

STATE OF MICHIGAN
IN THE SUPREME COURT

People of the State of Michigan

Plaintiff-Appellee,

v.

Jayneel Ravindra Jade

Defendant-Appellant.

Supreme Court No. 167920

Court of Appeals No. 365951

Van Buren Circuit Court
LC No. 2022-023839-FH

Criminal Defense Attorneys of Michigan's
Amicus Curiae Brief
In support of Jayneel Ravindra Jade

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Statement of the Questions Presented

First Question

Did the Court of Appeals err in concluding that appellate courts must apply the deferential “clear error” standard of review when answering the legal question of whether a person was entrapped?

CDAM Answers: Yes.

Second Question

Because the Court of Appeals conducted no analysis of Mr. Jade’s readiness and willingness to commit the charged crime, did it err in concluding that the police did not engage in entrapment because they merely presented Mr. Jade with an opportunity to commit the crime?

CDAM Answers: Yes.

Third Question

Did the Court of Appeals err in affirming the trial court’s determination that Mr. Jade was not entrapped?

CDAM Answers: Yes.

Statement of Interest of *Amicus Curiae*

The Criminal Defense Attorneys of Michigan (CDAM) is a 501(c)(3) non-profit organization with a purpose of promoting expertise in criminal law, constitutional law, and procedure. CDAM sponsors seminars, training conferences, and advocates for the criminal defense bar's views before state and legislative bodies. For more than forty years, CDAM has filed amicus briefs in the Michigan Supreme Court, the Michigan Court of Appeals, and the United States Supreme Court.

Statement of Facts

CDAM relies on the Statement of Facts provided to this Court by Mr. Jade in his Application for Leave to Appeal and Supplemental Brief.

Focus of CDAM's Brief

In this Brief, CDAM addresses all three questions outlined in this Court's order granting leave, i.e., whether the Court of Appeals erred by:

(1) concluding that the standard of review for entrapment rulings requires consideration of whether the ultimate determination of entrapment is clearly erroneous as provided in *People v Johnson*, 466 Mich 491, 497 (2002), as opposed to a standard involving a conclusion or legal determination that is reviewed de novo, see *People v Fyda*, 288 Mich App 446, 456 (2010);

(2) relying on and applying the legal standard that police do not engage in entrapment by merely presenting a defendant with an opportunity to commit the crime with which he was charged without considering the defendant's readiness and willingness to commit the charged crime, as stated in *People v Jamieson*, 436 Mich 61, 68 (1990); and

(3) affirming the trial court's determination that the defendant was not entrapped, see *Johnson*, 466 Mich at 498.

CDAM argues the Court of Appeals erred in each of these regards and its decision in *Jade* should be overturned by this Court.

CDAM places particular focus on the second and third questions presented and offers this Court examples from similar cases where the police engaged in deceptive conduct that risks inducing criminal intent of a person not otherwise predisposed to commit the charged crime.

Introduction

Entrapment has been a defense in Michigan for over 50 years. *People v Turner*, 390 Mich 7 (1973). The defense ensures that law enforcement officers detect existing crimes rather than induce the commission of new ones that would not have otherwise occurred.

The current bait-and-switch practice of online sex sting operations—where police officers create a profile on an adult website, pose as an adult, bait other adults to communicate with them, turn the conversation sexual, then claim to be a minor—has been deemed not to be entrapment by our state’s intermediate appellate court. Under that guidance, police departments across Michigan are adopting increasingly deceptive tactics that risk inducing the commission of crimes by people who were not otherwise going to commit them.

This Court should clarify three things in this case. First, it should make clear that *de novo* is the proper legal standard of review for the ultimate entrapment question because whether a person is entrapped is a question of law that appellate courts must retain the ability to develop and uniformly apply. Second, it must make clear that the first part of the test for entrapment includes considering whether the evidence shows the suspect was already “ready and willing” to commit the crimes without the officers’ involvement. Third, it should hold that engaging in deceptive conduct to induce a person’s criminal intent is necessarily more than merely presenting an opportunity to commit a crime.

This case will have a broad impact in our increasingly digital world. It will determine the permissible scope of online sting operations in Michigan. And as recent technological advancements have shown us, we are potentially still at the very beginning of the digital age.

Arguments

- I. **A de novo standard of review for the ultimate finding of entrapment is necessary because the appellate courts, particularly this Court, must remain the expositor of Michigan’s entrapment doctrine and ensure the doctrine is applied in the same manner in every circuit.**

The ultimate determination of whether a person was entrapped is a question of law that appellate courts review de novo. See *People v Fyda*, 288 Mich App 446 (2010). Mr. Jade thoroughly covers this point.

While trial courts are better equipped to conduct a rigorous analysis of the evidence admitted at an entrapment hearing, and their findings of fact are reviewed for clear error, appellate courts must be permitted to independently assess whether, *based on those factual findings*, the government’s conduct violated the *law*.

Whether our entrapment doctrine originated out of “the body of common law”¹ or a subsequent desire and need to protect the integrity of the judicial system,² this Court must remain the expositor of that doctrine in order to clarify legal principles and to promote a unitary system of law that does not allow for different results from different trial court judges in the absence of any significant difference in facts in matters of law. See *Ornelas v United States*, 517 US 690, 697 (1996).

This principle is especially salient considering the type of sting operation that was employed here, which the Genesee County Sheriff

¹ *People v Jamieson*, 436 Mich 61, 87 (1990).

² *Id.* at 82.

has exported to counties all around our state, as CDAM will discuss in Issues II and III.

II. The Court of Appeals erred when it concluded the police merely presented Mr. Jade with an opportunity to commit the charged crimes. This conclusion was improper where the court failed to consider whether any facts showed Mr. Jade was independently “ready and willing” to commit these crimes without the officers’ involvement.

The Court of Appeals concluded that because the officers stated the decoy was 15, they merely presented an opportunity to commit the crimes charged, and Mr. Jade was “willing” to commit those crimes because he continued the interaction after the age disclosure. See *People v Jade*, ___ Mich App ___; ___ NW3d ___ (2024) (Docket No. 365951); slip op at 11-12. That conclusion is flawed for two reasons.

First, courts cannot answer whether the police impermissibly induced a crime (i.e., did more than merely present an opportunity to commit it) without considering whether the evidence shows the person was independently “ready and willing” to commit that crime *absent* the officers’ instigation. *Jamieson*, 436 Mich at 68. The mere fact that a person committed a crime after being provoked by the police does not establish that he was “ready and willing” to commit it without the officers’ involvement. See *Sherman v United States*, 356 US 369, 383 (1958) (FRANKFURTER, J., concurring) (referring to readiness and willingness in the context of people already “engaged” in the conduct).

Here, Mr. Jade’s readiness and willingness to commit the crimes was never properly considered. Mr. Jade was charged with accosting a child for immoral purposes (MCL 750.145a) and child sexually abusive

activity (MCL 750.145c(2)).³ Yet neither of the lower courts considered whether there was any evidence that showed Mr. Jade, before being approached by the undercover officers, was independently seeking to accost, entice, or solicit a child less than 16 years of age with the intent to induce or force that child to commit an immoral act (MCL 750.145a) or seeking to persuade, induce, entice, coerce, cause, or allow a child to engage in “child sexually abusive activity” for the purpose of producing “child sexually abusive material” (MCL 750.145c(2)).

Second, the record before this Court does not support a conclusion that Mr. Jade was independently seeking to commit these crimes. This is not a case where the police identified and intercepted someone who was searching for children on the internet. Quite the opposite. The record evidence establishes that Mr. Jade was on a website exclusively for adults for the purpose of seeking a consensual sexual encounter with an adult. But for the police interference, it can be assumed that a consensual sexual encounter with a fellow adult would have occurred.

Here, law enforcement officers went on a platform exclusively meant for adults, posted an advertisement featuring a picture of an adult woman, explicitly depicted themselves as a 20-year-old adult woman, and invited contact from adult men seeking a consensual sexual encounter with an adult woman. It was only after the officers established that Mr. Jade intended to have sex with an adult woman (the bait) that they introduced the claim that the woman was “15.”

³ Each charge was also paired with a corresponding count of using a computer to commit a crime (MCL 752.797).

Like all mixed questions of fact and law, a proper analysis in an entrapment claim requires a review of the entire factual record. See *People v Turner*, 390 Mich 7, 11 (1973) (illustrating that in an entrapment analysis, courts “must look closely” at the facts). Accordingly, the officers’ age disclosure cannot be viewed in a vacuum. It must be viewed in context with all the facts, including post-disclosure conduct, that reinforced the inference that Mr. Jade was communicating with an adult—including that the officers still (1) explicitly represented on the ad that they were 20 years old, (2) used a platform that requires all users to be at least 19 years old, (3) posted photographs of an adult woman, (4) used a phone number publicly associated with an adult woman, (5) had an adult woman speak with Mr. Jade on the phone, and (6) used language that one could reasonably perceive as sarcasm (“lol”) in response to Mr. Jade’s suggestion that he was speaking with someone who was role-playing that she was 15.

Moreover, Mr. Jade’s post-disclosure conduct further indicates his lack of readiness and willingness to commit the charged crimes. This is best evidenced by the fact that when the officers made a statement that the decoy was underage (i.e., the *real* “mere opportunity” to commit the crime), Mr. Jade indicated he was not interested in having sex with someone under the age of consent. Rather than accepting that response and ceasing communication,⁴ the officers continued the interaction and took steps that supported the initial inference that the decoy was an adult.

⁴ It is CDAM’s position that, after presenting the opportunity to commit a crime to someone in an *untargeted sting operation*, the police must cease communication and move on if the person responds with anything other than a clear readiness and willingness to commit that crime.

Additional evidence supports the finding that Mr. Jade lacked readiness and willingness to commit these crimes. After suggesting that the woman could be role-playing, Mr. Jade immediately took steps to verify that she was, in fact, an adult. His actions included conducting a reverse lookup of the woman's phone number, from which he learned that the number belonged to a 34-year-old woman. Additionally, he observed the woman's voice by speaking with her on the phone. Surely, the contents of a phone call between a suspect and undercover officer, just moments after the officer introduced a claim that she was 15, would have been useful in evaluating the officer's conduct and the suspect's intent. Yet here, the call was not recorded or memorialized in any way.

If there are no facts to show that the accused entered the interaction with pre-existing intent to commit the crimes charged, then there is only one inference to draw from the record: that the officers' conduct prompted the crimes and the accused was entrapped. Here, the factual record does not establish that Mr. Jade had a readiness and willingness to commit the charged crimes. By at least a preponderance of the evidence, these facts evince entrapment.

III. Engaging in deceptive conduct to induce a person's criminal intent is necessarily more than merely presenting an opportunity to commit a crime.

In 2018, the Genesee County Sheriff's Office created a county-wide task force known as the Genesee Human Oppression Strike Team ("GHOST").⁵ Shortly after its inception, GHOST created a template for

⁵ Mid-Michigan Now, *GHOST Has Arrested Nearly 200 Alleged Predators Since Its Creation, Says Genesee County Sheriff* <<https://midmichigannow.com/news/local/ghost-has-arrested-nearly->

online sex sting operations, then exported it throughout Michigan. As a result, local police agencies are deploying out-county GHOST stings⁶ nearly identical to that in *Jade*.

While preparing this Brief, CDAM received access to the GHOST training materials,⁷ which are shared with other counties as a “twelve-module” video course. GHOST Playbook, *Tactical Operations* at 23:58 to 24:05. These materials demonstrate that GHOST sting operations are far removed from the familiar To-Catch-a-Predator-style stings.

GHOST encourages officers to create fake profiles on adult-only apps in violation of those companies’ user agreements. Once on those apps, officers are encouraged to sit back and observe how adults communicate with one another on that platform. See GHOST Playbook, *Chatters and Decoys* at 04:25 to 04:37 (instructing officers in a SkipTheGames sting to “create a profile,” “find a prostitute online,” then “see how they’re talking” in order to convincingly mimic that communication); see also *id.* at 03:30 to 03:37, 04:41 to 04:51 (instructing officers to do the same on “other” apps, including “Grindr [and] Tinder”: “see what they’re saying on there,” “follow” how they speak, “and then get in there”). Through this strategy, the trainers explain, undercover officers can more convincingly blend in as a legitimate user on that platform. *Id.* at

200-alleged-predators-since-its-creation-says-genesee-county-sheriff> (accessed December 28, 2025).

⁶ An “out-county GHOST sting” is a GHOST sting operation conducted outside of Genesee County. See MiHomepaper – Flint Township View, *Sheriff Details Out-County GHOST Operations, Human Trafficking Arrests* <<https://flinttownshipview.mihomepaper.com/articles/sheriff-details-out-county-ghost-operations-human-trafficking-arrests/>> (accessed October 26, 2025).

⁷ CDAM has copied those materials to a thumb drive and submitted them to this Court for filing as an Appendix to this Brief.

10:11 to 10:29 (instructing officers that “the best way to talk like somebody” on a platform is to “go watch and observe from the sidelines and learn . . . you need to get into those sites and watch how they talk . . . because if you don’t talk the talk, they’re gonna call you out”).

But such a strategy only reinforces the inference that the officers are, in fact, adults. Pretending to be a different adult on an adult-only platform does not serve the purported goal of identifying people who are seeking children. The consequences of this tactic are substantial and appear to have a disproportionate adverse impact on marginalized groups, especially those in rural areas, for whom online interaction is a primary means of seeking lawful human connection.

One such group is the LGBTQ+ community. Across our state, gay men are being deceived by undercover officers who create decoy profiles on dating apps for gay adults.⁸ See *People v Voyles*, ___ Mich ___; 20 NW3d 868 (2025) (Docket No. 168142), held in abeyance pending this case. Just as they were trained, officers are blending in as legitimate users on these apps. They present themselves as adult gay men, communicate like adult gay men, and then later claim they were supposed to be a child.

⁸ WILX News 10, *Delta Township Supervisor Resigns, Faces Felony Charges in Eaton County* <<https://www.wilx.com/2024/09/04/delta-township-supervisor-resigns-faces-felony-charges-eaton-county/>> (accessed December 22, 2025); see also MLive, *Ex-priest convicted in U.P. of sexually abusive activity involving a minor* <<https://www.mlive.com/news/2023/10/ex-priest-convicted-in-up-of-sexually-abusive-activity-involving-a-minor.html>> (accessed December 22, 2025) (prosecutor indicating that “[t]he jury [] found Nowicki guilty because he did not take proper precaution to verify the age of the person he was meeting for intercourse” on Grindr).

This precise chain of events took place in *People v Evan Lakatos*—a case currently pending in the Michigan Court of Appeals.⁹ In that case, Evan, a 34-year-old gay man, went on Grindr to meet gay men in his area. After he saw the following photographs of an adult, he reached out:



Depicted above are two images of a 27-year-old male police officer. In People v Lakatos, these photographs were posted to Grindr—a dating app for gay men—as part of an out-county GHOST sting. In each photo, the man has his shirt up in order to reveal that he has a muscular build and six-pack abs. In the image on the left, the man is taking a photograph of himself in a bathroom mirror. His shirt is pulled up to reveal his abs. He is holding the camera with his left hand. With his right hand, he is pulling his waistband slightly out and down. In the image on the right, the man is laying on a bed. He is holding his shirt up to reveal his abs. In the top left corner of the photo, portions of the man’s face and neck are revealed, and a five o’clock shadow is visible. The police claimed these photos were meant to depict a child.

With these photographs, the police lured over 300 unsuspecting gay men in the area to communicate with them on Grindr. Appendix at 9.

⁹ *People v Lakatos*, COA Docket No. 366091.

At an evidentiary hearing, a scholar in communications and queer linguistics provided expert testimony about the communications in Evan’s case. Appendix at 279. The expert concluded that the undercover officer adopted vernacular and sexual banter that is commonly used by gay men on Grindr, and his conversation with Evan was consistent with that of two consenting adult gay men on Grindr. Appendix at 296-297, 310-311, 317-319, 323. Even worse, the undercover officer who chatted with Evan “never said his age.” Appendix at 331. Instead, he made a single cursory and cryptic statement about his cousin getting a hotel room (“[m]y cousin finally got the room for me I guess you have to be older than 15 to get a room”). The communications expert concluded that the reference to a cousin and hotel room was “not a clear indication” that the chatter was supposed to be under the age of 16. Appendix at 331-332. Even so, the trial court found no entrapment. Appendix at 384-393.

News of Evan’s case sent shockwaves through Michigan’s LGBTQ+ community,¹⁰ prompting tips for gay men to stay safe from the police on Grindr¹¹ and evoking memories of Michigan’s all-too-recent history with the systematic entrapment of gay men in undercover sex stings.¹²

Without guidance from this Court on how to analyze entrapment claims in the context of GHOST stings, different results are emerging in

¹⁰ Pride Source, *Michigan Cop Used Fake Grindr Profile and This Torso Picture to Arrest Gay Man — But Was It Legal?* <<https://pridesource.substack.com/p/michigan-cop-used-fake-grindr-profile>> (accessed October 29, 2025).

¹¹ Pride Source, *Staying Safe on Queer Dating Apps: What to Know When Law Enforcement Enters the Chat* <<https://pridesource.com/article/queer-app-safety>> (accessed October 29, 2025).

¹² Pride Source, *After 25 Years, Rudy Serra, Michigan’s First Gay Judge, Is Still Fighting the Same Battle* <<https://pridesource.com/article/rudy-serra-oct-2025>> (accessed October 29, 2025).

different circuits for cases with similar facts. See for example *People v Newcomb*, unpublished opinion of the 33rd Circuit Court, issued May 16, 2024 (Docket No. 24-592-14-FH), *attached* (dismissing the charges against Mr. Newcomb on the grounds that he was entrapped by undercover officers on Grindr where the officers were the “first to bring up sexual talk” and “suggest a meet up[,]” and used “photographs of a deputy who is clearly not underage, but is [] presumably in his 20s.” The trial court opined that this conduct amounted to “very extensive and very detailed . . . cat fishing” whereby undercover officers “set the hook” by getting Mr. Newcomb to believe “he was dealing with a person who was of legal age and they were going to have a legal, consensual relationship” “before they even revealed [] the claim that the subject was underage[,]” and this “bait and switch” conduct by police is “reprehensible” and “can’t [be] tolerate[d]”). Appendix at 500-501.

Additionally, the risk of being ensnared in these stings appears to be heightened for people who live in more rural parts of our state, where people often rely on digital platforms to seek lawful social connection. This risk is likely further exacerbated by the fact that out-county GHOST stings have a substantial footprint in Michigan’s western and Upper Peninsula counties.¹³

¹³ MiHomepaper – Flint Township View, *Sheriff Details Out-County GHOST Operations, Human Trafficking Arrests* <<https://flinttownshipview.mihomepaper.com/articles/sheriff-details-out-county-ghost-operations-human-trafficking-arrests/>> (accessed October 26, 2025) (noting over the course of just six months in 2021, a task force from Genessee County conducted sex stings in Shiawassee; Livingston; Sanilac; Gratiot; Mecosta; Isabella; Newaygo; Osceola; Montcalm; Monroe; Marquette; Menominee; Chippewa; and Oceana Counties).

Take for instance the case of a young man from a western Michigan county who went on a platform called “MeetMe” to connect with an adult.¹⁴ Prompted by a photograph of an adult woman, the young man asked what she was doing later that week and if she would be interested in going to the beach. The woman, an undercover officer, said she had a hotel room, then asked the young man what he would want to do. He responded, “cuddle[.]” Later, the officer turned the conversation sexual:



¹⁴ In preparing this Brief, the undersigned spoke with this young man, and he gave CDAM full permission to use his name and reference the facts and evidence of his case. However, CDAM has opted to omit his personal identifying information from this Brief. An excerpt of the non-identifying evidence is included in CDAM’s Appendix at 504-510.

After getting the young man to agree to have sex with a fellow *adult* (the bait), the officers pulled the switch:



Before he arrived, the young man expressed apprehension, telling the officer that he was “iffy on the sex part” but would be “completely down to cuddle[.]” When the officer signaled that she would no longer be interested in seeing him without sex, he acquiesced:



The young man was arrested when he arrived at the hotel. At the police station, the officers asked him to write an “apology letter,” which later served as evidence of a confession:

I was working the closing shift at McDonald and I talked to a girl who I thought was 21 she talk a sh*t but it was revealed she was only 15 talked some more and decided to hang said some things I should of not said I completely regret it last time I met some one online I was robbed at gun point this will be the very last the I ever do this in so P R Y for my actions today I Phoned from the deepest part of my BODY ILL keep to myself & move on.

saying
^

(I talk about haven set) I was just BS
I had no bad intentions

The image depicted is a piece of paper with handwriting on it. The letter states the following: “I was working the closing shift at McDonald[sic] and I hit up a girl who I thought[sic] was 21 we talk[sic] a short bit [and it] was reveled[sic] she was only 15 talked some more and decided to hang said some things I should of[sic] not said I completly[sic] regret it last time I meet someone online I was robed[sic] at gunpoit[sic] this will be the very last tine[sic] I ever do this Im[sic] sorry for my actions tody[sic] I promes[sic] from the depest[sic] part of my body I’ll keep to myself for now on. (I talk about haven[sic] sex) I was just stating BS I had no bad intetions[sic].”

GHOST acknowledges that nine out of ten people they ensnare in these stings are people who have no criminal record.¹⁵ But when training officers to conduct these stings, the task force suggests that this statistic only proves that they are catching criminals who have been previously successful at getting away with the charged crimes.

Even in cases when the person wittingly went forward with committing the charged crime, a closer look reveals that the police planted the seed for criminal intent, then brought the crime to fruition by grooming and encouraging the suspect to follow through.

Take for example the facts of *People v Deisler*, ___ Mich ___; 20 NW3d 863 (2025) (Docket No. 166433), a case currently held in abeyance pending this case.¹⁶ In *Deisler*, the police created a profile on “Skip the Games” that was nearly identical to the one used to entrap Mr. Jade. Publicly advertising themselves as an adult female escort, the officers published the following non-exhaustive list of “[a]ctivities this service provider may enjoy”: “Breast relief/Russian”; “Face sitting”; “Intercourse” (including “Anal”/“Greek” and “Vaginal”/“FS” sex); “Oral”

¹⁵ Flint Beat, *Genesee County Sheriff’s Office Offering Human Trafficking Education, Certification* <<https://flintbeat.com/genesee-county-sheriffs-office-offering-human-trafficking-education-certification/>> (accessed December 29, 2025).

¹⁶ The following evidence from *Deisler* can be found in Appendix M at 248-270 in the Appendix to Mr. Deisler’s application for leave to appeal, filed in this Court on December 6, 2023.

sex (including “Deep throat”; “DATY”; “CIM”; and “BBBJ” “without condom”); “Prostate massage”; “Water sports”; “Rimming”; and “Toy show[.]” Under the escort’s “Social activities[.]” the officers listed “Drink, Smoke[.]” The advertisement stated that the escort was in Genesee County (specifically, “Flint”).

After being prompted by the above information, Mr. Deisler initiated contact with the adult escort. The woman—an undercover officer in an out-county GHOST sting—revealed that she was really located in “Rochester” (Oakland County), not Flint. The woman told Mr. Deisler that she was “worth” the drive and then agreed to have anal sex with him when he arrived. After Mr. Deisler agreed to drive to Oakland County for the services of the *adult* with whom he was speaking (the bait), the officers pulled the switch: “lol I’m only 15[.]”

Mr. Deisler immediately expressed hesitation and suggested it was not a “good idea” to continue. When asked why, Mr. Deisler clarified that she was “too young.”



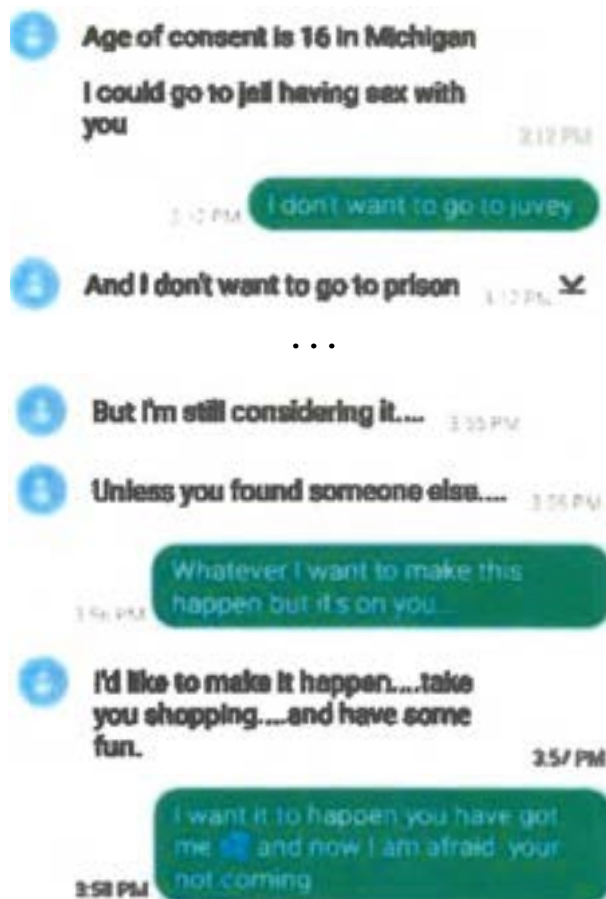
Rather than moving on to a different suspect with pre-existing intent to plow ahead, the officers responded, “To[o] young to fuck[?]...it’s not like it’s my first time”:

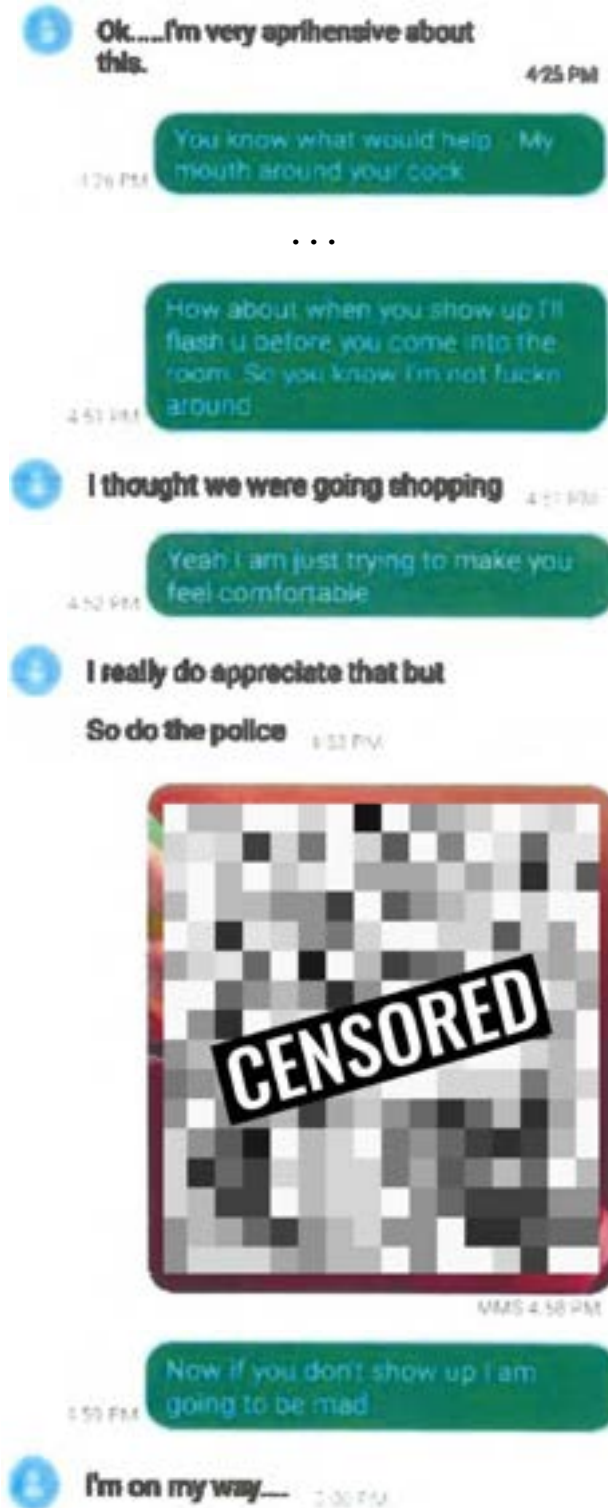


After that, the officers increased the intensity of the conversation, using hypersexual language one would not typically expect from a child:

- “Damn, I would love to have a guy that would give me the D every day”;
- “I just don’t want you to jerk off and not get me off”;
- “I hope you will be the guy that makes me squirt I’ve only did that once and it scared me”;
- “Omg how long...[until] I see u or your dick[?]”;
- “I would love to rub you down in the shower”;
- “I’ll try everything once...and some things 2 times”;
- “Fuck and smoke sounds like the perfect date”;
- “I will be sad if you don’t cum”;
- “Hell yea make me feel sexy”; and
- “I’ve always wanted to try some [sex toys].”

Sprinkled between the sex talk, Mr. Deisler repeatedly expressed an apprehension to commit the crime:





In their final, successful inducement, the police sent Mr. Deisler a nude photo of female genitalia next to the hand of a female officer,

holding a bong. At an evidentiary hearing, the police testified that the genitalia belonged to a sex doll. Sending this image violated GHOST protocols. See GHOST Playbook, *Chatters and Decoys* at 12:04 to 12:15 (stating “the one thing that we don’t do is we don’t do any kind of provocative photos when it comes to genitalia . . . We don’t do that”).

Mr. Deisler expressed hesitation no less than ten times. But with each expression of uncertainty, he was met with increasingly passionate and explicitly sexual responses from the officers, who were *encouraging* him to commit the crime. This is not a “bug” in the GHOST sting playbook. It is a feature. See GHOST Playbook, *Legal Do’s and Don’ts* at 17:32 to 17:41 (suggesting that “most of our perpetrators are doing this primarily to engage in sex for money with, with actual adult women”).

Those who are ready and willing to commit a crime have already contemplated its commission, and they seize the opportunity when it is presented. See *Sherman*, 356 US at 383 (FRANKFURTER, J., concurring). Mr. Deisler’s evolving reactions—from apprehension, uncertainty, and *then* acquiescence to commit the charged crime—exhibit that it took more than merely presenting an opportunity for the police to get him to commit the act. It cannot be said that Mr. Deisler’s apprehension and uncertainty to commit the crime was merely “the natural wariness of the criminal” who does not want to be caught. *Sherman*, 356 US at 375 (rejecting that argument when analyzing readiness and willingness).

Unlike *Lakatos* and the instant case, the facts of Mr. Deisler’s case leave no doubt that he ultimately decided to commit the crimes charged. Even so, when evaluating a claim of entrapment, the question is not *whether* the person committed the crime, but *how* they came to commit it. In *People v Jamieson*, this Court made clear that the police may not

induce a crime by implanting in a person's mind the disposition to commit it. 436 Mich 61 (1990). See also *Sherman*, 356 US at 375, *Sorrells v United States*, 287 US 435, 442 (1932).

In *Deisler*, that scenario is precisely what occurred.

Whether the police are ensnaring innocent people through remarkable levels of deceit and trickery by representing themselves as adults and never fully rebutting that inference, or actively grooming and encouraging people who were planning to have sex with an adult to have sex with a minor instead, these sting operations are inducing crimes by those not independently set on committing them. *That is entrapment.*

Protecting children is a worthy goal. But these tactics do not serve to protect the public from actual child predators. Rather, they have resulted in the en masse transformation of otherwise law-abiding people into convicted felons and registered sex offenders, the chilling of lawful social interactions, and the erosion of public trust in our legal system.

While this iteration of the undercover sting may be new, the principles underlying our entrapment doctrine are not. No matter the type of crime at issue or whether a person ultimately agreed to commit it, the doctrine ensures that law enforcement agencies protect the public by detecting and thwarting *existing* crimes by people who have *pre-existing* criminal intent. Our justice system cannot and must not tolerate police conduct that results in the manufacturing of new criminal intent and orchestration of new crime by people not already predisposed.

Conclusion and Relief Requested

For the above reasons, **CDAM** respectfully requests that this Honorable Court conclude that entrapment determinations are reviewed de novo; find Mr. Jade was entrapped as a matter of law; reverse the judgment of the Court of Appeals; and remand this case for dismissal of the charges against Mr. Jade.

Respectfully submitted,

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