



**U.S. Sentencing Commission**  
One Columbus Circle NE  
Washington, DC 20002-8002

## **NEWS RELEASE**

**For Immediate Release**

February 27, 2013

**Contact:** Jeanne Doherty  
Public Affairs Officer  
(202) 502-4502

### **SENTENCING COMMISSION ISSUES REPORT ASSESSING PENALTIES FOR CHILD PORNOGRAPHY OFFENSES**

*Recommends Revisions to Reflect New Uses  
of Technology by Child Pornography Offenders*

WASHINGTON, DC—Today the United States Sentencing Commission submitted to Congress its comprehensive report examining federal sentencing policy in child pornography cases.

Judge Patti B. Saris, chair of the Commission, stated, “The Commission believes that all child pornography offenses are very serious because they encourage the sexual exploitation of children and perpetuate the harm to victims, particularly when images are distributed on the Internet and permanently in circulation.”

Although still only a small percentage of the overall federal caseload, child pornography prosecutions have grown significantly during the past decade and now account for nearly 2,000 federal cases each year. That growth reflects the increasing role of the Internet in child pornography offenses. Before the Internet, law enforcement officers had significantly curtailed the child pornography market in the United States.

Significant technological changes in offenders’ conduct have occurred since the federal penal statutes and sentencing guidelines for child pornography offenses were last amended comprehensively a decade ago. Child pornography offenders today typically use Internet technologies such as peer-to-peer file-sharing programs that enable offenders to distribute, receive, and collect child pornography images more easily and in greater quantities than when the current penalty structure was established. Several penalty enhancements in the guidelines for child pornography offenses, such as use of a computer, now apply to typical offenders. As a result, prison sentences for defendants convicted of federal child pornography offenses have almost doubled in the past decade to approximately five years for possession and 11 years for receipt and distribution.

Judge Saris concluded, “Because of changes in the use of Internet-based technologies, the existing penalty structure is in need of revision. Child pornography offenders engage in a variety of behaviors reflecting different degrees of culpability and sexual dangerousness that are not currently accounted for in the guidelines.”

The Commission's study found that approximately one in three federal child pornography offenders had a known history of engaging in illegal sexual misconduct prior to or in conjunction with their federal child pornography offenses. Such illegal behavior ranged from sexual assaults against children to "non-contact" sex offenses such as soliciting self-produced sexual images from minors in on-line communication. The Commission's recidivism study also concluded that approximately 7 percent engaged in illegal sexual misconduct after serving their sentences for federal child pornography offenses. Both figures should be considered conservative because such offenses are underreported.

Several stakeholders in the federal criminal justice system have called on the Congress and Commission to amend the current penalty structure in child pornography cases to reflect changes in technology used by offenders. Because of concerns that the child pornography guideline no longer adequately distinguishes among offenders in terms of the culpability and dangerousness, offenders increasingly have received sentences below their sentencing guideline ranges. Only 32.7 percent of child pornography offenders receive a sentence within the applicable guideline ranges; most receive sentences below the ranges. In addition, the Commission found that prosecutors inconsistently charged offenses carrying statutory mandatory minimum penalty provisions in child pornography cases.

In preparation for the report, the Commission reviewed the most current social science, case law, and legislation concerning child pornography offenses and conducted extensive data analyses of several thousand federal child pornography cases. It also sought the views of experts in technology and the social sciences, treatment providers, law enforcement officials, legal practitioners, victims' advocates, and members of the judiciary.

Judge Saris stated, "The Commission will continue to study child pornography sentencing practices, and looks forward to working with Congress on developing a sentencing scheme that serves to better distinguish offenders, thereby reducing unwarranted sentencing disparities in these serious crimes."

This report complements and expands upon the Commission's October 2009 report, *The History of the Child Pornography Guidelines*. Both reports are available on the Commission's website, [www.ussc.gov](http://www.ussc.gov).

###