

Paul Simpson, Ed.D.

Arizona Forensic Services, LLC
Arizona Licensed Psychologist #1967
Certificate of Professional Qualification in Psychology (CPQ) #2829
National Register of Health Service Providers in Psychology, #42857

2292 W. Magee Rd., Suite 220, Tucson, AZ 85742
Office (520) 355-1000
FAX (520) 355-2000
doc@psy.law / www.psy.law

ONLINE SEXUAL OFFENDER RECIDIVISM: QUICK REFERENCE FOR COUNSEL

Companion summary to the practice reports — September 19, 2026

The threshold correction

No provision of the Sentencing Guidelines recognizes low recidivism among online sexual offenders. Section 2G2.2 says nothing on the subject. The recognition is federal, but it is located in two Sentencing Commission reports and one Department of Justice publication. Citing “the guideline” for this proposition will be corrected in open court.

The three federal authorities

- USSC, Federal Sentencing of Child Pornography: Non-Production Offenses (June 2021). Cohort of 1,093 non-production offenders released or placed on probation in 2015, tracked three years: 4.3% rearrested for a sex offense; 27.6% rearrested for anything; 72.4% no rearrest of any kind.
- USSC, Report to the Congress: Federal Child Pornography Offenses (Dec. 2012). 610 offenders followed an average of 8.5 years: 7.4% known sexual recidivism; 3.6% a contact offense. Use this when the government calls a three-year window too short. This is also the report finding § 2G2.2 “outdated and disproportionate.”
- DOJ, SMART Office, SOMAPI ch. 4, “Internet-Facilitated Sexual Offending” (Seto). Nine studies, 2,630 offenders: 4.6% any sexual recidivism, 2.0% contact, 3.4% new child pornography offense. Concludes that “online-only internet offenders have a relatively low risk for sexual recidivism compared to offline contact sexual offenders.”

The current empirical anchor

Baskurt, Babchishin, Hilkes, and Seto (2025), *Aggression and Violent Behavior*, 85, 102080: 30 samples, 25,978 individuals, mean follow-up 4.72 years. Pooled official rates — any sexual 5.93%; contact sexual 1.53%; CSEM-specific 4.08%; any recidivism 12.01%. Decisive subgroup finding: contact sexual reoffending was 0.56% for those whose offending was confined to exploitation material, against 8.80% for those with mixed histories — roughly a sixteen-fold difference. Establish on the record that a full forensic examination found no contact offending, and the lower figure applies.

Why § 2G2.2 does not sort defendants

- FY2019 enhancement application: over 95% received the computer-use and victim-age enhancements; 84.0% the sadistic/masochistic enhancement; 77.2% the 600-image enhancement. An enhancement applying to nearly everyone does not distinguish anyone.
- *United States v. Dorvee*, 616 F.3d 174 (2d Cir. 2010) — the Commission did not use its empirical approach in formulating this guideline. *United States v. Grober*, 624 F.3d 592 (3d Cir. 2010) — downward variance on policy disagreement affirmed. Authority to vary on policy grounds: *Kimbrough*, 552 U.S. 85 (2007); *Spears*, 555 U.S. 261 (2009). Verify current circuit law.
- FY2025 (1,432 offenders sentenced): average guideline minimum approximately 150 months; average sentence imposed 118 months; only 38% sentenced within the range;

54% received downward variances averaging a 37% reduction. A below-guideline request here is the national mainstream.

- 74% of these offenders fall in Criminal History Category I; average age 41; 98% male.

Where the data attach in the statute

- § 3553(a)(2)(C), protection of the public — the direct fit. Marginal incapacitation value is low in this subgroup.
- § 3553(a)(2)(B) — the data speak to specific, not general, deterrence. Address general deterrence separately rather than ignoring it.
- § 3553(a)(2)(D) — dynamic risk items are the treatment targets; custody often delays intervention.
- § 3553(a)(1) and (a)(6) — individual characteristics and national sentencing practice.

How to state it — and how not to

Say: “In a meta-analysis of 30 samples comprising 25,978 individuals followed an average of 4.72 years, individuals whose offending was confined to exploitation material were subsequently convicted of a contact sexual offense at a rate of 0.56 percent.” Do not say: “Mr. ____ has a 0.56 percent chance of reoffending.” Group rates are not individual probabilities, and the conversion is the error that gets an otherwise sound mitigation argument discounted entirely.

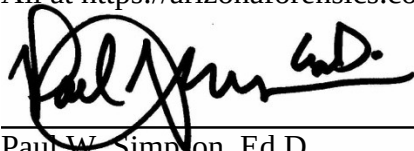
Concede these — it costs nothing and preserves the argument

Group data do not establish that this defendant will not reoffend, and recidivism evidence does not touch § 3553(a)(2)(A) retribution or the harm to the children depicted. The argument is narrower than “he is low risk” and stronger for it: incapacitation beyond a point buys very little public safety here, and the guideline range is not calibrated to that fact.

The rest of the material

- The full report on the research and its application at sentencing — the federal authorities, the study-by-study record, the government’s counter-arguments, and the § 2G2.2 problem.
- A companion report on the risk assessment itself — which instruments fit an online-only examinee, when the evaluation should be conducted relative to findings testimony, what to require of any evaluation, and the defects that recur in opposing risk opinions.
- A third report on the Sex Offender Treatment Program at the Naval Consolidated Brig Miramar and how sentence length governs access to it, with a model affidavit and request letter.
- A sample defense sentencing memorandum and a blank template.

All at <https://arizonaforensics.com/online-sex-offense/> — or call my office.



Paul W. Simpson, Ed.D.

Arizona Licensed Psychologist #1967

Arizona Forensic Services, LLC