

**Response to Additional Commissioner Questions
on Child Pornography Sentencing Guidelines**

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- 1. Do child pornography offenders who reside with a related child (e.g., son or daughter) pose a risk of contact offending against that child? In other words, what percentage of child pornography offenders with a related child engage in sexually dangerous behavior involving that child?**

In our initial analysis of police case file data, we found that offenders who resided with children showed a tendency to be more likely to sexually reoffend. This analysis has not yet been confirmed with our newest outcome data, as we have only recently updated our follow-up. If this relationship holds up, we are not sure if we can determine if new sexual offenses are more likely to involve related children; another possibility is that living with a child creates more opportunities to have contact with other children, who instead might be potential sexual victims.

- 2. Has the proportion of child pornography images involving very young children (infants or toddlers) or involving sexual violence increased over time?**

Research by Janis Wolak and her colleagues at the Crimes Against Children Research Center, over the three waves of their National Juvenile Online Victimization study, has shown that a higher proportion of offenders have any images of very young children or sexual violence (broadly defined) (Wolak et al., 2011). This does not speak directly to the question of whether more such content exists. It could be the case, for example, that the total amount, as a proportion of all child pornography content, has not changed over time, but more offenders have one or more images as a result of high-volume trading through peer-to-peer file-sharing networks. Wolak et al. have also documented a significant increase in the role of peer-to-peer networks in accessing and distributing child pornography.

- 3. Are child pornography offenders who communicate online with other child pornography offenders more dangerous and/or culpable than those who view child pornography in isolation?**

There is no evidence that child pornography offenders who communicate online with other child pornography offenders are more dangerous in the sense of being more likely to sexually reoffend. However, they could be more culpable to the extent that there is evidence that their communications encouraged others to seek out child pornography or to engage in contact sexual offending (e.g., encouraging someone to produce new images and distribute them online). There is also research to suggest that some online communications act to support offense-supportive attitudes and beliefs, such as the idea

that children can benefit from sexual contacts with adults or that children can freely consent to such activity (e.g., Holt et al., 2010; Malesky & Ennis, 2004). These expressions can influence norms in these online forums, and thereby indirectly influence the possibility that someone will act upon their sexual interest in children.

In a very recent published study, Lee et al. (2012) showed that child pornography offenders who scored higher on internet preoccupation (reflecting time spent online, time spent in online forums, and time spent involved with online pornography) were less likely to have committed contact offenses. Instead, in keeping with the model of sexual offending I described in Seto (2008) and with research reported by McCarthy (2010), Lee et al. found that antisocial behavior (prior delinquency, school behavior problems, etc.) distinguished child pornography offenders who had committed contact sexual offenses from those who had not.

4. Number of child pornography images is not an accurate proxy for culpability or dangerousness. What additional factors should courts and the Commission consider, e.g., time spent viewing, categorization, content, communication, history?

There is limited research on the relevance of parameters of child pornography. In our as-yet unpublished analysis of police file data from a sample of 301 child pornography offenders, we found that total amount was not correlated with recidivism. We did find that the ratio of boy to girl content predicted new child pornography charges (Eke & Seto, 2012). In terms of how this could be reflected in the sentencing guidelines, something relatively simple like whether there were more images of boys or more images of girls would be useful information.

I have suggested that the age of children depicted would also be relevant; other parameters of interest for diagnostic purposes would be the ratio of child to adult pornography and the relative proportions of other kinds of atypical pornography content, such as sexual violence or bestiality (Seto, 2010). In our police file study, we found that men who admitted that they were sexually interested in children were more likely to sexually offend than those who denied any such interest. Faust et al. (2009), in their analysis of data from US federal child pornography offenders, found that offenders who had content depicting adolescents (estimated ages 13 to 15) were less likely to reoffend; in other words, offenders with collections only of prepubescent children were more likely to reoffend. Faust et al. also found that having non-digital child pornography content (actual photographs, videos, magazines etc) was predictive of sexual rearrest.

Testimony at the public hearing in February 2012 indicated that these aspects of child pornography offending are not routinely available when considering sentencing. Instead, only information pertinent to sentencing adjustments (e.g., whether the offender had more than 600 images) are reported. It would be of great value for sentencing purposes and subsequent clinical and risk-based decisions to routinely have more information about the online behavior of child pornography offenders, including more information about their child pornography collections and online communications with others. Another invaluable source of information would be details about the individual's criminal history,

including juvenile records. We found in our most recent follow-up study that offender age at the time of their first involvement with the criminal justice system, which included juvenile onset, was a significant predictor of sexual recidivism among child pornography offenders (Eke, Seto, & Williams, 2011). In our as-yet unpublished police case file study, we found that having a juvenile arrest record, simply recorded as yes or no, was also a significant predictor (see Eke & Seto, 2012).

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