

# A predator laying a trap for his prey



## Know Your Rights

by Atty. Jay C. Howell

The recent scandals in Washington regarding the protection of the teenage students who serve as pages in the Congress have presented interesting challenges for the prosecution of online internet crimes. Perhaps the most important legal concept that will be at issue in any Florida law enforcement investigation into these potential crimes is also the subject of a recent Florida court decision.

In a recent Palm Beach County case, an undercover police operation gave rise to criminal charges. After learning of a tip regarding the defendant's computer conduct, a Lantana detective established an America Online account posing as a 15-year-old boy named "Bobby." He then entered a chat room entitled "Young Men" in which the defendant was participating.

The suspect began to chat with Bobby.

Following an exchange of introductory information, the defendant indicated that he hoped he and Bobby could become friends, but admitted that his age might pose a problem. He then forwarded a picture of himself to Bobby, asked for a picture and physical description from Bobby and learned that Bobby was a high school wrestler. The defendant then revealed that he was 37, and Bobby responded that they could be friends, but that he might be too young because he was 15. The conversation was concluded when the defendant gave Bobby his cell phone number.

The online chat led to both an exchange of e-mails between the defendant and Bobby and to telephone conversations. The e-mails contained typical "conversation" where the suspect offered to be "friends and more" and to do whatever made Bobby happy. The defendant remarked about Bobby's physical appearance and his desire to earn Bobby's trust. The

defendant offered to meet in a public place as an introduction to see how the two could get along.

The defendant was subsequently convicted by a jury for utilizing a computer online service, internet service or local bulletin board service to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice a child believed by the defendant to be a child. In Florida a child is an individual under 18 years of age.

One of the issues raised by the defendant on appeal was that the evidence did not constitute solicitation or other conduct which was sufficient for conviction. The secret word is predator.

The appeals court responded that, since the statute itself didn't define the key terms of seduce, solicit, lure, and entice, that the court would look to the plain and ordinary meaning of these words in a dictionary. The court cited dictionary definitions defining seduce as to "carry out a physical seduction"; solicit as "to entice or lure especially into evil" and

"to proposition someone"; lure as "to draw with a hint of pleasure or gain"; and entice as "to attract artfully or adroitly or by arousing hope or desire."

The appeals court concluded that the jury could fairly and reasonably infer that various statements made by the defendant in his online communications with Bobby met the plain and ordinary definitions of seduce, solicit, lure, and entice, even though the defendant avoided explicit references to sexual conduct. The court found that the tenor of the defendant's suggestive comments could be interpreted to demonstrate both the adroit artfulness, or enticement, and the enjoyment of active attraction or allurement of a predator laying a trap for his prey.

The trap may have been set by phrases such as, "we can be more and do whatever makes you happy," and "I'd be happy to do anything with you and/or for you right now." The court stated that when taken in the context of being directed at a believed 15-year-old boy, first contacted in a Young Men

chat room, these phrases could reasonably be construed as aimed at physical seduction and the proposition of sexual conduct.

Consequently, the defendant's conviction and sentence were affirmed by the appeals court. The trial court had sentenced the defendant to 28.2 months in prison.

Our Florida court's determination of the key phrases involved in online computer solicitation cases will often center on the same type of analysis. The bottom line may indeed be a consideration of the "plain and ordinary definitions" of these critical words.

The case is Grohs v. The State, and was decided by the Fourth District Court of Appeal on November 22, 2006.

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