

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR SARASOTA COUNTY, STATE OF FLORIDA

STATE OF FLORIDA,)	
)	
Plaintiff,)	
)	Case No. 2013-CF-3235
vs)	
)	
JASON PALMER,)	
)	
Defendant.)	
_____)	

EXCERPT OF PROCEEDINGS

Transcript of proceedings reported in the
above-entitled cause held before Honorable CHARLES E. ROBERTS,
Circuit Judge, at the Judge Lynn N. Silvertooth Judicial
Center, on **September 10, 2013**.

APPEARANCES:

KATE WALLACE
Assistant State Attorney
 On behalf of the State

PETER AIKEN
DARREN FINEBLOOM
Attorneys At Law
 On behalf of the Defendant

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1 (THE FOLLOWING PROCEEDINGS ENSUED IN OPEN COURT IN
2 THE PRESENCE OF THE DEFENDANT.)

3 *****

4 THE COURT: Ms. Wallace, you may call your first
5 witness.

6 MS. WALLACE: State calls Agent Llabre.

7 THE CLERK: Do you swear or affirm that the
8 testimony you're about to give will be the truth, the
9 whole truth, and nothing but the truth?

10 THE WITNESS: I do.

11 THE COURT: Good morning. Please have a seat. You
12 may proceed.

13 MS. WALLACE: Thank you.

14 WHEREUPON:

15 AGENT SHEA LLABRE

16 was called as a witness on behalf of the State and, having
17 been first duly sworn, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. WALLACE:

20 Q. Good morning.

21 A. Good morning.

22 Q. Would you please introduce yourself to the jury.

23 A. My name is Shae Llabre, and I'm an agent with the
24 U.S. Department of Homeland Security.

25 Q. How long have you worked for the Department of

1 Homeland Security?

2 A. Since 2004.

3 Q. What is your job assignment with Homeland Security?

4 A. I am a special agent.

5 Q. Where are you currently posted?

6 A. In San Juan, Puerto Rico.

7 Q. Were you previously posted in Florida?

8 A. Yes, I was.

9 Q. How long did you spend in Florida?

10 A. I was in Florida approximately three years.

11 Q. Can you describe for the jury your educational
12 background?

13 A. I have a bachelor's in criminology with a minor in
14 law and justice from the University of Tampa.

15 Q. Now, as part of your work with the Department of
16 Homeland Security, are you also involved with the Internet
17 Crimes Against Children Task Force?

18 A. Yes, I am.

19 Q. Would you explain to the jury first what is the task
20 force?

21 A. The task force is comprised of several local state
22 and federal law enforcement agencies that focus on crimes
23 against children, specifically Internet crimes.

24 Q. And how long have you been associated with ICAC
25 yourself?

1 A. I have been associated with ICAC since approximately
2 2010.

3 Q. And is ICAC the acronym that the Internet Crimes
4 Against Children Task Force usually goes by?

5 A. Yes.

6 Q. That's kind of a mouthful.

7 A. Yes.

8 Q. So ICAC, all right. Now, in your work with ICAC,
9 have you been trained on different methods to use to talk with
10 people online to try to figure out what their intentions are
11 towards children?

12 A. Yes.

13 Q. What kind of training have you received specifically
14 in that area?

15 A. I received training, not only in the Academy that I
16 go through for -- that every agent is required to go through
17 for Homeland Security. But I also attended several ICAC
18 trainings. They were specifically a week long conference that
19 was hosted by ICAC to train the members on various issues with
20 Internet crimes.

21 Q. Now, have you been employed by ICAC as a chatter?

22 A. Yes.

23 Q. Would you explain to the jury what you mean by the
24 term "chatter"?

25 A. Chatter is basically somebody that goes online in an

1 undercover capacity and chats on various websites, social
2 sites, in an effort to identify individuals that prey on
3 children online.

4 Q. What kind of instruction are you given specifically
5 in the area of chatting regarding the content of your chats
6 and how you should approach people online?

7 A. As far as approaching -- or one of the things when
8 you're engaged in a chat is that you must identify your age,
9 or your age in your undercover capacity. Also, that's
10 typically within the first initial communications as well as
11 you have to -- we typically don't pursue an individual. So if
12 contact is cut off, then we don't keep pursuing that
13 individual. That would be the end of that chat unless they
14 re-enter the conversation.

15 Q. Now, when you are participating in these chats
16 online, is it typical for you to introduce the idea of sex
17 yourself or to wait for the other person to do it?

18 A. No. That's what one of the main policies, is that
19 they must introduce the topic of sex, and then once that's
20 introduced, then we can engage in that kind of communication.

21 Q. Now, in March of 2013, were you involved in an ICAC
22 operation that also involved the North Port Police Department?

23 A. Yes.

24 Q. And what specifically was your role in the
25 investigation?

1 A. I acted in an undercover capacity as a chatter, as
2 well as I also conducted controlled phone calls.

3 Q. What are controlled phone calls?

4 A. Basically it's phone calls between myself and the
5 individual -- in this case it would be the defendant -- that
6 are recorded for evidence purposes.

7 Q. Now, where were you physically located as you were
8 participating in this operation?

9 A. I was in the North Port Police Department.

10 Q. How did you begin the chat that would eventually
11 culminate in a conversation with the defendant in this case,
12 Jason Palmer?

13 A. I posted an ad on craigslist.

14 Q. What is craigslist?

15 A. Craigslist is a site. It's basically like an online
16 classified site that you can buy, sell things on that site.
17 There is also a personal section that you can also enter for
18 finding a relationship or casual sex.

19 Q. Now, why in this particular case did you choose to
20 use craigslist to post your ad as opposed to some other kind
21 of social media website?

22 A. In my experience in the operations that I
23 participated in --

24 MR. AIKEN: Objection as to other operations,
25 your Honor.

1 THE COURT: Overruled.

2 BY MS. WALLACE:

3 Q. Go ahead.

4 A. That is the most relevant site at this time.

5 Q. Why, for example, not use a website like MySpace?

6 A. Typically nobody really uses MySpace anymore.

7 That's not the current choice or social media site to use.

8 Q. Now, on craigslist do you have to click on a box or
9 certify in some way that you are over 18 in order to use their
10 service?

11 A. Yes.

12 Q. Could you explain to the jury how that works?

13 A. When you go on to the site, you initially -- there's
14 different sections as to what category you want to go into.
15 So in the personal section you enter Casual Encounters. In
16 this specific situation when I was going to post the ad, when
17 you enter the Casual Encounters section, you have to -- it
18 asks you to acknowledge if you are over 18, and you click a
19 box, and then you go to your next screen.

20 Q. What's on the next screen?

21 A. That's -- when you're going to post the ad, that
22 would be you choosing what section you want to enter - women
23 for men; men for women; men for men. So you would go through
24 that portion.

25 Q. Now, you described a moment ago that you click on a

1 box that says, yes, I'm over 18; is that correct?

2 A. Yes.

3 Q. Do you have to provide any kind of proof to
4 craigslist that you are over 18?

5 A. No.

6 Q. For example, do you have to fill out an application
7 form with a copy of your driver's license or your birth
8 certificate or some other kind of proof of age?

9 A. No.

10 Q. Is it pretty easy to bypass that?

11 A. Yes.

12 Q. Now, does craigslist also contain some parental
13 controls?

14 A. Yes, it does.

15 Q. Do you have to use those?

16 A. No.

17 Q. If you wanted to use them, would you kind of have to
18 go out of your way to use them?

19 A. Yes. I mean, you have to open up the fine print and
20 go through more sections to get to where you -- to posting an
21 ad or what section you want to look at ads that have been
22 posted by other individuals.

23 Q. But it's not necessary to go through that process in
24 order to use craigslist; is that right?

25 A. No. Yeah, you're correct. Excuse me.

1 Q. Okay. Yes, I mean no.

2 Now, a moment ago you mentioned that it's your
3 practice to disclose your age, your undercover age, fairly
4 early on in the communication. Why is that your practice?

5 A. So that the individual that I'm chatting with knows
6 right up front that he is -- he or she is engaging with a
7 minor.

8 Q. Now, is it common in your experience for a person
9 that you're talking to to end the conversation after you
10 disclosed the age?

11 A. Yes.

12 MS. WALLACE: Your Honor, may I approach the clerk?

13 THE COURT: Yes.

14 BY MS. WALLACE:

15 Q. I'm going to show you what I marked for
16 identification purposes as State's Exhibit 1. Take a look at
17 this and tell me if you recognize it.

18 A. Yes. This is the ad that I posted on craigslist.

19 Q. Is it -- what date did you post that ad?

20 A. I posed it on March 14, 2013.

21 Q. What time of day did you post that ad?

22 A. It says 9:19 p.m.

23 Q. Is that a fair and accurate copy of the ad that you
24 posted on craigslist as part of your investigative role in
25 this operation?

1 A. Yes.

2 MS. WALLACE: Your Honor, at this time I would like
3 to --

4 MR. AIKEN: No objection.

5 MS. WALLACE: State's Exhibit 1.

6 THE COURT: All right. Exhibit 1 will be admitted.

7 (STATE'S EXHIBIT 1 WAS RECEIVED IN EVIDENCE.)

8 MS. WALLACE: May I publish to the jury?

9 THE COURT: You may.

10 BY MS. WALLACE:

11 Q. Agent Llabre, I'm going to publish this to the jury.
12 I don't want to blind you when light comes on there.

13 MR. FINEBLOOM: Judge, if I can approach to see how
14 she's using that because we may as well.

15 THE COURT: Yes.

16 BY MS. WALLACE:

17 Q. If I can take that back from you. We have an extra
18 copy here in case that print becomes awkward to read.

19 Now, if you can, explain to the jury what they're
20 seeing in the first line of this ad.

21 A. The first line is the title to the post that I put
22 on craigslist.

23 Q. Would you read that for the jury?

24 A. "Spring Break Fun W4M," which is women for men, "88
25 North Port."

1 Q. Now, what is meant by 88?

2 A. 88 is typically the age. You can either leave out
3 the age or you can -- in this case I put something that is
4 astronomical that wouldn't likely be believable.

5 Q. I'm sure there's one or two 88-year-olds that know
6 how to use craigslist. Probably not very many though.

7 A. Yes.

8 Q. Now, if you will go on to the next line of the ad
9 and read that to the jury?

10 A. It says, Out on spring break, looking to have some
11 fun but got to meet up before 11, so hook me back if you're
12 down.

13 Q. Now, in the text itself says, HMB. Is that an
14 acronym for "hit me back"?

15 A. Yes.

16 Q. What does that commonly mean?

17 A. Like, text me back or e-mail me back. Contact me
18 back.

19 Q. Now, was this ad posted in the Casual Encounters
20 section of craigslist?

21 A. Yes.

22 Q. Now, if someone wanted to respond to this kind of
23 ad, what would they do?

24 A. They can actually hit the reply and reply to the ad
25 itself within craigslist.

1 Q. Now, in some craigslist ads, are there e-mail
2 addresses that are provided for the person to contact?

3 A. Typically, no, there's not.

4 Q. So it's common to reply to an ad by clicking on the
5 reply button?

6 A. Exactly.

7 Q. Now, how do you know if someone has replied to your
8 ad?

9 A. I get -- in my e-mail box I will get the response
10 that they have responded to the posting that I placed in
11 craigslist.

12 Q. Now, before we move on to this ad, I just want it
13 clear to the jury that you testified a moment ago as to the
14 date and time that you posted the ad. Can you point out for
15 them on here where that information is contained?

16 A. On the bottom portion of the post, there's the
17 posting ID and then in the center posted with the date,
18 March 14, 2013, and the time.

19 Q. Now, did you receive a reply to this ad?

20 A. Yes.

21 Q. I'm going to show you State's Exhibit 2 for
22 identification purposes. Do you recognize this?

23 A. Yes.

24 Q. What is this?

25 A. This is the response that I received from the

1 defendant, Mr. Palmer.

2 Q. Is that a fair and accurate copy of the complete
3 e-mail correspondence that occurred between you and Mr. Palmer
4 in this case?

5 A. Yes, it is.

6 MS. WALLACE: Your Honor, at this time I'd like to
7 admit this into evidence as State's Exhibit 2.

8 MR. AIKEN: No objection. Other than the previous
9 one.

10 THE COURT: As a result of the discussion that we
11 had earlier, Exhibit 2 will be admitted.

12 (STATE'S EXHIBIT 2 WAS RECEIVED IN EVIDENCE.)

13 MS. WALLACE: And, your Honor, may I publish this to
14 the jury?

15 THE COURT: You may.

16 BY MS. WALLACE:

17 Q. Actually before I go into these e-mails, I wanted to
18 ask you to explain to the jury what persona you were
19 portraying in your undercover capacity in this ad and as we
20 move from these e-mails and other communications.

21 A. I was acting under the undercover name of Ashley
22 Harris. And the age in the correspondence I was acting as a
23 14-year-old.

24 Q. I want to start with the first page of the e-mails.
25 Nothing I could do about the font size. Is that far enough

1 that you can read it, Agent Llabre?

2 A. Yes.

3 Q. What is the title of the e-mail?

4 A. The title is "Spring Break Fun," the same as my
5 posting on craigslist.

6 Q. Is that typical with craigslist where when someone
7 replies, you get your title back to you to know what the ad is
8 about?

9 A. Yeah. It's already populated back when you reply.
10 Someone can go into the title section and change it, but
11 typically that doesn't happen unless somebody requests that
12 you do that.

13 Q. Now, in the next line who is this e-mail identified
14 as coming from?

15 A. Jason Palmer.

16 Q. Now, underneath it in terms of the content of the
17 e-mail response, what are we seeing first?

18 A. Do you want me to address the "to" or do you want me
19 to go on to the pictures?

20 Q. No, the pictures.

21 A. Okay. The -- I received first the three
22 attachments. The first picture is of Mr. Palmer, and then the
23 two additional pictures are of his penis. And then below
24 that, he says, "Hey, 23, male" -- or M for male --
25 "North Port. If you like what you see, let me know. I'm 6'3,

1 brown hair, blue eyes. I attached picks."

2 Q. Now, is it common from your experience with
3 craigslist for people to provide photographs like this?

4 A. I have seen it before, yes.

5 Q. Is it common specifically for people to provide
6 photographs that are of intimate body parts?

7 A. In my experience with it, yeah, I have seen pictures
8 of individual's body parts, various photos.

9 Q. Now, when you received this e-mail, were you able to
10 reply directly to it?

11 A. Yes.

12 Q. I want to move on to the next page of the e-mails.
13 We have -- is it common to refer to it as a string or a shred
14 of e-mails?

15 A. Yes.

16 Q. Now, are these e-mails on this sheet from top to
17 bottom or bottom to top in terms of their chronology?

18 A. You have to -- it's going to be reading from bottom
19 to top.

20 Q. So let's start at the bottom in this section that's
21 right here. What is this section about?

22 A. That's just the information from the craigslist
23 posting that I placed. So it's just basically all the info
24 relating to the posting or the ad.

25 Q. And is this information repeated a couple of times

1 in the e-mail thread here from the bottom?

2 A. Yes.

3 Q. And moving up, I want to talk about who's e-mail
4 here. Who is this e-mail from?

5 A. From Jason Palmer.

6 Q. And who does it go to?

7 A. It goes to a craigslist reply address.

8 Q. And that's the reply address that you were using for
9 his whole communication?

10 A. Typically, when you communicate through craigslist,
11 you can -- you're communicating using their website. So
12 you're going to get e-mail addresses that are craigslist -- I
13 think the word is like "anonymized," so that it is masking
14 your own e-mail.

15 Q. Now, this is the e-mail that we're looking at here.
16 Is this the content that you just read to the jury that was
17 accompanied by the photographs?

18 A. Yes.

19 Q. Now, on what day was this e-mail sent to you?

20 A. On Friday, March 15, 2013.

21 Q. At what time?

22 A. At 3:37 p.m.

23 Q. Now, moving on to the next e-mail here, who is this
24 an e-mail from?

25 A. This is my response to Mr. Palmer.

1 Q. Just so I don't belabor the point, is it fair to say
2 that all the e-mails back and forth now are to and from the
3 same e-mail address?

4 A. Yes.

5 Q. So they're the same as the anonymous craigslist
6 e-mail addresses?

7 A. Exactly.

8 Q. Now, what is your response to the defendant's e-mail
9 to you?

10 A. I responded, Nice, I'm down for whatever, hit me
11 back if you're cool with me being 14, and I will send you a
12 pick. And I put a smiley face.

13 Q. Now, again, some of the -- make this a little bit
14 bigger. Some of the language that you use in here are
15 acronyms or shorthand versions.

16 A. Yes.

17 Q. You said, I am down with that. In the e-mail though
18 it's spelled D-W-N.

19 A. Yes. It's a shortened chatting acronym or texting.
20 So DWN would be "down" and also whatever, "whatever"
21 (pronunciation). And again, I use HMB for "hit me back."

22 Q. In this e-mail you stated to the defendant that
23 you're 14?

24 A. Correct.

25 Q. Now, why did you put that in your first e-mail

1 response to him?

2 A. I wanted him to know the age that I was portraying
3 so that he can decide whether he still wants to communicate
4 with me.

5 Q. Is it fairly common in your experience for a person
6 you're communicating with to drop off at that point?

7 A. Yes. I either don't get a response or they respond
8 back with, you know, I'm going to contact your parents or I'm
9 going to report you or, you know, various responses.

10 Q. Now, this next e-mail here who is this next e-mail
11 from?

12 A. This is from Jason Palmer.

13 Q. And what day and time is this e-mail sent?

14 A. Friday, March 15, 2013, at 4:21 p.m.

15 Q. Now, before I go into the content of this e-mail, I
16 want to address an issue with the times. You can see it going
17 from the bottom of the page up. There's an e-mail at
18 3:37 p.m. but then your response is at 12:50 p.m., and then
19 the next response from the defendant is 4:21 p.m. Why the
20 discrepancies of times?

21 A. The times are off. What we later determined was
22 from the computer was the craigslist site being three hours
23 behind.

24 Q. Is your -- the time that they generate, it is where
25 their computers are located?

1 A. Exactly.

2 Q. Not necessarily where you are physically located?

3 A. Right.

4 Q. So three hours would make that -- your e-mail 12:50
5 would that make it 4:50 -- or excuse me, 3:50?

6 A. Correct.

7 Q. 3:50. I'm not very good at math as you can tell.
8 3:50.

9 Now, going back to the defendant's response to you
10 at 4:21 p.m., would you read the defendant's response to the
11 jury?

12 A. Sure. We can hang out if you're okay with me being
13 older.

14 Q. Now, moving on to the next e-mail, who is this
15 e-mail from?

16 A. This is from -- this is my response back to
17 Mr. Palmer.

18 Q. What date and time is this sent?

19 A. Friday, March 15, 2013, at 1:24 p.m.

20 Q. Which in local time would have been 4:21 p.m.?

21 A. Correct.

22 Q. What is your response to the defendant?

23 A. Yeah, it's cool, smily face. Can you text, question
24 mark.

25 Q. Now, this e-mail here, who is this e-mail from?

1 A. That is from Jason Palmer.

2 Q. And on what date and time is this e-mail sent?

3 A. Friday, March 15, 2013, at 4:26 p.m. and --

4 Q. What is his response?

5 A. His response is: Yeah, I can. 941-661-6142.

6 Q. Now, I know this photograph is a little bit dark.

7 We'll get a another one in a moment, a different copy of this.

8 But what is this here at the top of the page?

9 A. That is a picture that I sent, but that is not the
10 original.

11 Q. We'll get to that in a minute. I just want to go
12 more into the terms of the content at this point. What is
13 this picture?

14 A. Okay. That is one of the undercover photos that I
15 sent to Mr. Palmer.

16 Q. And it accompany -- you accompany it by the text?

17 A. Me again, wink with a smiley face.

18 Q. I'm going to show you what is marked for
19 identification purposes State's Exhibits 4B and also State's
20 Exhibit 4A. Can you look at these and tell me if you
21 recognize these photographs?

22 A. Yes. These are the undercover photos that I sent to
23 Mr. Palmer.

24 Q. Did you send them one at a time or both together?

25 A. No. I sent them separately.

1 Q. Which is the first one that you sent to Mr. Palmer?

2 A. This is the first.

3 Q. And are these photographs fair and accurate copies
4 of the photographs that you sent to Mr. Palmer in this e-mail
5 communication?

6 A. Yes.

7 THE COURT: For the record, can you say which label
8 this number is the first one sent?

9 MS. WALLACE: The first one is 4B, your Honor, and
10 the second is 4A. And at this time I would like to move
11 both of them into evidence.

12 MR. AIKEN: No objection.

13 THE COURT: 4A and 4B will be admitted.

14 (STATE'S EXHIBITS 4A AND 4B WAS RECEIVED IN
15 EVIDENCE.)

16 BY MS. WALLACE:

17 Q. I will stick with 4B since you said that this is the
18 one that you sent in this first e-mail round.

19 Now, this is not a photograph of you.

20 A. No.

21 Q. Who is this a photo of?

22 A. She is a deputy with Lee County Sheriff's Office.

23 Q. Do you know her name?

24 A. Donna Fernel.

25 Q. And how old is she currently?

1 A. She is currently 23.

2 Q. How old was she at the time that this photograph was
3 taken?

4 A. She was 17.

5 Q. Did she give her permission for this photograph of
6 herself to be used in ICAC investigations?

7 A. Yes. She provided various photos to me and also
8 provided written consent for the photos to be used.

9 Q. Now, what was your purpose in sending this
10 photograph to the defendant as part of this e-mail exchange?

11 A. Typically, when you're chatting with an individual,
12 you exchange pictures. They want to see a picture of you.
13 It's a common thing. I had also previously in the e-mail
14 stated that if he was cool with me being 14, then I would send
15 him a picture, so that was my response back to him.

16 Q. I think we may have gotten these photographs
17 reversed in this e-mail, so I want to go on to the other one
18 here.

19 Now, you already identified what's been moved into
20 evidence State's Exhibit Number 4A -- I apologize for that
21 being a little dark, that copy being a little bit dark. But
22 is this a photograph of the same person?

23 A. Yes.

24 Q. Deputy Dawn Fernel?

25 A. Yes.

1 Q. And did you also provide this photograph to the
2 defendant as part of e-mail exchange?

3 A. Yes.

4 Q. For the same reasons?

5 A. Yes.

6 Q. I want to pick up again with the remainder of the
7 e-mails.

8 Now, this e-mail string, does it contain the same
9 e-mails that we've already gone through?

10 A. Yes.

11 Q. Why is this string separate from the first string we
12 saw?

13 A. This is the actual first e-mail thread. After this,
14 we -- myself and Mr. Palmer -- went to communicating through
15 texts, and then during the text messaging, additional photos
16 came up, and that's when I went back to the e-mail and sent a
17 second photo to Mr. Palmer.

18 Q. So is it fair to say in this particular string of
19 e-mails the content is the same from what we've already seen,
20 it just ends with a different photograph?

21 A. Yes.

22 Q. Which photograph is this, State's Exhibit 4A or 4B?

23 A. I believe this is 4B. Yes, 4B.

24 Q. The yellow top?

25 A. Correct.

1 Q. You mentioned a moment ago that towards the end of
2 the e-mails, you and Mr. Palmer switched over to text
3 messages; correct?

4 A. Correct.

5 Q. I'm going to show you what I marked for
6 identification purposes at State's Exhibit Number 5. Do you
7 recognize this?

8 A. Yes. These are the text messages between myself and
9 Mr. Palmer.

10 Q. And are these fair and accurate copies of the text
11 messages that the two of you exchanged?

12 A. Yes.

13 MS. WALLACE: Your Honor, I'd like to move these
14 into evidence as State's Exhibit Number 5.

15 MR. AIKEN: No objection.

16 THE COURT: Exhibit 5 will be admitted.

17 (STATE'S EXHIBIT 5 WAS RECEIVED IN EVIDENCE.)

18 MS. WALLACE: And may I publish to the jury?

19 THE COURT: You may.

20 BY MS. WALLACE:

21 Q. You talked about the e-mails going from the bottom
22 up to the top. Is the same true in this communication?

23 A. No. This is going to be opposite. It's going to be
24 top to bottom.

25 Q. Now, starting on the far left-hand side of the page,

1 what do we see here?

2 A. That is -- those are the times of the text messages.

3 Q. Are these all on the same date, March the 15th of
4 2013?

5 A. Yes, that's correct.

6 Q. Now, we got phone numbers in here. Are these the
7 phone numbers that you and the defendant are using?

8 A. Correct.

9 Q. Now, when you see "SMS," what does that mean?

10 A. That's the type of communication. That's the text
11 messaging.

12 Q. Now, further down -- we'll get to this in a
13 moment -- there is one and there will be a few more that says
14 "call" instead of "SMS." What does that mean?

15 A. That's an actually recorded call between myself and
16 the defendant.

17 Q. Using the same phone numbers?

18 A. Yes.

19 Q. Now, where it says "direction" and then it's "out,
20 in, out, in"; what does that mean?

21 A. That's who is actually sending the text messages.

22 Q. Now, when it says "out," who is sending a message?

23 A. That would be me sending a text message to the
24 defendant.

25 Q. And when it says "in," who is sending the text

1 message?

2 A. That would be Mr. Palmer responding back to me or
3 contacting me.

4 Q. Now, starting at the top, the first text message, is
5 this a message that you sent to the defendant?

6 A. Correct.

7 Q. What does this message read?

8 A. I texted Jason, question mark, question mark.

9 Q. And what is Mr. Palmer's response?

10 A. Yes.

11 Q. Now, if you would -- I'm not going to go, "what's
12 your response," "what's his response," because that's going to
13 get really tedious. But if we can start going through these,
14 and I will stop you occasionally to explain what some of these
15 text messages mean. Pick up from the "yes."

16 A. I responded to -- yes, by saying: K, cool, I'm
17 Ashley, NTMU --

18 I'm trying to think exactly what that can be
19 interpreted.

20 Q. Is that "nice to meet you"?

21 A. Yes.

22 Q. And is that -- since it says "in," that's a message
23 sent by the defendant?

24 A. Yes.

25 Q. What is the next communication?

1 A. I put: Just chilling.

2 He responded: Same. So you're 14, question mark.

3 And I said: Yep. Did you like my pick?

4 And he said: Yeah, you're cute. Just young. LOL.

5 Q. What does "LOL" stand for?

6 A. Laugh out loud.

7 Q. Now, in your experience in doing these things, does
8 laugh out loud necessarily mean that someone is joking about
9 something?

10 A. No.

11 Q. What is laugh out loud? I mean, what are some of
12 the different interpretations that you run across for the
13 phrase "laugh out loud"?

14 A. It's used -- it can be used just to be like in a
15 flirting manner or a just kidding or happy. I mean, it can be
16 used in various different ways.

17 Q. Is it fair to say that when you're communicating
18 with text messages or e-mails, you can't hear the tone of the
19 person's voice?

20 A. Correct.

21 Q. So you can't see their face or facial experience?

22 A. Correct.

23 Q. So some of these terms have been invented to convey
24 a variety of emotions that you can't necessarily see or feel
25 for yourself?

1 A. Correct.

2 Q. Now, picking up after the defendant's statement,
3 "yeah, you're cute. Just young. LOL," what is the next
4 response?

5 A. I think you're cute too, smiley face.

6 Q. And then what comes after that?

7 A. So he asked: So why did you post that ad on CL,
8 which is craigslist.

9 I responded: Bored. LOL. Why are you looking on
10 CL.

11 And he responded: Well, I'm only going to be here
12 for a month, so I was hoping to hook up with someone.

13 Q. Now, again, in your experience, when someone used
14 the phrase "hook up," what does that commonly mean?

15 A. Sexual encounter.

16 Q. What is the next response in this string of text
17 messages?

18 A. I responded: That's cool. What are you into.

19 Q. What is the defendant's response to that?

20 A. He responded: I like fucking in public. I love the
21 thrill.

22 Q. And next?

23 A. And I responded: That's cool. I never done that
24 before.

25 Q. What comes after that?

1 A. And he said: Have you ever thought about doing it?

2 And I put: I don't know. I'd be scared. LOL.

3 Q. What is the defendant's response?

4 A. And he put: That's the point. LOL.

5 And I responded: True. It -- and that's "if" --

6 that's what you're looking to do, question mark.

7 And he responded: Yeah.

8 Q. Now, why didn't you suggest meeting for sex? Why

9 did you let the defendant do it?

10 A. Because that's -- he has to introduce that. I

11 wanted to clarify what he was looking to do and that's for him

12 to introduce in these chatting texts or texting situations.

13 Q. If the defendant, or anyone else that you're

14 chatting with for that matter, had never introduced the topic

15 of sex, would you have introduced it?

16 A. No.

17 Q. If, for example, you had put, What are you into, and

18 the response was "I like kayaking," or "I like going to the

19 movies," where would have gone with that line of conversation?

20 A. Then I would put about my hobbies or what I was

21 doing. In this situation, what I would do in school like

22 cheerleading or some kind of activities.

23 Q. Something that's responsive to what the defendant

24 has said to you?

25 A. Correct.

1 Q. Now, I think we left off with the word "yeah."

2 A. And I responded: K, cool. I guess I would be down
3 for that.

4 And then the defendant responded: I really want to,
5 but your age makes me nervous, LOL.

6 And then he text me again: You still there.

7 And then he text a third time: If you really want
8 to meet, give me a call.

9 Q. Now, these text messages, the one starting with, I
10 really want to meet -- or "I really want to, but your age
11 makes me nervous, LOL," what was the timing of that phone
12 call?

13 A. That text was received at 4:58 p.m. and 14 seconds.

14 Q. And for the next text message, what time was that
15 received?

16 A. That was received at 5:03 p.m.

17 Q. And the next text message from the defendant, what
18 time is that received?

19 A. At 5:07 p.m.

20 Q. Now, why is there an approximate ten-minute gap in
21 your responses back to the defendant?

22 A. I was chatting with other individuals at that time.

23 Q. As part of this investigation?

24 A. Yes.

25 Q. Now, what is the next response that you give to the

1 defendant?

2 A. At 5:19 p.m. I responded: Sorry, I can call you in
3 a sec, if that's cool.

4 Q. What is the next response?

5 A. Then he responds: Well, you can still text if you
6 want. What part of North Port are you in any way.

7 And I responded: Huh. You want me to call or not.
8 I don't care.

9 And then he responded: You can call.

10 Q. Now, what is the next line, so to speak, in the
11 communication?

12 A. That's me calling the defendant.

13 Q. Now, I'm getting a little bit ahead of myself. Is
14 it fair to say that there were a series of phone calls that
15 are mixed in with these text messages?

16 A. Yes.

17 Q. We'll go through the text messages first and then
18 we'll turn to the phone calls. So following this phone call,
19 who is the first person to text, you or the defendant?

20 A. I texted him.

21 Q. And what does that text say?

22 A. I'm waiting on my aunt to call me back, so what all
23 you want to do.

24 Q. Now, what is the role or the relevance of the aunt
25 in this persona that you're trying to portray?

1 A. That that was part of my undercover story, was that
2 I was staying with my aunt and that she was working. So I was
3 home alone so I was able to communicate --

4 MR. AIKEN: I would respectfully object to that
5 because that's not what's communicated.

6 THE COURT: Sustained.

7 MR. AIKEN: She's just saying what she was
8 thinking --

9 THE COURT: Sustained.

10 MR. AIKEN: -- not what she communicated.

11 THE COURT: Sustained.

12 MR. AIKEN: Move to strike.

13 THE COURT: Denied. I sustained the objection.

14 BY MS. WALLACE:

15 Q. Moving on to the next text message, is that from you
16 or the defendant?

17 A. From the defendant.

18 Q. What does that text message say?

19 A. How much time you got?

20 Q. And the next response?

21 A. Laugh out loud, I'm trying to find out but probably
22 a while, smiley face.

23 Q. That says "out," so that's from you; is that
24 correct?

25 A. Yes.

1 Q. Now, the word that you have in there, "proolly,"
2 P-R-O-L-L-Y, what's that?

3 A. "Probably."

4 Q. Now, what's the next communication, so to speak,
5 reflected in this document?

6 A. That would be the defendant, Mr. Palmer, calling me.

7 Q. Turning to the last several texts here on the top of
8 this page, is it you or the defendant texting?

9 A. That's me.

10 Q. And what did you say?

11 A. Did you leave yet, question mark. I can meet you
12 now.

13 Q. And what is the next response?

14 A. He responded: I did, but I want to go take a
15 shower.

16 Q. And then?

17 A. Then I said: K, when are you going to be done with
18 that?

19 And then the defendant called me.

20 Q. And there are two phone calls there?

21 A. Yes. He called me, and then after that, then I
22 called him.

23 Q. Do the text messages resume after those two phone
24 calls?

25 A. Yes. I text him: E-mail me your pick because I

1 can't get them on my cell.

2 And he responded: K.

3 And then I texted: I just e-mailed you mine, smiley
4 face.

5 And that would be the second UC photo that was
6 previously shown in the e-mail.

7 Q. "UC" for "undercover"?

8 A. Yes. I apologize.

9 Q. What is the next text message?

10 A. He responded: K.

11 And then I texted: What kind of car do you got?

12 And then that is followed by two phone calls from
13 the defendant.

14 Q. I'm going to show you what I marked for
15 identification as State's Exhibit 6. Do you recognize this
16 item?

17 A. Yes, I do.

18 Q. What is this?

19 A. These are the phone calls between myself and the
20 defendant, Mr. Palmer.

21 Q. Had you had an opportunity to review the phone calls
22 that are contained in this CD yourself?

23 A. Yes.

24 Q. Are they a fair and accurate copy of the phone calls
25 that you engaged in with Mr. Palmer?

1 A. Yes, they are.

2 MS. WALLACE: Your Honor, at this time I'd like to
3 move into evidence as State's Exhibit Number 6.

4 MR. AIKEN: No objection.

5 THE COURT: Exhibit 6 will be admitted.

6 (STATE'S EXHIBIT 6 WAS RECEIVED IN EVIDENCE.)

7 THE COURT: And this may be a good time to take the
8 morning recess. Are you planning to publish that?

9 MS. WALLACE: No. And actually I only got a few
10 more questions for Agent Llabre.

11 THE COURT: Okay. If you have a few more, go ahead.

12 BY MS. WALLACE:

13 Q. I'm going to wait to play these here in a moment,
14 but I want you to explain to the jury the system that you used
15 to have these phone calls with the defendant?

16 A. Part of the reason -- typically during these
17 operations, we try to get out of the e-mailing, because as you
18 see, the threads don't always remain the same. So then the
19 correspondence gets out of order as far as evidence purposes.
20 So we move over to a software which is called Callyo. And
21 it's a law enforcement software to where we're able to
22 communicate via computer or phone and have the evidence
23 retained and recorded. So you can text message and all your
24 correspondence will be saved and then you can also make a
25 recorded phone calls.

1 Q. For the court reporter's benefit, could you spell
2 "Callyo"?

3 A. It's spelled C-A-L-L-Y-O.

4 Q. And you use that for the phone calls in this
5 particular case?

6 A. Yes.

7 Q. Now, did you have any contact yourself with the
8 defendant in this case?

9 A. Other than e-mailing and texting, no.

10 Q. That was a poor question on my part. What I meant
11 was, did you have personal contact with the defendant?

12 A. No, we never met.

13 MS. WALLACE: I don't have any further questions for
14 you at this time.

15 THE WITNESS: Okay. Thank you.

16 THE COURT: Okay. Before the cross-examination,
17 we'll take our morning recess. Members of the jury,
18 we'll take a 15-minute recess at this time. Please leave
19 the notepads on the rail in front of you. Please do not
20 discuss the case among yourselves or with anyone else.
21 We'll reconvene in 15 minutes.

22 (THE JURY EXITED THE COURTROOM.)

23 THE COURT: Ms. Llabre, you're still technically on
24 the witness stand, so you are not to have any
25 conversation with the attorneys. If they want to talk

1 with you, both sides would have to be present if you talk
2 to any of the attorneys.

3 THE WITNESS: May I use the restroom?

4 THE COURT: Oh, sure.

5 (A RECESS WAS TAKEN.)

6 THE COURT: Let's bring the jury in.

7 (THE JURY ENTERED THE COURTROOM.)

8 THE COURT: You may be seated.

9 Mr. Aiken, you may proceed.

10 CROSS-EXAMINATION

11 BY MR. AIKEN:

12 Q. Good morning. How are you today?

13 A. Good morning.

14 Q. You're with ICE now, Immigration Customs
15 Enforcement?

16 A. Yes. I've been with them.

17 Q. And then the time you were down here, I think they
18 used you as a chatter in lots of cases?

19 A. Correct.

20 Q. Any particular reason they use you?

21 A. Initially, no. But I would say in the first
22 operation that I participated in, they utilize me as far as
23 the undercover controlled phone calls because I sound young.

24 Q. You sound young. And you are good at what you do
25 obviously.

1 A. I guess it's up for interpretation.

2 Q. The purpose of ICAC is to catch the predators that
3 are already out there; right?

4 A. Correct.

5 Q. And to interdict them before they have contact with
6 kids?

7 A. Yes. It would be to try to interdict them before
8 they have contact.

9 Q. And to be proactive; right?

10 A. Correct.

11 Q. So one of the key things you're looking for --
12 absolute key thing you're looking for -- is people that have a
13 predisposition to engage with sex with minors?

14 MS. WALLACE: Your Honor, I'm going to object. That
15 calls for a legal conclusion.

16 THE COURT: Overruled.

17 BY MR. AIKEN:

18 Q. That's what you're looking for.

19 A. I guess predisposition. It's a proactive and a
20 reactive measure.

21 Q. But basically, in other words, you're not looking to
22 create crime; right?

23 A. No.

24 Q. You're looking to detect crime; correct?

25 A. Correct.

1 Q. Prevent crime?

2 A. Correct.

3 Q. Keep the people from harming kids?

4 A. Correct.

5 Q. Stuff like that. You're not there to create crime?

6 A. No.

7 Q. And you said that you went through a whole bunch of
8 training; right?

9 A. Correct.

10 Q. And they have standards and procedures and stuff
11 you're supposed to do and not supposed to do.

12 A. Correct.

13 Q. One of the things you're supposed to do is to let
14 the people set the tone of the conversation; correct?

15 A. Correct.

16 Q. And one of the things you're not supposed to do is
17 to actively induce people into doing things that a law-abiding
18 citizen would not otherwise do?

19 A. Correct.

20 Q. Let me talk about craigslist. Not everybody is as
21 familiar with it as we are. On craigslist there's a million
22 different categories. When you go to craigslist's home page,
23 there's tons of categories; aren't there?

24 A. Yes.

25 Q. Now, when you use craigslist, I want to talk about

1 what you have to do as a user, and I want to talk about what
2 you have to do as a poser. Two different things; right?

3 A. Correct.

4 Q. As a user, when you go on craigslist, you have to
5 certify you're over 18?

6 A. In?

7 Q. Casual Encounters.

8 A. Okay. I wanted to ask you what section we're
9 talking about.

10 Q. Because we're not talking about -- they have
11 categories for strictly platonic friendship; right?

12 A. Correct. Are you asking specifically about the
13 personal section?

14 Q. I'm talking about craigslist.

15 A. Okay.

16 Q. They got strictly platonic --

17 A. Yes.

18 Q. -- I'm looking for a friend. Right?

19 A. Correct.

20 Q. Romance, they got -- Casual Encounters is real
21 specific; isn't it? You're looking for sex?

22 A. It's --

23 Q. It's a hookup site?

24 A. It's for sexual purposes, yes.

25 Q. Is there any remote doubt about it, if you go on

1 craigslist on any day of the week, there is no doubt about it,
2 if you are on craigslist Casual Encounters, you certify you're
3 over 18, you're an adult looking for sex with another adult?
4 We're not looking to sell kayaks there.

5 A. No. It's to meet up for sex or to discuss sex, yes.

6 Q. And there's absolutely nothing wrong with that;
7 right?

8 A. Correct.

9 Q. If you're there for prostitution, it's illegal;
10 right?

11 A. Correct.

12 Q. In other words, if a woman offers a man sex on
13 craigslist Casual Encounters for money, that's wrong; right?

14 A. Correct.

15 Q. If a serviceman or if anybody else who didn't have a
16 girlfriend, didn't have a wife, wanted to have sex, haven't
17 had sex in a long time, went on craigslist, that's a perfectly
18 legitimate thing to do; right?

19 A. Yes.

20 Q. Wouldn't the average person that goes on craigslist
21 think they would be talking to an adult.

22 MS. WALLACE: Your Honor, objection, calls for
23 speculation.

24 THE COURT: Sustained.

25 BY MR. AIKEN:

1 Q. If you went on craigslist, you go on craigslist as a
2 poster, when you go to post on craigslist. When you go to
3 post on craigslist, you have to certify you're an adult;
4 right?

5 A. Correct.

6 Q. There are Terms of Use. Do you ever click on the
7 Terms of Use?

8 A. I have seen it before, yes.

9 Q. When you click on Terms of Use, you have to certify
10 again that you're an adult.

11 A. If you click on Terms of Use, yes.

12 Q. And in terms of what craigslist does to try and keep
13 kids off in response to the prosecutor's questions on direct,
14 you mentioned that there's programs, apps, that can put on
15 your computer that keep kids off craigslist; right?

16 A. I do not think we were talking specifically about
17 software.

18 Q. But there are -- it's called parental controls.

19 A. I believe we were discussing parental controls
20 within craigslist.

21 Q. And there's -- if you go into craigslist and you get
22 to Casual Encounters, there's warnings: This is about adults.
23 This is about sex. They list 41 parental controls to keep
24 kids off that site, don't they?

25 A. I have never counted.

1 Q. One moment.

2 What do you have to do to install parental controls
3 on a computer?

4 A. I have not installed parental controls on a
5 computer.

6 Q. Parents can, can't they?

7 A. Yes.

8 Q. And in other words, in the overall scheme of things,
9 the underlying responsibility is to keep children from getting
10 harmed, isn't there, a parent's responsibility? Law
11 enforcement is a backup.

12 A. It's -- I'm speaking from my opinion. There's
13 different -- it's not just one person's responsibility. It's
14 a multiple --

15 Q. It's everybody's. In terms of parental controls, I
16 want you to take a look to see if this might refresh your
17 recollection in terms of all the parental controls --

18 MS. WALLACE: Objection. I'm going to object to it
19 being published. If it is authenticated in some other
20 way --

21 THE COURT: I don't think --

22 MR. AIKEN: I'll do it another way, your Honor.

23 THE COURT: I don't think she said her memory was
24 not --

25 MR. AIKEN: I'll do it another way, your Honor.

1 THE COURT: -- there.

2 BY MR. AIKEN:

3 Q. Take a look at --

4 MS. WALLACE: Your Honor, objection.

5 MR. AIKEN: We offer the craigslist -- let's do it
6 the hard way.

7 MS. WALLACE: Your Honor, may I approach?

8 THE COURT: Yes.

9 (THE FOLLOWING PROCEEDINGS ENSUED AT THE BENCH.)

10 MS. WALLACE: I'm not exactly sure what counsel is
11 trying to do, but I don't think that the witness has said
12 anything inconsistent with any other testimony that's
13 been offered. I don't know what they're about to put up
14 there. This is something from craigslist or some
15 demonstrative aide.

16 MR. AIKEN: I'm going to walk her through
17 craigslist, go through the steps you have to do to post
18 all the controls that are built in to keep children off
19 the site.

20 MS. WALLACE: She's already answered those
21 questions.

22 THE COURT: I think the question is how many
23 controls there are.

24 MR. AIKEN: 41.

25 THE COURT: The next question will be -- you're

1 going to show her craigslist as it exists now?

2 MR. AIKEN: Correct.

3 THE COURT: And you're going to use her to testify
4 as to what, some site?

5 MR. AIKEN: No. No. What I want to do is I'm going
6 to walk her through the steps that she has to do to post
7 an ad on craigslist -- she said she's posted an ad on
8 craigslist -- the number of times she has to certify that
9 she's an adult.

10 MS. WALLACE: I think this is an improper form of
11 impeachment. She's already testified about what she has
12 to do. I think this is improper.

13 THE COURT: I don't think it's impeachment. I think
14 it's just developing further what she testified on
15 direct. So as long as there's no issue with respect to
16 what you're about to show what she did to do it, I think
17 it's permissible.

18 MS. WALLACE: She's already testified that she
19 doesn't -- she hasn't used the parental controls. That's
20 not something that she has on her computer, and you don't
21 necessarily have to have those in place to use
22 craigslist.

23 MR. AIKEN: Sure.

24 MS. WALLACE: Well, but she doesn't use them. It's
25 not something that is automatic that pops up when you use

1 craigslist. It's something that parents can install for
2 their kids' sakes.

3 THE COURT: If it's something that shows up as she
4 is posting her ad, I think that's fine.

5 MR. AIKEN: And she's testified that on direct.

6 THE COURT: As far as going into the website to show
7 what is parental blackout --

8 MR. AIKEN: I'm not going to go into that.

9 (THE BENCH CONFERENCE CONCLUDED.)

10 BY MR. AIKEN:

11 Q. Agent Llabre, in reference to your direct
12 examination we talked about craigslist on direct. What I'd
13 like to do is walk you through the steps that you would have
14 to do to post your ad, the one that you posted.

15 A. Okay.

16 Q. Would a person first go to craigslist?

17 A. Yes.

18 Q. Is what's depicted now on the main page for
19 craigslist?

20 A. No.

21 Q. The categories. Pardon me?

22 A. No. That's not the initial. You have to then
23 go in -- you have to pick the area that you want to go into.

24 Q. Let's start with -- Google craigslist. That's the
25 first page of craigslist; is it not?

1 A. Specific to Sarasota/Bradenton.

2 Q. And if we go to the first page of craigslist,
3 Sarasota/Bradenton, where it says Post to Classified -- in
4 other words, would you have to go to Post to Classifieds to
5 put your ad up?

6 A. No.

7 Q. How do you put your ad up?

8 A. You enter -- when I posted the ad, I had entered
9 under the personal section, Casual Encounters.

10 Q. Let's go to Casual Encounters. What does it say?
11 By clicking the links below, you confirm, that I'm at least
12 18 years of age; correct?

13 A. Yes, you are at least 18 years old.

14 Q. And Casual Encounters includes all content; correct?

15 A. Correct.

16 Q. And if you click on Terms of Use, what would it say?
17 Over 18?

18 A. I did not click on Terms of Use.

19 Q. But if you were you to comply with the craigslist
20 Terms of Use -- in other words, if you were to comply with the
21 agreement for craigslist, about the fourth line down, does it
22 not say under Terms of Use that you certify that you're over
23 18?

24 Go to Terms of Use. Go down about --

25 MS. WALLACE: I'm going to object to this being --

1 MR. AIKEN: -- five lines.

2 MS. WALLACE: I'm going to object to this being
3 irrelevant. She's already testified that she didn't use
4 this protocol at all in posting the ad with this case.

5 THE COURT: Overruled.

6 BY MR. AIKEN:

7 Q. What you're doing is in violation of the Terms of
8 Use; is it not?

9 Go to the fourth -- the backup, the fourth or fifth
10 line from the very beginning. Right there. "Craigslist is
11 intended and designed for users 18 years of age and older.
12 Access by anyone younger is not authorized." Correct?

13 A. Correct.

14 Q. So if you were pretending to be Ashley and you were
15 pretending to be 14, and you're posting on craigslist in an
16 adult site, you're doing it in violation of the craigslist
17 terms?

18 A. Correct.

19 Q. So you would have to lie to do it?

20 A. Correct.

21 Q. And you do lie?

22 A. Yes.

23 Q. Now, go back to craigslist, click on Post
24 Classifieds, because you can't post a classified -- let me see
25 if I can help you out here. Click on Post to Classifieds to

1 post to classifieds, don't you?

2 A. No, you do not.

3 Q. Show me another way to do it?

4 A. I was showing you.

5 Q. Okay. We'll do it. Click on Casual Encounters.

6 A. Correct. And then you can -- under the section,
7 that heading "Casual Encounters," you're going to choose which
8 area you want to go into.

9 Q. Did you choose Women for Men?

10 A. Correct.

11 Q. Go to list view. Now, does that list all of the
12 people that would be -- that list of the people that are
13 actually posting ads, looking for one-night-stands, just want
14 a one-night stand?

15 MS. WALLACE: Your Honor, I'm going to object.

16 THE COURT: Sustained. You will have to get out
17 that page.

18 BY MR. AIKEN:

19 Q. Show me how you would post a classified.

20 A. That is the page I used to post.

21 Q. How do you post from there?

22 A. They're in the upper right-hand corner.

23 Q. Click on Women for Men?

24 A. Correct.

25 Q. In the upper right-hand corner, what do you click

1 on?

2 A. Post.

3 Q. Now, when you post there, you have to pick what you
4 want to -- what you're doing. You click on Personal Romance,
5 would you not?

6 A. Correct.

7 Q. Okay. Click on Personal Romance. What does it say
8 up there in big, bold print?

9 A. Would you like me to read that?

10 Q. Please, if you would.

11 A. "By posting here, you confirm you are 18 or older,
12 and that if craigslist believes you impersonated someone, or
13 posted their contact information, you authorize release of
14 your information to the victim, and if actual damages cannot
15 be determined, you agree to pay \$1,000 for each such violation
16 of the terms of use."

17 Q. So you lie there. You have to lie to continue,
18 don't you?

19 A. I'm acting in my undercover capacity, so yes.

20 Q. But in your undercover capacity, you're lying;
21 right?

22 A. I am acting as a minor, and on craigslist it is 18
23 or older.

24 Q. You're not supposed to be there.

25 A. Correct.

1 Q. Now, to continue the post, under this, you would
2 then click on Casual Hookup, would you not?

3 A. Correct.

4 Q. What is Casual Hookup? We're not talking about --
5 would you agree that there is a world of difference between
6 hanging out and hooking up?

7 A. It depends on the person's --

8 Q. Kids hang out all the time, don't they?

9 A. Correct.

10 Q. Hooking up in the context of craigslist Casual
11 Encounters is having sex?

12 A. Yes.

13 Q. So if we click on Casual Hookup, click there, posted
14 it and we continued, you would then have to say what you are;
15 right? And in this case, you would say you were a woman
16 looking for a man; right?

17 A. Correct.

18 Q. Click on a woman looking for a man.

19 Now, if you're doing this in an undercover capacity,
20 you're lying again, aren't you? Because if you're pretending
21 to be Ashley, 14, and you're posting, you're lying again;
22 right?

23 A. In what specifically are you referring to?

24 Q. Well, number one, if you're Ashley and 14, you're
25 not a woman, you're a child?

1 A. That's up for interpretation on defining a woman,
2 but, correct, under 18.

3 Q. And once again, you have to post and certify that
4 you're 18 years of age or older?

5 A. Correct.

6 Q. So you go through another step. And where do we go
7 from there? Continue?

8 A. Yes.

9 Q. Here is where you put in the things that you put in
10 the ad; correct?

11 A. Yes.

12 Q. And you put in the title; right?

13 A. Correct.

14 Q. And what did you put in your title?

15 A. I put in "Spring Break Fun."

16 Q. Now, when you post on craigslist Casual Encounters
17 in this section and you say "Spring Break Fun," we're not
18 talking about going to the bench, are we?

19 A. I think the title, it's up for interpretation.

20 Q. Well, I mean, you can't interpret it any other way.
21 If you're looking for fun on craigslist Casual Encounters,
22 your looking for sex; right?

23 A. Yes. That section is for sex.

24 Q. There is no other way you -- the ad that you posted
25 was an ad that says, I'm looking for sex today, by 11 o'clock

1 tonight; right?

2 A. The ad is up for interpretation. It doesn't
3 specifically say --

4 Q. What other interpretation could you reach?

5 A. -- the ad does not specifically say that I am
6 looking for sex.

7 Q. You're in a strictly sex site where there is every
8 warning in the world, where there is graphic pictures of
9 penises, breasts, and vaginas and everything else and you say,
10 "I'm looking for fun." Is there any other way any human being
11 can interpret that other than I want to get laid today?

12 MS. WALLACE: Your Honor, objection, calls for
13 speculation.

14 THE COURT: Sustained.

15 BY MR. AIKEN:

16 Q. Are you saying that you weren't advertising for sex?

17 A. I was placing an ad to see if somebody was going to
18 be interested in having sex with my undercover persona.

19 Q. But you didn't say what your undercover persona was,
20 did you?

21 A. Not in the ad, no.

22 Q. So what you did is you posted a deceptive ad, didn't
23 you?

24 A. That's your interpretation of it.

25 Q. No. No. Is there anything about that ad that was

1 true?

2 A. Yes.

3 Q. What's true?

4 A. That I needed to meet up before 11.

5 Q. Other than that, is there anything about that ad
6 that is true? In other words when you say Woman for Man,
7 that's not true; right?

8 A. No. It's --

9 Q. When you say spring break, you are inferring you're
10 a college kid, aren't you?

11 A. No, I was inferring -- high school kids are on
12 spring break.

13 Q. But in the normal context you say -- when you put
14 88, you said, oh, I'm posting saying I was an 88-year-old
15 woman. That's ridiculous. 88 -- people put their date of
16 birth up there all the time on craigslist, don't they? '57,
17 you know, '62, '88; right?

18 A. No. I mean, they don't put their date of birth.

19 Q. If 88 was a date of birth, that would make this
20 person posting the ad about 24, 25 years old; wouldn't it?

21 A. It would, doing the math, if that's what 88 meant,
22 if that's what the person intended, that that was their year
23 of birth, then yes. But that's --

24 Q. That's a perfectly reasonable interpretation, that
25 somebody puts up 88 -- in other words, looking at that ad,

1 would any reasonable person conclude -- I'll take back "any
2 reasonable" -- looking at that ad, does it portray a person to
3 be, spring break, possibly born in 1988 looking to have sex
4 that day before 11 p.m.?

5 MS. WALLACE: Again, objection, calls for
6 speculation.

7 THE COURT: I'm going to overrule that objection.

8 BY MR. AIKEN:

9 Q. Is that the message you're trying to convey?

10 A. Okay. Can you repeat the question?

11 Q. When you post an ad in that particular site saying,
12 looking for fun, 88, spring break, before 11, did you intend
13 that ad to convey the meaning, I want to have sex today before
14 11 o'clock, 11 p.m.?

15 A. Like I said, the added -- it's in the section of
16 craigslist, but the ad -- when we post the ad, when we created
17 the ad, they're to be vague so that you can then introduce the
18 undercover persona once the communication is engaged.

19 Q. Who is asking -- by posting that ad, by posting that
20 ad, in that category saying those things, are you not asking
21 for sex? Are you not trying to induce somebody to have sex?
22 How can you read it any other way?

23 A. I don't agree with that, no.

24 Q. What's wrong with that? Tell me how you can put in
25 that section -- you've been to craigslist Casual Encounters,

1 the list; right?

2 A. Yes, I have.

3 Q. Where everybody is describing every proclivity they
4 have -- I want to engage in anal sex, blow-jobs, whatever,
5 right? They're very graphic; right?

6 A. Some of them are very graphic, yes.

7 Q. Two men for one woman, two women one man -- I mean
8 every kind of sex you can imagine is in there in detail; is it
9 not?

10 A. It depends on the posting -- not all are detailed.
11 Some are vague. Some people post in that section for a
12 platonic relationship. I mean --

13 Q. If they do, they do it by accident, don't they?

14 A. No, because they're not getting responses in the
15 platonic section.

16 Q. Now --

17 A. So there's various -- majority is, yes, for sexual
18 encounters.

19 Q. In this particular case, wouldn't you agree that by
20 posting that ad, you're putting out there an inducement for
21 somebody to engage in sex?

22 MS. WALLACE: Objection. This has been asked and
23 answered several times.

24 THE COURT: Overruled.

25 THE WITNESS: No, I don't think it's inducement.

1 BY MR. AIKEN:

2 Q. You don't think that's an inducement to have sex?

3 A. No.

4 Q. You get a response; right?

5 A. Yes.

6 Q. And I think you indicated you're working all kind of
7 responses. You're sort of like the multitasking and chatting
8 here and chatting here, talking here and talking there, you're
9 doing a bunch of simultaneous investigations?

10 A. Depending on how many -- yes, there is multiple
11 investigations going but depends on the activity level.

12 Q. So you get a young guy that responds that says -- he
13 doesn't lie, does he?

14 A. I don't know what you're referring to.

15 Q. Well, if he says, I'm 23, I'm 6 foot -- whatever it
16 is -- so many pounds, here's a picture of me, hit me back if
17 you see what you like; right?

18 A. Yes. That's what --

19 Q. Absolutely nothing in the world wrong with that, is
20 there?

21 A. No.

22 Q. Reasonable interpretation, he's an adult male
23 hooking up at that point in time with an adult female?

24 A. Correct.

25 Q. So would you agree that the ad that you post is the

1 bait?

2 A. No.

3 MS. WALLACE: Your Honor, objection, argumentative.

4 THE COURT: She answered.

5 BY MR. AIKEN:

6 Q. And then you get a response; right?

7 A. Yes.

8 Q. Anything in his response illegal?

9 A. No.

10 Q. Had he had sex with a minor -- I mean, with an
11 adult. Anything wrong with that?

12 A. Correct.

13 Q. It wasn't prostitution. You weren't out there
14 trying to trying for money; right?

15 A. No.

16 Q. And in his response, is there anything wrong with
17 his response? Anything illegal about his response at all?

18 A. No.

19 Q. And you have every reason to believe he would
20 believe he was talking to an adult when he makes that
21 response?

22 A. The initial response?

23 Q. Yes.

24 A. Yes.

25 Q. And then you say -- you switch. You say, well, I'm

1 only 14; right?

2 A. Well, I didn't switch because I was always acting in
3 my undercover capacity.

4 Q. You did switch. You portrayed yourself to be an
5 adult and then you say, I'm only 14. You did switch, didn't
6 you?

7 A. I don't agree with that, no.

8 Q. Tell me how you didn't switch.

9 A. To get on to -- yes, to get onto that site and in
10 that section, you have to agree that you're over 18.

11 Q. So the bait is over 18, the switch is, oh, by the
12 now, I'm 14.

13 A. I don't agree with how you're stating it.

14 Q. But at that point in time what is he saying?

15 A. In his initial response or --

16 Q. After you said, well, I'm only 14, what does he say?

17 A. He says, sure, we can hang out if you're okay with
18 me being holder.

19 Q. So he is not talking about hooking up. He's talking
20 about hanging out.

21 A. At that point it's to be determined.

22 Q. Well, the words he uses are, "okay, we can just hang
23 out"; right? He doesn't say, let's go get laid; I'll meet you
24 here; I'll do this. He says, let's go hang out.

25 A. He says hang out, but that is up for interpretation.

1 Hang out can mean many different things.

2 Q. He doesn't say hook up. He doesn't bring up sex
3 again. Right?

4 A. At that point, no.

5 Q. So in that communication he's not luring you,
6 enticing you, seducing you. He's not doing any of those
7 things.

8 A. No. It's the initial communication.

9 Q. In any of the e-mails, is he luring or seducing you,
10 enticing you, do anything to having sex with you?

11 A. Yes, I believe so.

12 Q. Which one?

13 A. Are we going to move ahead or --

14 Q. No --

15 A. Oh, in the e-mails?

16 Q. Yes.

17 A. That section is Casual Encounters. It's meant for
18 casual sexual encounters. So by communicating with someone
19 who he believes is a minor, 14, is an adult, an inducement or
20 solicitation there.

21 Q. Do you think by even continuing to talk to you
22 that's a seducement -- seducing?

23 A. Later on in the conversations, yes.

24 Q. Who is the first person to text anybody?

25 A. I texted him.

1 Q. Who is the first person to call anybody?

2 A. I called him after he asked me to call him.

3 Q. How many smiley faces and winks do you put on your
4 communications?

5 A. A lot. I do on all of them.

6 Q. Part of the inducement, isn't it?

7 A. No.

8 Q. You sent a picture. Okay. Right?

9 A. Correct.

10 Q. And you send --

11 Can we have the first picture? Which exhibit is the
12 first picture you sent?

13 MR. FINEBLOOM: I got it.

14 THE WITNESS: I believe it's 4B.

15 BY MR. AIKEN:

16 Q. Put 4B up there please.

17 MR. FINEBLOOM: Get the input in here real quick.

18 BY MR. AIKEN:

19 Q. 4B is the first picture you sent?

20 A. Yes.

21 Q. Little pouty lips. Show a little cleavage.

22 A. That is your interpretation of the picture.

23 Q. Blowing a kiss or whatever you want to call it.

24 A. No, that's not what the picture is.

25 Q. How old is that girl?

1 A. In the picture or in --

2 Q. At the time that picture was taken?

3 A. Seventeen.

4 Q. Now, you would -- don't you think you -- why didn't
5 you send a picture of somebody younger, if you're pretending
6 to be somebody younger?

7 A. Because I don't send pictures based on -- like, if
8 they're under 18, like, I don't specify. I send a picture of
9 exactly this age or --

10 Q. Would it be legal for him to have sex with that
11 girl?

12 A. No.

13 Q. Why? She's over the age of 16; right? She's 17 and
14 he's under the age of 24, 25. So it is not against the law in
15 the State of Florida. He can have sex with the girl that you
16 sent the picture of legally.

17 A. I think it depends on the state laws.

18 Q. Do you know what the state law in Florida is, age of
19 consent?

20 A. If that's what you just repeated to me.

21 Q. Sixteen. So you sent him a picture of a girl that
22 would be legal to have sex with; right?

23 A. Based on what you're saying, correct.

24 Q. Don't you think that's a little bit of an
25 inducement?

1 A. No.

2 Q. You sent him a second picture; right?

3 A. Yes.

4 Q. What's the second picture?

5 A. Another undercover photo.

6 Q. How old is that girl?

7 A. It's the same girl.

8 Q. Same girl?

9 A. Correct.

10 Q. Now, you sent him a second picture of a girl that it
11 would be legal to have sex with. Don't you?

12 A. I did send him a second picture.

13 Q. Don't you see something wrong with that?

14 A. No, I don't.

15 Q. You then engage in a series of texts; correct?

16 A. Correct.

17 MR. AIKEN: Can we put the text up?

18 MR. FINEBLOOM: I don't know if she marked it as an
19 exhibit.

20 MR. AIKEN: Do you have the exhibit for the --

21 MR. FINEBLOOM: I have it. Do you want the ad?

22 BY MR. AIKEN:

23 Q. There is no such thing as a thought crime, is there?

24 A. Excuse me?

25 Q. There is no such thing as a thought crime?

1 A. I don't know how you're referring to it, but no.

2 Q. There's no such thing as having a fantasy and it
3 being a crime; right?

4 A. No.

5 Q. There's nothing wrong with talking about sex, is
6 there?

7 A. With a minor, yes.

8 Q. No, it isn't. It's not against the law. You can
9 talk with a 15-year-old about sex, sex education, anything;
10 right? It's not against the law --

11 A. Sex education and talking about sexual activity or
12 an encounter with a minor.

13 Q. It's against the law to lure, seduce, entice, and
14 solicit; correct?

15 A. Correct.

16 Q. Is there anywhere that says it's against the law to
17 even talk about it?

18 A. But in the context -- it would depend in the context
19 of what was being said.

20 Q. Let's talk about context. In terms of inducement --
21 in terms of who's doing the inducing in this case, when he
22 sends you his original picture, his face and his penis, okay?

23 A. Yes.

24 Q. What's your comment? "Nice"; right?

25 A. Yes, but that's -- "nice" is to the picture as a

1 whole.

2 Q. You're saying nice penis or nice face?

3 A. I was not saying -- it was to the pictures as a
4 whole.

5 Q. So now when you start texting in terms of who is
6 moving this thing forward, you are the one that initiates the
7 text; correct?

8 A. I asked him, can you text? And he said, yes.

9 Q. So you asked to text and you texted?

10 A. And he sent the number. So, yes, I text.

11 Q. So you initiated the text; correct?

12 A. Yes.

13 Q. And then you say: Hey, I'm Ashley. I'm chilling.
14 And he says: So you're 14; right?

15 A. Correct.

16 Q. And he says -- you sent out: Yeah, you like my
17 pick. And that's the pick that you sent of the 17-year-old;
18 right?

19 A. Correct.

20 Q. And then you tell: You're cute, with a big smiley
21 face; right?

22 A. No. Oh, yeah. Okay. He said, yeah.

23 He responded: "Yeah, you're cute. Just young."

24 Q. You're young.

25 A. And I said: Thanks, you're cute too, in response to

1 him.

2 Q. When he says, yeah, you're cute, you're just young,
3 is that a crime?

4 A. No.

5 Q. So then he says -- you say to him: Well, you're
6 cute too, with a smiley face.

7 A. Yes.

8 Q. Were you lying?

9 A. I mean, I think that that's a common response in
10 these chats.

11 Q. In terms of an inducement, why are you telling him
12 he's cute?

13 A. That's a compliment back.

14 Q. It's an inducement telling him he's cute with smiley
15 face.

16 A. I don't agree.

17 Q. And then he says, what are you doing on craigslist;
18 right?

19 A. Yes.

20 Q. Because anybody would think at that point in time
21 what's a 14-year-old doing on craigslist; right?

22 A. I can't testify as to what he was thinking.

23 Q. But he asked you?

24 A. Correct.

25 Q. And then you say: I'm bored. LOL. You're looking

1 on craigslist too.

2 LOL, laugh out loud; correct?

3 A. Correct.

4 Q. People use it all the time. They use it in jokes.
5 They will say something, LOL. LOL is laugh out loud; right?

6 A. It can be used in many different contexts.

7 Q. And then what does he say? He says, Look, I'm only
8 here for a month, I was hoping to hook up with someone, in
9 response to yours; correct?

10 A. Correct.

11 Q. At that point in time you're the person that brings
12 up any sex because you say, cool, what are you into?

13 A. I don't agree with that.

14 Q. But that's what you say?

15 A. I -- after his text: Well, I'm only going to be
16 here for a month, so I was hoping to hook up with someone.

17 And I said: That's cool. What are you into?

18 Q. That's a normal question on craigslist Casual
19 Encounters because people are saying -- you know, men and
20 women, two women -- I mean, it's a normal thing, what do you
21 like in sex; right?

22 A. No. I mean, it can be asking what he likes sexually
23 or asking what are his hobbies, like what does he like to do.

24 Q. Are you trying to tell us that when you put in
25 there, "cool, what are you into" on Casual Encounters, you're

1 talking about hobbies? Are you trying to tell us that?

2 A. I've done many of these operations.

3 Q. Right.

4 A. And the --

5 Q. We're not talking kayaks here.

6 A. The sexual content, I mean, usually you -- it's like
7 developing a mini relationship. You get to know that person.
8 It's not always, hi, I want to meet you and have sex with you
9 in four hours. That's not the typical situation.

10 Q. Let me ask you, on craigslist Casual Encounters and
11 you put in there, Why you are on craigslist? And you say,
12 That's cool, what are you into, are you telling me that you're
13 just making conversation?

14 A. That --

15 Q. Are you saying, what kind of sex do you like?

16 A. That -- no, that's not the specific question that
17 I'm asking. I'm clarifying what he wants to do, what he's
18 looking to do, why he's responding to my ad.

19 Q. I understand. And he says, I like fucking in
20 public. He's telling you what he's into; right?

21 A. Correct.

22 Q. And you have a discussion: Have you ever thought
23 about doing, I would be scared, that's the point, LOL -- it's
24 LOL, LOL. You all are having a casual discussion about what
25 he's into and stuff like that; right? Does he ask you to have

1 sex?

2 A. I believe, yes.

3 Q. Where?

4 A. When he asks -- after I said: That's cool. I've
5 never done that before.

6 And he says: Do you ever thought about doing it?

7 Q. Is he asking you to do it?

8 A. Getting to the point. I said: I don't know. I'd
9 be scared.

10 He said: That's the point.

11 And I said: True. Is that what you're looking to
12 do?

13 And he said: Yeah.

14 And then there --

15 Q. Does he say, you want to have sex in public --

16 A. -- I'm asking: Is that what you're wanting to do?

17 Q. Okay. And then you say: Yeah, I will be down for
18 that?

19 A. And he said: Yeah.

20 In response to "yeah," I say: K. Cool. I guess I
21 would be down for that.

22 Q. So you are the one there volunteering to have sex
23 with him; correct?

24 A. After he said that that's what he wanted to do.

25 Q. No, he said what he was into and what he wanted to

1 do and then you said, I'm the one that you can do it with, I'd
2 be down for that; right?

3 A. I don't agree with that.

4 Q. Now, and then what does he say: But your age makes
5 me nervous. LOL.

6 Laughing; right?

7 A. Correct. I really want to but makes me nervous.

8 Q. But it makes me nervous. He's balking; right?

9 A. No, I don't take it as balking.

10 Q. And then we go through a bunch of phone
11 conversations; right? The State introduced phone
12 conversations into evidence; right?

13 A. Yes.

14 Q. In any conversation, in any discussion after that
15 three or four-line exchange, does he ever ask you to have sex?

16 A. The calls were basically discussing, like, the
17 meeting place and directions, and there's not sexual content
18 in the phone calls.

19 Q. So we have six phone calls and not one, single time
20 does he ever say to you anything about having sex.

21 A. Because that was already established in the texts.

22 Q. In your mind; correct?

23 A. In both of -- that was the agreement between us.

24 Q. Does he ever describe what he'd like to do with you?

25 No.

1 A. He said he likes to fuck in public.

2 Q. He says he likes to fuck in -- did he ever describe
3 in any phone conversation, six phone calls, does he ever once
4 say, let's go to your place or I like to do this or I like to
5 feel you or I like to touch you? Is it ever in this case
6 anywhere one other single word about sex?

7 A. In the phone calls, like I said before, no. The
8 phone calls are for directions and how we're going to meet up
9 and the logistics and things. So it's not in the phone calls.

10 Q. So the total of all the discussions, all the talk,
11 everything what the State says is seducing, the luring,
12 enticing, is that one 3 or 4-line exchange; there is nothing
13 else in this case, is there?

14 A. I don't agree with that. I think when you look at
15 it in the whole and the discussions --

16 Q. What other communication --

17 MS. WALLACE: Your Honor --

18 (PARTIES SPEAKING SIMULTANEOUSLY.)

19 THE COURT: Mr. Aiken, let her finish her response.

20 MR. AIKEN: My apologies.

21 THE COURT: You may finish your answer if you
22 haven't finished it.

23 THE WITNESS: No, I don't have anything else to say.

24 BY MR. AIKEN:

25 Q. Were there any other communications of any type

1 indicating that he wanted to engage in a sexual encounter with
2 you?

3 A. I think that there's -- the communication is about
4 meeting to have sex.

5 Q. Where does he say that?

6 A. He says -- we went over -- that he wants to --

7 Q. At the pizza parlor?

8 A. -- he wants to meet me to fuck in public.

9 Q. He does not say that, does he?

10 A. In the text messages, in the conversation, yes,
11 that's what we were meeting to do.

12 Q. Your interpretation, that's what you're meaning to
13 do; correct? Where does he say let's meet, a pizza parlor?

14 A. No, I suggested that we meet at Little Caesars.

15 Q. He lived right -- he lives a short distance from
16 there, didn't he?

17 A. I believe so.

18 Q. He indicates, hey, I'm -- in the phone calls when
19 you're talking to him in the phone calls, all right, you're
20 talking about, hey, I'm back in the service, I just got back
21 from Korea, you know. In any of the phone calls, in any of
22 the phone calls, the six phone calls leading up to this, the
23 State did not play, is there any communication at all where he
24 and -- you and he agree to engage in any type of sexual
25 conduct, in any of those phone calls?

1 A. We are talking about meeting to have sex. We're
2 discussing -- he didn't want to meet at the Little Caesars.
3 He wanted to meet at an alternate location where there is more
4 people so that I wasn't seen -- we weren't seen in a public
5 parking lot --

6 Q. He wants to meet you in public; right?

7 A. My -- it was my idea. I introduced meeting in
8 public at Little Caesars.

9 Q. Craigslist Casual Encounters has a warning section,
10 does it not, where they warn people to meet in public. When
11 you're meeting someone for a first time, meet in public. They
12 have a whole section warning people about that, don't they?

13 A. Warning to meet in public?

14 Q. Yeah. Warning about the dangers -- because on
15 craigslist when you're on the Internet, he could have been
16 meeting some guy. He doesn't even know you exist, does he?

17 A. I mean, yes, it could be anybody.

18 Q. But you've been in this business a long time.
19 People lie on the Internet, don't they?

20 A. Yes.

21 Q. They lie about their age; right?

22 A. Yes.

23 Q. You could have been lying about yours; right?

24 A. Yes.

25 Q. He could have been lying about his age?

1 A. Correct.

2 Q. They lie about what sex they are?

3 A. Yes.

4 Q. They lie about their proclivities; right?

5 A. Yes.

6 Q. Would you not agree that probably in the context of
7 dating and hookups and Internet and stuff like that, there is
8 more lies than truth?

9 A. It depends on the conversation.

10 Q. So until people meet, until there's some meeting,
11 one party in the anonymity on the keyboard talking to the
12 other party on the keyboard, you don't have a clue what's on
13 the other side, do you?

14 A. Well, you have a clue based on what people are
15 telling you. What the people are communicating.

16 Q. But have you not found that most of the time it's
17 not even the right name?

18 A. I wouldn't say most of the time, no.

19 Q. In the anonymity of the Internet, do people normally
20 type and say stupid things? I mean, it's pressing a key,
21 isn't it?

22 A. I mean, I can't speak for everyone on the Internet,
23 but there are real situations happening on the Internet.
24 There are people pretending to be other people on the
25 Internet. There is many things.

1 Q. In the phone calls, did you try to get a commitment
2 from him as to what he would be willing to do?

3 A. I believe that was already established in the text
4 messages.

5 Q. In the phone calls in the very, very last call --
6 just one moment.

7 MR. AIKEN: Just one second, your Honor.

8 BY MR. AIKEN:

9 Q. We can play the calls. Do you leave off with him,
10 when you're finally deciding to meet up at Walgreens family
11 drugstore, do you leave off with him and he says, what are you
12 going to do; what are going to do? And he says, I'll leave it
13 up to you.

14 A. I recall that that was -- there was discussion in
15 the conversation, like, what do you want to do.

16 Q. Because there wasn't an agreement at that point to
17 do anything, was there?

18 A. I don't agree with that.

19 Q. Does he say -- we'll listen to the calls. Does he
20 say, I'll leave it up to you?

21 A. We'll have to listen to the call and the context of
22 that communication.

23 Q. He does say at one point, I feel really nervous
24 about even talking to you, or something like that. Are you a
25 cop, or something like that.

1 A. Yes. He asked me if I was a cop.

2 Q. We see it on television all the time, right, Chris
3 Hansen and *To Catch a Predator* and all that other stuff;
4 correct?

5 A. Correct.

6 Q. In terms of predisposition, prior to the time that
7 you engaged him, had you ever heard of him before?

8 A. I'm sorry?

9 Q. Had you ever heard of him before?

10 A. The defendant?

11 Q. Yeah.

12 A. No.

13 Q. He wasn't on any list, wasn't a target, wasn't a
14 suspicious person, wasn't on any porn site, or anything like
15 that?

16 A. Not that I'm aware of.

17 Q. Wasn't even here in the country for the preceding
18 three years, was he?

19 A. I didn't know that at the time.

20 Q. Well, now you know it. In terms of predisposition,
21 he wasn't even here.

22 A. But that doesn't -- I don't think that determines
23 predisposition.

24 Q. I agree. In terms of predisposition, did you
25 investigate and determine whether or not there was any

1 propensity or predisposition?

2 A. No. I think the predisposition is him continuing to
3 communicate with me as a minor.

4 Q. That's a matter for the law and the Court, is it
5 not?

6 A. Correct.

7 Q. If we left it up to you and we didn't have juries,
8 the case would be easy, wouldn't it?

9 MS. WALLACE: Your Honor, objection, improper.

10 THE COURT: I'll sustain the objection.

11 BY MR. AIKEN:

12 Q. In terms of inducements, in the phone calls, did you
13 continue to try and bait him and induce him?

14 A. No, I don't agree with that.

15 Q. Do you -- investigation stops at Walgreens; right?
16 He gets arrested.

17 A. Yes.

18 Q. We don't take the case that one further step and
19 find out what would have happened at the Walgreens, do we?

20 A. I don't know what you mean.

21 Q. Well, I mean, there was the -- in a lot of the
22 stings, they come to a secluded house and stuff like that. We
23 don't have that in this case, do we?

24 A. There was no undercover house in this case.

25 Q. In other words, other than meeting in a public place

1 like Walgreens, he didn't do anything other than drive to
2 Walgreens?

3 A. No, I don't agree with that. The public -- the
4 public place, the Little Caesars, was the designated location
5 for individuals --

6 Q. Did you agree to have sex with him in Little
7 Caesars?

8 A. No. We had -- the agreement in the text messages --

9 Q. Did you have an agreement to have sex with him at
10 Walgreens?

11 A. The agreement was to meet up to have sex in public.

12 Q. The agreement was to meet up and hang out, was it
13 not?

14 A. I don't agree with that.

15 Q. Okay. Does he in the phone conversations with you
16 indicate basically let's just hang out?

17 A. I don't think that that is what --

18 Q. In the six phone calls were you ever able to get him
19 to say anything else about sex?

20 A. Like I said before, the sex is already established
21 that that was --

22 Q. In your mind?

23 A. No, because he asked -- why would he ask me if I was
24 a cop.

25 Q. Because he's even talking to you; right?

1 A. I thought -- just talking to me, there's nothing
2 wrong with that.

3 Q. But he was nervous, wasn't he?

4 A. I can't --

5 MS. WALLACE: Objection, calls for speculation.

6 THE COURT: Sustained.

7 (PAUSE IN PROCEEDINGS ENSUED.)

8 BY MR. AIKEN:

9 Q. In the first phone call does he say that you're the
10 only one that's ever responded to anything on the Internet?

11 A. I would have to hear the calls again.

12 Q. In the first phone call does he say, we can just
13 meet at Little Caesars and talk from there and go from there?

14 A. If I'm going to have to speak about the phone calls,
15 I would have to --

16 MR. AIKEN: May I approach, your Honor? I have a
17 transcript of a prior proceeding.

18 THE COURT: You may, yes.

19 BY MR. AIKEN:

20 Q. In the first phone call, does he say we can just
21 meet at Caesars and talk?

22 A. Part of what he said is we can just meet at Little
23 Caesars and talk there, and then go from there.

24 Q. Go from there, right. Does he say anything about
25 sex?

1 A. We --

2 Q. Based on the call --

3 A. -- it was established that we were meeting.

4 Q. I know. You keep saying that. In this phone call
5 does he say anything about sex?

6 A. He doesn't use the word "sex," but that's what we're
7 talking about.

8 Q. That's what you're talking about.

9 A. No.

10 Q. In this phone call -- listen to my question -- does
11 he say --

12 A. I am listening to your question.

13 Q. Does he say anything more about sex?

14 A. He does not say the word "sex."

15 Q. Does he say anything about any sex act?

16 A. That's what we are discussing.

17 Q. Listen to my question. Does he say anything about
18 any sex act? Do you understand my question?

19 A. I perfectly understand your question.

20 Q. What is your answer?

21 A. I answered it.

22 Q. The answer is no?

23 A. Asked and answered.

24 Q. Is it no?

25 A. I already answered the question.

1 Q. Next phone call. In the second phone call, does he
2 talk about hanging out, just hanging out?

3 A. No. This is talking about -- we're discussing --
4 he's wanting to meet and I'm talking about checking with my
5 aunt to see when she is going to be back. It was the
6 logistics of meeting.

7 Q. Does he say anything -- does he say in there, let's
8 just meet and hang out?

9 A. And he says: All right. I got you. I mean, is
10 there a better time you want to hang out, like meet up or
11 whatever. I mean a little later.

12 Q. Does he say "hang out"?

13 A. He uses the words "hang out."

14 Q. Thank you. It was difficult, but thank you.

15 Do you then push it saying: I want to meet with
16 you?

17 A. Can I -- instead of being shown.

18 THE COURT: Yes.

19 BY MR. AIKEN:

20 Q. I'm sorry.

21 A. Thank you.

22 Right. It says, in the conversation he was waiting
23 on me to get a response from my aunt as to how late she was
24 going to be working. So that's what the phone call is about.

25 Q. Did you tell him anything about an aunt working?

1 A. Yes. That was the conversation. And then, so he
2 was waiting for me to hear back from her. So I said, she's
3 going to call me back soon so can I text -- like, text you.

4 Q. Do you say you definitely want to meet with him?

5 A. He says: Yeah, send me a text and after that I will
6 give you another call and then we can figure it out.

7 And then I respond: Yeah. I definitely want to
8 meet up with you. It's just, like, I'm trying to see.

9 And he says: You just don't know what time.

10 And I say: Yeah.

11 Q. Anything in that phone call about having sex? Any
12 mention of? Any sex act? Any agreement? Any act? Anything
13 in the second phone call at all about sex?

14 A. It's still logistics of meeting up to engage in a
15 sexual encounter.

16 Q. Listen to my question. This is getting difficult.
17 Is there anything in that phone call where you discuss sex in
18 any degree, in the phone call, yes or no?

19 A. We are not talking about -- we are not using sex and
20 talking about sexual things in the conversation.

21 Q. Is there any question about what you all are going
22 to do?

23 A. There's a lot of questions about where we were going
24 to go and --

25 Q. Does he ever say let's just meet and talk and we'll

1 figure out something to do?

2 A. He didn't say those specific.

3 Q. Let me ask you this, did he say to you, yeah, all
4 right, there should be a Walgreens in the same parking lot in
5 the area, you will see it, it's a just big building, do you
6 want to meet me there, it's a public place, there's people
7 there, we can just talk if you want and then figure out
8 something to do?

9 A. I would have to --

10 Q. Did he say that to you? The question is yes or no.

11 A. There's more to the conversation.

12 Q. The question is yes or no, did he say that to you?

13 A. In that section of what you're reading, he used
14 the -- he said, and then we'll figure out something to do.

15 Q. Now, is that --

16 A. But you're missing --

17 Q. He said, We'll figure out something to do, does he
18 not?

19 A. But that's not in the context. You have to --

20 Q. We'll listen to the whole phone call; right?

21 A. Correct. You have to read everything that he said.
22 You're just reading a small section.

23 Q. He says: Let's just meet at Walgreens and take it
24 from there.

25 A. Go back and see.

1 Q. Is that consistent with hanging out?

2 Hold back a page if you want to go back.

3 A. Yes. We were -- again, we were going back and forth
4 about the meeting location, because he was saying, I figure we
5 can meet inside there because it's a public place, because if
6 we met at a parking lot, it would be weird and a little
7 suspicious. It's already -- it's kind of sketchy. So in that
8 context, then he said --

9 Q. And what did he say? And we'll figure out something
10 to do; right?

11 A. We'll figure out what we're going to do.

12 Q. So at that point in time, you didn't have an
13 agreement to do anything, did you?

14 A. Like I've said before, we had agreed to meet to have
15 a sexual encounter.

16 Q. In the fifth call does he say: Yes, so what do you
17 want to do when we get there? Does he say that to you?

18 A. Yes. Saying like what are we going to do once we --
19 like, where are we going to go. Like, it's talking about --

20 Q. What does he say, not your interpretation. What
21 does he say?

22 A. It's not -- because you have to listen to the
23 whole phone call.

24 Q. But does he say, we'll figure out -- what are we
25 going to do?

1 A. Yes. He says: Yes, so what do you want to do when
2 we get there?

3 Q. He's asking you what do you want to do, is he not?

4 A. Yes.

5 Q. And then when he says: I'll let you think of
6 something. Correct?

7 A. Again, he says: I'm trying to think of what we're
8 going to do when we get to Walgreens, like where are we going
9 to go. The logistics of it.

10 And I said: Well, I mean, whatever.

11 And he said: Yeah, all right. I will let you think
12 of something.

13 Q. He's telling you. You know, he hadn't met you
14 before, doesn't know you from Adam. He's telling you, I'll
15 let you think of something to do; right?

16 A. That's what he said but --

17 Q. How is that seducing you?

18 A. It was already -- because we're talking about the
19 sexual act, like the logistics of meeting up, where are we
20 going to go from meeting in Walgreens.

21 Q. Show me where you're talking about the sexual acts?

22 A. We already discussed it in the text messages.

23 Q. So you're saying the one-time discussion or the
24 one-time texting back then should override all of the other
25 phone calls?

1 A. The phone calls, like I said, were specifically to
2 discuss logistics and meeting up. But if you take in context
3 the e-mails, the ad, the craigslist, and the text messages
4 that ensued after, is about the sexual encounter with a minor.

5 Q. Okay. Do you think you look at things objectively?

6 A. I believe so.

7 Q. Do you think you have a fair interpretation of the
8 facts? You think you're fair?

9 A. I think I'm a fair person, yes.

10 Q. You think Archie Bunker would think he's prejudiced?

11 A. I can't comment to Archie Bunker.

12 MR. AIKEN: Nothing further.

13 THE COURT: Redirect?

14 MS. WALLACE: Briefly.

15 REDIRECT EXAMINATION

16 BY MS. WALLACE:

17 Q. I just have a couple of additional questions for
18 you. Do you need to get a drink of water?

19 A. No. Sorry. I'm recovering from illness. I
20 apologize.

21 Q. I'm not going to ask you a bunch of questions about
22 the phone calls. We'll play them later and they will speak
23 for themselves. But I do want to go back to a couple of the
24 issues that were raised regarding craigslist.

25 A. Okay.

1 Q. The Defense asked you about the parental controls
2 that are available on craigslist. As a user of craigslist, do
3 you have to use them?

4 A. No.

5 Q. Is there a way to just bypass them and ignore them
6 completely?

7 A. Yes.

8 Q. As a parent, you can choose these if you want to; is
9 that fair to say?

10 A. Correct.

11 Q. The Defense also asked you about the terms of use
12 and there's a little spot that you can click on to read those.
13 Do you have to read those before you use craigslist?

14 A. No.

15 Q. So again, you can bypass those fairly easily?

16 A. Correct.

17 Q. Now, in your experience with ICAC, have you ever
18 actually encountered real children who were using craigslist?

19 A. Yes.

20 Q. What do you do when you have that situation?

21 A. Typically, when you're -- I've come across on more
22 than one occasion somebody that I chatted with that it is, in
23 fact, a minor, and once I have established that they are a
24 minor, then we report that to the local police in whatever
25 city or area that the minor is residing so that they can

1 respond to the minor's home and speak to their parents or take
2 the investigation from there.

3 Q. So it's not impossible for a real child to use
4 craigslist?

5 A. No. Like I said, I've encountered it more than
6 once.

7 Q. Now, going back to the photographs, the undercover
8 photographs. The photographs that you used, this one with the
9 yellow top and then this other photograph, they're of the same
10 girl you said; is that right?

11 A. Yes.

12 Q. They were both taken when she was 17 years old?

13 A. Correct.

14 Q. In your communications, though, you stated this was
15 you; correct?

16 A. Yes.

17 Q. And you're 14 years old?

18 A. Correct.

19 Q. Did you ever give the defendant the impression that
20 you were 17 years old?

21 A. No.

22 MS. WALLACE: All right. I don't have any other
23 questions for you. Thank you.

24 THE WITNESS: Thanks.

25 THE COURT: Thank you. That concludes your

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testimony. You may step down.

(EXCERPT CONCLUDED.)

C E R T I F I C A T I O N

I, MICHAEL A. SCIRÉ, RPR, CMRS, FPR, and Official Court Reporter in and for the Twelfth Judicial Circuit of the State of Florida, do hereby certify that I reported, by shorthand machine, the proceedings had and testimony taken in the above-entitled cause, and the foregoing pages were truly and accurately transcribed from my shorthand notes taken at the time and place herein set forth.

MICHAEL A. SCIRÉ, RPR, CMRS, FPR
Official Court Reporter