

U.S. Sentencing Commission
1 Columbus Circle, N.E.
Suite 2-500, South Lobby
Washington, D.C. 20002-8002
Attn: Public Affairs, Priority Comments

To Whom It May Concern:

I am writing on behalf of [REDACTED] who is serving a 10 year term because child pornography was found on the hard drive of his PC. In the eyes of the current law and current sentencing guidelines, he is the same as a sexual predator, one who had sexually assaulted a child.

I believe that such equivalency is illogical and unfair in that it fails to make a difference between performing an action (e.g., assaulting a person) and possessing an image. An analogy would be firing a weapon at a person, on the one hand, and owning a weapon, on the other. Applying the thinking of the current law to this hypothetical situation would have us treat the firing of the weapon and the owning of the weapon as the same, a position no reasonable person would support.

I have known [REDACTED] all his life, and his family as well. His incarceration and that of many others constitute a loss of human capital to the body politic: holding down a job, starting a family, becoming a contributing citizen.

[REDACTED] has been caught in an unfortunate legal morass as have many others. I appeal to you to revise the prevailing sentencing rules to rectify this problem. Thank you for your consideration.

Sincerely,

Richard L. Conville, Professor
Communication Studies
University of Southern Mississippi

United States Sentencing Commission
One Columbus Circle, NE Suite 2-500
South Lobby
Washington, DC 20002-8002
Attention: Public Affairs Priorities Comment

A response to the United States Sentencing Commission:

We are seeking your support in amending the sentencing guidelines for possession of child pornography offenses for first time, non-contact offenders. Current sentencing is not based on sound research or empirical evidence; the existing sentences are disproportionate and serve no effective purpose. The attached letter impacts tens upon tens of thousands of citizens who have been or are currently charged with possession of child pornography offenses as first time offenders. A recent report by the FBI states that this offense has experienced a 2500% increase since 2006. Present day technology has had a profound impact on this offense.

The content of the attached letter addresses the following:

- A: A reason for departure and variances based on empirical data showing no cause and effect between possession of child pornography and hands-on offending. (Pages 1 and 2)
Judicial consent: 71% of Federal Judges express concern regarding mandatory minimums (page 2.)
- B. An analysis and compilation of studies that show a zero to very low (0% to .013%) risk factor for committing a hands-on offense (ages 3 and 4)
- A. Recommendation to Congress for statutory changes to sentencing guidelines and recognition by legislators that the Internet has complicated the traditional distinctions between possession, receipt, and distribution upon which many statutory schemes are built. (pages 4, 5 and 6)
Analysis of the annual cost of housing a federal inmate (pages 5 and 6)

Amend mandatory sentencing guidelines to reflect the following:

- Removal of those with no prior history of contact offenses from the sex offender registry after satisfactory completion of sex offender management treatment and probationary period
- Removal of lifetime or extended supervised release conditions and replaced with treatment noted above
- Modify guidelines to include treatment for those who possess that is distinctive from those who create child pornography
- Examine and use actuarial risk assessments that will address the profile of those who are charged with possession of child pornography

For Further information or questions regarding the resources provided in the accompanying letter you may contact:

Print Name: Mrs. Ruth Baker

Signature

Mrs Ruth Baker

Address:

[REDACTED]
[REDACTED]

1

**United States Sentencing Commission
One Columbus Circle, NE Suite 2-500
South Lobby
Washington, DC 20002-8002
Attention: Public Affairs Priorities Comment**

A response to the United States Sentencing Commission:

We are seeking your support in amending the sentencing guidelines for possession of child pornography offenses for first time non contact offenders. Current sentencing is not based on sound research or empirical evidence; the existing sentences are disproportionate and serve no effective purpose.

A. REASONS FOR DEPARTURES AND VARIANCES FROM THE GUIDELINE SENTENCE:

1. The guidelines for possession of child pornography are the result of morality earmarks rather than empirical study. Increasing harsh punishment cannot provide the same benefit as aggressive supply side enforcement and rehabilitative treatment. History has shown us that community supervision and psychological treatment is sufficient for the rehabilitation of most offenders. I am urging you to consider retroactive removal of mandatory minimum sentences.

As of this writing possessing even one illegal image is a felony punishable by up to 10 years in prison. It is evident that the sentences the federal courts, and some state tribunals, impose for possession of child pornography are based largely upon visceral moral outrage over the content of child pornography and the unproven belief that any person who possess and view such images has or soon will sexually abuse a child.¹

Federal District Judge Robin J. Cauthron testifies:

"As foul as child pornography is, I am unpersuaded by the suggestion that a direct link has been proven between viewing child porn and molesting children."

2. Many studies demonstrate that possession of child pornography is not a causal factor in child sexual abuse.

In a paper presented at a 2009 symposium on preventing the sexual exploitation of children, Dr. Andres Hernandez cautioned that the psychological makeup of offenders varies widely, inferring that a one-size-fits-all response to possessors of child pornography is unwarranted. His earlier study, commonly referred to as the Butner Report, is widely cited by prosecutors seeking maximum penalties against possessors of child pornography. However, the Commission and policy makers must be aware that the psychological community has questioned the methodology and population from which Hernandez drew his information. However this study continues to be a primary source used by prosecutors to present an alleged causal link between viewing and contact, even though there are numerous studies citing the opposite (many of which are cited in this statement.) Hernandez himself is concerned that the study is flawed. "The incidence of contact sexual crimes among child pornography offenders, as we reported

¹ *Justice Perverted: Sex Offense, Law, Psychology, and Public Policy*, Charles P. Ewing, Law Professor and psychologist from the State University of New York at Buffalo, pg.167

in our studies," Hernandez stated, "is important and worthy of considerable empirical examination." Consequently, the Butner Report, so frequently used against possessors of child pornography since its publication in December 2008 does NOT provide CONCLUSIVE PROOF that ALL child pornography offenders pose a danger of physically assaulting a child. Therefore, despite the continued erroneous use of Butner to impose onerous sentences on child pornography offenders, the extrapolation that such offenders pose a physical and real danger to children with whom they come in contact is NOT A CONCLUSIVE FINDING THAT CAN BE GENERALIZED TO ALL."²

As former prosecutor Troy Stabenow has argued, "These penalties have been increased arbitrarily and irrationally based on political demands, and "enhancement specifics so ill-defined that they apply in almost every case. These guidelines treat even first-time offenders with no history of abusing or exploiting children as seriously as murders, rapists or child molesters." Troy Stabenow, former military prosecutor. (June 10, 2008)³ Possessing even one illegal image is a felony punishable by up to 10 years in prison.

3. JUDICIAL DISSENT

The U.S. Sentencing Commission for the first time questioned federal judges on their views about sentencing: 71% of judges said the mandatory minimums that they were required to impose for receipt of child pornography were too high. "⁴

Judge Jack B. Weinstein U.S. District Court, Brooklyn," does not believe that those who view the images, as opposed to producing or selling them, present a threat to children.....We're destroying lives unnecessarily, he said, "At the most, they should be receiving treatment and supervision."

"Defiant Judge Takes on Child Pornography Law" NY Times, May 21, 2010

"We believe changes in the use of technology and in the way these crimes are regularly carried out today suggest that the time is ripe for evaluating the current guidelines and considering whether reforms are warranted. Consideration ought to be given to updating many aspects of the child pornography sentencing guidelines to better calibrate the severity and culpability of defendants' criminal conduct with the applicable guidelines sentencing ranges."

Department of Justice, June 28, 2010

"We have a system that locks away too many young, first-time, non-violent offenders for the better part of their lives – a decision that's made not by a judge in a courtroom, but all too often by politicians in Washington and state capitals around the country"

President Barack Obama

B. ANALYSIS/COMPILATION OF STUDIES:

² Dr. Andres Hernandez "Real-world danger of porn offenders uncertain", Terrie Morgan-Besecker, timesleader.com August 7, 2011 (accessed August 7, 2011)

³ Stabenow, Troy. "Deconstructing the Myth of Careful Study: A primer on the flawed progression of the child pornography guidelines. June 10, 2008

⁴ Judges Give thumbs down to Crack, Pot, Porn Mandatory Minimums, Marcia Cobyle 6/16/2-10J www.law.com

Draconian penalties for possession of child pornography are not supported by current research and cannot justify the modern trend of increased penalties for child pornography possession as a preventative punishment.

According to a study by Webb, Craissati, & Keen (2007)

- Zero out of 73 of child pornography offenders committed a contact sex crime during an 18 month follow up period after incarceration.
- 4% of child pornography offenders violated supervised release compared to 29% of contact offenders. Note that many of the violations did not include a sexual offense but were of a technical or non related nature.
- 0% of child pornography internet offenders missed supervision or treatment sessions compared to 8% of contact offenders missing supervision and 13% missing treatment sessions
- 4% of child pornography internet offenders dropped out of treatment compared to 18% of contact offenders.⁵
- Criminal history variables predict sexual recidivism and thus can help identify child pornography offenders who pose a relatively low risk of such crimes.⁶

"Consuming child pornography alone is not a risk factor for committing hands-on sex-offenses, at least not for those subjects who had NEVER committed a hands-on sex offense. The majority of the investigated consumers had no previous convictions for hands-on sex offenses. For those offenders, the prognosis for hands-on sex offenses, [likelihood of no such criminal actions occurring] as well as for recidivism [lack of return to previous behavior] with child pornography, is favorable." BMC Psychiatry, July 14, 2009⁷

"The guidelines are PREDICTED on the untested assumption that anyone who would access and view child pornography is a potential child molester. The only data that has been collected is skewed by the fact that it is based on people who have ALREADY been caught committing a hands-on offense. "Available evidence suggests that access to child pornography in the absence of other risk factors does not appear to strongly predict future contact offenses." Hansen⁸

Recent, reliable studies indicate that practically NO child pornography offenders (.013%) are actually at risk to commit contact sexual offenses involving other children.⁹

A recent study by the National Center for Missing and Exploited Children reported that 84% of child pornography possession cases "investigators did not detect concurrent child sexual victimization or attempts at child victimization"¹⁰

⁵ Hansen, Mark "A Reluctant Rebellion" ABA Journal June, 2009

⁶ Webb, Craissanti, & Keen (2007)n

⁷ "The Consumption of Internet Child Pornography and violent and sex offending." BMC Psychiatry, July 14, 2009.

⁸ Hansen, Mark. "A reluctant Rebellion." ABA Journal June, 2009.

⁹ (Michael Seto and Angela W. Eke. The Criminal Histories and Later Offending of Child Pornography Offenders. 17 Sexual Abuse: J. Res & Treatment 2005)

¹⁰ Janis Wolak. Et al. National Center for Missing & Exploited Children, Children Pornography Possessors

'Studies show little demonstrable risk for other individuals (including child pornography offenders without a history of contact sexual offending) to commit future molestation pursuant to pornography consumption'¹¹

'Punishing someone for conduct that has not been proven raises serious due process concerns.'¹²

C. RECOMMENDATION TO CONGRESS AND STATUARY CHANGES TO THE SENTENCING GUIDELINES:

The current U.S. legal system response casts a wide net; it groups a wide variety of perpetrators as far as the severity of the crime committed and sentences them all under the same set of Mandatory Sentencing Guidelines judging future offenses on the crime committed instead of on risk assessments or actuarial tables, all of which have proven to be effective predictors of future behavior. The consequence of this is that many convicted under these guidelines receive a punishment too severe in relation to the crime. It is hard to justify a non-violent, non-contact crime with a 10 year mandatory minimum sentence, often greater than those received by contact offenders not to mention the increasing the financial burden to taxpayers. The U.S. legal system exerts the majority of its effort upon convicting those who access illegal material while delivering a weak performance in the prosecution of those who produce and provide it to the public. And the Justice Department does not even approach the topic of the culpability of ISP providers and search engines, without which, these crimes could not be committed in the first place.

Therefore:

1. We are requesting the Commission to implement modifications to treat those who possess child pornography differently from those who create it. We urge you to consider lower entry level for first time offenders with no history of contact or other sexual crimes.

Judges across the nation have asked the U.S. Sentencing Commission to revise the sentencing guidelines in cases of child pornography possession. "Judges, for the most part, have based their argument on a belief that some of the defendants who view child pornography have never molested a child or posed a risk to the community and may be better served by treatment rather than prison."¹³

"This punishment scheme neglects the important truth that the creation of child pornography is a much more serious crime than the possession of child pornography this simple reform would help avoid legislatures incidentally increasing the sentences for possession of child sex abuse when intending to increase sentences for those who are abusing children."

New York State Attorney General Andrew Cuomo stated in the Buffalo News, July 31, 2008: "Rather than individually prosecute the 'millions' of child pornography viewers, he

¹¹ Malamuth & Huppin

¹² *Disentangling child pornography from child sex abuse*: Carissa Byrne Hessick

¹³ Cardona, Felisa The Denver Post: Federal judges argue for reduced sentences for child-porn convicts.

www.denverpost.com/news/ci_13887009

has followed a more-efficient strategy by going after service providers who are part of the supply pipeline to computers."

"Cuomo threatens legal action against LocalNet if it doesn't block child porn", Lou Michel Buffalo News Staff Reporter, July 31, 2008.

2. "A second reform would require legislatures to recognize that the internet has complicated the traditional distinctions between possession, receipt, and distribution upon which many statutory schemes are built. Legislatures should examine whether the internet has changed the blameworthiness or the risk profile of those who possess child pornography. The ease of availability may also suggest that the individuals who access child pornography via computer may not be as blameworthy and may not pose the assumed risk to actual children. Removing enhancements for use of a computer, when there no longer exists another viable means to obtain said contraband, is recommended.¹⁴

Post internet users who visit a file sharing site may "distribute" images without affirmative action on his or her part, this illustrates that distribution in the post internet age may be incidental to receipt.

"Clearly, one way, if not the only practical way to reduce the staggering costs of federal incarceration for those convicted of possessing child pornography is to decrease the criminal penalties for this offense. But criminal sanction for possession of child pornography should be reduced not simply to save money but rather to use portions of their cost more productively in the government's efforts to combat the production and distribution of these images of child sexual abuse."¹⁵ Such productive efforts might include treatment instead of incarceration. Below is a brief analysis of the annual cost of housing a federal inmate.

2009	\$ 26,440	+ 19,095	\$ 45, 534
2010	\$ 27,233	+ 19,455	\$ 46, 688
2011	\$ 28, 050	+ 19,826	\$ 47, 875
2012	\$ 28, 891	+ 20,207	\$ 49, 099
2013	\$ 29,758	+ 20,600	\$ 50, 359

This does not even take into account:

¹⁴ *Disentangling child pornography from child sex abuse*: Carissa Byrne Hessick

¹⁵ *Justice Perverted: Sex Offense, Law, Psychology, and Public Policy*, Charles P. Ewing, Law Professor and psychologist from the State University of New York at Buffalo, pg. 167

- Lost wages and the impact on the overall economy
- Lost income taxes
- Loss of a voting citizen
- Collateral damage of break-up of families

3. We recommend the removal of those who have had no prior history of contact offenses from the registry after satisfactory completion of sex offender management and probation: Also, we request consideration in supervised release conditions including public notification of offender's addresses... This act does not serve to keep children safer because most on the registry have not committed any hands-on offenses, particularly in cases where child pornography possession is a sole factor. Law enforcement has resources to track anyone by the same means used for someone convicted of manslaughter, driving under the influence, dealing and/or using drugs, etc. Public notification causes undue hardship on families who are making every effort to live productive lives. The hardship of being ostracized, lack of employment opportunities, the fear created among communities and in some instances hate crimes are just a few of the circumstances caused by public notification of registered offenders. Additionally, the increasingly applied condition of LIFETIME SUPERVISED RELEASE OR PROBATION needs to be retroactively changed to reflect successful treatment and probationary records.

The time is right for research, modifications, and resource re-allocation to turn the tide on this growing societal ill. The safety of our children is not being served and resources are misspent.

In closing, a quote from Judge Gilbert S. Merritt of the 6th U.S. Circuit Court of Appeals at Cincinnati: "The federal legal system has 'lost its bearings' on the subject of computer-based child pornography and likened the treatment of offenders to the 'witchcraft trials and burnings' of several centuries ago."¹⁶

Sincerely,

Print Name Mrs. Ruth Baker Signature Ruth Baker

Address: [REDACTED]
 Phone [REDACTED]

¹⁶ Hansen, Mark. "A reluctant Rebellion." ABA Journal June, 2009.

United States Sentencing Commission
One Columbus Circle, N.E.
Suite 2-500, South Lobby
Washington, DC 20002
Attention: Public Affairs – Priorities Comments

Dear Sir or Madam,

Regarding your document numbered BAC2210-40 I would like to submit comments as part of the public opinion regarding the United States Sentencing Commission's priorities numbered 3 (mandatory minimums) and 5 (child pornography offences) for fiscal year ending May 2012.

Pertaining to priority # 3 mandatory minimums, please continue your review of federal sentencing practices since United States v. Booker. There are so many inconsistencies since these guidelines were made advisable from different Federal judges throughout the country. How can something that was declared unconstitutional still be used by judges sentencing offenders? Is it fair that one judge in a specific district use the guidelines while another judge in a different district court doesn't? Consider U.S. v. Justin Birdsall this individual was sentenced to 5 years probation for possessing over 600 images of child pornography yet in U.S. v. Marc Vadnais he was sentenced to 240 months for one count of receipt of child pornography and a life term of supervised release as a sex offender. Many lives have suffered greatly with ridiculous sentences that do not fit the crime. I urge you to publish your report and consider sending amendments to Congress so no one else is sentenced unfairly.

In regards to priority # 5 child pornography offenses I urge you to complete your report to Congress and make recommendations to Congress for statutory changes for these offenses. Our prisons are overcrowded costing Americans large amount of tax dollars. Is it really lowering child pornography crimes? These cases are so unfairly sentenced throughout the country and there are so many inconsistencies between those offenders who attempt to contact children on the internet for sex versus someone viewing child pornography on their computers. Take for example U.S. v Dave Dean this case was described as "most egregious and horrific" in that district court and yet Dean was sentenced to 15 years in prison including a life term of supervised release. Dean participated in an international child pornography ring and received that sentence while in the case U.S. v. Marc Vadnais above the individual downloaded files using Lime Wire a peer-to-peer file sharing software which opened his computer to the internet for others to see. You would think the person organizing a ring would get a tougher sentence? That clearly is not happening.

I urge you to take action on the above initiatives for possible priority policy issues for the amendment cycle ending May 1, 2012.

Thank you,



Karen Parker

**A response to the United States Sentencing Commission,
request for public comment.**

Comments sent to:

**United States Sentencing Commission
One Columbus Circle, NE Suite 2-500
South Lobby
Washington, DC 20002-8002
Attention: Public Affairs Priorities Comment**

To the United States Sentencing Commission:

**We are seeking your support in amending the sentencing
guidelines for possession of child pornography offenses.**

STATEMENT OF THE ISSUE:

"These penalties have been increased arbitrarily and irrationally based on political demands, and "enhancement specifics so ill-defined that they apply in almost every case. These guidelines treat even first-time offenders with no history of abusing or exploiting children as seriously as murders, rapists or child molesters." Troy Stabenow, former military prosecutor. (June 10, 2008)¹

Possessing even one illegal image is a felony punishable by up to 10 years in prison.

ANALYSIS:

"Nearly 80 percent of all child pornography defendants in 2006 had no prior felonies of any kind, let alone a history of sexually abusing or exploiting a child. And only 5 percent of all child porn defendants in 2007 had been charged with production. Laws are tough on child pornography. But some federal judges think the time isn't fitting the crime". Mark Hansen. June 2009²

"Consuming child pornography alone is not a risk factor for committing hands-on sex-offenses, at least not for those subjects who had NEVER committed a hands-on sex offense. The majority of the investigated consumers had no previous convictions for hands-on sex offenses. For those offenders, the prognosis for hands-on sex offenses, [likelihood of no such criminal actions occurring] as well as for recidivism [lack of return

¹ Stabenow, Troy. "Deconstructing the Myth of Careful Study: A primer on the flawed progression of the child pornography guidelines. June 10, 2008

² Hansen, Mark. "A Reluctant Rebellion." ABA Journal June, 2009.

to previous behavior] with child pornography, is favorable.” BMC Psychiatry, July 14, 2009³

“The guidelines are PREDICTED on the untested assumption that anyone who would access and view child pornography is a potential child molester. The only data that has been collected is skewed by the fact that it is based on people who have ALREADY been caught committing a hands-on offense. “Available evidence suggests that access to child pornography in the absence of other risk factors does not appear to strongly predict future contact offenses.” Hansen⁴

CITATIONS TO APPLICABLE SENTENCING GUIDELINES:

In the publication “A Reluctant Rebellion”² Judge Lynn Adelman references an analysis by Troy Stabenow, alleging specific flaws in the guidelines in the case against defendant Jon Hanson. (Note not related to article author Mark Hansen.) Such flaws include penalties that have been arbitrarily and irrationally based on political demand and enhancement specifics so ill defined that they apply in almost every case.

Explaining his variance in United States v. Hanson, No 07-CR-330 (E.D. Wisc, June 20, 2008, Judge Lynn Adelman references Stabenow’s explanation: “Much like the crack guideline criticized by the Supreme Court in Kimbrough, guideline 2G2.2 (the child pornography guideline) is not representative of either the Commission’s typical role or of empirical study. The guideline has been steadily increased despite evidence and recommendations by the Commission to the contrary. Congress has repeatedly amended it directly, ostensibly to target mass producers of child pornography and/or repeat abusers of children, a class of offenders that make up less than 5% of those affected by the charges... To the extent that the advisory guidelines deserve continued respect from courts, that respect will be greatest where the Commission has satisfied its institutional role of relying on evidence and study to develop sound sentencing practices. The guideline simply does not represent that role, as the Commission itself has acknowledged.

WHY THE COMMISSSION SHOULD MAKE THE ISSUE A PRIORITY:..

“Child porn cases account for about 2 percent of the entire federal criminal caseload, according to the U.S. Department of Justice, but they make up one of the fastest-growing segments of the federal court docket. The number of new cases filed has grown from a few dozen annually in the late 1990’s to more than 2,200 in fiscal 2008, ending September 30. The latest figure represents a 33 percent increase over the 2006 fiscal year and a doubling in the number of new cases since 2003,” states Hansen.⁵ The possession of digitalized child pornography is a 21st century crime for which there is currently no effective legal answer. The current U.S. legal system response casts a wide net; grouping a wide variety of perpetrators as far as the severity of the crime committed and sentences them all under the same set of Mandatory Sentencing Guidelines. What

³ “The Consumption of Internet Child Pornography and violent and sex offending.” BMC Psychiatry, July 14, 2009.

⁴ Hansen, Mark. “A reluctant Rebellion.” ABA Journal June, 2009.

⁵ Hansen, Mark. “A reluctant Rebellion.” ABA Journal June, 2009.

this results in is that many convicted under these guidelines receive a punishment too severe in relation to the crime. It is hard to justify a non-violent, non-contact crime with a 10 year mandatory minimum sentence thereby increasing the financial burden to taxpayers.

New York State Attorney General Andrew Cuomo stated in the Buffalo News, July 31, 2008: "Rather than individually prosecute the 'millions' of child pornography viewers, he has followed a more-efficient strategy by going after service providers who are part of the supply pipeline to computers."

The U.S. legal system exerts the majority of its effort upon convicting those who access illegal material while turning a blind eye to those who produce and provide it to the public.

We are requesting the Commission to implement the original modifications which would have lowered applicable offense levels. Also we request consideration in supervised release conditions including public notification of where registered offenders live. This act does not serve to keep children safer because most on the registry have not committed any hands-on offenses, especially where child pornography possession is a sole factor. Law enforcement has resources to track anyone by the same means used for someone convicted of manslaughter, driving under the influence, dealing and/or using drugs, etc. Public notification causes undue hardship on families who are making every effort to live productive lives. The hardship of being ostracized, lack of employment opportunities, the fear created among communities and in some instances hate crimes are just a few of the circumstances cause by publications of registered offenders.

Given the harsh sentences and registration conditions, in light of no available opportunities for half way house placements, educational emphasis on the pitfalls and addictions especially related to the high availability of pornography of all categories via the Internet, support groups prior, during and following incarceration, the time is right for research, modifications, and resource re-allocation to turn the tide on this growing societal ill. The safety of our children is not being served and resources are misspent. In closing, a quote from Judge Gilbert S. Merritt of the 6th U.S, Circuit Court of Appeals at Cincinnati: "The federal legal system has 'lost its bearings' on the subject of computer-based child pornography and likened the treatment of offenders to the 'witchcraft trials and burnings' of several centuries ago."⁶

Sincerely,

Print Name:

PAUL J ZALEWSKI Signature *Paul J Zalewski*

Address:

[Redacted Address]

Phone:

[Redacted Phone]

⁶ Hansen, Mark. "A reluctant Rebellion." ABA Journal June, 2009.

[REDACTED]

August 19, 2011

To: U.S. Sentencing Commission
One Columbus Circle, NE
Suite 2-500 South Lobby
Washington, DC 20002-8002

Re: *Comments on Federal Sentencing Guidelines*

ATTN: Public Affairs - Priorities Comment

My comments are in regards to Document BAC2210-40, Section 5 regarding "continuation of its review of child pornography offences," etc.

Please continue the review of child pornography offenses and the sentencing guidelines for said offence.

With pornography so readily available anywhere you turn, it is time for the government to realize that this battlefield needs to consider other strategies other than long sentences. Please consider the testimony of our family as you continue to study this very high profile and current issue within our society.

I have a son who has served 4 years of his 10 year sentence for 600 counts of possession of child pornography (many of which were videos which count for 75 points each.) This was his first offense and we (along with all of our family, friends and everyone who heard his story) were absolutely shocked at the length of his sentence. Because [REDACTED] was a school teacher, the investigation took about 18 months as his school and personal computers, e-mail and My Space accounts were all checked for improprieties with students. It was determined that he has never done anything to harm a child, as he firmly stated.

[REDACTED] graduated with honors from high school and Suma Cum Laude with a counseling degree from a Bible college in the south. He is a very grounded and spiritual young man, raised in a Christian home... but has an addiction to pornography.

As a woman who was molested by 3 different men in my childhood years, I can understand and applaud the government for wanting to crack down on sexual predators. But the sentencing for these types of cases has gone totally awry. It grieves me deeply every time I hear of another news report on TV where someone has molested, or raped, or shot at someone, or burglarized with a gun, or accidentally murdered someone and



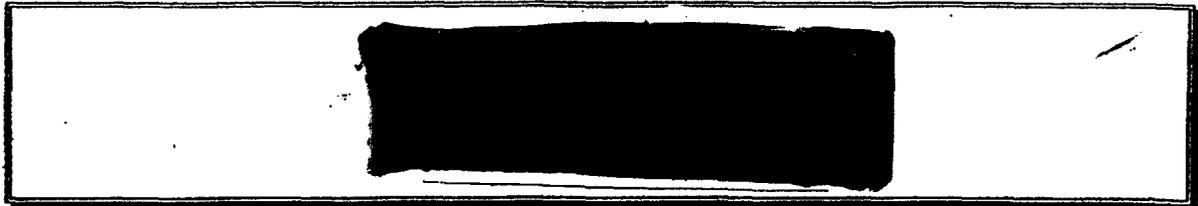
received a lesser sentence than 10 years. What is wrong with this picture? We have a person that was looking at pictures in the privacy of his own home (No, I do not think that is right) who gets 10 years, but we have someone else who has caused permanent emotional and physical damage who serves less than 10 years! I simply do not understand this! Where is the justice??

Because possession of child pornography is actually a sexual addiction, my personal conviction is that the first offence needs to be treated as such with an appropriate sentence requirement of completing a 12-step program, retreat or counseling, and meeting with a probation officer. Alcoholics and drug addicts get several chances before going to prison. If there is a second offense, then start assigning time to be served.  has sat in 2 different prisons now and neither one has offered any type of program to help him with his addiction. He is required to complete a 12 step program before he can be released... how is that supposed to happen if no course is offered where he is incarcerated??

Another problem is that there is NO where for someone who has struggled with child pornography to turn to for help without being turned in to the authorities. We have all types of programs set up for every other kind of addiction for addicts to get help ... except child pornography addicts. They go straight to prison with very lengthy sentences. We were told by our lawyer that had  gone to his pastor or a counselor to confide in, because his issue deals with children, he would have been turned in to the authorities. So what is one to do with this addiction? Where is one to go? Straight to jail... really?? How does that help  and the thousands of others who are being held for this charge? We need a program established where sexual addicts can go to get help without fear of being turned in to the authorities. Let them at least try to get help on their own before being imprisoned.

Our prisons are already ridiculously overcrowded and the taxpayers are over burdened with this expense, too. I believe the sentencing guidelines for this crime need to be reduced to realistic time frames, after the addict has been required to complete a 12-step program. Another option to incarceration is to have monitors and controls installed on the offender's computers to monitor the websites they frequent. Yet another option is to require them to wear ankle bracelets if there is a concern for their where about. These are all things that can be done before sending them to prison.

A final issue with the sentencing guidelines is that  will have to register as a sex offender for the rest of his life. This is absolutely ridiculous to me as his Mother. The sex offender website lumps all offenders into one database. I can do a search for all offenders in my zip code, but I have no idea what crime that person committed. It could be anything from looking at pictures to raping and killing a child. Another issue I have is that we do

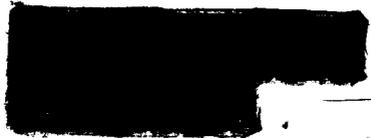


not have such a website for murderers or thieves.... I'd rather know if there is a murderer living next door than a person who looked at child pornography.

Finally, studies are revealing that recidivism among persons charged with child pornography is lower than any other offense. If this is truly the case, then it supports the theory that sentencing could easily be reduced for this offense.

Thank you kindly for considering my comments. Please feel free to contact me at [redacted] if you want to discuss my comments further.

Sincerely,



8-16-11

To whom it may concern:

My name is [REDACTED], register number [REDACTED]. I am 39 years old and currently serving a 12 year 7 month sentence for receipt and distribution of child pornography. I feel that, for this being my first offense, the sentence is extremely excessive. There are people here at this same institution as I am who received a 15 year sentence for production of child pornography.

I am not a murderer, I did not rape anyone, and I did not have any contact with minors, all crimes which seem to carry less time in sentencing. I respectfully request that the guidelines be adjusted accordingly for first time offenders and so that there are no disparities with more serious or heinous crimes.

Thank you in advance for your time.

Thank you,
[REDACTED]

United States Sentencing Commission,

I am writing you to ask that you please consider making changes to the current child pornography sentencing guidelines. The way the enhancements are applied today easily cause first-time, non-violent offenders to receive maximum penalties regardless of the nature of their crime. As a person who received the maximum penalty of 20 years for transportation of a single photo I can attest to the outrageousness of these enhancements. These laws and enhancements are outdated and do not take into account today's technology and the fact that a single click of a mouse can get you multiple decades in prison.

Thank you for your consideration.

