

From: Bradley J. Edwards
To: [REDACTED]
Subject: Epstein
Date: Tuesday, July 28, 2009 8:59:00 AM

Hi Susan,

I read the article you did recently on Dadurian suing Maralago for failing to return her membership deposit. By any chance do you have a list of the members? Or even more importantly, do you happen to have a list of the members that have been banned? I think you know where this is going...

Also, were you one of the reporters at Epstein's house these past few days? Just curious what was going on over there. whether he was still finding some way to get his hands on little kids. Anyway, let me know if you have anything. I will keep you in the loop as things develop.

Sincerely,

Bradley J. Edwards
Partner
Rothstein Rosenfeldt Adler| Attorneys at Law
Las Olas City Centre
401 East Las Olas Boulevard, Suite 1650
Fort Lauderdale, FL 33301
[REDACTED]

Break
perpetuating
Epstein
press
"hands on
little kids?"
he knows his
is entire

01483

EFTA01118777

From: Rush, George
To: Bradley L. Edwards
Subject: Epstein updates
Date: Tuesday, October 20, 2009 1:01:25 PM

REDACTED

WORK PRODUCT
how is this
work product?

This transmission is intended only for the use of the addressee and may contain information that is confidential, privileged and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of the information contained herein is strictly unauthorized and prohibited. If you have received this communication in error, please notify the sender immediately and delete this message. Thank you.

This transmission is intended only for the use of the addressee and may contain information that is confidential, privileged and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of the information contained herein is strictly unauthorized and prohibited. If you have received this communication in error, please notify the sender immediately and delete this message. Thank you.

01433

EFTA01118778

From: [REDACTED]
To: Bradley J. Edwards
Subject: GOD SPEED RECOVERY!!!!
Date: Monday, August 31, 2009 10:58:33 AM

Hi Brad,
Hope you are well on your way to a Godspeed recovery! Please could you forward the names of the girls in NY, I somehow deleted those emails!!!!
Many thanks,
[REDACTED]

Aug 24, 2009 07:38:41 PM, [REDACTED] wrote:

[REDACTED]
Sorry it took me a couple days. I actually forgot about it. If the link still does not allow you to open it, then I am also giving you all the information so that you can get it from Pacer. It is Jane Doe 102 v. Epstein, case number 09-80656. Let me know if you need anything else from me and also if you hear of anything that would be helpful. I am still working on some things for you.

<https://ecf.flsd.uscourts.gov/doc1/05116541941>

Sincerely,

Bradley J. Edwards

Partner

Rothstein Rosenfeldt Adler| Attorneys at Law

Las Olas City Centre

401 East Las Olas Boulevard, Suite 1650

Fort Lauderdale, FL 33301

[REDACTED]

This shows that he failed
to produce emails that
include names of NY girls
can't be privileged
So where is this event?
02895

Getting the
press to
attend
meetings

From: Bradley J. Edwards
To: Glasser, Eric (WPTV)
Subject: RE: hey Brad!
Date: Tuesday, June 09, 2009 3:10:00 PM
Attachments: image002.jpg

FYI – The motion to unseal the non-prosecution agreement (agreement between Epstein and the government) is in front of Judge Colbath tomorrow morning at 10:30 in courtroom 11F. I know that Tim wanted to have you guys there and we would love that too. Thanks

Bradley J. Edwards
Partner
Rothstein Rosenfeldt Adler| Attorneys at Law
Las Olas City Centre
401 East Las Olas Boulevard, Suite 1650
Fort Lauderdale, FL 33301

From: Glasser, Eric (WPTV) [REDACTED]
Sent: Tuesday, June 02, 2009 10:24 AM
To: Bradley J. Edwards
Subject: hey Brad!

I am working on getting you a copy. Peter OK'd it – so I'll keep you posted.

Email me the address you want it sent to, OK?

Talk soon,

Eric

06655

EFTA01118780

Mike_Fisten002338@MailContent.htm

From: Mike Fisten
Sent: Sep 28, 2009 23:45:22
To: [REDACTED]
Cc:
Bcc:
Subject: Note

*Comments
between Fisten
& his agent
re: sense of FBI Agent
where all emails
between
Fisten &
FBI?*

Hi [REDACTED]

Just stopping by to say Hi, hope you had a pleasant trip back North. I'll keep you posted as issues develop. Also I had a long talk with my agent about you and your project this weekend. He seemed very interested. I have been reading a lot lately about trafficking of children. The more I read the more I believe JE has been doing this for some time. Bringing dozens of girls on false immigration documents from Eastern Europe, and Brazil to the US through the modeling agency. Where are all these girls now? Did they sell them? Someone in the news show 60 minutes caught on to this scheme 10 years ago and no one stepped in to stop it ""Karins Models founder Brunel, who's currently a partner in MC2, denied allegations in a 1997 ""60 Minutes"" segment that he took advantage of young models who were high on drugs. Brunel also reportedly left his Trump Tower digs in 1999 after complaints of night carousing, which he also denied. Disgraced former Elite models exec Gerald Marie is also involved with MC2, says our source. Marie was accused of having sex with underage models in a 1999 BBC documentary where he was filmed saying he hoped to seduce contestants in a modeling contest in which the average age of participants was 15. He also dated [REDACTED] when she was a teen. ""

Hope all is good,

Mike

Mike Fisten, Senior Intelligence Agent

Rothstein Rosenfeldt Adler | Attorneys at Law

401 East Las Olas Boulevard, Suite 1260

Fort Lauderdale, Florida 33301



From: Michele Dargan
To: Bradley J. Edwards
Subject: Re: Epstein filing
Date: Wednesday, July 15, 2009 1:22:54 PM

Brad propelled this whole process again he is the one fueling the media!

No problem Brad. I totally understand being short staffed. No worries. I just want to be the story as complete as possible and, of course, to have your voice in it since you propelled this whole process.
Michele

On 7/15/09 1:17 PM, "Bradley J. Edwards" <[REDACTED]> wrote:

I'm sorry Michele. My secretary is out, so I forwarded the instruction to another lawyer in the firm and it was delegated to another secretary. I hope you get it today, but like I said we are a person down right now staff-wise, so I will do my best to follow up and get you the response.

Bradley J. Edwards
Partner
Rothstein Rosenfeldt Adler| Attorneys at Law
Las Olas City Centre
401 East Las Olas Boulevard, Suite 1650
Fort Lauderdale, FL 33301

From: Michele Dargan [REDACTED]
Sent: Wednesday, July 15, 2009 12:59 PM
To: Bradley J. Edwards
Subject: Epstein filing

Hi Brad,

I hate to be a pain, but I'm bumping up on deadline for tomorrow's paper and haven't received your e-mail filing yet and I definitely want to include your position in my story.

If you can e-mail me that pleading soon, I will be able to include your position in my story.

Thanks in advance,
Michele

--
Michele Dargan, staff writer
Palm Beach Daily News
[REDACTED]

04905

EFTA01118782

*Brad answering
for interviews of
his anonymous
clients*

From: Malloy, Timothy (WPTV)
To: Bradley J. Edwards
Subject: RE: Epstein
Date: Tuesday, May 26, 2009 5:33:30 PM

Have called your office, we're good tomorrow if you are Tim 561 718 5953

From: Bradley J. Edwards [mailto: [REDACTED]]
Sent: Tuesday, May 26, 2009 4:58 PM
To: Malloy, Timothy (WPTV)
Subject: Epstein

Hi Tim,

I was able to reach my client, and we would be able to arrange for an interview tomorrow. Please contact me at your earliest chance.

Bradley J. Edwards
Partner
Rothstein Rosenfeldt Adler| Attorneys at Law
Las Olas City Centre
401 East Las Olas Boulevard, Suite 1650
Fort Lauderdale, FL 33301



05151

From: Bradley J. Edwards
To: Michele Dargan
Subject: Epstein applicable statutes
Date: Friday, September 18, 2009 2:55:00 PM
Attachments: image001.gif
image002.gif

*Brad provided
Daily News with
Fed Legal Statutes
= applicable
Epstein
Statutes*

I did not pull the conspiracy version, and convictions of conspiracy would add some amount of time, how much I don't know. I hope this helps.

I cut the statutes straight from Westlaw:

18 U.S.C.A. § 2422

United States Code Annotated Currentness
Title **18**. Crimes and Criminal Procedure (Refs & Annos)
Part I. Crimes (Refs & Annos)
Chapter 117. Transportation for Illegal Sexual Activity and Related Crimes (Refs & Annos)
§ 2422. Coercion and enticement

(a) Whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate or foreign commerce, or in any Territory or Possession of the United States, to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.

(b) Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title and imprisoned not less than 10 years or for life.

18 U.S.C.A. § 2423

United States Code Annotated Currentness
Title **18**. Crimes and Criminal Procedure (Refs & Annos)
Part I. Crimes (Refs & Annos)
Chapter 117. Transportation for Illegal Sexual Activity and Related Crimes (Refs & Annos)
§ 2423. Transportation of minors

(a) **Transportation with intent to engage in criminal sexual activity.**--A person who knowingly transports an individual who has not attained the age of 18 years in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title and imprisoned not less than 10 years or for life.

(b) **Travel with intent to engage in illicit sexual conduct.**--A person who travels in interstate commerce or travels into the United States, or a United States citizen or an

alien admitted for permanent residence in the United States who travels in foreign commerce, for the purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

(c) Engaging in illicit sexual conduct in foreign places.--Any United States citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

(d) Ancillary offenses.--Whoever, for the purpose of commercial advantage or private financial gain, arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 30 years, or both.

(e) Attempt and conspiracy.--Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

(f) Definition.--As used in this section, the term "illicit sexual conduct" means (1) a sexual act (as defined in section 2246) with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States; or (2) any commercial sex act (as defined in section 1591) with a person under 18 years of age.

(g) Defense.--In a prosecution under this section based on illicit sexual conduct as defined in subsection (f)(2), it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the person with whom the defendant engaged in the commercial sex act had attained the age of 18 years.

18 U.S.C.A. § 1591

United States Code Annotated Currentness

Title 18. Crimes and Criminal Procedure (Refs & Annos)

Part I. Crimes (Refs & Annos)

Chapter 77. Peonage, Slavery, and Trafficking in Persons (Refs & Annos)

§ 1591. Sex trafficking of children or by force, fraud, or coercion

(a) Whoever knowingly--

(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, obtains, or maintains by any means a person; or

(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1),

knowing, or in reckless disregard of the fact, that means of force, threats of force, fraud, coercion described in subsection (e)(2), or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

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(b) The punishment for an offense under subsection (a) is--

(1) if the offense was effected by means of force, threats of force, fraud, or coercion described in subsection (e)(2), or by any combination of such means, or if the person recruited, enticed, harbored, transported, provided, or obtained had not attained the age of 14 years at the time of such offense, by a fine under this title and imprisonment for any term of years not less than 15 or for life; or

(2) if the offense was not so effected, and the person recruited, enticed, harbored, transported, provided, or obtained had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title and imprisonment for not less than 10 years or for life.

(c) In a prosecution under subsection (a)(1) in which the defendant had a reasonable opportunity to observe the person so recruited, enticed, harbored, transported, provided, obtained or maintained, the Government need not prove that the defendant knew that the person had not attained the age of 18 years.

(d) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be fined under this title, imprisoned for a term not to exceed 20 years, or both.

(e) In this section:

(1) The term "abuse or threatened abuse of law or legal process" means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

(2) The term "coercion" means--

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of law or the legal process.

(3) The term "commercial sex act" means any sex act, on account of which anything of value is given to or received by any person.

(4) The term "serious harm" means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.

(5) The term "venture" means any group of two or more individuals associated in fact, whether or not a legal entity.

Twelfth, Section 206 of the Adam Walsh Act added 18 U.S.C. 1591 to the list of offenses for which a defendant is to be sentenced to life under 18 U.S.C. 3559(e)(2)(A). The amendment adds 18 U.S.C. 1591 to the list of instant offenses of convictions that are

covered sex crimes under § 4B1.5.

USSG, Ch. TWO, Pt. A, Refs & Annos, 18 U.S.C.A.

United States Code Annotated Currentness

Federal Sentencing Guidelines

Chapter Two. Offense Conduct

Part A. Offenses Against the Person

3. Criminal Sexual Abuse and Offenses Related to Registration as a Sex Offender

HISTORICAL NOTES

2007 Amendments

Chapter Two, Part A, Subpart Three, is amended in the heading by adding at the end "AND OFFENSES RELATED TO REGISTRATION AS A SEX OFFENDER".

Reason for Amendment: This amendment responds to the **Adam Walsh Child Protection and Safety Act of 2006 (the "Adam Walsh Act")**, Pub.L. 109-248, which contained a directive to the Commission, created new sexual offenses, and enhanced penalties for existing sexual offenses. The amendment implements the directive by creating two new guidelines, §§ 2A3.5 (Criminal Sexual Abuse and Offenses Related to Registration as a Sex Offender) and 2A3.6 (Aggravated Offenses Relating to Registration as a Sex Offender). It further addresses relevant provisions in the Adam Walsh Act by making changes to Chapter Two, Part A, Subpart 3 (Criminal Sexual Abuse) and Part G (Offenses Involving Commercial Sex Acts, Sexual Exploitation of Minors, and Obscenity), § 2J1.2 (Obstruction of Justice), § 3D1.2 (Groups of Closely Related Counts), § 4B1.5 (Repeat and Dangerous Sex Offender Against Minors), § 5B1.3 (Conditions of Probation), § 5D1.2 (Term of Supervised Release), § 5D1.3 (Conditions of Supervised Release) and Appendix A (Statutory Index).

First, section 206 of the **Adam Walsh Act** amended 18 U.S.C. 2241(c) to add a new mandatory minimum term of imprisonment of 30 years for offenses related to the aggravated sexual abuse of a child under 12 years old, or of a child between 12 and 16 years old if force, threat, or other means was used. In response to the new mandatory minimum for these offenses, the amendment increases the base offense level at § 2A3.1 (Criminal Sexual Abuse; Attempt to Commit Criminal Sexual Abuse) from level 30 to level 38. The base offense level of 30 has been retained for all other offenses. At least one specific offense characteristic applied to every conviction under 18 U.S.C. 2241(c) sentenced under § 2A3.1 in fiscal year 2006. Accordingly, the mandatory minimum 360 months' imprisonment is expected to be reached or exceeded in every case with a base offense level of 38.

The amendment provides a new application note that precludes application of the specific offense characteristic at § 2A3.1(b)(1) regarding conduct described in 18 U.S.C. 2241(a) or (b) if the conduct that forms the basis for a conviction under 18 U.S.C. 2241(c) is that the defendant engaged in conduct described in 18 U.S.C. 2241(a) or (b) (force, threat, or other means). The amendment also precludes application of the specific offense characteristic for the age of a victim at § 2A3.1(b)(2) if the defendant was convicted under section 2241(c). The heightened base offense level of 38 takes into account the age of the victim. These instructions, therefore, avoid unwarranted double counting.

Second, section 207 of the **Adam Walsh Act** increased the statutory maximum term of imprisonment under 18 U.S.C. 2243(b) from 5 years to 15 years for the sexual abuse of a person in official detention or under custodial authority. In response to increased penalty,

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the amendment increases the base offense level from 12 to 14 in § 2A3.3 (Criminal Sexual Abuse of a Ward or Attempt to Commit Such Acts). The amendment also adds a new definition of "minor" consistent with how this term is defined elsewhere in the guidelines manual. In addition, the amendment includes an application note precluding application of § 3B1.3 (Abuse of Position of Trust or Use of Special Skill) for these offenses because an abuse of position of trust is assumed in all such cases and, therefore, is built into the base offense level.

Third, section 206 of the Adam Walsh Act created a new subsection at 18 U.S.C. 2244. Section 2244(a)(5) provides a penalty of any term of years if the sexual conduct would have violated 18 U.S.C. 2241(c) had the contact been a sexual act. Section 2241(c) conduct involves the aggravated sexual abuse of a child under 12 years old or of a child between 12 and 16 years old if force, threat, or other means was used, as defined in 18 U.S.C. 2241(a) and (b). Prior to the **Adam Walsh Act**, the penalty for offenses involving children under 12 years old was "twice that otherwise provided," and the penalty for sexual contact involving behavior described in 18 U.S.C. 2241 was a statutory maximum term of imprisonment of 10 years.

The amendment addresses this new offense by increasing the minimum offense level in the age enhancement in subsection (b)(1) of § 2A3.4 (Abusive Sexual Contact or Attempt to Commit Abusive Sexual Contact) from level 20 to level 22.

Fourth, section 141 of the **Adam Walsh Act** created a new offense under 18 U.S.C. 2250(a) for the failure to register as a sex offender. The basic offense carries a statutory maximum term of imprisonment of 10 years. Section 141 also included a directive to the Commission that when promulgating guidelines for the offense, to consider, among other factors, the seriousness of the sex offender's conviction that gave rise to the requirement to register; relevant further offense conduct during the period for which the defendant failed to register; and the offender's criminal history.

The amendment creates a new guideline, § 2A3.5 (Failure to Register as a Sex Offender), to address the directive. The new guideline provides three alternative base offense levels based on the tiered category of the sex offender: level 16 if the defendant was required to register as a Tier III offender; level 14 if the defendant was required to register as a Tier II offender; and level 12 if the defendant was required to register as a Tier I offender.

The amendment also provides two specific offense characteristics. First, subsection (b)(1) provides a tiered enhancement to address criminal conduct committed while the defendant is in a failure to register status. Specifically, § 2A3.5(b)(1) provides a six-level increase if, while in a failure to register status, the defendant committed a sex offense against an adult, a six-level increase if the defendant committed a felony offense against a minor, and an eight-level increase if the defendant committed a sex offense against a minor. Second, § 2A3.5(b)(2) provides a three-level decrease if the defendant voluntarily corrected the failure to register or voluntarily attempted to register but was prevented from registering by uncontrollable circumstances, and the defendant did not contribute to the creation of those circumstances. The reduction covers cases in which (1) the defendant either does not attempt to register until after the relevant registration period has expired but subsequently successfully registers, thereby correcting the failure to register status, or (2) the defendant, either before or after the registration period has expired, attempted to register but circumstances beyond the defendant's control prevented the defendant from successfully registering. An application note specifies that the voluntary attempt to register or to correct the failure to register must have occurred prior to the time the defendant knew or reasonably should have known a jurisdiction had detected the failure to register. The application note also provides that the reduction does not apply if the enhancement for committing one of the enumerated offenses in § 2A3.5(b)(1) applies.

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Additionally, the amendment adds § 2A3.5 to the list of offenses that are considered groupable under § 3D1.2(d) because the failure to register offense is an ongoing and continuous offense.

Fifth, section 141 of the Adam Walsh Act created two new aggravated offenses relating to the registration as a sex offender. Section 141 of the Act created 18 U.S.C. 2250(c), which carries a mandatory minimum term of imprisonment of 5 years and a statutory maximum term of imprisonment of 30 years if a defendant commits a crime of violence while in a failure to register status, with the sentence to be consecutive to the punishment provided for the failure to register. Section 702 of the Adam Walsh Act created a new offense at 18 U.S.C. 2260A that prohibits the commission of various enumerated offenses while in a failure to register status. The penalty for this offense is a mandatory term of imprisonment of 10 years to be imposed consecutively to the underlying offense.

The amendment creates a new guideline at § 2A3.6 (Aggravated Offenses Relating to Registration as a Sex Offender) to address these new offenses. The new guideline provides that for offenses under section 2250(c), the guideline sentence is the minimum term of imprisonment required by statute, and for offenses under section 2260A, the guideline sentence is the term of imprisonment required by statute. Chapters Three and Four are not to apply. This is consistent with how the guidelines treat other offenses that carry both a specified term of imprisonment and a requirement that such term be imposed consecutively. See §§ 3D1.1 (Procedure for Determining Offense Level on Multiple Counts) and 5G1.2 (Sentencing on Multiple Counts of Conviction).

The guideline includes an application note that provides an upward departure stating that a sentence above the minimum term required by section 2250(c) is an upward departure from the guideline sentence. An upward departure may be warranted, for example, in a case involving a sex offense committed against a minor or if the offense resulted in serious bodily injury to a minor.

Sixth, section 208 of the Adam Walsh Act added a new mandatory minimum term of imprisonment of 15 years under 18 U.S.C. 1591(b)(1) for sex trafficking of an adult by force, fraud, or coercion. In response, the amendment provides a new base offense level of 34 in § 2G1.1 (Promoting a Commercial Sex Act or Prohibited Sexual Conduct with an Individual Other than a Minor) if the offense of conviction is 18 U.S.C. 1591(b)(1), but retains a base offense level of 14 for all other offenses. In addition, the amendment limits application of the specific offense characteristic at § 2G1.1(b)(1) that applies if the offense involved fraud or coercion only to those offenses receiving a base offense level of 14. Offenses under 18 U.S.C. 1591(b)(1) necessarily involve fraud and coercion and, therefore, such conduct is built into the heightened base offense level of 34. This limitation thus avoids unwarranted double counting.

Seventh, section 208 of the Adam Walsh Act added a new mandatory minimum term of imprisonment of 15 years under 18 U.S.C. 1591(b)(1) for sex trafficking of children under 14 years of age and added a new mandatory minimum term of imprisonment of 10 years and increased the statutory maximum term of imprisonment from 40 years to life under 18 U.S.C. 1591(b)(2) for sex trafficking of children who had attained the age of 14 years but had not attained the age of 18 years. Further, the Adam Walsh Act increased the mandatory minimum term of imprisonment from 5 years to 10 years and increased the statutory maximum term of imprisonment from 30 years to life under both 18 U.S.C. 2422(b), for persuading or enticing any person who has not attained the age of 18 years to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, and 18 U.S.C. 2423(a), for transporting a person who has not attained the age of 18 years in interstate or foreign commerce, with the intent that the person engage in prostitution, or in any sexual activity for which any person can be charged with

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a criminal offense.

In response, the amendment provides alternative base offense levels in § 2G1.3 (Promoting a Commercial Sex Act or Prohibited Sexual Conduct with a Minor; Transportation of Minors to Engage in a Commercial Sex Act or Prohibited Sexual Conduct; Travel to Engage in Commercial Sex Act or Prohibited Sexual Conduct with a Minor; Sex Trafficking of Children; Use of Interstate Facilities to Transport Information about a Minor) based on the statute of conviction and the conduct described in that conviction. For convictions under 18 U.S.C. 1591(b)(1), the base offense level is 34. For convictions under 18 U.S.C. 1591(b)(2), the base offense level is 30.

The amendment further provides a base offense level of 28 for convictions under 18 U.S.C. 2422(b) and 2423(a). The two-level enhancement for the use of a computer at § 2G1.3(b)(3) applied to 95 percent of offenders convicted under 18 U.S.C. 2422(b) and sentenced under § 2G1.3 in fiscal year 2006. In addition, the two-level enhancement for the offense involving a sexual act or sexual contact at § 2G1.3(b)(4) applied to 95 percent of offenders convicted under 18 U.S.C. 2423(a) and sentenced under this guideline in fiscal year 2006. With application of either enhancement, the mandatory minimum term of imprisonment of 120 months will be reached in the majority of convictions under 18 U.S.C. 2422(b) and 2423(a), before application of other guidelines adjustments.

Further, the amendment addresses the interaction of two specific offense characteristics with the alternative base offense levels. First, every conviction under 18 U.S.C. 1591 necessarily involves a commercial sex act. With the base offense levels being determined based on the statute of conviction, the amendment clarifies that § 2G1.3(b)(4)(B), which provides a two-level enhancement if the offense involved a commercial sex act, does not apply if the defendant is convicted under 18 U.S.C. 1591. Second, the amendment precludes application of the age enhancement in § 2G1.3(b)(5) if the base offense level is determined under subsection (a)(1) of § 2G1.3 for a conviction under 18 U.S.C. 1591(b)(1). The base offense level provided by subsection (a)(1) of § 2G1.3 takes into account the age of the victim and, therefore, limitations on application of subsections (b)(4)(B) and (b)(5) of § 2G1.3 avoid unwarranted double counting.

Eighth, section 503 of the Adam Walsh Act created a new section, 18 U.S.C. 2257A, adopting new recordkeeping obligations for the production of any book, magazine, periodical, film, videotape, or digital image that contains a visual depiction of simulated sexually explicit conduct. Section 2257A has a statutory maximum of one year imprisonment for the failure to comply with the recordkeeping requirements and a statutory maximum term of imprisonment of five years if the violation was to conceal a substantive offense that involves either causing a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction or trafficking in material involving the sexual exploitation of a minor. The new offense is similar to 18 U.S.C. 2257, which is referenced to § 2G2.5 (Recordkeeping Offenses Involving the Production of Sexually Explicit Materials; Failure to Provide Required Marks in Commercial Electronic Mail). Accordingly, the amendment refers the new offense to § 2G2.5.

Ninth, section 701 of the Adam Walsh Act created a new offense in 18 U.S.C. 2252A(g) that prohibits engaging in child exploitation enterprises, defined as violating 18 U.S.C. 1591, 1201 (if the victim is a minor), chapter 109A (involving a minor victim), chapter 110 (except for 18 U.S.C. 2257 and 2257A), or chapter 117 (involving a minor victim), as part of a series of felony violations constituting three or more separate incidents and involving more than one victim, and committing those offenses in concert with three or more other people. The statute provides a mandatory minimum term of imprisonment of 20 years.

The amendment creates a new guideline at § 2G2.6 (Child Exploitation Enterprises) to cover this new offense. The guideline provides a base offense level of 35 and four specific

offense characteristics. The Commission anticipates these offenses typically will involve conduct encompassing at least one of the specific offense characteristics, resulting in an offense level of at least level 37. Thus, the mandatory minimum term of imprisonment of 240 months typically is expected to be reached or exceeded, before application of other guideline adjustments.

Tenth, section 206 of the Adam Walsh Act increased the statutory maximum term of imprisonment from 4 years to 10 years under 18 U.S.C. 2252B(b) for knowingly using a misleading domain name with the intent to deceive a minor into viewing material harmful to minors on the Internet. In addition, section 703 of the Act created a new section, 18 U.S.C. 2252C, that carries a statutory maximum term of imprisonment of 10 years for knowingly embedding words or digital images into the source code of a Web site with the intent to deceive a person into viewing material constituting obscenity. Section 2252C(b) carries a statutory maximum term of imprisonment of 20 years for knowingly embedding words or digital images into the source code of a Web site with the intent to deceive a minor into viewing material harmful to minors on the Internet.

In response to the new offense, the amendment expands the scope of subsection (b)(2) of § 2G3.1 (Importing, Mailing, or Transporting Obscene Matter; Transferring Obscene Matter to a Minor; Misleading Domain Names) by adding to this enhancement "embedded words or digital images into the source code on a Web site."

Eleventh, section 141 of the Adam Walsh Act added a new provision in 18 U.S.C. 1001 that carries a statutory maximum term of imprisonment of 8 years for falsifying or covering up by any scheme or making materially false or fraudulent statements or making or using any false writings or documents that relate to offenses under chapters 109A, 109B, 110, and 117, and under section 1591 of chapter 77. The amendment adds a new specific offense characteristic at subsection (b)(1)(A) of § 2J1.2 (Obstruction of Justice) enhancing the offense level by four levels if the defendant was convicted under 18 U.S.C. 1001 and the statutory maximum term of 8 years' imprisonment applies because the matter relates to sex offenses. The amendment also added language to Application Note 4 stating an upward departure may be warranted under the guideline in a case involving a particularly serious sex offense.

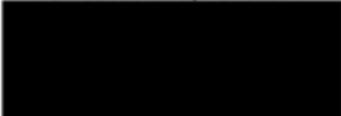
Twelfth, section 206 of the Adam Walsh Act added 18 U.S.C. 1591 to the list of offenses for which a defendant is to be sentenced to life under 18 U.S.C. 3559(e)(2)(A). The amendment adds 18 U.S.C. 1591 to the list of instant offenses of convictions that are covered sex crimes under § 4B1.5.

Thirteenth, section 141 of the Adam Walsh Act amended 18 U.S.C. 3563 and 3583. The amendment adds a new subdivision to (a)(9) of § 5B1.3 and to (a)(7) of § 5D1.3 to require a defendant to comply with the new registration requirements provided by the Adam Walsh Act. The amendment also modifies the language in §§ 5B1.3(a)(9) and 5D1.3(a)(7) relating to defendants convicted of a sexual offense described in 18 U.S.C. 4042(c)(4). Not all states have implemented the new requirements, continuing to register sex offenders pursuant to the sex offender registry in place prior to July 27, 2006, the date of enactment of the Adam Walsh Act. Thus, it is necessary to maintain the language in the guidelines providing for conditions of probation and supervised release for those offenders.

Fourteenth, section 141 of the Act amended 18 U.S.C. 3583(k), which provides that the authorized term of supervised release for any offense under enumerated sex offenses is any term of years or life. In response, the amendment adds offenses under chapter 109B and sections 1201 and 1591 of title 18 United States Code or 18 U.S.C. 1201 and 1591 to the definition of sex offense under § 5D1.2(b)(2) for which the length of the term of supervised release shall be not less than the minimum term of years specified for the offense and may be up to life.

Finally, the amendment provides a definition of "minor" in relevant guidelines that is consistent with how this term is defined elsewhere in the guidelines. Outdated background commentary also is deleted by this amendment. **The effective date of this amendment is November 1, 2007.**

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