in the official DSM-IV-TR terminology deviating from both common usage (and common sense), leading to some “logical

absurdities,” as noted in the work group’s rationale for this proposal on the DSM-5 website: “In [DSM-IV-TR] for example, a man cannot be classified as a transvestite—however much he cross-dresses and however sexually exciting that is to him—unless he is unhappy about this activity or impaired by it.”<sup>5</sup> Addressing this problem, the work group is proposing that the DSM-5 make a distinction between paraphilias and paraphilic disorders. According to the website:

A paraphilia by itself would not automatically justify or require psychiatric intervention. A paraphilic disorder is a paraphilia that causes distress or impairment to the individual or harm to others. One would ascertain a paraphilia (according to the nature of the urges, fantasies, or behaviors) but diagnose a paraphilic disorder (on the basis of distress and impairment). In this conception, having a paraphilia would be a necessary but not a sufficient condition for having a paraphilic disorder.<sup>5</sup>

As noted by Blanchard,<sup>6</sup> besides bringing the DSM terminology more in line with common usage, the work group’s proposal to distinguish between a pattern of sexual arousal that is non-normative but yet is nondisordered (i.e., a paraphilia) and a pattern of sexual arousal that is psychopathological (i.e., a paraphilic disorder) is useful to researchers, as it would “prevent a paraphilia from becoming invisible to clinical science just because it lacks any secondary effect of disturbing the individual or others” (Ref. 6, p 307). Furthermore, by clarifying that cases of non-problematic paraphilic sexual arousal are not disordered, this proposal at least partially addresses concerns raised by advocacy groups for those with paraphilic sexual interests (e.g., sexual sadists and masochists), such as the National Coalition for Sexual Freedom, who demand that paraphilias be removed entirely from the DSM because of their contention that inclusion of their particular paraphilia in the DSM is inappropriately stigmatizing.<sup>7</sup> The effort to destigmatize the paraphilias could be further strengthened by listing the nondisordered paraphilias in the “Other Conditions That May Be a Focus of Clinical Attention” chapter of DSM-5, which functions as a repository for conditions that may be a focus of treatment but are not considered mental disorders, such as normal grief. Thus, the Paraphilic Disorders would be listed in the front, mental disorder, section of the DSM-5 (with associated F codes, indicating their status as mental disorders), whereas the nonpathological paraphilias, which may be encountered by a clinician in the con-

## Pornography and the Definition of Paraphilias

**Table 1** Proposed Criterion B Wording for the DSM-5 Paraphilias

Exhibitionism	B. The person has clinically significant distress or impairment in important areas of functioning or has sought sexual stimulation from exposing the genitals to unsuspecting strangers on three or more separate occasions.
Fetishism	B. The person has clinically significant distress or impairment in important areas of functioning.
Frotteurism	B. The person has clinically significant distress or impairment in important areas of functioning or has sought sexual stimulation from touching and rubbing against nonconsenting persons on three or more separate occasions.
Pedohebephilia	B. One or more of the following signs or symptoms: <ol style="list-style-type: none"> <li>1. The person has clinically significant distress or impairment in important areas of functioning, because of sexual attraction to children.</li> <li>2. The person has sought sexual stimulation on separate occasions from either of the following:               <ol style="list-style-type: none"> <li>a. Two or more different children, if both are prepubescent.</li> <li>b. Three or more different children, if one or more are pubescent.</li> </ol> </li> <li>3. Repeated use of, and greater arousal from, pornography depicting prepubescent or pubescent children than from pornography depicting physically mature persons, for a period of six months or longer.</li> </ol>
Sexual masochism	B. The person has clinically significant distress or impairment in important areas of functioning.
Sexual sadism	B. The person has clinically significant distress or impairment in important areas of functioning or has sought sexual stimulation from behaviors involving the physical or psychological suffering of nonconsenting persons on two or more separate occasions.
Transvestic fetishism	B. The person has clinically significant distress or impairment in important areas of functioning.
Voyeurism	B. The person has clinically significant distress or impairment in important areas of functioning or has sought sexual stimulation from observing unsuspecting persons who are naked, disrobing, or engaging in sexual activity on three or more separate occasions.

text of a diagnostic evaluation but would not be a focus of treatment, would be listed in the back, non-disordered, section (with associated nonmental disorder problem codes from the Z section of ICD-10-CM).

### Problems With the DSM-5 Proposal to Add Use of Child Pornography to Criterion B of Pedophilia

Use of pornography has never been a part of the diagnostic definitions of any of the paraphilias. In prior editions of the DSM, mentions of pornography are confined exclusively to the descriptive text. For example, in the DSM-IV-TR section on paraphilias, use of pornography is referred to in two contexts. It is first listed among the Associated Descriptive Features section of the text for Paraphilias in general (“[Individuals with a Paraphilia] may selectively view, read, purchase, or collect photographs, films, and textual depictions that focus on their preferred type of paraphilic stimulus”) (Ref. 3, p 567). It is also alluded to in the text for Pedophilia which explains that themes of a child being sexually provocative or of the child’s deriving sexual pleasure from pedophilic activities “are common in pedophilic pornography” (Ref. 3, p 571).

The work group is proposing to include the “repeated use of, and greater arousal from, pornography

depicting prepubescent or pubescent children than from pornography depicting physically mature persons, for a period of six months or longer”<sup>8</sup> among the components of Criterion B for pedophilia. Making use of pornography part of Criterion B for pedophilia, however, is seriously problematic on both conceptual and practical grounds. As noted in the previous section, the function of Criterion B in the definition of a paraphilia is to identify that subgroup of individuals with a paraphilic arousal pattern who reach the threshold for “disorder” by virtue of their causing distress or harm to self or others. As shown in Table 1, with the exception of pedophilia, the proposed wording of Criterion B for each of the paraphilias includes “clinically significant distress or impairment in important areas of functioning” plus the addition of some variant of “has sought sexual stimulation from” behaviors related to the paraphilic pattern of sexual arousal against a minimum number of individuals (which varies by paraphilia) for those paraphilias involving nonconsenting victims.

According to the DSM-5 website, however, the rationale for the addition of use of pornography to Criterion B is that “some research indicates that use of child pornography may be at least as good an indicator of erotic interest in children as ‘hands-on’ offenses.”<sup>5</sup> Thus, from a diagnostic perspective, the function of this criterion is contained entirely within

the domain of Criterion A, which defines the nature of the individual's erotic interests and has nothing to do with establishing that the individual has a pedophilic disorder versus pedophilia. Indeed, the cited research, a 2006 study by Seto *et al.*<sup>9</sup> in which they compared the phallometric test results of 100 child pornography offenders with those of 178 sex offenders with child victims, demonstrated that the child pornography offenders showed significantly greater arousal to children than did the offenders against children. That a person's pornography preferences may be a more accurate indicator of his underlying sexual predilection makes intuitive sense, given that "people opt for pornography that corresponds to their sexual interests" (Ref. 10, p 592).

Despite the rationale stated on the website, perhaps it was the work group's intent to include the repeated use of child pornography as an indicator of the presence of severely problematic, pedophilia-driven behavior, given that possession of child pornography can lead to severe negative consequences for the individual because it is illegal. The problem with this approach is that not all forms of child pornography are illegal. Pornography is defined as "writings, pictures, films, etc, designed to stimulate sexual excitement."<sup>11</sup> However, for the purposes of U.S. federal law, child pornography is defined as the visual depiction of a person under the age of 18 engaging in sexually explicit conduct.<sup>12</sup> Thus, the exclusive use of nonvisual forms of pornography (and possibly virtual child pornography, if the rendering of such did not involve any images of actual children), which would meet the proposed DSM-5 Criterion B for pedophilia, would not put the person at risk for negative consequences, and thus would not fulfill the intended function of Criterion B.

### Potential Fixes

In keeping with the stated rationale of the work group that the purpose of including child pornography in the diagnostic criteria is that it may be the best behavioral indicator of an erotic attraction to children, one option would be to incorporate this criterion into Criterion A. Criterion A currently requires that there be "recurrent and intense sexual arousal from prepubescent or pubescent children" or "equal or greater arousal from such children than from physically mature individuals" over a period of six months "as manifested by fantasies, urges, or behaviors."<sup>8</sup> Reflecting Seto *et al.*,<sup>10</sup> the "as manifested"

component of the criterion could be modified to mention pornography use as follows: "as manifested by fantasies, urges, or behaviors such as preferential use of child pornography." This modification would improve the clinical utility of this criterion by communicating to the clinician that use of pornography is often the best behavioral indicator of an underlying erotic interest in children. Furthermore, although the association between preferential use of pornography and underlying erotic interests in the context of other paraphilias has received only limited empirical attention,<sup>13,14</sup> it is likely that this association applies to other paraphilias as well. According to Seto *et al.*, "there is an intuitive and empirical link between male sexual interests and pornography choices. One does not expect heterosexual men to seek out pornography depicting men only or homosexual men to seek out pornography depicting women only" (Ref. 10, p 591). Thus, it could make sense to add preferential use of pornography as an example of a behavioral indicator to Criterion A for each of the paraphilias in the same way it is being suggested here—namely, within the phrase "as manifested by fantasies, urges, or behaviors such as preferential use of pornography related to the paraphilic focus."

If, instead, the work group's real intent is to add a third prong to Criterion B for pedophilia, then the criterion should be modified to restrict it to the use of illegal forms of child pornography (i.e., visual depictions of real children). One problem with this approach is that it places the determination of the diagnostic threshold for pedophilia in the hands of the vagaries of the legal system, which can vary from one locale to the other and changes over time. For example, such an approach would result in changes in child pornography laws over time or variations in their enforcement from one locale to another, having an undue effect on the prevalence of pedophilia.

### References

1. American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition. Washington, DC: American Psychiatric Association, 1994
2. Frances A: Problems in defining clinical significance in epidemiological studies. *Arch Gen Psychiatry* 55:119, 1998
3. American Psychiatric Association. Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision. Washington, DC: American Psychiatric Association; 2000
4. First MB, Halon RL: Use of DSM paraphilia diagnoses in sexually violent predator commitment cases. *J Am Acad Psychiatry Law* 36:443–54, 2008
5. American Psychiatric Association: DSM-5 Development. Sexual and Gender Identity Disorders. 302.2 Pedophilia, Pedohebephilic Disor-

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- der: Rationale. <http://www.dsm5.org/ProposedRevisions/Pages/proposedrevision.aspx?rid=186#>. Accessed December 15, 2010
6. Blanchard R: The DSM diagnostic criteria for pedophilia. *Arch Sex Behav* 39:304–16, 2010
  7. Wright S: Depathologizing consensual sexual sadism, sexual masochism, transvestic fetishism, and fetishism. *Arch Sex Behav* 39:1229–30, 2010
  8. American Psychiatric Association: DSM-5 Development. Sexual and Gender Identity Disorders. 302.2 Pedophilia, Pedohebephilic Disorder: Proposed Revisions <http://www.dsm5.org/ProposedRevisions/Pages/proposedrevision.aspx?rid=186#>. Accessed December 15, 2010
  9. Seto M, Cantor J, Blanchard R: Child pornography offenses are a valid diagnostic indicator of pedophilia. *J Abnorm Psychol* 115:610–15, 2006
  10. Seto MC: Use of child pornography and internet solicitation in the diagnosis of pedophilia. *Arch Sex Behav* 39:591–3, 2010
  11. Pornography. *Collins English Dictionary: Complete and Unabridged* (10th edition). <http://dictionary.reference.com/browse/pornography>. Accessed December 16, 2010
  12. Child pornography in Citizen's Guide to United States Federal Child Exploitation Laws. [http://www.justice.gov/criminal/ceos/citizensguide\\_porn.html](http://www.justice.gov/criminal/ceos/citizensguide_porn.html). Accessed December 16, 2010
  13. Lebeque B: Paraphilias in U.S. pornography titles: "pornography made me do it" (Ted Bundy). *Bull Am Acad Psychiatry Law* 19:43–8, 1991
  14. Condron M, Nutter D: A preliminary examination of the pornography experience of sex offenders, paraphiliacs, sexual dysfunction patients, and controls based on Meese Commission recommendations. *J Sex Marital Ther* 14:285–98, 1998