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Remember 9/11/01; Support Our Troops

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THIS EDITION'S WORDS OF WISDOM:

"*Some people try to turn back their odometers. Not me. I want people to know why I look this way. I've traveled a long way and some of the roads weren't paved.*" (Will Rogers)

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***ADMINISTRATIVE NOTES*:**

***Pending Retirement; Future of the Update*:** I will officially be retired as of September 21, 2007, after over 36 years in "the business" (28 years with the San Diego District Attorney's Office, 1½ years as a Los Angeles deputy city attorney, and 6½ years as a San Diego police officer). But I intend to continue to research and write these *Legal Updates* for the foreseeable future. The only problem is ensuring that you all will continue to receive them. Other then having these distributed for me within the San Diego District Attorney's Office and the San Diego Sheriff's Department, the primary vehicle for accomplishing this is going to be through an organization called "*United Reporting*," which publishes "*Crime Beat News*." It is a website for which you have to register, but is free. Check it out at www.cacrimenews.com. Also, for other California law enforcement or prosecutorial agencies, I will send the Update to any one individual per agency who will volunteer to distribute it to the rest of his or her agency, at least as long as AOL (the ISP I use for my personal e-mail account) doesn't cut me off for spamming (which is what prevents me from sending it out wholesale as I've been doing through the San Diego Sheriff's Office for so many years now). Please let me know if you're volunteering. For any other single individual, I will just have to see how heavy the volume gets.

***Monitoring Inmate Conversations*:** Although case law allows for the monitoring and recording of jail inmate conversations over the telephone and/or in the visiting room, at least so long as there is a sign posted and/or a message on the telephone warning the participants that their conversations may be monitored (*People v. Loyd* (2002) 27 Cal.4th 997; *People v. Windham* (2006) 145 Cal.App.4th 881.), this *does not* include eavesdropping on an inmate's conversations with his or her attorney, religious advisor or licensed physician. It is a *felony* offense (3 years, $10,000 fine) for anyone, including a law enforcement officer, to eavesdrop on a conversation that falls into any one of these three categories. (P.C. § 636). Listening to a conversation with the inmate's attorney is also a violation of the Sixth Amendment. (See *People v. Jordan* (1990) 217 Cal.App.3rd 640.) The Evidence Code similarly protects an inmate's conversations with his attorney (E.C. § 954), doctor (E.C. § 994) and possibly his religious advisor (E.C. § 1033). Warning the inmate that these conversation may be monitored *does not* waive these protections nor insulate you from being prosecuted for eavesdropping on an inmate's communications with his lawyer, doctor or religious advisor.

***Transporting Uncooperative Witnesses*:** Another disturbing trend I'm seeing is the practice of detaining uncooperative witnesses, and sometimes even transporting them to the police station. They do this on any number of TV cop shows. But effective as this tactic might be for coercing witnesses into cooperating, *it is simply not legal*. A person cannot be lawfully detained absent an articulable reasonable suspicion to believe that he himself either was, is, or is about to be involved in criminal activity. (*Terry v. Ohio* (1968) 392 U.S. 1.)

Transporting the uncooperative witness to the station ("*So you don't want to talk, huh? Well, maybe you'll be more cooperative if we do this down at the station.*") requires that you have probable cause to arrest him. (*Dunaway v. New York* (1979) 442 U.S. 200, 206-216; *Taylor v. Alabama* (1982) 457 U.S. 687.) Per the U.S. Supreme Court: "(W)e have never 'sustained against Fourth Amendment challenge the involuntary removal of a suspect . . . to a police station and his detention there for investigative purposes . . . absent probable cause or judicial authorization.' [Citation]" *Kaupp v. Texas* (2003) 538 U.S. 626, 630.) There's nothing under California law with which you can charge a witness simply because he refuses to talk to you. (*Kolender v. Lawson* (1983) 461 U.S. 352.) And no, refusing to cooperate is not a violation of P.C. § 148. The bottom line is this: Without legal grounds to detain or (in order to transport him) arrest, you cannot hold onto an uncooperative witness. He may refuse talk to you, answer your questions, or even identify himself. (See *Ganwich v. Knapp* (9th Cir. 2003) 319 F.3rd 1115.) You have to *let him walk away* if that's what he wants to do.

CASE LAW:

***Probable Cause and the "Collective Knowledge" Doctrine*:**

***United States v. Ramirez et al*. (9th Cir. Jan. 16, 2007) 473 F.3rd 1026**

Rule: The "*collective knowledge*" of officers involved in a narcotics investigation which amounts to probable cause justifies another officer, with no independent knowledge of the case, in making a traffic stop, detention, arrest, and search.

Facts: An arrest made by officers of the Glendale Police Department resulted in the discovery of a sophisticated secret compartment in the rear cargo area of a Mercury Mountaineer. Apparently, the Mercury was subsequently released. Twelve days later, narcotics officers, including several who had viewed the Mercury during the earlier contact, observed defendants Javier Beltran and Ramon Ramirez in the same Mercury during a different narcotics-related surveillance. The officers followed defendants to a parking lot in the City of Paramount where they met two other individuals. Beltran and Ramirez were observed receiving a gym bag from the other subjects in exchange for yellow manila-style envelope or box. Defendants entered the Mercury with the bag. The car could be seen "rocking back and forth in [a] manner consistent with someone forcibly moving the vehicle" while defendants were in it as they apparently hid the gym bag in the car's secret compartment. When Beltran and Ramirez left the parking lot shortly thereafter, the surveilling officers called for a marked patrol unit to make a traffic stop on their car. Knowing only that the Mercury was the target of a narcotics investigation, Officer Daniel Hulben stopped defendants' car for straddling lanes, per V.C. § 21658. Finding that Beltran, who was driving, to be in possession of a Mexican driver's license only, Hulben arrested him for driving without a valid California license (V.C. § 12500). Ramirez was transported to the police station, although not formally arrested. A drug-sniffing dog was brought to the scene and alerted on the rear of the Mercury. A subsequent search resulted in recovery of some eight kilograms of cocaine.

Both defendants were indicted in federal court. Their motion to suppress the cocaine was denied. They both pled guilty and appealed.

Held: The Ninth Circuit Court of Appeal affirmed. Conceding that neither "lane straddling," unless it also interferes with other vehicles, nor driving on a Mexican license, is illegal, the Court (as did the trial court) evaluated the legality of the stop, arrest and search based upon the applicability of the so-called "*collective knowledge*" doctrine. First, however, it was noted that pursuant to Supreme Court authority (*Whren v. United States* (1996) 517 U.S. 806.), Officer Hulben's subjective reason for making the traffic stop (i.e., lane straddling) was irrelevant so long as there is *some* legal basis for the stop. It is also irrelevant whether the reasons Officer Hulben gave for arresting or transporting either defendant were correct, so long as there was some legal justification for their detention and arrest. Here, the stop of the car and its subsequent search were both based upon legally obtained information by the narcotics officers which, as conceded by both defendants, amounted to "probable cause" to believe that the car contained contraband. Pursuant to the "*collective knowledge*" doctrine, the information collected by the narcotics officers was imputed to Officer Hulben. It is not necessary for Officer Hulben himself to actually have personal knowledge of the facts and circumstances giving rise to this probable cause. Based upon what the narcotics officers knew, therefore, the stop, arrests and search were all legal.

Note: The Court does an excellent job describing the history and development of the "*collective knowledge*" doctrine. It also describes the two situations where this rule applies: (1) When a number of law enforcement officers are all working together with bits and pieces of information spread out among them, but which when all added altogether amounts to reasonable suspicion to detain or probable cause arrest or search. (2) When one or more officers with information amounting to reasonable suspicion or probable cause instruct a separate officer, who may be acting in ignorance of the facts, to detain, arrest, and/or search. There is some difference of opinion as to whether the first category is sufficient under the "*collective knowledge*" doctrine unless there is also shown to be some communication among the officers involved. The second category is universally accepted as coming within the rule. This case falls into the second category.

***Controlled Substances; Knowledge Element*:**

People v. Tripp **(Jun. 1, 2007) 151 Cal.App.4th 951**

Rule: To convict a person of possessing a controlled substance, it must be proved that he knew of the substance's nature as a controlled substance. Finding it in the person's bedroom, by itself, is not enough to prove this element.

Facts: An individual was stopped and arrested while driving defendant's car. When arrested, it was discovered that this person was on probation for a narcotics offense with a "Fourth Waiver," and that he lived with defendant. Officers went to defendant's home and, after noting two security cameras at the front of the house, contacted defendant. They told defendant that they were there to do a probation Fourth wavier search.

Defendant appeared nervous; twice asking the officers if they had a search warrant. The officers finally convinced defendant that they had the right to search without a warrant. A protective sweep of the residence resulted in the discovery of a small amount of methamphetamine "about the size of the head of a pin" (0.12 grams) on a night stand, "loose, 'spilled out, like salt.'" Defendant admitted that this room was his. Defendant's girlfriend, who was found sleeping in another room with her young son, admitted to occasionally staying in defendant's room but denied any knowledge of the meth. There were no indications that defendant was under the influence. He was arrested, however, and charged with the possession of the meth. His motion to suppress the evidence was denied. Convicted after a jury trial, defendant appealed.

Held: The Fifth District Court of Appeal reversed. To prove a crime of possession of any controlled substance, including methamphetamine, there has to be proof beyond a reasonable doubt of each of the following elements: (1) Defendant exercised control over, or the right to control, some amount of the substance; (2) defendant knew of its presence; (3) defendant knew of its nature as a controlled substance; and (4) the substance was in an amount usable for consumption. In this case, there was insufficient evidence to prove that defendant knew that the powder on his nightstand was a controlled substance. He was not under the influence. There were no furtive acts or other suspicious conduct indicating a consciousness of guilt, such as an attempt to flee or to hide or dispose of the contraband. Although defendant appeared nervous when first confronted by the police, such a reaction is normal and not necessarily evidence tending to prove he knew he had contraband in his room. Two other people lived in defendant's house, one of whom would stay in his room occasionally and the other who had a history of narcotics violations. Under these circumstances, defendant's mere access to the contraband was not enough by itself to prove he knew that it was a controlled substance.

Note: It was also noted that defendant had two TV monitors in his room that were hooked up to the outdoor security cameras. I would think that defendant's nervousness, the dope being in his room on his nightstand, and the apparent security measures he set up, would be enough, in combination, to support the jury's finding on this issue. But according to this court, I would be wrong. Other evidence of this element to watch for would include indications that he'd been using the drugs, admissions he makes while being interrogated, possession of paraphernalia, needle marks on his body, and/or a prior history of narcotics offenses. But there were none of these factors in this case. So how else do we prove this knowledge element? Good question. There will be some cases where we just don't. This is apparently one of those cases.

***Vehicle Seizures & Searches; Using Trickery*:**

United States v. Alverez-Tejeda **(9th Cir. Jun. 8, 2007) ___ F.3rd ___ [2007 DJDAR 8467]**

Rule: Using a ruse to make a warrantless seizure of a vehicle while in a public place, for which probable cause already exits justifying the seizure, is (if it all goes well) lawful.

Facts: The Drug Enforcement Administration (DEA) determined through intercepted phone calls and surveillance that defendant, a subordinate player in drug conspiracy, would be driving a car owned by one of the conspiracy's leaders and that the vehicle would contain illegal drugs. Because it was a continuing investigation and DEA did not want it known to the drug co-conspirators that they were being surveilled, it was decided that they would seize the car from the defendant without him knowing what was happening. In execution of this plan, defendant, accompanied by his girlfriend, was followed to a red light at an intersection where an undercover DEA agent positioned himself in a car immediately to his front. A truck, also driven by a DEA agent, drove up behind him. When the light turned green, the car in front lurched forward and then stalled. Defendant started to move forward but stopped before hitting the car in front of him. However, the truck behind them also started forward, "tap(ping)" defendant's bumper. As defendant got out of the car to check for damage, two uniformed officers in a police patrol car pulled up on the scene and proceeded to make a DUI "arrest" of the truck driver. Defendant was instructed to drive his car to a nearby parking lot, leave his keys in the car, and submit to an interview by the officers for purposes of their reports. As the interview was taking place at the police car, another undercover DEA agent jumped into defendant's car and drove it away. The police officers launched into action, chasing the now "stolen" car. However, they soon returned after an unsuccessful attempt to apprehend the "car thief." Returning to the scene with nothing more than the girlfriend's purse and cell phone that, per the officers, had been discarded by the thief during the case, the "victims" (defendant and his girlfriend) were given a ride to their hotel. A search warrant was subsequently obtained for the vehicle resulting in the recovery of cocaine and methamphetamine. Defendant was later indicted in federal court. His motion to suppress the evidence seized from the vehicle was granted by the trial court, the judge criticizing the ruse used by the DEA agents as "unreasonable." The Government appealed.

Held: The Ninth Circuit Court of Appeal reversed, finding the DEA's ruse to be reasonable and constitutional. It was stipulated by the parties that DEA had probable cause to believe defendant's car contained contraband and that they could therefore seize it without a warrant pursuant to federal forfeiture statutes, at least when found in a public place. However, "(a)n otherwise lawful seizure can violate the Fourth Amendment if it is executed in an unreasonable manner." The issue here was whether the trickery used by the DEA agents in seizing this vehicle was "reasonable." Reasonableness is determined by balancing the Government's justifications for its actions with the intrusion into the defendant's privacy interests. Among the reasons why the DEA used this type of ruse to seize the vehicle was; (1) to stop the shipment of drugs before it reached its ultimate destination, and (2) to protect the secrecy of an on-going investigation. Thrown into the mix is the degree of force used. Here, the degree of force was minimal, causing no harm to the vehicle or its occupants. Also, the DEA agents didn't misrepresent themselves to be someone they were not for the purpose of taking property that they didn't already have probable cause, absent the use of the ruse, to take. The importance of using a ruse under the facts of this case outweighed the defendant's relatively minimal property rights intruded upon when they seized his personal property left in the car. And lastly, protecting the secrecy of the investigation justified the delay in notifying defendant that

his property had been seized by the government. Under these circumstances, therefore, the DEA's ruse was not unreasonable and did not violate the Fourth Amendment.

Note: Was this clever, or what. But before you all start cooking up plans for similar seizures, please note one Justice's concurring opinion where he pointedly cautioned that this whole thing "had the potential to spin out of control and exceed reasonable bounds." In other words, had the ruse blown up in the agents' collective face, your intended good faith and hoped-for lack of excessive force won't save you. If, for instance, defendant, caught between a supposedly stalled car and a truck, had just finished watching his personal collection of "*Godfather*" videos, only to experience a sudden flashback on how Santino "Sonny" Corleone had met his untimely demise, he might very well have reacted a lot differently. Should someone get hurt in the process, it would be all your fault. The majority also notes that the results might be different if your "ruse" constitutes something like running a suspect off the road or staging an armed car-jacking. The concurring Justice therefore warns that; "I do not thereby mean (by voting to uphold this tactic) to endorse this police action as a model for future creative seizures." Be forewarned.

***Using Minors for Videotaping Sexual Conduct, per P.C. § 311.4(c)*:**

***People v. Hobbs* (Jun. 12, 2007) 152 Cal.App.4th 1**

Rule: Secretly videotaping minors getting undressed is a violation of P.C. § 311.4(c), a felony, and not just being a "peeping tom," per P.C. § 647(k), a misdemeanor.

Facts: Defendant learned via the Internet that there was to be two-day girls' swim meet at Valley View High School in Moreno Valley, Riverside County. The day before the meet was to begin, and with keys to the gym that he had somehow obtained, defendant snuck into the coaches' office adjacent to the locker room. The office, equipped with large windows, was raised slightly above the locker room providing a view of most of it. Defendant covered the windows with paper and tape. He then set up a video camera to view the locker room through a small hole he made in the paper. He blocked off areas of the locker room that were out of his view with highway cones and "caution" tape, putting up "Do Not Enter" signs. For the next two days, defendant videotaped at least 45 girls, ages 8 to 18, in various states of undress as they changed in and out of their swimsuits, concentrating his camera on the girls' private parts. At some point on the second day a water heater malfunctioned causing a custodian to come into the coaches' office where he discovered defendant making his tapes. Defendant fled, only to be tracked down by police and a bloodhound. A search warrant later served on his home resulted in the discovery of many photos of females in various stages of undress, including minors. The contents of his computer suggested that defendant was a contributor to a website called "voyeurweb.com." Defendant was charged in state court and eventually convicted of two counts of burglary and 40 counts of P.C. § 311.4(c) which makes it a felony when a person "knowingly promotes, employs, uses, persuades, induces or coerces a minor . . . to engage in . . . either posing or modeling . . . for purposes of preparing any . . . videotape . . . involving . . . sexual conduct by a minor . . . ." Defendant appealed.

Held: The Fourth District Court of Appeal (Div. 2), in a split, 2-to-1 decision, affirmed. Defendant's argument on appeal was that P.C. § 311.4(c) did not apply to what he was doing in that the "plain language" of the section requires that the victims be engaged in "posing or modeling" at defendant's direction. The Court, however, noted that the section does require that it be done at a person's direction, and the Court declined to imply such an element. While the Court did agree with defendant that the terms "employ," "persuade," "induce" and "coerce" all require some sort of interaction between defendant and his victims, it was noted that the Legislature also included the term "use" in the statute. To "use" his victims does *not* require any such interaction. And by manipulating the environment with cones and caution tape, defendant, in effect, "posed" his victims. After going through all the related child pornography statutes, the Court noted how 311.4 was a part of an overall "statutory scheme 'to combat the exploitive use of children in the production (and distribution) of (child) pornography.'" The Court lastly approved the use of this section, when minors are involved, instead of P.C. § 647(k); a misdemeanor peeping tom section that applies to victims of all ages. Section 647(k) does not seek to penalize the manipulation of victims as does 311.4. Therefore, defendant was properly charged with, and convicted of, multiple counts of P.C. 311.4(c).

Note: The dissenting opinion doesn't agree that the "pose or model" element was met, and makes a pretty good argument to the effect that 311.4 doesn't apply in this context. He suggests that P.C. §311.11(a) (Possession of Child Pornography), a felony, or P.C. § 647(k) would have been more appropriate. Also, the majority decision makes no mention of the last element, i.e., that the videotape has to be of "sexual conduct." I assume from this that the defendant conceded the fact that changing clothes is a type of "sexual conduct." I'm not sure I agree, although I can see a good argument being made that such relatively mundane activity as changing one's clothes *is* sexual conduct when it is being recorded for a pedophile's own sexual gratification. So maybe it's a non-issue. But I, for one, am glad to see section 311.4 used. Before reading this case, I might have advised anyone who asked me that the misdemeanor P.C. § 647(k) was all that we really had.

***Undercover Investigations and the Constitution*:**

United States v. Mayer **(9th Cir. Jun. 20, 2007) 490 F.3rd 1129**

Rule: Undercover investigations do not violate one's First (freedom of association and expression), Fourth (search and seizure), or Fifth (outrageous governmental misconduct) Amendment rights so long as conducted within certain constitutional bounds.

Facts: FBI Agent Robert Hamer, involved in an investigation of a travel agency suspected of selling sex tours to Thailand, joined "*NAMBLA*;" i.e., the "*North American Man/Boy Love Association*." Working in a long-term undercover capacity and using an alias, Hamer's goal was to learn more about the "boy lover" mentality. NAMBLA, with approximately 200 to 300 members, advertises itself as "a political, civil rights and educational organization" while publicly "condem(ing) sexual abuse and all forms of coercion." The organization, however, openly opposes any "age of consent laws," and "all other restrictions which deny men and boys the full enjoyment of their bodies and

control over their own lives." Hamer was also aware of evidence tending to connect some of its members with sex tours to Thailand and other illegal sexual activity with young boys. Although the sex tour investigation failed to lead to any arrests, Hamer maintained his membership in NAMBLA for another three years. In this capacity, and while attempting to impress NAMBLA's leadership, Hamer sent holiday cards to incarcerated sex offenders and wrote two articles for the organization's newsletter, "*The Bulletin*" (neither one of which was published). In his third year as a member, Hamer was invited to attend NAMBLA's annual conference in New York. The conference was not advertised as a NAMBLA event and was conducted in a manner to avoid recognition. Hamer wore a hidden recording device, collecting information about the members in attendance. This information was sent to other FBI offices as leads on potential criminal activity. But because Hamer was only able to obtain first names and very little else, none of the leads went very far. After this conference, Hamer continued his activities by publishing an article in *The Bulletin* and writing a policy statement for NAMBLA's privacy committee, which he had joined. By this time, Hamer had firmed up his contacts within NAMBLA's membership, including at least one man who admitted to Hamer to having had illegal sex with a boy he met online. Hamer met defendant at the next year's conference. During their casual conversation, defendant admitted to Hamer that he had been to Thailand several times and spoke about traveling to have sex with boys. Defendant talked of his frustration with NAMBLA for not doing more to change society's thinking about sex. Agent Hamer suggested that they form a travel group. After the conference, defendant, Hamer, and several other NAMBLA members talked about traveling to Mexico to a hotel that would provide young boys for American tourists. Agent Hamer sent defendant a link to a fake travel agency website that had been constructed by the FBI. Defendant and several others took the bait and made reservations for themselves, paying by personal checks or credit card authorizations. Defendant and the other NAMBLA members who bought tickets were asked about their "age preferences," and were promised "special friends." The FBI arranged for their flights to San Diego where they were all arrested upon their arrival. Defendant was charged in federal court with "travel with intent to engage in illicit sexual conduct," per 18 U.S.C. § 2423(b). Arguing that Agent Hamer's undercover activities violated his First (freedom of association and expression), Fourth (search and seizure), and Fifth (outrageous governmental misconduct) Amendment rights, defendant's motion to dismiss his indictment was denied by the trial court. Defendant appealed from this ruling.

Held: The Ninth Circuit Court of Appeal affirmed the denial of defendant's motion to dismiss. Taking defendant's arguments in order: (1) *First Amendment Freedom of Association and Expression*: Revealing membership lists in an organization violates the First Amendment only when doing so imposes a hardship on associational rights not justified by a compelling governmental interest, or when the investigation lacks a sufficient connection to the state's interest in investigating criminal activity. In this case, only the identities of a few people were discovered, with most of the information being partial names at best. No "membership lists," per se, were revealed. The FBI investigation in this case did not impose any "significant hardships" on the associational rights of the NAMBLA members. Nevertheless, defendant argued for an "*agent provocateur*" rule, to the effect that a government agent may not infiltrate a First

Amendment protected organization and provoke criminal conduct. The Ninth Circuit declined to impose such a rule. If an undercover agent pushes the envelope too far in his clandestine activities, the defendant is already protected by the availability of civil redress, per 18 U.S.C. § 1983. Also, any potential harm caused by such an investigation may be addressed by the Fifth Amendment's (due process) prohibition on outrageous governmental misconduct. Lastly, Agent Hamer's active participation in NAMBLA's activities were not shown to have "actually interfered with NAMBLA's expressive or associational interests." Hamer, in pretending to be a member, never misstated the organization's goals nor undermined it political message. (2) *Fourth Amendment Search and Seizure*: Defendant argued that there should be a rule requiring at least a "*reasonable suspicion*" that NAMBLA was engaged in criminal activity before an undercover operation is allowed. The Court disagreed. Undercover operations involving what is sometimes called an "*invited informer*," are not searches. "(A) person has no legitimate expectation of privacy in information he voluntarily turns over to third parties." Undercover investigations have only two requirements: That (a) they be conducted in "good faith," i.e., not for the purpose of abridging First Amendment rights; and (b) the undercover informer adhere scrupulously to the scope of a defendant's invitation to participate in the organization. Both of these requirements were met here. (3) *Fifth Amendment Outrageous Governmental Misconduct*: This theory penalizes the government "only where the government's conduct is so grossly shocking and so outrageous as to violate the universal sense of justice." Defendant argued here that the FBI crossed this line when they (a) engineered the "criminal enterprise" (i.e., the trip to Mexico) that generated the arrests, (b) manufactured federal jurisdiction, and (c) used inappropriate sexually explicit language and promises to entice defendant to commit a crime. The Court ruled, however, that (a) setting up the fake travel agency and offering him the opportunity to travel to Mexico did not involve the "engineering" of a "criminal enterprise." Defendant, who volunteered payment for his own trip, was not coerced into going. And the government did not plant "the idea of traveling for illicit sexual conduct in (defendant's) mind. It was already there. (b) Defendant failed to show that the government did anything to manufacture federal jurisdiction. The plan to travel to a foreign country for illicit sex (the federal violation) was there from the beginning and not the product of anything the government did. (c) The use of sex as an enticement is not per se coercive. Nothing Agent Hamer did or said here rose to the level of enticement sufficient to violate the Fifth Amendment (i.e., "due process"). Defendant's motion to dismiss the indictment, therefore, was properly denied.

Note: If you can get past the revulsion organizations like NAMBLA tend to generate, you need to note how valuable this case is for validating the constitutionality of operating undercover and infiltrating certain illegal organizations whether or not involved in the propagation of aberrant sexual behavior or any other form of criminal enterprise. But also note the inferences here that a government investigation can be taken too far. In fact, the decision is replete with case citations illustrating instances where the government did in fact over-step its bounds, thus violating someone's First, Fourth and/or Fifth Amendment rights. If you are, or intend to be, involved in undercover work, and want a refresher on how far you can go when pretending to be "one of them," as convoluted and confusing as this case decision might be, it is a must-read.