

**From:** Cynthia Abbring  
**Sent:** Tuesday, April 28, 2015 6:18 PM  
**To:** Public Affairs  
**Subject:**

Dear Sir/Madam:

The below letter was originally sent to you by the Prison Law Blog on July, 2013. We feel their research is worth repeating and we couldn't have stated any better than they did in 2013. The sentencing guidelines desperately need revision. Punishments for non-touch offenders is harsh and devastating on their families. To be truthful, I am not sure which or any of the suggestion amendments to the guidelines have been revised. We urge you to be aggressive with change suggested in the below letter.

I am writing in reference to your recent list of tentative priorities for Congress to address. I wish to be heard on this matter and to have my comments considered by your organization as part of the public comment period.

My primary concern has to do with § 12 of your tentative priorities, which reads, "Continuation of its work with Congress and other interested parties on child pornography offenses to implement the recommendations set forth in the Commission's December 2012 report to Congress, titled Federal Child Pornography Offenses, and to develop appropriate guideline amendments in response to any related legislation."

While there are a number of areas of concern with the sentencing of child pornography offenders, as there are with many components of the sentencing guidelines, it is my belief that federal sex offenses deserve the lion's share of Congress's sentencing guideline revision time in 2013 and 2014. As it currently stands, child pornography offenders are receiving more and more time in federal prison -- calling this a disparate amount of time might not even be out of order -- for offenses which have become easier and easier to commit. In this age of the internet, all a person has to do is click on an illegal image or spend a few moments on an "open" peer-to-peer website in order to go to federal prison for several decades. This just doesn't seem to make any sense. The price paid appears to be in excess of any reasonable sentencing guideline

computation and simply does not reflect the conduct of the offender. The guidelines in this arena should be based upon empirical evidence, not emotion or public perception, as they currently appear to be.

From a sentencing guidelines perspective, I find it troublesome that federal criminal defendants are being sentenced so severely for downloading illegal pornography from these "open" peer-to-peer websites. In many cases, federal defendants who go to sites such as Napster.com, Limewire.com, and Kazaa.com are receiving a cumulative 11-levels of enhancement for the use of a computer, the types of media obtained, and the number of images possessed. Since each of these is so significant, and appear to be central elements of child pornography possession and receipt/distribution, I'll take each in turn.

The 2-level sentencing enhancement for use of a computer appears to be an element of the instant offense. In fact, according to your Federal Child Pornography Offenses report, you report that virtually all current child pornography defendants used a computer in the commission of the crime and that an astounding 53.4% of such offenders used "open" peer-to-peer networks to obtain such illegal content. With such technologies widely available and utilized by the general population and child pornography defendants alike, they appear to the reasonable person to be elements of the instant offense, not an aggravating factor for which a sentencing enhancement should be applied.

The 4-level sentencing enhancement for sadistic and masochistic images (which can include anything even suggestive of violence or pain, which normal, adult pornography would certainly qualify as) and the 2-level enhancement for the victim(s) being 12-years or younger also appear to be general elements of the instant offense. The foundational point of this argument is that since these free, "open," peer-to-peer services neither provide any sort of image preview or true title indication when an offender is downloading an item, they are effectively downloading media blind and being enhanced for whatever the image might contain, irrespective of their true intentions. Thus, offenders are being enhanced for sadistic and masochistic images or images of very young victims -- of which, according to your report 74.2% possessed sadistic and masochistic images and 96.1% possessed images depicting pre-pubescent minors -- when, in fact, they might have no intention of obtaining such media. If an enhancement is to be had in

this arena, it should be based upon aggravating conduct or content, not run-of-the-mill child pornography which most defendants possess.

The 2- to 5-level sentencing enhancement for such typical numbers of images is also problematic in that it appears to be a component of the instant offense (the enhancement thresholds are from 10 to 600 images, when, according to your report, most offenders possess more than 600 images -- 96.9%, according to your Federal Child Pornography Offenses report). If almost all offenders possess more than 600 images, and all of these receive the 5-level sentencing enhancement, then the sentencing enhancement should be done away with since this number of images appears to be part of the crime. Instead, sentencing enhancements should start after the 600 threshold has been reached. Again, sentencing enhancements should be based upon aggravating factors, not basic elements of the crime. When a child pornography defendant can be enhanced 5 levels for downloading thousands upon thousands of images within a mere few minutes on a peer-to-peer downloading service -- which might only require him or her to click a mouse half a dozen times - - a real problem has been uncovered.

It also bears mentioning that offenders are being charged with receipt/distribution charges for merely downloading the pornography for which they are already being charged with possession or receipt of. As such, some could argue that the crime of receipt/distribution -- when coupled with possession -- is redundant. Irrespective of this, if modifications are to be made to the sentencing guidelines for those who possessed child pornography, then those who were in tandem charged with receipt/distribution -- when in conjunction with downloading from an "open" peer-to-peer website -- should also benefit from a sentence reduction since many times this is not an aggravating factor, but a standard element of the instant offense.

Federal judges are sentencing more and more child pornography offenders to terms of incarceration below the recommended guidelines set forth by your organization -- according to your Federal Child Pornography Offenses report, 83.2% of offenders were sentenced within their guidelines in 2004, while only 32.7% of offenders were sentenced within their guidelines by 2011. This shows that the guidelines clearly need to be revised downward since even the judiciary is disagreeing with the current level of severity of the guidelines. This trend in sentencing current child pornography defendants with less time than those from even five years

ago creates discord amongst recent past and current defendants; they are receiving drastically different sentences for the same exact crime.

My general requests are as follows:

(1) For both child pornography possession and child pornography receipt/distribution offenses (when the distribution offense is not based on distribution, but upon receipt of the child pornography on an "open" peer-to-peer service) to be included in any sentencing guideline revisions. These should be considered an element of the crime, not an enhancement component.

(2) For the use of a computer, number of images, and type of images enhancements to be either eliminated, revised downward, or specified to create elements of the enhancements which differ from the instant offense. When all three of these areas trigger a regular, cumulative 11-level sentencing enhancement, something is wrong. Enhancements are for aggravating factors, not inherent elements of the crime.

(3) For the lifetime term of supervised release to be reduced and quantified into a realistic and research-based period of supervision, and not to be used as a political statement. There is a growing body of research indicating that recidivism rates and other factors suggesting that child pornography offenders should not categorically be sentenced to lifetime terms of supervised release or probation. They, as all other federal criminal defendants, should be sentenced according to their individual culpability and risk, not in wholesale fashion.

(4) For all revisions to the child pornography sentencing guidelines to be made retroactive so that those who have been sentenced to a term of federal incarceration for such offenses will be positively impacted by any such revision. This is the only way to ensure that defendants sentenced 5 or 10 years ago receive the same treatment as defendants being sentenced today.

My specific requests for modifications to § 2G2.2 are as follows:

(1) Revise both § 2G2.2(a)(1) and § 2G2.2(a)(2) to reflect a more accurate sentencing scheme. A base offense level of 18 or 22 is significantly higher than the regular child

pornography defendant's conduct indicates. While this is a serious matter, and should be dealt as such, the act of downloading free, illegal pornography from an "open" peer-to-peer network does not call for a base offense level of 18 or 22. [Appendix E of your Federal Child Pornography Offenses report indicates that your commission has the power to reduce these levels to 15 and 17, respectively.]

(2) Revise § 2G2.2(b)(2). In its place, insert categories which allow for enhancement components which are not a part of the normal instant offense (e.g., since the vast majority of child pornography defendants possess images of minors 12-years old and younger, create categories below this age threshold). [Appendix E of your Federal Child Pornography Offenses report indicates that your commission created this sentencing enhancement in 1987, and expanded it in 1988. Thus, your commission still retains the power to revise this 2-level enhancement into various tiers for aggravating or mitigating conduct.]

(3) Revise § 2G2.2(b)(4). As with § 2G2.2(b)(2), most child pornography defendants possess what is deemed to be images containing sadistic and masochistic conduct. If the vast majority of such defendants receive this enhancement, then it is, for all intents and purposes, part of the instant offense. I suggest revising this enhancement to indicate specific components of the sadistic and masochistic conduct. By creating a guideline enhancement scheme within the umbrella of this current enhancement, child pornography defendants can be sentenced according to the media which they actually possess, not merely for downloading typical child pornography. [Appendix E of your Federal Child Pornography Offenses report indicates that the PROTECT Act (Pub. L. No. 108-21, 401(i), 117 Stat. 650 (2003)) stipulated the 4-level sadistic and masochistic enhancement. Thus, you would need to petition Congress to revise this statute.]

(4) Strike § 2G2.2(b)(6). The use of a computer is now an accepted component of the instant offense of child pornography possession and receipt/distribution. As a component of the instant offense, it shouldn't be an enhancement to the offense. This enhancement needs to be removed in its entirety because it is superfluous to elements of the instant offense. [Appendix E of your Federal Child Pornography Offenses report indicates that the Sex Crimes Against Children Prevention Act of 1995 (Pub. L. No. 104-71, 109 Stat. 774 (1995)) stipulated the 2-level use of a computer enhancement. Thus, you would need to petition Congress to revise this statute.]

(5) Revise § 2G2.2(b)(7)(A), § 2G2.2(b)(7)(B), § 2G2.2(b)(7)(C), and § 2G2.2(b)(7)(D). As clearly indicated by your report, almost all child pornography defendants possess more than 600 images (a 5-level sentencing enhancement). At least 10 images results in a 2-level enhancement. At least 150 images results in a 3-level enhancement. At least 300 images results in a 4-level enhancement. And at least 600 images results in a 5-level sentencing enhancement. In light of your research in this matter, these number of images need to be increased substantially. If almost all child pornography defendants possess 600 or more images, then that should be the floor and the enhancements should start after this point. The current sentencing enhancement scheme results in disparate treatment of offenders who possessed 600 images and those who possess 60,000 images. This is perhaps the sentencing enhancement which is the most pressing because it does the most damage and is effectively the most discriminatory. [Appendix E of your Federal Child Pornography Offenses report indicates that the aforementioned PROTECT Act created the current image table. Thus, you would need to petition Congress to revise this statute.]

Thank you for your time and attention to these important considerations. I look forward to seeing Congress act upon these matters, and to existing sentencing policies concerning child pornography offenders being based upon common sense and research, instead of the politically-motivated and emotionally-based model currently in place.

Respectfully Submitted,

Prison Law Blog

Ron and Cyndi Abbring

## Public Affairs

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**From:** Sue Bowman  
**Sent:** Wednesday, July 08, 2015 10:53 AM  
**To:** Public Affairs  
**Subject:** Sentencing guidelines/non-prod child porn

July 8, 2015

United States Sentencing Commission

One Columbus Circle, NE

Suite 2-500, South Lobby

Washington, DC 20002-8002

Attn: Public Affairs Priorities Comments

To Whom It May Concern:

I am writing to you today in order to encourage you to enact your proposed sentencing guidelines in regards to non-production child pornography in the upcoming amendment cycle, as based upon your 2012 study. Currently these imbalanced sentences over punish otherwise productive and law abiding citizens, while doing absolutely nothing to prevent or remotely hinder the production of child porn. Laws are intended to be about justice, not appearances. Attacking easy targets is counter-productive to keeping our communities safe.

Far too many resources are being wasted on virtually harmless individuals. These laws do severe damage to more children and families, and ultimately re-victimized those that have been subjected to horrors in their lives. Overpopulated prisons are costing taxpayers billions of dollars without producing positive results for the community.

In recent amendment cycles you have reduced the sentences of non-violent drug dealers who are more predatory and more likely to return to criminal activities than those incarcerated for non-production child porn. I applaud your efforts to reduce the prison population, but it hasn't gone nearly far enough. I realize that sex crimes are currently an unpopular subject in this nation. Laws need to reflect justice and not popularity. Throughout American history many bad laws have existed due to societal momentum, which has led to unnecessary and cruel suffering for too many good people. Every time this has occurred a few brave individuals have stood up against the mainstream and pushed for needed change. You not only have the opportunity, but also the responsibility to take the lead in that type of change now. I implore you to do what you know is right and change these sentences during this amendment cycle.

Respectfully,

Sue Bowman

## Public Affairs

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**From:** Frank C. Van Fleet  
**Sent:** Saturday, July 25, 2015 2:58 PM  
**To:** Public Affairs  
**Subject:** Sentencing guidelines

We are writing to provide our input in favor of the proposed sentence reforms including the 2 point reduction regarding non-violent crimes involving the use of computers.

To be punished for the crime is relevant, according to law and the guilty should be given opportunity for rehabilitation, but excessive punishment serves no good purpose; rather it stifles a life that might be better focused on doing good in recompense to society.

We respectfully request the USSC favorably consider reducing the sentencing guidelines in these and other non-violent crimes.

Thank you,

Frank and Erma Van Fleet



**Kent M. Forkner**

**Email:**

United States Sentencing Commission  
Attn: Public Affairs Priorities Comment  
Re: Amendment priority  
One Columbus Ave, NE  
Suite 2-500, South Lobby  
Washington, DC 2002-8002  
Email: pubaffairs@ussc.gov

**Re: Support of 2016 priority 8 - changing sentencing scheme for child pornography**

Dear Judge Saris and Commission Members:

I am writing in support of priority 8 - to continue to work on and implement the recommendations made by the 2012 USSC congressional report on child pornography.

I will never negate that pornography is a real and deep problem that needs to be addressed by the criminal justice system, but I strongly believe that the current "one size fits all" approach is lacking. In particular, where internet activity can be charged and prosecuted in the same manner as it would be for someone who physically abuses a child seems inappropriate and unjust.

Studies show that non-violent, non-contact offenders have not only one of the lowest recidivism rates for any sex offender, but also an FBI study shows that this category of felon is the LEAST likely of ANY felon to actually harm a child. Both the BOP and the USSC studies show recidivism rates of 5.7% and 7.4% respectively for committing an additional sex offense. Lastly, a 2008 Wall Street Journal report shows that there is little - if any - evidence of a direct correlation between viewing child pornography and a viewer's commission of a 'contact' offense.

70% of the federal bench considers the current sentencing scheme for child pornography possession and receipt/distribution to be too severe, according to a USSC 2010 study. Multiple sentence enhancements make it difficult, if not impossible to judge an individual's true capability.

I appreciate the commission's attempt to improve a socially unpopular sentencing problem. I am asking that you consider the empirical studies from the USSC, Practitioners Advisory Group, ATSA and the numerous professional organizations who insist that the current sentencing scheme for child pornography offenders is overly punitive, and needs to be altered. Thank you for your diligence and consideration.

Respectfully submitted,

Kent M. Forkner

## Public Affairs

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**From:** Pamela Gouse  
**Sent:** Tuesday, July 14, 2015 4:19 PM  
**To:** Public Affairs  
**Subject:** Public Affairs - Priorities Contact

I would like to support the Commissions study of the guidelines for the sentencing of child pornography-related offenses. Mandatory sentencing laws need to be changed for all types of crime. It should be up to the judges to determine whether or not a person is a threat to society. Not all offenders who are arrested for child pornography are child molesters. Thank you

## Public Affairs

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**From:** Linda Loudenback <...>  
**Sent:** Saturday, July 25, 2015 11:32 PM  
**To:** Public Affairs  
**Subject:** sentencing guidelines for child pornography offenses

To the Members of the United States Sentencing Commission:

I write about the proposals made in the Commission's draft report concerning sentences for child pornography offenses. Specifically, I wish to make the following points:

- Sentences for child pornography possession are far too long, as compared with sentences handed down by state courts for similar offenses, and as attested by an increasing number of Federal judges and others.
- Some sentence enhancements, such as those for using a computer and those for possessing a certain number of images, are obsolete, resulting in sentences at the maximum end of the scale for nearly all those convicted of such offenses.
- In the world of the Internet, there is no functional difference between possession and receipt of pornography. These should be regarded as a single crime.
- Contrary to what is commonly believed, the recidivism rate for child pornography offenders is extremely low - lower than just about any crime.
- Child pornography possession/receipt, in the absence of evidence of hands-on offenses, should be regarded as a non-violent crime.
- The Commission's recommendations should be made retroactive.

Thank you for your work.



This email has been checked for viruses by Avast antivirus software.  
[www.avast.com](http://www.avast.com)

## Public Affairs

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**From:**  
**Sent:** Wednesday, July 08, 2015 9:43 PM  
**To:** Public Affairs  
**Cc:**  
**Subject:** USSC Request for Public Comment re: Sentencing for Child Pornography Offenses

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

Dear Commission Members:

As the Sentencing Commission prepares its 2016 priorities, I am requesting that you promote in Congress the Commission's recommendations from its 2012 report regarding sentencing for internet child pornography offenses OTHER THAN production and/or distribution. The current mandatory minimum sentences with enhancements are draconian and far too severe.

Federal prosecutions for child pornography crimes have increased drastically over the last fifteen years, due in part to regrettably easy access to this material via the internet. As the number of prosecutions has risen, so also has the average length of sentencing until we find ourselves, astonishingly, at the point where **federally-prosecuted non-contact child pornography offenders routinely serve significantly longer sentences than actual, hands-on offenders charged at the state or local level.**

Most of these offenders have no prior criminal history whatsoever. A substantial number were themselves abused as children. Others download this material as a small part of an otherwise legal (but still regrettable) pornography collection. I cannot find any valid empirical evidence at all to substantiate a cause-and effect relationship between child pornography viewing and child abuse. The oft-referenced Butner Study is an outlier. The Butner Study is **NOT** a recidivism study and no other studies have duplicated its findings, yet it continues to impact sentences. The studies I have read indicate that non-contact cp offenders have very low rates (an estimated 2-3% over 5 years after release from incarceration) of reoffending. I have also noted that many persons charged at the local/state level for the exact same offense serve minimal sentences or none at all.

Although I understand that viewing this material is both unacceptable and criminal, I believe that not all sex offenses are equally heinous and not all sex offenders equally culpable. The person who abuses a child and/or records that abuse for profit or some other motive should be sentenced to the maximum under the law, as should the internet service providers who knowingly allow their servers to transmit these images. Viewing these crime scene photos is offensive, certainly, but hardly to the same degree as the physical abuse of a child.

Nor does it make any sense in today's world to continue to add sentencing enhancements for use of a computer. It is a regrettable (indeed, a *tragic*) reality that child pornography is far, far easier to access via the click of a mouse than it was in years past. The ease with which it can be obtained, often by very young and ill-informed young boys, is deeply disturbing to any mature person with the developed capacity to empathize. The solution to our frustration and repugnance, however, is NOT to add additional years to the already harsh sentences meted out to those in possession of this material. Young people, particularly young men, need to be educated about the risks of internet pornography and about the damage child pornography does to *everyone* it touches.

I strongly believe that sentencing for these crimes MUST be reduced. Significant taxpayer money could be saved by lowering the sentences of persons convicted of viewing child pornography. If our interest is TRULY in protecting the victims of sexual abuse, then we need to work towards a better understanding of what causes child sex abuse; how to educate children to protect themselves; how to treat offenders so they do not reoffend. Our resources would be far better spent in proactively preventing the exploitation of children than in warehousing (often for simply ridiculous periods of time and without any effective treatment) these offenders. It is simply wrong to continue to throw away young men who are unaware of the pain they cause both to themselves and to those around them by what they believe to be a "victimless" offense. Treat these individuals, sentence them in a manner commensurate with their actual offenses rather than as surrogates for abusers of children, and then allow them to become contributing members of society once again.

Sincerely,

Rebecca G. Riegel

## Public Affairs

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**From:** Jan Tillotson  
**Sent:** Tuesday, July 21, 2015 3:42 PM  
**To:** Public Affairs  
**Subject:** To Whom It May Concern

July 21, 2015

United States Sentencing Commission  
Public Affairs Priority Comment  
ONE Columbus Circle, NE  
Suite 2-500, South Lobby  
Washington, DC 20002-8002

To the United States Sentencing Commission,

This letter is in response to the United States Sentencing Commission's announcement for review and acceptance of public comment regarding criminal sentencing issues. Specifically, I am commenting on Child Pornography offenses (18 USC 2252A).

Sentences of child pornography offenses are too long. There is no evidence suggesting that receiving such lengthy sentences will deter crime or make the public more safe. Studies by federal and state governments have repeatedly shown that sex offenders have one of the lowest rates of re-offending at 5%. Furthermore, studies have shown that long sentences contribute to higher re-offense rates and that 80% of sex offenders CAN be rehabilitated, especially non-contact offenders.

It is evident that the sentences that the federal and state courts impose for sex offenses are not based on actual severity of the crime. Rather, they are based largely on the moral outrage and misconceived idea that offenders will escalate or re-offend. Even the majority of federal judges believe there should be leniency for first time offenders, while the Bureau of Prisons believes the lengthy sentences are undermining their effort at rehabilitation.

Receiving a life or near-life sentence with no hope of recovery or freedom for a first time child pornography offense is excessive. Please take the following suggestions under consideration and push for retroactivity in all cases:

- 1) Reclassify 18 USC 2252 and similar non-contact offenses as NON-VIOLENT in accordance with the "Crime of Violence" definition: "has an element of the use, attempted use, or threatened use of physical force against the person of another" [Title 18 4B1.2(a)(1)].
- 2) Eliminate duplicitous enhancements under the sentencing guidelines (2G2.2 and 2G2.6). For example, eliminate the 2 point enhancement for the use of computers since all offenses in this day and age involve a computer [2G2.2(b)(6)].
- 3) Lower the sentence guideline ranges for such offenses.
- 4) Eliminate mandatory minimums for first time offenders.
- 5) Provide good-time credit for sex offenders for programming and rehabilitation efforts.
- 6) Put an emphasis on rehabilitation rather than longer sentences.
- 7) Allow the "Safety Valve" exception to be applied to first time sex offenders.
- 8) Make all changes retroactive.

Such dramatic changes are needed in order to reduce the over-population of our prison system (over 11,000 sex offenders are currently in the Federal Bureau of Prisons), cut the exorbitant cost to tax payers (over \$300 million per year), and improve public safety. With such reform, resources can be better directed towards proper rehabilitation efforts, healthy reintegration into society, and a focus on more dangerous offenders.

Respectfully,

Jan Tillotson, LSW, CLC  
Certified Health Coach

## Public Affairs

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**From:**  
**Sent:** Sunday, July 26, 2015 8:09 AM  
**To:** Public Affairs  
**Subject:** Sentencing Guidelines

To: The Federal Sentencing Board

From: Linda Woodward

Re: Sentencing Guidelines for Non-Violent Sex Offenders (Child Pornography)

I am writing to ask the Sentencing Commission to revise the guidelines and allow the judges additional options when handing down sentences for non-violent sex offenders. I feel the minimum sentences should either be removed, or at least adjusted.

Under current sentencing guidelines, Federal Judges have few options when it comes to sentencing non-violent sex offenders, mandatory minimum sentences have resulted in decade long sentences for most all recent cases.

The sentencing judge should be permitted to consider each case individually, several offenders are heads of the family, holding jobs to support their family, thus decade's long prison sentences cause great financial and emotional distress to the family! The judge should be able to review the circumstances and then consider the odds of reoffending etc., before setting sentence. Most of these offenders are non-violent, good family men and women that simply made a major mistake. Historically the reoffending rate of these non-violent sex offenders is less than 5%! Certainly they deserve to be severely punished, and a reasonable prison term is certainly an appropriate sentence, however the minimum of a decade's long prison sentence is not always appropriate?

We are asking the Commission to adjust the guidelines to permit the judges some lead way, which allows for firm but reasonable punishment!

Thanking you in advance for your consideration.

Sincerely,

Linda Woodward

## Public Affairs

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**From:** Diane [REDACTED]  
**Sent:** Sunday, July 26, 2015 5:03 PM  
**To:** Public Affairs  
**Subject:** prison reform

**Importance:** High

To: United States Sentencing Commission

Dear Members of the Commission,

Attention: Public Affairs Priorities

I strongly urge you to make changes in Child Pornography sentencing. Right now it appears the sentencing is structured as one-size-fits-all. Common sense shows us that there is a vast difference between looking at Child Pornography on the Internet, seeking contact, and production of Child Pornography videos. It is also widely known that the recidivism rate of Child Pornography offenders is about 2%, which is *very* low.

My brother, who is incarcerated for viewing Child Pornography, discovered LimeWire and didn't see or realize LimeWire was a "shared" file. He was told that if he tried to say he wasn't aware of "sharing", he would be called a liar, and sentenced to an even longer time.

My career involves working on a computer (which I've done for decades) and over the past numerous years, I also use the Internet every day. Therefore, I consider myself much more computer-savvy than my brother, and I, myself, didn't realize there were such a thing as "automatic sharing" via a website such as LimeWire. So, I know my brother is telling the truth. It sickens and saddens me every day, knowing that he is serving *additional and overly excessive* time for something he wasn't even aware of doing.

My brother is NOT a criminal. He is a wonderful, beautiful, talented, caring and sensitive individual — who happens to have a problem... a problem that he wishes he could get help for, and overcome. Imprisonment is *NOT* the answer! Incarceration is not helping his issue in any way whatsoever! We cannot ignore and lock up people who need help! This is unacceptable!

We all only live *one* life, and we *all make mistakes*. More than a decade of my brother's life is being taken away from not only him, but from us, his family and friends. Please try to put yourself in my position and understand that his sentencing is terrible overkill, *especially* for a *no-contact, non-violent, first-time offender*.

It is my strong belief that first-time, non-violent Child Pornography offenders (again, my brother being one of them) are being over-sentenced. This needs to be corrected. Various levels of punishment for the seriousness of the crime need to be worked out. We urge you to *please, please* make changes.

Sincerely,

Diane [REDACTED]



## Public Affairs

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**From:** Patricia [REDACTED]  
**Sent:** Sunday, July 26, 2015 3:24 PM  
**To:** Public Affairs  
**Subject:** Release Guidelines

Dear Sir:

Our grandson is in federal prison for 20 years because he downloaded pornography. His wife had divorced him and he went to a site he definitely should not have gone to but began downloading files and according to the attorneys, he never even opened the files. He wasn't a distributor, he wasn't even looking at them for his own use; he just on the site and downloaded and downloaded and downloaded and today cannot explain why. He definitely was wrong, but a graduate student in engineering, who only has his final project to be submitted when his wife, whom he had been with since he was in his teens, decided she didn't want to be married any more. He definitely was depressed and was appropriately found guilty.

USSCs report from 2012 showed there should be a different way to address non production CP offenders. Enhancements for the use of a computer, quantity of images and type and age of images should no longer be valid with the advancement of technology and computer programs bundling and compressing content, and content unknown until after downloaded. Research shows this population does well in the community with extremely low recidivism rate of less than 5% and sometimes quoted as low as 2% or less.

My request is you consider removing the community safety factors to allow camp placement and community work. Thank you for your considerations.

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Patricia [REDACTED]  
[REDACTED]

From: Charles [REDACTED]  
Sent: Wednesday, July 01, 2015 8:43 AM  
To: Public Affairs  
Subject: Comment on possible priority policy issues for the amendment cycle ending May 1, 2016

United States Sentencing Commission:

I am commenting on the possible priority policy issues for the amendment cycle ending May 1, 2016, specifically "mandatory minimum sentencing". Our son is currently serving year 5 of a 12 year sentence on child pornography charges.

He was convicted of having approximately 16 pictures that were deemed child pornography which he received and sent via an internet chat room about one year before his arrest. While awaiting trial and sentencing he attended regular sessions for about one year with a forensic psychologist as ordered by the Federal Judge. After extensive analysis and testing the psychologist submitted his findings

to the court, which in his expert experience it was determined that our son had not, and would not, ever touch or in any way molest a child. He also stated that in his opinion our son would not be a threat to society at that time or in the future. During the year he was awaiting sentencing a postal inspector conducted a sting operation where our son was offered several CP DVDs which he ordered. He was arrested at the mailbox while receiving the non-existent DVDs. Consequently a large number of CP photos that he never received, and did not exist were added to his charges. This is like a judge ordering an individual to

undergo an alcohol or drug program, then offering them a drink or drugs. Every day I read in the paper or hear on the news about murderers, drunk drivers with numerous convictions, child abusers, and drug dealers receiving lighter sentences than our son. Additionally our son will have to register as a sex offender for the rest of his life and probably will never be able to get a good job or housing. Cold blooded murderers do not have to register. There has been a big push over the past several years for leniency and sentence reduction for cocaine and crack cocaine dealers and users. In my opinion these people are much more dangerous and do much more damage to children's lives than someone who has a few pictures on their computer.

I respectfully encourage the commission to drastically recommend the change or abolish mandatory minimums on the possession of CP, and recommend the reduction of sentences for those already incarcerated.

Regards,

Charles & Linda [REDACTED]

July 25, 2015

United States Sentencing Commission  
One Columbus Circle  
NE Suite 2-500, South Lobby  
Washington, DC 20002-8002

Attention: Public Affairs Priorities Comment

Dear Commission Members,

I am writing to implore your consideration of minimum sentencing requirements and enhancements for use of computers related to child pornography (CP) offenses. My brother plead guilty to CP possession and is currently serving a 63-month sentence in federal prison. I have had the opportunity to travel across the country to visit him in prison on four occasions. Through observation of the judicial process, conversations with my brother and observations during the visitations, it is clear to me that the current sentencing process deserves your attention.

Charged with a single count of possession, my brother was classified as non contact, non production CP offender. Enhancements were added involving use of a computer and use of a chat room. Clearly, most everyone uses a computer today and the chat room that my brother acknowledged use of had nothing to do with CP but rather was used in completing an on-line graduate school curriculum. Somehow the chat room use for legitimate completion of graduate studies was taken out-of-context and was used to lengthen the sentence through enhancements. Unfortunately, the current system was apparently unable to consider case-specific issues during the sentencing process – despite my brother’s legal counsel informing our family that the evidence against him (which my brother freely shared with the authorities out of personal guilt, shame, and respect for the officers interviewing him) represented one of the weakest, mildest CP cases of the lawyer’s lengthy career.

With my brother now incarcerated, it has been disheartening and deeply disturbing to see who else has been caught-up in the current enhancement system. His fellow CP inmates include decorated US military veterans and personnel returning from combat over-seas, doctors, surgeons, lawyers, engineers, educators, and other professionals whose personal lives and contributions to society were apparently not a consideration during the sentencing process. Having learned of some of their stories and watched many of these people interact with their wives and children during visitation hours at the correctional facility, I find it very troubling that we as a country routinely operate with a process that seems out-of-context with the situation. Clearly, there are persons in the correctional system who society should be protected from and who can and will do great harm. At the same time USSC’s 2012 report demonstrated there should be a different way to address non production CP offenders and I believe ample evidence has been offered by others warranting change.

I ask that you consider the current sentencing process, particularly the application of computer enhancements at a time when computers are increasingly intertwined with every aspect of our lives and society. From my observations and personnel experience witnessing the process my brother is going through, I am convinced there has to be a better way to address CP use. I believe that many of the persons currently serving sentences for non contact non production CP offences have learned their lesson and would much better serve our country as contributing citizens and tax payers rather than long-term inmates in an overburdened correctional system.

Thank you for considering my comments and for your attention to this matter.

Chris [REDACTED]