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**Statement to the US Sentencing Commission public hearing on
federal child pornography offenses: *Findings about sentencing from a national survey of
local, state and federal law enforcement agencies***

The National Juvenile Online Victimization Study (NJOV)

The National Juvenile Online Victimization (NJOV) Study, funded by DOJ, OJJDP, is a systematic survey of local, state and federal law enforcement agencies about child pornography (CP) possession and other Internet-related crimes pertaining to three 12-month periods: mid-2000 to mid-2001, 2006 & 2009.

Summary of findings

About one-third of CP possession cases are charged federally.

- In 2009, there were an estimated 4,901 arrests for CP possession in the US, 1,549 of which resulted in federal charges (32%).
- 80% of 2009 arrests for CP possession involved offenders who were charged solely with CP possession and/or distribution (CP Only cases).
- 1 in 3 2009 CP Only cases resulted in federal charges.

In 2009, two-thirds of federal CP Only cases resulted in sentences of more than 5 years, compared to about one-fifth of state cases.

- In some respects, the federal CP Only cases were more serious. Offenders were more likely to have more than 1,000 images, to have sadistic or violent images, and to have been involved in undercover "chat" cases.

Controlling for seriousness, federal CP Only cases were still twice as likely as state cases to result in sentences of more than 5 years.

- Differences in seriousness between federal and state cases can be controlled for by using a multivariate statistical analysis called logistic regression. Our analysis indicates that offenders in federal cases were twice as likely as those in state cases to receive sentences of more than 5 years, even when seriousness was taken into account.

Several factors could explain this discrepancy.

- First, our analysis may leave some aspects of seriousness unaccounted for. Second, federal sentencing guidelines may explain all or most of the discrepancy between federal and state sentences. Third, investigators or agencies that are most concerned about CP crimes may seek federal involvement because of harsher sentencing guidelines, and they may press successfully for longer sentences. Fourth, judges in the federal system may have a different orientation to this issue than judges in state systems. State judges may issue sentences in a greater number of conventional child sexual abuse cases and may think of CP offenses in that context.

This analysis showing a discrepancy between federal and state sentences illustrates how data can shed light on sentencing issues, but it does not address what sentences are appropriate for CP possession.

- Some may argue that federal sentences are too severe; others that state sentences are too lenient. Further, our analysis does not account for variations among states.

The NJOV Study also addresses the proportion of CP possessors who are “dual offenders” because they also committed a concurrent sex crime against a minor.

In 2009, a smaller proportion of CP possessors were “dual offenders” – about 30%, compared to 40% arrested in 2006 and 55% in 2000.

- This decrease in the proportion of dual offenders is likely related to the increase in cases that originated with investigations of CP possession, as opposed to investigations of child sexual abuse. In 2009, only about 20% of CP possession cases began with investigations of child sexual abuse.
- When police are investigating child sexual abuse and find a suspect who possesses child pornography, there rarely is a dilemma about the nature of the suspect’s sexual offenses.
- The more important social policy question is how to structure investigations that originate with CP to identify the offenders who are actively molesting children.

In 2009, 1 in 10 cases that began with allegations or investigations of CP possession found a dual offender, compared to 1 in 6 in both 2006 and 2000-1.

- This estimate of dual offenders is almost certainly low because it is only based on what investigators found out in the course of investigating and making an arrest.
- There are several possible reasons why the rate of dual offenders found in CP possession cases has declined. One possibility is that CP is increasingly possessed by people who are not active child molesters. Another is that police are targeting a different population of CP possessors, for example those trading in peer-to-peer networks. This population may be more focused on acquiring and trading images than on molesting children. Also, police may be investigating CP cases less intensively because of the high conviction rates and substantial sentences meted out for CP possession.

Additional information about the National Juvenile Online Victimization Study and about our findings

- A detailed description of the methodology of the NJOV Study and papers and reports on study findings are posted on the Crimes against Children Research Center website at <http://www.unh.edu/ccrc/internet-crimes/papers.html>
- The NJOV Study was funded by the US Department of Justice, OJJDP. Points of view or opinions are those of the authors and do not necessarily represent official positions or policies of the Department of Justice. Also, we wish to acknowledge the hundreds of law enforcement personnel who assisted with this research.
- Appendix 1 to this statement includes more detail about our estimates of the number of CP possession cases.
- Appendix 2 includes tables describing our analysis of federal versus state sentencing.
- Appendix 3 describes how the NJOV Study was conducted.

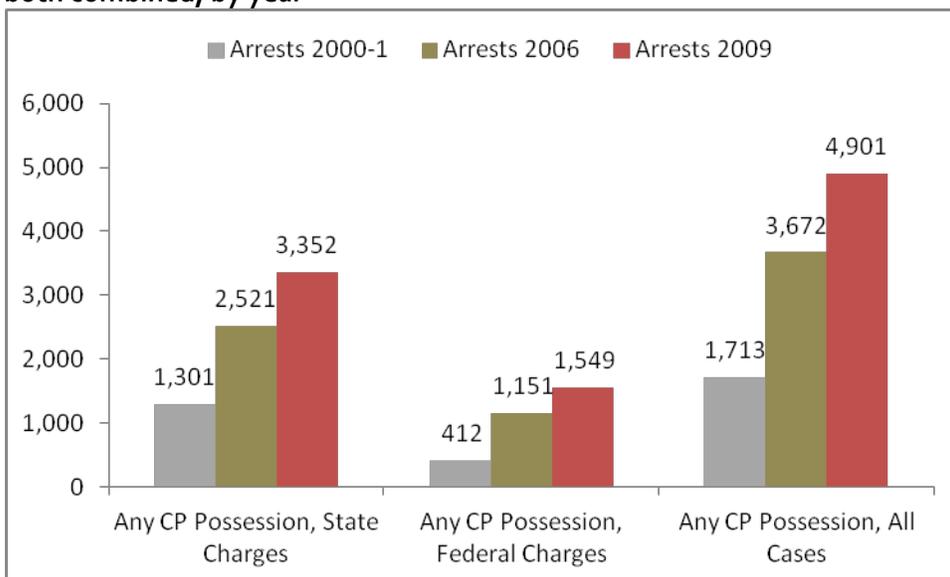
Appendix 1

NJOV Study estimates of the growth in arrests for CP possession

Figure 1 shows estimates of all US arrests for CP possession, broken down by cases that resulted in state charges, federal charges and both combined, for each year of the NJOV Study.

In both 2006 and 2009, about one-third of all arrests for CP possession resulted in federal charges (31% and 32%, respectively). In 2000-1, there were federal charges in about one-quarter of cases (24%).

Figure 1 Estimates of US arrests for CP possession with state charges, federal charges and both combined, by year



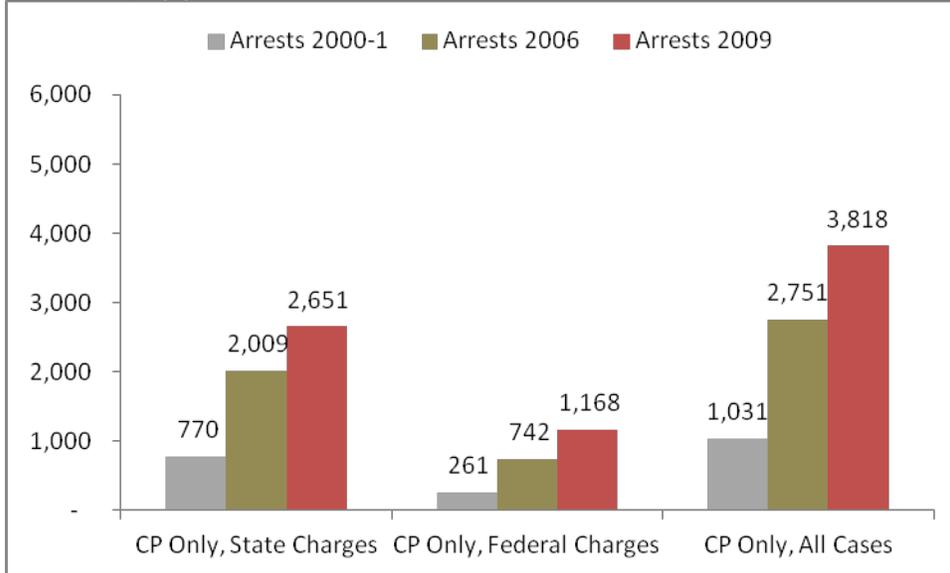
A minority of offenders arrested for CP possession also sexually abused or victimized specific minors (40% of all cases in 2000-1, 25% in 2006 and 22% in 2009). They were charged with sexual offenses such as child molestation, incest, online enticement, or production of child pornography, in addition to CP possession.

Growth in arrests for CP only (no other sex crime charged)

Figure 2 shows estimates of arrests for CP Only (no other additional sex crimes), broken down by cases that resulted in state charges, federal charges and both combined, for each year of the NJOV Study.

In both 2006 and 2009, about 30% of CP only cases resulted in federal charges (27% and 31%, respectively); in 2000-1, 24% resulted in federal charges.

Figure 2 Estimates of arrests for CP only with state charges, federal charges and both combined, by year

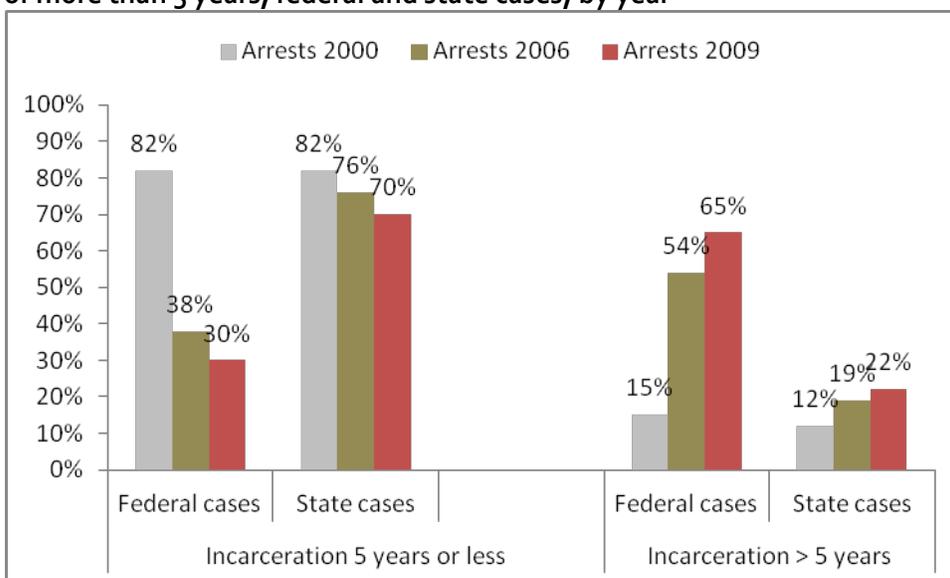


Appendix 2

In 2009, almost two-thirds of federal CP Only cases resulted in sentences of more than 5 years, compared to about one-fifth of state cases.

- The first NJOV Study measured arrests in CP Only cases between July 1, 2000 and June 30, 2001. At that point, sentences in state and federal cases were similar. Most cases – around 80% -- resulted in sentences of 5 years or less (see Figure 3).
- Since 2000-1, sentences in federal cases have increased while those in state cases have been relatively consistent.

Figure 3 CP Only Cases, sentences of 5 years or less, federal and state cases, and sentences of more than 5 years, federal and state cases, by year



The NJOV Study indicates that 2009 federal CP Only cases were more serious than state cases in some respects.

- Statistical comparisons show that 2009 federal CP Only cases were significantly more likely to involve more than 1,000 images, sadistic or violent images, and offenders involved in undercover chat cases. Federal cases were also somewhat more likely to involve offenders who distributed CP (See Table 1).
- However, federal and state cases were equally likely to involve offenders with prior sexual and non-sexual offenses.

Table 1 Differences in seriousness in federal versus state cases ending in incarceration, 2009 CP only cases (n=269)

<i>Characteristics</i>	State Cases (n = 111)	Federal Cases (n=158)
More than 1,000 images	18%	39%**
Sadistic or violent images	27%	48%**
Distributed CP	55%	68% +
Involved in UC "chat" case ^a	5%	14%**
Had prior sexual offenses	12%	18%
Had prior non-sexual offenses	33%	28%

^a These offenders sexually solicited undercover investigators posing online as minors.

** $p \leq .01$, * $p \leq .05$, + $p \leq .10$

Controlling for seriousness, federal 2009 CP Only cases were still twice as likely as state cases to result in sentences of more than 5 years.

- Differences in seriousness between federal and state cases can be controlled for by using a multivariate statistical analysis called logistic regression.
- The logistic regression in Table 2 shows that certain cases had higher odds of resulting in a sentence of more than 5 years. These included cases with offenders who had prior sexual offenses against minors, those possessed more than 1,000 images or sadistic or violent images, who distributed CP, or had been involved in an undercover chat case.
- However, even after controlling for these factors, federal charges increased the odds that a case would result in a sentence of more than 5 years.

Table 2 Logistic regression predicting sentence of more than 5 years in 2009 CP only cases (n=269)

Predictors	Adjusted Odds Ratio ^a	95% Confidence Interval	<i>p</i>	<i>t</i>	SE
Prior sex offense against a minor ^b	1.3	1.2—1.3	.000	4.41	2.35
Possessed > 1,000 images	1.5	1.3—1.7	.000	3.64	1.77
Distributed CP	1.7	1.1--2.3	.019	2.38	0.92
Had sadistic or violent images	1.4	1.1—1.6	.013	2.51	0.62
Involved in an undercover chat case	1.2	1.1—1.2	.000	4.20	3.03
Federal charges	2.3	1.7—2.9	.000	4.49	1.37

^a Odds ratio adjusted to more closely approximate relative risk (Zhang & Hu, 1998)

^b This category includes prior CP possession

Appendix 3

How the National Juvenile Online Victimization (NJOV) Study was conducted

The NJOV Study collected information from a national sample of law enforcement agencies about the prevalence of arrests for and characteristics of online sex crimes against minors during three 12 month periods: July 1, 2000 through June 30, 2001 (NJOV₁), and calendar years 2006 (NJOV₂) and 2009 (NJOV₃).

We used a two-phase process of mail surveys followed by telephone interviews to collect data from a national sample of the same local, county, state, and federal law enforcement agencies. First, we sent the mail surveys to a national sample of more than 2,500 agencies. These surveys asked if agencies had made arrests for online sex crimes against minors during the respective one-year timeframes. Then we conducted detailed telephone interviews with law enforcement investigators about a random sample of arrest cases reported in the mail surveys.

The national sample of agencies was stratified to account for unequal probabilities that agencies would make arrests for such crimes. For the telephone interviews, we designed a sampling procedure that took into account the number of arrests reported by an agency, so that we would not unduly burden respondents in agencies with many cases.

The data, weighted to account for sampling procedures and non-response, includes 612 cases from NJOV₁, 1,051 cases from NJOV₂ and 1,299 cases from NJOV₃. Having weighted data which is based on a representative sampling of law enforcement agencies and arrest cases allows us to estimate the incidence of arrests for specific types of crimes during the timeframes of the three NJOV Studies.

NJOV₁ includes 429 interviews about CP possession cases ending in arrests that occurred between July 1, 2000 and June 30, 2001; NJOV₂ includes 605 interviews about such cases ending in arrest in 2006 and NJOV₃, 768 interviews about arrests in 2009.

Table 3 provides details about the dispositions of the mail survey and telephone interview samples. Study procedures were approved by the University of New Hampshire Human Subjects Review Board and complied with all Department of Justice research mandates.

Table 3 -- Final dispositions and response rates for the National Juvenile Online Victimization (NJOV) Study

	NJOV1	NJOV2	NJOV3
# agencies in sample	2,574	2,598	2,653
No jurisdiction	65	282	190
Eligible agencies	2,509	2,316	2,463
Responded to mail survey	2,205 (88%)	2,028 (87%)	2,128 (86%)
Reported cases	383 (15%)	458 (20%)	590 (24%)
# cases reported	1,723	3,322	4,010
Not selected for sample	646 (37%)	1,389 (42%)	1,522 (38%)
Ineligible	281 (16%)	276 (8%)	459 (11%)
Total # cases in sample	796	1,657	2,029
Non-responders	101 (13%)	446 (27%)	471 (23%)
Refusals	25 (3%)	118 (7%)	159 (8%)
Invalid or duplicate cases	40 (5%)	30 (2%)	100 (5%)
Completed Interviews	612 (79%)	1,051 (64%)	1,299 (64%)
Did not involve CP possession	183	446	531
Subsample of CP possession cases	429	605	768

NJOV Study papers, methodology reports and other reports are available at the website of the Crimes against Children Research Center: <http://www.unh.edu/ccrc/internet-crimes/papers.html>.