

## KBJ's Fight to Reduce Child Pornography Sentences

Under Judge Jackson's leadership, the U.S. Sentencing Commission included a key finding and other conclusion points in its 2012 Child Pornography report that contradicted testimony of experts the Commission itself had called. This appears to be part of an effort to further make the case to lessen penalties for child pornography defendants.

- Judge Jackson's theory, which she brought up in multiple ways numerous times during the hearing, is that there are "less serious offenders" who are "non-sexually motivated" in collecting child pornography.
- Multiple witnesses, including a former Columbia Medical School Professor and a career DOJ prosecutor with 20 years of experience prosecuting child exploitation offenses, rejected her theory every time she brought it up in a line of questioning.
  - The career DOJ prosecutor said there is not a category of child pornography offenders who is "not dangerous".
  - The psychiatrist and former Columbia Medical School Professor said that the person who collects just to collect is "rare" and that pedophilia is the "reason[] people get involved in looking at child pornography...[is] pedophilia."
- One of the Commission's [key findings](#) was "[t]he Commission believes that the current non-production guideline warrants revision in view of its outdated and disproportionate enhancements related to **offenders' collecting behavior...**"
- In [Chapter 4](#) of the report, entitled "Child Pornography Offender Behavior," the section on "non-sexual motivations for collecting child pornography" (starts on page 78) does not make any note of the expert's testimony that this behavior is rare.
  - Chapter 4's summary points ([pages 104-106](#)) restate themes from her theory, even though her theory was not supported by expert testimony:
  - "... some offenders are partially or completely motivated by... nonsexual reasons." ([page 104](#))
  - "Offenders engage in a variety of collecting behaviors, some of which may relate to compulsive collecting rather than sexual interest..." (page 105)

### **KBJ Theory: "Less serious offenders"**

- During this hearing, Jackson suggested to a witness that perhaps some child-pornography offenders were "less serious offenders" because they engaged in

child pornography just to see if they master some technological challenge and to be part of a group:

- “I wanted to ask about the means by which we can distinguish more or less serious offenders...I guess my thought is . . . that there are people who get involved with this kind of activity who may not be pedophiles who may not be necessarily interested really in the child pornography but have other motivations with respect to the use of the technology and the being in the group and, you know, there are lots of reasons why people might engage in this. And so I’m wondering whether you could say that there is a -- that there could be a less-serious child pornography offender who is engaging in the type of conduct in the group experience level because their motivation is the challenge, or to use the technology? They’re very sophisticated technologically, but they aren’t necessarily that interested in the child pornography piece of it?” ([pages 66-67 of transcript](#))
- The witness (the career DOJ prosecutor) rejected her suggestion that there were less serious offenders.
  - “it’s difficult to say that the singular-experience are not dangerous...(page [67 of transcript](#))

### **KBJ Theory: “Non-sexual motivation”**

- Jackson later said: “I had mistakenly assumed that child pornography offenders are pedophiles” and people who are “non-sexually motivated” in collecting child pornography. ([page 130 of transcript](#))
- The witness, the psychiatrist and former Professor of Medicine at Columbia University School of Medicine, stated “[t]here are individuals who collect. And sometimes they’ll collect ten gigs of images, and they won’t look at them. They are collectors. **But that’s kind of rare.**” ([page 130](#)). He stated further that the “reason[] people get involved in looking at child pornography...[is] pedophilia.” ([page 131 of transcript](#))