

Testimony of the Victims Advisory Group

Susan Howley, Chair

BEFORE THE UNITED STATES SENTENCING COMMISSION

Public Hearing on

Federal Child Pornography Offenses

February 15, 2012

The Victims Advisory Group (VAG) was established by the U.S. Sentencing Commission to assist the commission in carrying out its statutory duties, provide the Commission its views on the Commission's activities as they relate to victims of crime, disseminate information to crime victims and victim advocacy organizations, and perform other functions as the Commission requests.

We are pleased to appear before you to offer our comments as the Commission considers a range of issues relating to the proper response to persons convicted of creating and capturing the images of the sexual abuse or rape of children; exploiting those children through the dissemination of those images, whether for financial or other gain; or collecting those images for personal sexual gratification or to groom other victims.

Most of the questions posed by the Commission for this hearing can be more pointedly addressed by experts in the fields of sex offender treatment and management. The Victims Advisory Group will focus our testimony on the danger of this offense and the impact on the direct victims, and what that information suggests for the response to perpetrators.

The impact of crimes involving child abuse images

The proliferation of child abuse images increases the risk of future victimization and harms the victims who are the subject of those images. It increases the risk of victimization because repeated exposure to these images normalizes the sexual assault of children, promoting cognitive distortions. A meta-analysis of published research on the effects of pornography found that

The results are clear and consistent; exposure to pornographic material puts one at increased risk for developing sexually deviant tendencies, committing sexual offenses, experiencing difficulties in one's intimate relationships, and accepting the rape myth.¹

Those who collect such images also increase the demand for additional images, raising the risk that other children will be victimized. Child sexual abuse images are often used to groom future

¹ Claudio Violato, Elizabeth Oddone-Paolucci, and Mark Genuis, eds., *The Changing Family and Child Development* (Aldershot, England: Ashgate Publishing Ltd., 2000), 48-59.

victims, in an attempt to persuade them that such acts are normal and pleasurable, further increasing victimization.²

And these crimes risk significant harm to the children who are the subject of these abusive images.³

The impact of sexual abuse on victims

First, victims sustain harm caused by the acts of sexual abuse that are captured in these images. This harm has long been documented and includes:

- a higher risk of developing significant mental health disorders, including post-traumatic stress disorder, major depression, anxiety, and conduct disorders;⁴
- a higher risk of substance abuse;⁵
- sexual behavior problems and sexual dysfunction,⁶
- an increased risk of sexual revictimization;⁷
- an increased risk of suicide; and
- higher rates of lifetime health problems, including increased risks of heart disease and stroke,⁸ obesity,⁹ and other health problems.¹⁰

² For a discussion of this point, see Candice Kim, "From Fantasy to Reality: The Link Between Viewing Child Pornography and Molesting Children," *Child Exploitation Program Update*, 1 no.3 (2004) available at http://www.ndaa.org/pdf/Update_gr_vol1_no3.pdf. (accessed February 6, 2011).

³ These harms were succinctly recognized by the Canadian Supreme Court in the 2001 decision of *R. v. Sharpe*, "The evidence establishes several connections between the possession of child pornography and harm to children: (1) child pornography promotes cognitive distortions; (2) it fuels fantasies that incite offenders to offend; (3) it is used for grooming and seducing victims; and (4) children are abused in the production of child pornography involving real children." *R. v. Sharpe*, [2001] 1 S.C.R. 45. The U.S. Congress also recognized these harms when it passed the Child Pornography Prevention Act of 1996. See the congressional findings of the Act, Pub. L. 104-208, Div. A, Title I, § 101(a) [Title I, § 121, subsec. 1].

⁴ Beth E. Molnar, Stephen L. Buka, and Ronald C. Kessler, "Child Sexual Abuse and Subsequent Psychopathology: Results from the National Comorbidity Survey," *American Journal of Public Health*, 91, no. 5 (2001). See also Elisabeth Pollio, Esther Deblinger and Melissa Runyon, "Mental Health Treatment for the Effects of Child Sexual Abuse," in *The APSAC Handbook on Child Matreatment*, (Newbury Park, CA: Sage, 2011), 267.

⁵ Patrick Zickler, "Childhood Sex Abuse Increases Risk for Drug Dependence in Adult Women," *NIDA Notes*, 17, no. 1 (2002).

⁶ Elisabeth Pollio, Esther Deblinger and Melissa Runyon, "Mental Health Treatment for the Effects of Child Sexual Abuse," 269.

⁷ Catherine C. Classen, Oksana Gronskaya Paless, and Rashi Aggarwal, "Sexual revictimization: A review of the empirical literature," *Trauma, Violence, & Abuse*, 6 (2005): 103-129.

⁸ "Abused girls may have higher risk of heart disease, stroke as adults" news release, American Heart Association, Nov. 13, 2011, <http://newsroom.heart.org/pr/aha/abused-girls-may-have-higher-risk-217758.aspx>.

⁹ Jennifer Alvarez, et al, "The Relationship between Child Abuse and Adult Obesity Among California Women." *American Journal of Preventive Medicine* 33, no. 1 (2007): 28-33. Available online at http://www.surveymethods.com/download/publications/women_health/Child%20Abuse%20and%20Obesity.pdf. (accessed February 6, 2012).

The connection of childhood sexual abuse to these lifelong outcomes can become clearer when considered in light of the framework suggested by David Finkelhor, Ph.D., and Angela Browne, Ph.D.¹¹ They identified four traumagenic dynamics that link such abuse to psychological injury. These are: traumatic sexualization, betrayal, stigmatization, and powerlessness.

Traumatic sexualization refers to “a process in which a child’s sexuality (including both sexual feelings and sexual attitudes) is shaped in a developmentally inappropriate and interpersonally dysfunctional fashion as a result of sexual abuse.”

Traumatic sexualization can occur when a child is repeatedly regarded by an offender for sexual behavior that is inappropriate to his or her level of development. It occurs through the exchange of affection, attention, privileges, and gifts for sexual behavior, so that a child learns to use sexual behavior as a strategy for manipulating others to satisfy a variety of developmentally appropriate needs. It occurs when certain parts of a child’s anatomy are fetishized and given distorted importance and meaning. It occurs through the misconceptions and confusions about sexual behavior and sexual morality that are transmitted to the child from the offender. And it occurs when very frightening memories and events become associated in the child’s mind with sexual activity.¹²

Betrayal refers to the child’s discovery that someone on whom he or she depended has harmed, lied to, used, manipulated, or blamed the victim. Because child sexual abusers are generally known to the victim, and groom their victims over time,¹³ betrayal is a logical reaction to the abuse. Betrayal may also result from a trusted family member’s failure to believe or protect the victim, or from that person displaying a changed attitude toward the victim following the disclosure of the abuse.¹⁴

Powerlessness can result from the repeated violation of a child’s body or personal space, and inability to stop the abuse. The powerlessness increases when children are unable to get help from other adults.¹⁵

Stigmatization refers to the shame, guilt, and negative self-image resulting from the sexual abuse. This feeling may be increased when the offender stresses the need for secrecy or insists the victim is at fault or brought on the abuse. It can increase when others react with shock or

¹⁰ Holly L. Wegman and Cinnamon Stegler. “A meta-analytic review of the effects of childhood abuse on medical outcomes in adulthood,” *Psychosomatic Medicine*, 71, no. 8 (2009): 805-12.

¹¹ David Finkelhor, Ph.D., and Angela Browne, Ph.D. “The Traumatic Impact of Child Sexual Abuse: A Conceptualization,” *American Journal of Orthopsychiatry*, 55, no. 4 (1985). Available at <http://www.csom.org/train/victim/resources/The%20Traumatic%20Impact%20of%20Child%20Sexual%20Abuse.pdf>. (accessed February 6, 2012).

¹² Id.

¹³ Thomas D. Lyon and Elezabeth C. Ahern, “Disclosure of Child Sexual Abuse,” in *The APSAC Handbook on Child Maltreatment* (Newbury Park, CA: Sage, 2011), 238-242.

¹⁴ Id.

¹⁵ Finkelhor and Browne, “The Traumatic Impact of Child Sexual Abuse: A Conceptualization.”

hysteria after the abuse is revealed, or when they blame the victim or impute other negative characteristics to the victim following the abuse.

Such a framework for thinking about the harm caused by the sexual abuse help to explain the resulting feelings of anxiety or depression, lack of self-worth, increased risk of suicide and substance abuse, sexual dysfunction, and other consequences.

The impact of crimes involving child sexual abuse images

Victims of child sexual abuse imagery suffer the same consequences as other victims of sexual abuse. But the creation, dissemination, and collection of abuse images adds new layers of impact.¹⁶

For example, perpetrators may use images of the child to perpetuate the crime, maintaining the child's continued cooperation by threatening to reveal the images to parents or others, reinforcing the stigmatization and powerlessness.¹⁷

When victims learn that the offender not only sexually abused them but also benefitted through the distribution of images of that abuse (financially, through increased status with other abusers, or in some other way), this can compound their sense of betrayal.

As child victims come to understand the nature of the Internet and the permanence of the images, they may fear that any person they know—classmates, coworkers, church members, neighbors—or any stranger they pass in the street may have seen images of their abuse. As one victim described it, “I wonder if the people I know ... if the men I pass in the grocery store have seen them.” This realization can intensify the victim's feelings of stigmatization.

Victims may be further sexually traumatized by realizing that men they know and many they may never know have received pleasure, sexual gratification, by the rape or abuse of the victim. And by recognizing that this could be happening at any moment in the day. As one victim has stated, whenever her image is discovered in another collection “it makes me feel again like I was

¹⁶ One area of impact that we do not yet fully understand, but are beginning to consider, is the effect of the images themselves on a child's processing of and recovering from the trauma of the abuse. One important aspect of the treatment of child sexual abuse is allowing the child to disclose the abuse piece by piece, as the victim becomes able to process the event and build trust with his or her therapist. (Mitru Ciarlante, “Disclosing Sexual Victimization”, *Prevention Researcher* 14 no. 2 (2007): 11-14.) The fact that the therapist has seen the images shortcuts this process, revealing the abuse in an immediate and stark manner.

Furthermore, most victims of a traumatic crime do not have a tangible image of themselves being victimized from the perspective of an observer, only their memory and other facts they are able to piece together. In cases of sexual abuse images, however, victims have a concrete picture or video, one that cannot be softened or reprocessed over time. The tangible image itself keeps the crime real and present. It could increase the sexual traumatization of the offense.

¹⁷ Paula McMahon, “Sexting' and child porn victims testify against Pines man,” *South Florida Sun Sentinel*, Jan. 27, 2012. <http://www.burbankleader.com/topic/fl-sexting-photos-benjamin-rand-20120127,0,7897788.story> [accessed February 7, 2012].

being abused by another man who had been leering at pictures of my naked body being tortured.”

Victims’ feelings of self-blame may be increased if they were smiling in the images—and many offenders insist the victim smile—because they know that fact will be used by collector of images to deny the wrongfulness of child sexual abuse. Victims may suffer even more self-blame and feelings of powerlessness by realizing that someone somewhere could be using those images to groom another child, who will then suffer the same abuse and humiliation.

And above all, victims suffer feelings of powerlessness from knowing they can never put an end to this—that there is no way to guarantee the images of their abuse will all be found and destroyed, and every likelihood they will continue in circulation or in private collections.

Many of these additional impacts may be triggered every time another offender is found to have a copy of the victim’s abuse images in his collection.

While the effect of the creation, trading, and viewing of child abuse images is greatest on the individual victim, others are harmed as well. The non-offending parents of victims also suffer. The effects are the logical results of this terrible crime, and may include blaming themselves for not discovering the abuse, not knowing how to help their child cope with the psychological and other effects of the crime, being powerless to end the circulation of images. These parents, too, can suffer anger and depression.¹⁸ An impact statement of a non-offending stepparent is attached to this testimony as an illustration of these harms.

Professionals, too, are impacted. A recent study of professional counselors and therapists in Germany revealed that the permanence of the abusive images on the Internet produced deep feelings of helplessness in them. They also reported feelings of fear, terror, and anger in dealing with cases of child pornographic exploitation.¹⁹

Responses to questions posted by the Commission

1. Is there a typical or primary type of federal child pornography offender? Or are there multiple offender typologies? How can Congress, sentencing judges, and the federal sentencing guidelines appropriately distinguish between less and more serious offenders?

While the VAG cannot speak to the typologies of offenders, we note that all offenses involving the creation, distribution, or collection of child sexual abuse images are harmful, whether or not they are coupled with a hands-on offense. They all work to normalize the sexual abuse of children.

¹⁸ Pollio, Deblinger and Runyon, “Mental Health Treatment for the Effects of Child Sexual Abuse,” 268.

¹⁹ Julia von Weiler, Annette Haardt-Becker, and Simone Schulte, “Care and Treatment of Child Victims of Child Pornographic Exploitation (CPE) in Germany,” *Journal of Sexual Aggression*, 16, no. 2 (2010): 211-222.

2. In terms of offender culpability regarding the nature of the images or videos that an offender possessed or distributed, what types of images or videos warrant more severe sentencing enhancements?

While all images promoting the sexual abuse of children are harmful, those that depict violence or dehumanize the child should be dealt with most severely. It would also be useful to consider indications that an offender specifically sought such images, indicated by requests for such images or the number of such images in a collection.

3. Should the volume of images or videos possessed or distributed by an offender be a significant aggravating factor at sentencing?

The number of images reflects the number of victims harmed, and thus is a relevant consideration.

The number of images of a particular victim may also be relevant. Victims may feel more distressed to learn that an offender had more multiple images of them, because it indicates a particular preference more than the identification of a single image in a large collection. As one victim stated, “if someone has one picture of me it’s different than someone who has numerous pictures because then I feel as though they enjoyed looking at me and makes me feel even more victimized.”

At the same time, the development of file sharing systems, and the fact that a single electronic transfer may contain a large number of images, means that the volume of images alone may no longer indicate the same level of intentionality or activity it once did. Instead, for possessors of images, it may be more appropriate to consider the extent to which an offender actively maintained a large collection. Relevant factors may include the number of times images were collected, the span of time over which images were collected, the extent to which images were catalogued, or similar indications that the defendant had significant involvement with the images.

With regard to the volume of distribution, victims note that any distribution of images is harmful because it opens the door to additional distribution. As one victim noted, “my father supposedly only shared the images of me with one peer, and they became one of the most prolific series of child pornography in the world.”

However, certain factors related to the degree of distribution may be relevant, including the extent to which the offender took deliberate actions to facilitate distribution, such as taking steps to provide easier access to specific images in his own collection, the frequency with which images were distributed, the span of time over which images were distributed, or whether images were intentionally distributed widely.

4. In terms of distribution of child pornography, are there differing levels of culpability associated with different methods of distribution such that some types of distribution should result in greater sentencing enhancements than others?

Any distribution increases both the actual harm to the victim and the risk of future victimization by normalizing child sexual abuse. Some factors, however, may reflect increased culpability: whether the images were made publicly available, thereby potentially increasing access or exposure to child abuse images beyond the established community of perpetrators; whether the images were shared with minors, which could indicate grooming of future victims; whether the distribution was in response to communication with the recipient and indicated an intention to facilitate or promote other offending; or similar factors.

5. Other than the types or volume of images or videos or the type of distribution conduct, what types of offender behavior (such as involvement in an online “community” dedicated to child pornography and sexual offending against minors or reliance on advanced technology) are more severe such that they ordinarily should warrant higher sentences?

Certain other conduct associated with offenses involving child abuse images should warrant a higher sentence. These include:

- whether child abuse images were shown to another child, which would indicate an attempt at grooming future victims;
- whether the offender participated in chat room or other social group dedicated to child abuse images, thereby contributing to the “normalization” of child sexual abuse and the lowering of inhibitions against offending;
- whether the offender participated in a chat room or other social group that incited members to produce child abuse images or to sexually abuse children, and additionally, if after participating or observing such a group, he or she failed to report the activities to authorities; and
- whether a producer of child sexual abuse images threatened to expose a victim unless the victim cooperated in the production of additional images.

6. How should sentencing judges account for an offender’s past and future sexual dangerousness or propensity to commit contact offenses or engage in other sexually dangerous behavior? How can the sentencing guidelines and penal statutes incorporate enhancements for an offender’s past and future sexual dangerousness?

Sentencing judges should have as much information as possible about the dangerousness of an offender, beyond criminal convictions.

Most child sexual abuse remains undetected, for reasons well understood. These can include embarrassment and shame, expectations of blame, fear of not being believed, or the expectation that disclosure would not result in help. Children may also want to protect the abuser, or may be

in fear of the abuser.²⁰ Children may fail to disclose exploitation in child abuse images due to “insufficient comprehension of having participated in something that is wrong, emotional reasons, memory loss, or a deliberate attempt to forget or not remember.”²¹ For all of these reasons, it has been estimated that fewer than 10 percent of respondents who acknowledge abuse state that their abuse was reported to authorities.²²

What is more, much of the abuse that is reported does not result in a conviction, due to lack of evidence, unwillingness of the child’s family to undergo the strain of a criminal case, lack of support for the child and family by other family members and the community, and other reasons.

Furthermore, there are studies indicating that many child abuse imagery offenders without any known prior offenses have in fact committed hands-on offenses. These include the Butner Redux study, a study of 155 sex offenders convicted of possession, receipt, or distribution of child abuse images in a treatment program at the Butner federal correctional complex. In that study, 40 subjects who had documented histories of hands-on sexual offending at the time of sentencing disclosed an average of 19.4 victims during their treatment period. In comparison, the 115 subjects with no documented histories of contact sexual crimes ultimately disclosed an average of 8.7 victims.²³

A recent Dutch study also indicates that many offenders without criminal records of contact offenses may pose a risk to children. That study involved 25 participants of sex offender programs who were in treatment for possession of child abuse images and who did not have any known previous contact offenses. After assurances of confidentiality and immunity, offenders were asked to complete a survey regarding sexually risky behaviors over their lifetime. They were then given a Sexual History Disclosure Polygraph Examination. All participants acknowledged having engaged in grooming and hands-on behavior. The study also revealed that, of the 25 participants, 15 had been cruising in public places with the intention of seeking contact with a child, and eight had concrete scripts to use to have sex with children, should the opportunity present itself. In addition, 19 disclosed having masturbated while engaging in fantasies about having sex with children.²⁴

Thus, the lack of previous convictions for hands-on offending, and apparent low recidivism rates of offenders, may not be an accurate reflection of the risk such offenders pose to children.

²⁰ Lyon and Ahern, “Disclosure of child sexual abuse,” 236.

²¹ Carl Goran Svedin and Christina Back, *Why Didn’t They Tell Us? On Sexual Abuse in Pornography*, (Stockholm: Save the Children Sweden, 2003), 50.

²² Lyon and Ahern, “Disclosure of child sexual abuse,” at 236.

²³ Michael L. Bourke and Andres E. Hernandez, “The ‘Butner Study’ Redux: A Report of the Incidence of Hands-on Child Victimization by Child Pornography Offenders,” *Journal of Family Violence* 24, (2009): 183-191.

²⁴ Jos Buschman, et al, “Sexual History Disclosure Polygraph Examinations with Cybercrime Offences, A First Dutch Explorative Study,” *International Journal of Offender Therapy and Comparative Criminology*, 54, no. 3 (2010): 395-411.

Judges should also have information regarding any prior arrests for a hands-on offense, or any reports to child protective services, whether substantiated or unsubstantiated.²⁵

7. What are the proper roles of imprisonment and judicial supervision (probation and supervised release) in child pornography cases in relation to the different degrees of offender conduct? Are there any federal child pornography offenders who would warrant a sentence of probation or a relatively short prison sentence (e.g., a year or less) combined with a lengthy period of supervised release? If so, why? Or should all or virtually all offenders convicted of a federal child pornography offense serve a greater term of imprisonment?

The sentences in cases involving child abuse images should reflect the seriousness of these offenses, both in the harm they cause to individual victims and families and the resulting risk of future victimization. Even for persons convicted “only” of possession offenses, the fact that the offenders intentionally collected such images indicates they received some sort of pleasure or sexual gratification from them. They could not have received that “benefit” if someone else did not commit the hands-on offense for them. Thus, they should be considered abusers by proxy.

Imprisonment and supervision should also reflect the need to protect the safety of victims and other children. Victims of crimes involving child sexual abuse images may have a real fear of the offender, but even more importantly, they report a fear the offender will harm another child.

8. How should the child pornography guidelines and penal statutes properly account for the different types of harm suffered by victims of child pornography?

The restitution statute for child sexual exploitation offenses, 18 USC § 2259, and the restitution guideline § 5E1.1, should be clarified to ensure that no proximate cause requirement will be applied to many of the listed victim losses.

Section 2259 defines “full amount of the victim's losses” to include “any costs incurred by the victim for—

- (A) medical services relating to physical, psychiatric, or psychological care;
- (B) physical and occupational therapy or rehabilitation;
- (C) necessary transportation, temporary housing, and child care expenses;

²⁵ Many states define “unsubstantiated” to mean insufficient evidence to make a finding, and thus those reports could be relevant when considered with the totality of information regarding a defendant. We are not recommending including “unsubstantiated” cases in states that use that term to mean reports that are clearly unfounded or false. For a discussion of this point, see National Study of Child Protective Services Systems and Reform Efforts: Review of State CPS Policy, U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation and Administration for Children and Families Administration on Children, Youth and Families Children's Bureau (2003), chapter 4. Available online at <http://aspe.hhs.gov/hsp/cps-status03/state-policy03/> (accessed February 9, 2012).

(D) lost income;

(E) attorneys' fees, as well as other costs incurred; and

(F) any other losses suffered by the victim as a proximate result of the offense.

Some question has arisen regarding the applicability of the proximate cause requirement in subsection (b)(3)(F) to subsections (b)(3)(A) through (E). While victim advocates believe the statute as currently written does not attach a proximate cause requirement to each element of victim harm, clarification of the statute on this point would be helpful.²⁶

The nature of the offenses are such that the victim's harm results from the totality of the offenses, the capturing or creating, dissemination, and collection of images of the victims' abuse. These types of harms are reasonably foreseeable. Requiring a victim to artificially apportion the psychological harm and its tangible results—such as substance abuse problems, school or work-related consequences—to each defendant who contributed to the totality of the harm is overly burdensome and thwarts the public policy goal of providing full recompense to these victims.

Beyond making this important statutory change, additional measures are needed to help courts consider the issue of victim restitution more consistently. Federal courts have issued a wide range of restitution orders in cases involving child sexual abuse imagery, ranging from more than \$3 million dollars in a Florida case to \$3,000 in a California case.²⁷ We recommend Congress set a presumptive amount of restitution due in such cases, which could be increased where a particular victim can articulate additional harms. As guidance, Congress should consider 18 U.S.C. § 2255, which sets out a civil remedy for various child sexual exploitation offenses, including those relating to child sexual abuse images. The statute allows a victim to recover actual damages, and states that a victim “shall be deemed to have sustained damages of no less than \$150,000 in value.” Such a floor for restitution orders would provide a just and more uniform response to victims.

9. Can offenders with pedophilic motivations be effectively treated medically or through behavioral modification techniques so as to reduce the likelihood of future sexually dangerous behavior or future child pornography offenses?

The VAG does not have relevant information on this point.

²⁶ For an in-depth discussion of this point, see Angela Downes, et al, “Assessing Current Restitution Law to Effectively Serve Victims in Child Abuse Imagery Cases,” *Update*, National Center for Prosecution of Child Abuse, 22:10 (2011).

²⁷ Warren Richey, “Supreme Court refuses to resolve confusion over child pornography law; Federal courts have disagreed about how to enforce a law that requires people convicted of possessing child pornography to pay restitution to the victim, even if they didn't know the victim. But the Supreme Court refused to take up the case Monday,” *Christian Science Monitor*, November 28, 2011.

10. What is the proper role of sentencing as part of a broader effort to reduce the frequency of child pornography offenses, including the “market” (commercial and non-commercial markets) for child pornography?

While sentencing does not appear to be the perfect tool to reduce the market for child abuse images, it is one of the few tools available. Through sentencing we express to society, and to the individual victims and family members harmed, that we recognize the seriousness of this offense.

To further illustrate the victim perspective on these issues, we have attached responses received by the VAG from a victim of child abuse imagery crimes.

Conclusion

The seriousness of crimes involving child sexual abuse images warrants a strong response to offenders. As one victim has stated, “Unlike other forms of exploitation, this one is never ending. Every day people are trading and sharing videos of me as a little girl being raped in the most sadistic ways.... They are being entertained by my shame and pain. ... I only ask that those who have exploited me be brought to justice to hopefully deter some others from doing the same and to lessen my shame.”

To whom it may concern,

My family has endured five years, to date, of a living hell because of the selfish, perverted actions of a very sick and evil individual. My daughter lived with this pain and trauma for [REDACTED] years prior, unable to tell anyone because of the fear she had for her biological father. We thought we were dealing with one "bad apple", but as time goes by we are finding that there are more and more of these sick individuals that are viewing, and sickly satisfying their awful desires.

We still have the haunting memories of the letters in the mail, and emails letting us know of all the individuals that are being prosecuted because they have our daughter's images, child pornographic images, on their computer. We don't receive the notices anymore, the pain and gut wrenching reminder of receiving enough notices to over flow a 55 gallon drum is more than my family can take. It's also unfathomable to know there are so many perverts in this country and around the world. It sickens me and hurts me to the core knowing that so many perverts are viewing my little daughter as she was made to dress up like a hooker, and is molested and raped time and time again. I am heartbroken knowing that I couldn't protect my daughter. The letters and emails brought that pain up again and again and I couldn't deal with that, knowing her innocence has been torn away and now how she is continually reminded that her pictures will be there forever! This father's heart is broken.

My daughter carries her shame like a scarlet letter. She knows that if a friend or acquaintance looks her up on the internet they are going to find the ugly, horrible, awful history that eats away at her self-esteem and paralyzes or inhibits her ability to function at school and as a normal young adult. She knows that this is the challenge that she has to live with, but the horrible trauma continues to take its toll on her body and soul. The constant reminder that her pictures are out there brings forward the guilt and shame, which cause nightmares and makes her want to isolate herself from others. Each time she hears about these cases she looks so strong on the outside, but when you sit and talk with her you see the pain, you hear the struggles and feel the sadness, despair and the emotional drain that it causes.

My family is asking for Justice with each case that is brought forward with these perverted individuals. We are hoping and praying that they can understand how wrong they are and how hurtful their actions are for each victim in the pictures and videos on their computers. We want them to know that they have a choice to decide to view the images, or not, and because they have chosen to view these child pornographic images they are victimizing each child viewed... bring back the pain and suffering these children have already had to endure. Our Justice System needs to protect these children from the preying eyes and hands of these perverts, because they can't fight back, or don't know how to. Our Justice System needs to understand that there is a victim in each of these images, and each time a picture is downloaded these children are victimized again and again. Please help these perverted individuals understand the significance of what they are doing and how each child is a victim because each child has done nothing wrong.

My daughter is the strongest person that I know and I am so proud of her. It is extremely sad to see how this horrible situation continues to beat her down emotionally and physically. She still has trouble sleeping due to nightmares of the horrible trauma she went through, and also of new people finding out

who she is, or unknown people finding her and abusing her. She also has severe stomach aches and headaches that incapacitate her, causing her to miss school and work. I pray that she can heal from the trauma that her biological father did to her and from the constant reminders that each of these sick individuals bring with each download. I also pray for the rest of my family. The crimes against my daughter have had untold effects on our other children, my wife and myself. This "living hell" that I first mentioned is a day-to-day ordeal that can raise its ugly head at the most inopportune times. Like my daughter, we are sometimes paralyzed by the trauma that comes from being the parents of a sexually abused child. The sad fact is this doesn't end, because my daughter's images will be out on the internet forever, continually reminding her and us of how fragile we all are. The internet is such a powerful tool, but child pornography, and how it perpetuates the re-victimization of children is an extreme consequence to our society as a whole, but specifically to our vulnerable children.

Our society views our children as precious little gifts that we should love and protect. Some sick, perverted individuals use the internet as their evil play ground to share and use in their sick, fantasy world. They choose to do this. They choose to push the buttons. They make a decision to download and view. Actions sometimes have consequences, and when actions like this happen the consequences should be powerful and lasting. Give my daughter her justice, so that she may completely heal some day.

Respectfully,



Responses of victim to questions posed

1. Is there a typical or primary type of federal child pornography offender? Or are there multiple offender typologies? How can Congress, sentencing judges, and the federal sentencing guidelines appropriately distinguish between less and more serious offenders?

I consider all offenders to be serious because of the pain they cause those they victimize, however offenders who distribute as well as view child pornography set those they victimize up for more pain, and offenders who show evidence of interest in actually sexually offending a child could be considered more dangerous. Therefore I think some appropriate typologies could be:

- Viewed Child Pornography (CP)
- Viewed & Distributed CP
- Viewed CP & Interest/Intention for Contact Offense
- Viewed & Distributed CP & Interest/Intention for Contact Offense

(I view these as getting progressively more dangerous, with the most dangerous being the last)

2. In terms of offender culpability regarding the nature of the images or videos that an offender possessed or distributed, what types of images or videos warrant more severe sentencing enhancements?

I consider all types to be so harmful to the victim when viewed that I can't even wrap my head around categorizing the different kinds of pain associated with all the possible forms of abuse these images and videos can contain.

3. Should the volume of images or videos possessed or distributed by an offender be a significant aggravating factor at sentencing?

Yes, because although the crime of possessing or distributing even one piece of child porn is to be taken very seriously, I hope people will keep in mind that each victim is an individual. These are not just images but real children being exploited. Each is a victim of a crime and I do feel that an offender should be penalized more for victimizing more children.

4. In terms of distribution of child pornography, are there differing levels of culpability associated with different methods of distribution such that some types of distribution should result in greater sentencing enhancements than others?

Whether the distribution is peer-to-peer or posting on a public website for millions to have access to, the potential is there for that child's image to end up anywhere. Once an image has been shared, even if only shared with one peer, that person who possesses it now has the power to open that child up to endless victimization. My father supposedly

only shared the images of me with one peer and they became one of the most prolific series of child pornography in the world. For this reason, I see no need for differing levels of culpability in this area. I think all methods of distribution should be taken very seriously because they all have the potential to expose the victim to unknown amounts of exploitation.

5. Other than the types or volume of images or videos or the type of distribution conduct, what types of offender behavior (such as involvement in an online “community” dedicated to child pornography and sexual offending against minors or reliance on advanced technology) are more severe such that they ordinarily should warrant higher sentences?

I believe anything that can show an offender had interest in or intention to sexually offend a minor should warrant higher sentences. Whether it is involvement in an online community, chat room conversations, forum posts, searches to websites that talk about “grooming” practices for sexually offending a child, etc... Anything that indicates an offender was thinking about sexually offending a child should warrant higher sentences because, beyond the already horrible crimes of exploiting sexually abused children through the viewing of child pornography, the offender is a danger to the children in their community. I believe this issue should be taken into account at sentencing and also at release from jail when deciding a treatment plan for the offender.

6. How should sentencing judges account for an offender’s past and future sexual dangerousness or propensity to commit contact offenses or engage in other sexually dangerous behavior? How can the sentencing guidelines and penal statutes incorporate enhancements for an offender’s past and future sexual dangerousness?

Some things I can think of to take into account are:

- The number of months or years an offender has been viewing child pornography. As it is an addiction, the longer a person has engaged in it, the harder it is to quit. Also, the longer a person has viewed it, the more “normal” it seems and, therefore, reinforces an offender’s desire to commit contact offenses.
- Anything that shows the offender had an interest in sexually offending a child (involvement in an online community, chat room conversations, forum posts, searches to websites that talk about “grooming” practices for sexually offending a child, etc...) or any past failed attempts to do so.

7. What are the proper roles of imprisonment and judicial supervision (probation and supervised release) in child pornography cases in relation to the different degrees of offender conduct? Are there any federal child pornography offenders who would warrant a sentence of probation or a relatively short prison sentence (e.g., a year or less) combined with a lengthy period of supervised release? If so, why? Or should all or

virtually all offenders convicted of a federal child pornography offense serve a greater term of imprisonment?

I believe virtually all offenders convicted of a federal child pornography offense should serve a greater term of imprisonment because of the seriousness of the emotional, physical, and psychological effects suffered by those they victimize. Victims of child pornography know that their images are out there forever for anyone to have access to, but the pain comes from people choosing to view them. It's an easy crime because offenders can enjoy the sexual exploitation of a child and not have to see any of the consequences of their actions. The consequences include sleepless nights knowing that others are viewing the worst moments of your life and deriving pleasure from your pain, nightmares, feeling out of control, panic attacks in public places because strangers are scary when any one of them could be victimizing you on their home computers, headaches and stomach pains from the stress associated with this knowledge, dissociation because you want to escape a world where strangers are able to leer at every part of you, and lots of tears for feeling like people are raping you with their eyes everyday. The offender never has to see these things so perhaps they think their crime is not so serious. They need to be taught differently. They need to be taught how much pain they inflict and a greater term of imprisonment will teach them that, will comfort victims seeking justice, and will hopefully prevent both the offenders from offending again and keep others from offending for fear of the consequences. I don't believe that short periods of imprisonment will accomplish these things. A short period of imprisonment says to the offender and the public that the crime wasn't that serious and that is not a message that will keep people from offending. Once again, because of the toll it takes on the victims, I don't believe that any form of a federal child pornography offense warrants a short term of imprisonment, even if it is followed by a lengthy period of supervised release.

8. How should the child pornography guidelines and penal statutes properly account for the different types of harm suffered by victims of child pornography?

Distribution of child pornography causes a different type of harm than just viewing alone because it opens the victim up to potential endless victimization.

Statutes should also take into account the different facets of emotional, psychological, and physical harm suffered by the victims

9. Can offenders with pedophilic motivations be effectively treated medically or through behavioral modification techniques so as to reduce the likelihood of future sexually dangerous behavior or future child pornography offenses?

I have never seen a study that showed an effective treatment for any pedophilic motivations, however, I am no expert. What I have witnessed is that, in some cases, hearing a victim impact statement has had an effect on the offender. Some offenders finally realize how they were hurting a victim when they hear an impact statement, and

while I don't know the long term effects, I would like to suggest that this might be a helpful tool in changing the way pedophiles think about their crimes.

I would add that I don't believe that a pedophile and someone who views/distributes child porn are able to change their behavior unless they realize they are doing wrong and they need help and treatment. The best way to utilize the judicial process is to make sure these individuals are held accountable for their actions. We believe that reading the VIS in court, aloud, so the defendant and the court are held accountable shines a light on what has been done and who has been victimized. Without that "shining light", the anonymity that the defendant has hidden behind will continue to allow them to feel like they have gotten away with something. This "reading aloud in court" also holds the court responsible to make sure that the victims are held accountable. We have seen and heard too many times how the court; Judge, defense attorney, and prosecuting attorney, have not read aloud the VIS. This is wrong and doesn't give a voice to the victim, and remember the victim is a child and it is the Courts RESPONSIBILITY to protect those children.

10. What is the proper role of sentencing as part of a broader effort to reduce the frequency of child pornography offenses, including the "market" (commercial and non-commercial markets) for child pornography?

I believe sentencing is one of the only tools we have control over to reduce the frequency of child pornography offenses. We cannot effectively regulate the "market" for child pornography. We cannot take the images permanently off the Internet. We also cannot modify for certain an offender's behavior outside of imprisoning them and, therefore, blocking them off from viewing or distributing child pornography. Educating people about the effects of child pornography and raising awareness about the issue certainly have their place and I believe more and better treatments for pedophilia certainly need to be explored, but sentencing is the strongest tool to keep people from engaging in child pornography both through keeping existing offenders from engaging in it and through inhibiting potential offenders from trying it.