



# Non-Production Child Pornography Offenses

In 2021, the United States Sentencing Commission issued two reports, which analyze fiscal year 2019 data to update and expand upon the Commission's 2012 report to the Congress on federal child pornography offenses. The reports separately analyze non-production and production child pornography offenses.

These reports are intended to provide updates to Congress, judges, and other stakeholders on the behavior and sentencing of child pornography offenders.

## Overview

PREPUBESCENT VICTIMS

**99.4%**

RECIDIVISM RATE AFTER THREE YEARS

**27.6%**

MEDIAN NUMBER OF IMAGES

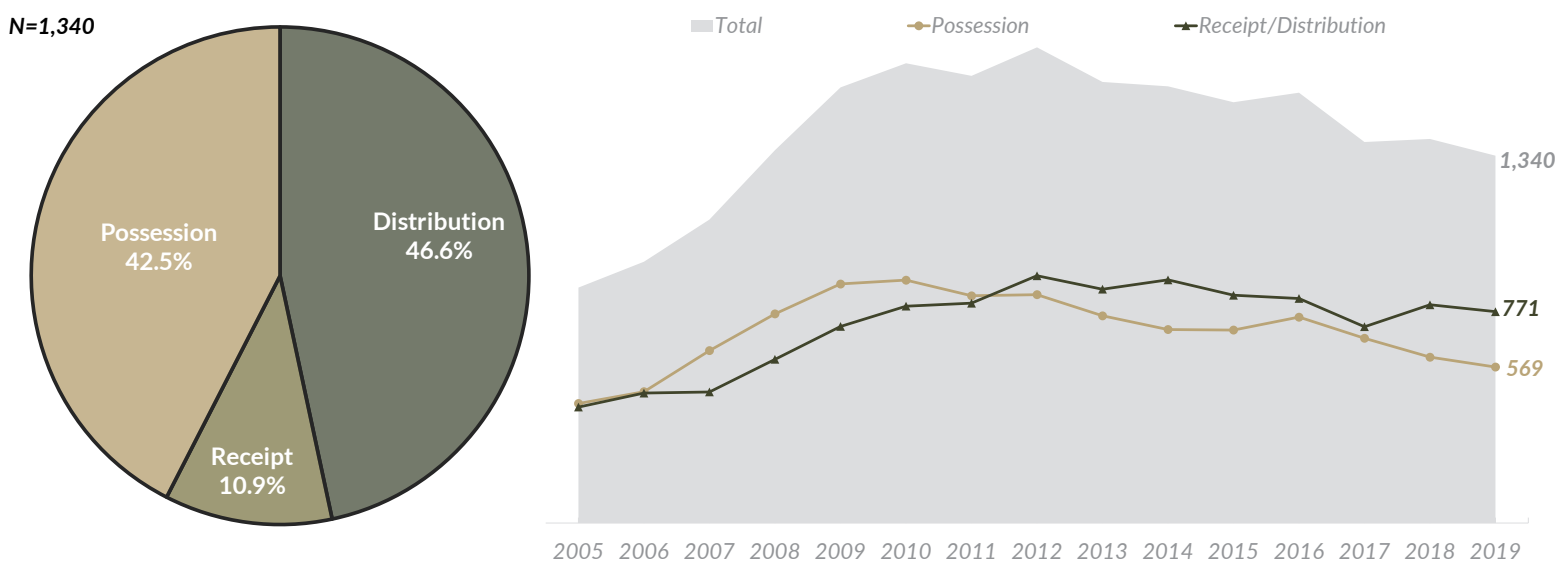
**4,265**

Facilitated by advancements in digital and mobile technology, **non-production child pornography offenses increasingly involve voluminous quantities of videos and images** that are graphic in nature, often involving the youngest victims.

## \$2G2.2 Offenders

Of the 1,340 non-production offenders sentenced in FY 2019, 42.5% were possession offenders, 10.9% were receipt offenders, 46.6% were distribution offenders.

Offenders convicted of receipt or distribution are **subject to the 5-year mandatory minimum penalty**.



## Guideline Enhancements

Enhancements that were initially intended to target more serious and more culpable offenders have resulted in an increase in the average guideline minimum and average sentence imposed for non-production child pornography offenses.

OFFENDERS RECEIVING ENHANCEMENTS FOR VICTIMS UNDER AGE 12

**95%**

CASES INVOLVING 600 OR MORE IMAGES

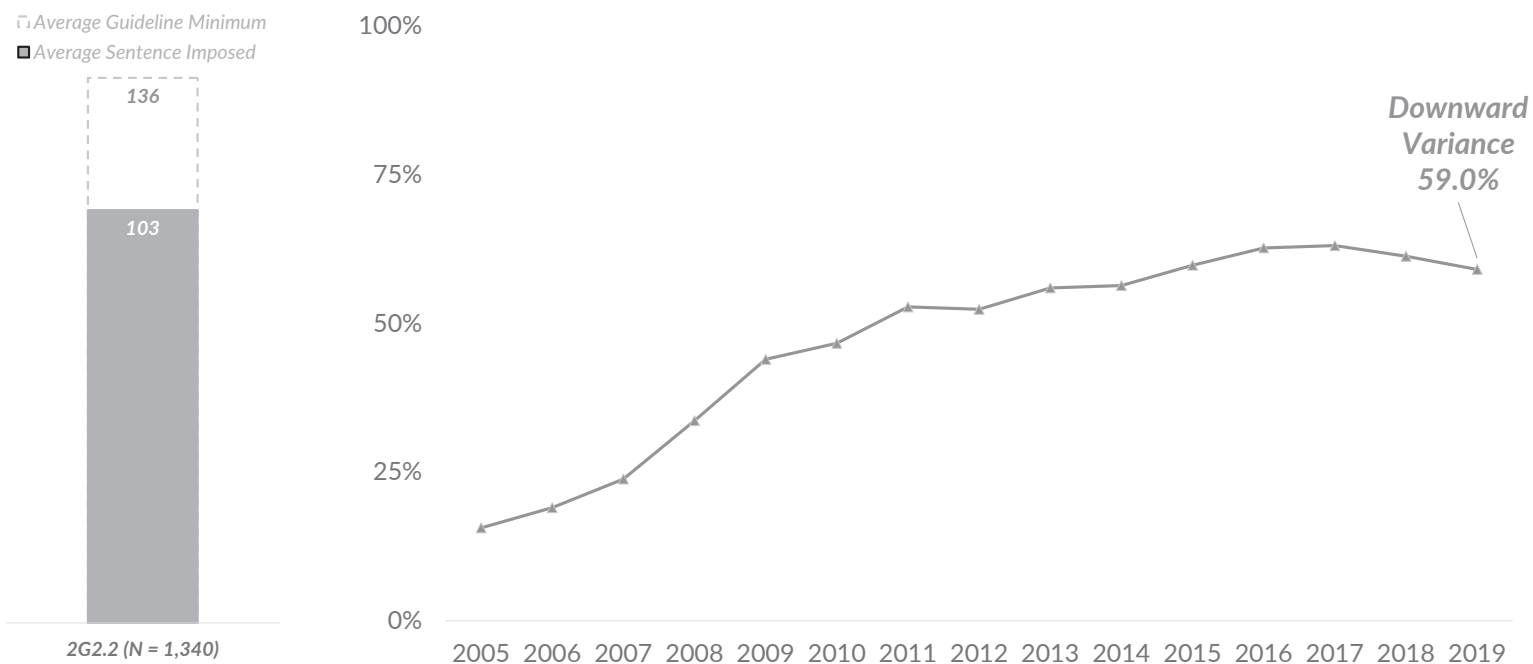
**77%**

CASES INVOLVING IMAGES DEPICTING ABUSE OF INFANT/TODDLER

**84%**

## Sentencing

Although sentences imposed remain lengthy, courts increasingly apply downward variances in response to high guideline ranges that apply to the typical non-production offender.



In 2012, the Commission recommended that Congress provide the Commission express authority to amend the guidelines that were promulgated pursuant to specific congressional directives. Such authority would allow the Commission to account for changes in typical offense behavior and advancements in technology.

# Sentencing Disparities

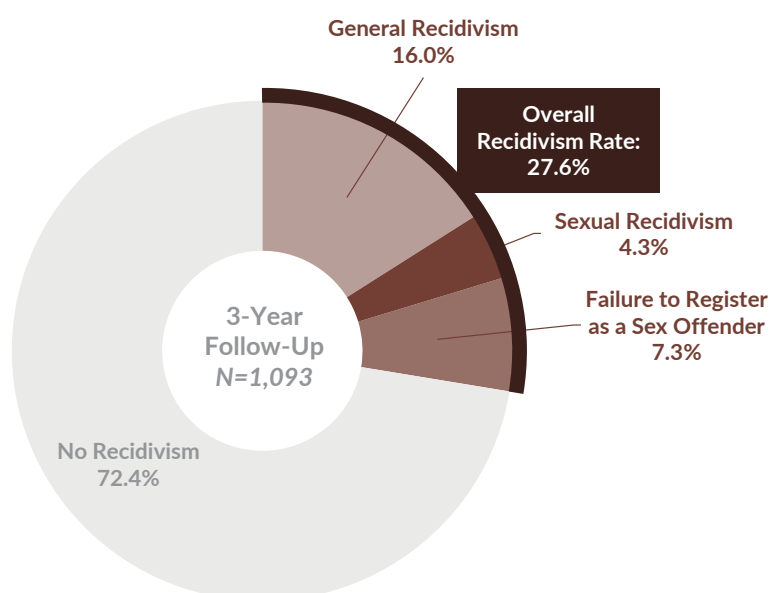
As courts contend with the outdated statutory and guideline structure, sentencing disparities among similarly situated offenders have become increasingly pervasive:

**POSSESSION OFFENDERS**  
**Probation - 228 months**

**RECEIPT OFFENDERS**  
**37 - 180 months**

**DISTRIBUTION OFFENDERS**  
**<1 - 240 months**

## Recidivism



When tracking 1,093 non-production offenders released from incarceration or placed on probation in 2015, **27.6% were rearrested within three years.**

Of the 1,093 offenders, 4.3 percent (47 offenders) were rearrested for a sex offense within three years.

Eighty-eight offenders (8.1% of the 1,093) failed to register as a sex offender during the three-year period.

**USSC recommends that three factors be considered when imposing sentences in non-production child pornography cases:**



### Content of the offenders' collection

Over half (52%) of non-production child pornography offenses included **images or videos of infants and toddlers.**

Some offenders possessed and distributed **millions of images and videos.**



### Community degree of involvement with other offenders, particularly online

More than **40%** of non-production offenders participated in an **online child pornography community.**



### Conduct engagement in sexually abusive or exploitative conduct in addition to pornography offense

Nearly half (48%) of non-production child pornography offenders engaged in **aggravating sexual conduct** prior to, or concurrently with, the instant non-production child pornography offense.

Read the Commission's reports on Federal Sentencing of Child Pornography Non-Production and Production Offenses at [ussc.gov](http://ussc.gov).

