Donald R. Mason
Associate Director / Lecturer in Law

Second Life and Virtual Worlds meeting
Columbia University, June 15, 2007
MISSION

Focus: Issues relating to criminal justice system

Purpose: Promote two concepts that make up Center's title

“Justice” – basic notions of equality, equity, fairness

“Rule of Law” – certain legal procedures required in order to obtain the correct result

BOTH NEEDED to insure criminal justice system fulfills its function to society
Examination of Important Criminal Law Issues

Conferences
Training
Projects
Publications
Cyber Crime Initiative

Link w/ national organizations, state-wide agencies to develop model projects to facilitate prosecution of persons engaged in computer-related crime.
the crime scene
New Crimes & New Techniques

Computer as **Target**
- unauthorized access, damage, theft
- spam, viruses, worms
- denial of service attacks

Computer as **Tool**
- fraud
- threats, harassment
- child pornography

Computer as **Container**
- from drug dealer records to how to commit murder
Education

Prosecution Training

partner: National Association of Attorneys General

only national training program to help combat computer-related crime for AG Offices from all 50 states

Law Enforcement Training

partner: Mississippi State University

training for law enforcement on search and seizure of computers and other sources of digital evidence
Judicial Training

partner: National Judicial College

only national training program for state appellate judges in the search and seizure aspects of computer-related crime

partner: Mississippi State University

only regional training program for trial judges on search and seizure of computers and other sources of digital evidence

Law Student Training

specialized courses, externship placements, and summer employment with prosecution-related organizations
Projects

Guide for Establishing Cyber Crime Prosecution Unit

Computer Searches and Seizure Symposium

Supervising Child Pornographers

Online Cyber Crime Newsletter

Internet Chat CD Rom

Mississippi Cyber Crimes Unit

Internet Victimization Symposium

New Projects - innovative training materials and standardized approaches to computer-related crime
Promotes awareness of search and seizure principles

National Judicial College
    Specialized training for trial and appellate judges.

Annual Conferences
    Address important search and seizure issues, published in the *Mississippi Law Journal*.

*James Otis Lecture*
    Annual lecture by noted scholar.

Computer Searches and Seizures
    Judicial and prosecutor training w/ NAAG and *Mississippi State University*

publications at [www.NCJRL.org](http://www.NCJRL.org)
Legal Challenges of Virtual Worlds

- “Crimes” and criminal law implications
- Applying cyber crime law
  - Cyber crime law and procedure
    - Substantive law
    - Procedural law
    - Jurisdictional issues
Substantive cyber crime law

- Defining “crimes” in virtual worlds
- Can existing real world laws apply?
  - Whose?
  - VWs unique “spaces” in the metaverse, where RW laws cannot apply?
  - Or platforms existing within the RW?
- Similarities to and differences from RW acts
- Can there be “virtual crimes”?
- “Virtual” = “imaginary”?
Mix of elements

- Some “crimes” involve both VW and RW elements
  - Trafficking in stolen credit card numbers
  - Money laundering
- Some appear to be purely virtual?
  - Illicit recreational drug taking
- Some, at least arguably, are in a twilight zone
  - Casino gambling
  - Sex crimes of various sorts
Procedural cyber crime law

- U.S. Constitution, Fourth Amendment
  - “Search”?  
  - “Seizure”?  

- Statutory privacy laws (ECPA)
  - Wiretap Act  
  - Pen Register / Trap and Trace statute  
  - Stored Communications Act
Fourth Amendment

- Can the FA apply in “virtual” dimensions?
- Contemplated by framers?
- To whom could it apply?
- From whom would it provide protection?
- Are there truly “private” spaces in VWs?
**Fourth Amendment**

- "Reasonable Expectation of Privacy"?
  - Subjective?
  - Objectively reasonable?

- Third party doctrine
  - No REP in info voluntarily given to third parties
    - *Smith v. Maryland*, 442 U.S. 735 (1979)
SL and other VW service providers = providers of “electronic communication services”?  
Account information and Content accorded some protections from disclosure and unauthorized access statutorily?  
Other provisions, domestic or international, that apply, or should apply to evidence collection?
Jurisdictional issues

- Where was crime committed?
  - Jurisdiction
  - Venue

- Whose law applies?
  - Substantive
  - Procedural

- Who can investigate / prosecute?
  - Federal?
  - State?