

**From:** "[REDACTED]" <[REDACTED]>  
**To:** "[REDACTED]" <[REDACTED]>, "[REDACTED]" <[REDACTED]>

**Subject:** accessory

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Just throwing this out there, but accessory after the fact (18 U.S.C. 3) has the following elements:

First, that the crime of [specify crime] alleged in the Indictment was committed by [specify offender];

Second, that the defendant had knowledge of the commission of that crime and [the offender's] participation in it;

Third, that with such knowledge, the defendant in some way assisted [the offender] with the specific purpose or plan to hinder or prevent [the offender's] apprehension, trial or punishment.

The punishment is: an accessory after the fact shall be imprisoned not more than one-half the maximum term of imprisonment [. . .]; or if the principal is punishable by life imprisonment or death, the accessory shall be imprisoned not more than 15 years.

One-half the maximum term of conspiracy to commit sex trafficking being, of course, a cap of 2.5 years. The guidelines would be higher for accessory than for misprision – it's the same calculation as obstruction, it goes to 2X3.1 (though really you start at 2X1.1, because conspiracy, but you still end up in the same place), so would be 41 to 51 months (assuming a 3 point reduction for role – or with no role reduction, could be as high as 57-71). Versus closer to something like 21-27 (with no role reduction) or down to 12-18 (with role reduction) for misprision, because it caps at 19 base offense. But also versus a three year cap for misprision.

I don't have strong feelings about this in any direction, just noticed it while looking for the misprision elements and figured worth mentioning, depending on our views of what the conduct is most appropriately encompassed by.

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