

Good morning, Chairman Grassley, Ranking Member Durbin and Members of the Committee.

My name is Jessica Lieber Smolar, and I had the honor of serving as an Assistant United States Attorney in the Western District of Pennsylvania for three decades. During my career as a federal prosecutor, I personally handled and oversaw hundreds of child exploitation and human trafficking investigations and prosecutions.

When I first began prosecuting these offenses, investigations often centered around physical evidence and mail-based exchanges. Over time, I witnessed a monumental shift in the types of child sexual abuse material (also referred to as CSAM) that offenders collected and their methods of collection. This shift was not limited to the sheer volume and disturbing nature of the material; it also encompassed the tools offenders used to acquire, share, and conceal CSAM.

Today, every child exploitation case involves the criminal use of cellular phones and computers. Offenders use these tools to stockpile massive quantities of sexually explicit videos and images of children, frequently targeting prepubescent children. Violent depictions of infants and toddlers being sexually exploited were routinely collected by the defendants whom I prosecuted.

Offenders also increasingly use advanced technology and platforms for CSAM trafficking. They congregate in online communities and Darknet forums solely devoted to child exploitation. They can now more easily conceal their crimes and their identities through encryption, VPN's, the Darknet, and remote erasure software.

The law has not kept pace with the rapid technological advances or evolving sex offender behavior. U.S. Sentencing Guideline Section 2G2.2 was designed when CSAM was distributed by mail, so it adds offense enhancements for actions common to all CSAM offenders today—like using a computer, possessing images of prepubescent minors, or amassing many images. The guideline enhancements apply broadly and no longer reflect varying levels of offender culpability or risk. Legislation is needed to amend the CSAM guidelines.

The Sentencing Commission's June 2021 Report found that Section 2G2.2 of the Guidelines is outdated, leading judges to exercise their discretion to reduce sentences for child sexual offenders. The Commission's data for fiscal year 2019 showed that less than 30% of non-production child pornography offenders were sentenced within the recommended guidelines, reflecting broad judicial dissatisfaction and inconsistent sentencing nationwide. As federal prosecutors, my colleagues and I often considered plea offers to binding sentences to avoid the application of the insufficient sentencing guidelines and disparities.

There are also emerging crimes that are not fully covered by existing criminal statutes, such as those committed by members of the violent online group “764.” The 764 members befriend children, sometimes as young as 9 years old, through popular online platforms and then coerce them into escalating sexual, self-destructive and violent behavior – compelling victims to document sex acts, harm siblings and family pets, cut and mutilate themselves, or attempt suicide. There are no federal statutes that adequately criminalize the coercive conduct of 764 and similar groups. As federal prosecutors, we focused on proving more conventional statutory violations, like CSAM possession or production, or distribution of obscenity to minors, to effectively prosecute these horrific crimes.

Similarly, law enforcement agencies have reported a significant rise in sextortion cases- children being coerced into sending sexually explicit images online. Perpetrators engage victims in flirtatious conversation on social media and gaming platforms to obtain explicit images. The offenders then use the sexually compromising images to blackmail victims for more images or, in the case of financial sextortion, for money or gift cards, by threatening to widely publicize the images to the child’s friends and family. Children suffer severe emotional distress as a result of such sexual extortion, and too many have engaged in self-harm or attempted suicide. As federal prosecutors, we found it challenging to effectively charge sextortion and financial sextortion; existing statutes do not adequately address the full scope or severe harm of these crimes.

Increasing public understanding of the evolving and destructive risks to children online is crucial. Legislation is needed to strengthen the legal framework and better support those responsible for protecting children.

I welcome your questions. Thank you.