

1 JUDGE SIPPEL: Well you certainly
2 would be responsible -- I'm not telling you
3 this, but I would expect that you would be
4 responsible to protect from interference from
5 the FCC standpoint?

6 THE WITNESS: Correct.

7 JUDGE SIPPEL: But beyond that is
8 there any other FCC obligations that you have
9 with respect to monitoring as you say these
10 nuisance situations?

11 THE WITNESS: Well there's actually
12 specific language in Part 97. In fact as Mr.
13 Riley Hollingsworth at a recent FCC forum in
14 Dayton gave a very eloquent discussion of the
15 difference between a closed repeater and
16 closed communications and what the
17 responsibility of repeater owners and control
18 operators is in regards to inappropriate
19 communication on their repeaters.

20 So, we feel an obligation to
21 monitor both the technical performance of the
22 machine as well as the type of traffic that

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1 occurs on it.

2 JUDGE SIPPEL: All right, well I'm
3 sure that counsel will further educate me on
4 this. But, you know whatever you learned from
5 Mr. Hollingsworth who has personally appeared
6 before me, he's a fine lawyer. I'm sure you
7 learned a lot from him.

8 Okay, I will -- I leave it at that.
9 But let me ask you this question. You have
10 these -- they're kind of like the conventions,
11 HAMventions or what not that you described to
12 me earlier and there's overnight. The people
13 stay overnight for maybe several days to
14 participate in these things. Is that right?

15 THE WITNESS: Correct, now our
16 local convention is not an overnight affair.
17 But the Dayton Convention for example is a
18 three day event. The biggest event that we as
19 a club organize as an overnight event is the
20 field day event which happens the last
21 Saturday of June every year.

22 JUDGE SIPPEL: Well on the -- all

1 right, well let me just ask you this question.
2 Generally either in terms of -- have you been
3 to the Dayton, any of the Dayton --

4 THE WITNESS: Yes, I've been to --

5 JUDGE SIPPPEL: All right, well you
6 say -- well you've got x number of young
7 people, I'm talking primarily this 10 to 12
8 whatever it is, 9 to 15 group. Is there any
9 specific precautions taken in terms of
10 protecting these children in the general
11 sense?

12 THE WITNESS: Absolutely, one of
13 the things that we try to more than encourage
14 but insist. For example, when we bring a new
15 child into the club we bring their parent in
16 with them for a couple of reasons. One is
17 obviously the responsibility involved. It
18 thereby transfers most of that to the parent.
19 But more importantly many years when we did
20 just children in the hobby they would come in,
21 they would learn enough to get their license,
22 they get their license and then go home and

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1 say look mommy I got my license and now I want
2 \$200 to go by a radio. And the parents would
3 say "What?"

4 So by involving the parents from
5 the start into the hobby they learn together.
6 They not only go out and buy one radio, they
7 go out and buy two radios so that they can
8 actually communicate parent to child. And use
9 the hobby as a means of personal family
10 communications.

11 Especially in the event of an
12 emergency where the cellphone systems and
13 other communication methods are not working
14 HAM radio provides a very reliable back up to
15 all of those systems.

16 JUDGE SIPPEL: Well let me be more
17 specific then with the question. Supposing I
18 called you and I said look, I've got a 15-
19 year-old son and I want to send him up to
20 Dayton from Washington to spend three days at
21 this convention and whatnot.

22 Can you give me any assurances that

1 he's going to be safe and secure up there?

2 THE WITNESS: Well no, there would
3 be nothing that we can do in that event. We
4 wouldn't be there to monitor it. So typically
5 we, you know things that are sponsored and
6 directly involving our club we take that
7 responsibility.

8 For example, the field day event we
9 assign specific personnel to security duty.
10 We actually have a number of law enforcement
11 and private security members that are part of
12 our club and they get a uniform and they walk
13 the grounds to make sure that we're constantly
14 monitoring everything going on.

15 JUDGE SIPPEL: Have you ever -- how
16 long have you been doing this kind of work?

17 THE WITNESS: Well it's --

18 JUDGE SIPPEL: That's right you
19 told me that. You said you started back in
20 1968?

21 THE WITNESS: Correct.

22 JUDGE SIPPEL: I mean I'm talking

1 a very general way. So you know the territory
2 in the sense of what you're telling us. From
3 '68 to the present you've been active in this
4 whole process of the HAM radio, the education,
5 etcetera, etcetera.

6 Do you -- what is your -- do you
7 have an occupation or profession?

8 THE WITNESS: Yes, I'm also
9 involved in the commercial radio business.

10 JUDGE SIPPPEL: Do you own a --

11 THE WITNESS: Pardon me?

12 JUDGE SIPPPEL: Do you own a
13 station?

14 THE WITNESS: No, in the commercial
15 two-way business. We install service and
16 support radio two-way systems for the Federal
17 agencies like FBI, Secret Service, DEA, as
18 well as local municipal and fire.

19 JUDGE SIPPPEL: What's the name of
20 your company or what is it called?

21 THE WITNESS: It's called Day
22 Wireless Systems.

1 JUDGE SIPPEL: D-A-Y?

2 THE WITNESS: Correct, D-A-Y. I
3 operate one of 24 shops that are owned by the
4 Day family.

5 JUDGE SIPPEL: Now in your
6 experience, going back to 1968, have you ever
7 experienced a situation based on your personal
8 knowledge that some licensed HAM operator has
9 engaged in soliciting young people as people
10 under 18 for illicit purposes, illegal
11 purposes, any purposes that would be
12 considered to run contrary to what your group
13 stands for?

14 THE WITNESS: No, Your Honor, I
15 never personally experienced that.

16 JUDGE SIPPEL: Have you ever heard
17 of any?

18 THE WITNESS: Not to my
19 recollection.

20 JUDGE SIPPEL: Okay, so most of the
21 problems that you encountered -- I'm always
22 interested in what the problems are. You're

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1 telling me all the good things. I know, it's
2 95 percent is all good things.

3 But the problem, the problem
4 people, these are people who are using cuss
5 words, people who are either intentionally or
6 negligently involved in interfering with other
7 transmissions. People who are just generally
8 a nuisance. Is that right. I mean is my
9 assumption right on that?

10 THE WITNESS: Those people
11 definitely exist.

12 JUDGE SIPPEL: Okay, all right,
13 thank you very much. Back to Ms. Lancaster
14 now. Sorry ma'am.

15 MS. LANCASTER: That's quite all
16 right, Your Honor.

17 BY MS. LANCASTER:

18 Q Mr. Schurman, as a matter of fact
19 don't you have some duties regarding
20 complaints received about such nuisance
21 operators?

22 A Well as a -- in my former role as

1 Chairman of the WWARA we serve as kind of the
2 clearing ground for interference complaints
3 prior to their escalation to the FCC.

4 So we as a group of local amateur
5 operators, the hobby is intended to be self-
6 policing and we tend to be the first stop
7 between operators because they may not know
8 who the other station is that's interfering.

9 And so we provide the services to
10 help identify what the offending station is,
11 where their location is, what their operating
12 parameters are so that we might first try to
13 mitigate it or nip it in the bud right here as
14 a local issue before having to escalate it to
15 the FCC.

16 Q Mr. Schurman I'm assuming -- well
17 I won't assume. Do you also listen to other
18 frequencies aside from your repeaters
19 frequency?

20 A Absolutely, most -- I think you'll
21 find most amateur operators use a feature on
22 their VHF, UHF systems called scanning and

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1 they will scan multiple repeater systems in
2 the area. Each repeater provides a different
3 group of operators and a different coverage
4 pattern.

5 So we typically monitor anywhere
6 from three to five or more of the local
7 repeaters to just connect up with our other
8 operator friends that might be monitoring one
9 or the other repeaters that we don't normally
10 operate on.

11 Q Is there a particular time of day
12 or evening or night where radio transmissions
13 seem to be used more unused?

14 A I would say at least in terms of
15 the VHF, UHF local signals the morning commute
16 hour, the afternoon commute hour, and then
17 into the evening are the most activities on
18 those frequencies.

19 Q In listening to the radio have you
20 heard foul language?

21 A Yes I have.

22 Q I'm sorry, go ahead.

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1 A We've had some experience even on
2 our local repeater there with some foul
3 language and we've asked the operators to take
4 that language to some other location besides
5 HAM radio.

6 Q And do they always cooperate
7 readily with your request?

8 A No, but we've had pretty good
9 success rates so far and we haven't had to do
10 it on our machine. But I have worked with
11 another repeater owner that experienced such
12 traffic on their repeater and we've learned
13 that the most important thing to do is just
14 don't acknowledge those people, do not respond
15 to them, do not reply to them, and if they
16 don't go away then just shut the repeater off
17 for a while and typically they get bored and
18 go away.

19 Q Do all repeaters in your
20 experience, do all repeaters shut down when
21 they have someone who is continues to use foul
22 language?

1 MR. LYON: Objection, Your Honor --

2 THE WITNESS: I've Certainly
3 experienced that here--

4 JUDGE SIPPEL: Mr. Schurman, can
5 you hear me?

6 THE WITNESS: Yes.

7 JUDGE SIPPEL: We have an
8 objection. That means that everything stops
9 while we talk about this.

10 MR. LYON: Your Honor, at some
11 point I would hope that we would get to David
12 Titus in this examination. At this point
13 we're into what happens with foul language.
14 There's no allegation of that. I think we're
15 getting pretty far afield.

16 JUDGE SIPPEL: I'll sustain the
17 objection. Okay, we're going to move into a
18 different area or different question.

19 BY MS. LANCASTER:

20 Q Well Mr. Schurman, have you heard
21 sexual comments over the HAM radio?

22 A I have not personally experienced

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1 that but I'm sure that occurs.

2 MR. LYON: Objection, move to
3 strike.

4 JUDGE SIPPEL: I will strike it
5 because we're going to have to get into a
6 definition of what you mean by that and I
7 don't want to do that. I think this is not
8 the time, place, or -- any way, sustained.

9 BY MS. LANCASTER:

10 Q Mr. Schurman, do you know David
11 Titus?

12 A Briefly, I'm going to -- he's an
13 acquaintance. I wouldn't say that we you know
14 have a friendship or anything.

15 Q How long have you known him, or
16 when did you first meet him approximately?

17 A Back we used to have a amateur
18 radio retail store here in town and I believe
19 Mr. Titus worked there at least on a part-time
20 basis and I had occasion to meet him there.

21 Q Okay, were you aware that Mr. Titus
22 is a sex offender?

1 A Yes, I am aware of that.

2 Q When did you become aware of that?

3 A I'm not sure the exact date but it
4 was I think back in -- let's see, I'm looking
5 at our exhibit here--

6 JUDGE SIPPEL: What are you looking
7 at?

8 THE WITNESS: I'm looking at
9 Exhibit 8 trying to see if it says 2006 that
10 we wrote the letter to Senator Cantwell. So
11 it was shortly before that. I'm guessing in
12 the August, July/August of '06 time frame that
13 I became aware that Mr. Titus was a registered
14 sex offender.

15 BY MS. LANCASTER:

16 Q You just said "we" wrote the letter
17 to Senator Cantwell. What -- please explain
18 to the Judge what part you paid in writing
19 that letter which is Exhibit 8?

20 MR. LYON: Objection, irrelevant
21 Your Honor.

22 JUDGE SIPPEL: Hold just a second

1 Mr. Schurman, I'm sorry. Well what's -- can
2 you be more specific on the relevance?

3 MR. LYON: Sure Your Honor, the
4 fact that he played a part in writing a letter
5 that you have limited authority. The fact
6 that it was sent to Senator Cantwell I don't
7 see where that gets us anywhere close to
8 resolving the issue.

9 JUDGE SIPPEL: Well the thing --
10 but did they make -- the main objection is
11 that it was hearsay, which it certainly is.
12 But if this person is an author --
13 participated in it's authorship --

14 MR. LYON: Okay Your Honor, but
15 it's also -- okay.

16 JUDGE SIPPEL: I'm not going to let
17 it go too far.

18 MR. LYON: Okay.

19 JUDGE SIPPEL: Okay, so I'm
20 overruling the objection. You want to
21 rephrase the question or did you understand
22 the outstanding question Mr. Schurman?

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1 THE WITNESS: I didn't understand
2 it. I didn't hear the objection, so.

3 MS. LANCASTER: I'll repeat it,
4 Your Honor.

5 JUDGE SIPPEL: All right, I'll
.6 explain to him. What happened was it's been -
7 - because -- can I explain something to you.
8 Can you hear me?

9 THE WITNESS: Yes, I hear you fine.

10 JUDGE SIPPEL: All right, with
11 respect to this Exhibit 8, we went through
12 this process yesterday, just the lawyers and
13 myself and the reporter.

14 And Exhibit 8, because there was
15 nobody that was in this room to testify as you
16 are about participating in the letter, the
17 only thing that was allowed to come into
18 evidence for was to suggest for the fact that
19 there was a complaint made to Senator
20 Cantwell.

21 All right, so we're going beyond
22 that a bit now to ask your participation in

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1 some of the events that are preparing the
2 letter including some of the -- you know, your
3 knowledge of some of the events that are in
4 the letter. Did you have any. So I'm going
5 to just let -- you understand that's where we
6 are and there was an objection about that just
7 now.

8 So you're permitted to go ahead and
9 answer these questions.

10 BY MS. LANCASTER:

11 Q Mr. Schurman, do you have a copy of
12 Exhibit 8 in front of you?

13 A I do right here.

14 Q And is it my understanding your
15 prior comment that you collaborated with the
16 language to be used in this letter?

17 A Yes I did, Mr. Condon and I of
18 course are both partners as well as office
19 holders in the Lake Washington HAM Club. I
20 was the one of the two of us that first
21 discovered Mr. Titus' status as a sex
22 offender.

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1 Immediately discussed it with Mr.
2 Condon as our responsibility to the club. We
3 discussed what action we should take. We
4 discussed what both of our feelings were in
5 regard to this and he ended up being the
6 individual to write the letter as he typically
7 does for our club as secretary.

8 In this case he decided to send it
9 out on personal letterhead rather than on club
10 letterhead. But nonetheless it was a
11 collaboration of the two of us that generated
12 this letter.

13 Q Would you look at -- let's see,
14 one, two, three, four, five, six, paragraph
15 seven. It's the last paragraph on the first
16 page of the letter.

17 A Correct.

18 Q And would you read that to yourself
19 first.

20 A Okay.

21 Q In your experience does radio
22 provide a very safe place for children to

1 learn to communicate, improve their radio
2 skills?

3 A We believe --

4 MR. LYON: Objection, opinion.

5 JUDGE SIPPEL: Wait a minute, wait
6 a minute. We have an objection again.

7 MR. LYON: Objection, opinion, Your
8 Honor.

9 MS. LANCASTER: Your Honor, I
10 believe he has shown that he has some
11 experience in this area and he's entitled to
12 have an opinion. There's nothing
13 objectionable about his opinion being
14 admitted.

15 MR. LYON: Your Honor, he's
16 entitled to have an opinion but he isn't
17 entitled to give it as evidence.

18 JUDGE SIPPEL: Well I'm going to
19 sustain the objection. I mean this is going -
20 - there's too many qualifiers in this language
21 that would require much more of a foundation.
22 And the objection is sustained. Let's move

1 on.

2 BY MS. LANCASTER:

3 Q Mr. Schurman, you expressed your
4 concern upon learning that Mr. Titus was a sex
5 offender. Is that correct?

6 A Yes I did.

7 Q And could you please explain to the
8 Judge more specifically what your concerns
9 are?

10 A Well --

11 MR. LYON: Objection, this would
12 call for an opinion.

13 JUDGE SIPPEL: Wait just a second
14 sir. Wait just a second.

15 MR. LYON: This will call for a
16 further opinion, Your Honor.

17 MS. LANCASTER: It may or my not,
18 Your Honor. It may be based in fact. Until
19 you hear it you don't know what it's going to
20 call for.

21 JUDGE SIPPEL: All right, I'm going
22 to permit the question. I'm going to overrule

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1 the objection.

2 THE WITNESS: Okay, could you
3 repeat the question please?

4 BY MS. LANCASTER:

5 Q Yes, would you please explain to
6 you what about -- to the Judge what about Mr.
7 Titus' participation in amateur radio causes
8 concern on your part?

9 A Well as we -- our club specifically
10 targets ages 10 to 12 and on either side of
11 that but certainly the bell curve peak is in
12 that 10 to 12 a very impressionable age that's
13 specifically why we target that age.

14 It's very easy, their easier to
15 manipulate than children to learn the aspects
16 of the hobby that they need to be successful.
17 So that their also impressionable on many
18 other topics and subjects besides HAM radio.

19 So it's a very great deal of
20 concern especially when we go and we've heard
21 these parents tell them to involve their
22 children in this. That this is a very safe

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1 inter-generational hobby that they can get
2 involved in only to discover that there are
3 sex offenders among the licensees which was
4 actually quite shocking to me to discover that
5 they were.

6 I knew that there are you know
7 specific provisions in the FCC rules regarding
8 felons holding license privileges. But it
9 only restricts them if they use the license in
10 the execution of some crime. They immediately
11 revoke their license. But in other
12 circumstances there is no such provision.

13 So it was a bit of a shock for us
14 to learn that a sex offender could hold a
15 license and we certainly have a great deal of
16 concern since we had identified four or five
17 local repeaters as good repeaters for the kids
18 to use only to discover that one of them was
19 in fact a licensed repeater owned by Mr.
20 Titus.

21 Q And why does that cause you
22 concern?

1 A Because there is you know unlimited
2 -- virtually unlimited access to these
3 children by virtue of the fact that they are
4 sitting there on a channel that's being
5 monitored by the individual.

6 . So, there is -- we can't all always
7 be there to monitor those transmissions. So
8 there is -- while it's a party line there's no
9 such thing as a private communication in
10 amateur radio. There certainly is the access
11 to these children by virtue of that repeater
12 system.

13 Q Mr. Schurman, when two party, two
14 amateur radio operators want to have a more
15 private conversation what generally happens?

16 A Depending on where they physically
17 are in relation to each other they may choose
18 to take frequency from the repeater frequency
19 and talk on what we call a simplex frequency
20 where they can if they have radio range
21 between their two transceivers they can
22 communicate directly from one to the other

1 without going through a repeater system.

2 Often times if they want to hold a
3 private conversation they might just say, can
4 you give me a cell phone call. So sometimes
5 if we have something to talk about that would
6 not be appropriate because there are certain
7 restrictions about what kinds of communication
8 can occur on HAM radio, we would opt to go to
9 either a land line or a cell phone for that
10 kind of private communication.

11 JUDGE SIPPEL: What is the simplex
12 you said -- simplex what is that, simplex
13 what?

14 THE WITNESS: That's when we're not
15 using a repeater system. Where one repeater,
16 or one radio transceiver communicates on a
17 frequency received by the other station. They
18 reciprocate on exactly the same frequency. So
19 there is no relay of the signal. It is going
20 directly from one transceiver to the other.

21 JUDGE SIPPEL: I see, and what was
22 that terminology again. Simplex what?

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1 THE WITNESS: Simplex, just simplex
2 communications.

3 JUDGE SIPPEL: I got you. I
4 understand what you said, thank you.

5 BY MS. LANCASTER:

6 Q Is it your concern that there may
7 be contact -- that Mr. Titus would have
8 greater access to contact with minors because
9 he is a repeater operator?

10 A Absolutely --

11 MR. LYON: Objection, speculation.

12 JUDGE SIPPEL: Wait a minute, wait
13 a minute, wait a minute. I'm sorry sir, we
14 have an objection.

15 MS. LANCASTER: His concern does
16 not call for speculation, Your Honor.

17 JUDGE SIPPEL: Well for my benefit
18 would you just repeat that question. I want
19 to see what he's objecting to.

20 MS. LANCASTER: I said, I asked him
21 if it was his concern that Mr. Titus as a
22 repeater operator would have greater access to

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