

1 and why you were there?

2 JUDGE SIPPPEL: Well wait a minute
3 that assumes. That assumes the fact that I'm
4 not sure is in evidence. And he has already
5 testified to this Ms. Lancaster. So I don't
6 think it's fair to go back over it again.
7 It's just not fair.

8 MS. LANCASTER: I'm asking him what
9 he told the policeman.

10 JUDGE SIPPPEL: Well I think we
11 covered that.

12 MR. LYON: I think so too.

13 JUDGE SIPPPEL: I mean at least we
14 covered it to the point where you certainly
15 have -- I mean you did talk a lot about that
16 area of interest that you're pursuing.

17 And you know whether or not you
18 asked him that exact question I don't know.
19 But I just don't think it's fair to go back
20 over that territory again. And again we have
21 a time constraint here.

22 MS. LANCASTER: Okay.

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1 JUDGE SIPPEL: Let's move on
2 please.

3 BY MS. LANCASTER:

4 Q Mr. Titus, what is cruising?

5 MR. LYON: Objection, irrelevant.

6 JUDGE SIPPEL: Sustained.

7 MS. LANCASTER: Your Honor, I don't
8 think it is irrelevant. It's a sexual conduct
9 and I don't think it's irrelevant.

10 MR. LYON: Do you want to respond
11 to it?

12 JUDGE SIPPEL: Yes.

13 MR. LYON: Again, unless they can
14 tie it somehow to kids his sexual conduct is
15 his private business. His sexual conduct with
16 adults is his own business and he has a
17 constitutional protected right to engage in
18 it.

19 JUDGE SIPPEL: All right, I'm not
20 going to argue that point. You're right but
21 that's not what we're getting at here.

22 I'm going to permit the question.

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1 What do you understand to be cruising?

2 THE WITNESS: I cruise in my car on
3 the beach sometimes.

4 JUDGE SIPPEL: All right.

5 BY MS. LANCASTER:

6 Q Do you cruise for sex?

7 MR. LYON: Objection.

8 JUDGE SIPPEL: No I'll let it --
9 I'll let in. I'll allow that, overruled. Go
10 ahead.

11 THE WITNESS: I have in the past.

12 BY MS. LANCASTER:

13 Q So can you describe to me or define
14 what cruising for sex is?

15 A I believe there could be many
16 definitions for that. Different people have
17 different methods on which they cruise. There
18 has been times I have been walking down the
19 street and made eye contact with somebody and
20 that's cruising and we've had an encounter.

21 Q Is cruising -- based on your
22 experience is cruising for sex in parks

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1 common?

2 A Within the gay community I think
3 there's a good deal of that. That's not all
4 parks though. There's usually specific parks.

5 Q What do you mean?

6 A I think there's generally, in my
7 experience there are parks that are known as
8 cruising spots to pick up other guys. That
9 doesn't mean that every park is like that.

10 Q What other kinds of places are
11 commonly cruised?

12 A Sometimes restrooms, sometimes book
13 stores, sometimes the mall, sometimes the
14 internet.

15 Q Have you used each of those. Have
16 you cruised in each of those places?

17 MR. LYON: Your Honor, would the
18 record note my continuing objection.

19 JUDGE SIPPPEL: Yes, I'm overruling
20 the objection for now. But it is a continuing
21 objection.

22 THE WITNESS: I have probably

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1 participated in all of those cruisings once at
2 least.

3 BY MS. LANCASTER:

4 Q I'm sorry, is that your whole
5 answer?

6 A Yes, it's pretty common in the gay
7 community.

8 Q Okay, when is the youngest age that
9 you recall cruising. When did you start
10 cruising?

11 JUDGE SIPPEL: Well that's not --
12 no, no that's it. We've had it. I mean I --

13 MS. LANCASTER: I have another
14 question here, Your Honor.

15 BY MS. LANCASTER:

16 Q If you're cruising or you're
17 picking up someone to have sex with them how
18 do you determine their age?

19 JUDGE SIPPEL: That is -- all
20 right, go ahead, go ahead.

21 THE WITNESS: Well that can e
22 difficult. If I think that there is any

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1 chance that they may be too young or on border
2 I would ask for id.

3 BY MS. LANCASTER:

4 Q Do you find teenagers attractive?

5 A I have.

6 MR. LYON: Objection as to
7 relevance. 19 is a teenager.

8 BY MS. LANCASTER:

9 Q Do you find minor teenagers
10 attractive?

11 MR. LYON: Actually let me rephrase
12 that objection.

13 JUDGE SIPPEL: Yes.

14 MR. LYON: Objection as to anyone
15 16 or older since 16 is the age of consent in
16 Washington.

17 JUDGE SIPPEL: Well I understand,
18 I understand. The objections are well taken.
19 However, the Government does have the right to
20 put it's case on and they do have this theory
21 of deviancy or something like that and I'm
22 going to let them pursue it up to a reasonable

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1 point.

2 You're pushing the point. But go
3 ahead, go ahead.

4 THE WITNESS: I have on occasion
5 found somebody that's a teenager attractive.

6 BY MS. LANCASTER:

7 Q As someone who is a minor?

8 A Yes.

9 MR. LYON: Same objection with
10 respect to 16.

11 JUDGE STPPEL: I hear you.

12 BY MS. LANCASTER:

13 Q And you state that you -- if you
14 find them attractive and they want to have --
15 you want to have sex and you want to have sex
16 that you basically ask for identification?

17 A I have in the past, yes.

18 Q Has it ever been your experience
19 that teenagers frequently, or sometimes have
20 identification that states that they are older
21 than they really are?

22 A I have no way of knowing such, I'm

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1 sorry.

2 JUDGE STIPPEL: This is where I want
3 it to stop. I don't want it to go into things
4 like that. He's given you is modus operandi
5 and if it goes beyond that we're fishing for
6 oysters. I don't know.

7 BY MS. LANCASTER:

8 Q What is an "elmer"?

9 MR. LYON: Objection.

10 MS. LANCASTER: Objection?

11 MR. LYON: I object.

12 MS. LANCASTER: Why?

13 MR. LYON: Because I have no
14 concept of where you're going. Your Honor,
15 that's not a valid objection.

16 JUDGE STIPPEL: No, it's not but --

17 MR. LYON: He can overrule it.

18 JUDGE STIPPEL: Well let's find out
19 what an "elmer" is. Do you know anything
20 about an "elmer"?

21 THE WITNESS: There's one
22 definition I know of "elmer" that relates to

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1 HAM radio that I'm familiar with.

2 JUDGE SIPPEL: What would that be?

3 THE WITNESS: It's the same thing
4 John Schurman just covered, talked about
5 earlier in his testimony is generally somebody
6 that helps somebody -- somebody that is an
7 experienced HAM radio person that helps
8 somebody that's inexperienced person or new
9 person into the HAM radio hobby.

10 That's what "elmer" generally is.
11 It's like a teacher or a shop owner or guide,
12 or tutor.

13 JUDGE SIPPEL: I hear you, that's
14 good enough. Is that what you wanted to find
15 out?

16 MS. LANCASTER: Yes, yes.

17 JUDGE SIPPEL: All right.

18 BY MS. LANCASTER:

19 Q Have you ever been a "elmer" to
20 someone less experienced than yourself in HAM
21 radio?

22 A Have I ever -- not that I can

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1 recall off the top of my head.

2 Q Let's talk briefly about your HAM
3 radio activities. It's my understanding that
4 you have been a member of Northwest APRS for
5 approximately six to seven years. Is that
6 correct?

7 A That's correct, it could be a
8 little longer, but around that time frame.

9 Q And what does APRS stand for?

10 A Automatic Position Recording
11 System.

12 Q And what does that do?

13 A Basically what APRS does is it
14 using a typically using a HAM radio
15 transceiver and GPS And data modem. It
16 beacons your current location into the amateur
17 radio airwaves.

18 Q Okay, so it -- correct me if I'm
19 mistaken but it takes like a GPS signal, which
20 we think of like a tracking device. And it
21 puts that into a radio wave somehow. I guess
22 it is a radio wave to begin.

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1 A I guess I can be your "elmer" huh?

2 Q Yes.

3 JUDGE SIPPEL: Go ahead, keep
4 going.

5 THE WITNESS: Yes, essentially I
6 mean that's what happens. You're getting GPS
7 coordinates into a data modem and that's
8 transmitted over a radio. But it's not always
9 you don't always get that location from a
10 GPS. You could statically enter that, those
11 GPS coordinates into that radio modem.

12 MS. LANCASTER: Okay.

13 BY MS. LANCASTER:

14 Q And is Northwest APRS a large
15 organization?

16 A I would say it's fairly large. I
17 don't know the exact numbers. It's kind of a
18 loosely affiliated group. But I would say
19 it's fairly large, over 100.

20 Q Okay, and do they have minors as
21 members of this group?

22 JUDGE SIPPEL: Define what you mean

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1 by minors. You mean under 21, under 18, under
2 what?

3 BY MS. LANCASTER:

4 Q Under 16, are there any members as
5 far as you know that are under 16?

6 A I don't know that there are any
7 members that are under 16. I don't know that
8 for sure.

9 Q Have you ever seen any children 16
10 or younger that attend any of the functions
11 associated with this group?

12 A I have seen some children that I
13 believe that are probably under the age of 16
14 attend some of the events, yes.

15 Q And you attend some of the events,
16 is that correct?

17 A That's correct.

18 Q Okay, and you are as I understand
19 it a member of ARRL, American Radio Relay
20 League. Is that correct?

21 A That's correct.

22 Q And that's a large organization?

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1 A Yes.

2 Q Do they have local functions?

3 A Yes.

4 Q Have you ever attended any
5 functions sponsored by ARRL?

6 A Yes.

7 Q And at those functions have you
8 ever seen minors at the of approximately 16 or
9 younger in attendance?

10 A I believe so.

11 Q Okay, you are a former Assistant
12 Emergency Coordinator. Is that correct?

13 A That's correct.

14 Q And explain what you do as the
15 former Assistant Emergency Coordinator. Or
16 what you did as the Assistant Emergency
17 Coordinator?

18 JUDGE SIPPPEL: Well let's get the
19 time frame first.

20 MS. LANCASTER: Okay.

21 BY MS. LANCASTER:

22 Q Are you currently an Assistant

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1 Emergency Coordinator?

2 A No.

3 Q When were you?

4 A I was probably around year 2000,
5 2001 somewhere around that time frame for
6 maybe a couple of years, maybe two years.

7 Q Okay, and what did you do when you
8 were the Assistant Emergency Coordinator?

9 A Mostly I attended the regular
10 monthly meetings, that is a monthly gathering
11 of all the ARES team of leadership.

12 I was actually specifically the
13 liaison between ARES and the HAM radios at
14 that time.

15 Q Okay, at these monthly meetings
16 were there ever minors of the age of 16 or
17 below at these meetings?

18 A I've never seen one, no.

19 Q No?

20 A No, not that I'm aware of.

21 Q Okay, you kind of broke up on that
22 answer.

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1 A Did you need me to reanswer it for
2 you?

3 Q No, I heard it, thank you. You
4 were active in the Microsoft Radio Club. You
5 were a co-founder. Is that correct?

6 A I was a co-founder of MicroHAMS,
7 yes.

8 Q Right, MicroHAMS being the name of
9 the club associated with Microsoft?

10 A Yes.

11 Q And as the cofounder and a member
12 you ran their field exercises. Is that
13 correct?

14 A I was one of the primary people for
15 getting the field day started, yes.

16 Q And okay did minors under the age
17 of 16 or younger attend, ever attend these
18 field day exercises?

19 A Yes, on occasion I've seen some
20 parents bring their kids by.

21 Q Okay, with respect to these
22 questions that I've asked you I'd like to

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1 change my question to reflect the age of 15 or
2 younger. Does that change any of your answers
3 regarding any of these --

4 A No.

5 Q No?

6 A No it does not.

7 Q Are you a member of the Amateur
8 Radio Emergency Service group -- this liaison
9 position was the one that you were just
10 talking about earlier, is that correct?

11 A Yes, that's correct.

12 Q And you operate a repeater, you
13 currently operate a repeater, is that correct?

14 A Yes.

15 Q At what frequency?

16 A 444.375.

17 Q When did you begin operating this
18 repeater?

19 A I'm going to have to say within the
20 last six or seven years. Seven years is the
21 maximum I believe.

22 Q Do you own the repeater?

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1 A This particular hardware that's up
2 there right now I do not own.

3 Q Who owns it?

4 A John Furuya.

5 JUDGE SIPPEL: How do you spell
6 that?

7 THE WITNESS: I have to look that
8 up.

9 MS. LANCASTER: Mr. Furuya is one
10 of their affidavit witnesses, Your Honor. I
11 believe he's their Exhibit 6.

12 THE WITNESS: Yes, that's right.

13 JUDGE SIPPEL: I heard that name
14 yesterday.

15 MS. LANCASTER: It's F-U-R-U-Y-A.

16 JUDGE SIPPEL: I just turned to it,
17 thank you.

18 THE WITNESS: That's correct.

19 JUDGE SIPPEL: Okay, I didn't pass
20 the test today.

21 BY MS. LANCASTER:

22 Q So Mr. Furuya owns the equipment

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1 that you use for your repeater?

2 A He owns the actual repeater and the
3 repeater controller.

4 Q And what do you do in connection
5 with the repeater?

6 A I set up the computer and got
7 computer interface set up between the computer
8 and the controller. I coordinated the
9 frequency pair. I coordinated the
10 relationship to get the space to put the
11 repeater.

12 I also am the main control operator
13 for the repeater. And generally the one --
14 I'm generally the person that's known as the
15 repeater owner. I do have my own hardware
16 that can go up there. But at the time we
17 decided to put John's hardware up there and
18 that's just the way it is.

19 Q Who monitors the traffic on the
20 repeater?

21 A That's a pretty broad question.
22 There's quiet a few HAM radio operators that

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1 I'm sure monitor on occasion. I generally
2 always have the repeater frequency on my radio
3 when I'm at home.

4 Also when I'm on my motorcycle or
5 in my vehicles. Occasionally when I'm on a
6 handle walking around. Sometimes remotely
7 from the internet when that parts are working.

8 Q Who has the legal responsibility
9 under the FCC rules -- strike that. Do you
10 understand that the owner or operator of a
11 repeater has a legal obligation under the FCC
12 rules to monitor the repeater traffic?

13 MR. LYON: Can counsel refer the
14 witness to the specific rule?

15 MS. LANCASTER: No.

16 JUDGE SIPPPEL: Why not?

17 MS. LANCASTER: Because I don't
18 have it in front of me. But it was discussed
19 with Mr. Schurman this morning when you were
20 sitting right there.

21 BY MS. LANCASTER:

22 Q Are you not familiar with the

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1 rules?

2 A I don't know the rules by book.

3 Q You don't know the FCC rule about
4 monitoring a repeater?

5 A I know that there is a rule in
6 there about monitoring. But I don't believe
7 it says it there that I have to constantly
8 monitor it 24 hours. But I have availability
9 to be gotten a hold of if there's a problem on
10 the repeater and somebody hears it.

11 Q No, I was not -- I'm sorry.

12 A I monitor it as much as I possibly
13 can. That's correct.

14 Q Approximately how many hours a day
15 do you listen to the traffic on that repeater?

16 A Well I would say active listening
17 the average is probably over six hours a day
18 over a one year period.

19 It remains on while I'm sleeping at
20 night so even though, you know I'm asleep I
21 could hear it if something happens. But I
22 don't really consider that active monitoring.

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1 Q Okay, you listen to the repeater
2 the whole time that you're at home then?

3 A Generally it would be yes.

4 Q And frequently when you're out on
5 the road and you have access to a radio
6 you're listening to your repeater. Is that
7 true?

8 A Yes.

9 Q Okay.

10 JUDGE SIPPPEL: You even have a
11 device on your motorcycle to listen to it too?

12 THE WITNESS: Yes I do.

13 JUDGE SIPPPEL: How does that differ
14 from say in your automobile?

15 THE WITNESS: Well it differs
16 because you don't generally use a microphone,
17 a handle microphone when you're on the radio.
18 You usually use a -- you know one that's built
19 into a helmet and you know that type of thing.

20 But the particular radio I have it
21 has a microphone and I push the top button on
22 the head of the radio so I can actually -- if

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1 I'm stopped I can actually use it like that.
2 I also have two speakers mounted up there as
3 well so I can constantly hear my repeater --
4 I can constantly monitor it while the FM
5 stereo is going as well.

6 So, when I'm on the motorcycle --

7 JUDGE SIPPEL: Are you talking
8 about your car or your motorcycle. I was
9 asking just about the motorcycle.

10 THE WITNESS: Yes, motorcycle, I'm
11 speaking of motorcycle.

12 JUDGE SIPPEL: Okay.

13 BY MS. LANCASTER:

14 Q Mr. Titus, you have paid Dr. Allmon
15 to testify on your behalf and to work up a
16 report on your behalf in two proceedings. Is
17 that correct?

18 MR. LYON: Objection to the form of
19 the question.

20 JUDGE SIPPEL: Can you expand that?

21 MR. LYON: Well, it's the
22 characterization of paid him to testify. I

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1 mean he's paid him to do a report and he is
2 being compensated for his testimony, but
3 paying him for his testimony seems to be a
4 nefarious concept.

5 MS. LANCASTER: I disagree Your
6 Honor, it wasn't meant that way and he is
7 being paid.

8 JUDGE SIPPEL: Well wait a minute.
9 Did we have a record here to concern. But
10 I'll sustain it to the extent that it's a
11 request for clarification. I'll sustain it.
12 It's the same question, so.

13 Go ahead, do you understand what
14 the question is now?

15 THE WITNESS: So you want to know
16 if I paid Dr. Allmon to write up a sexual
17 deviancy evaluation and also confirming that
18 I will be paying him for his testimony?

19 MS. LANCASTER: Yes, that's part --

20 JUDGE SIPPEL: No, no, no that
21 you'll be asking to pay for his testimony.
22 You'll be paying -- you're paying him to

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1 testify on your behalf in this proceeding.

2 THE WITNESS: Yes, I have to pay
3 him to testify on my behalf, that's correct.

4 BY MS. LANCASTER:

5 Q Okay, and how much have you paid
6 him for the report, his report and do you
7 anticipate paying for his time with regard to
8 this proceeding?

9 A Well I know he went up \$1,000
10 yesterday. So far I've paid him a total of I
11 believe \$3,000, \$3,500. I think when it's all
12 said and done with I'm hoping it's less than
13 \$10,000.

14 Q And that's for this proceeding
15 alone is what you estimate?

16 A That's correct.

17 Q Okay, and it's my understanding
18 that Dr. Allmon will also be a witness in
19 another proceeding. Be a witness on your
20 behalf in another proceeding. Is that
21 correct?

22 A I don't know that for sure at this

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1 point.

2 Q Is there another proceeding related
3 to your sexual offender status. Is there
4 another proceeding pending at this point?

5 A Yes, there is.

6 Q And would you please tell us what
7 that is?

8 A I am filing a petition with the
9 Court to get a certificate of rehabilitation,
10 my civil rights restored and termination of
11 the duty to register as a sex offender.

12 Q And that petition has already been
13 filed?

14 A I don't know.

15 Q So you're unable to tell me the
16 current status of that matter?

17 A That's correct. I think I'll know
18 more about that tomorrow.

19 Q Did you -- have you received notice
20 from the prosecuting attorney that they will
21 not concur in your application to have your
22 civil rights restored and not being able to --

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