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Attorney General's Commission on Pornography

Final Report

July 1986



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PART ONE

Chapter 1

Commissioner Biographies

Henry E. Hudson served as chairman of the Attorney General's Commission on Pornography. Henry Hudson was born in Washington, D.C. He was awarded a bachelor of arts degree from American University, School of International Service, Washington, D.C., in 1969. In 1974 Mr. Hudson received his juris doctor from American University, Washington, D.C.

Mr. Hudson is currently serving his second term as Commonwealth Attorney in Arlington County, Virginia. Mr. Hudson recently has been appointed to serve as the United States Attorney for the Eastern District of Virginia. Prior to his election, Mr. Hudson was the Assistant United States Attorney for the Eastern District of Virginia, Criminal Division in Alexandria. Mr. Hudson has also served as the Assistant Commonwealth Attorney in Arlington County, Deputy Clerk of the Circuit Court of Arlington County and Deputy Sheriff.

Chairman Hudson enjoys membership in several professional organizations including the Virginia State Bar, Virginia Commonwealth Attorneys Association, Criminal Law Section of the Virginia State Bar, Virginia Trial Lawyer Association, Arlington County Bar Association, and the National District Attorneys Association. In addition, Mr. Hudson has made significant contributions through his work with various community service organizations including the Arlington County Volunteer Fire Department, the Arlington County Police Trial Board, the American

Red Cross, and the Task Force on Substance Abuse and Youth.

In 1981, President Reagan appointed Mr. Hudson to the National Highway Safety Advisory Committee. Mr. Hudson enjoys membership on the Congressional Award Council for the Tenth Congressional District.

Judith Veronica Becker received a bachelor of arts degree in Psychology from Gonzaza University in Spokane, Washington, in 1966. She was awarded a masters of science degree in Clinical Psychology from Eastern Washington State College, Cheney, Washington, in 1968. Dr. Becker received her Ph.D. from University of Southern Mississippi, Hattiesburg, Mississippi, in Clinical Psychology in 1975. Dr. Becker completed her internship at the University of Mississippi Medical School in 1974. Dr. Becker is currently licensed to practice in New York, New Jersey and Tennessee.

Dr. Becker is an Associate Professor of Clinical Psychology in Psychiatry at Columbia University, College of Physicians and Surgeons. She is also the director of the Sexual Behavior Clinic at the New York State Psychiatric Institute. Previously, Dr. Becker has served as Assistant Professor at the University of Tennessee Medical School, an Instructor in Psychiatry and Human Behavior at the University of Mississippi Medical School, and Intern at the University of Mississippi Medical Center.

Dr. Becker's major research interests are in the field of sexual aggression, rape victimization, human sexuality and behavior therapy. She has researched and written numerous papers. Presentations of her research have included those before the Association for the Advancement of Behavior Therapy, the annual meeting of the Southern Psychological Association, the annual meeting of the Southeastern Psychological Association, the International Academy of Sex Research and the Society for Sex Therapy and Research.

Diane D. Cusack has recently completed her second term on the Scottsdale City Council. Mrs. Cusack came to Scottsdale in 1957 and since that time has been very active in community affairs.

Mrs. Cusack's involvement with Scottsdale began in 1964 and led to service on the Planning and Zoning Commission for thirteen years, five as Chairman. Mrs. Cusack has participated as a speaker and panelist at numerous meetings of the Arizona Planning Association, and is recognized statewide for her expertise in the planning field.

Presently, Mrs. Cusack is serving her seventh term as President of the Maricopa County Board of Health. Long active in the health field, she is also Chairman of the City's Emergency Medical Services Committee and in the past has served as a member of the Board of the local Hospital.

After receiving a bachelor of arts degree in economics from Rosary College, Mrs. Cusack became one of the first women to attend the Harvard Business School, receiving a Special Certificate in 1954. A market research analyst, Mrs. Cusack has devoted herself to community affairs since residing in Scottsdale.

While raising her family, Mrs. Cusack was active in scouting. She initiated and managed a school library, and served as a Red Cross School Nurses' Assistant at Tonalea School. She also was president of the Scottsdale League of Women Voters and President of the Scottsdale Symphony Guild, and is a member of

the Arizona Academy.

Mrs. Cusack and her husband, Joseph, a Senior Engineer with Motorola, have three grown children and remain active members of their church and community.

Park Elliott Dietz received an A.B. from Cornell University with honors in Psychology and Distinction in All Subjects in 1970. He earned degrees in medicine (M.D.), public health (M.P.H.), and sociology (Ph.D.) from the Johns Hopkins University. While a Robert Wood Johnson Foundation Clinical Scholar, he served psychiatric residencies at the Johns Hopkins Hospital and the Hospital of the University of Pennsylvania, where he was Chief Fellow in Forensic Psychiatry. He is board certified in psychiatry by the American Board of Psychiatry and Neurology. As an Assistant Professor of Psychiatry at the Harvard Medical School he served as Director of Forensic Psychiatry at the maximum security hospital at Bridgewater operated by the Massachusetts Department of Correction.

Dr. Dietz is Professor of Law, of Behavioral Medicine and Psychiatry and Medical Director of the Institute of Law, Psychiatry and Public Policy at the University of Virginia in Charlottesville. At the University of Virginia, he teaches courses in Law and Psychiatry, Psychiatry and Criminal Law, and Crimes of Violence, provides training in forensic psychiatry, conducts research on sexual offenses, violence, and threats and directs the Forensic Psychiatry Clinic, which conducts evaluations on behalf of attorneys and courts in criminal and civil cases. He also serves as a Lecturer in the Department of Health Policy and Management at the Johns Hopkins School of Hygiene and Public Health, as a psychiatric consultant to the Behavioral Science Unit, Federal Bureau of Investigation Academy, Quantico,

Virginia, and as a consultant to attorneys, courts and public agencies throughout the United States.

Dr. Dietz is a member of Phi Beta Kappa, Phi Kappa Phi, Alpha Epsilon Delta, and Alpha Omega Alpha honor societies. He was the recipient of the 1975 John P. Rattigan Award of the American Society of Law and Medicine, the 1977 Wendell Muncie Award of the Maryland Psychiatric Society and Maryland Association of Private Practicing Psychiatrists, and the 1986 Psychiatry Section Krafft-Ebing Award of the American Academy of Forensic Sciences.

Dr. Dietz has served on the editorial boards of the Johns Hopkins Medical Journal, the Bulletin of the American Academy of Psychiatry and the Law, the Psychiatric Journal of the University of Ottawa, the Journal of Forensic Sciences, and Behavioral Sciences and the Law. He has served as Chairman of the Psychiatry Section of the American Academy of Forensic Sciences; Vice President of the American Academy of Psychiatry and the Law; Vice President of the Board of Trustees of the Forensic Sciences Foundation; a member of the Committee on Federal Trauma Research of the National Research Council and National Academy of Sciences; Chairman of the Committee on Abuse and Misuse of Psychiatry and Psychiatrists in the United States and a member of the Advisory Committee on the Paraphilias, Task Force on Nomenclature and Statistics (DSM-III-R), of the American Psychiatric Association; and a member of the Committee on Psychiatry and Law of the Group for the Advancement of

Psychiatry. He is also a member of the American Society of Criminology, the American Society of Law and Medicine, the Forensic Science Society (Great Britain), and the Society for the Study of Social Problems.

Dr. Dietz's writings have appeared in the American Journal of Public Health, the Archives of General Psychiatry, the Bulletin of the American Academy of Psychiatry and the Law, Behavioral Sciences and Law, the International Journal of Psychiatry and Law, the Journal of the American Medical Association, the Journal of Forensic Sciences, the Journal of Police Science and Administration, the Journal of Public Health Policy, Medicine and Law, Pharmacology, Biochemistry and Behavior, Victimology, and other professional journals and in more than a dozen books. He has addressed medical, psychiatric, psychological, forensic science, and law enforcement audiences throughout the United States and in Canada, Mexico, Australia, and the Federal Republic of Germany.

James C. Dobson received a bachelor of arts degree in psychology from Pasadena College in 1958. He was awarded a master of science degree from the University of Southern California in 1962. He earned a Ph.D. from U.S.C. in 1967 in Child Development and Research Design.

Dr. Dobson served for fourteen years as Associate Clinical Professor of Pediatrics at the University of Southern California School of Medicine, and simultaneously, for seventeen years on the Attending Staff of Children's Hospital of Los Angeles, in the Division of Medical Genetics. He was also Director of Behavioral Research in the Division of Child Development during a portion of this time.

More recently, Dr. Dobson has been President of Focus on the Family, a non-profit organization dedicated to the preservation of the home. In this capacity, he hosts a thirty minute daily radio program heard on more than eight hundred stations in seventeen countries. He is a licensed psychologist in the State of California and a licensed Marriage, Family and Child Counselor also in California. A six-film series featuring Dr. Dobson has been seen by fifty million people to date.

Dr. Dobson has been active in governmental activities since 1980. He received a special commendation from President Jimmy Carter for his work on the Task Force for the White House Conferences on the Family. He was appointed by President Ronald Reagan in 1982 to the National Advisory Commission for the Office of Juvenile Justice and Delinquency Prevention. He also served on

the Citizens Advisory Panel for Tax-Reform, in consultation with President Reagan and currently serves on the Army Science Board as a family consultant for General John Wickham, Chief of Staff, United States Army.

He has published extensively both in professional journals and for individual families. His ten books for parents have sold more than four million copies. His first graduate textbook, co-edited with Dr. Richard Koch, was entitled The Mentally Retarded Child and His Family and was designated the best book in its field by the Menninger Clinic. Dr. Dobson was the principal investigator on a $500,000 grant from the National Institute of Health, studying phenylketonuric children and those with related metabolic disorders. This medical directed research was funded by the Department of Health and Human Services.

Edward J. Garcia was born in Sacramento, California. He received an associate of arts degree in pre-law from Sacramento City College in 1951. In 1958 he was awarded his LL.B. degree from the University of Pacific-McGeorge School of Law.

In 1984, President Reagan appointed Judge Garcia as United States District Court Judge for the Eastern District of California. Previously, he has served as judge of the Sacramento Municipal Court.

Judge Garcia has served as Deputy District Attorney, supervisory Deputy District Attorney, and Chief Deputy District Attorney for the Sacramento County District Attorney's office. He has also enjoyed membership in the Sacramento and California State Bar Associations. Judge Garcia has been a member of the Board of Directors of the Legal Aid Society for Sacramento and Yolo Counties, a member of the Board of Directors for the University of Pacific-McGeorge Alumni Association, a charter member of the Board of Directors of the Mexican American Educational Association, a member of the Catholic Charities Advisory Board for the Diocese of Sacramento, a member of the Board of Directors of the St. Frances Corporation, a non-profit corporation for the construction of housing for the elderly and needy. In addition, Judge Garcia has served as vice chairman for the Governing Board of the California Center for Judicial Education and Research and a lecturer at the California Judge College and as vice president of the California Judges Association.

Ellen Levine, editor-in-chief of Woman's Day and a vice president of CBS Magazines, joined CBS in 1982. Previously, Ms. Levine was the editor-in-chief and creator of Cosmopolitan Living, a lifestyle magazine published by the Hearst Corporation; and at the same time the decorating and food editor of Cosmopolitan. Mrs. Levine joined Cosmopolitan in 1976. She began her journalism career as a reporter in women's news for The Record in Hackensack, New Jersey. In addition to her editorial work, she has been published in many publications, including The New York Times.

During her career, Ellen Levine has been cited by many organizations, including receiving the Writers Hall of Fame award for her coverage of lifestyle news in 1981. A year later she was elected to the YMCA's Academy of Women Achievers; and in 1984 she was honored by the Girl Scout Council of Bergen County for outstanding professional achievement. Similar citations as a woman of achievement were also given by the New Jersey State Federation of Women's Clubs and Douglass College of Rutgers University.

Mrs. Levine is a trustee of the Elisabeth Morrow School in Englewood, New Jersey, and on the board of directors of the New Jersey Bell Telephone Company. She is also a member of Senator Bill Bradley's executive committee.

Ellen Levine is a graduate of Wellesley College, where she majored in political science and edited the college newspaper. She lives with her husband, a physician, and two sons in Englewood, New Jersey.

Tex Lezar was born in Dallas, Texas. He received a Bachelor of Arts degree from Yale College and was awarded his juris doctor degree from the University of Texas where he was editor-in-chief of the Texas Law Review. Mr. Lezar was admitted to the practice of law in Texas in 1977.

Currently in private practice in Dallas, Texas, Mr. Lezar is a partner in the firm of Carrington, Coleman, Sloman & Blumenthal. Prior to joining the firm, he had most recently served concurrently as counselor to Attorney General William French Smith and Assistant Attorney General for Legal Policy. In addition to engaging in the private practice of law, Mr. Lezar has previously served as Assistant to William F. Buckley, Jr.; Staff Assistant and Speech Writer to President Richard M. Nixon; Special Counsel to the Honorable John B. Connally, Jr.; and General Counsel to the Texas Secretary of State.

Mr. Lezar is a Fellow with the Institute of Judicial Administration. In addition, Mr. Lezar was a member of the United States Delegation to the International Conference on African Refugee Assistance II and he is a member of the Federal Judiciary Evaluation Committee of Senator Phil Gramm and a member of the American Law Institute.

The Reverend Bruce Ritter was born in Trenton, New Jersey. Father Ritter studied at St. Françis Seminary and then he went to Our Lady Queen of Peace in Middleburgh, New York. He studied philosophy at the Assumption Seminary in Chaska, Minnesota. Father Ritter began his course work in theology at St. Anthony--on-Hudson in Rensselar, New York, and completed his studies at St. Bonauenture's Theoligate in Rome. He was ordained in Rome in 1956 and received his doctorate in medieval dogma in 1958. Father Ritter is the founder and President of Covenant House, an international child care agency that operates short-term crisis centers in New York City, Houston and Toronto, as well as a long-term residential program in Antigua, Guatemala.

Father Ritter has taught at St. Anthony-on-Hudson in Rensselaer, New York, St. Hyacinth Seminary in Granby, Massachusetts, and at Canevin High School in Pittsburgh, Pennsylvania. In 1963, he was assigned to Manhattan College in the Bronx, New York as campus chaplain and professor of theology.

Father Ritter has received national recognition for his extensive work with the homeless and runaway youth. He has received the National Jefferson Award from the American Institute of Public Service in Washington, D.C., the Service to Youth award from the New York State Division for Youth, and the International Franciscan Award. Father Ritter has received honorary degrees from Amherst College, Villanova University, Boston College, and Fordham University.

Frederick Schauer is Professor of Law at the University of Michigan Law School. He received A.B. and M.B.A. degrees from Dartmouth College, and a J.D. from the Harvard Law School in 1972.

Professor Schauer was formerly Cutler Professor of Law at the College of William and Mary. He has also been a Visiting Scholar at Wolfson College, Cambridge University, and a member of the law faculty in West Virginia University. Prior to entering academic life, Professor Schauer practiced law with the firm of Fine & Ambrogne in Boston, Massachusetts. He is a member of the Bar of the Commonwealth of Massachusetts, and is certified to practice before the Supreme Court of the United States.

Professor Schauer has written extensively about the law of obscenity, the First Amendment, and constitutional law generally. In addition to numerous articles on these subjects, he is the author of the annual supplements to Gunther, Constitutional Law, and has written two books, The Law of Obscenity, published by BNA Books in 1976, and Free Speech: A Philosophical Enquiry, published by the Cambridge University Press in 1982. The latter book was awarded the Certificate of Merit by the American Bar Association in 1983. Professor Schauer currently serves as Chair of the Section on Constitutional Law of the Association of American Law Schools, and has previously been Vice-Chair of the Section on Law and the Arts of the same organization. Among his other honors and awards is receipt of a National Endowment for the Humanities Fellowship and selection as Professor of the Year

at the School of Law of the College of William and Mary. Professor Schauer has also lectured at universities, conferences, and other gatherings throughout the world on constitutional law, legal and political philosophy, freedom of speech, and the legal and philosophical aspects of the regulation of pornography.

Deanne Tilton is President of the California Consortium of Child Abuse Councils (CCCAC), a Statewide network of child abuse organizations including public and privately based inter-disciplinary councils, agencies, and individuals. The Consortium provides broad-based networking, training and technical assistance to programs and agencies providing child abuse prevention and treatment in both urban and rural communities. The Consortium has also sponsored major legislation in the area of child abuse prevention, providing over 15 million in direct funding to community programs Statewide. The California Consortium of Child Abuse Councils is the State Chapter of the National Committee for Prevention of Child Abuse. Ms. Tilton is Administrative Director of the Los Angeles County Inter-Agency Council on Child Abuse and Neglect (ICAN). ICAN is one of the largest child abuse councils in the Country, including the heads of 18 major City, County, and State departments, professional experts in every human services field, and nine community child abuse councils in Los Angeles County. In 1979, Ms. Tilton organized a private sector partnership between ICAN and ICAN Associates, a private non-profit charity comprised of influential corporate and media representatives. This partnership has attracted National attention for its cooperative efforts and for the development of the ICAN Neighborhood Family Center Project. This project includes the development and networking of comprehensive multi-service community-based child abuse programs. Ms. Tilton is a member of the Board of Directors of the National

Committee for the Prevention of Child Abuse (NCPCA). She also serves as a Commissioner on the California Attorney General's Commission on the Enforcement of Child Abuse Laws. In July, 1985 she was appointed by the California Governor to the Child Abuse Prevention Committee of the State Social Services Advisory Board. Ms. Tilton has been in the field of children's services since 1964, beginning as a Los Angeles County Social Worker. She was the County liaison between the Department of Public Social Services and the Juvenile Court when child abuse cases were initially transferred from the Probation Department to DPSS. She also served as a Supervising Children's Services Worker and later as Deputy Regional Services Administrator before being selected to administer ICAN. Ms. Tilton has been awarded commendations for her work by the National; Association of Counties, the Los Angeles County Board of Supervisors, the ICAN Associates, the Los Angeles Latino Community, the Children's Legislative Organization United by Trauma (CLOUT) and numerous other public and private organizations concerned with the welfare of children and families. She is married to Child Psychiatrist, Michael J. Durfee, M.D.

Executive Director.

Alan E. Sears served as the Executive Director for the Attorney General's Commission on Pornography. Mr. Sears previously served as the Chief of the Criminal Division and as Assistant United States Attorney for the office of United States Attorney in the Western District of Kentucky. He has extensive trial experience which includes supervision of investigations and prosecution of several obscenity law cases. Mr. Sears is admitted to the practice of law in Kentucky and before the United States district courts for the Western District of Kentucky, the Eastern District of Kentucky, the United States Tax Court, the United States Courts of Appeal for the Sixth Circuit and the District of Columbia and the United States Supreme Court.

Chapter 2

Acknowledgements and Notes

One of the most difficult tasks at the conclusion of a project such as this Commission's work is in properly expressing appreciation to the countless persons who contributed to the success of the project. The Commission wishes to thank everyone who assisted in this work. The Commission also recognizes and commends the following persons and agencies for their extraordinary contributions of personnel and support.

Arlington County Police Department
Chief William K. Stover

Metropolitan Police Department
Washington, D.C.
Chief Maurice Turner

United States Postal Inspection Service
Chief Postal Inspector Charles R. Clauson

United States Customs Service
Commissioner William von Raab

Los Angeles County Department of Childrens Services
Robert Chaffee, Director
Stephen Fox, Director of Governmental Relations

Los Angeles County Sheriff's Department

Child Abuse Unit

Lt. Richard Willey

Los Angeles City Attorney's Office

Deputy City Attorney

Mary House

Los Angeles County Counsel

Chief of Juvenile Division

Larry Cory, Esquire

The Police Departments and officers of:

The City of Los Angeles, California

The City of Houston, Texas

The City of Chicago, Illinois

The City of Buffalo, New York

The City of Miami, Florida

We also express special appreciation to support work and research performed by the Federal Bureau of Investigation,

Director William Webster, support personnel at the United States Department of Justice, the many persons and entities in the United States Courts, General Services Administration, Federal Protective Services and with the City of Scottsdale, Arizona, who provided hearing sites and support for our public hearings and meetings.

Chapter 3

Commissioner Statements

With the reservations expressed herein, I concur in principle with the conclusions drawn by the majority. The findings contained in our report reflect a balanced assessment of the evidence heard. Ideally, I would have preferred that our condemnation of materials directly affecting behavior be couched in more forceful language, and that our recommendations for enhanced law enforcement, particularly with respect to violent and degrading materials, be likewise more pronounced. The reluctance of some Commissioners to adopt more potent language in these areas was undoubtedly attributable to the scarcity of definitive research on negative effects. While the existing body of research, particularly when coupled with the totality of the other evidence heard, well supports our findings, more corroborative research may warrant firmer control measures. Hopefully these issues will be addressed by behavioral scientists in future years.

Undoubtedly the most divisive task which confronted the Commission has been an analysis of those materials contained in Category III. This group encompasses a wide spectrum of imagery depicting sexual activity without violence, submission, degradation or humiliation. More than any other class evaluated, each Commissioner's personal value assessment of the activity portrayed encumbered objective analysis. The lack of consensus among the American people as to the morality of certain acts was

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quite evident among our cross-sectional composition.

From a purely social scientific perspective there is no cogent evidence that materials in this class have a predominately negative behavioral effect. There is, however, a scarcity of research material squarely within the definitional boundaries of this Category.

Much of the research touching material representative of this group also includes publications in other categories. The scarcity of significant research in this area adds a definite element of caution in assessing the behavioral effects of this class, particularly with respect to children and adolescents.

Despite the absence of clinical evidence linking Class III materials to anti-social behavior, several correlational connections are disturbing. First, it would appear that imagery comprising this Class may tend to encourage and promote the activity depicted. To the extent that the activity portrayed may be morally offensive, its literary propagation could be a social problem. At least one study has indicated that prolonged exposure to material in this category may cause a desensitized attitude toward the sexual abuse of women. This evokes considerable concern, especially with respect to the effect on individuals with predispositions for antisocial behavior.

Turning next to an assessment of the social effects of Class III materials as determined from all sources of evidence, it is useful to weigh the evidence relating to each category of

potential harm identified by the Commission. Aside from attitudinal desensitization, there appeared to be no evident connection between items in this Class and the contention that women enjoy being raped. Several witnesses alluded to the possibility that a behavioral nexus may exist, but no persuasive evidence was introduced. However, depictions in this class do tend to promote the notion that women are inherently promiscuous and enjoy sexual exploitation. This type of imagery conveys the impression that women are fundamentally immoral and hedonistic.

The depictions featured in Category III material appear to de-emphasize the significant natural bond between sex and affection in their portrayal of adultery, fornication and sodomy. Therefore, in the final analysis, Class III material appears to impact adversely on the family concept and its value to society.

On balance, it would appear that materials in Class III have mixed effects depending on their nature and purpose. Those items which tend to distort the moral sensitivity of women and undermine the values underlying the family unit are socially harmful.

Aside from the type of harm which lends itself to a clinical degree of proof, obscenity impacts on society in a number of ways which defy scientific standards of assessment. The visible availability of obscene materials and performances in a community derogates from the family atmosphere normally fostered by local governmental policy. As Chief Justice Earl

Warren noted in Jacobellis v. Ohio, 373 U.S. 184, 199, "(t)here is a right of the Nation and States to maintain a decent society." The right to preserve a wholesome community atmosphere conducive to family development in itself warrants the control of offensive and obscene materials. Chief Justice Warren E. Burger observed in Paris Adult Theater I v. Slayton, 413 U.S. 49, 58, that the desire to maintain "the quality of life and the total community environment" is an adequate legal basis for the regulation of obscene material. Justice Harlan in his dissenting opinion in Roth v. United States, 354 U.S. 476, 505, described this governmental obligation as a "responsibility for the protection of the local moral fabric." Inherent in the comments of Chief Justice Burger, as well as those of his predecessors, is the acknowledgment of the existence of a moral and cultural texture in our society, worthy of legal protection. Toward that end, I join Commissioner Park Elliott Dietz in his introductory comments.

Turning to the issue of law enforcement as developed in the text, my concern focuses more on the manner of expression than the underlying conclusion. Initially, the decision to adopt or enforce obscenity laws should reside, within constitutional limits, with the citizens of each community. Our recommendations are predicated on the assumption that a community seeking to implement these suggestions has made this threshold decision. From the evidence heard and correspondence received, it would appear that most communities desire some degree of obscenity

enforcement. However, if law enforcement officials in those communities adopt a policy of conscious oversight or neglect of obscenity cases, as has apparently happened in many jurisdictions, this may spawn a spectre of condonation. In time, an attitude of tolerance will evolve to the level of normal, and often fossilized, public policy. The necessity for reversing this course and employing our suggestions for citizen action deserves more prominence in our report.

The suggested prioritization of obscenity cases, which places the greatest emphasis on violent and degrading materials, seems appropriate. Of greater concern is the possible implication that enforcement with respect to Category III items should be de-emphasized. While prioritization of resources, like other obscenity law enforcement policy, is a matter within the prerogative of each individual jurisdiction, I do not support the suggestion that any items within the current definition of obscenity should not be prosecuted if deemed appropriate by that community. To the extent that prioritization of resources entails the commitment of personnel to long-term, complex investigations, a policy of concentration on violent and degrading materials is logical. On the other hand, the policy distinction between <u>legally obscene</u> materials of that type (Category I and II), and those in Category III is less persuasive when applied to cases developed by routine periodic surveys of materials on display in commercial areas. Under the latter circumstances, all materials within the legal definition of

obscenity, as established by the standards of that community, should be prosecuted upon discovery.

Our suggestion that publications consisting entirely of the printed word and without imagery be exempted, except for those relating to child abuse, is disturbing. While I have never personally initiated a prosecution of a publication of that type, and cannot envision circumstances warranting such action in my community, I will not unilaterally impose my view on other jurisdictions. To the extent that our text may appear to condone a relaxation of existing obscenity laws with respect to materials comprised solely of the printed work, I depart from the majority. A decision to disregard existing law must in my view be made by the individual community affected.

I am also of the opinion that our report understates the connection between the pornography industry and organized crime. The evidence which I heard revealed more than a mere association. In my view, most elements of the pornography industry, particularly with respect to books and magazines, is directly controlled by the La Cosa Nostra, through its members or associates.

In the final analysis, I believe our final report represents as intensive an examination of the multi-faceted topic of pornography as could be conducted within our time and budgetary constraints. Every issue presented to us was considered from all points of view. Each member of our Commission made a valuable contribution of time and talent to our final product. I

am proud to sign the resulting report.

Henry E. Hudson

Chairman

Statement of Diane D. Cusack

At the conclusion of our year-long effort to assess the impact of pornography on American society, it seems appropriate to add my personal thoughts on just a few aspects of deliberations and the report.

Although sometimes with the majority and other times with the minority on certain points, I believe the report fairly states both sides of any divided issues and I am proud to sign this report and to have been a part of a most intensive and intelligent look into a troublesome aspect of our society today. Our chairman, Henry Hudson, and Staff Director, Alan Sears, deserve the gratitude of the country for so keenly perceiving and discharging their uniquely important responsibilities. I know they have my admiration and thanks.

Those who seize upon our divisions do the report a great disservice. Rather, they should credit the high degree of consensus - and frequent unanimity - as a strong statement of our concern for society. Our 92 recommendations are sound and sure, and must be implemented at all levels of government if there is to be any hope of "stemming the tide" of obscenity which is flooding our environment.

There is no doubt among us that the quantity of pornography available today in America is almost overwhelming. In addition, that large portion of it which would be obscene under the Miller test is shockingly violent, degrading and perverted. It

is my personal opinion that there is no one who is a consistent user of this material who is not harmed by it. And who, in turn, may harm others because of it. This obscene material should be prosecuted vigorously under the laws and according to our recommendations, whether pictorial, film, or written works.

But let us not ignore that body of material which is sexually explicit but not obscene under the Miller test. This material can also be harmful - but in a somewhat different way. Although not prosecutable, nor recommended to be so, it nonetheless presents a cause for concern. Our report clearly states a concern for material that is objectionable but is and should be protected by the First Amendment freedoms. The fact that it is "protected speech" does not automatically remove its objectionable character. For 2500 years of western civilization, human sexuality and its expressions have been cherished as a private act between a loving couple committed to each other. This has created the strongest unit of society - the family. If our families become less wholesome, weaker, and less committed to the fidelity that is their core, our entire society will weaken as well. People who consistently use the materials we have studied - and children who inadvertently are exposed to them - are not made better persons for it. No pornographer has ever made that claim. And those who insist that these materials do no harm had better be right, for the risks to our future are substantial. These materials, whose message is clearly that sexual pleasure and self-gratification are paramount, have the ability to

seriously undermine our social fabric. It is the individuals in our great nation who must see this, and reverse the trend - not the government. Chapter 7 of Part Four the Report addresses this issue quite well.

Aristotle has taught us for years that a society must concern itself with virtue. "Otherwise . . . law becomes a mere contract or mutual guarantee of rights, and quite unable to make citizens good and just, which it ought to do . . . ." It is this "good and just" society which America has enjoyed from its beginning. It became so because its people had a shared respect, a unifying vision, a common understanding of man's place in the world. We have a phenomenon today, in the pervasive presence of sexually explicit materials, that challenges one of those understandings held by society for thousands of years - that sex is private, to be cherished within the context of love, commitment, and fidelity. We can use this wondrous gift to create or destroy, to rule or be ruled, to honor each other or debase each other. This Report provides an abundance of information, and the conclusions of a community of eleven citizens. The American people must now decide what to do with it.

STATEMENT OF PARK ELLIOTT DIETZ, M.D., M.P.H., PH.D.[1]

In recent decades there has been a desirable trend toward using empirical evidence to test long-held assumptions underlying legal doctrine and procedure and to rely on social science evidence to make better-informed judgments about difficult questions of law and social policy. Social science has given good service in answering questions about adequate jury size, in determining public perceptions of trademark products, in profiling skyjackers, in sentencing convicted criminals, and in limiting the exclusionary rule. But social science is too new on the historical scene to have developed adequate data on every important social problem, too little funded to have amassed all the data desired, and too positivistic to tell us what we should do, particularly when competing interests are at stake.

The 1970 Commission on Obscenity and Pornography went so far in attempting to rely on social science evidence that a majority of its members took the absence of experimental evidence of causation of antisocial behavior or sexual deviance as a basis for urging the deregulation of obscenity. The present Commission did not limit its inquiry to the products of social science research. While in this respect we depart from the tradition of one predecessor Commission, we do not depart from the tradition of those who have been charged with formulating social policy for the whole of human history. Every time an emperor or a king

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[1] Commissioner Cusack concurs in this statement.

or a queen or a president or a parliament or a congress or a legislature or a court has made a judgment affecting social policy, this judgment as been made in the absence of absolute guidance from the social sciences. The Constitutional Convention of 1787 had no experimental evidence to guide its decision making. When the First Congress proposed the First Amendment in 1789 and when it was ratified by the states in 1791 and made a part of the Constitution, the empirical social sciences had not yet been conceived.

As in public policy, decision makers in medicine must exercise their best judgment in the face of uncertainty, being guided by science as far as it takes us, being guided by a commitment to the well being of individuals and of society, and being guided by sensitivity toward those situations in which the best interests of an individual conflict with the best interests of society. It is within this framework that I have tried to make my own best judgments about pornography while serving on the Commission. At every step in our joint decision making, the medical and public health consequences have been in the forefront of my concerns. These consequences are not widely recognized, for which reason I devote most of my personal statement to an overview of these.

Before the Commissioners had even met one another, the press had begun to suggest bias among the Commissioners and to wave red flags of censorship. Now, before our report has even gone to the printer, there have already been claims that we are

too liberal, that we are too conservative, that we have gone too far, that we have not gone far enough, that we have ignored evidence showing how innocuous pornography is, and that we have ignored evidence showing how destructive pornography is. In short, there are those who have rejected our findings before the report has even been issued, and I have no doubt many more will do so in the future without having read it. Likewise, but for somewhat different reasons, there will be those who accept our findings without having read our report. This is equally risky. Our report is meant to be read, and I encourage every adult in America to do so before accepting or rejecting our findings.

The reader should be forewarned, however, that our report contains offensive materials. Some readers will be offended by quoted language, particularly the titles of magazines, books, and films that we considered. But the offensiveness of some of the quoted language is nothing when compared to the suffering described by victims whose accounts are quoted in the victimization chapter. This is not bedtime reading. As with the practice of medicine, one must sometimes cause discomfort to effect a cure, and it was our judgment that the public and the truth would be best served by including certain discomforting materials in the report.

I came to the Commission with personal views on pornography which were based on intellectual and humanitarian concerns and on certain noncontroversial ethical principles; the morality of pornography was the farthest thing from my mind. Thus, I was

astonished to find that by the final meeting of the Commission, pornography had become a matter of moral concern to me. While other Commissioners may have learned things about the dark side of life that they had never known, I remembered something about the higher purposes of life and of humanity's aspirations that I had forgotten during too many years working on the dark side. I therefore conclude my remarks with statements on morality and on freedom that would have seemed foreign to me not many months ago.

I. Pornography And Health

A. Abuse of Persons Used in Production

Pornography is a medical and public health problem because people, particularly women and children, are abused in the production of certain pornographic materials. People have been beaten, forced to engage in sexual acts, held prisoner, bound and gagged, and tortured for purposes of producing pornography. In the course of these events they have been exposed to the risk of acquiring sexually transmitted diseases. Some have been supplied with narcotics. Of course, these crimes could have been prosecuted in their own right, even if there were no obscenity or child pornography laws. Moreover, the market for pornography is, after all, but one of several motives for the commission of these crimes, all of which also occurred before the invention of photography. If these were the only adverse health consequences of pornography, the most straightforward remedy would be regulation of the pornography industry to assure safe and fair labor practices. But these are not the only adverse health

consequences of pornography.

B. Injurious Products

Pornography is a medical and public health problem because pornographic retail outlets of the "adults only" variety sell products under the pretext of health and recreation that are the instruments of injury, both intentional and unintentional. People have suffocated in bondage hoods. People have asphyxiated and burned to death in handcuffs and bondage restraints. People have been raped and lacerated with dildos. People have had "sexual aid" devices entrapped in body cavities, requiring extraction at hospital emergency wards. People have died from orally ingesting volatile nitrites and have suffered cerebrovascular injury from inhaling these same chemicals, sold as aphrodisiacs under various pretext labels in these establishments. People have been abducted and have been conned into exiting their vehicles or allowing strangers into their homes when offenders have shown them phony police badges, sold as "novelties" in some of these establishments. People have been robbed and put in fear of their life by offenders who have wielded phony guns, also sold as "novelties" in some of these establishments. If these were the only adverse health consequences of pornography, the most straightforward remedies would be public education, regulation of some of these products through food and drug law and others through criminal sanctions, and tort actions by the injured against producers and distributors of inherently dangerous products and products that were neglige-

ntly designed, marketed, labeled, and sold. But these are not the only adverse health consequences of pornography.

C. Vice Centers

Pornography is a medical and public health problem because pornographic retail outlets of the "adults only" variety are the most visible service stations of the vice industry. The peep-show booths, with their locking doors, are the self-service pumps, as evidenced by the body fluids on their floors and walls. The openings in the walls of the booths allow anonymous and casual sexual contact, making it impossible to trace the donors and recipients of sexually transmitted diseases. These establishments draw muggers to a pool of victims who are somewhat disinclined to report a robbery to the police. These establishments signal members of the community and visitors that full vice services may be available nearby through prostitutes and drug dealers and, if not so directly available, are a phone call away through the advertisements found in tabloids, periodicals, and sex-for-sale guides. If these were the only adverse health consequences of pornography, the most straightforward remedy would be to prohibit retail sales except through the mail. But these are not the only adverse health consequences of pornography.

D. Sexual Disinformation

Pornography is a medical and public health problem because so much of it teaches false, misleading, and even dangerous information about human sexuality. A person who learned about

human sexuality in the "adults only" pornography outlets of America would be a person who had never conceived of a man and woman marrying or even falling in love before having intercourse, who had never conceived of two people making love in privacy without guilt or fear of discovery, who had never conceived of tender foreplay, who had never conceived of vaginal intercourse with ejaculation during intromission, and who had never conceived of procreation as a purpose of sexual union. Instead, such a person would be one who had learned that sex at home meant sex with one's children, stepchildren, parents, stepparents, siblings, cousins, nephews, nieces, aunts, uncles, and pets, and with neighbors, milkmen, plumbers, salesmen, burglars, and peepers, who had learned that people take off their clothes and have sex within the first five minutes of meeting one another, who had learned to misjudge the percentage of women who prepare for sex by shaving their pubic hair, having their breasts, buttocks, or legs tattooed, having their nipples or labia pierced, or donning leather, latex, rubber, or child-like costumes, who had learned to misjudge the proportion of men who prepare for sex by having their genitals or nipples pierced, wearing women's clothing, or growing breasts, who had learned that about one out of every five sexual encounters involves spanking, whipping, fighting, wrestling, tying, chaining, gagging, or torture, who had learned that more than one in ten sexual acts involves a party of more than two, who had learned that the purpose of ejaculation is that of soiling the mouths,

faces, breasts, abdomens, backs, and food at which it is always aimed, who had learned that body cavities were designed for the insertion of foreign objects, who had learned that the anus was a genital to be licked and penetrated, who had learned that urine and excrement are erotic materials, who had learned that the instruments of sex are chemicals, handcuffs, gags, hoods, restraints, harnesses, police badges, knives, guns, whips, paddles, toilets, diapers, enema bags, inflatable rubber women, and disembodied vaginas, breasts, and penises, and who had learned that except with the children, where secrecy was required, photographers and cameras were supposed to be present to capture the action so that it could be spread abroad. If these were the only adverse health consequences of pornography, the most straightforward remedy would be to provide factually accurate information on human sexuality to people before they are exposed to pornography, if only we could agree on what that information is, on who should provide it to the many children whose parents are incapable of doing so, and on effective and acceptable means by which to ensure that exposure not precede education. In the absence of such a remedy, the probable health consequences in this area alone are sufficient to support recommendations that would reduce the dissemination of that pornography which teaches false, misleading, or dangerous information about human sexuality. And these are not the only adverse health consequences of pornography.

E. Encouraging Social Behavior with Adverse Health Consequences

Pornography is a medical and public health problem because it encourages patterns of social behavior which have adverse health consequences. The person who follows the patterns of social behavior promoted by pornography is a person for whom love, affection, marriage, procreation, and responsibility are absolutely irrelevant to sexual conduct. We do not need research to tell us that such persons on the average contribute more than other persons to rates of illegitimacy, teenage pregnancy, abortion, and sexually transmitted diseases. If these were the only adverse health consequences of pornography, the most straightforward remedy would be to more effectively encourage responsible sexual behavior, if only we knew how. In the absence of such a remedy, the probable health consequences in this area alone are sufficient to support recommendations that would reduce the dissemination of pornography. And these are not the only adverse health consequences of pornography.

F. Fostering Attitudes with Adverse Health Consequences

Pornography is a medical and public health problem because it increases the probability that members of the exposed population will acquire attitudes that are detrimental to the physical and mental health of both those exposed and those around them. The social science evidence adequately demonstrates that even in experimental samples of mentally stable male college students, exposure to violent pornography leads to measurable, negative changes in the content of sexual fantasies, attitudes toward women, attitudes toward rape, and aggressive behavior

within the experimental setting. Analogous results of exposure to nonsexual media violence have been well-documented for even longer. Although too few experiments have clearly tested the effects of degrading pornography, there are suggestions in the few existing studies that exposure to degrading pornography has negative effects in the experimental setting, including eliciting anxiety, depression, and hostility. Biographical accounts of individuals go beyond the experimental evidence in attributing changes in male sexual attitudes and demands to pornography, including nonviolent pornography, and in documenting adverse consequences to women and children of the behavior of these men. Some of these accounts include persuasive examples of direct and immediate imitation and of long-term modeling effects. Moreover, the existing population-based evidence for the United States shows a correlation between circulation rates of magazines containing pornography (primarily of a nonviolent type) and rates of reported rape in the fifty states during the same time period, even after many other factors were statistically controlled. In my opinion, we know enough now to be confident in asserting that a population exposed to violent pornography is a population that commits more acts of sexual brutality than it otherwise would and to suggest somewhat less confidently that the same is probably true of a population exposed to degrading pornography. Even if these were the only adverse health consequences of pornography, there would be no straightforward remedies for these consequences short of reducing the exposure

of the population to violent and degrading pornography. And these are not the only adverse health consequences of pornography.

C. Instruments of Sexual Abuse

Pornography is a medical and public health problem because it is used as an instrument of sexual abuse and sexual harassment. Pornography of all types is used in the sexual abuse of children to instruct them on particular sexual acts and to overcome their resistance by showing them what adults do and by intimidating them about the painful things that might be done to them if they fail to comply. Pornography of all types is used to instruct women in the sexual behaviors that men desire of them but which they have "failed" to provide, forcing women who have or see no other options to choose between the feelings of inadequacy that accompany refusal and the feelings of self-loathing that accompany compliance. Pornography of all types is used to harass women in the workplace and to remind them into whose world they are intruding, leading to feelings of shame, disgust, and powerlessness. Even if these were the only adverse health consequences of pornography, there would be no straightforward remedies for these consequences short of reducing the quantity of pornography in circulation. And these are not the only adverse health consequences of pornography.

H. Presumed Corruption of Children

Pornography is a medical and public health problem because it falls into the hands of children, who must be assumed

vulnerable to adverse mental health consequences unless and until proved otherwise. Although experiments to test this assumption pose potentially insurmountable ethical dilemmas, it should be possible to design studies to examine the responses of children who have been exposed to pornography in other ways, such as negligent parental storage. Such studies would require safeguards to protect the child against any further harm and a suitable control group, such as children whose parents possess pornography to which the children were not exposed. To date, the effects of exposure on young children are unknown, but it would be as imprudent to assume no negative health consequences of pornography on children as it would to make such an assumption about a drug that had not been properly tested. Even if the assumed harms to exposed children were the only adverse health consequences of pornography, there would be no straightforward prevention or remedy for these consequences short of reducing the quantity of pornography in circulation. And these are not the only adverse health consequences of pornography.

I. The Limits of Obscenity and Child Pornography Laws in Reducing the Adverse Health Consequences of Pornography

The adverse health consequences of pornography are not limited to a single class of pornographic materials, though the various classes have differing health consequences. Most importantly perhaps, the adverse health consequences of pornography are not limited to materials that are legally obscene or that violate child pornography law. Thus, existing

laws, even if enhanced and enforced as recommended in this report, are insufficient to prevent the adverse health consequences attributable to pornography. Obscenity law is designed to suppress the offensive, but on medical and public health grounds it would be more desirable to suppress the harmful. To the extent that the obscene and the harmful overlap, obscenity law is a powerful tool of health promotion. But if the adverse health consequences of pornography are to be minimized, strategies other than effective enforcement of obscenity law and child pornography law will be necessary. In addition to the strategies that increase the effectiveness and enforcement of existing law, the nation's health requires a creative search for countermeasures against the adverse health consequences of non-obscene, non-child pornography, which will inevitably survive law enforcement efforts directed against obscenity and against child pornography. In this search, we must inevitably come to terms with the need for appropriate sex education.

The Commission report endorses citizen actions that could help reduce the adverse health consequences of non-obscene, non-child pornography, but the report is necessarily unclear on the nature and extent of this class of materials. This lack of clarity carries with it the risk that citizen action will be misdirected. To the extent that citizens care to base their actions against non-obscene material on its medical and public health consequences, they will do more to promote health if they

insure that their efforts encompass violent and degrading images, especially sexually violent and degrading images. Unhealthy as some nonobscene pornography may be, it is not as unhealthy as detective magazine covers depicting violence toward a woman whose sexual characteristics are emphasized, horror films depicting girls or women undressing moments before the villain pounces upon them, or televised depictions of violence toward alluring, glamorous, and wanton women. Like rape itself, violent pornography is not so much about sex as about violence. It is no distortion of the language to refer to violence that is not sexually explicit as pornography. The word "pornography" derives from the Greek for the writings of prostitutes, and the life of the prostitute is as much a life of violence as it is a life of sex. If sexually stimulating materials that are nonviolent, nondegrading, and nonobscene have beneficial health consequences, the most important among them must be that they distract attention from materials that are violent and degrading.

II. Pornography And Morality [2]

Acting as a whole, the Commission attempted to provide a reasoned analysis of the permissible and desirable relationships between government and the regulation of sexually explicit materials, including the rights of citizens to take private action. As a governmental body, we studiously avoided making judgments on behalf of the government about the morality of particular sexual acts between consenting adults or their depiction in pornography. This avoidance, however, should not be mistaken for the absence of moral sentiment among the Commissioners.

I, for one, have no hesitation in condemning nearly every specimen of pornography that we have examined in the course of our deliberations as tasteless, offensive, lewd, and indecent. According to my values, these materials are themselves immoral, and to the extent that they encourage immoral behavior they exert a corrupting influence on the family and on the moral fabric of society.

Pornography is both causal and symptomatic of immorality and corruption. A world in which pornography were neither desired nor produced would be a better world, but it is not within the power of government or even of a majority of citizens to create such a world. Pornography is but one of the many causes of immorality and but one of its manifestations.

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[2] Chairman Hudson, Commissioners Dobson, Lezar, Garcia and Cusack concur in this section.

Nonetheless, a great deal of contemporary pornography constitutes an offense against human dignity and decency that should be shunned by the citizens, not because the evils of the world will thereby be eliminated, but because conscience demands it.

III. Pornography And Freedom

When Andrea Dworkin challenged us to find the courage "to go and cut that woman down and untie her hands and take the gag out of her mouth, and to do something, to risk something, for her freedom," I cried. And I still cry at that image, even as I write, because if we do not act with compassion and conviction and courage for the hostages and victims of the pornographers we do not deserve the freedoms that our founding fathers bequeathed us. It has been nearly two centuries since Phillipe Pinel struck the chains from the mentally ill and more than a century since Abraham Lincoln struck the chains from America's black slaves. With this statement I ask you, America, to strike the chains from America's women and children, to free them from the bonds of pornography, to free them from the bonds of sexual slavery, to free them from the bonds of sexual abuse, to free them from the bonds of inner torment that entrap the second-class citizen in an otherwise free nation.

APPENDIX

To elucidate one example of the types of material that are probably not obscene under the Miller test but which should be high on any list of media depictions posing risks to health, I append an article that I coauthored, with appreciation to the Journal of Forensic Sciences in which it was published and the American Society for Testing and Materials which holds the copyright for permission to include it here.

Park Elliott Dietz,[1] *M.D., M.P.H., Ph.D.; Bruce Harry,*[2] *M.D.; and Robert R. Hazelwood,*[3] *M.S.*

Detective Magazines: Pornography for the Sexual Sadist?

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ABSTRACT: The origins of detective magazines can be traced to 17th and 18th century crime pamphlets and to 19th century periodicals that Lombroso called "really criminal newspapers." Content analysis of current detective magazines shows that their covers juxtapose erotic images with images of violence, bondage, and domination; that their articles provide lurid descriptions of murder, rape, and torture; and that they publish advertisements for weapons, burglary and car theft tools, false identification, and sexual aids. Six case histories of sexual sadists illustrate the use of these magazines as a source of fantasy material. We postulate that detective magazines may contribute to the development of sexual sadism, facilitate sadistic fantasies, and serve as training manuals and equipment catalogs for criminals. We recommend that detective magazines be considered during policy debates about media violence and pornography.

KEYWORDS: psychiatry, criminal sex offenses, deviant sexual behavior, detective magazines, sexual sadism, pornography, criminal behavior, sexual homicide

A class of popular periodicals known as "detective magazines" has apparently eluded the attention of researchers and commentators concerned with media violence and pornography. These magazines provide factual accounts of crimes and criminals, and are thereby distinguished from mystery fiction. They rarely contain photographs of nudes, and are thereby distinguished from those publications that most individuals casually refer to as erotic, pornographic, or obscene.

In this paper, we review the historical roots of these detective magazines, report data on the content of current detective magazines, present six case histories in which detective magazines were a source of fantasy material, and discuss the possible psychiatric and criminologic significance of detective magazines.

We postulate that detective magazines serve as pornography for sexual sadists. The works of the Marquis de Sade and his literary disciples, though known outside the literati, are too

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[1]Associate professor of law and of behavioral medicine and psychiatry and medical director, Institute of Law, Psychiatry and Public Policy, University of Virginia Schools of Law and Medicine, Charlottesville, VA.

[2]Assistant professor of psychiatry and adjunct assistant professor of law, University of Missouri—Columbia, Columbia, MO.

[3]Supervisory special agent and instructor, Behavioral Science Unit, FBI Academy, Quantico, VA.

erudite and too remote in setting from everyday life to appeal to the sexual sadist of average intelligence and educational level. In contrast, detective magazines depict and describe sadistic acts in familiar settings, using the imagery and language of tabloid newspapers. This class of periodicals receives little commentary in comparison with those that are considered obscene or pornographic on the basis of their explicit use of erotic imagery. Detective magazines characteristically pair violent and sadistic images with erotic images, yet are more accessible for purchase by young persons than are magazines that depict naked bodies.

The Origins and Readership of Detective Magazines

Periodicals reporting crime are thought to have originated in 17th century England [*1*]. Crime pamphlets and related publications appeared at a time when oral renditions of crime were still provided by street merchants for a fee. Around 1864, Mayhew described "death hunters" and "running patterers" who were paid to shout out stories of crimes [*2*]. Death hunters went to the scenes of murders and reported on the details of the killings; running patterers fabricated or embellished the stories of infamous crimes. Mayhew also described "caravan shows," a form of "peep show" in which carts containing a miniature stage, curtains, and scenery were used by puppeteers to reenact infamous murders [*3*].

Crime pamphlets flourished throughout 18th century England and appeared in America during the last half of that century. By the middle of the 19th century, as British and American journalists embraced sensationalism [*4*], the chaotic relationship between crime and law enforcement [*5*] found its natural literary outlet. Gradually, newspapers and crime magazines began to replace other forms of information about crime.

The first financially successful American crime magazine was *The National Police Gazette*, which appeared in 1845 [*6*]. This magazine was highly celebrated, and at least 22 related magazines followed in its wake [*7–9*]. The *Gazette* survived well into the 20th century. We examined all issues of the *National Police Gazette* from its first year of publication. Initially, it featured stories of actual crimes and made modest use of woodcut illustrations. There were many advertisements for home remedies, sexual enhancement and augmentation preparations, trusses, clothing, hats, boots, jewelry, guns, and "cheap" books. By the late 19th century, the *Gazette* was printed on pink paper and had detailed illustrations of shootings, stabbings, hangings, and debauchery, as well as graphic descriptions of bareknuckle boxing, wrestling, and cockfights. Advertisements offered revealing photographs of women; treatments for venereal diseases, impotence, and "self abuse"; and the services of lawyers and detectives. The *Gazette* was "for some years the most widely circulated of weekly journals" [*10*].

The *Gazette's* decline began around 1920, and "modern" detective magazines appeared by 1924. They were quickly assessed as having virtually no cultural value [*11,12*], and they proliferated. More than 20 are currently published on a regular basis. Four detective magazines for which data were available had a combined monthly circulation of 996 000 issues in about 1980 [*13*].

Otto examined eleven detective magazines as part of a larger study of newsstand magazines in the 1960s and found that they offered the most sexual and nonsexual violence of all general circulation magazines, even though his data excluded advertisements and covers [*14*]. Reporting on the content of two detective magazines, Lyle noted that "the stories in general are fairly explicit in describing what kind of violence was committed, how it was done, and to what effect" [*15*]. Beattie studied one issue each of *Official Detective* and *True Detective* as part of his study of mass market magazines and concluded that detective magazines were among those with the most violent content [*16*].

The readership of detective magazines has not been identified. Lazarsfeld and Wyant included 1 detective magazine in their study of reading habits in 90 American cities [*17*], but their statistical analysis excluded the genre. Freidman and Johnson surveyed media use among "aggressive" and "nonaggressive" eighth and ninth grade boys, 20% of whom read "crime

and detective magazines"; differences between the two groups in amount and type of magazine reading were not significant [*18*]. In contrast, Lyle and Hoffman reported that 9% of a sample of sixth grade boys and girls, and 6 and 7%, respectively, of a sample of tenth grade boys and girls, preferred to read "detective/mystery" magazines [*19*]. Whether these data refer to such magazines as *Alfred Hitchcock's Mystery Magazine* and *Ellery Queen's Mystery Magazine* or to the detective magazines considered here is not known. Thus, there is no audience whose rate of use of detective magazines is known.

The Content of Detective Magazines

Detective magazines are readily available at newsstands, drugstores, supermarkets, convenience stores, and elsewhere. One copy of each detective magazine issue available on a single day at ten suburban Boston stores was purchased and studied in detail. The mean purchase price was $1.11; the range was from $0.95 to $2.50. These magazines generally were displayed along with women's, "confession," and children's magazines, usually adjacent to adventure and gun magazines, and always on a different rack from espousedly erotic men's magazines. We have subsequently confirmed these observations regarding display patterns in stores in Charlottesville, VA; Chicago, IL; Columbia, MO; Houston, TX; Kansas City, MO; Los Angeles, CA; New York, NY; St. Louis, MO; Washington, DC; Toronto, Ontario, Canada; and Melbourne, Victoria, Australia.

Nineteen detective magazine issues, representing eighteen different titles from six publishers, were studied. They were: *Detective Cases, Detective Diary, Detective Dragnet, Detective Files, Detective World, Front Page Detective, Guilty! The Best from True Detective, Headquarters Detective, Homicide Detective, Inside Detective, Master Detective, Offical Detective Stories, Police Detective* (two issues), *Real Detective, Startling Detective, True Detective, True Police Cases*, and *True Police Yearbook*.

We analyzed several aspects of the content of these 19 issues. First, we analyzed the violent and sexual imagery in photographs used for front covers, article illustrations, and commercial advertisements. Second, we analyzed the words expressive of violence and sexuality used in the titles of articles promoted on the front covers and listed in the tables of contents. Third, we analyzed the textual content of articles for descriptions of violent and sexual behavior. For this third purpose, a stratified, random sample of 38 articles was selected (2 articles randomly selected from the signed articles in each issue). The results of these content analyses are presented in the following sections.

Illustrations

The covers of the 19 magazines bore 21 photographs. The most common image on front covers was that of a woman in an inferior or submissive position. Seventy-six percent of the cover photographs showed domination and submission imagery. Men dominated women in 71% of cover pictures, while women dominated men in 5%. Some pictures showed a woman alone in a submissive or subjugated position. Bondage was depicted in 38% of the cover pictures, and all of the bound subjects were women. Ropes, chains, handcuffs, and cloth were used to achieve this bondage with equal frequency. In order of decreasing frequency, other repetitive cover imagery included violent struggles, brassieres, guns, accentuated breasts, strangulation, corpses, blood, and knives or other cutting instruments. Table 1 shows the percentages of each type of image in covers, articles, and advertisements.

In contrast to the cover photographs, the illustrations accompanying articles most often pictured buildings or other settings and conventionally dressed people. Law enforcement personnel were often shown processing a crime scene or working at a desk; they were always men. Violent and erotic imagery was much less prevalent in article photographs than in cover photographs. When it did occur, the most prevalent form was domination and submission imagery.

TABLE 1—*Percentages of photographs depicting particular types of images in detective magazine covers, articles, and advertisements.*

Images	Covers (N = 19)	Articles (N = 891)	Advertisements (N = 926)
Bondage and domination imagery			
bondage	38	5	0.1
domination	76	36	0
Struggles			
strangulation	14	0.6	0
other violent struggles	29	2	3
Weapons			
guns	29	4	6
knives or other cutting instruments	14	0.7	2
blunt instruments	5	0.8	2
bombs	5	0.1	0
saws	5	0	3
other weapons[a]	0	1.5	0.1
Sadistic imagery			
corpses	14	3	0
blood	14	1	0
mutilation/slashing	0	0.3	0
Body parts			
breasts accentuated	24	1	3
buttocks accentuated	5	0.2	2
genitals	0	0	2
Clothing			
brassiere	29	1	3
negligee	5	2	0
panties	0	2	4
other "erotic" clothing[b]	0	1.5	3.1
Sexual behaviors			
intercourse[c]	0	0.1	3.2
masturbation	0	0	1
crossdressing	0	0.2	0.1

[a] Includes fire, whips, gas chambers, gallows, and brass knuckles.

[b] Includes stockings, garters, hoods, exaggerated shoes and boots, and constrictive waist garments.

[c] Includes heterosexual and homosexual genital intercourse, fellatio, cunnilingus, and anal intercourse.

Men dominated women in 5% of the article pictures, and women dominated men in less than 1%. Individuals were most often bound with ropes or handcuffs, less commonly with leather, chains, or cloth.

In illustrated, commercial advertisements (that is, excluding classified advertisements), potential weapons such as guns, knives, blunt instruments, or saws were depicted slightly more often than body adornments such as panties, brassieres, or stockings. The guns, knives, and blunt instruments were for sale. The saws appeared in advertisements offering instruction in sharpening saws. Undergarments most often appeared in the illustrations of advertisements for other merchandise.

Seventy-three advertisements in our sample promoted enhancement of sexual control, appeal, or function. Detective or law enforcement training was advertised in 68. Fifty-nine promoted "official" photographic identification cards, police badges, or other means of certifying identity. Mind control techniques were offered in 35 advertisements. Female wrestlers were depicted in 18, and male wrestlers in 9. Most issues had advertisements for mail-order brides,

lonely hearts clubs, "locksmith training," and equipment for picking locks, opening car doors, duplicating keys, and building handgun silencers.

Titles and Text

The titles of articles are similar in construction and terminology among detective magazines. Compare, for example, the titles from two magazines published two years apart by two different publishers: "A TRUNK-FULL OF FLESH"; "CANADA'S NUMBER 1 MURDER MYSTERY"; "MURDER BY FREIGHT TRAIN"; "ANNA TOOK THE BLADE 90 TIMES!"; "SEX COP'S DEATH CHAMBER"; "IT TAKES A COP"; "OLD FRIENDSHIPS DIE EASY WITH A .38"; "PORTLAND'S BLOODY SUMMER"; and "TORTURE-SLAYER OF EL TORO" (*Startling Detective*, Vol. 73, No. 3, May 1983, published by Globe Communications Corp.); "SATANIST SMILED AS HE SNUFFED THE SNITCH!"; "ROAST A FAMILY OF SIX!"; "BULLET BARRAGE KO'D THE BOXING REF!"; "WHO LEFT THE NAKED MAN'S HEAD SOAKED IN GORE?"; "THE HOLY VAMPIRE DRANK HIS VICTIM'S BLOOD!"; "WHO BLEW THE BICKERING COUPLE AWAY?"; "WEIRD FETISHES OF WASHINGTON'S RAPE-SLAYER!"; " 'HE WAS PLAYING HERO, SO I SHOT THE S.O.B.!' "; "ORDEAL OF THE KIDNAPPED GIRL IN THE PIT!"; and "LETHAL LESSON: NEVER MESS WITH A MARRIED MAN!" (*Front Page Detective*, Vol. 48, No. 5, May 1985, published by RGH Publishing Corp.).

The magazine covers gave the titles of 77 of the 186 articles listed in the tables of contents. Table 2 shows the percentages of words about particular themes on the covers and in article titles. Words describing various forms of killing were most prevalent and included "kill," "murder," "execute," "slay," and "hit-man." Roles described included "stranger," "lover," "victim," "bride," "dame," "whore," "slut," "gigolo," and "mistress." Descriptors of mental states and traits included "crazy," "mad," "maniac," "greed," "treachery," "lust," and "hang-ups." Death-related words included "dead," "body," "corpse," "graveyard," "cemetery," "coffin," and "bloodthirsty." While law enforcement words such as "detective," "police," "crime," "case," and "cop" appeared in the names of every magazine, they were less commonly used in article titles. Sexual terms such as "rape," "gay," "drag," and "sex" made up the next most prevalent category. As can be seen in Table 2, the rank order of themes identified in article titles in the tables of contents was nearly identical to that for articles listed on covers.

In the 38 articles sampled for analysis, there were 40 killings. Fifteen involved torture, and the other twenty-five were less protracted murders of helpless victims. There were 44 episodes

TABLE 2—*Percentages of detective magazine article titles mentioning particular themes.*

Theme	On Cover (N = 77)	In Table of Contents (N = 186)
Killing	38	32
Roles	36	24
Mental state	34	16
Death	30	15
Law enforcement	25	10
Sex	19	14
Strangulation	9	5
Weapons	9	5
Mutilation	6	4
Relentless pursuit	6	3
Secret location	5	3
Life	3	2

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of sexual violence (including 13 sexual mutilations), 14 robberies, and 3 burglaries. The incidents described included 50 shootings, 40 stabbings, 14 strangulations, 10 episodes of being bound and gagged, 7 bludgeonings, 3 burnings, 1 poisoning, and 1 electrocution.

Personal characteristics of victims and perpetrators were usually specified, adding to the credibility of the articles. Forty-seven perpetrators acted against ninety-eight victims. The offenders included 43 males and 4 females; the victims were 42 males and 56 females. When age was mentioned, offenders were usually between 15 and 35, while their victims were usually either 15 to 25 years old, or older than 46. Of the cases identifying race, 12 of 35 offenders and 4 of 44 victims were black. Twenty perpetrators were described as having been previously engaged in criminal activity, and seven were noted to have a history of psychiatric disorder. Five of the offenders were killed during gun battles with police, and all others went to trial. The insanity defense was raised in 13 trials, but only 1 defendant was acquitted by reason of insanity. The death sentence was given five times; three prisoners had been executed when the articles were written. Twenty-two victims were strangers, twelve were friends or acquaintances, and nine were lovers. Two male victims were noted to have been homosexual, and at least seventeen female victims were prostitutes. Men were killed, but virtually never sexually molested; women were almost always sexually attacked before being killed.

Many of the articles contained detailed descriptions of violent acts. Colorfully explicit descriptions of wounds and crime scenes were universal. Stalking or surveillance of the victim, methods of investigation, investigative reconstruction of the events, and crime laboratory work were commonly described. Networks of informants played a pivotal role in almost all investigations, and extensive media publicity was emphasized. Arrests tended to be rapid and overpowering. Extensive coverage was afforded to trials, verdicts, and sentences. Many articles ended by reporting a substantial prison sentence and reminding the reader that the offenders, or others like them, were still at large or might soon be.

Case Reports

The following six case histories illustrate how detective magazines are used as a source of fantasy material. The facts are drawn from investigative files submitted to the FBI Academy Behavioral Science Unit (Cases 1, 5, and 6) or from case files developed in the course of forensic psychiatric evaluations (Cases 2, 3, and 4). Cases 1 and 2 depict multiple murderers who enjoyed detective magazines. The offender in Case 3 used detective magazines during masturbation, but reportedly never acted out his most extreme fantasy scenarios. The pedophile in Case 4 used detective magazines to facilitate his masturbation fantasies and may have begun to act out those fantasies. The offender in Case 5 used detective magazines in the commission of his offense. Case 6 describes the victim of an autoerotic fatality, who used detective magazines in the course of acting out his fantasies.

Case 1

A multiple murderer of the late 1950s had a collection of the covers of detective magazines. He told police investigators that he liked detective magazines "sometimes for the words, sometimes for the covers."

He approached two of his victims on the pretext that he wished them to model bondage scenes for detective magazines. In his statement to the investigating officers he said:

> I told her that I wanted to take pictures that would be suitable for illustrations for mystery stories or detective magazine stories of that type, and that this would require me to tie her hands and feet and put a gag in her mouth, and she [was] agreeable to this, and I did tie her hands and feet and put a gag in her mouth and I took a number of pictures, I don't remember exactly how many, of various poses and changing the pose from picture to picture.

He acknowledged that he never had any intention of submitting the photographs for publication, and added that he was impotent in the absence of bondage.

Case 2

A 35-year-old, married, white man was charged with approximately a dozen murders in several states.

He had never known his father, who had been executed for murdering a police officer and who also had killed a correctional officer during an escape. Shortly before being executed the father wrote: "When I killed this cop, it made me feel good inside. I can't get over how good it did make me feel, for the sensation was something that made me feel elated to the point of happiness . . ." He recalled his grandmother showing him a picture of his father and telling him that his father had been a heroic firefighter. Later, he learned that the photograph was from a detective magazine article about his father's murders and execution. Often told of his resemblance to his father, he came to believe that his father lived within him.

His mother was married four times and also had a series of short-term extramarital sexual partners. She frequently told her son that she had been raped by her father when she was nine. She ridiculed her son's bedwetting, which persisted to age 13, by calling him "pissy pants" in front of guests; he was also beaten for the bedwetting and for night terrors. For as long as he could recall he had had recurrent nightmares of being smothered by nylon similar to women's stockings and being strapped to a chair in a gas chamber as green gas filled the room. One of his stepfathers beat him relentlessly. For leaving a hammer outside, he was awakened by this stepfather burning his wrist with a cigar, which left a permanent scar. For playing a childish game while urinating, he was forced to drink urine. On the one occasion when his mother intervened, the stepfather pushed her head through a plaster wall. From then on she also actively abused her children from the earlier marriages.

Knocked unconscious on multiple occasions, he was once briefly comatose at age 16 and for over a week at approximately age 20. A computed tomography (CT) scan of the brain showed abnormally enlarged sulci and slightly enlarged ventricles. Results of the Halstead-Reitan Neuropsychological Battery and the Luria-Nebraska Neuropsychological Battery were interpreted as showing damage to the right frontal lobe.

As a juvenile, he had police contacts for vandalism, malicious acts, running away, and multiple burglaries (beginning at age seven in the company of an older brother). Apprehended for lewd contact with a 7-year-old girl at age 13, he was sent to reform school for a year. He was suspended from high school for misconduct and poor grades. At age 16, he was arrested for armed robbery, escaped, and later turned himself in to authorities.

At age 18, 2 weeks after the birth of his first child, he married the child's mother. Despite subsequent arrests for armed robbery, beating his wife, assault, burglary, auto theft, theft, parole violation, and other offenses, he was awarded custody of his daughter after divorcing his first wife. His second and third marriages ended in divorce after he beat his wives, and his fourth marriage ended in divorce for unknown reasons.

After many more arrests and a jail escape, he was eventually sentenced to prison on an armed robbery conviction. He initiated sexual contact with his seven-year-old daughter during a conjugal visit on the prison grounds. Prison records from his early 20s document a psychotic episode with paranoid delusions and suicidal ideation following the death of a brother. After he was paroled from prison he impregnated one woman and married another (his fifth wife). He separated from her after he was released from parole. His second through fifth wives appeared young enough to pass as teenagers.

In his early 30s, he lived as husband and wife with his 13-year-old daughter, whom he impregnated. The pregnancy was aborted. He continued to molest his daughter, who reported one of his rapes. He also sexually assaulted one of her girlfriends. He celebrated one of his

birthdays by sodomizing his then 14-year-old daughter. Eventually she moved to her grandparents' home, and he began living and traveling with another woman, who became his sixth wife and his partner in a two-year series of rapes and murders.

His wife knew of his fantasies of torturing young girls and his desire for women he could control and abuse, and she assisted him in each of his known murders by selecting the victim, orchestrating the abduction, and concealing the evidence. He beat, tortured, and raped his victims, whom he forced to play the role of his daughter in fantasy scenarios that he directed. Available data suggest that he killed his victims to avoid detection and not because the killing gave him sexual pleasure.

His early victims were all teenage girls; his later victims included adults. After his initial murders, he again raped his daughter and her friend. They reported these offenses, and an arrest warrant was issued. The offender changed his identity, as he had on previous occasions, using falsified identification papers. A gun enthusiast, he bought and sold various firearms; shortly before his last arrest, he possessed two revolvers, an automatic pistol, a derringer, and a semiautomatic assault rifle. Those victim's bodies that have been located showed death by gunshot wounds or blows to the head. Some of the bodies were still bound.

Masturbation he regarded as shameful, dirty, and unmanly. The first sexually explicit pictures he could recall having seen were photographs of his mother with a man he did not recognize. Although familiar with sexually explicit men's magazines, he had never been to an adult book store or an X-rated movie "because I didn't want anybody to think I was in that category." He considered *The Exorcist* and *Psycho* influential in his life. In speaking of sexual deviations, he referred to "sadism-maschotism" [sic], but noted that this did not apply to him: "... sadism-masochism is where you like to be hurt while you hurt, and I don't think that's it. Maybe one half of it, cause I think I've been hurt enough." The imagery characteristic of bondage and domination pornography disgusted him: "That ain't me.... The ball in the mouth, the excess rope, I think what they've done is taken a fantasy and overdo it. The mask makes somebody look like out of Mars.... You're in a room and a girl walks out with a rubber suit or whip and she's subject to get shot." Asked about the covers of detective magazines, he responded by saying that they are what he really likes and that the interviewer seemed to read his mind, asking questions that allowed him to say what he was already thinking.

When he was 14, he learned that his fugitive father had been caught because his mother had told the police his whereabouts. After reporting this, he stated: "Sometimes I [think] about blowin' her head off.... Sometimes I wanta' put a shotgun in her mouth and blow the back of her head off ..." For years, his favorite sexual fantasy was of torturing his mother to death:

> I was gonna' string her up by her feet, strip her, hang her up by her feet, spin her, take a razor blade, make little cuts, just little ones, watch the blood run out, just drip off her head. Hang her up in the closet, put airplane glue on her, light her up. Tattoo "bitch" on her forehead ...

This fantasy gradually changed and came to include forced sexual activity and other forms of abuse and torture. After his first wife left him, she replaced his mother in the fantasy; eventually their daughter replaced her.

Case 3

A 35-year-old, single, white man was charged with unarmed robbery. He had had several psychiatric hospitalizations, each time receiving a diagnosis of chronic undifferentiated schizophrenia. He was suspected to have committed the current act to gain readmission.

He left school after the ninth grade and never worked. He admitted to bouts of heavy alcohol consumption, but denied using other drugs. He had been arrested previously for threatening the President, attempted strong-arm robbery, and attempted bank robbery. He admitted several indecent exposures and burglaries for which he had not been arrested. During the burglaries he had taken food and women's underclothing, searched bureau drawers, and torn up

clothes. He also admitted to "peeping" and several episodes of crossdressing, donning panties, slips, dresses, and lipstick. On several occasions he had entered houses when the occupants were away and left notes threatening to kill them if they did not leave things for him to take. He denied urinating or defecating in these houses, although he had once thrown a litter box containing cat feces. He had also once tried to steal explosives.

At age ten he had engaged in sexual play with his sister and a niece; there had been at least one episode of intercourse. After he quit school at age 16, he lived briefly with a 14-year-old girl who became pregnant and miscarried. At some point thereafter he began having fantasies of forced vaginal intercourse, sucking and biting on breasts, and mutual oral sexual activity. He described subsequent enchantment with pornography depicting these activities and dated his first contact with detective magazines to approximately the same time.

By his mid-20s, his masturbatory fantasies were of lying on a woman, tying her with heavy, electrical wire, having intercourse with her, killing her by blows and strangulation, and then attacking her genitalia. He said that the detective magazines had not caused these fantasies, adding, "I had 'em before but the [detective] magazines bring them out." By his late 20s, he was having fantasies of mutilation, smearing and drinking blood, and continuing intercourse after his victim's death. He also had recurrent dreams of being a "bloodthirsty murderer."

He stated that he preferred masturbating while looking at the covers and contents of detective magazines. He regarded detective magazine photographs as the best match to his current sexual fantasies and as his most important source of sexual pleasure. He said he masturbated in his bathroom with detective magazine covers and pictures from explicitly erotic magazines so positioned that he could see himself and the pictures in a mirror. He particularly liked pictures in which women "look like whores," and he masturbated to orgasm while fantasizing about "killing whores."

He claimed never to have acted out his most extreme fantasies, but he believed that he might be "losing control over them." He admitted to having had intense "sexual thoughts" during the unarmed robbery, to "enjoying touching, feeling panties and bras," and to excitement at thoughts of women struggling.

A detailed review of his records uncovered no documentation of symptoms or signs of schizophrenia. He admitted to having feigned mental illness so that he could be stopped from acting out his fantasies.

Case 4

A 20-year-old, single, black man with no previous criminal record but several psychiatric evaluations was incarcerated for sexually molesting children. At least three complaints had been lodged previously against him without formal charges being filed.

He stood charged with two sexual assaults against prepubescent girls. In the first incident he asked a girl to go with him, claiming that a friend wanted to speak with her. He grabbed the girl, pulled her pants down, and fondled her genitals until someone appeared, when he fled. The second incident was similar, although reportedly more forceful, with the victim resisting more aggressively. He fled when the victim bit him. He denied any sexual contact with his victims, but did say that in one offense against a girl he "kept hitting until she was unconscious; I thought she was dead."

His father had been rarely present, and the family was on welfare. One of his brothers was said to be mentally retarded and institutionalized. He claimed to have had good relationships with family members and to have had friends. He completed ninth grade with below average grades; the school authorities had wanted him placed in special education classes, but his mother had refused. He was never married, had no military history, and worked intermittently in unskilled jobs. He acknowledged moderate use of alcohol and marijuana, but denied using other drugs.

During the screening psychiatric interview he denied any symptoms suggestive of a psychotic illness. He claimed his present offenses occurred because he was "too scared to ask out women." Fearing that older women might reject him and tell him he was "too young, just a kid, and I can't handle that," he felt anger toward older women, "like I want to kill them." He admitted to daydreams about "beating them up" followed by intercourse. His masturbatory fantasies involved bondage in which the hands of the women were tied behind their backs, their mouths gagged, and their legs tied to bedposts. He denied masturbatory fantasies involving other physical injury. He also denied crossdressing. He believed he would never act on his masturbatory fantasies: "I just couldn't see myself doing something like that; not if she don't do as I tell her. If I get mad I start tearing up stuff, but not kids; I like kids. If I had kids I wouldn't want someone doing that to them." He claimed his fantasies involved "mostly white girls" ages 12 to 13.

He said that he frequently used visual media to stimulate his masturbatory fantasies. His favorite images involved women wearing undergarments, such as brassieres and panties, or two-piece bathing suits, which he commonly found on detective magazine covers, but added that he found detective magazines less appealing than traditional pornography.

Case 5

A 34-year-old, white woman received a telephone call from a man claiming to represent a manufacturing firm that had developed a new line of brassieres and was conducting a marketing survey in her area. She was invited to participate in the survey. She would be sent six free bras to wear for six months, when she would be asked to complete a questionnaire as to their comfort, durability, and washability. She agreed and provided her bust measurements to the caller.

Approximately seven months later, the same man called the second time and said that he would like to deliver the bras to her home. She asked that he call back in a few days as she wanted to discuss the matter with her husband. When he rang, she told him that she had decided not to participate in the survey. He responded, "I don't want to have intercourse with you, I just want to deliver the bras." She hung up immediately.

Five months later, upon receiving a package in the mail which contained four sketches depicting her bound, in various stages of undress, she notified the police. Shortly thereafter, the man called again, asking for her opinion of the sketches.

A second package containing four sketches similar to the first ones arrived about four months later, again followed by a telephone call. During this conversation, the man requested that she meet him and said he would call again to arrange the meeting. He also described the wallpaper pattern in her bathroom. He used no profanity in the telephone conversations.

Approximately four months later he called for the sixth time, requesting a meeting. She hung up on him. Within days came another call during which she agreed to meet him at a shopping center near her home. She notified the police, who arranged surveillance. After waiting in vain for 45 min at the appointed location, she talked with the surveilling officers and drove home.

The following month, the man called and accurately described her movements at the rendezvous and her return home. He requested that she deliver two of her bras to a designated Salvation Army clothes bin. Again she notified the police and a surveillance of the drop site was arranged; however, the offender was able to pick up the bras undetected by entering the clothes bin from an opening in the rear. Shortly thereafter, she received a third package containing her bras, two pictorial pages, an advertisement page, and a cover from a detective magazine. The bras had semen stains and handwriting on them. The magazine cover and the pictorial pages each showed a woman being threatened by a man holding a knife; her name was written above the women and the word "me" was written above the men. The advertisement

was for Nazi paraphernalia. One month later he rang to ask what she thought about the package.

That same month, she received a letter containing polaroid photographs of a white male, nude except for a ski mask, masturbating in a hotel room. The letter said that he had rented the room, intended to kidnap her, and had bought rope with which to bind her and a camera with which to take pictures of her performing various sexual acts. He called her again shortly after she received the letter. The eleventh and final call came one month later.

From the photographs the police were able to identify the hotel, where they found that he had registered under his real name. He was later arrested, convicted, and sentenced to one year in jail. At the time of his arrest, the police seized a folder containing 30 detective magazine covers that depicted women in potentially lethal situations.

Case 6

A 30-year-old white man was discovered dead in his apartment. He was partially suspended in a doorway by a length of plastic clothesline which encircled his neck twice with a knot on the right. The clothesline went up to and through an airspace above the door and was affixed to a hinge beside the victim. His arms hung at his sides, and his feet touched the floor. A pair of wire cutters and more clothesline were found on a washing machine in the apartment. He wore eyeglasses, a brassiere, jockey shorts, and black calf-length socks.

Propped up on a stand directly in front of him was a detective magazine cover which depicted a man strangling a young woman who wore a black brassiere. Two lingerie advertisements taped to a nearby wall showed a woman from the waist up who wore only a brassiere and a woman wearing a brassiere and a panty girdle. A nearby phonograph was on, and the first song on the record was "Barbie Ann." An album cover lying beside the phonograph had a picture of a man with two young women wearing halter tops.

The decedent's wife, Barbara, had been separated from him for four months; she and their only child had moved to another state. He had appeared to be in normal spirits during a visit with his parents six days earlier. A friend with whom he had played pool on the evening before his death and who was the last person to see him alive described him as having been in good spirits at the time of their parting.

The death was ruled to be an accident occurring during autoerotic activity. The decedent's attire and visual props suggest a brassiere fetish, while the detective magazine cover in front of him depicting the sexual murder of a woman wearing a brassiere suggests that he entertained a sadistic fantasy that he had been enacting with his own body. The object of his fantasies may have been his wife. (This case has been reported in less detail elsewhere [*20*].)

Discussion

Detective magazines juxtapose conventionally erotic images (for example, pictures of scantily clad women or descriptions of sexual acts) with images of violence and suffering. Detective magazines are not the only source for this combination of images; many recent horror films, crime films, and rock video productions have similar characteristics. One study found that bondage and domination was the primary theme of 17% of the magazines sold in "adults only" bookstores [*21*]. Unlike these magazines, however, detective magazines, being inexpensive and available on many newsstands, have a large circulation. They are always openly displayed, unlike magazines showing nonviolent nudity, and there is no effort to discourage sales to minors.

The cases reported in this paper show that some readers who use detective magazines as sources of sexual fantasy material also act on their fantasies. MacCulloch et al [*22*] have described men who progress from sadistic masturbation fantasies to crimes that enact portions of

the fantasy sequence, and the ce to more serious offenses based on an elaborated fantasy sequence. A similar pattern can be recognized in Cases 3 and 4 above.

At least two previously published case reports mention the use of detective magazines as a source of sexual fantasy imagery. Graber et al [*23*] reported the history of a 36-year-old man who forced a woman to fellate him at knife-point in a women's restroom of a public park. This attack was followed several weeks later by "an abortive attack on a woman that ended when she was cut by his knife." The offender had no prior criminal record. He reported a lack of sexual experience, including masturbation, until marriage at age 23. The frequency of intercourse with his wife decreased after he experienced a business failure. About a year before his arrest he had begun masturbating while reading the sex crime articles in a detective magazine, which thereafter became his preferred sexual outlet. The offense for which he was arrested was inspired by a detective magazine article.

Wesselius and Bally [*24*] recorded the history of a 24-year-old man who practiced autoerotic asphyxia by self-hanging for ten years. He first masturbated at age ten while suspended from the bar of a swing set. He began using the pictures in *True Detective* magazine while masturbating around age 14. The authors report: "From this magazine he developed the idea of dressing in female clothing which he would take from the family laundry hamper. . . ." Within months, he became sexually aroused while watching a hanging scene in a cowboy film, and was particularly excited by the man's struggle and kicking feet. He then began masturbating while hanging himself. The authors noted that "[h]e continued to use *True Detective* magazines with only occasional use of other more common soft pornography publications." He would become most aroused by dressing in soiled women's undergarments and hanging himself. He also became aroused by wearing such clothing and binding his limbs and neck. He fantasized strangling a woman and was particularly aroused by imagining her helpless struggling and her kicking feet.

Goldstein and Kant [*25*] quoted a rapist as saying:

> I can remember looking through *True Detective* and stuff like this and seeing articles about women that had been murdered or something. . . . I remember partially nude bodies. There was a lot of magazines on the stands I used to buy all the time, these horror stories, "trips of terror," weird stories, stuff like this. Soon after this, they banned 'em from the newsstands. I used to like to read them all the time.

While there is no doubt that detective magazines provide a rich source of sexually sadistic imagery, the role that these magazines play in the development of sexual sadism, if any, is unknown. To the extent that paraphilic responsiveness is acquired by repeatedly associating sexual arousal with particular images, the availability of sexually sadistic imagery may be important. Detective magazines are one source of such imagery.

The cases we have described do not prove that detective magazines "cause" sexual sadism or sadistic offenses. Only unethical experiments could prove or disprove such causation, and we do not encourage that they be contemplated. Tests of the arousal of normal men and of sexual sadists to the cover imagery we describe could, however, tend to support or refute our postulate and could be conducted in an ethical manner that minimizes the risk of harming the subjects.

We assume that conventionally erotic elements in detective magazines would arouse many males and that responsiveness to particular stimuli can be learned. We postulate that repeated pairing of arousal with the unconditioned stimuli in these magazines, such as depictions of bondage, domination, weapons, strangulation and other struggles, blood, and corpses increases the probability that the viewer will subsequently be aroused by exposure to these stimuli, whether or not they are presented in an erotic context.

We know that some boys and men repeatedly use detective magazines to achieve sexual arousal and that at least some of these individuals are sexual sadists. Of these latter, however, we do not know what proportion were sexual sadists before their exposure to detective magazines. We consider it plausible that some boys and young men turn to detective magazines for

such conventional sexual imagery as scantily clad women or descriptions of sexual interaction, and through repeated exposure learn to be aroused by elements of the photographs and articles that otherwise would have had no sexual associations. We recognize, however, that horror movies and other films probably expose more boys and young men to the pairing of erotic and violent images.

Detective magazines might affect the established sexual sadist by reinforcing his paraphilia (particularly if he masturbates to orgasm while looking at or reading the magazines), by adding details to his fantasies and preferred imagery, and by providing consensual validation that lessens the extent to which he considers his preference abnormal or unacceptable.

Beyond their significance with respect to sexual sadism, detective magazines have other potentially criminogenic effects. None of these potential effects is unique to detective magazines, but each should be considered in assessing the social value of these magazines.

Detective magazines publicize particularly serious crimes. In an era in which many value fame more highly than esteem or freedom, the prospect of publicity serves as an inducement to crime. While detective magazines reach a smaller audience than network television, national news magazines, wire services, or the most widely read newspapers, they reach an audience with greater than average interest in crime, provide lengthier and more detailed accounts of particular offenders and offenses, and emphasize the degree of publicity received by the offender.

Detective magazines are an unsurpassed source of public information on techniques for committing crimes, on the errors of unsuccessful offenders, and on the methods available to law enforcement agencies for preventing crimes and apprehending offenders. We have examined and studied offenders who have sought out, filed, and used such information to commit crimes, but we also know law enforcement officers who use such information as a source of continuing education.

The advertisements in detective magazines provide access to information and paraphernalia that are sometimes used to commit crimes, including weapons, burglary tools, and car theft equipment. Police badges and other false identification obtained through these advertisements have been used by offenders to gain entry to dwellings or to stop motorists. Cases have been documented of persons murdered or otherwise victimized by persons whom they met through lonely hearts advertisements such as those appearing in detective magazines [*26*].

Conclusions

Detective magazines have a lengthy heritage and generate substantial sales. No doubt some readers examine detective magazines out of curiosity or casual interest. Sexual sadists, however, are particularly drawn to detective magazines, and some of these individuals translate their fantasies into action. Clinicians should learn to ask their patients about reading preferences and should also have sufficient knowledge of popular publications to be able to interpret the responses. Since few patients spontaneously mention sadistic sexual fantasies in the course of assessment or psychotherapy, inquiries about reading habits provide an important route through which to explore a patient's fantasy life.

Patients with a particular interest in detective magazines may have problems other than sexual sadism. In our experience, many individuals who are paranoid or preoccupied with violence read or collect detective magazines, mercenary magazines (such as *Soldier of Fortune*, *Commando*, and *Gung Ho*), and hunting and gun magazines. Peterson [*27*] noted that "the market of a medium [usually] coincides with that of its advertisements" and that advertisements generally reflect consumer needs and desires. Some of the advertisements in detective magazines cater to those with pronounced feelings of inadequacy by offering greater sexual control, appeal, or function; techniques of mind control; and certification of identity.

Our view that the harmful effects of detective magazines probably outweigh whatever contributions they may make to law enforcement, entertainment, and the economy is, of course,

not entirely original. Writing at the end of the 19th century, Cesare Lombroso considered newspaper reports of crime the source of many imitative ("copycat") crimes, of which he gave multiple examples. He concluded:

> This morbid stimulation is increased a hundred-fold by the prodigious increase of really criminal newspapers, which spread abroad the virus of the most loathsome social plagues, simply for sordid gain, and excite the morbid appetite and still more morbid curiosity of the lower social classes. They may be likened to those maggots which, sprung from putrefaction, increase it by their presence [*28*].

We suppose that Lombroso put it too strongly, as was his custom. Nonetheless, we are concerned that detective magazines—today's equivalent of "really criminal newspapers"—may contribute to the development and persistence of sexual sadism; facilitate sadistic fantasies; and encourage crime by rewarding it with publicity, disseminating technical information, and easing access to criminal equipment.

We therefore urge policymakers to consider detective magazines in their deliberations concerning violence in the media and pornography. We recommend that the new national commission on pornography [*29*] include detective magazines and other sources of sexually sadistic imagery among the classes of materials that it studies. Whatever definition of pornography or obscenity emerges from the ongoing public policy debate should surely be formulated to encompass those materials that present the greatest risk of promoting the erotization of violence.

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Address requests for reprints or additional information to
Park Elliott Dietz, M.D., M.P.H., Ph.D.
School of Law
University of Virginia
Charlottesville, VA 22901

Personal Comments by Commissioner James Dobson

Now that the work of the Attorney General's Commission on Pornography has come to an end, I look back on this fourteen month project as one of the most difficult . . . and gratifying . . . responsibilities of my life. On the down side, the task of sifting through huge volumes of offensive and legally obscene materials has not been a pleasant experience. Under other circumstances one would not willingly devote a year of his life to depictions of rape, incest, masturbation, mutilation, defecation, urination, child molestation and sadomasochistic activity. Nor have the lengthy and difficult deliberations in Commission meetings been without stress. But on the other hand, there is a distinct satisfaction in knowing that we gave ourselves unreservedly to this governmental assignment and, I believe, served our country well.

I now understand how mountain climbers must feel when they finally stand atop the highest peak. They overcome insurmountable obstacles to reach the rim of the world and announce proudly to one another, "we made it!" In a similar context, I feel a sense of accomplishment as the Commission releases its final report to the President, the Attorney General and the people. For a brief moment in Scottsdale last month, it appeared that our differing philosophies would strand us on the lower slopes. And of course, we were monitored daily by the ACLU the pornographers and the press, who huddled together and murmured with one voice, "they are doomed!" But now as we sign

the final document and fling it about to the public, it does not seem pretentious to indulge ourselves in the satisfaction of having accomplished our goals. By George, I think we made it!

Let me indicate now, from the viewpoint of this one Commissioner, what the final report is and is not. First, it is not the work of a biased Commission which merely rubber stamped the conservative agenda of the Reagan administration. A quick analysis of our proceedings will reveal the painstaking process by which our conclusions were reached. If the deck were stacked, as some have suggested, we would not have invested such long, arduous hours in debate and compromise. Serving on the Commission were three attorneys, two psychologists, one psychiatrist, one social worker, one city council member, one Catholic priest, one federal judge and one magazine editor. Some were Christians, some Jewish, and some atheists. Some were Democrats and some Republicans. All were independent, conscientious citizens who took their responsibility very seriously. Our diversity was also evident on strategic issues about which society itself is divided. Our voting on these more troublesome matters often split 6-5, being decided by a swing member or two. Some whitewash! So the characterization of this seven man, four woman panel as an ultraconservative hit squad is simply poppycock. Read the transcripts. You will see.

Second, the final report does not do violence to the First Amendment to the Constitution. The Miller standard, by which the Supreme Court clearly reaffirmed the illegality of obscene

matter in 1973, was not assaulted during any of our deliberations. No suggestion was made that the Court had been too lenient . . . or that a Constitutional Amendment should lower the threshold of obscenity . . . or that the Justices should reconsider their position. No. The Miller standard was accepted and even defended as the law of the land. What was recommended, to the consternation of pornographers, was that government should begin enforcing the obscenity laws that are already on the books . . . criminal laws that have stood constitutional muster! Considering the unwillingness of our elected representatives to deal with this issue, that would be novel, indeed.

Third, the hearings on which this report was based were not manipulated to produce an anti-pornography slant. Every qualified libertarian and First Amendment advocate properly requesting the right to testify was granted a place on the agenda, limited only by the constraints of time. A few individuals and organizations on both sides of the issue were unable to testify because the demand far exceeded available opportunities. However, objective procedures were established to deal fairly with those wishing to be heard, and complaints alleging bias were, I believe, unfounded. In fact, several organizations were asked to speak on behalf of sexually explicit materials but either declined or failed to appear. It is true that more witnesses testified against pornography than those who favored it, but that was a function of the disproportionate

requests that were received by the executive director. Further-

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The offerings today feature beribboned 18 to 20 year old women whose genitalia have been shaved to make them look like little girls, and men giving enemas or whippings to one another, and metal bars to hold a woman's legs apart, and 3 foot rubber penises and photographs of women sipping ejaculate from champagne glasses. In one shop which our staff visited on Times Square, there were 46 films for sale which depicted women having intercourse or performing oral sex with different animals . . . pigs, dogs, donkeys and horses. This is the world of pornography today, and I believe the public would rise up in wrath to condemn it if they knew of its prominence.

Finally, our Commission was unanimously opposed to child pornography in any form. Though categorically illegal since 1983, a thriving cottage industry still exists in this country. Fathers, step-fathers, uncles, teachers and neighbors find ways to secure photographs of the children in their care. They then sell or trade the pictures to fellow pedophiles. I will never forget a particular set of photographs shown to us at our first hearing in Washington, D.C. It focused on a cute, nine year old boy who had fallen into the hands of a molester. In the first picture, the blond lad was fully clothed and smiling at the camera. But in the second, he was nude, dead and had a butcher knife protruding from his chest. I served for 14 years as a member of a medical school faculty and thought I had seen it all. But my knees buckled and tears came to my eyes as these and hundreds of other photographs of children were presented . . .

showing pitiful boys and girls with their rectums enlarged to accommodate adult males and their vaginas penetrated with pencils, toothbrushes and guns. Perhaps the reader can understand my anger and disbelief when a representative for the American Civil Liberties Union testified a few minutes later. He advocated the free exchange of pornography, all pornography, in the marketplace. He was promptly asked about material depicting children such as those we had seen. This man said, with a straight face, that it is the ACLU's position that child pornography should not be produced, but once it is in existence, there should be no restriction on its sale and distribution. In other words, the photographic record of a child's molestation and abuse should be a legal source of profit for those who wish to reproduce, sell, print and distribute it for the world to see. And that, he said, was the intent of the First Amendment to the Constitution!

Speaking personally, I now passionately support the control of sexually explicit material that is legally obscene, whether it relates to children or adults. Though the Commission has dealt at some length in its report with specific "harms" associated with pornography, I would like to list the dangers here from my own point of view. Our critics have alleged that the Commission wishes to usher in a new era of sexual repression . . . that we favor governmental interference in America's bedrooms and even in our thoughts. That is nonsense. On the other hand, I have seen enough evidence in the past year to

convince me of the devastation inflicted on victims of pornography. It is on their behalf that we must intervene. Here, then, are the harms as I perceive them.

(1) Depictions of violence against women are related to violence against women everywhere. Though social research on this subject has been difficult to conduct, the totality of evidence supports the linkage between illustration and imitation. Furthermore, pornography perpetrates the so-called "rape myth" whereby women are consistently depicted as wanting to be assaulted even when they deny it. They are shown as terrified victims in the beginnings of rape scenes, but conclude by begging for more. Men who want to believe that women crave violent sex can find plenty of pornographic evidence to support their predilections.

(2) For a certain percentage of men, the use of pornographic material is addictive and progressive. Like the addiction to drugs, alcohol or food, those who are hooked on sex become obsessed by their need. It fills their world, night and day. And too often, their families are destroyed in the process.

3) Pornography is degrading to women. How could any of us, having heard Andrea Dworkin's moving testimony, turn a deaf ear to her protest? The pornographic depictions she described are an affront to an entire gender, and I would take that case to any jury in the

land. Remember that men are the purchasers of pornography. Many witnesses testified that women are typically repulsed by visual depictions of the type therein described. It is provided primarily for the lustful pleasure of men and boys who use it to generate excitation. And it is my belief, though evidence is not easily obtained, that a small but dangerous minority will then choose to act aggressively against the nearest available females. Pornography is the theory; rape is the practice.

(4) It appears extremely naive to assume that the river of obscenity which has inundated the American landscape has not invaded the world of children. This seven billion dollar industry pervades every dimension of our lives. There are more stores selling pornographic videos than there are McDonald hamburger stands. More than 800,000 phone calls are made each day to dial-a-porn companies in New York (180,000,000 in 1984), many placed by boys and girls still in elementary school. Furthermore, recent clinical observations by Dr. Victor Cline and others have indicated that a growing number of children are finding their parents' sexually explicit videos and magazines, and are experimenting with what they have learned on

younger children. The problem is spreading rapidly. Obviously, obscenity cannot be permitted to flow freely through the veins of society without reaching the eyes and ears of our children. Latchkey kids by the millions are watching porn on Cable TV and reading their parents' adult magazines. For 50 cents, they can purchase their own pornographic tabloids from vendor machines on the street. Or they can hear shocking vulgarities for free on their heavy metal radio stations. At an age when elementary school children should be reading Tom Sawyer and viewing traditional entertainment in the spirit of Walt Disney, they are learning perverted facts which neither their minds nor bodies are equipped to handle. It is my belief, accordingly, that the behavior of an entire generation of teenagers is being adversely affected by the current emphasis on premarital sexuality and general eroticism seen nightly on television, in the movies, and in the other sources of pornography I have mentioned. It is not surprising that the incidence of unwed pregnancy and abortions has skyrocketed since 1970. Teens are merely doing what they've been taught that they should get into bed, early and often. And to a large degree, pornography has done this to them.

(5) Organized crime controls more than 85 percent of all

commercially produced pornography in America. The sale and distribution of these materials produces huge profits for the crime lords who also sell illegal drugs to our kids and engage in murder, fraud, bribery and every vice known to man. Are we to conclude that the 7 billion (or more) tax-free dollars that they receive each year from the pornography industry is not harmful to society? Is malignant melanoma harmful to the human body?

(6) Pornography is often used by pedophiles to soften children's defenses against sexual exploitation. They are shown nude pictures of adults, for example, and are told, "See. This is what mommies and daddies do." They are then stripped of innocence and subjected to brutalities that they will remember for a lifetime.

(7) Outlets for obscenity are magnets for sex related crimes. When a thriving adult bookstore moves into a neighborhood, an array of "support-services" typically develops around it. Prostitution, narcotics and street crime proliferate. From this perspective, it is interesting that law enforcement officials often claim they do not investigate or attempt to control the flow of obscenity because they lack the resources to combat it. In reality, their resources will extend farther if they first enforce the laws relating to pornography. The consequent reduction in crime makes this a cost

effective use of taxpayers' funds.

The City of Cincinnati, Ohio has demonstrated how community can rid itself of obscenity withou inordinate expenditures of personnel and money.

(8) So-called adult bookstores are often centers of diseas and homosexual activity. Again, the average citizen i not aware that the primary source of revenue in adul bookstores is derived from video and film booths Patrons enter these 3 by 3 foot cubicles and deposit coin in the slot. They are then treated to about 9 seconds of a pornographic movie. If they want to se more, they must continue to pump coins (usuall quarters) in the machine. The booths I witnessed o New York's Times Square were even more graphic. Upo depositing the coin, a screen was raised, revealing tw or more women and men who performed live sex acts upo one another on a small stage. Everything that i possible for heterosexuals, homosexuals or lesbians t do was demonstrated a few feet from the viewers. Th booths from which these videos or live performers ar viewed become filthy beyond description as the da progresses. Police investigators testified before ou Commission that the stench is unbearable and that the floor becomes sticky with semen, urine an saliva. Holes in the walls between the booths ar often provided to permit male homosexuals to servic

one another. Given the current concern over sexually transmitted diseases and especially Acquired Immune Deficiency Syndrome (AIDS), it is incredible that health departments have not attempted to regulate such businesses. States that will not allow restaurant owners or hairdressers or counselors or acupuncturists to operate without licenses have permitted these wretched cesspools to escape governmental scrutiny. To every public health officer in the country I would ask, "Why?"

(9) Finally, pornography is a source of significant harm to the institution of the family and to society at large. Can anything which devastates vulnerable little children, as we have seen, be considered innocuous to the parents who produced them? Raising healthy children is the primary occupation of families, and anything which invades the childhoods and twists the minds of boys and girls must be seen as abhorrent to the mothers and fathers who gave them birth. Furthermore, what is at stake here is the future of the family itself. We are sexual creatures, and the physical attraction between males and females provides the basis for every dimension of marriage and parenthood. Thus, <u>anything</u> that interjects itself into that relationship must be embraced with great caution. Until we <u>know</u> that pornography is not addictive and

> progressive . . . until we are certain that the passion of fantasy does not destroy the passion of reality . . . until we are sure that obsessive use of obscene materials will not lead to perversions and conflict between husbands and wives . . . then we dare not adorn them with the crown of respectability. Society has an absolute obligation to protect itself from material which crosses the line established objectively by its legislators and court system. That is not sexual repression. That is self-preservation.

If not limited by time and space, I could describe dozens of other harms associated with exposure to pornography. Presumably, members of Congress were also cognizant of these dangers when they drafted legislation to control sexually explicit material. The President and his predecessors would not have signed those bills into criminal laws if they had not agreed. The Supreme Court must have shared the same concerns when it ruled that obscenity is not protected by the First Amendment---reaffirming the validity and constitutionality of current laws. How can it be, then, that these carefully crafted laws are not being enforced? Good question! The refusal of federal and local officials to check the rising tide of obscenity is a disgrace and an outrage. It is said that the production and distribution of pornography is the only unregulated industry remaining today . . . the last vestige of

"free enterprise" in America. Indeed, the salient finding emerging from 12 months of testimony before our Commission reflected this utter paralysis of government in response to the pornographic plague. As citizens of a democratic society, we have surrendered our right to protect ourselves in return for protection by the State. Thus, our governmental representatives have a constitutional mandate to shield us from harm and criminal activity . . . including that associated with obscenity. It is time that our leaders were held accountable for their obvious malfeasance. Attorney General Meese, who has courageously supported other unpopular causes, has been reluctant to tackle this one. He is reportedly awaiting the final report from the Commission before mobilizing the Department of Justice. We will see what happens now. But his predecessors have no such excuse for their dismal record. Under Attorney General William French Smith, there was not a single indictment brought against producers of adult pornography in 1983. None! There were only six in 1982, but four of those were advanced by one motivated prosecutor. In 1981 there were two. Of the 93 United States Attorneys, only seven have devoted any effort to the prosecution of obscenity. Obviously, the multi-billion dollar porn industry is under no serious pressure from federal prosecutors. Considering this apathy, perhaps it is not surprising that the Department of Justice greeted our Commission with something less than rampant enthusiasm. For example, the first Presidential Commission received two million dollars (in 1967 money) and was

granted two years to complete their assignment. Our Commission was allocated only $500,000 (in 1985 money) and was given one year in which to study an industry that had expanded exponentially. Repeated requests for adequate time and funding were summarily denied. Considering the Presidential mandate to establish the Commission, the Department had no choice but to execute the order. But it did very little to guarantee its success or assist with the enormous workload. Quite frankly, failure would have been inevitable were it not for the dedication of eleven determined Commissioners who worked under extreme pressure and without compensation to finish the task. We were also blessed with a marvelous staff and executive director who were committed to the challenge. Other branches of government must also be held accountable for their unwillingness to enforce the criminal laws. The United States Postal Service makes virtually no effort to prosecute those who send obscene material through the mail. Attorney Paul McGeady testified that there are conservatively 100,000 violations of 18 USC 1461 every day of the year. Likewise, the Federal Communications Commission and Interstate Commerce Commission do not attempt to regulate the interstate transportation of obscene material. Eighty percent of all pornography is produced in Los Angeles County and then shipped to the rest of the country. It would not be difficult to identify and prosecute those who transport it across state lines. The Federal Communications Commission does not regulate obscenity on cable or satellite television. The Customs Service makes no

effort to prevent adult pornography from entering this country, and catches only five percent of child porn sent from abroad. The Internal Revenue Service permits organized crime to avoid taxes on the majority of its retail sales, especially the video booth market. The Federal Bureau of Investigation assigns only two of 8700 special agents to obscenity investigation, even though organized crime controls the industry. And on and on it goes.

Local law enforcement agencies are equally unconcerned about obscenity. The City of Miami has assigned only two of 1,500 policemen to this area, neither of which is given a car. Chicago allocates two of 12,000 officers to obscenity control. Los Angeles assigns 8 out of 6,700, even though Los Angeles is the porn capital of the country. Very few indictments have been brought against a pornographer in Los Angeles County in more than ten years, despite the glut of materials produced there. Another serious concern is also directed at the court system and the judges who have winked at pornography. Even when rare convictions have been obtained, the penalties assessed have been pitiful! Producers of illegal materials may earn millions in profit each year, and yet serve no time in prison and pay fines of perhaps $100. One powerful entrepreneur in Miami was convicted on obscenity charges for the 61st time, yet received a fine of only $1600. The judge in another case refused to even look at child pornography which the defendant had supposedly produced. He said it would prejudice him to examine the

material. That judge had never sentenced a single convicted pornographer to a day in prison. Is there any wonder why America is inundated in sexually explicit material today? So we come to the bottom line. We've looked at the conditions that have led to the present situation. Now we must consider the mid-course maneuvers that will correct it. I believe the suggestions offered in the Commissioner's final report, herein, will provide an effective guide toward that end. We have not merely attempted to assess the problem; we have offered a proposed resolution. The testimony on which it is based make it clear that we are engaged in a winnable war! America could rid itself of hard core pornography in 18 months if the recommendations offered in the following report are implemented. We have provided a road-map for fine tuning federal and state legislation and for the mobilization of law enforcement efforts around the country. Accordingly, it is my hope that the effort we invested will provide the basis for a new public policy. But that will occur only if American citizens demand action from their government. Nothing short of a public outcry will motivate our slumbering representatives to defend community standards of decency. It is that public statement that the pornographers fear most, and for very good reason. The people possess the power in this wonderful democracy to override apathetic judges, disinterested police chiefs, unmotivated U.S. Attorneys, and unwilling federal officials. I pray that they will do so. If they do not, then we have labored in vain. If

wisdom more often than not results from the simultaneous practice of several key virtues--among which must surely be numbered prudence, justice, temperance and fortitude--then the eleven members of the Attorney General's Commission on Pornography were no more likely or qualified than any other group of eleven Americans to undertake the study of this most complex and divisive subject.

Statement of Father Bruce Ritter

Eleven Solomons we are not!

Eleven Americans, not Solomons therefore, sat down together over the course of a year to listen and to learn, to argue and to debate. At the end we are able to present this modest report of our conclusions to the American people--a report in which, on most key issues, we were able to achieve virtual or at least substantial unanimity.

We are proud of the result. Or to speak for myself and not the Commission--the purpose of this "personal statement"--I am proud of the result and quite proud that I had this opportunity to serve with my fellow citizens on this Commission.

That we could not agree on all issues is hardly surprising. Indeed that kind of total unanimity is simply not to be found in the real world of a culturally and religiously pluralistic society and it would be dangerously disingenuous to criticize the Commission for memorializing in this Report its differences of perception, of logic, of background, of personal conviction.

At bottom, the creation of this Commission was an inescapably political act--we are, after all, a government body, convened to give advice to the government of the United States, and specifically, to the Justice Department.

More important still, we have been asked to put our eminently fallible judgments at the service of the American people, who are the final arbiters of political power. Our

every word, in every hearing and meeting, has been subject to--and has received-- rigorous public scrutiny, and may be used and misused in future political debates.

It would be an egregiously self-serving mistake however, to assume that the work of this Commission was therefore dominated by political considerations. I think it fair to state that we attempted, as best we could, within the short life span of this Commission, to reach our conclusions based on a diligent and serious study of the evidence brought before us.

In the final analysis, however, every thinking adult is a walking-around collection of a priori assumptions that influence his thinking on all serious issues. These assumptions, in part the product of education and life experience, in part the rigorous conclusions of reason and logic, are, on balance, the "givens" each of us bring to every debate, to every effort to find the truth of a particular matter. These "givens" are tested, challenged, refined and sometimes repudiated in the elastic give and take of serious argument. Eleven Commissioners, perforce, brought such assumptions and convictions to our deliberations. It is my hope that we were able to transcend the limitations necessarily intrinsic to any personal view of the world and human behavior--and for that matter, to transcend the limits of any supposed allegiance to the political and religious ideologies of the Right or Left.

Given the severe time and budgetary constraints under which the Commission labored we were neither able, nor should we

have been expected, to treat all aspects of our charge with that degree of thoroughness many readers of this Report might have desired. Nor is it possible within the limits of this necessarily brief personal reflection on the work of the Commission to do more than touch upon those areas of more personal concern or those issues where my decision to vote one way rather than another might require some elaboration, viz. the absolutely central debate over Category III materials, the Printed Word controversy, the very thorny issue of the Indecency Standard for cable television--and the hugely controversial and largely shunned as too-hot-to-handle subject of sex education for our children.

The Category III Debate.

I think the Commission was quite correct in its general approach to our study of pornography, not only by refusing to establish hasty a priori definitions of what pornography was or was not, but also in attempting some delineation and distinction of the various categories of the sexually explicit materials examined by us. The rationale for this approach is, I think, stated quite lucidly and cogently in this Report. That is not to say that other approaches might not have been equally fruitful or to say that there were no serious limitations to this approach. I shall discuss below what I consider the major and perhaps in retrospect, a significantly unacknowledged and even crippling flaw, of this methodology.

Nonetheless, this particular approach greatly facilitated

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our difficult and time-consuming discussions of the real or potential "harms" ascribed to pornography and the identification of these harms with the various categories of sexually explicit materials. In addition, our chosen approach enabled the Commission to understand better the various kinds of evidence or "proof" needed to draw reasonable conclusions about the kinds of harms "caused" by pornography.

As Commissioners, therefore, based on the evidence presented to us, we had little difficulty reaching the firm conclusion that violent, or even non-violent but degrading pornography represented a significant harm to individuals and to society as a whole and that these two categories of sexually explicit designed-to-arouse materials should be condemned unhesitatingly. The Commission was again unanimous in asserting that to the extent that such materials met the Miller standard they should be prosecuted and, if possible, proscribed.

Is there a third category of sexually explicit designed-to-arouse material that is neither violent nor degrading and for which no real harm can be demonstrated that therefore does not merit such condemnation and possible legal proscription under the Miller standard? Because the Commissioners became hopelessly deadlocked on this issue it was resolved that each reserve the right to compose a personal statement outlining his or her thinking on the matter.

In my view, and perhaps in that of other Commissioners as well, this is the central theoretical issue of our year's

debate. We were not able to resolve this question successfully and for me it represents a major failure of the Commission--not because we were unable to agree on the merits of the issue, or much less, that the other Commissioners did not agree with my own views, but because as a group we were unwilling, or perhaps unable, to confront or to correct or perhaps merely to adjust to the inherent limitations of our approach to the study of pornography.

This inherent and deceptive weakness in our approach--its fatal flaw in my view--also proved to be for us a fatal temptation, permitting the Commission to rely quite heavily--indeed almost exclusively-- on evidence of harms drawn from the empirical and social sciences to the virtual exclusion of other kinds of "evidence". While this methodology perhaps proved useful enough when we examined the potential consequences of exposure to category I and II materials, this over reliance on such evidence did not serve the Commission well in its examination of the allegedly more innocuous materials contained in our so-called category III.

I say "allegedly more innocuous" because implicitly an assumption began to grow among many Commissioners that sexually explicit materials that were neither violent nor degrading somehow had to be less harmful than materials not obviously so--and indeed, in many important aspects that is quite indisputably true. As a result the focus of our discussions centered more and more, and sometimes almost exclusively, on the

harms to be ascribed to sexually violent and degrading materials and the evidence we considered almost exclusively that drawn

our difficult and time-consuming discussions of the real or potential "harms" ascribed to pornography and the identification of these harms with the various categories of sexually explicit materials. In addition, our chosen approach enabled the Commission to understand better the various kinds of evidence or "proof" needed to draw reasonable conclusions about the kinds of harms "caused" by pornography.

As Commissioners, therefore, based on the evidence presented to us, we had little difficulty reaching the firm conclusion that violent, or even non-violent but degrading pornography represented a significant harm to individuals and to society as a whole and that these two categories of sexually explicit designed-to-arouse materials should be condemned unhesitatingly. The Commission was again unanimous in asserting that to the extent that such materials met the Miller standard they should be prosecuted and, if possible, proscribed.

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that would be contained in category III materials, e.g. certain sexually explicit solely designed-to-arouse depictions of heterosexual or homosexual behavior, or of group sex that were clearly neither violent nor obviously degrading, in the precise meaning of this term as used in our discussions concerning category II materials. I think it fair to say that by its refusal to take an ethical or moral position on pre-marital or extra marital sex, either heterosexual or homosexual, the Commission literally ran for the hills and necessarily postulated the existence of a third category of sexual materials designed to arouse that was neither violent nor degrading, and, that was in some vague and unspecified sense, permissable to some extent--even though much of it would have been judged obscene under the Miller standard.

A much larger issue is at stake here than the individual harm or degradation of a particular man or woman, or even of society itself caused by materials commonly and confidently ascribed to categories I and II. The question may be posed: does pornography, of any category, so degrade the very nature of human sexuality itself, its purposes, its beauty, and so distort its meaning that society itself suffers a grave harm?

The message of pornography is unmistakably and undeniably clear: sex bears no relationship to love and commitment, to fidelity in marriage, that sex has nothing to do with privacy and modesty and any necessary and essential ordering toward procreation. The powerful and provocative images proclaim

universally--and most of all to the youth of our country--that pleasure--not love and commitment--is what sex is all about. What is more, that message is proclaimed by powerfully self-validating images, that carry within themselves their own pragmatic self-justification.

To pose the question in another way: is the imaging, the message-conveying power of sexually explicit, designed-to-arouse pornography so great that society must be concerned when that perniciously convincing message becomes well nigh universal among us? I think the answer to that question must be an unequivocal resounding yes!

Speaking for myself, and representing a view that perhaps could not carry the majority of the Commission, I would affirm that all sexually explicit material solely designed to arouse in and of itself degrades the very nature of human sexuality and as such represents a grave harm to society and ultimately to the individuals that comprise society. I find it very difficult therefore to affirm the existence of a third category of pornography that is neither violent nor degrading and not harmful.

To a certain but limited extent I have outlined my convictions further in two documents submitted to this Commission that can be found immediately following this statement. The first, entitled: Non Violent, Sexually Explicit Materials and Sexual Violence, purports to show how an argument might be drawn from social science itself that the widespread

consumption of sexually explicit materials found in universally disseminated male magazines may well lead inevitably to increased rape rates. I think my conclusions, although I am no social scientist, while certainly not apodictic, are at the very least plausible.

The second, entitled: Pornography and Privacy, attempts to make a strong argument against all pornography based on its (pornography's) total and inadmissable invasion of a personal privacy so sacred and so inalienable that it must always remain inviolate. There are, in sum, certain rights so intrinsic, so foundational to the integrity of the human personality and our duties as citizens that they may never be surrendered. One of them is our personal liberty. Another is our sexual privacy.

For these reasons, and for others, I have concluded that for all practical purposes Category III does not exist, viz that sexually explicit materials designed to arouse that are neither violent nor degrading per se, nonetheless profoundly indignify the very state of marriage and degrade the very notion of sexuality itself and are therefore seriously harmful to individuals and to society, indignifying both performers and viewers alike in ways ethically and morally reprehensible.

If in fact such a category does exist, then I am persuaded that it is so limited as to be totally inconsequential and certainly not represented by the sexually explicit materials studied by this Commission.

To conclude otherwise, I fear, is to legitimate the

existence of a group of materials that some would call "erotica" and would in effect license as permissable and presumably non-prosecutable, a large class of sexually explicit materials designed to arouse that would all too easily send the clear message that the primary purpose of sex is for hedonistic, selfishly solipsistic satisfaction.

To me, the greatest harm of pornography is not that some people are susceptible to or even directly harmed by the violent and degrading and radically misleading images portrayed all too graphically by mainstream pornography. Rather pornography's greatest harm is caused by its ability--and its intention--to attack the very dignity and sacredness of sex itself, reducing human sexual behavior to the level of its animal components.

In a certain sense the Commission was hoist by its own petard. In its need to describe carefully and to delineate accurately the possible harms of pornography it adopted an approach and methodology and a system of proof quite suitable to establish the--if I may say it--the self evident, the per se nota, harms of violent and degrading pornography. When all is said and done, do the careful conclusions of the Commission with regard to violent and degrading pornography surprise anyone, or does any rational man or woman seriously question the legitimacy of these conclusions--quite apart from any "evidence" thought to establish such harms? The fact is that the Emperor doesn't have any clothes on and he--as far as violent and degrading pornography is concerned--never did and it didn't need four

national Commissions (two American, one Canadian and one British) to "prove" it.

The fatal weakness--fatal because largely unacknowledged--of our approach, however, betrayed and undercut and sadly misdirected the Commission's efforts and prevented us from, in my view, considering adequately the more profound harms to individuals and society caused by pornography as a total genre. The unmistakable consequence for the Commission, in my judgment, was to ascribe more harm to the less harmful and to discount substantially and even to discredit the far graver and more pervasive harms caused by pornography not evidently violent or obviously degrading.

To put it in another way: the greatest harm of pornography does not lie in is links to sexual violence or even its ability to degrade and to indignify individuals. Pornography, all three categories of it--if indeed a third category exists at all--degrades sex itself and dehumanizes and debases a profoundly important, profoundly beautiful and profoundly, at its core, sacred relationship between a man and a woman who seek in sexual union not the mere satisfaction of erotic desire but the deepest sharing of their mutual and committed and faithful love.

This being said however, I hope no one will dispute the fact that while we did not succeed in resolving the major theoretical dispute before us, the approach and methodology adopted by the Commission did enable us to deal successfully

with matters of great practical importance and concern to the American people.

The "Printed Word" Debate.

One of the most difficult and controversial issues that sharply divided the Commission was the special nature and especially protected character of the printed word. Simply put, the issue was this: does the printed word--including printed and non-pictorial pornography--deserve special consideration because of the unique relevance the printed word bears for First Amendment considerations and the precious right of political dissent in the United States, the almost exclusive burden of which is carried by the printed and spoken word?

I voted with the bare majority on this issue, upholding the special preeminence of the printed word and holding that, despite the fact that printed pornography can be declared legally obscene under the Miller standard, printed depictions merit special protection unless they involve the degradation and abuse of children.

Because my vote in particular seemed somewhat out of character in light of other government intervention with which I agree, and because it was virtually incomprehensible to some thoughtful people on the Commission and elsewhere, I take this opportunity to at least put on the public record the rationale for my vote.

It was abundantly clear from our discussions that virtually no current prosecution, on grounds of obscenity, of the printed

word occur in the United States, and that furthermore, none are realistically contemplated because of the great difficulty and complexity of these prosecutions. Indeed, the Chairman of this Commission, Henry Hudson, conceded on the record that he could not conceive of ever undertaking a prosecution of the printed word.

The problem is of course that among this genre of printed pornography there exists a large body of materials that describe the sexual abuse of children and indeed, advocate for it. It is a particularly noisome and repellent body of literature that in effect is nothing less than "cook book" and how-to-do-it manuals, guides for the sexual exploitation of children.

I expressed to the Commission my strong conviction that unless these particular printed materials involving children were singled out for special and vigorous prosecution--excerpted as it were from the broad mass of printed pornography--the general reluctance to ever prosecute the printed word would prevent any attempt to proscribe these maleficent materials. It is my further conviction that the unanimous action of the Commission recommending the vigorous prosecution of obscene printed materials involving or advocating the sexual exploitation of children will, in fact, spur and aid prosecutors in the vigorous enforcement of the obscenity law, at least in regard to those materials depicting children. The hope of a total prosecution of obscene printed materials is disingenuous and futile--the crying need to prosecute to the full extent of the law those

materials depicting the prurient sexual abuse of children is an urgent necessity.

A second reason led me to vote that special consideration be accorded the printed word. Fear of censorship was a constant theme of many witnesses who appeared before this Commission. I do not think we are entitled to judge that concern lightly, or to consider that those who express such anxiety are motivated by self interest. First Amendment values are crucial to American life and the virtual sanctity and integrity of the printed word central to the absolute freedom of political debate and dissent.

I do not agree with those who hold that efforts to regulate and proscribe sexually explicit materials according to the Miller standard signal a return to or adoption of a censorship mentality. In short I think that those possessed by such fears, while for them the fear may seem real, are quite simply wrong.

At the same time I thought it very important that the Commission send a strong message to the public that we do not favor a return to times when the repression of unpopular ideas was part of our political landscape. By the barest of margins, the majority of Commissioners adopted this view. I am proud to be among them.

The Indecency Standard.

This was another issue that sharply divided the Commission and one that only eleven Solomons could have reached consensus on. Once again I voted with the bare majority and would like to

put on record my reasons for so doing.

The issue was, once again, central to the charge of this Commission and could be framed this way: Millions of American families are concerned about the virtual invasion of their homes by increasing amounts of increasingly explicit sexual depictions they find offensive and even dangerous to their families, most especially to their children.

The issue is fairly simple and straightforward for broadcast, non cable television. The FCC under its broad powers to regulate what can be transmitted over the air waves prohibits the dissemination of "indecent" words and images. The Supreme Court upheld this right in its Pacifica decision on the ground that citizens had a right to expect some regulation of broadcast materials coming into the home over which individual parents had no control.

The matter is not so simple with regard to cable television and other forms of satellite-transmitted programming. At least four court decisions, one of them in federal appeals court, have clearly established the essential diversity of broadcast and cable television and decreed that the "indecency" standard used to regulate broadcast materials could not and must not apply to cable television. In fact, the courts have so far declared, unanimously, that the application of the indecency standard to cable television is unconstitutional.

The issue is complex, not only by reason of the constitutional ambiguities that surround it, but also because, from a

broader perspective, citizens have a right to be concerned about who and what are going to regulate what they may see on cable television.

Many witnesses who appeared before this Commission, for example, have pointed out, that if the "indecency" standard currently in force with regard to broadcast television were also imposed on cable television, most of the mainline Hollywood films currently on view in theaters across the country could not be shown on home television served by cable. It is hardly likely, even inconceivable, that the courts on any level, including the Supreme Court, would uphold such an extension of the indecency standard to cable television.

Indeed it is just as unlikely, regardless of an individual's particular ethical or moral persuasion, that such a blanket prohibition would be tolerated by the vast majority of the American people or the Congress that represents them.

There is still another compelling reason why many thoughtful people in this country would actively oppose any attempt to apply the same standards of broadcasting television to cable. Indeed, almost all of the principal religious denominations and religious broadcasters unanimously fought such an equation of broadcast and cable television on the grounds that it might seriously impede their own religious freedom to control their programming as they saw fit and might compel them to grant equal time to atheist or agnostic or anti-religious presentations.

Whatever one thinks of their argument, no one could plausibly accuse these religious leaders of not being sensitive to the import of their position or that they thereby were in favor of indecency on television. The fact is however, that unless we equate broadcast and cable television, the FCC has no constitutional right to regulate programming on cable using the indecency standard upheld by the Pacifica decision.

For all these reasons therefore, and for others, I voted with the bare majority not to recommend the current indecency standards for cable television.

I would strongly support, however, new legislation by Congress that could thread its way successfully through the Scylla of unconstitutionality and the Charybdis of over regulation of this medium by government.

It seems to me that Congress should look to the principles of New York v. Ginsberg--which allowed lower obscenity standards to apply if children are recipients of pornography--as a beginning toward unraveling this conundrum. Ginsberg allows the government to declare some pornographic material "obscene as to children" and to make its sale to children a criminal act. Is it not possible then, that certain material may be judged "obscene as to the home"--that is, judged by a standard that takes into account the special problems of parents in preventing access by their children to cable television or the telephone, and so be subjected to special regulation when it appears in those settings?

I am certain that all the Commissioners, regardless of how they voted on this narrow issue, deplore the increasing appearance on our home television screens, whether broadcast or cable, of sexually explicit and frequently violent and degrading materials. We differ only on how to achieve the laudable end of protecting our children from this unwanted and dangerous incursion into the sanctity of our families.

Sex Education for Our Children.

Few problems have produced more genuine concern among more Americans than the sexual awareness, behavior, and victimization of children. Few, if any, dispute the need of children for knowledge about their sexual natures - its dangers and its promise, its mystery and its power. Yet few areas of public discussion have engendered more bitter, if often legitimate, debate over the means appropriate to achieving a desired end.

This Commission found itself in the middle of that debate not out of choice but of necessity. We have seen and heard massive quantities of evidence concerning the abuse and exploitation of children by adults, both in the making and in the consumption of sexually explicit material. We have learned, as well, of the extraordinary extent to which sexually explicit magazines, films, video tapes, telephone recordings, and books are a part of the life of our country's children and adolescents. It has become increasingly clear to us that many children who escape actual sexual abuse are nevertheless receiving their primary education in human sexuality from a graphically

inappropriate source, one which describes sexual fulfillment as conditioned upon transience, dominance, aggression or degradation.

We have seen, too, that in a society flooded with sexual imagery it is virtually impossible fully to "protect" children from becoming victims of misleading information about sex. Nor is it possible to expect that criminal and civil sanctions, however, vigorously applied, will wholly end sexual abuse. Teenagers, and to a great extent even younger children, must learn to protect themselves - both from exploitation by others and from the consequences of their own ignorance and immaturity.

At the same time, however, they deserve an understanding of the beauty of sexuality, and its role as the foundation of family and indeed of human civilization itself. While our charge is limited to examining the nature and effects of pornography, we would be remiss if we failed to note our passionate desire for careful, humane, and explicit instruction of children regarding the nature and effects of sexuality itself.

Unfortunately that desire only leads us directly to a central dilemma of our nation's pluralistic democracy. The very importance of sexuality makes it a central focus of almost every system of religious and ethical values. Teaching children about sex inevitably involves instruction about its relationship with morality and human relationships. Any attempt to evade such instruction or underlying values only results in teaching one

specific moral assumption - that no relationship exists between sex and morality. Presenting instruction on sex combined with discussion of the full array of opinions discussed would largely dilute the importance of all of them. While these problems could be wholly avoided if full instruction on sexuality were provided to children by their parents, it is a sad fact that many, if not most, parents ignore or fail seriously in this responsibility.

This dilemma is unfortunate in part because I think we all believe that there is is a core group of values which can and should form the basis of instruction on sexuality. Above all, it seems to me we could agree that such instruction should be presented as one important, but not dominant, part of instruction on the family - its history, nature, and importance. The most important institution in human society, the family, is virtually ignored in modern education. That failing is particularly tragic because it is only within the context of exploring the meaning of the family that the meaning and role of sexuality can be understood.

The particular values that almost all of us think it important to emphasize in "sex education" - responsibility, commitment, fidelity, understanding, and tenderness - are precisely those which underlie our society's legal, social and moral assumptions about the family, and can only be effectively conveyed if the two topics are inextricably linked.

If a belief in the necessity of teaching those values with

respect to sexuality were in fact shared by all Americans, it would be possible, I think, to devise a mandatory curriculum on human sexuality in the elementary and secondary public schools. Because it seems clear that no such consensus exists I have been forced, in thinking on this subject, to consider only the appropriate minimum action which is necessary and possible for federal, state, and local governments to take. As mandatory, explicitly value-laden age appropriate education in affective sexuality seems at present a task beyond the capacity of public schools, we can only center our hopes for providing such education on the willingness of families to undertake it. Within a voluntary framework, however, perhaps even within a released time context, we can urge the public schools to provide extensive opportunities for students to explore all the issues surrounding the creation and maintenance of families in the United States, with instruction on sexuality forming a substantial part of such a curriculum.

Finally, where children and youth need to learn how to protect themselves from exploitation by adults or manipulation by the media we can ask the schools to take a strong, mandatory role in providing them the facts.

If this year confronting the products of the pornography industry has taught me anything, it is that we are all profoundly ignorant of the way electronic and photographic images can be used to manipulate viewers. We continue, quite rightly, to insist that our children learn how our novelists and poets use

language to shape and redirect emotions and values. Yet with regard to powerful graphic visual images designed to produce handsome profits through sexual arousal of viewers, we have allowed our schools to remain almost completely silent. Teenagers should be taught not only how their emotions and instincts are manipulated by viewing pornography, but also how the pornography industry exploits and abuses the persons used in making it. Such instruction would present none of the religious or moral quandaries of sex education generally, and seems to me a vital protective measure for our young--who are simultaneously the biggest consumers of pornography and the most vulnerable to its vicious effects.

A priest on the Commission.

A decent respect for the wholly creditable, almost entirely unspoken but perhaps genuine anxiety felt by some that my role as priest, my training and background as Roman Catholic theologian might somehow unfairly or unconsciously skew my thoughts and feelings on the issues before the Commission compels this word of assurance.

I do not think that I was invited to join this Commission because I was a priest theologian but rather because of almost 18 years of close personal experience and progressional involvement with literally thousands of sexually exploited children, many but not most of whom had been victimized in the actual production of pornography in which they were the hapless performers and "stars."

For this reason I asked a member of my staff, Gregory Loken, a gifted attorney and scholar in his own right as well as a noted advocate for the rights of children and Director of the Youth Advocacy Institute of Covenant House, to make a special study of the question regarding harms to performers in pornography. The Commission has made this statement its own and I consider it an important and original contribution to the research in this field. It is found in Part Four of the Report.

I freely admit to a certain bias in this regard. Nothing, absolutely nothing justifies the sexual abuse of children, and nothing, absolutely nothing - including the most perfervid defense of the First Amendment justifies the recording of this loathsome abuse on film. The Supreme Court of the United States in its unanimous 9-0 Ferber decision affirmed this special horror and declared that child pornography did not merit constitutional protection.

But when all is said and done I am who I am. I cannot exit from my personal skin, I can not divest of myself, anymore than any other citizen, of that "walking around collections of a priori assumptions" that in part help constitute who and what I am.

I am certain that despite some unfair prior assumptions to the contrary the Commission tried as fairly and honestly and objectively as it could to reach their conclusions as a result of honest and open debate. My position on the Commission carried for me an added important symbolic responsibility.

Since I was the only member of the Commission that could be ever thought to "represent" a major religion in the United States, I felt a special obligation to my fellow Commissioners and the people of this country not to adopt or impose a particular theological or sectarian slant on my contribution to the work of this Commission.

In short, I tried not to react as a Roman Catholic priest but as a citizen with a broader mandate and constituency. I hope therefore that my views represent a wide spectrum of the current American experience. At the same time I am proud to be what I am and would have it no other way.

The Writing of this Document.

The difficulties and complexities of this subject could hardly be exaggerated. One man's nudity is another man's erotica is another man's soft core pornography is another man's hard core obscenity is another man's boredom!

When, at the end of our public sessions it came time to synthesize the import of our debates and discussions in this report it became abundantly clear to the great majority of Commissioners that this report could not be a "staff document"---that is, a document compiled and assembled by the staff of this Commission could not represent fairly the differing opinions and conclusions of the Commissioners. This is not to denigrate the enormous contribution of the Commission staff. They merit the highest praise, especially its Director Alan Sears, for their round-the-clock effort to provide the Commission with the

materials and support they needed. The staff worked with great diligence and zeal to perform their duties and much of this final report is a product of that diligence.

In the final analysis however, this report could neither be compiled nor assembled. It demanded single authorship. Quite simply this report could not have been written by Committee.

Professor Fred Schauer provided to this Commission the grace of single authorship and it is largely due to his wholly admirable effort in providing the "framing document" for this report that, in my view, we can present to the Attorney General and the American people a product of which I think we can all be proud.

Conclusion.

The Chairman of this Commission deserves the gratitude of every member of this body. His was an unenviable and awesome task--to oversee the taking of public testimony and to guide the public debate over the issues with fairness and objectivity. I think Henry Hudson acquitted himself of this responsibility in a wholly admirable way.

His unfailing courtesy to the members of this Commission and its staff was particularly noteworthy, especially when too many late-night sessions over-stressed us all.

To the other Commissioners I can only say thank you. It has been a privilege and rare honor to have served with them. I hope they share with me that pride of accomplishment as we submit this report to the American people for judgment.

I speak for myself yet I am certain the other ten Commissioners would echo my concern over the well nigh universal eroticization of American society. I am convinced, too, that the vast majority of Americans either intuitively or by rational conviction share our concern.

I urge therefore that our fellow Americans examine and debate our logic and conclusions carefully.

Pornography and Privacy

Submitted by: Father Bruce Ritter

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> An American has no sense of privacy. He does not know what it means. There is no such thing in the country.
>
> George Bernard Shaw

If there is one single lesson we have learned from studying the "problem of pornography," it may simply be that Mr. Shaw's acid observations on American privacy may finally be coming true. Commercially produced material, regularly distributed to millions of Americans, shows other Americans, in explicit photographic detail, engaged in every variety of sexual intercourse. What might have been considered at one time the most private of human activities is now a matter not simply for public discussion but for graphic public display.

We have not fully agreed among ourselves whether this aspect of "pornography" - one which cuts across all the categories we have used in discussing other issues - should be deemed a "harm." Some of us have viewed the end of the taboo on public sex as at least an ambivalent event, with its possible benefits including an end to ignorant repression of knowledge and dialogue about sexuality. For the rest of us, however, the issue is a clear one, and, with limited exceptions explained below, we consider the assault of pornography on sexual privacy to be one of its most direct and corrosive harms. Because that view has not often been articulated in the debate over sexually explicit materials, however, we feel bound to explain it fully.

That explanation must begin by acknowledging that a concern

for "sexual privacy" does not arise in every type of material considered "pornographic." That it arises at all is the result, as we attempt to explain, of deep cultural, moral, and even biological norms that are generally taken for granted, but not generally discussed. Finally the extent to which those norms represent values important to America and Americans - and the extent to which sexually explicit material offends those values - is a matter we believe deserving of substantial consideration by scholars, legislators, and the general public.

A. The Material in Question. That the debate over "pornography" has traditionally been carried on with only limited reference to questions of privacy is hardly surprising. Not until the last fifteen years - that is, after the 1970 Commission Report - did substantial quantities of material appear on the general market which depict full, highly provocative genital nudity and actual (rather than simulated) sexual intercourse. Many of the great "obscenity" debates of this century - on, for example, Lady Chatterly's Lover and Tropic of Cancer - in fact centered solely on the printed word.

Simulated activity, drawings of sexual conduct, and the printed word may cause concern on other grounds but they are largely tangential to discussion of sexual privacy. It is true, as Warren and Brandeis so eloquently explained almost a century ago, that grave damage may be done when "[t]o satisfy a prurient taste the details of sexual relations are spread broadcast in the

columns of the daily papers."[3] Nevertheless it is also true that the process of such "broadcast" is a largely indirect one: for damage to occur the writer must be regarded as credible and the reader must exercise his imagination. Photographic representations as we explained in discussing the role of performers in modern commercial pornography, can show actual sexual relations in such a way that those who are shown cannot deny what happened, and those who view the depictions cannot avoid the full force of the images presented.

We thus limit our discussion of "pornography" in this section to that specific form of it which seems to have most urgent and clear-cut effects on sexual privacy - that is, photographic (or live) portrayals of actual sexual intercourse or of full genital nudity designed solely to excite sexual arousal.[4] The direct, unmediated public display of human beings in graphic sexual conduct is a new phenomenon in the history of culture, and it represents, in our view, a development harmful to both individuals and society at large.

B. Anthropological Perspective. While acutely aware of the limitations of anthropological evidence for arguing "what

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[3] Warren & Brandeis, The Right to Privacy, 4 Harv. L. Rev. 193 (1890).

[4] Thus not only "mere" nudity, but any form of nudity which is used for purposes - artistic, scientific, political, or educational - other than simple sexual provocation are outside the scope of our analysis. We do not deny that privacy concerns may be implicated even in these displays, see, New York v. Ferber, 458 U.S. 747, 774-75 (O'Connor, J., concurring), but we do not believe the evidence suggests they represent nearly as substantial a threat to sexual privacy as the material we include.

ought to be" for modern industrial society, we think it at least worth noting two propositions which are widely accepted by anthropologists and which seem of real importance for our inquiry: (1) public display of genitalia is extremely rare among human cultures; and (2) sexual intercourse universally occurs under conditions of privacy. Both have relevance as indicating basic taboos which are more often explained in moral or religious terms.

1. Genital Nudity. In their still standard overview of 191 human cultures, Ford and Beach found that, "There are no peoples in our sample who generally allow women to expose their genitals under any but the most restricted of circumstances."[5]

In those few societies where women occasionally expose their genitals - e.g., the Lesu, Dahomeans and Kurtatchi - it is a deliberate gesture to invite sexual advance.[6] Conversely the social controls imposed by primitive, semi-primitive and advanced cultures appear to be founded in "the prevention of accidental exposure under conditions that might provoke sexual advances by men."[7] A number of societies, however, place no restrictions on display of male genitals, and in a few nudity by both sexes is accepted.[8] Even in those few which allow such nudity - e.g.,

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5 C. Ford and F. Beach, Patterns of Sexual Behavior 94 (1952); W. Davenport, Sex in Cross Cultural Perspective in Human Sexuality in Form Perspective 115, 127-129 (F. Beach, ed. 1976).

6 Ford and Beach, at 93-94.

7 Id. at 94.

8 Id. at 95.

the Australian aborigines - strict rules forbid staring at genitals.[9] It is therefore possible to say, in the words of one anthropologist, that "some form of sexual modesty is observed in all societies."[10] That modesty distinguishes humans from all other primates.[11]

2. Sexual Intercourse. If the privacy of genitalia is the subject of limited variation among cultures, the privacy of sexual intercourse is not. Every human culture is characterized by an insistence on seclusion for sexual union, although physical conditions may make absolute privacy difficult to achieve.[12] Thus when more than one family shares a dwelling, couples will generally copulate in a secluded place outdoors.[13] Children are strictly admonished to ignore their parents' sexual behavior where it is possible they might see it.[14] Among humans, according to one scholar, "sexual privacy, like the incest

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9 Davenport, supra note 1, at 128.

10 Id. See also A. Kinsey, et al., Sexual Behavior in the Human Female 283-285 (1953) (finding anthropological data showing acceptance of nudity only of children before adolescence).

11 Ford and Beach, supra note 1, at 95, 105.

12 Davenport, supra note 1, at 148; Ford and Beach, supra note 1, at 68-71. Ford and Beach do list two partial exceptions to this rule - "some Formosan natives" who in the summertime "copulate out of doors and in public, provided there are no children around," and "Yapese couples" who, "though generally alone when they engage in intercourse, copulate almost anywhere out of doors and do not appear to mind the presence of other individuals." Id. at 68. Neither of these exceptions, on close inspection, applies to more than "some" members of what amounts to 1 percent of Ford and Beach's sample of 191 cultures.

13 Davenport, at 150. Ford and Beach at 69-71.

14 Davenport, at 149-150.

taboos, is virtually pancultural."[15] Only chimpanzees among all animals have the same absolute regime of sexual privacy - a fact suggesting that this impulse is biological in nature.[16]

Margaret Mead's famous study of Samoan culture - widely regarded as a plea for more sexual openness - provides powerful evidence for the extraordinary impulse toward sexual privacy even in a society with sexual practices far different than our own. There she found married couples sharing large rooms, but careful to preserve some sense of privacy even within the house by means of "purely formal walls" of mosquito netting.[17] Outside the house the urge to privacy is extraordinary, as she discussed in describing the sexual knowledge of Samoan children:.

> In matters of sex the ten-year-olds are equally sophisticated, although they witness sex activities only surreptitiously, since all expressions of affection are rigorously barred in public . . . . The only sort of demonstration which ever occurs in public is of the horseplay variety between young people whose affections are not really involved. This romping is particularly prevalent in groups of women, often taking the form of playfully snatching at the sex organs.[18]

Even in a culture she found to be so free of "stress and

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[15] G. Jensen, Human Sexual Behavior in Primate Perspective in Contemporary Sexual Behavior: Critical Issues in the 1970's 17, 22 (1973). Accord, D. Symms, The Evolution of Human Sexuality 67 (1979).

[16] Jensen, supra note 12, at 67; Symms, supra note 12 at 67, n. 4.

[17] Coming of Age in Samoa 135 (1928, 1961 ed.).

[18] Id. at 134-35.

strain,"[19] the pancultural norms of sexual privacy were strictly observed.

C. Western and American Traditions. Margaret Mead's disdain for the "Puritanical self-accusations" which characterize Western attitudes toward sexual freedom did not extend to the insistence of our culture on the private nature of sexual conduct. And indeed, any such disdain would be impossible for an anthropologist, for sexual privacy is at the very heart of our own culture - assumed in every major strand of Western thought, and incorporated now in American common and constitutional law. So clear, indeed, is the strength of the traditional belief in sexual privacy, that we view only a brief discussion as necessary. The historical pedigree of that belief is traceable at least to the customs of the ancient world. One historian has found that for ancient Jews nudity was "barbaric and indecent," and that "[i]n Biblical times, it seems, the Hebrews did not come in contact with tribes that were not sensitive to the shame of nakedness."[20] In the ancient Hellenic world "nakedness was a vulgarity" that was publicly permitted only in such specialized settings as the gymnasium.[21] Indeed, Plato went so far as to urge shame and complete secrecy in all matters related to sexual

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[19] Id. at 234.

[20] L.M. Epstein, Sex Laws and Customs in Judaism 26-27 (1948) (emphasis added).

[21] Id. at 27. Romans did allow men and women to bathe together in the nude, id. at 29.

liaisons.[22] And even the most graphic Greek paintings of sexual conduct used "formula" faces that were not meant to reproduce the features of specific persons.[23] Exposing the naked body of another person, in the ancient world, was a means of humiliation reserved for slaves and war captives.[24]

Developments in Western culture from its Judaic and Hellenic roots until only very recently were all in the direction of strengthening the already strict taboos of sexual privacy. Subsequent Western attitudes toward the subject were perhaps best summarized by St. Augustine, himself no stranger to sexual excess, even before the fall of Rome:

> And rather will a man endure a crowd of witnesses when he is unjustly venting his anger on someone than the eye of one man when he innocently copulates with his wife.[25]

Social conditions - in particular, housing consisting of one room for an entire family - even through the early modern and industrial periods of Western history made it difficult to maintain absolute sexual privacy in the home, particularly in the

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[22] Plato Laws 841 a-e.

[23] A. J. Dover, Greek Homosexuality 71 (1978).

[24] Epstein, supra note 19, at 31. "The male slave and the female slave had no sex personalities in the eyes of the ancients. They were considered as having no shame and incapable of causing the sense of shame in others." Id. at 29 r.

[25] City of God, Book XIV, pg. 468 (M. Dods trans. 1950). See J. Boswell, Christianity, Social Tolerance and Homosexuality 188 (1980) (discussing monastic proscriptions against nudity); Jewish traditions proscribing nudity continues well into this century. Epstein, supra note 19, at 29-37 (noting reluctance even in twentieth century to approve modern bathing suits for women).

presence of family members.[26] But the first impulse of every class as it obtained the power to do so has been to obtain more personal privacy, particularly in respect to sexual matters. [27] By the beginning of this century sexual privacy had assumed so important a role in Western thought that Freud could suggest, with some force, that the awakening of sexual modesty was a crucial event in the founding of human civilization itself. [28]

Whatever its relation to civilization generally, privacy in sexual matters has long been a deeply ingrained part of American culture. From the often strict religious repression of the colonial period [29] through the more freewheeling nineteenth century,[30] sexual modesty was highly esteemed. Mark Twain and Henry James would have disputed the value of almost every social restriction of late Victorian society; on the need for sexual

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26 P. Aries, Centuries of Childhood 106 (1962) (children in ancient regime believed to be wholly "unaware of or indifferent to sex"; "gestures and physical contacts . . . freely and publicly allowed [to children] . . . were forbidden as soon as the child reached the age of puberty").

27 Stone, supra note 25, at 253-257.

28 Civilization and Its Discontents 46 n. 1 (J. Strachey ed 1961).

29 For a full discussion of the "essential" quality of sexual privacy in the colonial period, see D. Flaherty, Privacy in Colonial New England 79-84 (1972). See also F. Henriques, Prostitution in Europe and the Americas 230-45 (1965).

30 See generally, Note: The Right to Privacy in Nineteenth Century America 94 Narv. L. Rev. 1892 (1981). The great exception to the America's Victorian sense of sexual shame was the cavalier treatment of slaves' privacy in the Old South. F. Henriques, supra note 27, at 245-63. That exception is in line with long established notions about the unimportance of sexual privacy for slaves. See, supra note 22.

reticence, however, they stood shoulder to shoulder.31

D. Sexual Privacy in Modern America. The gap between our novelists and the author of Portrait of a Lady is indeed a great one, and it is clear that our more liberal notions of sexual reticence form a substantial part of the difference. Yet before simply conceding that privacy in sexual conduct has been relegated to a minor role in modern American life, it would be well to consider two important facts. First, for all their changing mores, Americans still appear to assert strongly their need for privacy in matters sexual. Second, American law in this century has recognized that need ever more forcefully. The combination of these facts, along with evidence from anthropology and history, forms for us the basis on which the "harms" and "benefits" of pornography may, in this area, be assessed.

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31 Compare, for example, the treatment of sexual tension in Tom Sawyer with that of Washington Square. See also, The Secret Life I and The Secret Life II in S. Marcus, The Other Victorians (1964) (describing as "unique" a memoir describing in detail the sex life of a Victorian gentleman).

1. Attitudes and Practice. In launching their seminal investigation of American sexuality Alfred Kinsey and his colleagues had this to say about their subjects' need for privacy:

> Our laws and customs are so far removed from the actual behavior of the human animal that there are few persons who can afford to let their full histories be known to the courts or even to their neighbors and their best friends: and persons who are expected to disclose their sex histories must be assured that the record will never become known in connection with them as individuals. 32

In the nearly four decades that have followed, many of Kinsey's hopes for greater sexual tolerance have been realized, but the acute need for sexual privacy has remained. One of the best indicators of that need has been in fact a wrenching problem for researchers attempting to conduct scientific study of pornography: the extraordinarily low volunteer rate for such experiments. In one careful study specifically designed to measure differences between volunteers and nonvolunteers in a sex-film experiment, less than one third of the males and only one in seven of the females agreed to participate if they would be required to be "partially undressed (from the waist down)."33

Indeed, no more than half of another group agreed to participate even when told only that they would be watching "erotic movies depicting explicit sexual scenes," with no

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32 Sexual Behavior in the Human Male 44 (1948).

33 Wolchik, Braver & Jensen (1985). See also, Wolchik, Spencer & Lisi (1983).

references to undressing and with assurances that they would be wholly unobserved and that all data would be completely confidential.[34]

Two interesting pieces of evidence from Canada, for which no comparable data for the United States exist, offer a parallel to these laboratory observations. The Badgley Committee surveyed 229 juvenile prostitutes and found that almost 60 percent of both males and females had been asked at least once by clients to be the subjects of sexually explicit depictions. Yet among those requested - teenagers desperate for money who regularly sold their sexual favors to strangers - less than a third agreed to be photographed.[35] Of equal significance, the Fraser Committee conducted a national survey to determine the attitudes of Canadians toward pornography, and found that while 66 percent of their sample declared private viewing of sexually explicit material to be acceptable, only 32 percent could approve of the production of such material, even if no one is "hurt" in the process.[36] Apparently pornography previously produced with someone else's son or daughter is tolerable to Canadians; material which might be produced with one's <u>own</u> child is not.

In reaching our conclusion that current American mores continue tightly to embrace sexual privacy, we note that American psychiatrists adhere to their longstanding view that

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34 Wolchik, Braver & Jensen (1985).

35 Badgley Report at 104.

36 Fraser Report at 104.

exhibitionism and voyeurism are clear and saddening personality disorders. One overview of their effects finds that they:

> are accompanied by an inconspicuous but real alteration in character, with chronic anxiety beyond the immediate fear of being caught, guilt, fear of losing one's mind, shame, and, usually, inhibition of normal sexual responses. Relief after arrest is common.[37]

Pornography aside, healthy Americans simply do not attempt to peek into other people's bedrooms, and have no interest in showing off their sexual organs to strangers. The "chronic anxiety" attending exhibitionism and voyeurism is thus a reflection of our society's deeply shared commitment to preserving the privacy of sex.

2. The Law. That commitment has firm, if only recently developed, expression in American law. After the Warren and Brandeis article of 1890 [38] - which was provoked by the outrage of a Boston matriarch over the smarmy treatment by the newspapers of her daughter's wedding [39] - the right of Americans to be free from publicity about the graphic details of their sex lives became enshrined as a fundamental principle of the common law.[40]

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[37] A. Stanton Personality Disorders in The Harvard Guide to Modern Psychiatry 283, 292 (1980). See Riley, Exhibitionism: A Psycho-Legal Perspective, 16 San Diego L. Rev. 853, 854-57 (1979).

[38] See, supra note 1.

[39] Prosser, Privacy, 48 Cal. L. Rev. 383 (1960).

[40] See, Restatement (Second) of Torts 652D, Comment L (1977); Wood v. Hustler Magazine, Inc., 736 F. 2d 1084 (1984), cert. denied 105 S. Ct. 783; Melvin v. Reid 112 Cal. App. 285, 297 91 (Dist. Ct. App. 1931).

As we discussed in our review of the use of performers in pornography, the courts have recently recognized that this principle may be applied to protect those who are photographed while nude or engaged in sexual relations.[41] The Supreme Court, in New York v. Ferber, seemed recently to imply that the "privacy interests" of those depicted in pornography may have, as well, constitutional weight even on the strongly tipped scales of First Amendment analysis.[42] The special importance of sexual relations has for more than two decades been crucial to the development by the Court of the whole concept of a constitutional "right of privacy."[43]

E. Pornography and the Harm to Privacy. Simply stating what is does not resolve what ought to be. Finding that sexual privacy is pancultural, that it has been a stable feature of western civilization for as long as we have knowledge, and that it currently remains highly valued by Americans in their attitudes, practices and laws, does not ineluctably require a finding that the taboo of sexual privacy ought to continue to be held in such high esteem. But we think that these findings, while not constituting a form of "proof" themselves, are nevertheless crucial in assessing where the burden of proof ought

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41 See, Use of Performers in Commercial Pornography, supra, in Part Four.

42 458 U.S. 759 n. 10; See also, Bell v. Wolfish 441 U. S. 520, 558-60 (1979) (recognizing "privacy interests" of prisoners implicated by strip searches).

43 See especially, Griswold v. Connecticut, 381 U.S. 479 (1965). See also, Carey v. Population Services Int'l, 431 U.S. 678 (1977); Roe v. Wade, 410 U.S. 113 (1973).

to rest. In all fairness, we believe, it should rest on those seeking to sweep away the taboo.[44] Does current, photographic pornography offend that taboo? And if so, what is the harm? The answer to the first question is obvious to anyone who views the wholly graphic, undiluted sexual exhibitionism inherent even to "consenting pornography." Nothing is left for the viewer to imagine; no attempt is made to conceal either the face or the genitals of the performers. The consumer of "standard" pornography in the 1980's, unlike the consumers of the materials generally available at the time of the 1970 Commission Report, is a full witness to the most intimate, the most private activity of another human being.

That this is a "harm" we think undisputable, on several grounds. First, those who "perform" in current pornography are, as a group, extremely young, ignorant, confused and exploited; as we have discussed in our examination of their situations, they very frequently cannot be said to have given an informed consent to their use. Second, even when such consent exists, such performances, where they are given in exchange for money, are inseparable from prostitution, and degrade the performers in exactly the same ways as prostitutes are injured by their profession. Neither of these concerns applies, by contrast, to the making of noncommercial, sexually explicit films for use in

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[44] Likewise we believe that the critics of sexual taboos regarding incest or child molestation, see e.g., L. Constantini, The Sexual Rights of Children: Implications of a Radical Perspective, in Children and Sex 4 255 (1981), must bear a similar burden of proof in arguing their cause.

education or sex therapy - arenas where the reputations of performers are unlikely to be damaged.

Quite apart from injury to performers, though, we believe that injury occurs to society as a whole from such performances, injury that may best be described as the blurring of legitimate boundaries for public dialogue on sexuality. Where no reticence is allowed, where only the act of sex is regarded as an authentic statement about its meaning, most citizens can be expected to withdraw, rather than enter the discussion. Reducing the general sense that some aspects of every person's sexual life are so unique as to deserve special deference means, we think, that many will all the more militantly seek to shut out any dialogue on sexuality altogether. The virulent, devastating divisiveness over sex education in the public schools is, we think, a symptom of the fears that can arise from this destruction of the sense of boundaries.

Now against all of this, what proof is offered that the taboo of sexual privacy should be dismissed with regard to filmed pornography?

Some argue, convincingly enough, that such pornography expresses an idea, if no more elaborate an idea than an attack on sexual privacy itself. Yet that is hardly an argument against the "harm" we have discussed, for ideas can be as harmful as, indeed more harmful than a wide variety of more concrete afflictions. Others contend that the extreme reticence on sexual matters practiced by our society in the past was repressive of and injurious to healthy sexuality. That is also, so far as it

goes, true enough. But do we need to pay other people to copulate for us on film in order to discuss sexuality freely?

Surely the case for that need has not been made with even minimal rigor. And even if it had been made, we remain convinced, as we said above, that as many of us are silenced in the resulting dialogue as are given voice. Indeed, after a year of witnessing the grotesque sexism of commercial pornography, we now have begun to understand what Catherine MacKinnon, Andrea Dworkin, and others meant when they told us that pornography "silences" women.

Photographic pornography silences and it also degrades.[45] With the exception of noncommercial material produced for educational or therapeutic purposes, it exploits some human beings in violation of some of mankind's deepest instincts about the privacy of sexual conduct. The "right of the Nation and of the States to maintain a decent society,"[46] recognized in dissent by Chief Justice Warren and by a majority of the Supreme Court since 1973,[47] largely means only this: some aspects of American life, and of American sexual behavior, deserve special

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45 Compare, Williams Report 138 (live sex shows considered "especially degrading to audience and performer's" because of their "being in the same space" during performance of intercourse; no account taken of the fact that photographic pornography can only be made if cameraman or photographers is "in the same space" as the performers), critized in Dworkin, Is There a Right to Pornography? 3 Oxford J. Legal Stud. 177, 180-183 (1981).

46 Jacobellis v. Ohio, 378 U.S. 184, 199 (1964).

47 Paris Adult Theater I v. Slaton, 413 U.S. 49, 59-60 (1973) (quoting Warren).

protection from intrusion, public display, and commercial mass-marketing. Mr. Shaw - and the sex industry - to the contrary notwithstanding, Americans do know the value of

ucation or sex therapy - arenas where the reputations of rformers are unlikely to be damaged.

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NONVIOLENT, SEXUALLY EXPLICIT MATERIAL

AND SEXUAL VIOLENCE

I. Background

A. The Problem of Definition

B. Evidence and Standard of Proof

II. The Evidence

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III. Conclusion

Submitted by Father Bruce Ritter

I. Background

The alleged relationship of sexually explicit material and sexual violence has long been a subject of acrimonious but compelling debate. The "Effects Panel" of the 1970 Commission, often accused of denying such a link, instead stated a relatively moderate view of what was then an almost entirely new area of inquiry: "On the basis of the available data . . . it is not possible to conclude that erotic material is a significant cause of sex crime."[1] Recognizing the impossibility of ever proving "conclusively" the existence of such a casual connection, the 1970 Commission nevertheless determined that the evidence did not, at the time, suggest a "substantial basis" for such a proposition.[2]

The findings of our predecessors, though beleagured in this area by extensive professional criticism,[3] are entitled to significant deference, especially because the 1970 Commission took pains to explain the basis of its conclusions. Rape, however, is among the most violent and damaging of crimes: not only inflicting deep injury on its victims, but also standing as a powerful obstacle to the fight for sexual equality in a democratic society. It is, further, an evil which has increased at shocking rates over the last fifteen years. We thus have the

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[1] 1970 Commission Report, at 287. See, Fraser Report at 99; Williams Report at 6186.

[2] 1970 Commission Report at 286-87.

[3] For a review of many of those criticisms see Donnerstein & Malamuth (1984).

grave, and undeniably unpleasant, duty to examine again the possibility that consumption of sexually explicit materials and some rapes are causally linked - and to report, on the basis of the evidence available now, whether a "substantial basis" exists for believing in such a link.

We have with little trouble concluded that circulation of materials which themselves portray graphic sexual violence is a probable "cause" of rape - at least in the sense of being one factor among many (and not necessarily the most important) which increases the likelihood of rape. With regard to sexually explicit materials which do not include depictions of violence our task is more difficult because so many of our witnesses, so many professionals, and so many of our fellow citizens disagree vehemently on the issue. Tempting as it is simply to wash our hands of the question by noting the existence of the dispute and refusing to "take sides" in it, we cannot avoid sifting through the evidence and attempting to come to our own conclusions on the matter. Even if we cannot ultimately agree on the purport of each piece of evidence, or the meaning of all the data collectively, our views should be fully, and publicly explained.

A. Problem of Definitions. One serious obstacle to such explanations, unfortunately, arises immediately in the guise of defining the material under examination. For purposes of general discussion about the possible "harms" of sexually explicit material we have found it useful to divide that material into three somewhat imprecise, but nonetheless useful categories: that which is (1) violent; (2) "degrading" but not violent; and

(3) neither violent nor "degrading". Unhappily our scheme was not anticipated in advance by researchers, and though a useful blueprint for future scientific inquiry, has not formed the basis for research conducted in the past. The only distinction adhered to with some consistency in the past research has been that between those materials which depict violence and those which do not. Obviously that distinction is a crude one given the wide range of nonviolent "pornographic" materials, yet it may in some sense correspond with popular perception: thus public opinion seems strongly opposed to free circulation of materials "that depict sexual violence," but sharply divided over the fate of materials that "show adults having sexual relations," with no further explanation of whether the materials in question are "degrading" or not.[4]

For purposes of examining the evidence regarding sexually explicit materials and sexual violence, then, it seems useful to begin, at least, without clearcut distinctions based on the "degrading" character of particular items. Rather, the case for linking nonviolent materials and rape should be examined on its own terms - that is, on the basis of definitions contained in the relevant research - with attention, ultimately, to those pieces of evidence which bear on the question of distinctions among

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[4] 1985 Newsweek Poll. Forty-seven percent of respondents would ban magazines showing adults having sexual relations, but only 21 percent favored such a ban for magazines depicting "nudity". Because many current popular magazines are clearly "degrading" in their portrayals, the difference in views seems more related to sexual explicitness than to the positive or negative portrayal of the person depicted.

various categories of nonviolent materials. Until we sort through the evidence on this issue we cannot, after all, be certain that boundaries useful for distinguishing among materials on observable attitudinal effects are equally valuable with regard to behavioral impacts.

B. Evidence and Standard of Proof. The assumption that consumption of sexually explicit material "causes" sexual violence is one that some 73 percent of Americans would accept as true,[5] but it is unclear what evidence they would point to as crucial to their judgment. From our standpoint some forms of evidence are clearly more persuasive than others, but no one is useless and none dispositive. Evidence from the social sciences - correlational, clinical and experimental - seems by a wide margin the most important tool of analysis in this area, in part, paradoxically, because its limitations are most apparent. The results of individual experiments or studies can be rigorously challenged on terms universally accepted by social scientists, and can be examined as carefully for what they do not "prove" as for what they do. Anecdotal evidence, even that presented by skilled professionals, has an unfortunate tendency to touch on a wide range of questions without furnishing the basis for answering any single one of them.

Particularly on an issue as bitterly fought and important as this one, therefore, reliance primarily on data from the social sciences seems appropriate and quite possibly imperative.

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5 Id.

That does not mean, however, that we are bound by the standards of "proof" which govern the work of social scientists. Our task after all, is to recommend policy based on existing knowledge in an area that will always be plagued by uncertainty. Because of limitations on the capacity of social science to measure events outside the laboratory, and because of clear ethical boundaries on what research can be conducted in this area even in the laboratory,[6] it seems wholly unlikely that the extremely high standards for "scientific proof" can ever be satisfied one way or the other on this issue.

The standard more appropriate for our purposes is suggested by the phrase used by the 1970 Commission: is there a "substantial basis" for believing that nonviolent but sexually explicit material is causally linked to sexual violence? If so, what evidence suggests the opposite conclusion - that no such link exists? Finally, which evidence on balance is more persuasive? (This standard was used by us as "the totality of the evidence" in our discussions.) Because rape is so widespread and so dangerous an evil, government action against constitutionally unprotected material might be appropriate if a "substantial basis" for believing in a causal link between such material and sexual violence exists, and might seem imperative if the evidence allows a stronger assessment. Just as government action against cigarette advertising could not await final,

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[6] See, e.g., Linz (1985) (excluding subjects from experiment if "psychoticism" or "hostility" score exceeded 1.0 on Symptom-checklist 90); Check (1985).

irrebuttable "scientific proof" of the causal link between cigarette smoking (let alone cigarette advertising!) and lung cancer, so the government may not be able to await scientific consensus on the pornography/rape connection - even if such consensus were imaginable.

II. The Evidence

Because direct experimental research on the alleged causal relationship between sexually explicit materials and sexual violence is impossible, or at least unthinkable, we are unhappily left to examine evidence of an indirect nature. That evidence, when it comes from the work of social scientists, tends to take one of two forms: correlational studies and laboratory experiments. The former is a useful launching point for an overview of the issue, because it measures statistical relationships between actual sexual violence and actual consumption of sexual materials. Were no significant relationship found to exist between those two phenomena even on a statistical level, any causal connections between that be extremely difficult to demonstrate through work in the "artificial" setting of a laboratory. Such a setting is useful, however, for exploring possible causal relationships between statistically correlated events; and that is the sense in which experimental evidence is relied on here. Before either correlational or experimental evidence is examined, however, it is crucial to consider first whether sexual violence is a problem which might ever be affected by social change, and whether, in fact, as an aggregate phenomenon it has increased during the period in which sexually

explicit materials have been widely available.

A. Changes in Rape Rates. That first question is easily answered. Rape rates do seem to be related to social change, for they have increased alarmingly during the past 25 years. From 1960 to 1970 the rate of reported forcible rape rose by 95 percent, but that increase seems to have been no more than part of an explosion of violent crime generally, which rose fully 126 percent during the 1960's.[7] Since the report of the 1970 Commission, however, the rate of reported rape has risen almost twice as fast as violent crime generally;[8] from 1970 to 1983 the rape rate virtually doubled, while the rate of reported homicides, for example, remained constant.[9] In 1970 one out of every 20 violent crimes was a forcible rape; by 1983 the proportion had become one out of 16.[10]

Was this extraordinary rise in rape a "real" occurrence, or merely a product of increased reporting of rape? The possibility that increased sensitivity to rape - fueled by movements for women's equality - led to increases in the willingness of individuals to report rapes is not one that can lightly be

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7 Sourcebook of Criminal Justice Statistics 380 (1984) (hereinafter Sourcebook).

8 Id. The high point of both general violent crime rates and reported forcible rape rates came in 1980, the former having risen 60 percent and the latter 95 percent from 1970 levels. From 1980 to 1983 the rate of all violent crime fell 9 percent, while reported forcible rape rates dropped by 7.5 percent. Id.

9 Id.

10 Id.

dismissed,[11] for rape is highly underreported crime.[12] Nevertheless at least three pieces of evidence suggest that the increase of reported rape is not tied to increased willingness-to-report. The National Crime Survey, to begin with, which attempts to gauge actual (as opposed to reported) crime figures through a scientific public survey, showed no significant change in the percent of rapes reported to police from the period 1973-1977 to that of 1978-1982.[13] Yet between those two periods the average number of estimated actual rapes increased substantially.[14]

Second, the 1978 survey by Professor Diana Russell found an increase in the "true rape rate" throughout most of this century;[15] thus historically no serious misrepresentation of

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[11] Rapid social change associated with "women's liberation" may also be viewed, of course, as making rape itself more likely - through setting up more possibilities of "acquaintance rape". See Geis & Geis, Rape in Stockholm: Is Permissiveness Relevant? 17 Criminology 311 (1979). Women raped by "friends" may be less willing to involve criminal sanctions against their attackers. Thus it is at least arguable that "women's liberation" may in some respects have had a dampening effect on rape reporting rates.

[12] National Crime Survey figures indicate that no better than half of all rapes are reported. Sourcebook, supra note 6, at 274-275.

[13] Between 1973 and 1977 an average of 46.2 percent of all rapes went unreported according to the Survey; between 1978 and 1982 the average percentage of unreported rapes stood at 48.2. Id.

[14] Between 1973 and 1977 the average estimated number of actual rapes per year was 152,877; between 1978 and 1982 the average stood at 173,353, an increase of 13 percent. Id.

[15] D. Russell, Sexual Exploitation, 52-57 (1984). Professor Russell's survey was conducted in 1978, and so is of little value for determining recent trends in rape reporting. It

trends in this area is found in police data. Finally, correlational data from recent studies of state-by-state rape rates and measurements of the status of women indicate only a small, although significant, relationship between the two.[16]

Rape appears, therefore, to be a phenomenon subject to fluctuation, and during the period that sexually explicit materials have come into general circulation it has been a phenomenon on the rapid increase. That last fact, however, in no sense "proves" or even substantially "suggests" a relationship between the two events; only detailed correlational analysis can begin to do that.

B. Correlational Evidence. Our predecessors on the 1970 Commission had no sophisticated "correlational" data before them. Indeed, the only "correlational" data which they considered was of the sort discussed above - general trends in the sex-crime rates measured for time periods in which sexual materials were becoming more available. Unfortunately, for reasons discussed below, that sort of evidence is far too crude to be of significant value, and points, in any case, in no particular direction. Far superior correlational data has in the meantime

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does attest, however, to the fact that, historically, upward trends in police reports of rape have been consistent with actual incidence of the crime.

16 Baron and Strauss (1984), for example, found that every change of one standard deviation in the Status of Women Index in a given state is associated with a change in the rape rate of only 0.43 rapes per 100,000 population. By contrast, such a change in the homicide rate would result in a swing of 1.70 rapes, and a one-standard-deviation change in the Sex Magazine Circulation Index would cause a swing of 6.99 rapes (the highest of any variable studied). Id. at 200.

come to the fore, and it shows that a statistical relationship does appear to exist between consumption of certain types of sexual materials and rape rates. Both types of data invite the most careful attention.

1. Danish and Other Cross-Cultural Data. The 1970 Commission was impressed, as was the Williams Committee later, by studies on Denmark conducted by Berl Kutchinsky in which he found that relaxation of Danish pornography laws coincided with a decrease in reported sex crimes. Since that time Kutchinsky's work has been repeatedly criticized, and he himself has been forced to concede that, at least with regard to rape, liberalization of pornography laws was followed ultimately by increases in reports of rape to police.[17] Further, Kutchinsky's approach fails to be even minimally persuasive for two crucial reasons. First, he does not account in any meaningful way for other social forces which might have affected Danish sex crime rates independently of pornography consumption. He fails to note, for example, that sex crime rates in Denmark might have been artificially high during the 20 years after the German occupation of World War II, a conflict described by one historian of Scandinavia as "shattering physically as well as emotionally."[18] A drop in sex crimes during the late 1960's and after would thus

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[17] Kutchinsky (1984), at 24-25. Kutchinsky attempts to limit the damage of this concession by noting that the increase in rape reports did not substantially begin until 1977, several years after liberalization. He is not, however, able to rule out the possibility that Danish consumption of pornography took some time after legalization to reach substantial proportions.

[18] F.D. Scott, Scandanavia 247 (1975).

be the result simply of recovery from social disintegration wrought by war. Second, and substantially related, Kutchinsky fails to consider the case of Norway - a country with a similar culture and a similar war experience - which has maintained far stricter laws against pornography,[19] and has apparently enjoyed even greater success in combatting sex crimes.[20] In the end Kutchinsky's analysis seems shallow and almost completely without value for analysis of the American experience and American policy.

A more appealing cross-cultural approach, but one with only marginally greater usefulness for our purposes, is that taken by Dr. John Court (1984). His research has examined the temporal changes in rape rates in a wide variety of countries in periods of greater or lesser legal control of pornography. His conclusion, presented with considerable cogency, is simply that greater legal control of pornography appears to hold down rape rates as well. Yet for all its resourcefulness Court's work fails, like that of Kutchinsky, to place the changes studied in

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[19] See, General Civil Penal Code of 22 May, 1902, Para. 211, as amended by Law of 24, May, 1985 (received in translated form from Jan Farberg, Norwegian Information Service).

[20] According to the Public Information Office of Interpol the rate of reported sexual offenses in Denmark dropped 14.2 percent from 1970 to 1981. In West Germany, another country with liberal obscenity laws used by Kutchinsky in support of his argument, the rate dropped 19.8 percent during that span. In Norway, however, the drop was 33.7 percent in reported sex offenses form 1970 to 1981. These figures are not necessarily computed in the same manner from country to country and should thus be considered only with extreme caution. Nevertheless they do suggest the grave problems in Kutchinsky's selective use of sex-crime figures from one or two locations unembarrassed by historical or cross-cultural analysis.

careful historical and cultural perspective: thus Singapore, South Africa, Australia and Hawaii are all compared with little contextual information. An additional, related limitation on the helpfulness of his findings arises from his inability to show, like Kutchinsky, whether actual consumption patterns fit neatly into the patterns of changing legal regulation of sexually explicit materials. Our experience of American enforcement of obscenity laws indicates that such laws are often honored as much in the breach as in the observance.

2. Sex-Magazine Circulation. Interesting as the work of Kutchinsky and Court is, we have had the benefit of receiving a body of correlational evidence of far greater power. The research of Baron and Strauss (1984, 1985) supplemented by others, has shown a strong statistical relationship between state-by-state circulation rates for the most widely read "men's magazines" and state-by-state reported-rape rates. That relationship persists even when every other factor theoretically associated with rape is controlled for: indeed, they found that the Sex Magazine Circulation Index has a consistently stronger statistical relationship with rape rates than any other factor tested.[21] Further, in the model developed by Baron and Strauss other variables theoretically expected to be related to rape rates in fact met expectations: those factors (e.g., percent urban, percent poor) together with the Sex Magazine Circulation Index explain 83 percent of state-to-state variation in rape

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21 See note 16, supra.

rates.22 Two independent studies, by Scott (1985) and Jaffee

22 Scott (1985a). In another study Scott (1985b) found that no significant statistical relationship existed between rape rates in the states and the number of "adult theatres" per 100,000 residents in each state. That finding, however, is of almost no value on several grounds: (1) the study did not use multiple regression analysis to examine possible interdependence of the variables; (2) the number of "adult theatres" is an almost completely meaningless figure in view of the fact that each such theatre will sell a different quantity of sexually explicit materials, and no account is taken of that variation; and (3) "adult theatres" are so restricted by zoning, obscenity laws, and the need for urban or semi-urban locations that they cannot be assumed to measure exposure to sexually explicit materials among males who can, if necessary, purchase such materials through the mail.

In their joint statement Commissioners Becker and Levine attempt to discount the importance of this correlational evidence by pointing to a letter from one of the researchers involved, Murray Strauss, which states (1) the correlational research does not "demonstrate" that pornography causes rape," and (2) "the scientific evidence clearly indicates that the problem lies in the prevalence of violence in the media, not on sex in the media." Id. at 13. Strauss' first statement is uncontestable: no correlation can, by itself, "demonstrate" causation. Strauss' concern about "misinterpretation" of his research seems somewhat bizarre in view of his published statement that his "findings suggest that the combination of a society that is characterized by a struggle to secure equal rights for women, by a high readership of sex magazines that depict women in ways that may legitimate violence, and by a context in which there is a high level of nonsexual violence, constitutes a mix of societal characteristics that precipitates rape." Baron & Strauss (1984), at 207. He then intimates that research suggests "social policies directed toward eliminating or mitigating the conditions that make rape more likely to occur." Id. It is Strauss, not the Commission, who has made suggestions of causal linkage based on correlational data alone. See also text to note 23.

With regard to his second observation, that violence in the media seems to be "the problem" rather than sex, the research is very far from "clearly" indicating any such thing. Thus it has been found that with regard to same-sex interactions, nonviolent but highly arousing erotic material facilitates aggression substantially more than "violent" material. Donnerstein (1983b). And when, angered males are shown a nonviolent, "erotic" film, then allowed a short delay before testing, their aggressive behavior toward women has been shown to increase dramatically, to levels far higher than for similarly treated subjects shown violent or neutral films. Donnerstein & Hallam (1978). The "delay" factor seems crucial, as measurements of aggression toward women taken immediately after film exposure tend to

and Strauss (1986) have not only replicated the Baron and Strauss results for different years, but have cast doubt on potential "third factors" which would make the sex-magazine/rape association spurious. Baron and Strauss offered two such factors as possibilities: (1) a cultural pattern emphasizing "compulsive masculinity"; and (2) the degree of "sexual openness" within states. The first of those suggestions was undercut by Scott's finding that circulation of men's "outdoor magazines" is not associated with state-by-state rape rates. In addition, Baron and Strauss found that controlling for the "index of legitimate violence" and the general violent-crime rate - both seemingly plausible measures of a culture of "compulsive masculinity" - in no way lessened the sex-magazine/rape correlation. Nor did controlling for measures of the status of women - a plausible inverse measure of the degree of "compulsive masculinity" within a given state. Finally, the recent work of Check (1984) and Zillman and Bryant (1984, 1985) indicates that under experimental conditions, massive exposure to mainstream pornography may cause male viewers to become more callous and domineering in their attitudes toward women. Thus pornography may itself be a causal factor in creating a culture of

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suggest that "erotic" material does not increase aggression. Donnerstein (1983b); Donnerstein & Berkowitz (1981). This "delayed reaction" effect is similar to that found by Zillman & Bryant (1982, 1984, 1985), in which "massive exposure" to nonviolent, degrading pornography over six weeks produced dramatic increases in subjects' acceptance of "rape myths" and sex callousness." (By contrast Linz (1985) did not find such effects after a substantially shorter exposure period.) Obviously this experimental data is still at a primitive stage, but it hardly warrants the interpretation Strauss gives it.

"compulsive masculinity," and even if a correlation could be shown between such a culture and the incidence of rape, the association of the latter with sex-magazine circulation would still not be proved spurious.

As for the other "third factor" suggested - the degree of "sexual openness" - the recent study of Jaffee and Strauss (in press) measured the impact of the Sexual Liberalism Index on the Baron and Strauss formulae. While finding that sexual openness and tolerance is correlated, to a small but significant degree, with increases in reported rape rates, Jaffee and Strauss discovered that inclusion of the new index had no effect at all on the sex-magazine/rape association. While continuing to hold out hope - against all the evidence mentioned in the previous paragraph - that a relationship between "hypermasculine gender roles" and rape rates would render the sex-magazine correlation spurious, they felt compelled to conclude that their research "suggests that there may be more to the pornography-rape linkage than originally expected. That is, the type of material found in mass circulation sex-magazines may, as claimed by critics of such material, encourage or legitimate rape."[23]

3. Sex Offenders and Pornography. Somewhat less sugges-

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23 Jaffee & Strauss (in press) at 10. Rodney Stark, in Demonstrating Sociology (1985), has claimed to disprove the Baron and Strauss correlation, at least with respect to Playboy's circulation rates. Id. at 29-31. Because Stark's discussion of the issue is openly informal, and because the Baron and Strauss results have been replicated formally by others, Stark's view is not persuasive. See, Koss (1986) (in large sample of college students there existed a statistically significant relationship between prior consumption of pornography and self-reported sexual aggression).

tive and useful, but nonetheless important, is correlational evidence exploring links between the use of sexually explicit material by sex offenders and their behavior. Dr. Gene Abel's (1985) study, in particular, is directly pertinent to the issues raised by Baron and Strauss: in treatment of 247 outpatient sex offenders (paraphiliacs), well over half admitted to use of adult men's magazines or similar material, and 56 percent of rapists stated that such materials "increased their deviant sexual interests." Comparison of those offenders who use "erotica" and those who do not produced only one statistically significant difference of direct relevance: users of "erotica" maintained their paraphilia far longer than nonusers. Between those whose deviant arousal was increased by "erotica" and those whose deviant arousal was not increased two statistically significant differences emerged: (1) the aroused-by-erotica subjects maintained their paraphilia longer; and (2) they had less "ability to control their behavior." On the whole, Dr. Abel concluded that "[e]rotica . . . does not appear to affect signifi-cantly the behavior of sex offenders." [24]

Careful review of Dr. Abel's results and of his oral testimony, however, tends significantly to undercut that assertion. To begin with, the mean number of sex crimes committed by users of erotica was 29 percent higher than the mean for nonusers. Dr. Abel lists the difference as "not significant" but does not supply a "p value"; we thus cannot gauge what the

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[24] Abel (1985) at 5.

actual probability is that the difference is explained only by chance.[25] The finding of no significance is particularly puzzling because, according to Dr. Abel's other findings, users of "erotica" commit the same number of sex crimes per month (actually 21 percent more, but once again the difference is listed as "not significant") and maintain their paraphilia for more total months. Mathematically this would seem to compel the conclusion (already suggested by the statistics on "mean number of sex crimes") that by the end of their paraphilia, the group using "erotica" will have committed more total sex crimes than nonusers. That indeed seemed to be the gist of his oral testimony, where he explained the "price" paid by sex offenders who use "erotica" to reduce their desire to commit sex crimes:

> . . . when you use the deviant fantasy in order to ejaculate, instead of attacking a kid or raping someone, it does transiently stop you from carrying out that behavior. In many cases, that is the case, but it's a transient phenomena. And in so using that tactic, the price you pay is maintenance of your arousal. That is your arousal stays strong and will get a little stronger. So over time you are more likely to maintain your arousal over a longer period of time, that means

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[25] Dr. Abel has been asked to furnish the exact "p value" for this and other comparisons in his written testimony. For our purposes the appropriate level of "significance" in a matter such as this might be substantially different from that typically used in the social sciences. There a statistical difference between two groups is normally not described as "significant" unless there exists 95 percent probability that it did not occur by chance. The probability level appropriate for our use - which, after all, is only to determine whether a "substantial basis" for a finding exists - might be as low as 70 percent.

you can commit more acts. 26

In view of these internal tensions, Dr. Abel's results are extremely difficult to use in their present form.[27] They seem clearly to indicate, and Dr. Abel said as much, that use of "erotica" by sex offenders (outside a treatment setting) is not "helpful."[28] On the other hand they do not seem to rule out, Dr. Abel's protests to the contrary notwithstanding, the possibility of some important statistical relationship between use of sexually explicit materials and commission of sex crimes by this population.

The possibility of such a relationship is clearly enhanced by several other relevant studies. Thus Dr. William Marshall (1985) found in an outpatient study that a far higher percentage of sex offenders currently use "hard-core" pornography than do a group of demographically similar "normals." Professor Diana Russell found high correlation in her study of 930 randomly selected adult women: a surprisingly high number of women victimized by wife rape and stranger rape who said pornography

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26 Houston Tr. 100. Earlier Dr. Abel has said the use of erotica by sex offenders "maintains their arousal over time, and therefore greater opportunities to commit further crimes occur." Id. at 88.

27 Because of his limitation of his study to the role of "hard-core pornography" (not including the typical "adult magazines" referred to by Dr. Abel in his study) Dr. Marshall's results are in no sense directly comparable to those of Dr. Abel. He does, however, find a pattern of pornography being used so integrally in preparation for and commission of sex offenses as to make his evidence highly pertinent.

28 Id. at 97, 100.

had played a substantial role in the event. A similar survey of 200 prostitutes by Silbert and Pines (1982) found that 24 percent of the large number who had been raped "mentioned allusions to pornographic material on the part of the rapist" - this without any questioning or prompting by the interviewer. Law enforcement witnesses we have heard have also consistently stated that pornographic materials are routinely found on the person of, or in the residence of arrested rapists. While all of this is, like Dr. Abel's evidence, "merely" correlational data, it suggests reason for further inquiry and research on the use of sexually explicit nonviolent materials by sex offenders.

4. Conclusions from Correlational Evidence. An overview of "correlational" evidence available to us ultimately leads to only one firm conclusion. A highly significant, and not obviously spurious statistical relationship exists in the United States between state "adult magazine" circulation rates and sexual violence. That relationship may be explained by a causal connection or it may not; only careful attention to other forms of evidence can indicate which explanation is more plausible. Because "adult" magazines contain relatively little violence,[29] their connection (if one exists) to rape rates makes an excellent "test case" for considering the possible effects of the broader class of nonviolent but sexually explicit materials.

No clear statistical relationships exist, on the other

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[29] Malamuth & Spinner (1979) (sexually violent content in Playboy and Penthouse from 1973 and 1977, amounted to less than 10 percent of total cartoon and pictorial content).

hand, between cross-cultural measures of rape and sexually explicit materials, although such measures if anything tend slightly to support some relationship between the two. Nor is there undisputed evidence regarding the correlation of "erotica" use by sex offenders and commission of sex crimes; it is at least strongly arguable, however, that such a relationship exists. Other sources of information may prove more informative in evaluating these ambiguities.

C. Experimental and Clinical Evidence. A "causal" connection between circulation of adult material and sexual violence may only be inferred if one or more plausible explanations exist for how such "causation" could exist. Experimental evidence is particularly important in testing the likelihood of such causal links; as noted above, however, ethical and practical constraints insure that such evidence will always be open to charges of artificiality and obligueness.30 Simply put, actual rapes cannot be staged in the laboratory, nor can known rapists be subjected to testing which might provoke future violence. Retrospective "clinical" evidence, although it does generally relate to "real" rapes by "real" offenders, has the even more

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30 Thus Gross (1983) has criticized the research of Zillman and Bryant (1982) because he suspects the subjects "were giving the researchers what they thought they wanted." Id. at 111. This, despite the elaborate efforts of the researchers to deceive the subjects into believing that they were most interested in aesthetic qualities of materials viewed, rather than their efforts on attitudes. Unfortunately Gross' criticism may be applicable to virtually any experiment in this area, or indeed in other areas of inquiry. And he is unable to suggest any way to surmount the artificiality inherent in laboratory experiments.

crippling handicap of relying on faulty, and self-serving, memory. Yet experimental and clinical evidence remain in this area the most effective tools for testing the "validity" of correlational data.

Searching the evidence for suggestions of a "cause-and-effect" pornography/rape connection inevitably leads down two different paths. The first observes the capacity of pornography to effect arousal in the viewer, and examines whether such arousal can be causally linked to sexual violence. The second, somewhat more indirect approach examines the effects of pornography consumption on viewer's attitudes, then considers whether such changes in attitudes could plausibly affect the incidence of rape.

1. Arousal. One of the few undisputed properties of sexually explicit materials is their capacity to cause sexual arousal in many, if not most viewers.[31] One strand of experimental research has attempted to determine whether this arousal, alone or in combination with other factors, increases or decreases aggressive behavior in laboratory settings.

a. "Normals". With regard to "normal" subjects (usually college-age male volunteers), the results have been mixed, or at least highly complex. Thus highly arousing erotic materials, when combined with prior or subsequent anger, seem clearly to

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[31] See e.g., Donnerstein (1980); 1970 Commission Report at 198-241.

provoke heightened aggression by males against males.[32] But in a recent review of the research Professor Donnerstein made the following, more limited, statement about the effects of exposure to nonviolent pornography on male aggression toward women.:

> . . . The question of whether or not nonaggressive pornography has an influence on aggression against women is not simple to answer. For one thing, there is not that much experimental research on the topic. Also, studies investigating this issue have differed in many ways . . . . These studies indicate that under certain conditions exposure to pornography can increase subsequent aggression against women. What seems to be required, however, is a lowering of aggressive inhibitions. This change in aggressive predisposition can come about in a number of ways. First, a higher level of anger, or frustration, than that exhibited in a laboratory setting could influence the effects of pornography on aggression against women. There is no question that such levels are present in the real world. Second, as mentioned earlier, drugs, alcohol, and other aggression disinhibitors very likely increase aggressive response to pornography. The main mediating factor, however appears to be the type of material viewed prior to an aggressive opportunity. [33]

While experimental findings are neither conclusive nor absolutely consistent, the bulk of research to date supports the conclusion: that where highly arousing nonviolent pornography is viewed in a context of anger or provocation, aggressive behavior against women increases. Outside the context of provocation, in Professor Donnerstein's view, nonviolent material which is "either mildly arousing or leads to a positive affective reaction" does not appear to increase subsequent aggressive behavior, while that which depicts "unequal power relationships

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[32] Donnerstein (1984); Donnerstein (1983b); Sapolsky (1984).

[33] Donnerstein (1984) at 62.

with women" or "women as sexual objects" may provoke such behavior. As part of his belief that the issue warrants "much more investigation" he notes that the effects of nonaggressive pornography may not occur with only a single exposure,[34] which would explain varying results in experiments based on single exposure. Growing habituation to standard "pornography" over the years among likely experimental subjects may substantially affect the results of research.[35]

b. Sex Offenders. Along slightly different lines, a certain amount of experimental and clinical evidence suggests that rapists are aroused by nonviolent, sexually explicit materials, and that some consciously use such materials to prepare for and execute sexual violence. Thus rapists are normally as strongly aroused to consensual nonviolent pornography as nonrapists; they are, moreover, at least as aroused to images of mutually consenting sex as they are to those of rape.[36] Does this arousal to mutually-consenting imagery cause some of them to commit sex crimes which they might otherwise avoid? Evidence from at least Dr. William Marshall suggests that the answer may be yes: 33 percent of rapists interviewed for his study "had at least occasionally been incited to commit an offense by exposure to one or the other type of pornography

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34 Id. Compare Check (1985) with Linz (1984). For further discussion of varying research results see, supra note 22.

35 See, Saplosky (1984) at 92; Wolchik, Braver & Jensen (1985).

36 Barbaree, Marshall & Lanthier (1978); Abel, Recker & Skinner (1980).

specified in this study."[37] Of that group 75 percent reported that they had at least occasionally used 'consenting' pornography to elicit rape fantasies which in turn led to the commission of a rape (or an attempt at committing a rape)."[38] A large number of other rapists in his sample used "consenting pornography" to "evoke rape fantasies" and consequent arousal. Indeed, fully 52 percent of the rapists in his sample (as compared to none of the "normals") used pornography "always" or "usually" during masturbation.[39]

Dr. Abel, while stating the belief that direct incitement to rape can be traced to sexually explicit depictions only in "exceedingly rare" cases, also found that a very high proportion of rapists use consenting "erotica" to elicit and maintain deviant arousal. Recent research has shown a high correlation between sexually deviant fantasies and deviant behavior,[40] and many treatment programs for rapists have been predicated on altering their deviant behavior through changing their fantasies and arousal patterns.[41] Dr. Abel and his colleagues at one point called for recognition of "fantasy as the pivotal process

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37 Marshall Statement at 23.

38 Id.

39 Id.

40 Marshall (1984); Abel, Roulean and Cunningham-Rathmer (1985).

41 Abel, Blanchard & Jackson (1974); Marshall (1973); Marquis (1970); Davidson (1968).

leading to deviant behavior."[42] To the extent that nonviolent, "consensual" pornography contributes to provoke or maintain deviant fantasy and arousal in rapists, it may be considered a "cause" of their deviant behavior.

c. General Population. Turning back to the general population - that is, both sex offenders and "normals" - it is important to note two significant theories concerning sexually aggressive behavior which are predicated on the biological forces of simple arousal. The first, called the "general emotional arousal theory," is described in one study as predicting that "by arousing either the sexual or aggressive drives in an individual, the overall general level of arousal would be increased, thereby making both sexual and aggressive responses more probable."[43] The second theory, which is more subtle and more flattering to the human will, adds an additional cognitive layer to the general-arousal theory:

> While evolutionary forces may have provided a biological basis for a link between sex and aggression, it is our contention that learning variables may accentuate or attenuate this relationship. We hypothesize that in human beings the biological link plays a relatively minor role and that to a large extent the relationship between sexual arousal and aggression is mediated by learned inhibitory and disinhibitory cues. [44]

Both theories associate arousal with aggression; the second

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[42] Abel, Blanchard & Jackson (1974), at 474.

[43] Abel, Becker & Skinner (1980), at 138. See e.g., Saplosky (1984).

[44] Malamuth, Feshback & Jaffe (1977); Donnerstein, Donnerstein & Evans (1975).

merely adds the additional mediating factor of "learned inhibitory and disinhibitory cues." If this association is ultimately found valid, then a "casual" connection between circulation of highly arousing sexually explicit materials and the incidence of rape would be both clear and easy to explain: more sexual arousal in society (as a consequence of pornography) inevitably produces more sexual and more aggressive behavior, both of helpful and harmful varieties. If viewing sexually explicit materials cause Americans to have more sex, then some of that incremental sexual behavior will be of a sexually aggressive nature. The "rate" of rape as a percentage of all sexual intercourse will not change,[45] but the absolute number of rapes, and the number of people victimized by rape, will increase.[46]

The ability of sexually explicit materials to arouse those who view them may, therefore, be in itself a "cause" of sexually aggressive behavior - perhaps simply for rapists, or perhaps in

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45 Rape statistics, of course, measure only the number of such acts, and the "rate" of such acts for a constant population group. They do not, and cannot, measure rape as a percentage of all sexual behavior.

46 Some general support for this hypothesis may be found in the fact that as rape dramatically increased in incidence in post-war America, so did sexual activity among the young - the age group most prone to sexual violence. Thus only about one-half of males 21 years of younger had engaged in sexual intercourse at the time of the first Kinsey study. A. Kinsey, et al., Sexual Behavior in the Human Male 316, while currently over 90 percent of boys appear to have begun such activity by age 17. R. Coles & Stokes, Sex and the American Teenager 73 (1985) (The Coles & Stokes sure is somewhat ambiguous on this point; in another table the percent of 18 year olds "having had intercourse" is listed at 46 percent. Id. at 73. In any case the trend toward earlier and greater sexual involvement is clear, for in Kinsey's survey only some 31 percent of all 18 year-old males had experienced sexual intercourse. Kinsey, supra, at 316.

a more general way. This evidence does not distinguish sexual material as being more culpable than, say, alcohol as a causal factor in rape - but it does suggest that the more highly arousing the material is, the greater will be its ultimate effect. Thus highly explicit sexual material will likely have more of an impact than material which is less sexually arousing. The evidence does not indicate, moreover, that "learned" cultural mores and social attitudes have no effect on preventing rape; rather, those factors may play a significant role in mediating the negative biological forces that push men toward rape.

2. Effects on Attitudes Toward Rape - "Disinhibition". If arousal to rape is mediated by learned attitudes, however, a change in those attitudes may in itself change the likelihood of rape occurring - may become a "cause" of sexual violence.47

Thus it is crucial to consider what the available experimental evidence shows about the effects of viewing nonviolent sexually explicit materials on attitudes toward women and toward rape. Although Professor Neil Malamuth and others have examined in some depth that question with regard to sexually violent materials, only very recently has substantial evidence emerged about materials which are similar to much of what is contained in the "adult magazines" examined by Baron and Strauss.

Despite some surface tension in the results, that evidence strongly suggests that such materials, when viewed in substantial quantities over extended periods of time, tend to increase

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47 See generally, Malamuth (1984).

callousness toward women and acceptance of "rape myths". Thus six hours of viewing "commonly available [nonviolent] pornography" over a six-week period caused men in several experiments to become more accepting of "gender dominance"[48] and "sex callousness" - to trivialize rape, and to discount the trauma suffered by its victims.[49] The careful and extensive study by Professor James Check found repeated exposure to the "most prevalent" form of nonviolent pornography currently available - that depicting the women subjects in a "dehumanized fashion" - had even stronger effects on subjects' "reported likelihood of rape" and "reported likelihood of forced sex acts," than sexually violent materials.[50] Both types of material had particularly profound effects, it is important to note, on those subjects with higher tendencies toward psychoticism.[51] Exposure to "nonviolent erotica" - described as being the type of depiction used in sex education and therapy materials - was found to have at best an ambivalent effect: likelihood-to-rape scores increased among those viewers to a level where they were not significantly different from either those in the "no exposure" or

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[48] Zillman & Bryant (1985b).

[49] Check (1985), Zillman & Bryant (1982, 1984); Donnerstein (1984).

[50] Check (1985), at 49.

[51] Id. at 53. Indeed, subjects with "low P" scores were not significantly affected by any of the sexually explicit materials, a finding which may call into question flat conclusions about the effects of pornography independent of the specific vulnerability of individual subjects, and which supports the role of a well-developed moral sense in mediating the effects of exposure.

the "dehumanizing pornography" groups.52

Only one study currently extant seems to cast doubt on the tendency of viewing nonviolent pornography to increase "rape myth acceptance." In a recent doctoral dissertation Daniel Linz found that exposure of university psychology students to either two or five full-length X-rated nonviolent films over, respectively, a three- or ten-day period did not affect their attitudes toward a rapist or his victim in a simulated rape trial shown two days after exposure was completed.53 Such attitudes were dramatically affected, by contrast, in a comparison group observing four extremely violent R-rated films with far less sexual content. Unfortunately, Linz' study is not directly comparable with previous ones in this area. First, Linz limited the time frame of exposure to less than two weeks.54 Second, his study did not measure the subjects' scores on "likelihood-to-rape" or "likelihood-of-forced-sex-acts" scales similar to those used by

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52 Id. at 49, 53. It is notable that on the three measures of sexual violence in which no-exposure and "violent pornography" scores were significantly different, the "erotica" scores were slightly closer to those of the latter. Professor Check thus seems to have overstated the importance of his findings that "erotica" and "no exposure" scores were not "statistically significant".

53 Linz (1985).

54 Zillman and Bryant (1982, 1984, 1985), by contrast, used a six-week exposure model. Check (1985) used a time frame similar to Linz, but tested for prior consumption of pornography - finding that only those viewers with high previous consumption were affected by exposure to new materials. Thus the negative findings of Linz may well have to do with low prior exposure to pornography among his subjects - precluding, in the short time used, development of the effects of long-term exposure. See, infra text to note 57.

Professor Check but rather studied subjects' reactions to a simulated rape trial. Reaction to the plight of a specific rape victim in a simulation is not as direct - and so at least arguably not as useful - a measure as answers to questions about what the subject himself desires to do. Because his study did not include, as did Check's, comparisons based on his subjects' prior viewing habits, Linz' results must be treated with extreme caution. It is possible that the strong reaction to R-rated violent films was simply a function of low prior exposure to those films - the films may have their effects because of "shock value."[55] (College-age participants in studies of this nature are known, by contrast, to have previously seen large quantities of "commercialized erotica" and so would not likely have been as jarred by seeing more of it.)[56] The study did not measure the effects of X-rated violent films, which would have served to indicate the role of sexual explicitness in mediating the effects of viewing violence.

Despite its methodological limitations, the Linz dissertation does contribute one highly important finding to the data on non-violent material. In a follow-up study of the participants in his experiment Linz conducted careful "debriefing" of all subjects with regard to the specific material each had seen, then

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55 See, Zillman, Bryant & Carveth (1981) (viewing bestiality increased aggression due to "annoyance summation"). The shock value explanation for the Linz data is strengthened by the fact that later "debriefing" treatments over a six-month period seemed completely to reverse the effects of viewing these materials. Linz at 96.

56 Wolchik, Beaver & Jensen (1983).

should be and were reflected in the decision to give them first priority in the allocation of law enforcement resources.

A WORD ABOUT WORDS

It was the majority opinion of the Commission that law enforcement agencies should not be encouraged to commit resources to the prosecution of the non-illustrated pornographic written word, unless the message is directed to children or involves child pornography. Again, there has been a great deal of concern regarding the possible proliferation of obscene books which encourage sexual perversions and other crimes. While I agree that passages in certain paperback books sold in adult book stores represent the most vile and offensive messages imaginable, I do not believe it is realistic or constructive to presume that obscenity prosecutions can be initiated or will be effective in protecting the public from any possible negative effects from the materials. I do, however, believe that the fear of censorship expressed by librarians and others concerned for the protection of literature which may contain "explicit" passages, is an extremely important consideration. Our Commission's respect for the special place of the written word was more a statement of support for freedom of speech than an action which was meant to, or will, change existing practices in the enforcement of obscenity laws.

TIME AND STRUCTURE

The time and structural constraints placed upon our Commission's work were extremely problematic, causing concern regarding compromises made in the final editing process. The

workload has been unmanageable throughout the year. The ultimate task of reviewing over two thousand pages of final draft in three days time to meet our print deadline was totally unrealistic. In addition, the critical job of consolidating and clearing all the Commissioner's last minute corrections was an unreasonable expectation of the already exhausted Staff, who have reportedly worked into every night of the last several weeks. If the Commission had more resources to pursue additional study, more opportunity to meet in sub-committees, and more time to review the final product, I believe a more thoughtful and confident consensus would have resulted. However, given the Commission's limitations, the final report is a document which raises issues that are relevant and worthy of a considerable investment of time and energy made by each Commissioner and the Staff. There are two specific recommendations about which I wish to express concern.

A. RECOMMENDATION NUMBER 8

STATE LEGISLATURES SHOULD AMEND, IF NECESSARY OBSCENITY STATUTES TO ELIMINATE MISDEMEANOR STATUS FOR SECOND OFFENSES AND MAKE ANY SECOND OFFENSE PUNISHABLE AS FELONY.

The arbitrary imposition of a felony status for second offenders could possibly discourage any actions on some second offenses by Prosecutors denied room for negotiation.

B. RECOMMENDATION NUMBER 88

LEGISLATURES SHOULD CONDUCT HEARINGS AND CONSIDER LEGISLATION RECOGNIZING A CIVIL REMEDY FOR HARMS ATTRIBUTABLE TO PORNOGRAPHY.

While I support the concept of civil rights actions on behalf of victims, a rewriting of the substantiation for this recommendation was not available for review by Commissioners at the time of the deadline for this statement.

It is also of considerable concern that the Commission members were never able to agree on the types of materials that fall within the framework for classes I, II, and III materials. In the absence of such clarity, and without a comprehensive survey of materials available in bookstores, theatres, video outlets, and other vendors, it is only conjecture to presume that the "predominance" of obscene materials portray degradation.

SUMMARY

The issues surrounding pornography defy simplification, challenge objectivity, and create passionate responses from opposing extremes of a multitude of political, religious, and philosophical spectrums.

It is my sincere hope that our focus on these confounding and controversial issues will assist the American people to develop a knowledgeable concern regarding the potential impact of pornography on their children and their communities, an

understanding of the personal choices and public policy alternatives available to them, and the realization that pornography is the product of a demand resulting from a host of motivations we have only begun to identify.

It has occurred to me, throughout our Commission's hearings, that the subject of our inquiry, whether relating to adult or child pornography, has a very significant and direct connection to many issues surrounding the abuse and exploitation of children. I saw the clear characteristics of a helpless child in each adult victim testifying before us, and this helped me to understand how and why they tolerated the abuses about which so many are skeptical. I saw the angry and inadequate adult reenacting his or her own childhood abuses in much of the sado-masochistic materials. Perhaps most significantly, I saw the sad, lonely and desperate search for intimacy denied in childhood on the faces of those who stood haplessly in the adult bookstores and those who told us of their addictions to obscene materials. It occurred to me, over and over again, that the real issue might be the effects of American family life on the consumption of pornography, rather than the reverse.

Statement of Judith Becker, Ellen Levine and Deanne Tilton-Durfee

We are three women who have, in varied ways, devoted our lives to the welfare of children and families: one as a specialist in the treatment of those who sexually abuse women and children, another as a journalist covering the diverse issues facing contemporary American women and the third as a specialist in the prevention and treatment of child abuse, neglect and molestation.

We share a deep concern about the effects of pornography on American women. Nevertheless, we found these issues troublesome because those women who testified before us were so deeply divided. Many condemned pornography as an ultimate offense against women, others opposed censorship categorically and defended women's rights to consume and perform in pornography. Although each of us has her own very strong negative, personal reactions to the various pornographic depictions, we believe our acceptance of service on this Commission carried with it the responsibility to enter this arena with an open mind, to weigh fairly the evidence presented to us and to set aside our personal biases in order to develop credible and balanced recommendations for the Federal Government regarding this extremely controversial subject.

We have, throughout the Commission's hearings, witnessed devastating testimony from women victimized in the production or forced consumption of pornography, and we have seen material that is offensive to the most permissive boundaries of our imaginations. Much of this material violates the very fabric of

our own ethical and moral standards.

We wish to express our strong personal objections to the offensive and totally inaccurate materials that portray women as eager victims of abuse or as beings of less competence or value to society than men. We disapprove equally of media depictions that discriminate unfairly against men, or against specific races, cultures or those with physical or mental disabilities. After consideration of the evidence presented, we conclude that those who exploit women's vulnerability in the production or consumption of pornography are inflicting harm that profoundly violates the rights of women, damages the integrity of the American family and threatens the quality of life for all men and women.

We abhor the exploitation of vulnerable people and condemn those who profit from it. We respect, however, the rights of all citizens to participate in legal activities if their participation is truly voluntary. We reject any judgmental and condescending efforts to speak on women's behalf as though they were helpless, mindless children.

Our most profound desire is that the women of America be provided an environment that encourages their sense of self-worth, self-respect and their ability to make genuine choices. We consider both the limitation of choices and sexual exploitation to be degrading attacks on the basic value and dignity of women.

STATEMENT OF DR. JUDITH BECKER AND ELLEN LEVINE

In accepting appointments to the Attorney General's Commission on Pornography, we both believed that stimulation of a national dialogue and debate on this very controversial subject was well within the purview of the government and in the best interests of the country. To this challenging commitment we bring very different personal and professional expertise. Dr. Judith Becker is a behavioral scientist whose career has been devoted to evaluating and treating victims and perpetrators of sexual crimes. Mrs. Ellen Levine is a journalist and editor who has focused on women's news. Although our backgrounds are different, we have found throughout the hearings and Commission meetings that we share similar views about the nature of the testimony presented and alternative ways in which the issue of obscenity might be approached. We have, therefore, decided to submit this joint statement.

I. THE PROCESS

During its public hearings, the Commission has accomplished much, garnered some press attention, and, as anticipated, created a certain amount of controversy. Our hope is that the past year's work will not end with the publication of this report, but will begin a process of discovery and disciplined study of the complicated problems associated with this subject.

We would be remiss, however, if we did not point out the limitations inherent in the investigative process we have just

finished, because in some serious ways, the Commission's methods themselves have hindered the adequate pursuit of information.

A. THE LIMITATION OF THE PUBLIC FORUM

All meetings and hearings have been held as public forums, according to law, and although we do not suggest that it should have been otherwise, we must emphasize that such an open forum naturally inhibits a frank and full discussion of a subject as personal, private and emotionally volatile as the consumption of pornography. In collecting the testimony of victims, it was difficult enough to find witnesses willing to speak out about their intimate negative experiences with pornography. To find people willing to acknowledge their personal consumption of erotic and pornographic materials and comment favorably in public about their use has been nearly impossible. Since such material is selling to millions of apparently satisfied consumers, it seems obvious that the data gathered is not well balanced.

B. THE CONSTRAINTS OF TIME AND MONEY

A number of factors directly affecting the Commission complicated its work and strained its abilities to work as thoroughly and effectively as it might have. Both the time and the money needed to work through these complications was lacking and hence they were largely unsolved.

1. The very word pornography, with its negative connotation, imposes impediments to an open-minded and objective investigation. Every member of the group brought suitcases full of prior bias, including previous personal exposure, religious, ethical, social, and even professional beliefs. To some a discussion of pornography raises concerns of sincerely and deeply felt moral imperatives; to others it is a feminist issue of violence against women; and to still others, it is a lightning rod attracting debates about First Amendment guarantees with the threat of censorship seen as the overriding danger. Full airing of the differences of the members of the Commission and establishment of a wide and firm common ground was not possible in the time and with the funds allotted.

2. The issue of pornography has confounded people for centuries and has long been a subject of sincere disagreement among decent people. Pornography has religious, ethical, social, psychological and legal ramifications. The idea that eleven individuals studying in their spare time could complete a comprehensive report on so complex a matter in so constricted a time frame is simply unrealistic. No self-respecting investigator would accept conclusions based on such a study,

and unfortunately the document produced reflects these inadequacies.

3. The variety of pornography, in its forms, qualities, and intensities of expression is vast. The Commission concentrated almost exclusively on formulating recommendations aimed at law enforcement. While that fulfills the Commission's mandate, we believe that the core issues involving pornography and its prevalence are more usefully viewed as health and welfare concerns. As such, they would properly be matters for research by committees established by the National Institute of Mental Health.

Given the varied backgrounds of the commissioners, the depth and complications of the subject historically, and the variety of the materials available today, the Commission's most severe limitation was imposed by a lack of time and money to complete a thorough study.

Because it has been sixteen years since the last Commission on this topic met and it is likely to be years before another government group tangles with these questions, we believe it would have been reasonable to grant the group, if not more money, at least more time, as requested.

II. THE MANDATE

A. The first element of the Commission's mandate was the assessment of the problem's dimensions. While there is little doubt about the proliferation of

pornography since 1970, no serious effort has been made to quantify the increase, either in general or specifically as to the various types of pornography sold. We do not even know whether or not what the Commission viewed during the course of the year reflected the nature of most of the pornographic and obscene material in the market; nor do we know if the materials shown us mirror the taste of the majority of consumers of pornography. The visuals, both print and video, were skewed to the very violent and extremely degrading. While one does not deny the existence of this material, the fact that it dominated the materials presented at our hearings may have distorted the Commission's judgment about the proportion of such violent material in relation to the total pornographic material in distribution.

The Commission's investigations did reveal that technological innovations have created a new delivery system for the consumption of pornographic and erotic material (notably via home video and cable). Since the home video industry is still young, it is reasonable to assume that the supply and public demand for pornographic materials may increase. Some recent industry figures actually show video purchases and rentals of pornography on the increase. There is, however, a significant corresponding decrease in both the number of adult theaters in this country and the circulation figures of the so-called skin magazines. This

may indicate that although there is a change in the way in which pornography is purchased, there is actually a stable (non-growth) market for it. We simply do not know.

Because of the stunning change in the way in which people now receive erotic stimuli (a shift from print to video), we suggest that research be conducted to discover whether and to what extent video makes a greater or stronger impression on the vulnerable users, particularly children and adolescents, than does print.

B. One critical concern of this Commission was to measure and assess pornography's role in causing anti-social behavior; but although the Commission struggled mightily to agree on definitions of such basic terms as pornography and erotica, it never did so. This failure to establish definitions acceptable to all members severely limited our ability to come to grips with the question of impact. Only the term "obscenity," which has a legal meaning, became a category we all understood. In fact, the commission failed to carve out a mutually satisfactory definition of antisocial behavior. In this statement, it should be noted, therefore, we use the phrase "antisocial behavior" to describe forced sexual acts: acts involving coercion of any kind or lack of consent. We do not include (as certain commissioners desired) such private sexual practices as masturbation, homosexuality between consenting adults or premarital sex, practices that are not the province of government to regulate.

C. The final responsibility of the Commission was to recommend to the Attorney General specific measures to limit the spread of pornography. While much of the Commission's time was spent on these proposals, only the child pornography recommendations received thorough discussion. Accordingly we strongly endorse those proposals.

We reiterate our strong belief that the paucity of certain types of testimony, including dissenting expert opinion and the haste and absence of significant debate with which other recommendations and their supporting arguments were prepared did not leave adequate time for full and fair discussions of many of the more restrictive and controversial proposals. Consequently, while we endorse many of these recommendations, we dissent on some, for reasons of critical policy differences, lack of clarity and more importantly, because evidence essential to a considered evaluation of the proposals was not presented.

For example, the concept of mandatory sentencing supported in several recommendations is a theory hotly debated by both law enforcement personnel and experts specializing in penal reform. Little testimony was heard on the merits or liabilities of this concept with the exception of pleas from understandably frustrated prosecutors discouraged by light sentencing. Without reasoned assessment of this problem, we cannot support the proposal for mandatory sentencing. Other specific recommendations with which we disagree will follow here.

CONGRESS SHOULD ENACT A FORFEITURE STATUTE TO REACH THE PROCEEDS AND INSTRUMENTS OF ANY OFFENSE COMMITTED IN VIOLATION OF THE FEDERAL OBSCENITY LAWS.

CONGRESS SHOULD AMEND THE FEDERAL LAWS TO ELIMINATE THE NECESSITY OF PROVING TRANSPORTATION IN INTERSTATE COMMERCE. THE LAWS SHOULD BE ENACTED TO ONLY REQUIRE PROOF THAT THE DISTRIBUTION OF THE OBSCENE MATERIAL "AFFECTS" INTERSTATE COMMERCE.

CONGRESS SHOULD ENACT LEGISLATION MAKING IT AN UNFAIR BUSINESS PRACTICE AND AN UNFAIR LABOR PRACTICE FOR ANY EMPLOYER TO HIRE INDIVIDUALS TO PARTICIPATE IN COMMERCIAL SEXUAL PERFORMANCES.

STATE LEGISLATURES SHOULD AMEND, IF NECESSARY, OBSCENITY STATUTES TO ELIMINATE MISDEMEANOR STATUS FOR SECOND OFFENSES AND MAKE ANY SECOND OFFENSE PUNISHABLE AS A FELONY.

STATE LEGISLATURES SHOULD ENACT, IF NECESSARY,

FORFEITURE PROVISIONS AS PART OF THE STATE OBSCENITY LAWS.

THE PRESIDENT'S COMMISSION ON UNIFORM SENTENCING SHOULD CONSIDER A PROVISION FOR A MINIMUM OF ONE YEAR IMPRISONMENT FOR ANY SECOND OR SUBSEQUENT VIOLATION OF FEDERAL LAW INVOLVING OBSCENE MATERIAL THAT DEPICTS ADULTS.

LEGISLATURES SHOULD CONDUCT HEARINGS AND CONSIDER LEGISLATION RECOGNIZING A CIVIL REMEDY FOR HARMS ATTRIBUTABLE TO PORNOGRAPHY.

ANY FORM OF INDECENT ACT BY OR AMONG "ADULTS ONLY" PORNOGRAPHIC OUTLET PATRONS SHOULD BE UNLAWFUL.

III. TESTIMONY ON SOCIAL SCIENCE DATA

We have limited our comments here to the relatively bias-free testimony and social-science data.

Our interpretation of the material presented is, consequently, somewhat different from that of other commission members. It has lead us to a different emphasis in priorities and recommendations.

The Commission sought to break down pornography into the various types of sexually explicit material available in our society. Unfortunately, social science research to date has not uniformly followed any such categorization (although we certainly suggest that future researchers consider this option), and the

attempt to force the available social science data to fit the Commission's categories is fruitless. That is why in this statement the conclusions and interpretations of what the social science data says and does not say follow the research, not the Commission, categories.

First, it is essential to state that the social science research has not been designed to evaluate the relationship between exposure to pornography and the commission of sexual crimes; therefore efforts to tease the current data into proof of a causal link between these acts simply cannot be accepted. Furthermore, social science does not speak to harm, on which this Commission report focuses. Social science research speaks of a relationship among variables or effects that can be positive or negative.

Research has evaluated adults rather than children, and it is the latter who are most likely to be influenced by pornography. Studies have relied almost exclusively on male college student volunteers, which means that the "generalizability" of this data is extremely limited. The only other category studied in depth is sex offenders. Information from the sex-offender population must be interpreted with care because it may be self-serving. The research conducted to date has been correlational and experimental. Despite these limitations, the research data can be interpreted to indicate the following:

A. In a laboratory setting, exposure to sexually violent stimuli has a negative effect on research subjects as

measured by acceptance of rape myth and aggression and callousness toward women. We do not know, however, how long this attitudinal change is sustained without further stimulation; more importantly, we do not know whether and why such an attitudinal change might transfer into a behavioral change. There is reason for concern about these findings because we do know that experience with sex offenders indicates they harbor belief systems and attitudes consistent with deviant sexual practices (e.g. "women enjoy being raped" or "sexual acts with a child are a way of showing love and affection to that child"). We know further that such attitudes appear to be a precursor and maintainer of actual deviant behavior in an offender population.

Although we believe the potential exists for attitudinal changes to translate into behavioral changes in some circumstances, this possibility needs considerable additional investigation.

B. Very little social-science research has been conducted evaluating the impact of non-violent degrading material on the average adult. Furthermore, there is a problem of definition about what constitutes "degrading material." We strongly encourage further research to define and evaluate the impact of such material.

C. Although research findings are far from conclusive, the preponderance of existing data indicates that non-violent and non-degrading sexually explicit materials does not have a negative effect on adults.

D. In documents attached to the main report mention has been made of a possible relationship between circulation rates of pornographic magazines and sex crime rates. One of the authors of the study on which the Commission has based its conclusion, Murray Straus, has written to explain his own research, which he suggested was being misinterpreted. "I do not believe that this research demonstrates that pornography causes rape . . . . In general the scientific evidence clearly indicates that if one is concerned with the effects of media on rape, the problem lies in the prevalence of violence in the media, not on sex in the media."

E. To date there is no single comprehensive theory that is agreed upon to explain the development of paraphilic behavior. Human behavior is complex and multi-causal. To say that exposure to pornography in and of itself causes an individual to commit a sexual crime is simplistic, not supported by the social science data, and overlooks many of the other variables that may be contributing causes. Research must be conducted on the development of sexual interest patterns if we are to understand and control paraphilic behavior.

F. Unfortunately, little is known about the impact of sexually explicit material on children. Ethically and morally one could not and would not conduct experiments to examine such a relationship. We do know that adolescents and young adults are large consumers of these materials, and little is yet known about its impact on this population. We

underscore the statement made in the main body of the Commission's report regarding social science research: "In many respects, research is still at a fairly rudimentary stage, and with few attempts to standardize categories of analysis, self-reporting questionnaires, types of stimulus materials, description of stimulus materials, measurement of effects and related problems. We recommend that moneys be made available to fund further research on this topic."

IV. ENFORCEMENT PRIORITIES

We have been encouraged by testimony from federal, state, and local officials that those involved in the heinous crime of child pornography are being prosecuted vigorously and that this effort is a national priority. We applaud that action and believe that this prosecution should continue to be a number one priority in law enforcement resource allotments.

On the other hand, we have heard frequently that there is virtually no enforcement of adult obscenity laws. Our analysis of the data leads us to believe that the sexually violent material that is unquestionably obscene and described in the main report is of sufficient concern to warrant intensified prosecution. We are concerned about such material because the violence and the eroticization of that violence may indeed be a potentially explosive mix. Even in this category, however, social science research does not claim a causal link.

The social science data, however, provides even less basis for the claim of a causal link between non-violent degrading and humiliating pornography and sexual violence. One might assume that this material may teach offensive, though not necessarily criminal, behavior to certain vulnerable consumers.

Accordingly, in communities where standards so dictate, prosecution of non-violent degrading obscene materials may assume a lesser priority. It is in this area of non-violent degrading and humiliating pornographic images that the most controversy may arise. What is seen as degrading by one viewer may in fact not be so seen by another, much in the same way that one person's

erotica is another's pornography. But this is one of the categories about which much needs to be learned. Perhaps there is a distinct difference between what men see as degrading to women and what women consider to be degrading.

As vital as this category of non-violent degrading material may be to the ultimate understanding of the effects of pornographic material in society, we caution against an overinclusive interpretation of it. The Report suggests that most of the pornographic material in circulation now belongs in this category. We have not been able to draw this conclusion based on evidence presented. As stated earlier, attempts to quantify the materials in circulation and the particular character of the content of that material remain only "guesstimates."

V. WHAT OF OUR CHILDREN?

The most disturbing issue facing the panel this year was the concern about children and their exposure to child and adult pornography. Adolescents are acknowledged as an enormous market for pornographic materials, and despite legislative efforts to restrict access, this material remains easily available to youngsters.

In fact, from an early age American children are bombarded by very stimulating sexual messages, most of which are not pornographic but certainly are frightening. This year, for example, the AIDS epidemic has prompted health officials to broadcast urgent radio and television warnings against homosexual

anal intercourse and group sex and pleas for the use of condoms.

Because children may have trouble with these very public messages, and because too many young people get too much of their sex education from pornographic magazines and films, we strongly support relevant school sex education programs. Appropriate and accurate information about loving sexual experiences can help inoculate children against the potential damage from early exposure to negative images. Furthermore, we urge parents to monitor carefully their own children's exposure to these materials.

There cannot be enough done to protect our children--both from people who would abuse and seduce them into the abhorrent world of child pornography and from the unwelcome intrusion of too many sexual messages. And we urge that child pornography prosecutions be given priority over all other forms of obscenity violations.

VI. CONCLUSION

Why does pornography thrive and proliferate today? Is the demand for pornography a mirror or a beacon? Why do consumers support a multi-million dollar market for such a variety of products? Is lack of vigorous law enforcement to blame? Is society more tolerant of pornography than ever before? Is society's perception of what constitutes pornography changing? Do the production and increasing sophistication of sexually explicit materials in themselves stimulate more interest in pornographic magazines, films and videos? Or vice-versa?

Or are other social forces chiefly to blame?

The most knowledgeable observers suggest that these are complex and difficult questions, ones that cannot be easily answered and which in our opinions this Commission did not adequately address.

Consider what has occurred during the past two decades. The birth control pill has become widely used, with an associated increase in sexual activity. The mobility of the population continues to increase, with a subsequent breakdown in community attachments for more and more people. The divorce rate has skyrocketed. We have a national drug abuse problem. The Vietnam war has taken its toll on the national psyche. Twenty-five million additional women have joined the work force. The so-called Sexual Revolution has come and gone (Time magazine on April 9, 1984, announced its demise). Has not each of these factors and others had a role to play in the growth of pornography?

After a year of forums and deliberations, it is tempting to join in offering simple solutions to complex problems, in the form of the Commission's Recommendations. But we are not persuaded to do so. We believe it would be seriously misleading to read this report and see a green light for prosecuting all pornographers. We still know too little about why many men and some women use and enjoy pornography; if and why women's and men's sexual arousal response patterns to pornography differ. We still have more questions than answers, and we stress the need for both non-governmental solutions and tolerance for the views

of others.

The commission of sexual crimes, the degradation of women, and the abuse and mistreatment of children are terrible and pressing problems that concern us urgently. As we face up to the extensive public consumption even of certain types of extreme pornographic materials, a need for massive public re-education about potential problems associated with them seems strongly indicated. We cannot tolerate messages of sexual humiliation directed to any group. But to make all pornography the scapegoat is not constructive. In the absence of significant social sanctions against pornography, the possibility of halting its use seems as slim as was the chance of halting the sales of liquor during Prohibition. In conclusion we repeat that we face a complex social and legal problem that requires extensive study before realistic remedies can be recommended.

PART TWO

Chapter 1

Introduction

1.1 The Commission and Its Mandate

The Attorney General's Commission on Pornography (referred to throughout this Report as "The Commission") was established pursuant to the Federal Advisory Committee Act[1] on February 22, 1985 by then Attorney General of the United States William French Smith, at the specific request of President Ronald Reagan. Notice of the formation of The Commission, as required by Section 9(c) of the Federal Advisory Committee Act, was given to both Houses of Congress and to the Library of Congress on March 27 and March 28, 1985. On May 20, 1985, Attorney General Edwin Meese III publicly announced formation of The Commission and the names of its eleven members, all of whom served throughout the duration of The Commission's existence.

The formal mandate of The Commission is contained in its Charter, which is attached to this Report in Appendix A. In accordance with that Charter, we were asked to "determine the nature, extent, and impact on society of pornography in the United States, and to make specific recommendations to the Attorney General concerning more effective ways in which the spread of pornography could be contained, consistent with constitutional guarantees." Our scope was undeniably broad, including the specific mandate to "study . . . the dimensions

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[1] 5 U.S.C. App.2, 86 Stat.770(1972), as amended by 90 Stat.1241, 1247(1976)

of the problem of pornography," to "review . . . the available empirical evidence on the relationship between exposure to pornographic materials and antisocial behavior," and to explore "possible roles and initiatives that the Department of Justice and agencies of local, State, and federal government could pursue in controlling, consistent with constitutional guarantees, the production and distribution of pornography."

Because we are a commission appointed by the Attorney General, whose responsibilities are largely focused on the enforcement of the law, issues relating to the law and to law enforcement have occupied a significant part of our hearings, our deliberations, and the specific recommendations that accompany this Report. That our mandate from the Attorney General involves a special concern with enforcement of the law, however, should not indicate that we have ignored other aspects of the issue. Although we have tried to concentrate on law enforcement, we felt that we could not adequately address the issue of pornography, including the issue of enforcement of laws relating to pornography, unless we looked in a larger context at the entire phenomenon of pornography. As a result, we have tried to examine carefully the nature of the industry, the social, moral, political, and scientific concerns relating to or purportedly justifying the regulation of that industry, the relationship between law enforcement and other methods of social control, and a host of other topics that are inextricably linked with law enforcement issues. These various topics are hardly congruent

with the issue of law enforcement, however, and thus it has been necessarily the case that issues other than law enforcement in its narrowest sense have been before us. In order that this Report accurately reflect what we thought about and what we felt to be important, we have included in the Report our findings and recommendations with respect to many issues that are related to but not the same as law enforcement.

For similar reasons, we have been compelled to consider substantive topics not, strictly speaking, specified exactly in our charter. A few examples ought to make clear the problems that surround trying to consider an issue that itself has no clear boundaries: We have heard testimony and considered the relationship between the pornography industry and organized crime, and this has forced us to consider the nature of organized crime itself; we have examined the evidence regarding the relationship between pornography and certain forms of anti-social conduct, and this has necessitated thinking about those other factors that might also be causally related to anti-social conduct, and about just what conduct we consider anti-social; we have thought about child pornography, and this has caused us to think about child abuse; and we have, in the course of thinking about the relationship between pornography and the family, thought seriously about the importance of the family in contemporary America. This list of examples is hardly exhaustive. We mention them here, however, only to show that our inquiry could not be and has not been hermetically sealed. But

we all feel that what we may have lost in focus has more than been compensated for in the richness of our current contextual understanding of the issue of pornography.

1.2 The Work of the Commission

We have attempted to conduct as thorough an investigation as our severe budgetary and time constraints permitted. The budgetary constraints have limited the size of our staff, and have prevented us from commissioning independent research. We especially regret the inability to commission independent research, because in many cases our deliberations have enabled us to formulate issues, questions, and hypotheses in ways that are either more novel or more precise than those reflected in the existing thinking about this subject, yet our budgetary constraints have kept us from testing these hypotheses or answering these questions. In numerous places throughout this report we have urged further research, and we often recommend that research take place along specific lines. We hope that our suggestions will be taken up by researchers. Neither this Report nor any other should be taken as definitive and final, and we consider our suggestions for further research along particular lines to be one of the most important parts of this document.

The time constraints have also been significant. We all wish we could have had much more time for continued discussion among ourselves, as the process of deliberation among people of different backgrounds, different points of view, and different areas of expertise has been perhaps the most fruitful part of our

task. Yet we have been required to produce a report within a year of our creation as a Commission, and our ability to meet together has been limited by the budgetary constraints just referred to, as well as by the fact that all of us have responsibilities to our jobs, our careers, and to our families that make it impossible to suspend every other activity in which we are engaged for the course of a year.

Despite these limitations, we have attempted to be as careful and as thorough as humanly possible within the boundaries of these constraints. We thought it especially important to hear from as wide a range of perspectives as possible, and as a result held public hearings and meetings in Washington, D.C., from June 18 to 20, 1985; in Chicago, Illinois, from July 23 to 25, 1985; in Houston, Texas, from September 10 to 12, 1985; in Los Angeles, California, from October 15 to 18, 1985; in Miami, Florida, from November 19 to 22, 1985; and in New York City from January 21 to 24, 1986. With the exception of the initial hearing in Washington, each of the hearings had a central theme, enabling us to hear together those people whose testimony related to the same issue. Thus the hearings in Chicago focused on the law, law enforcement, and the constraints of the First Amendment; in Houston we concentrated on the behavioral sciences, hearing from psychologists, psychiatrists, sociologists, and others who have been clinically or experimentally concerned with examining the relationship between pornography and human behavior; in Los Angeles our primary concern was the production side of the

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industry, and we heard testimony from those who were knowledgeable about or involved in the process of producing, distributing, and marketing pornographic materials; in Miami most of our time was spent dealing with the issue of child pornography, and we heard from people who in either their professional or personal capacities had familiarity with the creation, consequences, or legal control of child pornography; and in New York we heard about organized crime and its relationship with the production, distribution, and sale of pornographic materials.

Although these hearings each had their specific concentration, we also attempted to hear people throughout the country who wished to address us on these and many other issues, and one of the reasons for conducting hearings in different cities in various parts of the country was precisely to give the greatest opportunity for the expression of views by members of the public. Time did not permit us to hear everyone who desired to speak to us, but we have tried as best we could to allow a large number of people to provide information and to express their opinions. The information provided and the opinions expressed represented a wide range of perspectives and views on the issues before us. Many of the people appearing before us were professionals, who because of their training and experiences could enlighten us on matters that would otherwise have been beyond our knowledge. Many people represented particular points of view, and we are glad that varying positions have been so ably

presented to us. And many others have been members of the public who only wished to represent themselves, relating either points of view or personal experiences. All of this testimony has been valuable, although we recognize its limitations. These limitations will be discussed throughout this report, although there is one that deserves to be highlighted in this introductory section. That is the distortion that has been the inevitable consequence of the fact that some pornography is illegal, and much pornography is, regardless of legality or illegality, still considered by many people to be harmful, offensive, or in some other way objectionable. As a result, legal as well as social constraints may distort the sample, in that they severely limit the willingness of many people to speak publicly in favor of pornography. This phenomenon may have been somewhat counterbalanced by the financial resources available to many of those from the publishing and entertainment industries who warned us of the dangers of any or most forms of censorship. But the point remains that various dynamics are likely to skew the sample available to us. In evaluating the oral evidence, we have thus been mindful of the fact that the proportion of people willing to speak out on a particular subject, and from a particular point of view, may not be a fully accurate barometer of the extent that certain views are in fact held by the population at large.

Many of the limitations that surround oral testimony lessen considerably when written submissions are used, and we have made every effort to solicit written submissions both from those who

testified before us and from those who did not. We have relied heavily on these, in part because they represent the views of those who could not testify before us, and in part because they frequently explored issues in much greater depth than would be possible in a brief period of oral testimony.

The written submissions we received constitute but a miniscule fraction of all that has been written about pornography. While it would not be accurate to say that each of us has read all or even a majority of the available literature, we have of course felt free to go beyond the written submissions and consult that which has been published on the subject, and much of what is contained in this report is a product of the fact that many thoughtful people have been contemplating the topic of pornography for a long time. To ignore this body of knowledge would be folly, and we have instead chosen to rely on more information rather than less. We could not have responsibly conducted our inquiry without spending a considerable period of time examining the materials that constitute the subject of this entire endeavor. Engaging in this part of our task has been no more edifying for us than it is for those judges who have the constitutional duty to review materials found at trial to be legally obscene.[2] Obviously, however, it was an essential part

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[2] "[W]e are tied to the 'absurd business of perusing and viewing the miserable stuff that pours into the Court . . .' Interstate Circuit, Inc. v. Dallas, 390 U.S., at 707 (separate opinion of Harlan, J.). While the material may have varying degrees of social importance, it is hardly a source of edification to the members of this Court who are compelled to view it before passing

of our job, and many witnesses provided to us for examination during our hearings and deliberations samples of motion pictures, video tapes, magazines, books, slides, photographs, and other media containing sexually explicit material in all of its varied forms. In addition, when in Houston we visited three different establishments specializing in this material, and in that way were able to supplement the oral and written testimony with our own observations of the general environment in which materials of this variety are frequently sold.

In addition to our public hearings, we have also had public working sessions devoted to discussing the subject, our views on it, and possible findings, conclusions, and recommendations. These working sessions occupied part of our time when we were in Houston, Los Angeles, Miami, and New York, and in addition we met solely for these purposes in Scottsdale, Arizona, from February 26 to March 1, 1986, and in Washington, D.C., from April 29 to May 2, 1986. As we look back on these sessions, there is little doubt that we have all felt the constraints of deliberating in public. It can hardly be disputed that the exploration of tentative ideas is more difficult when public exposure treats the tentative as final, and the question as a challenge. Still, we feel that we have explored a wide range of points of view, and an equally wide range of vantage points from which to look at the problem of pornography. As with any inquiry, more could be done

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on its obscenity." Paris Adult Theatre I v. Slaton, 413 U.S. 49, 92-93(1973) (Brennan, J., dissenting).

if there were more time, but we are all satisfied with the depth and breadth of the inquiries in which we have engaged. When faced with shortages of time, we have chosen to say here less then we might have been able to say had we had more time for our work, but we are convinced that saying no more than our inquiries and deliberations justify is vastly preferable to paying for time shortages in the currency of quality or the currency of accuracy. Thus, given the many constraints we operated under, we believe this Report adequately reflects both those constraints and the thoroughness with which we have attempted to fulfill our mandate.

Finally, we owe thanks to all those who have assisted us in our work. Although in another part of this Report we express our gratitude more specifically, we wish here to note our appreciation to an extraordinarily diligent staff, to numerous public officials and private citizens who have spent much of their own time and their own money to provide us with information, and especially to a large number of witnesses who appeared before us at great sacrifice and often at the expense of having to endure great personal anguish. To all of these people and others, we give our thanks, and we willingly acknowledge that we could not have completed our mission without them.

1.3 The 1970 Commission on Obscenity and Pornography Our mission and our product will inevitably be compared with the work of the President's Commission on Obscenity and Pornography, which was created in 1967, staffed in 1968, and which reported in 1970. Some of the differences between the two enterprises relate to

structural aspects of the inquiry. The 1970 Commission had a budget of $2,000,000 and two years to complete its task. We had only one year, and a budget of $500,000. Taking into account the changing value of the dollar,[3] the 1970 Commission had a budget nearly sixteen times as large as ours, yet held only two public hearings. We do not regret having provided the opportunity for such an extensive expression of opinion, but it has even further depleted the extremely limited resources available to us. In addition to differences in time, budget, and staffing, there are of course differences in perspective. Although the work of the 1970 Commission has provided much important information for us, all of us have taken issue with at least some aspects of the earlier Commission's approach, and all of us have taken issue with at least some of the earlier Commission's conclusions. We have tried to explain our differences throughout this Report, but it would be a mistake to conclude that we saw our mission as reactive to the work of others sixteen years earlier. In sixteen years the world has seen enormous technological changes that have affected the transmission of sounds, words, and images. Few aspects of contemporary American society have not been affected by cable television, satellite communication, video tape recording, the computer, and competition in the telecommunications industry. It

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[3] Taking 1967, the date of creation of the 1970 Commission, as the base year, the dollar at the end of 1984, five months before this Commission commenced work, was worth $0.31.

would be surprising to discover that these technological developments have had no effect on the production, distribution, and availability of pornography, and we have not been surprised. These technological developments have themselves caused such significant changes in the practices relating to the distribution of pornography that the analysis of sixteen years ago is starkly obsolete. Nor have the changes been solely technological. In sixteen years there have been numerous changes in the social, political, legal, cultural, and religious portrait of the United States, and many of these changes have undeniably involved both sexuality and the public portrayal of sexuality. With reference to the question of pornography, therefore, there can be no doubt that we confront a different world than that confronted by the 1970 Commission.

Perhaps most significantly, however, studying an issue that was last studied in the form of a national commission sixteen years ago seems remarkably sensible even apart from the social and technological changes that relate in particular to the issue of pornography. Little in modern life can be held constant, and it would be strikingly aberrational if the conclusions of one commission could be taken as having resolved an issue for all time. The world changes, research about the world changes, and our views about how we wish to deal with that world change. Only in a static society would it be unwise to reexamine periodically the conclusions of sixteen years earlier, and we do not live in a static society. As we in 1986 reexamine what was done in 1970,

so too do we expect that in 2002 our work will similarly be reexamined.

We do not by saying this wish to minimize the fact that we are different people from those who studied this issue sixteen years ago, that we have in many cases different views, and that we have in a number of respects reached different conclusions. Whether this Commission would have been created had the 1970 Commission reached different conclusions is not for us to say. But we are all convinced that the creation of this Commission at this time is entirely justified by the difference between this world and that of 1970, and we have set about our task with that in mind.

1.4 Defining Our Central Terms

Questions of terminology and definition have been recurring problems in our hearings and deliberations. Foremost among these definitional problems is trying to come up with some definition for the word "pornography." The range of materials to which people are likely to affix the designation "pornographic" is so broad that it is tempting to note that "pornography" seems to mean in practice any discussion or depiction of sex to which the person using the word objects. But this will not do, nor will an attempt to define "pornography" in terms of regulatory goals or condemnation. The problem with this latter strategy is that it channels the entire inquiry into a definitional question, when it would be preferable first to identify a certain type of material, and then decide what, if anything, should be done about it. We note that this strategy was that adopted by the Williams

Committee in Great Britain several years ago,[4] which defined pornography as a description or depiction of sex involving the dual characteristics of (1) sexual explicitness; and (2) intent to arouse sexually. Although definitions of the sort adopted by the Williams Committee contain an admirable dose of analytic purity, they unfortunately do not reflect the extent to which the appellation "pornography" is undoubtedly pejorative. To call something "pornographic" is plainly, in modern usage, to condemn it, and thus the dilemma is before us. If we try to define the primary term of this inquiry at the outset in language that is purely descriptive, we will wind up having condemned a wide range of material that may not deserve condemnation. But if on the other hand we incorporate some determination of value into our definition, then the definition of pornography must come at the end and not the beginning of this report, and at the end and not at the beginning of our inquiry. Faced with this dilemma, the best course may be that followed by the Fraser Committee in Canada,[5] which decided that definition was simply futile. We partially follow this course, and pursuant to that have tried to minimize the use of the word "pornography" in this Report. Where we do use the term, we do not mean for it to be, for us, a statement of a conclusion, and thus in this Report a reference to material as "pornographic" means only that the material is

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[4] Report of the Home Office Committee on Obscenity and Film Censorship (Bernard Williams, Chairman) (1978)

[5] Report of the Special Committee on Pornography and Prostitution (Paul Fraser, Q.C., Chairman) (1985)

predominantly sexually explicit and intended primarily for the purpose of sexual arousal. Whether some or all of what qualifies as pornographic under this definition should be prohibited, or even condemned, is not a question that should be answered under the guise of definition.

If using the term "pornography" is problematic, then so too must be the term "hard core pornography." If we were forced to define the term "hard core pornography," we would probably note that it refers to the extreme form of what we defined as pornography, and thus would describe material that is sexually explicit to the extreme, intended virtually exclusively to arouse, and devoid of any other apparent content or purpose. This definition may not be satisfactory, but we all feel after our work on this Commission that the late Justice Stewart was more correct than he is commonly given credit for having been in saying of hard core pornography that although he could not define it, "I know it when I see it."[6] But although we are inclined to agree with Justice Stewart, we regrettably note that the range of material to which witnesses before us have applied this term is far broader than we would like, and we therefore conclude that careful analysis will be served if we use this term less rather than more.

Trying to define the word "obscenity" is both more and less difficult. It is more difficult because, unlike the word

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[6] Jacobellis v. Ohio, 378 U.S. 184, 197(1964) (Stewart. J., concurring).

"pornography," the word "obscenity" need not necessarily suggest anything about sex at all. Those who would condemn a war as "obscene" are not misusing the English language, nor are those who would describe as "obscene" the number of people killed by intoxicated drivers. Given this usage, the designation of certain sexually explicit material as "obscene" involves a judgment of moral condemnation, a judgment that has led for close to two hundred years to legal condemnation as well. But although the word "obscene" is both broader than useful here as well as being undeniably condemnatory, it has taken on a legal usage that is relevant in many places in this Report. As a result, we will here use the words "obscene" and "obscenity" in this narrower sense, to refer to material that has been or would likely be found to be obscene in the context of a judicial proceeding employing applicable legal and constitutional standards. Thus, when we refer to obscene material, we need not necessarily be condemning that material, or urging prosecution, but we are drawing on the fact that such material could now be prosecuted without offending existing authoritative interpretations of the Constitution. Numerous submissions to us have made reference to "erotica." It seems clear to us that the term as actually used is the mirror image of the broadly condemnatory use of "pornography," being employed to describe sexually explicit materials of which the user of the term approves. For some the word "erotica" describes any sexually explicit material that contains neither violence nor subordination of women, for others

the term refers to almost all sexually explicit material, and for still others only material containing generally accepted artistic value qualifies as erotica. In light of this disagreement, and in light of the tendency to use the term "erotica" as a conclusion rather than a description, we again choose to avoid the term wherever possible, preferring to rely on careful description rather than terms that obscure more than advance rational consideration of difficult issues.

Various other terms, usually vituperative, have been used at times, in our proceedings and elsewhere, to describe some or all sexually explicit materials. Such terms need not be defined here, for we find it hard to see how our inquiry is advanced by the use of terms like "smut" and "filth." But we have also encountered frequent uses of the term "X-rated," and a few words about that term are appropriate here. As will be discussed in detail in the section of this Report dealing with the production of sexually explicit materials, "X" is one of the ratings of the Motion Picture Association of America (MPAA), a private organization whose ratings of films are relied upon by theaters and others to determine which films are or are not suitable for people of various ages. But the MPAA rating system is not a series of legal categories, and does not have the force of law. Although many films that carry either an "X" rating or no rating might be deemed to be legally obscene, many more would not, and it is plain that many X-rated films could not conceivably be considered legally obscene. Moreover, there is no plain

connection between the words "pornographic" and "X-rated," and once again it seems clear that common usage would apply the term "pornography" to a class of films that overlaps with but is not identical to the class encompassed by the "X" rating. As a result, we avoid the term "X-rated," except insofar as we are discussing in particular the category of materials so rated in the context of the purposes behind the MPAA rating system.

Chapter 2

The History Of Pornography

2.1 Pornography as Social Phenomenon

Descriptions of sex are as old as sex itself. There can be little doubt that talking about sex has been around as long as talking, that writing about sex has been around as long as writing, and that pictures of sex have been around as long as pictures. In this sense it is odd that historical treatments of pornography turn out to be historical treatments of the regulation, governmental or otherwise, of pornography. To understand the phenomenon of pornography it is necessary to look at the history of the phenomenon itself, prior to or at least distinct from the investigation of the practice of restricting it. Some works on the history of sexual behavior, eroticism, or erotic art help to serve this goal, but the history of pornography still remains to be written. Commissioning independent historical research was far beyond our mandate, our budget, and our time constraints, yet we do not wish to ignore history entirely. We feel it appropriate to offer the briefest overview here, but we urge as well that more comprehensive historical study be undertaken.

The use of comparatively explicit sexual references for the purposes of entertainment or arousal is hardly a recent phenomenon. Greek and Roman drama and poetry was frequently highly specific, and the works of Aristophanes, Catullus, Horace, and Ovid, to name just a few, contain references to sexual

activity that, by the standards of the time, are highly explicit. Scenes of intercourse have been found on the walls of the brothel at Pompeii, and the Roman sculptural representations of the god Priapus are as bawdy as Aubrey Beardsley's most explicit drawings. Obviously the explicitness of the past must be viewed in light of the times, and there is no question but that the works of Aristophanes are less shocking to our contemporary vision than are some of the materials currently shown in adult theaters. Yet to ask what the Romans would have thought about "Deep Throat" is akin to asking what the Romans would have thought about helicopters. The more useful historical question is whether highly explicit sexuality for the times was a part of the literature and discourse of the times, and the answer to that question is plainly "yes."

Similar observations can be made about later historical periods and about other cultures. The Thousand and One Nights and the Kamasutra are but examples of the fact that numerous eastern cultures also have a long history of comparatively explicit depictions and descriptions of sexuality. In western cultures the explicit treatment of sex continued through modern history. Whether in the form of the medieval bawdy ballads and poems of Chaucer, Dunbar, and others, or in the form of the French farces of the fourteenth and fifteenth centuries, or in the form of the art and poetry of Renaissance Florence, or in the form of Elizabethan ballads and poetry, sexuality, and quite explicit sexuality at that, was a recurrent theme in drama, in

poetry, in song, and in art.

We can be fairly certain that sexually explicit descriptions and depictions have been around in one form or another almost since the beginning of recorded history, and we can also be fairly certain that its regulation by law in a form resembling contemporary regulation of sexually explicit materials is a comparatively recent phenomenon. It is difficult, however, to draw useful conclusions from this aspect of the history. For one thing, until the last several hundred years, almost all written, drawn, or printed material was restricted largely to a small segment of the population that undoubtedly constituted the social elite. The drama of the classical age was frequently highly sexually explicit, or at least suggestive, but its audience tended to be limited to the wealthiest, best educated, and most powerful members of society. And of course the historical or universal presence of a phenomenon need not justify permitting its continuation. Slavery was a central fixture of much of the past, and warfare and ethnocentricity are as nearly universal as sexually explicit depictions, but the sensitivities of most cultures demand that such practices be discouraged.

In addition, it is a mistake to draw too many conclusions about social tolerance and social control from the presence or absence of laws or law enforcement practices. There is little indication that sexual conduct was part of classical drama, and the very fact that many sexual references were veiled (however thinly) rather than explicit indicates that some sense of taboo

or social stigma has always been in most societies attached to public discussion of sexuality. Yet although some degree of inhibition obviously attached to public descriptions and depictions of sexual acts, it is equally clear that the extent of these inhibitions has oscillated throughout history. In somewhat cyclical fashion, social tolerance of various practices has been at times limited and at times extensive. To conclude that inhibition, in some form or another, of public discussion and representations of sexual practices is a totally modern phenomenon is to overstate the case and to misinterpret the evidence from earlier times. But to assume that public discussions and descriptions of sexuality were, prior to 1850, always as inhibited as they were in English speaking countries from 1850 to 1950 is equally mistaken.

We have mentioned here the early history of pornography in large part to encourage thinking about sexually explicit material as social phenomenon as well as object of governmental regulation. Although our task is largely to think about laws and law enforcement, we know that thinking about law requires thinking as well about the social foundations of the practice involved. Most historical study to date has not been about the social practice of pornography, but largely about control of that social practice by government. If the use of sexually explicit material is to be understood fully, the scope of thinking about the issue should be broadened substantially.

2.2 Regulation and the Role of Religion

When earlier social inhibitions about public descriptions and depictions of sexuality and sexual practices came to be enforced by law, it was largely in the context of religious rather than secular concerns. Moreover, the earliest enforcement efforts were directed not against descriptions or depictions of sex itself, but only against such depictions when combined with attacks on religion or religious authorities.

This phenomenon of regulation in defense of religion rather than in defense of decency can be seen by the tolerance, at least in European cultures, of secular bawdiness up to the middle of the seventeenth century. Although many European countries rigidly controlled written and printed works from medieval times through the seventeenth century, this control was exercised only in the name of religion and politics, and not in the name of decency. In one legal form or another, and in secular as well as ecclesiastical tribunals, heresy, blasphemy, treason, and sedition were all severely sanctioned, but sexually explicit representations alone were rarely treated as a matter justifying punishment or restraint. Perhaps the best example of this phenomenon was the action of the Council of Trent in 1573, when it permitted publication of a version of Boccacio's Decameron in which the sinning priests and nuns were converted into sinning members of the laity.

If we focus on England, from which our legal system emerged, it is commonly acknowledged that sexuality itself was not treated as a matter for governmental legal concern until 1663. That year

saw the conviction in London of Sir Charles Sedley, but the activity for which he was convicted hardly looks like a case involving pornography.[7] Instead, Sedley was convicted of the crime of committing a breach of the peace for getting drunk, removing his clothes, uttering profane remarks, and pouring urine on the crowd below the tavern balcony on which he was standing at the time. Although Sedley's profane remarks included words, there seems little doubt that he would have been convicted even had he remained silent. The significance of this case, therefore, lies in the fact that mere indecent behavior, absent any attack on religion, and absent any challenge to secular authority, was for the first time perceived to be something deserving of governmental involvement. Prior to Sedley's case, government stepped in to protect the person and his property, to protect the authority of the state, and to protect the church. With Sedley's case came the beginning of a broader range of governmental concerns, and thus Sedley's case is properly seen as the precursor of most modern regulation of sexually explicit materials.

Even after Sedley's case, the common law was hardly eager to come to the defense of decency. Throughout the seventeenth and eighteenth centuries, common law courts in England were only occasionally asked to take action against the kind of material that would then have been considered pornographic. Even when

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[7] King v. Sedley, 1 Keble 620 (K.B.), 83 Eng. Rep. 1146 (1663).

asked, the courts were often reluctant to respond. In 1708, for example, James Read was indicted in London for publishing an extremely explicit book entitled The Fifteen Plagues of a Maidenhead. The Queen's Bench court, however, dismissed the indictment, and Lord Justice Powell's statement provides an apt summary of the general reaction of the law to sexually explicit materials until very late in the eighteenth century:

> "This is for printing bawdy stuff but reflects on no person, and a libel must be against some particular person or persons, or against the Government. It is stuff not fit to be mentioned publicly; if there should be no remedy in the Spiritual Court, it does not follow there must be a remedy here. There is no law to punish it, I wish there were, but we cannot make law; it indeed tends to the corruption of good manners, but that is not sufficient for us to punish."[8]

Not all of the common law reaction to sexual explicitness absent religious blasphemy was the same. In 1727 Edmund Curll was convicted for corrupting public morals on account of his publication of Venus in the Cloister, or the Nun in Her Smock,[9] and the Crown's attack on John Wilkes, largely on the basis of his activities as political dissident, included prosecution for publishing his highly explicit Essay on Woman.[10] Yet at about

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8 Queen v. Read, Fortescue's Reports 98, 92 Eng. Rep. 777 (1708).

9 Dominus Rex v. Curll, 2 Str. 789, 93 Eng. Rep. 849 (1727). Because the religious aspects of this book were anti-Catholic, it seems safe to conclude that protection of religion was no part of the governmental desire to indict or to convict.

10 The King v. John Wilkes, 2 Wils. K.B. 151, 95 Eng. Rep. 737 (1764), 4 Burr. 2527, 98 Eng. Rep. 327 (1770).

the same time, in 1748 to be exact, the publication of John Cleland's Memoirs of a Woman of Pleasure, better known as Fanny Hill, took place without either public outcry or governmental intervention.

The history of the English experience with sexually explicit materials is largely paralleled by the experiences in other European countries, and in the English colonies, including those in North America. As the world entered the nineteenth century, it remained the case that in most of the world there was greater tolerance for sexually explicit writing, printing, and drawing than there would be fifty years later, and that governmental action against spoken, written, or printed materials remained largely devoted to protecting the authority of the state and to protecting the integrity and values of religion.

2.3 Obscenity Law - The Modern History

As indicated in the previous section, there were traces of legal concern with decency itself in the eighteenth century, but these were little more than traces. If one is searching for the roots of modern American obscenity law, one must look to the first half of the nineteenth century in both Great Britain and the United States. The impetus in Britain came initially from private organizations such as the Organization for the Reformation of Manners and its successor the Society for the Suppression of Vice. As printing became increasingly economical, printed materials became more and more available to the masses. Thus, the kinds of sexually explicit material that had circulated

relatively freely in England among the elite during the eighteenth century and earlier now became more readily available to everyone. With this increased audience came an increase in demand, and with the increased demand came an increased supply. As a result, the early part of the nineteenth century saw much greater production and circulation of material as sexually explicit as had been less widely circulated earlier. And because the audience was more broad-based, the material itself became not necessarily more explicit, but certainly briefer, simpler, and more straightforward.

These developments in England came at about the same time as general views about sexual morality, and especially about public sexual morality, were becoming increasingly stern. In an important sense, Victorianism preceded Victoria, and thus the initiatives of organizations like the Society for the Suppression of Vice found a receptive audience in the population at large, in government, and in the judiciary. Because private prosecution for criminal offenses was part of the English system of criminal justice at the time, the Society and others like it were able to commence their own criminal prosecutions, and their efforts from the early 1800s through the 1860s resulted in many prosecutions for obscene libel, as it had by then come to be called. Most of these prosecutions were successful, and by the 1860s there had developed a well established practice of prosecuting people for distributing works perceived as immoral.

The 1800s also saw the development of more effective ways of

printing drawings in one form or another for mass circulation, and saw as well the development of photography. Not surprisingly, printed materials with a sexual orientation came to include increasingly large amounts of pictorial material. This development not only increased the impact of the materials, and therefore the offensiveness of many of the materials, but also increased their accessibility. With literacy no longer a requirement for appreciation, the market demand increased, and so, consequently, did the supply. Legal reactions to the proliferation of pictorial materials, again largely inspired by the Society for the Suppression of Vice and similar organizations, included the Vagrancy Act of 1824, which provided criminal penalties for the publication of an indecent picture, as well as legislation enacted in 1853 directed primarily at the increasing importation into England of so-called "French postcards."

American developments were similar. Although prior to 1800 there existed colonial statutes and some common law cases seemingly inclusive of profanity or sexual immorality, again the plain intent of these laws, as well as their universal application, was only to that which was blasphemous or in some other way threatening to religion. Pure sexual explicitness, while often condemned, was not until after 1800 taken to be a matter of governmental concern. After 1800, however, trends with respect to the type of material available and the audience to whom it was directed were quite similar to the trends in England.

The reaction was also similar, and in Pennsylvania in 1815 the case of Commonwealth v. Sharpless[11] represented the first reported conviction in the United States for the common law crime of obscene libel. Massachusetts followed six years later, in the case of Commonwealth v. Holmes,[12] and at about the same time Vermont passed the country's first statute prohibiting the publication or distribution of obscene materials. Other states followed, and by the middle of the nineteenth century the production and distribution of obscene materials was a crime throughout most of the United States.

As in England, however, most of the enforcement impetus in the United States came from private organizations. Most prominent among these were the Watch and Ward Society in Boston and the New York Society for the Suppression of Vice. The New York Society for the Suppression of Vice, officially created in 1873, was largely the product of the efforts of Anthony Comstock, who crusaded actively from about that time until his death in 1915 for greater restrictions on indecent materials, and for more vigorous prosecution of the laws against them. Although he was also actively opposed to light literature, pool halls, lotteries, gambling dens, popular magazines, weekly newspapers, contraception, and abortion, most of his energies were directed at sexually explicit magazines, books, and pictures. In large part his most vigorous efforts were directed at magazines like

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11 2 Serg. & Rawle 91 (1815).

12 17 Mass. 336 (1821).

The National Police Gazette, and other generally non-artistic works. Although Comstock admitted that artistic or literary merit did not concern him if the material dealt with "lust," most prosecutions of the time were for comparatively unimportant works, a phenomenon that was to change in the early part of the twentieth century. Comstock was largely responsible for the enactment of the federal laws that still, with only comparatively minor modifications through the years, constitute the bulk of the federal laws dealing with obscene materials. And he himself, as a specially appointed agent of the Post Office Department, enthusiastically and vigorously enforced the law. Shortly before his death, he announced with pride that he had "convicted persons enough to fill a passenger train of sixty-one coaches, sixty coaches containing sixty passengers each and the sixty-first almost full. I have destroyed 160 tons of obscene literature."

Although Comstock's efforts were the most vigorous, the most extensive, and the most effective, similar initiatives took place throughout the United States during the latter part of the nineteenth century and the early part of the twentieth. The result of this had a profound effect on the nature of the industry, for throughout the first half of the twentieth century in the United States the market for sexually explicit materials was almost exclusively clandestine. During this period prosecutions and legal developments surrounded the attempted and often successful actions against works now (and even then) commonly taken to be of plain literary or artistic merit. The

law concerned itself not only with comparatively explicit works such as D.H. Lawrence's Lady Chatterley's Lover and James Joyce's Ulysses, but works containing suggestions of sexual immorality no more explicit than that in, for example, Theodore Dreiser's An American Tragedy. The Supreme Judicial Court of Massachusetts found this book to be obscene because "the seller of a book which contains passages offensive to the statute has no right to assume that children to whom the book might come would not read the obscene passages, or having read them, would continue to read on until the evil effects of the obscene passages were weakened or dissipated with the tragic denouement of the tale." [13]

With publications such as An American Tragedy and Esquire magazine[14] constituting the legal skirmishes, it was plain that truly sexually explicit material could not circulate openly, and in fact it did not for much of this century. It still existed, however, despite having been driven rather deeply underground. We discuss the more recent history of the production, distribution, and sale of truly explicit material at greater length in later in this Report dealing with the nature of the industry in general, but it is important to note here that the existence of legal disputes about mainstream literary works did not mean that these works constituted the extent of what was available. So-called "stag films" were produced and distributed

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[13] Commonwealth v. Friede, 271 Mass. 318, 171 N.E. 472 (1930).

[14] Hannegan v. Esquire, 327 U.S. 146 (1946)

in a highly surreptitious fashion. Sales of pornographic pictures, magazines, and eight millimeter films took place through the mails as a result of advertisements in heavily guarded language, or through sales by someone who knew someone who knew someone else, or in some form or another "under the counter" in establishments primarily devoted to more accepted material. Until the 1960s, therefore, the law operated largely in two quite different roles. On the one hand, and more visible, were the prosecutions of books and films that contained substantial merit and were directed to and available to a general audience. But on the other hand were enforcement efforts against much more explicit material, distributed in much more surreptitious fashion, as to which serious constitutional or definitional issues never arose. It was not until the early 1960s, when the Supreme Court began actively to scrutinize the contents of material found to be obscene, that attempted prosecutions of unquestionably serious works largely withered, and that most of the legal battles concerned the kinds of material more commonly taken to be pornographic.

This active Supreme Court scrutiny had its roots in the 1957 case of Roth v. United States,[15] discussed at length in Chapter 3 of this Part, in which the First Amendment was first taken to limit the particular works that could be found obscene. By the 1960s, cases such as Jacobellis v. Ohio[16] had made this close

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[15] 354 U.S. 476 (1957)

[16] 378 U.S. 184 (1964).

scrutiny a reality, and by 1966 the range of permissible regulation could properly be described as "minimal." In that year the Supreme Court decided the case of Memoirs v. Massachusetts,[17] which held that material could be restricted only if, among other factors, it was "utterly without redeeming social value." The stringency of this standard made legal restriction extraordinarily difficult, and shortly thereafter the Supreme Court made it even more difficult by embarking on a practice of reversing obscenity convictions with respect to a wide range of materials, many of which were quite explicit.[18] The result, therefore, was that by the late 1960s obscenity regulation became essentially dormant, with a consequent proliferation of the open availability of quite explicit materials. This trend was reinforced by the issuance in 1970 of the Report of the President's Commission on Obscenity and Pornography, which recommended against any state or federal restrictions on the material available to consenting adults. Although the Report was resoundingly rejected by President Nixon and by Congress, it nevertheless reinforced the tendency to withdraw legal restrictions in practice, which in turn was one of the factors contributing to a significant growth from the late 1960s onward of the volume and explicitness of materials that were widely available.

The Supreme Court decisions of 1973, most notably Paris

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17 383 U.S. 413 (1966).

18 E.g., Redrup v. New York, 386 U.S. 767 (1967).

Adult Theatres I v. Slaton[19] and Miller v. California,[20] by reversing the "utterly without redeeming social value" standard and by making clear once again that the First Amendment did not protect anything and everything that might be sold to or viewed by a consenting adult, tended to recreate the environment in which obscenity regulation was a practical possibility. Since 1973, however, the extent of obscenity regulation has varied widely throughout the country. In some geographic areas aggressive prosecution has ended the open availability of most extremely explicit materials, but more commonly prosecution remains minimal, and highly explicit materials are widely available. Because the current situation is explored throughout this Report, and because it is described in detail in a later part, we will go no further in this Chapter, whose primary purpose has been to put the present into historical perspective.

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19 413 U.S. 49 (1973).

20 413 U.S. 15 (1973).

Chapter 3

The Constraints Of The First Amendment

3.1 The Presumptive Relevance of the First Amendment The subject of pornography is not coextensive with the subject of sex. Definitionally, pornography requires a portrayal, whether spoken, written, printed, photographed, sculpted, or drawn, and this essential feature of pornography necessarily implicates constitutional concerns that would not otherwise exist. The First Amendment to the Constitution of the United States provides quite simply that "Congress shall make no law . . . abridging the freedom of speech, or of the press." Longstanding judicial interpretations make it now clear that this mandate is, because of the Fourteenth Amendment, applicable to the states as well,[21] and make it equally clear that the restrictions of the First Amendment are applicable to any form of governmental action, and not merely to statutes enacted by a legislative body.[22]

To the extent, therefore, that regulation of pornography constitutes an abridgment of the freedom of speech, or an abridgment of the freedom of the press, it is at least presumptively unconstitutional. And even if some or all forms of regulation of pornography are seen ultimately not to constitute abridgments of the freedom of speech or the freedom of the press,

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21 Gitlow v. New York, 268 U.S. 652 (1925).

22 E.g., Bantam Books, Inc. v. Sullivan, 372 U.S. 58 (1963); Organization for a Better Austin v. Keefe, 402 U.S. 415 (1971).

the fact remains that the Constitution treats speaking and printing as special, and thus the regulation of anything spoken or printed must be examined with extraordinary care. For even when some forms of regulation of what is spoken or printed are not abridgments of the freedom of speech, or abridgments of the freedom of the press, such regulations are closer to constituting abridgments than other forms of governmental action. If nothing else, the barriers between permissible restrictions on what is said or printed and unconstitutional abridgments must be scrupulously guarded.

Thus, we start with the presumption that the First Amendment is germane to our inquiry, and we start as well with the presumption that, both as citizens and as governmental officials who have sworn an oath to uphold and defend the Constitution, we have independent responsibilities to consider constitutional issues in our deliberations and in our conclusions. Although we are not free to take actions that relevant Supreme Court interpretations of the Constitution tell us we cannot take, we do not consider Supreme Court opinions as relieving us of our own constitutional responsibilities. The view that constitutional concerns are only for the Supreme Court, or only for courts in general, is simply fallacious, and we do no service to the Constitution by adopting the view that the Constitution is someone else's responsibility. It is our responsibility, and we have treated it as such both in this Report and throughout our deliberations.

3.2 The First Amendment, The Supreme Court, and the Regulation of Obscenity

Although both speaking and printing are what the First Amendment is all about, closer examination reveals that the First Amendment cannot plausibly be taken to protect, or even to be relevant to, every act of speaking or writing. Government may plainly sanction the written acts of writing checks backed by insufficient funds, filing income tax returns that understate income or overstate deductions, and describing securities or consumer products in false or misleading terms. In none of these cases would First Amendment defenses even be taken seriously. The same can be said about sanctions against spoken acts such as lying while under oath, or committing most acts of criminal conspiracy. Although urging the public to rise up and overthrow the government is protected by the First Amendment, urging your brother to kill your father so that you can split the insurance money has never been considered the kind of spoken activity with which the First Amendment is concerned. Providing information to the public about the misdeeds of their political leaders is central to the First Amendment, but providing information to one's friends about the combination to the vault at the local bank is not a First Amendment matter at all.

The regulation of pornography in light of the constraints of the First Amendment must thus be considered against this background - that not every use of words, pictures, or a printing press automatically triggers protection by the First Amendment.

Indeed, as the examples above demonstrate, many uses of words, pictures, or a printing press do not even raise First Amendment concerns. As Justice Holmes stated the matter in 1919, "the First Amendment . . . cannot have been, and obviously was not, intended to give immunity for every possible use of language."[23]

As described in Chapter 2 of this part, both the states and the federal government have long regulated the trade in sexually explicit materials under the label of "obscenity" regulation. And until 1957, obscenity regulation was treated as one of those forms of regulation that was totally unrelated to the concerns or the constraints of the First Amendment. If the aim of the state or federal regulation was the control of obscenity, then the First Amendment did not restrict government action, without regard to what particular materials might be deemed obscene and thus prohibited.[24] When, throughout the first half of this century, states would determine to be obscene such works as Theodore Dreiser's An American Tragedy,[25] or D.H. Lawrence's Lady Chatterley's Lover,[26] or Erskine Caldwell's God's Little Acre,[27] or Radclyffe Hall's The Well of Loneliness,[28] the First

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23 Frohwerk v. United States, 249 U.S. 204 (1919).

24 Dunlap v. United States, 165 U.S. 486 (1897).

25 Commonwealth v. Friede, 271 Mass. 318, 171 N.E. 472 (1930).

26 People v. Dial Press, 182 Misc. 416 (N.Y. Magis. Ct. 1929).

27 Attorney General v. Book Named "God's Little Acre," 326 Mass. 281, 93 N.E.2d 819 (1950).

Amendment was not taken to constitute a significant barrier to such actions.

In 1957, however, in Roth v. United States,[29] the Supreme Court confronted squarely the tension between the regulation of what was alleged to be obscene and the constraints of the First Amendment. After Roth, it is not simply the form of regulation that immunizes a prosecution from the First Amendment. The Court made clear in Roth, and even clearer in subsequent cases,[30] that the simple designation of a prosecution as one for obscenity does not cause the First Amendment considerations to drop out. If the particular materials prosecuted are themselves protected by the First Amendment, the prosecution is impermissible. After Roth mere labels could not be used to justify restricting the protected, and mere labels could not justify circumventing the protections of the First Amendment.

But the Supreme Court also made clear in Roth that some materials were themselves outside of the coverage of the First Amendment, and that obscenity, carefully delineated, could be considered as "utterly without redeeming social importance." As a result, the Court concluded, obscene materials were not the kind of speech or press included within the First Amendment, and could thus be regulated without the kind of overwhelming evidence of

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28 People v. Seltzer, 122 Misc. 329, 203 N.Y.S. 809 (N.Y. Sup. Ct. 1924).

29 354 U.S. 476 (1957).

30 E.g., Kingsley International Pictures Corp. v. Regents, 360 U.S. 684 (1959).

harm that would be necessary if materials of this variety were included within the scope of the First Amendment. But to the Court in Roth, that scope was limited to material containing ideas. All ideas, even the unorthodox, even the controversial, and even the hateful, were within the scope of the First Amendment. But if there were no ideas with "even the slightest redeeming social importance," then such material could be taken to be not speech in the relevant sense at all, and therefore outside of the realm of the First Amendment.

The general Roth approach to obscenity regulation has been adhered to ever since 1957, and remains still today the foundation of the somewhat more complex but nevertheless fundamentally similar treatment of obscenity by the Supreme Court. This treatment involves two major principles. The first, reiterated repeatedly and explained most thoroughly in Paris Adult Theatre I v. Slaton,[31] is the principle that legal obscenity is treated as being either not speech at all, or at least not the kind of speech that is within the purview of any of the diverse aims and principles of the First Amendment. As a result, legal obscenity may be regulated by the states and by the federal government without having to meet the especially stringent standards of justification, often generalized as a "clear and present danger," and occasionally as a "compelling interest," that would be applicable to speech, including a great deal of sexually oriented or sexually explicit speech, that is

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31 413 U.S. 49 (1973).

within the aims and principles of the First Amendment. Instead, legal obscenity may constitutionally be regulated as long as there exists merely a "rational basis" for the regulation, a standard undoubtedly drastically less stringent than the standard of "clear and present danger" or "compelling interest."

That legal obscenity may be regulated by the states and the federal government pursuant to Roth and Paris does not, of course, mean that the states must regulate it, or even that they necessarily should regulate it. It is in the nature of our constitutional system that most of what the Constitution does is to establish structures and to set up outer boundaries of permissible regulation, without in any way addressing what ought to be done within those outer boundaries. There is no doubt, for example, that the speed limits on the highways could be significantly reduced without offending the Constitution, that states could eliminate all penalties for burglary without violating the Constitution, and that the highest marginal income tax rate could be increased from fifty percent to ninety percent without creating a valid constitutional challenge. None of these proposals seems a particularly good idea, and that is precisely the point - that the fact that an action is constitutional does not mean that it is wise. Thus, although the regulation of obscenity is, as a result of Roth, Paris, and many other cases, constitutionally permissible, this does not answer the question whether such regulation is desireable. Wisdom or desirability are not primarily constitutional questions.

Thus the first major principle is the constitutional permissibility of the regulation of obscenity. The second major principle is that the definition of what is obscene, as well as the determination of what in particular cases is obscene, is itself a matter of constitutional law. If the underpinnings of the exclusion of obscenity from the scope of the First Amendment are that obscenity is not what the First Amendment is all about, then special care must be taken to ensure that materials, including materials dealing with sex, that are within what the First Amendment is all about are not subject to restriction. Although what is on the unprotected side of the line between the legally obscene and constitutionally protected speech is not protected by the First Amendment, the location of the line itself is a constitutional matter. That obscenity may be regulated consistent with the First Amendment does not mean that anything that is perceived by people or by legislatures as obscene may be so regulated.

As a result, the definition of obscenity is largely a question of constitutional law, and the current constitutionally permissible definition is found in another 1973 case, Miller v. California.[32] According to Miller, material is obscene if all three of the following conditions are met:

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[32] 413 U.S. 15 (1973). Among the most significant aspects of Miller was the fact that it rejected as part of the definition of obscenity the requirement that before material could be deemed obscene it had to be shown to be "utterly without redeeming social value." This standard, which had its roots as part of the test for obscenity in Memoirs v. Massachusetts, 383 U.S. 413.

1. The average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest [in sex]; and
2. the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state [or federal] law; and
3. the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

It is not our function in this Report to provide an exposition of the law of obscenity. In a later part of this Report we do provide a much more detailed treatment of the current state of the law that we hope will be useful to those with a need to consider some of the details of obscenity law. But we do not wish our avoidance of extensive description of the law here to imply that the law is simple. Virtually every word and phrase in the Miller test has been the subject of extensive litigation and substantial commentary in the legal literature. The result of this is that there is now a large body of explanation and clarification of concepts such as "taken as a whole," "prurient interest," "patently offensive," "serious value," and "contemporary community standards." Moreover, there are many constitutionally mandated aspects of obscenity law that are not derived directly from the definition of obscenity. For example, no person may be prosecuted for an obscenity offense unless it can be shown that the person had knowledge of the general contents, character, and nature of the materials involved, for if the law were otherwise booksellers and others would avoid stocking anything even slightly sexually oriented for fear of being prosecuted on account of materials the content of

which they were unaware.[33] The procedures surrounding the initiation of a prosecution, including search and seizure, are also limited by constitutional considerations designed to prevent what would in effect be total suppression prior to a judicial determination of obscenity.[34] And the entire subject of child pornography, which we discuss in Chapter 7 of this Part, is governed by different principles and substantially different legal standards.

The constitutionally-based definition of obscenity is enforced not only by requiring that that definition be used in obscenity trials, but also, and more importantly, by close judicial scrutiny of materials determined to be obscene. This scrutiny, at both trial and appellate levels, is designed to ensure that non-obscene material is not erroneously determined to be obscene. The leading case here is the 1974 unanimous Supreme Court decision in Jenkins v. Georgia,[35] which involved a conviction in Georgia of the Hollywood motion picture Carnal Knowledge. In reversing the conviction, the Supreme Court made clear that regardless of what the local community standards of that community may have been, the First Amendment prohibited any

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[33] Smith v. California, 361 U.S. 147 (1959). The principle was reaffirmed in Hamling v. United States, 418 U.S. 87 (1974), which also made clear that the defendant need not be shown to have known that the materials were legally obscene.

[34] See, Heller v. New York, 413 U.S. 483 (1973); Roaden v. Kentucky, 413 U.S. 496 (1973).

[35] 418 U.S. 153 (1974).

community, regardless of its standards, from finding that a motion picture such as this appealed to the prurient interest or was patently offensive.[36] Thus, although appeal to the prurient interest and patent offensiveness are to be determined in the first instance by reference to local standards, it is clear after Jenkins that the range of local variation that the Supreme Court will permit consistent with the First Amendment is in fact quite limited.

In the final analysis, the effect of Miller, Jenkins, and a large number of other Supreme Court and lower court cases is to limit obscenity prosecutions to "hard core"[37] material devoid of anything except the most explicit and offensive representations of sex. As we explained in our Introduction to this part, we believe that the late Justice Stewart was more perceptive than he has been given credit for having been in saying of hard-core pornography that he knew it when he saw it.[38] Now that we have

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[36] The third facet of the Miller test, that the work lack "serious literary, artistic, political, or scientific value," is never in any event to be determined by reference to local standards. Here the frame of reference must in all cases be national. Smith v. United States, 431 U.S. 291 (1977).

[37] The Supreme Court in fact uses the term in Miller.

[38] "I have reached the conclusion . . . that under the First and Fourteenth Amendments criminal laws in this area are constitutionally limited to hard-core pornography. I shall not today attempt further to define the kinds of material I understand to be embraced within that shorthand description; and perhaps I could never succeed in intelligently doing so. But I know it when I see it, and the motion picture involved in this case is not that." Jacobellis v. Ohio, 378 U.S. 184, 197 (1964) (Stewart, J., concurring).

seen much of it, we are all confident that we too know it when we see it, but we also know that others have used this and other terms to encompass a range of materials wider than that which the Supreme Court permits to be restricted, and wider than that which most of us think ought to be restricted. But it should be plain both from the law, and from inspection of the kinds of material that the law has allowed to be prosecuted, that only the most thoroughly explicit materials, overwhelmingly devoted to patently offensive and explicit representations, and unmitigated by any significant amount of anything else, can be and are in fact determined to be legally obscene.

3.3 Is the Supreme Court Right?

We cannot ignore our own obligations not to recommend what we believe to be unconstitutional. Numerous people, in both oral and written evidence, have urged upon us the view that the Supreme Court's approach is a mistaken interpretation of the First Amendment. They have argued that we should conclude that any criminal prosecution based on the distribution[39] to consenting adults of sexually explicit material, no matter how offensive to some, and no matter how hard-core, and no matter how devoid of literary, artistic, political, or scientific value, is impermissible under the First Amendment.

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39 We do not in this Report discuss Stanley v. Georgia, 394 U.S. 557 (1969), in which the Supreme Court held the mere possession of even legally obscene material to be constitutionally protected. We do not discuss Stanley because nothing we recommend is inconsistent with it, and no one has suggested to us that we should urge that Stanley be overruled.

We have taken these arguments seriously. In light of the facts that the Supreme Court did not in Roth or since unanimously conclude that obscenity is outside of the coverage of the First Amendment, and that its 1973 rulings were all decided by a scant 5-4 majority on this issue, there is no doubt that the issue was debatable within the Supreme Court, and thus could hardly be without difficulty. Moreover, we recognize that the bulk of scholarly commentary is of the opinion that the Supreme Court's resolution of and basic approach to the First Amendment issues is incorrect.[40] With dissent existing even within the Supreme Court, and with disagreement with the Supreme Court majority's approach predominant among legal scholars, we could hardly ignore the possibility that the Supreme Court might be wrong on this issue, and that we would wish to find protected that which the Supreme Court found unprotected.

There are both less and more plausible challenges to the Supreme Court's approach to obscenity. Among the least plausible, and usually more rhetorical device than serious argument, is the view that the First Amendment is in some way an "absolute," protecting, quite simply, all speech. Even Justices Black and Douglas, commonly taken to be "absolutists," would hardly have protected all spoken or written acts under the First

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40 See, e.g., Kalven, The Metaphysics of the Law of Obscenity, 1960 Sup. Ct. Rev. 1; Henkin, Morals and the Constitution: The Sin of Obscenity, 63 Colum. L. Rev. 391 (1963); Richards, Free Speech and Obscenity Law: Toward a Moral Theory of the First Amendment, 123 U. Pa. L. Rev. 45 (1974).

Amendment, and on closer inspection all those accused of or confessing to "absolutism" would at the very least apply their absolutism to a range of spoken or written acts smaller than the universe of all spoken, written, or pictorial acts. This is not to deny that under the views of many, including Black and Douglas, what is now considered obscene should be within the universe of what is absolutely protected. But "absolutism" in unadulterated form seems largely a strawman, and we see no need to use it as a way of avoiding difficult questions.

Much more plausible is the view not that the First Amendment protects all spoken, written, or pictorial acts, but that all spoken, written, or pictorial acts are at least in some way covered, even if not ultimately protected, by the First Amendment. That is, even if the government may regulate some such acts, it may never do so unless it has a reason substantially better than the reasons that normally are sufficient to justify governmental action. Whether this heightened standard of justification is described as a "clear and present danger," or "compelling interest," or some standard less stringent than those, the view is still that regulating any spoken, written, or pictorial acts requires a particularly good reason. And when applied to the regulation of obscenity, so the argument goes, the reasons supplied and the empirical evidence offered remain too speculative to meet this especially high burden of justification.

Other views accept the fact that not all spoken, written, or

pictorial acts need meet this especially high burden of justification. Only those acts that in some way relate to the purposes or principles of the First Amendment are covered, but, it is argued, even the hardest-core pornographic item is within the First Amendment's coverage. To some this is because both the distribution and use of such items are significant aspects of self-expression. And while not all acts of self-expression are covered by the First Amendment, acts of self-expression that take the form of books, magazines, and films are, according to the argument, so covered. These, it is argued, are the traditional media of communication, and when those media are used to express a different world view, or even merely to achieve sexual satisfaction, they remain the kinds of things towards which the First Amendment is directed. As a result, regulation of the process by which an alternative sexual vision is communicated, or regulation of the process by which people use the traditional media of communication to experience and to understand a different sexual vision, is as much a part of the First Amendment as communicating and experiencing different visions about, for example, politics or morals. A variant on this last argument, which takes obscenity to be within a range of First Amendment coverage admittedly smaller than the universe of communicative acts, looks not so much to the act or to the communication but instead to the government's reasons for regulating. If, so the argument goes, government's action in restricting is based on its reaction to a particular point of

view, then the action is impermissible. Because it is the purpose of the First Amendment to allow all points of view to be expressed, an attempt by government to treat one point of view less favorably than another is unconstitutional for that reason alone, no matter how dangerous, offensive, or otherwise reprehensible the disfavored point of view may be.

We have heard witnesses articulate these various views intelligently and forcefully, and we have read more extensive versions of these arguments. They are not implausible by any means, but in the final analysis we remain unpersuaded that the fundamental direction of Roth and Paris is misguided. Indeed, we are confident that it is correct. Although we do not subscribe to the view that only political speech is covered by the First Amendment, we do not believe that a totally expansive approach is reasonable for society or conducive to preserving the particular values embodied in the First Amendment. The special power of the First Amendment ought, in our opinion, to be reserved for the conveying of arguments and information in a way that surpasses some admittedly low threshold of cognitive appeal, whether that appeal be emotive, intellectual, aesthetic, or informational. We have no doubt that this low threshold will be surpassed by a wide range of sexually explicit material conveying unpopular ideas about sex in a manner that is offensive to most people, and we accept that this is properly part of a vision of the First Amendment that is designed substantially to protect unpopular ways of saying unpopular things. But we also have little doubt

that most of what we have seen that to us qualifies as hard-core material falls below this minimal threshold of cognitive or similar appeal. Lines are of course not always easy to draw, but we find it difficult to understand how much of the material we have seen can be considered to be even remotely related to an exchange of views in the marketplace of ideas, to an attempt to articulate a point of view, to an attempt to persuade, or to an attempt seriously to convey through literary or artistic means a different vision of humanity or of the world. We do not deny that in a different context and presented in a different way, material as explicit as that which we have seen could be said to contain at least some of all of these characteristics. But we also have no doubt that these goals are remote from the goals of virtually all distributors or users of this material, and we also have no doubt that these values are present in most standard pornographic items to an extraordinarily limited degree.

In light of this, we are of the opinion that not only society at large but the First Amendment itself suffers if the essential appeal of the First Amendment is dissipated on arguments related to material so tenuously associated with any of the purposes or principles of the First Amendment. We believe it necessary that the plausibility of the First Amendment be protected, and we believe it equally necessary for this society to ensure that the First Amendment retains the strength it must have when it is most needed. This strength cannot reside exclusively in the courts, but must reside as well in widespread

acceptance of the importance of the First Amendment. We fear that this acceptance is jeopardized when the First Amendment too often becomes the rhetorical device by which the commercial trade in materials directed virtually exclusively at sexual arousal is defended. There is a risk that in that process public willingness to defend and to accept the First Amendment will be lost, and the likely losers will be those who would speak out harshly, provocatively, and often offensively against the prevailing order, including the prevailing order with respect to sex. The manner of presentation and distribution of most standard pornography confirms the view that at bottom the predominant use of such material is as a masturbatory aid. We do not say that there is anything necessarily wrong with that for that reason. But once the predominant use, and the appeal to that predominant use, becomes apparent, what emerges is that much of what this material involves is not so much portrayal of sex, or discussion of sex, but simply sex itself. As sex itself, the arguments for or against restriction are serious, but they are arguments properly removed from the First Amendment questions that surround primarily materials whose overwhelming use is not as a short-term masturbatory aid. Whether the state should, for example, prohibit masturbation in certain establishments that are open to the public is a question that some would wish to debate, but it is certainly not a First Amendment question. Similarly, the extent to which sex itself is and under what circumstances constitutionally protected is again an interesting and important

constitutional question, but it is not usefully seen as a First Amendment question.[41]

We recognize, of course, that using a picture of sex as a masturbatory aid is different from the simple act of masturbation, or any other form of sex. The very fact that pictures and words are used compels us to take First Amendment arguments more seriously than would be the case if the debate were about prostitution. Still, when we look at the standard pornographic item in its standard context of distribution and use, we find it difficult to avoid the conclusion that this material is so far removed from any of the central purposes of the First Amendment, and so close to so much of the rest of the sex industry, that including such material within the coverage of the First Amendment seems highly attenuated.

Like any other act, the act of making, distributing, and using pornographic items contains and sends messages. For government to act against some of these items on account of the

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[41] As this report is being written, the Supreme Court has under advisement after oral argument the case of Bowers v. Hardwick, 760 F.2d 1202 (11th Cir. 1985), Sup. Ct. Docket No. 85-140, challenging the constitutionality of the Georgia sodomy statute as applied to the private and consensual acts of two male homosexuals. The arguments rely primarily on constitutional claims of liberty, privacy, and freedom of association. If the Supreme Court strikes down the statute as unconstitutional, arguments other than the First Amendment might be available to challenge certain laws against certain uses of even legally obscene materials. Without such an action, however, such privacy or liberty arguments, which the Supreme Court rejected with respect to exhibition of obscene material to consenting adults in a theater in Paris, would be unlikely to succeed. Doe v. Commonwealth's Attorney, 403 F. Supp. 1199 (E.D. Va. 1975), aff'd without opinion, 425 U.S. 901 (1976).

messages involved may appear as problematic under the First Amendment, but to hold that such governmental action violates the First Amendment is to preclude government from taking action in every case in which government fears that the restricted action will be copied, or proliferate because of its acceptance. Government may prosecute scofflaws because it fears the message that laws ought to be violated, and it may restrict the use of certain products in part because it does not wish the message that the product is desirable to be widely disseminated in perhaps its most effective form. So too with reference to the kind of material with which we deal here. If we are correct in our conclusion that this material is far removed from the cognitive, emotive, aesthetic, informational, persuasive, or intellectual core of the First Amendment, we are satisfied that a governmental desire to restrict the material for the messages its use sends out does not bring the material any closer to the center.

We thus conclude not that obscenity regulation creates no First Amendment concerns, nor even that the Supreme Court's approach is necessarily correct. But we do believe the Supreme Court's approach is most likely correct, and we believe as well that arguments against the Supreme Court's approach are becoming increasingly attenuated as we focus on the kind of material commonly sold in "adults only" establishments in this country. We may be wrong, but most of us can see no good reason at the moment for substituting a less persuasive approach for the

Supreme Court's more persuasive one.

3.4 The Risks of Abuse

Although we are satisfied that there is a category of material so overwhelmingly preoccupied with sexual explicitness, and so overwhelmingly devoid of anything else, that its regulation does no violence to the principles underlying the First Amendment, we recognize that this cannot be the end of the First Amendment analysis. We must evaluate the possibility that in practice materials other than these will be restricted, and that the effect therefore will be the restriction of materials that are substantially closer to what the First Amendment ought to protect than the items in fact aimed at by the Miller definition of obscenity. We must also evaluate what is commonly referred to as the "chilling effect," the possibility that, even absent actual restriction, creators of material that is not in fact legally obscene will refrain from those creative activities, or will steer further to the safe side of the line, for fear that their protected works will mistakenly be deemed obscene. And finally we must evaluate whether the fact of restriction of obscene material will act, symbolically, to foster a "censorship mentality" that will in less immediate ways encourage or lead to various restrictions, in other contexts, of material which ought not in a free society be restricted. We have heard in one form or another from numerous organizations of publishers, booksellers, actors, and librarians, as well as from a number of individual book and magazine publishers. Although most have

urged general anti-censorship sentiments upon us, their oral and written submissions have failed to provide us with evidence to support claims of excess suppression in the name of the obscenity laws, and indeed the evidence is to the contrary. The president of the Association of American Publishers testified that to his knowledge none of his members had even been threatened with enforcement of the criminal law against obscenity, and the American Library Association could find no record of any prosecution of a librarian on obscenity charges. Other groups of people involved in publishing, bookselling, or theatrical organizations relied exclusively on examples of excess censorship from periods of time no more recent than the 1940s. And still others were even less helpful, telling us, for example, that censorship was impermissible because "This is the United States, not the Soviet Union." We know that, but we know as well that difficult issues do not become easy by the use of inflammatory rhetoric. We wish that many of these people or groups had been able to provide concrete examples to support their fears of excess censorship.

Throughout recent and not so recent history, excess censorship, although not necessarily prevalent, can hardly be said not to have occurred. As a result we have not been content to rest on the hollowness of the assertions of many of those who have reminded us of this theme. If there is a problem, we have our own obligations to identify it, even if witnesses before us have been unable to do so. Yet when we do our own researches, we

discover that, with few exceptions, the period from 1974 [42] to the present is marked by strikingly few actual or threatened prosecutions of material that is plainly not legally obscene. We do not say that there have been none. Attempted and unsuccessful actions against the film Caligula by the United States Customs Service, against Playboy magazine in Atlanta and several other places, and against some other plainly non-obscene publications indicate that mistakes can be made. But since 1974 such mistakes have been extremely rare, and the mistakes have all been remedied at some point in the process. While we wish there would be no mistakes, we are confident that application of Miller has been overwhelmingly limited to materials that would satisfy anyone's definition of "hard core."

Even absent successful or seriously threatened prosecutions, it still may be the case that the very possibility of such an action deters filmmakers, photographers, and writers from exercising their creative abilities to the fullest. Once it appears that the likelihood of actual or seriously threatened prosecutions is almost completely illusory, however, we are in a quandary about how to respond to these claims of "chilling." We are in no position to deny the reality of someone's fears, but in almost every case those fears are unfounded. Where, as here, the fears seem to be fears of phantom dangers, we are hard pressed to

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[42] 1974 seems the most relevant date because that was the year in which the Supreme Court, in Jenkins v. Georgia, 418 U.S. 153 (1974), made it clear that determinations of obscenity were not primarily a matter of local discretion.

say that the law is mistaken. It is those who are afraid who are mistaken. At least for the past ten years, no even remotely serious author, photographer, or filmmaker has had anything real to fear from the obscenity laws. The line between what is legally obscene and what is not is now so far away from their work that even substantially mistaken applications of current law would leave these individuals untouched. In light of that, we do not see their fears, however real to them, as a sufficient reason now to reconsider our views about the extent of First Amendment protection.

Much more serious, much more real, and much less in our control, is the extent to which non-governmental or governmental but non-prohibitory actions may substantially influence what is published and what is not. What television scriptwriters write is in reality controlled by what television producers will buy, which is in turn controlled by what sponsors will sponsor and what viewers will view. Screenwriters may be effectively censored by the extent to which producers or studios desire to gain an "R" rating rather than an "X," or a "PG" rather than an "R," or an "R" rather than a "PG." Book and magazine writers and publishers are restricted by what stores are willing to sell, and stores are restricted by what people are willing to buy. Writers of textbooks are in a sense censored by what school districts are willing to buy, authors are censored by what both bookstores and librarians are willing to offer, and librarians are censored by what boards of trustees are willing to tolerate.

In all of these settings there have been excesses. But every one of these settings involves some inevitable choice based on content. We think it unfortunate when Catcher in the Rye is unavailable in a high school library, but none of us would criticize the decision to keep Lady Chatterley's Lover, plainly protected by the First Amendment, out of the junior high schools.

We regret that legitimate bookstores have been pressured to remove from their shelves legitimate and serious discussions of sexuality, but none of us would presume to tell a Catholic bookseller that in choosing books he should not discriminate against books favoring abortion. Motion picture studios are unable to support an infinite number of screenwriters, and their choice to support those who write about families rather than about homosexuality, for example, is not only permissible, but is indeed itself protected by the First Amendment.

Where there have been excesses, and we do not ignore the extent to which the number of those excesses seems to be increasing, they seem often attributable to the plainly mistaken notion that the idea of "community standards" is a carte blanche to communities to determine entirely for themselves what is obscene. As we have tried once again to make clear in this report, nothing could be further from the truth. Apart from this, however, the excesses that have been reported to us are excesses that can only remotely be attributed to the obscenity laws. In a world of choice and of scarce resources, every one of these excesses could take place even were there no obscenity laws

at all. In a world without obscenity law, television producers, motion picture studios, public library trustees, boards of education, convenience stores, and bookstores could still all choose to avoid any mention or discussion of sex entirely. And in a world without obscenity laws, all of these institutions and others could and would still make censorious choices based on their own views about politics, morals, religion, or science. Thus, the link between obscenity law and the excess narrowness, at times, of the choices made by private industry as well as government is far from direct.

Although the link is not direct, we are in no position to deny that there may be some psychological connection between obscenity laws and their enforcement and a general perception that non-governmental restriction of anything dealing with sex is justifiable. We find the connection unjustifiable, but that is not to say that it may not exist in the world. But just as vigorous and vocal enforcement of robbery laws may create the environment in which vigilantes feel justified in punishing offenders outside of legal processes, so too may obscenity law create an environment in which discussions of sexuality are effectively stifled. But we cannot ignore the extent to which much of this stifling, to the extent it exists, is no more than the exercise by citizens of their First Amendment rights to buy what they want to buy, and the exercise by others of First Amendment rights to sell or make what they wish. Choices are not always exercised wisely, but the leap from some unwise choices to

the unconstitutionality of criminal laws only remotely related to those unwise choices is too big a leap for us to make.

Chapter 4

The Market And The Industry

4.1 The Market for Sexual Explicitness

More than in 1957, when the law of obscenity became inextricably a part of constitutional law, more than in 1970, when the President's Commission on Obscenity and Pornography issued its report, and indeed more than just a year ago in 1985, we live in a society unquestionably pervaded by sexual explicitness. In virtually every medium, from books to magazines to newspapers to music to radio to network television to cable television, matters relating to sex are discussed, described, and depicted with a frankness and an explicitness of detail that has accelerated dramatically within a comparatively short period of time. To attempt to isolate the causes of this phenomenon is inevitably to embark on a futile enterprise, for the sexual openness of contemporary America is unquestionably a product of that immense interplay of factors that makes contemporary America what it is in numerous aspects apart from sexual explicitness.

We have spent much of our time investigating the nature of the industry that produces, distributes, and sells sexually explicit materials, for we do not believe we could responsibly have drawn conclusions relating to that industry unless we became familiar with it. The results of this investigation are set out comprehensively and in detail in a later Part of this Report, but we feel nevertheless that a general overview of the market and the industry is necessary here.

The pervasiveness of sexual explicitness in the society in which we live underscores the importance of distinguishing what might plausibly be characterized as "pornographic" from the entire range of descriptions, depictions, and discussions that are more sexually explicit than would have been the case in earlier times, and that, for that reason, engender some or substantial objection from various people within the society. We find it useful in this Report to describe some particularly salient aspects of the pornography industry, but any such discussion must be preceded by a brief survey of some other forms of sexually explicit material that are usefully contrasted with the more unquestionably pornographic.

4.1.1 The Motion Picture Industry

With few exceptions, what might be called the "mainstream" or "legitimate" or "Hollywood" motion picture industry does not produce the kinds of films that would commonly be made available in "adults only" outlets. The films shown in such establishments, the ones containing little if any plot, unalloyed explicitness, and little other than an intent to arouse, are not the products of the motion picture industry with which most people are familiar. Nevertheless, sexuality, in varying degrees of explicitness or, to many, offensiveness, is a significant part of many mainstream motion pictures. One result of this phenomenon has been the rating system of the MPAA. Because those ratings are so frequently used as shorthand, and frequently erroneous shorthand, for certain forms of content, a brief

description of the rating system may be in order.

The rating system, established in 1968, has no legal force, but is designed to provide information for distributors, exhibitors, and viewers of motion pictures. At the present time there are five different categories within the rating system. Motion pictures rated "G" are considered suitable for everyone, and people of all ages are admitted when such films are shown. The "PG" rating, which stands for "parental guidance suggested," still allows all to be admitted, but warns parents that some material may not be suitable for children. Films receive a PG rating if there is more than minimal violence, if there is brief nudity, or if there are non-explicit scenes involving sex. A "PG-13" rating is used where more parental caution is suggested, especially with respect to children under the age of thirteen.

Most germane to this Report are the ratings of "R" and "X." An "R" rating indicates a restricted film, and those under the age of seventeen are admitted only if accompanied by a parent or guardian. Motion pictures with this rating may be somewhat, substantially, or exclusively devoted to themes of sex or violence. They may contain harsh language, sexual activity, and nudity. Films with this rating, however, do not contain explicit sexual activity. If a film contains explicit sexual activity, or if, in some cases, it contains particularly extreme quantities and varieties of violence, it is rated "X," and no one under the age of seventeen may be admitted.

Only in rare cases will anything resembling standard

pornographic fare be submitted to the MPAA for a rating. More often such material will have a self-rated "X" designation, or will have no rating, or will have some unofficial promotional rating such as "XXX." It is important to recognize, however, that although no motion picture not submitted to the MPAA can have any rating other than "X," and that although standard pornographic items would unquestionably receive an "X" rating if submitted, not all, and indeed, not many officially "X" rated motion pictures would commonly be considered to be pornographic. Although the nature of what kind of content will get what rating will change with the times, it remains the case that the "X" rating, especially when applied to the small number of mainstream films that officially receive that rating after submission to the MPAA, is not in every case synonymous with what most people would consider pornography.

4.1.2 Sexually Explicit Magazines

Although the sexual content of large numbers of magazines has increased in recent years, particular attention is often focused on so called "men's" magazines, commonly referred to within the trade as "male sophisticate" magazines. In recent years variations aimed at a female audience have also appeared, but the genre remains largely directed to men.

Magazines of this variety tend to be produced and distributed in a manner not dissimilar to the production and distribution methods for most mass-circulation magazines. It is almost misleading to consider them as one category, however, for

such magazines vary enormously in content and explicitness. A very few magazines of this variety combine their sexual content with a substantial amount of non-sexually oriented, and frequently quite serious, textual or photographic matter. Some magazines have for their photographs little more than suggestive nudity, while a number of others feature significant amounts of simulated or actual sexual activity. From the perspective we adopt and explain in Chapter 5 of this Part, all of the magazines in this category contain at least some material that we would consider "degrading." Some contain a large amount of such degrading material, and some also contain sexually violent material.

With respect to the category of the legally obscene, some of the magazines in this category could not plausibly be considered legally obscene, while others have occasionally been determined to be legally obscene by particular courts. As a purely empirical matter, such determinations of obscenity for even the most explicit and offensive of these magazines seem aberrational, and by and large most of these magazines circulate widely throughout the country without significant legal attack.

4.1.3 Television

Television has become technologically more diverse than in earlier years, and it is no longer possible even to think of television as one medium. Broadcast television, whether network or local, has a frequent explicit or implicit sexual orientation but, with only the rarest exceptions, sexual activity of any

explicitness at all, or even frontal nudity, has been largely absent from broadcast television. In part this is explained by rules and regulatory practices of the Federal Communications Commission, and in part this is explained by the practices of stations, networks, and, sponsors. But whatever the cause, the amount of nudity, sexual innuendo, and sex itself on broadcast television has traditionally been a far cry from even moderate levels of sexual explicitness, although it is plainly the case that the degree of sexual explicitness in depiction, in theme, and in language on broadcast television has been increasing substantially in recent years.

Cable television, however, by which we include satellite as well, is quite different. Under current law, cable is not subject to the same range of Federal Communications Commission content regulation, and as a result is often substantially more sexually explicit than anything that would be available on broadcast television. This increased explicitness may take the form of talk shows or call-in shows specializing in sexual advice, music videos featuring strong sexual and violent themes, cable channels that specialize in sexual fare, and more general purpose cable channels may offer mainstream motion pictures that would not in uncut form be shown on broadcast television. Although some motion pictures available on cable might be deemed legally obscene in some areas, and although much of this material is highly explicit and offensive to many, by and large the sexually explicit material available on cable would not be of the

type likely to be determined to be legally obscene. More often, what is available, and it does vary from area to area and channel to channel, is a degree of sexuality somewhat closer to what is available in a mainstream motion picture theater, but would not be available on broadcast television.

In some sense the video tape cassette ought to be considered a form of television, since the television is the device by which such cassettes are viewed. But the cassettes themselves are so variable in content that generalization is difficult. Much of what people rent or, less frequently, buy to watch at home is standard motion picture theater fare, and therefore can encompass anything from the kinds of films that are rated "G" to the kinds of films that are rated "R," and occasionally the kinds of films that are officially rated "X" by the MPAA. In many video outlets, however, a range of even more sexually explicit material is available, not dissimilar to what might be shown in an "adults only" theater. Although much of this material would commonly be considered pornographic, and although much of it might in some areas be found to be legally obscene, it has in the past tended to be more on the conventional end of such material, obviously reflecting the desires of patrons of an establishment offering a full range of video material. More recently, however, some less conventional material has become available in some full range video outlets. Finally, there is the material available either in "adults only" establishments offering many types of materials, or in "adults only" outlets offering only video tapes. This

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material, although viewed at home, is for all practical purposes the same as that which would be shown in "adults only" theaters or peep shows, and the same range of sexual themes and practices is commonly available.

4.2 The Pornography Industry

In terms of methods of production, methods of distribution, and methods of ultimate sale to consumers, the pornography industry itself must be distinguished from the outlets for some degree of sexual explicitness discussed in the previous section. The true pornography industry is quite simply different from and separate from the industry that publishes "men's" magazines, the industry that offers some degree of sexually oriented material on broadcast and cable television, and the mainstream motion picture industry. In some rare instances there may be some linkages between the two, but in general little more than confusion is served by concentrating on the these linkages rather than on the major differences.

4.2.1 The Production of Films, Video Tapes, and Magazines

There can be little doubt that there has within the last ten to twenty years been a dramatic increase in the size of the industry producing the kinds of sexually explicit materials that would generally be conceded to be pornographic. One consequence of this is that the industry is not as clandestine as it was in earlier years. Nevertheless, when this industry is compared to the kinds of industries that produce more mainstream materials, it is still the case that the production of pornographic

materials is a practice and a business that remains substantially "underground."

Approximately eighty percent of the American production of this type of motion picture and video tape takes place in and around Los Angeles, California. In part this is a consequence of the location there of technical personnel, such as camera operators, who either are, have been, or wish to be employed in the mainstream motion picture industry. Indeed, this description applies as well to many of the performers in these films, although, unlike technical personnel, the likelihood of a performer who is involved in pornographic materials simultaneously or eventually working in the mainstream motion picture industry is minuscule.

Production of these materials tends to be done on a rather limited budget, usually in temporary locations such as motel rooms or rented houses, and usually in quite a short period of time. Often not only the premises, but the photographic equipment as well, is rented for only the limited time necessary to make the film. It is not uncommon for producer, director, and scriptwriter to be the same person. In many cases the performers are secured through one of a number of agents who specialize in securing performers for highly sexually explicit films. Although there is virtually no overlap between this industry and the mainstream film industry, the method of securing performers for films is largely similar, with agents providing producers with books describing various performers, and with producers often

interviewing a number of possible performers before selecting the ones to be used.

As this Report is being written, the technological nature of the industry is in the midst of transition from photographic motion pictures to video tape. The proliferation of the home video tape recorder is in many respects transforming the industry, and in addition the process of producing a video tape tends to be more efficient and less expensive than the process of producing a photographic motion picture. With respect to aspects of production that are not technical, however, this technological development has had little effect on the production side of the industry.

The production of the standard variety of pornographic magazine, the kind likely to be sold in an "adults only" establishment for a rather high price, is in many respects similar to the production of pornographic motion pictures and video tapes. The process again operates in a partially clandestine manner, although it is much more likely here that the production and distribution processes will be combined. When this is the case, taking the photographs, assembling them with some amount of textual material, and physically manufacturing the magazine will all take place at the same location.

With respect to the business of producing pornographic paperback books containing nothing but text, the writing, production, and distribution processes are again likely to be combined. Although independent authors are occasionally used,

more common is the use of a full-time staff of authors, employed by the producer to write this kind of book at a rapid rate.

4.2.2 Channels of Distribution

The process of distribution of films is rapidly in the process of becoming history. The photographic motion picture film typically shown in "adults only" theaters is rapidly decreasing in popularity, along with the theaters themselves, as the video tape cassette becomes the dominant mode of presentation of non-still material. Many of these video tapes are sold or rented for home consumption, and many are shown in "peep show" establishments. The effect of this is that the "adults only" theater, in any event an expensive operation, and one that is more visible than many patrons would like, is becoming an increasing rarity. Similar trends are apparent with respect to mainstream motion pictures and the theaters in which they are shown as well, although the effect of video tape on the pornographic film industry is much more dramatic, probably owing in large part to the fact that a night out at the movies remains substantially more socially acceptable in contemporary America than a night out at the peep show.

The films that are shown in "adults only" theaters, or that are shown by use of traditional projection equipment in peep shows, tend to be distributed nationally by use of complex and sophisticated distribution networks concentrating exclusively on highly sexually explicit material There are exceptions to this generalization and one reason for the attention that focused in

the early 1970s on films such as "Deep Throat," "The Devil in Miss Jones," and "Behind the Green Door" was that the standard methods of distribution and exhibition were changed so that films such as these were shown in theaters usually showing more mainstream films. But apart from exceptions such as these, most of the chain of distribution involves producers who deal only in this kind of material, distributors and wholesalers whose entire business is devoted to highly sexually explicit materials, and theaters or peep shows catering exclusively to adults desiring access to very sexually explicit material.

With respect to video tapes, most of the distribution is on a national scale, and most of that national distribution is controlled by a relatively limited number of enterprises. These distributors duplicate in large quantities the tapes they have purchased from producers, and then sell them to wholesalers, frequently with some promotional materials, who in turn sell them to retailers specializing in this type of material, or to more generally oriented video retailers who will include some of this material along with their more mainstream offerings. Based on the evidence provided to us, it appears as if perhaps as many as half of all of the general video retailers in the country include within their offerings at least some material that, by itself, would commonly be conceded to be pornographic.

Magazines are also distributed nationally, and again are likely first to be sold to wholesalers who will then sell to retailers. This process, however, likely culminating in a sale

at an "adults only" outlet, does not account for as high a proportion of the total sales as it does for films or video tapes. Moreso than for films or tapes, many of the magazines are sold by mail, usually as a result of advertisements placed in similar magazines, in pornographic books containing text, and even in more mainstream but sexually oriented publications. There is some indication that the video tape has hurt the pornographic magazine industry as well as the pornographic motion picture industry. The retail prices for such magazines, within the recent past commonly in the range of from ten to twenty-five dollars per magazine, are in some geographical areas likely to be substantially discounted, and adult establishments appear to be offering an increasing percentage of video tapes and a decreasing percentage of books and magazines.

4.2.3 The Retail Level

Apart from mail order, and apart from the rental of pornographic video tapes in general use video retail outlets, most pornographic material reaches the consumer through retail establishments specializing in this material. These outlets, which we refer to as "adults only" outlets or establishments, usually limit entry to those eighteen years of age or older, but the strictness of the enforcement of the limitation to adults varies considerably from outlet to outlet. At times these retail outlets will take the form of theaters in which only material of this variety is shown, and at times they will be "adults only" outlets specializing in books and magazines. Increasingly,

however, the peep show, often combined with an outlet for the sale of pornographic books and magazines, is a major form of meeting consumer demand.

The typical peep show is located on the premises of an "adults only" establishment selling large numbers of pornographic magazines, along with some other items, such as pornographic text-only books, sexual paraphernalia, sexually oriented newspapers, and video tapes. The peep show is often separated by a doorway or screen from the rest of the establishment, and consists of a number of booths in which a film, or, more likely now, a video tape, can be viewed. The patron inserts tokens into a slot for a certain amount of viewing time, and the patron is usually alone or with one other person within the particular booth. The peep show serves the purpose of allowing patrons to masturbate or to engage in sexual activity with others in some degree of privacy, at least compared to an adult theater, while watching the pornographic material. In a later of our report describing these establishments we note in detail the generally unsanitary conditions in such establishments. The booths seem rarely to be cleaned, and the evidence of frequent sexual activity is apparent. Peep shows are a particularly common location for male homosexual activity within and between the booths, and the material available for viewing in some of the booths is frequently oriented towards the male homosexual.

There are, of course, establishments offering adult material that do not contain peep shows. Although video tapes

and various items of sexual paraphernalia are likely to be sold, the bulk of the stock of these establishments consists of pornographic magazines, frequently arranged by sexual preference. There can be little doubt that the range of sexual preferences catered to by magazines is wider than that of any other form of pornography. As the listing of titles later in this report makes clear, virtually any conceivable, and quite a few inconceivable, sexual preferences are featured in the various specialty magazines, and materials featuring sado-masochism, bestiality, urination and defecation in a sexual context, and substantially more unusual practices even than those are a significant portion of what is available.

4.3 The Role of Organized Crime

We have spent a considerable amount of our time attempting to determine whether there is a connection between the pornography industry and what is commonly taken to be "organized crime." After hearing from a large number of witnesses, mostly law enforcement personnel, after reading a number of reports prepared by various law enforcement agencies, and after consulting sources such as trial transcripts, published descriptions, and the like, we believe that such a connection does exist.

We recognize that the statement that there is a connection between the pornography industry and organized crime is contrary to the conclusion reached by the President's Commission on Obscenity and Pornography in 1970. That Commission concluded

that:

> Although many persons have alleged that organized crime works hand-in-glove with the distributors of adult materials, there is at present no concrete evidence to support these statements. The hypothesis that organized criminal elements either control or are "moving in" on the distribution of sexually oriented materials will doubtless continue to be speculatedupon. The panel finds that there is insufficient evidence at present to warrant any conclusion in this regard.

Caution about jumping too easily to conclusions about organized crime involvement in the pornography industry was further induced by the evidence offered to us by Director William H. Webster of the Federal Bureau of Investigation. Director Webster surveyed the FBI field offices throughout the country, and reported to us that "about three quarters of those [fifty-nine] offices indicated that they have no verifiable information that organized crime was involved either directly or through extortion in the manufacture of pornography. Several offices, did, however, report some involvement by members and associates of organized crime."[43] We reach our conclusions in the face of a negative conclusion by the 1970 Commission, and in the face of the evidence provided by the FBI, not so much because we disagree, but because we feel that more careful analysis will reveal that the discrepancies are less than they may at first appear.

One leading cause of conflicting views about organized crime

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[43] We note, however, that a report prepared by the FBI in 1978, which is included in a later portion of this report, contains detailed information regarding various links between organized crime and the pornography industry.

involvement in pornography is that there are conflicting views about what organized crime is. To many people organized crime consists of that organization or network of related organizations commonly referred to by law enforcement personnel and others as La Cosa Nostra. This organization, which we describe in much more detail later in our Report specifically addressing on organized crime, is a highly structured and elaborately subdivided organization in some way involved in an enormous range of criminal activities. It has its own hierarchy, its own formalized system of ranks and methods of advancement, and its own procedures for settling disputes. Commonly, although in our view erroneously, La Cosa Nostra and "organized crime" are synonymous.

To other people organized crime consists of any large and organized enterprise engaged in criminal activity, regardless of any connection with La Cosa Nostra. To the extent that enterprises have continuity and a defined membership and engage in crime, then this is considered to be organized crime.

Finally, to still others the "best" definition of organized crime lies somewhere in between. For them organized crime consists of a large and organized enterprise engaged in criminal activity, with a continuity, a structure, and a defined membership, and that is likely to use other crimes and methods of corruption, such as extortion, assault, murder, or bribery, in the service of its primary criminal enterprise.

These differences in definition are especially important

with respect to identifying the connection between the pornography industry and organized crime, because much of the evidence supports the conclusion that major parts of the industry are controlled by organizations that fit the second or third but not the first of the foregoing definitions. In particular, there is strong evidence that a great deal of the pornographic film and video tape distribution, and some of the pornographic magazine distribution, is controlled by one Reuben Sturman, operating out of the Cleveland area, but with operations and controlled organizations throughout the country. Although we inevitably must rely on secondary evidence, it appears to us that Sturman's enterprise is highly organized and predominantly devoted to the vertically integrated production, distribution, and sale of materials that would most likely be determined to be legally obscene in most parts of the country. Of this we are certain, and to that extent we could say that significant parts of the pornography industry are controlled by organized crime. We also have some but less clear evidence that organizations like Sturman's, but not quite as large, play similar roles, and that all of these various organizations at times have employed other activities that themselves violate the law in order to further the production, distribution, and sale of pornographic materials. In this sense these organizations would fit the third as well as the second definition of organized crime.

We also have strong reason to believe, however, that neither Sturman's organization, nor some substantially smaller ones, are

themselves part of La Cosa Nostra. In that sense this part of the industry would not fit the first of the above definitions of organized crime. We do not say that there are no connections with La Cosa Nostra. On the contrary, there seems to be evidence, frequently quite strong evidence, of working arrangements, accommodations, assistance, some sharing of funds, and the like, as well as evidence of control by La Cosa Nostra, but nothing that would justify saying that these organizations are La Cosa Nostra or are a part of La Cosa Nostra.

Much the same could be said about the relationship between smaller pornography operators and La Cosa Nostra. Again there seems little evidence of direct ownership, operation, or control, but there does seem to be a significant amount of evidence that "protection" of these smaller operators by La Cosa Nostra is both available and required. This applies in some areas to distribution, in some to production, and in some to retail outlets themselves, in much the same way that it applies frequently to many more legitimate businesses. But we are not reluctant to conclude that in many aspects of the pornography business that La Cosa Nostra is getting a piece of the action.

This is not to say that La Cosa Nostra is not itself engaged in pornography. There also seems strong evidence that significant portions of the pornographic magazine industry, the peep show industry, and the pornographic film industry are either directly operated or closely controlled by La Cosa Nostra members or very close associates. Major portions of these industries

seem to be as much a part of La Cosa Nostra as any other of their activities. At times there is direct involvement by La Cosa Nostra even with the day-to-day workings of business, and in many cases there is clear control even when the everyday management is left to others. In many of the reports and other documents we have received there has been evidence to the effect that members of the Columbo, DeCavalcante, Gambino, and Luchese "families" have been actively in as well as merely associated with the production, distribution, and sale, of unquestionably pornographic materials. There is much evidence that alleged La Cosa Nostra members such as Robert DiBernardo and others are or have in the recent past been major figures in the national distribution of such materials. Although we cannot say that every piece of evidence we have received to this effect is true, the possibility that none of this cumulative evidence is true is so remote that we do not take it seriously.

As was the case with many other topics within our mandate, our lack of investigative resources has made it impossible to investigate these matters directly. Moreover, the matters to be investigated with respect to organized crime are, as has been well known for decades, so clandestine that thorough investigation without conflicting information is virtually impossible to accomplish. Nevertheless, there has been much investigation by federal and state authorities, and we have found it important to rely on those investigations. We include as an appendix to the later specific discussion of organized crime a

number of those reports prepared by other law enforcement agencies. We are indebted to all of those who have worked on these reports, for without them our investigation would have been much less complete. At times there is information in these reports that we are unsure of, but we have little doubt as to the general truth of the big picture painted by these reports, and we have little hesitancy in relying on them to the extent either of agreeing with the big picture, or of agreeing with specific facts where those facts recur in consistent form in information from a number of different sources. The general picture seems clear, and we invite recourse to those specific reports to fill out this general conclusion that seems most appropriate as a statement from us.

Chapter 5

The Question Of Harm

5.1 Matters of Method

5.1.1 Harm and Regulation - The Scope of Our Inquiry A central part of our mission has been to examine the question whether pornography is harmful. In attempting to answer this question, we have made a conscious decision not to allow our examination of the harm question to be constricted by the existing legal/constitutional definition of the legally obscene. As explained in Chapter 3 of this Part, we agree with that definition in principle, and we believe that in most cases it allows criminal prosecution of what ought to be prosecuted and prohibits criminal prosecution of what most of us believe is material properly protected by the First Amendment. In light of this, our decision to look at the potential for harm in a range of material substantially broader than the legally obscene requires some explanation. One reason for this approach was the fact that in some respects existing constitutional decisions permit non-prohibitory restrictions of material other than the legally obscene. With respect to zoning, broadcast regulation, and liquor licensing, existing Supreme Court case law permits some control, short of total prohibition, of the time, place, and manner in which sexually explicit materials that are short of being legally obscene may be distributed. When these non-prohibitory techniques are used, the form of regulation is still constrained by constitutional considerations, but the

regulation need not be limited only to that which has been or would be found legally obscene. To address fully the question of government regulation, therefore, requires that an examination of possible harm encompass a range of materials broader than the legally obscene.

Moreover, the range of techniques of social control is itself broader than the scope of any form of permissible or desirable governmental regulation. We discuss in Chapter 8 of this Part many of these techniques, including pervasive social condemnation, public protest, picketing, and boycotts. It is appropriate here, however, to emphasize that we do not see any necessary connection between what is protected by law (and therefore protected from law), on the one hand, and what citizens may justifiably object to and take non-governmental action against, on the other. And if it is appropriate for citizens justifiably to protest against some sexually explicit materials despite the fact that those materials are constitutionally protected, then it is appropriate for us to broaden the realm of our inquiry accordingly.[44]

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[44] With respect to the general issue of condemnation, and especially with respect to the condemnation of specific materials by name, our role as a government commission is somewhat more problematic. At some point governmental condemnation may act effectively as governmental restraint (see, Bantam Books, Inc. v. Sullivan, 372 U.S. 58 (1963), and we are therefore more cautious in condemning specific publications by name than citizens need be. This caution, however, does not mean that we feel that governmental agencies may not properly condemn even that which they cannot control. We feel that we have both the right and the duty to condemn, in some cases, that which is properly constitutionally protected, but we do so with more caution

Most importantly, however, we categorically reject the idea that material cannot be constitutionally protected, and properly so, while still being harmful. All of us, for example, feel that the inflammatory utterances of Nazis, the Ku Klux Klan, and racists of other varieties are harmful both to the individuals to whom their epithets are directed as well as to society as a whole. Yet all of us acknowledge and most of us support the fact that the harmful speeches of these people are nevertheless constitutionally protected. That the same may hold true with respect to some sexually explicit materials was at least our working assumption in deciding to look at a range of materials broader than the legally obscene. There is no reason whatsoever to suppose that such material is necessarily harmless just because it is and should remain protected by the First Amendment. As a result, we reject the notion that an investigation of the question of harm must be restricted to material unprotected by the Constitution.

The converse of this is equally true. Just as there is no necessary connection between the constitutionally protected and the harmless, so too is there no necessary connection between the constitutionally unprotected and the harmful. We examine the harm question with respect to material that is legally obscene because even if material is legally obscene, and even if material is therefore unprotected by the First Amendment, it does not

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than is necessary when the condemnation comes from the citizenry and not the government.

follow that it is harmful. That some sexually explicit material is constitutionally regulable does not answer the question of whether anything justifies its regulation. Accordingly, we do not take our acceptance of the current constitutional approach to obscenity as diminishing the need to examine the harms purportedly associated with the distribution or use of such material.

We thus take as substantially dissimilar the question of constitutional protection and the question of harm. Even apart from constitutional issues, we also take to be separate the question of the advisability of governmental regulation, all things considered, and the question of the harmfulness of some or all sexually explicit materials. The upshot of all of this is that we feel it entirely proper to identify harms that may accompany certain sexually explicit material before and independent of an inquiry into the desirability and constitutionality of regulating even that sexually explicit material that may be harmful. As a result, our inquiry into harm encompasses much material that may not be legally obscene, and also encompasses much material that would not generally be considered "pornographic" as we use that term here.

5.1.2 What Counts as a Harm?

What is a harm? And why focus on harm at all? We do not wish in referring repeatedly to "harm" to burden ourselves with an unduly narrow conception of harm. To emphasize in different words what we said in the previous section, the scope of

identifiable harms is broader than the scope of that with which government can or should deal. We refuse to truncate our consideration of the question of harm by defining harms in terms of possible government regulation. And we certainly reject the view that the only noticeable harm is one that causes physical or financial harm to identifiable individuals. An environment, physical, cultural, moral, or aesthetic, can be harmed, and so can a community, organization, or group be harmed independent of identifiable harms to members of that community.

Most importantly, although we have emphasized in our discussion of harms the kinds of harms that can most easily be observed and measured, the idea of harm is broader than that. To a number of us, the most important harms must be seen in moral terms, and the act of moral condemnation of that which is immoral is not merely important but essential. From this perspective there are acts that need be seen not only as causes of immorality but as manifestations of it. Issues of human dignity and human decency, no less real for their lack of scientific measurability, are for many of us central to thinking about the question of harm. And when we think about harm in this way, there are acts that must be condemned not because the evils of the world will thereby be eliminated, but because conscience demands it.

We believe it useful in thinking about harms to note the distinction between harm and offense. Although the line between the two is hardly clear, most people can nevertheless imagine things that offend them, or offend others, that still would be

hard to describe as harms. In Chapter 4 of this Part our discussion of laws and their enforcement will address the question of the place of governmental regulation in restricting things that some or many people may find offensive, but which are less plainly harmful, but at this point it should be sufficient to point out that we take the offensive to be well within the scope of our concerns.

In thinking about harms, it is useful to draw a rough distinction between primary and secondary harms. Primary harms are those in which the alleged harm is commonly taken to be intrinsically harmful, even though the precise way in which the harm is harmful might yet be further explored. Nevertheless, murder, rape, assault, and discrimination on the basis of race and gender are all examples of primary harms in this sense. We treat these acts as harms not because of where they will lead, but simply because of what they are.

In other instances, however, the alleged harm is secondary, not in the sense that it is in any way less important, but in the sense that the concern is not with what the act <u>is</u>, but where it will lead. Curfews are occasionally imposed not because there is anything wrong with people being out at night, but because in some circumstances it is thought that being out at night in large groups may cause people to commit other crimes. Possession of "burglar tools" is often prohibited because of what those tools may be used for. Thus, when it is urged that pornography is harmful because it causes some people to commit acts of sexual

violence, because it causes promiscuity, because it encourages sexual relations outside of marriage, because it promotes so-called "unnatural" sexual practices, or because it leads men to treat women as existing solely for the sexual satisfaction of men, the alleged harms are secondary, again not in any sense suggesting that the harms are less important. The harms are secondary here because the allegation of harm presupposes a causal link between the act and the harm, a causal link that is superfluous if, as in the case of primary harms, the act quite simply is the harm.

Thus we think it important, with respect to every area of possible harm, to focus on whether the allegation relates to a harm that comes from the sexually explicit material itself, or whether it occurs as a result of something the material does. If it is the former, then the inquiry can focus directly on the nature of the alleged harm. But if it is the latter, then there must be a two-step inquiry. First it is necessary to determine if some hypothesized result is in fact harmful. In some cases, where the asserted consequent harm is unquestionably a harm, this step of the analysis is easy. With respect to claims that certain sexually explicit material increases the incidence of rape or other sexual violence, for example, no one could plausibly claim that such consequences were not harmful, and the inquiry can then turn to whether the causal link exists. In other cases, however, the harmfulness of the alleged harm is often debated. With respect to claims, for example, that some

sexually explicit material causes promiscuity, encourages homosexuality, or legitimizes sexual practices other than vaginal intercourse, there is serious societal debate about whether the consequences themselves are harmful.

Thus, the analysis of the hypothesis that pornography causes harm must start with the identification of hypothesized harms, proceed to the determination of whether those hypothesized harms are indeed harmful, and then conclude with the examination of whether a causal link exists between the material and the harm. When the consequences of exposure to sexually explicit material are not harmful, or when there is no causal relationship between exposure to sexually explicit material and some harmful consequence, then we cannot say that the sexually explicit material is harmful. But if sexually explicit material of some variety is causally related to, or increases the incidence of, some behavior that is harmful, then it is safe to conclude that the material is harmful.

5.1.3 The Standard of Proof

In dealing with these questions, the standard of proof is a recurrent problem. How much evidence is needed, or how convinced should we be, before reaching the conclusion that certain sexually explicit material causes harm? The extremes of this question are easy. Whenever a causal question is even worth asking, there will never be conclusive proof that such a causal connection exists, if "conclusive" means that no other possibility exists. We note that frequently, and all too often,

the claim that there is no "conclusive" proof is a claim made by someone who disagrees with the implications of the conclusion.

Few if any judgments of causality or danger are ever conclusive, and a requirement of conclusiveness is much more rhetorical device than analytical method. We therefore reject the suggestion that a causal link must be proved "conclusively" before we can identify a harm.

The opposite extreme is also easily dismissed. The fact that someone makes an assertion of fact to us is not necessarily sufficient proof of that fact, even if the assertion remains uncontradicted. We do not operate as a judge sitting in a court of law, and we require more evidence to reach an affirmative conclusion than does a judge whose sole function might in some circumstances be to determine if there is sufficient evidence to send the case to the jury. That there is a bit of evidence for a proposition is not the same as saying that the proposition has been established, and we do not reach causal conclusions in every instance in which there has been some evidence of that proposition.

Between these extremes the issues are more difficult. The reason for this is that how much proof is required is largely a function of what is to be done with an affirmative finding, and what the consequences are of proceeding on the basis of an affirmative finding. As we deal with causal assertions short of conclusive but more than merely some trifle of evidence, we have felt free to rely on less proof merely to make assertions about

harm then we have required to recommend legal restrictions, and similarly we have required greater confidence in our assertions if the result was to recommend criminal penalties for a given form of behavior than we did to recommend other forms of legal restriction. Were we to have recommended criminal sanctions against material now covered by the First Amendment, we would have required proof sufficient to satisfy some variant of the "clear and present danger" standard that serves to protect the communication lying at the center of the First Amendment's guarantees from government action resting on a less certain basis.

No government could survive, however, if all of its actions were required to satisfy a "clear and present danger" standard, and we openly acknowledge that in many areas we have reached conclusions that satisfy us for the purposes for which we draw them, but which would not satisfy us if they were to be used for other purposes. That we are satisfied that the vast majority of depictions of violence in a sexually explicit manner are likely to increase the incidence of sexual violence in this country, for example, does not mean that we have concluded that the evidence is sufficient to justify governmental prohibition of materials that both meet that description and are <u>not</u> legally obscene.

It would be ideal if we could put our evidentiary standards into simple formulas, but that has not been possible. The standards of proof applicable to the legal process preponderance of the evidence, clear and convincing evidence, and proof beyond

a reasonable doubt - are not easily transferred into a non-judicial context. And the standards of justification of constitutional law - rational basis, compelling interest, and clear and present danger, for example - relate only to the constitutionality of governmental action, not to its advisability, nor to the standards necessary for mere warnings about harm. Thus we have felt it best to rely on the language that people ordinarily use, words like "convinced," "satisfied," and "concluded," but those words should be interpreted in light of the discussion in this section.

5.1.4 The Problem of Multiple Causation

The world is complex, and most consequences are "caused" by numerous factors. Are highway deaths caused by failure to wear seat belts, failure of the automobile companies to install airbags, failure of the government to require automobile companies to install airbags, alcohol, judicial leniency towards drunk drivers, speeding, and so on and on? Is heart disease caused by cigarette smoking, obesity, stress, or excess animal fat in our diets? As with most other questions of this type, the answers can only be "all of the above," and so too with the problem of pornography. We have concluded, for example, that some forms of sexually explicit material bear a causal relationship both to sexual violence and to sex discrimination, but we are hardly so naive as to suppose that were these forms of pornography to disappear the problems of sex discrimination and sexual violence would come to an end.

If this is so, then what does it mean to identify a causal relationship? It means that the evidence supports the conclusion that if there were none of the material being tested, then the incidence of the consequences would be less. We live in a world of multiple causation, and to identify a factor as a cause in such a world means only that if this factor were eliminated while everything else stayed the same then the problem would at least be lessened. In most cases it is impossible to say any more than this, although to say this is to say quite a great deal. But when we identify something as a cause, we do not deny that there are other causes, and we do not deny that some of these other causes might bear an even greater causal connection than does some form of pornography. That is, it may be, for example, and there is some evidence that points in this direction, that certain magazines focusing on guns, martial arts, and related topics bear a closer causal relationship to sexual violence than do some magazines that are, in a term we will explain shortly, "degrading." If this is true, then the amount of sexual violence would be reduced more by eliminating the weaponry magazines and keeping the degrading magazines than it would be reduced by eliminating the degrading magazines and keeping the weaponry magazines.

Why, then, do we concentrate on pornography? For one thing, that is our mission, and we have been asked to look at this problem rather than every problem in the world. We do not think that there is something less important in what we do merely

because some of the consequences that concern us here are caused as well, and perhaps to a greater extent, by other stimuli. If the stark implications of the problem of multiple causation were followed to the ultimate conclusion of casting doubt on efforts relating to anything other than the "largest" cause of the largest problem, few of us could justify doing anything in our lives that was not directly related to feeding the hungry. But the world does not operate this way, and we are comfortable with the fact that we have been asked to look at some problems while others look at other problems. And we are equally comfortable with the knowledge that to say that something is one of many causes is not to say that it is not a cause. Nor is it to say that the world would not be better off if even this one cause were eliminated.

When faced with the phenomenon of multiple causation, cause is likely to be attributed to those factors that are within our power to change. Often we ignore larger causes precisely because of their size. When a cause is pervasive and intractable, we look elsewhere for remedies, and this is quite often the rational course. A careful look at the available evidence can give us some idea of where the problems are, what different factors are causing them, which remedies directed at which causes are feasible, and which remedies directed at which causes are futile, unconstitutional, or beyond available means. We acknowledge that all of the harms we identified have causes in addition to the ones we identify. But if we are correct with respect to the

causes we have identified, then we can take confidence in the fact that lessening those causes will help alleviate the problem, even if lessening other causes might very well alleviate the problem to a greater extent.

5.1.5 The Varieties of Evidence

We have looked at a wide range of types of evidence. Some has come from personal experience of witnesses, some from professionals whose orientation is primarily clinical, some from experimental social scientists, and some from other forms of empirical science. We have not categorically refused to consider any type of evidence, choosing instead to hear it all, consider it all, and give it the weight we believe in the final analysis it deserves. No form of evidence has been useless to us, and no form is without flaws. A few words about the advantages and disadvantages of various types of evidence may help to put into perspective the conclusions we reach and the basis on which we reach them.

Most controversial has been the evidence we have received from numerous people claiming to be victims of pornography, and reporting in some way on personal experiences relating to pornography. In later portions of this Report concerned with victimization and with the performers in pornographic material we discuss this evidence in more detail. We have considered this first-hand testimony, much of it provided at great personal sacrifice, quite useful, but it is important to note that not all of the first-hand testimony has been of the same type.

Some of the first-hand testimony has come from users of pornography, and a number of witnesses have told us how they became "addicted" to pornography, or how they were led to commit sex crimes as a result of exposure to pornographic materials. Although we have not totally disregarded the evidence that has come from offenders, in many respects it was less valuable than other victim evidence and other evidence in general. Much research supports the tendency of people to externalize their own problems by looking too easily for some external source beyond their own control. As with more extehsive studies based on self-reports of sex offenders, evidence relying on what an offender thought caused his problem is likely to so overstate the external and so understate the internal as to be of less value to us than other evidence.

Most of the people who have testified about personal experiences, however, have not been at any point offenders, but rather have been women reporting on what men in their lives have done to them or to their children as a result of exposure to certain sexually explicit materials. As we explained in the introduction, we do not deceive ourselves into thinking that the sample before us is an accurate statistical reflection of the state of the world. Too many factors tended to place before us testimony that was by and large in the same direction and concentrated on those who testified about the presence rather than the absence of consequences. Nevertheless, as long as one does not draw statistical or percentage conclusions from this

evidence, and we have not, it can still be important with respect to identification and description of a phenomenon. Plainly some of these witnesses were less credible or less helpful than others, but many of the stories these witnesses told were highly believable and extremely informative, leading us to think about possible harms of which some of us had previously been unaware. Many witnesses have urged us to draw conclusions about prevalence exclusively from anecdotal evidence of this variety, but we have refused to do so. But that we have refused to make invalid statistical generalizations does not mean that we cannot learn from the stories of those with personal experiences. Many of their statements are summarized in the victimization section of this Report, and we urge people to consider those statements as carefully as we did. We can and we have learned from many of these witnesses, and their testimony has provided part of the basis for our conclusions. As in many other areas of human behavior, the most complete understanding emerges when a phenomenon is viewed from multiple perspectives. One important perspective is the subjective meaning that individuals attribute to their own experiences. This perspective and the unique experiences of individuals are less amenable to objective or statistical inquiry than certain other perspectives, and thus can be valuably examined through the kinds of witnesses whose statements we summarize later in this Report.

The evidence provided by clinical professionals carries with it some of the same problems. Although filtering the evidence

through a trained professional, especially one who described to us the experience of numerous cases, eliminates some of the credibility problems, the problem of statistical generalization remains. Because people without problems are not the focus of the clinician's efforts, evidence from clinical professionals focuses on the aberrational. Consequently, clinical evidence does not help very much in answering questions about the overall extent of a phenomenon, because it too is anecdotal, albeit in a more sophisticated way and based on a larger sample. Still, clinical evidence should not be faulted for not being what it does not purport to be. What it does purport to be is sensitive professional evaluation of how some people behave, what causes them to behave in that manner, and what, if anything, might change their behavior. Clinical evidence helps us to identify whether a problem exists, although it does not address the prevalence of the problem. We have looked at the clinical evidence in this light, and have frequently found it useful.

The problems of statistical generalization diminish drastically when we look to the findings of empirical social science. Here the attempt is to identify factors across a larger population, and thus many of the difficulties associated with any form of anecdotal evidence drop out when the field of inquiry is either an entire population, some large but relevant subset of a population, or an experimental group selected under some reliable sampling method.

Some of the evidence of this variety is correlational. If

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there is some positive statistical correlation between the prevalence of some type of material and some harmful act, then it is at least established that the two occur together more than one would expect merely from random intersection of totally independent variables. Some of the correlational evidence is less "scientific" than others, but we refuse to discount evidence merely because the researcher did not have some set of academic qualifications. For example, we have heard much evidence from law enforcement personnel that a disproportionate number of sex offenders were found to have large quantities of pornographic material in their residences. Pornographic material was found on the premises more, in the opinion of the witnesses, than one would expect to find it in the residences of a random sample of the population as a whole, in the residences of a random sample of non-offenders of the same sex, age, and socioeconomic status, or in the residences of a random sample of offenders whose offenses were not sex offenses. To the extent that we believe these witnesses, then there is a correlation between pornographic material and sex offenses. We have also read and heard evidence that is more scientific. Some of this evidence has related to entire countries, where researchers have looked for correlations between sex offenses and changes in a country's laws controlling pornography or changes in the actual prevalence of pornographic materials. Other evidence of this variety has been conducted with respect to states or regions of the United States, with attempts again being made to demonstrate correlations between use

or non-use of certain sexually explicit materials and the incidence of sex crimes or other anti-social acts.

Correlational evidence suffers from its inability to establish a causal connection between the correlated phenomena. It is frequently the case that two phenomena are positively correlated precisely because they are both caused by some third phenomena.

We recognize, therefore, that a positive correlation between pornography and sex offenses does not itself establish a causal connection between the two. It may be that some other factor, some sexual or emotional imbalance, for example, might produce both excess use of pornographic materials as well as a tendency to commit sex offenses. But the fact that correlational evidence cannot definitively establish causality does not mean that it may not be some evidence of causality, and we have treated it as such. The plausibility of hypothesized independent variables causing both use of pornography and sex offenses is one factor in determining the extent to which causation can be suggested by correlational evidence. So too is the extent to which research design has attempted to exclude exactly these possible independent variables. The more this has been done, the safer it is to infer causation from correlation, but in no area has this inference been strong enough to justify reliance on correlational evidence standing alone.

The problem of the independent variable drops out when experiments are conducted under control group conditions. If a

group of people are divided into two subgroups randomly, if one group is then exposed to a stimulus while the other is not, then a difference in result between the stimulus group and the control group will itself establish causation. As long as the two groups are divided randomly, and as long as the samples are large enough that randomness can be established, then any variable that might be hypothesized other than the one being tested will be present in both the stimulus group and the control group. As a result, the stimulus being tested is completely isolated, and positive results are very strong evidence of causation.

The difficulty with experimental evidence of this variety, however, is that it is virtually impossible to conduct control group experiments outside of a laboratory setting. As a result, most of the experiments are conducted on those who can be induced to be subjects in such experiments, usually college age males taking psychology courses. Even a positive result, therefore, is a positive result only, in the narrowest sense, for a population like the experimental group. Extrapolating from the experimental group to the population at large involves many of the same problems as medical researchers encounter in extrapolating from tests on laboratory animals to conclusions about human beings. The extrapolation is frequently justified, but some caution here must be exercised in at least noting that the extrapolation requires assumptions of relevant similarity between college age males and larger populations, as well as, in some cases, assumptions of causality between the effects measured in the

experiment and the effects with which people are ultimately concerned.

Perhaps more significantly, enormous ethical problems surround control group experiments involving actual anti-social conduct. If the hypothesis is that exposure to certain materials has a causal relationship with rape, for example, then the "ideal" experiment would start with a relatively large group of men as subjects, would then divide the large group randomly into two groups, and would then expose one of the two groups to the pornographic materials and the other to control materials. Then the experimenter would see if the stimulus groups committed more rapes than the control group. Of course such an experiment is inconceivable, and as a result most experiments of this variety have had to find a substitute for counting sexual offenses. Some have used scientific measures of aggression or sexual arousal, some have used questionnaires reflecting self-reported tendency to commit rape or other sex offenses, some have used experiments measuring people's willingness to punish rapists, and some have used other substitutes. With respect to any experiment of this variety, drawing conclusions requires making assumptions between, for example, measured aggression and an actual increased likelihood of committing offenses. Sometimes these assumptions are justified, and sometimes they are not, but it is always an issue to be examined carefully.

One final point about the experimental evidence presented to us is in order. Even with control group experiments, the

ultimate conclusions will depend on the ability of the researcher to isolate single variables. For example, where there is evidence showing a causal relationship between exposure to violent pornography and aggressive behavior, the stimulus as just described contains two elements, the violence and the sex. It may be that the cause is attributable solely to the violence, or it may be that the cause is attributable solely to the sex. Good research attempts to examine these possibilities, and we have been conscious of it as we evaluated the research presented to us.

5.1.6 The Need to Subdivide

Taking into account all of the foregoing methodological factors, it has become clear to all of us that excessively broad terms like "pornography" or "sexually explicit materials" are just too encompassing to reflect the results of our inquiry. That should come as no surprise. There are different varieties of sexually explicit materials, and it is hardly astonishing that some varieties may cause consequences different from those caused by other varieties.

Our views about subdivision as a process, if not about the actual divisions themselves, reflect much of the scientific evidence, and we consider the willingness of scientists to subdivide to be an important methodological advance over the efforts of earlier eras. So too with our own subdivision. We have unanimously agreed that looking at all sexually explicit materials, or even all pornographic materials, as one

undifferentiated whole is unjustified by common sense, unwarranted on the evidence, and an altogether oversimplifying way of looking at a complex phenomenon. In many respects we consider this one of our most important conclusions. Our subdivisions are not intended to be definitive, and particularly with respect to the subdivision between non-violent but degrading materials and materials that are neither violent nor degrading, we recognize that some researchers and others have usually employed broader or different groupings. Further research or thinking, or just changes in the world, may suggest finer or different divisions. To us it is embarking on the process of subdivision that is most important, and we strongly urge that further research and thinking about the question of pornography recognize initially the way in which different varieties of material may produce different consequences.

We cannot stress strongly enough that our conclusions regarding the consequences of material within a given subdivision is not a statement about <u>all</u> of the material within a subdivision. We are talking about classes, or categories, and our statements about categories are general statements designed to cover most but not all of what might be within a given category. Some items within a category might produce no effects, or even the opposite effects from those identified. Were we drafting laws or legal distinctions, this might be a problem, but we are not engaged in such a process here. We are identifying characteristics of classes, and looking for harms by classes,

without saying that everything that is harmful should be regulated, and without saying that everything that is harmful may be regulated consistent with the Constitution.

5.2 Our Conclusions About Harm

We present in the following sections our conclusions regarding the harms we have investigated with respect to the various subdividing categories we have found most useful. To the extent that these conclusions rest on findings from the social sciences, as they do to a significant extent, we do not in this Part of the Report describe and analyze the individual studies or deal in specifics with their methodologies. For that we rely on our analysis of the social science research which is included later in this Report. Each of us has relied on different evidence from among the different categories of evidence, and specific studies that some of us have found persuasive have been less persuasive to others of us. Similarly, some of us have found evidence of a certain type particularly valuable, while others of us have found other varieties of evidence more enlightening. And in many instances we have relied on certain evidence despite some flaws it may have contained, for it is the case that all of us have reached our conclusions about harms by assimilating and amalgamating a large amount of evidence. Many studies and statements of witnesses have both advantages and disadvantages, and often the disadvantages of one study or piece of testimony has been remedied by another. Thus, the conclusions we reach cannot be identified with complete acceptance or

complete rejection by all of us of any particular item of evidence. As a result, we consider the social science analysis, which is much more specific than what we say in this section, to be an integral part of this Report, and we urge that it be read as such. We have not relied totally on that analysis, as all of us have gone beyond it in our reading. And we cannot say that each of us agrees with every sentence and word in it. Nevertheless, it seems to us a sensitive, balanced, comprehensive, accurate, and current report on the state of the research. We have relied on it extensively, and we are proud to include it here.

5.2.1 Sexually Violent Material

The category of material on which most of the evidence has focused is the category of material featuring actual or unmistakably simulated or unmistakably threatened violence presented in sexually explicit fashion with a predominant focus on the sexually explicit violence. Increasingly, the most prevalent forms of pornography, as well as an increasingly prevalent body of less sexually explicit material, fit this description. Some of this material involves sado-masochistic themes, with the standard accoutrements of the genre, including whips, chains, devices of torture, and so on. But another theme of some of this material is not sado-masochistic, but involves instead the recurrent theme of a man making some sort of sexual advance to a woman, being rebuffed, and then raping the woman or in some other way violently forcing himself on the woman. In

almost all of this material, whether in magazine or motion picture form, the woman eventually becomes aroused and ecstatic about the initially forced sexual activity, and usually is portrayed as begging for more. There is also a large body of material, more "mainstream" in its availability, that portrays sexual activity or sexually suggestive nudity coupled with extreme violence, such as disfigurement or murder. The so-called "slasher" films fit this description, as does some material, both in films and in magazines, that is less or more sexually explicit than the prototypical "slasher" film.

It is with respect to material of this variety that the scientific findings and ultimate conclusions of the 1970 Commission are least reliable for today, precisely because material of this variety was largely absent from that Commission's inquiries. It is not, however, absent from the contemporary world, and it is hardly surprising that conclusions about this material differ from conclusions about material not including violent themes.

When clinical and experimental research has focused particularly on sexually violent material, the conclusions have been virtually unanimous. In both clinical and experimental settings, exposure to sexually violent materials has indicated an increase in the likelihood of aggression. More specifically, the research, which is described in much detail later in this Report, shows a causal relationship between exposure to material of this type and aggressive behavior towards women.

Finding a link between aggressive behavior towards women and sexual violence, whether lawful or unlawful, requires assumptions not found exclusively in the experimental evidence. We see no reason, however, not to make these assumptions. The assumption that increased aggressive behavior towards women is causally related, for an aggregate population, to increased sexual violence is significantly supported by the clinical evidence, as well as by much of the less scientific evidence.[45] They are also to all of us assumptions that are plainly justified by our own common sense. This is not to say that all people with heightened levels of aggression will commit acts of sexual violence. But it is to say that over a sufficiently large number of cases we are confident in asserting that an increase in aggressive behavior directed at women will cause an increase in the level of sexual violence directed at women.

Thus we reach our conclusions by combining the results of the research with highly justifiable assumptions about the generalizability of more limited research results. Since the clinical and experimental evidence supports the conclusion that there is a causal relationship between exposure to sexually violent materials and an increase in aggressive behavior directed

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[45] For example, the evidence from formal or informal studies of self-reports of offenders themselves supports the conclusion that the causal connection we identify relates to actual sexual offenses rather than merely to aggressive behavior. For reasons we have explained in Section 5.1.5, the tendency to externalize leads us to give evidence of this variety rather little weight. But at the very least it does not point in the opposite direction from the conclusions reached here.

towards women, and since we believe that an increase in aggressive behavior towards women will in a population increase the incidence of sexual violence in that population, we have reached the conclusion, unanimously and confidently, that the available evidence strongly supports the hypothesis that substantial exposure to sexually violent materials as described here bears a causal relationship to antisocial acts of sexual violence and, for some subgroups, possibly to unlawful acts of sexual violence.

Although we rely for this conclusion on significant scientific empirical evidence, we feel it worthwhile to note the underlying logic of the conclusion. The evidence says simply that the images that people are exposed to bears a causal relationship to their behavior. This is hardly surprising. What would be surprising would be to find otherwise, and we have not so found. We have not, of course, found that the images people are exposed to are a greater cause of sexual violence than all or even many other possible causes the investigation of which has been beyond our mandate. Nevertheless, it would be strange indeed if graphic representations of a form of behavior, especially in a form that almost exclusively portrays such behavior as desirable, did not have at least some effect on patterns of behavior.

Sexual violence is not the only negative effect reported in the research to result from substantial exposure to sexually violent materials. The evidence is also strongly supportive of

significant attitudinal changes on the part of those with substantial exposure to violent pornography. These attitudinal changes are numerous. Victims of rape and other forms of sexual violence are likely to be perceived by people so exposed as more responsible for the assault, as having suffered less injury, and as having been less degraded as a result of the experience. Similarly, people with a substantial exposure to violent pornography are likely to see the rapist or other sexual offender as less responsible for the act and as deserving of less stringent punishment.

These attitudinal changes have been shown experimentally to include a larger range of attitudes than those just discussed. The evidence also strongly supports the conclusion that substantial exposure to violent sexually explicit material leads to a greater acceptance of the "rape myth" in its broader sense - that women enjoy being coerced into sexual activity, that they enjoy being physically hurt in sexual context, and that as a result a man who forces himself on a woman sexually is in fact merely acceding to the "real" wishes of the woman, regardless of the extent to which she seems to be resisting. The myth is that a woman who says "no" really means "yes," and that men are justified in acting on the assumption that the "no" answer is indeed the "yes" answer. We have little trouble concluding that this attitude is both pervasive and profoundly harmful, and that any stimulus reinforcing or increasing the incidence of this attitude is for that reason alone properly designated as harmful.

Two vitally important features of the evidence supporting the above conclusions must be mentioned here. The first is that all of the harms discussed here, including acceptance of the legitimacy of sexual violence against women but not limited to it, are more pronounced when the sexually violent materials depict the woman as experiencing arousal, orgasm, or other form of enjoyment as the ultimate result of the sexual assault. This theme, unfortunately very common in the materials we have examined, is likely to be the major, albeit not the only, component of what it is in the materials in this category that causes the consequences that have been identified.

The second important clarification of all of the above is that the evidence lends some support to the conclusion that the consequences we have identified here do not vary with the extent of sexual explicitness so long as the violence is presented in an undeniably sexual context. Once a threshold is passed at which sex and violence are plainly linked, increasing the sexual explicitness of the material, or the bizarreness of the sexual activity, seems to bear little relationship to the extent of the consequences discussed here. Although it is unclear whether sexually violent material makes a substantially greater causal contribution to sexual violence itself than does material containing violence alone, it appears that increasing the amount of violence after the threshold of connecting sex with violence is more related to increase in the incidence or severity of harmful consequences than is increasing the amount of sex. As a

result, the so-called "slasher" films, which depict a great deal of violence connected with an undeniably sexual theme but less sexual explicitness than materials that are truly pornographic, are likely to produce the consequences discussed here to a greater extent than most of the materials available in "adults only" pornographic outlets.

Although we have based our findings about material in this category primarily on evidence presented by professionals in the behavioral sciences, we are confident that it is supported by the less scientific evidence we have consulted, and we are each personally confident on the basis of our own knowledge and experiences that the conclusions are justified. None of us has the least doubt that sexual violence is harmful, and that general acceptance of the view that "no" means "yes" is a consequence of the most serious proportions. We have found a causal relationship between sexually explicit materials featuring violence and these consequences, and thus conclude that the class of such materials, although not necessarily every individual member of that class, is on the whole harmful to society.

5.2.2 Nonviolent Materials Depicting Degradation, Domination, Subordination, or Humiliation

Current research has rather consistently separated out violent pornography, the class of materials we have just discussed, from other sexually explicit materials. With respect to further subdivision the process has been less consistent. A few researchers have made further distinctions, while most have

merely classed everything else as "non-violent." We have concluded that more subdivision than that is necessary. Our examination of the variety of sexually explicit materials convinces us that once again the category of "non-violent" ignores significant distinctions within this category, and thus combines classes of material that are in fact substantially different.

The subdivision we adopt is one that has surfaced in some of the research. And it is also one that might explain a significant amount of what would otherwise seem to be conflicting research results. Some researchers have found negative effects from non-violent material, while others report no such negative effects. But when the stimulus material these researchers have used is considered, there is some suggestion that the presence or absence of negative effects from non-violent material might turn on the non-violent material being considered "degrading," a term we shall explain shortly.[46] It appears that effects similar to although not as extensive as that involved with violent material can be identified with respect to such degrading material, but that these effects are likely absent when neither degradation nor

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[46] For example, the studies of Dr. Zillmann regarding non-violent material, studies that have been particularly influential for some of us, use material that contain the following themes: "He is ready to take. She is ready to be taken. This active/passive differentiation that coincides with gender is stated on purpose." Women are portrayed as "masochistic, subservient, socially nondiscriminating nymphomaniacs." Dr. Zillmann goes on to characterize this material as involving mutual consent and no coercion, but also describes the films as ones in which "women tend to overrespond in serving the male interest."

violence is present.

An enormous amount of the most sexually explicit material available, as well as much of the material that is somewhat less sexually explicit, is material that we would characterize as "degrading," the term we use to encompass the undeniably linked characteristics of degradation, domination, subordination, and humiliation. The degradation we refer to is degradation of people, most often women, and here we are referring to material that, although not violent, depicts[47] people, usually women, as existing solely for the sexual satisfaction of others, usually men, or that depicts people, usually women, in decidedly subordinate roles in their sexual relations with others, or that depicts people engaged in sexual practices that would to most people be considered humiliating. Indeed, forms of degradation represent the largely predominant proportion of commercially

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47 We restrict our analysis in large part to degradation that is in fact depicted in the material. It may very well be that degradation led to a woman being willing to pose for a picture of a certain variety, or to engage in what appears to be a non-degrading sexual act. It may be that coercion caused the picture to exist. And it may very well be that the existing disparity in the economic status of men and women is such that any sexually explicit depiction of a woman is at least suspect on account of the possibility that the economic desparity is what caused the woman to pose for a picture that most people in this society would find embarrassing. We do not deny any of these possibilities, and we do not deny the importance of considering as pervasively as possible the status of women in contemporary America, including the effects of their current status and what might be done to change some of the detrimental consequences of that status. But without engaging in an inquiry of that breadth, we must generally, absent more specific evidence to the contrary, assume that a picture represents what it depicts.

available pornography.

With respect to material of this variety, our conclusions are substantially similar to those with respect to violent material, although we make them with somewhat less confidence and our making of them requires more in the way of assumption than was the case with respect to violent material. The evidence, scientific and otherwise, is more tentative, but supports the conclusion that the material we describe as degrading bears some causal relationship to the attitudinal changes we have previously identified. That is, substantial exposure to material of this variety is likely to increase the extent to which those exposed will view rape or other forms of sexual violence as less serious than they otherwise would have, will view the victims of rape and other forms of sexual violence as significantly more responsible, and will view the offenders as significantly less responsible. We also conclude that the evidence supports the conclusion that substantial exposure to material of this type will increase acceptance of the proposition that women like to be forced into sexual practices, and, once again, that the woman who says "no" really means "yes."

With respect to material of this type, there is less evidence causally linking the material with sexual aggression, but this may be because this is a category that has been isolated in only a few studies, albeit an increasing number. The absence of evidence should by no means be taken to deny the existence of the causal link. But because the causal link is less the subject

of experimental studies, we have been required to think more carefully here about the assumptions necessary to causally connect increased acceptance of rape myths and other attitudinal changes with increased sexual aggression and sexual violence. And on the basis of all the evidence we have considered, from all sources, and on the basis of our own insights and experiences, we believe we are justified in drawing the following conclusion: Over a large enough sample a population that believes that many women like to be raped, that believes that sexual violence or sexual coercion is often desired or appropriate, and that believes that sex offenders are less responsible for their acts, will commit more acts of sexual violence or sexual coercion than would a population holding these beliefs to a lesser extent.

We should make clear what we have concluded here. We are not saying that everyone exposed to material of this type has his attitude about sexual violence changed. We are saying only that the evidence supports the conclusion that substantial exposure to degrading material increases the likelihood for an individual and the incidence over a large population that these attitudinal changes will occur. And we are not saying that everyone with these attitudes will commit an act of sexual violence or sexual coercion. We are saying that such attitudes will increase the likelihood for an individual and the incidence for a population that acts of sexual violence, sexual coercion, or unwanted sexual aggression will occur. Thus, we conclude that substantial exposure to materials of this type bears some causal relationship

to the level of sexual violence, sexual coercion, or unwanted sexual aggression in the population so exposed.

We need mention as well that our focus on these more violent or more coercive forms of actual subordination of women should not diminish what we take to be a necessarily incorporated conclusion: Substantial exposure to materials of this type bears some causal relationship to the incidence of various non-violent forms of discrimination against or subordination of women in our society. To the extent that these materials create or reinforce the view that women's function is disproportionately to satisfy the sexual needs of men, then the materials will have pervasive effects on the treatment of women in society far beyond the incidence of identifiable acts of rape or other sexual violence. We obviously cannot here explore fully all of the forms in which women are discriminated against in contemporary society. Nor can we explore all of the causes of that discrimination against women. But we feel confident in concluding that the view of women as available for sexual domination is one cause of that discrimination, and we feel confident as well in concluding that degrading material bears a causal relationship to the view that women ought to subordinate their own desires and beings to the sexual satisfaction of men.

Although the category of the degrading is one that has only recently been isolated in some research, in the literature generally, and in public discussion of the issue, it is not a small category. If anything, it constitutes somewhere between

the predominant and the overwhelming portion of what is currently standard fare heterosexual pornography, and is a significant theme in a broader range of materials not commonly taken to be sexually explicit enough to be pornographic. But as with sexually violent materials, the extent of the effect of these degrading materials may not turn substantially on the amount of sexual explicitness once a threshold of undeniable sexual content is surpassed. The category therefore includes a great deal of what would now be considered to be pornographic, and includes a great deal of what would now be held to be legally obscene, but it includes much more than that. Since we are here identifying harms for a class, rather than identifying harms caused by every member of that class, and since we are here talking about the identification of harm rather than making recommendations for legal control, we are not reluctant to identify harms for a class of material considerably wider than what is or even should be regulated by law.

5.2.3 Non-Violent and Non-Degrading Materials

Our most controversial category has been the category of sexually explicit materials that are not violent and are not degrading as we have used that term. They are materials in which the participants appear to be fully willing participants occupying substantially equal roles in a setting devoid of actual or apparent violence or pain. This category is in fact quite small in terms of currently available materials. There is some, to be sure, and the amount may increase as the division between

the degrading and the non-degrading becomes more accepted, but we are convinced that only a small amount of currently available highly sexually explicit material is neither violent nor degrading. We thus talk about a small category, but one that should not be ignored.

We have disagreed substantially about the effects of such materials, and that should come as no surprise. We are dealing in this category with "pure" sex, as to which there are widely divergent views in this society. That we have disagreed among ourselves does little more than reflect the extent to which we are representative of the population as a whole. In light of that disagreement, it is perhaps more appropriate to explain the various views rather than indicate a unanimity that does not exist, within this Commission or within society, or attempt the preposterous task of saying that some fundamental view about the role of sexuality and portrayals of sexuality was accepted or defeated by such-and-such vote. We do not wish to give easy answers to hard questions, and thus feel better with describing the diversity of opinion rather than suppressing part of it.

In examining the material in this category, we have not had the benefit of extensive evidence. Research has only recently begun to distinguish the non-violent but degrading from material that is neither violent nor degrading, and we have all relied on a combination of interpretation of existing studies that may not have drawn the same divisions, studies that did draw these distinctions, clinical evidence, interpretation of victim

testimony, and our own perceptions of the effect of images on human behavior. Although the social science evidence is far from conclusive, we are on the current state of the evidence persuaded that material of this type does not bear a causal relationship to rape and other acts of sexual violence. We rely once again not only on scientific studies outlined later in the Report, and examined by each of us, but on the fact that the conclusions of these studies seem to most of us fully consistent with common sense. Just as materials depicting sexual violence seem intuitively likely to bear a causal relationship to sexual violence, materials containing no depictions or suggestions of sexual violence or sexual dominance seem to most of us intuitively unlikely to bear a causal relationship to sexual violence. The studies and clinical evidence to date are less persuasive on this lack of negative effect than they are persuasive for the presence of negative effect for the sexually violent material, but they seem to us of equal persuasive power as the studies and clinical evidence showing negative effects for the degrading materials. The fairest conclusion from the social science evidence is that there is no persuasive evidence to date supporting the connection between non-violent and non-degrading materials and acts of sexual violence, and that there is some, but very limited evidence, indicating that the connection does not exist. The totality of the social science evidence, therefore, is slightly against the hypothesis that non-violent and non-degrading materials bear a causal relationship to acts of

sexual violence.

That there does not appear from the social science evidence to be a causal link with sexual violence, however, does not answer the question of whether such materials might not themselves simply for some other reason constitute a harm in themselves, or bear a causal link to consequences other than sexual violence but still taken to be harmful. And it is here that we and society at large have the greatest differences of opinion.

One issue relates to materials that, although undoubtedly consensual and equal, depict sexual practices frequently condemned in this and other societies. In addition, level of societal condemnation varies for different activities; some activities are condemned by some people, but not by others. We have discovered that to some significant extent the assessment of the harmfulness of materials depicting such activities correlates directly with the assessment of the harmfulness of the activities themselves. Intuitively and not experimentally, we can hypothesize that materials portraying such an activity will either help to legitimize or will bear some causal relationship to that activity itself. With respect to these materials, therefore, it appears that a conclusion about the harmfulness of these materials turns on a conclusion about the harmfulness of the activity itself. As to this, we are unable to agree with respect to many of these activities. Our differences reflect differences now extant in society at large, and actively debated,

and we can hardly resolve them here.

A larger issue is the very question of promiscuity. Even to the extent that the behavior depicted is not inherently condemned by some or any of us, the manner of presentation almost necessarily suggests that the activities are taking place outside of the context of marriage, love, commitment, or even affection. Again, it is far from implausible to hypothesize that materials depicting sexual activity without marriage, love, commitment, or affection bear some causal relationship to sexual activity without marriage, love, commitment, or affection. There are undoubtedly many causes for what used to be called the "sexual revolution," but it is absurd to suppose that depictions or descriptions of uncommitted sexuality were not among them.[48] Thus, once again our disagreements reflect disagreements in society at large, although not to as great an extent. Although there are many members of this society who can and have made affirmative cases for uncommitted sexuality, none of us believes it to be a good thing. A number of us, however, believe that the level of commitment in sexuality is a matter of choice among those who voluntarily engage in the activity. Others of us believe that uncommitted sexual activity is wrong for the individuals involved and harmful to society to the extent of its prevalence. Our view of the ultimate harmfulness of much of this

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[48] Nor, of course, do we deny the extent that the phenomenon, in part, also goes the other way. Sexually explicit materials in most cases seem both to reflect and to cause demand.

material, therefore, is reflective of our individual views about the extent to whether sexual commitment is purely a matter of individual choice.

Even insofar as sexually explicit material of the variety being discussed here is not perceived as harmful for the messages it carries or the symbols it represents, the very publicness of what is commonly taken to be private is cause for concern.[49] Even if we hypothesize a sexually explicit notion picture of a loving married couple engaged in mutually pleasurable and procreative vaginal intercourse, the depiction of that act on a screen or in a magazine may constitute a harm in its own right (a "primary harm" in the terminology introduced earlier in this Chapter) solely by virtue of being shown. Here the concern is with the preservation of sex as an essentially private act, in conformity with the basic privateness of sex long recognized by this and all other societies. The alleged harm here, therefore, is that as soon as sex is put on a screen or put in a magazine it changes its character, regardless of what variety of sex is portrayed. And to the extent that the character of sex as public rather than private is the consequence here, then that to many would constitute a harm.

In considering the way in which making sex public may fundamentally transform the character of sex in all settings, it seems important to emphasize that the act of making sex public

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[49] The concerns summarized here are articulated more fully in a statement that expresses the views of a number of individual members of this Commission.

is as an empirical matter almost always coincident with the act of making sex a commercial enterprise. Whether the act of making sex public if done by a charitable institution would be harmful is an interesting academic exercise, but it is little more than that. For in the context we are discussing, taking the act of sex out of a private setting and making it public is invariably done for someone's commercial gain. To many of us, this fact of commercialization is vital to understanding the concern about sex and privacy.

We are again, along with the rest of society, unable to agree as to the extent to which making sex public and commercial should constitute a harm. We all agree for ourselves on the fundamental privateness of sex, but we disagree about the extent to which the privateness of sex is more than a matter of individual choice. And although we all to some extent think that sexuality may have in today's society become a bit too public, many of us are concerned that in the past it has been somewhat too private, being a subject that could not be talked about, could not constitute part of the discourse of society, and was treated in some way as "dirty." To the extent that making sex more public has, while not without costs, alleviated some of these problems of the past, some of us would not take the increased publicness of sexuality as necessarily harmful, but here again we are quite understandably unable to agree.

The discussion of publicness in the previous paragraph was limited to the necessary publicness consequent in making a

picture of a sexual act, regardless of whether the picture is made public in the broader sense. But to the extent that this occurs, we are once again in agreement. While some might argue that it is desirable for sexual explicitness to be publicly displayed to both willing and unwilling viewers, and while some might argue that this is either a positive advantage for the terrain of society or of no effect, we unanimously reject that conclusion. We all agree that some large part of the privateness of sex is essential, and we would, for example, unanimously take to be harmful to society a proliferation of billboards displaying even the hypothesized highly explicit photograph of a loving married couple engaged in mutually pleasurable and procreative vaginal intercourse. Thus, to the extent that materials in this category are displayed truly publicly, we unanimously would take such a consequence to be harmful to society in addition to being harmful to individuals. Even if unwilling viewers are offended rather than harmed in any stronger sense, we take the large scale offending of the legitimate sensibilities of a large portion of the population to be harmful to society.

A number of witnesses have testified about the effects on their own sexual relations, usually with their spouses, of the depiction on the screen and in magazines of sexual practices in which they had not previously engaged. A number of these witnesses, <u>all women</u>, have testified that men in their lives have used such material to strongly encourage, or coerce, them into engaging in sexual practices in which they do not choose to

engage. To the extent that such implicit or explicit coercion takes place as a result of these materials, we all agree that it is a harm. There has been other evidence, however, about the extent to which such material might for some be a way of revitalizing their sex lives, or, more commonly, simply constituting a part of a mutually pleasurable sexual experience for both partners. On this we could not agree. For reasons relating largely to the question of publicness in the first sense discussed above, some saw this kind of use as primarily harmful. Others saw it as harmless and possibly beneficial in contexts such as this. Some professional testimony supported this latter view, but we have little doubt that professional opinion is also divided on the issue.

Perhaps the most significant potential harm in this category exists with respect to children. We all agree that at least much, probably most, and maybe even all material in this category, regardless of whether it is harmful when used by adults only, is harmful when it falls into the hands of children. Exposure to sexuality is commonly taken, and properly so, to be primarily the responsibility of the family. Even those who would disagree with this statement would still prefer to have early exposure to sexuality be in the hands of a responsible professional in a controlled and guided setting. We have no hesitancy in concluding that learning about sexuality from most of the material in this category is not the best way for children to learn about the subject. There are harms both to the children

themselves and to notions of family control over a child's introduction to sexuality if children learn about sex from the kinds of sexually explicit materials that constitute the bulk of this category of materials.

We have little doubt that much of this material does find its way into the hands of children, and to the extent that it does we all agree that it is harmful. We may disagree about the extent to which people should, as adults, be tolerated in engaging in sexual practices that differ from the norm, but we all agree about the question of the desirability of exposing children to most of this material, and on that our unanimous agreement is that it is undesirable. For children to be taught by these materials that sex is public, that sex is commercial, and that sex can be divorced from any degree of affection, love, commitment, or marriage is for us the wrong message at the wrong time. We may disagree among ourselves about the extent to which the effect on children should justify large scale restrictions for that reason alone, but again we all agree that if the question is simply harm, and not the question of regulation by law, that material in this category is, with few exceptions, generally harmful to the extent it finds its way into the hands of children. Even those in society who would be least restrictive of sexually explicit materials tend, by and large, to limit their views to adults. The near unanimity in society about the effects on children and on all of society in exposing children to explicit sexuality in the form of even non-violent

and non-degrading pornographic materials makes a strong statement about the potential harms of this material, and we confidently agree with that longstanding societal judgment.

Perhaps the largest question, and for that reason the question we can hardly touch here, is the question of harm as it relates to the moral environment of a society. There is no doubt that numerous laws, taboos, and other social practices all serve to enforce some forms of shared moral assessment. The extent to which this enforcement should be enlarged, the extent to which sexual morality is a necessary component of a society's moral environment, and the appropriate balance between recognition of individual choice and the necessity of maintaining some sense of community in a society are questions that have been debated for generations. The debates in the nineteenth century between John Stuart Mill and James FitzJames Stephen, and in the twentieth century between Patrick Devlin and H.L.A. Hart, are merely among the more prominent examples of profound differences in opinion that can scarcely be the subject of a vote by this Commission. We all agree that some degree of individual choice is necessary in any free society, and we all agree that a society with no shared values, including moral values, is no society at all. We have numerous different views about the way in which these undeniably competing values should best be accommodated in this society at this time, or in any society at any time. We also have numerous different views about the extent to which, if at all, sexual morality is an essential part of the social glue of

this or any other society. We have talked about these issues, but we have not even attempted to resolve our differences, because these differences are reflective of differences that are both fundamental and widespread in all societies. That we have been able to talk about them has been important to us, and there is no doubt that our views on these issues bear heavily on the views we hold about many of the more specific issues that have been within the scope of our mission.

Thus, with respect to the materials in this category, there are areas of agreement and areas of disagreement. We unanimously agree that the material in this category in some settings and when used for some purposes can be harmful. None of us think that the material in this category, individually or as a class, is in every instance harmless. And to the extent that some of the materials in this category are largely educational or undeniably artistic, we unanimously agree that they are little cause for concern if not made available to children are foisted on unwilling viewers. But most of the materials in this category would not now be taken to be explicitly educational or artistic, and as to this balance of materials our disagreements are substantial. Some of us think that some of the material at some times will be harmful, that some of the material at some times will be harmless, and that some of the material at times will be beneficial, especially when used for professional or nonprofessional therapeutic purposes. And some of us, while recognizing the occasional possibility of a harmless or

beneficial use, nevertheless, for reasons stated in this section, feel that on balance it is appropriate to identify the class as harmful as a whole, if not in every instance. We have recorded this disagreement, and stated the various concerns. We can do little more except hope that the issues will continue to be discussed. But as it is discussed, we hope it will be recognized that the class of materials that are neither violent nor degrading is at it stands a small class, and many of these disagreements are more theoretical than real. Still, this class is not empty, and may at some point increase in size, and thus the theoretical disagreements may yet become germane to a larger class of materials actually available.

5.2.4 Nudity

We pause only briefly to mention the problem of mere nudity. None of us think that the human body or its portrayal is harmful. But we all agree that this statement is somewhat of an oversimplification. There may be instances in which portrayals of nudity in an undeniably sexual context, even if there is no suggestion of sexual activity, will generate many of the same issues discussed in the previous section. There are legitimate questions about when and how children should be exposed to nudity, legitimate questions about public portrayals of nudity, and legitimate questions about when "mere" nudity stops being "mere" nudity and has such clear connotations of sexual activity that it ought at least to be analyzed according to the same factors that we discuss with respect to sexually explicit

materials containing neither violence nor degradation.

In this respect nudity without force, coercion, sexual activity, violence, or degradation, but with a definite provocative element, represents a wide category of materials. At the least explicit end of the spectrum, we could envision aesthetically posed, air brushed photographs of beautiful men or women in a provocative context. The provocation derives from the power of sex to attract the attentions and stir the passions of all of us. Such materials may have, in most uses, little negative effect on individuals, families, or society. But at the other end of the continuum, we see materials specifically designed to maximize the sexual impact by the nature of the pose, the caption, the seductive appearance, and the setting in which the model is placed. For example, consider a woman shown in a reclining position with genitals displayed, wearing only red feathers and high heeled shoes, holding a gun and accompanied by a caption offering a direct invitation to sexual activity. With respect to such more explicit materials, we were unable to reach complete agreement. We are all concerned about the impact of such material on children, on attitudes towards women, on the relationship between the sexes, and on attitudes towards sex in general, but the extent of the harms was the subject of some difference of opinion.

None of us, of course, finds harmful the use of nudity in art and for plainly educational purposes. Similarly, we all believe that in some circumstances the portrayal of nudity may be

undesirable. It is therefore impossible to draw universal conclusions about all depictions of nudity under all conditions. But by and large we do not find the nudity that does not fit within any of the previous categories to be much cause for concern.

5.3 The Need for Further Research

Although we have mentioned it throughout this report, it is appropriate here to emphasize specially the importance of further research by professionals into the potential and actual harms we have discussed in this Chapter. We are confident that the quality and quantity of research far surpasses that available in 1970, but we also believe that the research remains in many respects unsystematic and unfocused. There is still a great deal to be done. In many respects research is still at a fairly rudimentary stage, with few attempts to standardize categories of analysis, self-reporting questionnaires, types of stimulus materials, description of stimulus materials, measurement of effects, and related problems.

We recognize that the ethical problems discussed above will inevitably place some cap on the conclusions that can be drawn from the research in this area. But apart from this inherent and incurable limitation, much can still be done. The research that has led to further subdivision of the large category of sexually explicit materials has perhaps been the most important development in recent years, and we strongly encourage research that will deal more precisely with different varieties of

materials. We also believe that many other specific questions are in need of further research. There needs to be more research, for example, about the effect of pornography on the marriage relationship, about the nature of appetites for pornographic material and how those appetites are developed, about the effect of depictions of particular sexual practices on the sexual preferences of those who view them, and about the effects of exposure to pornographic material on children. This list could be much longer, but the point is only to show that much more needs to be done.

Some of the professionals who have provided evidence to us have been quite outspoken in their views about what the government in general or the legal system in particular ought to do about pornography. This phenomenon has been about equally divided between those researchers who have advocated fewer legal controls and those who have advocated more. While we do not deny to citizens the right to speak out on matters of public concern, we ought to note that we have tended to rely most on evidence provided by those who seem less committed to a particular point of view beyond their scientific expertise. We deal in an area in which a great deal must be taken on faith, including description of stimulus materials, description of experimental environments, questionnaire design, and description of what may or may not have been told to subjects. At no time have we suspected any scientist of deliberately or even negligently designing an experiment or reporting its results, but it remains nevertheless

the case that there is room for judgment and room for discretion. Where a researcher has taken on the role as active crusader, one way or another, on the issue of governmental control of pornography, we are forced to question more than we would otherwise have done the way in which this judgment and discretion has been exercised. We will not suggest how any researcher should balance the issue of his or her own credibility against his or her own strong feelings about an issue of importance. But we will note that the more that is expected to be taken on trust, the more likely it is that active involvement with respect to what is to be done with the results of the research will decrease the amount of trust.

Chapter 6

Laws And Their Enforcement

6.1 An Overview of the Problem

In Chapter 5 of this Part we explored the various harms alleged to be caused by certain kinds of sexually explicit materials. We also indicated our conclusions with respect to questions of harm. But as we insisted throughout Chapter 5 of this Part, the fact that a certain kind of material causes a certain kind of harm, although generally a factor in making decisions about law and law enforcement, does not by itself entail the conclusion that the material causing the harm should be controlled by the law. In some cases private action may be more appropriate than governmental action. In some cases governmental action, even if ideally appropriate, may be inadvisable as a matter of policy or unworkable as a matter of practice. And in some cases governmental action may be unconstitutional. Still, the prevention and redress of harms to individuals and harms to society have long been among the central functions of government in general and law in particular. Although we are sensitive to the space between what is harmful and what harms the government ought to address, at least we start with the assumption that where there is an identified harm, then governmental action ought seriously to be considered. In some cases the result of that consideration will be the conclusion that governmental action is inappropriate, unworkable, or unconstitutional. But so long as we have identified harms, we

must consider carefully the possible legal remedies for each harm we have identified.

We have tried to consider as broadly as possible the kinds of legal remedies that might be appropriate to deal with various harms. Although enforcement of the criminal law has long been considered the primary legal tool for dealing with harmful sexually explicit material, it has not been the only such tool, and ought not to be considered the only possible one. We have tried to be as open as we could be to various options in addition to or instead of enforcement of the criminal law. Thus in this Chapter we will consider the appropriateness, as exclusive or supplemental remedies, of zoning, administrative regulation, civil remedies for damages in the form of a civil rights action, civil remedies to obtain an injunction, and other possible legal responses to the harms that have been identified. We do not claim to be exhaustive in our consideration of regulatory options. Some options that have been suggested to us simply do not warrant discussion. And others that we mention briefly could and should be explored more thoroughly by others. But it is important to us to emphasize that approaches other than the traditional criminal law sanctions do exist, and are an integral part of thinking carefully about the issue of pornography.

6.2 Should Pornography Be Regulated By Law?

6.2.1 The Question is Deregulation

Numerous witnesses at our public hearings, as well as many others in written evidence or in various publications, have urged

upon us the view that pornography should not be regulated by law. Because such arguments have been around for some time, and because such arguments were substantially accepted by the 1970 Commission, we have very seriously considered them. To a significant extent, however, the arguments remain unpersuasive.

Many of the arguments against regulation, both those made currently and those made earlier, rest on claims of harmlessness that, as we have explained in Chapter 5 of this Part, are simply erroneous with respect to much of this material. Some of these claims of harmlessness tend either to ignore much of the evidence, or to extrapolate from plausible conclusions about the most innocuous material to conclusions about an entire class. Others start with the assumption that no finding of harm can be accepted unless it meets some extraordinarily high burden of proof, a burden of proof whose rigor often seems premised on an a priori assertion that the material being discussed ought not to be regulated.

In addition to erroneous or skewed claims of harmlessness, many of the arguments against regulation depend on claims of unconstitutionality that would require for their acceptance a view of the law strikingly different from that long accepted by the Supreme Court in its rulings on obscenity. As we discuss in Chapter 3 of this Part, we accept the Supreme Court's basic approach to the constitutional question. To the extent that claims for non-regulation thus rest on constitutional arguments with which neither we nor the Supreme Court accept, we reject

those arguments for non-regulation.

To the extent that arguments for non-regulation do not depend on implausible claims of harmlessness or rejected claims of unconstitutionality, however, they deserve to be taken even more seriously. As questions of policy in particular areas or the appropriateness of governmental action in general, serious arguments have been made that go to the most fundamental questions of what governmental action is designed to achieve.

We have thought carefully about these issues explicitly, and in doing so we have found it necessary to recast the question. The question as often presented to us in effect asks whether, if we had no laws dealing with pornography, we would want them. This question is not the same as the question whether, given 180 years of pornography regulation in the United States, we should repeal it. Although virtually every argument for deregulation presented to us has been in the former tone, it is the latter that represents reality. We certainly do not take everything that is to be inevitable, and we deem it important to treat even that which has been assumed for generations as open for serious and foundational reconsideration. Nevertheless, it remains the case that there are vast real and symbolic differences between not doing what has not before been done and undoing what is currently in place. To undo makes a statement much stronger than that made by not doing. In many cases it may be fully appropriate to make this stronger statement, but we presuppose here that the evidence and our convictions must be

stronger to urge dismantling what is now in place than it would have to be to refuse to put in place what did not now exist. Moreover, we recognize that this is an area marked by serious debate, involving plausible arguments both for and against regulation. Where the issues are not all on one side, we have given some weight to the considered judgment of the past. In some sense, therefore, the burden of proof is on those who would urge adoption of a variety of governmental regulation that does not now exist. In a nation founded on principles of limited government, those who would make it less limited have the obligation to persuade. But where there exists a present practice and long history of regulation of a certain variety, the burden is on those who would have government make the necessarily much stronger statement implied by an affirmative act of deregulation.

In light of this, we take the question of the governmental regulation of the legally obscene not to be whether if we did not have obscenity laws would we want them, but whether given that we have obscenity laws do we want to abandon them. In many areas the issues before us are not close, and how the question is put does not determine the outcome. But in many other areas the questions are indeed difficult, and how the questions are cast, and where the burden of proof lies, do make a difference. With reference to criminal sanctions against the legally obscene, for example, the burden must be on those who would have us or society make the specially strong statement implicit in the act of

repeal. But with reference to certain forms of regulation that do not now exist, the burden is similarly on those who would have us or society make the specially strong statement implicit in urging the totally new.

6.2.2 Law Enforcement, Priority, and Multiple Causation

As we have discussed in Chapter 5 in this Part, most of the harms that we have identified are not caused exclusively or even predominantly by pornography. In Chapter 5 in this Part we discussed this problem of multiple causation in terms of relatively abstract questions of harm. But when the phenomenon of multiple causation is applied to actual problems of laws and their enforcement, the issue gets more difficult. Even if it is the case that a certain form of sexually explicit material bears a causal relationship to harm, the question remains whether some other stimulus has an even greater causal relationship. Except peripherally, we could not be expected to delve deeply into all possible other causes of sexual violence, sex discrimination, and excess sexual aggression. To the extent that we make recommendations about law enforcement, we make them from a presupposition that others from a larger perspective must make the ultimate determinations about allocation of scarce financial and other societal resources. This task includes not only the allocation of resources among various causes of the harms we have identified, but also involves the even more difficult question of allocating resources among these harms and others. These are difficult questions, and we do not claim that either simple

formulas or easy platitudes can answer questions about, for example, apportioning money among countermeasures against poverty, racism, terrorism, and sexual violence. None of us would say that any of these is unimportant, but we recognize that in a world of scarce resources the long term commitment of resources to combat one evil inevitably draws resources away from those available to combat another evil. Even if one assumes that there are currently underutilized resources that could be allocated to the harms we discuss here, such an allocation still involves a decision to allocate the currently underutilized resources to combat these harms rather than some others. We have no solutions to these intractable problems of priority in a world in which there is more to do than there are resources with which to do it. Nevertheless, we feel it important to note here that we have not ignored these problems, and we urge that everything we say be considered in light of these considerations.

Although we are sensitive to the difficulty of problems of priority, we still feel confident in concluding that, at the very least, the problems of sexual violence, sexual aggression short of actual violence, and sex discrimination are serious societal problems that have traditionally received a disproportionately small allocation of societal resources. To the extent that we would be asked the question whether resources should be expended on alleviating these problems rather than dealing with others, we assert strongly that these problems have received less resources than we think desirable, and that remedying that imbalance by a

possibly disproportionate allocation in the opposite direction is appropriate.

The conclusion in the previous paragraph does not address the question of priorities of approach once we have decided to treat these problems as high priority matters. With respect to priorities in dealing with the problems of sexual violence, sexual aggression not involving violence, and sex discrimination, people disagree about the optimal priority that dealing in some way with sexually violent pornography and sexually degrading pornography ought to have. But images are significant determinants of attitudes, and attitudes are significant determinants of human behavior. To the extent constitutionally permissible, dealing with the messages all around us seems an important way of dealing with the behavior. We have concluded that the images we deal with here seem to be at the least a substantial cause of the harms we have identified. But common sense leads us to go further, and to suppose that the images are a significant cause even when compared with all of the other likely causes of these same harms. To the extent that this substantial causal relationship has not been reflected in the realities of law enforcement, we have little hesitation in making recommendations about increased priority.

6.2.3 The Problem of Underinclusiveness

The problem of multiple causation is addressed to those causes of certain harms other than some varieties of pornographic materials. The problem has another aspect, best referred to as

the problem of underinclusiveness. For even if we restrict our consideration to sexually oriented images, to the various kinds of sexually explicit materials discussed in Chapter 5 of this Part, it is certainly the case that many of those materials are constitutionally immune from governmental regulation. And to the extent that the material involved becomes less explicit, the immunity from regulation, as a matter of current law, increases. A great deal of sexual violence, for example, is part of less sexually explicit and generally available films and magazines, and because it is presented in less explicit fashion in the context of some plot or theme it remains beyond the realm of governmental control, although non-governmental self-restraint or citizen action seems highly appropriate. And when we include various other sources of sexually oriented messages and images in contemporary society, from prime time television to the lyrics of contemporary music to advertisements for blue jeans, it is even more apparent that much of what people are concerned with in terms of truly pornographic materials might also be a concern with respect to an immense range and quantity of materials that are unquestionably protected by the First Amendment. Many of these materials may present the message in a more diluted form, but certainly their prevalence more than compensates for any possible dilution. As a result, even the most stringent legal strategies within current or even in any way plausible constitutional limitations would likely address little more than the tip of the iceberg.

We thus confront a society in which the Constitution properly requires governments to err on the side of underregulation rather than overregulation, and in which the First Amendment leaves most of the rejection of unacceptable and dangerous ideas to citizens rather than to government. Faced with this reality, it would be easy to note the irremediable futility of being limited only to a thin slice of the full problem, and as a consequence recommend deregulation even as to the material we deem harmful and constitutionally unprotected. But this would be too easy. First, it ignores the extent to which the materials that can be regulated consistent with the Constitution may, because they present their messages in a form undiluted by any appeal to the intellect, bear a causal relationship to the harms we have identified to a disproportionate degree. And with respect to sexual violence, these materials may disproportionately be aimed at and influence people more predisposed to this form of behavior. For both of these reasons, most of us believe that in many cases the harm-causing capacities of some sexually explicit material may be more concentrated in that which is constitutionally regulable and legally obscene than in that which is plainly protected by the Constitution. This factor of concentration of harm may itself justify maintaining a strategy of law enforcement in the face of massive underinclusiveness.

More significantly, however, law serves an important symbolic function, and in many areas of life that which the law

condemns serves as a model for the condemnatory attitudes and actions of private citizens. Obviously this symbolic function, the way in which the law teaches as well as controls, is premised on a general assumption of legitimacy with respect to the law in general that generates to many people a presumption that the law's judgments are morally, politically, and scientifically correct in addition to being merely authoritative. In making recommendations about what the law should do, we are cognizant of the responsibilities that accompany law's symbolic function. We are aware as well of its opportunities, and of the symbolic function that may be served by even strikingly underinclusive regulation. Conversely, we are aware of the message conveyed by repeal or non-enforcement of existing laws with respect to certain kinds of materials. To the extent that we believe, as we do, that in a number of cases the message that is or would be conveyed by repeal or non-enforcement is exactly the opposite message from what we have concluded and what the evidence supports, we are unwilling to have the law send out the wrong signal. Especially on an issue as publicly noted and debated as this, the law will inevitably send out a signal. We would prefer that it be the signal consistent with the evidence and consistent with our conclusions.

6.3 The Criminal Law

In light of our conclusions regarding harm, and in light of the factors discussed above in Section 6.2, we reject the argument that all distribution of legally obscene pornography

should be decriminalized. Even with that conclusion, however, many issues remain, and it is to these that we now turn.

6.3.1 The Sufficiency of Existing Criminal Laws

The laws of the United States and of almost every state make criminal the sale, distribution, or exhibition of material defined as obscene pursuant to the definition set forth by the Supreme Court in Miller v. California.[50] The enormous differences among states and among other geographic areas in obscenity law enforcement are due not to differences in the laws as written,[51] but to differences in how, how vigorously, and how often these laws are enforced.

Some witnesses have urged us to recommend changes in the criminal law resulting in laws that are significantly different in scope or in method of operation from those now in force. We have, for example, been urged to recommend a "per se" approach to obscenity law that would make the display of certain activities automatically obscene and we have been urged to recommend a definition of the legally obscene that is broader than that of Miller. We have thought carefully about these and similar suggestions, but we have rejected them. We have rejected these suggestions for a number of reasons, the most important of which

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[50] 413 U.S. 15 (1973). We discuss Miller and other applicable cases in detail in Chapter 3 of this Part.

[51] There are exceptions to this, however. For example, California has until recently employed as a definition of obscenity not the test in Miller, but the "utterly without redeeming social value" test from Memoirs v. Massachusetts, 383 U.S. 413 (1966).

is that it has not been shown that the basic definitions or broad methods of operation of existing laws are in any way insufficient legal tools for those who care to use them. Some witnesses have complained about the uncertainty of the existing legal definition of obscenity, but it has appeared to us that these uncertainty claims have usually been the scapegoat for relatively low prosecutorial initiatives. A substantially larger number of witnesses involved in law enforcement have testified that they do not find excess uncertainty in the Miller standard as applied and interpreted, and consequently believe that the existing laws are sufficient for their needs. The success of prosecutorial efforts in Atlanta, Cincinnati, and several other localities, in which vigorous investigation, vigorous prosecution, and stringent sentencing have substantially diminished the availability of almost all legally obscene materials, plainly indicates that the laws are there for those areas that choose the course of vigorous enforcement. We recognize that not all localities will wish to make the commitments of resources that Atlanta and Cincinnati have, but the experiences in such localities persuades us that the desire to have new or more laws, while always appealing as political strategy, is in fact unjustified on the record.

Moreover, a new law incorporating a definition of its coverage different from that in Miller would be sure to be challenged in the courts on constitutional grounds. At the moment, the conclusion must be that these proposals are constitutionally dubious in light of Miller, that they would

remain so until there was a Supreme Court decision validating them and in effect overruling Miller, and that there is no indication at the present time that the Supreme Court is inclined in this direction. Even assuming a desire to restrict materials not currently subject to restriction under Miller, a desire that most of us do not share, we find a strategy of embarking on years of constitutional litigation with little likelihood of success to be highly counterproductive unless the current state of the law is distinctly unsatisfactory in light of the desire to pursue legitimate goals. Because we do not find the existing state of the law unsatisfactory to pursue the goals we have urged, we reject the view that laws incorporating a different and constitutionally suspect definition of coverage are needed or are in any way desirable.

6.3.2 The Problems of Law Enforcement

If the laws on the books are sufficient, then what explains the lack of effective enforcement of obscenity laws throughout most parts of the country? The evidence is unquestionable that with few exceptions the obscenity laws that are on the books go unenforced. As of the dates when the testimony was presented to us, cities as large as Miami, Florida, and Buffalo, New York, had but one police officer assigned to enforcement of the obscenity laws. Chicago, Illinois, had two. Los Angeles, California, had fewer than ten. The City of New York will not take action against establishments violating the New York obscenity laws unless there is a specific complaint, and even then prosecution

is virtually non-existent. Federal law enforcement is limited almost exclusively to child pornography and to a few major operations against large pornography production and distribution networks linked to organized crime. From January 1, 1978, to February 27, 1986, a total of only one hundred individuals were indicted for violation of the federal obscenity laws, and of the one hundred indicted seventy-one were convicted.52

From this and much more evidence just like it, the conclusion is unmistakable that with respect to the criminal laws relating to obscenity, there is a striking underenforcement, and that this underenforcement consists of undercomplaining, underinvestigation, underprosecution, and undersentencing. The reasons for this are complex, and we regret that we have not been able to explore nearly as much as we would have liked the reasons for this complex phenomenon. We offer here only a few hypotheses, and hope that further research by criminologists and others will continue where we leave off.

With respect to sentencing, the evidence was almost unanimous that small fines and unsupervised probation are the norm, with large fines or sentences of incarceration quite rare throughout the country. In examining this phenomenon, we can speculate on a number of problems. When the prosecution involves as defendants those with significant control over the enterprise, the defendant is likely to appear as very much like the typical

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52 Of the remaining twenty-nine cases, only three resulted in acquittals.

"white collar" criminal nicely dressed, well-spoken, and a residence in the suburbs. A person fitting this description is least likely in contemporary America to receive jail time, regardless of the crime. In this respect we suspect that the problem of undersentencing is traceable to the same causes that have produced the same phenomenon with regard to other crimes. People who have control over the sale of illegally obscene materials do not go to jail for many of the same reasons that price fixers, odometer adjusters, and securities manipulators do not go to jail, and if they do it is still less often and for less time than do people committing other crimes that allow equivalent statutory sentences. Moreover, like these and other crimes, obscenity offenses often appear to both judges and probation officers as less serious than violent crimes, and often as even less serious than various crimes against property. To a significant extent, those involved in the sentencing process tend not to perceive obscenity violations as serious crimes. Whether these judgments of seriousness made by judges and probation officers are or are not correct is of course debatable, but the point remains that there seems to be a substantial interposition of judgment of seriousness between the legislative determination and the actual sentence. As a result, sentencing usually involves only a fine and unsupervised probation, and is often treated by the defendant as little more than a cost of doing

business.[53]

With respect to those without ownership or managerial control, usually ticket takers or clerks, many judges and probation officers seem understandably reluctant to impose periods of incarceration on people who are likely to be relatively short term employees earning little more than the minimum wage. Although in some cases ticket takers or clerks are involved with the business itself, more often they are not. With some justification in fact, therefore, some judges perceive that people who would but for fortune be clerks in candy stores rather than clerks in pornography outlets should not receive jail time for having taken the only job that may have been available to them.

Whatever the causes of undersentencing, it is apparent that with the current state of sentencing the criminal laws have very little deterrent effect on the sale or distribution of legally obscene materials. Although we have recommended mandatory minimum sentences for second and further offenses, some of us are not convinced that this will actually serve as a solution, for in many areas mandatory sentencing may result in plea bargains for

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[53] In this connection, we should note our support (and our specific recommendation in that section of this Report) for use of the Racketeer Influenced and Corrupt Organizations (RICO) Act as a method of requiring many of those convicted of multiple and substantial obscenity violations to disgorge the profits from their enterprises. Whether in this form or another, methods of attacking profits, or the assets purchased with those profits, seem likely to be more effective financial deterrents than substantially smaller fines.

lesser charges, or prosecutorial reluctance to proceed against someone the prosecutor is unwilling to see go to jail. None of us are certain about the effects of mandatory sentencing, and mandatory sentencing may be appropriate if it comports with practices for crimes of equivalent seriousness within a jurisdiction. But we fear that the problem of undersentencing is more complex than simple, and to the extent that mandatory minimum sentencing may in practice be only cosmetic, it should not blunt efforts to look further for the roots of the problem of undersentencing.

The problem of undersentencing is likely to affect the level of prosecution. When the end result of even a successful prosecution is a fine that is insignificant compared to the profits of the operation, or at most a period of incarceration that is so minimal as to have insignificant deterrent effect, the incentive to prosecute diminishes on the part of both prosecutors and law enforcement personnel. The potentially light sentence magnifies the fact that obscenity prosecutions are likely to be properly perceived as necessitating a high expenditure of time and resources as well as being, in terms of the likelihood of securing a conviction, high risk enterprises. The defendants will usually be represented by sophisticated lawyers with a mandate to engage in a vigorous and extensive defense. It would be a rare prosecutor who did not understand the difference between prosecuting a mugger represented by a young public defender with too many cases and too little time and resources,

on the one hand, and, on the other, prosecuting a pornography distributor who has a team of senior trial lawyers at his disposal and who will probably receive only a minimal sentence even if convicted.

In addition to the fact that obscenity prosecutions are seen as high risk and low reward ventures for prosecutors and law enforcement personnel, it is also the case that being involved in obscenity investigation or obscenity prosecution is likely to be lower in the hierarchy of esteemed activities within a prosecutorial office or within a police department. This may stem in part from the extent to which the personal views of many people within those departments are such as to treat these matters as not especially serious. The extent to which this is so, and the extent to which there are other factors we have been unable to isolate, we cannot at this time determine. But we are confident that the phenomenon exists.

The upshot of all of the above is that we are forced to conclude that the problem of underprosecution cannot be remedied simply by saying that enforcement of the obscenity laws ought to have a higher priority, or simply by providing more money for enforcement, or simply by increasing the amount of community and political pressure on all those involved in the law enforcement effort. We do not discount any of these approaches, as all have proved effective at times when used in conjunction with other techniques of changing law enforcement practices, but it is clear that the dynamics are sufficiently complex that no one remedy for

the problem will suffice. There is a multiplicity of factors explaining the lack of enforcement, and changing that situation will require a multiplicity of remedies. We urge that many of the specific recommendations we suggest be taken seriously.

6.3.3 Federalism

We operate in a nation with dual systems of criminal law. The laws of most states make the sale, exhibition, or distribution of obscene material a crime, but federal law also makes it a crime to use the mails or the facilities of interstate commerce for such purposes. In thinking about law enforcement a recurring issue is the proper sphere of operation for federal law and the proper sphere of operation for state law.

Putting aside the enforcement of federal laws against child pornography, which we discuss in Chapter 7 of this Part,[54] federal law enforcement efforts are now directed almost exclusively against large nationwide obscenity distribution networks with known connections with organized crime. With few exceptions, there is little enforcement of federal obscenity laws

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[54] In addition to trying to achieve some degree of analytic clarity, we put aside child pornography in this context because we note the extent to which prosecutors and other law enforcement officials have frequently relied on the number of child pornography prosecutions to give a general impression of vigorous enforcement of the obscenity laws in their jurisdiction. On closer examination, it has usually appeared that there was a great deal of activity with respect to child pornography, and virtually none with respect to the obscenity laws. We do not of course deny the importance of allocating large amounts of resources to child pornography. We do not believe, however, that any purpose is served by clouding the existing state of affairs with respect to the enforcement of the obscenity laws.

in cases not involving some strong suspicion of organized crime involvement. For example, despite reasonably clear evidence that sophisticated multi-state operations dealing in large quantities of legally obscene material have substantial contacts with localities such as Los Angeles and New York City, there has been essentially no federal prosecution of the obscenity laws in the Central District of California and the Southern District of New York. We mention these particular districts only because they are large and have within them particular concentrations of either production or distribution of legally obscene materials. But the pattern of federal non-involvement is not limited to these districts. The nationwide pattern of little federal prosecution seems to have changed somewhat within the past months, most likely as a result of the publicity associated with this Commission, but it remains a safe conclusion that enforcement of federal law has been minimal.

We note the extent to which it has become common to assume that whenever there is a large problem the solution ought to be a federal one. Witness after witness representing some branch of state law enforcement complained that the real problem was the lack of federal support. Although we sympathize with these witnesses in their attempts to get more support for their efforts, we are dismayed at the unwillingness of the states to assume the bulk of the responsibility for enforcement of the criminal law. Although we do not deny the extent of federal responsibility, and although we do not deny that some states have

budgetary crises that approach in seriousness if not in magnitude that of the federal government, there comes a point at which the ready solution of more federal money for even the most worthy endeavors can no longer be the strategy of first resort. We are aware of our responsibilities, now a matter of law as well as good sense, to look for alternatives other than major additional expenditures of federal funds with respect to our own rather than someone else's agenda, and we urge that states consider their law enforcement responsibilities mindful of these considerations. We also note that in our federal system primary responsibility for law enforcement has always been with the states. The police power of the states has commonly been taken to include primary responsibility for dealing with the very types of harms at which the obscenity laws are addressed. And the constitutional commitment to a federal system assumes that state involvement is preferable to federal in areas, such as most of the criminal law, in which local decisions may vary. We see no reason not to make, in general, the same assumptions with respect to the enforcement of obscenity laws.

Despite our view that primary law enforcement responsibilities rest with the states, federal law and federal law enforcement have an essential role to play in the enforcement of the obscenity laws. Most of the material that we find most harmful is distributed throughout the country by means of large and sophisticated distribution networks. It is precisely with respect to this kind of massive and complex interstate (and

international) operation that the special skills and resources of federal investigative agencies are most needed, and to which the nature of federal criminal prosecution is most suited. Prosecutions can, as with the MIPORN prosecutions in Miami, join in a single prosecution people from different states who are integral and controlling parts of the same enterprise. And the federal judicial apparatus is often more suited than that of the states where evidence and witnesses must be secured from throughout the country.

Thus, we do not see the scope of federal prosecution as being limited to cases involving demonstrable connections with organized crime. In any case in which the evidence indicates a multi-state operation of substantial size and sophistication, federal rather than or in addition to state law enforcement is most appropriate. By concentrating vigorously on such operations, federal prosecutorial and investigative resources will be reserved for the cases in which federal involvement has the greatest comparative advantage, while still reserving to the states that primary role in more local law enforcement that is at the core of our system of federalism.

6.3.4 What Should Be Prosecuted?

In Chapter 5 of this Part we discussed at length the increasing trend in the scientific research and in general discussions of this subject to recognize that not all pornographic items are identical. There are substantial differences in the content of such materials, and we have tried

in the rough categorization of Chapter 5 of this Part to express our sympathy with these efforts to advance the clarity of thinking about the issue of pornography. Indeed, we hope that we have contributed to those efforts. As the natural consequence of these efforts to recognize the differences among pornographic materials, we urge that thinking in terms of these or analogous categories be a part of the analysis of the total law enforcement effort.

The categories we discussed in Chapter 5 of this Part encompass a range of materials far broader than the legally obscene, and thus, in the context of this discussion of the criminal law, a range of materials far broader than what we know can be prosecuted consistent with the Constitution. Nevertheless, these categories, with the exception of nudity not involving the lewd exhibition of the genitals, exist within as well as around the legally obscene, material that has been or could be criminally prosecuted consistent with the Miller standard, there exist materials that are sexually violent, materials that are non-violent but degrading, and materials that, although highly sexually explicit and offensive to many, contain neither violence nor degradation. In light of our conclusions in Chapter 5 of this Part, we would urge that prosecution of obscene materials that portray sexual violence be treated as a matter of special urgency. With respect to sexually violent materials the evidence is strongest, societal consensus is greatest, and the consequent harms of rape and other forms of

sexual violence are hardly ones that this or any other society can take lightly. In light of this, we would urge that the prosecution of legally obscene material that contains violence be placed at the top of both state and federal priorities in enforcing the obscenity laws.55

With respect to materials that are non-violent yet degrading, the evidence supporting our findings is not as strong as it is with respect to violent materials. And on the available evidence we have required more in the way of assumption to draw the connection between these materials and sexual violence, sexual aggression, and sex discrimination.

Nevertheless, these assumptions have significant support on the evidence and in our own logic and experiences, and the causal evidence remains for us strong enough to support our conclusions. None of us hesitate to recommend prosecution of those materials that are both degrading and legally obscene.

If choices must be made, however, prosecution of these materials might have to receive slightly lower priority than sexually violent materials, but this is not to say that we view action against degrading materials as unimportant.

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55 In discussing priorities here, we exclude from consideration child pornography. As we explain in Chapter 7 of this Part, child pornography involves a different range of materials, a different kind of "industry," a different kind of offender, and consequently different approach to the problems of law enforcement. We treat it separately because it is so different. We do not in so doing wish to suggest that the problems are any less. If anything they are greater, but they remain different, and little purpose is served by dealing with child pornography as part of the larger category of pornography.

With respect to materials in the third category we have identified, materials that are neither violent nor degrading, the issues are more difficult. There seems to be no evidence in the social science data of a causal relationship with sexual violence, sexual aggression, or sex discrimination. These three harms do not exhaust the possible harms, however, and our disagreements regarding this category reflect disagreements that abound in this society at this time. Many people believe that making sex into an essentially public act is a harm of major proportions, a harm that is compounded by its commercialization. To others legitimizing through this material either a wide range of traditionally prohibited sexual practices, or legitimizing sex without love, marriage, commitment, or even affection is the primary harm with which people should be concerned. Some people have recognized the extent to which material of this variety is likely to wind up in the hands of children, and thus to frighten children or to encourage children to model their behavior on what they have seen, and would take this to be a sufficient condition for serious concern. And some people note the importance to any society of some set of shared moral values, including values relating to sexuality, and look upon the proliferation of the material even in this category as an attack on something that is a precondition for a community. On the other hand, many people see these concerns as less problematic, or matters appropriate for individual choice and nothing more, or see in some of the use of these materials beneficial effects which ought also to be

taken into account. We cannot resolve these disagreements among ourselves or for society, but the fact of disagreement remains a fact. Regardless of who is right and who is wrong about these issues, and we do not purport to have clear, definitive, or easy answers, the substantially lower level of societal consensus about these matters is an empirical fact.[56] To some of us, this substantially lower level of societal consensus, when combined with the absence for these materials of scientific evidence showing a causal connection with sexual violence, sexual aggression, or sex discrimination, leaves a category as to which this society is less certain and as to which one array of concerns, present with the two previous categories, is absent. More than this is necessary to recommend deregulation or even to support a recommendation not to prosecute what has long been taken to be regulable. And we will not so easily discount the substantial arguments that can be made for regulation by recommending a drastic change in what has been general practice for most of the history of this nation. Nevertheless, the factors of lower societal consensus and absence of causal connection with sexual violence, aggression, or discrimination are to some of us germane to the question of priority. With respect, therefore, to legally obscene material within this category it seems entirely appropriate to some of us,

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56 Indeed, all of the survey evidence supports the view that there are substantial disparities between societal views regarding restrictions on materials depicting sexual violence and materials depicting sex alone.

at least in terms of long-term commitment of resources, for prosecutors and law enforcement personnel to treat such material differently from material containing sexual violence or degradation of women. Should a community wish to allocate sufficient resources to obscenity enforcement that material in this category is prosecuted as vigorously as that in the previously discussed category, we find that an entirely legitimate decision for a community to make. But if a community does not wish to devote resources to that extent, or if a community believes that the material in this category, even if legally obscene, is not cause for the stringent sanctions of the criminal law, then it would seem to some of us appropriate for that community to concentrate its efforts on material that is either violent or degrading.

On this issue we are, as would be expected given our differences with respect to the harms associated with this category, deeply divided. Some of us would strongly urge that all legally obscene material be prosecuted with equal vigor, and would not only urge the communities of which we are part to take this course, but would condemn those that did not. Others of us see the prosecution of material within this category as something that should quite consciously be treated as a lower priority matter, and still others of us see the questions with respect to this category as being primarily for the community to make, with community decisions to prosecute vigorously, or not at all, or somewhere in between, as entitled to equal respect.

Although we are divided on this question, the division is likely on the current state of the law to be more philosophical than real. Pursuant to Miller, material is obscene only if, among numerous other factors, it offends the community in which it is made available. As a result, in those communities in which material within this category is not considered especially problematic, the material will not be considered legally obscene. And in those communities in which material within this category is condemned, it will offend community standards and thus, if the other requirements of Miller are met, will be legally obscene.57 As a result, therefore, the existing legal approach incorporates within the definition of obscenity the views of a particular community. The question whether to prosecute material in this category, therefore, assuming that the decision to prosecute is in effect a community decision, will turn into the question, under current law, whether the material is obscene at all.

6.3.5 The Special Prominence of the Printed Word

In oral testimony before us, in written submissions, and in numerous published discussions of the question of pornography, fears have been expressed about the dangers of excess censorship. As we have explained in Chapter 3 of this Part, we are sensitive to the risks of excess censorship beyond the bounds of what the First Amendment or good sense should allow, but we have found

57 We emphasize that it is the values of the entire community that are relevant, and we do not suggest here that it is appropriate for a prosecutor or law enforcement official to substitute his or her values for that of the community as a whole.

many of these claims to be little more than hyperbole, warning against censorship in the abstract but providing little in the way of real evidence that the possibility exists.

That the evidence presented has been weak, however, does not mean that we should ignore the possibility that in some areas prosecutions might be attempted of works of undoubted merit in the name of obscenity law, or that obscenity prosecution might be threatened as a way of exercising impermissible control over works that are not even close to being legally obscene. We heard testimony, for example, about a local prosecutor who, presented with a citizen complaint about a not even plausibly obscene book in the local library, sought out a written statement of a literary justification for the book instead of telling the complainant that the book quite simply was not obscene. And as we have investigated similar incidents, and listened to claims about excess censorship, it has become apparent to us that the vast majority of these concerns have surrounded books consisting entirely of the printed word text only, without photographs or even drawings.

In thinking about these concerns, we note that material consisting entirely of the printed word can be legally obscene, as the Supreme Court held in 1973 in Kaplan v. California.[58] And we have seen in the course of our inquiries books that would meet this standard - books consisting of nothing other than descriptions of sexual activity in the most explicit terms,

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[58] 413 U.S. 115 (1973).

plainly patently offensive to the vast majority of people, and plainly devoid of anything that could be considered literary, artistic, political, or scientific value.

Although many such books exist, and although they constitute part of all the categories of material we have identified, they seem to be the least harmful materials within the various categories. Because they involve no photographs, there need be no concerns with those who are actually used in the process of production. And the absence of photographs necessarily produces a message that seems to necessitate for its assimilation more real thought and less almost reflexive reaction than does the more typical pornographic item. There remains a difference between reading a book and looking at pictures, even pictures printed on a page.

All of us would strongly urge prosecution of legally obscene material containing only text when the material is either targeted at an audience of children or when its content involves child molestation or any form of sexual activity with children. Because of the effect of the child pornography laws, photographic material involving children is becoming less available, and this material, which is likely to encourage acts of child molestation, occupies a significant portion of textual obscenity. There is little prosecution of this material now, and we hope that that situation will change.

Some of us, however, except for material plainly describing sexual activity with minors or targeted to minors, would urge

that materials consisting entirely of the printing word simply not be prosecuted at all, regardless of content. There is for all practical purposes no prosecution of such materials now, so such an approach would create little if any change in what actually occurs. But by converting this empirical fact into a plain statement even the possibility of prosecuting a book will be eliminated. If this is eliminated even as a possibility, those of us who take this position believe that the vast majority of potential abuses can be quelled and the vast majority of fears alleviated with what will be at most a negligible reduction in law enforcement effectiveness. Most likely there will be no effect at all on law enforcement, although those who take this position nevertheless deplore many of the books, a substantial proportion of which involve violence or degradation. But from this perspective, what is lost in the ability to prosecute this material is more than compensated for by the symbolic and real benefits accompanying the statement that the written word has had and continues to have a special place in this and any other civilization.

Others of us, however, while sharing this special concern for the written word, would not adopt such a rigid rule, and would retain both in theory and in practice the ability to prosecute obscene material regardless of the form in which the obscenity is conveyed. Especially in light of the fact that we have seen many books that are devoted to sexual violence and sexual degradation, some of us fear that giving carte blanche to

such material, regardless of current prosecutorial practices, is to send out exactly the wrong signal. Those of us who take this position share the concern for the written word, but believe that that concern can best be reflected in ways other than providing a license for material that, although presented in verbal form, seems substantially similar to the forms of pictorial obscenity that concern us.

Although we are deeply divided on the question of a clear rule prohibiting prosecution (except in cases involving or directed at children), we share each others concerns. Those of us who would adopt a clear rule nevertheless regret some of its consequences, and deplore much of the textual obscenity we have seen. And those of us who reject the idea of a clear rule understand the concerns for purely verbal communication, and urge that prosecution of entirely textual material be undertaken only with extraordinary caution.

6.4 Regulation By Zoning

For many people the harms caused by pornography relate in part to the effects on communities and neighborhoods of the establishments in which such materials are commonly sold. Whether it be a peep show, an "adults only" pornographic theatre, or a so-called "adult bookstore," there seems widespread agreement that virtually all such establishments are largely detrimental to the neighborhoods in which they are located. Some of the negative consequences arise from the style of the establishments themselves, which usually have garish lights and

signs advertising the nature of what is to be found within in no uncertain terms. Other consequences flow from the clientele, who are often people that many citizens would just as soon be somewhere else. And such establishments are likely to exist in close proximity to areas in which prostitution exists, and in close proximity to establishments such as bars featuring live sexually oriented entertainment. As a result, most people would consider such establishments environmentally detrimental, and there is some evidence indicating a correlation between crime rates and the particular neighborhoods in which such establishments exist.

Although some communities have attempted to deal with pornography outlets through criminal prosecution, others have attempted zoning regulation more narrowly tailored to alleviating the consequences discussed in the previous paragraph. These regulations generally take two forms. One is a dispersal regulation, in which zoning ordinances prohibit location of such an establishment within a specified distance of another such establishment. The principle behind dispersal ordinances is that of scattering these establishments throughout a large geographic area, so that no concentration of them can have a major deleterious effect on any one neighborhood. Alternatively, some communities have endeavored to concentrate these establishments, attempting through zoning to limit them to one or just a few parts of the community, usually remote from residential areas, and frequently remote as well from certain business districts.

In order for such ordinances to be effective, they must be able to describe the establishments they regulate in terms at least slightly broader than the Miller definition of obscenity. Were the Miller standard to be used, the administrative enforcement mechanism commonly in force with respect to zoning would become bogged down in the more cumbersome procedures characteristic of full trials. Most such ordinances, therefore, regulate establishments that specialize in sexually explicit material, and usually the ordinance contains a definition of sexually explicit material that is more precise but more expansive than Miller.[59] Although such ordinances include more than could criminally be prosecuted under Miller, the Supreme Court has approved zoning regulation of this variety, first in 1976 in Young v. American Mini Theatres, Inc.,[60] and then again in February 1986 in City of Renton v. Playtime Theatres, Inc.[61]

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[59] For example, the Detroit ordinance that was before the Supreme Court in the Young case defined as an "adult establishment" any establishment concentrating on offering material emphasizing "specified sexual activities" or "specified anatomical areas." "Specified sexual activities" were defined to include, for example, "Human Genitals in a state of sexual stimulation or arousal," "Acts of human masturbation, sexual intercourse or sodomy," and "Fondling or other erotic touching of human genitals, public region, buttock or female breast." The definition of "Specified anatomical areas" was similarly broader than would be permitted by Miller if the aim were total prohibition. To the extent that zoning approaches concentrate on establishments specializing in this material, we note that such approaches may have the effect of providing incentives for attempts to introduce more plainly pornographic material into more mainstream outlets.

[60] 427 U.S. 50 (1976).

[61] 54 U.S.L.W. 4160 (Feb. 25, 1986).

The most significant qualification imposed by the Court is the requirement that the zoning regulation not have the effect of a total prohibition.[62] The result, therefore, is that if communities wish to restrict the location of such "adults only" establishments, they may do so, but they may not under the guise of zoning banish them altogether.

Witnesses who have testified before us about zoning approaches in their localities have by and large not endorsed these approaches. Most of these witnesses, however, have been law enforcement personnel who would prefer prohibition to relocation. The zoning approach, which is not aimed at prohibition, is not surprisingly a poor tool if prohibition is the desired result.

Moreover, in most localities these ordinances contain "grandfather" clauses, eliminating from the restrictions those establishments already in place on the date of enactment of the ordinance.[63] Thus the result has often been to prevent the problem from growing, but has done little to diminish the extent of an existing problem.

It has been suggested that zoning may be the ideal solution to the problem of pornography, because it allows people who wish access to this material to have such access without having its

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[62] On this point, see, Schad v. Mt. Ephraim, 452 U.S. 61 (1981).

[63] Although such clauses may be required by state law, we note that nothing in the First Amendment, or in federal constitutional law generally, would require such an approach.

sale intrude on the lives and sensibilities of the majority of the population who wish to have nothing to do with it. This solution is ideal, however, only under the presupposition that the material is not indeed harmful except insofar as it causes offense to non-users. With respect to sexually violent material and degrading material, we have found that the evidence does not support such a modest view of the likely consequences, and thus we reject an equivalently modest remedy for what we take to be harmful material, even when its access is restricted to willing buyers. If indeed the material in these categories is harmful, as we have found it to be, we cannot consistent with that finding urge a remedy of moving it to another part of town.

With respect to materials that are neither violent nor degrading, however, both the evidence of harms and the level of societal consensus are less, and zoning might possibly be more appropriate for establishments restricting their stock to materials in this category. As suggested above in Section 6.3.4, the absence of evidence for this material of a causal connection with sexual violence, sexual aggression, or sex discrimination may suggest lower prosecutorial priority within a system of enforcement of the criminal laws. But even for localities that may choose this course, the offensiveness of these materials and the deleterious effects on the neighborhoods in which they are made available may still be seen to justify some restriction. If this is the case, then zoning may be the appropriate way to deal with materials of this variety, although many of us are concerned

that in practice such an approach will concentrate such establishments in or near the most economically disadvantaged segments of a locality. Some of us fear that zoning may be a way for those with political power to shunt the establishments they do not want in their own neighborhoods into the neighborhoods of those with less wealth and less political power.

Restrictions on public display, whether through the criminal law or zoning ordinances, are in effect another form of zoning. The concept here is that there may be many materials that, regardless of their alleged harmlessness, and regardless of the fact that they are not legally obscene, ought not to be displayed in a manner that offends unwilling viewers. Moreover, the public display does not differentiate between passersby who are adults and those who are children, and taking into account the likelihood that children will be exposed to this material at inappropriate ages justifies restrictions that might seem harsh in settings involving only adults. Even those most likely to oppose obscenity regulation would, we suspect, have little difficulty in principle with restricting sexually explicit material from billboards. None of us has difficulty with this either, even when extended somewhat beyond the legally obscene. We believe that public display regulations, including but not limited to the control of advertising materials displayed on the exterior of adult establishments, and including but not limited to the display ordinances requiring shielding of the covers of sexually explicit magazines, are fully justifiable measures in a

society that has long restricted indecent exposure. If copulating in a public park may be restricted, we are not troubled by regulations prohibiting billboards depicting copulation.

We ought finally to mention in this section the attempts in a number of communities to restrict "adults only" pornographic establishments through the use of nuisance laws and related legal remedies. Nuisance laws, when applied to sexually explicit materials, are attempts to serve many of the interests that generated the zoning approach, but here the aim is prohibition rather than relocation. The desired result in most such legal actions is an injunction against further operation of the establishment. For that reason, all effective uses of this approach have thus far been found unconstitutional. Even where an establishment has been found guilty of a criminal obscenity violation, the law as of this moment does not permit the finding of obscenity with respect to one magazine, or one film, to justify what is in fact a restriction on other films and other magazines not yet determined to be legally obscene, and therefore presumptively protected by the First Amendment. Total prohibition, therefore, on the state of the law right now, seems much more likely to stem from substantial criminal penalties for those involved with such establishments than from civil remedies directed in some way directed against the establishment and not the person.

6.5 The Civil Rights Approach to Pornography

Within the last several years a substantial amount of the public discussion of pornography has centered around a proposed anti-pornography ordinance drafted by two scholars, Andrea Dworkin and Catherine MacKinnon, and proposed in one form or another in a number of localities, most notably Minneapolis, Minnesota; Los Angeles, California; Cambridge, Massachusetts; and Indianapolis, Indiana. The only community actually to adopt such an ordinance was Indianapolis, which on June 11, 1984, drafted an ordinance providing civil remedies against pornography. The ordinance defined pornography as:

> [T]he graphic sexually explicit subordination of women, whether in pictures or in words, that also includes one or more of the following: (1) Women are presented as sexual objects who enjoy pain or humiliation; or (2) Women are presented as sexual objects who experience sexual pleasure in being raped; or (3) Women are presented as sexual objects tied up or cut up or mutilated or bruised or physically hurt, or as dismembered or truncated or fragmented or severed into body parts; or (4) Women are presented being penetrated by objects or animals; or (5) Women are presented in scenarios of degradation, injury, abasement, torture, shown as filthy or inferior, bleeding, bruised, or hurt in a context that makes these conditions sexual; [or] (6) Women are presented as sexual objects for domination, conquest, violation, exploitation, possession, or use, or through postures or positions of servility or submission or display.

The ordinance has subsequently been held unconstitutional by the United States District Court for the Southern District of Indiana,[64] and that decision has been affirmed by the United

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64 American Booksellers Ass'n v. Hudnut, 598 F. Supp. 1316 (S.D. Ind. 1984).

States Court of Appeals for the Seventh Circuit.[65] Recently the Seventh Circuit's decision has been affirmed, on the merits but without opinion, by the Supreme Court of the United States.[66] The basis for the finding of unconstitutionality was the way in which the definition set forth above was substantially more inclusive than that in Miller. To the extent that legislation restricts material beyond the legally obscene, that legislation must confront an array of First Amendment-inspired barriers that few if any statutes could meet. This statute could not surmount those obstacles, for much the same reason, according to the courts, that attempted restrictions on members of the American Nazi Party and the Ku Klux Klan could not surmount those obstacles. Once the comparatively narrow realm of Miller-tested legal obscenity is left, virtually no restrictions on communication based on the point of view expressed, no matter how wrong or harmful it may be, are permitted by the First Amendment.

That this ordinance with this definition was properly held unconstitutional, however, should not deflect attention from three other features of the ordinance and of the support it engendered. First, we are in substantial agreement with the motivations behind the ordinance, and with the goals it represents. The harms at which the ordinance is aimed are real and the need for a remedy for those harms is pressing. That we

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65 American Booksellers Ass'n v. Hudnut, 771 F.2d 323 (7th Cir. 1985).

66 Hudnut v. American Booksellers Ass'n, 54 U.S.L.W. 3560 (Feb. 24, 1986).

understand both the harms and the urgent need to remedy these harms should be apparent from the discussion in Chapter 5 of this Part. Moreover, although we feel that the safer and better course is to proceed within existing constitutional boundaries, our recommendations regarding criminal prosecution for legally obscene material containing sexual violence or degradation are largely consistent with what this ordinance attempts to do, although the approach we recommend clearly will reach less material. In effect, this ordinance reaches material containing sexually violent or sexually degrading material when it is sexually explicit. The only constitutionally permissible approach, however, is to reach material containing sexually violent or sexually degrading material when it is legally obscene, and that in effect is what we have strongly urged here.

In addition, the ordinance proposed a civil remedy, rather than a criminal one. We have thought about the issue of a civil remedy, because the question whether there should be a civil or a criminal remedy is analytically distinct from the question of what material will be reached by that remedy. A civil remedy could be combined with all or part of the category of material reached by Miller, and we have thought about the possibility of civil rather than criminal sanctions with respect to Miller-tested obscenity. Although we recognize that details would remain to be worked out, in large part relating to who would have the ability to bring an action against whom, we

endorse the concept of a civil remedy so long as it takes place within existing constitutional limitations. Although we do endorse the concept of a civil remedy, and although we do recognize that much of the material we have seen directly implicates in a harmful way the civil rights of women, we do not ignore the deterrent effect on publishers of being forced to defend a wide range of suits that might raise claims that are totally without merit, but which would still require at least a preliminary defense. Although we recognize that occasionally prosecutors might be overzealous, we have no doubt that the average prosecutor is substantially less likely to be overzealous than the most zealous potential plaintiff. We have heard from a wide range of people in the course of our work, and some have employed definitions of pornography or have expressed views about what ought to be restricted that are far beyond what any of us would conceivably tolerate. We are unwilling to have each of these people as potential plaintiffs. We are not willing to put a publisher to a defense in every case in which someone thinks that material is obscene or pornographic. If a procedure could be devised that provided for some preliminary determination by a judge or magistrate that the suit was plausible before the complaint was allowed to be filed, our fears would evaporate, and with such a procedure we believe that civil remedies available to a wide range of people ought seriously to be contemplated. And in any event, civil remedies that restricted the right of action to, for example, people who were compelled to perform in obscene

material or people who were compelled to view obscene material would not have the problems associated with a potentially enormous class of plaintiffs, and ought to be considered even more seriously.

Finally, the ordinance and the support for it properly focused attention on the people who are frequently coerced into performing in sexually explicit films, or into posing for sexually explicit pictures. And even where coercion in the contemporary legal sense is absent, the conditions of employment unquestionably deserve close attention. We agree with these concerns for the participants, and we agree that legal concern for participants need not be limited to the question of child pornography. We believe that civil and other remedies ought to be available to those who have been in some way injured in the process of producing these materials. But we are confident that the remedies of restricting the material itself, at least beyond the category of the legally obscene, permissible in the case of child pornography, remain constitutionally impermissible with respect to adults. We believe, therefore, that the appropriate remedy in the case of adults is that which is directed at the conduct itself, and we include in a later Chapter of this Report a special report directed exclusively to harms to performers, and possible remedies for those harms.

6.6 Obscenity and the Electronic Media

Where legally obscene material is transmitted by radio, television, telephone, or cable, the same legal sanctions are or

should be available as are available for any other form of distribution or exhibition. Although federal law has long prohibited the transmission of legally obscene materials by radio, television, and telephone, the advent of cable television left a gap in the law. The Cable Communications Policy Act of 1984 attempts to provide criminal penalties for anyone transmitting over any cable system "any matter which is obscene or otherwise unprotected by the Constitution." A number of states have or are on the verge of adopting similar changes in their obscenity laws to include cable transmission, and we support those legislative efforts to ensure that the law keeps up with technological changes. To the extent that obscene material appears on cable television, we urge prosecution to the same extent and with the same vigor as we do with respect to any other form of distribution of obscene material. We note that this has not always been the case, and we urge that enforcement efforts directed to legally obscene material, in whatever regulatory form those enforcement efforts might take, be as aggressive with respect to cable transmission of the legally obscene as with other forms of distribution of the legally obscene.

Under existing law, however, the Federal Communications Commission has the power to impose some sanctions against certain broadcasting of sexually explicit language or pictures over radio and television even where the material is not legally obscene. In FCC v. Pacifica Foundation,[67] the Supreme Court

[67] 438 U.S. 726 (1978).

upheld the constitutionality of this form of regulation, in the context of sanctions against a radio station for a daytime broadcast of George Carlin's "Seven Dirty Words" monologue, which is in fact about the FCC regulations, and which uses repeatedly the words the FCC prohibits.

As we have explained in Chapter 4 of this Part and in a later Part, there is a great deal available on cable television today that is sexually explicit but which is not legally obscene. Some of this material contains sexual violence, some of it is degrading as we have used that term here, and some of it is, although rather explicit, neither violent nor degrading. In almost all of these cases the films shown have simulated rather than actual sexual activity, most have a rather sustained story line, and many are mainstream and highly acclaimed Hollywood productions.

With respect to these materials that are not legally obscene, they are beyond the reach of the law as it stands today. Nevertheless, we have been urged to recommend changes in the law so that material which is "indecent" as well as legally obscene might be kept from cable television to the same (or greater) extent as it has been kept from broadcast non-subscriber radio and television. We have not adopted these suggestions, however, although it is an issue on which we are deeply divided. Some of us believe that enforcement of obscenity laws with respect to such material, when combined with vigorous enforcement of the "lockbox" requirements so that children may be prevented by their

parents from seeing such material, are all that is appropriate at this time. Some of us are persuaded by the fact that the suggestions made to us are all, on the existing state of the law, unconstitutional, with all of the courts that have confronted the issue deciding that cable cannot be controlled by the standards applicable to broadcast non-subscriber television.[68] Some of us are skeptical about Pacifica itself, and do not wish to extend to new areas a principle that we find dubious even with respect to broadcast media. In light of the existence of, for example, serious and non-pictorial sexual advice programs as well as serious mainstream motion pictures containing more explicit sexuality than would be available on broadcast television, extension of the limitations of broadcast television to cable seems highly likely to restrict that which simply ought not to be restricted. Some of us question the current state of the law, but would urge change in the direction of permitting restriction of pure violence rather than indecency. Some of us are also uncomfortable once again about taking on any doubtful causes and courses of constitutional adjudication when existing law seems sufficient for the more extreme cases. And some of us reject all of the above, and feel that cable television, even with lockboxes, is so similar to broadcast television that regulation of more than the legally obscene should be permitted with respect

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68 Cruz v. Ferre, 755 F.2d 1415 (11th Cir. 1985); Community Television of Utah v. Roy City, 555 F. Supp. 1164 (D. Utah 1982); HBO v. Wilkinson, 531 F. Supp. 987 (D. Utah 1982). The Supreme Court has yet to be faced with the question.

to cable just as it is when the airwaves rather than wires are the medium of transmission. Some of us who hold this view would prefer somewhat broader definitions of what can permissibly be regulated in many areas. And others of us who take this position are comfortable with the existing definition of obscenity, but feel that television is a medium with a special power and a special intrusiveness in contemporary society.

These are difficult questions, going not only to the roots of First Amendment doctrine and theory, but also to the nature of television in American life. As with other fundamental issues, we are unable to agree here, and as a result there is no consensus among us that would justify urging that regulation of cable encompass more than the legally obscene.

Many of the same considerations apply to the regulation of those telephone services, commonly referred to as Dial-a-Porn, that provide sexually explicit messages. As we discuss at length in a later Part, there is no doubt that the number and variety of these services is increasing, and that they have generated substantial citizen concern. Some of the concerns relate to the way in which these services are advertised, and some relate to the messages themselves regardless of who uses the service. Most of the concerns, however, relate to the frequent use of these services by minors, a concern that seems accentuated by the extent to which many of the services seem designed to cater to the particular asexual perceptions of teenagers rather than adults. We have heard a number of these messages, and we have

little doubt that the bulk of them could be considered to be legally obscene under existing law.[69] Although they use words rather than pictures, even those of us who would refuse to apply obscenity law to materials containing only the printed word would not apply that principle to these materials. Apart from the fact that many seem implicitly if not explicitly directed at minors, the nature of the spoken voice, especially in this context, contains enough of the characteristics of the visual image that we have no difficulty in saying that such material should be dealt with consistent with our recommendations concerning films, tapes, and pictorial magazines.

Although once again we have been urged to recommend new laws that are substantially more encompassing than the existing definition of the legally obscene, we find such approaches both unnecessary and undesirable. The vast bulk of this material seems to us well within the Miller definition, and thus could be prosecuted in accordance with the concerns and the priorities we have urged here. In light of that, we see few advantages and substantial risks in going further. But we also urge that there be laws allowing the prosecution of such legally obscene material, and we urge as well that such laws be enforced. There seems now to be little enforcement, and in light of the frequency

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69 We believe this to be the case even when the messages are directed at and available only to adults. To the extent that they are directed at and available to minors, the application of the test for obscenity may properly take that into account. Ginsberg v. New York, 390 U.S. 629 (1968).

with this material is used by minors, we deplore the failure to have and to enforce obscenity laws with respect to material of this type.

6.7 Enforcing Both Sides of the Law

Both in Chapter 3 of this Part and in this Chapter we have emphasized our belief that conscientious enforcement of existing obscenity laws and the dictates of the First Amendment are not inconsistent. But our confidence in this conclusion will be increased if all of those with law enforcement responsibilities would recognize their responsibilities to enforce the existing principles of the First Amendment as conscientiously and as vigorously as they enforce the obscenity laws. The Constitution is a law too, and we expect that anyone who has taken an oath to uphold the law will recognize that they must uphold the First Amendment as well.

We make these general observations because we acknowledge that many citizens, sincerely and for very good reasons, would want the law to do more than it is now constitutionally able to do, and more than we feel it ought constitutionally be able to do. Many of these citizens will find an outlet for their views in the fully legitimate and appropriate private actions that we discuss in Chapter 8 of this Part. But many others will make requests or demands on law enforcement personnel, sometimes out of ignorance about the constitutional constraints but often out of an understandable frustration that the Constitution, in the name of long run values, often prevents us from doing what

seems quite justifiable in the short run.

When faced with such requests or demands, we hope that law enforcement personnel will recognize their responsibilities to interpose their legal responsibilities at that time. They must refuse to take any action that would in any way be governmentally threatening to those who are exercising their constitutional rights, and they must be willing to explain to their angry constituents why they have and must do so. We recognize that this may not always be easy in a world in which the citizens properly expect their elected and appointed officials to be responsive to the desires of the citizenry. But we should point out as well that most of our recommendations about increased or at least maintained law enforcement presuppose this attitude, and presuppose an environment in which the limitations of the First Amendment are enforced by all public officials at the point at which they first matter. To assume that enforcement of the obscenity laws is for law enforcement personnel while enforcement of the Constitution is for the courts is to misunderstand the nature of the system. It may also, ultimately, be to threaten the constitutional underpinnings of what we have urged in this Report. In the long run, the enforcement of the obscenity laws depends on the willingness of those who do the enforcing to respect the appropriate constitutional limitations. If that respect does not take place in practice and at the first instance, neither courts nor commissions such as this one will be able to be as confident of the current accommodation between conflicting goals as we now are.

Chapter 7

Child Pornography

7.1 The Special Horror of Child Pornography

What is commonly referred to as "child pornography" is not so much a form of pornography as it is a form of sexual exploitation of children. The distinguishing characteristic of child pornography, as generally understood, is that actual children are photographed while engaged in some form of sexual activity, either with adults or with other children. To understand the very idea of child pornography requires understanding the way in which real children, whether actually identified or not, are photographed, and understanding the way in which the use of real children in photographs creates a special harm largely independent of the kinds of concerns often expressed with respect to sexually explicit materials involving only adults.

Thus, the necessary focus of an inquiry into child pornography must be on the process by which children, from as young as one week up to the age of majority,[70] are induced to engage in sexual activity of one sort or another, end the process by which children are photographed while engaging in that

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[70] A significant amount of sexually explicit material includes children over the applicable age of majority who look somewhat younger. Because people who are actually minors are not used in this type of publication, it would not qualify as child pornography, although it might still be legally obscene. In general, this variety of material does not cater to the pedophile, but instead to those who prefer material with young-looking models.

activity. The inevitably permanent record of that sexual activity created by a photograph is rather plainly a harm to the children photographed. But even if the photograph were never again seen, the very activity involved in creating the photograph is itself an act of sexual exploitation of children, and thus the issues related to the sexual abuse of children end those related to child pornography are inextricably linked. Child pornography necessarily includes the sexual abuse of a real child, and there can be no understanding of the special problem of child pornography until there is understanding of the special way in which child pornography is child abuse.

7.2 Child Pornography as Cottage Industry

In addition to understanding the way in which child pornography is defined by its use of real children engaged in real sexual activity, it is important to understand the way in which the "industry" of child pornography is largely distinct from any aspect of the industry of producing and making available sexually explicit materials involving only adults.

A significant aspect of the trade in child pornography, and the way in which it is unique, is that a great deal of this trade involves photographs taken by child abusers themselves, and then either kept or informally distributed to other child abusers. As we discuss in more detail in a later Part, some of these child abusers are situational, abusing children on occasion but not restricting their sexual preferences to children. Others are preferential, not only preferring children as a means for

achieving sexual satisfaction, but seeking out children in order to satisfy this desire. We have heard substantial evidence that both situational and preferential child molesters frequently take photographs of children in some sexual context. Usually with non-professional equipment, but sometimes in a much more sophisticated manner, child abusers will frequently take photographs of children in sexual poses or engaged in sexual activity, without having any desire to make commercial use of these photographs. At times the child abuser will merely keep the photograph as a memento, or as a way of recreating for himself the past experience. Frequently, however, the photograph will be given to another child abuser, end there is substantial evidence that a great deal of "trading" of pictures takes place in this manner.[71] The desire to have collections of a large number of photographs of children seems to be a common, although not universal, characteristic of many pedophiles. Some of this exchange of photographs takes place in person, a great deal takes place through the mails, and recently a significant amount of the exchange has taken place by the use of computer networks through which users of child pornography let each other know about materials they desire or have available.

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[71] There is also evidence that commercially produced pictures of children in erotic settings, or in non-erotic settings that are perceived by some adults as erotic, are collected and used by pedophiles. There is little that can be done about the extent to which, for example, advertisements for underwear might be used for vastly different purposes than those intended by the photographer or publisher, but we feel it nevertheless important to identify the practice.

In addition to the primarily non-commercial trade in child pornography, there appears to be a commercial network for child pornography, consisting to a significant extent of foreign magazines that receive the very kinds of pictures described in the previous paragraph, end then sell in magazine form collections of these non-commercially produced photographs. These magazines will frequently contain advertisements for private exchange of pictures in addition to publishing pictures themselves.[72] Although the publication of the magazines, almost exclusively abroad, is itself a commercial enterprise, it does not appear as if most of the contributors contribute for the purpose of commercial gain. And although the publication of these magazines is largely foreign, there is substantial evidence that the predominant portion of the recipients of end contributors to these magazines are American.

Prior to the late 1970s, when awareness end concern about child pornography escalated dramatically, commercially produced and distributed child pornography was more prevalent than it is now. It was in the late 1970s that this awareness and concern started to be reflected in major law enforcement initiatives, state and federal, against child pornography. When the Supreme Court in 1982 approved of child pornography laws whose coverage was not restricted to the legally obscene, these enforcement

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[72] Some of this private exchange is quite informal, but there is evidence that more formal and elaborate underground networks for the exchange of these pictures exist.

efforts accelerated, and the sum total of these enforcement efforts has been to curtail substantially the domestic commercial production of child pornography. This is not to say that it does not exist. There is a domestic commercial child pornography industry, but it is quite clandestine, and not nearly as large as the non-commercial use of and trade in non-commercially produced sexually explicit pictures of children.

Although there now appears to be comparatively little domestic commercial production of child pornography, there remains a significant foreign commercial industry, and much of this material is available in the United States. Some of this material is in magazine form, some are photographic motion picture films, but increasingly, as with much of the adult material, video tapes are dominating the market. None of this material is available openly, however. We received some testimony that commercially produced child pornography was available "under the counter" in some establishments selling adult sexually explicit material. A number of experienced police officers testified to having no actual knowledge that material is available in this way, but others indicated that they had either heard of its availability or had themselves seen its availability in rare circumstances. We have also heard evidence about more surreptitious networks for the distribution of this material, and we have heard some evidence about the way that this material is sold through the mails. We have little doubt that there is some distribution in the United States of commercially produced

material, although the extremely clandestine nature of the distribution networks makes it difficult to assess the size of this trade.

Although we note, therefore, that there is some commercially produced material, efforts to deal with the problem of child pornography will fail if they overestimate the extent of the commercial side of the practice, and underestimate the non-commercial side. The greatest bulk of child pornography is produced by child abusers themselves in largely "cottage industry" fashion, and thus child pornography must be considered as substantially inseparable from the problem of sexual abuse of children. That does not make the problem of child pornography unimportant. On the contrary, to the extent that it is an aid to and a part of a problem that is unfortunately prevalent and plainly outrageous, child pornography, in both its creation and its distribution, is of unquestioned seriousness. But it is different, in virtually every aspect of its definition, creation, distribution, and use. Serious consideration of the issue of child pornography must begin with this fact.

7.3 Child Pornography, the Law, and the First Amendment

Because the problem of child pornography is so inherently different from the problems relating to the distribution of legally obscene material, it should be no surprise to discover that tools designed to deal with the latter are largely ineffective in dealing with the former. The problems to which child pornography regulation is addressed are numerous, but four

stand out most prominently.

The first problem is that of the permanent record of the sexual practices in which children may be induced to engage. To the extent that pictures exist of this inherently nonconsensual act, those pictures follow the child up to and through adulthood, and the consequent embarrassment and humiliation are harms caused by the pictures themselves, independent of the harms attendant to the circumstances in which the photographs were originally made.[73]

Second, there is substantial evidence that photographs of children engaged in sexual activity are used as tools for further molestation of other children. Children are shown pictures of other children engaged in sexual activity, with the aim of persuading especially a quite young child that if it is in a picture, and if other children are doing it, then it must be all right for this child to do it.[74] As with the problem of the

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[73] We refer in this regard to our specific recommendation regarding possession of child pornography. We do not believe that a photograph of a child engaged in sexual activity should be part of someone else's "collection," even if that collection remains in the home.

[74] We note that there seems to be significant use of adult sexually explicit material for the same purpose. Child molesters will frequently show sexually explicit pictures of adults to children for the purpose of convincing a child that certain practices are perfectly acceptable because adults engage in them with some frequency. We are greatly disturbed by this practice, although we do not take the phenomenon as sufficient to justify restrictions we would not otherwise endorse. Many of the materials used for this purpose are not even close to being legally obscene, and, in the words of Justice Felix Frankfurter, we do not want to "burn the house to roast the pig." Butler v. Michigan, 353 U.S. 380, 383 (1957). Nevertheless, we have no doubt that the practice

permanent record, we see here a danger that is the direct consequence of the photographs themselves, a danger that is distinct from the harms related to the original making of the picture.

Third, photographs of children engaged in sexual practices with adults often constitute an important form of evidence against those adults in prosecutions for child molestation. Given the inherent difficulties of using children as witnesses, making it possible for the photographs to be evidence of the offense, or making the photographs the offense itself, provides an additional weapon in the arsenal against sexual abuse of children.

Finally, an argument related to the last is the unquestioned special harm to the children involved in both the commercial and the noncommercial distribution of child pornography. Although harms to performers involved would not otherwise be taken to be a sufficient condition for restriction of the photographs rather than the underlying conduct, the situation with children is of a different order of magnitude. The harm is virtually unanimously considered to be extraordinarily serious, and the possibility of consent is something that the law has long considered, and properly so, to be an impossibility. As a result, forms of

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exists, and we have no doubt that it is dangerous insofar as it helps break down the resistance of children to sexual advances by adults. At the very least, we strongly urge that children be warned about the practice in the course of whatever warnings about sexual advances by adults are being employed.

deterrence of the underlying conduct that might not otherwise be considered advisable may be considered so with respect to photographs of children. If the sale or distribution of such pictures is stringently sanctioned, and if those sanctions are equally stringently enforced, the market may decrease, and this may in turn decrease the incentive to produce those pictures.

As part of the previous justification, it ought to be obvious that virtually all child pornography is produced surreptitiously, and thus, even with vigorous enforcement efforts, enforcement will be difficult. Enforcement efforts against the more accessible product of the process rather than or in addition to the less accessible process itself may enable the realities of enforcement to track the magnitude of the problem.[75]

For all of these, as well as other, reasons, a number of states, including New York, enacted around 1980 laws directed at "child pornography" itself. These laws defined child pornography not in terms of the legally obscene, but rather in terms of any portrayal of sexual conduct by a child, or in terms that were somewhat similar to this. Under these statutes, the sale or distribution of any photographic depiction of a real child

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[75] As much as we urge the most vigorous enforcement of child pornography laws with respect both to commercial and noncommercial production, possession, and distribution, we recognize that the problem of child abuse is larger than the problem of child pornography. We urge vigorous enforcement of child pornography laws as an important way of fighting child abuse, but if it is treated as the only weapon, or the major weapon, a great deal that needs doing will remain undone.

engaged in sexual activity was made unlawful, regardless of whether the photograph, or magazine, or film was or could be determined to be legally obscene pursuant to Miller v. California.[76]

Because these new child pornography statutes encompassed material not legally obscene pursuant to Miller, and therefore encompassed material presumptively protected by the First Amendment, a constitutional challenge ensued. But in New York v. Ferber,[77] the Supreme Court unanimously rejected the constitutional challenges for reasons substantially similar to those discussed just above. The Court noted the undeniably "compelling" and "surpassing" interests involved in protecting children against this variety of exploitation, and also rested its conclusion on the fact that "[t]he value of permitting live performances and photographic reproductions of children engaged in lewd sexual conduct is exceedingly modest, if not de minimus. We consider it unlikely that visual depictions of children performing sexual acts or lewdly exhibiting their genitals would often constitute an important and necessary part of a literary performance or scientific or educational work." Given this minuscule amount of First Amendment protection, therefore, the Court determined that "[w]hen a definable class of material, such as that covered [by the New York statute], bears so heavily and

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[76] 413 U.S. 15 (1973). Miller is discussed extensively above in Chapter 4 of this Part.

[77] 458 U.S. 747 (1982).

pervasively on the welfare of children engaged in its production, we think the balance of competing interests is clearly struck and that it is permissible to consider these materials as without the protection of the First Amendment."

As a result of Ferber, virtually every state, as well as the United States, now prohibits by its criminal law the production, promotion, sale, exhibition, or distribution of photographs of children engaged in any sexual activity regardless of whether the material is legally obscene under the Miller standards. After Ferber these laws are clearly constitutionally sound, and none of us has any quarrel with the constitutionality of these statutes.

7.4 Enforcement of the Child Pornography Laws

In Chapter 4 of this Part we discussed the enforcement of state and federal obscenity laws, and described what we see as a rather consistent pattern of underenforcement of these laws. We do not reach the same conclusion with respect to the child pornography laws. It is plain to us that every unenforced violation of the child pornography laws is an underenforcement that ought to be remedied. We believe that many cases remain uninvestigated, and we believe that state and federal prosecution of child pornography, commercial and noncommercial, needs to be even more vigorous. Nevertheless, it remains the case that the child pornography laws seem now to be the subject of a substantial amount enforcement efforts on both the state and local levels. The federal statistics are illustrative. From January 1, 1978, to February 27, 1986, one hundred individuals

were indicted in the federal system for violation of the federal obscenity laws, and of those indicted seventy-one were convicted.[78] During that same time period, 255 individuals were indicted in the federal system for violation of federal child pornography laws, and of those 215 were convicted. Although these statistics themselves are highly suggestive of a substantial disparity, we believe that, if anything, the statistics understate the disparity. For one thing it is highly likely that in absolute terms there are more violations of the federal obscenity laws than there are violations of the child pornography laws. In addition, it was not until final adoption of the Child Protection Act of 1984 on May 21, 1984, that federal law, following Ferber, finally eliminated the requirement of "obscenity," and of the 255 indictments in fact 183 were secured in the period from May 21, 1984, through February 27, 1986.

This comparatively aggressive approach to enforcement of the federal child pornography laws has been matched by equally vigorous efforts in the vast majority of states. Although we urge even more aggressive enforcement of the child pornography laws at both state and federal levels, we see less systematic underinvestigation, underprosecution, and undersentencing than seems to exist with respect to enforcement of the obscenity laws.[79] Child pornography seems to be a matter that judges,

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[78] See, supra note 52.

[79] There are, however, impediments to investigation and prosecution that are specially related to any prosecution involving sexual abuse of children. One is the difficulty we

prosecutors, and law enforcement personnel have, with few exceptions, taken seriously. We are glad that they do, and we urge them to take it even more seriously.

In terms of taking these matters even more seriously, we note again the inseparable relationship between child pornography and child abuse. To take child pornography more seriously is to take sexual abuse of children more seriously, and vice versa. It is apparent that as of the date of this Report the sexual abuse of children is being taken increasingly seriously in this country, and we applaud that increased concern for a problem that has long been both largely unspoken and largely avoided. That situation is changing rapidly, and the increased attention to child pornography is part of the increased attention being given to all forms of sexual abuse of children, whether photographs are part of the act or not. We do not hesitate to support further efforts, in public education, in the education of children, and in law enforcement, to continue to attempt to diminish the sexual abuse of children, regardless of the form it takes.

None of us doubt that child pornography is extraordinarily harmful both to the children involved and to society, that dealing with child pornography in all of its forms ought to be

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address in our specific recommendations. Another is the fact that on occasion parents have themselves been involved in the illegal activity. And there seems still to be some reluctance to impose stiff sentences upon people who look and act otherwise "normal." To that extent a significant problem in dealing with sexual abusers of children is the mistaken and dangerous assumption that all or most of those people are self-evidently "weird."

treated as a governmental priority of the greatest urgency, and that an aggressive law enforcement effort is an essential part of this urgent governmental priority. Our unanimity of vigor about child pornography does not surprise us, and we expect that it will not surprise others. We hope that society will respond accordingly.

Chapter 8

The Role Of Private Action

8.1 The Right to Condemn and the Right to Speak

We are a government commission, and thus most of what we have to say is addressed to government. Yet it is simply mistaken to assume that citizen concerns need be exclusively or even largely channeled into governmental action. We feel it appropriate, therefore, to spend some time in this Report addressing the issue of how citizens might appropriately and lawfully put into practice their own concerns.

At the outset, it should be clear that citizens have every right to condemn a wide variety of material that is protected, and properly so, by the First Amendment. That governmental action against a certain variety of communication is unwise and unconstitutional does not mean that the communication is valuable, and does not mean that society is better off for having it. Earlier in this Report we used the examples of the Nazis and the Ku Klux Klan to illustrate this point, and we could add many more examples to this list. That the Communist Party is a lawful organization does not prevent most Americans from finding its tenets abhorrent, and the same holds true for a wide variety of sexually oriented material. Much of that material is, as we have explained, protected by the First Amendment, but it does not follow that the material is harmless, or that its proliferation is good for society.

The act of condemnation, of course, is itself central to

what the First Amendment is all about. Just as speaking out against government has long been part of what citizens are both entitled and indeed encouraged to do, so too is speaking out on matters of concern not directly related to the functioning of government. Expressing a point of view about sexually explicit materials in general, or about particular sexually explicit materials, is plainly the very kind of activity that First Amendment properly protects. To the extent that citizens have concerns about the kinds of sexually explicit material that are available in contemporary America, they should not only recognize that the First Amendment protects and encourages their right to express these concerns loudly and often, but should as well appreciate the fact that in many aspects of our lives to keep quiet is to approve. Moreover, communities are made by what people say and do, by what people approve and what people disapprove, and by what people tolerate and what people reject. For communities, and for the sense of community, community acceptance and community condemnation are central to what a community is.

Although we are concerned here primarily with protest or related action against materials that citizens find harmful, immoral, or objectionable, we do not wish to discount the value of protest directed at government when citizens wish government to do something it is not currently doing. Protest and related activities are entirely appropriate if citizens are dissatisfied with the work of their law enforcement officials, their

prosecutors, their administrators and executives, their legislators and their judges. It is certainly appropriate for citizens to protest the work of this Commission. We encourage citizens to be actively involved in what their government is doing, and if they feel that the government is not doing enough, or is doing too much, with respect to prosecution of prosecutable materials, then they should make their wishes known to those who have the power to make changes.

8.2 The Methods of Protest

It should be apparent from the foregoing that citizens need not feel hesitant in condemning that which they feel is worthy of condemnation. Moreover, they need feel no hesitation in taking advantage of the rights they have under the First Amendment to protest in more visible or organized form. They may, of course, form or join organizations designed expressly for the purposes of articulating a particular point of view. They may protest or picket or march or demonstrate in places where they are likely to attract attention, and where they will have the opportunity to persuade others of their views. The right of citizens to protest is of course coextensive with the right of publishers to publish, and we do not suggest that citizens not exercise their First Amendment rights as vigorously and as frequently as do those who publish their views in print, on film or tape, or over the airwaves.

Of some special relevance in this context is the practice of protesting near the premises of establishments offering material

that some citizens may find dangerous or offensive or immoral.

We recognize that such forms of protest may at times discourage patrons who would otherwise enter such establishments from proceeding, but that, we believe, is part of the way in which free speech operates in the United States. In the context of a labor dispute, picket lines frequently have this very kind of discouraging effect, and the Supreme Court, even outside of the labor context, has recognized the free speech rights of those people who would protest on public streets or sidewalks but in close proximity to business establishments whose business practices they find objectionable.[80] For citizens to protest in the vicinity of a pornography outlet is fully within the free speech traditions of this country, and so too is protest in the vicinity of an establishment only some of whose wares the protesters would find objectionable. If people feel that businesses, whether a local store or a multinational corporation, are behaving improperly, it is their right and their obligation to make those views known.

Somewhat related to on-site or near-site protesting, in terms of coercive force, is the boycott, in which a group of citizens may refuse to patronize an establishment offering certain kinds of magazines, or tapes, or other material, and may also urge others to take similar action. At times the boycott

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80 In fact, in Organization for a Better Austin v. Keefe, 402 U.S. 415(1971), the Court prohibited an injunction directed against people who were passing out leaflets in the neighborhood of the residence of a person whose business practices they found objectionable.

may take the form of action against an advertiser, where people may express their views about corporate responsibility by refusing to buy certain products as long as the producer of those products advertises in certain magazines, or on certain television shows. Boycotts attempt to take advantage in organized fashion of the needs for business establishments to have customers. They are thus attempts to mobilize consumer power towards controlling the products and services made available in the market.

In a number of purely business contexts, an organized boycott would violate the antitrust laws, whose aim, in part, is to encourage competition by discouraging some forms of organized economic pressure. But consumer boycotts for social and political aims have been determined by the Supreme Court to be protected by the First Amendment,[81] and thus we do not hesitate to note that a consumer boycott, premised on the view that corporations can often do as much, for good or for evil, as government, is well within the First Amendment-protected methods of protesting business activities that citizens may find objectionable.

8.3 The Risks of Excess

In pointing out the citizen's undoubted right to protest written, printed, or photographic material that he or she finds harmful, objectionable, immoral, or offensive, we are not so

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81 NAACP v. Claiborne Hardware Co., 458 U.S. 886 (1982).

naive as to ignore that this right to protest may often be carried to excess. Citizens who protest, or boycott, or picket, or distribute leaflets, or march, or demonstrate are unquestionably exercising their First Amendment rights. But just like the First Amendment rights of some of those who deal in sexually explicit materials, these rights may be exercised harmfully or unwisely.

Thus, we have no doubt that a citizen has the right to refuse to shop at a store that sells the National Review or The New Republic because the citizen disagrees with the political point of view of one of those magazines. And we have no doubt that a citizen who urges his friends and others to do the same is still well within what the First Amendment does and ought to protect. But we also have no doubt that the citizen who exercises his First Amendment rights in this manner could be criticized by most people, and most of us would strongly support that criticism. Apart from the question of governmental interference, there are positive values associated with the free flow of ideas and information, and society is the loser when that process is unduly stifled. Just as with the free speech rights of those who trade in sexually explicit materials, the free speech rights to protest objectionable material may be exercised in a lawful but societally harmful manner.

Thus we have little doubt that in exercising their First Amendment rights to protest material that they find objectionable, some people will protest material that quite

simply ought to be encouraged freely to circulate in this society. We also have little doubt that protest activity may very well inhibit this process of circulation. If large numbers of people refused to patronize bookstores that sold Sinclair Lewis' Elmer Gantry because it dealt with sexual immorality by a minister, or if people picketed the residences of booksellers who sold James Joyce's Ulysses because of its sexual themes and language, this society would, quite simply, be the worse for it. These examples are of course extreme, but the fears that many arguably valuable but sexually frank works of fiction and non-fiction will be stifled not by governmental action but by social pressure is real.

We have no solutions to this dilemma. We believe it fully appropriate for citizens to protest against material they find objectionable, and we know that at times this protest activity will go too far, to the detriment of all of us. This society is a free society not only because of the First Amendment, but also because of generally held attitudes of tolerance. We encourage people to object to the objectionable, but we think it even more important that they tolerate the tolerable.

8.4 The Importance of Education and Discussion

By focusing on protests, boycotts, and related activities, we have here emphasized conduct that is largely negative and reactive. Although we see a central place for communicative activities that are negative and reactive, we do not wish to suggest that this is all that can or should be done. In

particular, we note the extent to which education is ultimately central to much that we have been discussing. In the broadest sense, not just with respect to the education that takes place in the schools, and with respect to values and awareness as well as to facts, education is the real solution to the problem of pornography.

We have identified harms that seem to be caused by certain sexually explicit material, but many of those harms are the result of how images affect attitudes, and of how images affect behavior. But the ability of an image to affect behavior is not only a function of what that image is saying or doing, but of what other images are part of the array of stimuli received by an individual. We recognize the extent to which an attraction to one sexual stimulus rather than another may significantly be caused by individual characteristics formed at a relatively early age, in many cases before exposure to any highly sexually explicit material. But we recognize as well that if images can cause certain forms of behavior, as we believe they can and as the evidence shows, then images ought as well to be able to prevent behavior, or cause different behavior.

The images that might cause different behavior can, of course, come from numerous sources. So can the messages that would lead people in even greater numbers to reject the view that sexual violence is sometimes appropriate, to reject the view that women enjoy being physically coerced into sex, to reject the view that women's primary sexual role is to satisfy the desires of

men, to reject the view that sex ought to be an essentially public act, and to reject the view that sex outside of love, marriage, commitment, or affection is something to be sought. These positive messages might address all of these underlying attitudes. They might also address pornography more explicitly, discussing its dangers to individuals and to society. The messages might come from family members, or teachers, or religious leaders, or political figures, or the messages might come, perhaps especially, from the mass media.

Ultimately, a significant part of the concern with pornography is a concern about negative messages. One way to deal with negative messages is to prevent them from being sent, or to prevent them from being reinforced once they are sent. Action against harmful pornography, whether by law or by social action or by individual condemnation, is in the final analysis a negative approach. It is an attempt to eliminate a harmful message, and such attempts are frequently appropriate. But they cannot succeed by themselves. These essentially negative and reactive efforts must be accompanied by positive efforts. If there are certain attitudes that people ought not to have, then what attitudes ought people to have, and how can those attitudes best be inculcated? What will be taught in the schools? What forms of behavior will be publicly admired? What will the mass media encourage? What will we expect of each other in interpersonal behavior? The list goes on and on.

We commenced this Report by noting that we were a Commission

appointed by the Attorney General of the United States, and therefore felt a special responsibility to concentrate our efforts towards law and law enforcement. It is appropriate to conclude, however, with this recognition of the limits of law and the limits of law enforcement. A wide range of behaviors, from telling the truth to our friends to eating with knives and forks rather than fingers, is channeled quite effectively without significant legal involvement. And another wide range of behaviors, from jaywalking to income tax evasion, persists even in the face of attempts by law to restrict it. To know what the law can do, we must appreciate what the law cannot do. We believe that in many respects the law can serve important controlling and symbolic purposes in restricting the proliferation of certain sexually explicit material that we believe harmful to individuals and to society. But we know as well that to rely entirely or excessively on law is simply a mistake. Law may influence belief, but it also operates in the shadow of belief. And beliefs, of course, are often a product of deeply held moral, ethical, and spiritual commitments. That foundation of values is the glue that holds a democracy, which functions according to the will of the majority, together. Government can and must protect the interests of the minority, to be sure. But law enforcement cannot entirely compensate for or regulate the consequences of bad decisions if the majority consistently chooses evil or error. If there are attitudes that need changing and behaviors that need restricting, then law has a

role to play. But if we expect law to do too much, we will discover only too late that few of our problems have been solved.

PART THREE

Chapter 1

Introduction

Based upon their collective observations, and the information provided through testimony, the following recommendations are advanced by this Commission.

I. RECOMMENDATIONS FOR THE JUSTICE SYSTEM AND LAW ENFORCEMENT AGENCIES

A. RECOMMENDATIONS FOR CHANGES IN FEDERAL LAW

1. CONGRESS SHOULD ENACT A FORFEITURE STATUTE TO REACH THE PROCEEDS AND INSTRUMENTS OF ANY OFFENSE COMMITTED IN VIOLATION OF THE FEDERAL OBSCENITY LAWS.

2. CONGRESS SHOULD AMEND THE FEDERAL OBSCENITY LAWS TO ELIMINATE THE NECESSITY OF PROVING TRANSPORTATION IN INTERSTATE COMMERCE. A STATUTE SHOULD BE ENACTED TO ONLY REQUIRE PROOF THAT THE DISTRIBUTION OF THE OBSCENE MATERIAL "AFFECTS" INTERSTATE COMMERCE.

3. CONGRESS SHOULD ENACT LEGISLATION

MAKING IT AN UNFAIR BUSINESS PRACTICE AND AN UNFAIR LABOR PRACTICE FOR ANY EMPLOYER TO HIRE INDIVIDUALS TO PARTICIPATE IN COMMERCIAL SEXUAL PERFORMANCES.

4. CONGRESS SHOULD AMEND THE MANN ACT TO MAKE ITS PROVISIONS GENDER NEUTRAL.

5. CONGRESS SHOULD AMEND TITLE 18 OF THE UNITED STATES CODE TO SPECIFICALLY PROSCRIBE OBSCENE CABLE TELEVISION PROGRAMMING.

6. CONGRESS SHOULD ENACT LEGISLATION TO PROHIBIT THE TRANSMISSION OF OBSCENE MATERIAL THROUGH THE TELEPHONE OR SIMILAR COMMON CARRIER.

B. RECOMMENDATIONS FOR CHANGES IN STATE LAW

7. STATE LEGISLATURES SHOULD AMEND, IF NECESSARY, OBSCENITY STATUTES CONTAINING THE DEFINITIONAL REQUIREMENT THAT MATERIAL BE "UTTERLY WITHOUT REDEEMING

SOCIAL VALUE" IN ORDER TO BE OBSCENE TO CONFORM WITH THE CURRENT STANDARD ENUNCIATED BY THE UNITED STATES SUPREME COURT IN MILLER V CALIFORNIA.

8. STATE LEGISLATURES SHOULD AMEND, IF NECESSARY, OBSCENITY STATUTES TO ELIMINATE MISDEMEANOR STATUS FOR SECOND OFFENSES AND MAKE ANY SECOND OFFENSE PUNISHABLE AS A FELONY.

9. STATE LEGISLATURES SHOULD ENACT, IF NECESSARY, FORFEITURE PROVISIONS AS PART OF THE STATE OBSCENITY LAWS.

10. STATE LEGISLATURES SHOULD ENACT A RACKETEER INFLUENCED CORRUPT ORGANIZATIONS(RICO) STATUTE WHICH HAS OBSCENITY AS A PREDICATE ACT.

C. RECOMMENDATIONS FOR THE UNITED STATES DEPARTMENT OF JUSTICE

11. THE ATTORNEY GENERAL SHOULD DIRECT THE UNITED STATES ATTORNEYS TO EXAMINE THE OBSCENITY PROBLEM IN THEIR RESPECTIVE DISTRICTS,

IDENTIFY OFFENDERS, INITIATE INVESTIGATIONS, AND COMMENCE PROSECUTION WITHOUT FURTHER DELAY.

12. THE ATTORNEY GENERAL SHOULD APPOINT A HIGH RANKING OFFICIAL FROM THE DEPARTMENT OF JUSTICE TO OVERSEE THE CREATION AND OPERATION OF AN OBSCENITY TASK FORCE. THE TASK FORCE SHOULD CONSIST OF SPECIAL ASSISTANT UNITED STATES ATTORNEYS AND FEDERAL AGENTS WHO WILL ASSIST UNITED STATES ATTORNEYS IN THE PROSECUTION AND INVESTIGATION OF OBSCENITY CASES.

13. THE DEPARTMENT OF JUSTICE SHOULD INITIATE THE CREATION OF AN OBSCENITY LAW ENFORCEMENT DATA BASE WHICH WOULD SERVE AS A RESOURCE NETWORK FOR FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT AGENCIES.

14. THE UNITED STATES ATTORNEYS SHOULD USE LAW ENFORCEMENT COORDINATING COMMITTEES TO COORDINATE ENFORCEMENT OF THE OBSCENITY LAWS AND TO MAINTAIN

SURVEILLANCE OF THE NATURE AND EXTENT OF THE OBSCENITY PROBLEM WITHIN EACH DISTRICT.

15. THE DEPARTMENT OF JUSTICE AND UNITED STATES ATTORNEYS SHOULD USE THE RACKETEER INFLUENCED CORRUPT ORGANIZATION ACT (RICO) AS A MEANS OF PROSECUTING MAJOR PRODUCERS AND DISTRIBUTORS OF OBSCENE MATERIAL.

16. THE DEPARTMENT OF JUSTICE SHOULD CONTINUE TO PROVIDE THE UNITED STATES ATTORNEYS WITH TRAINING PROGRAMS ON LEGAL AND PROCEDURAL MATTERS RELATED TO OBSCENITY CASES AND ALSO SHOULD MAKE SUCH TRAINING AVAILABLE TO STATE AND LOCAL PROSECUTORS.

17. THE UNITED STATES ATTORNEYS SHOULD USE ALL AVAILABLE FEDERAL STATUTES TO PROSECUTE OBSCENITY LAW VIOLATIONS INVOLVING CABLE AND SATELLITE TELEVISION.

D. RECOMMENDATIONS FOR STATE AND LOCAL PROSECUTORS

18. STATE AND LOCAL PROSECUTORS SHOULD PROSECUTE PRODUCERS OF OBSCENE MATERIAL UNDER EXISTING LAWS INCLUDING THOSE PROHIBITING PANDERING AND OTHER UNDERLYING SEXUAL OFFENSES.

19. STATE AND LOCAL PROSECUTORS SHOULD EXAMINE THE OBSCENITY PROBLEM IN THEIR JURISDICTION, IDENTIFY OFFENDERS, INITIATE INVESTIGATIONS, AND COMMENCE PROSECUTION WITHOUT FURTHER DELAY.

20. STATE AND LOCAL PROSECUTORS SHOULD ALLOCATE SUFFICIENT RESOURCES TO PROSECUTE OBSCENITY CASES.

21. STATE AND LOCAL PROSECUTORS SHOULD USE THE BANKRUPTCY LAWS TO COLLECT UNPAID FINES.

22. STATE AND LOCAL PROSECUTORS SHOULD USE ALL AVAILABLE STATUTES TO PROSECUTE OBSCENITY VIOLATIONS INVOLVING CABLE AND SATELLITE TELEVISION.

23. STATE AND LOCAL PROSECUTORS SHOULD ENFORCE EXISTING CORPORATE LAWS TO PREVENT THE FORMATION, USE AND ABUSE OF SHELL CORPORATIONS WHICH SERVE AS A SHELTER FOR PRODUCERS AND DISTRIBUTORS OF OBSCENE MATERIAL.

24. STATE AND LOCAL PROSECUTORS SHOULD ENFORCE THE ALCOHOLIC BEVERAGE CONTROL LAWS THAT PROHIBIT OBSCENITY ON LICENSED PREMISES.

25. GOVERNMENT ATTORNEYS, INCLUDING STATE AND LOCAL PROSECUTORS, SHOULD ENFORCE ALL LEGAL REMEDIES AUTHORIZED BY STATUTE.

E. RECOMMENDATIONS FOR FEDERAL LAW ENFORCEMENT AGENCIES

26. FEDERAL LAW ENFORCEMENT AGENCIES SHOULD CONDUCT ACTIVE AND THOROUGH INVESTIGATIONS OF ALL SIGNIFICANT VIOLATIONS OF THE OBSCENITY LAWS WITH INTERSTATE DIMENSIONS.

27. THE INTERNAL REVENUE SERVICE SHOULD AGGRESSIVELY INVESTIGATE VIOLATIONS OF THE TAX LAWS COMMITTED BY PRODUCERS AND DISTRIBUTORS OF OBSCENE MATERIAL.

F. RECOMMENDATIONS FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES

28. STATE AND LOCAL LAW ENFORCEMENT AGENCIES SHOULD PROVIDE THE MOST THOROUGH AND UP-TO-DATE TRAINING FOR INVESTIGATORS INVOLVED IN ENFORCING THE OBSCENITY LAWS.

29. STATE AND LOCAL LAW ENFORCEMENT AGENCIES SHOULD ALLOCATE SUFFICIENT PERSONNEL TO CONDUCT INTENSIVE AND THOROUGH INVESTIGATIONS OF ANY VIOLATIONS OF THE OBSCENITY LAWS.

30. STATE AND LOCAL LAW ENFORCEMENT OFFICERS SHOULD TAKE AN ACTIVE ROLE IN THE LAW ENFORCEMENT COORDINATING COMMITTEES.

31. STATE AND LOCAL REVENUE AUTHORITIES MUST INSURE TAXES ARE COLLECTED FROM BUSINESSES DEALING IN OBSCENE MATERIALS.

32. STATE AND LOCAL PUBLIC HEALTH AUTHORITIES SHOULD INVESTIGATE CONDITIONS WITHIN "ADULTS ONLY" PORNOGRAPHIC OUTLETS AND ARCADES AND ENFORCE THE LAWS AGAINST ANY HEALTH VIOLATIONS FOUND ON THOSE PREMISES.

G. RECOMMENDATION FOR THE JUDICIARY

33. JUDGES SHOULD IMPOSE SUBSTANTIAL PERIODS OF INCARCERATION FOR PERSONS WHO ARE REPEATEDLY CONVICTED OF OBSCENITY LAW VIOLATIONS AND WHEN APPROPRIATE SHOULD ORDER PAYMENT OF RESTITUTION TO IDENTIFIED VICTIMS AS PART OF THE SENTENCE.

H. RECOMMENDATIONS FOR THE FEDERAL COMMUNICATIONS COMMISSION

34. THE FEDERAL COMMUNICATIONS COMMISSION SHOULD USE ITS FULL REGULATORY POWERS AND IMPOSE APPROPRIATE SANCTIONS AGAINST PROVIDERS OF OBSCENE DIAL-A-PORN TELEPHONE SERVICES.

35. THE FEDERAL COMMUNICATIONS COMMISSION SHOULD USE ITS FULL REGULATORY POWERS AND IMPOSE APPROPRIATE SANCTIONS AGAINST CABLE AND SATELLITE TELEVISION PROGRAMMERS WHO TRANSMIT OBSCENE PROGRAMS.

I. RECOMMENDATION FOR OTHER FEDERAL ORGANIZATIONS

36. THE PRESIDENT'S COMMISSION ON UNIFORM SENTENCING SHOULD CONSIDER A PROVISION FOR A MINIMUM OF ONE YEAR IMPRISONMENT FOR ANY SECOND OR SUBSEQUENT VIOLATION OF FEDERAL LAW INVOLVING OBSCENE MATERIAL THAT DEPICTS ADULTS.

II. RECOMMENDATIONS FOR THE REGULATION OF CHILD PORNOGRAPHY

37. CONGRESS SHOULD ENACT LEGISLATION REQUIRING PRODUCERS, RETAILERS, OR DISTRIBUTORS OF SEXUALLY EXPLICIT VISUAL DEPICTIONS TO MAINTAIN RECORDS CONTAINING CONSENT FORMS AND PROOF OF PERFORMERS' AGES.

38. CONGRESS SHOULD ENACT LEGISLATION PROHIBITING PRODUCERS OF CERTAIN SEXUALLY EXPLICIT VISUAL DEPICTIONS FROM USING PERFORMERS UNDER THE AGE OF TWENTY-ONE.

39. CONGRESS SHOULD ENACT LEGISLATION TO PROHIBIT THE EXCHANGE OF INFORMATION CONCERNING CHILD PORNOGRAPHY OR CHILDREN TO BE USED IN CHILD PORNOGRAPHY THROUGH COMPUTER NETWORKS.

40. CONGRESS SHOULD AMEND THE CHILD PROTECTION ACT FORFEITURE SECTION TO INCLUDE A PROVISIOn WHICH AUTHORIZES THE POSTAL INSPECTION SERVICE TO CONDUCT FORFEITURE ACTIONS.

41. CONGRESS SHOULD AMEND 18 U.S.C.

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S2255 TO DEFINE THE TERM "VISUAL DEPICTION" AND INCLUDE UNDEVELOPED FILM IN THAT DEFINITION.

42. CONGRESS SHOULD ENACT LEGISLATION PROVIDING FINANCIAL INCENTIVES FOR THE STATES TO INITIATE TASK FORCES ON CHILD PORNOGRAPHY AND RELATED CASES.

43. CONGRESS SHOULD ENACT LEGISLATION TO MAKE THE ACTS OF CHILD SELLING OR CHILD PURCHASING, FOR THE PRODUCTION OF SEXUALLY EXPLICIT VISUAL DEPICTIONS, A FELONY.

B. RECOMMENDATIONS FOR STATE LEGISLATION

44. STATE LEGISLATURES SHOULD AMEND, IF NECESSARY, CHILD PORNOGRAPHY STATUTES TO INCLUDE FORFEITURE PROVISIONS.

45. STATE LEGISLATURES SHOULD AMEND LAWS, WHERE NECESSARY, TO MAKE THE KNOWING POSSESSION OF CHILD PORNOGRAPHY

A FELONY.

46. STATE LEGISLATURES SHOULD AMEND, IF NECESSARY, LAWS MAKING THE SEXUAL ABUSE OF CHILDREN THROUGH THE PRODUCTION OF SEXUALLY EXPLICIT VISUAL DEPICTIONS, A FELONY.

47. STATE LEGISLATURES SHOULD ENACT LEGISLATION, IF NECESSARY, TO MAKE THE CONSPIRACY TO PRODUCE, DISTRIBUTE, GIVE AWAY OR EXHIBIT ANY SEXUALLY EXPLICIT VISUAL DEPICTIONS OF CHILDREN OR EXCHANGE OR DELIVER CHILDREN FOR SUCH PURPOSE A FELONY.

48. STATE LEGISLATURES SHOULD AMEND, IF NECESSARY, CHILD PORNOGRAPHY LAWS TO CREATE AN OFFENSE FOR ADVERTISING, SELLING, PURCHASING, BARTERING, EXCHANGING, GIVING OR RECEIVING INFORMATION AS TO WHERE SEXUALLY EXPLICIT MATERIALS DEPICTING CHILDREN CAN BE FOUND.

49. STATE LEGISLATURES SHOULD ENACT

OR AMEND LEGISLATION, WHERE NECESSARY, TO MAKE CHILD SELLING OR CHILD PURCHASING FOR THE PRODUCTION OF SEXUALLY EXPLICIT VISUAL DEPICTIONS, A FELONY.

50. STATE LEGISLATURES SHOULD AMEND LAWS, WHERE NECESSARY, TO MAKE CHILD PORNOGRAPHY IN THE POSSESSION OF AN ALLEGED CHILD SEXUAL ABUSER WHICH DEPICTS THAT PERSON ENGAGED IN SEXUAL ACTS WITH A MINOR SUFFICIENT EVIDENCE OF CHILD MOLESTATION FOR USE IN PROSECUTING THAT INDIVIDUAL WHETHER OR NOT THE CHILD INVOLVED IS FOUND OR IS ABLE TO TESTIFY.

51. STATE LEGISLATURES SHOULD AMEND LAWS, IF NECESSARY, TO ELIMINATE THE REQUIREMENT THAT THE PROSECUTION IDENTIFY OR PRODUCE TESTIMONY FROM THE CHILD WHO IS DEPICTED IF PROOF OF AGE CAN OTHERWISE BE ESTABLISHED.

52. STATE LEGISLATURES SHOULD ENACT OR AMEND LEGISLATION, IF NECESSARY,

WHICH REQUIRES PHOTO FINISHING LABORATORIES TO REPORT SUSPECTED CHILD PORNOGRAPHY.

53. STATE LEGISLATURES SHOULD AMEND OR ENACT LEGISLATION, IF NECESSARY, TO PERMIT JUDGES TO IMPOSE A SENTENCE OF LIFETIME PROBATION FOR CONVICTED CHILD PORNOGRAPHERS AND RELATED OFFENDERS.

C. RECOMMENDATIONS FOR FEDERAL LAW ENFORCEMENT AGENCIES

54. THE STATE DEPARTMENT, THE UNITED STATES DEPARTMENT OF JUSTICE, THE UNITED STATES CUSTOMS SERVICE, THE UNITED STATES POSTAL INSPECTION SERVICE, THE FEDERAL BUREAU OF INVESTIGATION AND OTHER FEDERAL AGENCIES SHOULD CONTINUE TO WORK WITH OTHER NATIONS TO DETECT AND INTERCEPT CHILD PORNOGRAPHY.

55. THE UNITED STATES DEPARTMENT OF JUSTICE SHOULD DIRECT THE LAW ENFORCEMENT COORDINATING COMMITTEES

TO FORM TASK FORCES OF DEDICATED AND EXPERIENCED INVESTIGATORS AND PROSECUTORS IN MAJOR REGIONS TO COMBAT CHILD PORNOGRAPHY.

56. THE DEPARTMENT OF JUSTICE OR OTHER APPROPRIATE FEDERAL AGENCY SHOULD INITIATE THE CREATION OF A DATA BASE WHICH WOULD SERVE AS A RESOURCE NETWORK FOR FEDERAL, STATE AND LOCAL LAW ENFORCEMENT AGENCIES TO SEND AND OBTAIN INFORMATION REGARDING CHILD PORNOGRAPHY TRAFFICKING.

57. FEDERAL LAW ENFORCEMENT AGENCIES SHOULD DEVELOP AND MAINTAIN CONTINUOUS TRAINING PROGRAMS FOR AGENTS IN TECHNIQUES OF CHILD PORNOGRAPHY INVESTIGATIONS.

58. FEDERAL LAW ENFORCEMENT AGENCIES SHOULD HAVE PERSONNEL TRAINED IN CHILD PORNOGRAPHY INVESTIGATION AND WHEN POSSIBLE THEY SHOULD FORM SPECIALIZED UNITS FOR CHILD SEXUAL

ABUSE AND CHILD PORNOGRAPHY INVESTIGATION.

59. FEDERAL LAW ENFORCEMENT AGENCIES SHOULD USE SEARCH WARRANTS IN CHILD PORNOGRAPHY AND RELATED CASES EXPEDITIOUSLY AS A MEANS OF GATHERING EVIDENCE AND FURTHERING OVERALL INVESTIGATION EFFORTS IN THE CHILD PORNOGRAPHY AREA.

60. FEDERAL LAW ENFORCEMENT AGENTS SHOULD ASK THE CHILD VICTIM IN REPORTED CHILD SEXUAL ABUSE CASES IF PHOTOGRAPHS OR FILMS WERE MADE OF HIM OR HER DURING THE COURSE OF SEXUAL ABUSE.

61. THE DEPARTMENT OF JUSTICE SHOULD APPOINT A NATIONAL TASK FORCE TO CONDUCT A STUDY OF CASES THROUGHOUT THE UNITED STATES REFLECTING APPARENT PATTERNS OF MULTI-VICTIM, MULTI-PERPETRATOR CHILD SEXUAL EXPLOITATION.

D. RECOMMENDATIONS FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES

62. LOCAL LAW ENFORCEMENT AGENCIES

SHOULD PARTICIPATE IN THE LAW ENFORCEMENT COORDINATING COMMITTEES TO FORM REGIONAL TASK FORCES OF DEDICATED AND EXPERIENCED INVESTIGATORS AND PROSECUTORS TO COMBAT CHILD PORNOGRAPHY.

63. STATE AND LOCAL LAW ENFORCEMENT AGENCIES SHOULD DEVELOP AND MAINTAIN CONTINUOUS TRAINING PROGRAMS FOR OFFICERS IN IDENTIFICATION, APPREHENSION, AND UNDERCOVER TECHNIQUES OF CHILD PORNOGRAPHY INVESTIGATIONS.

64. STATE AND LOCAL LAW ENFORCEMENT AGENCIES SHOULD PARTICIPATE IN A NATIONAL DATA BASE ESTABLISHED TO SERVE AS A CENTER FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES TO SUBMIT AND RECEIVE INFORMATION REGARDING CHILD PORNOGRAPHY TRAFFICKING.

65. STATE AND LOCAL LAW ENFORCEMENT AGENCIES SHOULD HAVE PERSONNEL TRAINED IN CHILD PORNOGRAPHY INVESTIGATION AND WHEN POSSIBLE THEY SHOULD FORM SPECIALIZED UNITS FOR

CHILD SEXUAL ABUSE AND CHILD PORNOGRAPHY INVESTIGATIONS.

66. STATE AND LOCAL LAW ENFORCEMENT AGENCIES SHOULD USE SEARCH WARRANTS IN CHILD SEXUAL EXPLOITATION CASES EXPEDITIOUSLY AS A MEANS OF GATHERING EVIDENCE AND FURTHERING OVERALL INVESTIGATION EFFORT IN THE CHILD PORNOGRAPHY AREA.

67. STATE AND LOCAL LAW ENFORCEMENT OFFICERS SHOULD ASK THE CHILD VICTIM IN REPORTED CHILD SEXUAL ABUSE CASES IF PHOTOGRAPHS OR FILMS WERE MADE OF HIM OR HER DURING THE COURSE OF SEXUAL ABUSE.

E. RECOMMENDATIONS FOR PROSECUTORS

68. THE UNITED STATES DEPARTMENT OF JUSTICE SHOULD DIRECT UNITED STATES ATTORNEYS TO PARTICIPATE IN LAW ENFORCEMENT COORDINATING COMMITTEE TASK FORCES TO COMBAT CHILD PORNOGRAPHY.

69. FEDERAL, STATE, AND LOCAL PROSECUTORS SHOULD PARTICIPATE IN A TASK FORCE OF MULTI-DISCIPLINARY PRACTITIONERS AND DEVELOP A PROTOCOL FOR COURTROOM PROCEDURES FOR CHILD WITNESSES THAT WOULD MEET CONSTITUTIONAL STANDARDS.

70. PROSECUTORS SHOULD ASSIST STATE, LOCAL, AND FEDERAL LAW ENFORCEMENT AGENCIES TO USE SEARCH WARRANTS IN POTENTIAL CHILD PORNOGRAPHY AND RELATED CHILD SEXUAL ABUSE CASES.

71. STATE, LOCAL, AND FEDERAL PROSECUTORS SHOULD ASK THE CHILD VICTIM IN REPORTED CHILD SEXUAL ABUSE CASES IF PHOTOGRAPHS OR FILMS WERE MADE OF HIM OR HER DURING THE COURSE OF SEXUAL ABUSE.

72. STATE AND LOCAL PROSECUTORS SHOULD USE THE VERTICAL PROSECUTION MODEL IN CHILD PORNOGRAPHY AND RELATED CASES.

F. RECOMMENDATIONS FOR THE JUDICIARY AND CORRECTIONAL FACILITIES

73. JUDGES AND PROBATION OFFICERS SHOULD RECEIVE SPECIFIC EDUCATION SO THEY MAY INVESTIGATE, EVALUATE, SENTENCE AND SUPERVISE PERSONS CONVICTED OF CHILD PORNOGRAPHY AND RELATED CASES APPROPRIATELY.

74. JUDGES SHOULD IMPOSE APPROPRIATE PERIODS OF INCARCERATION FOR CONVICTED CHILD PORNOGRAPHERS AND RELATED OFFENDERS.

75. JUDGES SHOULD USE, WHEN APPROPRIATE, A SENTENCE OF LIFETIME PROBATION FOR CONVICTED CHILD PORNOGRAPHERS.

76. PRE-SENTENCE REPORTS CONCERNING INDIVIDUALS FOUND GUILTY OF VIOLATIONS OF CHILD PORNOGRAPHY OR RELATED LAWS SHOULD BE BASED ON SOURCES OF INFORMATION IN ADDITION TO THE OFFENDER HIMSELF OR HERSELF.

77. STATE AND FEDERAL CORRECTIONAL FACILITIES SHOULD RECOGNIZE THE

UNIQUE PROBLEMS OF CHILD PORNOGRAPHERS AND RELATED OFFENDERS AND DESIGNATE APPROPRIATE PROGRAMS REGARDING THEIR INCARCERATION.

78. FEDERAL, STATE, AND LOCAL JUDGES SHOULD PARTICIPATE IN A TASK FORCE OF MULTI-DISCIPLINARY PRACTITIONERS AND DEVELOP A PROTOCOL FOR COURTROOM PROCEDURES FOR CHILD WITNESSES THAT WOULD MEET CONSTITUTIONAL STANDARDS.

G. RECOMMENDATIONS FOR PUBLIC AND PRIVATE SOCIAL SERVICE AGENCIES

79. PUBLIC AND PRIVATE SOCIAL SERVICE AGENCIES SHOULD PARTICIPATE IN A TASK FORCE OF MULTI-DISCIPLINARY PRACTITIONERS AND DEVELOP A PROTOCOL FOR COURTROOM PROCEDURES FOR CHILD WITNESSES THAT WOULD MEET CONSTITUTIONAL STANDARDS.

80. SOCIAL, MENTAL HEALTH AND MEDICAL SERVICES SHOULD BE PROVIDED FOR CHILD

PORNOGRAPHY VICTIMS.

81. LOCAL AGENCIES SHOULD ALLOCATE VICTIMS OF CRIMES FUNDS TO PROVIDE MONIES FOR PSYCHIATRIC EVALUATION AND TREATMENT AND MEDICAL TREATMENT OF CHILD PORNOGRAPHY VICTIMS AND THEIR FAMILIES.

82. CLINICAL EVALUATORS SHOULD BE TRAINED TO ASSIST CHILDREN VICTIMIZED THROUGH THE PRODUCTION AND USE OF CHILD PORNOGRAPHY MORE EFFECTIVELY AND TO BETTER UNDERSTAND ADULT PSYCHOSEXUAL DISORDERS.

83. BEHAVIORAL SCIENTISTS SHOULD CONDUCT RESEARCH TO DETERMINE THE EFFECTS OF THE PRODUCTION OF CHILD PORNOGRAPHY AND THE RELATED VICTIMIZATION ON CHILDREN.

84. STATES SHOULD SUPPORT AGE APPROPRIATE EDUCATION AND PREVENTION PROGRAMS FOR PARENTS, TEACHERS AND CHILDREN WITHIN PUBLIC AND PRIVATE SCHOOL SYSTEMS TO PROTECT CHILDREN

FROM VICTIMIZATION BY CHILD PORNOGRAPHERS AND CHILD SEXUAL ABUSERS.

85. A MULTI-MEDIA EDUCATIONAL CAMPAIGN SHOULD BE DEVELOPED WHICH INCREASES FAMILY AND COMMUNITY AWARENESS REGARDING CHILD SEXUAL EXPLOITATION THROUGH THE PRODUCTION AND USE OF CHILD PORNOGRAPHY.

III. VICTIMIZATION

86. STATE, COUNTY AND MUNICIPAL GOVERNMENTS SHOULD FACILITATE THE DEVELOPMENT OF PUBLIC AND PRIVATE RESOURCES FOR PERSONS WHO ARE CURRENTLY INVOLVED IN THE PRODUCTION OR CONSUMPTION OF PORNOGRAPHY AND WISH TO DISCONTINUE THIS INVOLVEMENT AND FOR THOSE WHO SUFFER MENTAL, PHYSICAL, EDUCATIONAL, OR EMPLOYMENT DISABILITIES AS A RESULT OF EXPOSURE OR PARTICIPATION IN THE PRODUCTION OF PORNOGRAPHY.

IV. CIVIL RIGHTS

87. LEGISLATURES SHOULD CONDUCT HEARINGS AND CONSIDER LEGISLATION RECOGNIZING A CIVIL REMEDY FOR HARMS ATTRIBUTABLE TO PORNOGRAPHY.

V. "ADULTS ONLY" PORNOGRAPHIC OUTLETS

88. "ADULTS ONLY" PORNOGRAPHIC OUTLET PEEP SHOW FACILITIES WHICH PROVIDE INDIVIDUAL BOOTHS FOR VIEWING SHOULD NOT BE EQUIPPED WITH DOORS. THE OCCUPANT OF THE BOOTH SHOULD BE CLEARLY VISIBLE TO ELIMINATE A HAVEN FOR SEXUAL ACTIVITY.

89. HOLES ENABLING INTERBOOTH SEXUAL CONTACT BETWEEN PATRONS SHOULD BE PROHIBITED IN THE PEEP SHOW BOOTHS.

90. BECAUSE OF THE APPARENT HEALTH HAZARDS POSED BY THE OUTLET ENVIRONMENT GENERALLY, AND THE PEEP SHOW BOOTH IN PARTICULAR, SUCH FACILITIES SHOULD BE SUBJECT TO PERIODIC INSPECTION

AND LICENSING BY APPROPRIATE
GOVERNMENTAL AGENTS.

91. ANY FORM OF INDECENT ACT BY OR
AMONG "ADULTS ONLY" PORNOGRAPHIC
OUTLET PATRONS SHOULD BE UNLAWFUL.

92. ACCESS TO "ADULTS ONLY" PORNOGRAPHIC
OUTLETS SHOULD BE LIMITED TO PERSONS
OVER THE AGE OF EIGHTEEN.

Chapter 2

Recommendations For The Justice System And Law Enforcement Agencies

Introduction

The effective enforcement of obscenity laws necessarily involves a concerted and responsive effort on the part of each facet of the criminal justice system. Personnel involved in each of these components must exhibit some concern and appreciation for its effect of obscene materials on a community. It is unrealistic to expect law enforcement agencies to devote the same attention to obscenity law violations that violent crimes command. This does not imply, however, that obscenity violations should be accorded the lowest priority, as it appears they are in many jurisdictions today. In order to control the flow of materials falling within the legal definition of obscenity, law enforcement officials must develop a reputation for initiating prosecution when violations are detected. Absent such enforcement policy, there is little incentive to observe existing obscenity laws. The consequences of a policy of inaction are compounded by the lucrative nature of obscenity trafficking.

The product of a successful investigation and vigorous prosecution is rendered virtually worthless if courts fail to appreciate the community significance of obscenity cases.

Deterrence should be a significant factor in fashioning an appropriate sentence in these types of cases. Only public awareness of firm but fair sentencing practices in obscenity cases can foster an environment conducive to controlling the flow of these materials.

An observation common to much of the testimony heard by the Commission is that there has a gradual relaxation over the last twenty years in the enforcement of obscenity laws. This trend is undoubtedly attributable to a number of factors, but its most conspicuous symptom was a dramatic loss of prosecutor interest in these cases. This dampened enthusiasm appears not to have been occasioned by any change in principle or philosophy, but instead was spawned by the judicial creation of insurmountable legal obstacles. In Memoirs v. Massachusetts,[82] the United States Supreme Court enunciated the requirement that material must be "utterly without redeeming social value to be obscene.[83] This additional element of proof marked a significant departure from the pre-existing standard of proof. Prosecutors almost uniformly found this burden to be virtually impossible to satisfy[84] and as a consequence de-emphasized the regulation of obscene material.

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82 383 U.S. 413(1966).

83 Id. at 419.

84 Chicago Hearing, Vol. I, Paul McGeady, p. 81; See also, Miller v. California, 413 U.S., 15,22(1973).

Seven years later, in Miller v. California,[85] the Supreme Court refashioned the "social value" element of the obscenity standard and considerably eased the prosecution's burden of proof. However, according to a 1977 survey of prosecutors, the Miller standard neither increased the number of obscenity prosecutions nor the conviction rate nationally.[86] The number of jurisdictions actually prosecuting obscenity violations declined while obscene materials became more readily available.[87] It is therefore reasonable to conclude that Memoirs v. Massachusetts was only one of a number of factors contributing to the decrease in obscenity prosecutions.

Since 1973, however, the nature and extent of pornography in the United States has changed dramatically. The materials that are available today are more sexually explicit and portray more violence than those available before 1970. The production, distribution and sale of pornography has become a large, well-organized and highly profitable industry.[88] The growth of the pornography industry has been facilitated in large measure by inadequate

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85 413 U.S. 15(1973).

86 An Empirical Inquiry Into the Effects of Miller v. California on the Control of Obscenity, 52 N.Y.U. L. Rev. 810, 928(1977).

87 Id.

88 See, the discussions of Production, Distribution and Technology of Sexually Explicit Materials found in Part Four of this Report.

law enforcement and prosecutorial resources in this area, and the meting out of minimal punishment to those who have been convicted of violating the obscenity laws. This relaxation of public policy has been further ingrained by the absence of any firm expression of citizen concern.

All individuals and agencies responsible for vice enforcement must be committed to giving obscenity violations adequate priority. As with any law enforcement objective, the agencies must use various criteria in determining the degree of attention the problem merits. This process requires an evaluation of the scope of the problem, the cost to the locality both in safety and economic terms and the public demand for increased enforcement efforts. The enforcement of obscenity laws must obviously be balanced against other law enforcement priorities. In some instances, this evaluation may result in a temporary realignment in enforcement attention, but most agencies will be able to effectively increase obscenity enforcement without substantially detracting from other areas of responsibility for significant periods of time.[89] Once a reputation for community intolerance is developed, official need only perform periodic inspections.

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89 One witness before the Commission acknowledged the possibility of a decrease in enforcement efforts in certain areas of obscenity enforcement was given greater emphasis. "I think there is a great deal of time spent on thefts, minor thefts; and yes, they are important. But I think that obscenity has more far-reaching effects on our culture and is important." Miami Hearing, Vol. II, Barbara Hattemer, p. 96.

The law enforcement community should recognize fully the magnitude of this multi-faceted problem and bring into focus the means necessary to curtail it. Law enforcement agencies must examine the nature of the pornography industry within their respective jurisdictions and take steps to address the situation. Federal, state and local agencies need adequate manpower and the expertise of qualified investigators to conduct thorough investigations of obscenity law violations, especially those involving large scale pornography operations. The use of forfeiture laws to disgorge illicit profits is a potent prosecutorial tool.

The United States Department of Justice should provide the leadership for a coordinated law enforcement effort through the mandate of its highest ranking officials and its ninety-four United States Attorneys. The Justice Department is able to provide valuable training and assistance to state and local prosecutors and law enforcement officials. The policies and practices of the Department of Justice should lend impetus to a national reassessment of the prioritization of obscenity enforcement.

Congress and the state legislatures must examine existing laws and enact the necessary changes to create an effective and precise means of addressing the expansive scope of the obscenity and pornography problem today.

Finally, when an individual is convicted of an obscenity violation the sentencing judge must have accurate

and comprehensive information about the defendant and the underlying offense. Courts must impose sentences which are appropriate to the dimensions and community impact of obscenity violations. Courts should be mindful of the deterrent effect that a sentence must serve to counterbalance the financial incentive to continue the distribution of these materials.

The recommendations that follow attempt to accomplish the foregoing objectives.

Once an individual is charged with an obscenity violation, a United States Attorney or local district attorney should prosecute aggressively if the investigation and bringing of charges are to have any effect. This includes enforcing the existing laws and fully using other remedies particularly those laws providing forfeitures that could literally put many pornographers out of business.

The United States Department of Justice must provide the leadership for the overall law enforcement effort through the work of its highest ranking officials and its ninety-four United States Attorneys. The Justice Department is able to provide valuable training and assistance to state and local prosecutors and local police departments. Moreover it can provide some of the impetus for legislative changes.

Congress and the state legislatures must examine existing laws and enact the necessary changes to create an effective and precise means of addressing the expansive

scope of the obscenity and pornography problem today.

Finally, when an individual is brought before the court and is convicted, the sentencing judge must have accurate and comprehensive information about the offender and the offense. The courts must impose sentences with the maximum deterrent effect and cease imposing sentences which merely increase the pornographer's cost of doing business.

The recommendations which follow attempt to accomplish these objectives.

A. RECOMMENDATIONS FOR CHANGES IN FEDERAL LAW

RECOMMENDATION 1:

CONGRESS SHOULD ENACT A FORFEITURE STATUTE TO REACH THE PROCEEDS AND INSTRUMENTS OF ANY OFFENSE COMMITTED UNDER THE FEDERAL OBSCENITY LAWS.

The addition of civil and criminal forfeiture provisions to the existing federal obscenity laws[90] would greatly enhance their deterrent effect. In addition to the penalties already prescribed by statute, a defendant would be subject to forfeiture of any profits derived from or property used in committing the offense. The Child Protection Act of 198491 presently contains such forfeiture provisions pertaining to

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90 See, 18 U.S.C. SS1461-1465 (1985).

91 18 U.S.C.A. S2251 (West Supp. 1982).

offenses involving child pornography.92

The addition of forfeiture provisions in the federal obscenity statutes would have a profound effect on some of the most egregious offenders, especially those who are members of, associated with, or are influenced or controlled by, organized crime families. The forfeiture provision would affect those who profit by their illegal activity and who have created criminal enterprises large enough to own or lease real estate, fleets of motor vehicles, or other valuable assets. The loss of such valuable property would have a more significant deterrent effect than the mere imposition of a fine or modest period of incarceration which the offender may see as merely another "cost of doing business."[93] Forfeiture provisions would also aid law enforcement efforts by providing the government with property to be used in future undercover operations and perhaps even provide sufficient assets to reimburse a significant portion of investigative and prosecution costs.

According to the federal prosecutor in a series of Miami, Florida, obscenity cases commonly known as MIPORN where many of the defendants had tremendous assets scattered throughout the United States, forfeitures would have made a

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92 See, Recommendations for the Regulation of Child Pornography, infra.

93 The precise items subject to forfeiture should be determined by Congress with any Constitutional limitations clearly recognized.

tremendous contribution toward underwriting the costs of the government investigation.[94]

Under current law even large scale and well-organized distributors of obscene material that have been repeatedly convicted retain their massive profits which they often use to finance other unlawful activity.[95] It is estimated that the film "Deep Throat" cost $25,000 to produce and has made profits of $50,000,000,[96] and few or none of these proceeds were paid to the "star" of the film, Linda Lovelace (now Marchiano) or others involved in the actual production. [97] The film's profits were used allegedly by the Perainos, reported members of the Columbo organized crime family,[98] to develop Bryanston Films of Hollywood, which distributed the horror film, "The Texas Chainsaw Massacre,"[99] to purchase yachts, airplanes, islands and property in the Bahamas, and

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94 "MIPORN was a two and a half year undercover investigation into organized crime's influence in the pornography industry." New York Hearing, Vol. II, Marcella Cohen, p. 41; MIPORN is further discussed in Appendix One to the Organized Crime Chapter.

95 New York Hearing, Vol. I, Christopher J. Mega, pp. 166-67.

96 New York Hearing, Vol. I, William Kelly, p. 71.

97 New York Hearing, Vol. I, Linda Marchiano, p. 63.

98 Louis, Joseph and Anthony Peraino are reported members or associates of the Columbo organized crime family, See, The discussion of Organized Crime for further information.

99 New York Hearing, Vol. I, William Kelly, p. 74.

as seed money for drug smuggling activities.[100]

In recognition of the need to seize substantial profits gained through unlawful activity and to prevent their use in other crimes, Congress has authorized forfeiture for other crimes.[101] Any new legislation should be drafted and

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[100] New Hearing, Vol. I, Christopher J. Mega, p. 162; See also, Cong Rec. S433 (daily ed. Jan. 30, 1984) (Statement of Sen. Jesse Helms).

[101] See e.g., 21 U.S.C. S881(a)(1).

((a) The following shall be subject to forfeiture to the United States and no property right shall exist in them:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this subchapter.

(2) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this subchapter.

(3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2).

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2).

(5) All books, records and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this subchapter.

(6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this subchapter, all proceeds traceable to such an exchange, and all money, negotiable instruments, and securities used or intended to be used to facilitate any violation of this subchapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

(7) All real property, including any right, title

and interest in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this title punishable by more than one year's imprisonment, except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

(8) All controlled substances which have been possessed in violation of this subchapter.);

18 U.S.C. S492. (All counterfeits of any coins or obligations or other securities of the United States or of any foreign government, or any articles, devices, and other things made, possessed, or used in violation of this chapter or of sections 331-333, 335, 336, 642 or 1720, of this title, or any material or apparatus used or fitted or intended to be used, in the making of such counterfeits, articles, devices or things, found in the possession of any person without authority from the Secretary of the Treasury or other proper officer, shall be forfeited to the United States);

18 U.S.C. S924 ((d) Any firearms or ammunition involved in or used or intended to be used in, any violation of the provisions of this chapter or any rule or regulation promulaged thereunder, or any violation of any other criminal law of the United States, shall be subject to seizure and forfeiture and all provision of the Internal Revenue Code of 1954 relation to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall so far as applicable, extend to seizures and forfeiture under the provision of this chapter);

18 U.S.C. S1955. (illegal gambling businesses; (d) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States. All provisions of law relation to the seizure, summary, and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws; the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply

seizures and forfeitures incurred or alleged to have been incurred under the provisions of his section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person in respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General).

18 U.S.C.A. S1963 (West Supp. 1985). ((a) Whoever violates any provision of section 1962 of this chapter shall be fined not more than $25,000 or imprisoned not more than twenty years or both, and shall forfeit to the United States, irrespective of any provision of State law --

(1) any interest the person has acquired or maintained in violation of Section 1962;

(2) any --

(A) interest in;

(B) security of;

(C) claim against; or

(D) property or contractual right of any kind affording a source of influence over; any enterprise which the person has established, operated, controlled, conducted, or participated in the conduct of, in violation of section 1962; and

(3) any property constituting, or derived from, any proceeds which the person obtained, directly or indirectly, from racketeering activity or unlawful debt collection in violation of section 1962.

The court, in imposing sentence on such person shall order, in addition to any other sentence imposed pursuant to this section, that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by this section, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profit or other proceeds.

(b) Property subject to criminal forfeiture under this section includes --

(1) real property including things growing on, affixed to, and found in land, and

(2) tangible and intangible personal property, including rights, privileges,

interests, claims and securities.

(c) All right, title, and interest in property described in subsection (a) vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section);

18 U.S.C. S2318. (counterfeit labels; (d) When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all counterfeit labels and all articles to which counterfeit labels have been affixed or which were intended to have had such labels affixed);

18 U.S.C. S2344. (c) Any contraband cigarettes involved in any violation of the provision of this chapter shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating of the seizure, forfeiture, and disposition of firearms, and defined in section 5845(a) of such Code, shall , so far as applicable, extend to seizures and forfeitures under the provisions of this chapter); and

18 U.S.C. S2513. (Any electronic, mechanical, or other device used, sent, carried, manufactured, assembled, possessed, sold, or advertised in violation of section 2511 of section 2512 of this chapter may be seized and forfeited to the United States. All provisions of law relating to (1) at the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19 of the United States Code, (2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeding from the sale thereof, (3) the remission or mitigation of such forfeiture, (4) the compromise of claims, and (5) the award of compensation top informers in respect of such forfeitures, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and

implemented in a manner similar to other present federal laws to insure due process of law to all parties in interest.[102]

The only present authority to permit the forfeiture of profits and instruments derived from the distribution of obscene materials is RICO. Through 1985 no federal RICO cases have been brought to forfeit profits or instruments used in or derived from obscenity law violations.[103] The RICO statute is currently is inadequate to reach the profits and instruments without establishing and relying on proof of two or more of predicate offenses. The proposed legislation would allow forfeiture in the many cases where RICO cannot appropriately be used.

RECOMMENDATION 2:

CONGRESS SHOULD AMEND THE FEDERAL OBSCENITY LAWS TO ELIMINATE THE NECESSITY OF PROVING TRANSPORTATION IN INTERSTATE COMMERCE. A STATUTE SHOULD BE ENACTED TO ONLY REQUIRE PROOF

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not inconsistent with the provision of this section; except that such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the provisions of the customs law contained in title 19 of the United States Code shall be performed with respect to seizure and forfeiture of electronic, mechanical, or other intercepting devices under this section by such officers, agents or other persons as may be authorized or designated for that purpose by the Attorney General.)

102 See also, The discussion in this Chapter of Recommendations for Changes in State Law, infra.

103 See, Recommendations For State and Local Law Enforcement Agencies, infra, for further discussion.

THAT THE DISTRIBUTION OF THE OBSCENE MATERIAL "AFFECTS" INTERSTATE COMMERCE.

DISCUSSION

Pursuant to provisions of 18 U.S.C. S1462 and 18 U.S.C. S1465 the United States is required to prove that the particular obscene material in question actually was transported in interstate commerce at a particular specified time and to and from particular and specified locations.104

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104 18 U.S.C. S1462 (1982) provides, in part:

"Whoever brings into the United States, or any place subject to the jurisdiction thereof, or knowingly uses an express company or other common carrier, for carriage in interstate or foreign commerce -

(a) any obscene, lewd, lascivious, or filthy book, pamphlet, picture, motion-picture film, paper, letter, writing, print, or other matter of indecent character; or

(b) any obscene, lewd, lascivious, or filthy phonograph recording, electrical transcription, or other article or thing capable of producing sound; or

(c) any drug, medicine, article, or thing designed, adapted, or intended for producing abortion, or for any indecent or immoral use; or any written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, how, or of whom, or by what means any of such mentioned articles, matters, or things may be obtained or made; * * *;"

18 U.S.C. S1465 provides, in part:

"Whoever knowingly transports in interstate or foreign commerce for the purpose of sale or distribution any obscene, lewd, lascivious, or

This has become an increasingly insurmountable burden for federal prosecutors to meet in obscenity cases. Distributors of obscenity, especially those associated with or members of organized crime families, frequently avoid the mails and common carriers when they ship their wares. With the assistance of their attorneys such persons and organizations have developed intricate schemes of operation to prevent proof of this necessary element of the present statute.[105] They use their own trucks and sometimes make several stops or simulated deliveries or pickups along the way.[106] This process thwarts extremely expensive and time consuming surveillance by law enforcement officers and makes it virtually impossible to detect which items in a particular shipment actually crossed state lines.

The proposed amendment should take the form of an additional section of Title 18. Such sections should supplement existing sections 1462 and 1465 and include language which prohibits activities that "affect" commerce. The addition of such a statute would facilitate prosecutions

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> filthy book, pamphlet, picture, film, paper, letter, writing, print, silhouette, drawing, figure, image, cast, phonograph recording, electrical transcription or other articles capable of producing sound or any other matter of indecent or immoral character, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

[105] Los Angeles Hearing, Vol. I, Kenneth Gillingham, p. 114-6.

[106] Id.

while maintaining the integrity of the present statutory structure. In a multiple count indictment, charges could be brought against individuals under both sections, subject to constitutional limitations which exist in any such case. Legislation which creates a separate violation would prevent the effects of the inevitable and lengthy initial constitutional challenges to such new legislation from crippling or stopping all federal prosecutions.

A requirement that the prosecution prove the transaction "affects" commerce is a more realistic burden of proof which would close the technical loopholes these criminals have so successfully exploited. This requirement would be consistent with other federal statutes such as the Hobbs Act and the firearms laws.[107] An examination of the constitutional ramifications discloses no barrier to this proposed amendment.[108]

Article I, Section 8 of the United States Constitution empowers Congress to regulate commerce.[109] The interpretation and application of the constitutional limits on Congress' power to regulate has been the issue in many cases whose factual bases are widely divergent. The subject

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[107] See, e.g., 18 U.S.C. SS844, 1951 and 1202.

[108] See, Wickard v. Filburn, 317 U.S. 111(1942).

[109] "Section 8. [1] [The Congress shall have Power] [3] to regulate the Commerce with foreign Nations, and among the several States, and with the Indian Tribes." U.S. Const. art. I, S8, cl.3.

of regulation, whether it is production, distribution or consumption, is constitutionally immaterial so long as the activity in question is within the sphere of Congress' regulatory powers.[110] The underlying principles, however, have been applied consistently to a variety of factual situations. The particular subject matter of the statute should not present a barrier to a constitutionally valid amendment.

The distinction between regulating activities "in commerce" and regulating those which "affect commerce" is a valid one and has been maintained. The standards, however, have been recognized by the courts as being within the total ambit of Congress' constitutional regulatory powers.[111] The decision as to the scope of regulatory jurisdiction lies with Congress and is generally made as a matter of public policy rather than a decision dependent purely on legal

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[110] See, United States v. Wrightwood Dairy Co., 315 U.S. 110 (1942). More recent cases indicate the validity of the Court's earlier decisions and the ultimate expanse of Congress' power to regulate. These cases represent a variety of legal and factual issues, but each one affirms the underlying principals of the preceding cases. See, e.g., Gulf Oil Corp. v. Copp Paving Co., Inc., 419 U.S. 186 (1974); United States v. American Building Maintenance Industries, 422 U.S. 271 (1975); McLain v. Real Estate Board of New Orleans, 444 U.S. 232(1978); Turf Paradise, Inc. v. Arizona Downs, 670 F.2d. 813 (9th Cir. 1982).

[111] See, McLain v. Real Estate Board of New Orleans, 444 U.S. 232, 241(1979). "The broad authority of Congress under the Commerce Clause has, of course, long been interpreted to extend beyond activities in interstate commerce to reach other activities that, while wholly local in nature, nevertheless substantially affect interstate commerce." (emphasis added).

considerations.

If the activity is other than purely local in nature it is subject to federal commerce power regulation. It is within this constitutional grant that Congress may exercise discretion in setting the limits of jurisdiction. Since Congress has already Constitutionally chosen to regulate the activity through 18 U.S.C. SS1462 and S1465, it may, if it chooses, expand the regulatory jurisdiction to include activities which "affect" commerce as well as those "in" commerce.

This Commission finds that virtually all distribution of obscene material substantially affects interstate commerce.

Department of Justice Guidelines now in effect for the United States Attorneys preclude federal prosecution of obscenity cases that properly belong in state courts.112

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112 The guidelines provide, "The Federal role in prosecuting obscenity cases is to focus upon the major producers and interstate distributors of pornography while leaving to local jurisdiction the responsibility of dealing with local exhibitions and sales. This role has not met with complete acceptance and understanding by citizens of communities confronted with offensive matters who find their local prosecutor ineffectual in this area. Even so, local prosecutors have been regarded as having the primary obligation to deal with such material on a local level.

* * *

Local prosecutors, however willing to prosecute, frequently experience difficulty because of several factors, notably a lack of expertise in the field, lack of support by the community and/or its officials, and lack of necessary funds. In these circumstances the United States may provide assistance through prosecutive efforts not falling precisely within the above guidelines. Conversely, local authorities dealing with obscene material being distributed within their area may develop evidence of interstate distribution useful to a Federal prosecution. Communications between Federal and

Existing guidelines require the United States Attorneys to give higher priority to cases involving large scale distributors who realize substantial income from multi-state operations and cases in which there is evidence of involvement by known organized crime figures.113 These are the types of cases that require the operational resources of the Department of Justice and federal law enforcement agencies and are accordingly beyond the scope of local law enforcement capabilities.114 The new section would be a substantial aid to federal prosecutors' efforts, but properly applied it would not result in any more federal encroachment on state prosecutors' prerogatives than present federal law permits.

RECOMMENDATION 3:

CONGRESS SHOULD ENACT LEGISLATION MAKING IT AN UNFAIR BUSINESS PRACTICE AND AN UNFAIR LABOR PRACTICE FOR ANY EMPLOYER TO HIRE INDIVIDUALS TO PARTICIPATE IN COMMERCIAL SEXUAL PERFORMANCES.

DISCUSSION

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local prosecutors, and coordination of efforts in such instances, can be highly productive in both Federal and local efforts." United States Department of Justice, United States Attorneys' Manual, Ch. 75, p. 9a (June 18, 1981).

113 Chicago Hearing, Vol. II, James S. Reynolds, p. 263.

114 New York Hearing, Vol. II, William Johnson, p. 82.

This Commission does not advocate nor does it condone the use of individuals in commercial sexual practices. The Commission strongly supports enforcement of existing criminal laws against those who violate them by using individuals in commercial sexual performances or in the production of obscene materials. The Commission does, however, recommend imposing fair labor standards on those businesses which engage individuals to perform sexual acts for commercial purposes. This recommendation is made only out of an abiding concern for those persons used in these sexual performances.

The production of obscene material, like many forms of criminal activity, is an enterprise patterned after other legitimate business structures.[115] Producers of obscene material make capital investments, hire employees, and earn sizeable profits. Unlike other businesses, the regulations governing the production of obscenity are largely self-imposed or non-existent. This industry has been called the "last vestige of true laissez-faire capitalism" in the United States.[116] Unlike more conventional businesses and

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[115] Chicago Hearing, Vol. II, Duncan McDonald, p. 59.

[116] Id. at 61; The value of society's goods always derives from the values of its people. A democratic society that is unwilling to bar Hustler on public newsstands or ban billboards from beautiful views cannot justly blame capitalism for these offenses. It is up to the political, judicial, and religious institutions of the society, not other businesses, to eliminate such opportunities for ugly profit. Capitalists perform a vital role in determining what goods and services are initially offered to the public. But the people and their government determine the limits of what can be marketed. Markets provide the ultimate democracy;

industries, profits from obscene materials go largely untaxed and their employees often suffer varying degrees of mental and physical injury.[117] Seldom, if ever, do employees maintain insurance, pay benefits or provide pension plans to performers or others who work for them.

Congress should enact legislation, as necessary, that would specifically subject the production of obscene materials to the same types of laws and regulations as other businesses. This would not necessarily involve criminal statutes or penalties, but rather it could take the form of civil regulatory statutes. These are not recommended as exclusive remedies, but as a form of regulation that parallels other existing forms of criminal and civil relief. The basis for these statutes is the government's broad powers to regulate commerce.

Legislation also should be enacted that would make it an unfair business practice and an unfair labor practice to hire individuals to participate in certain sexual performances for purposes of producing sexually explicit materials. Included in the prohibited activities should be sexual performances involving children violence sado-masochism, or anything which would meet the description of unlawful sexually explicit depictions developed in such

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democracy, though, defines the marketplace. G. Gilder, The Spirit of Enterprise, 91(1984).

[117] See, The discussion of performers in the pornography industry for further information.

federal law.

Congress should prohibit the sale and distribution of any product made as a result of those unfair practices and provide a civil cause of action for any party injured as a result of these practices.[118] The law should also provide protection for individuals who are used as actors or models in obscene material. Such legislation should make any contracts for prohibited performances void, and provide a formula for the determination of damages and payment of attorneys fees. Existing laws and regulations prohibit an employer from imposing dangerous, unhealthy,or unfair conditions of employment on an employee. Employees have a remedy if they are harmed in the course of their employment. None of these requirements have been applied to the pornography industry where these risks are truly pervasive. It is essential that the commercial laws and regulations be applied in a fair and even-handed manner. Business enterprises should be prevented from operating in a manner which jeopardizes the welfare of its employees.

RECOMMENDATION 4:

CONGRESS SHOULD AMEND THE MANN ACT TO MAKE ITS PROVISIONS GENDER NEUTRAL.

DISCUSSION

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[118] This could be in the form of a civil rights type approach.

The Mann Act[119] makes it a federal offense to transport "any woman or girl" in interstate or foreign commerce for the purpose of "prostitution or debauchery, or for any other immoral purpose, or with intent and purpose to induce, entice, or compel such woman or girl to become a prostitute, or to give herself up to immoral practice debauchery or to engage in any other immoral practice."[120] Men and boys who are used in prostitution and in the production of obscene materials are often transported in commerce for the very purposes proscribed in the present statute.[121] Those who exploit men and boys for illegal and immoral purposes should be subject to the same punishment as those who exploit females.

The proposed amendment would simply afford protection to a class of persons who are without adequate legal redress. While women and girls may continue to comprise the majority of such cases of exploitation these statistics should provide no excuse to exclude men and boys from equal protection purely on the basis of the smaller number of reported

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119 18 U.S.C. S2421 (1985).

120 Id.

121 See, Comm. v. Richard Kind, C-19168; Comm. v. Theodore Dufresne, C-19608; and Comm. v. Alfredo Martin, C-19568 Circuit Court of Arlington County, Virginia.

cases.122

Further, the Act should be amended to prohibit illegal acts rather than the current prohibition against immoral acts. This amendment would address and alleviate the concerns of those who suggest an overzealous prosecutor may use the Act to harass individuals engaged in lawful consensual sexual activity. This amendment would not expand the scope of enforcement or prosecution and it should set clear guidelines for the types of activities that are proscribed.

RECOMMENDATION 5:

CONGRESS SHOULD AMEND TITLE 18 OF THE UNITED STATES CODE TO SPECIFICALLY PROSCRIBE OBSCENE CABLE AND SATELLITE TELEVISION PROGRAMMING.

DISCUSSION

The United States Code proscribes the utterance of "any obscene, indecent or profane language by means of radio communication."123 Because cable and satellite television programming is not conveyed by any means interpreted by the

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122 ". . . statistically there appears to be no particular preference on the part of the child molesters for victim. It's about 50 percent of the time boys and 50 percent of the time they are girls. So clearly boys ought to be included under the Mann Act." Washington, D.C., Hearing, Vol. I, Senator Mitch McConnell, p. 56.

123 18 U.S.C. S1464.

courts to be a radio communication, any obscene programming is not covered by the prohibitions of the present statute.

The Cable Communications Policy Act of 1984 attempts to provide another avenue for the prosecution of obscenity shown over cable television.[124] The Act, provides:

> Whoever transmits over any cable system any matter which is obscene or otherwise unprotected by the Constitution of the United States shall be fined not more than $10,000 or imprisoned not more than 2 years, or both.[125]

The provisions of this section may be in conflict with two other sections of the act governing editorial control of programming by cable operators. Section 531(e) of Title 47 provides that:

> Subject to Section 544(d) of this title, a cable operator shall not exercise any editorial control over any public,educational or governmental use of channel capacity provided pursuant to this section.

In addition, section 544(d) provides, in part:

> (1) Nothing in this subchapter shall be construed as prohibiting a franchising authority and a cable operator from specifying, in a franchise or renewal thereof, that certain cable services shall not be provided or shall be provided subject to conditions, if such cable services are obscene or are otherwise unprotected by the Constitution of the United States.
> (2) (A) In order to restrict the viewing of programming which is obscene or indecent, upon the request of a subscriber, a cable operator shall provide (by sale or lease) a device by which the subscriber can prohibit viewing of a particular cable service during period selected by that subscriber.

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124 47 U.S.C. S559.

125 Id.

Section 544 (d) seems to contemplate allowing the operator to provide obscene programming while Section 559 makes it a crime to do so. The apparent conflict should be resolved and legislation should provide clear guidance for cable operations, federal prosecutors and law enforcement officers.[126]

RECOMMENDATION 6:

CONGRESS SHOULD ENACT LEGISLATION TO PROHIBIT THE

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[126] Senate Bill 1090 sponsored by Senator Jesse Helms (R-NC) would place a specific prohibition against obscene cable programming by amending Section 1464 of Title 18 of the United States Code. The Helms Bill provides in part:

1464. Distributing obscene material by radio or television.

"(a) Whoever utters any obscene, indecent, or profane language, or distributes any obscene, indecent, or profane material, by means of radio or television, including cable television, shall be fined not more than $50,000 or imprisoned not more than two years, or both."

"(b) As used in this section, the term "distributes" means to send, transmit, retransmit, telecast, broadcast, or cable-cast, including by wire or satellite, or produce or provide such material for distribution."

The standard language of Title 18 provides several synonyms for the word "obscene". 18 U.S.C. S1461 provides, "Every obscene, lewd, lascivious, indecent, filthy or vile . . . "

Enactment of legislation of this type would enable United States Attorneys to prosecute violators under the criminal code and alleviate the possible conflict under the Cable Communications Policy Act.

TRANSMISSION OF OBSCENE MATERIAL THROUGH THE TELEPHONE OR SIMILAR COMMON CARRIER.

DISCUSSION:

This Commission has received substantial evidence of the use of the telephone to transmit obscene material.[127] Dial-A-Porn services offer the caller the opportunity to participate in obscene telephone conversations or to receive obscene messages.[128]

Two years ago, the Congress enacted legislation amending section 223 of the Communications Act of 1934.[129] This enactment prohibited the use of the telephone to make obscene or indecent communications for commercial purposes to anyone under eighteen years of age except where in compliance with regulations issued by the Federal Communications Commission.[130] The FCC promulgated regulations making it an exception for the provider of a recorded message if the message was made available only between the hours of 9:00 p.m. and 8:00 a.m. eastern standard time or if the caller

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127 See, Los Angeles Hearing, Vol. I, William A. Dunkle, p. 248; Los Angeles Hearing, Vol. I, Judith F. Trevillian, p. 263; Los Angeles Hearing, Vol. I, Brent D. Ward, p. 225. The most commercially prolific form of dissemination of pornographic material is through services commonly referred to as "Dial-A-Porn."

128 See, The discussion of the Dial-A-Porn services available for further information.

129 See, 47 U.S.C. S223(b)(1).

130 Id.

made prepayment by credit card in the case of a "live" message.[131] Carlin Communications challenged the FCC regulation.

On review, the United States Court of Appeals for the Second Circuit found the regulations were invalid.[132] The court found that the government had a compelling interest in protecting minors from salacious material, but that the FCC regulations were not well tailored to meet their objectives, which could be achieved by less restrictive alternatives.133 In dicta, the court said the FCC should have given more serious consideration to other options such as "blocking" and access codes. Through "blocking" a subscriber can have access to all "976" numbers blocked from his telephone. Access codes could be issued to subscribers over eighteen who would have to dial the code in order to receive the sexually explicit message.[134]

On October 16, 1985, the FCC announced new regulations governing Dial-A-Porn.[135] Under the new regulations, Dial-A-Porn services must require either an authorized access or identification code or they must obtain prepayment by

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131 49 Fed. Reg. 24, 996(June 4, 1984).

132 Carlin Communications, Inc. v. FCC, 749 F.2d 113 (2d Cir. 1984).

133 Id. at 121.

134 Id. at 122-23.

135 50 Fed.Reg. 42699. (October 22, 1985).

credit card before transmission of a sexually explicit message.[136]

Carlin challenged the new FCC regulations, and on April 11, 1986, the Court of Appeals granted their petition and set aside the regulations as applied to Carlin.[137] The Court of Appeals relied on statements from New York Telephone that access or identification codes are not technologically feasible in NYT's network,[138] and found that "the record does not support the FCC's conclusion that the access code requirement is the least restrictive means to regulate Dial-A-Porn . . . ."[139] The Court again referred to "blocking" as a less restrictive means of regulating Dial-A-Porn.[140] Blocking devices installed on the telephone customer's own terminal equipment could be used to block access to one or more pre-selected telephone numbers.[141] The Court also suggested that the FCC should have considered the feasibility of passing along the cost of customer premises

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136 Id.

137 Carlin Communications, Inc. v. FCC, No. 85-4158 (2nd Cir. 1986). The Court noted that "[t]he stay, however, is granted only at the behest of the petitioners here . . . and applies only to Dial-A-Porn service providers on the New York Telephone (NYT) system. (Slip opinion, p. 3).

138 Id. slip op. at 11 and 19. The Court noted that the access codes are probably technologically possible in most other parts of the country. See, slip op. at 4.

139 Id. at 23.

140 Id. at 23-24.

141 Id. at 6-7.

blocking equipment to the providers of Dial-A-Porn and/or the telephone companies.[142]

The latest decision by the Second Circuit leaves the state of the law regarding Dial-A-Porn even more uncertain. The two attempts by the FCC to promulgate regulations in accordance with the federal statute have failed. The Court of Appeals found earlier that limitations on the hours that Dial-A-Porn messages may be offered were not well tailored enough to regulate the problem.[143] Now the Court has ruled that access codes are unduly restrictive as applied to Carlin in New York, but may be permissible elsewhere.[144] The "blocking" option advanced by the Court has serious practical limitations. Blocking may not be available to all telephone customers.[145] Those who obtain the service would either lose access to all "976" numbers,[146] or have to pre-select which numbers they wanted blocked.[147] Few parents would have sufficient knowledge of the multitude of Dial-A-Porn numbers to be able to pre-select them and prevent their children from

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142 Id. at 23.

143 749 F.2d at 121.

144 Carlin Communications, Inc. v FCC, supra, slip op. at 3-4.

145 See, Los Angeles Hearing, Vol. I, William Dunkle, p. 254.

146 Id.

147 Carlin Communications, Inc. v. FCC, supra, slip op. at 6.

calling them by use of a blocking device, and minors would still be free to make the calls from telephones not equipped with blocking devices.

The provision of the federal statute permitting Dial-A-Porn messages to be provided in accordance with FCC regulations[148] has proven unworkable in addition to providing a "safe harbor" provision for Dial-A-Porn merchants. Congress should enact legislation that simply prohibits the transmission of obscene material through the telephone or similar common carrier.[149]

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[148] 47 U.S.C. S223(8)(2).

[149] In an attempt to address the Dial-A-Porn issue, Senate Bill 1090 has been introduced by Senators Jesse Helms, (R-NC), John East (R-NC) and Jeremiah Denton (R-Ala) to amend Section 223 of the Communications Act of 1934.

The Bill provides:

> Whoever - "(A) in the District of Columbia or in interstate or foreign communications, by means of telephone, makes (directly or by recording device) any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent, regardless of whether the maker of such comments placed the call or" (B) knowingly permits any telephone facility under such person's control to be used by any purpose prohibited by subparagraph (A). Shall be fined not more than $50,000 or imprisoned not more than six months, or both."

Additionally, Rep. Thomas J. Bliley (R-Va) has introduced H.R.4439 which would amend section 223 of the Communications Act and eliminate the provision requiring the FCC to issue regulations.

> H.R. 4439
> A bill to amend the Communications Act of 1934 to restrict the making of obscene and indecent communications by telephone. Be it enacted by the

B. RECOMMENDATIONS FOR CHANGES IN STATE LAW.

RECOMMENDATION 7:

STATE LEGISLATURES SHOULD AMEND, IF NECESSARY, OBSCENITY STATUTES CONTAINING THE DEFINITIONAL REQUIREMENT THAT MATERIAL BE "UTTERLY WITHOUT REDEEMING SOCIAL VALUE" IN ORDER TO BE OBSCENE TO CONFORM WITH THE CURRENT STANDARD ENUNCIATED BY THE UNITED STATES SUPREME COURT IN MILLER V. CALIFORNIA.[150]

DISCUSSION

A minority of jurisdictions, including the State of

Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.
This Act may be cited as the "Telephone Decency Act of 1986."

SECTION 2. AMENDMENTS.
Section 223(b) of the Communications Act of 1934 is amended-
(1) in paragraph (1)(A), by striking out "under eighteen years of age or to any person without that person's consent";
(2) by striking out paragraph (2);
(3) in paragraph (4), by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraph (1) and (2)"; and
(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

150 413 U.S. 15 (1973).

California,[151] retain the requirement that material must be "utterly without redeeming social value" in order to be found obscene.[152]

This standard emanates from the case of Roth v. United States, and the later case of Memoirs v. Massachusetts'[153] in which a plurality of the Supreme Court held that a book alleged to be obscene cannot be proscribed unless it is found to be utterly without redeeming social value.[154] The court reversed an obscenity conviction involving John Cleland's book Memoirs of a Woman of Pleasure because the work possessed a "modicum" of social value.[155] The Memoirs test

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[151] On April 14, 1986, the Governor of California signed into law Senate Bill 139 which amends the California obscenity law. The new law goes into effect in January of 1987, and defines obscene matter as material which

> taken as a whole, the predominant appeal of which to the average person applying contemporary statewide standards, to a prurient interest, meaning a shameful or morbid interest in nudity, sex, or excretion and is matter which taken as a whole goes substantially beyond customary limits of candor in the description or representation of such matters; and is matter which, taken as a whole lacks significant literary, artistic, political, educational, or scientific value. (emphasis added)

The new law still does not contain the exact language of Miller and thus its constitutionality may be uncertain until any appeals through the individual system are completed.

[152] 354 U.S. 476 (1957).

[153] 383 U.S. 413 (1966).

[154] 383 U.S. 413 (1966).

[155] Id. at 418-20.

made it almost impossible to convict in obscenity cases.[156] When the Supreme Court decided Miller v. California,[157] a new obscenity test resulted.[158] Although the Court remained divided on basic philosophical grounds, not a single member of the Court voted to retain the Memoirs standard. (emphasis added). Writing for the Court in Miller Chief Justice Warren E. Burger said the standard formulated in Memoirs required proof of a negative, "a burden virtually impossible to discharge under our criminal standards of proof." (emphasis added).[159]

The Court also noted that the standard had even been abandoned by Justice William Brennan who authored the Court's opinion in Memoirs. To the extent that the Memoirs standard exists today, it makes prosecution of obscenity cases extremely difficult. To win acquittal on an obscenity charge, a defendant need only demonstrate some miniscule social value as opposed to the serious literary, artistic, political or scientific value required under Miller. The Memoirs standard is still the law in California[160] and has posed a major obstacle to successful obscenity prosecutions.

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156 See, Miller v. California, 314 U.S. 15 (1973).

157 Id.

158 413 U.S. at 22(1973); See, Chicago Hearing, Vol. I, Paul McGeady, p. 81.

159 413 U.S. at 22.

160 See, supra note 151.

Consequently, the legal problems attendant to prosecution may contribute to factors which the wholesale pornography industry is centered in the Los Angeles area, and produces most of the materials sold in the entire United States. The pornography industry in the area of Los Angeles earns at least $550 million a year[161] and produces eighty percent of the sexually explicit videotapes, eight millimeter films and novelties are produced there.[162]

The principle of Federalism protects the constitutional prerogative of the states to enact obscenity laws which embody standards less stringent than those approved by the United States Supreme Court in Miller. As Chief Justice Burger wrote in Paris Adult Theatre I v. Slaton[163]

> The States, of course, may follow such a "laissez faire" policy and drop all controls on commercialized obscenity, if that is what they prefer, just as they can ignore consumer protection in the marketplace, but nothing in the Constitution compels the States to do so with regard to matters falling within state jurisdiction. See, United States v. Reidel, 402 U.S., at 357, 28 L. Ed. 2d 813; Memoirs v. Massachusetts, 383 U.S., at 462. 16 L. Ed. 2d 1(White, J., dissenting). "We do not sit as a super-legislature to determine the wisdom, need, and propriety of laws that touch economic problems, business affairs, or social conditions," Griswold v. Connecticut, 381 U.S. 479, 482, 14 L. Ed. 2d 510, 85 S. Ct. 1678(1965). See, Ferguson v. Skrupa, 372 U.S., at 731, 10 L. Ed. 2d 93, 95 ALR 2d 1347(1963); Day-Brite Lighting Inc. v. Missouri,

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161 Chicago Hearing, Vol. I, Donald Smith, p. 31.

162 Id. at 30.

163 413 U.S. 49 (1973).

342 U.S. 421, 423, 96 L. Ed. 469, 72 S. Ct. 405(1952).[164]

Law enforcement officers in California blame the existing law for severely hampering their effectiveness in eliminating this activity.[165] A Los Angeles Police Department Captain testified, "We have pleaded with the state legislature ever since Miller came into being to adopt it."[166]

If states sincerely wish to provide an effective basis for law enforcement this change in standards is essential.

RECOMMENDATION 8:

STATE LEGISLATURES SHOULD AMEND, IF NECESSARY, OBSCENITY STATUTES TO ELIMINATE MISDEMEANOR STATUS FOR SECOND OFFENSES AND MAKE ANY SECOND OFFENSE PUNISHABLE AS A FELONY.

DISCUSSION

State obscenity statutes frequently classify a first conviction as a misdemeanor. In some jurisdictions an obscenity violation becomes a felony when the specific offender is convicted a second time. In other jurisdictions

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[164] Id. at 64.

[165] Id. at 46; Los Angeles Hearing, Vol. I, James Docherty, p. 15.

[166] Los Angeles Hearing, Vol. I, James Docherty, p. 15.

an obscenity violation will remain a misdemeanor regardless of the number of prior convictions. This system results in minimal penalties for many offenders and is no deterrent to large-scale criminal enterprise.

State obscenity laws which provide misdemeanor penalties for recidivist offenders produce results which have a minimal deterrent effect. Fines in the amount of thirty to ninety dollars are a common disposition for a first offense in Chicago.[167] Three hundred to five hundred dollar fines are standard in Houston, Texas.[168] In Miami, Florida, a corporation with twenty-five prior obscenity convictions was fined $1,600.[169] In Los Angeles, where the industry earns $550 million a year,[170] a major distributor is often fined no more than $10,000.[171] The amounts of these fines are inconsequential when compared to the profits earned by many produces or sellers of obscene material.[172]

An amendment to state statutes enhancing the penalties for subsequent convictions for obscenity violations would recognize the recidivist nature of the crime and should be

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167 Chicago Hearing, Vol. I, Thomas Bohling, p. 16.

168 Houston Hearing, Vol. II, W.D. Brown, p. 50.

169 Miami Hearing, Vol. I, Mike Berish, p. 66.

170 Los Angeles Hearing, Vol. I, Donald Smith, p. 30.

171 Id. at 46.

172 See, The discussion of the Production, Distribution and Technology of Sexual Explicit Materials for further information.

directed to management personnel of the wholesale or retail operation. Classifying the crime as a felony would allow judges to impose substantial fines and periods of incarceration for a repeat offender. A conviction for a felony would substantially reduce the incidence of inappropriate sentencing for recidivists.

RECOMMENDATION 9:

STATE LEGISLATURES SHOULD ENACT, IF NECESSARY, FORFEITURE PROVISIONS AS PART OF THEIR OBSCENITY LAWS.

DISCUSSION

The addition of forfeiture provisions to the state obscenity statutes would greatly enhance their deterrent effect and would be an effective tool for law enforcement officers to use against the most egregious offenders. These forfeiture provisions may mirror such provisions found in several federal statutes. The precise scope of the forfeitures should be the decision of each state legislature and subject to judicial interpretation.

Some states already have taken the initiative in implementing forfeiture provisions in their obscenity laws. The Metropolitan Bureau of Investigation (M.B.I.) in Orlando, Florida, provides an excellent example of the effectiveness

of forfeiture provisions under state law. Using the forfeiture provisions of the Florida RICO Act, the M.B.I. obtained forfeitures of $80,000 to $100,000 worth of property in a single investigation and prosecution.[173] The forfeited property included two computer systems, two projection screen televisions and a large assortment of films, magazines, and novelties.[174] Forfeiture should be used to uproot the capital of pornography producers and distributors. Used effectively, forfeiture can substantially handicap these businesses.

RECOMMENDATION 10:

STATE LEGISLATURES SHOULD ENACT A RACKETEER INFLUENCED CORRUPT ORGANIZATIONS (RICO) STATUTE WHICH HAS OBSCENITY AS A PREDICATE ACT.

States which do not have obscenity as a predicate offense for a racketeer influenced corrupt organizations (RICO) violation should consider enacting such legislation. RICO provides an effective means to substantially eliminate obscenity businesses.

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173 New York Hearing, Vol. II, Larry Schuchman, p. 52.

174 Id.; See, Recommendations for Changes in Federal Law in this Chapter.

SEE, RECOMMENDATIONS FOR THE UNITED STATES DEPARTMENT OF JUSTICE, INFRA.

C. RECOMMENDATIONS FOR THE UNITED STATES DEPARTMENT OF JUSTICE

RECOMMENDATION 11:

THE ATTORNEY GENERAL SHOULD DIRECT THE UNITED STATES ATTORNEYS TO EXAMINE THE OBSCENITY PROBLEM IN THEIR RESPECTIVE DISTRICTS, IDENTIFY OFFENDERS, INITIATE INVESTIGATIONS, AND BEGIN PROSECUTING THEM WITHOUT DELAY.

If the flow of obscene material is going to be resolved through criminal prosecution, the Attorney General of the United States must take a significant, ongoing and personal role in directing a combined federal, state and local effort.

The Attorney General should direct the United States Attorneys to identify the major sources of obscene material within their districts and commence prosecutions without further delay. The United States Attorneys should contact their state and local counterparts and identify persons and organizations responsible for manufacturing and distributing obscene material in their districts. The Attorney General must also follow up on his directives and ensure compliance by the United States Attorneys.

The United States Department of Justice, through guidelines contained in the United States Attorneys' Manual, places a priority on the prosecution of three types of obscenity cases: those involving large scale distributors who realize substantial incomes from multi-state operations; those where there is evidence of involvement by known organized crime figures; and those involving child pornography.[175] United States Attorneys may also increase the priority for cases involving highly offensive material or cases where obscenity is found to be a particular problem in the jurisdiction.[176]

Former Attorney General William French Smith and Assistant Attorney General Stephen S. Trott have urged the United States Attorneys to follow existing departmental guidelines and to prosecute obscenity cases aggressively. On October 4, 1982, Attorney General Smith sent a memorandum to all United States Attorneys calling attention to the guidelines and encouraging aggressive and proactive prosecution of obscenity cases.[177] Attorney General Smith

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[175] Department of Justice, United States Attorney Manual (1977).

[176] Id. (This Commission does not believe these are inappropriate.)

[177] Memorandum of Attorney General William French Smith, October 4, 1982. "Proactive prosecution" is a term used to suggest affirmative action taken by law enforcement officers and prosecutors. This term should be contrasted with "reactive prosecution" in which law enforcement officers respond to specific complaints of recently

also suggested using the Law Enforcement Coordinating Committees to determine the nature and extent of the obscenity problem in the individual districts.[178] Despite this directive from the Attorney General not a single indictment alleging a violation of federal obscenity laws was returned in 1983 in any district in the United States.[179]

Assistant Attorney General Trott sent an additional memorandum to the United States Attorneys on August 24, 1983, calling on them to "step up our level of enforcement" of obscenity violations.[180] Assistant Attorney General Trott again called attention to the guidelines and asked the United States Attorneys to set up a meeting with the United States Postal Inspection Service and Federal Bureau of Investigation in their districts to evaluate the need for additional enforcement.[181] He also offered assistance from the Criminal Division of the Department of Justice if an individual United States Attorney needed help in structuring an enforcement

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discovered crimes. Obscenity cases generally cannot be developed without proactive investigative efforts.

178 Id.

179 See, infra note 180.

180 Memorandum of from Stephen S. Trott, Assistant Attorney General, Criminal Division to all United States Attorneys (Aug. 24, 1983) (discussing enforcement of Obscenity Laws).

181 Id.

program.[182]

This directive has had little effect on most federal prosecutors. The Departmental guidelines have been used as "excuses" to decline prosecution of obscenity cases involving adult material. The guidelines have been perceived as establishing exclusive categories for prosecution rather than minimum criteria.

The Department's guidelines are clear and the United States Attorneys have been instructed by both the Attorney General and the head of the Criminal Division to use these guidelines to prosecute obscenity cases. A Justice Department official told the Commission in Chicago, "These are not declination guidelines, they are priority guidelines."[183]

Since the time of these directives fewer than ten federal districts[184] have brought obscenity prosecutions despite the presence of large scale distributors and organized crime involvement in their jurisdiction[185]

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182 Id.

183 Chicago Hearing, Vol. II, James S. Reynolds, p. 267.

184 Id.

185 The Criminal Division of the United States Department of Justice has compiled and provided the following statistics with respect to recent and current obscenity law prosecutions.

Adult Pornography

	Indicted	Convicted
1978	11	20

There is widespread evidence that the stated policy of the Department of Justice and the established guidelines are not being implemented by the United States Attorneys.186 Very few obscenity cases have been brought by the United

1979	1	2
1980	54 *1	1
1981	2	15 *2
1982	7	4 *3
1983	0	2
1984	6	11 *4
1985	19	14 *5
1986		2 *6

*1 Includes 45 MIPORN defendants.
*2 Includes 5 MIPORN defendants. Convictions of two other MIPORN defendants in 1981 were reversed on appeal.
*3 Includes 1 MIPORN defendant.
*4 Includes 6 MIPORN defendants.
*5 Includes 2 MIPORN defendants.
*6 Both are MIPORN defendants.

Districts Which Have Prosecuted Adult Pornography Cases Since January 1, 1978

Northern District of Alabama
Southern District of Alabama
Central District of California
Middle District of Florida
Southern District of Florida
District of Kansas
Eastern District of Kentucky
Western District of Kentucky
District of Massachusetts
District of Nebraska
Eastern District of New York
Western District of New York
Western District of North Carolina
Western District of Pennsylvania
Eastern District of Tennessee
Western District of Tennessee
Western District of Texas
District of Utah
Eastern District of Virginia

Districts In Which Adult Pornography Cases Are Presently Pending

Southern District of Florida
District of Utah

Statistics have been obtained from several sources. While they are essentially complete, it is possible a few cases may have been omitted. Letter from Donald B. Nicholson to Alan E. Sears (Feb. 28, 1986).

186 Chicago Hearing, Vol. I, Paul McGeady, p. 82-3.

States Attorneys. In addition, the Department of Justice and the United States Attorneys have cited the rigorous pursuit of child pornography cases as compliance with the Attorney General's mandate and as a rationale for neglecting obscenity prosecutions.

From May 1, 1984, through July 1985, there were obscenity prosecutions in only seven of the ninety-four federal districts.[187]

There were no obscenity prosecutions in the districts encompassing the Southern District of New York (Manhattan) or the Central District of California (Los Angeles)[188] where the majority of obscene materials are now and were then being produced or distributed.[189]

One witness testified before the Commission that he contacted the office of the United States Attorney for the Central District of California in Los Angeles and requested information regarding the number of obscenity prosecutions brought by that office during the period from 1979 to 1982 along with the number of defendants involved and the number

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[187] Chicago Hearing, Vol. II, James S. Reynolds, p. 267. In addition it is noted that this Commission invited United States Attorneys from several major districts to attend and testify at its hearings. No United States Attorney whose office does not prosecute obscenity cases accepted the invitation to appear before the Commission to explain their policy.

[188] Id. at 267, 271.

[189] Chicago Hearing, Vol. 1, Donald Smith, p. 30-31.

of convictions which resulted.[190] The United States Attorney responded that during that period there was only one prosecution and it involved child pornography.[191] In a letter dated February 22, 1984, the United States Attorney for the Central District of California in Los Angeles, said that it would be a "misuse of the limited resources of this office to prosecute so-called adult films" and added that he and his predecessor had concluded that films of this variety could not be prosecuted successfully in that district.[192]

The perception is pervasive among federal law enforcement agents that most United States Attorneys will not prosecute cases involving obscene matter. According to an Assistant Chief Postal Inspector, the Postal Inspection Service presents very few obscenity cases to the United States Attorneys because federal prosecutors will not

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190 Chicago Hearing, Vol. I, Paul McGeady, p. 82-83.

191 Id. at 83.

192 Chicago Hearing, Vol. I, Paul McGeady, p. 83-85; During the same period the Los Angeles Police Department was actively involved in the investigation of major obscenity distributors; Chicago Hearing, Vol. I, Donald Smith, p. 33; Since 1973 the Los Angeles Police Department vice division successfully convicted offenders in over three hundred obscenity cases. In addition, it is noted that the Los Angeles Police Department cases were prosecuted in California state courts which use the Memoirs-Roth test, a much more difficult legal standard than in the federal courts which apply Miller. Los Angeles Hearing, Vol. I, James Docherty, p. 6; See also, The discussion of the History of Regulation and First Amendment Considerations for further information.

authorize prosecution.[193] Experiences of Postal Inspectors in which federal prosecutors have declined prosecution of cases have dissuaded them from fully using their existing resources to investigate obscenity cases.[194]

An agent of the United States Customs Service testified that his office had made countless thousands of seizures of adult materials over the last two years, but had presented none of them to the United States Attorneys' offices.[195] The agent said it was his understanding from the Assistant United States Attorneys that the Department of Justice policy was not in favor of prosecuting obscenity cases and presentation would be pointless.[196] Similar statements have been received from federal agents in Minnesota and New York.[197] The same Customs agent testified that he had presented fifty different child pornography seizures to the United States Attorneys for prosecution of which approximately forty-seven were accepted for prosecution.[198]

While the Departmental guidelines make both child pornography and enumerated types of adult material of equal

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[193] Washington, D.C., Hearing, Vol. I, Jack Swagerty, p. 138.

[194] Id. at 70-71.

[195] Id.; Chicago Hearing, Vol. I, Jack O'Malley, p. 117-18.

[196] Id.

[197] Chicago Hearing, Vol. I., Paul McGeady, p. 85-86.

[198] Chicago Hearing, Vol. I., Jack O'Malley, p. 119.

priority, there is a practice of prosecuting child pornography ahead of all else and to the virtual exclusion of obscenity cases. A Department of Justice official testified that all child pornography cases "merit priority" while the Department seeks obscenity cases which would have "significant deterrent effect."[199]

Despite stated departmental objectives, in practice, emphasis on child pornography to the exclusion of adult obscenity cases is apparent.[200] While aggressive prosecution of child pornography cases is laudable, it should not be a justification for the failure to prosecute appropriate cases involving obscene material. The small number of obscenity prosecutions is not a product of the Department's existing guidelines. The lack of obscenity prosecutions is a result of the way in which the guidelines have been interpreted and not implemented by United States Attorneys. The reverse of the Department's stated policy appears to be the actual practice. The guidelines are used as a basis for declination, i.e.: a reason to "get rid of a case presented", and are not used to establish prosecution priorities. This practice has created the perception among federal law enforcement agents that the work necessary to

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[199] Chicago Hearing, Vol. II, James S. Reynolds, p 266.

[200] From 1978 through February, 1986, 255 persons were indicted and 215 individuals convicted of child pornography law violations. This should be contrasted with one hundred indictments and seventy-one convictions for obscenity law violations during the same period.

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present an obscenity case to the United States Attorney's office is a wasted effort.[201]

The United States Attorneys should make, as the Assistant Attorney General requested in his memorandum, a realistic appraisal of the obscenity problem in their respective jurisdictions. They should identify existing violations of obscenity laws, use Departmental guidelines to create priorities and begin to prosecute offenders aggressively and without further delay.

In implementing the priorities under the Department of Justice Guidelines, the United States Attorneys may consider examining the nature of the obscene materials. This may be done in accordance with this Commission's findings of harm with respect to each class of material.[202]

Only the Attorney General by direct and continuous action and personal supervision can ultimately ensure that these federal officers fulfill their responsibility in this neglected area. This attention and supervision should result in immediate positive results in law enforcement and prosecution efforts. The effects of this action will have long term consequences and will serve as the foundation for a continuing prosecution and enforcement program.

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[201] See, Chicago Hearing, Vol. I, Jack O'Malley; Washington, D.C., Hearing, Vol. I, Jack Swagerty.

[202] See, The discussion of the harms and benefits attributable to each type of material in Part Two.

RECOMMENDATION 12:

THE ATTORNEY GENERAL SHOULD APPOINT A HIGH RANKING OFFICIAL FROM THE DEPARTMENT OF JUSTICE TO OVERSEE THE CREATION AND OPERATION OF AN OBSCENITY TASK FORCE. THE TASK FORCE SHOULD CONSIST OF SPECIAL ASSISTANT UNITED STATES ATTORNEYS AND FEDERAL AGENTS WHO WILL ASSIST UNITED STATES ATTORNEYS IN THE PROSECUTION AND INVESTIGATION OF OBSCENITY CASES.

DISCUSSION

The Attorney General should create a task force under the direction of a high ranking official, of no less stature than a Deputy Assistant Attorney General, to investigate and prosecute obscenity law violations. The director of the task force should be included in all pertinent policy and budget decisions. The individual appointed must have a high degree of personal commitment to the objective of this task force which will requires countless hours of personal supervision. This task force should attack the obscenity problem in a concerted and organized manner.

The director of the task force should enlist aggressive and well trained prosecutors and investigators. Experienced prosecutors could be detailed from the Department of Justice or the United States Attorneys' offices on a full-time and/or part-time basis. The Federal Bureau of Investigation, the

United States Customs Service and the United States Postal Service should all contribute investigators to the task force. All prosecutors should be seasoned trial attorneys familiar with complex obscenity law issues and defense tactics.

The task force members should be brought together by the Department of Justice for intensive training and then begin immediate service. A selected number of prosecutors from each United States Attorney's office including selected United States Attorneys should also participate in this training to enable them to understand and deal with the problem in each and every federal district where violations occur.

The task force should be used to address two major concerns. First, the task force prosecutors would be particularly helpful in jurisdictions in which the United States Attorneys are burdened with heavy caseloads and believe they cannot allocate manpower to prosecute such crimes or where the Assistant United States Attorneys lack expertise in obscenity prosecutions.[203] The task force would play a support role for the United States Attorneys and federal investigators by assisting them with their cases and by serving as a national resource for legal and technical advice as well as a source of information. Second, the task

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[203] Chicago Hearing, Vol. II, James S. Reynolds, p. 272-73; Chicago Hearing, Vol. I, Paul McGeady, p. 85; Chicago Hearing, Vol. II, Larry Parrish, p. 216-17.

force could be used to assist, or at their request, relieve United States Attorneys of these responsibilities during major investigations of a national scope.

The task force would complement the permanent staff of United States Attorneys as needed or when requested completely take over investigation and prosecution in a particular district.

RECOMMENDATION 13:

THE DEPARTMENT OF JUSTICE SHOULD INITIATE AN OBSCENITY LAW ENFORCEMENT DATA BASE WHICH WOULD SERVE AS A RESOURCE FOR FEDERAL, STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

There is no government department or agency which presently serves as a centralized source of complete information for prosecutors and investigators involved with obscenity cases.204 Federal prosecutors and investigators must currently "recreate the wheel" in almost every new case developed. Many cases involve the same corporations and individuals and a duplication of efforts is a substantial waste of precious investigative time and resources. The Obscenity Task Force discussed in the Department of Justice

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204 Currently the Department of Justice, Criminal Division, General Litigation and Legal Advice Section has one person to assist prosecutors with information and advice in this area of law. It is impossible for one person, with the present mandate, to fulfill the need as described herein.

Recommendation should be complemented by the creation of such a data base within the Department of Justice.

The data base should consist of profiles of cases prosecuted, case histories, corporate records, real estate records, a brief bank, information concerning known offenders, individuals associated with organized crime families and any other information pertinent to the investigation and prosecution of obscenity cases. The data base would enable federal, state, and local law enforcement personnel to draw on information and expertise gathered nationwide. This data base should also cross-reference the information contained in the data base created for child pornography.205

Two experienced Department of Justice Attorneys with adequate support staff could easily administer this project which would result in a substantial reduction of investigative expenses. The information should be readily available to law enforcement agencies in the legitimate investigation of criminal activity, but safeguards should be enacted to avoid and potential abuse of individual civil liberties.

RECOMMENDATION 14:

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205 See, The discussion in Child Pornography for further information.

THE UNITED STATES ATTORNEYS SHOULD USE THE LAW ENFORCEMENT COORDINATING COMMITTEES TO COORDINATE ENFORCEMENT OF THE OBSCENITY LAWS AND TO MAINTAIN SURVEILLANCE OF THE NATURE AND EXTENT OF THE OBSCENITY PROBLEM IN THE LOCALITIES WITHIN THEIR DISTRICTS.

The Law Enforcement Coordinating Committees (LECCs) developed under the direction of former Attorney General William French Smith are comprised of the United States Attorney and representatives of federal, state, and local law enforcement agencies within the particular judicial district. The LECC's objective is to improve cooperation and coordination among participating agencies. In addition the LECCs develop law enforcement priorities for the district, target the most serious crime problems and provide a forum for an exchange of information and intelligence.

The United States Attorney for the Northern District of New York arranged a LECC conference on child pornography in his district.[206] The two hundred law enforcement personnel in attendance were addressed by Federal Bureau of Investigation Agents, United States Postal Inspectors, state police, and state and local prosecutors.[207] The New York conference greatly increased awareness of the child pornography problem

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206 Chicago Hearing, Vol. II, Frederick J. Scullin, p. 39.

207 Id.

and contributed to the almost immediate initiation of at least three child pornography prosecutions.[208]

In July 1984, the United States Attorney for the Eastern District of North Carolina established an LECC subcommittee to investigate obscenity, organized crime and child abuse.[209] At that time the North Carolina obscenity law was considered one of the weakest in the United States and the state had the highest number of "adults only" pornographic outlets per capita of any state in the nation.[210] The North Carolina LECC subcommittee was comprised of federal, state and local law enforcement officials and spent a year developing a law enforcement blueprint.[211] The subcommittee discovered involvement of organized crime members and their associates in the obscenity business in North Carolina.[212] As a result of its investigation the LECC subcommittee drafted and recommended a more effective state obscenity law which was subsequently enacted by the North Carolina legislature.[213] They also recommended continued cooperation between federal and state authorities, and the creation of a statewide

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208 Id. at p. 39-40.

209 New York Hearing, Vol. II, Robert Showers, p. 60.

210 Id. at 59.

211 New York Hearing, Vol. II, Sam Currin, p. 90.

212 New York Hearing, Vol. II, Robert Showers, p. 61.

213 Id. at 63.

"pornography task force."[214] As a result of these efforts by the LECC subcommittee, the distribution of obscenity in North Carolina can now be more effectively controlled.[215] These two examples illustrate the effectiveness of the LECCs when utilized by United States Attorneys who are committed to fighting obscenity and its related organized crime elements.

The Department of Justice guidelines allow United States Attorneys to prioritize obscenity cases where a particular problem has been identified in the district. The LECCs are a means for the United States Attorney to maintain surveillance of the nature and extent of obscenity trafficking in his or her particular jurisdiction and they should be used specifically for that purpose.

RECOMMENDATION 15:

THE DEPARTMENT OF JUSTICE AND UNITED STATES ATTORNEYS SHOULD USE THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT (RICO) AS A MEANS OF PROSECUTING MAJOR PRODUCERS AND DISTRIBUTORS OF OBSCENE MATERIAL.

Recent amendments to the Racketeer Influenced and Corrupt Organizations Act (RICO) made obscenity offenses predicate

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[214] Id. at 65; New York Hearing, Vol. II, Sam Currin, p. 90.

[215] New York Hearing, Vol. II, Robert Showers, p. 64.

crimes under the statute.[216] To date, no prosecutions

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[216] 18 U.S.C. SS1961-1968 (West Supp. 1985). Section 1961 (5) defines a "pattern of racketeering activity as at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity. Section 1961 (1) defines "racketeering activity" as (A) any act or threat involving murder, kidnaping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in narcotic or other dangerous drugs, which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 172, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891-894 (relating to extortionate credit transactions), section 1084 (relating to the transmission of gambling information), section 1341 relating to mail fraud), section 1343 (relating to wire fraud), sections 1461-1465 (relating to obscene matter), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of state or local law enforcement), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341-2346 (relating to trafficking in contraband cigarettes), sections 2421-24 (relating to white slave traffic), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions of payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11, fraud in the importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic or other dangerous drugs, punishable under any law of the United States, or (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act; Any of those acts or offenses constitute a predicate act under RICO.

against producers or distributors of obscene material have been brought under RICO in any of the ninety-four federal districts. RICO was enacted as part of the Organized Crime Control Act of 1970.[217] Prosecution under RICO arises when an individual demonstrates an established pattern of racketeering activity. Section 1961(5) requires that at least two of the federal or state predicate crimes enumerated in section 1961(1) must have been committed by the individual within a ten year period.[218] Offenses relating to obscenity are included among the predicate offenses.[219] The activities proscribed under RICO are listed in section 1962 as follows:

(a) investing proceeds of a pattern of racketeering in an enterprise.

(b) acquiring or maintaining an interest in an enterprise through a pattern of racketeering.

(c) conducting affairs of an enterprise through a pattern a racketeering.

(d) conspiring to violate (a), (b), or (c).[220]

The penalty provisions of 18 U.S.C. ©1963 provide for a

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217 18 U.S.C. SS1961-1968 (West Supp. 1985).

218 Id; A predicated crime is one upon which an action under RICO can be based.

219 18 U.S.C. S1961(1)(B).

220 18 U.S.C. S1962 (West Supp. 1985).

fine of not more than $25,000 or imprisonment for not more than twenty years or both.[221] The statute also provides for mandatory forfeiture of:

(a) a defendant's interest in any enterprise acquired with racketeering income.

(b) interests, securities, claims or contractual rights of an illegally controlled enterprise.

(c) proceeds or property derived from such proceeds.

Department of Justice guidelines regarding RICO prosecutions appropriately prohibit a United States Attorney from bringing an indictment for a violation of section 1962(c) based upon a pattern of racketeering activity growing out of a single criminal episode or transaction.[222] Thus an individual could not be indicted under RICO based on violations of 18 U.S.C. S1461 (mailing obscene matter) and 18 U.S.C. S1463 (mailing indecent matter on envelope or wrapper) if both arise out of the same mailing. This is a situation which may occur frequently in obscenity cases and thus preclude the United States Attorney from prosecuting under

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221 18 U.S.C. S1963 (West Supp. 1985).

222 United States Department of Justice, United States Attorney's Manual, Title 9, Chapter 110., p. 4. (June 18, 1981).

RICO.223 It should be obvious that the stringent forfeiture provisions under RICO would be one of the strongest weapons in the prosecution arsenal and could, in appropriate cases, virtually eliminate a large scale pornography operation.

RECOMMENDATION 16:

THE DEPARTMENT OF JUSTICE SHOULD CONTINUE TO PROVIDE THE UNITED STATES ATTORNEYS WITH TRAINING PROGRAMS ON LEGAL AND PROCEDURAL MATTERS RELATED TO OBSCENITY CASES AND ALSO SHOULD MAKE SUCH TRAINING AVAILABLE TO STATE AND LOCAL PROSECUTORS.

The preparation for trial of an obscenity case involves complex legal and procedural issues. An inexperienced prosecutor may often encounter an experienced defense counsel who specializes in obscenity law and travels throughout the country defending these cases. Defenses and issues which are raised in each case are likely to be similar in prosecutions throughout the country. Trial and appellate case law developed in state and federal cases are very similar. Poorly developed case law developed on the state level can have adverse effects on federal prosecutions and vice versa.

Training programs offered by the Department of Justice that prepare attorneys to address these issues will enable

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223 See, Recommendations for Changes in Federal Law in this Chapter.

federal prosecutors to be more knowledgeable and effective. They would be of similar value to state and local prosecutors if made available to them. These programs should include a familiarization with defense tactics which may include personal attacks on harassment or law suits against prosecutors and investigators.

RECOMMENDATION 17:

UNITED STATES ATTORNEYS SHOULD USE ALL AVAILABLE FEDERAL STATUTES TO PROSECUTE OBSCENITY VIOLATIONS INVOLVING CABLE AND SATELLITE TELEVISION.

The contents of some programs shown on cable and satellite television channels have become a matter of increasing public concern.224 Some of the feature films shown depict sexual themes, sexual acts and materials which may be obscene under Miller.

The obscenity standard enunciated by the Supreme Court in Miller v. California can be applied to material transmitted over cable television. When the United States Supreme Court declared that obscenity is not protected speech under The First Amendment, no distinction was made as to the

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224 See, The discussion of Child Pornography Regulation for further information.

medium of expression.[225] As the United States District Court in Utah found in Community Television of Utah v. Roy City,[226]

> The Miller standard is applicable. It is a national standard with a core of uniformity which allows for a degree of flexibility at a community level. It may be uniformly applied to almost all forms of publicly available communication. Books, magazines, cassettes, periodicals, movies, and cable television are all treated essentially in the same fashion regardless of numbers. (emphasis added)[227]

The court went on to explain, "The Court finds great difficulty in distinguishing (other than the popcorn) between going to the movies at a theatre and having the movies come to me in my home through electronic transmission over wire. The choice is mine. The location is different. The content is the same."[228]

An individual may possess and view obscene materials in the privacy of his own home.[229] Despite popular arguments to the contrary, it is well established in decisions by the United States Supreme Court that there is no correlative right to receive, import, or distribute the obscene

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225 Kaplan v. California, 413 U.S. 115, 118-19(1973).

226 Id. at 116.

227 555 F. Supp. at 1164 (D. Utah 1982).

228 Id. at 1170.

229 See, Stanley v. Georgia, 394 U.S. 557, 568(1969).

materials. (emphasis added)[230] An argument that in the cable area the obscene materials are exhibited to consenting adults only is not a defense to an obscenity prosecution.[231]

The Court in Paris Adult Theatres I v. Slaton,[232] stated,

> Finally, petitioners argue that conduct which directly involves "consenting adults" only has, for that sole reason, a special claim to constitutional protection. Our Constitution establishes a broad range of conditions on the exercise of power by the States, but for us to say that our Constitution incorporates the proposition that conduct involving consenting adults only is always beyond state regulation, is a step we are unable to take.[233]

In addition to the federal obscenity laws codified in 18 U.S.C. S1461, the Cable Communication Policy Act of 1984 provides another avenue for the prosecution of obscenity shown over cable television.[234]

The Act, provides:

> Whoever transmits over any cable system any matter which is obscene or otherwise

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230 See, United States v. Reidel, 402 U.S. 351(1971); United States v. 37 Photographs, 402 U.S. 363, 376(1971).

231 See, Paris Adult Theatre I v. Slaton, 413 U.S. 49, 57(1973).

232 413 U.S. 49(1972).

233 Id. at 68.

234 47 U.S.C.A. S559 (West Supp. 1985).

unprotected by the Constitution of the United States shall be fined not more than $10,000 or imprisoned not more than 2 years, or both.[235]

This section should be used by federal prosecutors if potential conflicts within such Chapter are resolved. Prosecutors should also vigorously enforce any new legislation enacted in the area.

The inability of law enforcement officials to control obscene cable programming is compounded by the inaction of the Federal Communications Commission in this entire area and makes enforcement efforts by United States Attorneys in each district essential.

D. RECOMMENDATIONS FOR STATE AND LOCAL PROSECUTORS

RECOMMENDATION 18:

STATE AND LOCAL PROSECUTORS SHOULD PROSECUTE PRODUCERS OF OBSCENE MATERIAL UNDER THE EXISTING LAWS INCLUDING THOSE PROHIBITING PANDERING AND OTHER UNDERLYING SEXUAL OFFENSES.

Existing state laws provide penalties for pandering. Pandering or "pimping" generally involves the procuring of an individual to commit an act of prostitution for some form of

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235 Id. See, The discussion of the difficulties associated with enforcement of this statute.

consideration.

The production of obscene material almost always involves acts of prostitution. Performers are recruited and paid or otherwise induced (voluntarily or involuntarily) by producers to perform or have performed upon them various sexual acts including intercourse, fellatio, cunnilingus, sodomy and bestiality. These acts are filmed or otherwise recorded for reproduction and commercial distribution. By procuring an individual to commit an act of prostitution the producer of obscene material is acting in the same capacity as a pimp.[236] Like any other pimp he reaps his financial reward from these acts of prostitution.

Pandering laws are an effective law enforcement tool since they present a separate and distinct crime and do not require proof of obscenity.[237] Law enforcement officers should view the pandering which takes place through the production of obscene materials the same as pandering in any other prostitution case. This Commission has heard

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236 See, People v. Fixler, 56 Cal. App. 31 321, 128 Cal. Rptr. 363 (1976); United States v. Roeder, 526 F.2d 736, 739(10th Cir. 1975), cert. denied 462 U.S. 905.

237 An investigator who testified before the Commission recounted the following experience, "Another area that we are presently using for enforcement is in the area of pandering. In one of our recent cases we charged a hard-core film producer with pandering.

It was our contention that this individual by the name of Hal Freemen, who runs a company by the name of Hollywood Video in Los Angeles, was hiring these girls to commit sex acts for money, which is prostitution, this he was a pimp." Chicago Hearing, Vol. I, Donald Smith, p. 36.

substantial testimony regarding coercion used in the production of sexually explicit materials. We accordingly suggest that law enforcement officers should use considered judgement and avoid unnecessary charges of prostitution against the performers.

State and local prosecutors should also scrutinize obscene material for evidence of any other underlying criminal offenses such as physical sexual abuse and bring appropriate charges against the persons responsible for the commission of such crimes.

Persons who appear in pornographic materials often may be doing so under threat of force or coercion.[238] Law enforcement officers should be sensitive to claims of sexual assault, sexual imposition, rape or related crimes of violence against performers. While some performers are willing to engage in the sexual activities required during the production of pornographic materials, law enforcement officers should remain aware of the significant possibility that performers who are forced to engage in certain sexual acts are victims of these underlying crimes.

RECOMMENDATION 19:

STATE AND LOCAL PROSECUTORS MUST MAKE A CAREFUL ASSESSMENT OF

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[238] See also, The discussion of Child Pornography Regulation.

THE OBSCENITY PROBLEM IN THEIR JURISDICTIONS, IDENTIFY OFFENDERS INVOLVING BOTH ADULT AND CHILD MATERIAL AND COMMENCE PROSECUTION WITHOUT FURTHER DELAY.

There is no substitute for an aggressive prosecutor who will vigorously enforce the existing obscenity laws. Prosecutors in Orlando; Florida; Atlanta; Georgia; and Cincinnati, Ohio, have compiled impressive records in enforcing the laws of those states.

For sixteen years[239] the Solicitor for Fulton County, Georgia, aggressively prosecuted any obscenity violation brought to the attention of that office. As a result Atlanta now has no theatres or bookstores which show or sell materials that would be found obscene under Miller.[240] Consistent enforcement efforts have had a substantial deterrent effect.[241]

In Cincinnati, there are no bookstores, movies or cable television programs which are sexually explicit and would be found obscene under Miller.[242] The chief of the Cincinnati vice squad attributed this result to "a strong prosecutor and a prosecutor willing to accept the cases and go ahead and

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239 Chicago Hearing, Vol. II, Hinson McAuliffe, p. 177.

240 Id. at 185.

241 Id. at 185-86.

242 Chicago Hearing, Vol. I, Harold Mills, p. 93.

prosecute."[243]

In Houston, prosecution of pornography cases has been a high priority and the prosecutor has maintained a conviction rate of ninety-two percent while handling over two hundred cases per year.[244]

For the past fifteen years, only one detective on the Miami, Florida, police department has been assigned to investigate obscenity violations.[245] During that time, this investigator has brought over one thousand cases for prosecution and a conviction was obtained in every case.[246] The number of "adults only" pornographic outlets in Miami has decreased during this same period from twenty-three to eight.[247]

Local law enforcement agents should also seek assistance from federal agencies to effectively combat organized crime involvement in pornography when identified. According to a local law enforcement officer, "Without the mutual exchange of information of the joint task force, local law enforcement cannot and will not be able to cope with the situation of organized crime and the delivery and dissemination of

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243 Id.

244 Houston Hearing, Vol. I, W.D. Brown, p. 49.

245 Miami Hearing, Vol. I, Mike Berish, p. 63.

246 Id. at 64.

247 Id at 63.

pornography . . ."[248]

State and local prosecutors must accept the challenge and enforce the existing laws stringently and consistently so that purveyors of obscene material will find no haven in their jurisdictions. These efforts should be based upon an evaluation of the relative harmful effects of materials available.[249] This evaluation should include particular consideration of explicitly violent materials and materials which are humiliating or degrading.

RECOMMENDATION 20:

STATE AND LOCAL PROSECUTORS SHOULD ALLOCATE SUFFICIENT RESOURCES TO PROSECUTE OBSCENITY CASES.

See, Recommendation 19 for further discussion of resources devoted to obscenity investigation and prosecution.

RECOMMENDATION 21:

STATE AND LOCAL PROSECUTORS SHOULD USE THE BANKRUPTCY LAWS TO COLLECT UNPAID FINES.

Courts frequently impose a monetary fine after a conviction

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[248] New York Hearing, Vol. II, William Johnson, p. 82.

[249] See, The discussion of Harms, supra.

for an obscenity violation. In a number of cases, especially those involving corporate defendants, these fines may go unpaid. Once conventional means of collecting of such fines have been exhausted these outstanding judgments can be satisfied by the use of bankruptcy laws.250 When a defendant accumulates two or more outstanding debts the prosecutor can file an involuntary bankruptcy petition and the court can ultimately take custody of any assets and liquidate them to satisfy those debts including unpaid fines. The liquidation should include items of value such as real property, structures and fixtures. The liquidation would not include the sale or distribution of obscene material which may be a part of the inventory. All such material would be disposed of in the manner provided by law.

The prosecutor in Atlanta, Georgia, successfully used the bankruptcy laws to collect fines and made it unprofitable for many dealers in obscene material to stay in business.251

The bankruptcy proceedings are also useful in determining the true ownership of the businesses who deal in obscene materials. This is particularly helpful when "sham" or "shell" corporations are used to conceal ownership. The results may also assist prosecutors to target the culpable individuals for subsequent criminal prosecution.

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250 11 U.S.C. S302 (Supp. II 1984).

251 Chicago Hearing, Vol. II, Hinson McAuliffe, p. 183-84.

State and local prosecutors also may enlist the assistance of federal investigators and prosecutors when dealing with a major obscenity distributor with substantial resources. These federal agents and prosecutors could assist in identifying the resources and their location for inclusion in the bankruptcy action.

RECOMMENDATION 22:

STATE AND LOCAL PROSECUTORS SHOULD USE ALL AVAILABLE STATUTES TO PROSECUTE OBSCENITY VIOLATIONS INVOLVING CABLE AND SATELLITE TELEVISION.

State and local prosecutors should prosecute cable and satellite television programmers or operators under existing state statutes for exhibiting any program that is obscene under the Miller test. The Commonwealth's Attorney for the city of Virginia Beach, Virginia, monitored and videotaped fifty hours of programming on a local cable channel, shown in his jurisdiction. Thirteen and one half hours of the videotaped programming were submitted to a grand jury, which returned seven indictments against the cable operator for distributing obscene material. As a result of those indictments, the cable operator eliminated the channel in

question from its program offerings.252

See, Department of Justice Recommendations and Recommendations for Law Enforcement Officers in this Chapter.

RECOMMENDATION 23:

STATE AND LOCAL PROSECUTORS SHOULD ENFORCE EXISTING CORPORATE LAWS TO PREVENT THE FORMATION, USE AND ABUSE OF SHELL CORPORATIONS WHICH SERVE AS SHELTERS FOR PRODUCERS AND DISTRIBUTORS OF OBSCENE MATERIAL.

Producers and distributors of obscene material often use multiple corporate entities as a means of concealing the true ownership or nature of their businesses.253 They typically create layers of corporations to insulate their identities from a claim of actual ownership. Separate corporations may be formed to perform the different operations of a single bookstore. Separate corporations may be formed to control the sale of magazines, operate the bookstore, construct peep show booths, collect coins from peep show booths, and to repair the same booths.254

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252 National Decency Reporter, Vol. 22, No. 3, p. 1 (May-June 1985).

253 New York Hearing, Vol. II, William Johnson, p. 82.

254 Id.

The articles of incorporation and other documents may list as incorporators, shareholders or officers the names of mere employees or even strangers. The names may be on the documents without the named person's knowledge or consent.[255] Some producers and distributors may rely on law enforcement knowledge of such practices to argue they are not the true owners even though listed as such.

Law enforcement officers face difficult burdens in identifying and bringing charges against or collecting taxes from the true owners who hide behind these shell corporations. Often they can locate only low level employees who may be unfamiliar with the identity of the persons who actually own or control the operation of the business.[256]

State laws governing the formation of corporations should be enforced fully to permit the identification of those persons managing and financing the obscenity industry. Corporate charters should be revoked when fraud is proven and the assets seized when permitted.

RECOMMENDATION 24:

STATE AND LOCAL PROSECUTORS SHOULD ENFORCE THE ALCOHOLIC BEVERAGE CONTROL LAWS THAT PROHIBIT OBSCENITY ON LICENSED PREMISES.

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255 Id.

256 Id.

Establishments that display or sell obscene materials may also be licensed by the state or locality to sell alcoholic beverages. State and local alcoholic beverage control laws often prohibit obscene material and obscene performances on the licensed premises. Enforcement of these laws or ordinances in the courts or through administrative procedures is another tool at the disposal of law enforcement agents to remove pornography from theatres, restaurants and other establishments.

These enforcement measures should be implemented with recognition of the current social and behavioral science conclusions with respect to various types of materials. Law enforcement officers may consider the potential harm which may be attributable to certain types of materials when establishing criteria for enforcement of this aspect of alcoholic beverage laws.

A finding of guilt under the alcoholic beverage control laws could bring suspension or revocation of an establishment's liquor license. The potential of such a loss of revenue to an individual or business would have a significant deterrent effect.

RECOMMENDATION 25:

GOVERNMENT ATTORNEYS, INCLUDING STATE AND LOCAL PROSECUTORS,

SHOULD ENFORCE ALL LEGAL REMEDIES AUTHORIZED BY STATUTE.

See, Discussions of nuisance laws, zoning, anti-display statutes, alcoholic beverage control laws.

E. RECOMMENDATION FOR FEDERAL LAW ENFORCEMENT AGENCIES

RECOMMENDATION 26:

FEDERAL LAW ENFORCEMENT AGENCIES SHOULD CONDUCT ACTIVE AND THOROUGH INVESTIGATIONS OF ALL SIGNIFICANT VIOLATIONS OF THE OBSCENITY LAWS WITH INTERSTATE DIMENSIONS.

As recommended elsewhere in this report, the United States Attorneys should begin prosecuting appropriate violations of the federal obscenity laws without further delay.257 The efforts of federal prosecutors must be based upon and complemented by active and thorough investigations of all violations of the obscenity laws by the federal law enforcement agencies.

The Federal Bureau of Investigation (FBI) derives its investigative jurisdiction in this area from the federal

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257 See, United States Department of Justice Recommendation 1; "Investigation Authority" is the statutory power granted to an agency to initiate and pursue inquiries into criminal activity.

statutes covering obscenity and child pornography.[258] From the beginning of fiscal year 1978 through the second quarter of Fiscal Year 1985, the FBI has conducted 2,484 investigations involving interstate transportation of obscene materials and violations involving child pornography.[259] These investigations have resulted in 137 indictments and 118 convictions. Of these figures forty-five indictments and fourteen convictions were the result of the single investigation known as MIPORN.[260] The FBI has given its highest priority to cases involving organized crime.[261] The Federal Bureau of Investigation recently conducted a two year investigation which resulted in the case United States v. Guglielimi.[262] This case grew out of an approximately two-year investigation by the Federal Bureau of Investigation regarding obscene materials, particularly bestiality films shipped in interstate commerce into the Western District of North Carolina. The investigation, which first centered around undercover purchases from a relatively small street-corner outlet for "sexual aids" and pornographic magazines, films and pockets books, expanded after a

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258 18 U.S.C. SS1462 & 1465; 18 U.S.C. SS2251 - 2255; Washington, D.C., Hearing, Vol. II, William Webster, p. 76.

259 Washington, D.C., Hearing, Vol. II, William Webster, p. 76.

260 Id.

261 Id. at 77.

262 C-CR-85-59(W.D.N.C. 1986).

successful search of those premises and interview of the personnel, to a cautious undercover investigation involving telephone calls to, and meetings with, the defendant himself. The introduction to the defendant was made by a former "adult" bookstore operator, and various orders of bestiality films and other materials were followed by a successful search of Central Sales, the defendant's multistory Baltimore warehouse for the shipment of obscene materials. The Grande Jury's eleven-count indictment for violations of Title 18, U.S. Code, Sections 2, 371, 1462 and 1465, followed on June 12, 1985.

The trial lasted approximately four days, during which a number of bestiality films were displayed, in titles of which indicated the animals portrayed. The defense called a number of "experts" who were experienced defense specialists in pornography cases, several of whom were affiliated with the Institute for the Advanced Study of Human Sexuality, a San Francisco, California, group that includes among its classes a course on testifying for the defense in pornography cases. Information provided by other prosecutors made possible the effective cross-examination of these witnesses. The defense "experts" testified that the materials did not appeal to the prurient interest of the average citizen in the Western District of North Carolina, since the average person does not have such an interest.

The trial in general was characterized by numerous voir

dire examinations and arguments on a number of points of law and fact. Pre-trial motions had also been lengthy and had included a Motion of Recuse, by which the defendant sought to have the trial judge, the Honorable Robert D. Potter, to disqualify himself. This motion was denied, and defendant filed a petition for writ of mandamus to the Fourth Circuit, which was also denied.

The jury was similarly unpersuaded by defense arguments and found the defendant guilty of all eleven counts in the indictment. Judge Potter sentenced the defendant to a total of twenty-five years incarceration and a $35,000 fine. The case is now under appeal.

The Director of the FBI told this Commission that while the Bureau does not "downgrade" the seriousness of the problem of obscenity violations involving adult material, "[i]t is simply the implication of our resources."[263] He added that "[i]t will probably mean that there will be less pro-active initiatives on our part" in adult cases that do not involve organized crime.[264]

This Commission received evidence that two of the FBI field offices in one of the nation's most active obscenity distribution centers, New York City, will not investigate cases involving obscene material.[265]

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263 Id. at 90.

264 Id.

265 New York Hearing, Vol. IV, Paul McGeady, p. 126.

The Federal Bureau of Investigation is encouraged to seriously set up its investigative efforts relating to obscenity law violations.

The jurisdiction of the United States Customs Services extends to all materials entering the United States by land, sea or air.[266] Prior to the signing of the Child Protection Act of 1984 (18 U.S.C. SS2251-2255), the United States Customs Service had received direction from Commissioner William Von Raab to step up efforts to intercept obscene material. Special emphasis was placed on material depicting children in sexual explicit conduct. The Customs Service was responsible for six successful child pornography prosecutions in fiscal year 1983. Five of the convictions were violations various state laws and the sixth was a violation Federal Law, 18 U.S.C. S1462. With the signing of the Child Protection Act, the figures changed to fourteen federal convictions and twenty state convictions in 1984, and nineteen federal and ten state convictions as of August 1985.

Until the early part of 1985, the Customs Service's method for initiating child pornography investigations was fairly static. A mail parcel would be examined at one of the twenty-two customs foreign mail facilities. The package, once discovered to contain child pornography, would be forwarded to the Office of Investigations in the District concerned. The case agent would then match the name and/or

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266 Chicago Hearing, Vol. I, Jack O'Malley, p. 105.

address of the addressee with other seizures. A background investigation on the addressee would be conducted in order to show other criteria as outlined in the United States Attorneys Manual. Based on the results of the investigation and a controlled delivery of the seized parcel, a search warrant would be obtained and executed on the address in question. In the majority of the search warrants executed, the suspect would be found to have a large collection of imported and home-made child pornography. Additionally, more and more evidence was found to link child molestation to the importers of the child pornography.267

By February 1985, compilations of seizure lists were being made and disseminated throughout the service. Most field offices had assigned at least one, and sometimes several agents to investigate child pornography cases on an exclusive or collateral basis. Foreign mail facilities were targeting the traditional "source" countries of child pornography: Denmark, the Netherlands, and Sweden.

In January 1985, a special delegation representing the United States Customs Service, the United States Postal Inspection Service and the Federal Bureau of Investigation travelled to Europe. Their purpose was to address the issue of foreign cooperative efforts in fighting the child pornography industry.

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267 In at least one instance, an agent discovered a molestation in progress. (The case resulted in a guilty plea to an information followed by a probationary sentence.)

As a result of these critical contacts, interagency cooperation is expanding. Investigators are beginning to look for the major distributors, producers, and consumers. Increased cooperation with foreign governments had led to two successful undercover operations in 1985. As a result of the increased foreign cooperation, new methods of smuggling, as well as additional source countries and distributors are being identified. Examples include: Transshipment routes through England, France, East Germany, and Southeast Asia countries heretofore not considered source countries, such as France, Italy, Japan, Thailand and the Philippines; and more sophisticated packaging techniques and profiles.

New methods of conducting child pornography investigations are being developed and attempted. These include the adaptation of methods used in narcotics and currency investigations, as well as methods used in the investigation of criminal sex offenses. Some bold and innovative undercover operations have been suggested and implemented.

The Customs Service is actively pursuing the enhancement of existing resources and the development of programs to meet the changing needs of the enforcement effort. It is only by such a process of enhancement and development that the customs service or any other agency can hope to compete with the ingenuity of those who sexually exploit children.

Future efforts in pornography enforcement will center

around the activities of the Child Pornography and Protection Unit (CPPU). Criminal investigations that focus on sexual exploitations which involve other customs violations and other forms of obscene material have and are being developed. Such investigations involve customs fraud, unreported currency transactions, and general smuggling. Currently, all obscene material encountered by the customs foreign mail facilities are processed for forfeiture under civil statute. If at some future time the Customs Service becomes involved in criminal investigation of obscene violations, the data already available through this procedure will provide invaluable investigative leads.

Customs examines all parcels which are suspected of containing contraband.[268] With respect to obscenity law cases particular attention is given to parcels from Denmark, Sweden and the Netherlands. These countries have traditionally been the source of child pornography entering the United States.[269] In 1984, Customs seized forty-three hundred parcels which contained suspected obscene materials.[270] Child pornography was found in 50 percent of those.[271] The other items seized were largely adult materials including some depicting bestiality, urination and

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268 Id.

269 Id. at 106.

270 Id.

271 Id.

defecation.[272]

When a Customs agent seizes obscene material, a notice is sent to the intended recipient of the material. The notice permits the individual to sign a release and forfeit the material to the government. The material is subsequently destroyed and generally no one is prosecuted for an obscenity violation.[273] If the material is child pornography, a controlled delivery is made to the recipient and a search warrant is subsequently executed on the recipient's premises, often leading to the arrest of that individual.[274] According to one Customs agent assigned to Chicago, "countless thousands" of obscenity cases involving obscene materials have not been presented to the United States Attorney because based upon their experience, agents perceive that these cases will not be prosecuted.[275]

The United States Postal Inspection Service has investigative responsibility over all federal criminal violations involving the mails including the use of the mails to distribute obscenity.[276] Investigations are initiated based on citizen complaints, advertisements in sexually

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272 Id.

273 Id. at 107.

274 Id. at 107-08.

275 Id. at 118.

276 Washington, D.C., Hearing, Vol. I, Charles Clauson, p. 135.

oriented publications and correspondence initiated by a postal inspector.[277] Postal inspectors are responsible for protecting the mails and postal facilities from criminal attack; for protecting the American public from being victimized by fraudulent schemes where use of the mails is an essential part of the scheme; and for keeping postal management informed of the conditions and needs of the Postal Service.

Postal crimes fall within two broad categories: Criminal acts against the Postal Service, such as, armed robberies, burglaries or theft of mail and misuse of the Postal System such as the mailing bombs, use of the mails to defraud the public and the use of the mails to distribute pornography. The Inspection Service is also responsible for the internal audit of Postal Service operations and for the security of postal facilities and employees. In addition, the Inspection Service is responsible for investigating violations of a number of civil statutes relating to the use of the mails including the Postal False Representations Statute.

Title 18, United States Code, Section 1461, enacted in 1865, is the statute by which the Postal Inspection Service restricts use of the mails to distribute obscene matter. The statute provides for criminal penalties of up to five years in prison, a $5,000 fine, or both, for using the mails to transmit any "obscene lewd lascivious indecent filthy or vile

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277 Id. at 136.

article, matter, thing, device or substance."

Title 18, United States Code, Sections 2251-2255, the Protection of Children Against Sexual Exploitation Act of 1977 and the Child Protection Act of 1984 are the statutes by which the Postal Inspection Service investigates trafficking in child pornography through the mails. The statute provides for criminal penalties of up to ten years in prison and/or a $100,000 fine. The offender's property used in or derived from the crime is subject to criminal and civil forfeiture under this section. Most states have laws dealing with the sale, distribution and/or possession of obscenity. When dual jurisdiction is involved, Inspectors assist local authorities in the enforcement of their laws. On the international level, the Inspection Service cooperates with the Department of State, the United States Customs Service, Interpol and certain foreign postal authorities to stem the flow of obscene material and child pornography into or from the domestic sources.

Congress has also enacted three civil statutes designed to curb the mailing of sexually oriented material. Title 39, United States Code, Section 3006, allowed the Postal Service to refuse to deliver mail in response to advertising which sought to obtain money through the mailing of obscene matter.

Sections 3008-3011, allows postal customers to obtain an order prohibiting any future mailings by anyone who mails them an advertisement which the addressee considers sexually

provocative. Title 39 United States Code, authorizes the Postal Service to maintain a list of persons who do not wish to receive sexually oriented advertising and prohibits the mailing of such advertising to persons who have asked to have their names listed. Companion criminal statutes, 18 U.S.C. SS1735-1737, authorize the courts to penalize persons who mail sexually oriented advertising and prohibits the mailing of such advertising the persons whose names are on the list.

The Department of Justice has established enforcement priorities with respect to the obscenity statutes and the Postal Inspection Service's investigative activities are determined accordingly. The Inspection Service has currently established the following priorities:

1. Policy

   All investigations involving the use of the mail to transmit child pornography are given priority attention. Major domestic and foreign dealers in obscene material also receive prompt investigative attention.

2. Child Pornography

   The objective in child pornography cases is to identify and investigate mail order activity. If other offenses such as child abuse are discovered incident to an investigation, this activity is immediately referred to local police or other

appropriate authorities.

3. Obscene Material

The objective in the obscenity area is to investigate cases consistent with Department of Justice priorities. These priorities are:

A. Large scale commercial obscenity distributors involved in multi-state operations.

B. Cases in which there is evidence of infiltration by known organized crime figures.

C. Relatively small dealers are occasionally investigated and/or prosecuted, particularly when the material is especially offensive or when numerous customer complaints are present. This provision is maintained to dispel any notion that pornography distributors can insulate themselves from prosecution if their operations fail to exceed a pre-determined size or if they are fragmented into small scale components.

These priorities, supplemented by guidelines Inspectors receive from the Department of Justice in individual cases, form the basis of the Postal Service investigative program. In 1985 the Postal Inspection Service reported activity in the following areas:

NATIONWIDE

15,766 criminal investigations completed.

A total of 5,570 convictions.

Convictions obtained in 98% of all cases brought to trial.

Recoveries, restitutions made and fines imposed - $34.2 million.

PROHIBITED MAILINGS

Obscenity and Child Pornography (18 U.S.C. 1461, 2251, 2252) 183 investigations completed; of these 176 involved "child pornography"

141 convictions for "child pornography" were obtained.

Like other federal agents, postal inspectors present evidence of violations of the law to the appropriate United States Attorney.[278] In fiscal year 1985 the Postal Inspection Service conducted 183 pornography-related investigations which resulted in 179 arrests and 143 convictions.[279] These investigations were principally child pornography cases.[280]

The Postal Inspection Service presents very few cases involving obscene material for prosecution because they have been told by employees of the Justice Department that these cases are "not prosecutable."[281] The Chief Postal Inspector has confirmed that "[i]nvestigations in adult pornography

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278 Id.

279 United States Postal Inspection Service Statistics (1986).

280 Id.

281 Id. at 70.

cases have declined in recent years. . . ."[282]

These three law enforcement agencies are capable of making significant contributions to the investigation and prosecution of violations of the federal obscenity laws. The FBI's efforts in the MIPORN investigation of organized crime figures involved in obscenity distribution resulted in fourteen convictions as of February 1986.[283] The FBI should also include obscenity and related crimes among its Uniform Crime Statistics report. Similarly the Customs Service and the Postal Inspection Service have had much success in their child pornography investigations.[284]

Working with dedicated prosecutors committed to enforcing the obscenity laws, these agencies can have an even greater impact on the reduction of pornography in the United States. They must commit the manpower and resources necessary to fulfill the task and conduct active and thorough investigations of all violations of the federal obscenity laws.

RECOMMENDATION 27:

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[282] Washington, D.C., Hearing, Vol. I, Charles Clauson, p. 138.

[283] Washington, D.C., Hearing, Vol II, William Webster, p. 77; Letter from Donald B. Nicholson to Alan E. Sears (Feb. 28, 1986).

[284] See, Washington, D.C., Hearing, Vol. I, Daniel Mihalko, p. 155-161; Chicago Hearing, Vol. I, Jack O'Malley, p. 110-16; Chicago Hearing, Vol. II, John Ruberti, p. 62-68.

THE INTERNAL REVENUE SERVICE SHOULD AGGRESSIVELY INVESTIGATE VIOLATIONS OF THE TAX LAWS COMMITTED BY PRODUCERS AND DISTRIBUTORS OF OBSCENE MATERIAL.

The Chief of the Internal Revenue Service criminal Division has compared the production and distribution of obscene material to drug trafficking since both generate staggering profits on an international scale but with only minimal tax reporting.285 Authorities also project that millions of dollars in profits from obscenity may be escaping taxation through use of international banking channels.286

Allen I. Goelman, a Los Angeles associate of Reuben Sturman, pleaded guilty to tax evasion charges in November of 1985. Goelman concealed personal earnings of more than $270,000 over a four year period when he served as head of "retail operations" for obscenity distribution. The IRS has recently obtained confidential records from these banks in Switzerland and Holland in an attempt to locate more hidden obscenity-derived profits.287

The frequent use of "cash only" transactions in the pornography industry provides other opportunities for tax

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285 IRS Probing Alleged Money Laundering Abroad by Far Flung Pornography Ring, L.A. Times, Mar. 16, 1985, p. 33.

286 Id.

287 Id.; See, The discussion of Organized Crime for further information.

evasion.[288] Adult bookstores often fail to report lucrative income earned from cash operated peep shows.[289]

In March of 1986, an IRS official said the current immoral investigation involving obscenity distributors "are" not an isolated incident" and that more income tax prosecutions may be forthcoming.[290] The same official added, "With the unsettled nature of laws defining obscenity, often times the government is forced to deal with people of this type through the tax laws, and in a business this lucrative, if there's a viable tax interest we're going after them."291 The Commission strongly encourages the IRS to aggressively investigate violations of the tax laws committed by producers and distributors of obscene material.

F. RECOMMENDATIONS FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES

RECOMMENDATION 28

STATE AND LOCAL LAW ENFORCEMENT AGENCIES SHOULD PROVIDE THE MOST THOROUGH AND UP-TO-DATE TRAINING FOR INVESTIGATORS

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288 New York Hearing, Vol. II, William Johnson, p. 73-74.

289 Id.

290 L.A. Times, supra note 285.

291 Id.

INVOLVED IN ENFORCING THE OBSCENITY LAWS.

To ensure that officers assigned to enforce these laws possess the requisite skill, comprehensive training programs should be established in all jurisdictions. This training should include instruction on investigative techniques, prosecution, victim trauma and the particular stress officers must deal with in obscenity law investigations.

Law enforcement officers involved in the investigation of obscenity violations must be thoroughly acquainted with constitutional law including First and Fourth Amendment implications. The legal and procedural aspects are complex and always subject to change. Included in this training should be a working familiarity with the local community standards. This knowledge should serve as the basis for evaluating cases for prosecution. State and local law enforcement officers should be advised continually of judicial interpretations in the obscenity law area.

Law enforcement officers should receive comprehensive training to avoid errors in judgment which can result in civil rights violations as well as potential civil liability for governmental entities and employees. This training should enable the law enforcement officers to perform their duty within constitutional bounds.

Law enforcement officers should be trained to use regional and national information sources in their

investigations. The training should emphasize the need to exercise basic investigative techniques and focus on the similarities and patterns in investigation of obscenity law violations and other investigations.

Investigators will often encounter victims who have been abused or traumatized. A component of the training program should focus on methods to deal with these individuals compassionately and to direct them to the appropriate support services. Training in all areas should be provided by experienced investigators to members of their own department and supplemented with participation by prosecutors and investigators from other law enforcement authorities who specialize in this area.

The training should address the inordinate amount of stress these investigators must endure. The psychological and emotional pressure the officers face often results from prolonged undercover investigations dealing with the material on a long term basis and a lack of peer support. One police officer told the Commission:

> . . . those people who seem to have involved themselves in investigations of these matters generally get ostracized by their own peers. Most police officers make a fool out of those investigators that are charged with investigations of these matters. Macho -- I don't know what to say.
> I found most of them (obscenity investigators) to be extremely professional, dedicated policemen with a lot of integrity. It's unfortunate that they are characterized as such in their peer group, because they have a lot of

> integrity. You investigate other types of crimes, gambling and narcotics, you find the seedier aspects of law enforcement in terms of corruption, but for the most part these people have a lot of personal integrity, and surprisingly they have a lot of regard for first amendments rights. That would be a surprise to many people, but they respect it.[292]

It is as important to train officers in methods to deal with stress and peer support as it is in basic investigative techniques.

RECOMMENDATION 29:

STATE AND LOCAL LAW ENFORCEMENT AGENCIES SHOULD ALLOCATE SUFFICIENT PERSONNEL TO CONDUCT INTENSIVE AND THOROUGH INVESTIGATIONS OF ANY VIOLATIONS OF THE OBSCENITY LAWS.

State and local law enforcement agencies in many regions have devoted insufficient manpower to investigation and enforcement of the obscenity laws. This has led to reactive law enforcement where police may respond to citizen complaints made about obscene materials but do not otherwise initiate investigations.[293]

The Los Angeles Police Department has sixty-seven hundred officers, but only eight are assigned to the

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292 New York Hearing, Vol. I, Carl Shoffler, p. 227-28.

293 See, supra note 174 for discussion of proactive and reactive enforcement and prosecution.

pornography unit.[294] Los Angeles is the center of production of obscene material in the United States.[295] The Chicago Police Department has twelve thousand officers, but only two are assigned to their obscene matter unit.[296] The Buffalo, New York, police department has one thousand officers with one officer assigned to obscenity law violations.[297] In Chicago, the unit investigating obscenity violations has requested additional manpower but such requests have been denied by higher authorities within their police departments.[298]

Intensive and thorough investigations of possible obscenity violations cannot be conducted unless sufficient manpower is devoted to the task. The need for additional manpower is even more critical in those jurisdictions with large scale pornography operations where investigations are more complex and time consuming.

Chiefs of police and supervisory personnel must also be responsive to requests for additional manpower should the obscenity problem warrant more intensive investigation. These responses may take the form of additional investigative

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294 Chicago Hearing, Vol. II, Donald Smith, p. 46.

295 Los Angeles Hearing, Vol I, James Docherty, p. 6.

296 Chicago Hearing, Vol. I, Thomas Bohling, p. 13.

297 Chicago Hearing, Vol. II, John Dugan, p. 193.

298 Chicago Hearing, Vol. II, Officer Tom Bohling, p. 14; Miami Hearing, Vol. I, Sergeant Mike Berish, p. 85-86.

personnel on a temporary or permanent basis.[299] Supervisory

[299] In Cincinnati, Ohio, the focus on obscenity law violations is reported to have resulted in a significant decrease of reported crimes. Statistics of Reporting Area-14 - 800 & 900 Block of Vine Street, which had (1) Massage Parlor, (2) X-Rated Bookstores and (1) "Soft Core" Movie Theater in 1974, all closed by 1979.

1974

PART I OFFENSES (MAJOR)	PART II ARRESTS (MINOR)
2 - Rapes	14 - Assaults
29 - Robberies	2 - Forgeries
7 - Agg. Assaults	3 - Frauds
24 - Breaking/Enterings	1 - Embezzlement
63 - Larcenies	2 - Vandalism
24 - Thefts	7 - Weapons Violations
17 - Non-Agg. Offense	52 - Prostitution Offenses
166 - TOTAL	4 - Other Sex Offenses
	85 - TOTAL

1979

PART I OFFENSES	PART II ARRESTS
8 - Robberies	1 - Sex Offense
4 - Agg. Assaults	10 - Drug Abuse
1 - Breaking/Entering	1 - Gambling Offense
15 - Larcenies	31 - Disorderly Conduct
28 - TOTAL	1 - Vagrancy
	5 - Other Offenses
	49 - TOTAL

The above statistics represent an 83% decrease in Part I offenses, 42.35% decrease in Part II arrests. Letter from Lieutenant Harold Mills to Alan E. Sears (July 29, 1985).

The Phoenix Ordinance was based on two hypotheses: first, that there are direct impacts which uniquely relate to this class of land use; and second, that there are indirect, but equally potent, attitudinal concerns which result from proximity to an adult business. Examples of the former are possible traffic congestion, unusual hours of operations, litter, noise, and criminal activity. Illustrating the latter is substantial testimony that has indicated that many neighborhood residents dislike living near an area containing an adult business. Also, financial institutions take nearby adult businesses into account when financing residential properties. Finally, people's perceptions of criminal activity is reinforced by a great incidence of sexual crimes in areas or commercial districts containing adult businesses.

This study specifically shows that there is a higher

amount of sex offenses committed in neighborhoods in Phoenix containing adult businesses as opposed to neighborhoods without them. In this project three study areas were chosen -- neighborhoods with adult businesses, and three control areas -- neighborhoods without adult businesses which were paired to certain population and land use characteristics. The amount of property crimes, violent crimes, and sex offenses from the year 1978 are compared in each study and control area.

THE STUDY AND CONTROL AREAS

Three different study areas containing adult businesses were selected to collect crime data. The east side of Central Avenue was chosen for the location of two study areas, while the west side has the third study area.

A control area has no adult business, but generally speaking, has similar population characteristics of a matched study area in terms of:

1. Number of residents
2. Median family income
3. Percentage of non-white population
4. Median age of the population
5. Percentage of dwelling units built since 1950
6. Percentage of acreage used residentially and non-residentially

Adult business locations are based on information furnished by the Department and verified by the Planning Department.

CONCLUSIONS

Table V Property, Violent, and Sex Crimes in Selected Study Areas -- 1978 (was derived from information provided by the City of Phoenix Police Department's Crime Analysis synit and Planning and Research Bureau. The data from these two sections was compiled by adding the number by type of crimes committed in police grids, which are quarter mile neighborhoods. Crimes are based on arrest records and do not reflect ultimate convictions. It has been assumed that conviction rates will be proportional to arrest rates.) is a tabulation of the number of crimes committed and the rate of those crimes per 1,000 people living in each area. This table is on the following page.

There appears to be a significantly greater difference between the study and control areas for sex crimes than for either property or violent crimes. The following table illustrates a comparison of the ratio of the crime rate of the study area to the control area:

TABLE VI

CRIME RATES AS A PERCENTAGE OF STUDY AREA TO CONTROL AREA

Study Area	Property Crimes	Violent Crimes	Sex Crimes	Sex Crimes (Less Indecent Exposure)
I	147%	144%	1135%	358%

personnel also should recognize the complexity of this assignment and be receptive to requests for frequent in-service training programs. Once the obscenity problem has been effectively addressed law enforcement agencies should need only minimal manpower to maintain control.

RECOMMENDATION 30:

STATE AND LOCAL LAW ENFORCEMENT OFFICERS SHOULD TAKE AN

II	173	83	277	160
III	108	86	405	178
Average:	143%	104%	606%	232%

It is observed that there are about 40% more property crimes and about the same rate of violent crimes per 1,000 persons in the Study Areas as compared to the Control Area.

On the other hand there is an average of six times the sex crime rate in the Study Areas as compared with the Control Areas. Although the majority of sex crimes are Indecent Exposure, the fourth column illustrates that the remainder of the sex crimes also exhibit a significantly higher rate in the study areas. A detective from the police department stated that most indecent exposure crimes were committed on adult business premises. An example of this finding is in Study Area I. In that location, 89% of the reported indecent exposure crimes were committed at the addresses of adult businesses.

Where there is a concentration of adult businesses, such as in Study Area I, the difference in sex offense rates is most significant. As stated earlier in the report this location has four adult businesses which are less than 1000 feet away from each other and less than 500 feet away from a residential district. There is also a higher number of sex offenses committed -- 84 more crimes than in Study Area II, and 56 more crimes than in Study Area III. Similarly, when compared to its Control Area, the sex crime rate, per 1,000 residences is over 11 times as great in Study Area I. In the remaining study areas, which each contain a single adult business, their rates are four and almost three times as great.

ACTIVE ROLE IN THE LAW ENFORCEMENT COORDINATING COMMITTEES.

See, The discussion in the Recommendations for the United States Department of Justice in this Chapter.

RECOMMENDATION 31:

STATE AND LOCAL REVENUE AUTHORITIES MUST INSURE TAXES ARE COLLECTED FROM BUSINESSES DEALING IN OBSCENE MATERIALS.

"Adults Only" pornographic outlets often maintain separate business systems for accounting purposes. These operations may be in the form of a "front room" and a "back room."[300] The front room is usually where books, magazines, films, videos, and sexual devices are sold. The individual running the business usually keeps fairly accurate financial records for this part of the operation because revenues from it are used to pay rent, utilities, and employees' wages as well as purchase merchandise.[301]

The "back room" usually contains peep show booths or video machines which earn substantial profits--often twice that which the "front room" earns. These "back room" earnings are typically excluded from any financial records of

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300 New York Hearing, Vol. II, William Johnson, p. 72-73.

301 Id. at 72.

the business and can easily go untaxed.[302] While this Commission does not condone the operation of pornography businesses it urges state and local revenue authorities to strictly scrutinize the reporting methods of these businesses and insure that the proper income is reported and subject to taxation.

RECOMMENDATION 32:

STATE AND LOCAL PUBLIC HEALTH AUTHORITIES SHOULD INVESTIGATE CONDITIONS WITHIN "ADULTS ONLY" PORNOGRAPHIC OUTLETS AND ARCADES AND ENFORCE THE LAWS AGAINST ANY HEALTH VIOLATIONS FOUND ON THOSE PREMISES.

DISCUSSION

Testimony before the Commission has revealed that sexual acts often occur in the peep booths located in many "Adults Only" pornographic outlets and arcades.[303] Acts such as fellatio, sodomy, and masturbation are common.[304] Some of these establishments have "glory holes" drilled through the walls

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302 Id. at 73.

303 See, The discussion of the Production, Distribution and Technology of Sexually Explicit Materials in Part Four. Houston Hearing, Vol. I, W.D. Brown, p. 39; Chicago Hearing, Vol. II, Hinson McAuliffe, p. 181.

304 Id.

of the peep booths to permit individuals to engage in anonymous sex with the occupant of the adjoining booth.[305] Upon examination of the interior of these booths, police often find evidence of urine, human feces and semen.[306]

The public health risks posed by this anonymous sexual activity are quite obvious. The public health department in Houston, Texas, reported 214 cases of syphilis and gonorrhea during three months of 1985.[307] Of those infected individuals, 10.7 percent reported they had performed sexual acts in "adult only" pornographic outlets.[308] Because of the anonymous nature of these sexual encounters, public health officials find it impossible to trace the origin of the disease.[309] Concern about the spread of Acquired Immune Deficiency Syndrome (AIDS) has made this situation even more significant. Similar risks to public health are posed by massage parlors, brothels, and establishments promoting "piercing"[310] and other sado-masochistic sexual activities.

While this Commission does not condone or support the existence of these businesses dealing in obscene materials,

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305 Houston Hearing, Vol. I, W.D. Brown, p. 41.

306 Id. at 42.

307 Id.

308 Id.

309 Id.

310 "Piercing" is a form of sado-masochistic sexual activity involving the piercing of the skin or genitals with pins, needles, or other sharp instruments.

it urges state and local public health official to inspect the premises of adult bookstores and arcades in their jurisdictions and vigorously enforce the law against all public health violations found on those premises.

G. RECOMMENDATIONS FOR THE JUDICIARY

RECOMMENDATION 33:

JUDGES SHOULD IMPOSE SUBSTANTIAL PERIODS OF INCARCERATION FOR PERSONS WHO ARE REPEATEDLY CONVICTED OF OBSCENITY LAW VIOLATIONS AND WHEN APPROPRIATE SHOULD ORDER PAYMENT OF RESTITUTION TO IDENTIFIED VICTIMS AS PART OF THE SENTENCE.

The Commission has been apprised repeatedly of the minimal periods of incarceration and fines which have been imposed on person who frequently violate obscenity laws.[311] In cases involving significant violations of the obscenity laws or repeat offenders, only a substantial period of incarceration will provide a deterrent effect.[312]

Judges can also enhance basic law enforcement efforts

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311 There were several defendants sentenced in a Federal Bureau of Investigation in a Spectra Photo. Even in cases involving severe sexual or physical abuse minimal sentences were imposed.

312 See, Recommendation for Judicial and Correctional Facilities in this Chapter, for a further discussion of the goals of modern penology.

when they impose substantial periods of incarceration for these offenses. Law enforcement officers, prosecutors and society in general view the sentences imposed as a statement of the community attitude toward the crime. When minimal sentences are given, the significance of the crime is diminished.

Recidivist obscenity law violators should be viewed the same as recidivist violators of other criminal laws. Judges also should be apprised of the nature of the materials involved and the offender's affiliation with organized crime, if any. These factors must be considered before a judge can appropriately sentence an offender.

H. RECOMMENDATIONS FOR THE FEDERAL COMMUNICATIONS COMMISSION

Modern technology pervades virtually every aspect of daily life and it should come as no surprise that these advances are used in the dissemination of pornography. Two of these technological advances, Dial-A-Porn and cable television, have brought with them some very complex questions of law and public policy. In some instances, the course in resolving the issues remains largely uncharted. A complete discussion of pornography in the United States today cannot be addressed without a careful examination of these technologies particularly with reference to the role of the Federal Communications Commission in regulating them.

RECOMMENDATION 34:

THE FEDERAL COMMUNICATIONS COMMISSION SHOULD USE ITS FULL REGULATORY POWERS AND IMPOSE APPROPRIATE SANCTIONS AGAINST PROVIDERS OF OBSCENE DIAL-A-PORN TELEPHONE SERVICES.

DISCUSSION

The term "Dial-A-Porn" has been applied to describe two types of obscene statements made over the telephone as a part of a commercial transaction. In the first instance, the caller dials a number and talks to an individual who makes sexual remarks in response to the stated desires of the particular caller.[313] The caller pays a per minute rate and is billed on his or her credit card.[314] The conversation can last up to forty-five minutes.

The second type of transaction involves placing a call to a number with the "976" prefix. These numbers are part of the Mass Announcement Network Service (MANS) and provide the caller with a pre-recorded message similar to those giving the time of day or weather.[315] The message is sexually explicit and the caller is charged on his monthly telephone

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313 Los Angeles Hearing, Vol. I, Brent Ward, p. 227.

314 Id.

315 Id. at 228.

statement.[316] The provider of the message receives a payment from telephone company revenues calculated according to the local tariff. The telephone company receives the remainder.[317] In some cities, for example, the cost to the caller is two dollars with $1.45 going to the provider of the message and fifty-five cents to the telephone company.[318]

These Dial-A-Porn recordings include graphic descriptions, complete with sound effects, of lesbian and homosexual acts, sodomy, rape, incest, excretion, bestiality, sadomasochism, and other unlawful, violent or dangerous sexual acts involving adults and children.[319] In May of 1983, 800,000 calls a day were placed to Dial-A-Porn numbers in New York.[320] Approximately 180,000,000 calls were made to the same numbers in the year ending in February 1984.[321]

Carlin Communications, a leading provider of Dial-A-Porn services, earned $3,600,000 in 1984.[322] Pacific Bell reports that sexually explicit messages represent twenty-seven

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316 Id. at 229-30.

317 Id. at 229.

318 Id.

319 Id. at 231.

320 Id. at 228.

321 Id.

322 Id. at 229.

percent of all "976" calls so far in 1985.[323] Telephone companies explain the existence of "976" service as an opportunity to provide subscribers with a wide range of information as well as a source of revenue to keep telephone rates low.[324] The content of the telephone messages is solely within the control of the provider. New Jersey Bell, however, has reserved the right to review program content under their contract with providers.[325] The easy accessability to Dial-A-Porn message has given rise to a number of problems. Initially it should be noted that the telephone companies have issued numbers, upon the request of the providers, such as 976-FOXX, 976-4LUV, and 976-LUST.[326] Dial-A-Porn advertising is often misleading in that it refers to "free phone sex" when, in fact, the caller is billed either on his or her credit card or is charged as part of their monthly telephone statement.[327]

Since Dial-A-Porn numbers are openly advertised in pornographic magazines, newsstand racks, in convenience grocery stores, on public billboards and other readily

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[323] Los Angeles Hearing, Vol. I, William Dunkle, p. 251.

[324] Id. at 150.

[325] Contract between New Jersey Bell and Sundial Productions. #C115185-2, (Dec. 21, 1982).

[326] Hollywood Press, Aug. 9, 1985.

[327] Los Angeles Hearing, Vol. I, Judith Trevillian, p. 264.

available publications they are often discovered and used by minors unbeknownst to their parents. The telephone company may elect to disconnect the customer's service if they do not pay the toll charges.[328] Finally, there is concern over the long-term effects of Dial-A-Porn recordings on children who listen to them and may attempt to model their behavior after them. This is especially worrisome when descriptions of unlawful, violent and incestuous acts are associated with sexual arousal as in many of the Dial-A-Porn messages.

Two years ago, the Congress enacted legislation amending section 223 of the Communications Act of 1934.[329] This enactment prohibited the use of the telephone to make obscene or indecent communications for commercial purposes to anyone under eighteen years of age except where in compliance with regulations issued by the Federal Communications Commission. The FCC promulgated regulations making it an exception for the provider of a recorded message if the message was made available only between the hours of 9:00 p.m. and 8:00 a.m. eastern standard time or if the caller made prepayment by credit card in the case of a "live" message.[330] Carlin Communications challenged the FCC regulations.

On review, the United States Court of Appeals for the

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328 Id.

329 See, 47 U.S.C. S223(b)(1) et. seq.

330 49 Fed. Reg. 24, 996 (June 4, 1984).

Second Circuit found the regulations were invalid.[331] The court found that the government had a compelling interest in protecting minors from salacious material, but that the FCC regulations were not well tailored to meet their objectives, which could be achieved by less restrictive alternatives.[332] In dicta, the court said the FCC should have given more serious consideration to two other options such as "blocking" and access codes. Through "blocking" a subscriber can have access to all "976" numbers blocked from his telephone. Access codes could be issued to subscribers over eighteen who would have to dial the code in order to receive the sexually explicit message.[333]

On October 16, 1985, the FCC announced new regulations governing Dial-A-Porn.[334] Under the new regulations, Dial-A-Porn services must require either an authorized access or identification code or they must obtain prepayment by credit card before transmission of a sexually explicit message.[335]

Carlin challenged the new regulations, and on April 11, 1986, the Court of Appeals granted their petition and set

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331 Carlin Communications, Inc. v. FCC, 749 F.2d 113 (2d Cir. 1984).

332 Id.

333 Id.

334 50 Fed. Reg. 42699(Oct. 22, 1985).

335 Id.

aside the regulations as applied to Carlin.[336] The FCC now finds itself in a dilemma, since the latest set of regulations have been found unduly restrictive as applied to Carlin in New York, but possibly sustainable elsewhere.[337]

The Court of Appeals relied on statements from New York Telephone that access or identification codes are not technologically feasible in NYTS network,[338] and found that "the record does not support the FCC's conclusion that the access code requirement is the least restrictive means to regulate dial-a-porn. . . ."[339] The Court again referred to "blocking" as a less restrictive means of regulating Dial-A-Porn.[340] Blocking devices installed on the telephone customers' own terminal equipment could be used to block access to one or more pre-selected telephone numbers.[341] The court also suggested that the FCC should have considered the feasibility of passing along the cost of customer premises blocking equipment to the providers of Dial-A-Porn and/or the

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336 Carlin Communications, Inc. v. FCC, No. 85-4158(2d Cir. Apr. 11, 1986).

337 Id. at 3-4.

338 Id. at 11, 19. The Court noted that the access codes are probably technologically feasible in most other parts of the country. See, Id. at 4.

339 Id. at 3.

340 Id. at 23-24.

341 Id. at 6-7.

telephone companies.[342]

The latest decision by the Second Circuit leaves the state of the law regarding dial-a-porn even more uncertain. The two attempts by the FCC to promulgate regulations in accordance with the federal statute have failed. The Court of Appeals found earlier that limitations on the hours that Dial-A-Porn messages may be offered were not tailored enough to regulate the problem.[343] Now the court has ruled that access codes are unduly restrictive as applied to Carlin in New York, but may be permissible elsewhere.[344] The "blocking" option advanced by the court has serious practical limitations. Blocking may not be available to all telephone customers.[345] Those who obtain the service would either lose access to all "976" numbers[346] or have to pre-select which numbers they wanted blocked.[347] Few parents would have sufficient knowledge of the multitude of Dial-A-Porn numbers to be able to pre-select them and prevent their children from calling them by use of a blocking device. And minors would

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342 Id. at 23.

343 749 F.2d at 121.

344 Carlin Communications, Inc. v. FCC, supra, slip op. at 3-4.

345 See, Los Angeles Hearing, Vol. I, William Dunkle, p. 254.

346 Id.

347 Carlin Communications, Inc. v. FCC, supra, slip op. at 6.

still be free to make the calls from telephones not equipped with blocking devices.

The provision of the federal statute permitting dial-a-porn messages to be provided in accordance with FCC regulations[348] has proven unworkable in addition to providing a "safe harbor" provision for Dial-A-Porn merchants. Congress should enact legislation that simply prohibits the transmission of obscene material through the telephone or similar common carrier.[349]

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[348] 47 U.S.C. S223(f)(2).

[349] In an attempt to address the Dial-A-Porn issue, Senate Bill 1090 has been introduced by Senators Jesse Helms, (R-NC), John East (R-NC) and Jeremiah Denton (R-Ala) to amend Section 223 of the Communications Act of 1934. The bill provides:

> Whoever - "(A) in the District of Columbia or in interstate or foreign communications, by means of telephone, makes (directly or by recording device) any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent, regardless of whether the maker of such comments placed the call or "(B) knowingly permits any telephone facility under such person's control to be used by any purpose prohibited by subparagraph (A). Shall be fined not more than $50,000 or imprisoned not more than six months, or both."

Additionally, Rep. Thomas J. Bliley (R-Va.) has introduced H.R. 4439 which would amend Section 223 of the Communications Act and eliminate the provision requiring the FCC to issue regulations:

H.R. 4439

> A bill to amend the Communications Act of 1934 to restrict the making of obscene and indecent communications by telephone.
>
> "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembles,
>
> Section I, Short title.
>
> This Act may be cited as the "Telephone Decency Act of

The regulations that have been invalidated by the Second Circuit were based on the faulty premise that obscene telephone communications are entitled to some measure of protection so long as they occur between or among "consenting adults". The United States Supreme Court rejected this basic argument in Paris Adult Theatre I v. Slaton.[350] In Slaton, a motion picture theatre was convicted for showing obscene films.[351]

Its defense was that no one under twenty-one years of age was admitted and that showing the films to consenting adults was protected under the right to privacy.[352] The Court affirmed the conviction, with Chief Justice Burger writing for the majority.

> We categorically disapprove the theory, apparently adopted by the trial judge, that obscene, pornographic films acquire constitutional immunity from state regulation simply because they are exhibited for consenting adults only. This holding

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1986".
Section II, Amendments.
Section 223(B) of the Communications Act of 1934 is amended -
(1) in paragraph (1)(A), by striking out "under eighteen years of age or to any person without that person's consent";
(2) by striking out paragraph (2);
(3) in paragraph (4), by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraphs (1) and (2)"; and
(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

350 413 U.S. 49 (1973).

351 Id.

352 Id.

> was properly rejected by the Georgia supreme court. Although we have often pointedly recognized the high importance of the state interest in regulating the exposure of obscene materials to juveniles and unconsenting adults, see Miller v. California, ante, at 18-20, Stanley v. Georgia, 394 U.S. at 567, Redrup v. New York, 386 U.S. 767, 769(1967), this Court has never declared these to be the only legitimate state interests permitting regulation of obscene material.353

The Chief Justice went on to cite other legitimate interests which permitted the regulation of obscene material including maintenance of the "quality of life and the total community environment."[354] The Court also cited the statement of former Chief Justice Earl Warren in Jacobellis v. Ohio,[355] that, "there is a right of the Nation and the States to maintain a decent society."356

The telephone is also uniquely accessible to children. Children have easy and often unsupervised access to telephones in their homes and learn to use the telephone at an astonishingly early age. A child need only dial seven numbers to reach a recorded message. Additionally, Dial-A-Porn numbers are openly published and advertised in publications which are sold in racks on the public streets and available to purchasers of any age group. Dial-A-Porn numbers may also be passed along from one child to another.

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353 Id. at 57.

354 Id. at 58.

355 378 U.S. 184(1964).

356 Id. at 199.

As a final consideration, the telephone industry, like broadcasting industry, is closely regulated. As a condition of its continued existence a carrier must act in the public interest. The FCC, whose entire regulatory scheme is based on serving the public interest could act to protect these same interests against obscene communications over the telephone if it chose to do so. The time is long overdue for the FCC to exercise its full regulatory powers with respect to this lucrative brand of obscenity.

RECOMMENDATION 35:

THE FEDERAL COMMUNICATIONS COMMISSION SHOULD USE ITS FULL REGULATORY POWERS AND IMPOSE APPROPRIATE SANCTIONS AGAINST CABLE AND SATELLITE TELEVISION PROGRAMMERS WHO TRANSMIT OBSCENE PROGRAMS.

The growth of the cable television industry over the last few years has been remarkable. Approximately forty percent of all homes in the country now have access to cable or satellite television, and 250,000 homes are being connected with the services every month.357 There are currently 6,500 cable television systems serving forty

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357 Citizens for Decency through Law, Memorandum (Jan., 1985).

million households.[358]

The concerns over the content of some of cable television programming have increased as the cable industry has grown. Feature film presentations have been one of cable's strongest drawing cards and an increasing number of those films shown on cable fall under the MPAA rating "R".[359] These films depict nudity, sexual themes, simulated sex, graphic violence, or offensive language.[360] While a minor under the age of seventeen cannot be admitted into a theatre to view an "R" rated film without an accompanying parent or guardian, the same films are available to a viewer of any age over cable. Some of the premium channels offer movies that are unrated by the MPAA and go far beyond those in the "R" category and would be generally considered as "X-rated".

These films are sometimes the same films shown in pornography movie theatres and include films which federal and state courts have found to be obscene.[361] For example, the movie, "The Opening of Misty Beethoven" appeared over satellite television in Phoenix, Arizona, in 1981.[362] This

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358 Los Angeles Hearing, Vol. I, Brenda Fox, p. 284; Letter from James P. Mooney to Henry E. Hudson (May 2, 1986).

359 See, Cable Pornography: Problems and Solutions, Citizens for Decency Through Law, 2(Jan. 1985).

360 Los Angeles Hearing, Vol. II, Jack Valenti, p. 55k.

361 Los Angeles Hearing, Vol. II, James J. Clancy, p. 309; Citizens for Decency Through Law, Memorandum, p. 2-3 (Jan. 1985).

362 Los Angeles Hearing, Vol. II, James Clancy, p. 310.

film was previously found to be legally obscene by the Supreme Court of Alabama.[363]

These more sexually explicit movies earn a much larger profit for the cable channel.[364] It is less expensive for cable channel to offer these films than it is for them to acquire and show better known but non-sexually explicit feature films.

The cable industry minimizes any problems associated with sexually explicit cable programs. Brenda Fox of the National Cable Television Association (NCTA) testified in Los Angeles that there are only 700,000 subscribers to the "adult" programming offered on cable.[365] Ms. Fox also testified that the industry has taken what it regards as adequate steps to protect minors from viewing sexually explicit programs. These precautions include lockboxes so parents can control channel selection, program guides and notices, transmission of "adult" programs through scrambled signals and the restriction of this programming to later evening hours.[366] The number of hours of sexually explicit programming, however, continues to escalate. There is no reason that a cable television programmer or operator could

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[363] Trans-Lux Theatre v. People ex rel. Sweeton, 366 So. 2d 710 (Ala. 1979).

[364] Citizens for Decency Through Law, Memorandum, p. 2-3 (Jan. 1985).

[365] Los Angeles Hearing, Vol. I, Brenda Fox, p. 295.

[366] Id. at 287-88.

not be prosecuted under existing federal and state obscenity laws by the United States Attorneys and State or local prosecutors for transmitting a program that meets the Miller test for obscenity.

As the Supreme Court held in Kaplan v. California, "[W]hen the Court declared that obscenity is not a form of expression protected by the First Amendment, no distinction was made as to the medium of the expression."[367]

In HBO, Inc. v. Wilkinson, the United States District Court in Utah found the Miller standard applicable to Cable television. While a Miami, Florida, ordinance prohibiting indecent cable telecasts was found to be unconstitutional, the portion of the ordinance that proscribed obscene programming was not challenged.[368]

The Cable Communications Policy Act of 1984 [369] attempts to provide another avenue for the prosecution of obscenity shown over cable television. The Act provides, in part, that, "Whoever transmits over any cable system any matter which is obscene or otherwise unprotected by the Constitution of the United States shall be fined not more than $10,000 or imprisoned not more than 2 years, or both."[370]

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367 413 U.S. 115, 118-19.

368 Cruz v. Ferre, 755 F.2d 1415, 1418 (11th Cir. 1985).

369 47 U.S.C. S559.

370 Id.

This portion of the section may be in conflict with two other sections of the Act governing editorial control of programming by cable operators. Sections 531(e) of Title 47 provides that:

> Subject to section 544(d) of this title, a cable operator shall not exercise any editorial control over any public, educational, or governmental use of channel capacity provided pursuant to this section.

Section 544(d) provides in part:

> (1) Nothing in this subchapter shall be construed as prohibiting a franchising authority and a cable operator from specifying, in a franchise or renewal thereof, that certain cable services shall not be provided or shall be provided subject to conditions, if such cable services are obscene or are otherwise unprotected by the Constitution of the United States.
>
> (2)(A) In order to restrict the viewing of programming which is obscene or indecent, upon the request of a subscriber, a cable operator shall provide (by sale or lease) a device by which the subscriber can prohibit viewing of a particular cable service during periods selected by that subscriber. (emphasis added)

Section 544(d) seems to contemplate the operator providing obscene programming while Section 559 makes it a crime to do so.[371]

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[371] Senate Bill 1090 sponsored by Senator Jesse Helms (R-NC) would place a specific prohibition against obscene cable programming in section 1464 of Title 18 of the United States Code. The Helms bill provides in part:

> S1464. Distributing obscene material by radio or television "(a) Whoever utters any obscene, indecent, or profane material by means of radio or television, including cable television, shall be fined not more than $50,000 or imprisoned not more than two years, or both.

Proposed legislation should be drafted to enable United States Attorneys to prosecute violators under the criminal code and alleviate the possible conflict under the Cable Communications Policy Act.

The FCC has shown no interest in taking action regarding the contents of cable programming. Thomas Herwitz, legal assistant to FCC Chairman Mark Fowler, stated the Commission's views at the Los Angeles hearing regarding cable programming. The position the FCC has taken has been to advocate regulation for cable similar to that for the print medium.372

The FCC maintains that the cable subscription services can be controlled adequately within the home to assure that minors do not have access. The FCC position is that since the individual can act as his or her own gatekeeper and preclude those signals not desired to be watched, the government has no compelling interest in further intrusion.373

The posture adopted by the FCC has enabled cable television to occupy a status afforded no other medium. The

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"(b) As used in this section, the term 'distributes' means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire or satellite, or produce or provide such material for distribution.

372 Los Angeles Hearing, Vol. I, Thomas Herwitz, p. 347.

373 Id. at 348.

policy considerations that support government regulation of broadcasting to serve the public interest also apply to government regulation of cable television. As the United States Court of Appeals for the District of Columbia has ruled,

> [We] do require that at a minimum the [FCC], in developing its cable television regulations, demonstrate that the objectives to be achieved of regulating cable television are also objectives for which the commission could legitimately regulate the broadcast media.[374]

When 250,000 homes are being connected with cable every month, it is readily apparent that cable television's presence is, in fact, as pervasive as that of the broadcast media.

Parents may make the initial decision to subscribe to a cable service with a variety of program choices. The fact that a parent makes a conscious choice to engage the cable service does not impair the accessibility of the selections to minors in the home. Once cable enters the home it becomes the same in this regard as over the air broadcasts. It comes through the same television set and is usually accessed by the same controls. The FCC has recognized that,

> While particular stations or programs are oriented to specific audiences, the fact is that by its very nature, thousands of others not within this 'intended' audience may also see and hear portions of the broadcast.375

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374 HBO v. FCC; 567 F.2d 9, 34(D.C. Cir. 1977).

375 In Re, WUHY-FM, 24 FCC 2d 408(1970).

This rationale is equally applicable to cable and satellite television programs. In many homes, particularly single parent homes or homes where both parents work, close supervision and screening of the selection of television programs in reality may be either minimal or non-existent.

The cable television industry advocates lockboxes as a means of parental control over the programs viewed by children.[376] In their brief before the Supreme Court in FCC v. Pacifica, the Pacifica Foundation specifically raised the issue of lockbox controls. They contended that,

> . . . the material to which children are exposed on radio and television may be assumed to be subject to parental supervision to a far greater extent than much of the material to which children are likely to be exposed in other media. And, according to Broadcasting magazine, technology is now prepared to provide parents with a device which will permit them to "program" their home television set in advance so that it will only receive material selected by the parent, even in the parent's absence. Broadcasting, February 27, 1978, at 83.[377]

The addendum to the Pacifica Foundation's brief included a description and photograph of a lockbox device called a "Video Proctor" which is capable of being programmed by a parent to block out any VHF, UHF, cable, or pay television

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376 Los Angeles Hearing, Vol. I, Brenda Fox, p. 287-88.

377 Brief Appellee, FCC v. Pacifica Foundation, 438 U.S. 726(1978)

stations.[378] The Supreme Court was obviously unimpressed by the "lockbox" argument and upheld the FCC's authority to regulate broadcast content. Therefore, the availability of lockboxes does not prevent the FCC from regulating obscenity on radio and broadcast television. A lockbox performs the same function whether used to block out a broadcast or cable station. There is no reason why the availability of lockboxes should justify the FCC's failure to regulate obscene cable or satellite programming.

The availability of program guides is also advanced as a means of parental control. However, program guides are also readily available for broadcast television programs in publications ranging from TV Guide to the daily newspaper. Programs guides offer no more protection in the context of cable and satellite television than they do in the realm of broadcast television.

While sexually explicit material may be transmitted by scrambled signals, this method is far from foolproof.

For two weeks in November of 1985, Tampa, Florida, residents received all of the "adult" channels whether they subscribed or not. This phenomenon apparently occurred because of a technological anomaly that was triggered by certain weather conditions.[379]

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[378] Addendum to Brief Appelle, FCC v. Pacifica Foundation, 438 U.S. 726(1978).

[379] Tampa Tribune, Nov. 8, 1985.

In Colorado Springs, Colorado, the Playboy Channel "slipped through an electronic loophole" and supplemented a "Rin Tin Tin" movie on the Disney Channel.[380] According to a Naples, Florida, resident, "adult" channels, even though scrambled, can still be heard and sometimes seen clearly enough to be watched.[381]

Finally, controls such as lockboxes, program guides, and scrambling are all based on the premise that consenting adults are entitled to observe what they want to. In Paris Adult Theatre I v. Slaton,[382] the United States Supreme Court held that obscene materials do not acquire constitutional immunity from state regulation simply because they are exhibited to consenting adults only.[383]

The time is long overdue for the FCC to take an active role in enforcing the laws and regulations against obscene cable programming.

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380 The Daily Sentinel, Aug. 13, 1984.

381 Statement by Rachel Sturdivant, Naples, Florida, submitted by Florida Coalition for Clean Cable.

382 413 U.S. 49 (1973).

383 Id. at 57.

I. RECOMMENDATION FOR OTHER FEDERAL ORGANIZATIONS

35. THE PRESIDENT'S COMMISSION ON UNIFORM SENTENCING SHOULD CONSIDER A PROVISION FOR A MINIMUM OF ONE YEAR IMPRISONMENT FOR ANY SECOND OR SUBSEQUENT VIOLATION OF FEDERAL LAW INVOLVING OBSCENE MATERIAL THAT DEPICTS ADULTS.

The Commission has received considerable evidence with regard to the disparity in sentences obscenity law violators receive.[384] Congress has enacted the Sentencing Reform Act

384
DEFENDANTS SENTENCED IN UNITED STATES DISTRICT COURTS
BY MAJOR OFFENSES FOR THE TWELVE MONTH
PERIOD ENDED JUNE 30, 1981

MAJOR OFFENSE TITLE/SECTION AND LEVEL			IMPRISONMENT		
		DEFEND-ANTS	PRISON MONTHS	PROBATION MONTHS	FINE
18 1461	FELONY	2	60		
18 1461	FELONY	1	120	60	15,000
18 1461	FELONY	1	180	60	20,000
18 1461	9810				
18 1462	FELONY	1	12		
18 1462	9820				
18 1462	FELONY				
18 1462	9910				
18 1465	FELONY	1	18	60	5,000
18 1465	FELONY	1	24		15,000
18 1465	9820				

MAJOR OFFENSE TITLE/SECTION AND LEVEL		DEFEND-ANTS	PROBATION PROBATION MONTHS	FINE
18 1461	FELONY	1	24	5,000
18 1461	FELONY	1	36	
18 1461	FELONY	1	48	
18 1461	FELONY	1	60	
18 1461	9810			
18 1462	FELONY	2	24	500
18 1462	9820			
18 1464	FELONY			
18 1464	9910			
18 1465	FELONY	3	12	
18 1465	FELONY	2	24	
18 1465	9820			

MAJOR OFFENSE TITLE/SECTION AND LEVEL		DEFEND-ANTS	SPLIT SENTENCES PRISON MONTHS	PROBATION MONTHS	FINE
18 1461	FELONY				
18 1461	FELONY				
18 1461	FELONY				
18 1461	FELONY				
18 1461	9810				
18 1462	FELONY	1	6	24	
18 1462	9820				
18 1462	FELONY				
18 1462	9910				
18 1465	FELONY				
18 1465	FELONY				

18 1465	9820			

MAJOR OFFENSE TITLE/SECTION AND LEVEL		FINE ONLY DEFEND-ANTS	AMOUNT	OTHER SENTENCES
18 1461	FELONY			
18 1461	FELONY			
18 1461	FELONY			
18 1461	FELONY			
18 1461	9810			
18 1462	FELONY			
18 1462	9820			
18 1462	FELONY			
18 1462	9910			
18 1465	FELONY	3	15,000	
18 1465	FELONY	1	200,000	
18 1465	9820			

DEFENDANTS SENTENCED IN UNITED STATES DISTRICT COURTS
BY MAJOR OFFENSES FOR THE TWELVE MONTH
PERIOD ENDED JUNE 30, 1982

MAJOR OFFENSE TITLE/SECTION AND LEVEL		IMPRISONMENT DEFEND-ANTS	PRISON MONTHS	PROBATION MONTHS	FINE
18 1461	FELONY	1	60	60	
18 1461	FELONY	1	108		
18 1461	9810				
18 1462	FELONY	1	48		
18 1462	FELONY	1	60	60	12,500

18 1462	9820				
18 1464	FELONY				
18 1462	9910				
18 1465	FELONY	1	18	60	5,000
18 1465	9820				

MAJOR OFFENSE TITLE/SECTION AND LEVEL		DEFEND-ANTS	PROBATION PROBATION MONTHS	FINE
18 1461	FELONY	1	36	
18 1461	FELONY	1	60	
18 1461	9810			
18 1462	FELONY	1	12	
18 1462	FELONY	2	12	1,000
18 1462	9820			
18 1464	FELONY			
18 1464	9910			
18 1465	FELONY	3	12	
18 1465	9820			

MAJOR OFFENSE TITLE/SECTION AND LEVEL		DEFEND-ANTS	SPLIT SENTENCES PRISON MONTHS	PROBATION MONTHS	FINE
18 1461	FELONY	1	3	36	1,000
18 1461	FELONY				
18 1461	9810				
18 1462	FELONY				
18 1462	FELONY				

18 1462	9820			
18 1464	FELONY	1	6	60
18 1462	9910			
18 1465	FELONY			
18 1465	FELONY			
18 1465	9820			

MAJOR OFFENSE TITLE/SECTION AND LEVEL		FINE ONLY DEFEND-ANTS	AMOUNT	OTHER SENTENCES
18 1461	FELONY			
18 1461	FELONY			
18 1461	9810			
18 1462	FELONY	1	5,000	
18 1462	9820			
18 1462	FELONY			
18 1462	9910			
18 1465	FELONY	1	20,000	
18 1465	9820			

DEFENDANTS SENTENCED IN UNITED STATES DISTRICT COURTS
BY MAJOR OFFENSES FOR THE TWELVE MONTH
PERIOD ENDED JUNE 30, 1983

MAJOR OFFENSE TITLE/SECTION AND LEVEL		DEFEND-ANTS	IMPRISONMENT PRISON MONTHS	PROBATION MONTHS	FINE
18 1461	FELONY	1	60	60	5,000
18 1461	FELONY	1	108		
18 1461	FELONY				
18 1461	FELONY				

18 1461 FELONY

MAJOR OFFENSE TITLE/SECTION AND LEVEL		DEFEND-ANTS	PROBATION PROBATION MONTHS	FINE
18 1461	FELONY	1	24	1,000
18 1461	FELONY	2	36	
18 1461	FELONY	1	36	1,500
18 1461	FELONY	1	36	2,000
18 1461	FELONY	2	48	

MAJOR OFFENSE TITLE/SECTION AND LEVEL		DEFEND-ANTS	SPLIT SENTENCES PRISON MONTHS	PROBATION MONTHS	FINE
18 1461	FELONY				
18 1461	FELONY				
18 1461	FELONY				
18 1461	FELONY				
18 1461	FELONY				

MAJOR OFFENSE TITLE/SECTION AND LEVEL		DEFEND-ANTS	FINE ONLY AMOUNT	OTHER SENTENCES
18 1461	FELONY	1	5,000	
18 1461	FELONY			
18 1461	FELONY			
18 1461	FELONY			
18 1461	FELONY			

DEFENDANTS SENTENCED IN UNITED STATES DISTRICT COURTS
BY MAJOR OFFENSES FOR THE TWELVE MONTH
PERIOD ENDED JUNE 30, 1984

MAJOR OFFENSE	IMPRISONMENT

TITLE/SECTION AND LEVEL		DEFEND-ANTS	PRISON MONTHS	PROBATION MONTHS	FINE
18 1461	FELONY	1	36		
18 1461	FELONY	1	60		
18 1461	FELONY				
18 1461	FELONY				
18 1462	FELONY				
18 1465	FELONY				
18 1465	FELONY	1	24		
18 1465	FELONY	1	36		

MAJOR OFFENSE TITLE/SECTION AND LEVEL		DEFEND-ANTS	PROBATION PROBATION MONTHS	FINE
18 1461	FELONY	1	24	
18 1461	FELONY	1	36	
18 1461	FELONY	4	60	
18 1461	FELONY			
18 1462	FELONY			
18 1462	9820			
18 1465	FELONY	1	12	
18 1465	FELONY			
18 1465	9820			

MAJOR OFFENSE TITLE/SECTION AND LEVEL		DEFEND-ANTS	SPLIT SENTENCES PRISON MONTHS	PROBATION MONTHS	FINE
18 1461	FELONY		3		
18 1461	FELONY				
18 1461	FELONY				
18 1461	FELONY				
18 1461	9810				

18 1462	FELONY	1	6	24
18 1462	9820			
18 1462	FELONY			
18 1462	9910			
18 1465	FELONY			
18 1465	FELONY			
18 1465	9820			

MAJOR OFFENSE TITLE/SECTION AND LEVEL		DEFENDANTS	FINE ONLY AMOUNT	OTHER SENTENCES
18 1461	FELONY	1	15,000	
18 1461	FELONY			
18 1461	FELONY			
18 1461	FELONY			
18 1461	9810			
18 1462	FELONY			
18 1462	9820			
18 1462	FELONY			
18 1462	9910			
18 1465	FELONY	3	15,000	
18 1465	FELONY	1	200,000	
18 1465	9820			

DEFENDANTS SENTENCED IN UNITED STATES DISTRICT COURTS
BY MAJOR OFFENSES FOR THE TWELVE MONTH
PERIOD ENDED JUNE 30, 1985

MAJOR OFFENSE	IMPRISONMENT

TITLE/SECTION AND LEVEL		DEFEND-ANTS	PRISON MONTHS	PROBATION MONTHS	FINE
18 1461	FELONY	1	6		
18 1461	FELONY				
18 1461	FELONY				
18 1461	FELONY				
18 1461	9810				
18 1462	FELONY				
18 1462	9820				
18 1464	FELONY				
18 1464	9910				
18 1465	FELONY				
18 1465	FELONY				
18 1465	9820				

MAJOR OFFENSE TITLE/SECTION AND LEVEL		DEFEND-ANTS	PROBATION PROBATION MONTHS	FINE
18 1461	FELONY	2	24	
18 1461	FELONY	3	36	
18 1461	FELONY	3	48	
18 1461	FELONY	4	60	
18 1461	9810			
18 1462	FELONY	1	36	
18 1462	9820	3	60	
18 1464	FELONY			
18 1464	9910			
18 1465	FELONY			
18 1465	FELONY			
18 1465	9820			

MAJOR OFFENSE TITLE/SECTION AND LEVEL		SPLIT SENTENCES DEFENDANTS	PRISON MONTHS	PROBATION MONTHS	FINE
18 1461	FELONY	5			
18 1461	FELONY				
18 1461	FELONY				
18 1461	FELONY				
18 1461	9810				
18 1462	FELONY				
18 1462	9820				
18 1462	FELONY				
18 1462	9910				
18 1465	FELONY	1			
18 1465	FELONY				
18 1465	9820				

MAJOR OFFENSE TITLE/SECTION AND LEVEL		FINE ONLY DEFENDANTS	AMOUNT	OTHER SENTENCES
18 1461	FELONY			
18 1461	FELONY			
18 1461	FELONY			
18 1461	FELONY			
18 1461	9810			
18 1462	FELONY			
18 1462	9820			
18 1462	FELONY			
18 1462	9910			

of 1984.

The President's Commission on Uniform Sentencing is a result of this Act.[385] According to the Department of Justice,

> The principal goal of the Sentencing Reform Act is to establish a uniform, determinate federal sentencing system that will accomplish the purpose of just punishment, deterrence, incapacitation, and rehabilitation. This goal is to be achieved primarily through the use of sentencing guidelines established by a Presidentially appointed Sentencing Commission, which will be composed of seven full time members and a staff. At least three members must be active federal judges who will not be required to resign from the bench to serve on the Commission. The initial set of guidelines is to be completed in eighteen months. In the course of its work, the Commission will examine the offense and offender characteristics that judges now consider in making sentencing determinations, and will determine which of those should be reflected in the guidelines, which ones occur so infrequently that they should not be considered in the guidelines but might justify a departure from the guidelines, and which ones should not affect the sentence at all.[386]

In addition, the President's Commission on Uniform Sentencing should specifically consider the problems associated with sentencing obscenity law violations.

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18 1465 FELONY
18 1465 FELONY

18 1465 9820

SOURCE: ADMINISTRATIVE OFFICES OF THE UNITED STATES COURTS.

385 United States Department of Justice, Handbook on the Comprehensive Crime Control Act of 1984 and other Criminal Statutes Enacted by the 98th Congress 31 (1984).

386 Id.

Chapter 3

Child Pornography

No clearer measure exists of the radical shift in the issues confronted by the Commission on Obscenity and Pornography in 1970 and those facing this one than the problem of child pornography. In its description of "the industries" producing sexually explicit material the 1970 Commission nowhere mentioned or alluded to child pornography,[387] and its Traffic and Distribution Panel reported that "[t]he taboo against pedophilia . . . has remained almost inviolate" even in the hardest of "hard-core" materials.[388] The recommendations of the 1970 Commission included repeal of all laws restraining distribution of sexually explicit materials to children; no exception was stated for materials depicting children engaged in sexual conduct.[389]

This Commission, by contrast, has devoted a very substantial proportion of its time and energy to examining the extent and nature of child pornography. Indeed, one set of the Commission's hearings was devoted almost entirely to the problem, while extensive oral and written testimony on the subject was

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[387] Report of the Commission on Obscenity and Pornography 7-23 (1970)

[388] Id. at 139.

[389] Id. at 57-67.

received throughout the year. No aspect of the pornography industry has more occupied the attention of Congress and the general public during the past decade, and this Commission has made a wide range of recommendations for further legislative and public action. The very novelty of child pornography as a matter for public concern, however, requires at least a general overview of the rise of the "kiddie porn" industry, the nature of and the rationale for the governmental response to it, the effects on the children involved, and the contours of the industry's surviving components. That overview must begin with attention to what "child pornography" by definition is and what it is not.

Drawings of children engaged in sexual intercourse with adults date at least from ancient Greece,[390] and a graphic written description of child sexual abuse was to be found in seventeenth century France.[391] Yet although these portrayals or accounts might be deemed "obscene," and although they deeply offend modern sensibilities regarding the rearing and protection of children, they are not "child pornography" in the specific legal and clinical sense that term has acquired over the past fifteen years. As defined by the United States Supreme Court in the 1982 decision, New York v. Ferber, the category of "child pornography" is "limited to works that visually depict sexual

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[390] See, Photographic vase drawings in K. J. Dover, Greek Homosexuality (1978).

[391] See, description of P. Aries, Centuries of Childhood 100-102 (1962) (diary of Heroard, physician to Henri IV, who set down graphic details of sexual "play" with the child Louis XIII).

conduct by children below a specified age."[392] It is clear from the Court's language, and in all statutory and scholarly definitions of the term, that "child pornography" is only appropriate as a description of material depicting real children.[393]

The basis for these limitations is evident from the very nature of the outrage child pornography engenders - anger over the sexual abuse of children used in its production. While concern over "pornography" generally has centered on the impact of sexually explicit materials on the audience, "child pornography" has been defined, and attacked, in terms of its effects on the children who appear in it. Thus, as the Court found in Ferber, the category of "child pornography" is both broader and narrower than that of "obscenity." Broader in that it includes materials which are not "patently offensive," which do not appeal to the "prurient interest of the average individual, "and which show children in sexual conduct even as an

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[392] 458 U.S. 474, 746 (1982). The Court also required that the "category of 'sexual conduct' proscribed must also be suitable limited and described," id., and must not include mere "nudity." Id. at 765 n. 18. The New York statutes in question, Penal Law 263.15, was found to fit these requirements even though it included "lewd exhibition of the genitals" in its definition of proscribed sexual conduct. Id. at 773.

[393] The Ferber Court began its analysis of "child pornography" by noting the judgment of legislators and clinicians that "the use of children as subjects of pornographic materials is harmful to the physiological, emotional, and mental health of the child," a judgment the Court found "easily passes muster under the First Amendment." Id. at 758. Ferber thus rests squarely on the assumption that the materials in question are limited to those in the production of which actual children have been used.

incidental part of the work (rather than "taken as a whole").394 Narrower, however, in that written materials are wholly excluded, as are visual materials which do not show actual children engaged in sexual conduct. Thus a rewrite of Lolita which included graphic descriptions of sexual activity with a young girl could never be "child pornography," nor could a fully explicit film of the novel which starred an adult actress playing the part of the young girl. Such a film which used a minor actress, however, could be "child pornography" even if not "patently offensive" by prevailing community standards, and (although this is less clear) even if it possessed serious artistic, literary, scientific or educational value.395 In the context of "child pornography," alone among all the issues considered by the Commission, the defninition of "obscenity" proclaimed in Miller v. California396 and its progeny is wholly irrelevant. Indeed, the advent of "kiddie porn" in the years after Miller provides vivid illustration of the inadequacy of the concept of "obscenity" for protecting the interests of performers in sexually explicit

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394 Id. at 764.

395 Thus the Court found that "a work which, taken as a whole, contains serious literary, artistic, political, or scientific value may nevertheless embody the hardest core of child pornography." Compare, id at 774-775 (O'Connor, J., concurring) (no defense based on "serious value" should be allowed) with id., at 775-777 (Brennan, J., concurring in the judgement) (such a defense required by First Amendment).

396 413 U.S. 15 (1973).

material.[397]

The irrelevance of Miller to child pornography is loaded with some historic ironies, for it was later in the very year of that decision, 1973, that the first child pornography ring - involving some fourteen adults using boys under age thirteen for sex and production of pornographic materials - was brought to public view.[398] In the four years that followed police and reporters uncovered a wide range of activities involving the sexual exploitation of children, much of it involving child pornography.[399] Early in 1976 two employees of a large Los Angeles corporation publishing sexually explicit magazines were convicted of pandering for hiring a fourteen-year-old girl to engage in numerous acts of photographed sexual intercourse for publication in the company's magazines.[400] Later in that year the Los Angeles Police Department established a special Sexually Exploited Child Unit to combat child pornography and

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[397] For the full discussion of the problem of the use of adult performers in commercial pornography, See, Chapter 2 in Part Five.

[398] S. O'Brien, Child pornography 60 (1983) (arrests by Los Angeles police). In August of 1973 the sexually sadistic murder of twenty-seven young boys by Dean Corll was uncovered, while several other call-boy rings were also exposed that year.

[399] See R. Lloyd, For Money or Love: Boy Prostitution in America (1977); C. Linedecker, Children in Chains 212-242 (1981).

[400] People v. Fixler, 128 Cal. Rptr. 363, 56 Cal. App. 3d 321 (2d Dist. 1976).

prostitution,[401] and in the spring of 1977 a string of investigative articles in the Chicago Tribune, Time and other major publications helped prompt a full Congressional investigation of the problem.[402]

What Congress discovered in its hearings - which involved one Senate and two House subcommittees over ten dates and four cities from May to September of 1977[403] - was summarized by the Senate Judiciary Committee in its report:

> [C]hild pornography and child prostitution have become highly organized, multi-million dollar industries that operate on a nationwide scale. . . .[404]

According to evidence at the hearings, those industries were producing some 264 different commercial magazines each month

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401 Sexual Exploitation of Children, Hrgs. Before the Subcomm. on the Judiciary, U.S. House, 95th Cong., 1st Sess. 63 (1977) (statement of Investigator Lloyd Martin, Los Angeles Police Dep't) (hearings hereinafter referred to as "Subcommittee on Crime Hearings").

402 For a reprint of the most influential articles See, Subcommittee on Crime Hearings, supra note 401, at 422-443.

403 Subcommittee on Crime Hearings, supra note 401; Sexual Exploitation of Children, Hrgs. Before the Subcomm. on Select Education, Comm. on Education and Labor, U.S. House, 95th Cong., 1st Sess. (1977) (hereinafter "Select Education Subcommittee Hearings"); Protection of Children Against Sexual Exploitation, Hrgs. Before the Subcomm. to Investigate Juvenile Delinquency, Comm. on the Judiciary, U.S. Senate, 95th Cong., 1st Sess. (1977) (hereinafter "1977 Senate Hearings").

404 S. Rep. No. 438, 95th Cong., 1st Sess. 5 (1977).

showing children nude or engaged in sexual conduct,[405] and the founder of the Los Angeles Sexually Exploited Child Unit reported that "We have 30,000 sexually exploited children in that city."[406] One producer and distributor was reported to have made five to seven million dollars in his own child-pornography business,[407] while other witnesses before Congress described the kidnapping of small children by pornographers,[408] and even their sale by parents.[409]

Child pornography had, in short, become a part of the commercial mainstream of pornography by 1977, sold "over the counter" and in considerable quantities. While a substantial amount of such material was of foreign origin,[410] much of it was

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405 Subcommittee on Crime Hearings, supra note 402, at 43 (testimony of Dr. Judianne Denses-Gerber, Presl, Odyssey Institute).

406 Id. at 59 (testimony of Lloyd Martin).

407 Id. at 117 (statement of Michael Sneed, reporter, Chicago Tribune).

408 Select Education Subcommittee Hearings, supra note 403, at 116. (statement of Robin Lloyd).

409 Id at 42-43 (testimony of Lloyd Martin).

410 For an excellent overview of the production of child pornography in the Netherlands, Denmark, and other northern European countries - as well as the repackageing for shipment to the United States of material originally produced in America- see, Child Pornography and Pedophilia, Hrgs. Before the Perm. Subcommittee on Investigations, Comm. on Governmental Affairs, U.S. Senate, 98th Cong., 2d Sess; Part 1 (1984) (especially testimony of Kenneth J. Herrmann, Jr., and Michael Jupp, and Toby Tyler, id. at 322-37); and Child Pornography and Pedophilia, Hrg. Before the Perm. Comm. on Investigations, Comm. on Governmental Affairs, U.S. Senate, 99th Cong., 1st Sess., Part 2 (1985) (especially testimony of Elliott Abrams, et al., members of federal interagency group which travelled to Denmark, The

made using American children. This wholly unanticipated by-product of the "pornography boom" prompted an angry legislative response from Congress and nearly all state legislatures - a response that in itself seems to have reshaped completely the nature of the child-pornography industry.

The governmental battle against sexual exploitation of children has been an ongoing, evolutionary one, marked by an extraordinary degree of consensus among legislators on both the federal and state levels. Detailed analysis of the wide array of statutes which have resulted from this shared concern is beyond the scope of this report. Nevertheless, a general review of applicable federal statutes, long with attention to significant features of current states, is a crucial backdrop to the Commission's recommendations, and, more importantly to understanding the substantial changes in the child-pornography industry since 1977.

Federal Statutes. Comparison of the two major Congressional acts designed to fight sexual exploitation, approved six years apart, provides perhaps the best evidence of how a changing child pornography industry has taxed legislative ingenuity:411

1. The Protection of Children from Sexual Exploitation

Netherlands, and Sweden to discuss problem of child pornography with government officials) (hearing hereinafter referred to as "1985 Hearings").

411 For a more complete discussion and comparison of the relevant federal statutes, see, Loken, The Federal Battle Against Child Sexual Exploitation: Proposals for Reform, Harv. Women's L.J. (1986).

Act of 1977 (the "1977 Act").[412] The immediate response of Congress to the evidence gathered in its 1977 investigations was this law, approved February 6, 1978.

It categorically prohibited the production of any "sexually explicit" material using a child under age sixteen, if such material is destined for, or has already travelled in interstate commerce.[413] The definition of the phrase "sexually explicit" included any conduct involving sexual intercourse of any variety, bestiality, masturbation, sado-masochistic abuse, or "lewd exhibition of the genitals or pubic area."[414] Stern penalties (10 years imprisonment and/or $10,000 fine) were imposed for violating these provisions,[415] and were made applicable, as well, to parents or other custodians who knowingly permit a child to participate in such production.[416]

With regard to the traffic in child pornography already produced, the 1977 Act took a somewhat different approach. With the evidence gathered at the hearings centering overwhelmingly on the commercial character of such traffic, Congress understandably directed its prohibitions against the transportation, shipping, mailing, or receipt of child pornography in interstate commerce

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412 P.L. 95-225, 92 Stat. 7 (1978), codified at 18 U.S.C.S. SS2251-2253 (1979).

413 18 U.S.C.S. S2251(a) (1979).

414 18 U.S.C.S. S 2253 (1979).

415 18 U.S.C.S. S2251(c) (1979).

416 18 U.S.C.S. S2251(b) (1979).

"for the purpose of sale or distribution for sale."[417] Thus bartering or simply giving away child pornography was not prohibited even if conducted through the mail. Further, constitutional concerns led Congress to restrict the application of these provisions to material depicting children engaged in "sexually explicit" activity, which was also "obscene" under the Miller test.[418] As under the production provisions, the age limit for children protected was set at sixteen, and the penalties imposed were identical.[419]

2. The Child Protection Act of 1984 (the "1984 Act").[420] Strong as it appeared to be on its face, the 1977 Act was soon found by federal law enforcement officials to be of only limited practical value. The production of child pornography is so clandestine in character that from 1978 to 1984 only one person had been convicted under that portion of the 1977 Act.[421] As for distribution of the material, the traffic in child pornography went underground after 1978, and commercial magazines such as those shown to Congress in 1977 were no longer available "over-the-counter" in pornography outlets. Rather, as a Postal

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417 18 U.S.C.S. S2252 (1979).

418 Id.

419 Id.

420 P.L. 98-292, 98 Stat. 204 (1984), codified at 18 U.S.C.S. SS 2251-2255 (1985 Supp.). The constitutionality of this act has recently been sustained by two different federal courts. United States v. Tolczeki, 614 F. Supp. 1424 (N.D. Ohio 1985).

421 1985 Hearing, supra note 410, at 104 (statement of Victoria Toensing, Dep'y Asst. Attorney General).

official told Congress in 1982, the "bulk of child pornography traffic is noncommercial."[422] This meant, as an Federal Bureau of Investigation witness told the same hearing, that federal enforcement of the 1977 Act was "seriously impaired" by its "for sale" requirements.[423] Further, the limitation of the trafficking provision of the 1977 Act to "obscene" child pornography placed substantial obstacles in the path of prosecutors.[424]

Confronted by this evidence, and reinforced by the Ferber decision removing any doubt about the necessity of "obscenity" limitations, Congress in May, 1984, approved a broad revision of the 1977 Act. The Child Protection Act of 1984 removed the requirement that interstate trafficking, receipt, or mailing of child pornography be for the purpose of "sale" to be criminal.[425] Further, it wholly eliminated the "obscenity" restrictions of the 1977 Act,[426] and raised the age limit of protection to eighteen.[427] Provisions raising the amount of potential fines

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422 Exploited and Missing Children, Hrg. Before the Subcomm. on Juvenile Justice, Comm. on the Judiciary, 97th Cong., 2nd Sess. 47 (statement of Charles P. Nelson).

423 Id. at 39 (statement of Dana E. Caro).

424 Child Pornography, Hrg. Before the Subcomm. on Juvenile Justice, Senate Comm. on the Judiciary, 97th Cong., 2nd Sess. (1982) (statement of Robert Pitler, Bureau Chief, Appeals Bureau, District Attorney's Office for New York County).

425 18 U.S.C.S S2252(a) (1979).

426 Id.

427 18 U.S.C.S. S2255 (1) (1979).

were included,[428] along with new sections authorizing criminal and civil forfeiture actions against violators.[429] The definition of "sexually explicit" material was adjusted slightly: the first word in "lewd exhibition of the genitals or pubic area" was changed to "lascivious," and "sadistic or masochistic abuse" was substituted for "sado-masochistic abuse."[430] Written materials, finally, were clearly excluded from the law's reach in this area: only "visual depictions" of children are criminally actionable.[431]

The result of these revisions was a dramatic increase in federal prosecutions. In the first nine months after passage of the 1984 Act virtually the same number of people were indicted for federal child pornography offenses as had been indicted during the previous six years.[432] The production provisions, however, continued to produce few indictments, in part because of the extraordinary difficulties of investigation and proof, and in part, perhaps, because the more easily used trafficking provisions often may be invoked against suspected producers instead.

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428 18 U.S.C.S. SS2251, 2252 (1979).

429 18 U.S.C.S. SS2253, 2254 (1979).

430 18 U.S.C.S. S2255 (1979).

431 18 U.S.C.S. SS2251, 2252 (1979).

432 1985 Hearing, supra note 410, at 104 (Victoria Toensing). Statistics provided to the Commission by the Department of Justice indicate that 183 of the 255 indictments under federal child pornography laws from 1978 to February 27, 1986, were obtained after passage of the 1984 Act on May 21, 1984.

It appears, in any case, that the 1977 Act effectively halted the bulk of the commercial child pornography industry, while the 1984 revisions have enabled federal officials to move against the noncommercial, clandestine mutation of that industry.

State Laws. The federal interest in protecting children, of course, is secondary to that of the states, which act as principal guardians against the abuse or neglect of the young. It was indeed a state law substantially broader than the 1977 Act which prompted the landmark decision in New York v. Ferber.[433] States are not limited, as is the federal government, to regulation of child pornography in or affecting interstate commerce; they have the power to prohibit all production and trafficking in such materials.

To a substantial extent the states have exercised that power. Nearly all ban the production of child pornography, and an overwhelming majority prohibit distribution as well.[434] Most prohibit as well parental consent or accession to use of children in sexually explicit materials, and many outlaw facilitation of sexual exploitation through financing, developing, duplication, or promoting child pornography.[435] Some have prohibited as well the possession of child pornography, an extremely effective

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433 The law in question was N.Y. Penal Law S263.15.

434 Nat'l Legal Resources Center for Child Advocacy and Protection, A.B.A., Child Sexual Exploitation: Background and Legal Analysis 35 (1984) (49 states as of November 1984) (hereinafter "A.B.A. Analysis").

435 Id. at 36.

weapon against child molesters.[436]

Yet it is clear, too, that much remains to be accomplished on the state level. Not all states ban trafficking in child pornography, so that it remains possible in some parts of this country to distribute such materials intrastate without fear of criminal penalty. Further, only about half of the states protect children from use in pornography until their eighteenth birthday; in other states the age limit is set at sixteen or seventeen.[437] (This Commission has determined, indeed, that such protections should, on a somewhat more limited basis, be extended to age twenty-one.)[438] Finally, few states appear to have taken action to provide substantial assistance to victims of child pornography - either through direct aid or through encouraging private civil remedies.[439] The primary role of states in caring for children would seem to argue for their assumption of the principal share of the burden of providing such assistance.

The legislative assault on child pornography drastically curtailed its public presence; it has not, however, ended the

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436 Thus Special Agent Kenneth Lanning of the F.B.I. noted in his testimony before the Commission that "pedophiliacs" almost always collect child pornography and/or child erotica." Miami Hearing, Vol. I., Kenneth Lanning, p. 232.

437 A.B.A. Anaylsis, supra note 434, at 37.

438 See, The discussion in this Chapter for Recommendations for Federal Legislation, infra.

439 As an example of the difficulty of obtaining for children victimized in sexually explicit material see, Faloona v. Hustler Magazine, 607 R. Supp. 1341 (D.C. Tex. 1985), appeal docketed, No. 85-1359 (5th Cir. 1985).

problem. Sexual exploitation of children has retreated to the shadows, but no evidence before the Commission suggests that children are any less at risk than before. The characteristics of both perpetrators and victims, combined with the extremely limited state of professional understanding, make it unlikely that child pornography is a passing phenomenon.

Those who sexually exploit children do so for a wide range of reasons, and come from an extremely broad array of backgrounds, and occupations,[440] but it seems helpful to group them into two categories: "situational" and "preferential" molesters.[441] The former are people who act out of some serious sexual or psychological, need, but choose children as victims only when they are readily and safely accessible. "Preferential" molesters, on the other hand, are those with a clear sexual preference for children ("pedophiles" in common usage) who can only satisfy the demands of that preference through child victims. "Preferential" abusers collect child pornography and/or erotica almost as a matter of course. It is unclear how large each of these respective categories is, but it does seem apparent that "preferential" child molesters over the long term victimize far more children than do "situational" abusers.

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[440] Washington Hearing, Vol. I, Daniel Mihalko, p. 149; Belanger, et al., Typology of Sex Rings Exploiting Children, in Child Pornography and Sex Rings 74 (A. Burgess ed. 1984) (hereinafter "Sex Rings").

[441] For these categories and the analysis that follow from them the Commission is grateful to Special Agent, Kenneth Lanning, F.B.I.

The approaches adopted by various perpetrators also vary widely. The most recent research on "child sex rings" indicates that they range in structure from highly organized, "syndicated" operations involving several perpetrators and many children with production of child pornography for sale or barter, to "solo" operations in which children are abused and photographed by only one perpetrator for his pleasure.[442] Child pornography, while serving primarily the perpetrator's own needs, is also useful for lowering the inhibitions of other children being recruited by the perpetrator.[443] Wholly commercial operations appear to be extremely unusual, but are still not unknown.[444]

The normal absence of commercial motives, and the strong sexual and/or psychological needs which push both situational and preferential molesters toward sexual abuse of children in pornography, suggest that the demand for such material may be somewhat inflexible. While situational abusers may be steered away from children as victims, preferential abusers may not - and they are prone, moreover, to far more frequent abuse. However strong the criminal law, sexual exploitation of children seems likely to remain an irresistable temptation for some.

What is worse, the supply of potential victims seems inex-

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442 Belanger, supra note 441, at 51.

443 Lanning, Collectors, in Sex Rings, supra note 440, at 86.

444 See, Sex Rings, supra note 440 at 67-73, 78 (seventeen of fity-four child sex rings studied were "syndicated", most of which sold child pornography and used children in prostitution).

haustible as well. Children used in pornography seem to come from every class, religion, and family background; a majority are exploited by someone who knows them by virtue of his or her occupation,[445] or through a neighborhood, community or family relationship. Many are too young as to know what has happened; others are powerless to refuse the demand of an authority figure; some seem to engage in the conduct "voluntarily," usually in order to obtain desperately needed adult affection.[446] Adolescents used in pornography are often runaways, homeless youth or juvenile prostitutes who may feel with some justice that they have little choice but to participate.[447] Thus it seems clear that a large class of children and teenagers vunerable to use in pornography will continue to exist. Even redoubled efforts to teach children to protect themselves from such involvement will not wholly blunt the strong social, family, and economic forces creating that vulnerability.

The rise of the child pornography "problem" took medical, social services and legal communities as much by surprise as it

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445 Id. at 74-75 (38.2 percent of offenders studied had access to children through occupation; 27.3 percent through their "living situation").

446 U. Schoettle, Report to the United States' Attorney General's Comm'n on Pornography 11 (Miami Hearing).

447 See, Rabun, Combatting Child Pornography and Prostitution: One County's Approach, in Child Sex Rings, supra note 441, at 187-200 (fifteen percent of runaway acknowledged involvement in pornography. James Scanlon & Price, Youth Prostitution, in Child Sex Rings at 139 (seventy-five percent of male hustlers aged fourteen to twenty-five had participated in pornography).

did Congress and the general public. It is only fair to note, therefore, that what one witness dubbed "conceptual chaos" is a serious obstacle to progress against sexual exploitation of children in pornography;[448] at present only a tiny quantity of serious scholarship on the subject has found its way into print.[449] There are indications, moreover,that researchers and clinicians attempting to specialize in the field have faced serious resistance from their peers.[450]

No profession is more open to the charge of ignorance in this area than the law itself.[451] Court procedures are particularly intimidating for children asked to relate extremely intimate sexual details that they know will be reacted to with horror by family and friends.[452] A criminal proceeding, moreover, creates a double bind for the child: if he is believed, a

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[448] Miami Hearing, Vol. I, Roland Summit, p. 210A19.

[449] The leading studies seem to be those contained in Child Sex Rings, supra note 440, and U. Schoettle, Child Exploitation: A Study of Child Pornography, 19 J. Am. Acad. Child Psych. 289 (1980) (cited by the Court in New York v. Ferber, 458 U.S. at 758 n. 9) [hereinafter "Child Exploitation"].

[450] Statement of Roland Summit, supra note 448, at 8-15.

[451] The most scathing indictment of the legal system's capacity to bring child pornography cases to justice was supplied to the Commission by Dr. Roland Summit, who said, in part: "Sex crimes, more that 'legitimate' crimes, seem to require criminal conviction to justify public validation. That standard in itself represents another Catch 22 in favor of traditional denial. The insistence of proof beyond reasonable doubt for an invisible and illogical crime almost guarantees suppression and repudiation." Id. at 5-6.

[452] See generally, Summit & Kryso, Sexual Abuse of Children: A Clinical Perspective, in Children and Sex 111, 123-124 (L. Constantine & F. Martinson eds. 1981).

former "friend" will go to jail; if he is not, he must endure additional guilt from thoughts that perhaps he did not tell enough.[453] The study of novel investigative and courtroom procedures to address these problems is only in its infancy: where the child pornography itself is not sufficient, without use of the victim as a witness, to establish the prosecutor's case, parents are likely to face an excruciating dilemma. Lawyers and judges, like doctors and mental health professionals, remain largely ignorant of how to respond to child pornography victims.

That ignorance is deeply unfortunate because the pain suffered by children used in pornography is often devastating, and always significant. In the short term the effects of such involvement include depression, suicidal thoughts, feelings of shame, guilt, alienation from family and peers, and massive acute anxiety.[454] Victims in the longer term may successfully "integrate" the event, particularly with psychiatric help,[455] but many will likely suffer a repetition of the abuse cycle (this time as the abuser), chronic low self esteem, depression, anxiety regarding sexuality, role confusion, a fragmented sense of the self, and possible entry into delinquency or prostitution.[456] All, of course, will suffer the agony of knowing the record of

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453 Child Exploitation, supra note 449, at 297.

454 Schoettle Statement, supra note 446, at 10.

455 Burgess, et al., Impact of Child Pornography and Sex Rings on Child Victims and Their Families in Child Sex Rings, supra note 440, at 115-117.

456 Schoettle Statement, supra note 446, at 10.

their sexual abuse is in circulation, its effects on their future lives unknowable and beyond their control.[457] That may well be their most unhealable wound.

Because the trauma inflicted on children by sexual exploitation is so great, it has seemed to the Commission particularly important to examine every possible approach to improving the state of the law and services to victims. While limitations of time and resources placed significant constraints on that effort, it was nonetheless possible to discuss the problem of child pornography from a number of different perspectives, and to develop recommendations where the evidence called for them. The recommendations so conceived follow, along with explanations of the reasons for each.

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[457] See New York v. Ferber, supra note 392, 458 U.S. at 759, and studies cited therein.

TABLE 1

SITUATIONAL CHILD MOLESTER

	REGRESSED	MORALLY INDISCRIMINATE	SEXUALLY INDISCRIMINATE	INADEQUATE
BASIC CHARACTERISTIC	POOR COPING SKILLS	USER OF PEOPLE	SEXUAL EXPERIMENTATION	SOCIAL MISFIT
MOTIVATION	SUBSTITUTION	WHY NOT?	BOREDOM	INSECURITY & CURIOSITY
VICTIM CRITERIA	AVAILABILITY	VULNERABILITY AND OPPORUNITY	NEW AND DIFFERENT	NON-THREATENING
METHOD OF OPERATION	COERCION	LURE, FORCE, OR MANIPULATION	INVOLVE IN EXISTING ACTIVITY	EXPLOITS SIZE ADVANTAGE
PORNOGRAPHY COLLECTION	POSSIBLE	SADOMASOCHISTIC; DETECTIVE MAGAZINES	HIGHLY LIKELY; VARIED NATURE	LIKELY

SOURCE: U.S. Department of Justice, Federal Bureau of Investigation, CHILD MOLESTERS: A Behavioral Analysis for Law Enforcement, 19, (1986).

TABLE 2

PREFERENTIAL CHILD MOLESTER

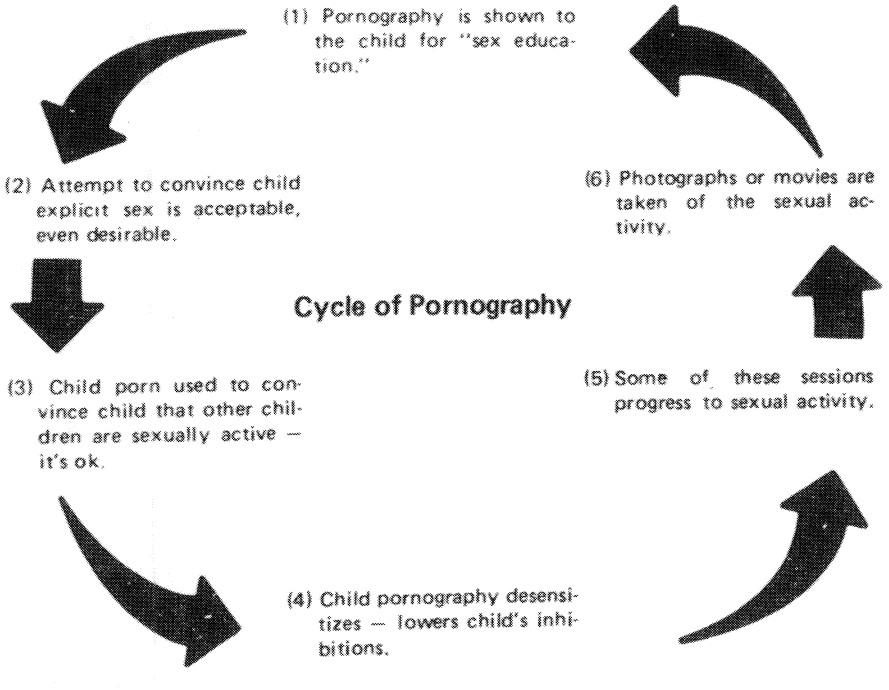
	SEDUCTION	INTROVERTED	SADISTIC
COMMON CHARACTERISTICS	1. SEXUAL PREFERENCE FOR CHILDREN 2. COLLECT CHILD PORNOGRAPHY AND/OR EROTICA		
MOTIVATION	IDENTIFICATION	FEAR OF COMMUNICATION	NEED TO INFLICT PAIN
VICTIM CRITERIA	AGE AND GENDER PREFERENCES	STRANGERS OR VERY YOUNG	AGE AND GENDER PREFERENCES
METHOD OF OPERATION	SEDUCTION PROCESS	NON-VERBAL SEXUAL CONTACT	LURE OR FORCE

SOURCE: U.S. Department of Justice, Federal Bureau of Investigation, CHILD MOLESTERS: A Behavioral Analysis for Law Enforcement, 25, (1986).

TABLE 3

CYCLE

One of the most common questions asked from a public that knows very little about child pornography is: "How does child pornography begin?" This diagram explains one of the most common ways a child is introduced to pornographic activity:



SOURCE: S. O'Brien, Child Pornography, 89, (1983).

RECOMMENDATION 37:

CONGRESS SHOULD ENACT A STATUTE REQUIRING THE PRODUCERS, RETAILERS OR DISTRIBUTORS OF SEXUALLY EXPLICIT VISUAL DEPICTIONS TO MAINTAIN RECORDS CONTAINING CONSENT FORMS AND PROOF OF PERFORMERS' AGES.

Pornographers use minors as performers in films and other visual depictions.[458] The consumer demand for youthful performers has also created a class of pornography referred to as pseudo child pornography.[459] The growth of pseudo child pornography has made it increasingly difficult for law enforcement officers to ascertain whether an individual in a film or other visual depiction is a minor.

Minors deserve special protection from the risks inherent

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458 See, The discussion of performers in Part Four.

459 Pseudo child pornography or "teasers" involve women allegedly over the age of eighteen who are "presented in such a way as to make them appear to be children or youths. Models used in such publications are chosen for their youthful appearence (e.g., in females, slim build and small breasts); and are presented with various accoutrements designed to enhance the illusion of immaturity (e.g., hair in ponytails or ringlets, toys, teddy bears, etc.).

'Pseudo child pornography' is of concern since it may appeal to the same tastes and may evoke responses similar or identical to those elicited by true child pornography. However, it is distinct from, and is not 'genuine' child pornography in the sense that it is older adolescents or adults who are displayed in these sexually explicit depictions. It is not individual children who have been directly exploited in the making of such materials. Committee on Sexual Offences Against Children and Youth, 2 Sexual Offences Against Children, 1192 (1984). [hereinafter cited as Sexual Offences Against Children].

in the production of pornographic materials.[460] The performers may be subjected to threats and coercion, provided with controlled substances or exposed to a variety of sexually transmitted diseases.[461] The Child Protection Act of 1984[462] is designed to prohibit employing, using, persuading, inducing, enticing, or coercing any minor to engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct. [463]

This proposed legislation should afford protection to minors through every level of the pornography industry. The recordkeeping obligation should be imposed on wholesalers, retailers, distributors, producers and any one engaged in the sale or trade of sexually explicit material as described by the Child Protection Act.

The concern to be addressed through this legislation is the safety and well-being of children. The current law contains gaps which allows the exploitation of minors to continue. Legislation should be drafted to close the gaps and afford children full protection in every phase of the production and distribution of sexually explicit materials.

Producers would be required to obtain proof of the age of the performer and record the same on a signed release form if the

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460 See, New York v. Ferber, 458 U.S. 758 (1982).

461 See, The discussion of performers, infra.

462 18 U.S.C. SS 2251-2252 (1985).

463 Id.

performer engages in any sexual act which would be in violation of The Child Protection Act. [464]

Despite the umbrella protection provided by the Child Protection Act of 1984, loopholes remain that permit the continued exploitation of children. For example, experts and law enforcement officers have found it difficult to extend this protection because in many instances, ascertaining the real ages of adolescent performers is impossible. By viewing a visual depiction, how does one decide if the performer is fourteen or eighteen, seventeen or twenty-one? The growth of the category of pseudo child pornography has further confused the issue.

The above legislation will assist officials in assuring the safety and well being of children.

The recomended legislation would require producers to obtain release forms from each performer with proof of age.[465] The forms would be filed at a specified location listed in the opening or closing footage of a film, the inside cover of the magazine or standard locations in or on other material containing visual depictions.[466]

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464 Producers may fullfill the proof of age requirement through obtaining a driver's license, birth certificate or other verifiable and acceptable form of age documentation.

465 The release forms should also include the stage names of the performers as well as any other aliases the performer may use, fingerprints to avoid forgery or fraudulent certification and the last known address and telephone number for the purpose of verification.

466 "I think consent is a very important part of freedom . . . we all want to increase volunteerism and decrease lack of consent whether that be by models or purchasers of

The name, offical title and location of the responsible person or corporate agent supervising such records would also be listed to avoid use of corporate shields. The release forms should be available for inspection by any duly authorized law enforcement officer upon demand as a regulatory function for the limited purposes of determining consent and proof of age.[467] The information contained in these records should not be used as evidence of obscenity or related offenses in a grand jury proceeding or by a petit jury or trier of fact, but should only be used for prosecution of this offense. This exception from use in evidence is necessary to secure compliance by the largest number of persons and avoid Fifth Amendment problems.

A producer should be required to maintain these records for a minimum period of five years.[468] Failure to comply with any of these requirements would be punishable as a felony. This legislation would not only protect minors from abuse, but it would also place the burden of ensuring this protection was implemented squarely on the producers of the materials. The proposed legislation would serve a record keeping purpose

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magazines." New York Hearing, Vol. II, Alan Dershowitz, p. 312.

[467] This inspection requirement would be similar to the inspection provision included in section 3007 of the Resource Conservation Recovery Act of 1976, as amended in that search warrant would not be necessary for routine examination of records.

[468] The five year requirement would commence the date the film was released or the magazine was distributed.

comparable to that found in environmental and similar statutes.[469] Performers in pornography face more risks than just

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469 Examples of similar recordkeeping legislation and the penalties are: The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) which provides, "The Administrator may prescribe regulations requiring producers to maintain such records with respect to their operations and the pesticides and devices produced as he determines are necessary for the effective enforcement of this Act." 7 U.S.C. Sl361 (3) FIFRA also gives the administrator of the Environmental Protection Agency the authority to inspect the premises to ensure compliance. "(b) Inspection. - For the purposes of enforcing the provision of this Act, any producer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery any pesticide or device subject to this Act, shall, upon request of any officer or employee of the Environmental Protection Agency or of any State or political subdivision, duly designated bghy the Administrator, furnish or permit such person at all reasonable times to have access to, and to copy: (1) all records showing the delivery, movement, or holding of such pesticide or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; or (2) in the event of the inability of any person to produce records containing such information, all other records and information relaing to such delivery, movement, or holding of the pesticide or device." 7 U.S.C. S 136l; Failure to comply with the provision may result in civil or criminal penalties. "Any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who knowingly violates any provision of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than $25,000, or imprisoned for not more than one year, or both." 7 U.S.C. Sl36n. The Resource Conservation and Recovery Act of 1976 requires hazardous waste generators, transporters and owners and operators of treatment, storage and disposal facilities to maintain adequate business records. See, 42 U.S.C. SS3002, 3003, 3004. If the records are not maintained, the owner, operator, generator or transporter of hazardous waste may be subject to civil and criminal penalties. "Any person who-" (3) knowingly omits material information or makes any false material statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained, or used for purposes of compliance with regulations promulgated by the Administrator under this subtitle: shall, upon conviction, be subject ot a fine of not more than $50,000 for each day of violation, or imprisonment not to exceed two years (five years in the case of a violation of paragraph (1) or (2), or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph shall be doubled with respect to both fine and imprisonment." 42

sexual abuse. A dscision by young performer to appear in pornographic materials has serious implications for his or her future personal life and career prospects. The existence of the material and its intermittent resurfacing may destroy employment prospects and threaten family stability.470

RECOMMENDATION 38

CONGRESS SHOULD ENACT LEGISLATION PROHIBITING PRODUCERS OF CERTAIN SEXUALLY EXPLICIT VISUAL DEPICTIONS FROM USING PERFORMERS UNDER THE AGE OF TWENTY-ONE.

Producers are currently proscribed through the Child Protection Act from using performers under the age of eighteen to engage in various sexually explicit materials. The proscribed acts include actual or simulated:

(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) bestiality;

(C) masturbation;

(D) sadistic or masochistic abuse; or

(E) lascivious exhibition of the genitals or pubic area of any person.471

U.S.C. S3008.

470 Los Angeles Hearing, Vol. II, Miki Garcia, p. 118-20; Washington, D.C., Hearing, Vol. II, Tom, p. 50.

471 18 U.S.C. S2255 (1985).

The Act should be amended to protect performers under the age of twenty-one. The amendment should prohibit producers from using persons between the ages of eighteen and twenty-one in visual depictions of certain sexually explicit activities. The proscribed activities should includes actual:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) Bestiality;

(C) Masturbation;

(D) Sadistic or masochistic abuse; or

(E) Lascivious exhibition of the gentials or pubic area of any person.

Persons between the ages of eighteen and twenty-one while physically mature still face problems associated with sexually explicit performances. These risks include: pregnancy,[472] sexually transmitted diseases,[473] physical abuse[474] and damage to

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472 Enablers, Inc., Juvenile Prostitution in Minnesota 86 (1978) (over one-half of juvenile female prostitutes had been pregnant at least once; thirty percent had been pregnant two or more times).

473 See, e.g., Enablers, Inc., supra note 472, at 85. (half of the female prostitutes interviewed indicated they had venereal disease); D.K. Weisberg, Children in the Night 167 (1985) [hereinafter cited as Children in the Night] (venereal disease "plagues" juvenile prostitutes; and is their "most prevelant health concern"); 2 Sexual Offences Against Children, 1024 (1984) (majority of juvenile prostitutes studied in Canada had contracted a sexually transmitted disease, and almost a third do not seek regular medical attention).

self esteem and mental health.[475]

Perhaps because of the inner conflicts common among this age group, adolescents are notoriously poor in making sexual choices well into their late teens and twenties. Thus adolescent use of contraceptives "approaches an almost random pattern,"[476] with only a third of sexually active teenagers using contraception consistently.[477] Likewise women aged sixteen to nineteen were eighty-eight percent more likely than women age twenty-five to twenty-nine to seek an abortion after twelve weeks of gestation - with women aged twenty to twenty-four fully twenty-five percent more likely to wait than the older group.[478]

Partially because of poor maturity, and partially because of economic and social factors, the health risks of teenage sex are significant. Both infant and maternal mortality are higher for

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[474] Silbert & A. Pines, Occupational Hazards of Street Prostitutes, 8 Crim. Just. & Behavior 395 (1981) (sixty-five percent of sample of prostitutes had been victims of violence, an average of 9.2 times each; seventy-five percent victimized by "forced perversion"); Children in the Night, supra note 473, at 162 (violence also an occupational problem for juvenile male prostitutes).

[475] Washington, D.C., Hearing, Vol. I, David, p. 47; Washington, D.C., Hearing, Vol. I, Jeff, p. 167; Washington, D.C., Hearing, Vol. I, Lisa, p. 61.

[476] F. Bolton, The Pregnant Adolescent: Problems of Premature Parenthood 35 (1980).

[477] Alan Guttmacher Institute, Teenage Pregnancy: The Problem That Hasn't Gone Away 11 (1981). [hereinafter cited Alan Guttmacher Inst., Teenage Pregnancy] The vast majority of sexually active adolescents, of course, are aged eighteen, nineteen, and twenty. Id. at 7.

[478] Centers for Disease Control, Abortion Surveillance 37 (1985). [hereinafter cited as CDC, Abortion Surveillance]

women aged fifteen to nineteen.[479] More precisely, the rate of low birth weight among babies born to nineteen year-old white mothers is twenty-five percent higher than that for babies born to white mothers aged twenty to twenty-four.[480] Abortions, too, are riskier for white women in late adolescence than for older women because they tend to seek them at a much more advanced gestational stage.[481]

Teenagers participating in pornography face all the risks attendant upon adolescent sexual activity but face as well one certainty that other teenagers do not. Their sexual activity, played out before a camera and live audience, is "a graphic form of exhibitionism . . . [which] literally makes the child's body 'available' for anyone willing to pay the price anywhere in the world."[482] Without reciting all the adverse consequences which young "models" suffer, it is sufficient to note that they can be severe [483] and, even more importantly, irreversible. Unlike the young prostitute who may be able to leave his or her past behind,

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[479] Id. at 10, 37.

[480] Alan Guttmacher Inst., Teenage Pregnancy, supra note 477, at 29.

[481] CDC, Abortion Surveillance, supra note 478, at 37.

[482] Schoettle, Child Exploitation: A Study of Child Pornography, J. Am. Acad. Child Psych. 289, 296 (1980).

[483] See, e.g., Wood v. Hustler Magazine, Inc., 736 F. 2d 1084, 1086 (5th Cir. 1984) (description of anguish and harassment suffered by woman whose nude photo was stolen and published in Hustler); Lederer, Then and Now - An Interview with a Former Pornography Model in Take Back the Night: Women on Pornography 57 (1980); Testimony of George (Los Angeles).

the adolescent "porn star" must always live in fear that the film or photograph will surface, once again wreaking havoc in his or her personal and professional life.

Because of the economic and social realities of late adolescence, moreover, it is highly unlikely that a decision to accept these consequences has been made in an atmosphere free of pressure or coercion. Youths aged eighteen to twenty-one as a group suffer extraordinary levels of unemployment and homelessness.[484] The rate of poverty among the sixteen to twenty-one age group is almost half again as high as that among older adults.[485] It is hardly surprising that desperate youths are attracted by the quick money to be made in pornography. In describing why as a young man he made a "skin flick", Sylvester Stallone said that he was literally starving, and "It was either do that movie or rob someone."[486] Yet it is equally clear that it offers them no future as a career in itself, and may in fact further worsen their prospects for stable, long-term employment. [487]

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[484] Youths aged sixteen to nineteen are 160 percent more likely to be unemployed than older workers. Those aged twenty to twenty-four are still ninety-three percent more likely to be unemployed than older workers. Stastical Abstract at 394. At Covenant House 's New York program alone last year over 5,500 youths aged eighteen to twenty-one -- virtually all of them homeless -- sought crisis shelter. Only a small minority could be placed in independent living arrangements, job training or institutional shelters.

[485] Statistical Abstract at 456.

[486] Playgirl 39 (Oct. 1985).

[487] See, C. Hix, Male Model 1985-86 (1979). (In answer to the question "Would you advise anyone to do nude modelling as a steppingstone into a legitimate career?" porn star Jack Wagner

Much participation in pornography, of course, occurs as part of the "career" of juvenile prostitution,[488] and it is worth noting that a significant percentage of youths involved in prostitution have been coerced into "the life."[489]

Many of the difficulties discussed could be eliminated through a prohibition on the use of persons under the age of eighteen in any sexually explicit depiction as desented in the Child Protection Act. Persons between the ages of eighteen and twenty-one would receive the necessary protection through a prohibition against participation in certain scenes of actual sexual activity.

RECOMMENDATION 39:

CONGRESS SHOULD ENACT LEGISLATION TO PROHIBIT THE EXCHANGE OF INFORMATION CONCERNING CHILD PORNOGRAPHY OR CHILDREN TO BE USED IN CHILD PORNOGRAPHY THROUGH COMPUTER NETWORKS.

Many pedophile offenders and child pornographers have

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said, "Absolutely not. There are a lot of companies, film companies as well, that won't hire you if you have done nude modelling whether it was for Playgirl or Playboy or whatever." Id. at 186.)

488 Sexual Offences Against Children, supra note 473, at 1198-99 (1984); Children of the Night supra note 473, at 68-69 (1985) (fourteen of fifty-four juvenile prostitutes for whom information was available had been photographed for commercial photography).

489 Huckleberry Study at 34; Sexual Offences Against Children, supra note 473, at 992-93. These studies indicate that about one in six female prostitutes under age twenty-one had been physically coerced into their roles.

traditionally used the mails as a mainstay of their psychological base as well as the source of information regarding potential victims.[490] Recently however, pedophile offenders and child pornographers have begun to use personal computers for communications.[491] A person may now subscribe to an information service whereby he or she can contact other subscribers.[492] The services are private commercial enterprises which sell access codes to subscribing members. These services offer everything from "private" communications accessed through individual code words to conference calls.[493] The communication may also take the form of a "bulletin board" message to which any other subscriber may respond.[494]

Personal computers have instant communication capabilities and have afforded subscribers the opportunity to establish extensive networks.[495] Within these networks one or two pedophile offenders or child pornographers will often assume leadership roles.[496] These individuals will coordinate the con-

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490 Miami Hearing, Vol. I, Paul Hartman, p. 105.

491 Id. at 106.

492 Id. at 106-07.

493 Id. at 108-10.

494 During his testimony before the Commission, Postal Inspector Paul Hartman stated, "...I accessed a computerized bulletin board and found a message rather casually displayed proclaiming another subscriber's interest in photographs of teen and preteen children." Id. at 108.

495 Id. at 109.

496 Id. at 111.

versations and activities with other members of the networks.[497]

Subscribers may identify themselves using a first name and will identify the children with whom they are currently sexually involved.[498] The vast network which may develop enables pedophile offenders who live hundreds of miles apart to communicate about contact with a child known to both.[499] During these computerized conversations the offender may describe his actual and imagined sexual exploits with children.

Investigators have discovered that pedophile offenders use personal computer communications to establish contacts and as sources for the exchange or sale of child pornography.[500] The computer user, after establishing a secure relationship with another subscriber, will arrange for materials to be sent through the mail.[501] The subscribers will identify and describe the types of materials they seek. Respondents will then transmit the materials to the designated address.

Pedophile offenders and child pornographers may also use personal computer services to identify particular children who can be used in making child pornography.[502] The subscribers may describe the child physically and give a location where the child

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497 Id.

498 Id.

499 Id. at 111-12.

500 Id. at 111.

501 Id. at 108-09.

502 Id. at 111.

may be found.[503]

The technologically complex computer systems and networks operated by pedophile offenders and their multijurisdictional nature should prompt federal interest and substantiate jurisdiction.[504] Each of these systems uses an interstate common

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503 Id.

504 Hearings before the Senate Judiciary Committee, Subcommittee on Juvenile Justice, Oct. 1, 1985, p. 4; Senator Paul S. Trible, Jr. (R-Va.), and Senator Jeremiah Denton (R-Ala.) have introduced Senate Bill 1305 to amend 18 U.S.C. sections 1462 and 2252 to prohibit the use of computers for the interstate or foreign dissemination of obscene material, child pornography and advertisements for the same and information about minors which can be used for facilitating, encouraging, offering or soliciting sexually explicit conduct with a minor. The legislation provides:

BILL

"To amend title 18, United States Code, to establish criminal penalties for the transmission by computer of obscene matter, or by computer or other means, of matter pertaining to the sexual exploitation of children, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Computer Pornography and Child Exploitation Prevention Act of 1985".

Sec. 2 Section 1462 of Title 18, United States Code is amended by -

(1) Inserting after subsection (c) the following:

"(d) any obscene, lewd, lascivious, or filthy writing, description, picture, or other matter entered, stored, or transmitted by or in a computer; or "Whoever knowingly owns, offers, provides, or operates any computer program or service is being used to transmit in interstate or foreign commerce any matter the carriage of which is herein made unlawful; or" and

(2) inserting at the end thereof the following:

"For purposes of this section --

(1) the term 'computer' means an electronic magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device;

"(2) the term 'computer program' means an instruction or statement or a series of instructions or statements in a form acceptable to a computer which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system:

"(3) the term 'computer service' includes computer time, data processing, and storage function; and

"(4) the term 'computer system' means a set of related connected, or unconnected computers, computer equipment, devices, and software."

"(c) Any person who knowingly enters into or transmits by means of computer, or makes, prints, publishes, or reproduces by other means, or knowingly causes or allows to be entered into or transmitted by means of compute, or made, printed, published, or reproduced by other means --

"(1) any notice, statement or advertisement, or

(2) any minor's name telephone number, place of residence, physical characteristics, or other descriptive or identifying information.

For purposes of facilitating, encouraging, offering, or soliciting sexually explicit conduct of or with any minor, or the visual depiction of such conduct, shall by punished as provided in subsection (d) of this section, if such persons knows or has reason to know that such notice, statement, advertisement, or descriptive or identifying information will be transported in interstate or foreign commerce or mailed, or if such information has actually been transported in interstate or foreign commerce or mailed."

Sec. 4, Section 2252 of Title 18, United States Code, is amended --

carrier, the telephone, as its communication medium. The information about these minors is routinely conveyed between or among various states.

A recent example occurred in Raleigh, North Carolina, where

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(1) in subsection (a) by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)"

(2) by redesignating subsection (b) as subsection (c);

(3) by inserting after subsection (a) the following new subsection:

"(b) Any person who knowingly enters into or transmits by means of computer, or makes, prints, publishes, or reproduces by other means, or knowingly causes or allows to be entered into or transmitted by means of computer, or made, printed, published, or reproduced by other means any notice, statement, or advertisement to buy, sell, receive, exchange, or disseminate any visual depiction, if --

"(1) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and
(2) such visual depiction is of such conduct;

shall be punished as provided under subsection (c), of this section, if such person knows or has reason to know that such notice, statement, or advertisement will be transported in interstate or foreign commerce or mailed, or if such notice, statement, or advertisement has actually been transported in interstate or foreign commerce or mailed."

Sec. 5, Section 2255 of Title 18, United States Code is amended by adding at the end thereof the following new paragraph:

"(5) 'computer' means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage function, and includes any data storage facility directly related to or operating in conjunction with such device."

authorities discovered a computer network known as the "Gay Teen Conference" which was operated by a local man. The network could be reached by any computer operator who obtained a special password and it contained descriptions and depictions of various homosexual acts. The operator of "Gay Teen Conference" also operated a religious computer bulletin board known as "Ministry Bulletin Board." A computer operator was able to obtain the password for "Gay Teen Conference" by contacting the "Ministry Bulletin Board."[505] The proposed legislation would provide a useful law enforcement tool in this area of serious concern.

RECOMMENDATION 40:

CONGRESS SHOULD AMEND THE CHILD PROTECTION ACT FORFEITURE SECTION TO INCLUDE A PROVISION WHICH AUTHORIZES THE POSTAL INSPECTION SERVICE TO CONDUCT FORFEITURE ACTIONS.

The United States Postal Inspection Service is the investigative arm of the United States Postal Service.[506] It has investigative responsibilities over all criminal violations of federal law relating to the Postal Service including the child pornography laws.[507]

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505 Seminary Graduate Charged in Porno Computer Network, The Fayetteville (N.C.) Times, Feb. 7, 1986, p. 14B.

506 Washington, D.C., Hearing, Vol. I, Charles Clauson, p. 135.

507 Postal Crimes fall within two broad categories: Criminal Acts (1) against the postal service or its employees, such as armed robberies, burglaries or theft of mail, and (2) misuse of the postal system such as the mailing of bombs, use of

The most common method of circulating child pornography has traditionally been through the mail.[508] The mail provides a clandestine and anonymous form of communication for both parties.[509]

The efforts of the Postal Inspection Service in the investigation of child pornography would be greatly enhanced through an amendment to the Child Protection Act permitting the Postal Inspection Service to engage in forfeitures.[510]

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the mails to distribute pornography. Id.

[508] Washington, D.C., Hearing, Vol. I, Daniel Mihalko, p. 145-46.

[509] Id. at 146.

[510] The amendment should be as follows:

To amend the Child Protection Act of 1984 to authorize the Postal Service to conduct civil administrative seizures and forfeitures under the Act, and for other purposes.

Sec. 1. Subsection (b) of section 2254 of title 18 United States Code, is amended by inserting "or the Postal Service" after "the Attorney General."

Sec. 2. Section 2003(b) of title 39, United States Code, is amended --

(1) in paragraph (b) (5) by striking out "and";

(2) in paragraph (b) (6) by striking out the period at the end and inserting in lieu thereof a semicolon and "and";

(3) by inserting at the end of subsection (b) the following new paragraph: "(7) amounts from any civil administrative forfeiture conducted by the Postal Service"; and

(4) by inserting in the first sentence of paragraph (e) (1), immediately following the word "title" the first time it appears, the following: "including expenses incurred in the conduct of seizures, forfeitures and

Since 1984 there has been an increased enforcement effort against child pornography. From January 1, 1978, to May 21, 1984, only sixty-nine defendants were indicted for child pornography violations.[511] From May 21, 1984, to June 1985, there were 103 defendants indicted for child pornography violations.[512]

In 1984 the Postal Inspection Service spent 50,000 hours and completed 168 pornography investigations which resulted in sixty-nine arrests.[513] During the first eight months of 1985 the Service spent 36,000 hours and completed ninety-nine investigations.[514] These efforts resulted in 114 arrests.[515] In June 1985 there were over two hundred open Postal Service investigations of potential child pornography violations.[516]

Under current federal law the Postal Inspection Service is excluded from participation in forfeiture actions. The forfeiture provision would enable inspectors the opportunity to recover items of value which were used in or derived from illegal activities. This provision should be structured to assist in

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disposal of forfeited property pursuant to title 18.

511 Chicago Hearing, Vol. II, James S. Reynolds, p. 268.

512 Id.

513 Washington, D.C., Hearing, Vol.I, Jack Swagerty, p. 140.

514 Id.

515 Id.

516 Id.

making the Postal Inspection Service investigations self-supporting and assist in defraying the cost of subsequent prosecutions as well as removing resources from the hands of offenders.

RECOMMENDATION 41:

CONGRESS SHOULD AMEND 18 U.S.C. S2255 TO DEFINE THE TERM "VISUAL DEPICTION" AND INCLUDE UNDEVELOPED FILM IN THAT DEFINITION.

The Child Protection Act prohibits the transportation of certain sexually explicit visual depictions. The predecessor to the present Act specifically defined visual depictions. The language of the current Act has been used successfully by defense attorneys to exclude undeveloped film that has been legally seized.[517] In an effort to curb the continued exploitation of children, it is necessary to define the term "visual depictions" to include images contained on rolls of undeveloped film, video tape and sketches, drawings or paintings of actual persons.[518] This amendment will afford United States Attorneys the opportunity to bring an indictment under the Child Protection Act for offenses depicted on film undeveloped while under the control of an offender.

The current statute creates a dilemma for law enforcement agents and prosecutors in the case of undeveloped film. If the

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517 See, Letter from Joyce A. Karlin to Henry E. Hudson (Dec. 20, 1985).

518 Id.

indictment is brought while film if yet to be developed the depictions contained on the undeveloped film are not subject to prosecution. If the film is allowed to remain in the hands of the offender until developed it is virtually impossible to prevent the pictures from entering circulation which is the very harm sought to be eliminated. This amendment would end the dilemma and enable the prosecution of child pornography contained on undeveloped film possessed by the offender.

RECOMMENDATION 42:

CONGRESS SHOULD ENACT LEGISLATION PROVIDING FINANCIAL INCENTIVES FOR THE STATES TO INITIATE TASK FORCES ON CHILD PORNOGRAPHY AND RELATED CASES.

The responsibility for financial assistance for a task force program does not lie solely with the federal government, but the program should be the product of a coordinated financial effort between federal and state governments.[519] Federal programs and funding should reward state governments which assume their proper role in creating the task forces described below.

The task forces would consist of experts from different fields including the judiciary, law enforcement agents, and health professionals who would be charged with recommending and

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519 This Commission does not encourage or promote the concept of federal funding of programs which are properly withing the responsibility of state and local governments. The importance of this program, however, calls for a coordinated effort and an initial incentive plan.

implementing changes in the court system and methods to more effectively handle cases of child abuse and exploitation which result from the production and use of child pornography. Upon implementation of such task forces, federal funds would be provided to a state. Federal assistance of this nature would enable states to the task force approach more effectively and economically.

Enabling legislation should provide grants to state governments to establish, develop, implement or operate programs directed toward the treatment and prevention of child sexual abuse related to child pornography.[520] The programs should

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[520] Senator Paula Hawkins (R-Fla.) has introduced the Children's Justice Act which attempts to facilitate investigations and prevention of child sexual abuse. The bill provides:

SHORT TITLE

SECTION 1. This Act may be cited as the "Children's Justice Act".

CHILDREN'S JUSTICE GRANT

SEC. 2, Section 4 of the Child Abuse Prevention and Treatment Act is amended by -

(1) redesignating subsection (d), (e), (f), the first time such subsection appears, and (f), the second time such subsection appears, as subsection (e), (f), (g), and (h), respectively; and

(2) inserting after subsection (c) the following:

"(d) (1) In addition to grants made to States under subsection (b), the Secretary is authorized to make grants to States for the purpose of assisting States in the developing, establishing, operating, or implementing programs or procedures for -

"(A) handling child abuse cases, especially child

sexual abuse cases, in a manner which reduces the trauma to child victims;

"(B) improving the chances of successful prosecution or legal action against individuals who abuse children, especially individuals who sexually abuse children; or

"(C) improving procedures for protecting children from abuse,

in accordance with the eligibility requirements of this subsection. Grants under this subsection may be made to the State agency which administers funds received under subsection (a) or to an appropriate statewide law enforcement agency which has developed a child abuse program which meets the requirements of paragraph (2). The determination as to which agency of a State may apply for a grant pursuant to the preceding sentence shall be made by the chief executive officer of such State.

"(2) (A) In order for a State to qualify for assistance under this subsection, such State shall, except as provided in subparagraphs (B) and (C) -

"(i) establish a multidisciplinary task force as provided in paragraph (3); and

"(ii) adopt reforms recommended by the multidisciplinary task force in each of the three categories provided in subparagraphs (B), (C), and (D of paragraph (3).

For purposes of clause (ii), reforms may include proof that the State has made substantial improvement in implementing or enforcing State laws or administrative practices in effect on the date of enactment of the Children's Justice Act as recommended by the task force of such State under paragraph (3).

"(B) If the Secretary determines, at the request of any State on the basis of information submitted by the State that such State -

"(i) has established a multidisciplinary task force within the 3 years prior to the enactment of the Children's Justice Act with substantially the same functions as the multidisciplinary task force provided for under this subsection; and

"(ii) is making satisfactory progress toward developing, establishing, operating. or implementing the programs or procedures in each of the three categories provided in subparagraphs (B), (C), and (D) of paragraph (#) and will continue to do so,

then such State shall not be required to meet the requirements of Subparagraph (A).

"(C) A State may adopt reformed recommended by the task force of such State in less than all three of the categories provided in subparagraphs (B), (C), and (D) of paragraph (3), but in the event that a State fails to adopt any recommendation in a category the State shall submit to the Secretary a detailed explanation of the reasons for the State not planning to carry out any such omitted recommendation.

"(3) (A) Each State desiring to receive a grant under this subsection shall establish a multidisciplinary task force on children's justice composed of professionals experienced in the criminal justice system and its operation relating to issues of child abuse. The task force shall include representatives of the law enforcement community, judicial and legal officers including representatives of the prosecution and the defense, child protective services, child advocates, health and mental health professionals, and parents. Each State task force shall, for fiscal year 1987, review, analyze, and make recommendations for reforms needed to improve the response of such State to child abuse cases in each of the categories described in subparagraphs (B), (C), and (D).

"(B) A State shall provide for the handling of child abuse cases, especially child sexual abuse cases, in a manner which reduces the trauma to the child victim. Administrative procedures consistent with the reduction of trauma may include -

"(i) the establishment of interdisciplinary teams of child abuse professionals such as law enforcement officers, child protective service workers, prosecutors, child's advocates, mental health professionals, and medical personnel for handling child abuse cases;

"(ii) coordinated court proceedings for handling intrafamily child abuse; or

"(iii) providing for specialized training of law enforcement, legal, judicial, and child welfare personnel to deal with child abuse victims and their families.

"(C) A State shall establish reforms designed to improve the chances of successful prosecution or legal action against individuals who abuse children, especially individuals who sexually abuse children. Such reforms may include -

"(i) strengthening the State definition of child sexual abuse;

"(ii) modifications of certain evidentiary restrictions such as the corroboration requirement and the qualification of child abuse victims as witnesses to allow for the age of child abuse victims; or

"(iii) establishing procedures for the closed-circuit televising or videotaping of victim's testimony under circumstances which ensure procedural fairness while minimizing the trauma to the child abuse victim, especially child sexual abuse victim.

"(D) In order to improve procedures to protect children from abuse, especially sexual abuse, a State shall establish administrative reforms by law or, if possible, pursuant to law by administrative action, such as -

"(i) providing a guardian ad litem who is assigned to make an independent investigation and report to the court on recommendations regarding what action should be taken that would be in the best interests of the child;

"(ii) granting courts authority to grant civil protection orders to protect children from further abuse, or

"(iii) providing treatment programs for the individual who abuses children, especially the individual who sexually abuses children, and the abused child.

"(4) A grant authorized by this subsection may be made by the Secretary upon application which is made at such time or times and contains or is accompanied by such information as the Secretary may prescribe. Each such application

shall-

"(A) contain such assurances as may be necessary to evidence compliance with paragraphs (2) and (3);

"(B) contain assurances that the State will comply with the requirements of paragraph (2)(A)(ii) during the fiscal year for which the grant is made; and

"(C) provide for making such reports, in such form and containing such information as the Secretary may require to carry out his functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(5) (A) In order to assist the States in developing effective approaches to achieve the objectives set forth in paragraph (1), the Secretary, through the National Center on Child Abuse and Neglect established pursuant to section 2(a), shall -

"(i) compile, analyze, publish, and disseminate to each State a summary, including an evaluation of the effectiveness or lack thereof, of approaches being utilized, developed, or proposed with respect to improving the investigation and prosecution of child sexual abuse cases in a manner which reduces the trauma to the child victim along with such other materials or information as may be helpful to the States in developing or implementing programs or procedures to satisfy the requirements of this subsection;

"(ii) develop and disseminate to appropriate State and officials model training materials and procedures to help ensure that all law enforcement, legal, judicial, and child welfare personnel are adequately trained to deal with child sexual abuse victims; and

"(iii) provide for the support of research projects to assist in identifying effective approaches to achieving the objectives of this subsection.

"(B) Not later than two years after the date funds are obligated under section 5(b) for the first fiscal year, the Secretary shall -

"(i) review and evaluate the effectiveness of the activities carried out with such funds in achieving the

objectives of this subsection; and

"(ii) report to the appropriate committees of the Congress on the results of such review and evaluation and on the steps taken by the Secretary, through the National Center on Child Abuse and Neglect Center, to assist the States in achieving such objectives.

"(C) The summary, information, and materials required under subparagraph (A) shall be made available to appropriate State officials not later than 180 days after the date of the enactment of the Children's Justice Act."

AUTHORIZATION

SEC. 3. Section 5 of the Child Abuse Prevention Treatment Act is amended by -

(1) inserting "(a)" after "Sec. 5"; and

(2) inserting at the end thereof the following:

"(b) There are authorized to be appropriated $12,000,000 for each of the fiscal years 1987 and 1988 for the purposes of making grants under subsection (d) of section 4."

COORDINATION OF FEDERAL PROGRAMS INVOLVING CHILD ABUSE

SEC. 4. Section 7 of the Child Abuse Prevention and Treatment Act is amended by -

(1) inserting "(a)" after "Sec. 7."; and

(2) inserting at the end thereof the following:

"(b) (1) Within 180 days of the date of enactment of the Children's Justice Act and every 6 months thereafter, the Attorney General, the Secretary of Health and Human Services, Secretary of Education, and the head of any other agency or department designated by the President, or their designees, responsible for programs involving child abuse prevention and treatment shall meet for the purpose of coordinating such programs in order to -

"(A) prevent the overlap of such programs and the resulting waste of resources; and

"(B) assure that such programs effectively address all aspects of eh child abuse problem.

"(2) Within one year of the date of the enactment of the Children's Justice Act and annually thereafter, the Secretary of Health and Human Services shall report to Congress with respect to the actions carried out by agencies and departments of the United States for the purpose of coordinating programs involving child abuse prevention and treatment as provided in paragraph (1)."

MODIFICATION OF FBI OFFENSE CLASSIFICATION SYSTEM

Sec. 5. The Attorney General shall modify the classification system used by the National Crime Information Center in its Interstate Identification Index, and by the Identification Division of the Federal Bureau of Investigation in its Criminal File, and its Uniform Crime Reporting System with respect to offenses involving sexual exploitation of children by -

(1) including in the description of such offenses by the age of the victim and the relationship of the victim to the offenders; and

(2) classifying such offenses by using a uniform definition of a child.

AMENDMENT TO PUBLIC HEALTH SERVICE ACT

Sec. 6 (a) Section 523 of the Public Health Service Act (42 U.S.C. 290dd-3) is amended -

(1) by striking out "subsection (e)" in subsection (a) and inserting in lieu thereof "subsections (e) and (i)"; and

(2) by adding at the end the following new subsection:

"(i) Nothing in this section shall be construed to supersede the application of State and local requirements for the reporting of incidents of suspected child abuse to the appropriate State or local authorities."

(b) Section 527 of such Act (42 U.S.C. 290cc-3) is amended -

(1) by striking out "subsection (e) in subsection(a)

handle child sexual abuse cases resulting from the production of child pornography in a manner which reduces the trauma for the victims and the programs should implement procedures which lead to an increase in successful prosecutions against pornographers who sexually abuse children. The program should also present methods of protecting children from the sexual abuse associated with children pornography and related offenses. Many states undoubtedly will recognize the merit of this program and will take the initiative in implementing these procedures.

Congressional action should also address the need for an effective information network which is essential to law enforcement and social service agencies. The information should be assembled for immediate access to assist law enforcement officers as they proceed with a child pornography or related case. This information network should have specific connections with the Uniform Crime Reporting System operated by the Federal Bureau of Investigation. This type of legislation would facitilate the investigation of child sexual abuse and child

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and inserting in lieu thereof "subsections (e) and (i)"; and

(2) by adding at the end the following new subsection:

Amend the title so as to read "A bill to amend the Child Abuse Prevention and Treatment Act to establish a program to encourage States to enact child protection reforms which are designed to improve legal and administrative proceedings regarding the investigation and prosecution of the child abuse cases, especially child sexual abuse cases."

pornography cases and would lead to effective methods to curb the flow of child pornography and the continued sexual abuse of children.[521]

RECOMMENDATION 43:

CONGRESS SHOULD ENACT LEGISLATION TO MAKE THE ACTS OF CHILD SELLING OR CHILD PURCHASING, FOR THE PRODUCTION OF SEXUALLY EXPLICIT VISUAL DEPICTIONS, A FELONY.

Federal prosecutors have been frustrated in their attempts to convict child buyers under the existing laws because purchasing or selling a child is not presently a crime.[522] In one case involving the sale of children for use in the production of pornography the only resort was for the Assistant United States Attorney to prosecute the offender for an immigration violation.[523]

Specific legislation would provide additional protection for children and curb the production and distribution of child pornography. Federal prosecutors would have an additional tool available to further the goal of child protection.

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521 This data base should be coordinated with the information system recommended to law enforcement agencies.

522 Miami Hearing, Vol. II, Joyce Karlin, p. 170.

523 Id.

B. RECOMMENDATIONS FOR STATE LEGISLATION

RECOMMENDATION 44:

STATE LEGISLATURES SHOULD AMEND, IF NECESSARY, CHILD PORNOGRAPHY STATUTES TO INCLUDE FORFEITURE PROVISIONS.

For a general discussions of the use of forfeiture provisions, see, Chapter 2 of this Part.

RECOMMENDATION 45:

STATE LEGISLATURES SHOULD AMEND LAWS, WHERE NECESSARY, TO MAKE THE KNOWING POSSESSION OF CHILD PORNOGRAPHY, A FELONY.

The United States Supreme Court has called child pornography "a serious national problem."[524] In New York v. Ferber, the Court said that child pornography constitutes a permanent record of the children's participation in sexual activity, and the circulation of the pornography exacerbates the harm to the children. If the sexual abuse of children in pornography is to be curtailed the production and distribution network must be eliminated.[525]

Investigators have identified several uses of child pornography. The first use by pedophiles is for sexual arousal

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524 New York v. Ferber, 458 U.S. 747, 749(1982).

525 Id. at 759-60.

and gratification.[526] While some pedophiles only collect child pornography and fantasize through it, many have used it as a device to aid in the production of their own child pornography.

Child pornography is often used as part of a method of seducing child victims.[527] A child who is reluctant to engage in sexual activity with an adult or to pose for sexually explicit photos can sometimes be convinced by viewing other children having "fun" participating in the activity.[528] From a very early age children are taught to respect and believe material contained in books and will thus have the same beliefs about child pornography.[529]

A pedophile offender will use child pornography in which the children appear to be having a good time.[530] The offender uses this material to lower the inhibitions of the child and entice him or her into a desired activity. Children who view this material are also subject to a certain amount of peer pressure as they see other children engaged in the activity.

Child pornography is also used to illustrate the activities

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526 K. Lanning, Collectors, in Child Pornography and Sex Rings 86(A. Wolbert Burgess ed. 1984).

527 Id.

528 U.S. Department of Justice, Federal Bureau of Investigation, Child Molesting: A Behavorial Analysis for Law Enforcement 61 (1986).

529 Id.

530 Id.

in which the pedophile wishes a child to engage.[531] In such instances a pedophile offender shows the child the pornography and asks the child to imitate the pictures.

Pornographic depictions of a child may be used to blackmail the child.[532] The pedophile offender will use the pictures to intimidate the child. The pedophile offender will threaten the child with showing the pictures to others if the child does not cooperate.

Child pornography is also seen as a valuable commodity among pedophiles. Visual depictions may be traded or sold between collectors.[533] This subjects a child to repeated victimization by countless numbers of pedophiles and makes the child the object of the pedophile's sexual fantasies.[534] Child pornography which may have orginated as a homemade item may eventually be sold to a commercial child pornography publication.[535]

Child pornography has a life of its own. It is a permanent record of the victimization and sexual abuse of the child.[536]

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[531] Child pornography magazines frequently include pictures of children viewing child pornography and replicating the poses or scenes depicted therein. Miami Hearing, Vol. I, R.P. "Toby" Tyler, p. 176A4.

[532] Miami Hearing, Vol. II, Paul Der Ohannesian II, p. 51; See also, K. Lanning, Collectors, in Child Pornography and Sex Rings 86(A. Wolbert Burgess ed. 1984).

[533] K. Lanning, Collectors, in Child Pornography and Sex Rings 86(A. Wolbert Burgess ed. 1984).

[534] Id.

[535] Id.

[536] Miami Hearing, Vol. I, William Dworin, p. 30.

The depictions are timeless and may be distributed and circulated throughout the world for years after they are initially created. Each time the pornography is exchanged the children involved are victimized again.[537]

The harms to children from child pornography which the Supreme Court outlined in New York v. Ferber occur as a result of the existence of the material itself.[538] The enactment of criminal penalties for the possession of child pornography is essential if these harms are to be effectively curtailed.

Several states have recently recognized the inherent harm in child pornography and have enacted legislation prohibiting the possession of such material.[539] Only recently has this type of

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537 Washington, D.C., Vol. II, John, p. 47-48.

538 458 U.S. 747(1982).

539 See, e.g., "Sexual exploitation of a minor; classification A. A person commits sexual exploitation of a minor by knowingly:

1. Recording, filming, photographing, developing or duplicating any visual or print medium in which minors are engaged in sexual conduct.

2. Distributing, transporting, exhibiting, receiving, selling, purchasing, possessing or exchanging any visual or print medium in which minors are engaged in sexual conduct.

B. Sexual exploitation of a minor is a class 2 felony." Ariz. Rev. Stat. Ann. S13-3553(1984);

"A person who has in possession a photographic representation of sexual conduct which involves a minor, knowing or with reasons to know its content and character and that an actor or photographic subject in it, is guilty of a gross misdemeanor." Minn. Stat. S617.247(1984);

"A person who knowingly and willfully has in his possession any film, photograph or other visual presentation

legislation met any constitutional challenge.[540] This challenge has been premised on the Supreme Court's ruling in Stanley v. Georgia.[541]

In Stanley, police executed a search warrant on the defendant's residence seeking evidence of a suspected bookmaking operation.[542] They located three reels of eight millimeter film in a desk drawer and upon viewing the films, they charged the defendant with possession of obscene matter.[543] He was convicted before a jury.[544] The Supreme Court reversed the conviction and held that "the mere private possession of obscene matter cannot constitutionally be made a crime."[545]

The first constitutional challenge to a state statute prohibiting the possession of child pornography came on December

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depicting minors engaging in or simulating, or assisting others to engage in or simulate sexual conduct is guilty of a misdemeanor." Nev. Rev. Stat. S200.730(1984);

"(A) No person, with knowledge of the character of the material or performance involved, shall do any of the following:

(5) Possess or control any obscene material, that has a minor as one of its participants. With purpose to violate division (A)(2) or (4) of this section." Ohio Rev. Code Ann. S2907.321(1984).

540 Ohio v. Meadows, No. 84 CRB 25585, Slip op. (1st Dist. Dec. 18, 1985) cert. granted (Ohio Apr. 9, 1986) (No. 86-233).

541 394 U.S. 557(1969).

542 Id. at 558.

543 Id.

544 Id. at 558-59.

545 Id. at 559.

1, 1985. The first appellate district in Ohio found the state law prohibiting possession of child pornography[546] to be unconstitutional.[547] The analysis used in invalidating the statute was based upon the rationale of Stanley v. Georgia[548]. The Ohio statute was declared unconstitutional because the state could not punish the mere private possession of magazines "which depicted minors . . . engaging in sexual activity."[549] New York v. Ferber[550] was distinguished on the grounds that it dealt with distribution and not mere posssession of child pornography.[551] In finding the statute unconstitutional the Ohio court placed great significance on the language in Stanley where the Supreme Court rejected the contention by the state of Georgia that to eliminate the traffic in obscenity, it is necessary to bar mere private possession by an individual.[552]

In United States v. Miller,[553] the United States Court of

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546 R.C. 2907.321(a)(5) (1985).

547 Ohio v. Meadows, No. 84 CRB 25585, Sip op. (1st Dist. Dec. 18, 1985), cert. granted, (Ohio Apr. 9, 1986) (No 86-233).

548 395 U.S. 557(1969).

549 Ohio v. Meadows, No. 84 CRB 25585, Slip. op. (1st Dist. Dec. 18, 1985); cert. granted, (Ohio Apr. 9, 1986) No. 86-233).

550 458 U.S. 747(1982).

551 Ohio v. Meadows, No. 84 CRB 25585, Slip. op. at 9 (1st Dist., Dec. 18, 1985); cert. granted (Ohio Apr. 9, 1986) (No. 86-233).

552 Id. at 7.

553 776 F.2d 978(11th Cir. 1985), cert. denied. 54 U.S. L.W. 3698 (U.S. Apr. 22, 1986) (No. 85-1177).

Appeals for the Eleventh Circuit recently upheld the conviction of a defendant who received child pornography from Europe through the mail.[554] The defendant contended that 18 U.S.C. S2252 (a)(a) violated[555] his right to privacy and relied on Stanley for his claim that the statute was unconstitutional.[556] The court rejected the defendant's argument that the statute only applies to individuals who intend to distribute child pornography.557 However, in considering the privacy issue, the court said "prior decisions on the issue of the right to possess obscene materials are controlling in our analysis of this case.[558]

The court relied on several obscenity decisions in which the Supreme Court rejected the argument that Stanley created a right to import or receive obscene materials for private use.[559] The court concluded that Stanley cannot be expanded to create a right to receive child pornography through the mail.[560]

Any reliance on the rationale of Stanley or other obscenity

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554 Id.

555 This provision of the Child Protection Act provides penalties for any person who "knowingly receives or distributes any visual depiction . . . ."

556 776 F.2d at 980.

557 Id. at 979.

558 Id. at 980 n. 4.

559 Id. The court of appeals relied on United States v. Reidel, 402 U.S. 351(1971); United v. 12 200 Ft. Reels, 413 U.S. 123(1973); United States v. 37 Photographs, 402 U.S. 363(1971); United States v. Orito, 413 U.S. 139(1973).

560 Id. at 981.

cases with respect to a prohibition against the possession of child pornography is misplaced. Stanley upheld an individual's right to privately possess obscene material.[561] The prevailing obscenity standard at the time of the Stanley decision was contained in Roth v. United States.[562] Roth has since been modified in most jurisdictions by Miller v. California.[563]

In New York v. Ferber,[564] the Supreme Court upheld a New York law prohibiting the promotion of sexually explicit depictions of children that were not obscene under Miller.[565] In Ferber, the Court reasoned that the Miller standard, like all general definitions of what may be banned as obscene, does not reflect the state's particular and more compelling interest in prosecuting those who promote the sexual exploitation of children. The question under the Miller test of whether a work, taken as a whole, appeals to the prurient interest of the average person bears no connection to the issue of whether a child has been physically or psychologically harmed in the production of the work. Similarly, a sexually explicit depiction need not be "patently offensive" in order to have sexually exploited a child through its production. In addition, a work which, taken as a whole, contains serious literary, artistic, political or

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561 394 U.S. at 559.

562 354 U.S. 476(1957).

563 413 U.S. 15(1973).

564 458 U.S. 747(1982).

565 Id. at 760-61.

scientific value may nevertheless embody the most grevious form of child pornography. The Supreme Court reasoned in Ferber, "It is irrelevant to the child [who has been abused] whether or not the material . . . has a literary, artistic, political or social value. Memorandum of Assemblyman Lasher in Support of S263.15. We therefore cannot conclude that the Miller standard is a satisfactory solution to the child pornography problem."[566]

Any analysis concerning the constitutionality of laws prohibiting the possession of child pornography should not be made as a parallel to obscenity statutes. The Supreme Court has clearly distinguished the standards to be applied to child pornography laws and adult obscenity statutes.[567]

The Supreme Court stated in Ferber that "the nature of the harm to be combatted requires that the state offense be limited to works that visually depict sexual conduct by children below a specified age."[568] The Court went on to clarify its statement by noting that "the distribution of descriptions or other depictions of sexual conduct, not otherwise obscene, which do not involve live performance or photographic or other visual reproduction of live performances, retains First Amendment protection."[569]

The obscenity precedent is clearly inapplicable to a challenge against a statute in which the offense described

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566 Id. at 761.

567 458 U.S. 747(1982).

568 Id. at 764.

569 Id. at 764-65.

clearly involved visual depictions of children engaged in sexual activities.[570]

The rationale underlying the Supreme Court's ruling in Stanley is vastly different from that in Ferber. In Stanley, the Court upheld the defendant's right to "read or observe what he pleases - the right to satisfy his intellectual and emotional needs in the privacy of his own home . . . free from state inquiry into the contents of his library."[571] The Court also found, at that time, "little empirical basis" for the assertion made by the state of Georgia that "exposure to obscene materials may lead to deviant sexual behavior or crimes of sexual violence."[572] However, the Court added in a footnote:

> What we have said in no way infringes upon the power of the State or Federal Government to make possession of other items, such as narcotics, firearms, or stolen goods, a crime. Our holding in the present case turns upon the Georgia statute's infringement of fundamental liberties protected by the First and Fourteenth Amendments. No First Amendment rights are involved in most statutes making mere possession criminal.
>
> Nor do we mean to express any opinion on statutes making criminal possession of other types of printed, filmed, or recorded materials. See, e.g., 18 U.S.C. S793 (d), which makes criminal the otherwise lawful possession of materials which "the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation . . ." In such cases, compelling reasons may exist for over-

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570 Ohio v. Meadows, supra note 540, at 24; 18 U.S.C. S2252(a)(2).

571 394 U.S. at 565.

572 Id. at 566. This Commission has found evidence of harm from exposure to pornography based upon ecidence produced since the Stanley decision, See, Textual discussion of harms in Part Two, supra.

riding the right of the individual to possess those materials.[573]

While Ferber admittedly dealt with a statute prohibiting the distribution of child pornography, the decision recognized compelling reasons for overriding the right of an individual to possess child pornography.[574] The Court found that "it is evident beyond the need for elaboration that a state's interest in safeguarding the physical and psychological well-being of a minor is °compelling'.[575] While the Court in Stanley found little evidence then existing that exposure to obscene materials may lead to deviant sexual behavior or crimes of violence,[576] the Court clearly states in Ferber that "the legislative judgment, as well as the judgment found in the relevant literature, is that the use of children as subjects of pornographic materials is harmful to the physiological, emotional, and mental health of the child."[577] Child pornography constitutes a permanant record of the sexual abuse of the child and the harm to the child is exacerbated by the circulation of the material.[578] The very existence of child pornography harms the children who are

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573 Id. at 568, n. 11.

574 Id. at 568.

575 Id. at 756-57.

576 394 U.S. at 566.

577 458 U.S. at 758.

578 Id. at 759.

depicted. According to one child psychiatrist quoted in Ferber, "the victim's knowledge of publication of the visual material increases the emotional and psychic harm suffered by the child."[579] With respect to obscene materials in Stanley, the Court found the privacy rights of the individual to be the overriding concern. In Ferber, however, the Court clearly found the harm suffered by minors to be of paramount importance. The focus of the protection constitutes a major distinction between these two landmark decisions. The Ferber Court's concern for minors included the consideration that when child pornography is produced and distributed, the child's privacy interests are violated.[580]

The Court in Stanley rejected the argument that prohibition of the possession of obscene materials is a necessary incident to statutory schemes prohibiting distribution.[581] In Ferber, the Court recognized that it may be difficult, if not impossible, to stop the sexual exploitation of children by pursuing only those who produce child pornography.[582] Citing the clandestine nature of the child pornography trade, the Court noted that "the only practical method of law enforcement may be to dry up the market for this material . . . ."[583] The prohibition of the mere

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579 Id. at n. 10.

580 Id. at 758, n. 9.

581 394 U.S. at 567.

582 458 U.S. at 760.

583 Id.

possession of child pornography is a necessary incident to "drying up the market" for a product the Supreme Court has found to be extremely harmful to the youth of the nation. Such laws are also entirely consistent with the objectives sought to be attained by the Court in Ferber and should not be confused with other considerations relevant in the obscenity law context.

RECOMMENDATION 46:

STATE LEGISLATURES SHOULD AMEND, IF NECESSARY, LAWS MAKING THE SEXUAL ABUSE OF CHILDREN, THROUGH THE PRODUCTION OF SEXUALLY EXPLICIT VISUAL DEPICTIONS, A FELONY.

The sexual exploitation of children is the basis for the production and distribution of child pornography.[584] The production and distribution of child pornography is done in a largely clandestine fashion which makes law enforcement efforts to curb the dissemination more difficult.[585]

The classification of an offense of the sexual abuse of children in connection with child pornography as a felony gives notice to child pornographers and child sexual abusers who produce child pornography that they will be dealt with in a serious manner. An offense classified as a felony receives more attention within the prosecutor's office than the same offense classified as a misdemeanor. The enhanced priority will

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584 Miami Hearing, Vol. I, William Dworin, p. 30.

585 Washington, D.C., Hearing, Vol. I, Daniel Mihalko, p. 145.

undoubtedly lead to more effective enforcement and prosecution.

RECOMMENDATION 47:

STATE LEGISLATURES SHOULD ENACT LEGISLATION, IF NECESSARY, TO MAKE THE CONSPIRACY TO PRODUCE, DISTRIBUTE, GIVE AWAY, OR EXHIBIT ANY SEXUALLY EXPLICIT VISUAL DEPICTIONS OF CHILDREN OR EXCHANGE OR DELIVER CHILDREN FOR SUCH PURPOSES A FELONY.

Individuals involved in the child pornography trade may often form networks with local, national and international connections.[586] A clergyman who operated a farm for wayward boys used the boys who lived on the farm to engage in sexual acts with sponsors of the farm. The sexual activities episodes were filmed and sold as souvenirs to the sponsors.[587]

In another circumstance, a Boy Scout troop of forty boys was created to provide sexual services to the adult men who accompanied them on outings. The troop leaders also filmed the activities.[588]

Pedophile offenders and child pornographers use such networks as a means to trade, exchange, and traffic in child pornography.[589] They may also use the contacts they make through

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586 Miami Hearing, Vol. II, Seth Goldstein, p. 285X6; During an investigation in Los Angeles California, police found a mailing list of 5,000 customers of child pornography distributor Catherine Wilson. Miami Hearing, Vol. II, Joyce Karlin, p. 149.

587 Id.

588 Id. at 285X18.

589 Id.

this network to locate potential child victims.[590]

The existence of these networks of pedophile offenders and child pornographers along with the magnitude of the harm they may inflict makes it imperative that state legislatures act, where existing laws are deficient, to make the consipiracy to produce, distribute, give away or exhibit any sexually explicit visual depictions of children or to exchange or deliver children for such purpose a felony.

RECOMMENDATION 48:

STATE LEGISLATURES SHOULD AMEND, IF NECESSARY, CHILD PORNOGRAPHY LAWS, TO CREATE A FELONY OFFENSE FOR ADVERTISING, SELLING, PURCHASING, BARTERING, EXCHANGING, GIVING OR RECEIVING INFORMATION AS TO WHERE SEXUALLY EXPLICIT MATERIALS DEPICTING CHILDREN CAN BE FOUND.

Many people who produce and exchange child pornography have created intricate networks of information. They may join together for the purpose of trading children or trading information about the children.[591] Some pedophiles and child pornographers have formed associations which have national membership.[592]

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590 Id.

591 Washington, D.C. Hearing, Vol. I, Daniel Mihalko, p. 147-48.

592 The North American Man-Love Boy Association is commonly referred to as NAMBLA. NAMBLA publishes the Bulletin and supports laws that would abolish the minimum age for consensual

Since child pornography is primarily a covert cottage industry, pedophiles who are child sexual abusers may use various underground publications or child pornography publications to place advertisements for children or child pornography.[593] Advertisements often are presented in coded language[594] or they may be explicit and direct.[595] The ability to easily obtain information regarding the location of children and child pornography allows pedophiles and child pornographers who collect child pornography to continue the exploitation of children.

Legislation is needed to prohibit the advertising, selling, purchasing, bartering, exchanging, giving or receiving of information as to where children or child pornography may be found. The penalty for a violation of the new legislation should

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sexual acts. This group is recognized as an association of and for pedophiles. The Rene Guyon Society of which Tim O'Hara is founder and president, has the motto of "Sex before eight [years of age], or it's too late." PIE: Pedophile Information Exchange, has a worldwide newsletter which serves as a contact agency for pedophiles.

593 Miami Hearing, Vol. I, R.P. "Toby" Tyler, p. 176A5.

594 Coded advertisements may provide:

> "Family man seeks other with similar interest." Swing. Issue 45, p. 18. Dawn Media, San Diego, CA (1982);
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> "Pretty mother with pretty young daughters invites inquiries from gentlemen anywhere, who are interested in meeting us or in photography." Lolita. Issue 48; Id.

595 "Love them young and innocent! Will buy photos, magazines, video tapes of young girls or boys . . . ." (Display advertisement) Wonderland: Newsletter of the Lewis Carroll Collectors Guild, No. 6:6(1984). Id.

be a felony. Legislation directed at curbing the flow of child pornography and information related to its production and distribution will enable law enforcement agents to attack the methods of child sexual abusers.

It is well recognized that the advertisement of material which is illegal constitutionally may be prohibited.[596] Since child pornography is illegal, states may enact statutes to prohibit the advertising of such material. States may enact legislation which would regulate the exchange of this information and would assist in impeding the flow of child pornogiaphy. The Congress addressed this issue on an interstate level in the Child Protection Act of 1984.[597]

RECOMMENDATION 49:

STATE LEGISLATURES SHOULD AMEND, IF NECESSARY, LAWS TO MAKE THE ACTS OF CHILD SELLING OR CHILD PURCHASING, FOR THE PRODUCTION OF SEXUALLY EXPLICIT VISUAL DEPICTIONS, A FELONY.

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596 See, Central Hudson Gas & Electric Corp. v. Public Utility Service Commission of New York, 447 U.S. 557(1980). In addressing the issue of regulating commercial speech, the Court formulated a four-part test:

At the outset, we must determine whether the expression is protected by the First Amendment. For commercial speech to come within that provision, it at least must concern lawful activity and not be misleading. Next, we ask whether the asserted governmental interest is substantial. If both inquiries yield positive answers, we must determine whether the regulation directly advanced the governmental interest asserted and whether it is not more extensive than is necessary to serve that interest. 447 U.S. at 466.

597 18 U.S.C. SS2251-2252(1985).

Participants in international and local child sex tours provide children for pornography and prostitution.[598] Some of these sex rings use child members to recruit new members[599] and involve adults using many different children.[600] Children are purchased or exchanged in the same way the resulting pornography is sold or traded.[601]

Children have been purchased from Mexico and the Dominican Republic.[602] Yakusa, an organized crime entity in Japan, is actively involved in the trading of children.[603] When these children are brought into this country they may be traded further, used in child pornography or tortured for sexual pleasure.[604] For example, a teacher in Los Angeles imported young boys from Guatemala and El Salvador for sexual activity.[605]

RECOMMENDATION 50:

STATE LEGISLATURES SHOULD AMEND LAWS, WHERE NECESSARY, TO MAKE CHILD PORNOGRAPHY IN THE POSSESSION OF AN ALLEGED CHILD SEXUAL ABUSER WHICH DEPICTS THAT PERSON ENGAGED IN SEXUAL ACTS WITH A

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598 Miami Hearing, Vol. I, Kenneth Hermann, p. 119.

599 Id.

600 Id.

601 Id.

602 Id. at 124-25.

603 Id. at 131.

604 Id. at 121.

605 Id. at 132.

MINOR SUFFICIENT EVIDENCE OF CHILD MOLESTATION FOR USE IN THE PROSECUTING THAT INDIVIDUAL WHETHER OR NOT THE CHILD INVOLVED IS FOUND OR IS ABLE TO TESTIFY.

Law enforcement officers and prosecutors often are unable to successfully obtain a conviction against an individual on a charge of child molestation because they are unable to locate the child.[606] An amendment to state statutes which recognizes visual depictions of the molestation as sufficient evidence of the molestation, if all other elements of the crime can be proven, will make current law enforcement efforts more effective.

Such visual depictions are nothing more than records of actual child molestation.[607] Law enforcement efforts should not be barred because the children cannot be identified or located.

In New York, law enforcement authorities located photographs of an adult male engaging in numerous sexual acts with children.[608] The identity of the adult is known to the authorities, but they can take no action against him for those sexual offenses because the child depicted in the photographs cannot be identified.[609]

Police in Columbus, Ohio, seized photographs of an adult male engaged in sexual acts with two young girls aged nine and

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606 Miami Hearing, Vol. II, William Cassidy, p. 201-02.

607 See, New York v. Ferber, 458 U.S. 747(1982).

608 Miami Hearing, Vol. II, Paul Der Ohannesian, p. 64.

609 Id.

ten.[610] They could bring no charges for the child sexual abuse offense until the girls could be located.[611]

RECOMMENDATION 51:

STATE LEGISLATURES SHOULD AMEND LAWS, IF NECESSARY, TO ELIMINATE REQUIREMENTS THAT THE PROSECUTION IDENTIFY OR PRODUCE TESTIMONY FROM THE CHILD WHO IS DEPICTED IF PROOF OF AGE CAN OTHERWISE BE ESTABLISHED.

Prosecutors are often unable to produce the victim of child pornography to testify at trial as to his or her age.[612] The amendment would allow testimony from a third party as to the age of the child depicted. The testimony may come from relatives or friends of the child if the child is identified but he or she is not located. In addition the prosecution may use an expert witness to testify as to the age of the child based upon physiological characteristics.

The testimony based upon the depictions should be used only for proof of age. The depictions, when entered into evidence, should serve as the basis for this testimony from an expert or other qualified person as to the age of the child shown.

Prior to 1985 a child pornography prosecution in Maryland could not go forward unless the child depicted in the material

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610 Miami Hearing, Vol. II, William Cassidy, p. 201-02.

611 Id.

612 Id. at 204.

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was present to testify that he or she was under the age of sixteen at the time the pornography was produced.[613] Many cases were not prosecuted because this element of proof could not be met when the child victims could not be located.[614] The Maryland legislature enacted a law providing that of a child's age may be proved by:

1. personal inspection of the child.
2. oral testimony of age.
3. expert medical testimony.
4. observation of the child as depicted in the material.
5. any other method authorized by applicable law or rules of evidence.[615]

States may find the approach taken by the Maryland legislature an effective method to overcome the barriers associated with determining the age of a child pornography victim. This approach allows the use of several alternate forms of reliable evidence.

RECOMMENDATION 52:

STATE LEGISLATURES SHOULD ENACT OR AMEND LEGISLATION, IF NECESSARY, WHICH REQUIRE PHOTO FINISHING LABORATORIES TO REPORT SUSPECTED CHILD PORNOGRAPHY.

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613 Miami Hearing, Vol. II, Alfred Danna, p. 283.

614 Id.

615 Miami Hearing, Vol. II, Alfred Danna, p. 284J.

Pedophile offenders privately produce a great quantity of the child pornography.[616] Some child pornographers may have facilities in their homes to develop the photographs, but many producers most must use commercial photo finishing laboratories.[617]

Effective law enforcement practices should include efforts to reach the photo finishing process. One Federal prosecutor told this Commission,". . . there can be little doubt that photo finishers provide a key link in the chain of distribution of child pornography."[618] The photo finishers should be told clearly by law enforcement agencies the type of materials which are sought. The description may mirror the definition found in the Child Protection Act or their respective state laws.[619] Photo finishers also should be clearly told what responsibilities they have as well as the sanctions they may face for neglect of duty.

In an attempt to address this problem the California legislature amended the Child Abuse Reporting Law.[620] The

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616 Washington, D.C., Hearing, Vol. I, Daniel Mihalko, p. 145.

617 Id.

618 Chicago Hearing, Vol. II, Frederick Scullin, p. 44.

619 18 U.S.C. S2252(1985).

620 The statute provides in part,

> Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, negative, or slide in which a child is engaged in an act of obscene sexual conduct,

California law has resulted in an increased effectiveness in law enforcement efforts without a noticable incidence of spurious reporting.

Although state and local law enforcement officials must be aware of the special problems associated with automated photo finishers these establishments should not be excused from compliance.

RECOMMENDATION 53:

STATE LEGISLATURES SHOULD AMEND OR ENACT LEGISLATION, IF NECESSARY, TO PERMIT JUDGES TO IMPOSE A SENTENCE OF LIFETIME PROBATION FOR CONVICTED CHILD PORNOGRAPHERS AND RELATED OFFENDERS.

Many people convicted of child pornography and related offenses present unique problems for the judicial and penal systems. The recidivist rate for pedophile offenders who act on their sexual desires is second only to exhibitionists.[621]

An effective method of balancing the needs of the offender and the need to protect society may be the use of a sentence of lifetime probation. The state legislatures may amend their sentencing statutes to provide for supervised as well as

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except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3. Cal. Penal Code. S11165 (West 1985).

621 American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders 271(3d ed. 1980).

unsupervised probation.

This amendment would give judges and probation officers a tool to moniter convicted child pornographers who pose a specific threat to society. The availability of unsupervised probation may become an important tool in the event the offender repeats the crime or a similar offense. Although unsupervised, the probation still holds the threat of future incarceration and allows the state to retain jurisdiction over the person.

C. RECOMMENDATIONS FOR FEDERAL LAW ENFORCEMENT AGENCIES

RECOMMENDATION 54:

THE STATE DEPARTMENT, THE UNITED STATES DEPARTMENT OF JUSTICE, THE UNITED STATES CUSTOMS SERVICE, THE UNITED STATES POSTAL INSPECTION SERVICE, THE FEDERAL BUREAU OF INVESTIGATION AND OTHER FEDERAL AGENCIES SHOULD CONTINUE TO WORK WITH OTHER NATIONS TO DETECT AND INTERCEPT CHILD PORNOGRAPHY.

Child pornography and the sexual abuse of children has overwhelming international aspects. While some child pornography originates in Europe many of the children depicted are American citizens.[622] A pedophile offender will put together a collection of photos either for his personal use, or in direct response to

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622 Miami Hearing, Vol. I, R.P. "Toby" Tyler, p. 156-57.

solicitations by one or more pornography distributors. The photos are then sent to a commercial distributor where they are compiled into a commercial-type publications.623

The pedophile offender may reside anywhere in the world. The countries where consumers have been identified include the United States, Canada, United Kingdom, France, Italy, Federal Republic of Germany, Belgium, Sweden, Denmark, the Netherlands, Czechoslovakia, Poland, Saudi Arabia, Egypt, Thailand, the Philiphines, Hong Kong, Singapore, Australia and Japan.

A commercial publication is distributed by mail thoughout the world, in addition, photos sets are sold to individual consumers. In one instance, photos were sold in sets of twelve photographs for $100, forty photographs for $300, or six hundred negatives for $5,000.

In another instance, positive photographic images (slides) were sent to a consumer by COQ International. The positives were used to make negatives and the negatives used to print photo sets. The sets were then sold, along with photos of models recruited by the United States producers for fifteen to thirty-five dollars for a set of six to ten. The same producer also offered special photo sets, custom ordered by the consumer, for two hundred to four hundred dollars per set. He called the service "sponsor a model."

In one case, two special agents from the United States

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623 These commercial publications include Lolitot, and Lolita.

Customs Service corresponded with a distributor of child pornography photos from Bangkok. Evidence was purchased by the agents with the intent to forward it to the customs attache in Bangkok, Thailand, and to refer to the case to the Thai authories. The Thais, however, preferred that the agents travel to Bangkok in the undercover capacities established in the correspondence. The agents would then purchase child pornography leading to an arrest.

While arrangments were being made for the agents to travel to Bangkok, it was discovered that the offender had been indicted in Detroit, Michigan, in 1981 for the distribution of child pornography.

A procedure for establishing undercover identities for agents to travel abroad was non-existent. After much difficulty appropriate identities were established with Justice Department and State Department assistance.

The offender had been selling sets of photographs to his customers, packaged discretely in letter class mail. In his final lettes to the agents before their departure for Bangkok, he offered to sell six hundred negatives for of $5,000. The agents and the Thais decided to pursue this purchase. One agent posed as a distributor of child pornography and the other as a pedophile.

Upon meeting the offender, the agents were led through Bangkok to avoid surveillance, the offender checked the agents' passports to ascertain their identities, and to ensure that they

lawfully entered Thailand. He turned over the final installment of the last photo set purchased by one of the agents, and arrangements were discussed for the purchase of the negatives, use of the children he had promised in his correspondence, and the availability of heroin and marijuana. A meeting was arranged for the following day.

The offender was subsequently arrested based on the evidence contained in the correspondence to the customs agent prior to the arrest. Agents discovered several volumes of photographs, hundreds of photos and negatives and paperback books, all depicting explicit sexual activity between adults and children in his apartment. In addition, address books, sexual paraphernalia, travel diaries, and a copy of his 1981 indictment in Detroit were also discovered.

The defendant has plead guilty to all counts, and is scheduled to be sentenced in Thailand.

Child pornography magazine publishers and filmmakers obtain photographs and movies of children from offenders and reprint them for commercial sale.[624] The United States is also the largest consumer of internationally produced child pornography.[625]

To break this circle of distribution, agencies empowered to interact with foreign countries should exercise their powers to curb the sexual exploitation of children.

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624 Id.

625 Id.

These agencies face an initial hurdle caused by cultural differences and views of child sexuality. In contrast to the laws protecting children under the age of eighteen in the United States the age of majority in Northern Europe is generally sixteen.[626] In 1985 a bill was introduced before the Dutch parliament would lower the age of sexual consent to twelve.

The State Department, the United States Department of Justice and the United States Customs Service should continue efforts to negotiate with foreign countries to curb the flow of child pornography. In the past, these efforts have taken the form of suggesting legislative reforms. Although legislation which would effectively combat child pornography is still pending in Denmark, a Danish judge recently found child pornography to be offensive to public decency.[627]

To supplement the broad diplomatic efforts of the State Department specific federal agencies should continue their efforts to control the distribution of child pornography.[628]

Because most of the commercial pornography is imported from European sources, much of the burden of intercepting these

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626 Washington, D.C., Hearing, Vol. II, John Forbes, p. 278.

627 Washington, D.C., Hearing, Vol. I, Daniel Harrington, p. 142.

628 The United States Custom Service should take a leadership role in these efforts. The Customs Service has resources and expertise to conduct international investigations. The Customs Service should take advantage of the resources of the Untied States Postal Service and the Department of Justice particularly in domestic matters.

material falls on the United States Customs Service. The Customs Service has the authority to search persons and items at the borders[629] and Customs officers may detain and search any person and property entering the United States without the necessity of a search warrant.[630]

The Customs Service has detected a wide variety of obscene and child pornography materials in the mails including materials which depict such acts as sado-masochism, urination, defecation and bestiality.[631]

In January 1985 an inter-agency task force of agents from the United States Postal Inspection Service, the United States Customs Service, Department of State and the Federal Bureau of Investigation visited several European source countries of child pornography. These nations included Denmark, Sweden and the Netherlands. The agencies sought the assistance of the foreign governments to prevent the distribution of child pornography.

The Commission applauds the efforts of these departments and agencies but encourages enhanced cooperation and detection efforts. A united effort is the only means to an effective and lasting remedy for the overwhelming child pornography problem. The agencies must continually increase their efforts to combat the flow of child pornography.

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629 Washington, D.C., Hearing, Vol. II, Richard Miller, p. 267.

630 Id.

631 Id.

RECOMMENNDATION 55:

THE UNITED STATES DEPARTMENT OF JUSTICE SHOULD DIRECT THE LAW ENFORCEMENT COORDINATING COMMITTEES TO FORM TASK FORCES OF DEDICATED AND EXPERIENCED INVESTIGATORS AND PROSECUTORS IN MAJOR REGIONS TO COMBAT CHILD PORNOGRAPHY.

The Law Enforcement Coordinating Committees (LECCs), as fully discussed in the Recommendations to Law Enforcement Agencies, provide the basis for effective law enforcement efforts. In the area of child pornography violations, LECCs should use information and assistance available from drug and alcohol abuse programs and other social service agencies. The expertise available through the various social service agencies should be tapped to provide law enforcement agencies with a completely effective enforcement effort.

RECOMMENDATION 56:

THE DEPARTMENT OF JUSTICE OR OTHER APPROPRIATE FEDERAL AGENCY SHOULD INITIATE THE CREATION OF A DATA BASE WHICH WOULD SERVE AS A RESOURCE NETWORK FOR FEDERAL, STATE AND LOCAL LAW ENFORCEMENT AGENCIES TO SEND AND OBTAIN INFORMATION REGARDING CHILD PORNOGRAPHY TRAFFICKING.

The United States Department of Justice or other appropriate federal agency should create a data base as a source of central and accessible information regarding child pornography. This data base should be integrated into the data base recommended in

the Law Enforcement Chapter of this report.[632]

The data base should include photographs obtained from searches, photographs of missing or abandoned children, the names of defendants and their contacts. It should also include records of the declination of prosecution of any case and the reasons therefor. The data base will allow federal, state and local law enforcement officials to draw on information gathered nationwide. The data base should allow an agency to submit as well as retrieve information.

RECOMMENDATION 57:

FEDERAL LAW ENFORCEMENT AGENCIES SHOULD DEVELOP AND MAINTAIN CONTINUOUS TRAINING PROGRAMS FOR AGENTS IN TECHNIQUES OF CHILD PORNOGRAPHY INVESTIGATIONS.

The most important factor in the effective enforcement of child pornography and related child sexual abuse laws is well-trained law enforcement personnel. Each law enforcement agency should have at least one member of its staff who is specifically trained to investigate and apprehend individuals involved in child pornography and related cases. At least one officer should be trained and possess the expertise necessary to conduct a thorough child sexual exploitation investigation. This training

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632 This data base also should use the resources of the Child Pornography and Protection Unit (CPPU) established by the United States Customs Service. This CPPU data base has been designed to serve as a resource network for federal, state and local law enforcement agencies to store and receive information.

may be conducted through the Federal Law Enforcement Training Center.

Law enforcement officers who are assigned to a child pornography or related unit face additional emotional pressures because of the insidious nature of child pornography. Officers may be required to view significant quantities of child pornography or deal with young victims during the course of their investigations. Training programs should emphasize the special psychological needs of law enforcement officers and they should offer assistance to alleviate the emotional stress.

A second area which training programs should address is the alienation an officer may encounter from other law enforcement officers.[633] These officers often receive minimal assistance and virtually no emotional support from their peers. The training programs should be used to educate officers assigned to a child pornography or related unit as to the types of behavior they may encounter. In addition, all officers within a department or agency should be trained with an awareness toward the difficulties encountered by officers who are assigned to child pornography or related cases.

Designated personnel should be required to participate in continuous training programs. These continuing education programs may be conducted through the LECC.[634] These programs have generally resulted in an increased awareness of the problem

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633 New York Hearing, Vol. I, Carl Shoffler, p. 277-28.

634 Miami Hearing, Vol. II, Paul Der Ohannesian, p. 61-62.

of child pornography and its relationship to sexual abuse.[635]

RECOMMENDATION 58:

FEDERAL LAW ENFORCEMENT AGENCIES SHOULD HAVE PERSONNEL TRAINED IN CHILD PORNOGRAPHY INVESTIGATION AND WHEN POSSIBLE THEY SHOULD FORM SPECIALIZED UNITS FOR CHILD SEXUAL ABUSE AND CHILD PORNOGRAPHY INVESTIGATION.

Agencies with large enough field offices in communities with adequate resources should include a specialized unit within the law enforcement agency to specifically investigate and related child pornography and related child sexual abuse cases. These trained agents in field offices will be able to actively investigate child pornography cases with an understanding of the particular local or regional problems. The specialized unit allows an officer to acquire and implement expertise in the area and enhance overall law enforcement efforts.

While this approach should not require additional personnel or expense, it will allow the agency to use its existing personnel more efficiently. Trained officers will be able to devote their time to these investigations. Other investigators should reassign the case to an expert within the unit to maintain efficiency and expertise.

The Commission believes that effective and efficient law enforcement is achieved through education, training and

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635 Id.

experience. These programs would enable law enforcement agencies to extract the maximum expertise from the personnel within their department.

RECOMMENDATION 59:

FEDERAL LAW ENFORCEMENT AGENCIES SHOULD USE SEARCH WARRANTS IN CHILD PORNOGRAPHY AND RELATED CASES EXPEDITIOUSLY AS A MEANS OF GATHERING EVIDENCE AND FURTHERING OVERALL INVESTIGATION EFFORTS IN THE CHILD PORNOGRAPHY AREA.

One of the most powerful investigative tools available to law enforcement agents is a search warrant. When used in child pornography and related child sexual abuse cases, a search warrant is unique in its ability to "make or break" an investigation.

Pedophile offenders are "collectors" and will retain photographs, magazines, movies, video tapes and correspondence relating to children for many years. Many of the items collected may not be child pornography. Collections often include "child erotica" which will include "innocent" depictions of children.[636] The discovery of these collections has often unlocked the door to a wealth of information by providing a record of the life and activities of an offender.

In a child pornography investigation executing a search warrant on the suspect's residence may yield photos of the

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636 Miami Hearing, Vol. I, Kenneth Lanning, p. 238.

individual engaged in sex with children thus supporting additional charges for child sexual abuse.[637] Pedophile offenders often maintain diaries recording their sexual encounters with children.[638] When a suspect uses a computer to store information regarding communications with other offenders or as a personal diary the search should also include access to computer equipment and records.[639]

In New York, police executed a search warrant on the residence of a suspected child molester and found he kept a complete folder on each of his victims including photographs and records of the dates the victim was in his home.[640] An experienced proscecutor has reported that in one half of child sexual abuse cases, proper searches recover photos of the defendant engaged in sexual acts with children.[641]

A collection of "child erotica" may help to identify the individual as an offender,[642] and may strengthen the prosecution case. This is especially true when proving intent is critical. A wrestling coach accused of fondling a juvenile who claims he was merely demonstrating a wrestling hold or technique would receive closer attention if a search of his residence yields

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637 Miami Hearing, Vol. I, William Dworin, p. 44.

638 Id. at 33.

639 Miami Hearing, Vol. I, Paul Hartman, p. 106.

640 Miami Hearing, Vol. II, Paul Der Ohannesian, p. 52.

641 Id. at 77.

642 Id. at 232, 235.

child erotica in the form of writings about such acts and the pleasure he derived from them.

Law enforcement officers located child pornography consumers in many states as a result of the seizure of Catherine "Black Cathy" Wilson's mailing list.[643] One person on the list was an Episcopal priest living in Baltimore, Maryland.[644] Baltimore police were able to execute a search warrant on his home and seize the individual's album of sexually explicit photos of young boys based upon this information.[645] They found "love letters" from the victims and additional pornography.[646] Police subsequently were able to locate one of the boys who was molested by the priest.[647]

The United States Customs office, in Ft. Lauderdale, Florida, and United States Postal Inspectors were conducting a joint child pornography investigation in the Ft. Lauderdale area. During the course of the investigation, a business named "Sun Images" was identified as a producer and distributor of child pornography in the United States. Sun Images was located in Ft. Lauderdale, Florida. The owner and operator of Sun Images was identified. Further investigation revealed that Sun Images was

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643 Id. at 240; Miami Hearing, Vol. I, Robert Northrup, p. 221-22.

644 Miami Hearing, Vol. I, Robert Northrup, p. 212-13.

645 Miami Hearing, Vol. II, Kenneth Elsesser, p. 147.

646 Miami Hearing, Vol. II, Alfred Danna, p. 272-73.

647 Id. at 275.

also known as "Teens Unlimited" and "Young Stuff."

The investigators made an undercover buy of child pornography from the owner of the business. The child pornography was being sold in sets of six to ten photos for fifteen to thirty-five dollars a set. The owner was also selling "sponsorships" or custom ordered sets. These photos were available from two hundred to four hundred dollars per set, and would be taken of thirteen to eighten year old males, "posing" in any manner directed by the customer.

Based on the undercover purchase and other evidence, a search warrant was executed on the owner's residence. The investigators discovered a large quantity of child pornography at the residence and were able to obtain a second warrant for a storage facility in which the defendant kept the releases and applications from his models. He had two sets of applications and releases, one set with the actual dates of birth and one set showing the models to be over eighteen.

Also discovered during the search warrants was the defendant's method for printing and distributing the photographs, as well as his foreign source. COQ International of Denmark was selling the defendant's magazines and slides.

In February, 1985, the Contraband Enforcement Team, of the United States Customs Service, intercepted one magazine entitled Dream Boy No. 6 sent to Bradenton, Florida, address. The magazine had been sent from the Netherlands.

The Contraband Enforcement Team forwarded the magazine to

the Special Agent in Charge, Tampa, Florida, for investigation. The Special Agent supervised an investigation which showed that the addressee had two previous seizures of child pornography. The first was a magazine entitled Lust Boys and the second was Child Pornography Advertisements.

Based on the previous seizures and other investigation, a controlled delivery of the Dream Boy magazine was made. Based on the controlled delivery, a search warrant was obtained for the addressee's residence.

United States Customs agents and United States Postal Inspectors surveilled the residence after the delivery of the magazine, while waiting for the warrant to be issued and delivered. While the surveillance was being conducted, the addressee arrived at his residence. Shortly afterward, a thirteen year old boy arrived at the residence on a bicycle and went inside the house. The warrant was delivered about five minutes later, at which time the agents went into the house. Upon entering the house, the agents discovered the offender on the couch with the boy. Although both the defendant and the boy were clothed, it was obvious that the boy had an erection. It appeared the agents had prevented further molestation from taking place.

Although the offender was arrested, he was granted bond with the provision that the had no contact with anyone under eighteen years of age. He was suspended from his place of employment as a guidance counselor at a middle school.

During subsequent investigation, three other children were identified, through seized photographs of them, and that information was turned overd to the local sheriff's department. The parents of the children refused to cooperate in the investigation because they did not want their children to testifiy in court.

In August, 1985, the offender was sentenced to five years in the Middle District of Florida. Four and one half years of the sentence were suspended.

When making a request for a search warrant investigators should seek to expand the scope of their search beyond child pornography. In one investigator's experience over ninety-five percent of the child pornography cases in which he used search warrants, both adult and child pornography were found in the possession of the child sexual abusers or child pornographers.[648]

Sexually explicit, "adult" material is often used to lower the inhibitions of child victims and should be an item sought.[649] The scope of the search should include not only the suspect's home but also his or her office, car and any other known place of habitation or storage. Pedophiles who are are involved in child sexual abuse are rarely without some portion of their child pornography in close proximity and often keep materials in several different places. Warrants should be drafted to include wide range of materials under the suspect's control in a variety

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[648] Miami Hearing, Vol. I, William Dworin, p. 32.

[649] Miami Hearing, Vol. I, Kenneth Lanning, p. 225.

of locations.[650]

RECOMMENDATION 60:

FEDERAL LAW ENFORCEMENT AGENTS SHOULD ASK THE CHILD VICTIM IN REPORTED CHILD SEXUAL ABUSE CASES IF PHOTOGRAPHS OR FILMS WERE MADE OF HIM OR HER DURING THE COURSE OF SEXUAL ABUSE.

As part of expanding a law enforcement agency's investigation into child sexual abuse and child pornography all investigators should determine if children alleging sexual abuse were ever photographed in sexually explicit poses.

The most obvious way to find such information is to uniformly ask the child victim if photographs were taken. This technique should be employed for effective investigation and will undoubtedly highlight the interwoven connections between child sexual abuse and child pornography. An investigation of one offense should not eliminate an examination of related offenses.[651] Law enforcement officers should acknowledge that child sexual abuse is the basis for the production of child pornography.

RECOMMENDATION 61:

THE DEPARTMENT OF JUSTICE SHOULD APPOINT A NATIONAL TASK FORCE TO

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650 Miami Hearing, Vol. I, Kenneth Lanning, p. 233-34.

651 "In 90% of the child sexual exploitation causes . . . the children admit that at one time or another they were photographed." Miami Hearing, Vol. II, Dennis Shaw, p. 117.

CONDUCT A STUDY OF CASES THROUGHOUT THE UNITED STATES REFLECTING APPARENT PATTERNS OF MULTI-VICTIM, MULTI-PERPETRATOR CHILD SEXUAL EXPLOITATION.

The Commission has heard testimony regarding alleged multi-victim, multi-perpetrator child sexual molestation rings throughout the country. Few of the investigations of these rings have resulted in successful prosecutions. Multitudes of children have related experiences of being photographed by the alleged molesters, and others have commented on the "quick removal" of volumes of photographs prior to law enforcement searches. In the estimated twenty-five investigations throughout the country involving alleged ritualistic molestation of pre-school children not one photograph has been discovered to substantiate the children's stories.

Even in the face of clear medical evidence of sexual molestation of many of these children, the young ages of the children and the procedures in the criminal courts have combined to undermine and destroy effective prosecution. Given the striking similarities in the nature of the alleged sex crimes committed against children in these rings and the consistent inability of the local law enforcement and child protective services systems to effectively investigate and prosecute, it appears likely that future cases could result in similar unsuccessful efforts within the justice system.

A national task force should pursue extensive study for the purpose of establishing or discarding:

a. Possible links between multi-victim, multi-perpetrator child sex rings and pornography;

b. Possible linkages among multi-victim, multi-perpetrator child sex rings throughout the United States;

c. Production and distribution of child pornography through these orgainzed sex rings;

d. Possible links between sex rings, child pornography and organized crime.

The task force should then develop a report including recommendations for more effective investigation of child sexual exploitation cases reflecting these patterns of conspiracy. The task force would include among others, federal agency headquarters representatives. The task force should have the necessary budgetary and personnel resources to allow ongoing investigations in the field.

The task force should include interdisciplinary representatives and investigators with demonstrated skills and experience in multi-victim, multi-perpetrator child sexual exploitation cases.

D. RECOMMENDATIONS FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES

RECOMMENDATION 62:

LOCAL LAW ENFORCEMENT AGENCIES SHOULD PARTICIPATE IN THE LAW ENFORCEMENT COORDINATING COMMITTEES TO FORM REGIONAL TASK FORCES OF DEDICATED AND EXPERIENCED INVESTIGATORS AND PROSECUTORS TO COMBAT CHILD PORNOGRAPHY.

In recent years, the United States Attorneys have established Law Enforcement Coordinating Committees (LECCs) within each of the ninety-four districts.[652] The LECC is comprised of federal, state and local law enforcement agencies[653] and is designed to improve coordination and cooperation among agencies.[654] The LECC has proved to be an invaluable tool in effective law enforcement efforts. By coordinating the various agencies' efforts, a successful attack can be launched against any form of criminal activity from all sides. Customs can quickly determine a suspect's past involvement with foreign child pornography; the Postal Inspectors and local law enforcement officers can determine whether the suspect has been corresponding with other identified pedophile offenders and whether he is on any known mailing lists; and the FBI can identify the suspect's arrest history, employment history and lifestyle.[655]

New York has provided an example of the effective use of the

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652 Chicago Hearing, Vol. II, Frederick Scullin, p. 37; See also, Recommendations for Law Enforcement Agencies in Chapter 2 of this Part.

653 Chicago Hearing, Vol. II, Frederick Scullin, p. 37.

654 Id.

655 Miami Hearing, Vol. II, Joyce Karlin, p. 177B-C.

LECC for the investigation and prosecution of child pornography cases.[656] This example can also be used as a model for the LECC subcommittee specifically designed to address the problem of child pornography. In addition to general enforcement efforts the LECC may serve to make suggestions for regional or statewide programs.

RECOMMENDATION 63:

STATE AND LOCAL LAW ENFORCEMENT AGENCIES SHOULD DEVELOP AND MAINTAIN CONTINOUS TRAINING PROGRAMS FOR OFFICERS IN IDENTIFICATION, APPREHENSION, AND UNDERCOVER TECHNIQUES OF CHILD PORNOGRAPHY INVESTIGATIONS.

State and local agencies may participate in LECC sponsored training programs and should also participate in programs conducted through the Federal Law Enforcement Training Center. These agencies should also develop regional or local training programs. These localized programs should address general law enforcement techniques needed in child pornography cases as well as concerns peculiar to the region. These programs will enhance law enforcement efforts through a more coordinated base of communication among agencies within a geographic area.[657]

RECOMMENDATION 64:

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656 Chicago Hearing, Vol. II, Frederick Scullin, p. 38-41.

657 See also, The discussion, Recommendations for Federal Law Enforcement Agencies, in this Chapter.

STATE AND LOCAL LAW ENFORCEMENT AGENCIES SHOULD PARTICIPATE IN A NATIONAL DATA BASE ESTABLISHED TO SERVE AS A CENTER FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES TO SUBMIT AND RECEIVE INFORMATION REGARDING CHILD PORNOGRAPHY TRAFFICKING.

See, The discussion in Recommendations for Federal Law Enforcement Agencies in this Chapter.

RECOMMENDATION 65:

STATE AND LOCAL LAW ENFORCEMENT AGENCIES SHOULD HAVE PERSONNEL TRAINED IN CHILD PORNOGRAPHY INVESTIGATION AND WHEN POSSIBLE THEY SHOULD FORM SPECIALIZED UNITS FOR CHILD SEXUAL ABUSE AND CHILD PORNOGRAPHY INVESTIGATIONS.

See, The discussion in Recommendation for Federal Law Enforcement Agencies in this Chapter.

RECOMMENDATION 66:

STATE AND LOCAL LAW ENFORCEMENT AGENCIES SHOULD USE SEARCH WARRANTS IN CHILD EXPLOITATION CASES EXPEDITIOUSLY AS A MEANS OF GATHERING EVIDENCE AND FURTHERING THE OVERALL INVESTIGATION EFFORTS IN THE CHILD PORNOGRAPHY AREA.

See, The discussion in Recommendation for Federal Law Enforcement Agencies in this Chapter.

RECOMMENDATION 67:

STATE AND LOCAL LAW ENFORCEMENT OFFICERS SHOULD ASK THE CHILD

VICTIM IN REPORTED CHILD SEXUAL ABUSE CASES IF PHOTOGRAPHS OR FILMS WERE MADE OF HIM OR HER DURING THE COURSE OF SEXUAL ABUSE.

See, The discussion in Recommendation for Federal Law Enforcement Agencies in this Chapter.

E. RECOMMENDATIONS FOR PROSECUTORS

RECOMMENDATION 68:

THE UNITED STATES DEPARTMENT OF JUSTICE SHOULD DIRECT UNITED STATES ATTORNEYS TO PARTICIPATE IN LAW ENFORCEMENT COOORDINATING COMMITTEE TASK FORCES TO COMBAT CHILD PORNOGRAPHY.

See, The discussion in Recommendation for Federal Law Enforcement Agencies in this Chapter.

RECOMMENDATION 69:

FEDERAL, STATE AND LOCAL PROSECUTORS SHOULD PARTICIPATE IN A TASK FORCE OF MULTI-DISCIPLINARY PRACTITIONERS AND DEVELOP A PROTOCOL FOR COURTROOM PROCEDURES FOR CHILD WITNESSES THAT WOULD MEET CONSTITUTIONAL STANDARDS.

Prosecutors must be aware of the special considerations involving a child victim-witness. In many states children of a certain ages are presumed incompetent to testify. When the child is the only witness to a crime, such as child pornography and

related crimes, prosecutors face special problems.

Prosecutors should work with other professionals including law enforcement agents, medical and mental health professionals and social service personnel, involved in child pornography cases to develop a courtroom protocol which maintains the integrity and emotional well-being of the child as well as preserving the constitutional rights of the defendant.

The task force should specifically address a number of issues. First, the number of repetitive questions asked of a child witness during the trial should be limited. A child may become easily frightened when repeatedly asked questions during the trial. This lengthy process increases the trauma and sense of guilt in victims associated with these crimes. The task force should develop methods of support for the child through this period while insuring the defendant's right to confrontation.

The prosecutor specifically may reduce this trauma by objecting to repetitive questioning on the grounds of harrassment.[658] The prosecutor should emphasize the special emotional frailty of the child in making the objection.

Prosecutors should develop guidelines to qualify a child as a competent witness. While very young children may be incapable

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658 Fed. R. Ev. 611 provides:

> (a) Control By Court. The court shall exercise reasonable control over the mode and order if interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

of communication, those who are articulate should be presumed competent until the testimony demonstrates otherwise. In questioning a child witness prosecutors should be permitted to use age appropriate language and allow the child to respond in terms with which they feel comfortable. Children should be permitted to use anatomically correct dolls, if necessary, to demonstrate the manner in which they were posed or molested. The determination of credibility should be left to the jury as it is with any other witness.

Prosecutors should attempt to avoid delays in preliminary hearings and trials. Repeated delays add to the confusion and trauma of a child witness. Prosecutors may develop a priority calender for child pornography and related cases. These guidelines should be used to preserve the credibility of the child witness as well as eliminate the extent of the trauma caused by extensive delays in judicial procedures.

Prosecutors may also consider the use of closed circuit television to present the child's testimony. This would eliminate many of the distractions a child witness faces. A child is normally apprehensive in a new environment and will be reluctant to testify forthrightly. The closed circuit television could enable a child to testify and be subjected to cross-examination without being intimidated by the courtroom proceedings or the presence of the defendant.

The task force should also consider developing guidelines to coordinate criminal, civil and family law proceedings. In

addition, the protocol should consider the use of grand juries in place of preliminary hearings. These guidelines would maintain the integrity of the judicial proceeding while eliminating any unnecessary trauma for the victims. All task force recommendations should clearly safeguard the constitutional protections afforded the accused.

RECOMMENDATION 70:

PROSECUTORS SHOULD ASSIST STATE, LOCAL AND FEDERAL LAW ENFORCEMENT AGENCIES TO USE SEARCH WARRANTS IN POTENTIAL CHILD PORNOGRAPHY CASES AND RELATED CHILD SEXUAL ABUSE CASES.

See, The discussion in Recommendations for Federal Law Enforcement Agencies in this Chapter.

RECOMMENDATION 71:

STATE, LOCAL AND FEDERAL PROSECUTORS SHOULD ASK THE CHILD VICTIM IN REPORTED CHILD SEXUAL ABUSE CASES IF PHOTOGRAPHS OR FILMS WERE MADE OF HIM OR HER DURING THE COURSE OF SEXUAL ABUSE.

See, The discussion in Recommendations for Federal Law Enforcement Agencies in this Chapter.

RECOMMENDATION 72:

STATE AND LOCAL PROSECUTORS SHOULD USE THE VERTICAL PROSECUTION MODEL FOR CHILD PORNOGRAPHY AND RELATED CASES.

The vertical prosecution system involves a single prosecutor

handling a particular criminal case from its inception to its conclusion. In cases involving sexually abused or exploited children the young victims are often very frightened at the prospect of going into court. Sometimes the procedures that the victim must go through such as meeting new people and continuously repeating his or her story add to the trauma. When the same prosecutor handles the case it enables him or her to work with the victim on a continuing basis, gain the child's confidence, and help prepare the child for trial.

The vertical prosecution model also ensures that the case is not passed on to another prosecutor who may be unfamiliar with the facts or law involved in the prosecution. In California Governor George Deukmejian has established a grant program through the Office of Criminal Justice Planning to implement the vertical prosecution in model programs involving child sexual abuse and child pornography case.

F. RECOMMENDATIONS FOR THE JUDICIARY AND CORRECTIONAL FACILITIES

RECOMMENDATION 73:

JUDGES AND PROBATION OFFICERS SHOULD RECEIVE SPECIFIC EDUCATION SO THEY MAY INVESTIGATE, EVALUATE, SENTENCE AND SUPERVISE PERSONS CONVICTED IN CHILD PORNOGRAPHY AND RELATED CHILD SEXUAL ABUSE CASES APPROPRIATELY.

Recognizing that pedophile offenders and child pornographers

pose unique problems in the judicial and penal systems judges and probation officers must be adequately educated. A judge or probation officer can have a significant and positive impact on the offender only if he or she is fully knowledgeable about the situation.

Offenders in child porngraphy cases rarely go to trial.[659] He or she generally enters a plea and proceeds to sentencing.[660] The judge does not have the benefit of the evidence obtained through trial before considering an appropriate sentence.

The judge must bear the burden of thoroughly assessing the defendant and the offense. The judge must actually view the child pornography to make this evaluation. The judge should not only be made aware of the nature of the pornography and related sexual abuse, but he or she must be fully aware of the quantity and type of material a defendant may possess. Many judges hold the mistaken belief that child pornography offenders are less insidious because they are professional people within the community.[661] A judge should examine the child pornography and be aware of the abuses attributable to its production in order to fully evaluate the offender before sentencing.

The judges and probation officers should be fully informed about the latest social science and medical information regarding pedophile offenders and child sexual abusers and their

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659 Miami Hearing, Vol. II, Joyce Karlin, p. 153.

660 Id.

661 Miami Hearing, Vol. I, Kenneth Lanning, p. 251.

susceptibility to treatment or behavior modification. Therapists and other professionals who have studied pedophile offenders currently express a great deal of doubt as to the viability of rehabilitation of pedophiles.[662] Judges and probation officers should focus their attention toward the need to protect society and potential victims in addition to theraputic efforts for pedophile offenders.[663]

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662 The Commission has heard testimony from several law enforcement officers, prosecutors and therapists discussing the recidivist pattern of pedophile offenders. See, e.g., Miami Hearing, Vol. I, William Dworin, p. 22.

663 The following is excerpts from a telephone conversation between a pedophile offender and a child victim. Law enforcement agents have stated that discovering and recording an actual conversation between an alleged pedophile and a victim is rarely discovered.

Subject. Oh, okay. Tell us when you're going to be nine.

Victim. May 12.

S. That's pretty soon Angel.

* * *

S. It's remarkable and I'm wondering if she's in her blue jeans?

V. No.

S. You're not in your blue jeans?

V. No, I'm in something like blue jeans.

S. Oh, I see, okay (Pause) blue jeans are falling out of fashion aren't they baby.

V. Yes.

S. They don't wear them too much anymore.

V. Nope I don't even have any that fit. All I have is pants.

S. In other words you're going out of your blue jeans baby?

V. Uh, hum, I only have two pairs that still fit me.

S. That's amazing she is getting to be so curvy that she doesn't fit her blue jeans anymore. (Pause). I can tell she's grinning.

V. Laughs.

S. You're so sweet. You're just a precious little Angel. Are you still standing on your head baby?

V. No.

S. You know what I'm interested in, right? I'm interested in playing, right?

V. Right.

S. Is it alright if we have all three?

V. Uh, hum.

S. Okay.

V. Uh hum.

S. Honestly.

V. Yeah.

S. That's great we'll all three play then okay?

V. Okay.

S. In other words we'll tickle ours and you'll tickle yours right.

V. Right.

S. Okay, that's my girl.

V. You know what would be good?

S. What.

V. If you gave me your phone number because then sometimes I

could call you if my Mom's not off on Tuesday or Thursday sometimes she's at work on Tuesday or Thursday.

S. Oh, I see, yes, I understand however sweetheart for a little while would you do me a favor and just bear with me, be patient with me, okay, for a little while?

V. Okay.

S. It'll be a good idea as a matter of fact sometimes if she's not off on Tuesday and Thursdays I could call and say let me speak to Sam and all you have to do is say you have the wrong number right.

V. Right.

S. And that would protect us. Can you take your panties off.

V. What?

S. Can you take your panties off while we're playing.

V. No.

S. Please, pretty please.

V. No.

S. She'll tell you it's alright.

V. Okay, I'm back.

S. Ask her if she thinks its alright.

V. You ask her.

S. Oh, okay, alright ah, sweetheart we were discussing the possibility of playing while you were gone from the phone and I wanted you to know all three of us to tickle ourselves while we were talking okay, alright, do you understand?

V. Uh, huh.

* * *

S. Let me put it this way, it would make me very happy if you took your panties off, okay.

V. Well, guess what.

S. What.

V. I can't.

S. You're so sweet, thank you so much Angel. Why?

V. Because.

S. Because of what.

V. Well, I'm downstairs and my brother and sister will be coming home. My sister always runs into my room.

S. Hold it now, you're downstairs.

V. Um,hmm.

S. And won't they see you when they first come in?

V. Yeah.

S. So what you need to do is hang up this phone and go upstairs.

V. Okay.

S. Okay, do me a favor go upstairs first and then come back down and hang this phone up.

V. Okay.

S. Or if you want me to hang this phone up and I'll call you back and you can answer upstairs.

V. Okay.

S. Alright, okay.

V. Okay.

S. Why don't we do that you hang up this phone up and I'll call you back and you can answer upstairs.

V. Okay.

S. Alright okay.

V. Okay.

S. Okay, you're going to hang up now . . .

V. (Hangs up).

* * *

(Phone rings)

V. Hello.

S. Now it's safe, isn't it?

V. Right, except for one thing.

S. Except for what.

V. My blinds are open.

S. Your what.

V. Blinds.

S. Oh, we'll hold on while you close them.

V. Okay.

S. Isn't she precious Angel.

* * *

S. She is just adorable and think about how thoughtful she is how intelligent she is. I mean didn't you think that was remarkable that she would say my blinds are open.

* * *

S. You betcha she's a very intelligent young lady. It's just delights me I'm so proud of her.

V. I'm back.

S. And I'll betcha that you've taken your panties off now.

V. Hmm, okay.

S. Did she take them off.

V. Um, Humm.

S. You're completely unclothed from the waist down you still have your blouse on though.

V. Right.

S. Okay, so when you hear your brother and sister come home you can put your clothes back on real quick, right.

V. Right.

S. That's good, isn't fun to do something sweetheart and know that you can get away with it that it's perfectly safe.

V. Yes.

S. It is fun isn't?

V. Um, hmm.

S. Have you ever, have you ever wanted to play with someone like this in person?

V. Um, hmm.

S. Tell us about it.

V. Well um you gave me the idea so I tried it.

S. With who?

V. I just called someone I don't know who they were.

S. Oh, you did?

V. But I looked it up in the phone book, I didn't look for any certain name. I just looked for the number.

S. Oh, I see in other words you got numbers out of the phone book.

V. Right.

S. Well, it's not I'll teach you how to make up numbers one of these days Sweetheart, it's really not necessary to go to the phone book. And, however, I want to find out you talked to someone?

V. Um, hmm.

S. And how old a person was it? Could you tell?

V. No.

S. Was it a man or a woman?

V. Man.

S. Did you tell him that you were tickling yours?

V. What?

S. Did you tell him that you were tickling yours?

V. No.

S. Did you get him to tickle his?

V. No.

S. Well, what did you all do Sweetheart?

V. Talked.

S. Talked about what.

V. Something.

S. Tell me about what, come on. About sex?

V. No.

S. What did you all talk about, tell me now.

V. Well, we just talked.

S. I see.

* * *

S. I see, but ah, you didn't talk about sex.

V. No.

S. And he didn't talk about wanting to be with you or to see you or meet you or something.

V. Well, he would like to come over to our house.

S. He did, he said that.

V. Um, hmm.

S. He did.

V. But I said he couldn't.

S. . . . Angel, you didn't give him your address. I hope.

V. No.

S. Okay, golly that worried that kind of thing worries me.

* * *

S. Well, sweetheart its alright for you to talk to anyone on the phone anyone but don't give them your phone number and don't tell them your address. And certainly don't tell them your last name, okay.

V. Okay.

S. Because that way you'll be perfectly safe as long as you don't give them your phone number as long as you don't give them your address and as long as you don't give them your last name. Okay?

V. Okay.

S. That way you'll be perfectly safe. That way you can talk to anyone on the phone you want to as long as you don't tell them your phone number, your name, your address, okay.

V. Okay.

S. Those things ah, are if you gave them anyone of those things it could be dangerous to you sweetheart. It could be I'm not saying it would be normally, it probably wouldn't be but it could be see.

V. Um, hmm.

S. I don't want to make you unnecessarily afraid, I want you to makeup numbers and talk to people that's fine but protect yourself in the process and as long as you don't give them your phone number your address or your name you're safe. You can tell them your first name that's alright. (Pause).

Until an effective treatment method is widely accepted and implemented judges and probation officers must evaluate and supervise pedophile offenders carefully. Pedophile offenders who are incarcerated after an offense simply may use their time of confinement to plan their life and future offenses upon release. One pedophile offender wrote from his prison cell,

> I plan to get into photography in a bigger way when I get out. While I am in here I am studying photography and plan to set up a part-time business. I plan to be very discreet too. I was getting a little careless and look what it got me. This is one area where discretion

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Anyway, since you've talked to me, have you tickled yourself when you went to sleep?

V. Um, hmm, yeah.

S. Good. That's alot of fun isn't it. Sweetheart?

V. Um, hmm.

S. It is. Has it gotten to where it feels real good yet.

V. No.

S. Well, it will you just keep tickling it and it will, and when you go to sleep sometimes when you're tickling it does it get real juicy?

V. Does it get what.

S. Does it get real wet, real juicy?

V. No.

S. Well, it will. And do you know what it means, when it gets real wet and real juicy.

V. No.

S. It means that you're learning how to do it better.

and caution are absolutely essential.[664]

There are several problems which have prevented this program from being implemented. First, there is a lack of effective treatment plans. An effective treatment plan should be developed which results in a long term behavior modification with a significant reduction in recidivism rates.

A second problem associated with an incarceration and treatment program is a concern of its coercive nature. If a program is structured to make early release contingent upon cooperative participation in a treatment program, a correctional facility may be subject to allegations of coercion and violations of the offender's constitutional rights.

In the absence of an effective treatment program, a judge and a probation officer should be aware of the perpetual threat a pedophile offender poses to society. The only viable alternative in the absence of an effective treatment program is a substantial period of incarceration. The incarceration should effectively remove the offender from society and protect the community for a significant period of time.

Incarceration serves several different purposes. It may serve to deter potential offenders, to protect society from this individual and to provide retribution against the offender. Each of these factors need not be the basis for sentencing in every case.

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664 Miami Hearing, Vol. I, William Dworin, p. 15.

The judges must examine each of these goals and determine which is the appropriate basis for sentencing. As previously discussed there are very few medical facilities that attempt to treat pedophile offenders.[665] In addition, incarceration often does not serve as a deterrent either to the specific offender or to other potential offenders.

The remaining goals of incarceration are the protection of society and retribution against the offender. Child sexual abuse or child pornography is one of the most insidious offenses known and the goal of retribution generally serves to reassure society of its values. Punishment also serves as an emotional support for the victim. This is particularly important in child pornography cases where the victim is left to feel guilty and ashamed.

The primary goal in sentencing should be to remove the pedophile offender so he or she does not present a threat to society. He or she must be removed for a substantial period of time. The Commission fully acknowledges these needs and recommends that a mandatory minimum sentence of two years be imposed on first time offenders. The sentences for recidivists should be substantially increased.

The welfare of the victim should remain the primary focus of the judge during the sentencing process. The sentence must also be sufficient to protect potential victims. The pedophile offender may continue to communicate with other pedophile

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665 One such facility is the Massachusetts Treatment Center in Bridgewater, Mass.; See, Washington, D.C., Hearing, Vol. II, Richard Prentke, p. 65.

offenders. One such communication was sent to an undercover police officer.

> "Now I was arrested and all my photographs, books, magazines, slides, flims, were confiscated. Since July 19, I have been here in a state hospital that treats men with sex offenses. I was first sent here for observation and committed here on November 3 for an indefinite period. That is why I was so happy to hear from you, as I no longer have the contacts with young girls I used to. I still have the same interests, but I am temporarily at a standstill. I was into photography quite a bit and managed to take some shots of Lisa and several of my students.666

The correctional facility must be kept apprised of these types of communiques and they should be considered during parole hearings or evaluations for release.

RECOMMENDATION 75:

JUDGES SHOULD USE, WHEN APPROPRIATE, A SENTENCE OF LIFETIME PROBATION FOR CONVICTED CHILD PORNOGRAPHERS.

Pedophile offenders present a continuing threat to society since there presently is no universally accepted course of treatment for a pedophile offender. In the absence of effective treatment a convicted pedophile offender must be continually monitored subsequent to his or her release. The most effective method of monitoring a pedophile offender is through the imposition of lifetime probation as a part of the initial

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666 Miami Hearing, Vol. I, William Dworin, p. 14-15.

sentence.

Lifetime probation gives probation personnel the ability to continually monitor the pedophile offender while he or she is able to attempt to rejoin society as a productive member. The probation should be conditioned upon special factors including prohibition of unsupervised contact with children as contact well as any contacts with other pedophile offenders.

A lifetime supervised probation term will require the dedicated efforts of federal and state probation officers. The officers must devote substantial periods of time to these individuals to ensure compliance with the terms of the probation.

In some situations the judge may impose a term of unsupervised lifetime probation. This would eliminate the enormous burden on the probation officers while maintaining legal control over the offender. The judge should carefully evaluate the offender and select the terms of probation which would be most effective and least burdensome on the penal and judicial systems.

RECOMMENDATION 76:

PRE-SENTENCE REPORTS CONCERNING INDIVIDUALS FOUND GUILTY OF VIOLATIONS OF CHILD PORNOGRAPHY OR RELATED LAWS SHOULD BE BASED ON SOURCES OF INFORMATION IN ADDITION TO THE OFFENDER HIMSELF OR HERSELF.

Probation officers, psychiatrists and psychologists have extensive contact with defendants and their counsel in the course

of preparing presentence reports. Defendants and their counsel often provide court personnel with most of the information used in compiling these reports.

Information supplied by the defendant about himself or herself and the offense may be inaccurate or incomplete and it usually overlooks the victim's perspective. Sources of information other than the defendant must be tapped to give the sentencing judge the most accurate information. Such information should include but need not be limited to: investigative reports, victims' statements and interviews, interviews of witnesses and persons familiar with the offender's habits, a report of any guardian ad litem representing the victim; examination of physical evidence such as pornography created or possessed by the offender; a review of diaries, audiotapes, or videotapes created by the offender; and the offender's criminal, correctional, mental health, educational, military, and work records.667

Child sexual abusers often move to another city or state after public exposure or when they come under suspicion. The

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667 On January 20, 1984 a federal grand jury in the northern district of New York handed down a twelve-count indictment against a child pornographer. He eventually pled guilty to five counts of mailing child pornography and on May 4, 1984, was sentenced to ten years in prison on each of the five counts, to run concurrently, and ordered to undergo three months of psychiatric examination at a federal facility, due to his suicidal tendencies. The judge in this case later reduced the sentence to two years in prison followed by five years probation as a result of the psychiatric findings that were conducted by the United States Bureau of Prisons. Washington, D.C., Hearing, Vol. I, Daniel Mihalko, p. 156-57.

sentencing judge then should obtain records from jurisdictions in which an offender has previously resided. Victims, prosecutors and investigators should provide information at their disposal to those conducting presentence evaluations.

RECOMMENDATION 77:

STATE AND FEDERAL CORRECTIONAL FACILITIES SHOULD RECOGNIZE THE UNIQUE PROBLEMS OF CHILD PORNOGRAPHERS AND RELATED OFFENDERS AND DESIGNATE APPROPRIATE PROGRAMS REGARDING THEIR INCARCERATION.

In the Southern District of California, a defendant was convicted of transporting material involving the sexual exploitation of children and importing obscene merchandise.[668] The trial court sentenced the offender to the maximum punishment and requested a study by the Bureau of Prisons regarding what treatment he might receive.[669] The study was conducted by a Bureau of Prisons psychologist who had never previously treated a pedophile offender.[670] The psychologist found the defendant amenable to treatment, yet could not recommend a federal institution that was capable of providing the treatment.[671] A community treatment proposal was recommended, which in the prosecutor's view, failed to take into account the danger the

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668 Chicago Hearing, Vol. I, Joan Webber, p. 192.

669 Id.

670 Id. at 193.

671 Id. at 195.

defendant posed to the community if released.[672] The Federal Bureau of Prisons has acted to prevent a recurrence of this problem. To avoid any misinterpretation by the courts in the future, the Bureau of Prisons has instructed their mental health staff members to go beyond the specific mental health issues and to consider making recommendations for confinement based on factors other than treatment goals in cases where such a sanction is indicated.

Pedophile offenders and child pornographers present a unique and difficult problem in correction facilities. The nature of the offenses for which they have been convicted make pedophile offenders and child pornographers the lowest class within the prison social system. They may be subjected to verbal and physical abuse by other inmates but this factor should not cause judges to avoid incarceration when necessary.

To provide humane incarceration pedophile offenders and child pornographers should receive specialized attention from correctional officials. Correctional departments may need to provide areas within a designated facility for convicted child sexual offenders to eliminate the threats of harm from other inmates. The facility should also attempt to develop specific therapy programs as they may become known for pedophiles in an attempt to prepare them for their reemergence into society.

The programs will be an attempt to recognize the special problems a pedophile offender or child pornographer encounters

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672 Id. at 196.

during his or her period of incarceration and should focus on safety and prevention problems.

RECOMMENDATION 78:

FEDERAL, STATE AND LOCAL JUDGES SHOULD PARTICIPATE IN A TASK FORCE OF MULTI-DISCIPLINARY PRACTIONERS AND DEVELOP A PROTOCOL FOR COURTROOM PROCEDURES FOR CHILD WITNESSES THAT WOULD MEET CONSTITUTIONAL STANDARDS.

See, The discussion in Recommendations for Prosecutors in this Chapter.

G. RECOMMENDATIONS FOR PUBLIC AND PRIVATE SOCIAL SERVICE AGENCIES

RECOMMENDATION 79:

PUBLIC AND PRIVATE SOCIAL SERVICE AGENCIES SHOULD PARTICIPATE IN A TASK FORCE OF MULTI-DISCIPLINARY PRACTITIONERS AND DEVELOP A PROTOCOL FOR COURTROOM PROCEDURES FOR CHILD WITNESSES THAT WOULD MEET CONSTITUTIONAL STANDARDS.

Public and private social service agencies should lend their expertise to help develop appropriate courtroom procedures. Many of these guidelines should focus on the development of therapy programs for child victims.

In California, a group of preschool children were allegedly molested and photographed by teachers at the Children's Path

preschool.[673] Physicians found conclusive medical evidence that fifteen of the children were sexually abused.[674] A two year old reported to her parents instances of controlled substance abuse, sodomy, and oral copulation. She also stated that photographs were taken.[675] Since the time the child told her parents of this situation, she has been receiving psychotherapy on a weekly basis. Her parents have also sought therapy.[676] None of the offenders were brought to trial because their victims were too young to be competent witnesses in court.[677]

Social services agencies should develop guidelines to assist child witnesses in the courtroom.[678] The programs which result may take the form of an advocate to assist the child through the judicial process. This person would be assigned to the child and would be concerned only with the welfare of the child rather than a particular judicial outcome.

RECOMMENDATION 80:

SOCIAL MENTAL HEALTH, AND MEDICAL SERVICES SHOULD BE PROVIDED FOR CHILD PORNOGRAPHY VICTIMS.

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673 Miami Hearing, Vol. I, Laura Brennan, p. 93.

674 Id. at 95.

675 Id. at 93-94.

676 Id. at 94.

677 Id. at 95.

678 For a more complete discussion see, Recommendations for Prosecutors in this Chapter.

In many cases, the official intervention into child pornography cases involves only legal and prosecutorial action against the perpetrator. Often, the identities of children appearing in pornographic photographs seized from the homes of pedophile offenders or child pornographers are never established. If the child pornographer is not a member of the family, the case will not be referred to a child welfare agency for protective social services. Child victims of pornography are frequently used as witnesses for the prosecution and subsequently abandoned by the social, medical and mental health services systems.

Child victims of pornography and their families should receive a full range of supportive services including competent medical evaluations and treatment, access to family therapy and peer support groups, legal counsel and guardians ad litem.

Because child pornography and child sexual abuse are so intrinsically related, certain treatment models for victims of child sexual abuse can be applied to victims of child pornography. Children who are involved in treatment for child sexual abuse often reveal that pornography was used by the perpetrator as a threat to prevent the child from disclosing the sexual relationship.

Model child sexual abuse crisis centers have been developed to integrate social, medical and mental health services for suspected child sexual abuse victims. Child sexual abuse centers can provide medical assessment, psychological, psychosocial evaluation and crisis intervention services to suspected victims

of child sexual abuse and their families.[679] Evaluation teams may consist of a physician, nurse practitioner, psychologist, social worker, and children's services worker. The multidisciplinary team approach can be used in the initial evaluation activities of the center and in the development of follow-up plans, including referrals for law enforcement and children's protective services, court action, and psychological treatment.

In addition, many runaway and homeless children are enticed into pornography or prostitution, or resort to theft in order to survive.[680] Early intervention into their lives can provide a viable deterrent against other crimes. Without intervention,

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679 Model Crisis Center Programs include the San Diego Center for Child Protection and the Lost Angeles Child Sexual Abuse Family Crisis Center.

Los Angeles County also completed a study on runaway and homeless youths. Under the auspices of the Los Angeles County Board of Supervisors with participation of the Department of Children's Services, the Dependency Courts, law enforcement, and in conjunction with the private sector, a project has been proposed consisting of the following components designed to assist these children to develop meaningful lives:

--- Identification of child

--- Establish network of referral resources

--- Intake of child into system, including emergency shelter placement

--- Expedited court handling

--- Development of more suitable placement alternatives, treatment and handling resources, including a new shelter.

680 See, The discussion of Victimization.

these children may go on to more serious crimes when they are no longer desireable to pimps and pornographers.[681]

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681 "Runaway and homeless youth come from highly disorganized families, and, in many cases, their behavior may be the result of past physical or sexual abuse. Fifty percent of the young people have not voluntarily left home but have been pushed out or encouraged to leave by parents. Fewer than half of these youngsters have a realistic prospect of ever returning to their families. Out on the street, these children are exploited by pimps, drug pushers and peddlers of pornography. Their health and emotional problems are severe. Runaways and homeless youth are unable to care for themselves adequately. Published research indicates that they exhibit stress and other psychological difficulties in excess of those experienced by non-runaways.

Although child abuse is generally perceived as a problem of early childhood, this study has uncovered another largely unrecognized abused population - adolescents. They need the community's care and concern just as much as their younger counterparts.

The community survey of experts reveals the lack of appropriate community resources. Agency staff themselves estimate that they are not coping with the situation adequately. The resource deficit is critically hindering a reasonable level of service provision. What scarce resources are available are not being utilized effectively because there is little rational planning, inadequate communication among agencies, and minimal coordination of effort. Each agency and service goes its own way, doing its best, but without reference to others serving the same population. The public and private sectors appear to operate as two separate subsystems, each in its own encapsulated orbit, with only sporadic interaction.

Our studies demonstrate that the runaway and homeless population is made up of different subpopulations with different characteristics, needs and service requirements. For example, there are multiple reasons for self-initiated breaking away from home, and also a variety of forces within the family that push the young person out involuntarily and prematurely. Planning for runaway and homeless youth requires differential diagnosis and specifically targeted patterns of service delivery. The analysis of existing research on program evaluation suggests that there are panaceas, no universally recognized and accepted program designs to solve the problem, although there are useful lessons and helpful ideas to be gleaned from studying the experiences of other communities across the country. Program development on the local level needs to be carefully coordinated, and adequately researched.

RECOMMENDATION 81:

LOCAL AGENCIES SHOULD ALLOCATE VICTIMS OF CRIMES FUNDS TO PROVIDE MONIES FOR PSYCHIATRIC EVALUATION AND TREATMENT AND MEDICAL TREATMENT OF VICTIMS AND THEIR FAMILIES.682

The family plays a central, but ambiguous role, according to our studies. Extant research indicates that family intervention is a highly effective strategy for many young people, and indeed might be the strategy of first choice in most situations. When reconciliation is possible, it should be given priority. However, research also shows that many families are so destructive, abusive and rejecting that children cannot wisely be returned to them. Almost fifty percent of the runaways need other options, including alternative residential care (such as group homes and foster care) for some, transitional services for those ready for emancipation, and basic survival services to nomadic youngsters committed to life in the streets.

This study has uncovered the intensive nature of this problem. We have not been able to ascertain the extensive nature of the problem, i.e., its numerical dimensions. The panel of approximation of the number of runaway and homeless youth in Los Angeles County. Knowing the dimension of the problem is essential to designing a solution. When society acknowledges a problem and determines to acquire accurate statistics, the numbers become available. This is the time to learn how many troubled youth must be provided for, and to undertake pilot and demonstration projects designed to develop effective programmatic responses." J. Rothman & T. David, Status Offenders in Los Angeles County, Focus on Runaway and Homeless Youth: A Study and Policy Recommendations, 3-4 (unpublished study).

682 Senator Arlen Specter has introduced the Pornography Victims Protection Act. This act would allow an injured child the opportunity to recover damages from producers and distributors. This legislation would expand judicial remedies available to a victimized child and his or her family. Counselors and therapists must be qualified to assist the child and the family. This legislation would permit victims of child pornography and adults who are coerced, intimidated, or fraudulently induced into posing or performing in pornography to institute federal civil actions against the producers and distributors. A victim could recover treble damages and the costs of the action, as well as seek an injunction to prevent further dissemination of the pornography.

The legislation provides:

Be it enacted by the Senate and House of Representatives of the United Stated of America in Congress assembled. That this Act may be cited as the "Pornography Victims Protection Act of 1985".

Sec. 2 Section 2251 of title 18, United States Code, is amended -

(1) in subsection (a), by striking out "subsection (c)" and inserting in lieu thereof "subsection (d)" and by inserting before the period at the end thereof the following: "or if such person knows or has reason to know that the minor was transported in interstate or foreign commerce for the purpose of producing any such visual depiction of such conduct":

(2) in subsection (b), by striking out "subsection (c)" and inserting in lieu thereof "subsection (d)" and by inserting before the period at the end thereof the following: "or if such person knows or has reason to know that the minor was transported in interstate or foreign commerce for the purpose of producing any such visual depiction of such conduct":

(3) by inserting immediately after subsection (b) the following:

"(c)(1) Any person who coerces, intimidates, or fraudulently induces an individual, 18 years or older to engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct shall be punished as provided under subsection (d), if such person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, if such visual depiction has actually been transported in interstate or foreign commerce or mailed, or if such person knows or has reason to know that the individual 18 years or older was transported in interstate or foreign commerce for the purpose of producing any such visual depiction of such conduct.

"(2) Proof of one or more of the following facts or conditions shall not, without more, negate a finding of coercion under this subsection:

"(A) that the person is or has been a prostitute;

"(B) that the person is connected by blood or marriage to anyone involved in or related to the making of the pornography;

"(C) that the person has previously had, or been thought to have had, sexual relations with anyone, including anyone involved in or related to the making of the pornography;

"(D) that the person has previously posed for sexually explicit pictures for or with anyone, including anyone involved in or related to the making of the pornography at issue;

"(E) that anyone else, including a spouse or other relative, has given permission on the person's behalf;

"(F) that the person actually consented to a use of the performance that is changed into pornography;

"(G) that the person knew that the purpose of the acts or events in question was to make pornography;

"(H) that the person signed a contract to produce pornography; or

"(I) that the person was paid or otherwise compensated";

(4) in subsection (c), by striking out "(c)" and inserting in lieu thereof "(d)"; and

(5) by amending the heading to read as follows:

S2251. Sexual exploitation".

Sec. 3 (a) Section 2252 (a) (1) of title 18, United States Code, is amended by adding at the end thereof the following:

"(C) the producing of such visual depiction involved the use of an adult who was coerced, intimidated, or fraudulently induced to engage in sexually explicit conduct and the person knows or has reason to know that the adult was coerced, intimidated, or fraudulently induced; and

"(D) such visual depiction depicts such conduct; or".

(b) Section 2252 (a) (2) is amended by ---

(1) striking out "and" and the semicolon in clause (A) and inserting in lieu thereof "or the production of visual depiction involved the use of an adult who was coerced, intimidated, or

fraudulently induced to engage in sexually explicit conduct and the person knows or has reason to know that the adult was coerced, intimidated, or fraudulently induced; and

(c) the heading for section 2252 is amended to read as follows:

S2252. "CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING SEXUAL EXPLOITATION."

Sec. 4. (a) Chapter 110 of part 1 of Title 18. United States Code, is amended by redesignating section 2252 as section 2261.

(b) Chapter 110 of part J of title 18, United States Code, is amended by inserting after section 2254 the following:

S2255. CIVIL REMEDIES.

"(a) The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 2251 or 2252 by issuing appropriate orders, including ---

"(1) ordering any person to divest himself of any interest, direct or indirect, in any legal or business entity;

"(2) imposing reasonable restrictions on the future activities or investments of any person including prohibiting such person from engaging in the same type of legal or business endeavor; or

"(3) ordering dissolution or reorganization of any legal or business entity after making due provision for the rights of innocent persons.

"(b) The Attorney General or any person threatened with loss or damage by reason of a violation of section 2251 or 2252 may institute proceedings under section (a) and, in the event that the party bringing suit prevails, such party shall recover the cost of the suit, including a reasonable attorney's fee. Pending final determination, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper. For purposes of this section, a violation of section 2251 or 2252 shall be determined by a preponderance of the evidence.

"(c) Any victim of a violation of section 2251 or 2252 who suffers physical injury, emotional distress, or property damage

as a result of such violation may sue to recover damages in any appropriate United States district court and shall recover threefold the damages such person sustains as a result of such violation and the cost of the suit, including a reasonable attorney's fee. For purposes of this section, a violation of section 2251 or 2252 shall be determined by a preponderance of the evidence.

"(d) A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding.

"(e) Nothing in this section shall be construed to authorize any order restraining the exhibition, distribution or dissemination of any visual material without a full adversary proceeding and a final judicial determination that such material contains a visual depiction of sexually explicit conduct, as defined by section 2262 of this chapter, engaged in by a minor or by a person who was coerced, intimidated, or fraudulently induced to engage in such sexually explicit conduct.

S2256. CIVIL PENALTIES.

"(a) Any person found to violate section 2252 or 2252 by preponderance of the evidence shall be liable to the United States Government for a civil penalty of $100,000 and the forfeiture of any interest in property described in section 2254. The Attorney General may bring an action for recovery of any such civil penalty or forfeiture against any such person. If the Attorney General prevails he may also recover the cost of the suit, including a reasonable attorney's fee.

"(b) If the identity of any victim of an offense provided in section 2251 or 2252 is established prior to an award of a civil penalty made to the United States under this section, the victim shall be entitled to the award. If there is more than one victim, the court shall apportion the award among the victims on an equitable basis after considering the harm suffered by each such victim.

S2257. VENUE AND PROCESS.

"(a) Any civil action or proceeding brought under this chapter may be instituted in the district court of the United States for an district in which the defendant resides, is found, has an agent, or transacts his affairs.

"(b) In any action under section 2252 or 2256 of this chapter in any district court of the United States in which it is shown that the ends of justice require that other parties residing in any other district be brought before the court, the court may cause such parties to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshall of such judicial district.

"(c) In any civil or criminal action or proceeding under this chapter in the district court of the United States for any judicial district, a subpoena issued by such court to compel the attendance of witnesses may be served in any other judicial district except that no subpoena shall be issued for service upon any individual who resides in another district at the place more than one hundred miles from the place at which such court is held without approval given by a judge of such court upon a showing of good cause.

"(d) All other process in any action or proceeding under this chapter may be served on any person in any judicial district in which such person resides, is found, has an agent, or transacts his affairs.

S2258. EXPEDITION OF ACTIONS.

"In any civil action instituted under this chapter by the United States in any district court of the United States, the Attorney General may file with the clerk of such court a certificate stating that in his opinion the case is of general public importance. A copy of that certificate shall be furnished immediately by such clerk to the chief judge or in his absence to the presiding district judge of the district in which such action is pending. Upon receipt of such copy, such judge shall designate immediately a judge of that district to hear and determine the action. The judge designated to hear and determine the action shall assign the action for hearing as soon as practicable and hold hearings and make a determination as expeditiously as possible.

S2259. EVIDENCE.

"In any proceeding ancillary to or in any civil action instituted under this chapter the proceedings may be opened or closed to the public at the discretion of the court after consideration of the rights of affected persons.

S2260. LIMITATIONS.

"A civil action under section 2255 or 2256 of this chapter

Sexual exploitation through the production of child pornography leaves a tremendous cost in its wake. This cost is in economic terms as well as human emotional devastation. Many children suffer physical and emotional damage as well as the effects of sexually transmitted diseases.

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must be brought within sex years from the date the violation is committed. In any such action brought by or on behalf of a person who was a minor at the date the violation was committed, the running of such six-year period shall be deemed to have been tolled during the period of such person's minority."

Sec. 5 (a) The section analysis for chapter 110 of part 1 of Title 18, United States Code, is amended to read as follows:

"CHAPTER 110 - SEXUAL EXPLOITATION

"See:
"2251. Sexual Exploitation.
"2252. Certain activities relating to material sexual exploitation.
"2253. Criminal forfeiture.
"2254. Civil forfeiture.
"2255. Civil remedies.
"2256. Civil penalties.
"2257. Expedition of actions.
"2259. Evidence.
"2260. Limitations
"2261. Definitions for chapter.
"2262. Severability.

(b) The chapter analysis for part 1 of title 18, United States Code, is amended by striking the item relating to chapter 110 and inserting in lieu thereof the following:

"110. Sexual Exploitation.....2251".

Sec. 6 Chapter 110 of title 18, United States Code, is amended by inserting after section 2261 the following:

"If the provisions of any part of this Act or the amendments made by this Act, or the application thereof, to any person or circumstances is held invalid, the provisions of the other parts of this Act or the amendments made by this Act and their applications to other persons or circumstances shall not be affected."

An effective response to cases of suspected child sexual exploitation requires a sensitive and comprehensive medical examination of the child that will:

1. Accurately diagnose physical evidence of recent or past sexual assualt, and
2. Provide substantial documentation for protective or prosecutorial action.

Evidence of child sexual abuse is more difficult to obtain than evidence of other types of physical abuse which results in external bruising, lacerations, scarring or severe malnutrition. Obtaining any medical evidence of sexual abuse which results from the production of child pornography requires special expertise and special sensitivity to the needs of the child. Such evidence is only a component of the evaluation and interpretation of findings which must be used with caution and understanding.

Sexually exploited children often must also undergo extensive psychotherapy to restore their mental health. Therapy is costly and may often be outside the limits of ordinary medical insurance. Monies available in the state victims of crimes funds should be used to defray the cost of this evaluation and treatment. The distribution of monies from these funds also recognizes the real injury which these children have suffered.

RECOMMENDATION 82:

CLINICAL EVALUATORS SHOULD BE TRAINED TO ASSIST CHILDREN VICTIMIZED THROUGH THE PRODUCTION AND USE OF CHILD PORNOGRAPHY

MORE EFFECTIVELY AND BETTER UNDERSTAND ADULT PHYCHOSEXUAL DISORDERS.

Clinicians should be trained in the types of problems that may be associted with child sexual exploitation which results from the production of child pornography.[683] Problems with

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683 In addition to requiring certain individuals to report known and suspected cases of child maltreatment, California law now requires mental health professionals to complete coursework or training related to child abuse and neglect.

The Bill provides:

ASSEMBLY BILL NO. 141

ADDITION TO BUSINESS AND PROFESSIONS CODE, SECTION 28

The Legislature finds that there is a need to ensure that professionals of the healing arts who have demonstrable contact with child abuse victims, potential child abuse victims, and child abusers and potential child abusers are provided with adequate and appropriate training regarding the assessment and reporting of child abuse which will ameliorate, reduce, and eliminate the trauma of child abuse and neglect and ensure that reporting of child abuse in a timely manner to prevent additional occurrences.

The Psychology Examining Committee and the Board of Behavioral Science Examiners shall establish required training in the area of child abuse assessment and reporting for all persons applying for initial licensure and renewal of a license as a psychologist, clinical social worker, or marriage, family, and child counselor on or after January 1, 1987. This training shall be required on time for all persons applying for initial licensure or for licensure renewal on or after January 1, 1987.

All persons applying for initial licensure and renewal of a license a psychologist, clinic social worker, or marriage, family and child counselor on or after January 1, 1987, shall, in additional to all other requirements for licensure or renewal, have completed coursework or training in child abuse assessment and detailed knowledge of Section 11165 of the Penal Code. The training shall:

(a) Be completed after January 1, 1983.

(b) Be obtained from one of the following sources:

(1) An accredited or approved educational institution, as defined in Section 2902,, including extension courses offered by those institutions.

(2) An educational institution approved by the Department of Education pursuant to Section 94310 of the Education Code.

(3) A continuing education provider approved by the responsible board or examining committee.

(4) A course sponsored or offered by a professional association or a local, county, or state department of health or mental health for continuing education and approved by the responsible board.

(c) Have a minimum of 7 contact hours.

(d) Include the study of the assessment and method of reporting of sexual assault, neglect, severe neglect, general neglect, willful cruelty or unjustifiable punishment, corporal punishment or injury, and abuse in out-of-home care. The training shall also include physical and behavioral indicators of abuse, crisis counseling techniques, community resources, rights and responsibilities of reporting, consequences of failure to report, caring for a child's needs after a report is made, sensitivity to previously abused children and adults, and implications and methods of treatment for children and adults.

(e) All applicants shall provide the appropriate board with documentation of completion of the required child abuse training.

The Psychology Examining Committee and the Board of Behavioral Science Examiners shall exempt any applicant who applies for an exemption from the requirements of this section and who shows to the satisfaction of the committee or board that there would be no need for the training in his or her practice because of the nature of that practice.

It is the intent of the Legislature that a person licensed as a psychologist, clinical social worker, or marriage, family, and child counselor have minimal but appropriate training in the areas of child abuse assessment and reporting. It is not intended that by solely complying with the requirements of this section, a practitioner is fully trained in the subject of treatment of child abuse victims and abusers.

children may include generalized withdrawal or assaultive behavior. Child victims may also display specific inappropriate sexual behavior or specific target sources of anxiety (e.g., men with beards).

Counselors treating these children must also be trained to work effectively with families and other caretakers of victims (e.g., foster parents, extneded family child card, professionals). Child caretakers need help to understand possible future behaviors of child victims, alleviate anxiety and avoid creating unnecessary abnormal behaviors as a result of adult inappropriate over-reactive expectations. Parents of five year old victims might be more understanding of and more effective in dealing with recurrent bedwetting or secual behavior if they are prepared.[684]

Clinicians evaluating child pornogrpahy victims also need training inlegal and judicial procedures to assure that the evaluation and counseling process does not conflict with the proper disposition of the criminal case.

RECOMMENDATION 83:

BEHAVIORAL SCIENTISTS SHOULD CONDUCT RESEARCH TO DETERMINE THE EFFECTS OF THE PRODUCTION OF CHILD PORNOGRAPHY AND THE RELATED VICTIMIZATION ON CHILDREN.

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684 Anticipatory guidance as designed by the American Academy of Pediatrics (AAP) Health Care Service is a useful model.

It is important that victim research examine the short and long-term effects of the sexual vicitimization of children. Dr. Roland Summit, a leading medical authority, expressed the need for additional research critical to this Commission.[685] An understanding of the behavioral patternsn of child victims is especially lacking. The child may be disbelieved upon disclosure, during investigation, or as a witness in court.[686] Parents or other child advocates may also be attacked for supporting their child's version of the offense.[687]

Behavioral scientists also should learn more of the characteristics of the child pornographer and the pedophile offender. These conclusions will be valuable to law enforcement agents, prosecutors, judges, parents, and therapists. This research will form the basis for a sound program to curb the sexual exploitation of children.[688]

Such research should include a systematic observation of the pornographic component of an experience separate from other criminal acts in cases that include pornography and other forms of child abuse. Research should also examine the effects of adult pornography on children.

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685 Miami Hearing, Vol. I, Roland Summit, p. 209.

686 Id. at 199, 216A1.

687 Id. at 200.

688 UCLA has recently received a federal grant to study long-term effects of exploitation on the McMartin Pre-School child victims.

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RECOMMENDATION 84:

STATES SHOULD SUPPORT AGE-APPROPRIATE EDUCATION AND PREVENTION PROGRAMS FOR PARENTS, TEACHERS AND CHILDREN WITHIN PUBLIC AND PRIVATE SCHOOL SYSTEMS TO PROTECT CHILDREN FROM VICTIMIZATION BY CHILD PORNOGRAPHERS AND CHILD SEXUAL ABUSERS.

The educational programs must inform children while at the same time preserving a child's innocence and basic trust. The program should avoid instilling any unhealthy fear or mistrust in children. It may focus on the difference between positive healthy affection and touching or contact which is harmful to the child. Training for parents and school personnel should center on how to identify cases and how to report the information to the proper agencies.689

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689 California has developed the educational program, Child Abuse: Recognize and Eliminate (CARE). A description of the program follows for purposes of illustration.

CARE PROGRAM

Student Workshop Description

Over eighty percent of child molestations are perpetuated by adults known to the child. The majority of incidents of sexual abuse take place in the home of the abuser or the child. Boys are equally as vulnerable as girls. Child molesters cannot be identified easily; they come from all races, religions, professions, and socio-economic classes. Children can be taught to protect themselves from unwanted, uncomfortable and potentially abusive situations.

C.A.R.E. (Child Abuse: Recognize and Eliminate) is the Los Angeles Unified School District's extensive school-based educational program on child abuse prevention. The student component of CARE is an exemplary model of instruction for children in pre-kindergarten through grade six. Based on the concepts of self-esteem and self-protection, this instruction is

conducted in small groups at the school by S.C.A.N. (School Child Abuse and Neglect) Team members. A SCAN Team is a group of on-site school personnel who have received intensive training in child abuse prevention and intervention. Student instruction is one component of this extensive school-based child abuse educational program.

The SCAN Team's role in presenting the student lesson is critical. Since all instruction is delivered by the same individuals, there is a strong assurance that consistency in the information presented is maintained and, that all the children receive this information. (The SCAN Team presents the student curriculum to all students every year). In addition, because SCAN Team Members are full-time, on-site certificated staff, any one or all of the team is available on a daily basis to attend to the needs, problems and/or concerns of any child at any time. If a child needs assistance one week, six weeks or six months after the initial presentation, a trained person known to the child is there to help. SCAN Team members return to the classrooms periodically to reintroduce themselves and remind children of their availability and willingness to meet and talk with the child at any time and for any reason.

The initial basic program includes a directed lesson, film, discussion and question/answer period, and an opportunity for immediate private counseling. The follow-up lesson which takes place approximately six weeks later, focuses on reinforcing the central concepts in a discussion and presenting a different film. The primary message of the instruction emphasizes the value of the child as a human being. The concepts are introduced and developed using a self-esteem approach:

you are valuable
you are the best person to protect yourself
you have rights
you can communicate
you have power
you can get help

Specific strategies -- say "no", get away and tell someone -- are presented in both the lesson and the film, "Better Safe than Sorry, II." The film presents real-life situations in a what-if format; students react with the children in the film to potentially abusive situations involving strangers, a neighbor and someone in the family. They learn to say "no" to an adult who is bothering them and that not all secrets should be kept. Telling how you feel is the best rule to follow even when it is another person making you feel funny, bad or uncomfortable. Children are told who to tell and specifically introduced to

RECOMMENDATION 85:

A MULTI-MEDIA EDUCATIONAL CAMPAIGN SHOULD BE DEVELOPED WHICH INCREASES FAMILY AND COMMUNITY AWARENESS REGARDING CHILD SEXUAL EXPLOITATION THOUGH THE PRODUCTION AND USE OF CHILD PORNOGRAPHY.

A multi-media program should inform families and communities of the materials and seduction techniques used by child pornographers and pedophile offenders. The child pornographer or pedophile offender may befriend a potential victim, buy him or her gifts, or take the child on trips. Pedophile offenders or

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those at the school site who are available for help. Students are instructed to keep telling until believed. Children learn they have a right to body privacy and that some parts of the body, "private parts," need special protection. After they practice various ways to say "no," they learn ways to remove themselves from uncomfortable situations. The concepts "It's not your fault" and "It's right to tell" are emphasized throughout.

After the lesson and film, children have an opportunity to ask questions. Strategies for protection are reinforced and private crisis counseling is immediately available. Four to six weeks later, the SCAN Team members review the concepts using another film, "Now I Can Tell You My Secret." At this time strategies are re-taught, and who and how to tell is re-emphasized. If a child discloses or is identified as needing intervention or referral, the SCAN Team members will report to the appropriate agency and coordinate needed services.

The CARE student instruction stresses safety not fear. It maintains a balance between addressing past and current victims, and not scaring other children. I teaches children that they have rights. I emphasizes the child's self-worth and value. The information provides children the skills necessary for self-protection in potentially abusive situations and gain the confidence to apply these skills. The goal of the instruction is that children learn how to respond to any type of threatening situation. A secure child who knows he is valuable and trusts his feelings is better prepared to recognize potentially dangerous situations, react appropriately, and keep himself safe.

child pornographers may also volunteer their services to be near children in activities such as sports, daycare centers, schools or camps. Because of this seduction process, a child victim's sexual encounters with a pedophilic molester may never seem traumatic.[690] The subtle manner in which they abuse their victims necessitates a heightened awareness on the part of children and their parents. While parents or other adult caretakers may be uncomfortable in posing questions about sexuality to their children, parents may be more receptive to a trained professional who candidly answers such questions.[691] Each of these programs should list individuals or services in the community where parents or children may seek information or assistance. These facilities should incorporate a variety of social services as well as the availability of legal advice. They should also assemble information as to agencies which provide particular types of assistance.[692]

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690 Miami Hearing, Vol. II, Ulrich Schoettle, p. 225-S.

691 Id. at 239.

692 This list should include information about the following agencies and services:

--- Child protective service agencies

--- Law enforcement agencies (particularly special juvenile or sex crimes unit)

--- Child abuse treatment referral systems

--- Rape crisis treatment systems

--- Specific child sex abuse treatment programs

Chapter 4

Victimization

RECOMMENDATION 86:

STATE, COUNTY AND MUNICIPAL GOVERNMENTS SHOULD FACILITATE THE DEVELOPMENT OF PUBLIC AND PRIVATE RESOURCES FOR PERSONS WHO ARE CURRENTLY INVOLVED IN THE PRODUCTION OR CONSUMPTION OF PORNOGRAPHY AND WISH TO DISCONTINUE THIS INVOLVEMENT AND FOR THOSE WHO SUFFER MENTAL AND PHYSICAL DISABILITIES AS A RESULT OF EXPOSURE OR PARTICIPATION IN THE PRODUCTION OF PORNOGRAPHY.

As described later in Chapters 1 and 2 of Part Five, victims of pornography may suffer a variety of physical and mental damages. The victimization may include coercion, intimidation, negative effects of forced consumption, physical assault and sexual harassment.

Resources currently exist for victims of sexual abuse and other crimes through victims compensation programs, mental health and medical treatment programs. However, if no crime is reported, as is often the case with pornography, the damages cannot be compensated by victims of crime funds. Furthermore, if mental health or medical staff are not aware of the special nature of pornography victimization, treatment may not be effective in rehabilitating the victim. Those currently

involved in the production or forced into consumption of pornography are not aware of alternatives available to them, and they may never believe they can escape the victimization.

Resources for victims of pornography should include:

> (A) emergency "safe houses" where persons needing short term refuge from production or forced consumption of pornography, (B) financial assistance for persons damaged by pornography who do not qualify for public assistance or victims of crimes funds, (C) development of public information materials to assist persons escape victimization through awareness of alternatives, (D) provision of job training and educational opportunities who have been denied such opportunities to victims who have been denied such opportunities because of financial losses, physical or mental damages incurred through production or forced consumption of pornography, (E) provision of specialized training for counselors and therapists to sensitize them to a special nature of pornography and related sexual victimization.

This training should include particular recognition of the correlated problems of substance abuse, and the allocation of resources to study short- and long-term effects of pornography on those who participate in its production and those who are forcibly exposed to it.

APPENDIX A

The following questionnaire now used in New York and other major cities may serve as an example of the types of issues to be discussed.

"Pornography," as referred to in the question below, includes "men's entertainment" magazines such as Playboy, Penthouse, and Hustler, as well as hard-core publications showing explicit sex between men and women, between two women, between two men, and between adults and children. Such publications may show women or children tied up or hurt, women or children being penetrated by penises, fists, or objects, and women or children having sex with animals. "Pornography" also includes books, films, cable television programs, and video tapes showing these scenarios.

IF THE ASSAILANT LIVED WITH OR WAS KNOWN TO THE VICTIM

1. Did/do you live with the man who assaulted you?
2. If so, what was/is your relationship?
3. If not, how do you know him?
4. Did/does your assailant use or collect pornography?
5. If so, what kind?
6. Do you know the specific names or titles of the magazines, films, programs or video tapes? If so, what are they?
7. Did/does he use pornography for masturbation?
8. Did/does he use it to get aroused before sexual relations?

9. Did he ever ask you to view pornography with him?

10. Did he ever pressure you to view pornography with him?

11. Did he ever force you to view pornography with him?

12. Was pornography used as part of your normal sexual encounters?

13. If so, how was it used?

14. Did he ever ask you to act out scenes from pornography?

15. Did he ever pressure you to act out scenes from pornography?

16. Did he ever force you to act out scenes from pornography?

17. Did he ever mention pornography in your sexual encounters?

18. did he ever ask you to pose for nude or pornographic photos or films?

19. Did he ever pressure you to pose for nude or pornographic photos or films?

20. Did he ever force you to pose for nude or pornographic photos or films?

21. Did he ever send nude photographs of you to a magazine or "wife-swapping" club newsletter?

22. Did you ever show nude photographs of you to his friends?

23. Did he ever sell nude photographs of you?

24. Did he refer to pornography when he assaulted you? For example, did he say anything like, "This is what women ask for in the magazines I read," or "This is what the woman did in the movie, and she loved it"?

25. During the assault, did he force you to act out scenes from pornography?

26. Did he, or anyone involved in the assault, take nude or pornographic pictures of you before, during, or after the assault?

27. Did he show you pornographic pictures or films prior to, or after the assault?

28. Did/does he use pornography to learn or teach you sexual

techniques? To teach you how to dress in a way that turns him on? To learn how to tie you up?

29. Does he use pornography to justify sex acts that you don't want to participate in? For example, does he show you pictures and say, "A lot of couples do this," or "Look how much she likes doing it."

30. Did/does he use "dial-a-porn" services? Frequent X-rated movie theatres? Frequent establishments that have live sex shows and X-rated film loops or topless and/or bottomless bars and clubs?

31. If so, has he ever asked, pressured, or forced you to attend these establishments with him?

32. Did/does he go to massage parlors, use "escort services," or use prostitutes?

IF THE VICTIM DID NOT KNOW HER ASSAILANT(S)

1. Did your assailant refer to pornography when he assaulted you? For example, did he say anything like, "This is what women ask for in the movie, and she loved it"?

2. Did the assailant show you pornography or use pornography during the assault? If so, what kind?

3. Did the assailant(s) take pictures or films of you during the assault?

4. During the assault were you forced to act out scenes that were from pornography described or displayed by the assailant?

5. Did your assault take place in an area in which there are a lot of pornographic establishments, such as X-rated movie theatres, bookstores, etc.?

6. Was there pornography in the place in which you were assaulted?

QUESTIONS FOR WOMEN, GIRLS, AND BOYS WHO HAVE BEEN USED IN PORNOGRAPHY

1. Were you a runaway? If so, when did you leave home?

2. Had you been sexually abused before you left home? If so, by whom? How? How old were you when the abuse took place? How old was the person who abused you? Was that person a family member or friend?

3. If you were abused before you left home, was pornography part of the abuse? How was it used?

4. Were you involved in prostitution? Did you have a pimp? Was there an older man who told you what to do, made you have sex for money, and collected the money afterwards?

5. How did you first become involved in pornography? What were the circumstances of your life? How old were you?

6. What kind of pornography were you used in?

7. Were forced into the making of pornography by:

   a. Threats?

   b. Violence?

   c. Poverty?

   d. Trickery?

   e. Pressure by a relative, friend, or lover?

   Explain.

8. Were you shown magazines such as Playboy, Penthouse, Hustler, Screw, or others or were you shown films to convince you to pose for pornography?

9. Do you know other people who have been forced or pressured into posing for pornography?

10. Were you ever beaten, whipped, spanked, or physically hurt in the making of pornography? Were you ever tied up? Did you have to act out violent scenes? Was the sex physically painful?

11. Do you know people who were physically hurt in the making of pornography?

12. Do you know who produced or profited from the pornography you were used in? Do you know if they were involved in organized crime?

13. Do you know about or have you heard about people being murdered in the making of pornography?

14. Were you in prostitution while you were being used to make pornography? Were other women, girls, or boys you know in pornography also in prostitution?

15. How has your experience in pornography affected how you feel about yourself? How has it affected your relationships with others? Your schooling and/or job performance?

16. Do you ever have flashbacks or nightmares about your experience in pornography?

17. Do you suffer from phobias?

18. How do you feel now when you see pornography?

19. Have you had upsetting experiences with pornography outside your experiences in the sex industry?

20. What would you like to see done to help women, girls or boys who have been used/abused in pornography?

21. Would you like to be able to take legal action against the people who abused you? Would you like to be able to sue them? Would you like to be able to stop the pornography used against you from being shown?

QUESTIONS ABOUT SEXUAL HARASSMENT AND PORNOGRAPHY

I. Victims of sexual harassment through pornography in public places

1. Is pornography displayed in public places in your community?

2. If so, where is it and what kinds of materials?

3. How does this material make you feel about yourself? How does it make you feel about your relationships with others?

4. Have any people you know been upset by pornographic materials they've seen?

5. Have you ever been sexually harassed by men in pornography districts, in front of pornography theatres or bookstores, in front of the pornography sections of a newsstand, grocery store, or drugstore?

6. If so, how did this make you feel?

7. Does the pervasiveness of pornography upset you or frighten you?

8. Does pornography make you frightened to perform your daily activities such as traveling to and from your job?

9. Have you ever been sexually harassed by men who referred to pornography or made comments to you that seemed to come from pornography?

II. Victims of sexual harassment involving pornography on the job

1. Is pornography displayed or used at your place of employment?

2. If so, what kind? Where do you see it? Who uses it?

3. Have you ever been sexually harassed on the job? If so, was pornography involved in harassment, i.e., did your boss, co-worker, or customer show you pornography, display pornography, or make verbal references to pornography?

4. Have your co-workers, bosses, or customers ever compared you to models in pornography?

5. How has the presence or use of pornography in your place of work made you feel about yourself and your ability to perform your job?

6. Have you ever complained to anyone about sexual harassment on the job involving pornography? If so, to whom? If not, why not?

7. Were any steps taken about the harassment?

8. Have you ever been forced to leave your job or have you ever considered leaving your job because of sexual harassment involving or related to pornography?

9. Do you think that pornography has contributed to the way your boss, co-workers, employers view you and relate to you?

III. Victims of sexual harassment through pornography in schools and other institutions

1. Is pornography displayed or used in your school?

2. If so, what kind? Were do you see it? Who uses it?

3. Has pornography ever been used in your classroom, i.e., in a course on human sexuality? Have any of your teachers or professors ever used pornographic slides or made references to pornography?

4. Have you ever complained about the presence or use of pornography at your school? If so, to whom? Was any action taken? If not, why not?

5. Have your teachers or fellow students ever used pornography to sexually harass you? Have they ever made verbal references to pornography that have made you feel uncomfortable?

6. Have your ever had pornography imposed on you in social situations at school, such as in fraternity parties or during fraternity or sorority initiations?

IV. Victims of sexual harassment through pornography at home

1. Is there pornography in your home?

2. Do any of your relatives or friends use pornography or make verbal references to it?

3. If so, how does it make you feel?

4. Have you ever attempted to remove the pornography from your home? Were you successful?

5. Do your children see or know about pornography that is kept in your home? If so, has it influenced the way they think about women and sexuality?

Chapter 5

Civil Rights

RECOMMENDATION 87:

LEGISLATURES SHOULD CONDUCT HEARINGS AND CONSIDER LEGISLATION RECOGNIZING A CIVIL REMEDY FOR HARM ATTRIBUTABLE TO PORNOGRAPHY.

The Commission heard substantial testimony regarding a civil rights approach as a remedy for harms attributable to pornography.693 An ordinance encompassing the civil rights approach was originally proposed in Minneapolis, Minnesota, and a similar ordinance was enacted in Indianapolis, Indiana.694 In 1984, the Indianapolis-Marion County City-County Council found, in essence, that pornography lowers the social standard of treatment of women as a class. The Council found the status of women and the opportunity for equality are undermined by the pornography industry's use of some women to target all women for abuse through making acts of violation into acts of sexual

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693 See, Chicago Hearing, Vol. II, Catherine MacKinnon, p. 133; Chicago Hearing, Vol. II, Terese Stanton, p. 168; Houston Hearing, Vol. I, Diana Russell, p. 302; New York Hearing, Vol II, Andrea Dworkin, p. 129; Washington, D.C., Hearing, Vol. I, Dorchen Leidholt, p. 197.

694 See, Indianapolis-Marion County, Ind., Ordinance 35, ch. 16 (June 15, 1984).

entertainment.[695] The harm of pornography is thus conceived to be a form of discrimination on the basis of sex.[696]

Pornography, in effect, exemplifies inequality in its violation of human rights. It has been defined in the proposed ordinances as sexually explicit pictures or words that subordinate on the basis of sex when those presented are also shown being sexually exploited or brutalized -- for example, women presented as sexual objects enjoying rape, pain or humiliation, being penetrated by objects or animals, in postures of servility, submission or display, or in scenarios of degradation or torture in a context that makes these conditions sexual.[697] Men, children of both sexes, and transsexuals could sue for similar violations under the ordinance.[698]

Victims and trained professionals described the harms associated with and attributable to pornography, as including rape, battery, sexual harassment, sexual abuse of children, and forced prostitution.[699] Women have been coerced into pornographic performances by abduction, threats, drugs, and

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695 Id. at S16-1(a)(2).

696 See generally, MacKinnon, Pornography, Civil Rights, and Speech, 20 Harv.C.R.-C.L. L. Rev. 1(1985).

697 Indianapolis-Marion County, Ind., Ordinance 35, ch. 16 (June 15, 1984).

698 Id.

699 See, Houston Hearing, Vol. I, Diana Russell, p. 285; Miami Hearing, Vol. II, Garrett, p. 19; Washington, D.C., Hearing, Vol. I, Dorchen Leidholt, Vol. I, p. 205; Washington, D.C., Hearing, Vol. I, Sarah Wynter, p. 183.

constant surveillance. Pornography has been forced on unwilling viewers, typically children or women, in homes, in employment, and in public places. Some assaults have been found to be caused by specific pornographic materials providing instigation as well as instruction and legitimization for the acts. Many experiences of pornography-related humiliation, sexual degradation, enforced servility, and physical and mental abuse were substantiated. On the basis of this evidence, civil claims were created for four specified activities: (1) coercion into pornography, (2) forcing pornography on a person, (3) assault directly caused by specific pornography, and (4) trafficking in pornography (production, sale, exhibition, or distribution).[700] Injunctions and damages would be provided under narrowly specified conditions.[701]

The civil rights approach, although controversial[702], is the only legal tool suggested to the Commission which is specifically designed to provide direct relief to the victims of the injuries so exhaustively documented in our hearings throughout the country. Most of the evidence that establishes the fact that pornography subordinates women and undermines their status and opportunities for equality comes from extra-judicial sources,

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700 See, Indianapolis-Marion County, Ind., Ordinance 35, S16-3(g) (4)-(7)(June 15, 1984).

701 Id. S16-27.

702 See, Chicago Hearing, Vol. II, Nan Hunter, p. 101; Chicago Hearing, Vol. II, Burton Joseph, p. 4; Houston Hearing, Vol II, John Money, p. 34; Washington, D.C., Hearing, Vol. II, Barry Lynn, p. 169-70.

studies and individual accounts.[703]

The United States Supreme Court has recognized and relied upon social and behavioral science findings in several decisions. In Muller v. Oregon,[704] the Supreme Court upheld the constitutionality of an Oregon law limiting women to a ten hour workday.[705] In support of the law, Louis D. Brandeis filed a brief containing what the Court called "a very copious collection" of "expressions of opinion from other than judicial sources."[706] Brandeis' brief contained evidence about women's reactions to contemporary work conditions gathered from surveys, government statistics, factory reports, and opinions of employers, employees, and physicians.[707] The Court relied on this evidence to sustain the Oregon law providing special protection for women in the workplace.[708] This method of presenting an argument became known as a "Brandeis Brief."[709]

Almost half a century later, the Supreme Court relied on

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703 See, MacKinnon, Pornography, Civil Rights, and Speech, 20 Harv.C.R.-C.L. L. Rev. 1(1985).

704 208 U.S. 412(1908).

705 Id. at 416.

706 Id. at 419, n.1.

707 Levin & Moise, School Desegregation Litigation in the Seventies and the Use of Social Science Evidence - An Annotated Guide, 39 Law & contemp. Probs. 50, 51 (1975) [hereinafter cited as Levin & Moise, School Desegregation].

708 208 U.S. at 419-21.

709 Levin & Moise, School Desegregation, supra, note 707, at 51.

social science evidence in the landmark school desegregation decision of Brown v. Board of Education.[710] In declaring "separate but equal" schools unconstitutional, the Court found that segregated facilities have a detrimental effect on children.[711] The Court agreed that,

> segregation with the sanction of law . . . has a tendency to [retard] the educational and mental developments of negro children and to deprive them of some of the benefits they would receive in a racial[ly] integrated school system.[712]

The Court added that "this finding is amply supported by modern authority,"[713] and cited, among others, Kenneth Clark and Gunnar Myrdal.[714] The Court's reliance on this material as a basis for finding discrimination was subject to some criticism.[715] On one later occasion, the Court heard "a great deal of medical and sociological"[716] evidence about alcoholism, but rejected it as

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710 347 U.S. 483(1954).

711 Id. at 494.

712 Id.

713 Id.

714 Id. at 494-95, n. 11.

715 See, Cahn, Jurisprudence, 30 N.Y.U. L. Rev. 150(1955); Fiss, The Jurisprudence of Busing, 39 Law & Contemp. Probs. 194 (1975).

716 Powell v. Texas, 392 U.S. 514, 537(1968) (Black, J., concurring).

going "too far on too little knowledge"[717] and declined to find criminal sanctions against public drunkenness to be cruel and unusual punishment.[718] However, the Court has relied upon extra-judicial proof in cases dealing with issues as diverse as the death penalty[719] and the constitutionality of six member juries.[720] The late Judge J. Braxton Craven of the United States Court of Appeals for the Fourth Circuit noted that "Brandeis briefs" are now standard operating procedure in equal employment, ecology, and school desegregation cases.[721] Judge Craven wrote,

> To give a simplistic answer to a difficult question, the role that the social sciences ought to play in the judicial decision making process is of course the same as the role of any other science whether medical, electronic, or atomic.
>
> In short, all sources of human information and knowledge properly contribute to the determination of the facts.[722]

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717 Id. at 521.

718 Id. at 521-23.

719 Furman v. Georgia, 408 U.S. 238, 250-51 n.15(1972) (Douglas, J., concurring) (citing studies that conclude the death penalty is disproportionately applied in cases involving poor or black defendants); at 307 n.7 (Stewart, J., concurring) (citing studies comparing crime rates in jurisdictions with death penalty provisions).

720 Williams v. Florida, 399 U.S. 78, 101-02 n. 49(1970) (citing psychological evidence that twelve member juries are no more advantageous to criminal defendants than six member panels).

721 Craven, The Impact of Social Service Evidence on the Judge - A Personal Comment, 39 Law & Contemp. Probs. 157, 63 (1975).

722 Id.

Judge Craven concluded with respect to the extra judicial proof in Brown v. Board of Education,

> Although startling at the time, the decision now rests upon a bedrock of public opinion that school assignments and legal distinctions based on race are unfair and that enforced separation of a minority group stigmatizes them.723

James B. McMillan, United States District Judge in the Western District of North Carolina, wrote, "The study of people and their problems is a natural prerequisite of the legal decision of problems among people."[724] It is this very type of evidence that the Commission has found to be persuasive. While the United States Court of Appeals for the Seventh Circuit found the Indianapolis ordinance unconstitutional because of its definition of "pornography,"[725] the court accepted the premise of the legislation and said,

> Depictions of subordination tend to perpetuate subordination. The subordinate status of women in turn leads to affront and lower pay at work, insult and injury at home, battery and rape on the streets. In the language of the legislature, "[p]ornography is central in creating and maintaining sex as a basis of discrimination. Pornography is a systematic practice of exploitation and subordination based on sex which differentially harms women. The bigotry and contempt it produces, with the acts of aggression it fosters, harm women's opportunities for equality and rights [of

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723 Id. at 153.

724 J.B. McMillan, Social Science and the District Court The Observations of a Journeyman Trial Judge, 39 Law & Contemp. Probs. 157, 163(1975).

725 American Booksellers Ass'n v. Hudnut, 771 F.2d 323, 325(1985).

all kinds]." Indianapolis Code S16-1(a)(2).[726]

The court of appeals recognized that pornography harms women just as the United States Supreme Court found excessive working hours harmful to women in Muller v. Oregon and segregated schools harmful to minority students in Brown v. Board of Education. As a result of the United States Supreme Court's summary affirmance of the court of appeals in Hudnut v. American Booksellers Association,[727] proponents of the civil rights ordinance approach to pornography must attempt to fashion a definition of pornography which will pass constitutional muster.

The Commission recommends that any civil rights approach used to address harms attributable to pornography should include an affirmative defense of a knowing and voluntary consent to the acts. This defense would prevent performers who choose to engage in the production of pornographic materials from seeking recovery.

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726 Id. at 329. In footnote 2, the court added,

> In saying that we accept the finding that pornography as the ordinance defines it leads to unhappy consequences, we mean only that there is evidence to this effect, that this evidence is consistent with much human experience, and that as judges we must accept the legislative resolution of such disputed empirical questions.
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> See Gregg v. Georgia, 428 U.S. 153, 184-87, 96 S.Ct 2909, 2930-31, 49 L.Ed.2d 859 (1976) (opinion of Stewart, Powell, and Stevens, J.).

727 54 U.S.L.W. 3548(Feb. 25, 1986).

CONCLUSION

The pattern of harm documented before the Commission, taken as a whole, supports the conclusion that the pornography industry systematically violates human rights with apparent impunity. The most powerless citizens in society are singled out on the basis of their gender -- often aggravated by their age, race, disability, or other vulnerability -- for deprivations of liberty, property, labor, bodily and psychic security and integrity, privacy, reputation, and even life.

So that pornography can be made, victims have been exploited under conditions providing them a lack of choice and have been coerced to perform sex acts against their will. Public figures and private individuals alike are defamed in pornography with increasing frequency. It is also foreseeable, on the basis of our evidence, that unwilling individuals have been forced to consume pornography, in order to pressure or induce or humiliate or browbeat them into performing the acts depicted. Individuals have also been deprived of equal access to services, employment or education as a result of acts relating to pornography. Acts of physical aggression more and more appear tied to the targeting of women and children for sexual abuse in these materials.[728]

Through these means, the pornographers' abuse of individual members of protected groups both victimizes them and notifies all

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728 See, Recommendations for Regulating Child Pornography in Chapter 3 of this Part and the complete discussion of Victimization in Chapter 1 of Part Five.

of society that such abuses of them is permitted. This in turn serves to terrorize others in their group and contributes to a general atmosphere of bigotry and contempt for their rights and human dignity, in an impact reminiscent of the Ku Klux Klan. Respect for law is undermined when such flagrant violations go unchecked -- even more so when they are celebrated as liberties protected by government.

We therefore conclude that pornography, when it leads to coerced viewing, contributes to an assault, is defamatory, or is actively trafficked, constitutes a practice of discrimination on the basis of sex. Any legal protections which currently exist for such practices are inconsistent with contemporary notions of individual equality.

The Commission accordingly recommends that the legislature should conduct public hearings and consider legislation affording protection to those individuals whose civil rights have been violated by the production or distribution of pornography. The legislation should define pornography realistically and encompass all those materials, and only those materials, which actively deprive citizens of such rights. At a minimum, claims could be provided against trafficking, coercion, forced viewing, defamation, and assault, reaching the industry as necessary to remedy these abuses, consistent with the First and Fourteenth Amendments.

Chapter 6

Nuisance

The exhibition of obscene materials constitutes "a crime involving the welfare of the public at large, since it is contrary to the standards of decency and propriety of the community as a whole."[729] Thus the exhibition of obscene materials may be enjoined as a public nuisance under applicable state law or local ordinance.730

Nuisance abatement suits have successfully been brought to enjoin the exhibition or dissemination of specific books, magazines, or movies.731 However, the constitutional provisions against prior restraint of presumptively protected speech is an important limitation on the use of nuisance actions.732

Plaintiffs in civil nuisance actions should use procedures which include procedural safeguards against invalid prior

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729 Evans Theatre Corp. v. Slaton, 180 S.E.2d 712, 715-16(Ga. 1971), cert. denied 404 U.S. 950.

730 See, Paris Adult Theatre I v. Slaton, 413 U.S. 49, 54-55(1973).

731 See, Trans-Lux Corp. v. State, 366; So. 2d 710(Ala. 1979); Sanders v. State, 203 S.E.2d 153(Ga.); Minor v. Central Ave. News, Inc., 308 N.W.2d 851(N.D. 1981), app. dism. 102 (Okla.); People ex rel. Busch v. Projection Room Theatre, 550 P.2d 600(1976).

732 See generally, Freedman v. Maryland, 380 U.S. 51(1965); Southeastern Promotions, Ltd. v. Conrad, 420 U.S. 546(1975).

restraints.[733] The United States Supreme Court rejected the application of nuisance statutes to enjoin the future exhibition of unnamed films in an "adults only" pornographic theater.[734]

Courts have also been unwilling to enjoin the future operation of "adults only" pornographic outlets or theatres that have exhibited obscene publications or films in the past because of First Amendment concerns regarding prior restraints.[735] Other courts have upheld injunctions closing the offending establishments for a period of one year.[736]

To avoid First Amendment challenges, nuisance actions may also be brought based upon lewd activity, assignation, or prostitution occurring on the premises where the obscene material is sold or exhibited.[737]

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733 See, Southeastern Promotions, Ltd. v. Conrad, 420 U.S. at 560.

734 Vance v. Universal Amusement Co., 445 U.S. 308(1980).

735 People ex rel. Busch v. Projection Room Theater, 550 P.2d 600(1976); State v. A Motion Picture Entitled "The Bet", 547 P.2d 760(Kan.).

736 State ex rel. Cahalan v. Diversified Theatrical Corp., 229 N.W.2d 389(Mich. App.); City of Tallmadge v. Avenue Book Store, No. 10038(Ohio App. Summit County, Oct. 28, 1981) cert. denied 459 U.S. 997(1982).

737 People v. Adult World Bookstore, 108 Cal. App. 3d 404, 166 Cal. Rptr. 519(1980); People v. Golman, 7 Ill. App. 3d 253, 287 N.E.2d 177(Ill. 1972).

Chapter 7

Anti-Display Laws

Anti-display laws regulate the method by which pornographic materials can be publicly displayed. Statutes or ordinances may be enacted to restrict the display of sexually explicit materials to minors. In order to withstand constitutional challenges, such laws should apply only to materials that are obscene as to minors.[738] The regulations also should contain reasonable time, place, and manner restrictions.[739]

In M.S. News Co. v. Casado,[740] the United States Court of Appeals for the Tenth Circuit upheld a Wichita, Kansas, ordinance which restricted the display of material "harmful to minors."[741] The Wichita ordinance defined "harmful to minors" as any

> description, exhibition, presentation or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse when the material or performance, taken as a whole, has the following characteristics:
>
> (a) The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors; and

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738 See, Ginsberg v. New York, 390 U.S. 629, 645-47(1968).

739 See, Young v. American Mini-Theatres, 427 U.S. 50, 63(1976).

740 721 F.2d 1281(10th Cir. 1983).

741 Wichita, Kan., Ordinance no. 36-172, S5.68 156(1985).

(b) The average adult person applying contemporary community standards would find that the material or performance depicts or describes nudity, sexual conduct, sexual excitement or sado-masochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and

(c) The material or performance lacks serious literary, scientific, educational, artistic, or political value for minors.742

The ordinance also provided criminal penalties.

The penalties may be imposed when any person having custody, control or supervision of any commercial establishment shall knowingly:

(a) display material which is harmful to minors in such a way that minors, as a part of the invited general public, will be exposed to view such material provided, however, a person shall be deemed not to have "displayed" material harmful to minors if the material is kept behind devices commonly known as "blinder racks" so that the lower two-thirds of the material is not exposed to view.743

The court of appeals found that the definition of "harmful to minors" properly tracked the standards enunciated in Ginsberg v. New York[744], and Miller v. California.[745] The requirement that the lower two-thirds of the material be covered was neither

742 Id.

743 Id.

744 390 U.S. 629, 645-47(1968).

745 413 U.S. 15, 24(1973).

overbroad nor vague.[746] While the ordinance did restrict an adult's opportunity to view the materials, it did not prevent an adult from purchasing them.[747] The Court found the ordinance to be a reasonable time, place, and manner restriction justified by the government's interest in protecting minors.[748]

A Minneapolis, Minnesota, ordinance[749] which was more restrictive than the one enacted in Wichita withstood a constitutional challenge in Upper Midwest Booksellers v. City of Minneapolis.[750] The Minneapolis Ordinance provided,

> It is unlawful for any person commercially and knowingly to exhibit, display, sell, offer to sell, give away, circulate, distribute, or attempt to distribute any material which is harmful to minors in its content in any place where minors are or may be present or allowed to be present and where minors are able to view such material unless each item of such material is at all times kept in a sealed wrapper.
>
> (a) It is also unlawful for any person commercially and knowingly to exhibit, display, sell, offer to sell, give away, circulate, distribute, or attempt to distribute any material whose cover, covers, or packaging, standing alone, is harmful to minors, in any place where minors are able to view such material unless each item of such material is blacked from view by an opaque cover. The requirement of an opaque cover shall be deemed satisfied concerning such material if those portions of the cover, covers, or packaging containing such material harmful to minors are

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746 721 F.2d 1281, 1287(10th Cir.1983).

747 Id. at 1288-89

748 Id.

749 Minneapolis, Minn., Ordinances S385.131(1985).

750 602 F. Supp. 1361(D. Minn. 1985).

blocked from view by an opaque cover.[751]

The Booksellers maintained that the requirement of a sealed wrapper was unduly restrictive as to an adult's right to peruse the materials which were harmful to minors but not to adults.[752] The Court concluded that any inconvenience suffered by adult patrons was not sufficient to render the restrictions unconstitutional.[753] If adults wanted to peruse the materials covered by the ordinance, the Court reasoned that they would be able to do so in one of several ways: 1) ask a clerk to remove the wrapper; 2) view an "inspection copy" kept behind the store counter, or 3) view the material in an "adults only" pornography outlet that excludes minors.[754]

Display laws which define "harmful to minors" with language other than the Ginsberg standard have been found unconstitutional.[755]

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751 Minneapolis, Minn., Ordinances S385.131(6)(a)(1985).

752 602 F. Supp. at 1370.

753 Id. at 1372.

754 Id.

755 See, Hillsboro News Co. v. City of Tampa, 451 F. Supp. 952(M.D. Fla. 1978) (ordinance restricted display of "offensive sexual material" found unconstitutionally vague); American Booksellers Ass'n v. McAuliffe, 533 F. Supp. 50 (N.D. Ga. 1981) (statute prohibiting display or sale to minors of material containing nude figures held overbroad because prohibition extends to material not obscene as to minors); American Booksellers Ass'n, Inc. b. Superior Court, 129 Cal. App. 3d 197, 181 Ca. Rptr. 33(1982) (ordinance overbroad because it required sealing material containing any photo whose primary purpose is sexual arousal regardless of whether obscene as to minors);

While opaque covers and sealed wrappers are a permissible means of restricting the display of sexually explicit materials to minors, a Virginia statute which simply made it unlawful to display material harmful to minors in a manner "whereby juveniles may examine and peruse it" was found unconstitutional.[756] The Virginia statute contained no provisions for the use of opaque covers and the court found that outlets would face unreasonable burdens in complying with the statute.[757] They would have to deprive adults of the material, remove it from their shelves or ban minors from their stores.[758] The Court also found the idea of outlets restructuring their premises and creating an "adults only" section to be unreasonable.[759] The Court concluded the statute was overbroad as a time, place and manner restriction.[760] A requirement of opaque covers or "blinder racks" would have narrowed the scope of the restriction and could have provided the

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Calderon v. City of Buffalo, 61 A.D.2d 323, 402 N.Y.S.2d 685(1978) (ordinance overbroad because it prohibited sale and exhibition to juveniles of material that was not obscene as to juveniles); Oregon v. Frink, 60 Or. App. 209, 653 P.2d 553(1982) (statute prohibiting dissemination of all nudity to minors overbroad because it does not limit prohibition to material that is obscene as to juveniles).

756 American Booksellers Ass'n v. Strobel, 617 F. Supp. 699 (E.D. Va. 1985).

757 Id. at 706.

758 Id. at 702-03.

759 Id.

760 Id. at 706.

basis for the court upholding the statute in this case.[761]

[761] Id. at 706-07.

PART FOUR

Chapter 1

Victimization

Women, men, and children who believe they have been harmed by pornography described adverse physical and psychological effects in their public testimony before the Commission and other bodies and in accounts given in writing or in interviews by Commission staff. The Commission heard testimony from thirty witnesses who reported that they or others with whom they had special relationships had been harmed in some manner by or as a result of pornography. More than one hundred persons were interviewed by Commission staff investigators, who were law enforcement personnel with considerable experience in dealing with trauma victims. Although in many instances, facts related by the person interviewed could be verified by reference to treatment records, court records, or law enforcement files, in other instances no independent verification was possible. In addition to the foregoing, a number of other statements were received in letters from persons who reported pornography-related victimization and in exhibits filed by witnesses from hearings before other fact finders, including city councils, courts of record, and the United States Senate. Some of these individuals reported an extensive series of traumatic events in their lives, making it difficult to assess the relationship, if any, between pornography and their suffering.

Witnesses attributed to pornography their having been coerced into pornographic performances, bound and beaten in direct imitation of pornography, and forcibly imprisoned for the purpose of manufacturing pornography. Although this Commission can neither conclusively determine that pornography caused these physical harms nor conclusively determine that it did not, it was the opinion of the witnesses that pornography played a central role in the pattern of abuse within which they were harmed.

Witnesses attributed many different kinds of damage to psychological functioning and sense of self to their having been used in the production of pornographic materials, exposed to pornographic materials, or sexually assaulted by offenders who used pornography as part of the abuse. Many of these psychological injuries correspond to the signs and symptoms of post-traumatic stress disorder.762 Witnesses also attributed to pornography financial losses due to hospitalization and therapy, damage to family relationships and status in the community caused by defamatory representations in pornography, associations between prostitution and pornography, and sexual harassment through pornography. Many of the women, men, and children who

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762 "The essential feature is the development of characteristic symptoms following a psychologically traumatic event that is generally outside the range of human experience. The characteristic symptoms involve reexperiencing the traumatic event; numbing of responsiveness to, or deduced involvement with, the external world; and a variety of autonomic, dysphoric, or cognitive symptoms." American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders 236 (3d ed. 1980).

testified reported each of these types of consequences, and some individuals are quoted repeatedly in various sections of this chapter.

Although we have tried in this chapter to allow victims to speak in their own words, without interpretation or commentary, we have in several instances quoted the words of victims' mothers, friends, or therapists. We have done so only because there are instances in which the victims themselves were unavailable for testimony. In the same vein, we quote here pertinent excerpts from the eloquent testimony of Andrea Dworkin on behalf of many other victims whose voices were not heard:

> My name is Andrea Dworkin. I am a citizen of the United States, and in this country where I live, every year millions of pictures are being made of women with our legs spread. We are called beaver, we are called pussy, our genitals are tied up, they are pasted, makeup is put on them to make them pop out of a page at a male viewer. Millions and millions of pictures are made of us in postures of submission and sexual access so that our vaginas are exposed for penetration, our anuses are exposed for penetration, our throats are used as if they are genitals for penetration. In this country where I live as a citizen real rapes are on film and are being sold in the marketplace. And the major motif of pornography as a form of entertainment is that women are raped and violated and humiliated until we discover that we like it and at that point we ask for more.
>
> In this country where I live as a citizen, women are penetrated by animals and objects for public entertainment, women are urinated on and defecated on, women and girls are used interchangeably so that grown women are made up to look like five- or six-year-old children surrounded by toys, presented in mainstream pornographic publications for anal penetration. There are magazines in which adult women are presented with their pubic areas shaved so that they resemble children.
>
> In this country where I live, there is a trafficking in

pornography that exploits mentally and physically disabled women, women who are maimed; there is amputee pornography, a trade in women who have been maimed in that way, as if that is a sexual fetish for men. In this country where I live, there is a trade in racism as a form of sexual pleasure, so that the plantation is presented as a form of sexual gratification for the black woman slave who asks please to be abused, please to be raped, please to be hurt. Black skin is presented as if it is a female genital, and all the violence and the abuse and the humiliation that is in general directed against female genitals is directed against the black skin of women in pornography.

Asian women in this country where I live are tied from trees and hung from ceilings and hung from doorways as a form of public entertainment. There is a concentration camp pornography in this country where I live, where the concentration camp and the atrocities that occurred there are presented as existing for the sexual pleasure of the victim, of the woman, who orgasms to the real abuses that occurred, not very long ago in history.

In the country where I live as a citizen, there is a pornography of the humiliation of women where every single way of humiliating a human being is taken to be a form of sexual pleasure for the viewer and for the victim; where women are covered in filth, including feces, including mud, including paint, including blood, including semen; where women are tortured for the sexual pleasure of those who watch and those who do the torture, where women are murdered for the sexual pleasure of murdering women, and this material exists because it is fun, because it is entertainment, because it is a form of pleasure, and there are those who say it is a form of freedom.

Certainly it is freedom for those who do it. Certainly it is freedom for those who use it as entertainment, but we are also asked to believe that it is freedom for those to whom it is done.

Then this entertainment is taken, and it is used on other women, women who aren't in the pornography, to force those women into prostitution, to make them imitate the acts in the pornography. The women in the pornography, sixty-five to seventy percent of them we believe are victims of incest or child sexual abuse. They are poor women; they are not women who have opportunities in this society. The are frequently runaways who are picked up by pimps and exploited.

They are frequently raped, the rapes are filmed, they are kept in prostitution by blackmail. The pornography is used on prostitutes by johns who are expected to replicate the sexual acts in the pornography, no matter how damaging it is.

Pornography is used in rape--to plan it, to execute it, to choreograph it, to engender the excitement to commit the act. Pornography is used in gang rape against women. We see an increase since the release of "Deep Throat" in throat rape--where women show up in emergency rooms because men believe they can penetrate, deep-thrust, to the bottom of a woman's throat. We see increasing use of all elements of pornography in battery, which is the most commonly committed violent crime in this country, including the rape of women by animals, including maiming, including heavy bondage, including outright torture.

We have seen in the last eight years, an increase in the use of cameras in rapes. And those rapes are filmed and then they are put on the marketplace and they are protected speech--they are real rapes. We see pornography in the harassment of women on jobs, especially in nontraditional jobs, in the harassment of women in education, to create terror and compliance in the home, which as you know is the most dangerous place for women in this society, where more violence is committed against women than anywhere else. We see pornography used to create harassment of women and children in neighborhoods that are saturated with pornography, where people come from other parts of the city and then prey on the populations of people who live in those neighborhoods, and that increases physical attack and verbal assault.

We see pornography having introduced a profit motive into rape. We see that filmed rapes are protected speech. We see the centrality of pornography in serial murders. There <u>are</u> snuff films. We see boys imitating pornography.

We see the average age of rapists going down. We are beginning to see gang rapes in elementary schools committed by elementary school age boys imitating pornography. We see sexual assault after death where frequently the pornography is the motive for the murder because the man believes that he will get a particular kind of sexual pleasure having sex with a woman after she is dead.

We see a major trade in women, we see the torture of

women as a form of entertainment, and we see women also suffering the injury of objectification-- that is to say we are dehumanized. We are treated as if we are subhuman, and that is a precondition for violence against us.

I live in a country where if you film any act of humiliation or torture, and if the victim is a woman, the film is both entertainment and it is protected speech. Now that tells me something about what it means to be a woman citizen in this country, and the meaning of being second class.

When your rape is entertainment, your worthlessness is absolute. You have reached the nadir of social worthlessness. The civil impact of pornography on women is staggering. It keeps us socially silent, it keeps us socially compliant, it keeps us afraid in neighborhoods; and it creates a vast hopelessness for women, a vast despair. One lives inside a nightmare of sexual abuse that is both actual and potential, and you have the great joy of knowing that your nightmare is someone else's freedom and someone else's fun.

. . . The first thing I am going to ask you to do is listen to women who want to talk to you about what has happened to them. Please listen to them. They know, they know how this works . . . . [I]t has happened to them.

I am also asking you to acknowledge the international reality of this--this is a human rights issue--for a very personal reason, which is that my grandparents came here, Jews fleeing from Russia, Jews fleeing from Hungary. Those who did not come to this country were all killed, either in pogroms or by the Nazis. They came here for me. I live here, and I live in a country where women are tortured as a form of public entertainment and for profit, and that torture is upheld as a state-protected right. Now, that is unbearable.

I am asking you to help the exploited, not the exploiters. You have a tremendous opportunity here. I am asking you as individuals to have the courage, because I think it's what you will need, to actually be willing yourselves to go and cut that woman down and untie her hands and take the gag out of her m o u t h , and to do something, for her freedom.[763]

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763 New York Hearing, Vol. II, Andrea Dworkin, p. 129-51.

II. ADVERSE EFFECTS

A. Physical Harm

1. Rape

The Commission received testimony alleging rapes related to pornography. For example, a woman reported that her daughter was forced to engage in sexual acts in the making of pornographic materials.

> My daughter attended [a] Pre-school in . . . California. She was three years old when she began attending. During the six months she attended before the school closed, she was sexually molested on multiple occasions, by teachers on the school grounds and also was taken off school property to unknown locations to be molested by persons unknown to me. Photographs were taken on many (if not all) of these occasions. She was threatened with physical violence with a knife and a gun and was forced to watch animals being killed.[764]

A man who claimed he had participated in over one hundred pornographic films in two and a half years testified:

> I have seen it totally destroy too many lives, but mostly the girls. It's a lot harder on young ladies. I have seen a lot of producers and directors and photographers, just to get out a product that they have in mind, either badger or almost force the girls into doing things that they would really rather not do. I, myself, have been on a couple of sets where the young ladies have been forced to do even anal sex scenes with a guy which is rather large and I have seen them crying in pain and just totally destroys their personality

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764 Miami Hearings, Vol. II, p. 285B.

when they are forced to do things like that.[765]

Other rapes were allegedly stimulated by the viewing of pornography or modeled after particular pornographic materials.

A mother left her ten year old daughter for two hours with a very close friend who lived next door. The friend had the girl watch pornographic movies on the Playboy TV channel and then engaged in oral sex with her.[766]

In testimony before another body, one woman reported:

> Over a period of eighteen years the woman was regularly raped by this man. He would bring pornographic magazines, books, and paraphernalia into the bedroom with him and tell her that if she did not perform the sexual acts that were being done in the "dirty" books and magazines he would beat and kill her. I know about this because my bedroom was right next to hers. I could hear everything they said. I could hear her screams and cries. In addition, since I did most of the cleaning in the house, I would often come across the books, magazines, and paraphernalia that were in the bedroom and other rooms of the house. The magazines had pictures of mostly women and children and some men. Eventually, the woman admitted to me that her ex-husband did in fact use pornographic materials to terrorize and rape her.[767]

Another woman wrote:

> When I first met my husband, it was in early 1975, and he was all the time talking about Ms. Marchiano's film, Deep Throat. After we were married, he on several occasions referred to her performances and suggested I

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765 Los Angeles Hearing, Vol. I, p. 81.

766 Letter from Oklahomans Against Pornography to the Attorney General's Commission on Pornography.

767 Minneapolis City Council, Session II, p. 14 (Dec. 1983).

> try to imitate her actions . . . . Last January . . . my husband raped me . . . . He made me strip and lie on our bed. He cut our clothesline up . . . and tied my hands and feet to the four corners of the bedframe. (All this was done while our nine month old son watched.) While he held a butcher knife on me threatening to kill me he fed me three strong tranquilizers. I started crying and because the baby got scared and also began crying, he beat my face and my body. I later had welts and bruises. He attempted to smother me with a pillow . . . . Then, he had sex with me vaginally, and then forced me to give oral sex to him.[768]

Another woman alleged that her father had used Playboy in connection with his molestation of her when she was a small child:

> . . . This father took a Playboy magazine and wrote her name across the centerfold. Then he placed it under the covers so she would find it when she went to bed. He joined her in bed that night and taught her about sex.

According to another source:

> A five year old child told her foster mother, "We have movies at home. Daddy shows them when mother is gone. The people do not wear clothes, and Daddy and I take our clothes off and do the same thing the people in the movies do.[769]

Women who had been asked if they had ever been upset by anyone trying to get them to do what they'd seen in pornographic pictures, movies or books had described the following examples:

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768 Anonymous letter to the Pornography Resource Center forwarded to the Attorney General's Commission on Pornography.

769 Letter from Oklahomans Against Pornography to the Attorney General's Commission on Pornography.

> Miss D: I was staying at this guy's house. He tried to make me have oral sex with him. He said he'd seen far-out stuff in movies, and that it would be fun to mentally and physically torture a woman.
>
> Miss G: He forced me to have oral sex with him when I had no desire to do it.
>
> Miss M: Anal sex. First he attempted gentle persuasion, I guess. He was somebody I'd been dating a while and we'd gone to bed a few times. Once he tried to persuade [me] to go along with anal sex, first verbally, then by touching me. When I said, "no," he did it anyway--much to my pain. It hurt like hell.[770]

One rape victim said that her assailants had attacked her after perusing pornographic magazines:

> The third man forced his penis into my mouth and told me to do it and I didn't know how to do it, I did not know what I was supposed to be doing. He started swearing at me and calling me a bitch and a slut and that I better do it right and that I wasn't even trying. Then he started getting very angry and one of men pulled the trigger in his gun so I tried harder.
>
> Then when he had an erection, he raped me. They continued to make jokes about how lucky they were to have found me when they did and they made jokes about being a virgin. They started kicking leaves and pine needles on me and kicking me and told me that if I wanted more, that I could come back the next day.
>
> Then they started walking away and I put my clothes back on and it was not far from where they had set up their camp and I looked down and saw that they had been reading pornographic magazines. They were magazines with nude women on the covers.[771]

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[770] Minneapolis City Council, Session I. p. 65, 67 (Dec. 1983). (Testimony based on Diana Russell's research).

[771] Minneapolis City Council, Session II, p. 42 (Dec. 1983).

Elsewhere a gang rape was attributed to imitation of a specific piece of pornography:

> [A] a gang rape of a juvenile girl [was committed] by six adolescent boys who used a pornographic magazine's pictorial and editorial outlay to recreate a rape in the woods outside of their housing development.[772]

Another victim of sexual assault during childhood attributed her assailant's behavior to the instruction of pornography:

> What this game consisted of was each child going into a tool shed with this guy. When my turn came I didn't want to go in because I was scared, it was dark in there and it was dirty. There were cobwebs and there was this giant pitchfork.
>
> One of the kids pushed me inside and shut the door. Then this boy grabbed me and he pulled down my shorts and sexually abused me. In short, he finger-fucked me and he made me masturbate him. I was really terrified. I thought I was in hell, and I was also in a lot of pain. I started crying really hard and he finally let me go, but I was told that if I told anyone I wouldn't be believed, that it was all my fault and that I would be punished. He also told me that he would hurt me again if I told anyone. His sister told me that this game he had learned from his dirty books. I knew that he had these dirty books because I had seen him with them.[773]

Another witness testified that pornography had been used by a man who had sexually abused her in childhood:

> A lot of raping went on in the basement. That is also where the pornography books were. They were magazines that were brought of hiding, out of boxes that were on the top of shelves.

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772 Pornography Speech presented to the National Women Judges Conference, October 12, 1986, submitted to the Attorney General's Commission on Pornography.

773 Minneapolis City Council, Session II, p. 48-49 (Dec. 1983).

> When [he] and I got to the top of the stairs I knew I was going to pay for my little arrangement. He ordered me to take my clothing off and he tried to rape me. He was too big and I was too small. He forced me to go down on him . . . .[774]

Other witnesses testified that men had required of them particular acts that had been seen in pornography:

> While imitating the women in the magazines was one result of the material, I have always felt that another consequence was the initiation of oral sex into the abuse. This did not occur until after the pornographic material arrived and I firmly believe that the idea came from the pornographic magazines.
>
> Pornography did not cause the incestuous relationship with my older brother but I have always felt that its use contributed to the different types of abuse that was used.[775]

Another woman described the same phenomenon within her marriage:

> I had not realized the extent of the harm that pornography had done to me until a year and a half ago when I was working on a photo montage of the kinds of pornography for an educational forum. I came across a picture of a position that my ex-husband had insisted we try. When we did, I found the position painful, yet he was determined that we have intercourse that way. I hemorrhaged for three days. I finally went to my doctor and I recall the shame I felt as I explained to him what had caused the bleeding.
>
> Once we saw an X-rated film that showed anal intercourse. After that he insisted that I try anal intercourse. I agreed to do so, trying to be the available, willing creature that I thought I was supposed to be. I found the experience very painful, and I told him so. But he kept insisting that we try it again and again.[776]

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774 Washington, D.C., Hearing, Vol. I, p. 222.

775 Chicago Hearing, Vol. II, p. 291B.

776 Chicago Hearing, Vol. II, p. 241F3.

According to a former Playboy bunny:

> A Playmate of the Year, also on the Woman to Woman Show, testified that a man attempted to rape her after he recognized her from the magazine.
>
> I experienced everything from date rape to physical abuse, to group sex and finally to fantasizing homosexuality as I read Playboy magazines. The group sex held in Hefner's mansion was accompanied by the pornographic movie, The Devil in Miss Jones . . . .[777]

A woman who said that both of her husbands had subjected her to sexual and other physical abuse testified,

> Often he would be high on drugs or alcohol and force me to do violent sexual acts while he was leafing through the pictures.[778]

Testifying before another body, one woman described forced sexual activity during the screening of pornographic films:

> . . . comments like "That's how real men do it," instructing the handicapped men, teasing them that if they watched enough of these movies they would be able to perform normally. There were constant remarks made about what normal male sexual experience was. Then the disabled men were undressed by the able men and the woman was forced to engage sexually with the disabled men, there were two weapons in the room. The woman refused and she was forced, held down by the physically able men. Everyone watched and the movies kept going.
>
> After this, the able-bodied men said they were going to show the handicapped men how "real men" do it. They forced the woman to enact simultaneously with the movie. In the movie at this point a group of men were urinating on a naked woman. All the men in the room were able to perform this task, so they all started urinating on the woman who was now naked. Then the able-bodied men had sex with the woman while the

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777 Chicago Hearing, Vol. I, p. 314, 316.

778 Washington, D.C., Hearing, Vol. I, p. 125.

disabled men watched.[779]

2. Forced Sexual Performance

During the course of the hearings the Commission received reports from individuals who described situations in which they were forced to engage in certain sexual acts. These acts are distinct from and in addition to those acts described as rape above. As with the acts of rape which were described to the Commission, acts of forced sexual performance included those done in the course of making pornographic material and those relating to the use of existing pornography. Examples of the first of these are abundant:

> A mother and father in South Oklahoma City forced their four daughters, ages ten to seventeen, to engage in family sex while pornographic pictures were being filmed. This mother also drove the girls to dates with men where she would watch while the girls had sex, then she would collect fees of thirty to fifty dollars.[780]

A woman who had been forced into prostitution and participating in the filming of pornography testified:

> He had video equipment in his home long before it was mass produced. Every time my pimp sent me to him he would take pornographic pictures of me and a second woman. He also made video tapes of the sex that took place under his direction. This continued on the average of once a week for about a year.

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779 Minneapolis City Council, Session II, p. 72 (Dec. 1983).

780 Letter from Oklahomans Against Pornography to the Attorney General's Commission on Pornography.

> There was an apartment that I was sent to often. There were usually two to three men there. After I had sex with them, they would take pictures of me in various pornographic poses. When I was a young girl I didn't have the vocabulary to call them pornographers. I used to refer to them as "the photographers."
>
> On another occasion another young girl and myself were taken to an apartment in to meet some men. We were told that they were gangsters and that we should be nice to them. When we arrived we were taken into a room that had a large bed at its center surrounded by lighting and film equipment. We were told to act out a "lesbian scene." After about fifteen minutes we were told to get dressed, that they couldn't use us. We were returned to [our city] unpaid. Again, it was only in retrospect as an adult that I realized I had been used in a commercial pornographic film loop.781

Another woman wrote:

> My father was my pimp in pornography. There were three occasions, from ages nine to sixteen, when he forced me to be a pornography model. This was in the 1950s and 1960s . . . . I don't know if the pictures and films are still being distributed.782

A sixteen-year-old girl who had been molested by two family friends from age seven to age twelve testified:

> Viewing the pictures in the magazines seemed to click something for him, for he then wanted his own personal record of all that he had taught me.
>
> He whipped out his Polaroid camera, which was in his briefcase, and then he proceeded to take pictures of me in these various positions, which included using the vibrator.783

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781 Washington, D.C., Hearing, Vol. I, p. 180.

782 Brief of Women Against Pornography submitted to the Attorney General's Commission on Pornography.

783 Miami Hearing, Vol II, p. 20-21.

Another woman described her discomfort in trying to pose as demanded of her:

> So I told him that I would try. The first few attempts I failed, he was very disappointed. I failed under the weight and under the heat of the plaster. He wanted me to be in poses where I had to hold my hands up over my head and they would be numb and they would fall. He eventually tied my hands over my head. Finally he succeeded, he ended up getting a plastic cast of my body.
>
> . . . He told me to take off my clothes and to pose in various positions, either draped over the corroded, rusty seats or in positions where I acted as if I was running towards the door. And then he asked me to put my body in contorted different positions, draped down the stairs of the bus, and they were quite jagged, and at that moment I realized that we were depicting a murder. I became very terrified and scared and I was really cold. I told him I didn't want to do this and that I wanted to go home and that I was really scared.
>
> While we were doing this, I would like to backtrack for a minute, I wasn't achieving the right facial expressions for the pictures so he started telling me stories that depicted pursuits during rape so that I would have the right expressions on my face like the women in the magazines. I remember being very distant from him and just wanting to get home. I remember being very scared.[784]

In these instances in which forced sexual performances were said to be modeled after pornography, the individuals stated that they were shown various pornographic materials and forced to recreate the activities depicted. In some cases the imitation required of victims was highly specific, as in the following example:

> My father had an easel that he put by the bed. He'd pin a picture on the easel and like a teacher he would tell me this is what you're going to learn today. He

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784 Minneapolis, Session II, p. 59-60 (Dec. 1983).

would then act out the picture on me.[785]

Another woman wrote:

> I was sexually abused by my foster father from the time I was seven until I was thirteen. He had stacks and stacks of Playboys. He would take me to his bedroom or his workshop, show me the pictures, and say, "This is what big girls do. If you want to be a big girl, you have to do this, but you can never tell anybody." Then I would have to pose like the women in the pictures. I also remember being shown a Playboy cartoon of a man having sex with a child.[786]

A mother described her discovery of her daughter's abuse:

> My daughter explained that the adults would come into the room and announce that [it] was time for a "movie" or a "bath" and then begin to usher the children . . . into the den or the bathroom. When my daughter refused to undress one of the mothers removed my daughter's clothing with hand movement over her entire body. My daughter was seldom allowed to go home until she had at least one bath with one or more children. Upon hearing this I called the mother and gave her emphatic instructions that my daughter was not to take "baths" at her house. One such occasion after that my daughter came home with obvious dried tears on her face. I feared something dreadful had happened.[787]
>
> They confirmed my fear and discovered even more horror. She had been not only sexually abused but over one thousand pornographic photographs were seized in a search of their apartment spanning a period of over two years. My daughter was only twelve years old at the time of the phone call. She had broken up over the events of the previous week.[788]

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785 Chicago Hearing, Vol. II, p. 95.

786 Anonymous letter to Women Against Pornography, submitted to the Attorney General's Commission on Pornography (Aug. 1984).

787 Houston Hearing, Vol. II, p. 178D3.

788 Houston Hearing, Vol. II, Anonymous, p. 178Q2.

One woman who was asked if she had ever been upset by anyone trying to get her to do what they'd seen in pornographic pictures, movies or books said:

> This guy had seen a movie where a woman was being made love to by dogs. He suggested that some of his friends had a dog and we should have a party and set the dog loose on the women. He wanted me to put a muzzle on the dog and put some sort of stuff on my vagina so that the dog would lick there.[789]

A woman who had been forced into prostitution and participation in the production of pornography testified:

> They knew a child's face when they looked into it. It was clear that I was not acting of my own free will. I was always covered with welts and bruises. They found this very distasteful and admonished me about it. It was even clearer that I was sexually inexperienced. I literally didn't know what to do. So they showed me pornography to teach me about sex and then they would ignore my tears as they positioned my body like the women in the pictures and used me.
>
> My pimp also made me work "stag" parties. These parties were attended by an average of ten to twenty men. These parties took place in catering halls, bars and union halls. I was also forced to work conventions. These were weekend affairs held at major hotels in New York attended by hundreds of professional men. The series of events was the same. Pornographic films followed by myself and other women having sex with the men. The films that were shown most often set the tone for the kinds of acts we were expected to perform.
>
> My last pimp was a pornographer and the most brutal of all. He owned, on the average, three women and girls at any given time. There was always pornography in our apartment. Every night he would set up the projector and run a series of stag films. When he was sufficiently aroused he would choose one of us for sex. The sex that happened always duplicated the pornography. He used it to teach us how to service

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789 Minneapolis City Council, Session I, p. 67 (Dec. 1983) (Testimony based on Diana Russell's research).

> him. In retrospect the only sex I knew until I was well into my twenties was coercive sex taught to me through pictures of women coerced into pornographic performances.[790]

A sixteen-year-old girl testified:

> At about age eleven and a half he started using the magazine again. In these magazines there were pictures of one woman masturbating another woman, two men and a woman having sex, oral, anal and vaginal sex. It was with these magazines that we started having me act out positions with him.[791]

The mother of two girls testified:

> [My daughters] also had an experience with an eleven year old boy neighbor boy . . . . Porno pictures that [he] had were shown to the girls and to the other children on the block. Later that day, [he] invited [my daughters] into his house to play video games, but then tried to imitate the sex acts in the photos with [my] eleven year old [daughter] as his partner; [my other daughter] witnessed the incident.[792]

A woman testified that her husband demanded that she enact behaviors he had found appealing in pornography:

> . . . I was coerced into acting out certain sexual fantasies which he had, many times from reading pornographic literature or viewing certain pornographic movies.[793]

Another woman described her father's use of pornography to encourage and legitimize incest:

> He encouraged me by showing me pornographic magazines

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790 Washington, D.C., Hearing, Vol. I, p. 179-82.

791 Miami Hearing, Vol. II, p. 21.

792 Washington, D.C., Hearing, Vol. I, p. 128.

793 Chicago Hearing, Vol. I, p. 23-26.

> which they kept in the bathroom and told me it was not wrong because they were doing it in the magazines and that made it o.k. He told me all fathers do it to their daughters and said even pastors do it to their daughters. The magazines were to help me learn more about sex.[794]

Another woman described the same phenomenon:

> The incest started at the age of eight. I did not understand any of it and did not feel that it was right. My dad would try to convince me that it was ok. He would find magazines with articles and/or pictures that would show fathers and daughters and/or mothers, brothers and sisters having sexual intercourse. (Mostly fathers and daughters.) He would say that if it was published in magazines that it had to be all right because magazines could not publish lies.
>
> He would show me these magazines and tell me to look at them or read them and I would turn my head and say no. He would leave them with me and tell me to look later. I was afraid not to look or read them because I did not know what he would do. He would ask me later if I had read them and what they said or if I looked real close at the pictures. He would say, "See it's okay to do because it's published in magazines."[795]

3. Battery, Torture

Witnesses who appeared before the Commission and those who submitted statements reported acts of battery and episodes of torture associated with the production or use of pornography. Individuals described acts of battery or torture inflicted upon them during the course of producing pornographic materials. For

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794 Anonymous letter to the Attorney General's Commission on Pornography.

795 Letter to the Attorney General's Commission on Pornography.

example, a woman who reported having been sexually abused since infancy said:

> That night that I was filmed for a pornographic movie, my stepfather tortured me both physically and sexually because I did not perform adequately enough to be convincing.[796]

A young man who had been the victim of a "sex ring" testified:

> I became involved in bondage. I was shown pornography and was bound in various ways and photographed.[797]

Linda Marchiano testified:

> When I decided to head back north and informed Mr. Traynor of my intention, that was when I met the real Mr. Traynor and my two and a half years of imprisonment began. He began a complete turnaround and beat me up physically and began the mental abuse, from that day forward my hell began.
>
> During the filming of Deep Throat, actually after the first day, I suffered a brutal beating in my room for smiling on the set. It was a hotel room and the whole crew was in one room, there was at least twenty people partying, music going, laughing, and having a good time. Mr Traynor started to bounce me off the walls. I figured out of twenty people, there might be one human being that would do something to help me and I was screaming for help, I was being beaten, I was being kicked around and again bounced off of walls. And all of a sudden the room next door became very quiet. Nobody, not one person, came to help me.[798]

One witness before the Commission described how women and young girls were tortured and suffered permanent physical injuries to answer publisher demands for photographs depicting

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796 Washington, D.C., Hearing, Vol II, p. 262.

797 Washington, D.C., Vol II, p. 49.

798 Public Hearings before Minneapolis City Council, Session I, p. 47, 49 (Dec. 1983)

sado-masochistic abuse. When the torturer/photographer inquired of the publisher as to the types of depictions that would sell, the torturer/photographer was instructed to get similar existing publications and use the depictions therein for instruction. The torturer/photographer followed the publisher's instructions, tortured women and girls accordingly, and then sold the photographs to the publisher. The photographs were included in magazines sold nationally in pornographic outlets.[799]

The Commission also had received several accounts from individuals who described the use of pornography in the course of physical abuse, and who attributed the type and forms of abuse to specific pornographic materials. For example, one woman who reported having been sexually abused by her father from the age of three testified that he would:

> . . . hang me upside down in a closet and push objects like screwdrivers or table knives inside me. Sometimes he would heat them first. All the while he would have me perform oral sex on him. He would look at his porno pictures almost every day, using them to get ideas of what to do to me or my siblings.[800]

Testifying before another body, another woman said:

> He would read from the pornography like a textbook, like a journal. In fact, when he asked me to be bound, when he finally convinced me to do it, he read in the magazine how to tie the knots and how to bind me in a way that I couldn't get out.[801]

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[799] Los Angeles Hearing, Vol. II, p. 65, 77. One such publication was purchased in Washington, D.C.

[800] Chicago Hearing, Vol. II, p. 95.

[801] Minneapolis City Council Hearings Session II, p. 68 (Dec. 1983).

A former prostitute testified before another body:

> The man returned with two other men. They burned her with cigarettes and attached nipple clips to her breasts. They had many S and M magazines with them and showed her many pictures of women appearing to consent, enjoy, and encourage this abuse. She was held for twelve hours, continuously raped and beaten. She was paid fifty dollars, or about $2.33 per hour.[802]

Another woman wrote:

> . . . [s]olid charges . . . could be brought forth. Amongst these charges would be sexual deviance due to repeated inflictions of sadomasochistic acts. I was also told I would be entitled to an annulment as the marriage remained unconsummated throughout.
>
> . . . While doing household chores, I found very pornographic materials which illustrated sadist techniques and answered my questions as to where my husband got these bizarre ideas.[803]

A former prostitute testified:

> He stripped me, tied me up, spread-eagled on the bed so that I could not move and then began to caress me very gently. Then, when he thought that I was relaxed, he squeezed my nipple really hard. I did not react. He held up a porn magazine with a picture of a beaten woman and said, "I want you to look like that. I want you to hurt." He then began beating me, and when I didn't cry fast enough, he lit a cigarette and held it right above my breast for a long time before he burned me.[804]

Another woman testified before another body:

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802 Public Hearings before Minneapolis City Council, Session II, p. 73 (Dec. 1983).

803 Letter to the Attorney General's Commission on Pornography.

804 Public Hearings before Minneapolis City Council, Session II, p. 77 (Dec. 1983).

> During the time that I was held captive by that man, I was physically and psychologically abused by him. I was whipped with belts and electrical cords. I was beat with pieces of wood. I was usually forced to pull my pants down before I was to be beaten. I was touched and grabbed where I did not want him to touch me. I was also locked into dark closets and the basement for many hours at a time and I was often not allowed to speak or cry.
>
> The things that this man did to me were also done to the children of the woman, except that they suffered from even worse abuse. I believe that part of the psychological abuse I suffered from was from the pornographic materials that the man used in his terrorization of us. I knew that if he wanted to, he could do more of the things that were being done in those magazines to me. When he looked at the magazines, he could make hateful obscene, violent remarks about women in general and about me. I was told that because I am female I am here to be used and abused by him and that because he is male he is the master and I am his slave.805

A women's shelter wrote to the Commission:

> One woman known to us related that her spouse always had a number of pornographic magazines around the house. The final episode that resulted in ending their marriage was his acting out a scene from one of the magazines. She was forcibly stripped, bound and gagged. And with help from her husband, she was raped by a German shepherd. His second wife became known to us when she sought out support because of the magazines and bondage equipment she discovered in their home.
>
> Penthouse and Hustler were always a part of the literature in the third woman's home. Occasionally, her spouse would add Cheri, Oui, Swedish Erotica to the collection. His favorite form of abuse was bondage. He enjoyed playing what he called a "game" of whipping and slavery. She knows that what he did to her was directly related to articles about bondage and sex [slaves] which he read. He wanted to involve a second

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805 Public Hearings before Minneapolis City Council, Session II, p. 15-16 (Dec. 1983).

woman, her friend, in the scenarios.[806]

A mother of two girls testified:

> [My husband] had a large collection of bizarre S&M and bondage pornography that he kept in the nightstand drawer in our bedroom. On one occasion [he] tied me to our bed and sodomized me. This occurred after I refused to agree to be bound and tied as the models appeared in some of [his] pornographic magazines.
>
> Also, the girls told me that [he] sometimes played a game with them in which their feet were tied up tightly with a rope. The molestation included "bad touching" and exhibitionism by [him], but did not involve actual penetration.[807]

In testifying before another body, one man said

> I understand pornography to be a force in creating violence in the gay community. I was battered by my ex-lover who used pornography. The pornography, straight and gay, I had been exposed to, helped convince me that I had to accept his violence, and helped keep me in that destructive relationship.
>
> Then one time, he branded me. I still have a scar on my butt. He put a little wax initial thing on a hot plate and then stuck it on my ass when I was unaware.[808]

Women who were asked in a research project if they had ever been upset by anyone trying to get them to do what they'd seen in pornographic pictures, movies or books described experiences similar to those reported by Commission witnesses:

Miss F: He'd read something in a pornographic book, and

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[806] Letter from Donna Dunn's Women's Shelter, Rochester, to the Attorney General's Commission on Pornography.

[807] Washington, D.C., Hearing, Vol. I, p. 126-27.

[808] Public Hearings before Minneapolis City Council, Session II, p. 57, (Dec. 1983).

then he wanted to live it out. It was too violent for me to do something like that. It was basically getting dressed up and spanking. Him spanking me. I refused to do it.

Miss I: It was S&M stuff. I was asked if I would participate in being beaten up. It was a proposition, it never happened. I didn't like the idea of it.

Miss P: My boyfriend and I saw a movie in which there was masochism. After that he wanted to gag me and tie me up. He was stoned, I was not. I was really shocked at his behavior. I was nervous and uptight. He literally tried to force me, after gagging me first. He snuck up behind me with a scarf. He was hurting me with it and I started getting upset. Then I realized it wasn't a joke. He grabbed me and shook me by my shoulders and brought out some ropes, and told me to relax, and that I would enjoy it. Then he started putting me down about my feelings about sex, and my inhibitedness. I started crying and struggling with him, got loose, and kicked him in the testicles, which forced him down on the couch. I ran out of the house. Next day he called and apologized, but that was the end of him.809

A woman whose father had sexually abused her from age three testified:

I have had my hands ties, my feet ties, my mouth taped to teach me big girls don't cry. He would tell me I was very fortunate to have a father that would teach me the facts of life. Many of the pictures he had were of women in bondage, with their hands ties, feet tied and their mouth taped.810

In testimony before another body, a woman said:

I was hit and punched because I refused to allow my partner to put his fist in my vagina in the same fashion as in one of his pornography magazines.811

Another woman, testifying before the Commission, reported:

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809 Public Hearings before Minneapolis City Council, Session I, p. 65, 66 (Dec. 1983) (Testimony based on Diana Russell's research).

810 Chicago Hearing, Vol. II, p. 95-96.

811 Testimony before Minneapolis City Council on June 7, 1984, submitted to the Attorney General's Commission on Pornography.

> . . . a trick first showed me how to do bondage and discipline acts. I had numerous customers who would have pornographic material with them. I was asked to shave my pubic hairs because it reminded them of a child or engage in specific sex acts they had seen in a magazine. Having me urinate on them, commonly referred to as golden showers, was a popular request.
>
> Again my customers, who mostly professional types, would bring many examples in magazines or books of the types of bondage they wanted or of other acts they thought would satisfy their sexual desires, like me acting like their mother, enemas, spanking or cross dressing (men dressing in women's undergarments or clothing). I would also get couples (a man & woman) who were into bondage and discipline, with me as the instructor & ultra dominatrix. My customers would want me to dress like women in the magazines or to bind them in some specific way. Urinating on my customer was also not uncommon.[812]

4. Murder

In addition to the physical harms already mentioned, some evidence was received alleging a connection between murder and pornographic materials. Cases were reported to the Commission in which a murder may have been patterned after a depiction found in a pornographic magazine or film. For example, the New York Times reported:

> The December 1984 issue of Penthouse carried this eroticized torture into the 'men's entertainment' forum with a series of photographs of Asian women bound with heavy rope, hung from trees, and sectioned into parts. It is now known whether this pictorial incited a crime that occurred two months later wherein an eight year old Chinese girl living in Chapel Hill, North Carolina, was kidnapped, raped, murdered and left hanging from

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812 Washington, D.C., Hearing, Vol. II, p. 312A-1.

a tree limb.[813]

Witnesses also described the influence they perceived pornography had in their criminal activities or the crimes others had committed.

> The day came when I invited a small neighborhood boy into my apartment, molested him and then killed him in fear of being caught. Over the next few years I kidnapped, sexually abused and murdered four other boys.
>
> Pornography wasn't the only negative influence in my life, but its effect on me was devastating. I lost all sense of decency and respect for humanity and life.[814]

5. Imprisonment

The Commission received testimony and other evidence from individuals who reported that they had been kidnapped or held captive during the production of pornographic materials. For example, the woman who appeared in Deep Throat testified:

> My name today is Linda Marchiano. Linda Lovelace was the name I bore during a two and a half year period of imprisonment. For those of you who don't know the name, Linda Lovelace was the victim of this so-called victimless crime. Used and abused by Mr. Traynor, her captor, she was forced through physical, mental, and sexual abuse and often at gunpoint and threats of her life to be involved with pornography.
>
> I literally became a prisoner. I was not allowed out of his sight, not even to use the bathroom. Why, you

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[813] N.Y. Times, Feb. 4, 1985.

[814] Anonymous letter to the Attorney General's Commission on Pornography.

may ask, because there was a window in the bathroom.[815]

> Well, at night what he would do is put his body over my body so that if I did try to get up he would wake up. And he was a very light sleeper. If I did attempt to move or roll over in my sleep he would awaken.[816]

A women's shelter wrote:

> In another case, a woman was imprisoned in the house by her husband. He had a video cassette recorder. He would bring home pornographic movies, tie her to a chair and force her to act out what they were seeing on the screen. She was severely injured and came to our Shelter.[817]

6. Sexually Transmitted Diseases

Witnesses reported various injuries and diseases associated with the production of pornography.[818] The diseases which were reported included a variety of sexually transmitted diseases. For example, a citizen's group wrote to the Commission:

> How does a three and a half year old girl learn to cope with gonorrhea of the throat and a painful vagina, stretched many times its normal size because her father used her for sexual gratification. This father was

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[815] Public Hearings before Minneapolis City Council, Session II, p. 45, 46, 47 (Dec. 1983).

[816] Public Hearings before Minneapolis City Council, Session I, p. 56 (Dec. 1983).

[817] Letter from Harriet Tubman Women's Shetler to the Attorney General's Commission on Pornography.

[818] See, Chapter 2 in this Part for a further discussion of the injuries and diseases performers in the pornography industry encounter.

another pornography addict.[819]

A former Playboy bunny testified:

> I heard a bunny I knew had her reproductive organs removed due to venereal disease left untreated.[820]

A man who had participated in the production of more than one hundred pornographic films testified:

> I decided to get out of the business because I was kind of scared about all the different diseases and stuff going on. I myself was pretty lucky to only have got gonorrhea a couple of times. I never caught herpes or nothing like that. But it is scary. The diseases are really rampant out there, and especially with the AIDS scare. You have one person that has AIDS in the industry and within six months you can really infect about half the industry because there's so much contact; you have so many different jobs, different people, each month.[821]

A woman testified:

> There seemed to be a lot of venereal diseases and other contact diseases going around and I was afraid of catching something.[822]

7. Masochistic Self Harm

One person described her son's use of pornography and his

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[819] Letter from Oklahomans Against Pornography to the Attorney General's Commission on Pornography.

[820] Chicago Hearing, Vol. I, p. 317.

[821] Los Angeles Hearing, Vol. I, p. 82.

[822] Washington, D.C., Hearing, Vol. I, p. 82.

resulting death.823

> My son, Troy Daniel Dunaway, was murdered on August 6, 1981, by the greed and avarice of the publishers of Hustler Magazine. My son read the article 'Orgasm of Death', set up the sexual experiment depicted therein, followed the explicit instructions of the article, and ended up dead. He would still be alive today were he not enticed and incited into this action by Hustler Magazine's 'How To Do' August 1981 article; an article which was found at his feet and which directly caused his death.824

A woman testified about her husband, who was a medical professional and an avid consumer of pornography:

> . . . extremely excited about was the story of a man who had fish in an aquarium, stuck his organ in the aquarium and they nibbled on it until he orgasmed. John was so excited that he would go out and buy a fish tank. At that time John was physically abusing me by pulling my hair, slapping me, kicking me, stomping on my feet.825

8. Prostitution

Witnesses who testified before the Commission and individuals who submitted statements reported several connections between pornography and prostitution. One such connection was the use of pornography as instructional manuals for prostitutes.

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823 Commercial "erotica" was found at the death scene of forty-four out of 150 accidental autoerotic deaths in the largest study of this subject. R.R. Mazelwood, P.E. Dietz & A.W. Burgess, Autoerotic Fatalities 130-131 (1983).

824 Houston Hearing, Vol. II, p. 178H1; Herceg et. al. v. Hustler Magazine, Inc., C.A. no.H-82-198, S.D. Texas (1985) (case now on appeal).

825 Washington, D.C., Hearing, Vol. I, p. 81.

For example, a former prostitute testified:

> One of the very first commonalities we discovered as a group, we were all introduced to prostitution through pornography; there were no exceptions in our group, and we were all under eighteen.
>
> Pornography was our textbook, we learned the tricks of the trade by men exposing us to pornography and us trying to mimic what we saw. I could not stress enough what a huge influence we feel this was.[826]

Another connection was the use of pornographic films by pimps to blackmail the participants:

> I was the main woman of a pimp who filmed sexual acts almost every night in our home. The dope man, who supplied us with cocaine for free in exchange for these arranged orgies, was a really freaky man who would do anything. They arranged to have women, who I assumed were forced to be there, have sex with dogs and filmed those acts. There were stacks of films all over the house, which my pimp used to blackmail people with.[827]

Yet another connection was the use of magazines to stimulate the clientele:

> When I worked at massage studios, the owners had subscriptions to Playboy, Penthouse, Penthouse Forum and the like. These magazines were arranged in the waiting area of most of the massage places which I worked in. If a girl was not inside with a trick, she was expected to sit out front with the men who were waiting or who were undecided and to look at the magazines with them in order to get them titillated. They used the soft porn to help them work up the courage to try the acts described in the magazine with the prostitutes at the massage studio.[828]

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826 Public Hearings before Minneapolis City Council, Session II, p. 70 (Dec. 1983).

827 Id. at 79.

828 Id. at 77.

B. Psychological Harm

1. Suicidal Thoughts and Behavior[829]

The Commission received testimony from many individuals who reported suicidal thoughts and behavior. These individuals described experiences related to pornographic materials that led them to feel worthless and hopeless, which in turn led to thoughts of suicide or attempts. For example, the mother of an adolescent girl who said she had been molested through the use of pornography testified:

> This is not accomplished overnight, nor is it ever undone. She is now sixteen. She tried to commit suicide at the age of thirteen and a half as her only means of escape. She spent five months in an adolescent psychiatric unit and nineteen months at a residential care facility for twenty-four hour round-the-clock help with her problems. The brunt of the expenses for her care were our responsibility, reaching close to $100,000.[830]

Another witness testified:

> "By age fourteen, I had attempted suicide three times and had been in three different mental hospitals. Never had I revealed to anyone my childhood nightmare. Finally, in an effort to revive our sex life, we began to use pornography. This had a devastating effect on our lives. I began to become very depressed and suicidal again. Though we did become more sexually active, the quality of our relationship deteriorated almost to the point of divorce. Pornography again had

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[829] In some instances the symptoms described may be characteristic of mood disorders. See, DSM-III, supra note 762 at 205-224.

[830] Miami Hearing, Vol II, p. 33-34.

touched my life in a very destructive way.[831]

A former Playboy bunny testified:

> I was extremely suicidal and sought psychiatric help for the eight years I lived in a sexually promiscuous fashion.
>
> In Los Angeles, my roommate, who was a bunny, had slashed her wrists because she was so suicidal.
>
> Although I received small parts in Godfather II and Funny Lady, had sex with movie stars and producers, I felt worthless and empty. Out of my despair I attempted suicide on numerous occasions.[832]

Other individuals reported suicidal thoughts and behaviors as a result of being forced to participate in the production or use of pornography. For example, a teenage boy who had run away from home reported having been sexually abused by his uncle. He stated he was shown pornographic materials in the course of sexual abuse and he was used in the production of pornographic films:

> He told me they were for him and his friends to view . . . It was a difficult situation for me. And afterwards, I attempted suicide several times.[833]

A woman reported experiences:

> . . . which I found very humiliating and very destructive to my self-esteem and my feeling of self-worth as a person, to prevent these I agreed with him

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831 Houston Hearing, Vol. II, p. 187R2.

832 Chicago Hearing, Vol. I, p. 313-14.

833 Washington, D.C., Hearing, Vol. I, p. 48.

> to act out in privacy a lot of those scenarios that he read to me. A lot of them depicting bondage and different sexual acts that I found very humiliating. About this time when things were getting really terrible and I was feeling very suicidal and very worthless as a person, at that time any dreams that I had of a career in medicine were just totally washed away. I could not think of myself any more as a human being.[834]

A woman who testified that her former husband of eleven years was an avid consumer of pornography and had attempted to force her to view pornographic materials testified that she:

> . . . was very suicidal throughout my marriage; attempted several times.[835]

2. Fear and Anxiety Caused by Seeing Pornography

The Commission heard testimony from several witnesses who described fear and anxiety associated with being shown pornography. The anxieties which have been described may be divided into two primary categories: anxiety attributable to memories of prior abuse which are relived through the images portrayed in the pornography being shown; and an overall embarrassment or discomfort in being made to view pornographic materials.

One witness reported being forced by her father to view pornographic materials during the course of an incestuous

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[834] Public Hearings before Minneapolis City Council, Session II, p. 64 (Dec. 1983).

[835] Houston Hearing, Vol. I, p. 61.

relationship:

> . . . and of course he had booked a double room. He had all kinds of things in his briefcase, and he pulled out a magazine or book and told me to read it. He sat on the bed and watched me and his facial expression frightened me. I did not want to read it. I did not want to look at those pictures . . . . I was emotionally tortured and I didn't know what to do. I did not like my body or my father's body and having to look at those pornographic pictures forced me to visually memorize painful incidents with my father.[836]

Another witness described similar feelings of anxiety and fear of being shown pornography during the course of sexual abuse in her childhood, beginning when she was ten:

> . . . I have no memory of there being any pornography in the bungalow where we lived. All nine kids slept in one room. My stepfather had his own room. My mother slept on the couch in the living room. The pornography was at the store. The pornography was also in the garage where Carl had some kind of office. He was involved in some kind of activity that needed to be hidden. I have no idea what that was. I remember the pictures on the wall and I remember boxes of books again. These were books I didn't want to look at. Carl's apartment is the place where I remember he made the pornography of me.[837]
>
> As they would show me this pornography, I would look at the pictures and then I would feel real scared . . . .[838]

Other women have described their feelings about pornography and the pain it recreated from a previous abusive experience. One woman appearing before the Minneapolis City Council reported that

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[836] Washington, D.C., Hearing, Vol. II, pp. 132-33.

[837] Washington, D.C., Hearing, Vol. I, p 223.

[838] Id. at 224.

she currently experiences anxiety upon viewing pornography because it reawakens the experience of sexual abuse she had earlier suffered:

> Two days later, having failed my attempts to keep those images away from me, I was sexually abused in my family. I don't know if the man that abused me uses pornography but looking at the women in those pictures, I saw myself at fourteen, at fifteen, at sixteen. I felt the weight of that man's body, the pain, the disgust . . . . I don't need studies and statistics to tell me that there is a relationship between pornography and real violence against women. My body remembers.[839]

Parents also reported children's lasting fears after abuse. The mother of a girl who reportedly was molested and used in the production of pornography in a California pre-school testified:

> She has also talked about a lot of lights, big strong lights, and she is also very fearful of having her picture taken. My sister was visiting from overseas and tried to take her picture and she hid under the bed.[840]

The second category of fears and anxiety were described primarily by adult women who during the course of an intimate relationship were forced to view pornography by a spouse or close friend. These women described feelings of embarrassment, disgust, and public humiliation:

> My husband is very knowledgeable about the Marquis de Sade. He was raised by prostitutes. One of his stepfathers had what he called the largest pornography

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[839] Public Hearings before Minneapolis City Council Session II, p. 112(Dec. 1983).

[840] Miami Hearing, Vol I, p. 101.

> collection he had ever seen. There was pornographic art throughout his stepfather's home. One evening when we went to visit his mother and his stepfather, the evening's entertainment consisted of getting together with the neighbors and their children and watching a pornography film involving sex with children. I got up, I left the room to throw up; and my husband came over to tell me that I had embarrassed him.[841]

Other witnesses described feelings of humiliation at being forced to view pornography and being subject to ridicule when they demonstrated a reluctance to participate. For example:

> We would meet together as a group at pornographic adult theaters or live sex shows. Initially I started arguing that the women on stage looked very devastated like they were disgusted and hated it. I felt devastated and disgusted watching it. I was told by those men if I wasn't as smart as I was and if I would be more sexually liberated and more sexy, that I would get along a lot better in the world and they and a lot of other men would like me more. About this time I started feeling very terrified.842

The Commission heard testimony from several women whose husbands requested they accompany them to view pornography. These women reported feelings of embarrassment and humiliation as well as a deterioration of the marital relationship:

> I went with him once. I was disgusted with what I saw. I was also very embarrassed to have been seen in the theatre. He continued going by himself and probably never missed a new showing.843

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841 Houston Hearing, Vol. I, p. 62.

842 Public Hearings before Minneapolis City Council, Session II, p. 62 (Dec. 12, 1983).

843 Chicago Hearing, Vol. I, p. 153-54.

Another woman testified:

> He would take me to the pornography stores here in Houston with the intention of going to get a newspaper or going to get a Better Homes and Gardens. Before I knew it, he would kind of lead me back into the second part of the store. I think that only happened twice because I would get so upset and traumatized . . . .[844]

Yet another woman experienced fear and anxiety when she listened to Dial-A-Porn messages that her son had been calling:

> The chilling horror I felt in my kitchen after my first encounter with Dial-A-Porn lingers with me today. After my initial reaction of disbelief subsided, I was overcome with grief. I cried uncontrollably for myself, my son . . . .[845]

3. Feelings of Shame and Guilt[846]

The Commission heard testimony from many witnesses who described feelings of worthlessness, guilt, and shame which they attributed to experiences involving pornographic materials.

> As an adolescent, I was sexually molested in my own home by a family member who regularly used pornographic materials. I have been threatened at knifepoint by a stranger in an attempted rape. I have been physically and verbally harassed on the street, in other public places, and over the telephone at all hours of the night. I have experienced and continue to experience the humiliation, degradation, and shame that these acts were meant to instill in me.
>
> This connection became clear to me when I saw a

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[844] Houston Hearing, Vol. I, p. 58.

[845] Los Angeles Hearing, Vol. I, p. 265.

[846] These symptoms may be reflective of Post-traumatic Stress Disorder. See, DSM-III, supra note 762, at 238.

> documentary about pornography called Not a Love Story. I realized that I was any one of the women in the film, at least in the eyes of those men who have abused me. I saw myself through the abusers' eyes and I felt dirty and disgusting, like a piece of meat. It was the same shame and humiliation as in the other experiences.[847]

The Commission also heard testimony from people who experienced feelings of guilt and shame when shown pornography:

> It was important to me to try and stop the feelings of embarrassment because then I thought that they would not be able to see my shame. Somehow I thought they watched me, waited to see my reaction to the pornography and then they would continue holding it up i n front of me to make me squirm. I felt humiliated and hollow.848

Guilt and shame were also reported by witnesses as feelings associated with the production of pornography. For example, a young man who was used in the production of pornography as an adolescent testified:

> A couple months later I went into the Straight program, and I talked about it a couple of times, why I would do it. Take her money and go down to buy cocaine with it. I just felt it really disgusted me and I shamed myself.849

A statement submitted to the Commission by the National Conference of Judges discussed the feelings of guilt and shame that victims experience because of the production and use of

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847 Public Hearings before Minneapolis City Council, Session III, p. 126 (Dec. 1983).

848 Washington, D.C., Hearing, Vol. I, p. 225.

849 Washington, D.C., Hearing, Vol. I, p. 170.

homemade pornography.

> . . . collections of self-made pornography detailing who their victims were and the acts they committed. This is a particularly traumatic issue for many of the victims that we treat. It is a source of extreme shame and embarrassment for the victims that pictures of the activity between them and the offender exist. We may not have all those pictures, copies of the pictures may have been sold or traded to other collectors, and we may not have found the entire collection. These collections are catalogued at the Bureau of Criminal Apprehension and continue to exist long past the time when the crime has been reported. . . .
>
> In many of our incest families, the perpetrators use pornography as tools or guides in order to initiate their family members into sexual behavior. Manuals and books that speak of father-daughter love, father-son sex, or family love have been used to rationalize and validate this kind of behavior.
>
> Many of our child molesters, both juvenile and adults, have utilized both adult and child pornography as a way to initiate their victims into the sexual behavior as well as a tool or guide for the sexual behavior of child molesting. Many of our victims blame themselves and feel a great deal of culpability because they believed the original depiction from pornography as being normal behavior between adults and children.[850]

In a letter presented to the Minneapolis City Council, a woman described her public embarrassment and shame at seeing what seemed to be a photograph of herself:

> It was a full length figure, naked except for high heeled shoes and stockings, taking off a shirt. Never in my life had I posed for any photograph, drawing or painting remotely similar to this image. The people giving me this laughed, thought it was funny, thought I would find it funny and truly meant no harm--they are all talented, intelligent, nice people, an indication of the extent of the pornographic mind set we all suffer under. I felt upset, ripped-off, diminished, insulted, abused, hurt, furious and powerless. All of

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[850] National Conference of Judges, October 12, 1986.

> which I concealed from my friends by smiling and saying, "Where did you get this?" (For the moment I thought they had it made up by the art department at the studio.) "From a magazine" was the answer. Added to the aforementioned reactions was horror! I thought, "this has been published! It is publicly available for anyone to see and assume I may have posed for it."
>
> I curtailed my honest reaction because in a few minutes we would all have to begin filming our show--which we did. They, thinking it had been a fun joke, me in a great deal of pain and distress.[851]

4. Fear of Exposure through Publication or Display of Pornographic Materials.

Some witnesses feared the future dissemination of pornography which had been made of them. For example, a woman who had been forced to participate in the filming of pornography testified:

> But there still exists the pornography that was made of me. I know the men who made it, I know where they are, and there is nothing I can do about it. I live knowing that at any time it could surface and could be used to humiliate me and my family. I know that it can be used to ruin my professional life in the future. I know because some of it was produced within months before my eighteenth birthday that it is protected under current law.[852]

Linda Marchiano, who appeared in the film Deep Throat as Linda Lovelace, testified:

> I have a son who will be ten in April. My daughter

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[851] Public Hearings before Minneapolis City Council, Session III, p. 4(Dec. 1983).

[852] Washington, D.C., Hearing, Vol. I, p. 189.

> Lindsay will be six on the 4th of July. There are times when my phone rings and it's just obscene phone calls and people saying the typical kind of degradation they say on the telephone. And it's hard because, how do you say to these people, come on, you are hurting my six- and my nine-year-old children. That hurts and it does hurt that the film is still being shown.
>
> I mean, we have a video store in our town, and we have a VCR, and I will go into that store and get my tapes. I will go to the next town to get them. I just don't feel that store should have that film in the town that I live, but there is nothing I can do about it.
>
> I have no rights as a victim. The only right I have is to be able to tell my story and hope that someone listens.[853]

The young man who had been sexually abused by his uncle and used in the production of pornography testified:

> The sexual abuse that was afflicted on me lowered my self-esteem and the films reminded me of that. I was afraid that this would be shown to the world.[854]

A woman who reported that she was forced into prostitution at age thirteen after running away from a sexually abusive home testified that she was forced to participate in the production of pornographic films and tapes:

> It was clear to me that in the years I was in prostitution that all of the women I met were systematically coerced into prostitution and pornography in the same way a prisoner of war is systematically imprisoned, tortured and starved into compliance by his captors. The difference is that prisoners of war are not held responsible for coerced statements and acts but when a girl or woman is coerced in this very manner into prostitution and for use in

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[853] New York Hearing, Vol. I, p. 54-55.

[854] Washington, D.C., Hearing, Vol. I, p. 49.

pornography, she is held responsible.

> This pimp made pornography of all of us. He also made tape recordings of us having sex with him and recordings of our screams and pleading when he gave us brutal beatings. It was not unusual for him to threaten us with death. He would later use these recordings to humiliate us by playing them for his friends in our presence, for his own sexual arousal, and to terrorize us and other women he brought home.[855]

According to the submission on behalf of the National Judges Conference, the continuing existence of pornography impedes treatment of victims:

> The therapeutic issue for the victim to complete treatment is the need to put the crime in the past, an impossibility when there is an existing pictorial history.[856]

5. Amnesia and Denial and Repression of Abuse[857]

The Commission heard accounts from several witnesses who were unable to recall portions of their lives or specific events. These witnesses attributed their amnesia to trauma associated with the production or use of pornography. The woman who had been sexually abused and forced to participate in the production and viewing of pornography from age ten testified:

I do not remember the exact beginning of my personal

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855 Washington, D.C., Hearing, Vol. II, p. 183.

856 National Judges Conference, October 12, 1986.

857 These symptoms may be reflective of Post-traumatic Stress Disorder (PTSD). See, DSM-III, supra note 762 at 238.

war.[858]

> In 1984 is when I started to speak publicly against pornography because it was during that year that I learned and remembered that I was victimized as a child. Prior to that time I had no memory of it.[859]

> My upset has to do with not being able to remember exactly the beginning, or for that matter, the lost segments of time such as a year or two of my life.[860]

> It is essential, if one is to survive years of physical abuse, whether one is a child or an adult, to distort one's reality and live in denial.[861]

Witnesses described various psychological mechanisms they used to endure the sexual abuse or humiliation associated with pornography:

> Sometimes I would make believe I was in a coma and I'd have to lay absolutely still, because people in comas don't move. So I would set about my task by practicing how not to move and how not to make a sound.[862]

> . . . and because of what my family life was like, I learned to cope with being shown pornography.
>
> The way I did that was I would behave as if I was looking at the pictures. But I would not directly look at them. I would make believe that I was blind, that I could not see. In my mind I said to myself, I do not see them, but then concentrated on not allowing my body to respond in any way that would be visible to them. I repeated to myself over and over again, don't move any part of your body. Somehow I believed if I denied the feelings that I could forget the experience, which I later translated to it never happened, and I had

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858 Washington, D.C., Hearing, Vol. I, p. 220.

859 Id. at 219.

860 Id. at 220.

861 Id. at 231.

862 Id. at 230.

stayed that way for twenty years.[863]

A woman who said she had been sexually and emotionally abused since childhood through the use of pornography and who said she suffered from multiple personality testified:

> In every episode with him are ones I realized that I could not avoid his advances; I would put myself in a trance-like state and pray for it all to be over with as soon as possible.[864]
>
> . . . Then, like an internal sore, the repressed memories began erupting, baring all of my symptoms and anxiety; I looked for the long-term help that I knew I would need.[865]
>
> . . . It has been extremely difficult for me to write my testimony. I am only now, because of the request that I testify today, beginning to remember the pornography to which I was subjected. The memories that I have relived completely have been of a physical nature, the extreme traumas which were responsible for my splitting. I feel that I have been so desensitized that the memories of having been shown pornographic pictures have seemed harmless and therefore, until now, there has been no need to remember them.
>
> * * *
>
> . . . trauma of my relationship with my stepfather, and the role pornography played. Each time I have reread what I have written I am so reappalled, rehorrified and retraumatized myself that I decided it more important to just tell you that I knew pornographic magazines played a large part in my stepfather's life. I do not remember in detail the magazines he used, but I do know that they were of a sado-masochistic nature.[866]

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863 Id. at 224.

864 Washington, D.C., Hearing, Vol. II, p. 262.

865 Id. at 264.

866 Id. at 258-59.

6. Nightmares[867]

The mother of an adolescent girl who said she had been sexually abused through the use of pornography testified that her daughter had recurrent nightmares of the abuse:

> He used this magazine to get her to do the same type of thing to him and as a tool to instruct her as to how he wanted her to pose for his nude photographs. To this day, she has nightmares and is continually remembering additional details of his assaults.[868]

7. Compulsive reenactment of sexual abuse and inability to feel sexual pleasure outside of a context of dominance and submission.[869]

Many witnesses described an inability to engage in healthy sexual relationships, including reports of a seeming need for abuse or unhealthy dominance. One woman whose husband was an avid consumer of pornography testified:

> This obsession and addiction did not enrich our sex life. It robbed me of a loving relationship, and our sex life turned to his masturbating with his pornography.[870]

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867 This symptom may be reflective of Post-traumatic Stress Disorder. DSM-III, supra note 762, at 238.

868 Miami Hearings, Vol. II, p. 32.

869 These described symptoms may be characteristic of Post-traumatic Stress Disorder and Sexual Masochism. See, DSM-III, supra note 762, at 238,274.

870 Chicago Hearing, Vol. I, p. 154.

Another witness testified:

> My unhealthy concept of sex began when I was a child between the ages of seven and nine. At that time I was introduced to both pictorial and written pornography. This was over fifty-five years ago. My entire concept of what sex was all about came from these materials.[871]

A woman who had been forced to participate in the production and viewing of pornography testified:

> So at night in order to go to sleep I would act out scenes in my head of being tortured and I had to practice how to endure extreme pain. This is how I put myself to sleep at nights as a child. As an adult, instead of having to imagine these scenes, John acted out his violent sadomasochistic fantasies on my body.[872]
>
> * * *
>
> I lived with [a man]. One day he told me he had fantasies; fantasies of tying up a woman and using whips. I told him I had the same fantasies. In fact I have been having those fantasies since I was at least twelve or thirteen years old. One of the ways I would put myself to sleep at night as a child was I would run skits through my head and the main character I would act out was me. I was always being hurt.[873]

A former Playboy bunny testified:

> My first association with Playboy began in childhood when I found Playboy as well as other pornographic magazines hidden around the house. I have since discovered that a great deal of pornography ends up in the hands of the children. This gave me a distorted

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871 Houston Hearing, Vol. II, p. 178BB1.

872 Washington, D.C., Hearing, Vol. I, p. 230.

873 Id. at 229-30.

image of sexuality. Pornography portrays sex as impersonal and insatiable.[874]

8. Inability to experience sexual pleasure and feelings of sexual inadequacy.

A woman whose father had used pornography in his sexual abuse of her from the age of three testified:

> I was nothing but a pornographic tool for his use. I cannot distinguish the difference between sex and pornography. Because of my sexual abuse as a child I am extremely against pornography, and because of pornography I cannot enjoy sex.[875]

Other witnesses attributed feelings of sexual insecurity and inadequacy to experiences with pornography. For example, a woman whose husband attempted to force her to view pornography testified:

> It was at that point, early in our relationship, that I began to think that there was something wrong with me. After all, if I loved this person, why didn't I share his enthusiasm?[876]

Another woman who said her husband had sexually abused her through the use of pornography testified:

> I thought that I was either a frigid, uncaring wife, but that's the idea; I have received messages from my

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874 Chicago Hearing, Vol. I, p. 312.

875 Chicago Hearing, Vol. II, p. 98

876 Houston Hearing, Vol. I, p. 58-59.

husband.[877]

Another woman whose husband was an avid consumer of pornography testified:

> It finally progressed to the desire for exchanging parties and sex orgies with many partners. He again told me there was something wrong with me because I would not share him with others and I did not enjoy sex.[878]
>
> * * *
>
> I can still remember when I told him I still loved him and I would not divorce him if he would change. He said I was sexually cold and selfish . . . .[879]
>
> He was convinced there was something wrong with me because I could no longer respond to him. In fact, I felt very uncomfortable whenever he touched me. He continually told me I was cold, even though he had nothing to offer me. And I believe this was justifying his involvement with pornography.[880]

9. Feelings of Inferiority and Degradation

Some individuals described situations in which pornography had been used to instill feelings of racial inferiority. For example, one woman testified before another body:

> In thinking about coming here today to speak, I realized that my life would be in danger. As a woman of color these dangers seem many and great, an absolute loss of credibility and respect, wrath and disgust, potential violence both verbal and physical, and

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877 Chicago Hearing, Vol. I, p. 24.

878 Chicago Hearing, Vol. I, p. 154.

879 Id. at 157.

880 Id. at 154.

> ridicule and harassment to name a few. I also realized the dangers to my life if I did not come. These dangers being complacency, letting go of my rage and terror about pornography and its impact on my life, accepting that the shame is mine, accepting that I am the slut and the whore that deserved what was done to me, believing that I am usable. I have no illusions about men not seeing me as a slut, they do.[881]

Witnesses also described the pornography was used to degrade them as women. For example, a woman whose husband used pornography to abuse her testified:

> As a result of this I developed a very low self esteem. I felt emotionally isolated because of the fear and embarrassment.[882]

Another woman said:

> He showed me art books and also books, magazines of pornography. And as he was showing me these works, he was doing critique of women's bodies, of their facial expression, of parts of their bodies and of their dress. Following this was a critique of my too athletic, too muscular body. I was seventeen, it was very devastating to me that my body was being torn apart in this way.[883]

Another woman testified:

> Once he insisted that we go see an X-rated movie at a theatre that showed pornography exclusively. I remember feeling humiliated and frightened being the only woman in the room while the men around me sat masturbating openly. I kept my eyes glued to the top

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[881] Public Hearings before Minneapolis City Council, Session II, p. 47. (Dec. 1983).

[882] Chicago Hearing, Vol. I, p. 25.

[883] Public Hearings before Minneapolis City Council Session II, p. 58 (Dec. 1983).

of the screen and prayed for it to be over soon. When we got home, he demanded sex.[884]

A witness who appeared before the Minneapolis City Council described feelings of inferiority and inadequacy:

> When we arrived, he informed me that the other men at the party were envious that he had a girl friend to fuck. They wanted to fuck too after watching the pornography. He informed me of this as he was taking his coat off.
>
> He then took off the rest of his clothes and had me perform fellatio on him. I did not do this of my own volition. He put his genitals in my face and he said, "Take it all." Then he fucked me on the couch in the living room, all this took about five minutes. And when he was finished he dressed and went back to the party. I felt ashamed and numb and I also felt very used.
>
> This encounter differed from others previous, it was much quicker, it was somewhat rougher, and he was not aware of me as a person. There was no foreplay. It is my opinion that his viewing of the pornography served as foreplay for him.
>
> * * *
>
> . . . this usual treatment did result in feelings of low self-esteem, depression, confusion and a lot of shame.[885]

The Commission received reports from individuals who described feelings of exploitation through a partner's use of pornography in an intimate relationship:

> He was a lover. He'd go to porno movies, then he'd come home and say, I saw this in a movie. Let's try

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884 Washington, D.C., Hearing, Vol. I, p. 186.

885 Public Hearings before Minneapolis City Council, Session II, p. 54-55 (Dec. 1983).

it. I felt really exploited, like I was being put in a mold.[886]

A young man who had been forced to engage in sexual acts for the production of pornography testified that he and other boys who had been exploited by a sex ring felt stigmatized by the publicity surrounding the investigation and prosecution of the offenders:

> Those of us who were involved in the ring never talked about it. We wanted to forget the experience. But since my name became public I couldn't escape the stigma of being involved in the . . . sex scandal. I started taking drugs heavily at age twelve to try to cope with the situation.[887]

A woman who had herself been forced into prostitution and the production of pornography testified:

> My first husband was always withdrawn and had very little self esteem. He was a sad young man. People often felt sorry for him. He died before his twenty-fifth birthday in a drunken car accident. Just a few months ago I learned something that helped explain his low self-esteem, his alcoholism, and his avid consumption of pornography. I saw a picture of him as an adolescent in a child pornography photograph in a Women Against Pornography display.[888]

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[886] Public Hearings before Minneapolis City Council, Session I, p. 65 (Dec. 1983).

[887] Washington, D.C., Hearing, Vol. II, p. 48.

[888] Washington, D.C., Hearing, Vol. I, p. 186-87.

10. Feelings of Frustration with the Legal System

The Commission heard testimony describing feelings of frustration and problems with the legal system. Some of the witnesses described helplessness and frustration which they thought could have been alleviated if they had been provided guidance in seeking legal redress. For example, one woman wrote:

> Please, please, use their experience and knowledge and work with them. They have tried to get legislation passed against the evils of pornography, for instance the Minneapolis ordinance . . . . Lastly, there are many women's organizations which have been working hard against the evils of the ever-growing, and increasingly more violent pornography which is making our society even more sick.[889]

Linda Marchiano testified:

> . . . [A]t a grand jury hearing in California after they had watched a porno film, they asked me why I did it. I said, "Because a gun was being pointed at me" and they just said, "Oh, but no charges were ever filed." I also called the Beverly Hills Police Department on my final escape and I told them that Mr. Traynor was walking around looking for me with an M-16. When they first told me that they couldn't become involved in domestic affairs, I accepted that and told them that he was illegally possessing these weapons and they simply told me to call back when he was in the room.[890]

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889 Letter to the Attorney General's Commission on Pornography.

890 Public Hearings before Minneapolis City Council, Session I, p. 49 (Dec. 1983).

A young man who had been forced to participate in the production of pornography testified:

> During the trial the only name to come out in the newspaper was my name. I was eleven years old at the time.891

A woman whose memories of abuse and forced participation in the production of pornography had remained buried for many years testified:

> If we had the civil ordinance passed, if I had access to something like that, I would be able to pull through the part of me that exists today. I have no means of doing so. All of the statutes of limitations have run out. Most of the time the women that have been abused, statutes of limitations have run out before we even remember we have been sexually abused.892

Another woman testified:

> When I think that police, attorneys, legislators, jurors, judges, school teachers and doctors of our country can be desensitized to the suffering of a child, it angers me. A child's justice has been thwarted by the preconditioning of emotions. Victims of sexual violence don't get a fair trial. The true emotions that should be felt have been replaced by sexual fantasies. Victims are a curiosity. People come to see us talk about our genitals as if we are some form of entertainment. Our trial becomes an extension of pornography. So much that even nude

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891 Washington, D.C., Hearing, Vol. II, p. 47-48.

892 Washington, D.C., Hearing, Vol. I, p. 236-37.

photos of us are passed around. 893

Another woman who had been forced into prostitution and the production of pornography alleged that policemen and juvenile facility workers had been among her abusers:

> I don't think that consent was a possibility for a girl who was delivered into the hands of organized crime figures in New Jersey in the dead of night. Others might wonder why I didn't turn to the police for help. As a matter of fact I didn't have to walk all the way to our local headquarters to speak to the police. They were at our apartment every week for their payoff--me.
>
> * * *
>
> When I was sixteen I was sentenced to juvenile detention by the courts. My incarceration was a nightmare of sexual abuse at the hands of the male employees of the facility. One young girl complained to her parents about this on visiting day. That night, after her parents left, she was made an example of. We heard her cries and pleading all night. The official story the next morning was that she had tried to runaway, was caught, and was being held in isolation.
>
> * * *
>
> Soon after I was transferred to a facility upstate. When I saw my opportunity I escaped. 894

11. Abuse of Alcohol and Other Drugs 895

Several of the witnesses reported the use of various drugs,

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893 Houston Hearings, Vol. II, p. 291B3.

894 Washington, D.C., Hearing, Vol. I, p. 182.

895 These symptoms are characteristic of substance abuse disorders. See, DSM-III, supra note 762, at 163.

including alcohol, in connection with the manufacture of pornographic materials. A former Playboy bunny testified:

> Drug abuse is deeply interwoven into the Playboy lifestyle. I saw marijuana being used at Hefner's mansion on a regular basis, and cocaine as well. I began taking moderate amounts of alcohol and tranquilizers thinking it would do no harm but the lust grows for more drugs and alcohol to desensitize the psyche to the sexual perversion. 896

Some witnesses stated that drugs were used to induce an individual to participate in the production of pornography. For example, a woman who had run away from sexual abuse at home at age thirteen described the use of drugs and nude photographs to initiate her into prostitution:

> The third night I was away from home I was wandering around the streets in a sort of daze when I was befriended by a man about twenty years my senior.
>
> I confided my problems to him and he offered to take me in. During my stay with him he treated me relatively well. He was kind to me, he fed me, and he said he cared about me. He also kept me drugged, spoke glowingly about prostitution and took nude photographs of me.897

A young woman who had suffered years of sexual and emotional abuse testified:

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896 Chicago Hearing, Vol. I, p. 315-16.

897 Washington, D.C., Hearing, Vol. I, p. 177.

> I recall at times, from age thirteen until fifteen, having been drugged and used in group demonstrations . . . .
>
> Money, grass and alcohol were used as inducements by [two of the men in the sex ring] in their seduction process. [One] would use the school bus to pick us up and take us over to another's house in Revere. We were paid five dollars plus we were given beer and grass.[898]

Another young man testified:

> When I was young, my uncle sexually molested me. He introduced me to alcohol and drugs. He took nude photographs of me with body paint . . . . [899]

A woman who at eighteen became a nude model and posed for pornographic films testified:

> He had me sign a contract, so that scared me, because I had to go to the office every day, you know, and he would try to tell me that soon I would be there, I would be famous. He got me involved with drugs and made me service him, and if I didn't he would threaten me. [900]

The Commission also heard testimony from witnesses who used the money received for participation in prostitution and pornography to buy drugs. A young man who had been forced to participate in the manufacture of pornography testified:

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[898] Washington, D.C., Hearing, Vol. II, p. 46, 48.

[899] Washington, D.C., Hearing, Vol. I, p. 47.

[900] Los Angeles Hearing, Vol. I, p. 93.

> I spent all the money on drugs. While hustling, quite often I would be picked up by a guy and taken to his house where he would show me homosexual porn films to get him and me turned on. Many times I would be photographed in pornographic poses for private collections. Most often I was involved in prostitution with guys.[901]

Other witnesses said that they used alcohol and other drugs to escape mentally from the abuse they were suffering. For example, one woman testified:

> I escaped prostitution quite by accident. I became a heroin addict. I had been taking other drugs throughout the time I was in prostitution and pornography. They had been supplied and doled out by my pimp. I accepted them because they numbed my physical and emotional pain.[902]

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901 Washington, D.C., Hearing, Vol. II, p. 46, 48.

902 Washington, D.C., Hearing, Vol. I, p. 182.

C. Social Harms

1. Loss of job or promotion/sexual harassment

Reports of sexual harassment similar to those described in the "Physical Injuries" section were also submitted as forms of social injuries. The witnesses stated the harassment was attributable to the presence of pornographic materials and served to reduce their social status.

> I was working as a telephone repairwoman for Southern Bell in Florida. Porn was everywhere. They use it to intimidate you, to keep women out of their territory. They had pin-ups in the workrooms. Male workers would draw pornographic pictures of women workers in the cross-boxes and write comments about what we would do in bed. One day I went to the supply room to get some tools. The inside of the room was covered with pornography. The guy who ran it shoved a photograph at me of a woman's rear end with her anus exposed and asked, 'Isn't this you?' I was humiliated and furious.[903]

> When I got on the job, three of the trades had set up a nice little shack and had lunch there. And it was a real shock when I walked in because three of the four walls in the room were completely decorated with pictures out of various magazines, Hustler, Playboy, Penthouse, Oui, all of those. Some of them I would have considered regular pinups but some of them were very, very explicit, showing women with their legs spread wide and men and women performing sex acts and women in bondage. It was very uncomfortable for me to go down there and have dinner and lunch with about twenty men and here is me facing all these pictures and hearing all these men talking about all the wonderful things they did on the weekend with all of these women. I put up with it for about a week and it finally got to

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[903] Letter to Women Against Pornography submitted to the Attorney General's Commission on Pornography.

> the point where I could no longer tolerate sitting there and realizing that all of these men were there, I felt totally naked in front of these men. 904

> A working woman called the Pornography Resource Center in May 1984 to report that her employer had called her into his office, pushed her down on the floor, ripped her dress, taken a gun out of his pocket, and stuffed it into her vagina. A pornographic picture on the lunchroom wall showed a woman sucking a gun."905 Many of the complaints received by Amici are from women workers in nontraditional jobs. The following is typical: "I've been a brakewoman for the railroad for almost nine years . . . . I've seen pornographic pictures of a woman with spread thighs being raped by a huge dismembered penis with my name below.906

3. Financial Losses

The Commission heard reports from individuals who encounter financial consequences attributable to experiences with pornography. Many of these witnesses stated they had suffered financial difficulty because of the need to seek medical and mental assistance because of injuries they attributed to pornographic materials:

> The tangible costs are real and run over five hundred dollars per month for weekly therapy, monthly consultations and outside testing. The hospitalization was nearly thirty thousand dollars. Most major insurance policies have a lifetime maximum benefit of ten to twenty thousand dollars on this type of problem; after

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904 Public Hearings before Minneapolis City Council, Session II, p. 85-86(Dec. 1983).

905 Testimony to Women Against Pornography, Feb. 1985.

906 Letter from Montana woman to Women Against Pornography submitted to the Attorney General's Commission on Pornography.

> that if the victim needs help guess who pays. This has a real dollar cost of over seventy thousand dollars so far with many months and perhaps years to go.
>
> My oldest daughter has been in therapy for nearly four years receiving help including a two month hospitalization period for evaluation.[907]
>
> Our four year old daughter was sexually molested at a preschool that she attended in Hermosa Beach, California. She attended the school, . . . for approximately ten months in 1984. She was two years old . . . .
>
> She has spoken on many occasions where she was taken to certain residence and other locations where she was molested by strangers and threatened with guns and knives and also photographed. All of this was being kept secret through the continuous threats to our daughter that we would leave her, or, worse, that she would die if we were told the secret.
>
> We spent the past year trying to help our daughter through the fears and anxiety over this experience. She is, and has been for about a year, undergoing psychotherapy on a weekly basis. I have also been receiving psychotherapy . . . .[908]

3. Defamation and Loss of Status in the Community

The Commission received testimony from witnesses who reported that pornographic materials were used to place them in a bad light. The witnesses stated that they had been depicted in pornography without knowledge or consent. Although avenues of recourse may have been available, some were advised to avoid further adverse publicity. For example, one woman testified:

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907 Houston Hearing, Vol. II, Anonymous, p. 178Q1-4.

908 Miami Hearing, Vol. I, p. 93-94.

> The buyer had their choice of seven famous women pictured in the nude; all of our full names were listed and, of course, choice of color of T-shirt. I was appalled and angry and had meetings with a lawyer regarding what action I should take. All my then advisers, this attorney, my personal manager (regarding career) and my business manager (regarding accounting and finances) advised strongly against taking any action whatsoever. They all concurred that it would be extremely costly and would draw attention to and sell more of these shirts." 909

Other witnesses stated that pornographic materials were used to hinder their standing within the community. This apparently was particularly true for individuals who had at one time been depicted in pornography. For example, Linda Marchiano testified:

> And the fact that this film is still being shown and that my three children will one day walk down the street and see their mother being abused, it makes me angry, makes me sad. Virtually every time someone watches that film, they are watching me being raped.910

4. Promotion of Racial Hatred

The Commission received statements identifying pornography as a tool to promote racial bias and hatred. Witnesses identified specific pornographic materials which portray persons of color in a derogatory manner. These individuals attributed continued stereotyping and feelings of racial inferiority to the

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909 Public Hearings before Minneapolis City Council, Session III, p. 5(Dec. 1983)

910 Public Hearings before Minneapolis City Council, Session I, p. 56(Dec. 1983).

pornographic materials:

> They made other comments, "The only good Indian is a dead Indian." "A squaw out alone deserves to be raped." Words that still terrorize me today.
>
> It may surprise you to hear stories that connect pornography and white men raping women of color. It doesn't surprise me. I think pornography, racism, and rape are perfect partners. They all rely on hate. They all reduce a living person to an object. A society that sells books, movies, and video games like "Custer's Last Stand" on its street corners gives white men permission to do what they did to me. Like they said, I'm scum. It is a game to track me down, rape, and torture me.911

5. Loss of Trust within a Family

The Commission heard reports of family problems attributed to pornography that were more subtle than some of the massive family ruptures described earlier in this Chapter. Some individuals stated that when a family member used pornography or was subjected to the use of pornography, other members of the family felt the effects. For example, a woman who had been forced to view and participate in the production of pornography in childhood by family members testified:

> . . . I am the only member of my family who is speaking out. I am the only member of my family saying "no" to the abuse. It is very, very common that our families lose themselves from us. I have no support with the exception of one younger brother. My family is very

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911 Public Hearings before Minneapolis City Council, Session II, p. 19,(Dec. 1983).

> angry at me for saying "no" to the abuse. They are very angry about the fact I am identifying it.
>
> My sisters, they are all repeating the cycles of abuse. They are abusing their children and their children are being incested. This is the long-term cycles, the repeating and maintaining of violent life cycles.[912]

6. Prostitution

Witnesses who testified before the Commission and individuals who submitted statements reported several connections between pornography and prostitution. One such connection was the use of pornography as instructional manuals for prostitutes. For example, a former prostitute testified:

> One of the very first commonalities we discovered as a group, we were all introduced to prostitution through pornography; there were no exceptions in our group, and we were all under eighteen. Pornography was our textbook, we learned the tricks of the trade by men exposing us to pornography and us trying to mimic what we saw. I could not stress enough what a huge influence we feel this was.[913]

Another connection was the use of pornographic films by pimps to blackmail the participants:

> I was the main woman of a pimp who filmed sexual acts almost every night in our home. The dope man, who supplied us with cocaine for free in exchange for these

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912 Washington, D.C., Hearings, Vol. I, p. 241.

913 Public Hearings before Minneapolis City Council, Session II, p. 70(Dec. 1983).

> arranged orgies, was a really freaky man who would do anything. They arranged to have women, who I assumed were forced to be there, have sex with dogs and filmed those acts. There were stacks of films all over the house, which my pimp used to blackmail people with.[914]

Yet another connection was the use of magazines to stimulate the clientele:

> When I worked at massage studios, the owners had subscriptions to Playboy, Penthouse, Penthouse Forum and the like. These magazines were arranged in the waiting area of most of the massage places which I worked in. If a girl was not inside with a trick, she was expected to sit out front with the men who were waiting or who were undecided and to look at the magazines with them in order to get them titillated. They used the soft porn to help them work up the courage to try the acts described in the magazine with the prostitutes at the massage studio.[915]

Women who are or who have been prostitutes identified pornography as a significant factor in prostitution. These individuals reported that pornography was not only used and made of them while engaged in acts of prostitution, but they stated that pornography is used to perpetuate the concept that women are accustomed to being placed in the role of a prostitute.

> I am speaking for a group of women, we all live in Minneapolis and we all are former prostitutes. All of us feel very strongly about the relationship between pornography and prostitution. Many of us wanted to testify at this hearing but are unable because of the

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914 Id. at 79.

915 Id. at 77.

> consequences of being identified as a former whore. This is absolutely incredible to me that prostitution is seen as a victimless activity and that many women are rightly terrified of breaking their silence, fearing harassment to themselves and families and loss of their jobs.
>
> We have started to meet together to make sense of the abuse we have experienced in prostitution and how pornography endorses and legitimizes that abuse.[916]

7. Sexual Harassment in the Workplace

Several women reported incidents of sexual harassment in the workplace involving the display and use of pornography. For example, one woman said:

> I put up with it for about a week and it finally got to the point were I could no longer tolerate sitting there and realizing that all of these men were there, I felt totally naked in front of these men. The only thing they talked about during lunch period was women, their old ladies, their girl friends, and all their conquests of the weekend.
>
> I got to the point where I couldn't put up with it any more. And being one of the only two women on the job and being rather new at it and not knowing that I had any alternatives, I got pissed off one day and ripped all the pictures off the wall. Well, it turned out to be a real unpopular move to do. I came back in at lunch time and half the pictures were back up again, they pulled them out of boxes and stuck them on the wall and proceeded to call me names. And just basically call me names or otherwise ignore me.[917]

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916 Id.

917 Public Hearings before the Minneapolis City Council, Session II, p. 86(Dec. 1983).

Another woman wrote:

> I was working as a telephone repairwoman for Southern Bell in Florida. Porn was everywhere. They use it to intimidate you, to keep women out of their territory. They had pin-ups in the workrooms. Male workers would draw pornographic pictures of women workers in the cross-boxes and write comments about what we would do in bed. One day I went to the supply room to get some tools. The inside of the room was covered with pornography. The guy who ran it shoved a photograph at me of a woman's rear end with her anus exposed and asked, "isn't this you?" I was humiliated and furious.[918]

A woman testified before another body:

> When I got on the job, three of the trades had set up a nice little shack and had lunch there. And it was a real shock when I walked in because three of the four walls in the room were completely decorated with pictures out of various magazines, Hustler, Playboy, Penthouse, Oui, all of those. Some of them I would have considered regular pinups but some of them were very, very explicit, showing women with their legs spread wide and men and women performing sex acts and women in bondage. It was very uncomfortable for me to go down there and have dinner and lunch with about twenty men and here is me facing all these pictures and hearing all these men talking about all the wonderful things they did on the weekend with all of these women. I put up with it for about a week and it finally got to the point where I could no longer tolerate sitting there and realizing that all of these men were there, I felt totally naked in front of these men.[919]

Another woman wrote:

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[918] Letter to Women Against Pornography submitted to the Attorney General's Commission on Pornography.

[919] Public Hearings before Minneapolis City Council, Session II, p. 85-86(Dec. 1983).

> A working woman called the Pornography Resource Center in May 1984 to report that her employer had called her into his office, pushed her down on the floor, ripped her dress, taken a gun out of his pocket, and stuffed it into her vagina. A pornographic picture on the lunchroom wall showed a woman sucking a gun." "Testimony to Women Against Pornography, Feb. 1985. Many of the complaints received by Amici are from women workers in nontraditional jobs. The following is typical: "I've been a brakewoman for the railroad for almost nine years . . . . I've seen pornographic pictures of a woman with spread thighs being raped by a huge dismembered penis with my name below.920

Similar to the harassment reported above, women identified pornography as a tool to continue sexual harassment. Women stated that pornography continued to perpetuate the harassment and alienation.

> After the LEAP Offices and State had written letters to send out to these various employers, my boss, the man who owned the company, called me up one day and said, "Look, I heard you are having a little trouble down there, why don't you just kind of calm down a little bit. Don't make such a mess. We don't need any trouble down there, just calm down, just ignore it." I said, "Hey, I can't ignore it, I don't have to, I can't, it is already done." A couple days later they got the letter and they were told that this did not comply with the action guidelines.921

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920 Letter from Montana woman to Women Against Pornography submitted to the Attorney General's Commission on Pornography.

921 Public Hearings before Minneapolis City Council, Vol. II, p. 88(Dec. 1983).

Chapter 2

The Use of Performers in Commercial Pornography

A. Background

1. Terminology and Distinctions
2. Previous Commission Findings
3. Performers and Obscenity Law

B. Use of Performers in Pornography - The Evidence

1. The Nature of the Evidence
2. The Performers
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4. Modeling and Personal Life

C. Conclusions and Recommendations

1. Modeling and Prostitution

2. Sex Discrimination

3. Invasion of Personal Rights

> The objective nature of photography confers on it a quality of credibility absent from all other picture-making. . . The photographic image is the object itself, the object freed from the conditions of time and space that govern it.
>
> Andre Bazin[922]

The leap from "picture making" to photography was an event of profound cultural significance; it was, in Bazin's view "the most important event in the history of plastic arts."[923] It was, as well, the single most important event in the history of pornography: images of the human body could be captured and preserved in exact, vivid detail. As with every other visible activity, sex could now, by the miraculous power of the camera, be "freed from the conditions of time and space."

"Sex" in the abstract, of course, remains invisible to the camera; it is particular acts of sex between individual people which photographs, films, and video tapes can record. Unlike literature or drawing, sexually explicit photography cannot be made by one person: there must be a photographer and one or more persons being photographed. This use of an actual person as the object distinguishes such photography from all other types of sexual material. No study of filmed pornography can thus be complete without careful attention to the circumstances under which individual people decide to appear in it, and the effects of that appearance on their lives.

Nor is this an academic or trivial exercise. The evidence

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922 The Ontology of the Photographic Image, in Classic Essays on Photography 237, 241 (A. Trachtenberg ed. 1980).

923 Id. at 241.

before us suggests that a substantial minority of women will at some time in their lives be asked to pose for or perform in sexually-explicit materials.924 It appears, too, that the proportion of women receiving such requests has increased steadily over the past several decades.925 If our society's appetite for sexually-explicit material continues to grow, or even if it remains at current levels, the decision whether to have sex in front of a camera will confront thousands of Americans.

After a brief clarification of terms, we begin our examination of the issues surrounding pornographic "performances" by reviewing the extent to which those issues have been faced by previous commissions and by the courts. We then turn to a brief overview of the kinds and quality of available evidence on the subject, and a summary of what that evidence shows. In

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924 Houston Hearing, Vol. I, Diana Russell, p. 288. In Professor Russell's random survey of San Francisco women, fourteen percent stated that they had been asked to pose for pornographic pictures. Id. at 285. The survey did not examine how many of these women actually posed for such pictures. A national random survey of Canadians revealed that as many as 60,000 people in that country had been used in pornography as children, and perhaps an equal number as adults. 2 Sexual Offenses Against Children, Report of the Comm. on Sexual Offenses Against Children and Youths, Min. of Justice and Attorney General of Canada 1198 (1984) (hereinafter the Badgley Report).

925 Houston Hearing, Vol. I, Diana Russell, p. 287. (Younger women statistically are far more likely to have been asked to pose for pornography, with twenty-four percent of those aged twenty to twenty-four having been asked as against two percent of those over sixty.) Because "pornographic pictures" may not have been clearly defined in the questions included in the survey, it is possible different generations of respondents interpreted the query differently.

conclusion, we consider three areas which the record suggests should be of serious concern, along with recommendations for federal, state and local action.

A. Background

1. Terminology and Distinctions. Those who appear in sexually-explicit material, from stills to movies to video tapes, have been variously called "actors," "models," "stars," and "sex workers" during the course of our public hearings. None of these terms seems perfectly appropriate as a description of what such activity involves: the first three seem euphemistic, the last derogatory. We adopt the term "model" not only because it seems to have been the one most commonly used during our hearings, but also because it seems to be somewhat less loaded with positive and negative connotations.[926]

It is important to qualify that definition instantly, however, by limiting its range of application to sexually-explicit material that is commercially produced. As we will discuss later, a substantial portion of photographic pornography

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926 In choosing to use the terms "model" and "modeling" in this context we of course mean no disrespect to those engaged in conventional modeling - nor do we mean to imply that appearing as the subject of a sexually-explicit film is more similar to conventional modeling than it is, for example to conventional acting. See, C. Hix & M. Taylor, Male Model 181 (1979) ("The disapproval engendered by nude modeling spills over into the world of straight modeling, though to a lesser degree, merely because the root word 'model' is used in both cases. 'Model' is also a euphemism for an entirely different profession [prostitution].")

is made informally, with little or no monetary motive and no intention of widespread distribution. While such small-scale productions are of real concern to us, those who appear in them seem to be at least largely distinct from those who perform in glossier, commercial "X" rated material. Where it is important in the following discussion to refer to those appearing in noncommercial pornography, we will do so specifically. And where we wish to refer both to those appearing in commercial and noncommercial pornography, we will simply use the term "performers."

2. Previous Commission Findings. A fierce debate has raged in this country over obscenity and pornography since the 1970 Commission on Obscenity and Pornography announced its findings; a debate mirrored in the bitter internal struggles of the Commission itself.[927] It is perhaps a measure of the passionate as opposed to reflective character of the struggle that the interests of those persons actually photographed for sexually-explicit material were considered by neither the majority nor the minority reports of the Commission. Perhaps because "hard-core" material was seen by the Commissioners as being largely of foreign origin,[928] the risks for performers in such materials may

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927 For an overview of the tension between members of the 1970 Commission and problems in its operation, See, Hill-Link Minority Report in Report of the Commission on Obscenity and Pornography, 456, 460-463 (1970) (hereinafter 1970 Report).

928 1970 Report at 22 (source of "picture magazines" depicting sexual intercourse "principally Scandanavia"; "stag films" domestically produced but in "extremely disorganized" fashion with no national distribution).

have seemed virtually irrelevant. The Commission's Traffic and Distribution Panel merely paused to note that in making a typical "stag film"[929] the 'performers' are paid $100 to $300.[930] The recommendation of the majority for repeal of all laws regulating distribution of obscene material to adults was premised on the belief "that there is no warrant for continued governmental interference with the full freedom of adults to read, obtain or view whatever such material they wish."[931]

The majority did not consider it even a theoretical possibility that such unlimited freedom might conflict with the freedom and well-being of those performing sexual acts in front of a camera for consumption by the masses.[932] So myopic was the Commission on this issue, indeed, that under the strict terms of its recommendations, neither "snuff" films[933] nor child porno-

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929 "Stag films" were the only motion pictures on the market at the time of the Panel's report that met its definition of "hard core" or "under-the-counter" pornography - that is, "wholly photographic reproductions of actual sexual intercourse graphically depicting vaginal and/or oral penetration." Id. at 137.

930 Id. at 140.

931 Id. at 58.

932 The dissenter, too, failed to perceive performers in sexually-explicit material as needing any special protection. See, Hill-Link Minority Report, supra note 927 at 457 (grounding dissent on need for "protection for public morality" rather than demonstrable individual "harms").

933 A "snuff" film is one in which there is apparently an actual murder enacted.

graphy would have been subject to prohibition.[934]

Neither of the two major national committees which followed the 1970 Commission was quite so blind to the possible risks to performers in sexually-explicit material. Both the Williams Report[935] and the Fraser Report[936] recommended prohibition of pornographic materials which depicted a child[937] in explicit sexual conduct or which were made in such a manner that "physical injury" was inflicted upon a performer. Yet apart from their concern for protecting children from use in pornography, the Williams and Fraser Committees ultimately gave little attention to the circumstances in which sexually-explicit material is produced, and in particular the situation of those who perform in it. The Williams Committee heard some evidence that "there was much misery in the trade and that many of the girls in strip clubs, for example, were disturbed and mentally ill," but did not think it sufficient in the face of vigorous denials from a

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934 To prevent production of child pornography the majority apparently relied on the "taboo against pedophilia" which made the "use of pre-pubescent children in stag films . . . almost nonexistent." 1970 Report at 139. The 1970 Commission expressed no concern whatsoever over the possible use of young adolescents in pornography.

935 B. Williams, Report of the Commission on Obscenity and Film Censorship 131 (1979) (hereinafter the Williams Report).

936 P. Fraser, Pornography and Prostitution in Canada: Report of the Special Comm. on Pornography and Prostitution 272-79, 629-632(1984) (hereinafter the Fraser Report).

937 The Williams Committee set the age limit for protection of children in this area at sixteen, Williams Report at 131; the Fraser Committee chose eighteen instead. Fraser Report at 627-28.

publisher of magazines "within the trade."[938] Its analysis of the issue did not extend beyond two paragraphs, and focused solely on production of pornography in Great Britain, which at the time did not generally permit production of any "hard core" pornography.[939] The Fraser Committee gave the issue even more cursory treatment after finding that only "a very small number of [sexually-explicit] films are produced within Canada" and "the production of other forms of pornography, for example, magazines and books is not undertaken for commercial purposes."[940] The Committee supported a ban on material in which "actual physical harm was caused to the person or persons depicted" as an "additional deterrent to the causing of such harm."[941] Without discussing the nature of the evidence before it, the Committee declared that "we know that the relations between the producers of violent pornography and the actors in it are often such that there is little or no respect for the rights and physical welfare of the latter."[942] Like the Williams Report, however, the

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938 Williams Report at 91.

939 Id. at 37. "Foreign" material was the chief target of British obscenity-law enforcement in the late 1970's, Id., and within Britain the "industry" had agreed to restrain itself through self-regulation. Id. at 42.

940 Fraser Report at 87. This abrupt dismissal of the problem of pornography production in Canada is in curious tension with the finding of the Badgley Report that tens of thousands of Canadians have at one time or other been "subjects of sexually explicit depictions." Badgley Report, supra note 924, at 1198.

941 Id. at 265.

942 Id.

Canadian report did not explain what level of proof would be required to demonstrate that "actual" as opposed to "simulated" harm had been caused to performers. Unlike the Williams Report, however, the Fraser Report did not devote even a paragraph to consideration of harms to performers other than those resulting from outright violence on the set.[943]

Ultimately, then, it seems fair to say that in this area, at least, we are without clear guidance from our predecessors in examining a possible "harm" of pornography. The nature of the pornography industry has changed so rapidly in this country since the 1960's that it is hardly surprising that the 1970 Commission felt no obligation to examine the situation of performers; because the industry seems so centered in the United States and continental Europe, moreover, it would have been extremely difficult for the Canadian or British panels to study it in detail. Nevertheless, the failure of these commissions to examine the issue even in the abstract points to what we view as a nagging conceptual flaw in their approaches: they assumed a photographic image of sexual conduct by actual persons to be essentially no different from a written description or drawing of such conduct. As we will explain below, the use and misuse of "models" and other performers makes that assumption at least

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943 The Report's only reference to possible "harms" of pornography which might be associated with effects on performers was its recitation of the allegation by some "that pornography is to be deplored simply for portraying people in an inhuman way . . . ." Id. at 96. Even in that context, however, the Report immediately tested the allegation with reference only to the effects of such portrayals on viewers. Id.

gravely doubtful.

3. Performers and Obscenity Law. The refusal of previous commissions to consider carefully the situation of performers in sexually-explicit material is hardly unique in this area; indeed, it is a characteristic of virtually all legal analysis of "pornography" until very recently. In this country, of course, the Supreme Court did not squarely address the constitutional issues inherent in suppression of obscenity until the Roth decision in 1957.[944] There the Court rested its view that obscene material could constitutionally be suppressed on the failure of such material to have "even the slightest redeeming social importance,"[945] and made no distinctions in its analysis among writings, drawings, or photographs.[946] During the following sixteen years of acrimonious judicial debate over the problem of "obscenity" the Court singled out "photographic speech" for special analysis only twice: in Times Film Corp. v. Chicago[947] and Freedman v. Maryland[948] it laid out rules

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944 Roth v. United States, 354 U.S. 476(1957).

945 Id. at 484 (emphasis added).

946 Indeed, the Court was strongly criticized by Justice Harlan in his separate opinion for refusing to examine the materials at issue and make "particularized judgments" on the "individual constitutional problem" presented by each of them. Id. at 497.

947 365 U.S. 43(1961). In Bantam Books v. Sullivan, 372 U.S. 58, 70 n. 10(1963), the Court distinguished a system of "prior restraint" affecting books from one affecting movies without explaining relevant differences in the character of each mode of speech.

948 380 U.S. 649(1965).

governing prior review and censorship of motion pictures. Yet in those decisions, the Court's "recognition that films differ from other forms of expression"[949] seemed in no way based on dangers to performers but rather on a largely unexplained concern for the special power of films to corrupt viewers.[950] When in 1973 the Court finally settled on the test and the rationale for regulation of obscenity in, respectively, Miller v. California[951] and Paris Adult Theatre v. Slaton,[952] photographic speech was not discussed separately and possible risks or harms to performers in sexually-explicit films were not mentioned.[953] The decision of the Court on that same day that "words alone" could be suppressed if obscene reinforced implicitly the assumption that constitu-

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949 Freedman v. Maryland, supra, 380 U.S. at 61. The initial indication by the Court that motion pictures might present a "peculiar problem" came in its first decision holding films to be constitutionally protected "speech." Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495, 502-03 (1952).

950 In Times Film Corp., the Court referred only to Chicago's "duty to protect its people from the dangers of obscenity in the public exhibition of motion pictures" as a basis for distinguishing films from other modes of expression. Id. at 49. In Freedman the Court muddied its references to the distinctive qualities of films by ultimately suggesting that Maryland look for guidance to a previously approved prior censorship scheme for books (in Kingsley Books, Inc., v. Brown, 354 U.S. 436 (1957). 380 U.S. at 60.

951 413 U.S. 15(1973).

952 413 U.S. 49(1973).

953 The Court explained in Paris Adult Theatre that suppression of obscenity by the States could be justified by the conclusion that "public exhibition of obscene material, or commerce in such material has a tendency to injure the community as a whole, to endanger the public safety, or to jeopardize . . . the States' °right to maintain a decent society'." 413 U.S. at 69.

tional doctrine governing sexually-explicit material was based solely on its effects on viewers and the public.[954]

With minor exceptions[955] that assumption continued to govern judicial pronouncements on sexually-explicit material until the Supreme Court decided New York v. Ferber[956] in 1982. There the Court for the first time extended its analysis of such material to encompass the "privacy interests" of the performers[957] - in this case children. Filming children in the midst of explicit sexual activity not only harmed them because of the sexual abuse involved, but also because "the materials produced are a permanent record of the children's participation and the harm to the child is exacerbated by their circulation."[958] In addition, the continued existence of a market for such materials was found to make it more likely that children would be abused in the

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954 Kaplan v. California, 413 U.S. 115(1973). In that decision the Court distinguished between "traditional and emotional response" to suppression of words and the tepid defense mounted on behalf of "obscene pictures of flagrant human conduct." 413 U.S. 119.

955 See, Ali v. Playgirl, Inc., 447 F. Supp. 723 (S.D.N.Y. 1978) (cartoon depiction of famous boxer in the nude was held actionable because of its effects on him). In Zacchini v. Scripps-Howard Broadcasting Co., 433 U.S. 562(1977) the Court held that a circus performer's "right of publicity" in his act could, consistent with First Amendment, receive protection under state tort law.

956 458 U.S. 747(1982).

957 Id. at 759 n. 10.

958 Id. at 759. Circulation of the pornography was found by the Court to violate "the individual interest in avoiding disclosure of personal matters." Id. at 759 n. 10 (citing Whalen v. Roe, 429 U.S. 589(1977)).

future thus justifying a ban on distribution as the "most expeditious if not the only practical method of law enforcement . . . ."[959]

Since Ferber, courts have begun to consider problems faced by performers in pornography, including adults as well as children. The Fifth Circuit recently upheld a judgment against Chic magazine for publishing a nude picture of a woman whose consent had been obtained fraudulently.[960] The same court sustained a judgment against Hustler magazine for "reckless" publication of a nude photograph which had been stolen from the subject's home.[961] And in overturning the "Indianapolis Ordinance" - which sought to provide civil remedies against pornography as a form of sex discrimination - the Seventh Circuit declared that "without question a state may prohibit fraud, trickery, or the use of force to induce people to perform in pornographic or in any other films,"[962] and that under the principles of Ferber the state might be able to "restrict or forbid dissemination of the film in order to reinforce the

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959 Id. at 760.

960 Braun v. Flynt, 726 F. 2d 245 (1984), cert. denied, 105 S. Ct. 783(1984).

961 Wood v. Hustler Magazine, Inc., 736 F.2d 1084(1984), cert. denied, 105 S. Ct. 783(1985). Accord, Hustler Magazine, Inc. v. Douglass, 769 F.2d 1128(7th Cir. 1985), cert. denied, 54 U.S.L.W. 3646(Mar. 31, 1986).

962 American Booksellers Assn. v. Hudnut, 771 F. 2d 323, 332(1985), aff'd mem., 54 U.S.L.W. 3560 (Feb. 24, 1986).

prohibition of the conduct."963

In the wake of the Ferber decision, then, it is still difficult to predict the precise constitutional boundaries which govern regulation of photographic "speech" on behalf of performers.964 That such performers have privacy and other interests worthy of protection, however, now seems clear. In part as a response to these judicial developments and in part as an effort to aid in future legal analysis, we feel compelled to examine with the utmost care the evidence bearing on the situation of performers used in pornographic photographs, video tapes, and films.

B. Use of Performers in Pornography -- the Evidence

Because no previous commission has fully examined the special problems presented by the use of actual persons to make

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963 Id. But cf., Faloona v. Hustler Magazine, 607 F. Supp. 1341 (D.C. Tex. 1985), appeal docketed, No. 85-1359 (5th Cir. 1985) (children whose nude pictures, including one showing the plaintiff child holding her vagina open facing the camera, Hustler 33(Nov. 1978), appeared in adult magazine had no right to revoke mother's consent to publication).

964 For an indication of the confusion still remaining compare Braun v. Flynt, supra note 960, with Faloona v. Hustler Magazine, supra note 963. Deference to the parent's "consent" to publication of the nude pictures in the Faloona case is difficult to justify in view of their graphic character, See, note 963 supra, which makes them at least arguably prohibited "child pornography" under state and federal law. But see, Faloona, supra, 607 F. Supp. at 1343 n. 4 (denying that the pictures constitute child pornography despite inclusion in federal statute of prohibitions directed at "lewd exhibition of the genitals" of children 18 U.S.C. S2255(2) (D) (1984).

sexually-explicit material, and because courts have only begun to develop the legal principles which may be applied to resolving those problems, we approach this aspect of our task with extreme caution. To begin with, we comment on the nature and the quality of the evidence before us both in testimony at our hearings and on the public record elsewhere. Then we examine the main outlines of what that evidence reveals about the nature of the performers' reasons for participation in producing pornography, and their experiences once the decision has been made.

1. The Nature of the Evidence. In setting forth the types of evidence we have considered on this subject, it is important to note first the limitations which have been imposed on our fact-finding efforts. Above all, we have not had the power to issue subpoenas summoning reluctant witnesses to appear; thus all information at our disposal was presented to us voluntarily or obtained through our review of materials on the public record. In addition, the severe time constraints imposed on our work were particularly damaging in this area because, as discussed earlier, this aspect of the pornography "industry" has received only the scantiest attention in the past. We, therefore, did not have the benefit of knowing from the outset what were the most likely avenues to discovery of pertinent evidence about activities that are largely underground. Finally, both the difficulty of locating witnesses and the pressure of time meant that we were not able to spend substantial time in cross-examination of their testimony or in background investigations to corroborate their

statements.

Caution is dictated, too, because there have been to our knowledge almost no "scientific" investigations into the background of participants in pornography or its effects on them afterwards.[965] Such investigations would certainly be extremely difficult - perhaps impossible - to design and conduct given the clandestine character of the pornography industry. Reliable conclusions about the number and characteristics of performers in pornography will likely remain as difficult to reach as, for example, solid estimates of the number and characteristics of illegal aliens.[966]

What we have been able to discover, however, is deeply disturbing, and, we think, based on substantial evidence from a variety of generally credible sources. Somewhat to our surprise, the testimony of law enforcement officers, of current and former performers in pornography, and of those involved with pornography "behind the scenes" has rarely been in conflict. Further, significant and useful information is available from court cases, from books and "adult" magazines, and from "adult" film industry

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965 The survey Diana Russell conducted is the only American survey addressing the issue that we have seen. Houston Hearing, Vol. I, Diana Russell, p. 283. See, Badgley Report, supra note 924, addressing the issue in Canada.

966 See, e.g., United States General Accounting Office, Problems and Options in Estimating the Size of the Illegal Alien Population, Report to the Chmn. of the Subcomm. on Immigration and Refugee Policy of the Comm. on the Judiciary, United States Senate (1982) ("Current estimates of the size of the illegal alien population in the United States are unsatisfactory and it seems unlikely that more precise estimates can be derived soon." Id. at 19.)

publications. If on the whole we believe our understanding of the problems faced by performers in pornography is incomplete, and that our findings and recommendations must be largely tentative, we also view the state of the evidence as highly suggestive. And we think it points to the need for action as well as for further study.

2. The Performers. The most basic questions about performers in pornography - who they are, and how they came to appear in sexually-explicit material - are unfortunately the most difficult to answer decisively. For reasons that are largely obvious but will be explored later, anonymity is a valued commodity among pornography performers: apparently even the best known models frequently do not use their real names for their appearances.[967] And in much pornography (such as that shown in video arcades) the performers are not identified at all. Thus it would have been difficult to conduct independent investigations of their backgrounds even if resources permitted it; instead we have relied on testimony and other information in the public record. What that evidence shows about their age range, background, motivations, and path of entry into modeling is a

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[967] Models (particularly women) tend to choose short, suggestive names: Linda Lovelace, Desiree Lane, Ali Moore, Dick Rambone. The majority of the witnesses appearing before us who said they had appeared in sexually-explicit material testified under truncated or fictitious names. The use of assumed names seems to be rooted in far more than the longstanding theatrical practice of giving upcoming actors new names for "box office" reasons - rather it appears to be closely related to the models' need to conceal their involvement from their families, friends, and future employers.

crucial backdrop to examination of what the sex industry demands of them.

a. Age. Perhaps the single most common feature of models is their relative, and in the vast majority of cases, absolute youth. As one law enforcement officer who has extensively investigated the production of commercial pornography told us, "they [the producers] are looking for models that look as young as possible. They may use an eighteen-year-old model and dress her up to look like she is 15."[968] Female models appearing in "mainstream" commercial pornography appear rarely to be over thirty years old or even in their late twenties; indeed, most whose age we have been able to gauge began their careers in their late teens.[969] Indeed, one former model who now works in the

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968 Los Angeles Hearing, Vol. I, William Roberts, p. 64-65. This emphasis on youth apparently took hold in hard-core sex films in the years after World War II. Before then models who appeared in what were at that time know as "stag films" were in their late twenties or early thirties. Sampson, Commercial Traffic in Sexually Oriented Materials in the United States in 3 Technical Report of the Commission on Obscenity and Pornography 1, 186(1971).

969 The ages at which some prominent "X" rated film models apparently began performing are, so far as we can determine from materials on the public record, as follows: Angel (18); Ali Moore (18); Amber Lynn (19); Jessie St. James (18 or 19); Mindy Rae (19); Shauna Grant (18); Tiffany Clark (18); Nikki Charm (18); Ginger Lynn (19 or 20); Richard Pacheco (20 or 21); Seka (24); Samantha Fox (28); Chelsea Black ("fortyish"). The ages listed above are largely taken from articles or interviews published in adult film industry trade publications or in commercial, sexually-explicit "guides" to adult films and videos. As a result, it is possible that models or interviewers understated their ages to maintain a desireable public image. Nevertheless, in 1971 Sampson, supra, note 968 found that "[m]any current female performers appear to be in their late teens or early twenties." Id. at 186. Further, about half of our witnesses who had appeared in sexually-explicit films or photos

front office of an "adult" video company explained her decision to retire thus: "Good roles for women over nineteen years old have become few and far between."[970] William Margold, a leading figure in the "adult" film industry, described it simply as "essentially an overage juvenile hall."[971] While male models apparently can enter and remain in the industry at a somewhat older age,[972] on the whole we find Mr. Margold's imagery particularly apt.[973]

b. Personal Background. Along with their youth, models in sexually-explicit media seem to share troubled or at least ambivalent personal backgrounds. Although many described or implied unhappy experiences during childhood, we are not able to say with scientific certainty whether their family backgrounds

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began such performing in their teens: Lisa (Washington, D.C.); Jeff (Washington, D.C.); George (Los Angeles); Chris (Los Angeles); Harry James (Miami); and Linda Marchiano (New York). See also, Lederer, Then and Now: An Interview with a Former Pornography Model, in Take Back the Night: Women on Pornography, 57,58 (began nude modeling immediately after graduation from high school) (hereinafter "Lederer Interview"); People v. Fixler, 128 Cal. Rptr. 363(Ct. App. 2d Dist. 1976) (use of fourteen-year-old model by large scale commercial publisher of sexually-explicit magazines).

970 Where Are They Now?, Adult Video News 52(Aug. 1985).

971 Los Angeles Hearing, Vol. I, William Margold, p. 411.

972 Bennett, Breaking into X-Rated Films, A Guide for Prospective Porn Stars, Hustler Erotic Video Guide 71(May 1986) (Interview with William Margold).

973 See, Interview: Cecil Howard, Adult Video News 1 (October 1984) (interview with prominent "adult film" producer) ("AVN: Does it appear to you that we're now seeing younger and younger girls doing films? CH: It's true and I think that's horrible." Id. at 24.)

were worse or better than "normal."[974] One model recently declared before a Senate subcommittee that it is a "myth" that models have "unhappy childhoods."[975]

Despite this claim, many other models have painted a drastically different picture of their families - broken marriages,[976] early parental death,[977] and intense family conflict.[978] Many - including the model who denied the "myth" of unhappy childhoods reported having suffered early sexual abuse.[979] Professor Russell, moreover, has found a "highly

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974 Thus Professor Russell in her study found no significant difference in measures of "social class" between women who were asked to pose for pornography and those who were not. Houston Hearing, Vol. I, Diana Russell. Unfortunately, her study did not determine which respondents had actually agreed to pose, so provides only suggestive evidence regarding that subgroup.

975 Effect of Pornography on Women, Children, Hearings before the Subcomm. on Juvenile Justice, Comm. on the Judiciary, U.S. Senate, 98th Cong., 2d Sess. 315 (1984) (Statement of Veronica Vera) ("I came from a very loving family. That core of love has always been my strength.") (hereinafter cited as 1984 Senate Hearing.)

976 Statement of Valerie Heller (Washington, D.C.); Lisa (Washington, D.C.); Jeff (Washington, D.C.); Getting Down with Candida Royale Forum 42, 45 (April 1986); From Cheerleader to Smut Star, Adult Video 8, 9 (April 1986) (interview with Ali Moore) (hereinafter "Ali Moore Interview"); Christy Canyon, Best of Erotic X-Rated Film Guide 24(no.8).

977 Amber Lynn: Porn's Busiest Beaver, Hustler 24, 30 (April 1986).

978 1984 Senate Hearing, supra note 975, at 1064. (Testimony of Linda Marchiano).

979 Vera, "Beyond Kink," Puritan, copy of article submitted with letter of V. Vera dated February 8, 1986, to Commission (abuse by Stranger); Statement of Jeff (Washington, D.C.) (babysitter); Lisa (Washington, D.C.) (uncle); Valerie Heller (Washington) (stepfather and stepbrothers); Lederer

statistically significant relationship between incestuous abuse and being asked to pose for pornography."[980] In her study she found that "girls and women who are being asked to pose for pornography . . . are those who have already been seriously sexually abused by a relative."[981] Sketchy as the evidence is, we are struck by the relative rarity in the material and testimony we have studied of claims regarding positive features of families of models.[982] If anything, the balance of the evidence suggests that models have typically grown up in

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interview, supra note 969, at 57-58; See also, Statement of George (Los Angeles) (exposure by father to hard core pornography during childhood and early teens, considered by witness to have been major contributing influence in decision to perform in such material). Joanna Storm, X-Rated Cinema 63(May 1986) ("I was a real little nympho until I was about eighteen. I got tired of every man and his brother making a pass at me."); Interview with Lynn Ann Wilson, Adult Cinema 64(Vol. 5, No. 2) (1986) (". . . any orgies that even went on were while I was living at home. At the tender age of 16." Id. at 68.); Ali Moore Interview, supra note 976, at 54 ("I had a rough childhood. Some things I'd rather not discuss, and it left me kind of gun shy when it comes to sex.")

980 Houston Hearing, Vol. I, Diana Russell, p. 310I.

981 Id. at 310M. In Professor Russell's view, men seeking to make pornography are adept at selecting previously victimized women. Id.

982 Of the models who testified before us, or otherwise have discussed their past publicly, only a handful even refer to their families except to describe such problems as divorce, conflict, or abuse. Compare, Statement of Dottie Meyer ("My parents raised me in a happy, healthy home"); and testimony of Veronica Vera, supra note 975; with text to notes 976-979. Many, however, have given interviews or testimony without any reference at all to their families; thus we do not know what they would say about their upbringing. That so high a number were involved with explicit sex modeling by their late teens certainly does not suggest to us that their silence should be construed as evidence of a happy childhood and adolescence. See note 979 supra.

circumstances of parental deprivation, abuse, or both.983

c. Economic Circumstances. If it is not possible to speak with certainty about the family backgrounds of the young women and men who become "models," it nevertheless seems clear what chiefly motivates their decision to appear in sexually-explicit material: financial need. As one former model put it when asked why most women enter nude modeling:

> A lot of women are hurt or crazy women under stress. Yes, most women come in under a lot of stress. They're usually desperate when they first come in - maybe they need money for some emergency, like I did, or they've gone as long as they can doing odds and ends or working at (menial) jobs, and they finally just have to pay their bills. I met a woman whose kid was in the hospital, and I met lots of women who were financially strapped. There were also many illegal aliens there who couldn't work regular jobs even if they had the skills because they didn't have their green cards . . . . [T]hey certainly know how to get you to do what they want. Some women are so bad off that they just go immediately into hard-core films.984

One prominent model recently described her entry into the business in similar though less sympathetic terms.

> I had a sugar daddy who was, you know, keeping me. Paying for everything. I didn't need a dime of my own and never had to work. Then I guess his wife found

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983 We note as well the similarity of the backgrounds of many of these models to those of prostitutes. See, e.g., Silbert & Pines, Early Sexual Exploitation as an Influence in Prostitution, 28 Social Work 285(1983) (in sample of 200 current and former female prostitutes 60 per cent had been sexually abused as juveniles); Silbert & Pines, Entrance into Prostitution, 13 Youth & Society 471(1982) (in same sample only half came from two-parent homes, Id. at 475; only nineteen per cent and thirty-two percent had a "positive relationship" with, respectively, their fathers and their mothers. Id. at 480.

984 Lederer Interview, supra note 969, at 58-59.

> out, and he ran back to her, breaking it off with me. I was out in the cold. Then a friend of his asked me if I was interested in doing some masturbation stuff on video. I needed the money and said okay.[985]

Although not a universal feature of models' accounts,[986] with striking regularity they speak of money and dire financial need as critical factors in their decision to model.[987] In the words

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985 Amber Lynn: Porn's Busiest Beaver, Hustler 24, 30(April 1986).

986 See, Interview - Richard Pacheco, Adult Video News 1 (1984) (made his first "X" rated film in 1968 at age twenty or twenty-one because "I wanted to know what it was like." Id. at 22). Some other models do not clearly refer to financial motivation as a factor in their career decision. Thus Veronica Vera described to a Senate Subcommittee in 1984 then decided, four years before the hearing, to "write or forget my fantasy to become a writer" and finally to enter "X" rated films. Ms. Vera's 1984 testimony represents the only statement by a current or former model of which we are aware which seems flatly to contradict the assertion that financial need is the overriding reason for entering nude modeling; unfortunately, it not only gives no verifiable details of her previous career but also seems at least partially inconsistent with some of her published statements. See, Vera, Beyond Kink, supra note 975 (describing (1) how, in 1979, she lived in Paris with "Roger" and, in 1980 how (2) "Mistress Antoinette" placed her "in beautiful bondage" on a tree from which she was "bound and suspended" while "(h)er husband silently (took) pictures.").

987 See, e.g., Heather Wayne, Erotic X-Film Guide 28 (May 1986) (former model, "What was I gonna do when the money stopped coming in? I couldn't live. I couldn't survive, because it was the money that kept me going." Id. at 58); Ali Moore Interview, supra note 976, at 9 ("Adult Video: . . . Why do you do it? Ali: Money, money, money. That is the only reason in the world."); Statement of "Lisa" ("The money [offered for nude modeling] wasn't all that great but I was on welfare . . ."); Interview: Harry Reems, Adult Video News (April 1985) ("I was making a whopping $76.00 per week [as a New York actor]. I needed to supplement my income."); letter from Kellie Everts to United States Department of Justice of March 21, 1986 [former stripper and nude model] stating "the women who get involved in pornography do so not because of a lack of morals but because of economic necessity"); Candida Royale Interview, supra note 976,

of one now famous former model who was "literally starving" when he made an X-rated film: "It was either do that movie or rob someone."[988] As a representative of United States Prostitutes Collective put it: "For women working in the sex industry, prostitution and pornography are about money, not sex."[989] Not surprisingly, Professor Russell found that women who had been asked to appear in pornography were significantly poorer than other women in her sample.[990] From what we have learned about the rigors and risks of sex modeling, it is difficult to imagine any overriding motive other than serious economic need for such a momentous decision.[991]

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at 46 ("Then one summer, it all fell apart . . . I had no support. I got a job in a porn film and thought, why not?"); C. Hix, Male Model 165-86 (among males involved in nude modeling the phrase "At the time, I needed the money" is the "usual explanation" for their initial involvement. Id. at 179.) Some models, of course, may well have been coerced into appearing in sexually-explicit material, See Section B-3-b, infra; for them money could not be a factor in their participation.

988 Sylvester Stallone, Playgirl 39 (October 1985).

989 Los Angeles Hearing, Vol. II, Margaret Prescod, p. 216. Ms. Prescod pointed out, as did numerous other witnesses, that the "feminization of poverty" had left the sex industry as "one of the few alternatives open to women to get out of, or refuse poverty . . . ." Id. at 216.

990 Houston Hearing, Vol. I, Diana Russell, p. 310F.

991 One alternative motive advanced by a major male model (Jack Wrangler) is intriguing: "I was so insecure with [my body] that I wanted to build myself into something that everyone would say was beautiful whether I believed it or not." Male Model, supra note 926, at 183. Obviously the decision to enter sex modeling is an extremely complex one that involves far more than mere economic need. It is likely, for example, that childhood sexual abuse plays a substantial role in predisposing individuals to consider such activity. See, text to notes 974-983, supra. Research on the factors influencing such a decision is clearly

3. The Job. When that decision is made, and for whatever reason, the model enters a world averse to public scrutiny and almost wholly unconcerned with public accountability. In our own examination of the commercial "adult" film and magazine industries we received little information from the industries themselves regarding the position of performers, although we did find at least one industry spokesman, William Margold, remarkably candid and forthright on the subject. Fortunately, a substantial amount of information in this area is available from knowledgeable law enforcement sources, court cases, and, of course, performers themselves. The view of performers' lives which they provide is invaluable and grimly fascinating from the methods of recruitment to the experience of performing to the likely aftermath in personal career directions.

a. Recruitment. For most young women in commercial pornography, entry into "modeling" seems to occur almost without serious thought. One now famous model described her own initiation in surprisingly casual terms:

> Well, I answered an ad in the paper. It was for a modeling job. It did not say, "adult modeling," or "nude modeling" or anything such as that. I went in and it turned out to be nude modeling. The first day, I took shots for Penthouse. So I kept on going and before I knew it, three months later I was doing adult

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needed - yet it does seem clear that what the models themselves say when asked about their motives is that financial need was paramount. Even Mr. Wrangler, when asked why "most" men go into nude modeling replied: "One, because they need some bucks and somebody offers them a hundred bucks or so if they will pose nude for them. The same reason some people might end up in prostitution." Id. at 186.

films.[992]

Typically young women and men answer advertisements seeking "models," and only later discover nudity or sexual intercourse is involved in the work.[993] Often, the "model agencies" placing the ads apply strong pressure to convince prospects, as one former model has recently described it:

> The majority of people in this business, they're heartless. They take a little girl off the street, fresh out of high school. They sit there and keep pushing it in her face and asking her if she'd like to do porn, and she keeps saying "No" and "No" and they keep on pressing . . . .[994]

Others enter from nude dancing[995] or prostitution.[996]

Whatever their entry route, however, well established, profitable enterprises exist to provide the services of female

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992 Interview: Ginger Lynn, Adult Video News 30 (Feb. 1985).

993 See, e.g., Los Angeles Hearing, Vol. I, Chris, p. 92; Los Angeles Hearing, Vol. II, Charles Sullivan, p. 65; Los Angeles Hearing, Vol. II, Chatherine Goodwin, p. 78-79.

994 Heather Wayne Interview, supra note 987, at 30. See, Los Angeles Hearing, Vol. II, Catherine Goodwin, 78-79 (after adolescent had posed for "fashion/glamour" photos, photographer "began to persuade and coerce her to do the S&M type of posing . . . .").

995 Washington, D.C., Hearing, Vol. I, Lisa, p. 61. (nude dancing at age sixteen, then "modeling" at eighteen); Joanna Storm Interview, supra note 979, 60-61 (nude dancing and stripping at age sixteen, "film career" at age twenty).

996 Chicago Hearing, Vol. II, Terese Stanton.

models to producers of "X" rated material.[997] "Model agents" receive a flat daily fee for each model provided, and provide producers with books containing pictures of those models available.[998] One such agent, William Margold, described to us the "legitimate ad" he regularly places in a Hollywood publication that, in his words, "lures, literally lures people in on the guise of getting [a legitimate acting] job."[999] After they arrive at his office, Mr. Margold tells the prospects, who "are all filled with the idea of becoming a star," what his agency actually wants, and then warns them of the hazards of sex modeling.[1000] "Many people," he continued, "years later, would call and thank me for not letting them into the industry, because I would warn them out. I didn't need that on my conscience."[1001] In view of the overall tactics employed by him and other agents, Mr. Margold's "conscience" on this point seems somewhat overnice.

With regard to men involved in "modeling," by contrast, recruitment practices seem far more straightforward. Males have a substantially more difficult time breaking into pornographic

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997 See, People v. Souter, 178 Cal. Rptr. 111(Ct. App., 2d Dist., 1981) (pandering conviction of principal of World Modeling Agency, which provided performers for commercial pornography productions); People ex rel. Van DeKamp v. American Art Enterprises, Inc.; 142 Cal. Rptr. 338(Ct. App., operation which engaged its performers through "model agencies" Id. at 340).

998 Los Angeles Hearing, Vol. I, William Roberts, p. 64.

999 Los Angeles Hearing, Vol. I, William Margold, p. 402-03.

1000 Id. at 402.

1001 Id.

modeling; where men are concerned, according to Mr. Margold, "[t]his is a closed shop" with only a few "superstars" who "end up in all the videos."1002 Those who are able to enter the business often do so through the good offices of a new or established female performer.1003 Some male models, on the other hand, drift into pornography in ways similar to women - through nude dancing, prostitution, or clever persuasion.1004 Recruitment of men may be easier because of what many male performers describe as the ego gratification of working in pornography.1005

b. Coercion. Efficient as it is, the normal recruiting process for pornographic models is apparently not fully adequate to meet producers' needs. It is an unpleasant, controversial, but in our view well established fact, that at least some

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1002 Bennett, Breaking into "X" Rated Films, Hustler Erotic Video Guide 71 (May 1986) (interview with William Margold). In this article Mr. Margold seemed to be referring to heterosexual male modeling. With regard to modeling in homosexual publications and films, there appears to be a much broader demand for new and different faces. See generally, Male Model, supra note 926, at 172-86.

1003 Id. at 72. See, Porn Star Confessions, Erotic X-Film Guide 51, 60(May 1986) (story of Marc Wallice, introduced into "Swedish Erotica" through Lisa DeLeeuw, established model).

1004 Los Angeles Hearing, Vol. I, George, p. 86. ("dancing and nude modeling"); Washington, D.C., Hearing, Vol. I, Jeff, p. 168 (prostitution); Male Model, supra note 926, at 176-77 (interview with "John Rucculo" describing gentle persuasion into nude modeling).

1005 See, Male Model, supra note 926, at 182-86 (comments of Jack Wrangler, whose "reward" is principally "self-esteem" Id. at 182.). But see, Richard Pacheco Interview, supra note 986, at 24 ("AVN: But how much of it do you like? RP: 15% is pleasure and 85% is trauma and hard work for which I'm very well paid.").

performers have been physically coerced into appearing in sexually-explicit material, while others have been forced to engage in sexual activity during performances that they had not agreed to beforehand. We heard direct testimony from three unrelated women who each described how brutal force was used to push her into pornography.[1006] The credibility of that testimony was strongly reinforced by the testimony of representatives of "sex workers,"[1007] by a victim counselling agency;[1008] and

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[1006] See, generally, Washington, D.C., Hearing, Vol. I, Valerie Heller, p. 217; Washington, D.C., Hearing, Vol. I, Sarah Wynter, p. 175; New York Hearing, Vol,. I, Linda Marchiano, p. 47; Ms. Marchiano's testimony was actually a short summary of her full account in L. Lovelace, Ordeal (1980), in which she described her forced introduction and participation in pornography by her husband and "manager" Chuck Traynor. Mr. Margold discounted her testimony on the basis that "if you put a gun to the head of the girl who's performing fellatio on you, what would be left to perform fellatio on." Los Angeles Hearing, Vol. I, William Margold, p. 414. This view is neither faithful to the actual account of Ms. Marchiano's experiences nor convincing in its logic. Harry Reems, who performed with Ms. Marchiano in "Deep Throat," has more cogently questioned the validity of her assertions by contradicting certain details of her account of the filming of that movie. Harry Reems Interview, supra note 987, at 28. Nevertheless he ultimately conceded that he does not know whether Ms. Marchiano was coerced into making "Deep Throat" or other movies, Id., and at least one impartial chronicler of the world in which she moved during the 1970s has apparently found her story fully credible. R. Miller, Bunny: The Real Story of Playboy 162-66(1984). Based on their demeanor, their lack of any obvious motive to falsify, and the other evidence we have heard, we can state that we believe the testimony of Ms. Marchiano, Ms. Heller, and Ms. Wynter to be true, and , in view of their sufferings from continued public exposure in this light, courageous as well.

[1007] Los Angeles Hearing, Vol. II, Priscilla Alexander, p. 229. (Education Coordinator, COYOTE, National Task Force on Prostitution) ("There is certainly evidence that some women have been forced to perform in sexually-explicit productions." Id. at 229-30.)

extrinsic evidence on the public record.1009

1008 Chicago Hearing, Vol. II, Terese Stanton, (founding member of Pornography Resource Center which provides help to victims of pornography) ("We have gotten calls from both women and men who are currently being forced into the making of pornography - asking us if there is anything we can do for them." Id. at 6.)

1009 In hearings before the Minneapolis City Council in 1983, one woman related how she was forced into pornographic performance. Public Hrgs. on Ordinance to Add Pornography As Discrimination Against Women (1983), Session II at 49-52. In those same hearings Professor Kathleen Barry, author of Female Sexual Slavery (1984) submitted al letter describing how some pornography is produced by pimps through the rape of prostitutes, for reasons which "include personal pleasure of the pimp and his friends, blackmailing the victim by threatening to send them to her family, and selling to the pornographers for mass production." Id., Session I at 58-59. A street outreach worker confirmed that young prostitutes are often raped by their pimps, with the rapes photographed, held as a weapon to insure their continued submission, and later "published in pornographic magazines without their knowledge and consent." Id. Session III, at 77. Because pornography and prostitution are so strongly linked, it may of course be inferred that the coercion which historically and currently afflicts the latter will play some role in the former. See, R. Rosen, The Lost Sisterhood: Prostitution in America, 1900-1918 (about 7.5 per cent of prostitutes at the turn of the century were physically coerced into the profession); Silbert & Pines, Entrance into Prostitution, supra note 987, at 484 (four per cent of present-day sample of prostitutes listed "physical threat" as the "major reason" they entered prostitution); Badgley Report, supra note 1013, at 988 (3.6 per cent of juvenile male prostitutes and 15.9 per cent of juvenile female prostitutes were forced into prostitution). Finally, although it has not yet come to trial, we note that a state court in New Mexico has received substantial testimony supporting the existence of a pornography ring which kidnapped a young woman for use in a pornographic film but killed her out of fear of discovery - testimony sufficient for the court to find probable cause and bind the suspects over for trial. See, series of articles from Albuquerque Journal and Tribune, beginning February 15, 1986, on file in Commission Archives. Whether or not a conviction for murder is obtained in that case, we believe the evidence is sufficient to strongly indicate that forcible tactics were used to secure female models for pornography. See also, Jacobs, Patterns of Violence: A Feminist Perspective on the Regulation of Pornography, 7 Harv. Women's L.J. 5, 20-21(1984).

We also find highly credible the assertion of law enforcement officers that models more often face coercion to get them to perform specific sex acts that were not contracted for.[1010] As one of them put it:

> Coercion comes in, especially like some of these witnesses have testified, in the area of anal sex, which many of the models don't want to get into. It really comes into a factor in the bondage and S&M type films. I have talked to models and I have seen films where it's quite obvious that the model had no idea as to what they were getting into. Part of an S&M film, when they start torturing the victim, tying them, whipping them and putting cigarettes out on their body, is the showing of pain. This is what sexually excites some people.
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> Obviously we are not dealing with people that can act, so they can't act the pain. Therefore the pain is very real. It's quite apparent these people do not realize what they have gotten into once they start the filming.[1011]

Certainly their pain may not be lightly dismissed.

At the same time we may not dismiss the strong assertions of producers, agents, and models in the sex industry that performers are generally safe from physical coercion.[1012] Actual force or

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[1010] Los Angeles Hearing, Vol. I, William Roberts, p. 99-100; Los Angeles Hearing, Vol. II, Catherine Goodwin, p. 78-79.

[1011] Los Angeles Hearing, Vol. I, William Roberts, p. 99-100. See note 1015, infra.

[1012] Los Angeles Hearing, Vol. I, Les Baker, p. 203B-7-8. (President, Adult Film Assn. of America) (describing coercion of Linda Marchiano, if it did occur, as "a tragically unfortunate but nevertheless isolated phenomenon."); Los Angeles Hearing, Vol. I, William Margold, p. 414-415; Statement of Candida Royale (denying any coercion used in inducing her to become a model); 1984 Senate Hearing, supra note 976, at 316 (testimony of Veronica Vera) (denied ever meeting "anyone, man or woman, who was not participating of his or her own free will.").

threat of force does not, indeed, appear to be a normal part of "mainstream" pornography production.[1013] Rather it seems concentrated in the fringe areas of bondage, sadomasochism, and home-made, noncommercial pornography. Force used to induce young women to enter "mainstream" pornography appears to be applied most often not by filmmakers but by dominating "boyfriends" who in fact play the role of pimp.[1014] All this said, it is nevertheless troubling that the Adult Film Association of America nowhere includes in its "unofficial credo" a pledge to eschew all forms of coercion in recruitment of models.[1015]

c. Contractual Terms. Those models who enter pornography voluntarily - that is, without having been physically forced- can expect to enter their new employment under contractual terms quite unlike any others we know of. They will by most standards

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1013 See, Los Angeles Hearing, Vol. I, George, p. 87 (" in career of over 100 films, I have never seen a director physically grab [a model] and force her to do a scene.").

1014 See, L. Lovelace, Ordeal (1980); Washington, D.C., Hearing, Vol. I, Valerie Heller, p. 217.

1015 Los Angeles Hearing, Vol. I, Les Baker, p. 203B-3. The A.F.A.A. acknowledges five "responsibilities " which center on protection of children and nonconsenting adults from seeing pornography: none of them relate to problems of adult performers. See, Los Angeles Hearing, Vol. I, George, p. 86-87. ("I have seen some directors get really violent and have a lot of yelling and throwing things and threatening of the young ladies, they will never work again if they don't want to do a scene . . . . Then, you know, every time I have seen the girls, always regret it afterwards,; there has been a lot of pain involved with doing scenes they didn't want to do".)

be well paid - from $250 a day for established models[1016] - but they will be paid strictly in cash[1017] and normally by the number and type of sex acts performed.[1018] Fringe benefits such as medical insurance are unknown.[1019] Models sign a standard release form which gives the film producer or the photographer complete ownership of, and unlimited rights to the material produced.[1020] Once they leave the movie set or the film studio, they have no guarantee of future employment and no ability to control the use of the material in which they appear.

d. Working Conditions. During a typical day of filming an

1016 Los Angeles Hearing, Vol. I, William Roberts, p. 65; Los Angeles Hearing, Vol. I, Chris, p. 98; Los Angeles Hearing, Vol. I, George, p. 85. (noting that he "would make between $1,000 and $2,000 a week"). William Margold estimates that male "superstars" earn $80,000 per year, while "newcomers" earn "around $200 per day." Bennett, supra note 972, at 71. The highest salary currently paid - to a female "superstar" - appears to be $17,000 per day. Heather Wayne Interview, supra note 987, at 58 (statement of Bruce Seven, prominent X-rated film producer).

1017 Bennett, supra note 972, at 71; Los Angeles Hearing, Vol. I, George, p. 91.

1018 Los Angeles Hearing, Vol. I, George, p. 85; Los Angeles Hearing, Vol. I, William Roberts, p. 65 ("going rate being about $250 per sex act").

1019 Los Angeles Hearing, Vol. I, George, p. 89.

1020 Los Angeles Hearing, Vol. I, William Roberts, p. 70-71. For the extraordinary effects of such releases See, Faloona v. Hustler Magazine, 607 F. Supp. 1341(D.C. Tex. 1985) appeal docketed, No. 85-1359 (5th Cir. 1985) (child whose nude pictures appeared in Hustler had no right to revoke mother's consent to publication, even though pictures had been taken for different publication and sold to Hustler by photographer). See also, Shields v. Gross 58 N.Y. 2d 338 (1983) (dismissing Brooke Shields' efforts to stop publication of nude, highly eroticized pictures taken of her at age ten with her mother's consent).

"X" rated movie or video a performer is expected to engage in at least two sex scenes,[1021] in a manner pellucidly described by Mr. Margold to prospective male "stars":

> You have to be a machine. You have to get it up, get it in and get it off on cue. You have to be able to completely divorce yourself from your surroundings and be able to function in any situation. For example, if you're working on location for a film shoot and staying at a motel for seven days, you have to cope with being in unfamiliar surroundings, getting irregular sleep and living on McDonald's and Kentucky Fried Chicken, and still be able to perform sexually no matter what else is on your mind.[1022]

Workdays are twelve to fourteen hours long, with videos requiring three and films seven days to shoot.[1023] During the filming of sex scenes it appears to be standard practice to restrict access to the set to the models and film crew; one actor is reported to have "hastily [covered] his private parts" when a reporter could see onto the set.[1024] In mainstream pornography females but not males are normally expected to engage in homosexual as well as heterosexual sex,[1025] while in male homosexual pornography women

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[1021] Bennett, supra note 972, at 72.

[1022] Id.

[1023] Id.

[1024] Goldman, On the Set of An Adult Film. Adult Video News 10(1984).

[1025] See generally, Badgely Report, supra note 924, at 1213-21 (analyzing contents of 11 pornographic magazines, with lesbian scenes being "a popular subject" while homosexual male portrayals were nonexistent). In a recent review Hustler urged readers to "check out" a film because of the "daring" performance of a male lead as a "bisexual film director." The review continued: "no, he doesn't actually make it with another guy;

do not perform at all.[1026]

e. Health Risks. Precisely because sex is their job, models face health hazards of forbidding intensity. Working three to four days as week, with two sex scenes each day,[1027] any one model may have twenty-four to thirty-two different sexual partners every month, just through work. Even though some performers state that they receive regular medical check-ups,[1028] the odds of contracting sexually transmitted diseases are very high - particularly because performers do not even have the option of using condoms or other "safe sex" techniques.[1029] Not surprisingly, even the rumor that a model is infected with a sexually transmitted disease can ruin his or her career,[1030] but just as obviously such a rumor will often fail to spread before the disease has. Further, it is only the established "stars" who

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this flick is daring, but not that daring." Hustler 18 (April 1986).

[1026] A recent video which included bisexual activity involving several men and one woman was dubbed by one "erotica" reviewer as "not, strictly speaking, a gay tape" and "probably different from anything you've ever seen." Review, Hustler Erotic Video Guide 90-91 (May 1986).

[1027] The typical work week described by one of the models in testimony before us. Los Angeles Hearing, Vol. I, George, p. 85.

[1028] See, e.g., Lynn Interview, supra note 977, at 30; Los Angeles Hearing, Vol. I, George, p. 89.

[1029] See, Pacheco Interview, supra note 986, at 25 (description by interviewer of "the only time I've seen a rubber being used in a porno movie.")

[1030] Id. at 30; Bennett, supra note 972, at 72.

can be choosy about their partners.[1031] One of the best known male models described his own experiences in illuminating terms:

> When you're a nobody, it doesn't occur to you to be brave and ask, even though you have a lot at stake. I didn't worry too much about that until the Herpes stuff started to become real. Up until 1982, I had one clap scare. I went and received shots for it. I don't know if I ever had it or not. But I had contact with a known carrier. In '82, we got pregnant for the first time, and having Herpes was the difference between a vaginal birth and a Caesarian section which made a significant difference to us. And I didn't have Herpes and I saw no reason to get it. So I began saying categorically that I wouldn't work with anyone that had Herpes. I had to do this one part with someone who had an active outbreak of Herpes, and we cheated the scene. The person put a towel in her thighs and I ended up f***ing the towel. We had no physical contact. Ironically enough, it turned out to be a beautiful scene."[1032]

When asked who the Herpes carrier was, the model replied that he had "kind of shielded it."[1033]

The advent of Acquired Immune-Deficiency Syndrome (AIDS) might have been expected to produce drastic changes in sex industry practices, but the prevailing attitude seems best

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[1031] Pacheco Interview, supra note 986, at 30.

[1032] Id.; See also, Los Angeles Hearing, Vol. I, George, p. 89. (encountered S.T.D. in fellow performers); Lederer Interview, supra note 969, at 66. ("Women who work in the pornography business always have vaginal trichomoniasis or some infection from the working conditions, which run from bad to simply intolerable. At one point there was an epidemic of hepatitis and mononucleosis. The communicable diseases spread quickly." Id. at 66). That a "sex worker" population would be highly vulnerable to sexually transmitted diseases should hardly come as a shock. See, W. Darrow, Prostitution and Sexually Transmitted Diseases in Sexually Transmitted Diseases 109 (K.K.Holmes ed. 1984).

[1033] Id.

reflected in the following, recent comments in a Hustler interview of Amber Lynn, a leading "porn star":

> "HUSTLER: You're f***ing so many men these days, aren't you afraid of AIDS? Many actors in the business are bisexual.
>
> LYNN: There's an incredible fear of AIDS sweeping through the X-rated-film business right now. All of my girlfriends are talking about it. We're scared to death that we'll find out in three years we've only got a few months left.
>
> HUSTLER: Why do you continue your promiscuous career then?
>
> LYNN: I get a blood test regularly and am very careful about the people I work with. Hey, life's a f***ing gamble anyway, and there is where I want to be. I can't think of doing anything else. That's not to say I'm reckless. For instance, I won't f*** some guy I know has been f***ing a bunch of other guys not for a lousy thousand dollars. It's not worth it to me, because if I get AIDS, then everyone I come in contact with get it and not just the people I work with, but the people I love and care about too.[1034]

Of course, even an occasional sexual contact with a member of a high-risk group carries such a substantial risk of exposure to AIDS[1035] that the gamble Ms. Lynn embraces seems a peculiarly misguided one.

f. Drug Use. Along with the insidious threat of infectious

[1034] Lynn Interview, supra note 977, at 26-30.

[1035] See, Curran, The Epidemiology and Prevention of the Acquired Immune-deficiency Syndrome, 103 Ann. Internal Medicine 657, 660 (1985) ("the risk of exposure to HTLV-III/LAV infection from a sexual encounter with an occasional partner for a gay man is very high, several times higher than for a heterosexual man or woman.") Blattner, Epidemiology of Human T-Lymphotropic Virus Type III and the Risk of the Acquired Immune-Deficiency Syndrome, 103 Ann. Internal Medicine 665(1985).

disease, models face a more overt challenge to their physical health: drug use, and in particular, use of cocaine. Few aspects of the world of pornographic modeling seem less free from doubt than the dependence of most performers, at one time or another, on cocaine. The view of one prominent model that in her world "everybody goes through a drug stage"[1036] is perhaps overstated; but involvement of a substantial majority of performers in the use of cocaine seems highly probable.[1037] In the opinion of at least one model, drugs are necessary in her work because "you have to hide, you have to keep your feelings and emotions from being completely destroyed. Each day [in the industry] erodes them away."[1038] It is true that Mr. Les Baker, President of the Adult Film Association of America labelled the problem of drug abuse in his industry a "misconception," contending that such abuse "is a universal problem and we of the A.F.A.A. just a small part thereof."[1039] For him drugs usage by pornographic models is simply part of an infection spreading

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[1036] Ginger Lynn Interview, supra note 982, at 36.

[1037] See, Los Angeles Hearing, Vol. I, William Roberts, p. 98. ("Drugs play a very large part in [the pornography industry]; "George", supra note 1013, at 84 ("eighty to ninety percent of the models do delve into cocaine"); Interview: Traci Lords, Adult Video News 34 (Aug. 1985) ("Many girls go through mental breakdowns or get into drugs really bad. They feel so alone because there's just nothing there. So they get into the coke crowd and that's what keeps them going.")

[1038] Heather Wayne Interview, supra note 987, at 58. Accord, Joanna Storm Interview, supra note 979, at 60 ("I guess I used [cocaine] to escape.")

[1039] Los Angeles Hearing, Vol. I, Les Baker, p. 203B-7.

through the whole "entertainment industry."[1040] William Margold put it somewhat more positively:

> I know that drugs are in my industry. I know that drugs are in almost any form of creative people. Some people seem to need them to do whatever they have to do.[1041]

We of course are in no position to compare the severity of drug abuse in the pornography industry with that in other fields; it is sufficient simply to note that by all accounts such abuse exists and inflicts serious damage on those it touches.[1042]

g. "Modeling" vs. Acting. The reference of Mr. Margold to the "creative people" performing in mainstream pornography raises for us, quite apart from the issue of drug abuse, a question of substantial importance in attempting to describe the role and the lot of models. To what extent is their work in fact "creative"? More bluntly, to what extent are they actors as opposed to glorified prostitutes? More than aesthetic judgments hang in the balance: for if the performing in sexually-explicit films can be called truly creative, it is possible to imagine it bringing intangible, subjective benefits to models that scrutiny of contract terms, working conditions and the like could never reveal. Fortunately, it is an issue on which models themselves seem largely in agreement. Mr. Margold, himself a model,

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1040 Id.

1041 Los Angeles Hearing, Vol. I, William Margold, p. 413.

1042 See, Los Angeles Hearing, Vol. I, Les Baker, p. 203B-7 (suicide of young model linked to drugs).

recently was asked, "Is acting ability and training an important factor [in breaking into "X" rated films]?[1043] His answer was simple and instructive:

> No, I don't think so. I think what's most important is being in the right place at the right time, having the right connections and getting the right roles.1044

Mr. Margold went on to explain that the reason some male models "get their foot in the door" but "fail to make it to super-stardom" is not for lack of creative drive or talent, but because they "cannot keep functioning reliably shoot after shoot."1045

One former model who testified before us was even more careful about distinguishing "modeling" from "acting":

> That also reminds me somehow, what I really wanted to say is when you are paid, to 'act' in these videos and films and stuff, you know, a lot of them say that I am an actor, I am an actress, or something, I am getting paid to act.
>
> When the producer or director pays you, after you leave, and before the shooting, you are paid not by how many lines you have or by what part you have you may have five lines or you may have 107 pages of dialogue, but you are paid per sex scene and that's how they quote it to you. If you have one sex scene a day you get like two hundred to two hundred fifty dollars for that, if you have two sex scenes, there's three or four hundred for two sex scenes. You are paid more for anal or girls are paid more for when they are working with two guys.
>
> So the models that say they are getting paid to act are only doing that to pretty much preserve their job security because, you know, anybody in the industry

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1043 Bennett, supra note 972, at 72.

1044 Id.

1045 Id.

knows you are paid per sex act and not for acting.[1046]

Several former models have made similar public assessments, declaring flatly that "the market today is just not conducive to anyone who takes their acting seriously."[1047] Adult filmmakers shoot with only the barest of scripts, desperate simply to get the requisite number of sex scenes on film with an alluring title and package.[1048] The result for performers is that, in the words of a leading model:

> You never really forget the sex, you forget the movie. There's a lot of movies on the market that are exactly the same.[1049]

When asked to remember a movie she was proud of, she tellingly replied:

> Yeah, I think one of the films I am most proud of is 'Sex Waves.' There was acting in it, a story to it . . . it wasn't an excuse to have sex.[1050]

As one knowledgeable observer told us, sex scenes are normally

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[1046] Los Angeles Hearing, Vol. I, George, p. 84-85.

[1047] Where are They Now, supra note 970, at 52 (statement of Jessie St. James). Accord, Id. (statement of Kay Parker) ("Empty plots, with soulless characters"), and Id. (statement of Candida Royalle) ("An actress has very little say over the creative aspects of the films she's in.")

[1048] See, Los Angeles Hearing, William Roberts, Vol. I, p 62-72.

[1049] Traci Lords Interview, supra note 1037, at 34.

[1050] Id.

shot in one take, and dialogue scenes in two or three:

> They do not spend a lot of time on the dialogue. They do not look for perfection. If they [looked] for perfection, most of the porn movies would still be in production. The people they are using are not well known actors and actresses and they are not very skilled in this area.1051

From our limited direct observation of "X"-rated material we must agree: skilled acting seems irrelevant to what is depicted.[1052]

There are, of course, those who disagree. One model speaks of always performing "within the character" he is portraying, even in sex scenes;[1053] another of how "[t]he voice changes, the walk changes, the face changes, everything changes" while he plays the character he has portrayed through ninety-seven "features";[1054] a third (more dubiously) of the "ultimate acting challenge" involved in managing to "fool the public" into thinking she enjoys the sex, which she considers pure "exploita-

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1051 Los Angeles Hearing, Vol. I, William Roberts, p. 68.

1052 This general distinction between "acting" and pornographic performing seems to have a parallel in the work of fashion modeling:

> Few male centerfold discoveries are fashion model material. Carl Garrison and the select others who have put their clothes back on to forge a career all possess the requisite suit size - 40 regular or thereabouts- as well as a special look and a special drive. On the other hand, the requirements for nude modeling, as one auditioner for a male flesh magazine explains, are "body, face, cock," not necessarily in that order.

1053 Pacheco Interview, supra note 986, at 24.

1054 Male Model, supra note 926, at 185.

tion."[1055] Clearly it is impossible to draw a bright, unwavering line between legitimate "acting" and pornographic "modeling.

Yet, ultimately we are faced with the simple fact acknowledged even by one of the most partisan of the adult film industry's fans: "Jealousy and most other human emotions (except fear and lust) are rarely expressed in adult films."[1056] Worse, as another sympathetic critic has conceded, "hard-core guarantees realism, . . . yet it remains incapable of showing pleasure."[1057] In a medium where virtually no human emotion (not even sexual pleasure!) can be expressed, and where, moreover, the performers are chosen neither for training in acting nor for natural acting talent, it seems to us all but ludicrous to call them "actors." We do not, therefore, consider it even the mildest paradox that the performers in live or filmed pornography are not treated on an equal footing as other performers by such organizations as Actors Equity and the Screen Actors Guild.[1058] Nor do we consider one of the rising male models to be wholly misguided in describing his job as, simply, f***ing pretty girls for a

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[1055] Ali Moore Interview, supra note 976, at 9.

[1056] R. Rimmer, The X-Rated Videotape Guide 28(1984).

[1057] G. Lenne, Sex on the Screen: Eroticism in Film 5(Jacobs trans. 1985).

[1058] It is our understanding that at least one prominent pornographic model is a member of Actors Equity, but that his membership depends on work he did in the legitimate theatre. See, New York Hearing, Vol. II, Colleen Dewhurst, p. 190-91.

living."[1059]

h. Career Prospects. Just as sex modeling appears to offer few opportunities for creative expression, so too it seems to allow only sparse chances for long-term employment and remuneration. The life of a typical model's career is extremely short, usually not more than a few months or years. Of twenty new male "stars" each year in "adult" films, only about half a dozen will remain in the business for over a year.[1060] One of the few women to survive long in the industry, when asked what advice she would give to new female models, replied:

> I would tell them not to burn themselves out so fast. What happens is that they become big names and everyone wants them. A couple of years down the line, these girls are going to find people telling them they're overexposed. The typical line is something like we can't pay you a great deal of money because you're not a name yet. Then when they use you in every damn thing around and you become dependent on the income, they tell you we can't pay you very much because you're overexposed. They're setting themselves up for a really bad experience. I had a six year career. I think the reason it was that long is because I would only do three or four films a year. I tried to be choosy. These new stars shouldn't depend on hardcore as a full-time income. The directors are gonna grab them, chew them up, and spit them out real fast.[1061]

Some models manage to remain for longer periods in the "X" rated

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[1059] Porn Star Confessions, supra note 1003, at 61. See, Joanna Storm Interview, supra note 979, at 63 ("Films let me express a lot of my 'extra sexual desire.' If I didn't do films, I'd probably be in bed with the postman.")

[1060] Bennett, supra note 972, at 71.

[1061] Interview: Candida Royalle, Adult Video News 38(July 1985).

world, but after they reach the age of forty almost never appear naked, and only rarely appear in sexual intercourse.[1062] Women can almost never expect to hang on in any but minor roles after age thirty,[1063] although a few women have successfully moved into production and management roles.[1064] As for switching to legitimate acting, Mr. Margold has said bluntly, "if someone thinks he's going to get into mainstream through porn, he's deluding himself."[1065] Whether in films or traditional modeling, his observation seems to hold fast.[1066]

As for money, models in the sex industry collect none of the residuals on which professional actors expect to survive through

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1062 Rimmer, supra note 1145, at 28.

1063 Id.

1064 One such woman is Candida Royalle, whose written statement is on file with the Commission. See also, Candida Royale Interview, supra note 976. Other prominent women who have survived in aspects of the "adult entertainment" business are Dottie Meyer (management position at Penthouse), who testified before us; Seka (mail order pornography business), and Veronica Vera (writing for such "adult publications as Puritan magazine). See, 1984 Senate Hearing, supra note 975, at 313-22 (statements of Seka and Vera).

1065 Bennett, supra note 972, at 72.

1066 See, Male Model, supra note 926, at 186 (statement of Jack Wrangler that "a lot of companies, film companies as well, won't hire you if you have done nude modeling whether it was for Playgirl or for Playboy or whatever.") See also, Miller, supra note 1006, at 284-86 (discussing death of Dorothy Stratton, whose "death was a cruel blow to Playboy, since she was the first Playmate, of all the many Playmates, who looked as if she might become a Hollywood star . . . . One after another, the Playmates disappeared into obscurity. . . ." Id. at 286).

lean years.[1067] One angry former model was quoted at the time she left the business as follows:

> And they deserve it. Do you know what it's like to have somebody pay you five hundred dollars to do two sex scenes, considering the money he's gonna get back? If you want to know something, I've got nothing really to show for it.[1068]

Her experience seems common, and her current dilemma wrenching.

4. Modeling and Personal Life. As a job, sexually-explicit modeling has dramatically serious defects - from poor working conditions to disease, drugs, economic insecurity, and exclusion from mainstream acting. Modeling, however, appears to have consequences for its participants that extend deeply into their personal lives as well. Limited as our inquiry could be with regard to the world of modeling in general - and to the personal lives of performers in particular - we would be remiss if we failed to take into account what evidence does exist. On the whole, we believe the evidence before us to be highly suggestive in this area - suggestive as much of the attitudes of others as of the feelings of the performers themselves.

A few of the performers in this field, to begin with, speak

[1067] In this respect, as to a lesser extent with respect to age limitation, "modeling" in pornography is similar to traditional modeling - which, unlike acting, is not organized in unions and thus has never established residual, retirement, and fringe benefit standards. See, Male Model, supra note 926, at 109-50.

[1068] Heather Wayne Interview, supra note 987, at 58. Bruce Seven, a prominent X-rated film producer, was quoted in the same interview as agreeing with Ms. Wayne, listing only four female performers "who made anything out of it." Id.

in glowing terms of the experience. One of them, a former "Pet of the Year" in Penthouse, described to us how her marriage had remained strong and happy after her selection for the honor and then during her subsequent career at the magazine in management positions.[1069] Another, speaking before a Senate subcommittee "not only for myself but for every woman that I know in the sex industry," declared:

> We do not see ourselves as victims. We do not need to hide in the shelter of being somebody's victim. We accept responsibility for our own lives.[1070]

And a third related how he had maintained a happy marriage and fathered two children during his career adding that, in his words, "I've made the decision that I will abide by the incest taboo, completely."[1071]

Reassuring as these comments are, they stand in a clear minority. William Margold once again offered the most straightforward summation of what modeling means for the personal relationships of models:

> Whenever I'm interviewing someone who wants to get into porn, I always ask them, "Do you have anybody that you will hurt by doing this?" It would be ideal if someone had no relatives - disenfranchised human being devoid of any past that would haunt them and any kind of

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[1069] New York Hearing, Vol. II, Dottie Meyer, p. 301-03. Ms. Meyer, it should be noted, does not appear to have performed in any material depicting actual sexual conduct.

[1070] 1984 Senate Hearing, supra note 975, at 317 (statement of Veronica Vera). Ms. Vera, of course, alluded elsewhere to having suffered sexual abuse as a child.

[1071] Pacheco Interview, supra note 986, at 23-24.

> present or future that they could destroy. If it's a man, he also better be single because, unless he's married to the most magnanimous of women, it will tear her insides out.[1072]

He went on to point out its effects on the personal reputation of women involved.

> And I'd like to point out that for a woman, there's even more of a stigma than for a man. She'll be called a prostitute and a whore and thought of as sleazy, cheap and slutty. And she has to understand that what she does now will haunt her the rest of her life.[1073]

Mr. Margold's view, bleak as it is, has the weight of his thirteen years' experience in the field behind it; it is, moreover, continually echoed in the testimony and public statements of others who have knowledge of the industry.

Personal relationships, to begin with, appear to be severely threatened by modeling in pornography. Romances as well as family ties are often strained or broken.[1074] One young man, who

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[1072] Bennett, supra note 972, at 72.

[1073] Id.

[1074] See, e.g., Los Angeles Hearing, Vol. I, Chris, p. 93-94 (relationship with boyfriend broken); Ginger Lynn Interview, supra note 992, at 30 (being known as porn star "stops the whole magical process" of romantic attachment, but still accepted by family); Traci Lords Interview, supra note 1037, at 34 ("You don't have a personal life.") Ali Moore Interview, supra note 976, at 9-10 (modeling makes relationship with husband "very tough"; family members "know nothing of any porn films"); Heather Wayne Interview, supra note 987, at 32)modeling "destroys your sex life," and, according to Bruce Sevens, porn producer, "really screws up relationships.") Los Angeles Hearing, Vol. II, Miki Garcia, p. 116. (Playboy "Playmates" suffer alienation from family and friends). But see, Los Angeles Hearing, Vol. I, Mary, p. 78 (husband found "it was very hard for him to adjust . . .

had been lured into making "adult" films at age seventeen, told us about his feelings after leaving modeling and entering a drug rehabilitation program:

> I don't know, I feel scared to have a sexual relationship with a girl. I don't know what it's going to be like or if I am going to be too rough.1075

Candida Royalle, a major "star" (and now producer) in the industry, told Forum Magazine recently that after her marriage she had ended her performing because "[o]nce wed. . . she couldn't quite bring herself to do the sex scenes."1076 Even that may be of little avail: as one "X" rated film producer put it, "A man getting involved with an ex-porn star will always shove it back in her face."1077

What relationships do continue for models are often highly negative. Thus many female models live with highly abusive husbands or boyfriends, whose relationship to them is that of pimp to prostitute.1078 Others report suffering rape1079 or

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to me doing this . . . [and] wasn't very pleased with me," but it "hasn't really affected my married life"; "several relatives stopped speaking to me").

1075 Washington, D.C. Hearing, Vol. II, Jeff, p. 173.

1076 Candida Royalle Interview, supra note 976, at 42.

1077 Heather Wayne Interview, supra note 987, at 58.

1078 Lederer Interview, supra note 969, at 63; See, Washington, D.C., Hearing, Vol. I, Sarah Wynter; Washington, D.C., Vol. I, Valerie Heller; New York Hearing, Vol. I, Linda Marchiano. See also, Heather Wayne Interview, supra note 987, at 58 ("[Erotic Film Guide]: Actor William Margold also says that actresses seek out abusive boyfriends and husbands, the dregs of society, because they want to punish themselves. Any comment?

demands that they service agents or producers.[1080] Indeed, some may drift directly into "call girl" status.[1081]

> I was never viewed as a human being. . . . Most people, right off the bat, assume I am a piece of meat, a porno star, a floozie.[1082]

Wayne: It's hard to find a nice man who'd want you. And I guess you figure you wouldn't deserve a nice man.").

[1079] Lederer Interview, supra note 969, at 67; Los Angeles Hearing, Vol. II, Miki Garcia, p. 116, 124.

[1080] Los Angeles Hearing, Vol. I, Chris, p. 93; 1984 Senate Hearing, supra note 975, at 179 (Linda Marchiano statement). The "casting couch" is, unfortunately, apparently not unique to the pornography segment of the entertainment industry.

[1081] Los Angeles Hearing, Vol. II, Miki Garcia, p. 117. Ms. Garcia, until 1982 the director of Playmate Promotions, asserted that, among many other abuses, former Playmates "were involved in an international call girl ring with ties to the Playboy mansion." Id; Playboy Enterprises, in a letter from its counsel of November 6, 1985, accused her of "bearing false witness" in "efforts for self-aggrandizement," but offered no specific evidence rebutting her accusations. Until she left Playboy, Ms. Garcia occupied a position (conceded by all sides) of responsibility and trust. Documents submitted to the Commission by Ms. Garcia indicate, further that she had received outstanding ratings for performance of her duties at Playboy, and that at least at the time of her resignation had communicated her feelings about the treatment of the Playmates with her superiors. We are, of course, in no position to evaluate the truth of this accusation - or of the others included in her testimony - but we see no clear reason why, as Playboy suggests, Ms. Garcia's account should be dismissed out of hand. It accords, indeed, with statements submitted by two other former Playmates (Susan Amidon and Brenda MacKillop), and in significant respects with a recent full scale overview by an outsider. Miller supra note 1006. ("Many girls drawn into this orbit found the world of Playboy was not a pretty place . . . .") Id. at 160. We can only urge a thorough investigation of Ms. Garcia's allegations regarding problems faced by the Playmates she supervised, which included sexual exploitation and harassment, rape, murder and attempted murder.

[1082] Interview: Linda Wong, Adult Video News 19(March 1985).

"Adult" publications even those which are "soft core," view models as products.[1083] In the midst of that environment a young female performer said that she "just hated [herself] every day"[1084] and a young male told us it "[m]ade me feel worthless."[1085] As Andrea Dworkin has explained, that valuation is a central element of contemporary pornographic modeling.[1086] And it is a valuation we strongly reject.

C. CONCLUSIONS AND RECOMMENDATIONS

In sum, then, we have found, within the admittedly severe limitations of the evidence, the following propositions to be generally true of commercial pornography's use of performers: (1) that they are normally young, previously abused, and financially strapped; (2) that on the job they find exploitative economic arrangements, extremely poor working conditions, serious health hazards, strong temptations to drug use, and little chance of career advancement; and (3) that in their personal lives they will often suffer substantial injuries to relationships, reputation, and self-image. We acknowledge that exceptions exist to

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1083 Los Angeles Hearing, Vol. II, Miki Garcia, p. 121.

1084 Heather Wayne Interview, supra note 1051, at 58.

1085 Washington, D.C., Hearing, Vol. II, Jeff, p. 171.

1086 A. Dworkin, Pornography: Men Possessing Women (1979) ("Contemporary pornography strictly and literally conforms to the word's root [Greek] meaning: the graphic depiction of vile whores, or, in our language, sluts, cows (as in: sexual cattle, sexual chattel) . . . ." Id. at 200.

all these findings, and we concede, as well, that extremely thorough investigation might prove one or more of them untrue. Unhappily the power to conduct such an investigation is not in our hands. And the industry itself, which of course knows the full truth of the matter, has shown little interest in sharing that knowledge with us. We are, therefore, left with the unattractive but firm obligation to make recommendations in this area based on what we in our limited way have been able to uncover.

The approach we propose in this area is a cautious but urgent one. Caution we believe to be required from the incomplete character of the evidence currently available. Urgency, however, arises from the extremely serious nature of the harms apparently being inflicted on many young and vulnerable people. Both of these interests will be best served, we believe, if federal and state governments initiate thorough investigations - by agencies or committees possessed of substantial resources and full subpoena powers - of the use of "models." Those investigations should, in our view, proceed from three related, but distinct perspectives: pornographic modeling as (1) a subset of prostitution; (2) a form of sex discrimination; and (3) an invasion of performers' personal rights. Briefly we will consider the parameters of each of these perspectives and possible concrete courses of action available under each

1. Modeling and Prostitution. It seems abundantly clear from the facts before us that the bulk of commercial pornographic

modeling that is, all performances which include actual sexual intercourse, quite simply a form of prostitution. So much was directly asserted by representatives of prostitutes' organizations who testified before us,[1087] as well as representatives of law enforcement[1088] and effectively denied by no one. Every court which has examined the questions from this standpoint has agreed, reasoning that where persons are paid to have sex it is irrelevant that the act is for display to others.[1089] As prostitution is conduct which the state has a strong interest in regulating, the First Amendment does not preclude that regulation merely because it is labelled "speech" or is filmed.[1090] It is also readily apparent that the interests which have in the past most powerfully justified the state's concern over prostitution-exploitation of the young and the weak, prevention of disease-are just as strongly implicated by pornographic "modeling."

If upon further study our equation of prostitution and

1087 Los Angeles Hearing, Vol. II, Margaret Prescod, p. 215; Los Angeles Hearing, Vol. II, Priscilla Alexander, p. 224.

1088 Los Angeles Hearing, Vol. I, James Docherty, p. 15. See also, Chicago Hearing, Vol. I, Nan Hunter ("some women work in both pornography and prostitution": statement does not contest their overlapping character).

1089 See, United States v. Roeder, 526 F.2d 726(10th Cir. 1975), cert. denied 462 U.S. 905(1976); People v. Sonter, 178 Cal. Rptr. 111(Ct. App. 2d Dist. 1981); People ex rel. Van DeKamp v. American Art Enterprises, 142 Cal. Rptr. 338(Ct. Appp. 2d Dist. 1977); People v. Fixler, 128 Cal. Rptr. 363 (Ct. App. 2d Cist. 1976); People v. Kovner 96 Misc. 2d 414 (sup. Ct. N.Y. Co. 1978). See also, People v. Marta, 203 Cal. Rptr. 685(Ct. App. 1st Dist. 1984) (defendant convicted of pimping for hiring women to have on-stage sex with customers in a theater).

1090 Id.; See, United States v. O'Brien, 391 U.S. 367(1968).

"modeling" proves to be true, it is incumbent upon the federal government and the states to consider carefully how to respond. Some of our witnesses have in fact urged legalization of pornographic modeling, and of all prostitution, as a means of eliminating its clandestine character and allowing "sex workers" to improve the conditions under which they labor.[1091] Insofar as that proposal would permit the recruitment of men and women into prostitution, the promotion of prostitution, or the living on the avails of prostitution - all characteristics, so far as we can tell, of the producers and distributors of commercial pornography - it flies in the face of established international mores,[1092]

1091 Los Angeles Hearing, Vol. II, Margaret Prescod, p. 215; Los Angeles Hearing, Vol. II, Priscilla Alexander, p. 224; Chicago Hearing, Vol. I, Nan Hunter.

1092 The International Convention for the Suppression of the Traffic in Women and Children, League of Nations - Treaty Series (1922) (No. 269), adopted by twenty-eight member nations of the League of Nations in 1921, established the duty of all signatory states to punish the procuring or promoting the prostitution of any women by force, or any woman under age of twenty-one, even with her consent. See, V. Bullough, The History of Prostitution 184(1964). The United States, which of course refused League membership, never acceded to the Convention. In 1949 the United Nations adopted the Convention for the Suppression of the Traffic in Persona and of the Prostitution of Others, which committed signatory states to punish the procuring or the exploitation of the prostitution of another, without regard to any age limit. Report of Mr. Jean Fernand-Laurent, Special Rapporteur on the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others, Economic and Social Council, United Nations (1983), Annex VII [hereinafter, United Nations Report]. At present both international conventions are in effect - although not ratified by the United States and are supplemented by the Convention on the Elimination of All Forms of Discrimination Against Women, adopted by the United Nations in 1979, which also requires (in Article 6) the signatory parties to "suppress all forms of traffic in women and exploitation of prostitution of women." Id. Annex IX. On their face these agreements all seem fully applicable to commercial pornography.

longstanding national policy,[1093] and simple good sense.[1094] We agree with the International Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, adopted by the General Assembly of the United Nations in 1949, that the State should punish any person who "[p]rocures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person" or who "[e]xploits the prostitution of another person, even with the consent of that person."[1095] Lifting sanctions against the "employer" seems no more attractive a solution with regard to exploitation in pornography than it would, for example, with regard to child or subminimum-wage labor. "Legalization," if extended to producers and others currently considered "panderers" under state laws, would only make it easier for them to persuade more vulnerable young people to participate in a world that seems to us inherently abusive.

[1093] The clearest expression of this policy is the White-Slave Traffic Act (the Mann Act), ch. 395, 36 Stat. 825 (codified as amended at 18 U.S.C. SS2421-2424) (1970 & Supp. 1985), which, inter alia forbids interstate transportation of women or girls for the purposes of prostitution.

[1094] For excellent discussions of the pitfalls of legalized prostitution, see, K. Barry, Female Sexual Slavery, 128-134 (1984); C. Winick & P. Kinsie, The Lively Commerce 211-2432 (1971); and of course the classic work studying legalized prostitution in 19th century Europe, A. Flexner, Prostitution in Europe (1914). For a jolting overview of the pimp-prostitute relationship, See, L. Lee, The Social World of the Female Prostitute in Los Angeles, PH.D. Diss. (1982).

[1095] United Nations Report, supra note 1092, at 60 (Annex VII), quoting resolution 317 (IV) adopted by United Nations on December 2, 1949.

With regard to penalties directed at models themselves, however, the argument for decriminalization seems much stronger, on several grounds. First, it is not uniform policy in the District of Columbia to make the simple act of prostitution (without accompanying "solicitation") a crime.[1096] Second, those who are misguided, desperate or frightened enough to turn to pornographic modeling are unlikely to be deterred by the relatively light sentences typically imposed on those convicted of prostitution.[1097] Third, models are often so badly harmed by their experience that the addition of criminal penalties to their suffering - which includes a never-ending fear that humiliating photographs or films will be publicly exhibited - may seem superfluous and cruel.[1098] Finally, fear of prosecution may make such models less likely to come forward and provide evidence against those who exploited them.[1099]

While we do not believe, therefore, that prostitution laws

[1096] For a listing and analysis of state laws on prostitution, See, Note, Right of Privacy Challenges to Prostitution Statutes, 58 Wash U.L.Q. 439, 471-80(1979) (four states and District of Columbia punish solicitation for prostitution but not act itself). The act of prostitution was not an offense under English common law. Id. at 443.

[1097] See, Winick & Kinsie, supra note 1094, at 218-19.

[1098] See, e.g., Barry, supra note 1094, at 125-28; Fraser Report, supra note 936, at 530-37.

[1099] Of course, it is also possible that with no fear of criminal prosecution themselves, models will be impervious to police pressure to give evidence against their employers. On balance the threat of a prostitution charge - in every state no more than a misdemeanor - seems unlikely to persuade many models to betray their colleagues and thereby jeopardize their careers.

are a perfect weapon in every respect for protecting models from procurement and abuse, their application at least to producers and agents seem fully justified. The experience of Los Angeles, where pandering prosecutions and "red-light" nuisance abatement actions have been successfully brought by police and prosecutors, deserves careful study in other jurisdictions. There seems little warrant for a state or locality to tolerate the production of commercial pornography that is as exploitative as that discussed above unless its basic approach to prostitution itself is radically different from the national norm.

Quite apart from the use of pandering statutes, however, an approach that seems to us worthy of careful study is imposition of sanctions on any persons trafficking in products or materials which they know or have reason to know were manufactured or marketed through the use of persons engaging in prostitution.

Such legislation would parallel existing legislation which forbids trafficking in products manufactured through child labor or through certain oppressive adult labor practices.[1100] Because not directed specifically at speech,[1101] and because clearly grounded in legitimate governmental interest in controlling prostitution, it would seem likely to survive constitutional

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[1100] See, United States v. Darby, 312 U.S. 100(1914).

[1101] A company which hired employees whose duties consisted of providing sexual services to potential clients of the firm could be subject to sanction under such a law.

attack.[1102] Given the federal government's long commitment to use its powers to regulate interstate commerce to attack prostitution in every form, we are, indeed, somewhat surprised that such a proposal has not been seriously studied before now. Nevertheless, the idea is sufficiently novel and could affect so much commerce not directly within the purview of our charter that we merely offer it for consideration and debate.

2. Sex Discrimination. Along similar lines we urge careful study by the Department of Justice of the extent to which producers of sexually-explicit photographs, films, and video tapes are acting in violation of federal civil rights laws, and in particular of Title VII of the Civil Rights Act of 1964.[1103] That law provides, in pertinent part:

> It shall be an unlawful employment practice for an employer. . . to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to [her] compensation, terms, conditions, or privileges of employment, because of such individual's . . . sex.[1104]

[1102] Cf., New York v. Ferber, 458 U.S. 747, 761(1982) (advertising and selling child pornography "provide an economic motive for and are thus an integral part of the production of such material, an activity illegal throughout the nation. It rarely has been suggested that the constitutional freedom for speech and press extends its immunity to speech or writing used as an integral part of conduct in violation of a valid criminal statute. Giboney v. Empire Storage 7 Ice Co., 336 U.S. 490, 498 (1949)."); Wirtz v. Keystone Readers Service, Inc. 282 F. Supp. 971 (S.D. Fla. 1968) (magazine subscription service violated federal law prohibiting illegal labor practices by employing high school student at below minimum wage).

[1103] 42 U.S.C. S2000(e).

[1104] 42 U.S.C. S2000 (e)-2(a)(1).

This provision has been interpreted widely to protect employees from having to prostitute themselves to supervisors or submit themselves to sexual intercourse or harassment to keep their jobs.[1105] One court declared flatly, "An employer may not require sexual consideration from an employee as a quid pro quo for job benefits."[1106]

On its face this principle would seem to make illegal the requirements that a performer engage in sexual activity as a condition of his or her employment. There are, however, two limitations on its scope that are at least arguable relevant to production of pornography. The courts have ruled that sexual demands (1) must be "unwelcome,"[1107] and (2) must include disparate treatment of the sexes.[1108] The first of these limitations does not seem a serious one: the overwhelming factor motivating the sexual conduct of pornographic models is financial need, certainly not a desire to have sex with the partner assigned to him or her for the scene.[1109] The sexual act is thus

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1105 See, Hensen v. City of Dundee, 682 F.2d 897, 908 (11th Cir. 1982); Bundy v. Jackson, 641 F.2d 934 (D.C. Cir. 1981); Miller v. Bank of America, 600 F.2d 211 (9th Cir. 1979); Tomkins v. Public Service Electric & Gas, 568 F.2d 983 (D.C. Cir. 1979); 29 C.F.R. S1064(1)(a).

1106 Hensen, supra note 1194, 682 F.2d at 908.

1107 Id. at 904.

1108 Id. at 904, 905.

1109 See, Text to notes 984-991, supra.

in no way "welcome" in the sense we understand the law to exempt.[1110] With regard to the "disparate treatment": requirement, we note simply that women and men are normally paid different rates in the industry for the same sex acts,[1111] and that women in mainstream pornography are expected to engage in homosexual activity while men are forbidden to.[1112]

We therefore believe it likely that much of the commercial production of pornography runs afoul of Title VII, even considering the technical limitations on its reach. Further, we believe that Title VII embodies a principle that should not be strangled by technicalities: no one in this country should have to engage in actual sex to get or keep his or her job.[1113] To the extent that Title VII and comparable state statutes do not currently reflect that principle, we urge serious and rapid consideration of proposals to broaden their reach.

[1110] Thus Hensen defined "conduct" as "unwelcome" if "the employee did not solicit or incite it" and "regarded the conduct as undesirable or offensive." 682 F.2d at 903. Model Ali Moore is a vivid example of an employee finding such conduct "unwelcome": "I'm not going to say all that stuff about how I love to f**k on camera.... I guess I really don't like the sex much." Ali Moore Interview, supra note 976, at 9.

[1111] Los Angeles Hearing, Vol. I, William Roberts, p. 65.

[1112] In "gay" pornography, of course, women are excluded altogether. Id.

[1113] We emphasize "actual," for the simulated sexual activity regularly engaged in by legitimate actors in their roles does not provoke the same concerns as actual sex. Simulated sexual conduct does not impinge on personal privacy to so enormous a degree; it risks no transmission of venereal disease; it risks no pregnancy; and, finally, it carries no comparable stigma. For a comparison of sex modeling and legitimate acting, see, text to notes 1043-1059, supra.

3. Invasion of Personal Rights. During the course of our review of the position of performers in pornography, we have encountered evidence that they suffer physical coercion, damage to health, serious economic exploitation, and virtually complete loss of reputation. The pornography which they helped create will live on to plague them long after they have extricated themselves from modeling. Its effects, subject performers to long-term effects potentially worse than any other form of sexual abuse, a fact noted tellingly by Dr. Ulrich Schoettle in the context of child pornography.

> Pornography is a graphic form of exhibitionism. Unlike prostitution where a degree of "privacy" exists during the sexual acts, pornography literally makes the child's body "available" for anyone willing to pay the price anywhere in the world.

The "privacy interests" of performers in pornography seem to us real and compelling[1114] while the value of the material itself is often indisputably minimal.

It, therefore, seems important for judges and lawmakers to carefully consider how performers may be protected from the unsavory characters who exploit them, and in particular what civil and equitable remedies performers may have in court. There has been disagreement in what we have heard over the current status of the law in this regard;[1115] we know only that they have

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1114 Cf. New York v. Ferber, 458 U.S. at 759 n. 10.

1115 Compare, 1984 Senate Hearing, supra note 975, at 249 (statement of Catherine MacKinnon) (Statutes of limitations, single-publication rules, and other technical limitations make actions by performers impractical at present), with Washington, D.C., Hearing, Vol. I, Barry Lynn, p. 24-25 (such actions are not

been exceedingly rare.[1116] If new remedies are needed, as we are inclined to think they are, they should be framed in ways to encourage plaintiffs to come forward: perhaps by providing for treble damages in certain types of cases (such as coercion or fraud) and reasonable attorneys' fees.[1117]

We hope, too, that in studying the availability and desirability of such private remedies, courts and legislatures will be sensitive to the issue of "consent." Because of their youth, their economic desperation, and their troubled backgrounds, we submit that few performers are fully able to appreciate the meaning and the magnitude of their decision to engage in sexual performances - and throw away all control of the resulting material for the rest of their lives. Just as it is appropriate to provide consumers with extensive government protections against the consequences of their ignorance, so every adult needs special safeguards against making a decision which even the pornography industry's strongest booster admits "will

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unknown).

[1116] The cases cited in notes 960-963, supra are the only ones we have been able to uncover in this area.

[1117] S. 1187, introduced last year by Senator Arlen Specter, essentially contains both these provisions - treble damages and attorney's fees - in seeking to help adult pornography victims obtain compensation for production or distribution of material in which they were coerced or fraudulently induced to appear. We note that constitutional issues may arise if equitable remedies are not carefully tailored to the First Amendment requirements, and that scienter is likely to be of some constitutional relevance in determining how wide the net of liability may be cast.

haunt her the rest of her life."[1118]

Otherwise she may find that photography's freedom from time and space, so heartily welcomed by Bazin, has become her dungeon.

[1118] Bennett, supra note 972, at 72.

Chapter 3

Social and Behavior Science Research Analysis

Introduction

The Commission has examined social and behavioral science research in recognition of the role it plays in determining legal standards and social policy. This role, while notable, is not, nor should it be, the sole basis for developing standards or policy. The lack of funding and the inability under the mandate of the Charter to conduct original research has resulted in the need to rely on existing information. The amount of research conducted in the last fifteen years provides a reasonably sufficient base to reevaluate answers to old questions. Some might argue that given the controversy and heated debate that inevitably surrounds any discussion about pornography, in some ways, we might be better off relying on studies initiated, funded, and presented outside the context of such a milieu.

The major question which frames this research review is: what are the effects of exposure to pornography and under what conditions and in what kinds of individuals are these effects manifested? We also have structured this review with the following considerations in mind: (1) that it provides some input into the policy-making process; (2) that it provides social science information for public consumption and understanding; and (3) that it provides the research community with further questions for investigation.

While the nature of effects is the focus of this section, we

have also examined public opinion on pornography to systematically describe the nature of public perceptions of and experiences with such material as well as policy preferences. In terms of effects, correlational as well as experimental studies on sexual offenders as well as on nonoffender populations were examined. For background purposes, we have also presented brief summaries of what some predecessor Commissions have concluded about the social science evidence before them.

Some observations on terminology and on the character of social science evidence are appropriate at this point as guidelines to reading through the rest of this chapter.

We will simply avoid the usual definitional morass by using the term "pornography" to refer to the range of sexually explicit materials used in the various studies reviewed here. In a number of studies, these materials have included sex education materials. In describing specific studies, we also will use the researcher's terminology of choice, but making sure that the stimulus materials are adequately described for the reader.

We also are sensitive to the limitations and strengths of specific research approaches and we have taken special efforts to review these briefly in each major section of this Chapter, if only to underscore the fact that our evaluation of the research recognizes these limitations and indeed proceeds from the assumption that any conclusions must be drawn on the basis of complementary or convergent data.

Overview of the 1970 Commission Research Conclusions

The period prior to the creation of the 1970 Commission on Obscenity and Pornography was marked by a paucity of research on the effects of exposure to pornography (Cairns, Paul and Wishner, 1962). A Commission-sponsored review of the literature in 1970 later concluded that "we still have precious little information from studies of humans on the questions of primary import to the law . . . the data stop short of the 'critical point'. (Cairns, et al, 1970). Much of the Commission-sponsored studies thus constituted some of the earliest investigations on the issue of pornography.

The 1970 Commission funded over eighty studies to examine various aspects of pornography. Surveys included a national in-person survey of public attitudes toward and experiences with pornography (Abelson, et. al., 1970). A number of correlational studies examined social indicators of crime rates (Thornberry and Silverman, 1970; Kupperstein and Wilson, 1970; Ben-Veniste, 1970) while another cluster of studies investigated sex offenders and their previous experiences with erotica, patterns of exposure and self-reported arousal. Finally, another group of studies was commissioned (laboratory experiments) to examine causal links between exposure to pornography and effects (see Technical Reports of the Commission on Obscenity and Pornography, vols. 1, 6, 7, and 8, 1970).

The national survey findings (Abelson, et. al., 1970) showed that between two-fifths to three-fifths of the respondents

believed then that sexually-explicit materials provided information about sex, were a form of entertainment, led to moral breakdown, improved sexual relationships of married couples, led people to commit rape, produced boredom with sexually-explicit materials, encouraged innovation in marital sexual technique and led people to lose respect for women (see comparison between 1970 survey findings and 1985 Gallup poll results below).

Experimental findings showed brief increases in sexual activities and fantasies after exposure to sexually-explicit materials but no significant alterations of established sexual behavioral patterns. The Commission further determined that there was no detectable relationship between availability of pornography and crime rates in the United States but suggested that removal of restrictions on pornographic material was correlated with lower sexual crime rates, as determined from Danish data prior to and after the removal of restrictions on pornography (Ben-Veniste, 1970; Kutchinsky, 1970, 1973).

The 1970 Commission concluded:

> . . . In sum, empirical research designed to clarify the question has found no evidence to date that exposure to explicit sexual materials plays a significant role in the causation of delinquent or criminal behavior among youth or adults. The Commission cannot conclude that exposure to erotic materials is a factor in the causation of sex crimes or sex delinquency (p. 223).

The Commission's conclusions were challenged and a number of methodological issues were raised (Cline, 1974; Eysenck and Nias, 1980). At the very least, these conclusions were described as

"premature" (see Liebert, 1976). Researchers who have done studies subsequent to the 1970 Report have also consistently identified a major flaw in the 1970 studies: the absence of any investigation of the effects of violent pornography.

On balance, however, the impetus for further research on the effects of exposure provided by the 1970 Commission cannot be overlooked. As the Effects Panel noted in its report,

> One of the contributions of the work of the Panel has been to place the dimensions of human sexual behavior on the agenda for continuing inquiry. By providing resources in terms of funds and technical guidelines, the Panel has helped to legitimate systematic inquiry into an area that heretofore has either been ignored or feared.

It is difficult to quarrel with this observation.

Since the 1970 Commission report, in fact, numerous research studies have been done exploring various aspects of the effects of pornography. Since 1970 the quantity and quality of the research has been impressive. While much remains to be explored, not only has the volume of studies conducted steadily increased, but the programmatic nature of the research conducted by various individuals and research teams has provided a better insight into understanding the various conditions under which certain effects may or may not occur.

Studies done for the 1970 Commission were hampered by time constraints. As the research director for the 1970 Commission pointed out, "most of the researchers had less than nine months in which to establish a research team, arrange a research

setting, develop measuring instruments, secure subjects, collect the data, reduce the data, and write a report." (General Preface to Technical Reports, Commission on Obscenity and Pornography, 1970, p. vii)

Methodological advances in measurement procedures have also enhanced the reliability and validity of research instruments and findings. For example, measures of sexual arousal in some of the 1970 studies were based almost entirely on self-reports (e.g., Cook and Fosen, 1970; Goldstein, et. al., 1970; Davis and Braught, 1970). Since then, the poor correlation between self-reports of sexual arousal to sexually explicit stimuli and physiological measures of arousal has been well documented (Abel, Barlow, Blanchard and Guild, 1977; Blader and Marshall, 1984).

More recent studies have used instruments such as the penile plethysmograph (Malamuth and Check, 1980a), thermography procedures (e.g., Abramson, et. al., 1981) or the vaginal photoplethysmograph (see Sintchack and Geer, 1975; Hatch, 1979) to evaluate arousal (see also Geer, 1975; Heiman, 1977), or have combined physiological measures (e.g., blood pressure readings) with paper-and-pencil tests. Researchers have also attempted to validate paper-and-pencil measures, a critical methodological requirement (see, for example, Burt, 1980; Malamuth, In Press). Finally, more sophisticated statistical techniques have allowed for better data analysis, control, and interpretation. Multiple regression techniques, for instance, have allowed researchers to specify how much each explanatory variable contributes to changes

in the variable being measured. Various other statistical techniques have also helped in deciding whether correlational data give any credence at all to the possibility of causal linkages.

A final observation might be made with regard to stimulus differences between the 1970 studies and more recent ones. Stimulus materials used in the 1970 studies were obtained primarily from sex research institutes (the Institutes of Sex Research at Hamburg University in West Germany and at Indiana University) and the Bureau of Customs confiscated contraband collection. One researcher (Tannenbaum, 1970) resorted to producing his own film which he described as showing a young lady "going through the motions of disrobing in a fairly sensuous manner in apparent preparation for the arrival of a lover." These materials were also presented primarily in the form of slides, magazine pictorials, mimeographed passages and film.

It is perhaps as much a function of availability and changing technology that more recent studies have used as stimulus materials films, audiotapes, videos, and material from various "adult men's" magazines, all easily available from outlets as diverse as the neighborhood video store, the corner newsstand, or the local adult bookstore.

Other Pornography Commissions and Social Science Research

Other organizations which have studied pornography such as the Williams Committee in England and the Fraser Commission on

Pornography and Prostitution in Canada have also examined soci
science research evidence on the effects of viewing pornograph
(Report of the Committee on Obscenity and Film Censorship, 197
Report of the Special Committee on Pornography and Prostitutic
1985).

The Williams Committee, working between 1977 and 197
commissioned two reviews of the existing literature. One revi
examined the effects of viewing pornography (Yaffe and Nelso
1979) and the other examined the effects of exposure to med
violence (Brody, 1977). Both reviews highlighted the difficu
ties of studying human behavior and of understanding hum
motivations. The review of the effects of viewing sexuall
explicit materials concluded that "there is no consensus
opinion by the general public, or by professional workers in t
area of human conduct, about the probable effects of sexu
material." The review on the effect of exposure to med
violence similarly maintained that "social research has not be
able unambiguously to offer any firm assurance that the ma
media in general, and films and television in particular, eith
exercise a socially harmful effect, or that they do not."

The long track record of media violence research and ant
social behavior makes the latter conclusion somewhat surprisin
particularly since an opposite conclusion was arrived at by
similar commission working under the direction of the Unit
States Surgeon General in 1972, which had examined the effects
exposure to media violence (Surgeon General's Scientific Adviso

Committee on Television and Social Behavior, 1972).

The conclusions of the Williams Committee on the effects of viewing pornography may not be as surprising since much of the experimental work was published after 1978. It is not clear, however, how much value these studies would have had for the Williams Committee since its call for more research was predicated on the importance of studying "the human personality as a whole, rather than to specific questions about violent or sexual materials and their supposed effects." (p. 4) The Committee further appeared to give greater attention to correlational studies as it examined in considerable detail studies by Court (1977) and Kutchinsky (1973) The Committee was highly critical of Court's methodology but also pointed out that the Danish data did not lead to the conclusion that the availability of pornography resulted in a decrease in sexual offenses.

The Canadian Fraser Commission similarly sponsored a research review (McKay and Dolff, 1985) and concluded that "the research is so inadequate and chaotic that no consistent body of information has been established. We know very well that individual studies demonstrate harmful or positive results from the use of pornography. However, overall, the results of the research are contradictory or inconclusive." (Report of the Special Committee on Pornography and Prostitution, v. 1, p. 99).

The commissioned review was exceedingly critical of the research, maintaining that the studies in every aspect exhibited "conceptually cloudy thinking," that they were characterized by

"blatant silliness" and had no integrating framework, that "t literature is rife with speculation and unwarranted assumptions The low regard for behavioral science methods is evid throughout the review, with major criticisms focusing on uselessness of the experimental paradigm (p. 86-87), and inability to draw conclusions from correlational researc Despite this assessment, the Commission proceeded to recomm criminal sanctions for sexually violent material and chi pornography and limits on public display for nonviol pornography. These recommendations were based on t Commission's observations that these materials were contrary Canadian values of equality and human dignity.

It is obvious that the contribution of social scien findings to policy considerations can vary, from being the s or primary basis for policy recommendations, as was the case the 1970 Commission, to being close to irrelevant to s considerations, as seemed to be the case with the Canad pornography commission.

PUBLIC ATTITUDES TOWARD PORNOGRAPHY

How does the public view pornography and have there been changes in public opinion in the last fifteen years?

Survey data from a national public opinion poll on the is of pornography were made available to the Commission by Newsw magazine. The poll was conducted for Newsweek by the Gal organization in March, 1985, and involved a sample size of 1

spondents interviewed by telephone.[1119]

Comparisons between the Gallup data, where appropriate, will made with the 1970 Commission survey (see Abelson, et. al., 70) to examine any observable change.

The 1970 Commission survey used face-to-face interviews from bruary through April of 1970 with a random sample of 2,486 ults and 769 persons ages fifteen to twenty (Abelson, et. al., 70). For purposes of comparison with the 1985 sample, only the ta from the adult sample for 1970 will be used. The Newsweek-llup poll was a telephone survey of 1,020 adults conducted in rch, 1985.

The 1970 survey was a far more wide-ranging survey covering host of areas including opinions on the effects of sexually-plicit material for which some directly comparable poll data e available from the Newsweek poll), the respondents' experi-ces with sexually explicit materials, opinions on different tegories of sexual explicitness, attitudes toward legal and her forms of control, and attitudes toward different categories sexual explicitness.

In contrast, the Newsweek-Gallup poll was much more limited, nsisting of eight questions. For purposes of additional

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[1119] Surveys such as this Gallup survey which employ robability samples" are generally accurate within known limits. at is, the sample results can be applied to the population as a ole within the sampling tolerance ranges for a given sample ze. For this survey sample size of 1020 respondents, sampling ror is three percent. In practical terms, if we could contact ery member of the population being described, the "real" rcentage would be within plus or minus three percent of the served percentage for the sample.

easured their attitudes toward rape after a six-month pe
or those subjects who had seen, then been "debriefed rega
-rated violent and R-rated nonviolent materials, a dra
eduction in "rape myth acceptance" occurred - with virtual
ifference between those two groups in their final sc
Debriefing" was thus seen as a success for both gr
ubjects who had seen X-rated nonviolent materials, by cont
howed only the most minimal decline in "rape myth accept
fter "debriefing" the lapse of six months - so that a
oint of follow-up measurement they showed substantially h
oleration of rape than either of the R-rated groups.57
ignificance of this finding, not recognized by Linz himsel
s tendency to show long-term effects of "X-rated" material
n the face of positive efforts to "educate" viewers. I
real world", as opposed to the laboratory, viewers of sex
plicit materials normally receive messages - "inhibitory
contradicting those in the materials they watch. The
tudy provides tentative evidence that for sexual materials
high degree of explicitness, such real-life "debriefing" m
nsuccessful.

The overall results of work on "long-term" exposu
tandard, nonviolent pornography was confirmed and summari
statement by Professor Donnerstein in 1983:

> Let me end up talking in the last couple of minutes, about the long term research. Researchers like myself and Neil Malamuth at UCLA are looking at massive long term exposure to this material.

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57 Linz (1985), at 96-98.

> Some interesting things occur. If you expose male subjects to six weeks' worth of standard hard-core pornography which does not contain overtly physical violence in it, you find changes in attitudes toward women. They become more calloused towards women. You find a trivialization towards rape which means after six weeks of exposure, male subjects are less likely to convict for a rape, less likely to give a harsh sentence to a rapist if in fact convicted. [58]

Professor Donnerstein went on to say:

> In our own research we are looking at the same thing. Let me point out one thing. We use in our research very normal people. I keep stressing that because it is very, very important. What we are doing is exposing hundreds and hundreds of males and now females to a six-week diet of sexually violent films, R-rated or X-rated or explicit X-rated films. We preselect these people on a number of tests to make sure they are not hostile, anxious or psychotic.
>
> Let me point out the National Institute of Mental Health and the National Science Foundation and our own subjects committee will not allow us to take hostile males and expose them to this type of material because of the risk to the community. They obviously know something some of us do not. [59]

though Professor Donnerstein himself has recently emphas
st the harmful effects of violent depictions, the res
rongly seems to support the proposition that longer-t
bstantial exposure to "standard" nonviolent, sexually exp
terials acts as a "disinhibiting cue" for rape.

3. Overall Evidence for "Causation". No experiment
r the reasons suggested by Professor Donnerstein, tested

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[58] Public hrgs. on Ordinances to Add Pornograph
scrimination Against Women, Minneapolis City Council, Ses
(Dec. 12, 1983).

[59] Id. at 32.

effects of nonviolent, sexually explicit material c
aggressive behavior of known sex offenders or, indeed, thos
even a tendency toward psychoticism. Experiments with "n
subjects, however, have suggested two separate, but
possibly interdependent means by which such material
heighten the probability of sexual violence. The simple ca
of nonviolent material to produce strong arousal in
offenders and the general population may in and of i
produce higher levels of sexual violence. Of equal impor
"standard" commercial pornography may over time and
significant exposure work to undermine "learned" inhib
against sexual violence. While "adult men's magazines" ha
been the normal focus of experimental investigation, the ma
they contain is sufficiently arousing, and sufficiently f
views of women only as "sexual objects," as to mak
reasonable inference that these findings are applicable t
as a class. Thus the Badgley Committee in Canada found th
group of "adult" magazines essentially the same as those s
by Baron and Strauss, photographic depictions of sexual b
were three times as frequent as oral-genital contact, five
as frequent as vaginal penetration with penis or finger, a
percent more frequent even than any form of kissing.[60]

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[60] Badgley Report at 1223. Of course graphic depi
of genitalia of nude models in such magazines - often with
hair shaved - serves as well to reduce those shown to the
of "sexual objects". This general description of maga
evaluated by Baron and Strauss and others should not be ta
specific to any one of them. Individual differences in f
and style and content may be crucial.

ther research is clearly indicated to determine the effect
s extremely common material, at present it may fairly be
falling within the range of materials as to which cur
erimental and clinical evidence is highly relevant.[61]

D. Evidence Against Causation. Studies of both aro
attitudinal effects of viewing nonviolent materials t
vide several suggestive "causal" links between such vie
sexual violence. What is the evidence against suc
nection? If substantial enough, such data might prec
ming any opinion about the plausibility of the causal
gested by the correlational data, in combination with indi
erimental and clinical data.

Unfortunately evidence which contraindicates the existe
a cause-and-effect relationship between nonviolent materi
sexual violence is slim. Short-term exposure of no
bjects to "mild erotica" has been shown to have negligible
some cases positive) effects on aggressive responses to
nen in the laboratory.[62] As discussed above, results
rt-term exposure to highly arousing material have been to
trary, with enhancement of aggression occurring in cases
ior anger."[63] Long-term exposure, however, which seems
dition most likely to resemble actual behavior, seems cle

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61 Thus Abel (1985) focused on such material in his s
sex offenders. As discussed above, supra text to notes 21
Abel's findings are ambivalent but troubling.

62 See Donnerstein (1984, 1980A).

63 Donnerstein & Hallam (1978).

to disinhibit subjects regarding sexual violence. And of c
the reaction of paraphiliacs even to brief exposure to
erotica" is far from clearly negligible; if anything, the s
point toward some use of such material by sex offende
initiate and maintain the deviant fantasies which help pus
toward more offending behavior.[64]

Nor is there substantial evidence showing benef
effects of "standard" nonviolent pornography. It is cruc
note that when asked whether exposure to pornographic mat
can ever reduce commission of sex crimes by paraphiliacs o
long term, Dr. Abel responded with a flat denial.[65] The
Committee found, on a more general level, "there is no re
documenting the beneficial effects of pornography," a propo
that is somewhat misleading but generally true. In sex t
and sex education settings, research by Dr. Abel [66] and
suggest that such material may be useful, and the wo
Professor Check, discussed above, indicates that materials
are overtly educational or therapeutic may be substan
"harmless" even when viewed outside a controlled envir
Studies for the 1970 Commission found that some sexual mat
helped ease sexual tension and promote "liberal" att
toward sexuality - a result that may be seen as "benefi

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64 For a discussion of the evidence on sex offe
presented by Dr.Abel and Dr. Marshall, see, supra text to
21-24, 34-40.

65 Houston Tr. 100.

66 Fraser Report at 98.

›rding to one's basic assumptions regarding sexual morali
with regard to strongly arousing, nonviolent materials, t
Abel's judgment concerning sex offenders and the Fraser C
ee's findings about the general population seem well foun

III. Conclusion

Ultimately the empirical evidence suggests the follo
:lusions: viewing nonviolent, sexually explicit mater
ilar to widely circulated "adult magazines" is statistic
ited to a higher probability of rape. (Thus, for examp
ning has a "sex-magazine circulation rate" 45 percent hi
n Montana's, with a rape rate 57 percent higher. Bar
uss (1985).) That relationship is not only highly signi
, and constant from year to year, but it is not "spuri
n other potential "third factors" are considered. Eviden
m both experimental and clinical studies demonstrates at l
› possible ways in which that correlation might be explaine
usation": (1) through the simple arousal properties of
erials, and (2) through their disinhibiting qualities, t
acity to change attitudes regarding sexual aggression.
dence is nonetheless far from conclusive, and points to
› need for substantially more, and better-focused research
is point, little or no evidence exists which shows
eficial effects of such materials.

It is useful to consider the weight of this data aga

that which supports our previous finding that sexually v
material is causally related to sexual violence. Fo
conclusion we had no correlational evidence demonstra
"real-world" statistical relationship between the materi
the behavior. By contrast, the experimental evidenc
somewhat stronger - showing, for example, "negative effects
short-term as well as long-term exposure. Sexually v
material is no more arousing to viewers (even to known ra
than is "standard" nonviolent material. (Abel, Barlow, Bla
& Guild (1977) In the one study which directly attemp
compare the effects on attitudes of sexually violent ma
with effects from "dehumanizing" material and "erotica
results showed no significant difference in the most c
areas.[67] Only a well-founded intuition that direct depi
of sexual violence are more likely to produce such vi
allows us to conclude that they are more "harmful" than non
violent materials; the evidence from social science is a
ambivalent on the issue.[68] Our task is not an easy one, b

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[67] Check (1985). Indeed, Check found that o
measures sexually violent materials produced less "ne
effects" than "dehumanizing pornography" - although
"significant" margins. "Erotica", of course, was also fou
to be "significantly" different in its effects tha
exposure". See, supra note 52.

[68] It is useful, as well, to compare the strength
conclusions in this area with those of the Advisory Commi
the Surgeon General in an area which was at the time sim
contentious and difficult - the health risks of ciga
smoking. The evidence relied on for the Committee's con
was overwhelmingly correlational - showing higher deat
illness rates among smokers than in non-smokers. The Com
recognized fully that correlational evidence did no
causality and looked to animal experiments, clinical dat

: widely different backgrounds and substantially differ
is about what constitutes "proof" of a given fact, we
ily unlikely to reach consensus on highly disputed questio
: regard to the relationship between sexually explic
erials and sexual violence we will each carry away differ
ils of skepticism about the state of currently availa
dence. And we will know, too, that our stated conclusi
be swept away by new research. Yet that does not relieve
the obligation to state, not as scientists proclaiming "fa
as policymakers confronting risk and probability, that w
culation and consumption of materials similar to "adult me
azines" must be a matter of concern among those seeking
bat sexual violence. There is at least a substantial bas

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pulation studies" (i.e., retrospective studies of smokers
rol groups). Surg. Gen'l of the Pub. Health Serv., U
. of H.E.W. 26-27 (1964). With regard to lung cancer,th
tional forms of evidence were sufficiently supportive of
elational data to allow the Committee to conclude t
igarette smoking is causally related to lung cancer in me
regard to women the data allowed the lesser conclusion t
data "point in the same direction." Id. at 31. As for he
ases, the Committee found that there existed a str
relation between coronary disease and smoking, but found t
current explanations for causation from experimental
er evidence "do not account well for the obser
ciation". Id. at 327. Instead of throwing up its hands
face of difficult and conflicting evidence the Committee s
ly: "It is...more prudent to assume that the extablis
ciation between cigarette smoking and coronary disease
sative meaning than to suspend judgement until no uncerta
sins." Id.

It would be presumptuous to compare the quantity
dence before us with that reviewed by the Surgeon Genera
mittee; research on "pornography" is still in its infan
our responsibility to be as prudent as possible is the sa
the correlational evidence before us combined with at leas
stantial strain of experimental and clinical data make
dent to advise the public of the risks of the materials
ch statistical data do exist.

if not a preponderance of the evidence, to believe th
naterials are a part (if only a small part) of the expl
for that cruel plague.

Acknowledgement

I am deeply grateful to Dr. Edna Einsiedel, The Comm
sion's staff social scientist, for her review of, and c
on, the preliminary versions of this statement. The fo
represents, however, only my own views and not necessarily

* * *

All references in the text and notes are to studies c
the Report on Social Services of the Commission, except
full citation is given.

Personal Statement of Commissioner Frederick Schauer.

Pornography, in its most explicit and offensive for
ands our attention in a way that few other things do. It
, before our eyes, and in our minds thereafter, and its v
eness makes it hard to ignore it and hard to be dispassion
it. Most importantly, the way in which the pornograp
demands our attention makes it hard to generate that le
tachment that, however personally difficult, is an essent
equisite of open-minded and intellectually honest inquiry.
eleven of us find ourselves on this Commission for differ
ons. Although I consider myself as moral as the next pers
more moral than most, I do not deceive myself into think
my appointment to this task was a function either of my
lity or of my ability to identify, to reflect, or to sp
the moral values of others. These are important functio
I am gratified that they have been represented on t
ission, but I have seen my own role differently.

As a teacher in a university, as an academic, and a
lar, I have been asked to bring to our work some degree
ledge about constitutional law in general and the law of f
ch in particular, as well as some knowledge about the law
enity. But to be an academic is not to know about cert
gs, or even to have certain talents of intelligen
lysis, or creativity. Nor is it to hold an appointment
versity, for it is more than that. It is to be willing
sue an inquiry in the most intellectually honest way possib

o be open to new ideas and to challenges, to follow the i
here it leads regardless of personal views, to be free to
onclusions without having to serve an external constituenc
e able to make the best case for the opposing view and
onfront that best case rather than the worst case, and
illing to consider today that what one believed yesterday
e wrong.

This is an ideal, and it is an ideal that none of us r
ut it is the ideal that I take to have guided my aspiratior
he work of this Commission, and especially to have guid
spirations for my own role among the Commissioners. As I
ack on what we have done, I am pleased with the way tha
inal product measures up against this standard. We have
ith issues that have divided us, and that divide society, y
ave been able to agree on a great deal, we have been ab
alk even where we have been unable to agree, and we have
ble to put together a final report that explains rather
uppresses disagreement.

In their own statements the other Commissioners
oncentrated largely on the issue of pornography, and on
eactions to it. I believe these issues are important, or e
ould not have agreed to serve on this Commission, but I
hat is even more important is the nature of the inquiry an
ature of the product, and what it says about the style and
f public discourse. It is not a necessary truth that the
as to be divided into liberals and conservatives, good gu
ad guys, reactionaries and radicals. Nor is a necessary

adjectives must substitute for analysis, that all th
rs is what can be summarized in a headline or a three minu
segment, and that one good quote is better than a hundr
of careful thought. To me our process and our product is
ction of much that is worst about the nature of publ
course. It trusts the public to understand difficult issu
he various positions can be explained. It trusts the publ
ad and to understand a large amount of factual informatic
ecords agreement where it exists without exacerbating mir
rences, and it records disagreement where it exists withc
ng compelled to reduce every serious disagreement to who w
who lost. It is a report that is designed to be read rath
summarized, to be thought about rather than used as rallyi
or flag of battle, and to be as much the beginning of seric
ussion and debate rather than the end of it.

None of us can be expected to agree with every word, ev
, every fact, and every recommendation contained in th
s. Discussion has resolved many of our differences, just
has created new ones. Yet we expect to continue think
t this issue, just as we expect others to. We deal here w
ssue that involves sex, physical harm, privacy, morals,
ronment of a community, the idea of community itself,
us of women, sexual preference, and a host of other iss
divide this and other societies. Faced with these divi-
s, we could have yelled at each other, chosen up sides,
ed for further reasons to disagree. But the world has
rtage of people who are looking to create or to accentu

.visions. It does need people who are willing to try to
iem, not by trying to persuade other people to adopt your
: view, but instead by reaching out and trying to under
ieirs. We have tried to do this, and we have succeeded
ian most. This Report contains a great deal on the iss
rnography, and there seems little point in adding to
re. But in thinking about pornography, this Report also
mething about thinking, and I hope that part of our missio
.r product will not be neglected.

atement of Deanne Tilton-Durfee

My entire adult life has been spent in the field of c
lfare and child protective services. As a result
rspectives on the effects of pornography have been prima
cused on how these materials affect children and t
nilies. However, in the course of the past year, it has b
cessary to expand the boundaries of my concerns to in
-related issues such as adult victimization in the produc
havioral effects from the consumption, and crimes relat
e production and consumption of pornography. Moreover, be
credible analysis must be a balanced one, I have fou
itical need to weigh carefully the impact of any recommend
at might threaten the integrity of the First Amendme
necessarily limit choices available to the American public

I have no doubt that there is very real harm resulting
e production, distribution and consumption of some pornogr
ite understandably, the nature and degree of the harm has
fficult to define. It is possible that establishment
use and effect relationship has and always will be an impo
ole task, given the human variables involved. In any cas
s clear that harms or benefits from consumption canno
neralized accurately in that reactions to explicit mate
ill depend on the basic attitudes, situations, self-conc
ental health, support services, and personal and se
portunities available to each individual consumer. Certa
ere exposure to pornographic materials does not create cri
ehavior. More than one observer of our Commission's wor

)ted that such a connection would render each Commissi(
)tential sexual deviant.

It is therefore important to acknowledge that we (
:ientifically show that exposure to sexually explicit mat(
:fects the behavior of most consumers. It is also import:
:knowledge that we have no business regulating any express
)rds or pictures without good cause. We do, however, ha
:ligation to protect those who are vulnerable to victimiz:
) prevent and deter crimes committed in the producti
stribution of pornography, and to provide methods by
)mmunities can preserve the quality of their neighborhoods

:ILD VICTIMS

I wish to focus on the victimization of children for s(
asons. First, because this is my area of expertise, se
:cause I believe children are often given patronizing s(
t little genuine respect as valuable members of our soc
:d third, because children are clearly the most vulnerab
l who may be affected by pornography. This is not only b(
their developmental limitations, but because there
sumption that parents or other trusted caretakers can and
otect them. Moreover, I believe that the roots of so mu
:e demand for pornography and the exploitations i
'oduction and forced consumption of pornography lie i
ildhoods of those involved.

Because children are such defenseless and quiet vi(
d because those who exploit them seem rarely to meet the p
ereotype of the "child molester," the very existence of

cual exploitation has been the very slowest of all offense
rge. There is a profound reluctance on the part of
rican public to respond to this tragic dilemma. This rel
a disbelief that this kind of thing could happen, a lac
fidence in resources available within the various social
al service systems, and the suppression of painful memorie
part of adults who themselves suffered as child victims
were neither believed nor rescued.

As our social and legal systems have responded to
rging revelations regarding sexual exploitation of childre
mmon trend has been that the ages of the victims have be
nger and younger. Although we had begun to acknowledge
ality of the exploitation of adolescents in the productic
rnography, we found that pictures of pre-pubescent child
ddlers, and even infants in sexually explicit depictions be
creasingly prevalent. This trend toward the inclusion of
ng children in pornography correlates with an identical t
the physical abuse and sexual exploitation of chil
oughout the country.

Recently, communities throughout the United States
en shaken by disclosures of major multi-victim
ti-perpetrator child sexual molestations within presc
tings. From one end of the Country to the other, childrer
ming forward as young as three and four years of age to re
ories strikingly and frighteningly similar regarding the
uel and perverted sexual abuses imaginable, perpetrate

usted caretakers and responsible members of the commun:
ch time one of these cases emerges, the local community an
cial and legal systems are so overwhelmingly shocked
credulous of what they are hearing from these tiny youngs
e process of intervention and prosecution is awkward,
ually unsuccessful.

One common theme that emerges repeatedly is the stat
the children that their pictures have been taken in sex
plicit poses while involved in perverted sexual activi
ner children have spoken of boxes of pictures being car
ay just prior to police searches. In my opinion, ther
ttle doubt that there is a connection between the ritual
lestation of the children involved in the many all
eschool multi-victim, multi-perpetrator molestation cases,
child pornography market. However, since we have fail
scover pictures to substantiate this belief, the existe
ture, extent and those responsible for this market hav
en determined. The recommendation for a national task
study possible relations between these preschool sexual
d an organized child pornography market is what I consider
the most significant recommendations in this report.

Many other recommendations included in the C
rnography section are particularly encouraging including
ich strengthen support services for the child vic

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1 Roland Summit, M.D. Too Terrible to Hear, Novembe
85.

sitize and improve the effectiveness of legal/judic
cedures to accommodate the child victim, and those wh
vide children with information and skills to prot
mselves against those who might exploit them, whether or
perpetrator is a stranger, trusted adult or a parent

ILY LIFE EDUCATION

I truly believe that a significant measure in
tection of children and subsequent generations agai
loitation lies in the incorporation of family life prepara
grams within school systems. This is a concept which
osed by some of my fellow Commissioners, and certainly by
ents in the general public. However, the challenge of rai
lthy children is perhaps the most significant task that
faced by the largest number of students in American school
ge percentage of children who become involved in pornogr
prostitution have run away from violent or exploitive hom
st reported child molestation is perpetrated by a fa
mber.[3] In other words, if we depend completely on pare
idance, many children will never receive the benefi
formation regarding their rights and responsibilities in ma
sonal choices and the requirements of healthy parent
er children's own healthy experiences at home can be enha
age appropriate curriculum which clearly must respect the

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2 UCLA Bush Foundation Report. Status Offenders in
geles County, Focus on Runaway and Homeless Youth (1985).

3 Child Welfare League of America. Too Young to Run
e Status of Child Abuse in America (1986).

spondents interviewed by telephone.[1119]

Comparisons between the Gallup data, where appropriate, will made with the 1970 Commission survey (see Abelson, et. al., 70) to examine any observable change.

The 1970 Commission survey used face-to-face interviews from bruary through April of 1970 with a random sample of 2,486 ults and 769 persons ages fifteen to twenty (Abelson, et. al., 70). For purposes of comparison with the 1985 sample, only the ta from the adult sample for 1970 will be used. The Newsweek-llup poll was a telephone survey of 1,020 adults conducted in rch, 1985.

The 1970 survey was a far more wide-ranging survey covering host of areas including opinions on the effects of sexually-plicit material for which some directly comparable poll data e available from the Newsweek poll), the respondents' experi-ces with sexually explicit materials, opinions on different tegories of sexual explicitness, attitudes toward legal and her forms of control, and attitudes toward different categories sexual explicitness.

In contrast, the Newsweek-Gallup poll was much more limited, nsisting of eight questions. For purposes of additional

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[1119] Surveys such as this Gallup survey which employ robability samples" are generally accurate within known limits. at is, the sample results can be applied to the population as a ole within the sampling tolerance ranges for a given sample ze. For this survey sample size of 1020 respondents, sampling ror is three percent. In practical terms, if we could contact ery member of the population being described, the "real" rcentage would be within plus or minus three percent of the served percentage for the sample.



comparison, a 1977 national Gallup poll provides another tre point which allows comparisons with a 1985 question on t applicability of national versus local standards.

Any comparisons between the 1970 and 1985 findings should made with caution, given the independence of both surveys and t fact that only a few questions were exactly alike. In tho areas where questions were examining similar issues but were n worded the same, only the questions which were more narrow defined for the 1985 survey were included and any resulting er would be on the side of conservatism. The distinctions betwe direct and indirect comparisons are carefully noted. A ma objective is to note whether patterns observed in 1970 conti in 1985. Comparisons will be made in the three areas: public exposure to sexually explicit materials; (2) perceptic of the effects of pornography; and (3) opinions on the regulat of pornography.

1. Public Exposure to Sexually Explicit Materials

The data from 1970 and 1985 are comparable only in a limi way because of differences in the materials mentioned and chan in technology (e.g., the widespread use of cable and ho videos). In 1970, for instance, the respondents were asked they had "ever seen stag movies or skin flicks". In 198 respondents were asked whether they had gone to an X-rated mo or bought/rented an X-rated video cassette in the last year. 1985 respondents were asked if they had "ever read" magazi

ike Playboy or Penthouse, while 1970 respondents were asked if hey had seen or read a magazine "which you regarded as ornographic." Again, we note that this is a loose comparison, nly afforded by the fact that the 1985 question is more specific n nature and, therefore, a more conservative estimate.

In response to the question whether they had seen or read a agazine "which you regarded as pornographic," one in five in 970 said "yes," with twenty-eight percent of the men and ourteen percent of the women responding in the affirmative. owever, half of the men and a third of the women in this group ere unable to recall the title. Of those titles mentioned, it as clear that the term °pornographic' embraced a wide variety of aterial including Cosmopolitan, Esquire, Good Housekeeping and adies Home Journal (Abelson, et. al., p. 23).

In contrast, two thirds of the 1985 respondents had read layboy or Penthouse at some time. Over a third said they sometimes buy or read magazines like Playboy" (37%) while hirteen percent said they "sometimes buy or read magazines like ustler."

In 1970, fifteen percent of respondents said they had seen a ovie they regarded as °pornographic' in the past year. Again he range of titles mentioned included such films as Butch assidy and the Sundance Kid, The Graduate, Easy Rider, and onnie and Clyde, in addition to titles that could more likely all in the "adult" movie category. On the other hand, less than n percent (7%) of the 1985 respondents had been to an X-rated

/ie in the past year while close to one in ten (9%) had
:chased or rented an X-rated video cassette. The marked
ference between the questions asked at both time points
:cludes any conclusion about any increase or decrease in film
:wing in the last fifteen years although the media for
/eying adult films certainly has increased.

In 1970 as in 1985, men, younger individuals, and those with
e education were more likely to have been exposed to sexually
licit material than women, older respondents, and those less
:ated (Tables 1 and 2). The differences in exposure between
and women are fairly large both in 1970 and in 1985 but are
:icularly striking in 1970.

At what age is the average person first exposed to sexually
licit materials? Abelson, et. al. (1970) found that about one
five males and about one in ten females had their first
osure by age twelve. By age seventeen, over half of the males
%) and a third of the females had been exposed (p. 8). Those
osed earlier also tend to differ from those exposed at a later
. "Young adults, college-educated people, those with
atively liberal attitudes toward sex, and people who have
erienced the most erotica recently are all disproportionately
e likely than others to have had their first experiences with
:tica at a young age" (p. 9).

No comparable age-of-first-exposure question was asked in
1985 Newsweek-Gallup Poll. A few other studies have
ilarly examined these questions and the results may identify

y changes which have occurred since 1970.

Gebhard (1980) compared data collected by the Kinsey stitute between 1938 and 1960 (using only the data from white les and females with at least some college education --a total 4,388 respondents) to a much smaller nonprobability sample of dergraduate males and females in one university in 1975. By mparing responses to questions on age and source of first owledge of such topics as coitus, pregnancy, fertilization, nstruation, and venereal disease. Gebhard concluded that hildren and young people are learning the basic facts about sex considerably younger ages than did their parents and andparents" (p. 168).

For example, over half of each sex in the 1975 sample knew coitus by age ten whereas only a third of the earlier sample's males and half of the males had this same knowledge at that e. By age eight, thirty-one percent of the males in the Kinsey mple knew of pregnancy compared to sixty-three percent in the 75 sample; for females, it was thirty-one percent versus venty-six percent, respectively.

A second finding of this study was that sources of early sex formation appeared to have shifted slightly in relative portance. Same-sex peers remained the major source in both mples but to a lesser degree for the more recent sample, with thers and the mass media becoming more significant (ranked ond and third, respectively). These results, however, are mply suggestive because of the difficulty of generalizing

yond these particular groups of respondents and the limited
ze of the 1975 sample. These data also gave little indication
whether "mass media" includes pornography.

Another more recent set of data based on a national
obability sample of 1071 respondents is available from Canada
heck, 1985). The Canadian results show that adolescents, ages
elve to seventeen, report most frequent exposure of sexually
plicit fare. As Table 3 shows, two in five twelve to seventeen
ar olds view such material in movie theaters at least once a
nth; over a third (37%) see similar material on home videos
th the same frequency.

These results should be viewed with caution because of the
all numbers in this age group. The 1970 survey data demon-
rated a similar pattern. Respondents in the 1970 sample were
sked how many times during the past two years they had seen
notographs, snapshots, cartoons or movies of a list of sexually
xplicit items. Adolescents reported more frequent exposure than
dults, with three in ten of the adolescents saying they had seen
uch material six or more times in the last two years compared to
ne in four adult males and one in seven adult females.

In comparing his results to the 1985 American Newsweek-
llup data discussed above for comparable questions, Check found
rallel results at least for sexually violent material. Results
nonviolent fare could not be compared because of the differ-
nces in question wording. This consistency and the fact that
er eighty percent of the sexually explicit material in Canada

is from the United States (Special Committee on Pornography
Prostitution, 1985, p. 161) might suggest that the Canad
results may not be dissimilar from what might be found in
United States.

Table 1

Previous Exposure to Sexually Explicit Materials, By Age and Gender: 1970 Commission Survey

	21-29	30-39	40-49	50-59	60+
n					
Yes, have seen stag movie	54%	55%	44%	43%	27%
Yes, have seen skin flick	49	28	22	12	6
nen					
Yes, have seen stag movie	17	12	13	5	1
Yes, have seen skin flick	15	10	6	4	1

: 2482

stion: "There are some movies called stag movies or party ies. These are not shown in regular theaters, but are shown private homes or private parties or at club meetings. Have ever seen stag movies or party movies of this kind?"

stion: "Nearly every city has one or more theaters that cialize in showing movies that feature a lot of nudity and gestions of sexual activity. These movies are sometimes led °skinflicks'. Have you ever seen these kinds of films?"

ble 13, Abelson, et. al., 1970, p. 17)

Table 2

Exposure to Sexually Explicit Material, By Age, Gender, and Permissiveness: 1985 *Newsweek*-Gallup Survey

	Men				
	18-20	30-49	50+	Standards Stricter	Standard Less Str
Ever read *Playboy* or *Penthouse*	91%	92%	70%	77%	88%
Sometimes buy/read magazines like *Playboy*	63	58	29	29	61
Sometimes buy/read magazines like *Hustler*	28	24	11	11	26
Went to X-rated movie in past year	12	9	6	3	12
Bought/rented X-rated video cassette in past year	17	14	4	7	13

	Women				
	18-20	30-49	50+	Standards Stricter	Standar Less St
Ever read *Playboy* or *Penthouse*	64	62	28	41	61
Sometimes buy/read magazines like *Playboy*	40	32	5	18	31
Sometimes buy/read magazines like *Hustler*	15	5	0	3	8
Went to X-rated movie in past year	14	4	.3	3	8
Bought/rented X-rated video cassette in past year	12	8	.9	4	10

N = 1020

Table 3

Frequency of Viewing Sexually Explicit Films in Movie Theaters and on Videos, By Age (Canadian National Sample)

	Movies			
	12-17	18-34	35-49	55+
er	28%	34%	48%	74%
times/yr	22	44	35	12
o. or more	39	12	7	4

	Videos			
	12-17	18-34	35-49	55+
er	32	33	50	83
times/yr	22	37	25	7
o. or more	37	23	20	5

1071

e: "Don't Know"/No Response not included

eck, 1985)

Public Standards of Acceptability

The 1970 Commission survey examined standards of acceptar for various categories of explicitness in two types of medi movies and print. Table 4 shows that there was slightly great tolerance for sexual explicitness in the print media than movies (if one compares the percentages of persons advocati total bans on various categories). The print category presents problem since it does not distinguish between textual and visu or photographic material, which might be found more often books and magazines, respectively. Restrictiveness a progressively increases the more the behavior departs from w respondents might consider normative. A reanalysis of the l survey data does confirm this observation of acceptability ba on perceived normativeness and, in addition, showed th judgments were also related to community size and medi (Glassman, 1978).

In 1985, slightly different distinctions appear to be m (Table 5). Greater tolerance is shown for film (both theater video tape cassettes) than for print, with the public more lik to suggest no restrictions for the former. While the survey d not use the wider range of distinctions of sexual activit provided 1970 respondents (a limitation imposed no doubt beca of the telephone procedure), the three categories used nudi sexual relations, and sexual violence provide a sufficie diverse range of themes. The data clearly show greater tolera for nudity, with a majority maintaining that restrictions sho

ıly apply to public display. There was least tolerance for xual violence, with a majority advocating banning such terial. What has been called the "VCR morality" is also very ch in evidence here with more than a quarter of the respondents ting for no restrictions on X-rated video tape cassettes. arly one in four respondents did not object to the sale or ntal of video cassettes featuring sexual violence as long as ere is no public display.

These differences are clarified further when one takes into count the respondent's age and gender (Table 5). The young are early less opposed than the old, and men more than women, these tterns appearing with fairly high consistency.

There also appears to be some interaction between these mographic characteristics. Greater numbers of older men tend be more permissive than older women, with about twice as many n over fifty suggesting no restrictions on materials across the ard. The gap between men and women narrows significantly among unger respondents (those between eighteen and twenty-nine), th women just as likely as men to favor no restrictions on all terials except magazines with nudity and the sale or rental of deocassettes. Men were more likely to favor no restrictions on ese materials than women.

Has there been an increase in permissiveness in the last fteen years? Again, while some of the categories between 1970 d 1985 are not directly comparable, a reasonable comparison can made for the category describing depictions of sexual

intercourse. For the 1970 sample, only four percent advocated restrictions on depicting intercourse in books and magazines the same percentage advocated no restrictions for movies as we In 1985, twelve percent advocated no restrictions on "magazi that show adults having sexual relations." Twenty perc favored no restrictions on "theater showings of X-rated movie The assumption we make here, of course, is that most responde associate X-rated movies with depictions of sexual intercou but these comparisons are made with this caveat in mind. W the exception of sexual violence in magazines, the percenta opting for no restrictions on various categories of materials also higher in 1985 than in 1970.

Finally, the 1985 sample was asked whether there should b single nationwide standard or whether local community standa should be applied. Comparable data collected by the Gallup p in 1977 provides another data point. As Table 7 shows, resp dents in 1985 were almost evenly divided on whether a national community standard should be used (forty-seven percent ver forty-three percent). The numbers who prefer to see lo community standards applied have remained about even in 1977 1985 -- about four in ten respondents. There were as many indicated standards should be stricter in 1977 as in 198 forty-five percent versus forty-three percent. Additio analysis shows that those who indicated standards should stricter were more likely than those who said standards should less strict to favor application of a national standard (55%

%). Six in ten women were also likely to favor a stricter andard compared to four in ten men.

In the last year, this gap between men and women appears to ve increased even more on the issue of restrictiveness. A shington Post-ABC News survey in February, 1986[1120] asked the estion: "Do you think laws against pornography in this country e too strict, not strict enough, or just about right?" Among n, ten percent said they were about right, forty-one percent id they were not strict enough, and forty-seven percent said ey were about right. Among women, on the other hand, only two rcent said the laws were too strict, while seventy-two percent seven in ten women -- maintained they were not strict enough. most a quarter (23%) said they were just about right.

[1120] The Washington Post-ABC News poll was conducted ɔruary 6 - 12, 1986 by telephone among 1,504 men and women :ionwide. The margin of error is plus or minus three percentage ints.

Table 4

Public Permissiveness, by Medium and Content: 1970

	In Movies			In Books, Magazines		
	Total Ban	Some Rest.	No Rest.	Total Ban	Some Rest.	No Rest
Sex organs showing	45%	46%	5%	41%	47%	7%
Intercourse	50	42	4	48	44	4
Activities with same sex	62	31	3	58	34	4
Oral sex	62	30	3	58	33	4
Whips, belts	65	26	4	60	30	5

Question: On top of this card are descriptions of se material sometimes shown in movies in regular theaters (foun printed material). On the bottom of the card are some opin about who it is all right to admit to movies showing s material. (These could be stories in books, magazines, paper books, or on typewritten pages) For each description on top, me which, if any, group on the bottom it is all right (to a to these movies) (for the material to be available).

Key: A - None. There is no one it is all right to admi
B - It is all right to admit people like me but others.
C - It is all right to admit adults 21 and over not persons under 21.
D - It is all right to admit persons 16 or older not persons under 16.
E - It is all right to admit anyone who wishes to admitted.

(Appropriate variations in Key made for Print version)

For categories used above, A = Total Ban
B, C & D = Some Restrictions
E = No Restrictions

(Reconstructed from Tables 120 and 122, Abelson, et. al.,1970 pp. 102-103)

Table 5

Public Permissiveness, by Medium and Content: 1985

Newsweek-Gallup Survey

	Totally Banned	No Public Display	No Restrictions
ıgazines that show nudity	21%	52%	26%
ıgazines that show adults having sexual relations	47	40	12
ıgazines that show sexual violence	73	20	6
ıeater showings of X-rated movies	40	37	20
ıeater showings of movies that depict sexual violence	68	21	9
ıle/rental of X-rated video cassettes for home viewing	32	39	27
ıle/rental of video cassettes featuring sexual violence	63	23	13

ıestion: For each item that I read, tell me if you feel it ıould be totally banned for sale to adults, sold to adults as ıng as there is no public display, or should be sold to adults th no restrictions?

Table 6

Medium, Content Type, and Level of Restriction -

Comparisons by Gender and Age:

1985 Newsweek-Gallup Poll

A. Materials Should be Totally Banned

	Men			Women		
	18-29	30-49	50+	18-29	30-49	5
Magazines - nudity	6.6%	9.1%	29.9%	14.8%	20.6%	41
Magazines - adults having sexual relations	26.8	35.6	57.2	31.6	49.6	76
Magazines - sexual violence	57.7	73.1	71.7	61.9	81.3	87
Theaters - X-rated movies	28.7	22.2	46.7	27.0	39.0	69
Theaters - sexual violence	57.7	63.1	68.4	53.3	75.2	85
Sale/rental - X-rated video cassettes	17.6	19.1	42.8	20.9	31.5	54
Sale/rental video cas. w/ sexual violence	47.8	60.0	62.8	49.2	69.6	78

'able 6 (cont.)

3. No Public Display of Materials

	Men			Women		
	18-29	30-49	50+	18-29	30-49	50+
'agazines - nudity	50.7%	59.1%	43.8%	63.9%	54.0%	41.2%
'agazines - adults having sexual relations	52.6	49.7	32.6	53.3	37.9	18.6
'agazines - sexual violence	32.4	17.5	21.1	30.7	13.4	10.1
'heaters - X-rated movies	40.4	48.4	30.3	46.3	40.7	17.7
'heaters - sexual violence	27.9	23.1	18.4	35.7	16.7	8.7
'ale/rental - X-rated video cassettes	39.7	43.8	29.9	50.4	43.2	28.7
'ale/rental video cas. w/ sexual violence	33.1	24.1	18.8	35.7	17.5	13.0

Table 6 (cont.)

C. No Restrictions on Materials

	Men			Women		
	18-29	30-49	50+	18-29	30-49	50+
Magazines - nudity	41.5%	30.0%	25.0%	21.3%	24.0%	16.2
Magazines - adults having sexual relations	19.1	14.7	9.9	14.3	11.7	4.3
Magazines - sexual violence	7.7	9.1	5.6	7.4	5.6	2.6
Theaters - X-rated movies	25.0	27.8	19.7	23.8	16.2	9.6
Theaters - sexual violence	11.8	12.2	10.2	9.8	6.1	3.5
Sale/rental X-rated video cassettes	40.1	36.6	25.0	28.3	24.5	12.
Sale/rental video cas. w/ sexual violence	18.4	15.6	15.1	14.3	12.3	6

Table 7

Application of Standards to Obscenity/Pornography

National versus local standards:

	1977 Gallup Poll	1985 Gallup Poll
national standard	45%	47%
mmunity set own standard	39	43
ouldn't be any (volunteered)	9	5
n't know	7	5

estion: In determining whether a book, magazine or movie is scene, do you think there should be a single, nationwide andard or do you think each community should have its own andard?

Change in Standards:

	1977 Poll	1985 Poll
ould be stricter	45%	43%
ould be less strict	6	4
pt as they are	35	48
n't know	14	5

estion: Do you think the standards in your community regarding e sale of sexually explicit material should be stricter than ey are now, not as strict or kept as they are now?

Perceptions of Pornography's Effects

Respondents are just as likely in 1985 as in 1970 perceive both positive and negative effects from exposure to use of sexually explicit materials (Table 8). However, there a significant increase in the numbers who perceive negat effects from 1970 to 1985. 1970 and 1985 data in this case w directly comparable since the same categories of effects w used.

The most significant changes were in the areas of viole toward women, with the number of respondents indicating th materials could lead some people to lose respect for wo increasing from forty-three percent to seventy-six percent those believing they lead some people to commit rape or sex violence increasing from forty-nine percent to seventy-th percent in 1985. Whether this reflects greater sensitiv toward women or greater consciousness of sexually viol material available or both is unclear. A slightly greater nu in 1985 than in 1970 were also likely to think that sexu explicit materials provide a safe "outlet for people with se problems" (34% to 27%) while the number of people who agreed these could help improve the sex lives of some married cou remained the same (47%).

Table 8

Perceptions of Effects of Pornography - 1970 and 1985
(Percent Saying "True")

	1970	1985
ey provide information about sex	61%	52%
ey lead some people to commit rape or sexual violence	49	73
ey provide a safe outlet for people with sexual problems	27	34
ey lead some people to lose respect for women	43	76
ey can help improve the sex lives of some couples	47	47
ey provide entertainment	48	61
ey lead to a breakdown of morals	56	67
(Base)	(2486)	(1020)

estion for 1985: "Thinking of sexually explicit magazines, vies, video cassettes, and books, tell me if you believe the llowing are true or not true:"

estion for 1970: "On this card are some opinions about the fects of looking at or reading sexual materials. As I read the tter of each one, please tell me if you think sexual materials or do not have these effects." Item choices provided the 1970 spondents were worded in the same way or were reasonably ilar: "Sexual materials provide information about sex;" ". . lead people to commit rape;" ". . . give relief to people who e sex problems;" ". . . improve sex relations of some married uples;" ". . . provide entertainment;" ". . . lead to a eakdown of morals." The 1970 survey had five additional items included here since these were not utilized by the 1985 sweek poll.

Public Perception of Pornography as a Social Problem

1970 respondents were asked to name "what you think are two or three most serious problems facing the country today?" the height of the Vietnam War, not surprisingly, more than named this event the most important issue, followed by ra conflict and civil rights, and thirdly, by the economy (36% 32%). Only two percent said they were concerned about er materials. The 1985 Gallup survey asked the question perceived importance in a different way: by evaluating problem relative to other social problems and asking respondent to judge whether progress was being made to s these problems (see Table 9).

Table 9

Perception of Pornography as a Social Problem
(1985)

	Making Progress	Losing Ground	Staying About same	Don't Know
Preventing violent crime	19%	37%	42%	2%
Stopping drug addiction	28	42	26	4
Controlling porn.	20	33	38	9
Dealing w/ air pollution	38	20	36	6

estion: I am going to name a number of problems facing the tion. For each, tell me if you feel this is a problem on which are making progress, losing ground, or staying about the same.

Summary

There is greater overall public tolerance for sexually explicit materials. However, public opinion on restrictiveness clearly differentiates among different media, content depictions, and public access to such materials. There is a preference for no public display of materials featuring nudity and nonviolent sexual activities whereas a majority favor banning materials that depict sexual violence. There is also a greater willingness to impose restrictions on theater showing and magazine publication of sexual activities than on home videos.

The most frequent exposure to pornography is reported by adolescents between twelve to seventeen, a finding reported by the Canadian as well as the 1970 Commission survey. While sexual knowledge appears to be acquired at younger ages, it remains unclear what role pornography plays in this "sex education" process.

Finally, the public perceives both beneficial as well as harmful effects from exposure to sexually explicit materials. Some maintain these materials help improve sex lives of some people, that they provide information about sex, and also provide entertainment. A significant number also feel they lead to a loss of respect for women, a breakdown of morals, and the commission of sexual violence. The changes between 1970 and 1985 are most apparent in the increase in the numbers who perceive that exposure to these materials lead to loss of respect for, and the commission of sexual violence against, women.

SEX OFFENDERS AND PORNOGRAPHY

A common contention is that exposure to pornography leads to commission of sex offenses. There are two ways one can mine this contention: (1) by looking at the relationship tween sexual offense statistics and the availability of rnography, and (2) by examining interview data from sex fenders, investigating the mechanics behind the onset of iancy and the role of pornography in the commission of sex mes.

The examination of aggregate social indicators of nography availability and sexual offense statistics provides ther view of the potential relationship between pornography d these offenses. It offers another way of validating results the laboratory studies or from individual surveys. For mple, if the results indicate a higher incidence of sexual gression in the laboratory studies as a consequence of exposure particular types of stimuli, and if surveys reveal that dividuals who report higher levels of exposure to similar terials also tend to exhibit higher levels of sexual gression, and if these findings are corroborated with a rrelation between aggregate measures of availability and fenses, then we have reason to be more confident in an sertion that exposure to the class of materials in question has substantial relationship to sexual aggression.

In the case of sex offenders, a comparison of their arousal tterns to those of nonoffender groups is vital, particularly as

hese patterns correlate with sexual aggression and attitudinal easures. It is reasonable to suggest that findings among onoffender males who are aroused to coercive sexual themes and ho also tend to be more sexually aggressive would be more eaningful if matched by similar patterns among those identified s sex offenders.

From the perspective of the offenders and society as well, nderstanding their behaviors is critical because of the social osts in terms of victimization. While the number of sex ffenses reported by incarcerated sex offenders appears to be mall, results of clinical interviews, conducted with outpatient ex offenders (with great lengths taken to assure onfidentiality) reveal that the number of crimes committed by he average sex offender is far greater than generally has been stimated (Abel, Mittelman, and Becker, 1985). Data from two sychiatric clinics obtained from 411 sex offenders revealed a taggering number of multiple victimizations per offender. These ffenders attempted an average of 581 sex offenses and completed ypically about 533 offenses each, with a mean number of 336 ictims each. These attempted or completed offenses were over an verage period of twelve years (Abel, Mittelman and Becker, 985).

ggregate Indicators: The Incidence of Sex Offenses and ornography Availability:

One of the most frequently cited studies has been the

alysis of sex crimes in Denmark before and after the galization of pornography in the 1960s (see Kutchinsky, 1973; n-Veniste, 1970). Kutchinksy's data showed a drop in the mber of reported sex crimes after legalization and he argued at the availability of pornography is cathartic as it siphons f potentially dangerous sex impulses -- the "safety valve eory" (Kutchinsky, 1970, p. 288; Kutchinsky, 1973). tchinsky's work was lauded by the British pornography mmission (Williams, 1979) for its thoroughness and the straint with which he interpreted his findings. It singled out e dramatic reduction in offenses against children coinciding th the availability of pornography and, while the Commission id not endorse the "safety valve" hypothesis, agreed that tchinsky's interpretation was plausible, absent any other kely factor (p. 84).

On the other hand, Kutchinsky's study and conclusions did t go unchallenged. First, the weight of empirical evidence assed in the last two decades by social psychologists, rticularly in the area of media violence and aggressive havior, hardly supports catharsis (see Weiss, 1969; Geen and anty, 1977; Bandura, 1973; Bramel, 1969; Comstock, In Press; MH, 1982).

Second, a number of problems have been raised with tchinsky's analysis and interpretations (see Cline, 1974; chy, 1976; Court, 1977; Baron, 1984; Malamuth and Billings, 985). Some of these problems included the lumping together of

ex offenses masked a stable, if not an increased, rape rate Cline, 1974; Court, 1984). Also, such crimes as voyeurism were o longer recorded by police. Kutchinksy (1973) also noted that ther activities such as homosexuality were simply tolerated more nd certain social changes such as earlier sexual experiences for emales meant reduced reports of intercourse with minors (Bachy, 976).

The problem of using aggregate social indicators such as rime reports is well illustrated not just with reliability roblems in reporting, but also in differential use of the data. or example, by Bachy's (1976) review of Copenhagen rape tatistics between 1965 and 1974 which showed increases in rape nd attempted rape as a proportion of total sex offenses. These offenses included intercourse with minors and indecent exposure, n addition to rape and attempted rape. Court's (1984) analysis f rape statistics for Copenhagen showed a similar upward trend hile a fluctuating pattern was demonstrated by Kutchinsky's igures for the same crime in the same city between 1965 and 970.

More recently, Kutchinsky (1985) has maintained that the ncreased availability of "hard-core" pornography in Denmark "may ave been the direct cause of the real decrease in incidents of eeping and child molestation" (p. 313) and has proposed the substitution" hypothesis as the most likely explanation. He urther cites a similar pattern in West Germany with legalization f pornography in 1973 bringing about a decrease in sex offenses

inst children. This proposed causal link should be viewed
h extreme caution, particularly since pornography availability
tistics have not been presented.

Other data are available that allow further cross-cultural
parisons. Abramson and Hayashi (1984), in analyzing
nography in Japan, noted that while it was illegal to show
bic hair and adult genitals in sexually explicit stimuli,
nography appeared to be widely available in this country,
luding the prevalence of bondage and rape as recurring themes.
terms of rape statistics, however, they concluded that a low
idence of rape appears to be the case and suggested that
tain socio-cultural mediating circumstances may be involved.
fortunately, no data are provided by Abramson and Hayashi on
ilability or rape rates and at least one study indicates that
se rates may actually be increasing. Goldstein and Ibaraki
983) found that while crime rates have decreased or remained
latively stable among adults, juvenile crime increased from
enty-three percent of all crimes in 1976 to forty-two percent
1980, occurring mainly in violent crime categories, including
e. The unique character of rape in Japan is also evident from
se authors' findings that fifty-seven percent of the total
orted rapes are group-instigated and seventy-five percent are
mitted by juveniles. Finally, an informal survey reported in
s study showed that ninety percent of the women interviewed
d they would not report the rape to the police if they had
n victimized (p. 317-318).

Other cross-national data from areas as disparate as ngland, Australia, Singapore, and South Africa were analyzed by ourt (1977, 1982, 1984). His studies compared rape rates in ountries or areas where pornography is widely available, and hose where restrictions exist. On the basis of his findings, ourt advanced the propositions that (1) rape reports have ncreased where pornography laws have been liberalized while the ame steep rise is not in evidence where restrictions exist; (2) ntermittent policy changes or changes in the law are temporally elated to changes in the rape rates; (3) the increase in rape eports does not parallel the increase in serious nonsexual ffenses.

While Court's data are intriguing, the case he presents is eakened by (a) the selective use of a small number of countries, nd (b) the lack of direct correlational analyses between sexual ffense statistics and pornography distribution/circulation igures. The Williams Committee in England (Williams, 1981), in act, took exception with Court's data, pointing out that he did ot take into account the rise of crime in general in England (p. 4) and that the rising trend in rape and sexual assaults started ell before what Court determined was the date marking the vailability of pornography (p. 76; see Court, 1980, 1985 for esponses to the Williams Report). Cocrane (1978) has similarly isputed Court's analysis and interpretations.

Kupperstein and Wilson (1970) of the 1970 Commission staff xamined the incidence of sex crimes in the United States and

ported that the rise in adult sex crimes (using report and rest data) was not greater than the rise for other offenses tween 1960 and 1969, despite the heightened availability of xually oriented materials. The two indicators used for the ter were the circulation of Playboy magazine and the number of mplaints reported to the United States Post Office for solicited sexually oriented mail. The study employed fairly de measures, simply examining the percentage increase for ious sexual and nonsexual offenses.

On the whole, a number of methodological problems aracterize some of these early studies: first, the ilability of pornography was simply assumed to have increased decreased following legal changes. Second, direct rrelations between the volume of pornography and sexual offense tes were not investigated. Third, sexual offenses were bined, masking important differences between various tegories of offenses. Finally, the mediating effects of other riables which could affect the relationship between the rculation of pornography and sexual offense rates were not stematically investigated.

More recently, correlational evidence using more detailed atistical analyses, presents some additional insight into the rnography-sex crimes relationship on the aggregate or societal vel in the United States (Baron and Straus, 1985). A fifty- ate correlational analysis of rape rates and circulation rates adult magazines was conducted, using aggregate circulation

ates (subscription and newsstand sales per 100,000 population), or eight magazines (Chic, Club, Gallery, Genesis, Hustler, Oui, nd Playboy, and Penthouse). A fairly strong correlation -- +.64 - was found between these circulation rates and rape rates. his relationship was present even with controls for potential onfounding variables such as police practices (measured by olice expenditures per capita), propensity to report rape easured by number of rape crisis centers per 100,000 females; OW membership per 100,000 females; MS magazine circulation per 00,000 females; and number of battered women's shelters); southernness" (based on the higher violent crime rates in the outh), and "illegitimate opportunities" (referring to greater pportunities to commit crimes in warmer than colder periods; the ndicator used was average temperature).

Baron and Straus further found that rape rates are egatively correlated with the status of women when other factors re controlled for. This status-of-women index was measured via conomic, political and legal indicators such as women's median ncome as a percentage of men's; the percentage of female members n the state legislature; and existence of laws giving women the ame property rights as men. The study concluded that in a male-ominant society, the lower status of women may be reflected in igher rape rates.

Since it is possible that rape rates also may be a function f the overall culture supporting legitimate violence (that is, he societal endorsement of the use of physical force for

socially approved ends, such as crime control or order schools), the relationship between this factor and rape rates w also examined. Using a twelve-measure index that included su figures as violent television viewing, hunting licenses issue and use of corporal punishment, no significant associati between legitimate violence and rape was found. It is sti theoretically possible that rape rates may be influenc indirectly by the level of legitimate violence through t latter's inverse relationship with the status of women; that i cultural support for violence may contribute to sexual inequali which, in turn, may increase the risk of rape.

Finally, the level of social disorganization was also fou to be directly related with rape rates and to affect these rat indirectly through its association with the circulation pornography and the status of women. Other factors found correlate with rape rates were the extent of urbanizatio economic inequality, and unemployment.

In comparing the relative influence of these vario explanatory variables, it was found that the proliferation sexually explicit magazines and the level of urbanization he explain more of the variation in rape rates than soci disorganization. The latter is also "more influential" predicting rape than are economic inequality, unemployment, sexual inequality. Together, these six explanatory facto explain eighty-three percent of rape rate variations, certainly considerable proportion of the variance.

A follow-up study by Jaffee and Straus (1986) examined the pact of a variable called "sexual liberalism" on the lationship between these sexually explicit magazines' rculation rates and rape rates. It was hypothesized that a re liberal sexual climate might explain the relationship tween sexually explicit magazines' circulation rate and rape by couraging men to purchase more of these magazines and also courage more women to report rape to the police. An index sed on twenty-two questions in a national survey measuring itudes toward a variety of sexual issues was utilized as the asure for "sexual liberalism." Results showed that the iginal relationship between rape rates and circulation rates of x magazines was non-spurious and that sexual liberalism played minor role, accounting for only nine percent of the state-to-ate rape rate variations. A problem with this study, however, that it attempts to match individual-level measures of titudes with aggregate-level social indicators, using data from fty states for the former (effectively reducing the original mple size of fifty states by a fifth).

Using the Baron and Straus data set, Scott and Schwalm 985) essentially confirmed the sex magazine-rape rate lationship although their additional analysis showed that when pe rates were correlated with specific magazines, these rrelations were higher for Playboy, Penthouse, and Oui than ey were for Hustler magazine. Their contention was that sexual ntent in Hustler magazine was more likely to be associated with

'ape since this magazine has more sexually violent material than ıe other three magazines. Since correlations with the other our magazines were not provided, it is difficult to judge the onsistency of such a pattern. Furthermore, such a breakdown is gain not very helpful since the level of analysis is aggregate ather than individual. Thus, on an individual level, it will be ore meaningful to correlate an individual's scores on sexual ggression measures and that individual's readership of specific agazines; on an aggregate level, it is more appropriate to elate the aggregate offense rate with aggregate availability igures for the material in question. And even on the individual evel, there may still be some question as to the actual eparability of individual magazine readership. A readership urvey conducted for Hustler magazine among its subscribers shows hat on average, the typical subscriber reads 3.6 adult men's agazines (Readex, 1984).[112]

Scott and Schwalm (1985) also analyzed the effect of three dditional variables not investigated by Baron and Straus: the effect of circulation rates of general circulation magazines e.g., Time, Readers' Digest) and the effect of outdoor men's agazines (e.g., Field and Stream, American Rifleman), the latter sing the presumption that an indicator of a "macho" environment ould also account for rape rates. Alcohol consumption for each tate was also examined. None of these variables was

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[112] The READEX survey was part of the public record as art of a court case involving Hustler magazine (Herceg v Hustler, Inc.).

significantly related to rape rates.

Scott (1985) further examined the correlation between ac theaters and rape rates for 1982 and found no relationship exist. It is quite possible that this finding may be an artif of the decreasing number of adult theaters in this country a result of the rise of home videos, as Scott himself pointed (see also Newsweek, 1985; Knowledge Industries, 1985). He a correlated the number of adult bookstores in each state and r rates and again, found no relationship. Scott's data may necessarily be inconsistent with Baron and Straus'. It is qu conceivable that the number of stores may not correlate with r rates but the actual circulation of the magazines in vari outlets do. In any case, Scott's endorsement of the "saf valve" or catharsis hypothesis on the basis of his findi appears premature at the very least.

While Baron and Straus' work is impressive for methodological care and thoroughness, their findings do indicate that men are induced to rape as a result of exposure these magazines. While this is certainly plausible, there two caveats to their analysis. First, it is a macro-model t is being tested, examining the relationship of various soci cultural factors on rape. Second, given that this i correlational study, there is always the possibility that th may be some third factor influencing the observed sex-magaz

ape rate relationship.[1122] The crucial causal evidence has to me from an examination of the relationship under controlled nditions, and these studies are discussed below under xperimental Findings."

On an individual level, some parallel is offered the Baron d Straus data by a recently completed large-scale study on xual assault among the college student population (Koss, 1986). rrelates of sexual victimization and sexual aggression were amined among 6,000 college students from a probability sample f higher education institutions. This study established a elatively high incidence of sexual assault within this pulation (336 per 1,000 college women, a rate which includes ape, attempted rape, and forceful sexual contact). The portrait f college men who report behavior that meets legal definitions

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[1122] Baron and Straus recently conducted additional nalysis of their data by introducing a "Violence Approval ndex," based on attitude measures from the general Social rvey. By introducing this into their original equation, the elationship between the sale of sex magazines and rape sappeared. While this could offer some tentative support for e authors' contention that a "hypermasculine" climate might be sponsible for rape rates, rather than sex magazines per se, ey are also appropriately cautious about the severe limitations this particular finding. They point out that while the olence Approval Index correlates in expected fashion with the rcent males in the population, the percent of the population in e high-violence age group of eighteen to twenty-four, with the gitimate Violence and Social Disorganization indices, it also as an unexpected negative correlation with the percent single ales in the population and has a low correlation (.23) with the ape rate. Second, the data are restricted to forty states hich, in combination with the addition of still another variable the equation, increases the standard error. Until these roblems are sorted out, the impact of this variable will have to emain speculative. It is presumably for this reason that the uthors included this information in a footnote rather than in heir text, and we likewise do so.

f rape shows individuals who are sexually experienced, come from omes where family violence was normative, who use alcohol fairly egularly (and reported becoming intoxicated one to three times er month), who regularly discuss with their peers "how a articular woman would be in bed," and who frequently read at east one of the widely available men's magazines.[1123]

While these results offer correlational evidence, again, hey do not support any causal link between readership of such agazines and sexually aggressive behavior. There are a variety f factors that correlate with sexual aggression as this study nd the Baron and Strauss (1986) study demonstrate. Both also rovide an important contribution towards our understanding of he types of factors, social, cultural, situational, and ndividual, which interact to explain sexually aggressive ehavior as the theoretical thinking behind it.

In the case of causal relationships, the demonstration of a tatistical relationship (that is, that the probability of the bserved relationship being due to chance is minuscule) is a rst requirement. A second requirement is that other competing alternative explanations have been controlled for to establish

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[1123] The question used by Koss (1986) in this survey as a easure of pornography exposure was:

How often do you read any of the following magazines: ayboy, Penthouse, Chic, Club, Forum, Gallery, Genesis, Oui, or stler? (check one):

_____ Never
_____ Seldom
_____ Somewhat frequently
_____ Very frequently

:t X indeed causes Y.

In the case of rape rates and circulation rates of adult
:azines, establishing a significant correlation between the two
a first step. That such a relationship may in fact be a
:rious one due to the existence of some third factor is a
:ond step in establishing the validity of the relationship.
like experimental situations, however, where most "alternative
:tors" are controlled for by randomly assigning subjects to
:erimental conditions, one has to be able to identify every
:entially significant "third factor" in correlational research
l actually account for these in the analysis. Therefore, we
ıd ourselves at most in the position of accepting an observed
:lationship as being plausible but yet cannot fully preclude the
:ssibility of its being spurious.

:idence from Sexual Offenders

There are three levels by which sex offenders' use of
:rnography can be evaluated: first, what are the patterns of
eir early exposure to pornography? Second, what is the role of
:rnography in their fantasy and arousal behaviors? Third and
:st critical, is the question of the role of pornography in the
:mmission of their sex offenses.

Methodological Considerations. A number of elements need to
: considered in the study of sex offender populations.

1. Nature of the population evaluated.

The deviant populations most accessible to researchers in e past were incarcerated sex offenders. This category thus nstituted the samples described in earlier studies, including e significant pioneering surveys done by Gebhard, et. al. 965) and Goldstein, et. al. (1970). There is evidence, wever, that data provided by incarcerated offenders tends to ry significantly from non-incarcerated groups (Abel, Becker and inner, 1985). The demographic profile of incarcerated fenders, for instance, appears to differ from nonincarcerated oups. For example, Goldstein, et. al. (1970) found that while rty-two percent of his control sample had some college ication, only twenty-six percent of the rapists, twenty percent l five percent of the male-object and female-object pedophiles, spectively, also had similar educational levels. Gebhard, et. . (1965) similarly found lower educational levels among his tual offender sample compared to controls. Only thirteen rcent of heterosexual child molesters, thirteen percent of mosexual child molesters, and twenty-one percent of rapists had grade eleven or higher education compared to twenty-one percent other criminal offenders and fifty-two percent of the control mple. Both these studies examined incarcerated samples.

Abel (1985), on the other hand, found that among an patient sample of 192 child molesters, forty-six percent had least one year of college, with a quarter of the total sample mpleting college or having an advanced degree. Marshall's 85) comparison of eight-nine outpatient sex offenders with

enty-four control adults showed little difference between the an IQ's of this group and a comparison control. A mean IQ of , 93, 94 and 101 was measured for heterosexual and homosexual ild molesters, incest offenders, and rapists, respectively, and for the control sample. It has been estimated that carceration rates for some sex offenders are low. Only irteen to sixteen percent of rapists are actually incarcerated, r instance (Abel, Becker and Skinner, 1985; Dietz, 1978), king it likely that an outpatient sample of sex fenders/deviants would more closely resemble the population of viant cases than an incarcerated one. The representativeness f such an outpatient group still is uncertain, given the fact at these are individuals who, either voluntarily or by court ndate, have sought treatment.

2. Measurement of Arousal.

An important aspect of evaluating sexual deviance in terms f diagnosis, treatment, and projection of future behavior has een the assessment of arousal patterns. A major weakness in the arly studies on sexual deviance was that measures of arousal nsisted solely of self-reports. An extensive review of various ssessment procedures (Zuckerman, 1971) concluded that the easurement of penis size (penile tumescence) in response to arious stimuli provides the most valid indicator of sexual rousal. While the development of the penile transducer provided ore accurate assessments of male arousal, problems still exist ith this technology. The primary problem is that it is possible

or the offender to control his erectile responses (by ontrolling his attention and sexual fantasies. (See Quinsey and ergersen, 1976; Laws and Holman, 1978; Abel, Becker and Skinner, 985; Abel, Rouleau and Cunningham-Rathner, In Press). However, : has been possible to identify such faked responses under lanned treatment situations and to reduce their occurrence but ot to eliminate them entirely (Abel, Mittelman and Becker, 985).

3. Ethical Considerations.

Clinical researchers are obviously unable to examine sex ffenders in laboratory conditions to assess cause-and-effect elationships in the same way their social psychologist ounterparts are able to do with nondeviant or "normal" opulations. The risks are too great for a group with little or o control over their own behaviors. Furthermore, the notion of nformed consent becomes a problem when physiological measures of rousal patterns may reveal interest patterns the patient may not ven be aware of (see Abel, Rouleau and Cunningham-Rathner, In ress). Other ethical considerations further arise out of the ccasional conflicting needs of the judicial system, the ffender's needs and rights, therapeutic requirements, and even he public interest (see Bohmer, 1983; Abel, Rouleau and unningham-Rathner, In Press, for an extended discussion).

A number of important advances have been made in the last ifteen years to elucidate the nature of sexual deviancy, articularly as they relate to the measurement of arousal

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patterns. On the whole, however, certain inherent limitati exist for this particular population that preclude gaining fullest knowledge about the antecedents of their sex behaviors. One of the earliest landmark studies based interviews with sexual offenders was conducted by the Kin Institute for Sex Research (Gebhard, et. al., 1965). The st was notable for its scope, including 1365 sex offenders, other criminal offenders, and 477 controls, all white males. study was conducted during two time periods: 1941 to 1945 1953-1955.

Interviews with sex offenders led the authors to concl that no relation between pornography and sex crimes exists. researchers, in fact, concluded that the inferior intellig and education of the average sex offender precludes his deriv sufficient sexual arousal from pornography to lead to ov antisocial activity, a conclusion which has been contradicted much subsequent data.

Some of the other earlier studies on this question were d for the 1970 Commission. On the basis of these early stud (see, for example, Cook and Fosen, 1970; Goldstein, et. a 1970; Walker, 1970; Davis and Braught, 1970), the Commiss concluded that (1) sex offenders did not differ from adults the general population in their reported immediate responses reading or viewing erotic materials; (2) that sex offend generally had less adolescent experience with erotica than general adult population but did not differ from the latter

dult exposure patterns; and (3) erotica was an insignificant actor in the reported likelihood of engaging in sexual behavior uring or after exposure.

Since these early studies, much more has been learned about ex offenders in terms of their arousal patterns and efficacies f various treatment approaches.

Early exposure. Do sex offenders differ from nonoffenders n their patterns of early exposure to pornography? Goldstein, ant, Judd, Rice and Green, (1970) found a high level of exposure o pornography during adolescence among sex offenders (categories n this study included rapists, pedophiles, transsexuals, and omosexuals) but these levels were not significantly different rom a non-offender comparison group. In comparing their samples n exposure to pornography during adolescence, Goldstein and his olleagues found that more rapists than controls had never been xposed to particular types of stimuli. Yet, the differences mong the various groups were not statistically significant over he total range of stimuli. Significantly less exposure was eported among rapists to photos of partially and fully nude omen and to books describing nudity and oral-genital relations. n fifteen other categories (different themes in different edia), the differences were not significant. In their later ook elaborating on their findings (Goldstein, Kant and Harman, 973) Goldstein and his colleagues describe a significantly arger number of rapists as having had exposure to "hard-core" ornography than controls (30% versus 2%) during childhood or

between six to ten years old. They also tended to report earlier age of "peak experience" with pornography, that is sexual experience that stood out in their minds the most.

Cook and Fosen (1970) found that among their sample incarcerated sex offenders and criminal offenders, the lat reported higher rates of exposure to pornography dur preadolescence and adolescence. Johnson, et. al., (1970), on other hand, found slightly higher rates of early exposure amon sample of convicted sex offenders who were on probation receiving therapy compared to the control sample consisting the respondents in the Abelson, et. al. (1970) national sur (44% versus 40%).

Walker (1970) interviewed two groups of male sex offende one from a maximum security ward of a state hospital and second who were prisoners in a correctional facility. control groups incarcerated in both facilities for reasons ot than sex offenses were utilized in addition to another compari group of male college students and members of a number of me service clubs. The latter were more closely matched to the offender sample in terms of age.

Data on age of first exposure revealed no overall differe between sex offenders and the combined student and men's c controls. However, portrayals of sexual activities for which sex offenders had earlier exposure than the men's club cont group appeared to be of the more unusual variety: bestiali group sex, and "sex activities with whips, belts or rope

While the student and men's club members had significantly greater exposure to a wider range of sexually explicit depictions than the sex offenders, the latter also had collected pornography for a longer period of time than the men's club members.

Another study conducted for the 1970 commission (Davis and Braught, 1970) found that early exposure to pornography was related to greater involvement in deviant sexual practices among groups of criminal offenders and a comparison group of male students. This was particularly true for what they called "serious deviance," primarily rape. The age-of-exposure variable appears to be critical as these authors found that exposure to pornography was a strong predictor of sexual deviance among the early age of exposure subjects. They also noted that "exposure to pornography in the 'early age of exposure' subgroup was related to a variety of precocious heterosexual and deviant sexual behaviors."

They found a slightly different pattern among those exposed to pornography at a later age, with the amount of exposure correlated with poor character scores and participation in criminal, deviant, and sexually active peer groups. This result suggests that among those later exposed, such exposure to pornography is part of a deviant and highly active sexual life style. Thus, two separate but related factors -- pornography and peer pressure -- seem to play some interacting role as sexual behavior patterns develop (Davis and Braught, 1973, p. 194). However, because we do not have age-of-commission data for the

more deviant sexual behaviors, a hypothesis that gives a cau status to pornography exposure cannot be supported. Among male reformatory inmates between sixteen to twenty-one years o a similar association was found between early age of exposure pornography as well as high exposure and sexual deviance.

Because more recent studies (Abel, Rouleau and Cunningh Rather, In Press) suggest that over fifty percent of vari categories of paraphiliacs had developed their deviant arou patterns prior to age eighteen, it is clear that the age- first-exposure variable and the nature of that exposure needs be examined more carefully. There is also evidence that longer the duration of the paraphilia, the more significant association with use of pornography (Abel, Mittelman and Beck 1985). On the whole, the conclusion of the 1970 study that "b the extent and frequency of sex offenders' experience with ero material is substantially less than that of non-sex (crimin offenders and non-offender adults during preadolescence during adolescence" needs to be qualified. These da demonstrate relatively lower levels of exposure among offenders when the comparison group is criminal offende Compared to "normal" adults, however, the differences appear be more qualitative than quantitative: sex offenders seem have been exposed to sexually explicit materials for the fi time at earlier ages, and there are some suggestions that range of material they were exposed to were of the more unus variety compared to the wider range of materials that cont

onoffender groups were exposed to.

It is important to stress that these findings apply pecifically to incarcerated samples, particularly groups that ere considered serious offenders, given the maximum security acilities housing the Goldstein, et. al. sample, the Walker mple and the Davis and Braught sample. A recent study (Carter, entky, Knight and Vanderveer, 1985) compared thirty-eight pists and twenty-six child molesters incarcerated at a state eatment center. No differences were found between the groups their exposure to pornography in the home (twenty-seven rcent of the rapists and twenty-six percent of the child olesters said they had sex materials in their home while they ere growing up) and during development (58% of the rapists and 1% of the child molesters had "seen or read sex materials as a enager"). However, child molesters were found to use rnography more often than rapists in adulthood, were ignificantly more likely to use these materials prior to and uring their offenses, and to employ pornography to relieve an mpulse to commit an offense. Because of the absence of a ontrol group of nonoffender adults, it is difficult to determine ether early exposure to pornography in this instance differs ignificantly from that of a nonoffender sample. The study also oes not describe what types of sex materials were involved.

In retrospective interviews with eighty-nine sex offenders ll nonincarcerated and attending an outpatient clinic) and a ontrol sample, Marshall (1985) found that greater numbers in all

categories of offenders had been exposed to nonviolent pornography than the comparison group of non-offenders.

The term "pornography" in this case was limited to two categories of materials: "hard-core materials," or "those available only in specialized stores and depicting sexual acts with nothing left to the imagination" (p. 14), and materials depicting "forced sex." These were described to the subjects as those portraying "sexual relations between adult males and adult females where the female displayed a clear unwillingness to participate by both her verbal refusals and her physical attempts to prevent the attack, and the male in the depiction was said to recognize this refusal but ignored it by forcefully enacting his sexual wishes."

Marshall found that over a third of the rapists (35%), two in five homosexual child molesters (41%), a third of the heterosexual child molesters, and only a fifth of the control adults (21%) had been exposed to materials that did not depict forced sex. Only four percent of the rapists and eight percent of the controls were exposed to sexually aggressive portrayals (forced sex) during pubescence. Because of the terse description of "hard-core" sex materials used in this study, it is difficult to reconcile these findings with those of earlier ones suggesting early exposure to depictions of more deviant activities.

It is apparent that these studies cover a variety of comparison situations (no nonoffender controls, comparison with nonsexual criminal offenders only), populations (incarcerated,

on-incarcerated and in therapy) and a range of measures for arly exposure. Certainly, the notion that sex offenders have ignificantly less exposure to sexually explicit materials than ormal adults does not appear to hold for nonincarcerated groups Marshall, 1985; Johnson, et. al., 1970) and, for incarcerated roups, appears to be true when the comparison group is nonsexual riminal offenders. Compared to nonoffenders, rapists differ nly on specific types of material (Goldstein, et. al., 1970). nly one study (Marshall, 1985) shows somewhat higher levels of xposure than nonoffender adults.

Fantasies and Arousal.

Studies reviewed by and conducted for the 1970 Commission xamined differences in arousal patterns for sex offenders and onoffenders. These studies showed either that sex offenders ere somewhat less responsive than other adults to erotic stimuli e.g., Gebhard, P.H., J.H. Gagnon, W.B. Pomeroy and C.V. hristenson, 1965) or that both groups did not differ in their esponses to reading or viewing erotic material (Cook and Fosen, 970; Walker, 1970; Johnson, W.T., L. Kupperstein, and J. Peters, 970). The Commission concluded in summary that "the available esearch indicates that sex offenders do not differ significantly rom other adults in their reported arousal or reported ikelihood of engaging in sexual behavior during or following xposure to erotica." (p. 284).

Later studies have demonstrated that arousal patterns among ex offenders could in fact differ from non-offenders (Abel,

Barlow, Blanchard and Guild, 1977; Barbaree, Marshall Lanthier, 1979; Quinsey, Chapin and Varney, 1981). The conclusion can be attributed to a number of factors: fi self-report measures of arousal were used for the most part. problems with reliance on self-reports as the sole aro measure have already been discussed. Second, many of the stu used stimuli labeled "erotica" without attempting to discrimi among content cues (stimuli used, for instance, were prima adult heterosexual activities). Finally, with the exceptio the Goldstein, et. al. (1970) study, differences among offender categories were not examined.

Subsequent studies have shown the importance discriminating among various categories of sex offenders, con cues, and utilizing physiological measures of sexual arousal.

While other physiological measures have been used correlates of sexual arousal (e.g., respiration, galvanic s response, heart rate), these have been viewed as less desir than direct erection calibration (Zuckerman, 1971) si increases in these variables have also been recorded for o emotional states not related to sexual arousal.

A key study that attempted to distinguish rapists from r rapists on the basis of erections was conducted by Abel, Bar Blanchard and Guild (1977). This study was also important in attempt to discriminate responses according to consenting non-consenting stimuli. The development of a "rape index" another important element in this study. The index was

quotient of the mean percent erection to rape cues to the mean percent erection to mutually consenting intercourse, a measure which was found to have predictive validity in this study and subsequent ones (see Abel, et. al., 1976; Quinsey and Chaplin, 1982; Quinsey, Chaplin and Varney, 1981; Barbaree, Marshall and Lanthier, 1979). The results showed that rapists respond to both rape and mutually enjoyable intercourse cues while nonrapists exhibited arousal only to the latter.

Other studies have similarly found that rapists show sexual arousal to rape cues as well as to depictions of consenting sexual activity compared to nonrapists who are usually more aroused to the latter (Abel, Becker, Blanchard and Djenderedjian, 1978; Barbaree, Marshall and Lanthier, 1979; Quinsey, Chaplin and Varney, 1981). The nature of sexual cues was further elaborated by Quinsey and Chaplin (1984) who found that rapists did not discriminate among the various sexually explicit narratives used while nonrapists responded most to the consenting sex narratives, less when the sexual partner did not consent, and least when the victim was shown to experience pain.

In comparing these findings to males in the general population, sexual arousal responses have also been found to be indicative of a proclivity to rape but only in combination with other factors will such a tendency be manifested in overt aggressive behavior (Malamuth, Check and Briere, 1985; Malamuth, In Press).

Child molesters also have demonstrated significantly

different arousal patterns with penile circumference measu
than a comparison group of non-sex offender patients (Quins
Steinman, Bergersen and Holmes, 1975). Twenty male ch
molesters confined in a maximum security psychiatric institut
exhibited significantly higher penile circumference measures w
presented with slides featuring children compared to ele
nonsex-offender patients from the same institution and
control adults from the community.

Marshall (1985) reported that among his sample of eigh
nine sex offenders, two in five of the heterosexual chi
molesters, two out of three of the homosexual child molest
and one in two rapists said they used deviant fantasies "usual
or "always" during masturbation. None of the control adu
indicated they had these deviant fantasies "usually" or "alwa
although forty-six percent said they did so "occasionally"
"rarely."

Seven out of eighteen rapists indicated that 'consent
pornography' provided a cue to elicit fantasies of forced s
Similarly, ten of the eighteen who currently used 'consent
sex' stimuli used it to elicit rape fantasies.

Abel, (1985) reported that erotica use increased se
reported arousal (i.e., erotica "increased their deviant sex
arousal") more frequently among rapists than among ch
molesters, with fifty-six percent of the rapists indicat
erotica use increased their arousal compared to forty-two perc
of the child molesters. Since there were only sixteen rapi

compared to 112 child molesters in this report, these findings have to be viewed with caution. In addition, a number of questions can be raised about these data. First, it is unclear what "erotica use" refers to. It could refer to usage for masturbation, for arousal prior to committing an offense, or, perhaps for child molesters, use during the commission of an offense (e.g., to lower the victim's inhibitions). It is also far from clear whether these arousal changes refer to changes in the offender's arousal patterns or whether these are simply their reported reactions to sexually explicit materials. Current evidence suggests a high correlation between deviant fantasies and deviant behaviors (Marshall, 1984; Abel, Rouleau and Cunningham-Rathner, 1985). Some treatment methods are also predicated on the link between fantasies and behavior by attempting to alter fantasy patterns in order to change the deviant behaviors (Davison, 1968; Marquis, 1970; Marshall, 1973). What is unclear, however, is the use of pornographic stimuli as a precondition for the generation of such fantasies.

Commission of Sex Crimes.

Goldstein, et. al.'s 1970 data on offenders' and a control group's reaction to a "peak experience" with erotica is reproduced below. "Peak experience" in this instance referred to the most memorable depiction of a stimulus, one "which really stood out in your mind the most" (p. 81). Again, keeping in mind that this sample was an incarcerated sample, the results show that as teenagers, deviants did not differ much from controls in

rms of trying to enact the behaviors they had seen. As adults, quarter of the female-object pedophiles did try the behavior picted shortly thereafter compared to thirteen percent of the ntrols, fifteen percent of the rapists, six and seven percent the homosexuals and transsexuals, respectively.

Table 10
Reaction to Peak Experience with Erotica
(Adapted from Goldstein, et. al., 1970)

	Control		Rapist		Male Object Pedo.		Female Object Pedo.		Usera	
	A	T	A	T	A	T	A	T	A	T
shed to try	30%	48%	35	80	35	65	25	40	58	66
ld try	13	28	15	30	15	25	25	20	22	30
N =	46		20		20		20		50	

User: People who were currently avid buyers and consumers of mmercially available pornography.

Adult T: Teen

In Marshall's (1985) sample of eighty-nine sex offenders, lightly more than one third of the child molesters and rapists eported at least occasionally being incited to commit an offense y exposure to forced or consenting pornography. Pornography as n instigator was not deliberately sought out by every offender n this category to arouse them to offend. For some, pornography s an instigator was simply fortuitous. Fifty three percent of hose child molesters who reported being incited to offend by ornography said their use was deliberate in their preparation or committing an offense, as was the case for thirty-three ercent of the rapists. Finally, six of the eight rapists who eported being incited to offend by pornography reported ccasional use of "consenting" pornography to elicit rape antasies which in turn led to the commission of a crime. It is nclear whether the use of this type of material was by choice or ecause it was the only material available.

Finally, Abel, Mittelman and Becker (1985) evaluated the use f erotica/pornography by 256 paraphiliacs undergoing outpatient ssessment-treatment. Regardless of paraphiliac activity, those argeting adults were somewhat more likely to use erotica (60%) han those targeting adolescents (43%) or children (46%).

Categorized according to their primary predispositioning, ifty-six percent of their rapists and forty-two percent of their nild molesters implicated pornography in the commission of their ffenses.

Again, these comparisons have to be viewed with caution.

The disparities in the data can, in part, be accounted for by t questions posed to the respondent and the differences in t samples. In terms of the population differences, Abel's a Marshall's samples are non-incarcerated while Goldstein's samp consisted of incarcerated sex offenders in a maximum secur prison. The Goldstein sample was questioned about trying t behavior depicted in the stimulus to which the respondent h recently been exposed, a stimulus "which really stood out in yo mind the most" (p. 81). This very specific question regardi the imitation of the most memorable depiction (the "pe experience") likely accounts for the lower figures relative those obtained in the other studies. The other two studies, the other hand, used more general questions pertaining to the u of such materials in commission of offenses.

While these figures are suggestive of the implication pornography in the commission of sex crimes among some rapi and child molesters, the question still remains: is ther difference in the rates of offenses among those who pornography versus those who don't? The only data available t directly address this issue suggest that these offenses oc regardless of the use of pornography by the offender (Abel, al., 1985).

Those offenders who did not use pornography did not dif significantly from those who did in frequency of sex cri committed, number of victims, ability to control deviant urg and degree of violence used during commission of the sex cri

The longer the duration of paraphiliac arousal, however greater the use of pornography.

Table 11

Relationship of Erotica and Paraphilias

Characteristic of Paraphilia	Uses erot.	Does not use erot.	Incr. arousal	Decr. arousa
Mean no. of sex crimes	302.0	234.0	421.0	189.0
Mean no. of victims	139.0	200.0	124.0	153.0
Sex crimes/month	1.7	1.4	2.2	1.3
Victims/month	1.0	0.9	1.0	1.0
Duration of paraphilia (mos.)	128.0	86.0*	160.0	99.0
Ability to control behavior[a]	81.0	82.0	75.0	86.(
Age	33.3	32.2	33.7	32.9
Coercion during crime[b]	3.2	3.2	3.2	3.2
Social skills[c]	3.1	2.6*	3.0	3.2
Assertive skills[c]	2.8	2.7	2.6	2.9
	3.3	3.0	3.2	3.3
		86	82	88

[a] 100 = complete ability

[b] 5 = severe coercion

[c] 5 = excellent

d This analysis was conducted on the subgroup that said th "used erotica" (n = 170). The study simply describ "increased arousal" in terms of an increase (or decrease) arousal to their deviant interest.

*$p \leq .001$ using t-tests.

Table reconstructed from Abel, 1985.

Based on these data, the authors suggest that se deviants appear to come from socially deprived environments w stunt their social and other coping skills. The longer duration of the paraphilia, or the earlier the onset, the l likely the paraphiliac was to have used erotica. It is diffi to say, however, to what extent this early exposure contrib to the onset of the deviance.

A number of questions are not addressed in the discussio these data. First, it is not entirely clear what "erotica means. Does it mean the offender enjoys viewing the materia a regular basis? Does it mean use for arousal and masturbat Does it mean use as incitement prior to committing an offe For a child molester, "use" could refer also to the employmen sexually explicit materials to lower inhibitions of a poten victim and to present behaviors that might be imitated (Russ 1975). There also appear to be a few inconsistencies in data. For example, the number of sex crimes of those us erotica (302) is considerably higher than those not using (224), but the mean number of victims shows a difference in opposite direction (139 vs. 200). Also, the rationale for use of a criterion value of p = .001 in combination with multi t-tests remains unclear.

In testimony before this Commission, Abel (1985) sugges on the basis of these data that sexually explicit materials p an important role in the maintenance of these paraphili Greater numbers of deviants report current use of erotica,

use is associated with length of the deviancy, and it appears to play some role in maintaining arousal and masturbatory patterns. As Abel (1985) pointed out, while the use of pornography might decrease the likelihood for some offenders to commit sex crimes in the short run, in the long term, "the pairing or association of deviant fantasies with the pleasurable experience of orgasm perpetuates the deviant sexual interest." It is clear that the role of sexually explicit materials in this maintenance of deviancy needs to be investigated more thoroughly particularly as they relate to repeated offenses.

Summary

While the number of studies on sex offenders has proliferated in the last fifteen years, the etiology of deviancy still remains to be answered.

There is evidence of a correlational relationship between pornography availability and rape offenses in the United States but such evidence remains in need of corroboration by experimental evidence using similar stimuli. Furthermore, correlational data appear inconsistent across cultures. There is little analogous social science evidence on pornography availability and child molestation with the exception of Kutchinsky's recent assertion that increases in availability caused less molestation in Denmark and West Germany (1985). The "causal" assertion here is not only tenuous; clinical evidence of long term use of pornography being correlated with length of the

viancy at least suggests this assertion is debatable.

The contribution of pornography to sexual deviance remains open question. At present, "no single, comprehensive theory explain the development of paraphiliac behavior has yet erged." (Kilmann, et. al., 1982). Competing models include a ychoanalytic view which views the paraphilia as a symptom of an derlying psychopathology, with its origins in unresolved nflicts during psychosexual development, a Freudian view; a havioral model which postulates that the occurrence of sexual riance is a result of classical conditioning processes cluding modeling, reinforcement, generalization, and nishment, much as "normal" sexual behavior also occurs; and a ological model which suggests genetic influences and emphasizes e control of sexual behavior through biological or hormonal ans (e.g., Ball, 1968; Berlin, 1983; Money, 1984).

The 1970 Commission's conclusion that sex offenders have ss exposure to pornography may have been applicable only to rious sex offenders (that is, those incarcerated in maximum curity institutions). At most, a reevaluation of their idence and those from subsequent studies suggest that rather an frequency of exposure, it may be the quality of that posure and the age-of-first-exposure that might help explain bsequent sex behavior differences. Malamuth and Billings 985) have, in fact, suggested that the effect of pornography on pists may be more pronounced as a function of their more strictive home environments, with limited or no information on

sexuality and male-female relations.

It is unfortunate that the nature of the first masturba experiences and the role of pornography in that experience any, also remains a gap in our knowledge for future researc address.

Finally, while self-reports of some offenders appea implicate pornography in the commission of their sex offen the objective data of actual offenses committed which sho significant differences between those who use pornography those who don't have to be viewed as tentative. It is clear in addition to investigating developmental sexual behav patterns among offenders, their arousal patterns as these re to offenses committed should be investigated more thoroughly.

EFFECTS ON THE "AVERAGE INDIVIDUAL"

THE EXPERIMENTAL EVIDENCE

In order to draw conclusions about whether exposur pornography leads to or causes certain effects, one would ha look at the experimental evidence for these causal linkages.

The experimental results are presented in terms of ef in the areas of arousal, perceptions, affective sta attitudes, and behaviors. Two categories of pornographic st have generally been used to sort out differential effect these areas: nonaggressive-pornography and aggres pornography (see, for example, Malamuth and Donnerstein, 1 Donnerstein, 1983). Some question may be raised about whethe fact these two categories are sufficiently representativ distinctions the average consumer or the public at large m make or whether these two categories afford reasonable concep value. Nevertheless, these categories provide a convenient to organize the results from experimental studies.

The Effects of Violent Sexually Explicit Materials

The findings from studies investigating effects of expo to sexually violent materials appear to be fairly unequivo measures in the areas of attitudes and behaviors h consistently demonstrated changes in attitudes and laborat measured behaviors, with the nature of the effect mediate such additional factors as message cues (e.g., whether the fe victim is shown to be abhorring or enjoying the rape)

individual personality differences.

Studies on the effects of exposure to sexually viol material have been conducted primarily in the laboratories Neal Malamuth (at Manitoba, Canada and University of Californ Los Angeles) and Edward Donnerstein at the University Wisconsin. With their respective colleagues, they have util three typical approaches.

The first approach generally has subjects exposed to stir (usually varying consent versus force), with physiological per tumescence and self-report measures of arousal taken dur exposure, followed by questionnaires incorporating depend variable measures (e.g., likelihood of rape, acceptance of r myths and interpersonal violence, acceptance of sexual viole against women (see, for example, Malamuth and Check, 1980, 1 1983).

A second approach typified by Linz (1985) has subje exposed to one of several types of stimuli over time (neutr aggressive, or sexually violent of the "slasher" variety) ur the guise of a film evaluation study. Prior to this exposu measures are generally obtained on psychoticism, in part eliminate participation by subjects who might be especia vulnerable to this type of exposure. The second phase subjects participate in an ostensibly different study in the school where they are asked to take part in a mock rape tr Measures are then obtained at this point which ass punitiveness, rape empathy and similar attitudes.

The third approach has been to expose subjects in the oratory to sexually violent versus comparison material and sess negative effects by utilizing surrogate measures of ressive behavior (e.g., shock intensities on an aggression hine. See, for example, Donnerstein, 1980; Donnerstein and kowitz, 1981).

All three approaches have different virtues which contribute our ability to understand various dimensions to the problem. example, the physiological penile measures of arousal provide independent and objective means of corroborating self-reports. rogate measures of aggression avoids the ethical problems of ducing" actual anti-social behaviors and at the same time can validated by actual self-reports of aggression in sexual avior. Finally, the "massive" exposures afford a first step our efforts to examine the longer-term effects of exposure to ually-explicit materials.

Effects on Fantasies

Only one study has examined the effects of sexually explicit erials on fantasies. Malamuth (1981) presented two groups of e subjects with a slide-audio show. One version depicted rape the other showed a mutually-consenting sexual encounter. lyses of sexual fantasies which subjects were later asked to ate and write down indicated that those exposed to the rape sion were more likely to create aggressive sexual fantasies.

Aggressive sexual fantasies appear to be fairly common among tain groups of offenders. Gebhard et. al. (1965) found that

"patterned rapists" or those who raped repeatedly, significantly more likely than incidental rapists to often er in sadomasochistic fantasies (twenty percent versus percent). Walker and Meyer (1981) found four in five of t rapists to report primarily deviant sexual fantasies while A Becker and Skinner (1985) similarly reported aggressive se fantasies among their outpatient sexual assaulters. What pornography, particularly violent pornography, plays in construction of these fantasies remains to be answered.

Effects on Arousal, Perceptions and Attitudes

Are there differences in effects from exposure to vio versus nonviolent sexually explicit material? An early s (Malamuth, Reisin and Spinner, 1979) had male and female subj exposed to one of the above stimuli or a neutral one. materials presented were pictures from Playboy or Penth magazines for the sexual exposures and from National Geogra for the neutral exposure. Sexually violent depictions incl pictures of rape or sadomasochism whereas the sexually nonvi material had no aggressive elements. After viewing materials, subjects filled out a mood checklist. This followed ten minutes later by an assessment of reactions to after the subjects had viewed a videotaped interview wit actual rape victim as well as an assessment several days lat an ostensibly different study. Both types of stimuli were to reduce the extent to which subjects perceived that pornog may have detrimental effects but neither one affected reac

› rape. Correlational data, on the other hand, showed that ›xual arousal to the sexually violent depictions were ›gnificantly related with a self-reported possibility of ›gaging in rape.

Another study (Malamuth, Haber and Feshbach, 1980) examined e effects of written descriptions of a sexual interaction based › a feature from Penthouse magazine and modified to create a olent and nonviolent version for male and female subjects. In is study, males who had been exposed to the sexually violent ›piction (sadomasochism) perceived more favorably a rape piction that was presented to subjects subsequently. Subjects re found to believe that a high percentage of men would rape if ey knew they would not be punished and that many women would joy being victimized. Finally, of the fifty-three male bjects, seventeen percent said they personally would be likely act as the rapist did under similar circumstances. Fifty-ree percent of these males responded similarly when asked the me question if they could be assured they would not be caught.

In order to draw out the various dimensions in the rtrayals of sexual violence which might explain the exhibition inhibition of sexual responsiveness, Malamuth, Heim and shbach (1980) conducted two experiments on male and female ›dents. The first experiment replicated earlier findings that ›rmal subjects seem to be less aroused by sexual violence than "nonviolent erotica." A second experiment manipulated actions of the rape victim with one version showing her as

xperiencing an involuntary orgasm and no pain. The second
ersion had her experiencing an orgasm with pain. Both male and
emale subjects were aroused to these depictions, with female
bjects more aroused by the orgasm with no pain version while
ie males were most aroused by the orgasm with pain stimulus.
ie authors postulated in this case that under certain
onditions, rape depictions can be arousing, particularly when
ie rape victim is shown experiencing an orgasm during the
ssault. According to the authors, subjects may have
interpreted the events preceding the depiction of the victim's
rousal so that the rape is now viewed as one that is less
ercive and less guilt-inducing.

Three additional studies (Malamuth and Check, 1980a; 1980b;
83) provide further evidence that victim reactions have a
ignificant impact on sexual arousal and behavioral intentions.
sults from one of these studies showed that both male and
male subjects exhibited higher arousal levels when portrayals
owed an aroused female, regardless of whether the context was a
pe or a mutually consenting situation. The second study
alamuth and Check, 1980a) similarly showed that male subjects
d higher penile tumescence scores when viewing a victim-aroused
pe portrayal compared to a portrayal showing victim abhorrence.
ignificant correlations were also obtained between the reported
ssibility of engaging in similar behavior, sexual arousal to
pe depictions and callous attitudes toward rape.

The effect of sexually violent depictions on attitudes has

lso been demonstrated with male and female subjects reporting reater acceptance of rape myths after exposure to such material Malamuth and Check, 1980a, 1985; Malamuth, Haber and Feshbach, 980).

In an attempt to approximate a "real world" situation, lamuth and Check (1981) had male and female subjects view full- ngth features as part of campus cinema showings. The films Swept Away and The Getaway-- represented sexually violent films ereas control subjects viewed a nonviolent feature film. pendent measures were obtained after a week in a questionnaire esented as a separate sexual attitudes survey. These measures cluded rape myth acceptance measures, measures on the ceptance of interpersonal violence as well as adversarial xual beliefs, measures developed by Burt (1980). Results owed that exposure to sexual violence increased male subjects' ceptance of interpersonal violence against women. A similar end, though statistically nonsignificant, was found for the ceptance of rape myths. There were nonsignificant tendencies r females in the opposite direction. In addition to the vantage of external validity from this field experiment, the oblem of demand characteristics in some laboratory experimental tuations is quite effectively dealt with in this study.

Aggressive Behavior

Donnerstein (1980) had male subjects provoked or treated in neutral manner by a male or female confederate, then had them ew one of three films: a sexually explicit film, a film

depicting a rape, and a neutral film. Results of this study si
that when the target of angered subjects was a male, there was
difference in aggressive behavior (measured by shock intensity
an aggression machine) among males in the erotic and
aggressive-pornographic conditions. However, when the target
a female, aggressive behavior was higher only in the aggressi
pornographic film condition, regardless of provocation.

To account for the impact of victim reactions in a r
portrayal, Donnerstein and Berkowitz (1981) had male subje
angered by a male or female confederate. Following instigati
they then watched one of four films: a neutral film, a n
aggressive pornographic film, an aggressive pornographic f
with a positive outcome (where the woman is smiling and offer
no resistance, becoming a willing participant in the end) and
last with a negative outcome, where the woman is shown exhibit
disgust and humiliation. Subjects who were angered by a m
confederate were not significantly more aggressive towards
male instigator after viewing the pornographic or aggressi
pornographic film; those angered by a female, however, sho
significantly higher levels of aggressive behavior in b
aggressive-pornographic conditions, that is, those that portra
a negative and those showing a positive outcome.

What about the effects of positive and negative outcomes
non-angered subjects? The same study (Donnerstein and Berkowi
1981) examined this issue using only female confederat
Results showed that for non-angered subjects, only

ggressive-pornographic film with a positive ending elicited igher aggression levels. Subjects exposed to this version also aw the woman portrayed as suffering less, enjoying more, and ›ing more responsible for her situation. These findings suggest ıe importance of disinhibiting factors that might produce a ›adiness to respond (e.g., anger or frustration) and message ıes (e.g., enjoyment of sexual coercion) as enhancing the .kelihood of laboratory aggressive behavior. These are also ıort-term effects although with appropriate cues, there might be ›ng-term effects as well. This remains speculative at this ›int (Malamuth and Ceniti, 1986).

A recent study demonstrates that such laboratory aggression not always manifested when these "enhancing" factors are ›sent (Malamuth and Ceniti, 1986). Two groups of subjects were ›posed to either sexually violent or sexually nonviolent ›pictions in movies, books and magazines over several weeks and ›mpared to a third no-exposure control group. Several days ıter, in what was presented as a different study on ESP, ›asures of laboratory aggression using aversive noise were ›tained in the typical aggression paradigm. No differences were ›und among the three exposure conditions. The authors ›eculated that a more immediate measure, in combination with imuli which "prime" thoughts and feelings relevant to the hibition of specific behaviors might be more conducive to an dividual's performance of such behaviors.

An important study that clarifies the interaction of

motivational, message and inhibitory factors as predictors
self-reported sexual aggression (Malamuth, In Press) h
demonstrated that (a) such factors as hostility to wome
dominance and acceptance of interpersonal violence, arousal
sexual violence, and sexual experience all correlate wi
sexually aggressive behaviors; (b) the occurrence of the
aggressive behaviors is better "explained" or "predicted"
these factors in combination; (c) arousal to sexual aggressi
correlates with dominance and hostility to women and is also
important predictor of sexual aggression; and (d) these sel
reports of sexually aggressive behavior are also correlated wi
laboratory measures of aggression.

Effects of Massive Exposure

In a study designed to evaluate the effects of massi
exposure to sexual violence and to further explore the componen
of the desensitization process, a series of four studies -- a
part of a Ph.D. dissertation were conducted. (Linz, 1985
College males were exposed to a series of "slasher films," all
rated, using a formula of sexual explicitness juxtaposed wi
much blood and gore. A typical example is a scene from Toolb
Murders showing a naked woman taking a tub bath, masturbatin
then being stalked and killed with a power drill by a mask
male. Comparisons were also made among R-rated nonviolent fil
and X-rated nonviolent films, both of which included sexual
explicit scenes (the former were of the teenage sex fi

variety).[1124]

After viewing one film per day for five days, subjects asked to participate in what was presented as a different s -- a pretest of a law school documentary -- then complet questionnaire assessing the defendant's intentions, the vict resistance, responsibility, sympathy, attractiveness, injury worthlessness.

Among his findings:

-- Those who were massively exposed to depictions violence against women came to have fewer negative emoti reactions to the films, to perceive them as significantly violent, and to consider them significantly less degradinc women.

-- This desensitization appeared to spill over int different context when asked to judge a female victim of a r Those massively exposed to sexual violence judged the victi the assault to be significantly less injured and evaluated he less worthy than did the control group.

-- There were no differences between subjects exposed to teenage sex film or the X-rated film and the control group either pretrial measures on objectification of women, rape r acceptance or the acceptance of conservative sex roles or on

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[1124] The following films were used: R-rated nonviol "teen sex" films; Porky's, Fast Times at Ridgemont High, Priv Lessons, Last American Virgin, and Hots. X-rated nonviol films; Debbie Does Dallas, Health Spa, The Other Side of Jul Indecent Exposure, and Fantasy. R-rated "slasher" films; Te Chainsaw Massacre, Maniac, Toolbox Murders, Vice Squad, an Spit on Your Grave.

posttrial measures (defendant guilt, verdict, vict
responsibility).

-- Two movies (about three hours viewing time, about twe
to twenty-five violent acts) were sufficient to obtain
desensitization effect similar to the effect obtained aft
exposure to five movies, suggesting that desensitization
occur fairly rapidly.

-- These findings were most pronounced for those subje
high on psychoticism and exposed to the highly sexually viol
film. These individuals were significantly more likely
endorse the use of force in sexual relations and to evaluate
victim portrayed in the rape case as less credible, less worth
and less attractive.

The effectiveness of debriefing procedures were assessed
the measures were found to be generally effective in reduci
negative effects observed after film exposure.

Krafka (1985) used these same R-rated "slasher" films in
study similar to Linz's but using female subjects. Krafka al
used these films as stimuli for a "violent" condition a
contrasted this with exposure to sexual violence and to an
rated set of films. The effects of massive exposure obtained
male subjects were absent for females.

It is clear that for males, exposure to sexually explic
materials juxtaposed with violence directed at a female tar
enhances calloused attitudes in similar situations involvi
women as victims.

The Effects of Nonviolent Sexually Explicit Materials

The importance of specifying various contingent condit under which certain effects may or may not be obtained bec immediately obvious when one looks at the findings in this a It is also clear that while there are a greater number of stu that examined the effects of nonaggressive sexually expl materials, particularly if one includes the 1970 Commis studies, the diversity of dependent variable measures as wel experimental stimuli used is also greater than those in the of sexual violence.

A number of different effects from a variety of studies been obtained in the areas of affect, attitudes as wel behavior.

Affective and Perceptual Responses

Wishnoff (1978) exposed sexually inexperienced undergrad females to explicit erotic films. He found that sexual anx decreased while expectations about engaging in intercourse in near future increased significantly.

Along the same lines, Byrne (1977) and Byrne and B (1977) suggested that initially, exposure to sexually expl materials may offend and disturb some, or produce apprehensio others. These authors then hypothesized that frequent expo reduces negative reactions and negative appraisals of t reactions. Once tolerance increases, the stimuli leads greater pleasurable sexual fantasies and greater enjoyment hypothesis generally supported by their data.

Perceptual judgments have also been demonstrably affected by posure, particularly in the areas of comparative judgments and timations of reality. Kenrick and Gutierres (1980) found bjects' judgments of the attractiveness of an average female e lowered by exposure to media females. Proposing that such fects could be more significant in the realm of sexually plicit materials, Gutierres, et. al., (1985) did a follow-up ently in which subjects were asked to assess characteristics others after exposure to slides of Playboy and Penthouse dels. In four successive experiments, target persons rated re a stranger and the subject's spouse or long-term live-in tner. Both types of target persons were more negatively rated y by male subjects. Similar results were obtained after males e exposed to "beautiful females in sexually enticing ivities" (sexually provocative poses or precoital and coital ivities) in contrast to males exposed to less attractive ales (Weaver, Masland, and Zillmann, 1984).

This perceptual contrasting of aesthetic appraisals is rtingent on whether the rated target and the comparison target associated (Melamed and Moss, 1975; Griffitt, 1971). For mple, when an individual is presented in the context of tractive friends, that individual tends to be rated as more tractive." In the case of comparing media models with a nificant other, on the other hand (where presumably there is association between the target and the comparison), the mparison stimulus, or the media model in this case, "provides

an anchor or contrast point for the evaluation of the ta stimulus." (Melamed and Moss, 1975, p. 129).

Hatfield and Sprecher (1983) exposed males to "a Play type article -- a romantic seduction scene designed to arousing." They predicted that a sexually aroused male w exaggerate a woman's sexual desirability as well as her se receptivity. Male subjects were then shown a photograph o potential date." Both predictions were confirmed. Aroused according to the authors, were more likely to agree that t potential date was "amorous," "immoral," promiscuous," "willi "unwholesome," and "uninhibited."

Different results were obtained by Dermer and Pyszczy (1978) in an investigation of the effects of erotica on mal responses to women they loved. They were particularly interes in whether erotica would enhance "loving" or "liking" respons Males who read an erotic story (an explicit account of se behaviors and fantasies of a college female) reported grea romantic involvement than those in a control condition. That they were more apt to report expressing "loving" than "liki statements to their loved ones when sexually aroused than w not sexually aroused.

In looking at the above studies as a whole, it is qu possible that with "loved ones," could accentuate percept judgments while stimuli that primarily enhance arousal reacti (as in the Hatfield and Sprecher, 1983 and Dermer Pyszczynski, 1978 studies which used textual material) enha

re "love-oriented" responses for loved ones and "lust-oriented" sponses in a dating situation.

Effects on Behaviors.

Initial studies conducted for the 1970 Commission showed at sexually explicit materials had either no effect on sexual navior or when effects were observed, these were generally ight increases in those sexual activities already in the ividual's established repertoire (Amoroso, et. al., 1970; rne and Lamberth, 1970; Kutchinsky, 1970). These behavioral fects generally occurred within a short period after exposure. wever, as one of the 1970 research investigators observed, it s also possible that,

> the effects of erotica on behavior could have been obscured in the initial body of research because two major components of the influence process were missing from the early investigations: the extended time period necessary for change to occur and the specification of the depicted behavior as well as the relationship between the interactants. (Byrne and Kelley, 1984).

While more recent studies have examined the impact of nviolent sexually explicit materials after repeated exposure, hers have also examined behavioral effects after short-term posure. It is in the latter area of behavioral effects from posure to nonviolent sexually explicit stimuli where apparently nflicting results are found.

Baron and Bell (1977) exposed male students to stimuli that ncluded seminude females, nudes, heterosexual intercourse and me explicit erotic passages. The mild erotic stimuli (semi- des and nudes) inhibited aggression levels whereas the

"stronger" stimuli had no effects. A follow-up study (Baron, 1979), this time on female subjects, using the same stimulus materials found mild stimuli inhibiting aggressive behavior while the stronger stimuli increased aggression. Both these studies measured aggressive behavior via "shocks" delivered on an aggression machine.

In another study, photographs variously depicting "nonerotica," nude females, and couples in sexual activities were shown to male subjects (Zillmann and Sapolsky, 1977). Additionally, subjects were either provoked or unprovoked. For the latter group, no differences in aggression levels by type of stimulus were observed. No differences were observed in aggression levels for subjects who were provoked either, although respondents in this condition also exhibited lower annoyance levels. The authors explained these findings in terms of the aggression-reducing effect of relatively non-arousing but usually pleasant sexually explicit images which act to reduce annoyance or anger and consequently, aggressive behavior.

Along these lines, Sapolsky (1984) has suggested that content characteristics have an impact on affective states (that is, how pleasing or displeasing the stimulus is) as well as on arousal levels. The combination of these factors appear to produce differential responses.

Situational factors such as provocation and the removal of restraints against aggression appear to further mediate the effects of nonviolent pornography on viewers. Donnerstein,

nnerstein and Evans (1975) found that "mild erotica" (semi-
les and nudes from Playboy) inhibited aggressive responses in
ntrast to "stronger erotica" (frontal heterosexual nudes in
ulated intercourse and oral-genital contact) which enhanced
gression, particularly for previously provoked subjects. A
sequent study similarly showed that a pornographic film (black
white stag film depicting oral, anal intercourse and female
osexual intercourse) increased aggression levels among angered
es to a significantly greater extent than a neutral film
nnerstein and Barrett, 1978).

In comparing the effects of both aggressive and erotic films
aggressive behavior of male subjects, Donnerstein and Hallam
78) found both types of stimuli to increase aggressive
avior against both a male and a female target. However, when
se subjects were given a second opportunity to aggress, these
ponses increased in the pornographic film condition for the
ale but not for the male target. The second aggression
ortunity, the authors suggest, acts to reduce restraints on
gression against women.

In sum, the experimental effects from exposure to nonviolent
rnographic material appear to be mediated by a number of
nditions: the strength of the stimulus to induce arousal, the
fective nature of the stimulus, and situational factors such as
e removal of restraints against aggression.

Effects from Longer Term Exposure.

A number of studies, both from the 1970 Commission and more

ecent ones, examined the effects of "massive" exposure to
›rnography. "Massive exposure" in these studies means exposure
ver a duration of one to several weeks. Mann, Sidman and Starr
1970) exposed married couples in four consecutive weekly
ssions to sexually explicit films or to nonerotic films (for
ıe control group). Sexual activities were recorded in diaries
the subjects during the exposure period and attitudes toward
rnography also assessed both prior to and after exposure.
xual activities increased in frequency during exposure days
though these activities were ones these subjects normally
ıgaged in (i.e., they were not related to specific ones
rtrayed in the stimulus materials). An additional finding was
at the reported stimulating effect grew weaker as the weeks
ogressed. Whether this diminution is attributable to boredom
to habituation is not entirely clear.

Howard, Reifler and Liptzin (1971) similarly exposed male
llege students to heavy doses of pornographic films,
otographs, and reading material during ninety-minute sessions
er a three-week period. Experimental subjects could choose
›m among these materials and other "nonerotic" ones during the
rst ten sessions. This was followed by three sessions where
e original pornographic material was replaced by new ones.
ring the last two sessions, the "nonerotic" materials were
‹en away. Control subjects were not exposed to these types of
terials. The findings, based on physiologic and attitudinal
ıasures, revealed initial high interest which faded rapidly with

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repeated exposure. After this period of unrestricted exposu the provision of new materials failed to revive intere Decreased penile response was measured as well as concomit reductions in other responsiveness measures (e.g., heart ra respiration rate and skin temperature). While the auth interpreted these results in terms of boredom, Zillmann Braynt (1984) suggested that habituation is a potent alternative explanation based on the premise that contin exposure to emotion-inducing stimuli produces declines in arousal component of the reaction: evidence that habituat effects might be occurring.

To test this hypothesis, Zillmann and Bryant (1984) eighty male and female undergraduates randomly assigned t massive, intermediate, no exposure or control group. Subjects the three experimental groups met in six consecutive wee session and watched six films of eight minutes duration ea with varying degrees of exposure to the explicit sex fil Ostensibly, the subjects were to evaluate the aesthetic aspe of these films. All erotic films depicted heterosex activities, mainly fellatio, cunnilingus, coition, and a intercourse, none of which depicted infliction of pain. The n erotic films were educational or entertaining materials, previously judged as interesting. Experimental subjects retu to the laboratory one week after treatment and were then exp to three films of varying degrees of explicitness (precoit oral-genital sex and intercourse, and sadomasochism

stiality) followed by measurements of excitation levels (heart te and blood pressure) and affective ratings.

Two weeks after initial treatment, subjects were randomly signed (within initial exposure treatments) to view one of the llowing: (a) a film depicting oral-genital sex and hetero- xual intercourse; (b) a film depicting sadomasochistic tivities; (c) a film featuring bestiality; (d) no film. asures of aggressive behavior also were obtained at this point.

The results three weeks later indicated that with increasing posure to various explicit stimuli, arousal responses minished, as did aggressive behavior. Furthermore, more usual or "harder" erotic fare appeared to grow increasingly re acceptable with subject evaluations that the material was fensive, pornographic or should be restricted progressively minishing. Measures of sex callousness suggested further bituation effects as did projective measures of the commonality these behaviors. According to Zillmann and Bryant, these fects were, "evident for both male and female subjects." milar habituation effects after "massive exposure" were ported by Ceniti and Malamuth (1984) for subjects who were orce-oriented," effects which were most pronounced with posure to sexually violent depictions. Arousal patterns were t affected, however.

An earlier report on other aspects of the same study illmann and Bryant, 1982) showed that subjects also exhibited eater sex-callousness, using measures developed by Mosher

(1970). They also showed some cognitive distortion in terms exaggerated estimates of the prevalence of various sexu activities as a result of massive exposure.

There is contrary evidence from Linz (1985) on the effe of massive exposure to nonviolent sexually explicit materials a study described earlier under Effects of Massive Exposure Sexual Violence. Subjects exposed to R-rated "slasher" fil "teen sex" films and "X-rated nonviolent films"[1125] did not s the same effects in a rape-judgment situation as did t "slasher" films which showed perceptual changes described desensitization to film violence and to violence against women

Another investigation into the effects of massive expos to nonviolent sexually explicit materials tested the habituat hypothesis (Zillmann and Bryant, In Press) using both male female students and adults from a metropolitan commun similarly examined effects of massive exposure. This time, "behavior" of interest was choice of entertainment material. weeks after exposure, subjects were provided an opportunity watch videotapes in a private situation with G-rated, R-rated

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[1125] Psychoticism measures included such items as following (Linz, 1985):

(a) The idea that someone else can control your thoughts.

(b) Having thoughts about sex that bother you a lot.

(c) The idea that something is seriously wrong with y body.

(d) Never feeling close to another person.

(e) Feeling lonely when you are with other people.

rated programs available. This opportunity to view was ovided during an ostensible "waiting period" between ocedures, with the subject's choice of entertainment and length viewing unobtrusively recorded. Subjects with considerable ior exposure to common, nonviolent pornography showed very ttle interest in this type of fare, choosing instead to watch re uncommon materials that included bondage, sadomasochism, and stiality. These effects, while observable among both males and males, were again more pronounced among the former.

While habituation is certainly a plausible explanation for ese findings, choice of entertainment fare on the basis of imulus novelty cannot be precluded entirely (see Kelley, In ess). An examination of the mean amount of time spent viewing e video tapes shows that for those massively exposed, male udents watched an average of three and a half minutes of ncommon fare" (featuring bondage, S & M, bestiality) while male students watched an average of a minute and a half, with ewing times for their nonstudent counterparts only slightly gher. Keeping in mind that subjects had fifteen minutes of ewing time, the graduation to a preference for stronger fare, habituation, does not seem to be firmly supported by the data. rthermore, the measurement situation might also be viewed as ermission-granting," with choice of what might normally be nsidered taboo material being more permissible or socially ndoned. One could argue that greater availability of these terials in the real world might also be analogous to an

indication of social sanctions being lifted, so to speak, and laboratory evidence obtained here certainly merits m attention, perhaps through longitudinal studies.

Further measures were obtained from the same samples subjects in the last study described above in the areas "sexual satisfaction" and "family values," both through extensive battery of questions (Zillmann and Bryant, 198 1986b). Subjects were asked how satisfied they were with th present sexual partner, their partner's physical appearan affectionate behavior, sexual behavior, commitment and so for Their findings showed significantly increased dissatisfaction these various areas of sexuality after massive exposure.

In the area of "family values," a variety of questi tapped attitudes on pre-marital and extra-marital s estimations of occurrences of "sexual faithfulness" in population, and perceptions of the institution of marriage divorce. Again, massive exposure appears to have increa acceptance of pre-marital and extra-marital sex and diminis the importance of the institution of marriage. These findi have to be viewed with caution since the large number statistical tests conducted increases the chances of obtain false positive conclusions. Because of the complexity of experimental procedures, the long battery of questions asked, the absence of a measure validating the effectiveness of cover story, we must also view these findings as tentative worthy of further examination.

On the basis of the above findings, it appears that sh term effects have been observed in the laboratory but under specific conditions. These conditions should be fur elaborated on in future research. Massive exposure stu varying the lengths of exposure, on the other hand, suggest certain types of effects may occur with long-term exposure. question arises whether this is true of all types of sexu explicit stimuli that do not have any violent elements.

A recent Canadian study has tried to address this i (Check, 1985). Four hundred thirty-six college students nonstudent metropolitan Toronto residents recruited by mean advertisements, were exposed over three videotape viev sessions to one of three types of materials, or to no materia all. The stimulus materials were constructed (primarily bec no materials could be found that exclusively contained intended manipulations) from existing commercially avail entertainment videos to represent one of the following:

1. Sexual violence -- Scenes of sexual intercourse which included a woman strapped to a table and being penetrated by a large plastic penis.

2. Sexually explicit and degrading -- Scenes of sexual activity which included a man masturbating into a woman's face while sitting on top of her.

3. Sexually explicit -- Sex activities leading up to intercourse between a man and woman.

These categorizations were validated in prelimir questionnaires assessing subjects' perceptions of th materials. Results indicated that exposure to both the sexu violent and the nonviolent dehumanizing pornography (1) were

likely to be rated "obscene," "degrading," "offensive" a
"aggressive;" (2) tended to elicit more pronounced feelings
anxiety, hostility and depression; and (3) tended to
successfully differentiated from the materials classified
"erotica." The patterns were less clear on reported likelih
of rape measures and reported the likelihood of engaging
coercive sex acts. While those in the violent and in t
degrading exposure conditions reported significantly great
likelihood of engaging in these behaviors compared to the contr
group, an effect more pronounced among those with hi
psychoticism scores, those exposed to the "erotica" stimulus d
not differ significantly from either the control or bo
pornography conditions. The findings also have to be viewed wi
caution as the exposure conditions were not completely equivale
(i.e., the no-exposure control group came in for a single sessi
while the experimental groups came in for four sessions),
caveat Check recognized and discusses. Finally, it is n
entirely clear what differential effects on the exposure grou
the preliminary instructions to all subjects might have had whi
included some reference to the study being funded by the Fras
Commission on Pornography.

Similar findings were obtained by Senn (1985) for fema
subjects exposed over four sessions to slides of "erotica
"nonviolent dehumanizing pornography," and "violent pornography
The first class of materials were described as mutual
pleasurable sexual expression between two individuals presen

as equal in power. The second category was described as ha no explicit violence but portraying acts of submission (fe kneeling, male standing; female naked, male clothed) while third included acts of explicit violence in the se interaction (e.g., hair pulling, whipping, rape).

Both violent and nonviolent pornography resulted in gre anxiety, depression and anger than erotica and both were reliably differentiated from the latter on a number of affec dimensions, with "erotica" consistently rated more positively

These findings on non-violent, "degrading" pornography by no means definitive but they do suggest the importanc examining the effects of various content attributes.

Individual Differences.

Not everyone reacts in the same way to sexually expl materials. Researchers have examined various indivi explanatory variables which might explain more fully individuals respond in different ways. We do not intend exhaustive summary of the variety of individual attribu examined but merely wish to illustrate that observed effects mediated by a number of factors. Three sets of factors suffice for discussion.

One characteristic which has been examined is gender. had often been asserted that females are less interested in than males. Some of the early studies on sexual beha (Kinsey, Pomeroy, Martin and Gebhard, 1953) concluded t females were disinterested in pornography and were less aro

it. The same sex differences were reported in the national rvey of the 1970 Commission (Abelson, et. al., 1970).

Experimental findings, however, seem to suggest otherwise. les and females in laboratory-exposure situations reported the me levels of arousal in response to sexually explicit stimuli igusch, et. al., 1970; Byrne and Lamberth, 1971; Griffitt, 73). Females, however, are also more apt to report negative fect toward erotic stimuli, that is, they report more shock, sgust, and annoyance than males (Schmidt, et. al., 1973). se differences, not surprisingly, are even more pronounced en aggressive sexual themes such as rape portrayals are loyed (Schmidt 1974). The context of the portrayal is also gnificant as Stock (1983) demonstrated. Female subjects posed to an eroticized version of a rape exhibited high arousal vels while a version which emphasized the victim's fear and n elicited negative affective reactions and lower arousal vels. Krafka's (1985) female subjects did not exhibit the same gative effects that Linz's (1985) males did after exposure to rated slasher films which the former attributed to some otional distancing because the victim in these films was variably female.

Personality differences also mediate effects. One rsonality dimension which has been examined is "psychoticism" ysenck and Eysenck, 1976) which Barnes, Malamuth and Check, 84a, 1984b) found to be positively related to the enjoyment of rce and unconventional sexual activities. Linz (1985) and

eck (1985) similarly found psychoticism scores to be highly rrelated with the acceptance of rape myths.

Finally, experiential factors also help explain response fferences. Those with more previous experience with sexually plicit materials also tend to be less inclined toward strictions (Newsweek-Gallup Survey, 1985) and also tend to hibit more sex-calloused attitudes (Malamuth and Check, 1985) d more self-reported sexually aggressive behavior (Check, 85).

Summary for Violent and Nonviolent Sexually Explicit terials.

In evaluating the results for sexually violent material, it pears that exposure to such materials (1) leads to a greater ceptance of rape myths and violence against women; (2) have re pronounced effects when the victim is shown enjoying the use force or violence; (3) is arousing for rapists and for some les in the general population; and (4) has resulted in sexual gression against women in the laboratory.

Malamuth's (In Press) research has further demonstrated that ch attitudes as rape myth acceptance and acceptance of violence ainst women are correlated with arousal to such materials and th "real-world" sexual aggression and that subjects who have monstrated sexual aggression in the laboratory are also more kely to report using coercion and force in their actual sexual teractions. The validation of the measures used in his udies, the use of physiological measures of arousal, and the

attempt to systematically examine patterns among differ populations with a variety of measures, arousal, attitudinal behavioral, all tend to provide the type of convergent validat we feel is required of social science evidence.

We are less confident about the findings for nonviol sexually explicit materials and we hasten to add that this is necessarily because this class of materials has no effects because the wide variety of effects obtained needs to be m systematically examined and explained. We can speculate, as h others, about potential explanations regarding some of th differences. For example, Check and Malamuth (1985) have poin to the differences between Mosher's (1970) lack of effects on callousness and Zillmann and Bryant's (1982) finding of grea sex callousness from exposure to nonviolent sexually expli stimuli (using the same scale developed by Mosher) as possi attributable to a difference in stimulus characteristi Mosher's film, based on his own descriptions, depicted "m affection than is typical of much pornography", while Zillm and Bryant's (1984) material tended to portray women "nondiscriminating, as hysterically euphoric in response to j about any sexual or pseudosexual stimulation, and as eager accommodate seemingly any and every sexual request" (p. 2 Check and Malamuth (1985) maintain that the portrayal in Zillm and Bryant's study suggests "a dehumanized portrayal of wom which had the effect of generating disrespectful, antifem attitudes in both male and female subjects" (p. 205).

This explanation could conceivably hold for the differences tween Linz's (1985) findings and those of Zillmann and Bryants 984). Because specific attributes that may characterize these lms (other than the fact that they contain no violence) and plain their effects are either confounded (i.e., more than one ctor is emphasized, making it difficult to attribute results to particular one), or are not clearly explicated, it is more fficult to say definitively that this particular class of terials has a particular pattern of effects. There are very ntative suggestions that the manner in which the woman is rtrayed in the material (i.e., whether she is portrayed in a meaning or degrading fashion) might be an important content ctor but this is clearly an area that should be investigated. rtainly, the theoretical, (and many will argue the common-nsical) reasons for mediating effects on the basis of content es are already available from social learning theory (Bandura, 77; Bandura, et.al., 1975).

Some Methodological Considerations

As we have done for previous sections describing different pes of data collection procedures with different populations, need to consider certain issues that pertain to experimental udies that will help clarify our evaluation of research ndings. We will consider five issues in particular which are obably most often mentioned: the problem of the ability to neralize the results outside of the laboratory (what searchers call "external validity"); the problem of "the

lege student" as volunteer subject; the measures used to lect "anti-social behavior"; ethical issues; and the rationalization of "pornography."

Ability to Generalize Experimental Findings.

The problem of the "artificiality" of the experimental tuation is an issue not new to social psychologists (see scussions by Berkowitz and Donnerstein, 1982; Littman, 1961). 'le it is true that the experiment is indeed "artificial," it so by design. If one wanted to examine if X "causes" Y, a essary condition for establishing such a causal connection is elimination or control of other factors which may also affect Such a condition then obviates a "real-world" setting in ch numerous factors interact and jointly impinge on the dividual. Littman (1961) maintains that systematic perimental designs are designed to test "more universal eoretical propositions that apply to large groups of human ings." That is, they are designed to test theorized lationships about human behavior that makes the issue of presentativeness of the experimental setting and subjects of sser consequence. Berkowitz and Donnerstein, 1982, offer a gent summary of arguments on this point. (See also Kruglanski, 75).

The College Student as Experimental Subject.

The issue of representativeness has also been raised with gard to the college student as experimental subject, with the plication that the college student hardly represents "real

eople" in the "real world." To reduce the issue to one of emographics is an oversimplification. If we are interested in he question of human response to sexually explicit materials, hy should being in college or being male for that matter be a roblem? As Berkowitz and Donnerstein (1982) point out, "The eaning the subjects assign to the situation they are in and the ehavior they are carrying out plays a greater part in termining the generalizability of an experiment's outcome than oes the sample's demographic representativeness or the setting's undane realism." (p. 249)

Having said that, we also need to point out that there are, fact, other attributes of the subject who participates in periments involving exposure to sexually explicit materials at might have an impact on the interpretations of experimental sults. Results from various studies suggest that:

1. Males, more than females, are likely to volunteer for x-related experiments (Kenrick, et. al., 1980).

2. Subjects who are willing to watch sexually explicit terials also tend to be sexually liberal, more sexually perienced, less anxious about sexual performance, and have wer objections to pornography (Kaats and Davis, 1971; Farkas, . al., 1978; Wolchick Spencer and Lisi, 1983; Wolchick, Braver d Jensen, 1985).

3. Volunteer rates drop for both men and women the more trusive the experimental conditions. Volunteer rates dropped two thirds (from thirty-eight percent to thirteen percent) for

women and by over half for men (from sixty-seven percent thirty percent) with the requirement of partial undressing accommodate physiological arousal measurements (Wolchick, Brav and Jensen, 1985).

If participants are in fact more liberal, more experience and more accepting of sexually explicit materials, then it certainly plausible that the "error," if there is one, might in the direction of null findings, while observed effect particularly in the short term, might be indicative of the robustness (Eysenck, 1984). In any case, it is apparent th these other attributes ought to at least be considered in bo the design and interpretation of experimental studies involvi sexually explicit materials.

Ethical Considerations. While some bias may be inherent the volunteer subject in general (Rosenthal and Rosnow, 1969) a in the volunteers for experiments involving sexually explic materials in particular, we are constrained even more understandable concerns regarding the more "vulnerable" segmer of the population. Sherif's (1980) observations about the la of evaluation procedures for the effectiveness of debriefi subjects in one particular study (see Malamuth, Heim a Feshbach, 1980 for the study in question and Malamuth, Feshbac and Heim, 1980 for response to Sherif, 1980) have prompt researchers to measure debriefing effects (Malamuth and Chec 1984; Linz, 1985; Krafka, 1985;) and also to eliminate fr participation those who might be more vulnerable to the effec

of exposure to materials in these studies. For example, Linz (1985) measured potential subjects on a psychoticism scale and eliminated from participation those who had high scores on this measure. Krafka (1985) excluded from her female subject pool those who were sexually inexperienced because of earlier findings (Wishnoff, 1978) that when these types of females were exposed to explicit erotic films, their sexual anxiety diminished while their expectations about engaging in sexual intercourse increased. The trade-off between ethical concerns and representativeness is evident in Krafka's observation: "Although this restricts the population to which the present results generalize, the author was unwilling to show sexually inexperienced females degrading images of sexual behavior and, especially, pornographic rape depictions." (p. 17).

These efforts to protect subjects from potential harm are, of course, laudable and a healthy response to concerns that have been raised. In terms of the final pool of subjects who participate in pornography experiments, however, the self-selection process described above and the researcher-imposed selection process must circumscribe our evaluation of research results.

Measures of Behavioral Effects.

The range of dependent variable measures used in these studies is reasonably diverse. The use of similar measures across studies allows for better validation and the use of varied measures also provides the advantage of convergent validation.

will focus on behavioral measures of effects in this cussion and briefly discuss how attitude measures may or not predict behavior.

Four categories of behavioral measures have been used in se studies:

1. Measures of aggressive behavior. The Buss aggression hine, sometimes know as a "shock box," has been widely used in oratory experiments in the area of media violence and ressive behavior (see reviews by Andison, 1978; Comstock, In ss). Donnerstein and his colleagues have used this measure to mine similar effects of exposure to violent and nonviolent nography and aggressive behavior (Donnerstein, et. al., 1975; erstein and Barrett, 1978; Donnerstein, 1980; Donnerstein and owitz, 1981).

The procedure usually involves putting the subject in a rning" situation where the subject's task as "teacher" is to sure that a "learner" (usually an experimental confederate) ers a given lesson. When the learner makes a "correct" ponse, the subject is instructed to reward him or her by ssing a button illuminating a light. Whenever the learner es an error, he is punished by means of an electric shock. sequence of responses has, of course, been preprogrammed. subject's "aggressive tendencies" are recorded by means of intensity and the duration of the shock which, in reality, is received by the confederate (see Baron, 1977b for discussion this measure).

While this procedure has been criticized (see, for example, aron and Eggleston, 1972), subsequent procedural modifications ave increased its validity and has, in fact, been found to be ighly predictive of physical aggression (Baron, 1977b). The uestion, however, of this measure's predictive validity in the rea of sexually aggressive behavior outside of the laboratory till remains open since no efforts have been directed at xamining this question.

Other surrogate measures of aggressive behavior have ncluded the infliction of aversive noise (Cantor, et. al., 1978; alamuth, 1983) and infliction of "pain" to an experimental onfederate in a retaliation move where the subject has the pportunity to apply too much cuff pressure in a blood pressure eading situation (Zillmann and Bryant, 1984). Some validation s offered by Malamuth (1983) for the use of the aversive-noise easure with evidence that attitudes about real-world aggression such as wife battering and rape) are clearly correlated with evels of laboratory aggression against females, suggesting some inkage between laboratory aggression and external responses utside the laboratory.

2. Judgments toward sexual assailants. In numerous tudies, dependent measures have been obtained by having subjects espond to a rape case by evaluating both the victim and the ssailant. While perceptual measures are most often used in this istance, one could also presumably consider delivering a verdict r a sentence as "behavior." In these instances, the

esentation of a mock trial situation provides an element of dane realism to the experimental situation. The studies by z (1985) and Krafka (1985) are excellent attempts at further inishing Wemand characteristics of the experimental situation ce the location of this phase of the experiment was conducted the law school moot court where subjects were asked to luate what is purported to be the details of an actual rape se. An earlier study, a field experiment, by Malamuth and ck (1981) provides what may be the best procedure for iminating demand characteristics and the measurement of effects a setting that affords both control and realism. In this dy, subjects were asked to watch the experimental films which re being shown on campus as part of the regular campus film ogram. Dependent measures were obtained a week later in what s presented as a public opinion survey. More studies in this ea are clearly called for.

3. Choice and Viewing of Pornographic Fare. Zillmann and ant (In Press) utilized a unique way of measuring behavioral fects of exposure by examining subjects' choice of ertainment fare in an unobtrusively measured procedure. In ir study of the effects of massive exposure, the following ocedure was used to determine subjects' preferences for ertainment fare after they had been repeatedly exposed to nography or to a neutral stimulus in the control condition: e subjects were met individually by the experimenter and formed of a brief delay caused by equipment problems. The

bject was then taken to another waiting area (ostensibly)ther student's office) with a television set, a video tape corder, and some video tape cassettes (including general terest and adult tapes ranging from "common erotica to graphic pictions of relatively uncommon sexual practices") and invited feel free to watch. To ensure the subject knew he could watch privacy, the subject was told the experimenter would call him the phone to report to the designated room. Unknown to the bject was the fact that each cassette tape was programmed to it a unique signal such that when the tape was played, an event corder also recorded the amount of time spent watching.

The advantage of this procedure is its experimental as well ecological realism.

4. Self-reports of Aggressive Sexual Behavior. Two types measures have been used to describe sexually aggressive navior: a behavioral inclination measure operationalized by a lf-reported likelihood of raping and using force in sexual teractions (see Malamuth, Haber and Feshbach, 1980; Malamuth, 31; Briere and Malamuth, 1983) and a self-report inventory veloped by Koss and Oros (1982) and used in several studies ee Malamuth, 1982; Malamuth, In Press; Check, 1985). The ter includes a range of sexual behavior measures from saying ngs one does not mean to obtain sexual access to using various grees of physical force.

An instrument developed by Burt to measure attitude (1980) been used in a number of studies (Koss, 1986; Linz, 1985;

ıfka, 1985; Malamuth and Check, 1981; Malamuth, 1981) to tap ee dimensions: the acceptance of rape myths, the acceptance interpersonal violence; and the acceptance of violence against ıen. The following are examples of the rape myth acceptance ısure:

> When women go around braless or wearing short skirts and tight tops, they are just asking for trouble.
>
> Women who get raped while hitchhiking get what they deserve.

In evaluating these attitudinal measures and the laboratory ıasures of sexual behavior, two important questions have been ıised to which we have alluded earlier. First, do attitudes ıedict behavior? And second, do laboratory measures of ıgressive behavior predict actual aggressive behavior?

On the first question, Malamuth and his colleagues have ımonstrated a consistent correlation between Burt's (1980) ıtitudinal measures and their own measures of behavioral ıtentions (Briere and Malamuth, 1983; Malamuth, 1981; Malamuth, ıber and Feshbach, 1980; see also Malamuth and Briere, 1986 for discussion on the attitude-behavior question in the area of ıxual aggression). Koss (1986) has similarly demonstrated a ıgh correlation between these sex-stereotyped beliefs and self- ıports of sexual aggression. We do not have these same ıtitudinal data from those members of the population who provide ıe more extreme measures of sexually aggressive behavior -- ıpists -- which might provide another means of validating the ıtitude-behavior postulate. However, interviews of incarcerated

rapists appear to show similar acceptance of rape myths (Scu and Marolla, 1984). A number of studies are also reviewed Malamuth and Briere (1986) which support the correlation betw attitudes and non-laboratory aggressive behavior.

Operationalizations of Pornography. Researchers, like people or the courts, have had some differences in operationalization of "pornography." Malamuth (1984), instance, uses the term with the qualifier that "no pejora connotation is intended" and points out the difficulty operationalizing the distinction between "aggressive ve positive types of pornography." (p. 29). However, he also rel on Steinem's (1980) separation of "acceptable erotica," Malamuth's terms, emphasizing the notion of what Steinem cal "shared pleasure," from "objectionable pornography," or w Steinem referred to as "sex in which there is clear force, o unequal power" and describes stimuli in his research as us material belonging to the latter. Others have similarly used term to refer only to sexually violent material and have u "erotica" to refer to nonviolent sexually explicit mate (Abel, 1985). Still others on occasion simply use the t "erotica" and employ subclasses of aggressive and nonaggres "erotica." (Donnerstein, 1983). Senn (1985) and Check (19 have operationalized pornography to include both sexually vio and nonviolent but degrading categories and have classified other sexually explicit portrayals as "erotica."

In examining the types of stimuli used in these stud

(Figure 1), it is clear that a wide diversity of research stimu has been employed. These have ranged from partial nudity (Baro 1979; Baron and Bell, 1977) to various levels of sexual activit from "implied" to "explicit," covering a varied range behaviors -- masturbation, homosexual and heterosexu intercourse, oral-genital and oral-anal intercourse, fellati cunnilingus, bondage, and bestiality. Sources of materials ha also run the gamut from so-called stag films to mainstre sexually explicit magazines, "adult" videos from the neighborhc video store, and even sex education films (Schmidt and Sigusc 1970; see also the earlier description of stimulus materials us in 1970 experimental studies; Check, 1985). The 1970 Commissi found the term "sexually explicit materials" to have great utility.

Comparison among studies has become hampered by t differences in stimulus materials. A common classificat system has been to make use of two subclasses: violent nonviolent pornography (see Donnerstein, 1983, 1984) and wh the stimulus materials representing the former have b relatively consistent (usually a rape scene with variations victim reactions), the same cannot be said for "viol pornography." The full range of stimuli mentioned earlier, f partial nudity to bestiality (used, for instance, by Zillma Bryant, Comisky and Medoff, 1981) falls within the "nc aggressive" pornography category. Perhaps not surprisingly, full range of results (negative, no effect, and positive) ha

also been elicited.

Donnerstein (1983) has maintained that differential arousal levels evoke different reactions, with "mild erotica" producing a pleasant distraction and more strongly arousing material resulting in negative effects. However, this differential-arousal attribute has not been pursued in subsequent studies. Zillmann and Sapolsky (1977) have suggested that in addition to arousal, the stimulus' valence property -- how pleasing or displeasing it is -- also accounts for differential findings.

If the effects from exposure to nonaggressive sexually explicit materials are mediated in part by their affect value, a problem still remains: how do we explain the 'pleasing' or displeasing' character of a stimulus? Pleasing or displeasing valuations could arise from a number of factors including the explicitness of the material, the type of activity portrayed see, for example, Glass' (1978) scale analysis of the 1970 Commission survey data which shows clear gradations in public perceptions of different activities), or the theme employed. For example, Sherif (1980) raised the possibility of power differentials to explain female subjects' arousal but high negative affect in response to a stimulus portraying a rape victim experiencing an involuntary orgasm in Malamuth, Heim and Feshbach's (1980) study.

Two studies (Check, 1985; Senn, 1985) have attempted to reconceptualize nonaggressive sexually explicit materials into two further classes ('sexually explicit and degrading or

dehumanizing', and simply 'sexually explicit'). There i theoretical justification for expecting differential effects fr these subclasses. Bandura, Underwood and Fromson (1975) hav demonstrated that socially reprehensible attitudes or behavio may be made more acceptable by dehumanization of victim "Inflicting harm on individuals who are subhuman and debased less apt to arouse self-reproof than if they are seen as huma beings with dignifying qualities." (p. 255). Again, this i clearly a line of research that merits further attention.

The problem of explicating stimulus attributes i complicated with examination of a class of materials categorize by their commercial label: "R-rated slasher films" (see Linz Donnerstein and Penrod, 1984; Linz, 1985; Krafka, 1985), or "X rated films." The former "contain explicit scenes of violence i which the victims are nearly always female. While the film often juxtapose a violent scene with a sensual or erotic sce (e.g., a woman masturbating in the bath is suddenly and brutall attacked), there is no indication in any of the films that t victim enjoys or is sexually aroused by violence. In nearly a cases, the scene ends in the death of the victim." (Linz, e al., 1984, p. 137). These studies using this film genre ha generally found desensitizing effects among male subjects, aft massive exposure.

But the question still remains: what does this class call "R-rated slasher films" mean conceptually? If one we interested in describing potential effects from classes

sexually explicit materials, where does this set of materials
in? This appears compounded in an examination of effect
sexually violent, violent, and sexually explicit material
female subjects (Krafka, 1985), where these films are use
operationalize "violent" films, despite allowing that they
"some sexual content."

"X-rated films" pose the same problems. While they ap
to be used to represent sexually explicit material without
violence, different themes may be emphasized leading to q
different results.

The need to utilize meaningful classes that go beyond
in current use is important not just for validity requireme
After all, the question which social scientists must ultima
address -- with both theoretical and pragmatic or public po
implications -- is what types of effects have been demonst
for what classes of materials? Such investigations for
social scientists may have undesirable political or ideolo
implications but ignoring the issue also hampers our abilit
explain the nature of effects more fully so as to provide
nonlegal policy strategies that are firmly anchored in sc
science findings (see, for example, Byrne and Kelley,
Kelley, 1985).

Some Theoretical Considerations

In designing research studies to answer partic
questions, social scientists do not ordinarily operate
vacuum. Quite often, the relationships posited, the selecti

variables and their operationalizations, the groups of peop selected for examination, and the general research procedures a guided by "theory." Quite simply, this is the explanato framework which rationalizes or justifies why a particul relationship might be expected.

We think it useful to summarize some of the theoretic reasoning that has been applied to the general question of wh effects if any might be found from exposure to sexually explic stimuli.

1. Social Learning Theory. This approach offers perspective on human behavior based on the notion that there "a continuous reciprocal interaction" between environment factors, an individual's processing of information from h environment and his behavior (Bandura, 1977). This framew assigns a prominent role to the processes of vicarious a symbolic learning (i.e., learning by observing others' behavi and one's own) and a self-regulating process whereby individual selectively organizes and processes stimuli a regulate his or her behaviors accordingly.

The generic process of modeling is a major component social learning which many mistakenly interpret as simp imitation, or a one-to-one correspondence between some portray novel behavior and the reproduction of such behavior. While th type of effect is not precluded (and there are certainly ma anecdotal media accounts of such instances), "modeling" embrac a more complex array of processes which can be subsumed under t

ategories. First, modeling includes the facilitation of articular response categories ("response facilitation") which ssumes that a portrayed behavior functions as an external nducement for similar sets of responses which can be performed ith little difficulty. Second, it includes the capacity to trengthen or weaken inhibitions of responses ("inhibition" or disinhibition") that may already be in the observer's epertoire. If there are restraints on a particular behavior self-restraints, as in anxiety over a particular behavior, or xternal restraints, including the possibility of getting caught nd punished for some socially disapproved -- or illegal -- ction), such restraints may be lifted when an observer sees a odel engage in disapproved acts without any adverse consequences Bandura, 1973, 1977).

In Check and Malamuth's (1985) application of this heoretical framework, they discuss their findings in terms of andura's postulated "antecedent" and "consequent" determinants. he former incorporates symbolic expectancy learning principles xemplified by the symbolic pairing of sex with violence against omen and vicarious expectancy learning, or observing others ecoming aroused to sexual violence. Consequent determinants nclude observing seeing a male use force, not get punished, and, urthermore, find the experience pleasurable for himself and for is victim.

Two studies based on survey data provide additional nformation that certain sexually explicit materials may provide

›dels" for behavior for some individuals.

Russell (1985) reported findings from an earlier study on ‹ual abuse of women. A probability sample of 930 adult female ›idents in San Francisco were interviewed. Of this number, ›ut four in ten (389 women) said they had seen pornography and :ty-four percent of this group reported being upset by it. ırteen percent of the total sample reported they had been asked pose for pornographic pictures and ten percent said they had :n upset by someone trying to get them to enact what had been :n in pornographic pictures, movies or books. An additional ding in this study was that those who were upset by :nographic requests were twice as likely to be incest victims :n those who were not upset by similar requests. A similar :tern was found among those who reported being upset at being ‹ed to pose for pornographic pictures, i.e., those who were :ed to pose were more than twice as likely to suffer incest ›se in their childhood (thirty-two percent versus fourteen :cent). What this suggests, according to Russell, is that ›en who suffered sexual abuse are significantly more vulnerable pornography-related victimization, a "revictimization" ›drome.

Silbert and Pines (1986), in a similar study on sexual ›ault of street prostitutes, came upon unexpected information the course of their interviews. From detailed descriptions › subjects provided to open-ended questions in regard to :idents of juvenile sexual assault in their childhood and to

:idents of rape following entrance into prostitution, it became ident that violent pornography played a significant role in the :ual abuse of street prostitutes. Of the 200 prostitutes :erviewed, 193 reported rape incidents and of this number, enty-four percent mentioned allusions to pornographic material the part of the rapist. Since these comments were not licited, it is likely that this figure is a conservative timate. The authors described the comments as following the ne pattern: "the assailant referred to pornographic materials had seen or read and then insisted that the victims not only joyed the rape but also the extreme violence." (p. 12).

2. Arousal. Arousal has been conceived of as a "drive" at "energizes or intensifies behavior that receives direction independent means" (Zillmann, 1982, 1978). This model relies the notion that arousal based on exposure to some mmunication stimulus can facilitate behaviors which could ther be prosocial or anti-social, depending on situational :rcumstances. Such circumstances could include specific content es which might elicit either positive or negative affect polsky, 1984). If arousal levels are minimal and the stimulus okes pleasant responses (as might be the case when viewing ldly erotic material), the effect might be reduced aggression. , on the other hand, the stimulus elevates arousal to high vels, then the outcome might be aggressive behavior. This proach has been criticized for its inability to account for the edominance of one response rather than another.

3. Habituation. The idea of habituation is akin to drug eatment or drug dependency where, over time, one must rely on creasing doses to obtain the same effect. In the area of posure to explicit sexual stimuli, repeated exposure has sulted in initially strong arousal reactions become weaker over me, leading to habituation. (Zillmann, 1982; 1984). One titudinal manifestation of this effect is callousness, either victims of aggression or simply to the violent or anti-social haviors themselves. While this holds promise as an explanatory amework, more research is needed, particularly longitudinal udies, to demonstrate its predictive utility.

4. Cue Elicitation/Disinhibition. Berkowitz (1974, 1984) s proposed a stimulus-response relational model which suggests at an individual (e.g., a film viewer) reacts impulsively to vironmental stimuli and this reaction is determined in part by redispositions and in part by stimulus situational haracteristics which could function to "disinhibit" such redispositions. Berkowitz has demonstrated that cues associated ith aggressive responding such as a situation depicting a female ictim, when viewed by an individual predisposed to aggress (one o is provoked or angered), will more likely evoke the ggressive response as a result of the stimulus-response nnection already established by previous exposure to the films. ee Donnerstein and Berkowitz, 1981 and Linz, 1985 for plications).

These explanatory-predictive approaches may not necessarily

perate independently; they could conceivably complement each
:her. They stand, however, in contrast and direct opposition to
ie catharsis theory which is still being promoted in many
iarters as the explanation for why exposure to sexually explicit
iterials has only beneficial effects. Catharsis suggests that
cposure to highly arousing material actually leads to a
iminution of anti-social effects because relieving the arousal
hen reduces the instigation to commit any sex crimes in the
uture. Unfortunately, little evidence exists for this claim and
umerous research reviews (primarily in the area of media
.olence and aggressive behavior) have arrived at this same
onclusion (Berkowitz, 1962; Bramel, 1969; Weiss, 1969; Geen and
uanty, 1977; National Institute of Mental Health, 1982;
omstock, 1985). The following observation typifies comments
ade about the catharsis theory.

> The cause-effect hypothesis that we already described is not supported by the data. Little evidence for catharsis, as we have defined it, exists and much of the evidence that has been adduced in its favor is susceptible to alternative explanations that are at least parsimonious. In fact, when conditions that give rise to such alternative explanations are re-moved from the experimental setting, the reverse [authors' emphasis] of what the catharsis hypothesis predicts is usually found, i.e., aggression begets more, not less, aggression. (p. 6)

It is instructive that some have called a moratorium on
atharsis (Bandura, 1973), others have proclaimed its demise
Comstock, 1985). Even its major proponent has reformulated his
osition by explaining why it does not apply to situations
nvolving media exposure (Feshbach, 1980).

ıer Effects of Sexually Explicit Materials

If we take the entire potential range of "effects" which ıld occur as a result of exposure to sexually explicit :erials, and if we take the commission of sex offenses to be extreme of that continuum, then the other end might be :resented by beneficial effects. Many have made an argument such benefits. (Tripp, 1985; Wilson, 1978).

Public opinion data both in 1970 and in 1985 show that a ;ority believe use of sexually explicit materials "provide :ertainment," relieve people of the impulse to commit crimes, improve marital relations.

If they are any indication, the popularity of "How-To" :icles on sex in the popular media and in best-sellers such as Joy of Sex, The Sensuous Woman, and others like them are also ;tament to the learning that might occur from these materials.

There are also two areas in which sexually explicit :erials have been used for positive ends: the treatment of ıual dysfunctions and the diagnosis and treatment of some :aphilias.

In the area of sexual dysfunctions, a common conceptual ıel views a particular goal as a new response to be learned. reduction of sexual anxieties or the attainment of orgasm for ıorgasmic individuals might be examples of such objectives. In process of learning a new response, two steps are implicated: weakening of response inhibitions and facilitation of the quisition of new behavior patterns that comprise the steps

›ward the final objective.

For instance, in teaching nonorgasmic females to achieve ›rgasm, therapeutic procedures might include desensitization ›chniques, followed by the modeling of a hierarchy of behaviors ıch as body exploration, genital manipulation, self-stimulation › orgasm, and the generalization of the response to a partner ›aird and Wincze, 1977; LoPiccolo and Lobitz, 1972; Heiman, ›Piccolo and LoPiccolo, 1976).

A number of controlled experimental studies have ›monstrated the efficacy of therapeutic treatments involving ıdeo taped modeling, written instructions which implicate ›inciples of observational learning, and information processing. ıch procedures have been successful in changing both attitudes ıd behaviors (Anderson, 1983; Heiby and Becker, 1980; Nemetz, ›aig and Reith, 1978; Wincze and Caird, 1976; Wish, 1975).

In the case of diagnosis and treatment of sex offenders, the ıentification of arousal patterns and the subsequent therapy ›ogram (which might involve the inhibition of inappropriate ›ousal responses such as arousal to a photograph of a child) ›ve involved the use of sexually explicit materials. As part of ›me treatment methods, the use of aversive techniques might be ›rected at extinguishing deviant arousal, or they might be ›mbined with positive reinforcement for more appropriate sexual ›sponses. In some treatment programs, the combination of these ›ocedures with social skills training has been found to be ›fective (Abel, Becker and Skinner, 1985; Whitman and Quinsey,

1981). However, the results have been less conclusive f
narrower approaches to treatment (see Quinsey and Marshal
1983).

On the whole, the learning principles that include vicario
learning, reinforcement, disinhibition principles that are us
in these therapeutic controlled settings are no different fr
those which have been employed to explain the acquisition
negative attitudes and behaviors.

AN INTEGRATION OF THE RESEARCH FINDINGS

It is clear that the conclusion of "no negative effec advanced by the 1970 Commission is no longer tenable. It is a clear that catharsis, as an explanatory model for the impact pornography, is simply unwarranted by evidence in this area, has catharsis fared well in the general area of mass me effects and anti-social behavior.

This is not to say, however, that the evidence as a whole comprehensive enough or definitive enough. While we have lea much more since 1970, even more areas remain to be explored.

What do we know at this point?

-- It is clear that many sexually explicit materia particularly of the commercial variety, that are obviou designed to be arousing, <u>are</u>, in fact, arousing, both offenders and nonoffenders.

-- Rapists appear to be aroused by both forced as wel consenting sex depictions while nonoffenders (our college ma are less aroused by depictions of sexual aggression. On other hand, when these portrayals show the victim as "enjoy the rape, these portrayals similarly elicit high arousal leve

-- Arousal to rape depictions appears to correlate w attitudes of acceptance of rape myths and sexual violence both these measures likewise correlate with laboratory-obser aggressive behaviors.

-- Depictions of sexual violence also increase
likelihood that rape myths are accepted and sexual viole
toward women condoned. Such attitudes have further been found
be correlated with laboratory aggression toward women. Final
there is also some evidence that laboratory aggression tow
women correlates with self-reported sexually aggress
behaviors.

What we know about the effects of nonviolent sexua
explicit material is less clear. There are tentative indicati
that negative effects in the areas of attitudes might also occ
particularly from massive exposure. The mechanics of s
effects need to be elaborated more fully, however, particula
in light of more recent findings that suggest that degrad
themes might have effects that differ from non violent,
degrading sexually explicit materials. This is clearly an a
that deserves further investigation.

-- There are suggestions that pornography availability
be one of a nexus of socio-cultural factors that has some bear
on rape rates in this country. Other cross-cultural da
however, offer mixed results as well so these findings have to
viewed as tentative at best.

-- We still know very little about the causes of devia
and it is important to examine the developmental patterns
offenders, particularly patterns of early exposure. We do h
some convergence on the data from some rapists and males in
general population in the areas of arousal and attitudes

in, this remains to be examined more closely.

Clearly, the need for more research remains as compelling as r. The need for more research to also examine the efficacy of ategies for dealing with various effects is as compelling. If rning -- both prosocial and antisocial -- occurs from various ictions, and there certainly is clear evidence of both, the d for strategies that implicate the same learning principles t be evaluated. Educational and media strategies have been cussed elsewhere and found to be effective in such disparate as as health and media violence (see Rubinstein and Brown, 6; Johnston and Ettema, 1982; American Psychological ociation, 1985). Researchers in the area of pornography have less a responsibility.

SUMMARY OF COMMISSION FINDINGS OF HARM FROM PORNOGRAPHY

The Commission divided pornography into four classificat and then analyzed each classification according to three tier set forth below:

I. Sexually Violent Materials

A. Social Science Evidence--Negative effects were foun have been demonstrated

B. Totality of Evidence--Harm found in all sub-tiers

1. Acceptance of Rape Myths
2. Degradation of the Class/Status of Women
3. Modeling Effect
4. Family
5. Society

C. Moral, Ethical and Cultural--Harm found

II. Sexual Activity Without Violence But with Degradat Submission, Domination or Humiliation

A. Social Science Evidence--Negative Effects were foun have been demonstrated

B. Totality of Evidence--Harm Found in all sub-tiers

1. Acceptance of Rape Myths
2. Degradation of the Class/Status of Women
3. Modeling Effect
4. Family

5. Society

C. Moral, Ethical and Cultural--Harm found

. Sexual Activity Without Violence, Degradation, Submission, Domination or Humiliation

All Commissioners agreed that some materials in this ssification may be harmful, some Commissioners agreed that not materials in this classification are not harmful. It was ermined that this classification is a very small percentage of total universe of pornographic materials. See text for ther discussion.

Nudity Without Force, Coercion, Sexual Activity or Degradation

All Commissioners agreed that some materials in this ssification may be harmful, some Commissioners agreed that not materials in this classification are not harmful. See text further discussion.

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Chapter 4

ORGANIZED CRIME

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. PREFACE

The Commission has relied heavily on information an< ntelligence provided by experienced federal, state, and loca: aw enforcement authorities regarding the involvement o: rganized crime in the pornography industry. This first han< nowledge is based upon years of investigative experience in th< ighly complex and covert area of organized crime. Many of these aw enforcement authorities testified before the Commission or anuary 21-22, 1986, in New York City, at a hearing devotec rimarily to matters relating to organized crime. The Commissior as also used investigative reports prepared by the United States epartment of Justice, the office of the Attorney General of alifornia, the Middle Atlantic-Great Lakes Organized Crime Law nforcement Network (MAGLOCLEN), the Pennsylvania Crime ɔmmission, the Washington, D.C., Metropolitan Police Department nd others. Reliance on the investigative reports and the xperience of these law enforcement authorities was necessary ecause the Commission operated without the authority to subpoena itnesses or compel their testimony regarding this sensitive area f inquiry.

II. INTRODUCTION

Organized crime involvement in the pornography industry been described by law enforcement officers and by organized c operatives themselves. A retired veteran Federal Burea Investigation agent said of traditional[1126] organized c members, "you cannot be in the field and distribute pornogr without their consent . . . ." [1127] He added that pornography trade is attractive to organized crime becau [i]t's a fast way of making a buck."[1128] Aladena Fratianno w involvement in La Cosa Nostra dates back to the late 1940's reached the same conclusion.[1129] In an interview wi Commission investigator, Fratianno described the connection knew it to be in the 1970's as follows:

> Interviewer: Is it possible for any person to becc major distributor of pornography in the United St without becoming involved in organized crime?
>
> Fratianno: I doubt it. I doubt it.
>
> Interviewer: Okay, why do you doubt it?
>
> Fratianno: Well, because there's so much involved a

1126 For a more complete explanation of tradit organized crime structures and influence see the tex discussion of organized crime, supra.

1127 New York Hearing, Vol. I, Homer Young, p. 40.

1128 Id. at 41.

1129 New York Hearing, Vol. I, Fratianno inter Interview by Senior Investigator Edward H. Chapman, Att General's Commission on Pornography, p. 112.

don't think they would let them.

Interviewer: Okay, so if someone tried to operate witho an involvement

Fratianno: Well, somebody would report 'em, they'd say lo it, he's taking my business.

Interviewer: . . . what would they do? Shut them down, take them over?

Fratianno: Well, they would do something. I reall couldn't answer that. You know, they would do something. They might go so far as killing them, who knows.1130

Another individual who was the owner and operator of a 'adult" bookstore and spent many years in the pornograph business described his experience in dealing with organize crime:

Interviewer: . . . If the mob says, "I do not want thi boy."

Subject: You don't sell it. Even if they don't even ta to you. You're not going to sell it nowhere. If you go the store on 14th street and put it in there, they're gon bust his ass. Or they're gonna break your legs when y start going through them. There was a man who went from N York City . . . went into Atlanta. Had films to sell. . They found him at the airport, with a $5,000 Rolex watch and about eight grand in his pocket, and four rolls of fi in his hands, with his head blown up in the trunk of h car. Nobody robbed him, nobody took a dime off him. Th didn't even take the film. But he was at the airport with New York ticket shoved in his coat pocket. Don't come do from New York, selling unless you've been sent down.1131

1130 Id. at 112-15.

1131 New York Hearing, Vol. I, "Bookstore Operato interview, p. 141-44; See also, New York Hearing, Vol. I William Johnson, p. 82A-1 on "16 November 1970, Kenneth Herbe (Jap) Hann's bullet riddled body was found in the trunk of a c at Atlanta International Airport."

III. Organized Crime Involvement in Pornography

The 1970 President's Commission on Obscenity and Pornogra was unable to draw conclusions regarding the role of organi crime in the distribution of obscene and pornographic materia The 1970 Commission on Obscenity and Pornography found:

> Although many persons have alleged that organized crime works hand-in-glove with the distributors of adult materials, there is at present no concrete evidence to support these statements.
>
> The hypothesis that organized criminal elements either control or are "moving in" on the distribution of sexually oriented materials will doubtless continue to be speculated upon. The panel finds that there is insufficient evidence at present to warrant any conclusion in this regard.[1132]

There is some question about how the earlier Commis reached this conclusion.[1133] It is clear that the rol traditional organized crime in the pornography trade increased substantially since the 1970 report was issued. U 1970, only one LCN family, the Columbo organization, was know have been involved significantly in the pornography business.

The Attorney General's Commission on Pornography received reports from law enforcement officials, prosecutors,

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1132 The Report of the Commission on Obscenity Pornography, 141-43(1970).

1133 New York Hearing, Vol. I, Homer Young, p. 10; Fo Federal Bureau of Investigation Obscenity Specialist Y reported that a staff member of the 1970 Commission intervi him for approximately four hours about the role of organ crime in pornography in the 1968/1969 era. Young advised tha furnished the individual with documentation of organized c involvement which for some unknown reason was not included in earlier Commission's final report.

1134 New York Hearing, Vol. I, William Kelly, p. 69.

legislators describing the substantial role which organi crime, both in traditional (LCN) and non-traditional forms, pl in the pornography business in the United States today.[1135]

In addition to attorneys, many other professional pers assist organized crime families and their associates in pornography business. Realtors handle land transactions know the ultimate purpose of the transaction is to facilitate the s of obscene material.[1136] Landlords rent property to organi crime families knowing they will be used to warehouse obsc material or to sell, produce, distribute, or display obsc merchandise.[1137] Bankers process accounts and provide all mai of banking services (including the failure to report curre transactions as required by Title 31 United States Cod Printers and film processors develop the visual images taker pornographers and turn them into finished products for sale reproduction. Transportation companies and interstate carri show no discretion in shipping obscene materials to incre organized crime family profits. Academics are paid to act experts on behalf of organized crime members and associates are brought to trial and challenged in public debates. Pub figures including prosecutors, judges, city, county and st

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1135 See, Appendix One, infra.

1136 New York Hearing, Vol. I, James D. Harmon, p. 14A-

1137 "The building in which Star [Distributors, Inc.] r space is managed and partly owned by John Zaccario. . . a f first revealed in a New York City Tribune Copy story. . Selle, Pornography Warehouse Target of Irate Protesters, N City Trib., Oct. 29, 1984.

ficials, zoning board members, and health department officials y be subjected to monetary and political influence. These ople sometimes may ignore the organized criminal activity or pose minimal sanctions when punishment is unavoidable.

Following are highlights of reports provided to this mmission relating to traditional organized crime involvement in d control of the pornography industry.

One report came from a group of law enforcement officers, ordinated through the Investigative Services Division of the shington, D.C., Metropolitan Police Department, which undertook study in 1978 to determine the extent of organized crime volvement in the pornography industry.[1138] One reason for the idy was, "(knowledge) that organized crime generally involves self in situations where the gain far outreaches the risk. The nography industry fits this description."[1139] "An initial be determined that law enforcement could document Organized me control in certain geographic areas. However, it did not pear in 1977 that any single law enforcement body was in session of documentation reflecting the situation on a tional level".[1140] (emphasis added)

The project participants determined that traditional ganized crime was substantially involved in and did essentially

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1138 Organized Crime's Involvement in the Pornography dustry, Investigative Services Division, Metropolitan Police pt., Washington, D.C. (1978).

1139 New York Hearing, Vol. I, Carl Shoffler, p. 214.

1140 Id. at 215.

control much of the major pornography distribution in the Un States during the years 1977 and 1978. The group furt concluded that the combination of the large amounts of n involved, the incredibly low priority obscenity enforcement within police departments and prosecutors' offices in an where manpower intensive investigations were essential success, and the imposition of minimal fines and no jail upon random convictions resulted in a low risk and high pr endeavor for organized crime figures who became involve pornography.[1141] During its seventy-eight year history, Federal Bureau of Investigation (FBI) has been eng periodically in investigation of persons and organizations violate the federal obscenity laws. Though the FBI has recently been involved in many large scale obscenity rel investigations,[1142] Federal Bureau of Investigation direc William H. Webster, along with present and former special ag of the FBI have provided current information about pornography industry.[1143] In the late 1970s' the FBI prepar report detailing the extent of organized crime involvemen pornography. In preparing that report, the Bureau conduct

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1141 Id.

1142 See, Washington, D.C., Hearing, Vol II, Willia Webster, p. 77-81.

1143 Id. at 75; New York Hearing, Vol I, Homer E. Youn 16.

survey of the fifty-nine FBI field offices.[1144] Based on survey and other sources, FBI intelligence analysts concluded:

> Information obtained (during the course of the enclosed survey) points out the vast control of the multi-million dollar pornography business in the United States by a few individuals with direct connections with what is commonly known as the organized crime establishment in the United States, specifically, La Cosa Nostra . . . . Information received from sources of this Bureau indicates that pornography is (a major) income maker for La Cosa Nostra in the United States behind gambling and narcotics. Although La Cosa Nostra does not physically oversee the day-to-day workings of the majority of pornography business in the United States, it is apparent they have "agreements" with those involved in the pornography business in allowing these people to operate independently by paying off members of organized crime for the privilege of being allowed to operate in certain geographical areas.[1145]

In 1985, at the request of the Attorney General's Commis on Pornography, Director Webster conducted a brief survey of fifty-nine FBI field offices concerning their knowledge involvement of traditional organized crime in pornogra Director Webster advised this Commission, "About three quar of those offices indicated that they have no verifi information that organized crime was involved either directl through extortion in the manufactures or distribution pornography. Several offices, did, however, report s

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[1144] Washington, D.C., Hearing, Vol. II, William H. Webst p. 81.

[1145] Federal Bureau of Investigation Report Regarding Extent of Organized Crime Development in Pornography, 6 (1978)

involvement by members and associates of organized crime."1146

The FBI reported that on April 30, 1981, Joseph Palladino known dealer in pornography in Boston and Worcest Massachusetts, met with Gennaro J. Anginlo in Boston.[1] Anginlo is the underboss of the New England Organized Cr Family.[1148] Palladino complained that one Carlo Mastrototaro opening an adult bookstore in the Worcester area to compete w the one jointly owned by Pallidino and Mastrototaro. Pallad could not understand why the New York family had authori Mastrototaro to operate a competing pornography business. Pr to this, Palladino said he had considered Robert DiBernardo the New York family to be his "compare". In response, Angi became angry because Palladino had first sought an explanat from DeBernardo. Anginlo said this prevented him from contact DeBernardo's boss in New York and he would now have to deal w Sam Cufari, capo of the Genovese family in Massachusetts.1149

One former FBI agent told the Commission:

> In my opinion, based upon twenty-three years of experience in pornography and obscenity investigations and study, it is practically impossible to be in the retail end of the pornography industry (today) without dealing in some fashion with organized crime either the

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1146 Letter, William H. Webster, Director, Federal Bur of Investigation to Henry E. Hudson, chairman, Attorney Genera Commission on Pornography, Nov. 15, 1985.

1147 Letter to the Attorney General's Commission Pornography from the Federal Bureau of Investigation, March 1986.

1148 Id.

1149 Id.

mafia or some other facet of non-mafia never-the-less highly organized crime.[1150]

The Chicago Police Department has been involved in the vestigation of organized crime families who are engaged in the stribution of pornography in the Midwest.[1151] Thomas Bohling the Chicago Police Department Organized Crime Division, Vice ntrol Section reported, ". . . it is the belief of state, deral, and local law enforcement that the pornography industry : controlled by organized crime families. If they do not own ıe business outright, they most certainly extract street tax: :om independent smut peddlers."[1152]

An overwhelming majority of obscene and pornographic: ıterials are produced in the Los Angeles, California, area.[1153] :ganized crime families from Chicago, New York, New Jersey, and lorida are openly controlling and directing the major ›rnography operations in Los Angeles.[1154] According to Chief ıryl F. Gates of the Los Angeles Police Department, "Organized ·ime infiltrated the pornography industry in Los Angeles in 196(ıe to its lucrative financial benefits. By 1975, organized

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1150 New York Hearing, Vol. I, William P. Kelly, p. 86.

1151 New York Hearing, Vol. I, Thomas Bohling, p. 178.

1152 Id. at 189.

1153 See, Los Angeles Hearing, Vol. I, James Docherty, p.6

1154 Los Angeles Hearing, Vol. I, Robert Peters, p. 32. Detective Peters estimates that eighty to ninet; ercent of the pornography in the united States is produced i: ıe Los Angeles area. See also, The discussion of production an istribution of sexually explicit materials.

crime controlled eighty percent of the industry and it estimated that this figure is between eighty-five to nir percent today."[1155]

An investigative report submitted to the Califor Legislature by the Attorney General of California discus organized crime infiltration into the pornography industry:

> In the early 1970's . . . four organized crime groups moved in on pornography operations in California. They met relatively little resistance because the weak-structured organized crime group of Southern California lacked the necessary strength to deter the infiltration of organized crime from the East.
>
> Organized crime figures first focused on production and retail operations in California. In this effort, they used the influence of their established national distribution network and effectively resorted to illegal and unfair business tactics. The newly arrived organized crime groups formed film duplication companies which illegally duplicated the films of independent producers and displayed them at nationwide organized crime controlled theaters. Faced with continued piracy and lost of profits, many legitimate producers were forced to deal with organized crime controlled distribution companies and film processing labs.
>
> After gaining control or ownership of many California wholesale and retail companies, organized crime forced other independent retailers out of business through price manipulation. Wholesale prices to independent retailers were raised while prices to organized crime controlled outlets were lowered. Independents were undersold by organized crime controlled outlets until lost profits forced them out of business. Many competitors were bought out which allowed the subsequent raising of prices in other parts of the market. Some dealers that openly opposed this takeover were silenced by means of extortion and arson.[1156]

[1155] Los Angeles Hearing, Vol. I, Robert Peters, p. 32.

[1156] Investigative Report on Organized Crime a Pornography Submitted to the Attorney General of California, 2·

In 1984, California Attorney General John Van De K reported that the arrival of home video cassette recorders on market in 1979 was accompanied by a growing demand for a video tapes.[1157] California pornographers, linked to Gambino, DeCavalcante, Luchese and Columbo organized cr families entered this market through companies that prod duplicate, distribute and sell adult video tapes.[1158]

Law enforcement agents have described the control organized crime families in the pornography industry. Organi crime figures and associates are involved in the comm essential to the pornography business through ownership of distribution sources of the material. The 1970 Commissio Obscenity and Pornography reported " . . . crime syndi members reported in interviews that it was not worthwhile for syndicate to enter the business, primarily because there wa real economic inducement."[1159] In 1986, there are tremen profits in the pornography industry. These profits are of type that can be easily hidden from the Internal Revenue Servi because of the cash transactions and the policy of no

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[1157] State of California, Department of Justice, Orgar Crime in California, (1984) 6.

[1158] Id. at 5.

[1159] Investigative Report on Organized Crime Pornography Submitted to the Attorney General of California

receipts for merchandise.[1160]

Law enforcement officials have described large prc margins in the pornography business today.[1161] Magazines wh cost fifty cents to produce wholesale for five dollars and retail price is ten dollars or more.[1162] A fifty minute ei millimeter film wholesales for three dollars and retails twenty dollars.[1163] Video cassette tapes which wholesale fifteen dollars often retail for eighty to ninety-f dollars.[1164]

The well-known pornographic film "Deep Throat" was produ by the Periano brothers of the Columbo organized crime family $25,000 and is reliably estimated to have grossed fifty mill dollars as of 1982.[1165] The film was " . . . the biggest mo maker of any film to that time and possibly since, in the st of Florida."[1166]

Joseph, Anthony, and Louis Peraino all became millionai

1160 New York Hearing, Vol. II, William Johnson, p. 8 See, the discussion of the production and distribution sexually explicit materials for a detailed explanation of profitability of the industry.

1161 See, Los Angeles Hearing, Vol. I, James Docherty, p.

1162 New York Hearing, Vol. II, William Johnson, p. 73.

1163 Id. at 82A-5.

1164 Id.

1165 New York Hearing, Vol. I, William Kelly, p. 108A-3

1166 Id.

as a result of "Deep Throat."[1167] They used profits from t film to build a vast financial empire in the 1970s that inclu ownership of garment companies in New York and Miami, investm companies, a sixty-five-foot yacht in the Bahamas, "adults or pornographic theaters in Los Angeles, and record and mu publishing companies on both the east and west coasts.[1168] F 1973 to 1976, their corporate empire included Bryanst Distributors, Inc., a motion picture company that earned twe million dollars in its first year of operation.[1169] The Perla also used profits from "Deep Throat" to finance drug smuggl operations in the Caribbean.[1170]

Aladena Fratianno, a.k.a., Jimmy Fratianno, a made membe a La Cosa Nostra organized crime family and a former Capo later acting boss of the Los Angeles crime family, told t Commission that large profits have kept organized crime hea involved in the obscenity industry.[1171] Fratianno described t involvement to a Commission investigator as follows:

"Interviewer: Could you describe the nature and type of involvement organized crime would have in the

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1167 Id. at 108A-4.

1168 Cong. Rec., S433 (daily ed. Jan. 30, 198 (statement of Senator Jesse Helms).

1169 Id.

1170 New York Hearing, Vol. II, Christopher J. Mega, p.

1171 New York Hearing, Vol. I, Interview with Ja Fratianno by Senior Investigator Edward Chapman, Attor General's Commission on Pornography, p. 112.

pornography industry when you were active in organized crime?

Fratianno: Well, it's very, very big. . . . I'd say, 95 percent of the families are involved in one way or another in pornography. . . . It's too big. They just won't let it go.

Interviewer: Okay, does organized crime reap a lot of money from their involvement in pornographic industry?

Fratianno: Absolutely. Absolutely.1172

The Attorney General's Commission on Pornography conclu that organized crime in its traditional LCN forms and in ot forms exerts substantial influence and control over the obscer industry. Though a number of significant producers distributors are not members of LCN families, all major produc and distributors of obscene material are highly organized carry out illegal activities with a great deal sophistication.1173

This influence and control has increased since the report the 1970 Commission on Obscenity and Pornography and particularly evident in the distribution of pornograp materials.[1174] Organized crime elements have found that large financial gains to be reaped from pornography far outw the risks associated with the trade.

1172 New York Hearing, Vol. I, Interview with J Fratianno, by Senior Investigator Edward H. Chapman, Atto General's Commission on Pornography, p. 115-16.

1173 See, Investigative Report on Organized Crime Pornography Submitted to the Attorney General of Califor State of California, Department of Justice, Organized Crim California (1984).

1174 See, The discussion of the production and distribu of sexually explicit materials for further information.

V. RELATED CRIMES AND ACTIVITIES

In addition to the myriad of other harms and anti-soc effects brought about by obscenity[1175] there is a link betw traditional organized crime group involvement in the obscen business and many other types of criminal activity. Physi violence, injury, prostitution and other forms of sexual ab are so interlinked in many cases as to be almost insepara except according to statutory definitions. Among the cri known to be interlinked with the pornography industry are:

(1) Murder - One of the largest pornographers in the Uni States during the 1970's was Michael George Thevis who hea Peachtree News in Atlanta, Georgia, and 106 oth corporations.[1176] In October, 1979 Thevis was convicted in United States District Court for the Northern District of Geor for Racketeer Influenced and Corrupt Organizations Act (RI violations including murder, arson, and extortion.[1177]

A leading figure in the national distribution of the f "Deep Throat", Robert DeSalvo, has been missing since Janua

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1175 See, The sections discussing social and behavio science research, harms and victimization for a more compl explanation.

1176 New York Hearing, Vol. I, William Kelly, p. 76.

1177 See, United States v. Thevis, 665 F.2d 616(5th C 1982).

1976 and is presumed to have been murdered.[1178] DeSalvo pro evidence on behalf of the United States in the Peraino t arising from the "Deep Throat" film distribution.[1179]

During the late 1970s a number of persons involved i· pornography business were murdered in what were believed b enforcement agents to be pornography turf wars.[1180] The s Joseph Periano, one of the producers of "Deep Throat" along an innocent woman, was murdered "gangland style".[1181]

Immediately prior to this Commission's hearing in Chi· Illinois, in July, 1985, Patsy Ricciardi owner of the Ad Theater there, was found murdered. Chicago Police believe murder was related to his dealings in the pornogr business.[1182]

(2) Physical violence damage to property - The dama injuries range from those sustained by performers[1183] for engage in physically harmful acts which can often resu

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1178 New York Hearing, Vol. I, William Kelly, p. 75.

1179 Id.; Cong. Rec. S433 (daily ed. Jan. 30, (Statement of Sen. Jesse Helms).

1180 New York Hearing, Vol. I, Thomas Bohling, p. 1 New York Hearing, William Johnson, Vol. II.

1181 New York Hearing, Vol. I, Christopher J. Me 162.; Cong. Rec. S433 (daily ed. Jan. 30, 1984) (statem Sen. Jesse Helms).

1182 New York Hearing, Vol. II, Thomas Bohling, p. 1

1183 See, Chapter 2 in this Part for a more cc discussion about performers.

permanent injury,[1184] to damage to property,[1185] "knee-breaking"[1186] and arson.[1187]

A veteran FBI agent told the Commission "Over the ye there has been heavy violence associated with the pornogra industry. Some of the current well-known names in the indus have reported threats against them or physical brutality."[1188]

A bookstore operator, associated with members of organi crime families, described the "discipline" within the pornogra industry for those who choose to disobey rules regarding prici territory and other matters.[1189] He said, " . . . Bonjay a y and half ago, took one of the guys held him by his arms against the wall in the alley, and it's common knowledge, the ran into him, with the front bumper up against the wall

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1184 Los Angeles Hearing, Caryl and Brian Cid, p. 127- New York Hearing, Vol. I, Linda Marchiano, p. 51; Washingt D.C., Hearing, Vol. I, Valerie Heller, p. 217-41; Washingt D.C., Hearing, Vol. II, Charles Sullivan, p. 65-77; See also, discussion of performers and harms attributable to their work.

1185 New York Hearing, Vol. I, Bookstore Operator, p. 1

1186 Id. at 141.

1187 New York Hearing, Vol. I, Thomas Bohling, p. 179.

1188 New York Hearing, Vol. I, William P. Kelly, p. 83.

1189 New York Hearing, Vol. I, Bookstore Operator, p. 1 The FBI reported such a territorial dispute in 1981 involv pornography stores in New England. The dispute arose betw Joseph Palladino, an operative of New England LCN Boss Genn Anginlo, and Carlo Mastrototaro, who had been authorized by New York LCN family to open a competing business in Worceste Massachusetts. Letter to Attorney General's Commission Pornography from Federal Bureau of Investigation, March 24, 19

shattered his knees. That's a pretty good discipline."1190 same witness also reported bombs being thrown into stores were not complying with general price agreements or failed t a street tax to organized crime families.1191

(3) Prostitution and other sexual abuse - "Prostitutio the foundation upon which pornography is built . . Pornography cannot exist without prostitution . . .. I impossible to separate pornography from prostitution. The are identical except in pornography there is a permanent r of the woman's abuse."1192

It is estimated that there are between 400,000 and 50 adult women who have been used in prostitution in America.11 recent study found that the average age of the working prost was twenty-two; the average age a woman started workin prostitute was seventeen; sixty-three percent of the prostit had run away from home; eighty percent were victims of s abuse; eighty percent had pimps; and eighty-three percent h savings or other financial resources.1194 These women, whc been subject to every form of rape, sexual assault, and bat

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1190 New York Hearing, Vol. I, Bookstore Operator, p.

1191 Id.

1192 New York Hearing, Vol. IV, W.H.I.S.P.E.R. Statemen 398.

1193 Id.

1194 Id.

and whose lives are totally controlled by their pimps, are us
and abused by pornographers for the creation of their wares.[11
It is impossible for most sexually explicit books, magazines, c
films to be produced without acts of prostitution.[1196]

Michael Joseph Glitta one of the two major pornograp
distributors in Chicago, and a lieutenant in the Accar
organized crime family, controlled a "strip joint" where numero
persons have been arrested for prostitution related offenses.[11
Pornographer Martin Hodas was identified by his former bodygua
as the one-time owner of a massage parlor and prostitution empi
in the northeast.

(4) Narcotics distribution - Narcotics are often distribut
to performers who appear in pornographic materials to lower the
inhibitions and to create a dependency.[1198] Profits earned
organized crime from pornography sales have been used to finan

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[1195] Washington, D.C., Hearing, Vol. I, Sarah Wynter, p
175-84.

[1196] See, Chapter 2 of this Part for a discussion o
performers.

[1197] New York Hearing, Vol. I, Thomas Bohling, p. 185.

[1198] An investigator reported to the Commission that chi
pornographers use cocaine to lure children, create an addictio
and thus a lasting relationship of molestation and pornograp
production. Miami Hearing, Vol. II, Dennis Shaw, p. 107. Lo
Angeles Hearing, Vol. I, Chris, p. 94-95; "I had been takir
drugs throughout the time I was in prostitution and pornography
They had been supplied and doled out to me by my pimp.
Washington, D.C., Hearing, Vol. I, Sharah Wynter, p. 185.

drug smuggling.[1199]

Joseph Peraino, a soldier in the Columbo organized c family, invested proceeds from the movie "Deep Throat" in smuggling. New York State Senator Christopher Mega, Chairma the New York Organized Crime Commission, said, "Few have ima that the profits of "Deep Throat" may have been part of capital invested in the development of Norman's Cay into major drug smuggling base north of the Panama Canal."[1200]

Local police also report that "narcotic transactions present in these deteriorating neighborhoods (where "a bookstores" locate) and go hand-in-hand with the rampant cri activity in those areas."[1201]

(5) Money laundering and tax violations - The nature o pornography business provides inviting opportunities for ski on[1202] every level. There is often dishonesty among produ wholesalers, distributors, retailers and others who attem cheat each other.[1203] The often "cash only" business cr immense opportunities to launder money received from c organized crime activity.

1199 New York Hearing, Vol. I, Christopher J. Mega, p.

1200 Id.

1201 Los Angeles Hearing, Vol. I, James Docherty, p. 8

1202 Skimming is the practice of fraudulently repor income so as to avoid tax liability.

1203 New York Hearing, Vol. I, Bookstore Operator, p. 51.

Bookstores which primarily sell sexually explicit mater have a consistent sales format throughout the United States.[1] Generally there are two separate operations for account purposes, loosely identified as "frontroom" and "backro operations.[1205] The frontroom operation generally consists o sales area for paperback books, magazines, rubber goods, lotio stimulants and other materials.[1206] The front room operati profits are generally used to pay for rent, utilities, materia and employee wages.[1207] The back room operations consist of p machines which are coin operated and produce substantial inc that is usually not reported as taxable income.[1208] A lo police officer noted, "The backroom operation usually takes twice the amount as the frontroom operation."[1209] A bookst operator and associate of known organized crime family membe reported to this Commission that such "skimming" commonly occ with video cassette rentals and magazines as well as the p

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1204 See, The discussion of production and distribution sexually explicit materials for a further explanation.

1205 New York Hearing, Vol. I, Bookstore Operator, p. 1 51; New York Hearing, Vol. II, William Johnson, p. 73-74.

1206 New York Hearing, Vol. II, William Johnson, p. 73-

1207 Id.

1208 Id.

1209 Id. at 73. See also, The discussion of the producti and distribution of sexually explicit materials for more detai description of bookstores.

machine coin boxes.1210

Organized crime associate Martin Hodas, who was convicted federal court, Buffalo, New York, in 1985 for obscen violations has been heavily involved in peep machines.1211

Micahel Thevis, once a major distributor of pornography the South, told a meeting of organized crime family members a associates that he owned ninety percent of the movie viewmat machines in the United States. Thevis was interrupted by Robe DiBernardo, a person alleged to be a member of the Gambi (and/or DeCalvalcante)1212 organized crime family, who remin him that though he might have "proprietary rights" the machi were owned by "the family."1213

The idea of converting run down theatres in the Midwest i pornographic adult movie houses to launder cash from oth

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1210 New York Hearing, Vol. I, Bookstore Operator, p. 1 25.

1211 New York Hearing, Vol. I, Christopher J. Mega, p. 1

1212 Several law enforcement agencies for years h identified Mr. Di Bernardo as an associate of the Cavalcante family of New Jersey. However, during trial of Di Bernardo and Rothstein in the Miporn c in June of 1981, a New York City FBI agent identif Di Bernardo as a "soldier" of the Gambino family of Mafia, based upon information provided to the office in New York.

Now, is it possible to be involved with both famili I don't know, but that's what the information is, t he is involved with both. It could be right and might not be right. I don't know. New York Hear Vol. I, William P. Kelly, p. 77-78.

1213 New York Hearing, Vol. I, Homer Young, p. 34.

illegal rackets was the brain child of Chicago organized c figure Patsy Riccardi who was murdered in July, 1985.[1214]

Myron and Michael Wisotsky were convicted in the Uni States District Court for the Southern District of Florid late 1985, for tax evasion which arose from skimming activi at their sexually oriented book-stores.[1215]

A bookstore operator told the Commission:

> Subject: 80 percent of the skimming goes on in coin boxes.
>
> Interviewer: Right, how does that happen?
>
> Subject: Because who can tell how many customers come in today, and drop how many quarters, in how many machines. Alright?
>
> Subject: I had a machine. I'm running a hundred stores. I'm doing $1,200 to $1,600 a day in quarters (per store). I'm doing maybe three hundred to five hundred dollars a day in cassette rentals, club memberships . . . if you pay $69.95 per year membership then you also charge $3.95 a day for the rental of each film, right, okay, I'm doing maybe $350 a day in magazines and pocketbook sales. And at the time maybe five or ten rolls or film a day comes to maybe one hundred or five hundred dollars. So we're talking three thousands dollars a day roughly. Okay. Your magazines and your films and pocketbooks and your straightline pocketbooks . . . . It pays your rent, electric, gas, pays your overhead. If I don't something's happening wrong. Plus, now with the videos coming in, the video rentals go in your pocket too. It's another thing that gets bringing up. It's coming up all the time.
>
> Subject: Alright, the guy who collects the machine is either a manager, or owner, or owner/manager or just

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1214 New York Hearing, Vol. I, Thomas Bohling, p. 182.

1215 New York Hearing, Vol. II, Marcella Cohen, p. 32; United States v. Wisotsky, 83-741-Cr EBD (S.D.Fla.).

somebody like I was in (city) in total control. They know I wouldn't steal they knew I didn't steal.

Subject: The only way you can catch me stealing, is if I got partners, and I'm going to keep those records till the 30th of the month, to the last day of each month. Because the last day of each month I have been figuring on the coin boxes and the end figure on the coin boxes.[1216]

(6) Copyright Violations - Organized crime elements in in the production of videocassettes and movies have been kno infringe copyrights by the "pirating" of films produce legitimate studios and the use of music or other parts legitimate enterprise without royalty agreements.[1217]

(7) Fraud - Layers of corporations and hidden transac of all descriptions are used by organized crime families in in pornography to conceal true ownership and activities.[121

[1216] New York Hearing, Vol. I, Bookstore Operator, p. 45.

[1217] "Arno said he had been previously somewhat reluct inform the agents that he was involved in the reproducti pirated motion pictures as this was a violation of fe copyright statutes. Arno said that there were several pr connected with the production of these video tape cass because there was a lot of pressure from the FBI recently i area and that several producers of pirated films had been in the recent past and were now working for the FBI." Ne Hearing, Vol. II, Marcella Cohen, p. 17, 38.

[1218] See, The discussion in the Recommendations f Enforcement Agencies. "To effectively conceal the full ext its involvement in the nation's pornography industry, org crime has developed a maze of organization structures t complex legal maneuvering. Pornography businesses are represented on corporate papers by persons with no apparer to the company's true owner. Business transactions are co conducted with hidden corporate affiliates which crea

Other crimes associated with organized crime involvemen obscenity include child pornography,[1219] possession, transfer sale of machines guns and silencers,[1220] and ille gambling.[1221]

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appearance of legitimate competitive business practices. Fore corporations and banks have been used to circumvent nor business accounting methods.

For protection purposes, pornographers frequently form seve corporations for one operation. They know that law enforcem authorities, when serving search warrants as a result of possi obscenity violation, are restricted to search only corporation named. The other corporations remain protected f police inspections." Investigative Report on Organized Crime Pornography Submitted to the Attorney General of California, 6(1978).

1219 New York Hearing, Vol. II, Marcella Cohen, p. 38.

1220 Id.

1221 Pornographer Michael Joseph Glita, member of Acca family was reported to the United States Senate Rackets Commit as the number two man in a North Side Chicago numbers rack New York Hearing, Vol. I, Thomas Bohling, p. 182.

V. Reuben Sturman

Reuben Sturman, also known as Robert Stern, Roy C. Engl Robert Butler, Paul Shuster, and Paul Bekker, of Cleveland, Los Angeles, California, and elsewhere, is widely believed the largest distributor of pornography in the world.[1222] enforcement authorities believe that the Sturman empire financial control of nearly two hundred businesses in nine states, one Canadian province and six foreign countries. Sturman is closely associated with known organized crime fa members.

James Fratianno described Sturman's connection with R DiBernardo, a member of the LCN Gambino (and/or de Cavlac Family: ". . . if he has a problem he goes to Debe.[1224] St. and DiBernardo have had a long term business relationship, " they were partners, plus . . . if Debe wanted [Sturman] something, he [Sturman] would do it."[1225]

More than twenty years ago Sturman was a small time c tobacco and comic book distributor who moved slowly

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1222 New York Hearing, Vol. I, Marilyn Sommers, p. 1 Whelan, Prince of Porn, Cleveland Magazine 143(Aug. 1985).

1223 New York Hearing, Vol. I, Marilyn Sommers, p. 2

1224 New York Hearing, Vol. I, Interview with Fratianno, Edward Chapman, p. 115.

1225 Id.

pornographic magazines.[1226] Avoiding any serious legal prob he built the business into a mammoth operation encompassin phases from production to retail sales with a myriad of corp identities.

One account describes his organization as foll

> "[Sturman] structured his many companies from retail stores to video production firms, in a honeycomb of nominees, false names and dead associates to avoid local obscenity prosecutions. [A 1985 tax case] reveals that the corporate structure has grown hydra-headed over the years, apparently with the more serious intent of avoiding taxes.[1227]

Sturman's influence on the pornography industry is so g because his enterprise produces a very wide range of items distributes them to retailers through countless disgu channels.[1228] According to Los Angeles police, 580 of the adult video arcade machines there are owned by compa controlled by Sturman.[1229] Police report that Sturman typic installs equipment worth $22,000 to $60,000 at no cost to store owner.[1230] In exchange, he reaps fifty percent of income from the peepshows.[1231] A store owner in San Di

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1226 E. Whalen, Prince of Porn, Cleveland Magazine, 82(1985).

1227 Id.

1228 The Porn Peddlers, San Diego Reader, Vol. 15, No. Mar. 13, 1986, p. 17.

1229 Id.

1230 Id.

1231 Id.

California, described Sturman's hold on the industry there saying, "People are afraid of him because of his power. He c just cut people off. You could just die out there. Para sets in and I'm sure he uses it to his advantage."[1232]

Over the past few years, a number of Sturman associates corporations have been convicted on obscenity charges and o violations of law.[1233] Sturman, himself however, has evaded serious consequences for his acts.[1234]

An indictment returned by a federal grand jury in Clevel in 1985 alleged Sturman conspired to evade millions of dollars taxes by laundering seven million dollars through foreign accounts and also charges that he destroyed records subpoenae the grand jury.[1235] One of his co-defendants, Scott Dor plead guilty in late 1985 to his part in the conspir admitting that he skimmed money from Sturman's income delivered at least $450,000 in cash, to Sturman that unreported.[1236] When Sturman is the subject of prosecution,

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1232 Id.

1233 See, e.g., United States v. Sovereign News Co., al, United States District Court, Western District of Kentuck

1234 In 1980 Sturman was charges in the MI investigation. The charges were ultimately dismissed. St was also charged with a prior obscenity violation in Clevelar 1976. He was acquitted.

1235 New York Testimony, Vol. I, Marilyn B. Sommers, p 15;

1236 Id.

> [he] professes indignity when legally attacked - as he always is - and fights back savagely. He also covers legal fees and fines of associates and gives them bonuses when they face the consequences of arrest.[1237]

Reuben Sturman controls General Video of America (GVA), of the largest distributors of sexually explicit video cassettes in the United States.[1238] GVA recently released distributed a "White Paper" to video cassette retailers gi them notice of government action to prosecute obsce violations. The "White Paper" also announced the creation legal defense fund for GVA and others involved in distribution of such video cassettes. In addition, they off toll-free number for retailers to call an attorney provide GVA to advise them on legal matters.[1239]

1237 E. Whalen, Prince of Porn, Cleveland 82(Aug. 1985

1238 New York Hearing, Vol. I, Marilyn Sommers, p. 209

1239 The "White Paper" fails to disclose that some of video cassettes sold by GVA have been found to be obscen state and federal courts and that individuals and corporat have been convicted of felonies for their distribution. See, York Hearing, Vol. II, William Johnson, p. 79.

VI. CONCLUSION

A local law enforcement officer told this Commission, "
industry is very difficult to investigate as a local pol
officer, as a business in one jurisdiction, in general,
incorporated in another jurisdiction, receives materials f
another jurisdiction and is controlled by individuals in anot
jurisdiction. Federal law enforcement involvement is an abso
necessity to attack the real problem of organized cr
influence."[1240] While no known additional organized cr
families may live a particular state, the effect of th
production, distribution and sale of obscene material car
readily apparent. Another local law enforcement offi
concluded, "Left unchecked, organized crime, in a traditio
sense, can suck the lifeblood out of a community. Many tim
their enterprises have been viewed as "service" oriented
victimless crimes. However, it tears at the moral fiber
society and through unbridled corruption, it can weaken
government."[1241]

The findings of the 1978 Federal Bureau of Investigat
analysis remain essentially correct:

> In conclusion, organized crime involvement in pornography . . . is indeed significant, and there is an obvious national control directly, and indirectly

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1240 New York Hearing, Vol. I, Carl Shoffler, p. 217-1

1241 New York Hearing, Vol. II, William Johnson, p. 82A-

by organized crime figures of that industry in the United States. Few pornographers can operate in the United States independently without some involvement with organized crime. Only through a well coordinated all out national effort, from the investigative and prosecutive forces can we ever hope to stem the tide of pornography. More importantly, the hugh profits gathered by organized crime in this area and redirected to other lucrative forms of crime, such as narcotics and investment in legitimate business enterprises, are certainly cause for national concern, even if there is community apathy toward pornography.1242

1242 Federal Bureau of Investigation Report Regarding th Extent of Organized Crime Involvement in Pornography. (1978).

APPENDIX ONE

MIPORN

The most significant federal obscenity investigati(prosecution to date arose in the Southern District of Fl: The case, initiated by local police officers, was eventual focus of a nationwide investigation conducted by the F: Bureau of Investigation in cooperation with the United Department of Justice Organized Crime Strike Force. S: Attorney Marcella Cohen, at the request of this Commi: summarized the investigation and some of its results to d follows:

The undercover FBI investigation was referred to as M an acronym, which stood for Miami Pornography. MIPORN was and a half year undercover investigation into organized influence in the pornography industry. This investig resulted in many indictments for interstate transporta obscene materials and revealed other criminal activ resulting in indictments and forfeitures including b limited to racketeering, possession and transfer of machi and silencers, child pornography, interstate transporta stolen property and copyright violations. Bruce Ellavs Patrick Livingston1243 were two agents of the Federal Bu

1243 On January 21, 1982, it was disclosed that Livingston had been arrested for shoplifting in a depa store outside Louisville, Kentucky. After being notif Livingston's arrest, two MIPORN defendants, Robert DiBerna Theodore Rothstein, filed motions asking the United

Investigation who were assigned to the Miami Office of the

in September and October 1977. They were to investigate la

District Court in Miami to vacate their convictions and dism the indictments against them. They alleged the Grand Jury received tainted evidence in the form of testimony f Livingston, whose credibility was now seriously in doubt. District Court conducted a full hearing on the matter and he testimony form psychiatrists who believed Livingston ha propensity to lie. Several of Livingston's FBI colleagues a testified regarding their doubts about his mental and emotio well being. DiBernardo and Rothstein also alleged that prosecution had presented additional prejudicial evidence bef the Grand Jury, including information about the defendan alleged connections with organized crime and related crimi offenses. The District Court ruled that the Grand Jury received tainted evidence from Agent Livingston who, concluded, did have a propensity to lie. Based on that tain evidence and the other matters presented to the Grand Jury wh the court found to have been prejudicial, the Court vacated convictions and dismissed the indictments. This decision reported in United States v. DiBernardo, 552 F.Sup 1315(S.D.Fla. 1982). The United States Court of Appeals for Eleventh Circuit subsequently reversed the District Court ruling in United States v. DiBernardo, 775 F.2d 470(11th C 1985). The Appeals Court ruled that neither the questi regarding Agent Livingston's credibility nor the alle prejudicial evidence presented to the Grand Jury were sufficie grounds for the District Court to invoke the drastic measure dismissing the indictments. The Appeals Court held th deliberate abuse of the Grand Jury process, such as perjury governmental misconduct, must be present to justify the Distr Court's dismissal of an indictment. Neither was established this case. The Court further reasoned that permitting t District Court to dismiss indictments based on allegations this nature would invite similar challenges by defendants every indictment.

The shoplifting charge against Agent Livingston was ultima dismissed by the local prosecutor in Kentucky after Livingst signed a release agreeing not to file suit based on false arres

To the extent that any of Ms. Cohen's statement was based evidence provided by Agent Livingston, it has been ful corroborated by other evidence including tape recordings, thi party statements, surveillance and court records. Most of t convictions discussed in this portion of the report occurr after the 1982 District Court ruling dismissing the indictmer in United States v. DiBernardo.

scale producers and distributors of pornography throughou United States. In October 1977 an undercover company established in South Florida which was to be the basis o operation. The name Golde Coaste Specialties, Inc., was c as the name of the company and it was incorporated in the of Florida. There were a number of companies with variatio the name Gold Coast so it was necessary to put an "e" on th of gold and "e" on the end of coast in order to incorpora Florida. Special Agent Bruce Ellavsky used the undercove Bruce Wakerly and Patrick Livingston used the name Pat Sal Additionally, an office warehouse was rented where meeting conducted. The "front" business of the warehouse was a jeans store while the back of warehouse was where the porno business was located. At a later time, G&C Sales, Ltd., established in the Grand Cayman Islands to lend credibil the operation.

When the agents spoke to individuals who were invol the distribution of pornography throughout the industry, agents would inform them that they had a mail order oper involved in the distribution of "hard" or hard core pornogr eight millimeter films, magazines, and video tape cassettes reality there was of course no such mail order business.

For the purpose of the undercover operation the a altered the manner in which they dressed. They dressed ca and wore gold necklaces, diamond rings, gold bracelets expensive watches.

During the course of the undercover investigation the agents ravelled throughout the country and met with pornographers in rtually every major city including New York, Los Angeles, San ancisco, Las Vegas, Chicago, Pittsburgh, Minneapolis and ovidence. The agents found that major producers and stributors of eight millimeter films, magazines and video tape ssettes would meet every six months in various cities roughout the United States. The meetings were usually not rventions with any planned agendas. They would frequently take ce in a major hotel within the city, and conversations would e place in the lobby areas of the hotel, or in lounges or staurants located off the lobbies. The agents on occasion uld plan or attend a meeting which would take place in the room whichever distributor or producer of pornography they wanted meet with, see their products or further discuss potential lers. At other times, booths would be set up at a consumer ctronics show.

The following are some of the individuals and companies estigated during the course of the two and a half year ercover MIPORN investigation:

1. Star Distributors Inc. - Robert "Debe" DiBernardo, odore "Teddy" Rothstein, and Andrew "Andre" D'Apice, New York, York.

Star Distributors is a group of companies headquartered in York, New York, and controlled by Robert "Debe" DiBernardo.

DiBernardo's close business associates at Star Distributors Theodore "Teddy" Rothstein and Andrew "Andre" D'Apice.

In April 1978, the agents attended a pornography conve in at the Fairmont Hotel in New Orleans, Louisiana. In a resta in that hotel, the agents were introduced to Teddy Rothste Rubin Gottesman of National Film Company, Los Ange California. Mr. Rothstein agreed to supply Golde Cc Specialties with hardcore pornographic eight millimeter fi magazines and video tape cassettes. Rothstein said he introduce the agents to Andre D'Apice, his eight millimeter Later on that same date in a hotel room at the Fairmont H the agents were involved in conversations involving the sa films with Roger Summers and Joe Mallen of Califo International Distributors. Present at that meeting Rothstein and D'Apice. D'Apice said he was a partne Rothstein's and that they produced the film series enti "Super Sound" and "Mustang." D'Apice stated they supp distributors throughout the United States with these serie would also supply them to the agents.

On April 21 and April 22, 1978, the agents had a seri meetings at Star Distributors, 150 Lafayette Street, New City. They first met with D'Apice who informed them that had been some concern as to whether Golde Coaste was a fron law enforcement; however Rothstein and Robert "Debe" DiBer said they had checked Golde Coaste amongst their nati associates. Rothstein had confirmed with Al Tapper

deceased) of California Publishers Liquidating Corporation the agents were "good people" and that Tapper had dealt with for a substantial period and not been arrested.

During the meeting D'Apice stated that the agents "w have no problem whatsoever dealing with Mr. Rothstein or 'I as long as you are one hundred per cent good people . . . if you should cross °Debe' there are plenty of people who w kill for him."

Between April 24, 1978, and April 27, 1978, the ag recorded a number of telephone conversations between themse and the principals at Star Distributors concerning ship arrangements for the films which had been ordered. The ag were informed by D'Apice which false names would be utilize shipper and consignee.

During the sentencing hearing on this case, November 1981, the following pertinent information was provided to Court:

Jimmy "the Weasel" Fratianno at the time of the hearing in the Witness Protection Program and guarded on a twenty- hour basis by the United States Marshal's Service. J Fratianno told Special Agent Bruce Ellavsky in his conversat with the agent in May 1980 and May 1981, that he, Fratianno, a member and one time acting boss of the Los Angeles famil what he called La Cosa Nostra, an organized crime group in Angeles. During 1975, Jimmy Fratianno was a partner of Mi Fine in a pornography operation located in Los Angel

Initially, in 1975, when Fratianno was dealing with Mickey Fi
he wanted to obtain some money from some of the pornographers
were operating in the Los Angeles area over whom he had
control. Fratianno later learned that Reuben Sturman, a ma
distributor of sexually explicit material located in Clevel
had some interest in the Los Angeles area. At that time J
Fratianno spoke to Pete Milano, a capo in the Los Angeles c
family who informed him that previously he and some individ
from the Cleveland organized crime family with Ettore "Ter
Zappi, had put pressure on Reuben Sturman for money and obtai
$200,000 from Sturman due to Sturman's association with vari
families in New York. During this conversation with Pete Mila
Fratianno told Milano that he wanted to do the same th
Milano said in order for him to do that he would have to
Ettore "Terry" Zappi. At that point Fratianno made arrangem
through Tony Randazzo, a member of the Cleveland organized c
family to make an introduction to Zappi which he did, in Flor
During their association together as partners, Fine, on sev
occasions, had mentioned the name "Debe" to Fratianno. Frati
asked Mickey Fine who "Debe" was. Fine told him that as far
pornography goes, "Debe" is the main man in the country.

During April 1976, Fratianno went to the Westchester Pre
Theatre in New York to see a Frank Sinatra concert. While at
Weschester Premier Theatre he met with Ettore "Terry" Zappi,
Jimmy Fratianno knew as a capo in the Gambino crime fa
organized crime family in New York. When Fratianno saw Z

there were two other people with him, one of whom was Fra Duff, also known as Frankie D'Appolino, a Gambino member. other person at that time was unknown to him at first. Frati spoke with Zappi about pornography and the fact that he wante get into the business to a greater extent in the Los Ang area. During this conversation, Fratianno said to Zappi t every time he talks about pornography in the Los Angeles a the name "Debe" comes up. He said he hears the name consta "Debe." Fratianno asked Zappi who "Debe" was. Zappi laughed said "Debe" was sitting right next to him and then introdu Fratianno to Robert DiBernardo. Fratianno proceeded to talk DiBernardo concerning the pornography business, especia pertaining to the Los Angeles area. DiBernardo told him that he wanted to get in the business he should have done it four five years ago. Now it was all locked up. Fratianno said t when he was introduced to DiBernardo by Zappi at that time knew from the way he was introduced at that time DiBernardo not a member. Zappi said that he and DiBernardo were partners the pornography business.

Fratianno said that during 1977 he heard from seve sources that DiBernardo had been made a member of the Gamb family. There was testimony at the sentencing hearing in Uni States v. DiBernardo, that in November 1981, Mr. DiBernardo's was parked in front of Paul Castellano's home in Staten Isla Several reliable sources supplied information to the Fede Bureau of Investigation that DiBernardo is a made member of

Carlo Gambino organized crime family. A source advised DiBernardo is a big money earner in pornography in New Y Miami and other places throughout the United States an enjoyed the privilege of reporting directly to Paul Castell now deceased, who was allegedly the boss of the Carlo Gam organized crime family.

United States v. Ralph Borello, was a federal customs ca involving the smuggling of 771 eight millimeter films by mean false invoices. Borello allowed someone else to use his nam importing shipments of eight millimeter films. Inform information revealed that in 1981 Borello was an employe Robert DiBernardo. Show World, a multi-faceted pornogr outlet on 8th Avenue in New York City, is controlled by Ro DiBernardo. Borello himself has been involved in the pornog industry since the 1960s and maintains the machines in World. Borello had twenty-two prior convictions mostly ster from obscenity related arrests. One was for bribery of a po officer in order to discover information regarding imper searches.

2. A & A News-Anthony DeFalco and Paul Gorman, Chi Illinois. During a meeting at A & A News in March 1978 agent was taken to an area in the warehouse behind a "fake" b wall. Behind the brick wall were the eight millimeter films, a metal cabinet behind the fake brick wall were the "ani films depicting acts of bestiality.

Paul Gorman said he could obtain sound projectors for (Coaste Specialities at a very good price. He said that t projectors were often "too hot to touch" and that there migl a truck having an accident in the near future, at which tir would have several hundred projectors available.

On March 15, 1978, in a tape recorded conversation Gc said that Anthony DeFalco was in court today because one of stores had been "hit", that is, searched by police. Gorman that in the past they had almost been "hit" while a load of c pornography was still on the premises but that the police gotten to the film room one day late. Gorman said they shipped the child pornography the previous day and that police were jerks for not grabbing the stuff earlier.

In October 1978, the agents met with Tony DeFalco and Gorman. DeFalco mentioned the fact that he had received nume inquiries in the past several months regarding the agents that there were rumors around the industry that the agents "the heat." DeFalco said that the pornography business w close knit group of individuals, with virtually everyone in industry has known each other for many years, and that i almost impossible for someone new to break into the business.

DeFalco said that the hard core market was shifting eight millimeter film to video tape cassettes. The agents DeFalco that they had conversations with California Internati Distributors (CID) regarding the shipment of eight millim films to Miami, Florida. DeFalco was told that CID said

were on probation in Florida and would not ship hard cor
Florida. DeFalco said he would handle the shipment of e
millimeter hard core film and video tape cassettes to G
Coaste Specialties in Miami from CID in Los Angeles, Califor
DeFalco said the agents should contact CID, place an order ar
would be shipped directly to him in Chicago, Illinois. Del
said that upon receiving the shipment he would immediately re
it from Chicago to Miami, Florida. DeFalco said he wante
make a few dollars on the transaction for his trouble, but w
be happy to enter into this arrangement with the agents and
of Los Angeles, California.

DeFalco said he had received a letter from a pe
"established" in the pornography business which stated in ef
that anyone dealing with the agents should be wary of them b
cops.

DeFalco and the agents discussed Golde Coaste Specialit
interest in the purchase of L.W. Sales, Chicago, Illin
DeFalco said he had never been able to get along with
Weintraub in the past and would prefer to have the agents run
Weintraub's operation in Chicago. DeFalco said Weintr
continues to run his wholesale operation out of his warehous
Milwaukee Avenue but that he sold all five of his bookstor
DeFalco would not identify the individual to whom these stc
were sold. DeFalco said that the peep machines were owned
another individual and said that the new owner of the stc
would receive only a percentage of the earnings from the p

show operation.

3 Imperial News - Kenneth Guarino, Anthony "Butch" I and Joseph Renzi, Jr., Providence, Rhode Island.

In November 1977, an undercover agent had a discussion Guarino concerning the fact that Guarino felt that the Fe Bureau of Investigation viewed him as the kingpin of hard pornography. Guarino then took the agent to a "secret" ro his warehouse which he stated contained his hard-core films.

In November 1977, the agents met with DiBona who said he, Guarino and Renzi had to be careful of shipping to Florida because of the "heat" from local and federal authori However, he said that they had "checked out" the agents and were good people. Two shipments to Golde Coaste Specialiti Miami, Florida, from Imperial News contained fictitious nam the return address.

4. S. and L. Distributors - Norman Arno, Thomas Sino Marty Bernback, Sandy Sarnblad, Timothy "Tim Simpson" Burns Angeles, California. In May 1978, the agents met with N Arno, owner of S & L Distributors. Arno said he was willi meet the agents since they had been dealing with his employe Burns for over eight months and no one had been arrested. said he was dealing with Rubin Gottesman (National Film Com Los Angeles, California) regarding purchase and sale of tape cassettes of major motion pictures. After a $3,000

was given to Arno by Agent Ellavsky, Arno said he would s
Ellavsky a "phony" invoice reflecting payment of $3,000 and w
label the invoice as being for magazines or periodicals. H
said he wanted to obtain the remaining $3,200 in cash so he w
not have to report it as income.

In July 1978, Arno told the agents that there were rur
that they were "the heat". Arno alluded to the fact that he
suspicious that the agents were cops. Arno said the pornogr
industry was a close knit organization and that most indivic
have been in the business several years and no one seemed to
where the agents came from.

Arno said he did not want to take any calls concer
legitimate or "straight" video tape cassettes over his telep
at his residence or his office. He stated that arrangem
could be worked out whereby he would call from a pay telephon
obtain the orders desired by Golde Coaste Specialties. Arno s
he had previously been somewhat reluctant to inform the age
that he was involved in the reproduction of pirated mot
pictures as this was a violation of federal copyright statu
Arno said there were several problems connected with
production of these video tape cassettes. He said there w
lot of activity by the FBI recently and that several producer
pirated films had been "busted" in the recent past and were
working for the FBI.

In January 1978, Arno said he had first heard problems a
the agents from Ron Selinger (Bon Jay Sales, Baltimore, Maryl

and that Selinger said he was going to meet with the age
Miami, Florida, until he received a telephone call from a
of his advising him not to deal with the agents.

Arno said Chicago was a rough town and that a f
employee of Leo Weintraub by the name of Rene had h
operation blown up in Chicago reportedly by Weintraub.

In January 1980, the agents met with Norman Arno
Video Cassettes X Rated (VCX) display at the Consumer Elect
Show held at the Hilton Hotel, Las Vegas, Nevada. The
told Arno they brought with them a check to give to h
payment on a debt. The agents and Arno went inside t
display. At that time Arno said that Special Agent William
of the Miami FBI Office was behind them and was abc
photograph them. Arno told Ellavsky not to turn around a
to write the check at that time but to come to his hospi
suite at Ceasar's Palace where he would receive payment.

5. Sovereign News Company - Reuben Sturman, Joe Zern
Bloom, Steve Martin Assid, Cleveland, Ohio.

In October 1978, the agents met with Joe Zernic in the
of the Olympic Hotel in Seattle Washington, at one o
semi-annual pornography conventions discussed earlier.
said he had heard rumors about the agents being cops. '
said he had tried to contact the person who had introduc
agents to him without success. On January 5, 1980, the a

met with Reuben Sturman, owner of Sovereign News Compa Cleveland, Ohio. They discussed past dealings the agents with Sovereign News. The agents mentioned they had previou dealt with Joe Zernic and had purchased eight millimeter film magazines from him. Sturman said that Zernic was one of his employees.

Sturman has since been indicted on other charges relatin tax evasion.

6. California International Distributors (CID) - Il Bloom, Roger Summers, Joe Mallen, Roger Chan, Al Bloom, Angeles, California.

In March 1978, Summers stated that his boss, Noel Bloom problems in Florida approximately seven years ago and that he somewhat reluctant to ship to Florida because he was un probation in that state. Summers discussed with the agents possibility of contacting Reuben Sturman at Sovereign Ne Cleveland, Ohio, to assure prompt shipment of the "Swed Erotica" series through Sturman to the agents in Miami, Flori Between August 1978 and March 1979, the agents had conversati with Summers and Mallen regarding the scheme of shipping "Swe Erotica" through a third party.

7. L and W Sales - Leo Weintraub, Chicago, Illinois.

In March 1978, the agents dealt with Leo Weintraub, owner L and W Sales who agreed to ship hardcore films to Miar Florida.

8. Le Salon Distributors - Roland Bouldreault and La: Nelson, San Francisco, California.

Nelson told the agents in March 1978 that he would have check out the agents prior to shipping to Miami, Florida. Nel: asked who the agents had dealt with and the agents said A & Distributors of Chicago, Illinois. Thereafter, Nelson placed long distance telephone call to Tony DeFalco, main owner of A & Distributors. After talking to DeFalco, Nelson said he wou ship hard core material to Golde Coaste. Nelson said DeFal said the agents were "good people" and that he (Nelson) trust DeFalco completely, having dealt with him for a long period time. The shipments were sent from Foxx Distributors, 47 Mir Place, San Francisco, California, which was a fictitious name a address.

In July 1978, the agents discussed with Bouldreault t possibility of distributing a bondage film depicting sad masochistic acts. Bouldreault said he was very interested a that he could possibly distribute several hundred copies of su films to his outlets in Amsterdam.

During a sentencing hearing on June 28, 1984, the Unit States submitted invoices demonstrating that from 1976 throu

mid-1978 child pornography materials were shipped from Le and a company by the name of All American Studios, San Franc California. Among the titles was "Bare Boys", a sex explicit magazine depicting boys under the age of four There was testimony by William Dworin, of the Los Angeles P Department, who stated that he knew one of the boys depic the magazine and that he was actually eight or nine yea when the picture was taken.

9. Walter "Frenchy" Bagnell - leased office space at Sales Distributing Corporation, Los Angeles, California.

Bagnell stated in September 1977, that he was one largest distributors and producers of hard core pornograp that he specialized in "boy-boy" (homosexual) films. Ba said he had organized crime connections in Chicago and New Bagnell said he was having problems with Bon Jay Sal Baltimore, Maryland, and that he was traveling to New York few days to meet with his "connection" people. They would take a trip to Bon Jay to collect a $34,000 debt that Bo owed to Bagnell for hard-core pornography that Bagnel previously shipped to them.

Bagnell said he was leaving Los Angeles to travel to I Oklahoma, to drop off a large shipment of hard-core "boy film. Bagnell said Oklahoma was one of the few states to he was reluctant to ship hard-core pornography by normal

and that he intended to deliver the film to Tulsa himse Bagnell said he would accomplish this by placing the films o flight which would be leaving within an hour of his own perso flight to Tulsa, thereby having the film shipped as luggage the airlines in a flight other than the flight he was taki Bagnell said that this method made it impossible for enforcement authorities to link the film to him.

10. Wonderful World of Video - Harry Mohney and Jerry Wa Los Angeles, California.

An indictment charging Mohney and Wade with vari violations of federal obscenity laws is set for trial in 1986.

11. T.G.A. Associates - Theodore "Teddy" Gaswirth, Angeles, California.

In September 1978, Gaswirth mentioned to the agents tl there had been rumors that they were FBI agents and if they we he would be busted sometime in the future. Gaswirth said tl the rumors were diminishing in as much as various individuals the pornography industry believed that if they were really age some arrests would have occurred by this time.

12. Arrow Film and Video Co. (Arrow) - Louis "Butchi Peraino, Joseph Peraino, Michael Balsamo, Vince DiStephano, a

Arnie Himmelstein, New York, New York, and Los Ang
California.

Information at a sentencing hearing on January 29, 198
the sentencing memorandum filed in this case revealed
following:

> Joseph Peraino and Louis "Butchie" Peraino are non-
> member associates of the LCN organized crime family in
> New York City.[1244] Louis "Butchie" Peraino, Joseph
> Peraino, and DeStefano are reputed to run Arrow Film
> and Video through the use of extortion and other strong
> arm tactics. DeStefano has claimed to represent the
> interests of several LCN family members in investments
> in pornographic films in Los Angeles and has claimed to
> have made "big money" for his New York City organized
> crime connections. The activities of Louis and Joseph
> Peraino in the pornography business were financed by
> the LCN organized crime family and Louis and Joseph
> Peraino contribute large sums of money from their
> business to that LCN family.

In September 1980, Steve Ramirez operated a video lab,
he transferred films onto video tape as well as duplicated
distributed video tape cassettes. Ramirez said he

[1244] See, New York Hearing, Vol. I, Christopher J.
p. 161.

duplicating copies of the film "Deep Throat". He was approa by Louis Peraino and Vincent DiStephano who threatened him physical harm and informed him that he was duplicating the "Deep Throat" without their authorization. As a result of t threats, Ramirez closed his business. A substantial part of business involved duplicating the films "Deep Throat" and "D in Miss Jones" for Norman Arno (S & L Distributors, Los Ange California). Peraino came to Ramirez because Arno had told that Ramirez was doing the duplication.

13. J & G Sales - Michael Zaffarano, Joseph Arieno, B Zeichick and Larry Mathas, Los Angeles, California.

In September 1979, the agents and Arieno discussed an o for the film "Debbie Does Dallas". Arieno said that the film owned by Michael Zaffarano (now deceased and alleged to have a member of an LCN organized crime family) but stated Zaffarano had given Arieno permission to distribute it. When agent expressed doubt, Arieno said that he could call Zaffa and verify the fact.

14. California Publishers Liquidating Corporation - Tapper and Ray Hind, Los Angeles, California.

In April 1978, during a video taped meeting with Ray H Hind discussed the pornography industry and the fact that du

the previous week he had three telephone calls from "p within the industry" checking on the "legitimacy" of the ag Hind said that his boss, Al Tapper, had personally contacte from New Orleans, Louisiana, to inquire how long Hind had the agents. Hind said he gave the agents a good recommend and that everything was okay.

Hind claimed to be well known within the industry and he was personally acquainted with Teddy Rothstein and R DiBernardo of Star Distributors, New York City. He said h also received calls from "their people" checking on the agen

15. Discount Distributors, TVX Distributors and At Video, Phillip "Chuck" Bernstene, Anthony "Tony" Arnone, Jackmore, Los Angeles, California, Fort Lauderdale, Florida.

In a tape recorded conversation in May, 1979, Beinstene he spoke to Mickey Zaffarano regarding "Debbie Does Dal Bernstene said that through Zaffarano and Joe "Black" Arienc would be in a position to distribute "Debbie Does Dall Bernstene said that three or four years ago, Zaffarano had p him with S & L Distributors, (Norm Arno and Tommy Sinopoli insure that Sinapoli and Arno made payments to Zaffa Berstene said that Sinapoli, Arno and S & L Distributors tied directly to Zaffarano. Bernstene said that during the he was with S & L Distributors he made weekly payment Zaffarano from Arno and S & L Distributors.

In October 1979, Bernstene described Zeichick (J & G S Los Angeles, California) as a "no good guy" who had "messe people in the past in some of his business dealings. Bern said Zeichick and Black were doing a good business and they cutting into some of the customers of TVX Distributors.

Bernstene said that this was hurting TVX and other di butors but he could not put pressure on Zeichick or Black d their close relationship with Zaffarano.

Bernstene said Zaffarano had just recently given the "Autobiography of a Flea" to Andre D'Apice (Star Distributor New York City) to have as his movie. Bernstene said that i enforcement officials and the IRS became aware of how much Zaffarano made off his hard core movies, they could blow th off his operation.

Bernstene said it was like when "Deep Throat" and "The in Miss Jones" were playing all around the country in 1972. it were known how much money was actually made on these movi lot of people would have problems.

In October 1979, Bernstene said that Walter Gernert wou coming to Las Vegas. Bernstene said that he was going to to "pay the juice". Berstene said the loan was for e millimeter films which Walter Gernert was involved with.

Bernstene said that Angelo and Tony Farese recently into the offices of TVX Distributors and advised him and partner, Dave Friedman that they now controlled the movies Throat" and "Devil in Miss Jones" and that a fee of $10.0C

video tape cassette of these movies should be paid direct: the Fareses. Bernstene said that the Fareses advised hir Friedman that the Perainos no longer control the movies ' Throat" and "Devil in Miss Jones" and that the Fareses controlled these movies.

On November 6, 1979, Bernstene said that when Mic Wisotsky was dealing with Arno, Wisotsky was doing busines the range of $15,000 to $20,000 a month. During that Wisotsky told Bernstene that the agents were working fo: "Feds." Wisotsky told him that he had gotten this inform from Andre D'Apice.

16. Central Sales - Lou Guglielmi, Baltimore, Maryland.

On December 20, 1978, the agents met with Guglielmi, owner of Central Sales. Guglielmi said he had over one mi dollars in projectors in the basement of Central Sales and this was a large part of his business. Guglielmi told the a he was part owner of Miami Books in Miami, Florida, along Star Distributors of New York City.

Guglielmi said he had a lot of heavy contacts in the Mi Florida, area and said that Bob Inman had sold out to hir then tried to steal some of his customers away. Guglielmi that he does not take an individual like this to court to s the matter. He said he takes it into his own hands and make phone call to Florida and "within ten minutes, turns a boy i

man."

17. National Film Company - Rubin Gottesman, Barb Gottesman, Los Angeles, California.

In February 1979, the agents met with Rubin Gottesman his wife Barbara Gottesman. Rubin Gottesman said he had b with Norman Arno (S & L Distributors) the previous evening that Arno had showed him a video tape of the movie "Debbie I Dallas." Gottesman said Arno told him that he had received video rights to that movie from Mickey Zaffarno, the owner of movie. Gottesman said Zaffarano had given Arno the nati distribution rights for this movie and that Arno now had available on video. When the agents asked to obtain a prin this movie for themselves Gottesman said he would not consider doing this because he wanted to remain healt Gottesman said Zaffarano would not hesitate to use muscle i believed someone was bootlegging his movies.

On March 23, 1978 Rubin Gottesman told the agents tha the past an individual was believed to be copying and dis buting various hard-core movies. He said organized crime pe had put money into these films and that this individual was in the head." Gottesman said that should the agents be duplicating movies such as "Deep Throat" and "The Devil in Jones", they would have to be prepared to take the heat.

In June 1979, Gottesman said he had gotten two movies

Joe Peraino (Arrow Films, New York and California), "Johanna" "The Devil Inside of Me." Gottesman said both of these were Peraino's movies and that he was paying Joe Peraino $300 each the prints.

18. Bon Jay Sales, Inc. Jack Gresser, Ron Selinger, Moon, Alan Swartz, Baltimore, Maryland.

On May 17, 1978, the agents went into Bon Jay Sales, There was a discussion about two pimps who worked the east co for Jack Gresser. These pimps obtained the girls for Gresse bookstores and massage parlor operations in the Baltimore Washington, D.C., areas. On May 24, 1978, an employee of Bon Sales, Alan Swartz, said girls could be provided to the agents their next trip to Bon Jay Sales and that another individual Bon Jay Sales handled the procurement of girls for customers.

On August 10, 1978, in a telephone conversation with J Gresser, Gresser said that there had been rumors about the age and he had been advised to stay away from them.

19. M and M Video Systems, Inc., Mickey Manos, Houst Texas.

In July, 1979, Special Agent Bruce Ellavsky spoke to Ma about "boy-boy" (homosexual) films. Manos said that most of business was in Tennessee and Alabama. Manos said he ha

$300,000 lab when he does a lot of reproduction. He claimed be the biggest in the videotape business outside Californ Chicago and New York.

20. Alvin Nunes, Honolulu, Hawaii.

On December 1, 1978, Chuck Bernstene told an agent that had access to pirated major motion pictures through a contact his in Honolulu, Hawaii, by the name of Al Nunes. Berstene t called Nunes and made arrangements with him to meet the agent Hawaii. Bob Courchese told the agent he had difficulties w the bookstore he had recently opened. He said he had pinb machines in the store and he had gotten pressure and muscle f the "boys" on the island. He said they had demanded a split 70/30% with 70% going to them. Courchese said he could not l with the split and gave up the store. Courchese said he still employed by Nunes, both at Nunes' bar and doing whate else Nunes requested of him. Nunes gave the agent a bestial film and said he would ship child pornography to Miami, which subsequently did.

A separate case in the Southern District involved Mich Wisotsky, Myron Wisotsky, Robert Barkow and Donald Work[1245] Dade, Broward, and Palm Beach Counties, Florida.

The pornography business operated by Michael Wisotsky

1245 United States v. Wisotsky, et al. 83-741-cr (S.D.Fla.).

his uncle Myron is the most significant one south of Atla Georgia. They are considered to be key figures and upper ech distributors of hard core pornography. At the time of indictment in this case in 1983, Michael and Myron Wiso (referred to hereinafter as the Wisotskys) controlled bet five hundred and seven hundred peep show machines in South Florida. These machines were located in adult bookstores o by corporations the Wisotkys controlled, as well as in inde dently owned bookstores. In 1983, the Wisotskys owned controlled approximately two million dollar worth of ass through the use of nominees and sham corporations. The ownership of these corporations was hidden to avoid possibility of criminal prosecution. Documents show that the course of ten years, the Wisotskys used the names unknowing nominees to register their corporations and ca their accountants and others to falsely subscribe these name documents which were then mailed to the state and fede government. The investigation in this case revealed Wisotskys owned or controlled over forty corporations. Of th the fifteen most actively involved in the adult bookst business were not registered under the name of either Michael Myron Wisotsky.

When the investigation of the Wisotskys commenced, t immediately took an active role in attempting to thwart the G Jury investigation conducted by the Internal Revenue Service the Miami Strike Force.

Unbeknownst to the Internal Revenue Service and the M Strike Force, the Fort Lauderdale Police Department was eng in an undercover operation involving the Wisotskys during same period of time. The Fort Lauderdale Police had place undercover detective in the Wisotsky organization. The pros that the detective would be served with a federal grand subpoena caused the Fort Lauderdale Police to reveal his iden to Federal authorities and cooperation began between the agencies.

Donald Work had been the Wisotskys' key man for a numbe years. One of Work's duties was to oversee and manage the machine operation for the Wisotskys. Numerous bookstore ow and clerks were subpoenaed to the testify before Grand Jury each of them asserted their Fifth Amendment privilege when a about the Wisotskys' operation.

For a number of years, law enforcement agents attempte locate the Braccos - a couple whose name appeared on many of Wisotsky corporations. In March 1981, Special Agent Donald B of the Internal Revenue Service located them. They never had business connections with the Wisotskys and had never hear the corporations on whose papers their names appeared. They in fact unknowing nominees whose names were used by Wisotskys. After they were subpoenaed to the federal grand Robert Barkow called Mrs. Bracco and said, "My people know have wronged you they are sorry about it. They want to mak for it. Contact any of these three attorneys, they're wai

for your call. I will give you their names. We will put you in the best hotels and consider it a vacation. My people ha been wrong, they know they've wronged. You'll be we compensated for it. Take the corporations you're a rich perso

The Wisotskys were not content with attempting to preve individuals from testifying against them before the Grand Ju On August 25, 1981, Special Agent Donald Burde received telephone call from the Wisotsky's accountant who requested Bu come to his office, "alone and unwired." During that one-on-o meeting, the accountant offered Burde a $25,000 bribe on beh of the Wisotskys to kill the criminal tax investigation he conducting about them.

The evidence in this investigation revealed that t Wisotskys failed to report substantial amounts of income skim from the vast peep machine operation they controlled since Ap 1976.

At this writing, the Miami Strike Force of the United Sta Department of Justice's Organized Crime and Racketeering Sect remains actively involved in the prosecution of individu charged with violations of federal law as a result of MIPO The most recent prosecution resulted in the conviction of Nor Arno on charges of conspiracy and interstate transportation obscene material. Arno was sentenced to five years in prison ordered to pay a $30,000 fine.

The MIPORN investigation has yielded substantial evidence organized crime involvement in the nationwide distribution

pornographic material, and serves as an example of effec
utilization of law enforcement resources to combat the trad
obscenity.

APPENDIX TWO

MAGLOCLEN

MAGLOCLEN is one of six federally funded Regio Information Sharing Systems (RISS program). These systems administered by the Bureau of Justice Assistance, United St Department of Justice, and received nine point nine mil dollars ($9,900,000) from Congress to fund fiscal 1 operations. These systems cover the nation, providing supp services to local, state, provincial and federal agenc investigating major criminal conspiracies. They serve over hundred fifty thousand sworn employees in about two thou departments. Through 1984, the projects supported cases wh resulted in the seizure or recovery of nearly two billion dol ($2,000,000,000) worth of narcotics, currency and other prope

MAGLOCLEN and its sister projects provide services to th members including access to a computerized data base on ma criminals, training, investigative equipment on loan, funding undercover operations, publications, referrals and the analy of criminal information.

It is within the context of the latter service -- analysis of criminal information -- that I appear before today. One of my responsibilities at MAGLOCLEN is the work the Analytical Unit. I developed that unit and have b responsible for its output since June of 1981.

In that capacity, I supervise analytical work, comple

ected analytical products each year and provide both basic and anced analytical training to law enforcement officers throughout our region.

In addition, I am currently co-editing the first textbook on lysis, which will be published during 1986. And, I am a ector of the International Association of Law Enforcement lligence Analysts, otherwise known as IALEIA, the profesnal organization for analysts. That organization recognized OCLEN's work during 1985 as making the "most significant gress in utilizing intelligence analytical techniques in port of law enforcement objectives."

Law enforcement analysis is the compilation, summarization presentation of criminal data in a form which can be understood by non-analysts. The products of such an analysis can lude written reports, charts, matrices and listings which urately convey the data and from which the meaning of the data be derived.

MAGLOCLEN chose pornography as one of its six criminal gets when it first began, in 1981. From the onset, we were erested in the white collar crime potential which the nography industry affords to its participants.

There were several reasons we thought white collar crime ght be in evidence. Pornography and sexual aids are sold marily for cash. Goods are sold at an enormous markup over duction costs. The market for these products is large, yet latively covert. Under these circumstances, it appeared to us

that there was an atmosphere conducive to profit skimm monopolization, using paper corporate fronts to hide act interests, and tax evasion. Subsequent indictments alleged of these, and more, as being perpetrated in one conspiracy wh was headed by Reuben Sturman.

The analytical report titled "REUBEN STURMAN'S PORNOGR EMPIRE" included four charts, a written summary and a listin all individuals and entities included in the charts. This was completed in September of 1985 at the request of Cleveland Police Department.

The report utilizes information provided by law enforcer agencies in the form of investigative reports, publis documents and legal filings. It should be noted that MAGLC and the other RISS projects do not investigate cases in operational manner, but gather data from line police agencies perform information sharing and analytical services.

The efforts of the Internal Revenue Service and many ot local and federal agencies must be commended. The paper tra and documents which they had to follow to complete such a c required a tremendous effort.

This analysis updated previous work done by MAGLOCLEN 1984. The new material combined with previously held data the indictment of Sturman in the case U. S. VS REUBEN STUR filed June 27, 1985 and investigative data provided by agenci

In summary, it has been alleged that Sturman has finan control of nearly two hundred businesses in nineteen states,

adian province and six foreign countries. That data has been nsposed on to three charts which, if I may, I would like to efly explain.

The first two charts relate to Sturman's associations with inesses and individuals. The first chart is entitled "STURMAN OCIATES". Associates are defined as either business ociates, indicted or non-indicted co-conspirators, or both.

Sixty-five individuals are named in this chart as being ciates of Reuben Sturman. Nearly ninety percent of these viduals have been named in a lawsuit with Sturman. Eight named in suits against Sturman in both 1982 and 1985. The ary associates appear on the left side of the chart. They ude Ronald Braverman, James Olsafsky, Melvin Kaminsky, orie Rollins, Scott A. Dormen, Paula Lawrence, Ralph L. ine, Edward Seltzer and David Sturman.

The second chart shows "STURMAN BUSINESS ASSOCIATIONS." It ks down one hundred and ninety six businesses into eight gories and shows their association to Sturman. Those gories include:

- Companies controlled by MAGCORP, Sturman's primary company (nine companies)
- Companies Sturman owned through unidentified nominees (four companies)
- Companies Sturman owned through BLACK SHIELD, INC. as his nominee (six companies)
- Foreign corporations used as fronts for Sturman

business activities (seventeen companies)

- Companies Sturman owned or controlled through WILS CO. as owner or shares nominee (one hundred compani
- Businesses owned by Sturman in which he had or h financial interest (sixteen companies)
- Foreign corporations used as fronts for speci Sturman U.S. companies (ten foreign and ten U companies)
- Businesses that were co-defendants in a 1982 law which claimed they were controlled by him (twenty companies)

These companies stretch, geographically, from Massachus to California, from Michigan to Florida. The states wh include the most known Sturman-associated businesses are:

Ohio - 35 businesses

California - 24 businesses

Illinois - 15 businesses

Pennsylvania - 14 businesses

Michigan - 13 businesses

Maryland - 11 businesses

New Jersey - 10 businesses

These seven states account for sixty-two percent, or alm two-thirds, of all known locations of Sturman businesses.

Outside of the United States, Sturman related busines have been found in the province of Ontario, in Canada (which

o, by the way, part of MAGLOCLEN's network), in Great Britain, ıma, Liberia, the Netherlands, and Lichtenstein. A sixth ·eign country, Switzerland, enters the picture through bank ›unts established for several Sturman associates and some of ;e foreign corporations in Swiss banks.

Chart three shows "TRANSFERS AMONG BUSINESSES ASSOCIATED II REUBEN STURMAN."

To the left on this chart, financial transactions are :.cted involving INTERNATIONAL BANCORPEST, UNITED CALIFORNIA IC offices in New York and London. On June 22, 1978 GLOBAL .M DISTRIBUTORS ESTABLISHMENT, a Lichtenstein company, ınsferred fifty thousand dollars ($50,000) to a BANCORPEST i.ce in New York.

The following day, SICORAN ESTABLISHMENT, another htenstein corporation, transferred fifty nine thousand four dred dollars ($59,400) to the New York office of BANCORPEST.

Two weeks later, on July 2, a check was written from ICORPEST to NORTHERN PROPERTIES in the amount of fifty nine ıısand three hundred dollars ($59,300). NORTHERN PROPERTIES is :leveland, Ohio, company alleged to be owned by WILSON & PANY as nominee for Sturman. The president of the company was ı:les King and the vice president was Marjorie Rollins, long-ıe personal secretary to Sturman.

On July 28, 1978, NORTHERN PROPERTIES paid sixty-three ıısand eight hundred dollars ($83,800) to the Cleveland Federal ·ings bank for the purchase of 3021 Attleboro Road, Shaker

Heights Ohio, the personal residence of Reuben Sturman. NORTH PROPERTIES and Sturman further executed a mortgage for hundred and thirty thousand dollars ($130,000) for the prope also on that date.

Between September 1975 and July of 1978, Sturman associa deposited three hundred and eleven thousand dollars ($31,000) cash into the INTERNATIONAL BANCORPEST, UNITED CALIFORNIA B office in London, England.

Ronald Braverman, using the name of "John Hasting delivered ninety five thousand dollars ($95,000) in U.S. curre to this bank on September 30, 1975. On May 8, 1978, he used name "John Hayes" and delivered eighteen thousand doll ($18,000) in currency to this branch of the bank.

Edward Seltzer, another Sturman associate, was alsc courier. Using the name "Morton Weiss," Seltzer delivered hundred fifteen thousand dollars ($115,000) in currency to London office of the UNITED CALIFORNIA BANK on April 5, 1 And, on July 19 of that year, using the name of "Ralph Seltz he delivered eighty three thousand dollars ($83,000) in curr to the bank branch. In total, four hundred twenty thousand four hundred dollars ($420,400) was shown as transferre deposited into this bank by Sturman associates.

During 1977, NORTHERN PROPERTIES was again used to purc property for the Sturmans. On April 1, 1977, David Sturman NORTHERN agreed to buy a single family home at 12908 Westche Trail, Chesterland, Ohio, for ninety three thousand doll

,000).

On April 27, 1977, NORTHERN, Reuben Sturman and David rman executed a mortgage note for the amount of fifty thousand ars ($50,000), presumably for the house on Westchester Trail. June 17, 1977, forty three thousand four hundred and fifty lars ($43,450) was wire transferred from FABRICORA ABLISHMENT, alleged to be a Sturman corporate front, to HERN PROPERTIES. FABRICORA is a Panama corporation begun in by Swiss attorney Jorg Haemmerli.

FABRICORA was also used, it is seen on the chart, to nsfer funds into a United Kingdom corporation, STONEREALM,). On August 9, 1979, FABRICORA transferred eighty thousand ars ($80,000) to STONEREALM.

STONEREALM was incorporated on May 10, 1975. Less than one th later, Ronald Braverman, long time employee and associate Reubenn Sturman, applied to transfer a total of fifty thousand nds (L50,000) into STONEREALM.

Forty five thousand (45,000) was to be a loan and five usand pounds (L5,000) was listed as an investment. NEREALM's 1977 corporate filing showed Braverman as owning ty percent of the company's stock.

STONEREALM also received financial support from a third rman related source -- the Societe Financiere et Commerciale, ., a Liberian corporation. On December 5, 1978, the Societe nsferred sixty thousand dollars ($80,000) to Barclay's Bank in don for credit to STONEREALM's account. And later, on April

17, 1980, Reuben Sturman, using the alias of "Robert Ster issued a check to STONEREALM from the SOCIETE for fifty f thousand dollars ($55,000).

In total, the indictment documented STONEREALM's receipt one hundred ninety five thousand dollars ($195,000) plus fi thousand pounds (L50,000) from Sturman related entities.

The SOCIETE FINANCIERE ET COMMERCIALE was incorporated 1978 by three individuals who then transferred their shares stock to David A. Sturman, Reuben Sturman's son and busin associate. When the corporation's Swiss bank account was open David A. Sturman, Ronald Braverman and "Robert Stern" (Reu Sturman) were signators.

On August 28, 1979, a five hundred thousand dol ($500,000) check from the Weissbard & Fields Trust account Washington, D.C. was deposited into the SOCIETE account.

On September 12, 1979, two cashier's checks written on Superior Savings Association in Cleveland totalling one hun and nine thousand dollars ($109,000) were deposited in the S SOCIETE account.

Between November 8, 1980, and January 7, 1981, seven ch totalling thirty five thousand dollars ($35,000) and signed "Robert Stern" were deposited into the account. Most w written on accounts in two Ohio savings banks.

The total of deposits shown as going to the SOCIETE acc were six hundred forty four thousand dollars ($644,000).

On the debit side, in addition to its support of Braverma

ONEREALM, SOCIETE funneled dollars to several businesses cluding MARCHE MANUFACTURING in North Hollywood, California. RCHE, also known as DOC JOHNSON's or LOVELAY CO., specializes sexual paraphernalia. It was named as a co-defendant in the 82 lawsuit against Sturman and his companies. A check for fty thousand dollars ($50,000) was written on the SOCIETE :ount for MARCHE on September 7, 1978.

The SOCIETE's Swiss account also showed six transfers of nds to "JOE P. ENTERPRISES" totalling four hundred thousand llars ($400,000). These transfers occurred between June 15, 81 and March 12, 1982. The location and identity of JOE P. TERPRISES was not revealed in the indictment. This company, wever, also received a check for fifty thousand dollars 50,000) from MASGRO FILM INTERNATIONAL on October 7, 1981. SGRO is a Panamanian company incorporated during 1975.

Additionally, on September 8, 1981, "Robert Stern" signed) checks totalling nineteen thousand nine hundred and ninety ven dollars ($19,997) which were deposited in the MASGRO Swiss nk account.

The inference which can be drawn from these transfers is it there was an intent to cover audit trails, launder funds and de participation by Sturman and his cohorts in various nsactions and companies.

Yet these examples form only a portion of the questionable :ivities uncovered to date by local, state and federal vestigators in relation to Sturman corporations. The IRS

alleges that for the five years between 1978 and 1982, Sturm had a personal income of three million three hundred ninety ni thousand seven hundred and thirty four dollars ($3,399,734), an average income of six hundred seventy nine thousand, ni hundred and forty six dollars and eighty cents ($879,948.80) year.

Over that same period, he claimed an income of only th hundred sixty three thousand six hundred and nine dolla ($383,809), which represents about ten point five percent (10.! of his total income as uncovered by IRS. During those years, paid one hundred thirty seven thousand seven hundred and fo five dollars ($137,745) in income taxes. The IRS contends h he evaded over one point six million dollars ($1,600,000) taxes.

And, this figure could well be just the tip of the iceb If his personal taxes were underreported, what of his corpo tax liabilities for dozens of businesses? Indeed, it may tal platoon of investigators, analysts and accountants to find °bottom line' in Sturman's business dealings.

But the Sturman case has import beyond his personal em or his tax bill. Through his manipulations, we can see how w collar crime can work in the pornography industry and in o settings.

The analytical product "REUBEN STURMAN'S PORNOGRAPHY EMP was not completed to merely summarize a complicated case. It done to show law enforcement investigators what types of w

llar criminal activity has occurred and may recur.

Further, it was done to disseminate to law enforcement encies the identification data of individuals and entities cluded in the analysis. By having this data, law enforcement encies may be able to ascertain the connections between their cal pornography industry and this massive conspiracy.

Analysis and information sharing are the bases of the RISS ojects. We believe that collecting, compiling, analyzing and aring this type of information will make law enforcement, tionwide, more effective in their anti-crime efforts. Our ojects were designed and funded to do this work and, with the pport of the Congress, we will continue to do so.

Again, we thank you for the opportunity to testify at these arings.

APPENDIX THREE

THE ANNUAL REPORT TO THE LEGISLATURE

ORGANIZED CRIME IN CALIFORNIA 1984

JOHN K. VAN DE KAMP, ATTORNEY GENERAL

CALIFORNIA DEPARTMENT OF JUSTICE

4949 BROADWAY

SACREMENTO, CALIFORNIA

RNOGRAPHY

In early 1970, elements of the Colombo, Bonanno, Gambino, d DeCavalcante crime families moved from the East and tablished pornography operations in California.

During the mid-1970's, they engaged in extortion and olence in an attempt to gain control over independent nographers in California. The Southern California Crime ily was also involved in this activity (see FOREX, page 25). janized crime elements are now established in national ribution and are involved in most aspects of the pornography iness. They continue to exert much influence over the nography operation in California through hidden interests in s industry.

The arrival of home video cassette recorders on the market 1979 was accompanied by a growing demand for adult video es. California pornographers, linked to Gambino, valcante, Luchese, and Colombo organized crime families, have ered this market through companies that produce, duplicate, ribute, and sell adult video tapes.

APPENDIX FOUR

ORGANIZED CRIME'S INVOLVEMENT IN THE PORNOGRAPHY INDUSTRY

REPORT PREPARED BY: INVESTIGATIVE SERVICES DIVISION

METROPOLITAN POLICE DEPARTMENT

WASHINGTON, D.C.

NOVEMBER, 1978

INTRODUCED INTO THE RECORD OF HEARINGS BEFORE:

NEW YORK SELECT COMMITTEE ON CRIME

1001 STATE OFFICE BUILDING

270 BROADWAY

NEW YORK, NEW YORK 10007

JULY 26, 1982

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This report constitutes a continuing law enforcement
estigation. It is not to be distributed or disseminated
ess express permission is first obtained from the respective
ncy(s). It is further directed that this report be
eguarded as with any other sensitive investigative file.

This report has only been furnished to those agencies
olved who have contributed to the information gathered.

I. FOREWORD

In March, 1977, a meeting of the Combined Law Enforc Intelligence Group (CLEIG) determined that there was a cri need for law enforcement agencies to discuss the gro nationwide problem of the pornography industry and to deter the extent to which organized crime controlled or influenced industry. As a result of this meeting, the Metropolitan P Department, Washington, D.C., hosted a conference on Jun 1977, to examine this problem.

The following goals were established by the confere participants:

1. Identify the major producers and/or distributors of pornographic material.
2. Identify organized crime figures who are involved in the pornography industry.
3. Establish liaison between local, state and federal law enforcement agencies for the exchange of information concerning organized crime end the pornography industry.
4. Establish a central point where all information will be forwarded for correlation, analysis and eventual dissemination to all participating agencies.

Each participant supplied documented information on graphy operations in their respective jurisdiction.

erial identified the major producers and/or distributors of
ıographic material and their corporate structures.

This information provides an in-depth picture of pornography
:ations from the national to the local level. Since the
ıography industry is constantly undergoing corporate changes,
contents of this report are to be regarded as investigative
ls. Corrections and updating of the material should be
:eted by the recipient agency.

Although the information was collated and analyzed by the
anized Crime Branch, Metropolitan Police Department,
ington, D.C., this report obviously would not have been
:ble without the cooperation of the following law enforcement
cies:

ARIZONA:
Phoenix Police Department, Phoenix
CALIFORNIA:
California Department of Justice, Sacramento
Los Angeles County Sheriff's Department
San Francisco Police Department, San Francisco
CANADA:
Royal Canadian Mounted Police
DELAWARE:
Delaware State Police, Odessa
DISTRICT OF COLUMBIA:
Alcohol, Tobacco & Firearms, Washington Field Office
Federal Bureau of Investigation, Washington Field Office
Internal Revenue Service, Washington, D.C.
Metropolitan Police Department, Washington, D.C.
United States Attorney's Office, Washington, D.C.
United States Customs, Washington, D.C.
United States Department of Justice, Washington, D.C.
United States Postal Service, Washington, D.C.
FLORIDA:
Dade County Public Safety Department, Miami
Florida Department of Criminal Law Enforcement, Tallahassee
Fort Lauderdale Police Department, Fort Lauderdale
Tampa Police Department, Tampa

Titusville Police Department, Titusville

GEORGIA:

Athens Police Department, Athens
Atlanta Police Department, Atlanta
Columbus Police Department, Columbus
Georgia Bureau of Investigation, Atlanta

LOUISIANA:

New Orleans Police Department, New Orleans

MARYLAND:

Anne Arundel County Police Department, Millersville
Baltimore City Police Department, Baltimore
Howard County Police Department, Annapolis
Maryland State Police, Pikesville
Montgomery County Police Department, Rockville
Ocean City Police Department, Ocean City
Prince George's County Police Department, Forestville

MASSACHUSETTS:

Boston Police Department, Boston
Massachusetts State Police, Boston
Springfield Police Department, Springfield

MICHIGAN:

Lansing Police Department, Lansing
Michigan Department of the Attorney General, Lansing
Wayne County Sheriff's Department, Detroit

MINNESOTA:

Minneapolis Police Department, Minneapolis

MISSOURI:

Saint Louis Metropolitan Police, St. Louis

NEW HAMPSHIRE:

Manchester Police Department, Manchester

NEW JERSEY

New Jersey State Commission of Investigation, Trenton
New Jersey State Police, West Trenton

NEW YORK: Buffalo Police Department, Buffalo
New York City Police Department, New York City
New York State Police, Albany
New York State Select Committee on Crime, New York Ci

NORTH CAROLINA:

Fayettesville Police Department, Fayettesville
Greensboro Police Department, Greensboro
North Carolina State Bureau of Investigation, Raleig

OHIO:

Cleveland Police Department, Cleveland
Dayton Police Department, Dayton

PENNSYLVANIA:

Pennsylvania Crime Commission, Harrisburg
Pennsylvania State Police, Harrisburg
Philadelphia Police Department, Philadelphia

VIRGINIA:

Alexandria Police Department, Alexandria
Arlington County Police Department, Arlington
Fairfax County Police Department, Fairfax

Richmond Police Department, Richmond
Virginia State Police, Richmond
WASHINGTON:
Seattle Police Department, Seattle
Washington State Patrol, Seattle

During the course of this investigation, efforts of the :ributing law enforcement agencies have led to the identi- ation of nationwide pornography distributors. The following s will depict the national distribution flow of pornographic rial, the major distributors at the interstate level and the orate organizational profiles of these major distributors. rmation has been derived from corporate records, occupancy its, retail sales applications, state taxation assessments, . Also included are past indictments and/or convictions of viduals involved in the pornography industry.

PREVIOUS AND CURRENT LAWS EFFECTING U.S. PORNOGRAPHY

Before addressing the current status of court rulings lving the issue of pornography, it is necessary to provide a f background regarding the philosophical and historical ition of our present law. It should be pointed out that this on of the report is designed to provide a workable insight the average law enforcement officer into the historical opment of laws governing pornography.

The crime of creating or distributing "obscene" sexual ials is of relatively recent origin in American law. Royal rship began in England in 1531 through a licensing system

under secular authority with ecclesiastics as licen
established by Henry VIII. English censorship at that time
not directed toward sexual content; but rather, it was dire
against seditious and heretical works. There was a brief pe
between 1605 and 1660 in which the strong influence of Purit
in England led to authorization of proceedings against the us
profanity by actors on stage. However, after the Restorati
1660, licensing was again limited to suppressing sedition
heresy in printed works.

The first case which demonstrated that the common law c
would, even in the absence of a statute, penalize conduct
is grossly offensive to the public occurred in 1663 in the
of King v. Sedley. Sir Charles Sedley and two friends b
drunk at a tavern. They climbed to the balcony of the taver
removed their clothes. Sedley gave a speech which inc
profanities. He also poured bottles of urine on his audienc
a riot ensued. Although the case did not concern the di
bution of sexual materials, it involved both a physical ass
upon others and the public broadcasting of profanity and nu
upon unwilling recipients. Sedley was given a substantial
and committed to jail for a week. This case was subseque
deemed an obscenity case when the issues involved were
cited in rulings concerning obscenity.

In 1695, when the Licensing Act expired, Parliament dec
to renew it. This apparently was not because Parli
disapproved of the practice of licensing; but rather becaus

considered the act unenforceable. The end of the licens system made it likely that some new legal controls over writi would develop, at least for areas such as libel which w suddenly, for the most part, unregulated. Though the licens had not directed their attention toward obscenity, the existe of a licensing plan probably had some inhibiting effect pornographic publications. In any case, the demise of system, coupled with the spread of literacy and the increa popularity of reading, gradually led to a new class of write The upper classes became concerned about the possible effects these writings. It is in this setting that the effort was m to control obscenity through the common law courts.

In 1708, in the case of Queen v. Read, a prosecution instituted against a book entitled "The Fifteen Plagues of Maidenhead". Read was acquitted when the court ruled "a cr that shakes religion, as profaneness on the stage, etc., indictable; but writing an obscene book, as that entitled, 'The Fifteen Plagues of a Maidenhead', is not indictable, b punishable only in the spiritual court". This case asserted th obscenity, if it was an offense at all, was within the exclus jurisdiction of the ecclesiastical courts. It was not an offer at common law and all penalties imposed were spiritual ones.

Not only obscenity but sex offenses in general h traditionally been under the exclusive jurisdiction of t ecclesiastical courts. Adultery and fornication, which we forbidden by the Bible, were civilly punished for the first ti

under the theocratic government of Cromwell, but during Restoration they again fell under the exclusive control of ecclesiastical authorities.

The next case of significance was the 1727 Curl c Edmund Curl was prosecuted for "obscene libel" for publishi book entitled "Venus in Cloister" or "The Nun in her Smock". judges were troubled by the Read decision and by the fact common law had not recognized as crimes acts which did outright attack the church, government or tend to a breach of peace. Curl's book, while not in direct violation of t issues, did cause an embarrassment of the Church by discu sex of its members. Counsel for Curl attempted to use the case to have the indictment quashed; but the Attorney Ger while admitting the lack of precedent for his position, a that acts should be considered disruptive of the King's peac therefore forbidden by common law. The government argued acts which corrupt the morality of the public at larg "against the peace of the King's" even though acts of immor that effect only individuals, such as fornication, are not p offenses punishable by common law.

The court found precedent for the conviction of Curl Sedley case by saying that Sedley was not distinguishable b of the showering of the public with urine and because c violence which had provoked. The court reasoned that the important part of Sedley's offense was his nakedness. The held it to be an offense properly within its jurisdiction,

said that religion was part of common law; and therefc whatever is an offense against religion is evidently an off against common law. They reasoned that morality is fundamental part of religion; and therefore, whatever stri against religion must for the same reason be an offense aga common law. The Taylor case, cited as an authority for proposition that offenses against morality are common offenses, was a case where the defendant had been convicted calling Christ a bastard and a whoremonger and because he ca religion a cheat.

Curl's case established that a person could be punishe common law as a violator of the King's peace (although no f or threat of violence was involved in the action). As il trated earlier, the law before Curl punished authors of publ tions that were seditious or heretical or which tended to pro an actual breach of peace. Curl added to the category punishable works those which directly discredited establis religion or its servants in written form.

Eighteenth century legal writers treated the offense obscene libel created by Curl as an offense against God. obscenity cases which followed Curl similarly limited themse to sexual material in the context of anti-religious works. fact, material often referred to today as hardcore pornogr circulated quite freely, because of the lack of anti-religi content.

A final case that sheds some light on the development

common law offense of obscenity is the 1809 case of Rex Crunden. In that case the defendant was charged with bath nude in the sight of homes. The court found the defendant gui of the crime charged but freed him since this was "the fi prosecution of this sort in modern times". Until th immorality and immodesty, apart from anti-religious behavio seditious behavior or behavior provoking violence, had not punished.

During this period "guardians" of public morals made th appearance and stimulated governments to suppress obs writings. It was within this framework that the Society for Suppression of Vice was founded in England in 1802.

During the 19th century obscenity laws were given content England. Near the beginning of the century, common law had t point where it was being applied to prohibit purely sexual wo which did not attack or libel religious institutions. I practice led to the first obscenity legislation in England was incorporated in Vagrancy Act of 1824. The act prohibi exposing an obscene book or print in public places. In 1857 Lord Campbell's Act was passed and it prohibited dissemination of obscenity. This act permitted attacks material that currently was considered to have a literary valu

A definition of obscenity was formulated in 1868 in Queen Hicklin. The case involved an anti-religious pamphlet entit "The Confessional Unmasked", showing the depravity of the R priesthood, the iniquity of the confessional and the quest

put to females in confession. A local magistrate, Jus Benjamin Hicklin, ordered the pamphlet seized and destrc although about half of the pamphlet was argumentative and obscene. In Magistrate Hicklin's view, the publication disc intercourse and fellatio among other topics. Therefore rendered the entire work taboo. Although Hicklin's action reversed by an intermediate court, but the case was appealed, in 1868 the Chief Justice, Sir Alexander Cockburn, reinst Hicklin's orders. In doing so, a test of obscenity was frame law.

The test of obscenity laid down by the court did however, limit itself to the anti-religious aspect; instea general test of obscenity was adopted. Chief Justice Cock did not base the existence of obscenity on the intention of authors. Instead, he said that the test of obscenity was whe the tendency of the matter charged as obscenity was to dep and corrupt minds which are open to such immoral influences into whose hands the publication may fall. The test of mora was what a father could read aloud in his own home.

There were many successful prosecutions of pornography the law was also invoked against works of literary merit works with a social or moral purpose. In additior prosecutions, other sanctions were also used. (Seizure of b by the post office, customs officials, or police; and t subsequent destruction).

The law was subject to continuous attack, because for it

felt that it often compelled authors to falsify social realit
The law was also attacked for reducing literary standards to
level of what was morally proper for the young. The applica
of the law by judges in specific cases was also attacked, bec
judges permitted prosecutions on the basis of isolated passa
Judges also refused to permit evidence of the author's inten
purpose or his literary reputation, or testimony of recogn
literary critics. The law was also attacked because
prosecutions were often directed against book material sel
who were indifferent to the fate of the attacked.

In the United States "obscenity" never had strong roots a
common law offense. The reasons offered are that early coloni
were unconcerned with depiction of sex largely because there
little or none in circulation. The life of a typical colo
during this period was one of hard physical labor. Theref
the general disinterest in pornography may be attributable
lack of leisure time. In the Massachusetts colony a fundame
interest was to uphold the religious faith. From the begin
of its existence, the colonial authorities freely dispe
punishment for such religious crimes as swearing and workin
Sunday, and until the late 1600's, punishment for blasp
included the death penalty.

As in England, censorship in America was directed to
antireligious works rather than sexual material. A stat
passed in Massachusetts in 1711 read that "evil communicat
wicked, profane, impure, filthy and obscene songs, composu

writings or prints do corrupt the mind and are incentives t
manner of impieties and debaucheries, more especially
digested, composed or uttered in imitation or in mimicki
preaching, or any other part of divine worship". Further
law prohibited the "composing, writing, printing, or publi
of any filthy, obscene or profane song, pamphlet, libel or
sermon, in imitation of preaching, or any other part of c
worship". This statute, although closely related to
religious material, was applicable to solely sexual materi
well. There are, however, no recorded prosecutions unde
Massachusetts statute until the 1821 "Fanny Hill" case.

In 1821, Massachusetts prosecuted the first case invo
an illustrated book "Fanny Hill". Prosecution of the
Commonwealth v. Holmes, was brought against the publisher,
Holmes, and resulted in his conviction based upon an illustr
in the book and the text. This prosecution involved commo
because the illustrations were not prohibited by the statute

The first obscenity case in the United States arose in
in Pennsylvania, where there was no obscenity statu
existence. The case, Commonwealth v. Sharpless, involve
showing of a picture movie, although not in public for pr
charged as being "lewd, wicked, scandalous, infamous
obscene, representing a man in an obscene, impudent, and inc
posture with a woman, to the manifest corruption and subve
of youth, and other citizens of this commonwealth, to the
example of all others in like case offending, and agains

place and dignity of the Commonwealth of Pennsylvania." indictment also charged that defendants were guilty "designing, contriving and intending the morals, as well of yo and other citizens of this commonwealth, to debauch and corru and to raise and create in their minds inordinate and lust desires." The defendants argued, as had Read and Curl, th they could not be convicted of such a crime without any statu prohibiting their conduct. The court found, however, that t defendants had violated public decency and thereby committed legal offense. The court relied on the Sedley case in reach its conclusion that acts of public indecency were indictab under common law.

Henceforth, it was legislature rather than common law co decisions that headed the anti-obscenity movement in t country. In 1821, the State of Vermont passed the fi obscenity statute in the United States. In 1834, Connecti followed with a statute and in 1835, Massachusetts amended colonial law to extend the ban on obscenity to importation distribution and included prints, pictures, figures descriptions. The updated statute was not as religiou affiliated as the old one and a test of obscenity was inclu for the first time. This test was whether the work "manifestly tending to the corruption of the morals of youth."

The first federal anti-obscenity statute was passed in 18 It was a customs law aimed at the narrow problem of import obscene material. The law directed the seizure and destruct

"of all indecent and obscene prints, painting, lithog engravings and transparencies"; and like the English c statute, was apparently aimed at the French postcard trade.

In 1868, Anthony Comstock, a grocery store clerk in N City, took it upon himself to investigate and rep prosecutors violations of the recently enacted legis prohibiting the dissemination of obscene literature. Cc was supported by community's Protestant leaders and memb the Young Men's Christian Association. Both groups had su the creation of obscenity legislation. In 1873 the Committ the Suppression of Vice was created in New York City. Cc was the committee's chief Washington lobbyist and as a res Comstock's efforts, Congress broadened the 1865 Federal Ma to include pornography.

By the end of the 19th century, at least 30 states ha form of prohibition on the dissemination of "obscene" mate The definition of "obscene," used in federal and prohibition on the dissemination of obscene materials w definition reached in the Queen v. Hicklin case in 1868. definition remained in force until a 1957 decision by the States Supreme Court set the pattern under which we e obscenity matters today. Before addressing this part decision, a brief presentation of case law development aff the area of censorship is in order.

In the 1920's a case came before the Supreme Court inv measures designed to restrict freedom of publication. A

"hate sheet" that regularly excoriated the Jews was being turr out in Minneapolis by J.M. Near. The case dealt with the ric of the municipal officials to suppress the publication. The hi court, in a five to four decision, ruled against all pri restraints which had been imposed on the paper.

New York had a statute directed against sadistic literatur which read as follows: "It is a misdemeanor to sell a publication principally made up of criminal news, police report or accounts of criminal deeds, or pictures or stories of deeds bloodshed, lust or crime". In 1941 Murray Winters was fo guilty of possessing more than two thousand copies of a magazi titled "Headquarters Detectives". The magazine featured artic with titles such as "Bargains in Bodies", "Girl Slave to a L Cult" and "Girls Reformatory." In 1948 the Supreme Court, i six to three decision, reversed the conviction ruling th restrictions imposed on freedom of expression were void if t law was vague and uncertain.

The Esquire magazine of the 1940's was similar to toda Playboy. Sex tended to dominate a number of its stories a articles; however, it was not deemed obscene. The Postmas General reasoned that second class mailing privileges we intended by Congress to be provided for magazines "published the dissemination of information of a public character, devoted to literature, the sciences, arts or some speci industry." With this thought in mind the Postmaster Gener suspended Esquire's second class mailing privileges. The imp

of the high court's ruling was to declare that an item was censorable solely because it failed to "contribute to the pub good and the public welfare."

In 1957 the Supreme Court reversed the Michigan convict of a book distributor, Alfred E. Butler, who had been convic of selling a novel titled "Devil Rides Outside". The b detailed the moral story of a young man's struggle against l while staying in a French monastary. The Michigan court ru that the book violated a state statute that had barred sales the general public of books "containing obscene, immoral, lewd lascivious language." Supreme Court Justice Felix Frankfur wrote: "The State insists that, by thus quarantining the gene reading public against books not too rugged for grown man women in order to shield juvenile innocence, it is exercising power to promote the general welfare. Surely, this is to b the house to roast the pig. We have before us legislation reasonably restricted to the evil with which it is said to de The incidence of this enactment is to reduce the adult popula of Michigan to reading what is fit for children."

In Roth v. United States, 35 U.S. 476 (1957), the defenda who published and sold books, was charged with violation of federal obscenity statute. In a companion case, Alberts California, 354 U.S. 476 (1957), the defendant, Alber conducted a mail order business in the State of California. was also charged with violation of the State's obscenity laws selling obscene, lewd, and indecent books. For the first tim

constitutional issue involving the First and Fourte
Amendments was raised. The decision centered on whether t
obscenity laws violated the First Amendment's freedom of s
and the due process clause of the Fourteenth Amendment.
defendant argued that the wording of the respective statute
not provide reasonable definite standards of guilt so that p
could understand and conform their conduct to the requiremen
the laws.

The Court held that the statutes were constitutional
that obscenity laws designed to protect the morals of the p
do not infringe on the area of protected speech or expre
under the First Amendment. Also, that the wording of
statutes gave adequate warning of the types of conduct which
prohibited.

The Roth formulation, at first glance, may not
difficult. The five Justices declared that if "to the ave
person, applying contemporary community standards, the dom
theme of the material taken as a whole appeals to the prur
interest" the matter was obscene. Thus, the Court establ
the broad rule that obscenity was not constitutionally prote
However, in later case the problem become one of definin
terms: "average person," "community standards," "pru
interests" and "dominant theme."

Nine years later in Memoirs v. Massachusetts, 383 U.S
(1966), the Court held: "The Supreme Judicial Court err
holding that a book need not be °unqualifiedly worthless b

it can be deemed obscene'. A book cannot be proscribed unles is found to be utterly without redeeming social value." W. Roth presumed "obscenity" to be "utterly without redeeming so value," Memoirs required that to prove obscenity it mus affirmatively established that the material is "utterly wi redeeming social value." Therefore, even as they repeated words of the Roth decision, the Memoirs plurality produc drastically altered test that called on the prosecution to p that the material was "utterly without redeeming social valu burden extremely difficult to discharge under our standard proof.

In the case of Paris Adult Theater v. Slaton, 413 U.S (1973), the Court said that even though obscene materials shown only to consenting adults, the state has a right challenge such materials and, if found to be offensive, prevent their sale and distribution. The United States v. Or 413 U.S. 139 (1973) case was decided the same day the Sup Court held that Congress has the power to prevent obs material from entering the stream of commerce. The Court that the 1969 Stanley case, which protected the right of pe to keep obscene materials in the privacy of their homes, did extend beyond the home. Therefore, although a person can such material at home, it appears he or she could have diffic transporting it there. Another significant 1973 case dea with the definition of obscenity was Kaplan v. California, U.S. 115 (1973). The Court simply said that books wit

pictures can be obscene.

The most important of the 1973 decisions was the Mi
case, which resulted in the Court's setting guidelines for
term "obscenity." In Miller v. California, 413 U.S. 15 (19
the Court stated: "The basic guidelines for the trier of f
must be: (a) whether the average person, applying contempo
community standards, would find that the work, taken as a wh
appeals to the prurient interest, (b) whether the work depict
describes, in a patently offensive way, sexual con
specifically defined by the applicable state law, and (c) whe
the work, taken as a whole, lacks serious literary, artis
political, or scientific value." The Court set forth
following examples of what a state statute could define
regulation under part (b) of the standard set forth above:
patently offensive representations or descriptions of ultir
sexual acts, normal or perverted, actual or simulated, and
patently offensive representations or descriptions
masturbation, excretory functions and lewd exhibition of
genitals.

Also, similar federal guidelines were set down in the Un
States v. 12 200 Ft. Reels of Super 8mm Film, 413 U.S.
(1973). The Court stated that for purposes of the fed
statutes the court was prepared to construe prong (b) of the
to encompass the conduct set forth as examples in the Mi
case. Therefore, a proper statement of the test for obscenit
federal cases would be as follows: (a) whether the ave

person, applying contemporary standards, would find tha work, taken as a whole, appeals to the prurient interest whether the work depicts or describes, in a patently offe way, sexual conduct including, but not limited representations or descriptions of ultimate sexual acts, r or perverted, actual or simulated, or representatior descriptions of masturbation, excretory functions, or exhibition of the genitals, and (c) whether the work, taken whole, lacks serious literary, artistic, political, or scien value.

The most recent Supreme Court decision regarding obsc was the William Pinkus, dba "Rosslyn News Company" and Kame United States decided on May 23, 1978. This case establ guidelines for a definition of the "community" by whose stan obscenity was to be judged, the court held that children ar to be included as part of the "community" as that term relat the "obscene materials" proscribed by 18 U.S.C. S1461, and it was error to instruct the jury that children are part o relevant community. A jury conscientiously striving to d such community, the "average person" by whose standards obsc is to be judged, might very well reach a much lower "ave when children are part of that equation than it would restricted its consideration to the effect of allegedly ob materials on adults. However, inclusion of "sensitive per in the charge advising the jury of whom the community con was not an error. In the context of this case, the comm

includes all adults who compose it, and a jury can consider t all in determining the relevant community standards. Noth prevents a court from giving an instruction on prurient appeal juries as part of an instruction pertaining to appeal to average person.

The pandering instruction, which permitted the jury consider the touting descriptions in the advertising brochur along with the materials themselves, to determine whether materials were intended to appeal to the recipient's pruri interest or, whether they were "commercial exploitation erotica-solely for the sake of their prurient appeal. tracing of these rulings clearly indicate the difficult t faced by the courts. On one hand, the delicate issues constitutionality have to be met; and on the other, soci demands protection, in areas of obscenity. The problems of enforcement are equally difficult. Unlike most other cri where the elements of the offense are spelled out quite vivi in obscenity matters that is not the case. There is no way police to know if a crime is being or has been committed bec they have no way of knowing what a community will regard obscene.

III. PORNOGRAPHY INVESTIGATION

A. PRODUCTION/DISTRIBUTION

1. NATIONAL DISTRIBUTION (CHART A)

Numerous pornography producers/distributors are i
fied in this investigation. The following is a summ
national suppliers throughout the United States.

Parliament News Company, Chatsworth, California a
to be one of the most prominent distributors in Cali
and the company has been identified as distributir
Sovereign News Company, Cleveland, Ohio; Canyor
Company, Glendale, Arizona; Rivergate News Company
Orleans, Louisiana; Bon Jay Sales, Baltimore, Marylan
Help Publishers & Distributors, Inc., Harvey's
Pennsylvania.

Sovereign News Company, Cleveland, Ohio rec
pornographic material from nationwide sources inc:
Parliament News Company, Chatsworth, California;
Distributing, Ltd., New York, New York; Sta
Enterprises, Pennsauken, New Jersey; and Peachtree Na
Distributors, Atlanta, Georgia. In return, Sovereigr
Company distributes to: Royal News Company, Ror
Michigan; Sun Dial News Company, Denver, Colorado;
News Company, Glendale, Arizona; Capitol News Co
Chicago, Illinois; Noble News Company, Baltimore, Mar
Century Sales, Pennsauken, New Jersey (formerly Crow
Company, Camden, New Jersey); Imperial News Company,
New York; Castle News Company, Butler, Wisconsin; Ma
News Company, Pittsburg, Pennsylvania; Automatic Ente

and Atlantic Magazine Company, Washington, D.C.

Star Distributing, Ltd., New York, New York, suppli pornographic material to Joe P. Enterprises, Bosto Massachusetts; Help Publishers and Distributors, Inc Harvey's Lake, Pennsylvania; Century Sales, Pennsauken, N Jersey; Bon Jay Sales and Noble News Company of Baltimor Maryland; Peachtree National Distributors, Atlanta, Georgi Florida Periodicals, Tampa, Florida; Rivergate News Agenc New Orleans, Louisiana; and the Distributor System of Texa Fort Worth, Texas.

Crown News Company (name changed to Century Sales Pennsauken, New Jersey has been identified as supplying He Publishers and Distributors, Harvey's Lake, Pennsylvania.

Bon Jay Sales, Baltimore, Maryland distribut pornographic material to Atlantic Books Distributor Providence, Rhode Island, who in turn distributes Magazine Agency, Minneapolis, Minnesota.

Peachtree National Distributors, Atlanta, Georg supplies Century Sales (Crown News Company), Pennsauken, N Jersey; Carolina Books Distributors, Raleigh, Nor Carolina; Florida Periodicals, Inc., Tampa, Florid Sovereign News Company, Cleveland, Ohio; All Star Ne Agency, St. Louis, Missouri; Castle of Arcades, Lawto Oklahoma; Satellite News, Biloxi, Mississippi; Star New Biloxi, Mississippi; Rivergate News Company, New Orlean Louisiana; and Satallite News Agency, Inc., Houston, Texas

Florida Periodicals, Inc., Tampa, Florida, is supp
by various suppliers end distributes pornographic mate
to Sovereign News Company, Cleveland, Ohio.

The largest East Coast distributor has been identi
as Star Distributing, Ltd., New York, New York, whose m
recipient is Peachtree National Distributors, Atlan
Georgia, who in turn distributes on a nationwide le
Documentation indicates that Star Distributing, Lt
distributes as far West as Cleveland, Ohio (Sovereign N
Company). Sovereign News Company distributes as far West
Colorado; Southwest into Arizona; and along the East Co
In turn, Sovereign News Company, Cleveland, Ohio, is a m
recipient of pornographic material from Parliament N
Company, Chatsworth, California.

2. CALIFORNIA PRODUCTION/DISTRIBUTION (CHART B)

B. INDIVIDUAL CORPORATE ORGANIZATIONAL PROFILES

As a result of the voluminous amount of informat
forwarded, corporate organizational profiles have b
developed. These profiles are linked to organized crime
include: Komar, Ltd. (Boltansky); Linhorn Investors, L
(Womack); Star Distributing, Ltd. (DiBernardo);
Productions, Inc. (Levine); Miller Road Bingo H
(Wisotsky); Global Industries (Thevis); Bon Jay Sa

(Gresser); Sovereign News Company (Sturman) and Stu Seg
Associates (Zaffarano). Based on supplied documentat
the following narrative will depict the above indiv
corporate organizational structures and their relation
to each other. For the convenience of the reader,
organizational profiles are developed in stages.

1. CORPORATE ORGANIZATIONAL PROFILE #1 (CHART C)

John Sanza is the secretary/treasurer for Man's V
Inc., 918 9th St., N.W., Washington, D.C. whose age
Jeanette Hargrove. Jeanette Hargrove is the original
of 808 K Street Association, Ltd., T/A Mark II Cinema,
St., N.W., Washington, D.C., with S. Douglas Guise a
current president, James Proferes as a previous pres
(1975) and George Mekedes as the vice president.
Proferes is the president and George Mekedes is
incorporator for the Metropole Social Club, 104 Rhode I
Ave., N.W., Washington, D.C.

J. Douglas Gurge is the president for Croatan B
Inc., 8653 Richmond Highway, Fairfax County, Virg
(corporate address is 121 Brooke Ave., Norfolk, Virgini
maintains P.O. Box 2817 which is 922 14th St., N
Washington, D.C.) whose original manager was Richard G
and the secretary/treasurer is Jeanette Hardrove.

Herman Womack is the owner of the Beach Adul

Shop, Virginia Beach, Virginia, which employs Rich Goudie.

Richard Goudie is the vice president of A & R Bo Inc., T/A A & R Books, 922 14th St., N.W., Washington, D with James Ingram as the president and J. Douglas Gurge the registered agent. Richard Goudie is also the agent M Street Periodicals, 1746 M St., N.W., Washington, D. with James Ingram recorded as the owner. James Ingra also the owner of Tidewater Periodicals, 3502 Washin Ave., Newport News, Virginia; Marlow Heights Periodica 4418 Barnabas Road, Temple Hills, Maryland; Maryland Mc Management, 922 14th St., N.W., Washington, D.C. (s address as A & R Books, Inc.) and Croatan Distributors, McKinley St., N.W. and 922 14th St., N.W., Washington, D.

James Ingram is the vice president (1974), Ho Wiltshire is secretary/treasurer (1975), Herman Womack president (1976), Michael Nickerson is secretary/treasu (1976), Peter Spruill was vice president (1976) and R Nickerson was secretary/treasurer (1974) for the Lin Investors, Ltd., 1520 East Ocean View, Norfolk, Virginia.

Herman Womack owned bookstores in Maryland, Virgi and Washington, D.C. In 1971, by terms of his probation, was barred from further participation in the pornogr business. As a result, Womack allegedly sold pornography businesses and currently resides in Norf Virginia.

Womack is the president of the Guild Book Serv Inc., 117 Brooke Ave., Norfolk, Virginia, and Budget Bo Inc., 2328 E. Little Creek Road, Norfolk, Virginia. Mic Nickerson is the secretary/treasurer and Peter Spruill vice president. Horace Wiltshire (secretary/treasure Linhorn Investors, Ltd.) is also a director for Bu Books, Inc. Michael Nickerson is the vice president, P Spruill is the secretary/ treasurer and Rose Nickerso the president of the Ft. Eustis Bookstore, 16909 Wa Blvd., Newport News, Virginia. Rose Nickerson is liste the president of the Shipyard Bookstore, 3415 Washin Ave., Newport News, Virginia; Admiralty Books, 8210 Ham Blvd., Norfolk, Virginia; Shore Drive Books, 8141 S Drive, Norfolk, Virginia; and Fleet Books, 121 Brooke A Norfolk, Virginia.

2. CORPORATE ORGANIZATIONAL PROFILE #2 (CHART D)

On July 21, 1964, Robert E. Smith, Melvin Rankin Samuel Boltansky were the incorporators for Central Mag Sales, Ltd. In March 1968, the corporate records amended to change the name from Central Magazine S Ltd., to Central Sales, Ltd., Inc., with Alvin Tappe secretary and Samuel Boltansky as president and stockholder. On April 25, 1968, Central Sales, Ltd., I was changed to a closed corporation. On December 31, 1

Tom Cat Distributing Company was merged with Central Sa Ltd., Inc. On September 14, 1971, the name Central Sa Ltd., Inc. was changed to read Komar, Ltd., T/A Cen Sales East. On October 31, 1973, Foto, Inc., X-Bolt, I and Central Distributors, Inc., were merged into Komar, Employed by Komar, Ltd., are Mel Ulnick, Louis Gugli (who signs the employees' checks) and John Sanza. Sanz also the president of Man's World, Inc., 918 9th St., N Washington, D.C.

On January 14, 1975, a Roadway tractor, Mary license number 7699FB, listed to Roadway, 240 South Kre St., Baltimore, Maryland, was observed at Central Sa Inc. This tractor was pulling a trailer, Delaware lic number T37585. Several men from Central Sales, Ir assisted in loading approximately 10 large crates into trailer. These crates contained arcade booths (peep booths) which were being shipped by Central Sales, Inc., a vending company at 6427 Westheimer Road, Houston, Te The telephone number the driver was to call prior delivery was 661-2201. Information was received from Houston Police Department that the address 6427 Westhei Road is the location of the Westheimer Newsstand. telephone number 661-2201 is listed to the Starb Publishing Company which owns the Westheimer Newsstand the Bellaire Newsstand at 5807 Bellaire Boulevard, Houst Texas.

On October 25, 1976, a search and seizure warrant served at Central Sales, Inc., by the Baltimore Po Department, Maryland. During the search, it was found all pertinent business records for the years 1974, 1975 1976 had been removed. The vice president of Central Sa Inc., Louis Guglielmi, admitted moving the records bec he could not operate his business if they were seized. also stated that he moved the records immediately follo a raid at Bon Jay Sales, Inc., 6601 Moravia Park D Baltimore, Maryland. Records that were found mentior business named the Distribution Systems of Texas locat 2416 Ludelle St., Fort Worth, Texas. This com distributed pornographic material in the Texas area Louis Guglielmi signed all the checks for the employ The employees of the Distribution Systems of Texas listed as William Wheeler, Robert Bond and Mel Ul Ulnick was also mentioned as being an employee of K Ltd. Records indicated that the Distribution System Texas sent a $1,000 monthly check to Star Distributors, The last check found at Central Sales, Inc., indicated this $1,000 was transferred on January 14, 1974.

In 1970, Robert Eugene Smith, an attorney for Sa Boltansky, filed several court cases in states other Maryland in which he claimed to be representing Komar, and Star Distributors, Ltd. Samuel Boltansky is also registered agent for Boltansky Enterprises, Inc., 11

Baltimore St., Baltimore, Maryland (same as Tetra C with Harold Witman, Harry Anderson and Remay Mille incorporators and George Boltansky as the secretary. S. Boltansky, Sheldon Braiderman, Michael Milton and Mic Grossfield are the incorporators for Towson Books, (formerly Budget Books, Inc.), located at 516 York St. 1125 E. Baltimore St., Baltimore, Maryland. Sa Boltansky owns the property at 928 14th St., N Washington, D.C., which is the location of Sanza Books, owned by John Sanza. John Sanza is the agent for De Corporation, 419 E. Baltimore St., Baltimore, Maryland Thomas Quaranta as the incorporator, Louis Guglielmi is vice president with James Haskins as president and J Johnson as incorporator of Central Sales, Inc.

Alvin Tapper, Guglielmi and Melvin Epstein directors of the ALM Corporation, 1023 E. Baltimore Baltimore, Maryland (same address as Central Sales, Inc. Komar Ltd.). The date of incorporation for ALM Corpora was July 3, 1972. This corporation's primary purpose wa purchase, own and hold the stock of other corporat acting as a "Holding corporation." An article of amend dated February 17, 1975, revealed that the corpora became a closed corporation with Louis Guglielmi as president and sole stockholder. The office address changed to 1023 E. Baltimore St., Baltimore, Maryland, L Guglielmi being the resident agent. The secretary

listed as Michael Mulherin. According to the tax reco for 1976, the president of the company was Louis Guglie and the vice president was Bradford Boone of Orchard V Masonville, Virginia. Louis Guglielmi is director Commercial Distributors, 1022 Watson St., Baltimo Maryland with Louis Omansky as incorporator and Mich Kaminkow as the registered agent. Michael Mulhe (secretary for ALM Corp.) is a director of KMT, Inc., Sweden Books, 3710 Washington St., Newport News, Virgi with Kenneth Yontz as president and Thomas Pallette a director. Michael Mulherin is also the owner of Man's Wo Bookstore, 1700 E. Washington St., Petersburg, Virgin Thomas Pallette, Clifton Harrison and Keith Edenfield directors of Eros Bookstore, Inc., 125 Brooke Ave., Norfo Virginia, with Lowell Valvanio as registered age Pallette, Harrison, Edenfield and Valvanio are a corporate officers for the Royal Bookstore, Inc., 161 Gra St., Norfolk, Virginia. Thomas Pallette is president Lowell Valvanio is the registered agent of Variety Books News, Inc., 3300 Washington St., Newport News, Virgi with Thomas Gach as secretary and treasurer.

Samuel Boltansky is the president, Nathan Grama secretary and Robert Strong the vice president of Rad Merchandising Company, Inc., 1223 Arch St., Philadelp Pennsylvania. Bruno Cortese is the bookkeeper of Rad Merchandising Company, Inc.

3. CORPORATE ORGANIZATIONAL PROFILE #3 (CHART E)

Star Distributing, Ltd., is a wholesale pornograp distributor located at 150 Lafayette St., New York, N York. They receive pornographic material from UltraConcep and Milky Way Productions, New York. Ultra Concep provides art work, pictures, actors and models. St Distributing, Ltd., maintains the distribution rights Screw magazine published by Milky Way Productions, 116 We 14th St., New York, New York, whose president is Jim Buckl and the secretary is Al Goldstein. In an interview with t New York Times, Al Goldstein, the editor and publisher Screw magazine, openly discussed the LCN ties of t distributing companies when he said, "We have no options to who we deal with. No legitimate distributor will tou us. I'd deal with Hitler if I had to. I'll deal wi anyone I can do business with." Goldstein and Buckl eventually signed a contract with Star Distributing, Ltd who agreed to handle the paper outside New York City; b they refused to deal in the city. Goldstein also said did not feel threatened by anyone at Star Distributin Ltd., as long as he produced money for them. The New Yo edition sold for $1.00 and the national edition for $1.2 Milky Way Productions received $0.40 for each paper sold New York and $0.30 for each paper sold outside the cit

Star Distributing, Ltd. distributes to Peach tree Na
Distributors, 260 Luckie St., Atlanta, Georgia; Riv
News Agency, 411 Jackson St., New Orleans, Louisian
Jay Sales, 6601 Moravia Park Drive, Baltimore, Mar
Distributor Systems of Texas, 2614 W. Delle St., Ft.
Texas; Help Publishers and Distributors, Road #1, Po
Harvey's Lake, Pennsylvania; Este Arte Corporatio
Beach, Florida; Sovereign News Company, 2075 E. 65t
Cleveland, Ohio; Joe P. Enterprises, 694 Washingt
Boston, Mass.; Noble News Company, 7083 Pulaski H
Baltimore, Maryland and Crown News Company, 1171 Ch
St., Camden, New Jersey.

Theodore Rothstein's involvement in pornography
known to law enforcement in 1955 when he and Robert
were arrested and convicted of photographing nude mal
females. Rothstein is the president and Marvin Fried
the incorporator for Star Distributing, Ltd. Whe
Distributing, Ltd. first came to the attention
enforcement authorities, it was a failing business
operations, according to one witness testifying at a h
held by the New York Commission of Investigatio
severely hampered by its need for cash. Shipments
Distributing, Ltd. were on a strict cash basis. Cr
consignment sales were not acceptable. Star's fi
position and credit rating suddenly improved and it
receiving merchandise on consignment. Along wit

financial change came a new corporate officer, Rob DiBernardo. It was also clear, according to one witne that in all subsequent business transactions, DiBernardo the "last word" in Star. DiBernardo had no prior experie in this field. He had been the owner of Satellite Wh Alignment Company in Brooklyn, New York. One of employees at Satellite was Gaetano "Corkey" Vastola who known to law enforcement authorities as a member of the Jersey LCN DeCalvacante Family and had been convicted al with DeCalvacante in the Federal Court of Newark, Jersey. Some of the known affiliates of Star w identified at the New York State Commission of Inves gation's public hearing in 1970. Bonate, Inc., occupied same office space as Star. This firm operated as a lo distributor of sex-oriented books and magazines. Also this location was a firm known as "NAA". This firm known to law enforcement as a mail order outlet for simi material and operated by Neil Albaum. Albaum had b involved in pornography in Suffolk County, New York, and subsequently relocated to the offices of Star Distributi Ltd. At these same premises, Albaum conducted busin under the trade names NAA Films, Unlimited and Photo Pr Distributors, Ltd. Albaum had also operated Del Distributors, Ltd., at another location and in partners with Robert Barkow.

Barkow and Albaum had also established a mail or

house in Toronto, Canada, called the Club Levon. enterprise was designed to handle the international order distribution of sex-oriented materials in Canad the United States. Rothstein also appeared as the pres of two companies located in Manhattan which did the pri and photo work for Star and its affiliates.

The New York Commission of Investigation hac examined the operations of Robert Barkow and his conn with various distribution firms. Barkow appeared front man in three firms, all located in the same pr and operated out of the same office. These firms we closely inter-related that for all practical purposes were one operation. The first of these firms wa Publishing Corporation which was formed in August, 19 Joseph Brocchini. CAD Publishing Corporation publishec oriented illustrated paper back books and magaz Brocchini had no prior experience in this field. background had been in organized crime as a gambler ar shark in Queens, New York. His operations in Queen under the direct supervision of Joseph Lucchese, the b of the leader of the LCN Lucchese Family. Broc according to one witness, had admitted to having "shylock" before engaging in the publishing field a background was well known. CAD Publishing Corpora books and records were the same source of inforr available to the Commission concerning its opera

Entries reflected payments for printing books and magazin
Early in its operation, CAD Publishing Corporation wor
essentially on a subcontracting basis. However, in Janua
1969, CAD Publishing Corporation engaged a printer,
Books, Inc. who took over this entire operation.

Bark Book Distributors was formed by Robert Barkow
October, 1968 and was operated by him up to the time of
Commission's public hearing. Bark Book Distributors
apparently formed to distribute nationally the
Publishing Corporation's line of paper backs and magazin
Bark Book Distributor's records reflected that 90% of th
purchases were from CAD Publishing Corporation.
projection, lacking accurate sales records, Bark Bo
Distributors grossed approximately $300,000.00 a year.

The third major corporation at this location was th
& H Distributors, Inc., which was formed in March, 1969,
be a distributor of sex-oriented books, magazines and fil
Approximately 20% of this company's purchases were from
Publishing Corporation. The principals in this operat
were obstensibly Robert Ford and Howard Wasserman but
real boss was Robert Barkow. The books of B & H Distr
butors, Inc. showed that Barkow and Brocchini were draw
substantially higher salaries than either Ford or Wasserma
Ford remained in this operation for a short period of tir
Wasserman, on the other hand, operated as sales manager
B & H Distributing, Inc. Manuel Block, the companies sc

salesman, reported to him. The company had 4 or 5 c employees and a group of warehouse employees headd Brocchini's brother-in-law, Bart Salamone. The corp structure was: the salesman reported to the sales mar who reported to Barkow, who in turn reported to d Brocchini. There was no doubt that Brocchini was th with Barkow acting as the office manager.

4. CORPORATE ORGANIZATIONAL PROFILE #4 (CHART F)

In a South Florida pornography case, Sidney Levi New York City was convicted in a federal court of makir budget pornographic movies in a North Miami wareh Levine had admitted that Robert DiBernardo and c connected with Star Distributing, Ltd., were employe his firm SFD Film Production, Inc., and had also loane firm money to buy a film. Sidney Levine is the preside Real Invest International Corp., 2554 North Federal Hig Dania, Florida, with Ethel Levine as secretary. Levi also president of Electronic Time Corp., 2554 North F: Highway, Dania, Florida, with Michael Strauss as secr: Strauss is also president of Growth Systems, Inc., North Federal Highway, Dania, Florida. Two other com: with the same address as 2554 North Federal Highway a Media Haven Advertising Agency and American P: Productions Corp. Sidney Levine is the registered

with D.W. Smith as president and Dave Gardner as vice president of the Video Cinema International Corporation, 1001 N.W. 62nd St., Ft. Lauderdale, Florida. Smith and Gardner are also respectively the president and vice president of Video Theater Inter national Corporation, 1001 N.W. 62nd St., Ft. Lauderdale, Florida.

CORPORATE ORGANIZATIONAL PROFILE #5 (CHART G)

During a Florida investigation, telephone exchanges were checked on the Esteart Corp., 7520 N.W. 5th St., Miami, Florida and the residence of Michael Wisotsky and revealed numerous long distance telephone calls to Star Distributors, Ltd. in New York and the Duro Games, Inc., 347 W. Broadway, New York City. Duro Games, Inc. was also phoned by the Miller Road Bingo Hall whose corporate structure in 1974 revealed Theodore Rothstein as the vice president and Francis Westerly (wife of Myron Wisotsky) as the operator. Francis Wisotsky is the registered agent, Vincent Bracco is the president and Bonnie Bracco is a director for Cornhuskers, Inc., 2507 North Federal Highway, Delray Beach, Florida. Michael Wisotsky is the registered agent for Paradise Books, 1235 State Road 7, Hollywood, Florida and the Wisecon, Inc., 1700 North Federal Highway, Miami, Florida, along with Vincent Bracco as president and Bonnie Bracco as a director. Vincent Bracco is president

secretary/treasurer and Sidney Gursey is the regis
agent of the Lucky Five, Inc., 6636 N.W. 57th St., Tam
Florida. Vincent Bracco is the president and Bonnie B
is the secretary for the Westland, Corp., 12405 S.W.
St., Miami, Florida; Fun Forall, Inc., 7012 S.W. 4th
Miami, Florida (dissolved); J.J. Publishing Co., 7004
4th St., Miami, Florida; and the Adult Ventures, 2501
Federal Highway, Delray Beach, Florida. Joseph Bracco,
nephew of Vincent Bracco is a shop steward for Local
International Brotherhood of Teamsters in New York
Palma Lock is the registered agent for Westland Corp.
Forall, Inc.; J.J. Publishing Co.; Adult Ventures, Inc.
the Alms, Inc., 13993 Biscayne Blvd., Miami, Flor
Arthur Siegal is president of the Alms, Inc., Swank He
Spa, 20462 South Dixie Highway, Miami, Florida, Este
Inc., 7520 N.W. 5th St., Miami, Florida and the Adult
& Projections Systems, 5770 Funston St., Hollywood, Flo
Estelle Siegal is the secretary of the Alms, Inc.,
president of the Swank Health Spa with Albert Rubenste
the registered agent, secretary of the Esteart, Inc.,
Albert Engel as the registered agent and Robert Tedesc
the manager. She is also the secretary of the Adult
and Projections Systems with Robert Tedeschi a
registered agent. Martin Wisotsky, the uncle of Mi
Wisotsky is listed as the registered agent of the
Corp., 9514 South Dixie Highway, Miami, Florida.

During an investigation in April 1976, investiga purchased hardcore films and magazines from Michael Wiso during which Michael bragged about "being connect Michael Wisotsky was charged with wholesale promotio obscene material by the Broward County Attorney's Office has admitted that he repairs projectors for the Est Corp., a peep show machine business. Also during investigation of Wisotsky, detectives purchased hard material from two subjects, Vincent Digiacomo and Er Ferguson. Both subjects have past involvements in the and promotion of obscene material. Digiacomo and Ferg admitted to being "jobbers" (distributors) for la pornography houses; however, they stated that they did have any knowledge who was running the large houses. investigation revealed they are used by processors producers to distribute films since the processors producers are fearful that interstate shipments pornographic material will be seized and they will charged with federal violations. The large process shipped their material to Ferguson and Digiacomo at vari South Florida locations. Packages were falsely labe using bogus names for the sender and were addressed alias' being used by Ferguson and Digiacomo. These two would then distribute to bookstores in Dade, Broward Palm Beach Counties. Both men admitted that they ha close working relationship with the Wisotsky fami

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Further investigation revealed they had distributed for Distributors, Ltd. (New York City), Bon Jay Distribu (Baltimore, Md.), NFM Distributors (Calif.) and TGA F (Calif.).

In 1976, a meeting was held at Tony Roma's Restaur 460 Northwest 40th Ave., Plantation, Florida. Bro Sheriff°s Office surveilled the meeting which reve Michael Wisotsky, Natale Richichi, Robert Rubino (cha for Ettori Zappi, a captain in the LCN Gambino Fami Anthony Lo Presti (owner of the restaurant), Maria Free (girlfriend of William Bittner), Michael Rogers (an oper of massage parlors in Broward County) and Robert Ted (aka Bob The Machine Man) meeting together.

A telephone toll analysis was conducted on Na Richichi and it revealed telephone calls to the Imp Distributors, 834 Hope St., Providence, Rhode Island, ar Robert DiBernardo, a soldier in the LCN DeCalvacante F and a shareholder in Star Distributors, Ltd., 150 Lafa St., New York, New York.

6. CORPORATE ORGANIZATIONAL PROFILE #6 (CHART H)

Peachtree National Distributors, along with G Industries Inc. and Agency Services, Inc. are subsidi of the Fidelity Equipment and Leasing Corporat Peachtree National Distributors, Inc. is a pornogr

distributor who forwards shipping manifests to and rece shipment inventories from Florida Periodicals, Inc. order pornographic books from Star Distributors, Ltd.

Michael Thevis has been involved in the publication distribution of pornographic material since the e 1960's. He has been arrested numerous times by the Atl Police Department, but his attorneys were successfu keeping him out of prison until Federal authorities b investigating him in 1970. United States Attorney Jacksonville, Atlanta and New Orleans obtained four sepa convictions of Thevis.

A check of court records on October 30, 1972 indic a Federal Grand Jury returned 17 indictments against Mic G. Thevis, Jr., and his wife, Joan C. Thevis. They charged with violating federal laws regarding interst transportation of obscene material and advertising obs matter through the mails. Indicated as co-defendants these Atlanta businesses: Book Bin, Inc.; Peachtree Co., Inc.; Pendulum Book, Inc., and Peachtree Natic Distributors, Inc. The couple was charged with mai unsolicited obscene matter into nine states: Illino Colorado, Alabama, Indiana, New York, California, N Carolina, Tennessee and Texas, and with shipping obsc material to retailers in Florida and the District Columbia.

According to a press release on June 23, 1971, Mich

G. Thevis was convicted on 12 counts of shipping obs material across a state line. On June 25, 1971, Thevis sentenced to five years in prison and fined $5,000 on 12 counts of shipping obscene material.

Court records were also checked on April 8, 1975, they showed that Michael Thevis was also sentenced Lexington, Kentucky. Thevis was found guilty on 12 cc and will serve three years on each count to run concurre and he was fined $45,000. Thevis is quoted as saying rode the boom to its crest and I made a lot of money. not sorry for it." Although Thevis testified that he sold all of his pornography businesses to Laverne Bowder corporate officer in several of Thevis' pornogr businesses, Federal agents posing as pornography dealer New Orleans were told that Thevis is still in cont Thevis has admitted that he still owns buildings in w pornography operations are being conducted. Michael Th is recorded as the president of Global Industries, Inc., a director for General Recording Corp., and was the fo president of Pendulum Book, Inc., and a former office Book Bin, Inc. Thevis was arrested by the F.B.I. violation of the Escape and Rescue Statute, Mail Fr Conspiracy, Obstruction of Criminal Investigation Obstruction of Justice.

William Williams is the president of Peachtree Co., with Gerald Matheny as secretary/treasurer, and K

Mason as vice president. Williams is the secretary, Mitchem is the treasurer and Richard Wilson is registered agent of Panama Books, 267 Marietta Av Atlanta, Georgia, T/A Dale Mabry Bookmart, 3325 S. Mabry, Tampa, Florida, T/A T & K Entertainment, 17 Hillsborough, Tampa, Florida and T/A Busch Blvd. Book 2106 E. Busch Blvd., Tampa, Florida (owner is list Norman Abood). William Williams is the president of Fl Periodicals, Inc., 7210 Anderson Road, Tampa, Florida, Ralph Mitchem as secretary/treasurer, and Norman Aboc the registered agent. Williams is the secretary/trea of Cinematics, Inc., 267 Marietta Ave., Atlanta, Geor with Gerald Matheny as the president. Williams also for all expenses incurred by the Austin Bookmart, Ca Bookshop and the Pleasure Shoppe, all located in Hou Texas.

Melvin Friedman is recorded as president of Peacl National Distributors, Inc. He, along with Rodney Smitl Julius Davenport, are officers for Carolina B Distributors, 213 N. Harrington Street, Raleigh, N Carolina. Friedman is the secretary/treasurer of Jc Reb's Books and the Card Shop, Inc., co-located at Marietta Ave., Atlanta, Georgia. He is also an incorpor for All Star News Agency, 267 Marietta Ava., Atla Georgia, with a branch office at 3721 Washington Ave., Louis, Missouri, and 1651 W. Howard Ave., Bil

Mississippi, whose president is Ralph Mitchem. Melv Friedman was a former president of Peachtree News Compan 267 Marietta Ave., Atlanta, Georgia.

The Peachtree News Company, All Star News Agency, a the Southland Distributing, 174 Mill Street, Atlan Georgia, are subsidiaries of Global Industries, Inc., Snooty Fox Chase, Sandy Springs, Georgia, whose par company is Fidelity Leasing and Equipment Corp., Marietta Ave., Atlanta, Georgia. The corporation offic of Global Industries, Inc., are Pat McClean as preside Robert Mitchem as an incorporator, Laverne Bowden as major share holder, and Joan Thevis as the curr secretary.

Robert Mitchem is also the president of Apollo New 515-1/2 East Houston, San Antonio, Texas, and the preside of the Intimo News, 417 Myrtle Street, El Paso, Tex (inactive), with Ed Smith as the secretary. Gilbert Diet and Robert Eugene 8mith are directors, Joan Thevis is t secretary, and S. E. Widdoes, W. J. Reif and R. A. Fing are incorporators of the General Recording Corp. Gilbe Dietch, L'Kenny Helm and Warren Mason are directors, Hickey is the secretary/treasurer, William Williams is t president, and Laverne Bowden purchased 100% of the sha of the Fidelity Equipment and Leasing Corp., 267 Marie Avenue, Atlanta, Georgia. Pat Hickey is the secreta treasurer and Laverne Bowden is the president of the Om

Sales, Inc., 272 Marietta Avenue, Atlanta, Georgia. La Bowden frequents the following businesses: D.A.B. C T/A Gaslight Adult News, T/A Diners News, T/A Main S News, all of 2800 Pioneer #118, Irving, Texas, v incorporators are Joe Davis, Joe Davis III, and St Davis and the Satellite News Agency, Inc., 500 N. She Avenue, Houston, Texas. Satellite News Agency, Inc., subsidiary of Agency Services, Inc., 500 N. Shepherd Av Houston, Texas, whose parent company is Fidelity Equi and Leasing Corp., and incorporators are Alice Parr Wilson Cooper and Helen Sloss. Other businesses with address of 267 Marietta Avenue, Atlanta, Georgia, Culver, A.L. Polygraph and Peachtree Books Distributing

The Fidelity Equipment and Leasing Corporation incorporated on July 10, 1972, and operates as a hol company with the general business in leasing new and equipment of every kind and character. Global Industr Inc., Agency Services, Inc., co-located at 500 N. Shep Road, Houston, Texas, and Peachtree National Distribut Inc. are subsidiaries. Global Industries, Inc., incorporated for the purposes of purchasing securitie debt instruments of businesses of every kind description, operating in corporate or other form. maintains accounting services for Florida Periodicals, I Peachtree News Co., Castle of Arcades, Satellite I Agency, Star News, Satellite News, All Star News Agency,

Rivergate News Agency.

The Agency Services, Inc., issues operational orders t and receives merchandising and sales reports from Flori Periodicals, Inc. Peachtree National Distributors is pornographic distributor who forwards shipping manifes (contents) to and receives shipment inventories from t Florida Periodicals, Inc. Peachtree National Distributor Inc., orders pornographic books from Star Distributor Ltd., who in turn forwards shipping manifests (contents) Peachtree National Distributors. Florida Periodicals, In receives pornographic scrap books from Star Distributor Ltd., and Lyndon Distributors, 15756 Arminta Station, Va Nuys, California.

Melvin Friedman, Robert Mitchem and Ed Smith ar officers of the Greensboro Bookmart, T/A The Paris Bookstor and Fantasia Bookstore, which maintained a local bar account with the manager, depositing the money ar forwarding the sales sheets to Laverne Bowden (Fideli Equipment and Leasing Corp.) on a daily basis. The stor received all their pornographic materials from Caroli Books Distributing, Raleigh, North Carolina. A co collector comes to the store every seven to ten days empty the peep show machines and change the films. T store had twelve peep show projectors and 103 films for sa on August 19, 1977. The manager received five percent the money collected from the machines. Austin Hardis

Evans was identified as the coin collector and operate Trans Am Pontiac with Georgia registration PEL-920, whic registered to Cine-Matics, Inc., Atlanta, Georg Greensboro Bookmart, T/A Fantasia Bookstore was a operated in the same manner and included the s corporations and distributor. The employees of both st were originally paid by Global Industries, Inc., and ther the Fidelity Equipment and Leasing Corp. Michael Thevis his wife, Joan, signed the lease for the property where bookstores were located. Both stores have since been mov

Rosalie Lonsdale, the owner of five pornogra bookstores in Houston, Texas, when interviewed by an ag of the Texas Department of Public Safety, stated she been in debt to Michael Thevis for $60,000. When Lonsd wanted to sell her stores (debt had been reduced $20,000), she was contacted and told to pay off the n before she sold. When she attempted to sell the stores, Mitchell of Atlanta, Georgia, under the U.T. Corporati arrived and assumed the operations of the bookstores.

Chaparral Book Mart, 413 Peoples Street, Corp Christi, Texas receives its pornographic material from Sanco Distributing Co., 172 Marietta Avenue, Atlant Georgia. San Antonio Book Mart, 2018 Broadway, San Anton Texas, is owned by William Sherlock Parrish. Parrish h several arrests for sale of obscene material and his ba bond bills were sent to Pat McClean (president of Glob

Industries, Inc.). Taxes on World News Stand, 1230 I
3rd Street, Abilene, Texas, are billed to William Will
Post Office Box 4215, Atlanta, Georgia (Fidelity Equi
and Leasing Corp.). The 3110 South Shepherd, Inc.,
located at Post Office Box 4215, is responsible for p
state sales taxes on the following businesses in Texas:

Diner's News
240 Westheimer
Houston, Texas

Fort Worth News
307 Main Street
Fort Worth, Texas (inactive)

Gaslight Adult News
3519 West Holcombe Boulevard
Houston, Texas

Main St. News
4418 Main Street
Houston, Texas

8. CORPORATE ORGANIZATIONAL PROFILE #7 (CHART J)

Bon Jay Sales is a wholesale pornography distri
located at 6601 Moravia Park Drive, Baltimore, Mary
They receive pornographic material from Star Distribu
Ltd., New York, New York; Sovereign News Company, Cleve
Ohio, and Parliament News Company, Chatsworth, Califo
Sovereign News Company distributes pornographic materi
Atlantic Distributors, Providence, Rhode Island; Sub.
News, Inc., Silver Spring, Maryland, and Bookstor
Washington, D.C., Maryland, Virginia, North Carolina

York, and New Jersey.

The president and sole stockholder of Bon Jay Sale: Jack Gresser. Gresser is also the registered agent Woodwork, Inc., 1010 N. Chester Street, Baltimore, Maryl and Alpha Sentura Business Services, Inc., 205 W. Faye Street, Baltimore, Maryland. He is the director of Ce Vending Company, 205 W. Fayette Street, Baltimore, Maryl and obtained the mechanical license for Fayette News Ce Inc., 205 W. Fayette Street, Baltimore, Maryland.

In 1976, a search warrant was executed by the Mary State Police and the Baltimore City Police Department on Jay Sales' warehouse. Seized documents revealed that Jay Sales was con ducting considerable business w Parliament News Company, California, and with S Distributing Ltd., New York, New York. At one time, Gres owed Parliament News Company $190,000. Gresser ha reputation of being a poor creditor with many over accounts and defaulted loans, and yet, a company California allowed him to accumulate such a large de This pattern was also followed by Gresser who allowed s retailers to incur large debts to Bon Jay Sales.

At the time of the raid, the Little Booksto Baltimore, Maryland, owed Bon Jay Sales more than $90,000 figure that exceeded their gross annual sales. Ot businesses that had substantial balances due on vari accounts to Bon Jay Sales were the Adam & Eve Booksto

Washington, D.C. ($11,916); Baltimore News Center, Maryl
($94,840); Bragg News Center, North Carolina ($33,9)
Centre Vending Company, Maryland ($19,650); D.C. N
Center, Washington, D.C. ($60,910); Fayette News Cent
North Carolina ($29,000); String News, Ltd., North Carol
($13,000), and Sovereign News Company, Ohio ($14,995).
unpaid account of Baltimore News Center reportedly exce
the total amount the firm earns annually.

Other correspondence revealed Bon Jay Sales
attorneys Reuben Caplan, William Seekford, and Wil
Pittler to do necessary legal work. It is known that
the period from April 1973 until present, William Seek
has been paid a retainer fee ranging from $400-$600
month. Seekford represented Bon Jay Sales in a crimi
case in the State of Oregon in April 1973, in which Gre
was summoned and then later excused at the reques
Seekford. A second case in which Seekford was involved
place in March 1974 in Norfolk, Virginia, involving
Dixie News Store located in Charlotte, North Carolina.
services of William Pittler are used to prepare
paperwork for the incorporation of businesses related t
Jay Sales. This is indicated by a memorandum found at
Jay Sales regarding the 1405 H Street Corporatio
Washington, D.C. At the bottom of the note was wri
"names of the Board of Directors and Incorporators
forthcoming from Bill Pittler."

Both credit card and phone company records indi that for 18 months preceding the raid, Jack Gresser traveled extensively throughout the United States, several foreign countries. Those trips were to Los Ange California; New York; Newark, New Jersey; North Carol San Francisco, California; Connecticut; Minnesota; Mi Florida; Beverly Hills, California; Sweden; Milan, It and the Netherlands. On each occasion, Travel Whirl, I owned by Gresser's wife, Brindell, arranged the tr itinerary. One particularly interesting business trip t by Jack Gresser occurred on June 3, 1976, when he and Schwartz, who is listed as a clerk for Bon Jay Sa traveled to Milan, Italy, from Baltimore, Maryland. second invoice mentioned a subject named Marrotti who traveled to Milan, Italy, from New York, and the bill paid by Travel Whirl, Inc., through the Centre Ven Company. On June 5, 1976, Gresser, Schwartz and Marr met with three Italian nationals in Milan, Italy, reference to a large purchase of Elmo projectors. Whil Milan, Italy, Gresser contracted to purchase 1, projectors at $61 each from Foto Flash Universal. records also indicated that Gresser is the sole distrib of Elmo Products in the United States. It was later lea there is an Elmo Manufacturing Corporation at 3210 5 Street, Woodside, New York.

Control of Bookstores by Bon Jay Sales and its me

of operation is exemplified through Alan Schwartz, Osc
Lebowitz (listed as clerks for Bon Jay Sales), and Will
Shanks. On December 10, 1977, the Mac Sign Compar
Fayetteville, North Carolina, concluded a contract wi
William Shanks, representing the Alpha Sentura Busine
Services of Baltimore, Maryland, and linked to Bon Jay Sal
through corporate papers, to install signs at String Nev
Ltd., Fayetteville, North Carolina. It was also determir
that William Shanks was removing coins from the peep sh
machines in the bookstores in North Carolina. When p
show machines are installed or electrical work is requir
Shanks is normally accompanied by Alan Schwartz, who
listed as a repairman for the Centre Vending Compa
Baltimore, Maryland. On December 12, 1975, a van wi
Maryland plate #L36913, driven by Alan Schwartz, arrived
String News, Ltd. This van was registered to the Cen
Vending Company, String News, Ltd., and Bragg News, In
both of Fayetteville, North Carolina, and operated
Charles Kruger, III. William Shanks purchased the c
licenses required to open String News, Ltd., and t
incorporators were Thomas Ayres, William Bigham, and Osc
Lebowitz (listed as a clerk for Bon Jay Sales). Stri
News, Ltd., opened a checking account in the Southe
National Bank, Fayetteville, North Carolina. Although t
manager could make deposits in this account, he was r
authorized to write checks. All pornographic material f

String News, Ltd., is supplied by Bon Jay Sales which i registered to do business in North Carolina. On e Wednesday, the manager of String News, Ltd., telephone: Jay Sales and places orders for magazines and novelties Thursday and Friday of each week, the items are boxec shipped by Greyhound Bus to Fayetteville. Many of t boxes were marked "machine parts" but contained only bc magazines and novelties. William Shanks personally br film for the peep show machines and for counter sale String News, Ltd., and Bragg News, Inc. Shanks travel Fayetteville, North Carolina, every ten to fourteen days collects the coins from peep show machines and return Baltimore, Maryland. Shanks pays the manager (form Charles Kruger, III, and currently Jeffery Robbins) of bookstores ten percent of the total receipts. Robbins h key to change the films but does not have the key to cash box. If any of the peep show machines be inoperative, they are left for repairs until Shank: Schwartz returns to Fayetteville, North Carolina. On Au 19, 1977, String News, Ltd., had forty peep show mach and 76 films on hand for sale inside the store.

Also found in the Bon Jay Sales' files correspondence addressed to Gallery News, 412 Balti Street, Baltimore, Maryland, which was inside an enve from Media Distributors, Ltd. (used the same address as Distributing, Ltd.), listing Barry Tobman as the owne:

Gallery News and to contact William Shanks in case of a emergency. Tobman was also listed as a salesman for Bon Ja Sales. Information was also supplied by the United States Customs Service that the toll calls from Bon Jay Sales wha checked through the Treasury Department's computers revealed that 20-30 of these telephone numbers were checke through the computer during an earlier narcotics smuggli investigation.

William Seekford, Reuben Caplan, and William Pittl are attorneys for Bon Jay Sales, with John Moon recorded president, Ronald Sellinger as Vice president, Rona Clinton as a director, Oscar Lebowitz as a clerk, and Bar Tobman listed as a salesman. In 1975, Jack Gresser i listed as the sole stockholder of Bon Jay Sales. Willia Pittler is also the incorporator for Woodwork, Inc., 1010 N Chester Street, Baltimore, Maryland (a business constructi peep show booths for pornography bookstores); th incorporator for Centre Vending Company, 205 W. Fayett Street, Baltimore, Maryland (a business repairing peep sh machines in pornography bookstores), and the resident age for the Alpha Sentura Business Services, Inc., same addre as Centre Vending Company (a business collecting coins fr peep show machines). Jack Gresser is the resident agent f Woodwork, Inc., the director of Centre Vending Company, a the resident agent of Alpha Sentura Business Services, Inc along with Barry Tobman who is listed as an employee

Alpha Sentura Business Services, Inc. William Pittler the incorporator for the Modern Social Education, Inc., E. Baltimore Street, Baltimore, Maryland, and the registe agent for the Little Bookstore, Inc., 409 E. Baltim Street, Baltimore, Maryland. Charles Carofoli is president, Thomas Ayre signed for the mechanical licen Richard Caplan is the director, Richard Freeman the manag and Edward Wolfe is the vice president of D.C. News Cent Carofoli is also a board member for the Modern Soc Education, Inc. Thomas Ayre is the vice president, Edw Wolfe is a director, Charles Kruger, Harold Schulte and Star are directors, and Barry Tobman is the president of Little Store, Inc. Ayre is also the vice president, Kru the director, and Tobman is the president of the Mode Social Education, Inc., 407 E. Baltimore Street, Baltimo Maryland; Baltimore News Center, 428 E. Baltimore Stree Baltimore, Maryland; Fayette News Center, 205 Fayet Street, Baltimore, Maryland (peep show machine license Jack Gresser's name), and the Gayety Books, 407 E. Baltim Street, Baltimore, Maryland. Ayre, Kruger and Tobman a also directors for G & B, Inc., T/A Broadway News Cente 301 S. Broadway, Baltimore, Maryland. Charles Kruger vice president (1975); David Scotton is president (197 Estor Swisher was the president (1974); Louis Roseman w the vice president (1974); William Shanks is the authorizi agent, and John Collete is the manager of the District

Enterprises, 819 13th Street, N.W., Washington,
Collete and Kruger are directors of the Holiday News, L
423 E. Baltimore Street, Baltimore, Maryland, with Cha
Gillespie as director and Stuart Rombro as incorpora
Kruger is the former president (1975); David Scotton si
for the mechanical license; William Bingham is a former
president (1974-1975); Thomas Ayre is the former presi
(1972); John Jones is the current president, and Le
Eichhorn is the current vice president of the 1405 H St
Corporation, 1405 H Street, N.W., Washington, D.C. Le
Eichhorn is the vice president, and Dennis Pryba is
agent for Marlboro News, Inc., 7609 Marlboro Pi
Forestville, Maryland. Dennis Pryba is the owner; L.
Vineyard is the president; Dan Gottesman is the secret
and Ted Nicely is the vice president of Cross Road Bo
5898 Leesburg Pike, Falls Church, Virginia. Dennis Pryb
the agent for Educational Books, 9130 Richmond Highway,
Belvoir, Virginia, and the agent for Suburban News,
Georgia Avenue, Silver Spring, Maryland, with Donald Vo
as president. Barry Blum, a former employee of Subur
News, is currently a director for Northwest Books, Ltd.,
Reistertown Road, Pikesville, Maryland. Ted Nicely (v
president of Cross Road Books) is president of M St
Enterprises, 3255 M Street, N.W., Washington, D.C., w
John Jones (president of 1405 H Street Corporation) a
stockholder, Francis White as an incorporator, Kenneth Jo

as the agent, and Art Dufrane as vice president. William Bingham, Thomas Ayre and Oscar Lebowitz are incorporators for String News Ltd., 522 Hat Street, Fayetteville, North Carolina, with William Shanks purchasing the city license, and Jeffrey Robbins as manager. William Bingham is vice president; William Shanks (agent for Capitol Books, Inc.) is the director; Jeffery Robbins is the manager; Oscar Lebowitz (listed is a clerk for Bon Jay Sales) is a director; Charles Kruger is the president, and William Pittler (attorney for Bon Jay Sales) is an incorporator for Bragg News, Inc., 4326 Bragg Boulevard, Fayetteville, North Carolina. Charles Kruger is the president of LeSalon, Inc., 804-810 14th Street, N.W., Washington, D.C., with William Bingham as vice president, C. B. Miller as the agent, and John Allison listed as the owner.

CORPORATE ORGANIZATIONAL PROFILE #8 (CHART K)

Sovereign News Company is a wholesale pornography distributor located at 2075 E. 65th Street, Cleveland, Ohio. The company receives pornographic material from Star Distributors, Ltd., New York, New York; Parliament News Agency, Chatsworth, California; Action Publishers, St. Petersburg, Florida; Atlas News Distributors, Los Angeles, California; United Sales Distributors, address unknown; Global Press, Los Angeles, California; Star Media, Inc., New

York, New York; Star Dust Enterprises, Pennsauken, Jersey; Peachtree Discount Distributors, Atlanta, Georg Southeast Productions, San Fernando, California; Southw Distribution, Los Angeles, California; Califor International Distributors, Los Angeles, California; La Braun Sex Shop, Amsterdam, Netherlands; Buy Rite Maga Sales, North Hollywood, California, and Shore Innovati Inc., New York, New York.

Sovereign News Company distributes pornogra material to Royal News Company, Romulus, Michigan; C News Company, Camden, New Jersey; Majestic News Comp Youngstown, Ohio and Pittsburgh, Pennsylvania; Sun Dial Company, Denver, Colorado; Capitol News Company, Chic Illinois; Noble News Company, Baltimore, Maryland; W Wide News Company, Beachwood, Ohio; Discount News Comp Cleveland, Ohio; Automatic Enterprises, Washington, D. Bon Jay Sales, Baltimore, Maryland; Atlantic Magaz Company, Washington, D.C.; Imperial News Company, Depew, York, and Canyon News Company, Glendale, Arizona.

Additional information on the business activities Sovereign News Company surfaced in a combined coordinated law enforcement raid on the warehouses of Jay Sales and Noble News Company, both located in Maryl on August 23, 1976. Several uncashed checks, which tot $11,201.31, made payable to Edward Stevens, were discove These checks had been sent from Castle News Comp

Wisconsin (signature unreadable); New England News Comp
Massachusetts (signed by Roger Carlton); Crown News Comp
New Jersey (signed by Allan Crown); Majestic News Comp
Pennsylvania (signature unreadable); Capitol News Comp
Illinois (signed by Theodore Pettipiece); A
Distributors, Inc., Illinois (signature unreadable),
Slam Products, Inc., Michigan (signed by Samuel Ellma
The checks from Castle News Company, New England N
Company and Crown News Company, were handwritten by the
individual and each of the checks was stamped with
identical check writing machine using the registra
number 8P68189. Edward Stevens was to receive these ch
during the period August 17 to 31, 1976. A notation on
check from A & A Distributors, Inc., 1448 West North Ave
Chicago, Illinois, indicated it had failed to clear a
in Chicago on at least two occasions and a letter from
Gresser to A & A Distributors requested it be reissued.

Additionally, a list was seized which revealed
businesses throughout the country which had the com
billing address of Sovereign News Company, Cleveland, O
These businesses were Castle News Company, Wisconsin;
England News Company, Massachusetts; Crown News Company,
Jersey; Majestic News Company, Illinois; Capitol N
Company, Illinois; Imperial News Company, New York; Nc
News Company, Maryland; Royal News Company, Michigan,
Sun Dial News Company, Colorado. Documentation has b

developed to establish that several businesses are linke
Sovereign News Company, who is a nationwide distribu
These include Canyon News Company, Arizona; Capitol
Company, Illinois; Majestic News Company, Ohio; Royal
Company, Michigan; Imperial News Company, New York;
England News Company, Massachusetts; Crown News Company,
Jersey, and Nobel News Company, Maryland.

The sole stockholder of Sovereign News Compan
Reuben Sturman. His wife, Ester, is the secret
treasurer; Frank Steel is the statutory agent; David Zei
and Keith Davie are incorporators; Samuel Joseph is
manager; Melvin Kamins is the manager, and Bernard Bec
is the representing attorney.

Sturman is listed as a principal in the Cinem
Vending Corporation, Ltd., 36 Yonge Street, Toro
Ontario, Canada, and as the statutory agent for the R
News Company, 30024 Beverly Road, Romulus, Michigan.

Sturman has been observed operating a 1976 Cadi
Seville with California Registration 189-PFH which is lis
to Lyndon Distributors, 15755 Arminta Station, Van Nu
California. In 1966, Sturman was indicted by a Los Ange
County Grand Jury with Milton Luros of the London Pr
Publishing Company, Los Angeles, California, for conspir
to publish and distribute books which the California Supr
Court had ruled obscene. However, the United States Supr
Court ruled the material was not obscene. In March 197

Federal Grand Jury indicted Reuben Sturman, Samuel Jc Melvin Kamins, Joseph Zernic, Antoine Dostal, Fred H and Richard Johnson for the interstate transportati pornographic films and magazines. Melvin Kamins manager of Discount News Company, co-located with Sove News Company. Other businesses co-located with Sove: News Company are Palace Enterprises, Spot Discount St Inc., and World Wide News Company. Judith Sturman, J Sturman and Joyce Schwartz are incorporators with S Schwartz as the statutory agent of Spot Discount St Inc. Sander Schwartz is also the statutory agent for Wide News Company, with Franklin Blazer, Gladys Whitake Francis Yocabet as incorporators.

Bernard Berkman was the representing attorney William Pinkus of Rosslyn News Company, 7748 Santa M Boulevard, Los Angeles, California.

Jack Heath is the president; Norma Heath is secretary; Lee Kohrman is the attorney; Samuel Joseph shareholder; Frank Steele signs employees' checks; Savage is the manager; Nahum Sturman is the vice presi Robert Coy is a director for Great Lakes News Company Imperial News Company, 35 Main Street, Depew, New York. 1963, Reuben Sturman was the president and his wife, E was the secretary/treasurer.

Lee Kohrmen is also the attorney for Provir Distributors, Ltd., 225 Louisiana Street, Buffalo, New

with Wilbur Kemble as the president, and the Triangle Ne
Inc., 424 E. Main Street, Rochester, New York, with Step
Baker as the president and Alan Maxwell as the secreta
An accountant firm, Krasney, Polk & Friedman located at 1
Superior Building, Cleveland, Ohio, maintains the accou
for Triangle News, Inc., and the Imperial News Compa
David Zeitman and Michael Nakon are the incorporators
Noble News Company, 6801 Pulaski Highway, Baltimo
Maryland, with Frank Steel as the president (1968); Mel
Kamins, Samuel Joseph and Maurice Escott as direct
(1968); Herman Weiss as the manager, and Don Debow and
Adams as directors. Noble News Company maintains a mail
address of 1605 Superior Building, Cleveland, Ohio, an
billing address of 2075 E. 65th Street, Clsveland, O
(Sovereign News Company).

Gary Rosenthal, a director for the Baltimore N
Center, 428 E. Baltimore Street, Baltimore, Maryland, a
maintains the mailing address of 1605 Superior Buildi
Cleveland, Ohio, and 1225 King Street, Toronto, Ontar
Canada. Rosenthal is listed as the president of B
Distributor, 100 W. 10th Street, Boston, Massachusetts.
was the original president of Beacon Distributors, T/A
England News, 215 A Street, Boston, Massachusetts, w
Roger Carlton and Steven Baker as the current office
Roger Carlton's signature (rubber stamp) is used on
employees' checks of the Fourth Avenue Adult News, In

South 4th Street, Ann Arbor, Michigan, and the News, Inc. North Land Road, Michigan, 48195. Steven Baker's signatur (rubber stamp) is used on the employees' checks of the News Inc., West Warren, Dearborn, Michigan, and the Michiga Avenue Bookstore, Michigan Avenue, Ypsilanti, Michigan Roger Carlton is the president and Steven Baker is th director of Raleigh Books, Inc., County of Cuyahoga, Ohio.

On March 24, 1977, Barbara Glin, a Notary Publi employed as a secretary for Sovereign News Company, wa interviewed by law enforcement agents at her residence 16811 Kenyon, Shaker Heights, Ohio. Glin was shown a cop of a Secretary's Certificate which stated as follows:

"SECRETARY'S CERTIFICATE

"I, L. RAY VALUE, hereby certify that I am the Secretary of Combat News Company, a Delaware Corporation, authorized to transact business in Massachusetts and it appears from the records of said Corporation in my possession as such Secretary and as actually occurred at a meeting of the Directors duly called and ended on Thursday, January 14, 1977, the following resolution was passed:

"RESOLVED that attorneys BARRY E. ROSENTHAL, WILLIAM COWIN and NELSON LOVINS be and hereby are authorized and empowered to appear for and represent this Corporation in all aspects of the trial and other proceedings in Suffolk County Criminal Court, Boston, Commonwealth of Massachusetts and to further represent this Corporation in all matters regarding legal representation; such authority to continue until terminated in writing by the Corporation; and that all prior representation is hereby nullified.

"I do further certify that such Resolution is in full force and effect and has not been either amended or revoked, and that such Resolution and all action authorized thereby conforms to all

applicable provisions of the Articles of Incorporation and By-Laws of the Corporation.

"WITNESS my hand and seal of this Corporation this 14th day of January, 1977.

"/s/ L. RAY VALUE
L. RAY VALUE - Secr
Combat News Company

"STATE OF OHIO)
) SS
CUYAHOGA COUNTY)

"SWORN to before me this 14th day of January, 1977
"/s/ BARBARA GLIN
Notary Public"

After reading the form for several moments, advised that the signature, as it appears on the righthand portion of the certificate above the line N Public, is a copy of her signature. She advised that i capacity as a notary public employed by Sovereign Company, 2075 East 65th Street, Cleveland, Ohio, sh occasion to notarize numerous signatures. GLIN advised on this Secretary's Certificate, she recognized the na L. RAY VALUE as the name which the interviewing agent asked her about during a previous interview at her resi on February 15, 1977. GLIN reiterated her prev information that she had never heard of the individua RAY VALUE nor had she had occasion to determine if individual actually existed. She further advised generally individuals wishing to have their signa notarized appear before her in person. However, she re

to state that in all cases, when she notarizes signature do the individuals whose signature she is notarizing appe before her. GLIN advised that she continues to be employ as a secretary for MEL KAMINS at Sovereign News Company.

Melvin Kamins, Samuel Joseph and Maurice Escott a directors of Regal Books, Inc., P.O. Box 1120, Wats Street, Baltimore, Maryland. Samuel Joseph, Melvin Kami and Raymond Sloan are directors; Michael Nakon is incorporator; Steven Baker is the secretary, and Morton Go is the president of the Automated Vending Company, who principle office is located at 1 E. First Street, Ren Nevada. The peep show machine permit of Charles Book Inc., 1827 N. Charles Street, Baltimore, Maryland, is in t name of Samuel Joseph.

Morton Goss, Kevin McIntyre, Thomas Slobodzian a Raymond Sloan are officers, with Reuben Sturman listed the principle in the Cinematic Vending Corporation, Ltd., Yonge Street, Toronto, Ontario, Canada. Reuben Sturman also the statutory agent for the Royal News Company, 300 Beverly Road, Romulus, Michigan.

Frank Steele is the president, and Morton Goss is t vice president of the Royal News Company, 2075 E. 65t Street, Cleveland, Ohio. Frank Steele is also the statuto agent of Majestic News Company, 3713 Oakwood Drive Youngstown, Ohio, with Morton Goss as president. Morto Goss was the president of Crown News Company, 1171 Chestn

Street, Camden, New Jersey, which recently changed its
to Century Sales, 9252 Commerce Street, Pennsauken,
Jersey, with the billing address of 2075 E. 65th St
Cleveland, Ohio (Sovereign News Company). Goss is list
the owner of Palace Movie, 1233 Filbert Str
Philadelphia, Pennsylvania. The address 36 Yonge St
Toronto, Ontario, Canada (Cinematic Vending Corpora
Ltd.) is also the mailing address of East Coast Ver
Company, 260 Tremont Street, Boston, Massachusetts,
president is Theodore Pettipiece, and the treasurer is
Allison. The East Coast Vending Company is stil
existence on corporate papers but its function has
assumed by Coast Vending Company, 681 Washington St
Boston, Massachusetts, with Joseph Saraceni as presi
Ralph Saraceni as treasurer, and Thomas Zazzaro as dire
East Coast Vending Company's address of 36 Yonge St
Toronto, Ontario, Canada, is also the address of Je
Wood who is a director of New Book City, Inc., 239 Tr
Street, Boston, Massachusetts, along with John Reard
president and Alan Maxwell as a director. Mark Heibli
president of The Scene, Inc., 681 Washington Street, Bo
Massachusetts, which is co-located with Coast Ver
Company. The Coast Vending Company supplies r
projectors to the businesses established in Jo
Palladino's organizational profile.

Theodore Pettipiece is the president of Assoc

Rentals, Inc., 260 Tremont Street, Boston, Massachuset and the Cine City Art Theater, Inc., 675 Washington Stre Boston, Massachusetts, with Nicholas Caracasis as direct Nicholas Caracasis is the president of North Nevada Compa T/A Parisian Arcade, 219 West Second Street, and 740 Sc Virginia Street, Reno, Nevada, and the agent for Just Books, Inc., T/A Paradise Books, 807 14th Street, N. Washington, D.C. Pettipiece's signature (rubber stamp) used as the authorized signature on employees' checks the following pornography businesses in Colorado Michigan: Book Mart, Inc. (Central), Court Place, Denv Colorado; Book Mart, Inc. (North), 84th & Valley Highw Denver, Colorado; Book Mart, Inc. (East), East Colf Denver, Colorado; Book Shop, Inc., West 2nd Avenue, Denv Colorado; 15th Street Magazine Exchange, 15th Stre Denver, Colorado; Books, 20th Street, Denver, Colorado; Top Bookstore, 124 Monroe Avenue, Detroit, Michigan, and Book Shop, Inc., Courtland, Jackson, Michigan.

Pettipiece is also the president of Automated Servi Consultants of California, which maintains two address 15745 Stagg Street, Van Nuys, California (parent compan and 6800 N. 55th Street, Glendale, Arizona (subsidiar with Phillip Santhon as the operator for the latter addre John Allison as the secretary, Robert Coy as the treasur and Kim Short as the manager.

Theodore Pettipiece is also the president of Sun D

News Company, 2650 W. 2nd Avenue, Denver, Colorado, a the authorized signer of employees' checks for Capitol Agency, 3400 N. Kedzie Avenue, Chicago, Illinois, manager is Al Bloom, and an officer is Stanley Seidler. Sun Dial News Company, Capitol News Agency, Castle Company, 4551 N. 125th Street, Butler, Wisconsin, Majestic News Company, 922 West North Avenue, Pittsb Pennsylvania, maintain the billing address of 2075 E. Street, Cleveland, Ohio (Sovereign News Company).

The operation of pornography businesses in Arizor primarily through the figures of Erland Bartanen and Ph Santhon. Erland Bartanen's operation appears : independent in nature. However, Bartanen's source pornographic supplies is dependent upon the Black Amuse Inc., T/A Canyon News Company, which is currently the identified supplier of pornographic material in Ariz Canyon News Company receives its supplies from Parli News Agency, 21314 Lessen, Chatsworth, California.

While there are independent retail operators, activities of Bartanen, Santhon, Lyle Cox, Manuel Valeri Trambitas and Patrick Baca govern the distributi films, magazines, books, rubber goods, novelty item film video viewing devices in Arizona.

Phillip Santhon has no criminal record in Ari However, he was charged with four misdemeanor coun commercial exhibition of obscene items in Arizona.

this case was pending trial, Black Amusements, Inc., guilty to two counts and agreed to close the Le Sex Sh at 6 W. Washington Street, Phoenix, Arizona, in exchange dismissal of charges against Santhon. Santhon does h prior arrests by the Los Angeles County Sheriff's Off Phillip Santhon originally appeared in Phoenix on May 1975, when he began applying for various privilege (sales) and film video licenses on behalf of Erotic Wo and Pictures (E.W.A.P.) and the Automatic Vending Company

Phillip Santhon maintains the business tax license Robert Coy the film license for the Pleasure Palace, 152 VanBuren, Phoenix, Arizona, and Barney's Bookstore, 1421 McDowell Road, Phoenix, Arizona. The property used by h bookstores is owned by Milton & Beatrice Luros. Mil Luros also owns Parliament News Company, 21314 Less Chatsworth, California. Phillip Santhon and Gregg Dud are the lessees of the Southside Bookstore, 4615 S. Cent Avenue, Phoenix, Arizona, with the film license in Rob Coy's name.

Phillip Santhon is also the president of Bl Amusements Company, T/A Arizona Bookstore, T/A Canyon N Company (maintains the same address as 6800 N. 55th Stre Glendale, Arizona), with Gregg Dudley as the secreta Dwain Esper is the lessee; Gregg Dudley obtained business tax license, and Robert Coy obtained the film license for the Paris Lounge (currently closed), 315

Washington Avenue, Phoenix, Arizona. Dwain Esper is president and Millicent Wratten is the secretary for th Enterprises, Inc., 315 E. Washington, Avenue, Phoe Arizona. Robert Coy signed for the film license for Mini Vue Adult Theater, 2438 E. McDowell Road, Pho Arizona, which is owned by William Bates, with Donna De the licensee and Cletus Hibner as the property owner.

Gregg Dudley signed the business tax license; Ro Coy signed the film tax license, and Narhan Tager is property owner of Le Sex Shoppe, 6 W. Washington, Ave Phoenix, Arizona (currently closed). Nathan Tager is the property owner of 2 W. Washington Avenue, Seat Washington, which houses Ellwest Stereo Theaters, Inc., Ellwest Stereo Theater with the business address of 500 Street, Seattle, Washington.

The manager is Fred Holton, with John Ebert as agent, and Larry Trambitas as the lessee for the El Stereo Theater in Seattle, Washington. Larry Trambita the director of the Western Amusement Company, Inc., Elliott Avenue, Seattle, Washington, and the director of Films, Ltd., 1106 Grosvenor House, 5th & Wall Str Seattle, Washington. The corporate officers for the El Stereo Theater, 190 Union Street, Memphis, Tennessee, Larry Trambitas as president, John Ebert as secre treasurer, David Capp as manager, and William Cooley as vice president. William Cooley signed the occupancy pe

Larry Trambitas, Vesta Trambitas and Wesley Nashman are the directors, with Sterling Stevens, Bonny Hines and Robert Bodoin as the incorporators of the Ellwest Stereo Theaters of Washington, D.C., 1418 Eye Street, N.W., Washington, D.C. Larry Trambitas is the president, with Wesley Nashman, Vesta Trambitas and William Cooley as board members of the Ellwest Stereo Theater, Inc., 727 7th Street, New York, New York. Larry and Vesta Trambitas are the directors of the Ellwest Stereo Theaters, Inc. of Texas, 310 Main Street, Ft. Worth, Texas. Larry, Vesta and Valerie Trambitas are officers of the Ellwest Stereo Theaters, Inc. of Jacksonville, Florida.

CORPORATE ORGANIZATIONAL PROFILE #9 (CHART M)

Michael Zaffarano is identified by the U.S. Justice Department as a Caporegime (captain) in the LCN Bonnano Family. He is the president of the D.C. Playhouse, Ltd., T/A D.C. Playhouse Theater, 727 15th St., N.W., Washington, D.C., along with Stu Segall, Norman Arno, John Ausbrook and Saul Heller as directors and Marilyn Lizzio, Mary Walls and George Ward as incorporators.

Zaffarano resides at 2848 Riverside Drive, Wantagh, Rhode Island and stays at 1310 New Hampshire Ave., Apt. #707 when in Washington, D.C. His arrest record dates to 1947 and includes charges of assault and robbery, interstate transportation of stolen securities, grand larceny,

burglary, interstate transportation of stolen propert
the interstate transportation of pornography.

On November 11, 1975, Mr. Zaffarano told an F
undercover agent that he is the main distributc
pornographic films in the United States and st
emphatically that if anyone buys or opens any theate
Washington, D.C. it would be him.

Marilyn Lizzio, Mary Walls and George
(incorporators for the D.C. Playhouse Theater) are
incorporators for Denmark Publications, Inc., T/A De
1/2 Books and Movies, 822 F St., N.W., Washington,
with Jacob and Ruby Kramer and Ely Allman as directo
Mike Casey as the agent. Mike Casey is also the agen
Jacob Kramer is the owner of Denmark Cut Rate Books
14th St., N.W., Washington, D.C., and the Life Size
Arcade, 523 9th St., N.W., Washington, D.C., Jacob Kra
also the owner of Denmark 1/2 Price Store, 529 9th
N.W., Washington, D.C., and the director of the Book
Inc., 216 East Baltimore St., Baltimore, Maryland,
with Ruby and Joyce Thibert as directors. Marilyn L
along with N. Weir and Richard Rizzi, are als
incorporators for the 14th Amusements, Inc., T/A C
Royale Theater, 806 14th St., N.W., Washington, D.C.,
with Billy Cole as a director and Bruce Whetshine a
owner. Bruce Whetshine is the listed owner of the C
Royale Theater and a director of the Adam & Eve Book S

Inc., 815 14th St., N.W., Washington, D.C., along w
George Cole and Herbert Cole as directors.
incorporators for the Adam & Eve, Inc., are Fred Bennett
Markle and Ronald Recht.

Michael Zaffarano owns the Pussycat Cinema, 1
Broadway St., New York, New York and orders supplies
United American Theater Co., T/A Pussycat Cinema,
Washington St., Boston, Massachusetts, for his brother-
law, Anthony Mascolo, who is listed as president. Ant
Mascolo is also the president of Westend Theater, Inc.,
Causeway St., Boston, Massachusetts and the National
Corporation, 690 Washington St., Boston, Massachusetts.

In February, 1976, the National Land Corpora
concluded a contract with a construction firm to reno
the exterior open theater vestibule of the United Amer
Theater Co., T/A Pussycat Cinema, 700 Washington S
Boston, Massachusetts. The National Corporation issue
$10,000.00 check to the construction firm dated February
1976 drawn by the United American Theater Co. Investiga
revealed the $10,000.00 was a loan through P.O. Box
Canal Street Station, New York, New York, 10013. The
Box 362 was opened on September 18, 1968 by Ted Rothst
who signed as president for Star Distributors, Ltd.,
Lafayette St., New York, New York, 10013.

One of the first films shown at the D.C. Playh
Theater, titled "Defiance", was produced by Stu Segal

Associates. Stuart Segall is the owner of Stu Sega Associates and the Miracle Film Releasing Company. T two companies maintain the same addresses at 8564 Mel Ave., Los Angeles, California and 165 West 46th St., York, New York. Mr. Zaffarano is recorded as vice presi of both companies.

In 1971 and 1972, Stuart Segall, Theodore Gaswirth William Amerson were recorded as the owners with Cha Krause as the incorporator of Capricorn Industries, Be Hills, California, as the Los Angeles County, Calif Recorder's Office. Theodore Gaswirth is an incorpor Michael Collela is a director and Fred Alfano is secretary/ treasurer of Lyndon Distributors, 1 Arminta,Van Nuys, California. Michael Collela, Fred Al Sharon Penner, Del Wells and Patricia Smith are directo London Enterprises also located at 15756 Arminta, Van California. Michael Collela is the Chief Execut Financial Officer of Briarwood Corp., 15754 Arminta, Nuys, California, with Richard James, Scott Brastow, R Braverman, Roland McMillian and Barbara Friedma directors. Norman Sovereign, Fred Alfano, Michael Co and Theodore Gaswirth are the incorporators of NFM whic the parent company of Erotic Words and Pictures (EWAP) w incorporators are Mary Turner, Howard Cohen, Howard G and Rita Grossman. Mary Turner and Robert Turner are incorporators of Turner Enterprises and Howard Green is

vice president of San Oaks Distributing, Inc., 62 Belve
St., San Rafael, California, with Donald Warnecke as
owner. Howard Green and Reuben Sturman own 100% of
stock (50% each) in Charles Books, 1927 North Charles
Baltimore, Maryland. Green and Struman also own 50% of
stock (25% each) of Castle News Company, 4551 North
St., Butler, Wisconsin with the remaining 50% of the s
owned by Wilson and Company, Cleveland, Ohio. Crown I
Company's (name currently changed to Century Sales,
Commerce St., Pennsauken, New Jersey) merchantile rene
license in 1975 listed Allan Crown as the secretary
Morton Gross as the president. The merchantile rene
license for Crown News Company in 1977 listed Allan Crow
the applicant. Allan Crown, Alvin Friedkin and Rich
Sherwin are the incorporators of the Revel Sales, I
15101 Keswick St., Van Nuys, California. Richard Sherwi
the Chief Executive Officer, Pedro Mendoza is the secret
Charles Swan and J. Montesano are the directors of
Marquis Publishing Corp., also located at 15101 Keswick
Van Nuys, California.

Rita Grossman (incorporator for Erotic Words
Pictures) is the secretary/treasurer of Parliament News
21314 Lassen, Chatsworth, California, with Paul Wisner
president, Jack Shulem, Franklin Laven and June Blair
directors. A subsidiary of Parliament News Company
Centaur Distributing Company whose manager is Jack W

Centaur Book Distributing Company owns the Turk Street N
66 Turk St., San Francisco, California; Mission Street N
2075 N. Mission St., San Francisco, California, and Fo
Gultch, 600 Folsom St., San Francisco, California.
Blair (director for Parliament News Co.), Herman Malo
Leonard Martinez, Max Cohen and Judy Lechuga are dire
for the Golden State News Co., 1785 W. Adams St.,
Angeles, California. Judy Lechuga is the secretary, A
Tapper is the Chief Executive Officer, Pat Alexande
Marilyn Thornberg are directors of the California Publi
Liquidating Corp., 2611 S. Halldale Ave., Los Ange
California. Judy Lechuga is the secretary, Mari
Thornberg, Ronald LaBowe and Isabel Oros are the direc
Jerome Kult is the Chief Executive Officer and Mic
Warner is the Chief Financial Officer of the Sutton I
Publishing, Inc., 4202 W. Jefferson Blvd., Los Ange
California.

Alvin Tapper is also the owner of FCA Films, Inc.,
Union St., Los Angeles, California, and the Californi
Pacific Liquidators, 2611 Halldale Ave., Los Ange
California. Stephen Golden is the husband of Irene Go
who is the sister of Theodore Rothstein of S
Distributors, Ltd. Stephen Golden is the Executive Off
of FCA Films, Inc.

IV. ORGANIZED CRIME INVOLVEMENT (OTHER THAN CORPOR

ORGANIZATIONAL PROFILES)

The Mitchell Brothers Film Group, San Francisco, California is a major supplier of high quality XXX rated pornography films to the Washington, D.C., Playhouse Theater.

In 1973, Arthur and James Mitchell produced a film titled "Behind the Green Door" which was very successful. In October of 1973, the Mitchell brothers said they were visited by two men, Robert DeSalvo and James Bochis, who wanted to obtain national distribution rights to the film for one of their companies based in Ft. Lauderdale, Florida. "He wanted to distribute our film, offering us a 50/50 split," said Arthur Mitchell. "We told them that we already made distribution arrangements." They replied that if we didn't give the film, pirated versions of it would be playing around the country in a week. We turned them down, but a couple of weeks later they called back and made another effort. We turned them down again; and a short time later, pirated versions of the film started playing in major cities across the country. We obtained restraining orders, but before we could stop them they hurt us badly. They wiped out several key markets for us: Miami, Dallas and Las Vegas.

Robert DeSalvo was convicted in 1976 in federal court in Memphis, Tenn., on a charge of conspiracy to ship obscene

material interstate along with Melvin Friedman, Mich Cherubino, Anthony Arnone and Anthony Peraino (listed by United States Justice Department as a soldier in the Colombo Family) involving the businesses of Dami Productions, Fidelity Equipment & Leasing Corp., Bryanston Distributors. Melvin Friedman was also fo guilty of interstate transportation of obscene materials the United States District Court of Oklahoma City involv the business of Peachtree National Distributors. At t time, DeSalvo is a federal fugitive.

Anthony Arnone has been quoted as saying Anth Peraino mediated a dispute between himself and another mo theater operator about local screening rights to "D Throat." Eventually, Arnone said, Peraino gave him Flo distribution rights and the other man, Robert DeSalvo, rights for most of the rest of the nation.

Gerald Damiano sold his interest in the movie Anthony Peraino for $25,000. When Damiano was asked b New York Times reporter about the seemingly low price received for the movie rights, he was quoted as saying can't talk about it . . . You want me to get both my broken." Peraino was arrested with Peter Marchese Philip Sayona for arson of the Tilton Theater, Northfi New Jersey.

Between October 18, 1972, and October 24, 1972, P Salanardi aka "Sonny Boy," and Nicholas Musolino w

observed in Los Angeles meeting with Michael Zaffarano. the same time, Salanardi and Musolino were being sought the murder of Carlo Lombardi in New York. Both the vic and the two suspects were involved in large scale her distribution in that city. While in Los Angel California, Salanardi and Musolino were guests at the ho of Stuart Segall and Theodore Gaswirth and were obser driving Gaswirth's vehicle. When Gaswirth lived in N York, Anthony Mascolo lived across the street. Masc visited with Gaswirth in July 1975 when Mascolo was liv in the San Fernando Valley area of Los Angeles. Theod Gaswirth is currently operating the Lyndon Industries, 15 Arminta, Van Nuys with Michael Collela and Fred Alfano partners. Recently, a search warrant executed by the L Angeles Police Department at this location resulted Gaswirth's arrest for sale of pornographic materials and violation of California Weights and Measures due to sh footed films. In November, 1973, Office of the Distri Attorney, Los Angeles forwarded a request for information the Cleveland Police Department concerning Ted Gaswirth his telephone calls to 216/881-1099 of Cleveland, Oh Investigation revealed the telephone number was that Discount News Co., 2075 E. 65th St., Cleveland, Oh (Sovereign News Company's address).

Samuel Haimowitz, Thomas Sinopoli and Dominick Raff have been observed in the Los Angeles office of M

Zaffarano's businesses, Stu Segall & Associates and M
Film Releasing Company. Dominick Raffone, Mi
Rizzitello (former member of the Joey Gallo LCN Fam
New York), Jack LoCicero, James Fratianno and T
Ricciardo (member of the Joseph Columbo LCN Family
York) were indicted by a Los Angeles federal grand ju
charges of attempting to extort up to $20,000 from
pornographers and a dummy pornography business set up
F.B.I. Also, a known pornography distribut
Minneapolis, Minnesota, Ferris Alexander was stopped
Angeles, California, in the company of William Bittner
known as William Haimowitz on February 11, 1974. On M
1975, a truckload of pornographic materials was hijac
St. Paul, Minnesota. The owner of the truck and p
reporting the crime was Michael Kaplins of 2014 Westch
Baltimore, Maryland. At this time, Mr. Kaplins state
the shipment was being shipped from Bon Jay Sales,
Moravia Park Drive, Baltimore, Maryland, (former
Aisquith St., Baltimore, Maryland) to a party named
and gave a phone number which was later traced to
Alexander. On September 8, 1975, several carto
pornographic booklets being shipped by Emery Air F
broke open. Emery officials refused to deliver the sh
and notified federal and local authorities. The sh
was found to contain material displaying young childr
adults in pornographic activity. The pornographic ma

was being shipped from Atlantic Distributors, #9 Ford S Providence, Rhode Island, to Magazine Agency, 419 Henne Ave., Minneapolis, Minnesota, which is owned by Fer Alexander.

In 1970, Ferris Alexander was convicted of interst transportation of obscene material in federal court, al with Samuel Manarite, a member of the Vito Genovese Fam and Richard J. Portela. In 1972, Ferris was sentenced Sandstone Penitentiary where he served 9 of 18 months paid a $20,000 fine.

An identified supplier of pornographic films Alexander through correspondence, as indicated below, William and Lewis Mishkin and their Motion Pictures, In 1501 Broadway, New York, New York, dated November 12, 197

> I hope that by now you have had your first playdate on the INTIMATE TEENAGERS, and that the results were as good as they have been all over the country.
>
> I would appreciate learning when you will be through with the prints. I am not rushing you, but we have been considerably more successful with this film than we had originally anticipated, and with the negative in Europe, this has caused us a print problem.
>
> I have several other films that you might be interested in, including THE FILTHIEST SHOW IN TOWN (Harry Reems and Tina Russell), ADULT PLAYPEN . . . .

A partial list of recorded calls from Alexander's n warehouse at 20 North 14th St., Minneapolis, Minneapo

revealed telephone calls to several known businesses individuals involved in the pornography industry suc Kenneth Guarino, William Mishkin, Stu Segall & Associ Star Distributors, Ltd., David Grama, Robert Eugene Sm Samuel Haimowitz, Lyndon Distributors, Bon Jay Sales, Norman Arno and the Mitchell Brothers Film Group.

William Bittner was arrested for operating a warel in which 1.5 million dollars of hardcore pornogra material was confiscated. Also arrested with Wil Bittner was Anthony Zappi who is the secretary/treasure Teamsters Union 854 in New York City. William Bittne currently operating the Lauderdale Beach Hotel, 1(Atlantic Blvd., Ft. Lauderdale, Florida. Donald Embinde the president of the hotel. Ronald Zappi is an employee well as Robert Barkow, who is also the production consul for Blueboy Magazine.

Bittner also operates the Suki, Inc., dba Po hardcore pornography distribution business with his brother Samuel Haimowitz. William Bittner stated to F. agents he sometimes used his step father's name, Wil Haimowitz. When the Suki warehouse was searched i established that they were doing a nationwide busi Records indicated that they were grossing $40 tc thousand per month on magazine sales alone. When add their film distribution business, the estimates of yearly sales was grossing about 1-1/2 million.

following excerpt from the 5-15-73 issue of the LA T
gives an indication of Bittner's pornography operations
the time: "One of the key witnesses in the second roun
indictments was Arthur Pellon, who told the grand jury
was employed as a driver and bodyguard for Suki, I
Pellon told the grand jury, in testimony which is now pul
record, that during the past year he made three diffe
trips to the East Coast with locked briefcases, which
delivered to the Zappis. He testified that those trips
the East began after he overheard one of the managers
Suki, Inc. remark: "We are making plenty of money, we ou
to see if we can get some money back to the East Coas
Pellon testified that the other principals of Suki, I
immediately told the man to "keep his big mouth shu
Although he never saw the contents of the briefcases, Pel
said he believed them to be full of money. On each of th
trips, he said, he was under strict orders from his
Angeles bosses to keep the briefcases in his hands until
turned them over to the Zappis. Pellon said that his b
in California was William Bittner named in the sec
indictment. Pellon testified that Bittner intimated that
had Mafia connections and was given "a high ranking posit
in California as a present" for his service in underwo
wars. Pellon also detailed for the jury his work a
collection agent for Suki, Inc. and its predecessor, Pc
Inc. He was asked by Deputy District Attorney Oretta Sea

during the grand jury hearing, what his instructions with regard to collection of overdue accounts. "Either the money or a piece of their ass," Pellon said. He sai was sent out on four collections, three of which settled immediately. "One of them I had to bust up a li bit and then he paid," Pellon said.

William Bittner was indicted as the result of investigation by the Federal Bureau of Investigation for sale and distribution of obscene, lewd, lascivious filthy magazines along with Thomas Sinopoli, Peter Sinop Donald Epstein, Jim Rhoat, Samuel Haimowitz, Ronald For and Donald Jacobson. The indictment further indicted the above individuals unlawfully, willfully and knowi did conspire to combine, confederate and agree togetl with each other and others, and through their use of Atlantic Magazine Company, Automatic Enterprises, I Suki, Inc., also known as Pojo and as R & M Productions Age of Majority, Inc., did commit offense against the Un States by transporting interstate obscene material.

Donald Epstein's arrests date back to 1971 and inc two arrests for indecent publications, 23 counts for possession of unregistered guns and for the possession machine gun.

The key officers in Epstein's corporate struct profile are Donald Epstein, president; Rebecca Crone, president; Isabel Kramer, director;and Richard Plum

agent for the Automatic Enterprises, Inc., 412 10th St., N.W., Washington, D.C. They hold the same corporate structure for the Automatic Amusement, Inc., T/A Automatic Amusements, 437 9th St., N.W. Washington, D.C., except for Isabel Kramer who is listed as the secretary. Richard Plummer is also the agent for Gem, Inc., T/A Capitol Amusements, 1214 New York Ave., N.W., Washington, D.C., with Henry Reensynder as president. Reensynder is also the owner of Variety Books, 1026 14th St. N.W., Washington, D.C., Rebecca Crone is the vice president and Isabel Kramer the treasurer of the Fine Arts Theater, 633 Main St., Buffalo, New York. Hyman Tash was the registered agent (1956) and Richard Plummer is the registered agent (1970) for the Enterprise Amusements, Inc., 413 9th St., N.W., Washington, D.C., T/A Enterprise Amusements, 521 9th St., N.W., Washington, D.C., and T/A Enterprise Amusement, 502 9th St., N.W., Washington, D.C. Hyman Tash is an officer, Paul Downey, vice president, Henry Levine, current president, C. Ann Henze, treasurer, Daniel Flowers was the president (1976) and Catherine Steele, agent for the United Theaters, Inc., 446 West Federal St., Youngstown, Ohio, T/A Gayety Theater, 508 9th St., N.W., Washington, D.C. Catherine Steele is the agent, Rebecca Crone, vice president, Daniel Flowers, president and James Rhoat, manager of the Automatic Amusements, Inc., T/A Playland, 413 9th St., N.W., Washington, D.C. James Rhoat is also the owner of Seaboard

News, Pt. Pierce, Florida. Henry Levin, C. Ann Henze Daniel Flowers, previously mentioned as officers of United Theaters, Inc. are also vice president, secreta treasurer and president, respectively along with J Hirschhorn as the registered agent for the Florida Liter Corporation, 180 N.E. 79th St., Miami, Florida. Henry La is president and Isabel Kramer is secretary of the Uni Theaters of Florida, Inc., 17745 N.E. 9th Place, No Miami, Florida. Joel Hirschhorn is the registered agent Miami Bargain Books, Inc., 6020 South Dixie Highway, S Miami, Florida, the Atheneum, Inc., 25 West Flagler S Miami, Florida, Artistic Books, Inc., 6020 South D Highway, Florida, and the NBF Theaters, Inc., 25 W Flagler St., Miami, Florida. Rory Brown is the presi and Barry Brown is a director of Miami Bargain Books, Rory Brown is the secretary/treasurer, Robert Brown is president and Fay Brown is the vice president of Atheneum, Inc. Fay Brown is the secretary and Herbert Br is the president of the Artistic Books, Inc. Paul Downey also a director for the NBF Theaters, Inc. On July 1976, indictments were returned on 207 counts of obscen and conspiracy relating to the operating of Overstock B Company, Inc., also known as Timely Books, Inc., 519 Ac St., Deer Park, New York, on Robert Brown and Barry Brown

V. CONCLUSION

The pornography industry is characterized by a vert distribution and a pyramid structure with a limited nu of documented distributors within individual sta Documentation has been obtained to establish t pornographic material is initially supplied to nati distributors who then sell to inter-state distributors in turn, distribute to intra-state distributors.

This limited number of pornography distributors indicate the lucrative profits in the distributorship production of pornographic material with the capabilit dictating prices to independent bookstore owners. A example of the high profits involved, the followinç provided. A magazine can be produced for approxima fifty cents; wholesaled for five dollars and retailed ten dollars. This computes to a 1900 per cent profit production to consumer sale. In general, there is competition or price wars which indicates price control. a pornography distributor has control of a distribut network, owned companies that provided peep show project built peep show booths for bookstores, collected the c from peep show machines from bookstores owned by "straws' corporate papers and was able to purchase projectors, fi books, etc., wholesale, the profit would even be grea This profit making mechanism is currently in existence. example is Bon Jay Sale's organizational profile wh

consists of s peep show coin collector business (Alp Sentura Businesses Services), a carpentry business to bu peep show booths (Woodwork, Inc.), a business to repair p show projectors (Centre Vending Co.) and controls seve bookstores in Maryland, Washington, D.C., and No Carolina.

Additionally, there are an unrelated number individuals involved in the sale of pornographic mater that are dependant upon inter-state distributors supplies. This investigation revealed various methods by pornography entrepreneurs to successfully operate th business and avoid detection by law enforcement. Some these methods are:

1. Names of corporate officers are used without individual's knowledge or consent.
2. Notary Publics are employed to notarize signat without confrontation of signees.
3. Rubber stamps of signatures are used without authorizing individual's knowledge.
4. Periodic changing of corporate names.
5. Controllers do not appear on corporate papers are major stock holders.
6. Pornography entrepreneurs appear as corpor officers for a legitimate business which may h pornography distributors as subsidiaries.
7. Companies owned or controlled by ma

distributors deliver pornographic mat
automatically to their subsidiaries.

VI. RECOMMENDATIONS

A. Another conference be held for the purpose of excha updated material thereby keeping the joint investig ongoing and current.

B. Criminal financial discrepancies be brought to the imme attention of the Internal Revenue Service. (Documenta of false invoice payments, skimming, hidden ownership, laundering operations and bankruptcy frauds.)

C. The United States Justice Department be provided wit documentation indicative of violations of monopoly or trust laws.

D. A request be made to Congress and state legislators assistance in exposing organized crime involvement in industry.

E. Members of this joint investigation bring the result this investigation to the attention of their l prosecutors and request their assistance in local enforcement effort in obscenity areas. Members should cooperation also from local agencies charged with the of licensing and incorporating pornography outlets to ir applicants comply with the law.

F. Assistance be provided to the Federal Bureau

Investigation in matters involving interstate violations
organized crime involvement.

APPENDIX FIVE

UNITED STATES DEPARTMENT OF JUSTICE

ORGANIZED CRIME INVOLVEMENT IN PORNOGRAPHY

JUNE 8, 1977

UNITED STATES DEPARTMENT OF JUSTICE
June 8, 1977

ORGANIZED CRIME INVOLVEMENT IN PORNOGRAPHY

Most of the production and distribution of pornograp material seems to take place on the east and west coasts with west being dominant. It is thought that as far as films a concerned, about 60% of the production takes place in and arc Los Angeles with New York taking second place. Members of Cosa Nostra (LCN) moved into this lucrative field within the l ten years and their involvement apparently is on the increase.

This report, prepared by Intelligence Analyst will disc LCN involvement in pornography by state. Those states w direct LCN involvement will be mentioned first followed by th with indirect ties to the LCN.

California

The key organized crime figure involved in production distribution of pornography in California, and possibly entire nation, is thought to be Michael Zaffarano, capo in Galante LCN Family. He is regarded as that family's West Co representative, although he is known to have dealings with al the organized crime families involved in the Califor operations. Zaffarano and his partners, Stewart Charles Se and Tommy Sinopoli, operate Miracle Film Releasing Corporatio

Hollywood. This company produces and distributes 16mm an feature films. There are indications that Sinopoli is asso with the LCN DeCavalcante in New Jersey. Zaffarano is al President of Stu Segall Associates which distributes pornog films and has offices at 1600 Broadway, Manhattan, an Melrose Avenue, Hollywood, California. Zaffarano and Stu are the directors of a nationwide organization of "Pus theaters which has theaters in Washington, D.C., Los Angele San Francisco.

With Stu Segall and Norman Arno, Zaffarano is involv the D.C. Playhouse Ltd. in Washington, D.C. He is the owne is listed in the corporate records as the President, Treas and Director of the Corporation. Arno and Segall are also l as Directors of the Corporation. The corporation was form 1974 and Zaffarano then subleased the theater to Robert Gage operates it with Saul Heller. The pornographic films sho the D.C. Playhouse are supplied by Zaffarano from New Yor Los Angeles, primarily from Stu Segall Associates. Norman also does business in Los Angeles as S & L Distributors, de in 8mm films and magazines. Arno has arrests for both misdemeanor and Federal felony obscenity charges.

Zaffarano has also been largely associated with Noel and Theodore Gaswirth. Noel Bloom, doing business as Calif International Distributors and Cinema Classics, is a majo Angeles based distributor of 8mm films. He has been arr several times on local misdemeanor obscenity charges and ha

Federal arrest for Interstate Transportation of Obscene Matt (ITOM) charges which resulted only in a guilty plea by : corporation. Theodore Gastwirth, doing business as T. Associates, is also a major Los Angeles based distributor of 3 films. He, too, has several local misdemeanor obscenity arres:

Each of the other main organized crime families in the e has a full time representative on the West Coast. Rob DiBernardo is the representative for the DeCavalcante Fami. Thomas Ricciardi for the Colombo Family, and William Haimow. for the Gambino Family. These representatives give ev indication that they are working together in the pornogra operations. They are each associated with numerous pornograp businesses. Thomas Ricciardi has been linked to William Nc Fine who has been active in Los Angeles area pornography. He h operated Fine Films and Billy Fine Productions. Willi Haimowitz was raised by LCN Gambino member Ettore Zappi and h made statements that Zappi had sent him to California to contr or corner the pornography market for that family. DiBernardo a partner in a pornography operation with Theodore Rothstei Intelligence indicates that the LCN DeCavalcante furnishes fur to member Frank Cocchiaro who in turn provides financing DiBernardo and Rothstein.

LCN Los Angeles underboss, Aladena Fratianno, is allege directing the shakedown of pornography dealers in the Los Angel area in an attempt to control pornography in Southern Californi A Federal grand jury is now investigating the extortion of mo

from an undercover FBI pornographic company. The all extorters were Michael Rizzitello (LCN Bonanno member; consid Fratianno's right-hand man), Jack Locicero (LCN Los Ang member), and Thomas Ricciardi, who was mentioned above as the Colombo's West Coast representative.

LCN member Pasquale John Antonelli moved to California New Jersey in 1965 and has prospered from operating mas parlors, pornographic bookstores and movies. Because of financial success, he is becoming the nucleus of a small ban hoodlums of Italian ancestry who have moved to the area from Northeast coastal region. Antonelli is known to be involve pornography in the downtown section of San Diego. It is beli that Tom and Mike Aquilante (who have direct ties with the LC Newark and Bridgeport, Connecticut) and Tom and Vincent Cam all have a common interest in the pornography field. Anton is reportedly the major figure of the group and there numerous fronts for his operations. These individuals are owners of a concentrated number of store front operations i four square downtown block of San Diego featuring ac bookstores, peep shows, massage parlors, and hard-core movi John Aquilante is presently on three years probation pornography violations.

Reuben Sturman of Cleveland, Ohio, though not direc connected to the LCN, is a key figure in the pornography indu and seems to be well-established in California. His operat will be discussed at length in the section on Ohio.

following is a list of known West Coast operations which controlled by Sturman, showing the principals and the type materials produced and/or distributed.

Parliament News, Los Angeles
Milton Luros
Soft and Hard-Core Magazines

Pacific News, Los Angeles
Milton Luros
Soft and Hard-Core Magazines

Lyndon Distributors, Los Angeles
Ted Gaswirth
8mm Hard-Core Films

Now News, Los Angeles
Mike Colella
Hard-Core Magazines

Ewap Inc., Los Angeles
Fred Alfuno
Soft-Core Magazines

Cinema Classics, Los Angeles
Noel Bloom
8mm Hard-Core Films

Cline Labs, Los Angeles
Richard Sherwin
Films and magazines published for Sturman

KNS Publishing, Los Angeles
Richard Sherwin-emerging as Main printer/distributor for Sturman

NFM Corporation, Los Angeles
Mike Colella
Films

Mike Colella, operator of Now News and NFM Corporation Los Angeles allegedly works directly for Sturman and has assi in his efforts to infiltrate the southern California area.

Milton Luros of Parliament News is a major publisher

distributor of magazines in Los Angeles. He has previously convicted of misdemeanor obscenity charges. He and Paul Wi reportedly control a retail bookstore in Sacramento. Luro one time controlled most of the distribution of books magazines in the Los Angeles area. His control has dwindle about 5%. Luros, his corporate officers, and five of corporations were indicted in the Central District of Califo for mailing obscene material. The corporations, which are Lo Press, Inc., Jaybird Enterprises; Parliament News, Inc, S Towers, Inc., and American Art Enterprises, Inc. were f guilty. The corporate officers Milton Luros, Beatrice Lu Robert Accietta, Paul Wisner, and Robert Reitman are awai trial.

The firms that seem to control the production distribution of 8mm films in the Los Angeles area are Cir Classics with Noel Bloom (mentioned earlier as being invo with Michael Zaffarano), and Lyndon Inc. with Theodore Gaswi

Of particular note in San Francisco pornography is operation of Artie Jay Mitchell and James Lloyd Mitchell ca Mitchell Brothers Film Group, Inc. The Mitchells had al claimed to be free of any organized crime connections, howe in 1974 they were visited by organized crime associates J Bochis and Robert DeSalvo who requested exclusive distribut rights to several of their movies. The brothers were told t unless they agreed, DeSalvo and Bochis would distribute pir copies of one of the films all over the country, costing

Mitchells thousands of dollars in revenue. The Mitchells did agree to this proposal and purchased the pirated copy of the f in question from Bochis and DeSalvo. The Mitchells ... thousands on their subsequent production of "Sodom and Gomorr which was very expensive to make and turned out to be a fail Because of this loss of money, the Mitchell brothers entered i contract with Michael Zaffarano in regard to the distributio their latest film "Autobiography of a Flea".

New York

The company which distributes most pornographic boc films, magazines, and sexual paraphernalia nationally is S Distributing Company which is located in Manhattan and allegedly owned by Samuel DeCavalcante, Boss of the LCN DeCa cante. Robert DiBernardo, mentioned earlier as DeCavalcan West Coast representative, is the main stockholder of company, having taken over the operation when its presic Theodore Rothstein, was convicted for obscenity. He became main financier and Vice President. Star Distributors is considered a multimillion dollar conglomerate that cont bookstores, movie theaters, and publishing houses spreading New Jersey, Pennsylvania, Maryland, Ohio, and Georgia. A c brated client of Star Distributors is Leisure Time, Inc Cleveland, believed to be tied to Cleveland Pornographer R Sturman.

LCN Gambino member Ettore DeCurtis is a behind the s

financier of pornographic literature, films, and homosexual b
His involvement began four years ago when he financed Ed
Mishkin's Wholesale Book Corporation, at 415 East 21st Str
New York, New York, one of the nation's largest producers,
facturers, and distributors of pornography. Authorities desc
Mishkin as the pornography king in New York. He was arreste
January 5, 1977 with Ralph Borello for selling obscene film
adult bookstores. An individual working at a movie process
firm specializing in X-rated low budget films was hired
DeCurtis to pirate films when necessary. Film makers must
DeCurtis off or their films are pirated and Wholesale Bo
distributes them.

Anthony Peraino and his brother Joseph, both members of
LCN Colombo, are involved in the production and distributior
hard-core films and are thought to be among the most success
of those involved. In 1975, they were convicted for conspir
to distribute "Deep Throat." Also indicted was Gerard Dama
Productions. Director Gerard Damaino is currently doing busir
as Blue Berry Hill Co. and Strawberry Hill Co., 165 West 4
Street, New York, New York, and engaging in the import and exp
of pornographic films. Herbert Nitke went into partnership w
Joseph Peraino shortly after the release of "Devil in Miss Jor
to distribute that film and "Deep Throat" together. Nitke
presently under indictment in Memphis for his complicity in
film "Deep Throat."

Joseph Gentile, also a member of the Colombo fami

finances the New York production of pornographic films u
legitimate producers as fronts.

The late Joseph Brocchini, former member of the Luc
family, was a large-scale pornography seller. He contro
three pornography wholesale firms worth 1.5 million dolla
year and had leases on several of the most lucrative bookst
in Times Square. After his murder, his brother-in-law Al
(Sonny) Scotti became his undisputed heir in these operati
Assisting him are his brother James, Ralph Borello, and Vir
Borello.

A Luchese family rival is Martin Hodas, LCN Colombo
associate, who is known as the "Peep Show King" in New York (
He oversees 90% of the peep shows there. He was release
October 1976 after ten months incarceration for income
evasion. His business was apparently not hurt by
incarceration. The machines used are owned and operated by
Coast Cinamatics, Inc., owned by Hodas. They are used ir
York, Philadelphia, Baltimore, and Atlanta. His real es
firms Island Amusement Corporation or Coast Holding Corpora
hold many of the leases on adult bookstores. Films shown in
machines are often produced, manufactured, or distribute
Hodas' firms Adult Films Inc. or Dynamite Films Inc. Hodas
forced to pay protection to organized crime in order to ope
but has resisted mob infiltration of his businesses.

Cosmo "Gus" Cangiano, LCN Colombo associate, is a well
high volume distributor of pornography, especially films.

1972, he was convicted of Interstate Transportation of Ob
Matter in the Eastern District of New York and was later
$10,000 and sentenced to three years incarceration. This wa
last Federal conviction for a pornography violation in a New
Metropolitan area court.

Florida

Anthony Peraino, mentioned earlier as being involved i
production and distribution of pornography in New York, is
involved in the same type of activity in Florida, wher
resided until recently. He and his son Louis, aka William P
control the Gamecock Theater in Broward County, the corpor
for which is American Films, Inc., Ft. Lauderdale. Also inv
in the theater are Robert DeSalvo, Robert Bernstein, and Th
Arnone. Peraino reportedly left Florida recently for It
where he is hiding. His operation has allegedly been taken
by Anthony Arnone of Los Angeles, who owns an unknown numbe
pornographic theaters in Florida.

Within the past three years, Ettore Zappi, LCN Gam
member, and his associates Natale Richichi and Robert Diberr
employed coercion to take over a substantial part of the
lucrative "peep show" machine business in South Florida.
matter has been presented to the Miami Strike Force
prosecution under the Hobbs Act. Richichi was operating
Art, Inc. in Hollywood, Florida until April 1976, whe

returned to New Jersey. S.D. Art is owned by Ettore Zap
Michael Wisotsky took Richichi's place as operator of t
business. He is a member of the Wisotsky family which is act
in retail pornography sales in the three major counties of So
Florida. The group is headed by Myron Wisotsky who is Micha
uncle. Michael is his principle associate in pornograp
Myron's brother, Martin, is also active in the retail a
bookstore business in Dade County. The Wisotsky group
currently under investigation by the Miami FBI office
violation of the RICO statute.

Leonard Joseph Campagno, aka Lenny Camp, is presen
believed to be the only 8mm film producer in Miami. He was
victed for felony conspiracy to promote obscene matter or
formance and is currently serving an 18 month prison senten
He had formerly photographed and produced both 8mm and 16mm fi
and sold the negatives to out of Florida pornographers who co
and distributed the materials. It is anticipated that Camp
will resume this type of activity when he is released
prison.

William Haimowitz (previously mentioned as the LCN Gambi
West Coast representative) and his brother Samuel are regarde
the Miami area as significant pornography operators. B
brothers are also alleged to be working in Los Angeles for Ja
Fratianno (LCN Los Angeles underboss) and John Dragon.

Benjamin Sigelbaum is a former banking official who has b
known to set up Swiss bank accounts for organized crime figu

He also acts as an international courier of monies for organi crime figures. It is believed that he is the financial backer Bernard Rose's pornographic enterprises. Rose owns the c trolling interest in three X-rated movie theaters in Dade Cou which are leased to firms that actually operate them. He c approximately 600 theaters in the United States. Rose is alle to front investments for Meyer Lansky in Esquire Theate Benjamin Sigelbaum is also an associate of Meyer Lansky.

Leroy Griffin, a former Meyer Lansky man, is alleged to the adult movie king in Miami. He owns and operates seve adult theaters the Roxy theater, Pussycat Theater, Paramo Theater, and the Gaiety Theater, all in Dade County. It recently reported that he is now leasing the 79th Street The and the King-Rex Theater from Bernard Rose.

Illinois (Chicago)

There is little evidence to indicate large-scale produc of pornographic material in the area, however, several la distributorships have been identified. The largest is Capi News Agency at 3400 N. Kedzie, Chicago. The other is allege Reuben Sturman of Cleveland and the manager is Neil Traynor, recently replaced Alan Bloom in that position. Capitol conti approximately 80% of the distribution of pornographic magazi and films in Chicago. It has its own delivery service provides service for stores the materials are sold to. Lo

authorities report that Capitol News will provide an indivi that wants to open a retail pornographic shop with what financial backing that is needed.

L & W Distributors and A & A Distributors share remaining 20% of the Chicago area distribution. L & W is c and operated by Leo Weintraub, an associate of Chicago organ crime figures. His operation deals almost entirely in the of "remainders" which are older magazines sold at greatly red prices which therefore return a greater margin of pro: Weintraub also owns several adult retail bookstores, in Chi: all using the name L & W Adult Books.

A & A Distributors is owned and operated by Anthony DeF: He primarily deals in new pornographic films and magazines, also handles remainders. It is believed that he originated practice of leasing movie machines used in the showing of ' shows" in retail adult bookstores. There are nearly 800 shows operating in Chicago's adult bookstores most of which leased from A & A Distributors or Capitol News. A & A ope: seven adult bookstores throughout the Chicago area and DeFal: known to have operated pornography stores as far away as Moines, Iowa. The Chicago Police feel that his operation ha: greatest potential for growth.

A pornographic movie distributorship which has just started is Chicago Booking Service. It is believed signif: because the owner, Patsy Ricciardi, has close ties to the Ch: "Outfit." He was the cousin of the deceased Felix Alderi:

member of Chicago organized crime. He is also associated
Frank Schweihs, suspected hit man and associate of Antl
Spilotro who handles the Chicago Outfit's interest in Las V
and is the leader of the younger members of the Outfit.

Chicago organized crime member Marshall Caifano alleg
has a vested interest in some pornographic bookstores in Chic
He is believed to be the owner of a pornographic book st
Peeping Tom Bookstore, on the near north side of Chicago.
store is fronted for him. Caifano is also alleged to get $5
week from the Over 21 Bookstore in Chicago which is ownec
Reuben Sturman of Cleveland. Owners of the bookstores willi
give protection money to Caifano as a cost of doing busin
Caifano is attempting to muscle and organize Chicago area p
graphic theaters, bookstores, and wholesale distributors of p
graphic books and peep show machines. He apparently was assi
the task of obtaining Leo Weintraub's operation, L & W Dis
butors. He now has approximately 25% of that operation.
attempt was made to muscle the Capitol News Agency,
apparently an agreement was reached between the Chicago Ou
and Sturman's group. Instead of actually taking over
bookstores and distributorships, Caifano instituted the co
tion of a street tax, which is collected by Mike Glitta
Anthony Juliano. Glitta and Juliano operate adult bookst
themselves. Glitta is the street boss for organized crime fi
Joe DiVarco.

Massachusetts/Rhode Island

In the Boston area, pornographic material is distribu and/or wholesaled by the Imperial Distributing Company Providence, Rhode Island and by the New England News Company South Boston, Massachusetts.

The Imperial Distributing Company is headed by Ken Guarino, who is reputed to have a direct communication with New England boss Raymond L.S. Patriarca. Imperial Distribut Company is a major East Coast distributor with retail outlet Rhode Island, Worcester, Massachusetts; Springfield, M achusetts; and Boston. As a result of a search at Imper indications were found that Guarino made cash payments to a Z". It is suspected that "Mr. Z" is Ettore Zappi, LCN Gam member. Guarino allegedly receives protection from Zappi and purchased pornography from him in New York.

The New England News Company is reportedly controlle Sovereign News Company of Cleveland, operated by Reuben Sturr Sturman is involved in New England News with Joseph Palad Paladino has financial interests in many of the pornograp cinemas in Boston.

Major pornography figure Michael Zaffarano is said to h connections with the pornography business in Boston. brother-in-law, Anthony Carl Mascolo, received financial bac from Zaffarano in January 1976 in order to open two pornogra theaters in Boston. They are known as the Pussycat Cinema I

the Pussycat West End Cinema. During a raid at the West Cinema in January 1977, detectives found secret records i hidden compartment reflecting that part of the gross recei were being skimmed. As a result of raids, Mascolo has b arrested twice and charged with violations of state obscer statutes. He was released recently after serving five days c one year term. The release resulted from an appeal for original obscenity conviction. Joseph Paladino allege receives a part of the gross of both Pussycat Cinemas.

Information was received indicating that Hallmark Releas Corporation, 46 Church Street, Boston and Judd Parker Fil Inc., same address, are organized crime controlled, although individuals involved are not known. Both are owned by Phil Scuderi. He and his associates Stephen G. Minasian and Bo Goldfarb were involved in smuggling master prints of pornograp films from Europe. Investigation revealed that Hallmark and J Parker import between six and ten films per year into Boston.

Pennsylvania/New Jersey

In the city of Philadelphia and in the South New Jer area, Radiant Merchandising, Inc. of Philadelphia controls majority of the pornographic enterprises. It is the princi business operation of Bruno Gortese and Anthony Trombetta. company has been identified as being associated with the Gambino. Its pornographic material is imported from Los Ange

and New York City producers.

John Krasner, operator of PHK Corporation in Allen Pennsylvania, controls the majority of the pornographic bus in the Middle District of Pennsylvania (MDPA), southern New State and New Jersey. He is associated with Russell Bufal boss of the upper Pennsylvania area. There is also ur stantiated informant information to the effect that Krasner associate of Joseph Falcone, LCN Buffalo in Utica, who att the Appalachian meeting. Krasner owns pornography sho various New Jersey counties and in Virginia and Colorado, purchases many of the supplies for these retail outlets Crown News of Camden, New Jersey, which is a large suppli pornography, particularly in the South Jersey area. Crown owned by Reuben Sturman, is allegedly influenced by th Bruno. It obtains most of its supplies from Sovereign Company in Cleveland and Crown Industries and Supply Compa Detroit (its parent company). Krasner's general mo operation is to open a bookstore and utilize a corporation w fictitious name for the operation of that particular books His center of operation is Disco Leasing, Incorporated, Nort Street, Allentown, Pennsylvania, which is a five-story ware used by Krasner as the major distribution point for fulfi orders for his various adult bookstores. Krasner is pres awaiting trial in Arlington County, Virginia for possessi obscene items with intent to distribute in connection with bookstore there.

Allen Charles Morrow, operating Classic Distributors, been involved in a running feud with John Krasner for five y about business locations. He also operates in the Mi District of Pennsylvania, Southern New York State and New Je

In the Pittsburgh area, the primary distributo pornographic materials is Majestic News Company, a subsidiar Sovereign News Company of Cleveland. Majestic News is contro by Gregory Harry Kocan. It owns and operates ten retail dis butors in Western Pennsylvania, West Virginia, and Eastern and also a commercial pornographic theater in downt Pittsburgh. It also supplies numerous other independent di butors in Western Pennsylvania, West Virginia and Eastern C Films that Majestic News receives are ordered through Sover News.

Michigan

It is believed that Harry V. Mohney of Durand, Michigan one of the largest dealers in pornography in the United Sta Most of the pornography he deals in is of foreign origin. H alleged to have a close association with the LCN Colombo and LCN DeCavalcante, both of which are very influentia pornography in the eastern United States. In Michigan, Mohne known to hire individuals with organized crime association manage his businesses. His businesses and corporations con of 60 known adult bookstores, massage parlors, art theat

adult drive-in movies, go-go type lounges and pornographic
houses in Michigan, Indiana, Illinois, Kentucky, Tennes
Wisconsin, Iowa, Ohio, and California. He is involved in
financing and production of pornographic movies, magazi
books, and newspapers. He also directs the importation
distribution of his own and other pornographic publication
retail and wholesale outlets throughout the United States
Canada. Mohney purchases all publications that are avail
from Parliament News in Van Nuys, California and many other
in California. He has a working relationship with DeCavalca
representative Robert DiBernardo and has met with Vito Giac
and Joseph Zerilli of the LCN Detroit. He has to cater to
to operate in Michigan. Mohney is presently under indictment
is to go to trial October 31, 1977.

During a search of B & W Distributors, 17311 West 7
Road, Detroit, 544 reels of pornographic film were sei
Silent partners in the business were William Berkowitz and Sa
Norber, both known organized crime figures in the Detroit are

Nicholas Frangoulis was arrested on July 26, 1975 by Lor
Ontario police for possession with intent to distribute 191 r
of pornographic film which he had taken out of the United St
and smuggled into Canada. He is an associate of Detroit
nized crime figures Louis Ruggirello and Mike Thomas. Frangc
stated that he was a pornography salesman in Detroit employe
Variety Distributors, Inc., believed to be Variety Book
Durand, Michigan owned and operated by Harry Mohney.

The major wholesaler of pornographic material in the Det area is Royal News in Romulus, Michigan, which is a subsidiar Sovereign News of Cleveland. Royal News is run by Richard Li and Samuel Zerilli, who answer directly to Reuben Sturman.

Another large-scale wholesaler is Samuel Ellman who own: has an interest in Crown Industries and Supply (mentioned ear as the parent company of Crown News, Camden, New Jersey), Products, and Tiara Industries, all in Detroit. Ellman's par is Milton Moskovitz, known to be a long time pornographic dea Crown Industries and Slam Products are wholesale operatic while the Tiara Company manufactures rubber goods that are sold to Crown and Slam companies.

Maryland (Baltimore)

In the Baltimore area, there are three major compar involved in distribution of pornography. They are Bon-Jay Sa 6601 Moravia Park Drive, Baltimore; Komar, Limited, 1123 Baltimore Street, Baltimore; and Noble News Company, 7803 Pul Highway, Baltimore.

Bonjay Sales and Komar Limited are owned and operated Jack Gresser and Samuel Boltansky, whose two principal aides John Louis Moon and Ronald Lawrence Selinger. The companies warehouses used for storing pornographic material which is on the retail level throughout the United States and Can Gresser and Boltansky distribute about $3,000,000 each year

pornographic material. Most of the material they sel
supplied by Star Distributors in New York, Parliament New
California and Sovereign News in Cleveland. Gresser
Boltansky are also allegedly responsible for smuggling ori
negatives and photo offset printing plates contai
pornographic material made in Europe. These items are alle
smuggled into the United States by mail and then given t
above-mentioned suppliers for printing the material.

Noble News Company is a subsidiary of Sovereign News Co
in Cleveland. The Baltimore outlet is run by John H
Marshall, an agency manager.

Ohio (Cleveland)

The major pornographer in the Cleveland area is Re
Sturman, owner of the Sovereign News Company there. H
considered to be the largest distributor in the nation. He,
of his employees and the corporation were indicted in March
in 29 counts for violation of Title 18, U.S. Code, Sections 1
1462, and 1465 (interstate transportation and distributio
obscene magazines and films). Despite the indictment, St
continues to trans port pornography throughout the United S
and the world.

Sovereign News Company operates under a large numb
corporate names. It obtains various printed material by ord
it from a supplier or having it printed. The ordering is do

the name of Sovereign News or one of its wholly-owned corp tions. It has nationwide operations which appear to be clo allied with organized crime figures in certain areas.

The pornographic material is then sold to one of seve distributors throughout the United States, which are usu wholly owned subsidiaries of Sovereign News. The material then sold to the distributors to various retail outlets, usu wholly-owned by the distributors.

Sovereign News is reportedly deeply into the "peep sh machine business. It furnishes the machines and films o percentage basis to various locations. Sturman has attempted particular to take over control of the peep show outlets in Los Angeles and San Diego areas. During a search of Sovere News Company in March 1975, it was determined that the comp controls distribution of pornographic magazines and 8mm films Buffalo; Camden, New Jersey; Pittsburgh; Denver, and other ma cities. It was also determined that Sturman received much of material from Star Distributors in New York. A partial lis companies believed to be subsidiaries of Sovereign News follow

Sun Dial Distributing Co. 2650 West Second Avenue Denver,Colorado	Manager: Joseph Coulter Director & president: Theodore A. Pintepiece
Noble News Company 7803 Pulaski Highway Baltimore, Maryland	Manager, Herman Weiss Directors: Melvin Famins Samuel Joseph Maurice Escott
Crown News 1171 Chestnut Street Camden, New Jersey	Corporate Officer: Morton A. Goss

Capitol News Company 3400 North Kedzie Avenue Chicago, Illinois	Corporate Officers: Stanley D. Seidler Evelyn Seidler Dick Brown William J. Bowe Jarard Carlin
New England News Company 215 A. Street Boston, Massachusetts	Corporate Officers: Neil Traynor Gary Rosenthal
Royal News Company 30024 Beverly Road Romulus, Michigan	Manager, Richard Little Statutory Agent: Reuben Sturman
Castle News Company 4551 North 125th Street Butler, Wisconsin	Manager: Paul Bubrick
Imperial News Company 35 Main Street Depew, New York	Manager: Frank Potwora
Majestic News Company 922 West Fourth Avenue Pittsburgh, Pennsylvania	Manager: Greg Kocan
Discount News Company 1975 East 65th Street Cleveland, Ohio	Manager: Bernie Wyman
Candor in Love Institute Post Office Box 6116 Cleveland, Ohio	Possible Owner: Reuben Sturman

Most of the companies listed have been discussed in de
in previous sections of the report under the state in which
are located. In each instance, the company has been one of
major dealers in pornography in that state. This is a fur
indication of Sturman's importance in the pornography field.

Sundial Distributing Company in Denver is recognized on
local and Federal level as being the principal distributor

wholesaler in the Denver area. It was the subject of extensive investigation for several years, especially dur 1976. The company was traced to Pacific Book Shop, Inc., Wilmington, Delaware, which had filed application as a fore corporation to do business in Colorado under Sundial Dist butors, Inc. It was determined that Sundial Distributing Comp is a wholly owned corporate subsidiary of Sovereign News Compa

The primary distributor of hard-core pornographic mater in Wisconsin is Castle News Company, Inc., Butler, Wiscons Castle News directly controls at least 13 retail outlets Wisconsin and Illinois and also distributes to dozens of ot retail out lets in Wisconsin, Illinois, and Iowa. Minnesota looked upon as a new market for Castle News, and some materi are said to be already arriving there from the Wisconsin Compa Reuben Sturman is the sole owner of Castle News. Paula Bubri the agency manager, is assisted by Anthony J. Bucciarecci Joseph A. Bertucci, who are officers of the company. Por graphic materials are received directly from publishing firms the West Coast or from the Sovereign News warehouse in Clevela

Two men identified as being associated with Sovereign Ne Ralph Leon Levine and Jack Lee Marcum, are principals operating the Talk of the Town Bookstore and the Peekarama Mo Arcade businesses in Las Vegas. Both men are from Clevela There are five adult oriented businesses in Las Vegas and two Reno that are directly controlled by Levine. All are conside to be associated with Sovereign News. Also in Las Vegas, J

Tuppler moved in with hard-core pornography forming his retail businesses to market his goods. He gets all of financing for setting up these businesses from Sturman.

Between August 1976 and January 1977, five adult books in Des Moines, Iowa, were purchased by a Delaware based cor tion named Castle News, Inc. It was determined through l authorities in Cleveland and Cincinnati that these stores purchased for Sturman by Alan I. Goelman, Management Ser Company, Cleveland. He is supposedly the pornographic co for Sturman.

It has been reported that one of the major source pornographic material for the Dallas area is Sovereign Company. Also information has been received that Samuel Jo representing Sturman, has been contacting bookstores in Hou trying to sell hard-core pornography. William A. Gaulson, of the Starbase Publishing Company in Houston, is said t most of his films from California and Cleveland.

Sturman is also allegedly involved in distributi illegally imported hard-core films. The film "Sensati imported through Texas, was produced in Europe by Alberto aka Lasse Braun, a known associate of Sturman. This fil distributed nationally by Sturman.

Sturman is allegedly responsible for the publication " Tots", a pornographic magazine featuring children. He is allegedly involved in producing stag films featuring chi that are distributed by Parliament News in California, one o

largest distributors of this type of pornographic material.

Georgia (Atlanta)

Michael George Thevis is one of the largest dealer pornography in the nation. Based in Atlanta, Thevis bui major pornography organization involving the wholesale and r distribution of pornography. He opened numerous adult m theaters and bookstores throughout the Southeast, becoming largest and most successful pornography distributor in that of the United States. His operations are allegedly controlle Star Distributing Company in New York (owner Sam DeCavalca Vice President Robert DiBernardo, LCN DeCavalcante).

Thevis and his corporation, Book Bin, Inc., were convi in 1971 for mailing obscene material. He began serving a t year sentence in 1975 and is eligible for parole on July 1977.

While Thevis is incarcerated, his empire, which at one consisted of over one hundred businesses, companies, corporations, is being run by his long-time associate confidant, Laverne Bowden. The larger corporations making up empire are Peachtree News Company, Inc., Peachtree Nat Distributors, Inc.; Pendulum Books; Animatics; Global Leas Inc., and Fidelity Equipment Leasing Company, Inc. Me Friedman is presently acting as President of Peachtree Company and other affiliated companies in Thevis' absence,

Thevis remains the real power. The Atlanta FBI office conducting a major RICO investigation concerning Thevis, which near the indictment stage.

Companies controlled by Thevis manufacture and distribute all phases of adult literature and films. The corporations ship merchandise to each of the 50 states as well as to between 12 and 15 foreign countries. A few of Thevis' operations in other states are as follows:

Florida Periodicals, Tampa
Large-scale distributor/wholesaler

Rivergate News Agency, New Orleans
Only distributor operating in Louisiana

Satellite News Agency, Houston
Large-scale wholesaler, local distributor

Carolina Book Distributors, Raleigh
Thevis subsidiary, distributor hard-core
Awaiting grand jury action in Raleigh

Tulsa Book Mart, Inc., Tulsa
Local distributor for Peachtree News, Inc.
Operator - Don Gasaway

This report is submitted for information purposes at this time. A review of the available information is being made for the purpose of recommending a course of action. This recommendation will include suggestions made by the attendees at the next NOCPC Pornography Subcommittee meeting.

Chapter 5

Regulation of Pornography--A Historical Perspective

Historical discussions with respect to pornograph generally found under two separate topics: one is based in doctrines and the other has developed through the legal s Each of these historical developments will be disc separately insofar as the concepts are unique and such disc is warranted.

The legal perspective surrounding pornograph historically taken the form of criminal obscenity laws. origins of obscenity law can be traced back to the reli doctrines of ancient civilization.[1246] Blasphemy, heresy impiety were the basis of charges brought against prom individuals in Greece during the reign of Pericles.[1247] D the reign of Pericles.[1248] Plato spoke in favor of restri writings that told untruths about the gods.[1249] Reli restrictions grew as christianity became more entrenched, ar to the promulgation of the Index Liborum Prohibitorum by

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1246 See, 2 Technical Report of the Commissi Obscenity and Pornography, 65 (1970) [hereinafter cit Technical Report].

1247 Id.

1248 Id.

1249 Id.

Paul IV.[1250] Works which were prohibited were done so c
religious grounds rather than on the basis of any sexual content.[1

The development of modern obscenity law as it is recogn
in the United States began in England.[1252] The court of S
Chamber reviewed books and theater during the reign of King He
VIII and continued until 1640.[1253] Restrictions placed
materials were still based largely on religious and politi
grounds. The focus began to change in 1663 when the Brit
courts were confronted with the situation which arose as the c
of King v. Sedley.[1254] This case is widely regarded as the f
reported obscenity case. Sir Charles Sedley, in an intoxic
state, stood on a tavern balcony, removed his clothes,
delivered a series of profane remarks. At the conclusion of
tirade, he poured bottles filled with urine on the crowd be
Sedley was convicted, fined, and incarcerated for a we
Sedley's case was thus the first involving an offense to pu
decency as opposed to one against religion or government. [1
One hundred and fifty years later, it would also be relied on

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1250 Id. at 66.

1251 L. Tribe, American Constitutional Law 657 (19
[hereinafter cited as Tribe].

1252 Id.

1253 Id.

1254 1 Keble 620 (K.B.), 83 Eng. Rep. 1146 (1663) ar
Sid. 168, 82 Eng. Rep. 1036 (1663).

1255 Id.

precedent by the first American court to find obs indictable at common law.[1256]

Public concern over obscenity increased in 17th England, and in 1708 James Read was indicted for publish book The Fifteen Plagues of a Maidenhead. [1257] The Queen's Court dismissed the indictment against Read for obscene li Queen v. Read. [1258] The court found that Read's work was reflection on the government, the church, or any individu it rejected the idea that libel included obscenity. [1259] case of obscene libel arose in 1727 when Edmund Curl convicted for publishing Venus in the Cloister or the Nun Smock. In Dominus Rex v. Curll, [1260] the court reject doctrine of Read and relied instead on Sedley's Case. The found corruption of morals to be an offense at common l thereby established obscenity as a crime. [1261]

The crime of obscene libel took root in 19th c England, and was accompanied by the rise of the Society f Suppression of Vice in 1802. [1262] The Society crusaded a

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1256 See, Commonwealth v. Sharpless, 2 Serg. & Rawle 91 (

1257 11 Mod. Rep. 142, 88 Eng. Rep. 953 (170 Fotescu's Reports 98, 91 Eng. Rep. 777 (1708).

1258 Id.

1259 Id.

1260 2 Str. 789, 93 Eng. Rep. 849 (1727).

1261 Id.

1262 Id. at 72.

obscene publications, and their work culminated in the passage two important pieces of legislation. The Vagrancy Act of 18 made publication of indecent pictures a forbidden act and Lo Campbell's Act of 1857 gave magistrates authority to issue sea warrants for obscene material and have it destroyed. [1263] Si the printing of photographs was not prevalent until the la 1800s, the challenged works consisted mainly of writinc sketches, or line drawings. [1264]

The offense of obscene libel was still devoid of any preci definition of what material would be considered obscene. T initial definition was presented in Regina v. Hicklin. [1265] T case involved an anti-religious pamphlet called "The Confession Unmasked," which detailed the sexual nature of questions posed Catholic priests during confessions. The trial magistrat Hicklin, ordered the publication destroyed because of referen to intercourse and fellatio. [1266] On appeal, the Quarter Sessi Court reversed Hicklin on the grounds that the publisher's mot was an innocent one despite the obscene content of t writing. [1267]

On final appeal, the Queens Bench affirmed Hicklin's init order and Chief Justice Cockburn fashioned the resulti

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1263 Id.

1264 Bland, A History of Book Illustrations, 272 (1958).

1265 L.R. 3 Q.B. 360 (1868).

1266 Id.

1267 Id.

obscenity standard. Cockburn held that the author's inte irrelevant as long as the work was obscene. [1268] The wo obscene if it tended to deprave and corrupt minds which ar to such immoral influences and into whose hands the publi may fall. [1269] The determination was based on the impa certain parts of the writing on susceptible individuals. The Hicklin test remained in force in England for 100 years. The decision in Hicklin also had an affect on American obs law.[1272]

American laws concerning pornography also found their o in sacrilegious works. In 1711, the colony of Massachu enacted a statute stating that "evil communication, wi profane, impure, filthy, and obscene songs, composures, writ or prints do corrupt the mind and are incentives to all mann impieties and debaucheries, more especially when dige composed or uttered in imitation or in mimicking of preachi any other part of divine worship." [1273] The law prohibite "composing, writing, printing, or publishing of any fi obscene or profane story, pamphlets, libel or mock sermo

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1268 Id.

1269 Id.

1270 Id.

1271 Technical Report, supra note 1246, at 73.

1272 L. Tribe, supra note 1250, at 658.

1273 Ancient Charter, Colony Laws and Province La Massachusetts Bay (1814).

imitation of preaching or any other part of divine worship."]

Despite this enactment, there were no reported obscen prosecutions until 1815 and the Pennsylvania case of Commonwea v. Sharpless. [1275] Sharpless was charged with showing a draw depicting a man and woman in a lewd posture. [1276] Like t British counterparts in Read and Curll, Sharpless contended t there was no statute prohibiting his conduct. The Pennsylva court relied on Sedley's Case and found crimes against pub decency to be indictable at common law. [1277]

The first case involving a book alleged to be obscene ar in Massachusetts six years later. [1278] Peter Holmes was char with publishing a lewd illustration along with the book Memo of a Woman of Pleasure. [1279] Relying on both the common offense and the Massachusetts statute, the Supreme Judicial Co of Massachusetts convicted Holmes. [1280] While the American co now recognized the common law crime of obscenity, much of activity which followed was found in the legislative arena. 1821, Vermont passed the first obscenity statute in the Uni States. The statute prohibited the printing, publishing,

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1274 Id.

1275 2 Serg. & Rawle 91 (1815)

1276 Id.

1277 Id.

1278 Commonwealth v. Holmes, 17 Mass. 336 (1821).

1279 Id.

1280 Id.

vending of any lewd or obscene book, picture, or prin

Massachusetts enlarged its colonial statute [1282] and other s soon followed. [1283]

The first federal law concerning obscene material enacted in 1842. The focus of the act was to regulate mat imported into the United States. [1284] It prohibited "all inc and obscene prints, paintings, lithographs, engraving transparencies." [1285]

The lax enforcement of these statutes after their enac led citizens and religious groups to take action. An Comstock, a store clerk in New York, took it upon himself tc the crusade. Comstock and others formed the Committee fo Suppression of Vice and lobbied the Congress to pass tc obscenity legislation. In 1873, Congress enacted a law gove the mailing of obscene matter. [1286] The Act stated in part t

> . . . no obscene, lewd, or lascivious book, pamphlet, picture, paper, print, or other publication of an indecent character, or any article or thing designed or intended for the prevention of conception or procuring of abortion, nor any article or thing intended or adapted for any indecent or immoral use or nature, nor any written or printed card, circular, book, pamphlet, advertisement or notice of any kind giving information, directly or indirectly, where, or how, or of whom, or

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1281 Laws of Vermont, 1824, Ch. XXIII, no. 1, S23.

1282 Technical Report, supra note 1246, at 74-75.

1283 Mass. Rev. Stat. Chr. 310 S10.

1284 See, L. Tribe, supra note 1250, at 658.

1285 5 Stat. 556 S28.

1286 Technical Report, supra note 1246, at 77.

> by what means either of the things before mentioned may be obtained or made, nor any letter upon the envelope of which, or postal-card upon which indecent or scurrilous epithets may be written or printed, shall be carried in the mail, and any person who shall knowingly deposit, or cause to be deposited, for mailing or deliver, any of the hereinbefore-mentioned articles or things, or any notice, or paper containing any advertisement relating to the aforesaid articles or things, and any person who, in pursuance of any plan or scheme for disposing of any of the hereinafter-mentioned articles or things, shall take, or cause to be taken, from the mail any such letter or package, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall, for every offense, be fined not less than five thousand dollars, or imprisoned at hard labor not less than one year nor more than ten years, or both, in the discretion of the judge. [1287]

Comstock himself became a federal agent and worked confiscate prohibited material from the mails. In the ye immediately following the enactment of what became known as t Comstock Act, Anthony Comstock claimed to have seized hundreds thousands of obscene items. [1288] Litigation involving t Comstock Act centered primarily on procedural issues and t authority of Congress to regulate matters as were enumerated the statute. [1289]

As cases began to arise under the obscenity statutes t question of what items constituted obscene materials addressed using the English precedent of Regina v. Hicklin.

1287 17 Stat. 599, 18 U.S.C. S1461 (1985).

1288 Technical Report, supra note 1246, at 78.

1289 Id.

United States v Bennett, [1290] the Court held that a determin of obscenity based on a portion or excerpt of a work was and that its effect would be measured in terms of whethe would corrupt those who might come into contact with it. [12] applying Hicklin, the American courts reached varying resul to what materials were obscene under the test. [1292]

It was not until the twentieth century that the Hicklin began to wane. Judge Learned Hand criticized the Hicklin te United States v Kennedy. [1293] He questioned whether the trea of sexual topics should be reduced to the standard found child's library. [1294] He also fashioned a test for impleme community standards, holding that obscenity must be determin accordance with the present balance between candor and sham which the community may have arrived here and now. [1295] T years later in United States v. One Book Entitled Ulysses, Judge Augustus Hand rejected Hicklin and ruled that excerpts work could no longer be used to determine obscenity. [129] court noted that the determination of obscenity must be base

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1290 24 F.Cas. 1093 (C.C.S.D.N.Y. 1879).

1291 Id.

1292 L. Tribe, supra note 1250, at 658.

1293 209 F. 119 (S.D.N.Y. 1913).

1294 Id.

1295 Id.

1296 72 F.2d 705 (2d Cir. 1934).

1297 Id.

an examination of the dominant effect of the material question. [1298]

The Hicklin standard in any form had less than ten years to live when, in 1949, a Pennsylvania state court held that a finding of obscenity must be based on the work's erotic allurement of the average reader. [1299]

During the first half of the twentieth century, several literary efforts were the subjects of obscenity prosecutions. Ulysses by James Joyce was one such work, although it was found to be obscene. [1300] Another was An American Tragedy by Theodore Dreiser. The Supreme Judicial Court of Massachusetts found it to be obscene in 1930. [1301] Tropic of Cancer and Tropic of Capricorn, by Henry Miller were both found to be obscene. The United States District Court heard evidence including eighteen published reviews of Henry Miller's works, fifty letters, and two affidavits of critics, all attesting to the literary merit of the two books. [1303] The court rejected the

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1298 Id.

1299 Commonwealth v. Gordon, 66 Pa. D. & C. 101 (Phila. 19

1300 United States v. One Book Called "Ulysses", 5 Supp. 182 (S.D. N.Y. 1933), aff'd. in. 72 f.2d 705 (2d Cir. 19

1301 Commonwealth v. Friede, 271 Mass. 318, 171 N.E. 472 (19

1302 United States v. Two Obscene Books, 99 F. Supp. (N.D. Cal. 1951), aff'd. sub nom, Besig v. U.S., 208 F.2d (9th cir. 1953).

1303 99 F. Supp. at 761.

evidence as "immaterial," [1304] and held that portions of books rendered both obscene. [1305] A claimant on behalf of of Capricorn had contended that the portions of the containing sexual episodes and vernacular expletives with references constituted only thirteen per cent of the total of pages in the book. [1306] The District Court compared argument to "the excuse of Midshipman Easy's servant girl her illegitimate child was such a little one!" [1307] The United States Court of Appeals affirmed, and described Miller's wo practically everything that the world loosely regards as s detailed in the vivid, lurid, salacious language of prostitution, and dirt." [1308]

The Appeals Court reasoned that obscenity, though a pa a composition of high literary merit, is not excepted operation of the statute." [1309]

The Court rejected the evidence of the books literary presented below, which it called "opinions of authors who any limitations on their writings." [1310] Erskine Caldw God's Little Acre was found to be obscene by the Massachus

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1304 Id.

1305 Id. at 763.

1306 Id.

1307 Id.

1308 208 F.2d at 145.

1309 Id.

1310 Id. at 147.

Supreme Judicial Court, 1311 which described the work abounding in sexual episodes, some of which were portrayed w an abundance of realistic detail. 1312 The trial court he testimony from literary critics, professors of Engl literature, and a professor of sociology regarding the litera cultural, and educational character of the book. 1313 Fro sociological perspective, the book was defended as a portrai poor whites in the old south. 1314 The Massachusetts high c found the book obscene despite this evidence and concluded t "art can flourish without pornography." 1315 In an obsce prosecution against The Well of Loneliness, by Radclyffe H the prosecution conceded that the book was a "well writ carefully constructed piece of fiction with no uncl words." 1316 It was praised by men of letters, critics, artists, according to the court. 1317 The New York Magistra Court still found that the book's tales of lesbian love aff tended to justify the right of a pervert to prey to "justify

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1311 Attorney General v. Book Named "God's Little Ac 326 Mass. 281, 93 N.E. 2d 819 (1950).

1312 93 N.E.2d. at 821.

1313 Id.

1314 Id.

1315 Id.

1316 People v. Friede, 233 N.Y.S. 565, 567 (1929).

1317 Id. at 569.

right of a pervert to prey on normal people." [1318] In fin

the book obscene, the court stated under the Hicklin standar

> It pleads for tolerance on the part of society of those possessed of and inflicted with perverted traits and tendencies, but it does not argue for repression or modification of insidious impulses. [1319]

In 1957, the United States Supreme Court struck another l against Hicklin and began its formulation of a modern obsce standard. In Butler v Michigan, [1320] the Court reverse conviction for a violation of Section 343 of the Michigan Pe Code that prohibited distribution of any material "contai obscene, immoral, lewd, or lascivious language . . . pictures . or descriptions tending to incite minors to violent or depr or immoral acts, manifestly tending to the corruption of morals of youth." [1321] Speaking for a unanimous Court, Just Frankfurter ruled that the statute was overbroad and violative the Due Process clause of the Fourteenth Amendment to Constitution. [1322] He stated, "We have before us legislation reasonably restricted to the evil with which it is said to de The incidence of this enactment is to reduce the adult populat of Michigan to reading only what is fit for children." [1

1318 Id.

1319 Id.

1320 352 U.S. 380 (1957).

1321 Id. at 381.

1322 Id. at

1323 Id. at 383.

Butler was significant not only for its specific holding, bu also marked the end of the Hicklin standard. Material wa longer to be determined obscene by measuring the materi effect on susceptible individuals. It also foreshadowed Supreme Court's landmark pronouncement in Roth v. Un States [1324] in 1957.

In Roth v. United States, [1325] the Supreme Court define scope of the First Amendment in the context of an obscenity c Roth had been convicted of mailing obscene circulars and obscene book in violation of federal law. [1326] Speaking for Court, Justice Brennan upheld the conviction and found protection of free speech under the First Amendment wa absolute. [1327] He stated that the First Amendment was intended to protect every utterance and cited libel, profa and blasphemy as examples of unprotected speech. The C relied on Chaplinsky v. New Hampshire [1328] which had exc "the lewd and obscene [and] the profane" from the categor protected speech. [1329] Thus obscenity was held to be wit

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1324 354 U.S. 476 (1957).

1325 Id.

1326 18 U.S.C. S1461.

1327 354 U.S. 476 (1957).

1328 315 U.S. 568 (1942).

1329 354 U.S. at 485, quoting Chaplinksy v. New Hamps 315 U.S. 268, 511-72.

First Amendment protection. [1330] Brennan went on to fashi definition of obscenity, holding that "[o]bscene materia material which deals with sex in a manner appealing to prur interests." [1331] The Hicklin standard was rejected by the Cc with Justice Brennan stating, "The Hicklin test, jud obscenity by the effect of isolated passages upon the susceptible persons, might well encompass material legitima dealing with sex, and so it must be rejected unconstitutionally restrictive of the freedoms of speech press." [1332]

The Supreme Court adopted a test which recognized mate as obscene if "to the average person, applying contempo community standards, the dominant theme of the material take a whole appeals to prurient interest." [1333] For the first t the Supreme Court had defined obscenity and found it tc without First Amendment protection.

In 1966, the Supreme Court had occasion to reexamine definition of obscenity in Memoirs v. Massachusetts. [1334] case involved a state court determination that John Clela book Memories of a Woman of Pleasure was obscene. [1335] Wri

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1330 Id.

1331 Id. at 487.

1332 Id. at 489.

1333 Id.

1334 383 U.S. 413 (1965).

1335 Id.

for a sharply divided court, Justice Brennan stated that th elements must coalesce in order for a book to be found obscen

> (1) the dominant theme of the material taken as a whole appeals to a prurient interest in sex.
> (2) the material is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters.
> (3) and the material is utterly without redeeming social value.[1336]

In reversing the state court decision, Brennan found t the court had misinterpreted the "social value" part of obscenity standard. [1337] He said the Massachusetts court "er in holding that a book need not be worthless before it ca deemed obscene. A book cannot be proscribed unless it is f to be utterly without redeeming social value." [1338] Since Massachusetts court had found that the book possessed a "modi of social value, it was therefore not obscene. [1339] The stan enumerated in Memoirs reached only what might be referred t "hard-core" pornography and led to a period of minimal regul of obscenity during the years leading up to Mille California.[1340]

By the time Miller v. California [1341] reached the Su

1336 Id. at 418.

1337 Id. at 419.

1338 Id.

1339 Id. at 419-20.

1340 413 U.S. 15(1973).

1341 Id.

Court in 1973, the composition of the tribunal had cha significantly. Since the Memoirs decision in 1966, Warren Bu had become Chief Justice and Justices Black, Fortas, and Ha had been replaced by Blackmun, Powell, and Rehnquist. Mi resulted in the first majority opinion from the Supreme Cou the issue of obscenity since Roth in 1957.

Miller had been convicted under the California obsc statute for mailing unsolicited, illustrated advertisements "adult" books. [1342] At the outset of his opinion upho Miller's conviction, Chief Justice Burger said the Court w undertake to formulate more concrete standards for determ obscenity. [1343] Burger pointed out that the standard in Mer v. Massachusetts was a mere plurality opinion of three Justi and veered sharply from the test set forth in Roth. [1344] rejected the "utterly without redeeming social value" portio the Memoirs test as requiring proof of a negative, which i burden virtually impossible to discharge under our crim standards of proof." [1345] This pronouncement marked a m change from prior obscenity cases. Burger noted the Memoirs now failed to command the support of a single member of Court. [1346] The standard the Court announced in Miller w

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1342 413 U.S. 15, 16(1973).

1343 Id. at 19-20.

1344 Id. at 21.

1345 Id. at 24-25.

1346 Id. at 25.

confine the scope of regulation to works that depict or des
sexual conduct. Further, the sexual conduct must be specifi
defined by state law. 1347 The three part standard announce
Miller requires an examination of,

> (a) whether "the average person, applying contemporary community standards" would find that the work, taken as a whole, appeals to the prurient interest, Kois v. Wisconsin, supra, at 230, quoting Roth v. United States, supra at 489; (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. 1348

The Court also gave an example of the types of s
conduct that state statutes could define for regulation
part two of the standard. The Court noted that prohi
conduct may involve,

> (a) Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated.
> (b) Patently offensive representations or descriptions of masturbation, excretory functions, and lewd exhibition of the genitals. 1349

Significantly, the Court's opinion in Miller also addre
the issue of "contemporary community standards" and fou
national standard to be an "exercise in futility."1350 Bu

1347 Id.

1348 Id. at 24.

1349 Id. at 25.

1350 Id. at 30.

reasoned that a question of fact is involved in the applic of community standards and that "our nation is simply too bi too diverse for this court to reasonably expect that standards could be articulated for all fifty states. . . ."

A local rather than a national community standard govern the determinations of "prurient interest" and "p offensiveness."

The Chief Justice chided the dissenters in Mille favored what he referred to as an "absolutist, anything goe of the First Amendment because it will lighten our burdens to the scope of First Amendment protection, the Court added "[T]o equate the free and robust exchange of ideas and poli debate with commercial exploitation of obscene material de the grand conception of the First Amendment and its high pu in the historic struggle for freedom." [1351]

In a case decided the same day as Miller, the Supreme rejected the argument that obscene films are constitutio immune from state regulation simply because they are exhibit consenting adults only. [1352] However, the mere pr possession of obscene matter cannot be proscribed. [1353] court previously held in Stanley v. Georgia [1354] that Constitution protects the right to receive information and

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1351 Id. at 34.

1352 Paris Adult Theatre I v. Slaton, 413 U.S. 49(1973

1353 394 U.S. 55733 (1969).

1354 Id.

and to be generally free from government intrusion into one's privacy.[1355] The Supreme Court's decision in Smith v. United States [1356] clarified that the determination of serious literary, artistic, political, or scientific value is made with reference to a national and not a local standard. [1357] In Smith, the court found that only the questions of "prurient interest" and "patent offensiveness" are subject to local community standards under Miller. [1358]

In Jenkins v. Georgia, [1359] the Supreme Court held that juries do not have "unbridled discretion" in determining questions of "prurient interest" and "patent offensiveness" according to local community standards. [1360] Such determinations are subject to constitutional review.

The concept of pornography as a civil rights violation came to the forefront in 1984 when the city of Indianapolis, Indiana enacted an ordinance "to prevent and prohibit all discriminatory practices of sexual subordination or inequality through pornography." [1361] The Indianapolis ordinance defin

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1355 Id.

1356 431 U.S. 291(1977).

1357 Id. at 301.

1358 Id.

1359 418 U.S. 153(1974).

1360 Id. at 160.

1361 Indianapolis & Marion County, Ind. Ordinance 24 (June 3, 1984), amended by Indianapolis & Marion County, Ind. Ordinance 35 (June 15, 1984), at S16-1 (b) (8). The city Council

pornography as "the graphic sexually explicit subordinati women, whether in pictures or in words" [1362] and created a remedy for individuals aggrieved by discriminatory pract prohibited by the ordinance. [1363] These practices incl trafficking in pornography, coercing a person into a pornogr performance. [1364]

The ordinance was promptly challenged and unconstitutional in American Booksellers Assn. v. Hudnut. The District Court found that the ordinance regulated speech was entitled to First Amendment protection. [1366] The court focused on the issue of whether "the state's interes protecting women from the humiliation and degradation which from being depicted in a sexually subordinate context i compelling as to warrant the regulation of otherwise free sp to accomplish that end." [1367] The court concluded that it not and reasoned that women are capable of protecting themse from being harmed by pornography. [1368] The court held tha

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Minneapolis, Minnesota passed a similar ordinance that was ve by the mayor.

1362 Id. S16-3(9).

1363 Id. S16-17.

1364 Id. S16-3 (g) (4)-(7).

1365 598 F. Supp. 1316 (S.D. Ind. 1984).

1366 Id. at 1331-31.

1367 Id. at 1335.

1368 Id. at 1333-34.

"deny free speech in order to engineer social change in the n of accomplishing a greater good for one sector of our soci erodes the freedoms of all . . . ." 1369

The United States Court of Appeals for the Seventh Circ affirmed the District Court's decision. 1370 The Court Appeals accepted the premise of the ordinance that pornograph a systematic practice of exploitation and subordination based sex which differentially harms women. 1371 The Court also s in dicta that,

> The Section creating remedies for injuries and assaults attributable to pornography . . . is salvageable in principle, although not by us. 1372

But the definition of pornography contained in the ordinance its fatal flaw. The court held,

> The ordinance discriminates on the ground of the content of the speech. Speech treating women in the approved way in sexual encounters "premised on equality" is lawful no matter how sexually explicit. Speech treating women in the disapproved way as submissive in matters sexual or as enjoying humiliation is unlawful no matter how significant the literary, artistic, or political qualities of the work taken as a whole. The state may not ordain preferred viewpoints in this way. The Constitution forbids the state to declare one perspective

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1369 Id. at 1337.

1370 American Booksellers Ass'n v. Hudnut, 771 F.2d 323(Cir. 1985).

1371 Id. at 329.

1372 Id. at 333.

right and silence opponents. [1373]

The city of Indianapolis appealed to the United St Supreme Court, and on February 24, 1986, the Court summa affirmed the judgment of the Court of Appeals. [1374]

[1373] Id. at 325.

[1374] Hudnut v. American Booksellers Ass'n No. 85-1090 S op. Feb. 24. 1986.

Chapter 6

First Amendment Considerations

The First Amendment to the United States Constitut mandates that,

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. [1375]

Sharp differences exist among legal scholars as to meaning and scope of the First Amendment. The opinions Supreme Court Justice William O. Douglas forcefully developed view that the First Amendment makes the right to free spe absolute. Douglas and other like-minded theorists take the wo "Congress shall make no law" at their literal meaning.

In his dissenting opinion in Roth v. United States [13] Douglas wrote,

> The First Amendment, its prohibition in terms absolute, was designed to preclude courts as well as legislatures from weighing the values of speech against silence. The First Amendment puts free speech in the preferred position. [1377]

Thus, in Douglas' view, the courts and legislatures w prohibited from abridging any form of expression, including

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1375 U.S. Const. amend. I.

1376 345 U.S. 476(1957)

1377 Id. at 514.

most sexually explicit material. In Roth, he quoted pro

First Amendment theorists and wrote,

> The danger of influencing change in the current moral standards of the community, or of shocking or offending readers, or of stimulating sexual thoughts or desires apart from objective conduct, can never justify the losses to society that result from interferences with literary freedom. 1378

Justice Douglas concluded that,

> . . . if the First Amendment guarantee of Freedom of speech and press is to mean anything in this field, it must allow protests even against the moral code that the standard of the day sets for the community. 1379

In Miller v. California [1380], Douglas expounded o

theory of broad First Amendment protection. He wrote,

> The idea that the First Amendment permits government to ban publications that are "offensive" to some people puts an ominous gloss on freedom of the press. That test would make it possible to ban any paper or any journal or magazine in some benighted place. The First Amendment was designed "to invite dispute," to induce "a condition of unrest," to "create dissatisfaction with conditions as they are," and even to stir "people to anger". Terminiello v. Chicago, 337 U.S. 1, 4. The idea that the First Amendment permits punishment for ideas that are "offensive" to the particular judge or jury sitting in judgment is astounding. No greater leveler of speech or literature has been designed. To give the power to the censor, as we do today, is to make a sharp and radical break with the traditions of a

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1378 Id. at 509-10, citing Lockhart and McC Literature, the Law of Obscenity, and the Constitution, 38 L. Rev., 295, 387(1954).

1379 Id. at 513.

1380 413 U.S. 15(1973).

> free society. The First Amendment was not fashioned as a vehicle for dispensing tranquilizers to the people. Its prime function was to keep debate open to "offensive" as well as to "staid" people. The tendency throughout history has been to subdue the individual and to exalt the power of government. The use of the standard "offensive" gives authority to government that cuts the very vitals out of the First Amendment. As is intimated by the Court's opinion, the materials before us may be garbage. But so is much of what is said in political campaigns, in the daily press, on TV, or over the radio. By reason of the First Amendment-and solely because of it-speakers and publishers have not been threatened or subdued because their thoughts and ideas may be "offensive" to some. 1381

The view that the First Amendment provides abso protection to sexually explicit materials continues t espoused by strong and vocal advocates. They contend unfettered freedom of expression will enable the best and truthful points of view to prevail in society. [1382] The F Amendment's protection of speech reaches beyond well reas discourse. It includes appeals to the human spirit and feeli One proponent has said "sexually explicit material is usu communication that the activity depicted is pleasurable appropriate. Frankly, it asserts that it is good and healthy persons in many places and many positions. Obviously this is doctrine over which there ought to be profound mo debate." 1383

1381 Id. at 44-5.

1382 Washington, D.C., Hearing, Vol. II, Barry Lynn, p. 1

1383 Id. at 153.

Sexually explicit materials depicting children should be protected speech in the view of many First Amendr absolutists. While they condemn child abuse, some proponent absolutist First Amendment theory argue that prohibit expression in the form of child pornography as the Supreme C did in New York v. Ferber [1384] also does nothing to stop underlying crimes committed against the children. [1385] First Amendment absolutists have adhered so rigorously to t principle that they would oppose restrictions on sexu explicit materials even if proof was available to show that materials promoted sexual violence. [1386] Robert H. Bork, r judge of the United States Court of Appeals for the District Columbia Circuit, has criticized what he calls "the insisten many very intelligent people that the First Amendment i absolute." [1387] He writes that,

> [d]evotees of this position insist, with a literal respect they do not accord other parts of the Constitution, that the Framers commanded complete freedom of expression without governmental regulation of any kind. The first amendment states: "Congress shall make no law . . . . abridging the freedom of speech . . . ." Those who take that as an absolute must be reading "speech" to mean total absence of governmental restraint.

1384 458 U.S. 747(1982).

1385 Washington, D.C., Hearing Vol. II, Barry Lynn, p. 87.

1386 Chicago Hearing, Vol. I, Jane Whicher, p. 222-23.

1387 R.H. Bork, Neutral Principals and Some First Amend Problems, 47 Ind. L. Rev. 1, 21(1971).

> Any such reading is, of course, impossible. Since it purports to be an absolute position we are entitled to test it with extreme hypotheticals. Is Congress forbidden to prohibit incitement to mutiny aboard a naval vessel engaged in action against an enemy, to prohibit shouted harangues from the visitors' gallery during its own deliberations or to provide any rules for decorum in federal courtrooms? Are the states forbidden, by the incorporation of the first amendment in the fourteenth, to punish the shouting of obscenities in the streets?
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> No one, not the most obsessed absolutist, takes any such position, but if one does not, the absolute position is abandoned, revealed as a play on words. 1388

Other constitutional law scholars have offered n absolutist arguments which would Support First Amendm protection for adult pornography.

C. Edwin Baker has proposed what he calls the "Libe Model" of First Amendment protection. [1389] According to Bak this model equates First Amendment protection with the ent realm of individual liberty excluding only coercive or viol action. [1390] Baker rejects as too narrow the notion that Fi Amendment protection should be afforded only to speech that a in the discovery of truth. [1391] Speech is an important compon of self-fulfillment. [1392] Speech that serves to entertain

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1388 Id.

1389 C. Baker, Scope of the First Amendment Freedom Speech, 25 UCLA L. Rev. 964, 990(1978).

1390 Id. at 960.

1391 Id. at 990.

1392 Id. at 992-93.

amuse the speaker or listener has value as a means of self-fulfillment even though it may not communicate significant ideas advance the search for truth. [1393] Baker finds this va sufficient to merit First Amendment protection.

Vincent Blasi has argued in favor of broad First Amendr protection as a means of ensuring individual autonomy for mem of society. [1394] Blasi points to Justice Brandeis statement Whitney v. California [1395] that "those who won our independe believed that the final end of the State was to make man fre develop their faculties . . . they valued liberty both as ar and as a means. They believed liberty to be the secre happiness." [1396]

According to Blasi,

> The basic idea here is not that speech leads to truth or a stable society or some other social value, but rather that certain speech activities are valuable because they are integral to the process by which persons consciously choose from among alternatives, a process which is regarded as valuable in and of itself because it figures prominently in our vague notions of what it means to be human. [1397]

Blasi asserts that individuals retain a basic minimum of ch making capability, they cease to be individuals any more.

[1393] Id.

[1394] Blasi, The Checking Value in First Amendment The 1977 American Bar Foundation Research Journal 521, 544(1977).

[1395] 274 U.S. 357(1927).

[1396] Id. at 375.

[1397] V. Blasi, supra, at 544.

[1398] Id. at 547.

Thus First Amendment protection extends not just to polit speech but to speech that appeals to human spirit feelings. 1399

Another justification for broad First Amendment protec advanced by Blasi is diversity. If expression is unregulat individuals may freely receive stimulation from diverse rea and listening fare. [1400] This is essential to human happin apart from any search for truth. [1401] Blasi writes,

> Even the venerable metaphor of the marketplace of ideas may have continuing force if a market is thought of not so much as a site where prices are determined and purchases made, but rather as a place where people gather to browse, to taste, and to commingle aimlessly. [1402]

Blasi finds the social consequences of unregulated expression likely better than the consequences of regulation.

Geoffrey Stone advances an argument similar to Bake regarding "self-fulfillment." Stone contends that,

> the very fact . . . that there is a vast market in our society for sexually explicit expression suggests that for many people, this type of speech serves what they believe to be, it may be amusement, it my be containment, it may be sexual stimulation, it may be fantasy, whatever it is, many of us believe that this expression is to our own lives, in some way, valuable. That value

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1399 Id. at 545.

1400 Id. at 550.

1401 Id.

1402 Id.

should not be overlooked. 1403

Stone contends that certain types of speech may seem offensive immoral to some, the "marketplace" referred to by Blasi is forum for confronting them as opposed to eliminating them a matter of law. Stone says,

> What is not appropriate, in our free and democratic society, is for government to prohibit expression because that expression may lead individuals into holding views or morals or attitudes that the majority disliked. The way to combat that in our society was not to suppress the speech because we don't like the moral standards they may promote. It is rather, to try to convince our citizens, in the marketplace of ideas, that there are better moral standards and there are better modes of moral behavior. That is the tradition of this country and the tradition of the First Amendment. It seems to me any regulation of obscenity on the ground it may be immoral, is simply incompatible with our constitutional and non-constitutional positions of free expression. 1404

Despite the fervent efforts of its advocates, the the that the First Amendment affords protection to all forms expression has over the years found favor with only a sm minority on the United States Supreme Court. The Court consistently held that certain types of speech either fa outside the protection of the First Amendment or are protec but subject to regulation. For example, so called "fight words" which by their very utterance inflict injury or tend incite an immediate breach of the peace may be prohibited in

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1403 Chicago Hearing, Vol. I, Geoffrey Stone, p. 163-64.

1404 Id. at 167-68.

interest of public order. 1405 Defamatory material about pu figures is unprotected by the First Amendment if the publi has either a knowledge of its falsity or a reckless disregar the truth. 1406

In addition, commercial speech or advertising ma regulated in order to prevent commercial fraud or deception. Advocacy of the use of force or violation of the law ma proscribed only where it is "directed to inciting or produ imminent lawless action and is likely to incite or produce action." 1408 The Supreme Court has emphasized the require of imminent lawless action before the speech ca curtailed. 1409

The question of whether obscenity is protected speech u the First Amendment first reached the Supreme Court in 1957 the landmark case of Roth v. United States. 1410 In his opi for the majority, Justice William Brennan said "this Court always assumed that obscenity is not protected by the freedo

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1405 Chaplinsky v. New Hampshire, 315 U.S. 568(1942); see, Cohen v. California, 403 U.S. 15 (1971); (holding speech which is merely offensive, i.e. jacket with printed w "Fuck the Draft", is entitled to full First Amendment protecti

1406 New York Times v. Sullivan, 376 U.S. 254(1964).

1407 See, Bigelow v. Virginia, 421 U.S. 809(1975).

1408 Brandenburg v. Ohio, 395 U.S. 444, 447(1969).

1409 See, Hess v. Indiana, 414 U.S. 105, 109(1973).

1410 354 U.S. 476(1957).

speech and press." [1411] Brennan wrote that,

> All ideas having even the slightest redeeming social importance - unorthodox ideas, controversial ideas, even ideas hateful to the prevailing climate of opinion - have the full protection of the guarantees, unless excludable because they encroach upon the limited area of more important interests. But implicit in the history of the First Amendment is the rejection of obscenity as utterly without redeeming social importance. [1412]

The principle that obscenity is excluded from Fi Amendment protection was restated by the Court in Miller California [1413] in 1973. In Miller, Chief Justice Warren Bur wrote, "This much has been categorically settled by the Cou that obscene material is unprotected by the Fi Amendment." [1414] (emphasis added.)

The Supreme Court's rationale in Miller was consistent w earlier precedent regarding the First Amendment value obscenity. Chief Justice Burger said in Miller that "to equ the free and robust exchange of ideas and political debate w commercial exploitation of obscene material demeans the gr conception of the First Amendment and its high purposes in t historic struggle for freedom." [1415]

[1411] Id. at 481.

[1412] Id. at 484-85.

[1413] 413 U.S. 15(1973).

[1414] Id. at 23.

[1415] Id. at 34.

In Paris Adult Theatre I v. Slaton,[1416] decided the day as Miller, the Court expounded further on the exclusi obscenity from constitutional protection. The Court foun right to privacy protects the personal intimacies of the l family, marriage, motherhood, procreation and child bearing. It does not encompass the right of an individual to watch ob movies in a place of public accommodation.[1418] The Court distinguished the prevention of unlimited distributio obscenity from exertion of control by the state over reaso the intellect. Chief Justice Burger wrote,

> Where communication of ideas, protected by the First Amendment, is not involved, the mere fact that, as a consequence, some human "utterances" or "thoughts" may be incidentally affected does not bar the state from acting to protect legitimate state interests.[1419]

The Court cited legitimate state interests at stake in ste the tide of commercialized obscenity.[1420] These include,

> The interest of the public in the equality of life and the total community environment, the tone of commerce in the great city centers, and possibly the public safety itself.[1421]

The Court also quoted former Chief Justice Earl Warren's opi

1416 413 U.S. 49(1973).

1417 Id. at 66.

1418 Id.

1419 Id. at 67.

1420 Id. at 57.

1421 Id. at 58.

in Jacobellis v. Ohio, [1422] where he declared there is a "ri of the nation and of the states to maintain a decent society . ." [1423]

As early as 1942, the Supreme Court held that lewd obscene speech "are no essential part of any exposition ideas, and are of such slight social value as a step to t that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality." [1424] And in Roth, the Court found that historically, [t]he protect given speech and press was fashioned to assure unfettered int changed of ideas for the bringing about of political and so changes desired by the people." [1425]

Thus the Supreme Court has found that what Chief Just Burger called "[t]he public portrayal of hard-core sexual cond for its own sake and for the ensuing commercial gain," [1426] far removed from the free and beneficial exchange of ideas t the First Amendment was designed to protect. In Young American Mini-Theatres, [1427] Justice John Paul Stevens drew same distinction and said,

> Moreover, even though we recognized that the

1422 378 U.S. 184(1964).

1423 Id. at 199.

1424 Chaplinsky v. New Hampshire, 315 U.S. 568, 571-72(19

1425 354 U.S. 484.

1426 413 U.S. 35.

1427 427 U.S. 50 (1976).

> First Amendment will not tolerate the total suppression of erotic materials that have some arguably artistic value, it is manifest that society's interest in protecting this type of expression is of a wholly different, and lesser, magnitude than the interest in untrammeled political debate that inspired Voltaire's immortal comment. Whether political oratory or philosophical discussion moves us to applaud or to despise what is said, every school child can understand why our duty to defend the right to speak remains the same. But few of us would march our sons and daughters off to war to preserve the citizen's right to see "Specified Sexual Activities" exhibited in the theatres of our choice. 1428

Obscene materials lack cognitive content and are closely akin to sexual conduct as opposed to the communica process. The sole purpose of the material is to provide s gratification to the reader or viewer.

Other commentators have gone one step further, and they contended that constitutional protection should be accorded to speech that is explicitly political. 1429 One scholar c the "heart and soul" of the First Amendment the preservatic "our process of self government from legislative encroachmer guaranteeing to each citizen freedom of political speech and guaranteeing to the press freedom to publish essentially wh will about the government." 1430 The United States Supreme C

1428 Id. at 70.

1429 R. H. Bork, supra, note 1258, at 20; Washington, I Hearing, Vol. II, Lillian BeVier, p. 213-14.

1430 Washington, D.C., Hearing, Vol. II, Lillian BeVie 214.

has yet to adopt this interpretation. [1431] To be obscene without First Amendment protection, material must meet the th part test enunciated in Miller v. California. [1432] The Mil standard involves the determination by the fact finder whether,

> The average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest . . . depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and . . . whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. [1433]

In Miller, the Court also gave examples of the types sexual conduct state statutes could define for regulation u the second prong of the test. [1434] They include:

> patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated; and
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> patently offensive representations or descriptions of masturbation, excretory functions, and lewd exhibition of the genitals. [1435]

When the issue of child pornography reached the Supr Court in 1982, [1436] the justices unanimously upheld

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1431 See, Roth v. United States, 354 U.S. 476, 487-88(19

1432 413 U.S. 15(1973).

1433 Id. at 24.

1434 Id. at 25.

1435 Id.

1436 New York v. Ferber, 458 U.S. 747(1982).

constitutionality of a New York statute which prohibited performances by children that were not obscene under Miller The Court carefully enunciated the greater leeway it accord states in regulating child pornography [1438] and found the of expression that depicts children engaged in sex acts a minimus" and far outweighed by the evils of child abus exploitation. [1439] The Court reaffirmed the Miller formu for obscenity, [1440] but found it inapplicable to pornography because its standards do not serve to protect depicted in pornographic materials. [1441]

Child pornography joined the category of speech that any protection under the First Amendment, and once agai Supreme Court found "speech" whose value was outweighed by considerations.

The Miller test for obscenity has been in existenc thirteen years, giving the Supreme Court, along with federa state courts, ample opportunity to interpret its component p

The Supreme Court has said that "average person" as us the Miller standard "means what it usually means" and is nc clear than "reasonable person" used for generations in

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1437 Id. at 750-51.

1438 Id. at 756-62.

1439 Id. at 762.

1440 Id. at 755.

1441 Id. at 761.

contexts. 1442

Material must be judged by its impact on the average pers "rather than a particularly susceptible or sensitive person - indeed a totally insensitive one;" 1443 and rather than "the m prudish or the most tolerant" 1444 person. Children are included within the concept of the "average person" unless t are the intended recipients of the material in question. The Supreme Court has reasoned that a jury trying to define "average person" by whose standards obscenity is determi "would reach a much lower 'average' when children are a part the equation than it would if it restricted its consideratio the effect of allegedly obscene materials on adults." 1446

The Supreme Court found in Miller that while First Amendr limitations on the powers of the states do not vary f community to community, there should be no fixed national standards as to what appeals to the prurient interest or what patently offensive. 1447 The Court said an attempt to ascert a national community standard would be an "exercise in futility" 1

1442 Pinkus v. United States, 436 U.S. 293, 300(1978).

1443 Miller v. California, 413 U.S. 15, 33(1973).

1444 Smith v. United States, 431 U.S. 291, 304(1977).

1445 436 U.S. at 297-98; See also, Ginsberg v. New Yo 390 U.S. 629(1968).

1446 Id. at 298.

1447 410 U.S. at 30.

1448 Id.

and resolved that, "It is neither realistic nor constitutiona sound to read the First Amendment as requiring that the people Maine or Mississippi accept public depiction of conduct fo tolerable in Las Vegas or New York City." [1449] In Miller, Court upheld the trial Court's instruction that the ju evaluate the material in question with reference to contemporary standards of the state of California. [1450] Whil statewide community standard was approved in Miller, it was mandated. [1451] In ascertaining the community standards, child again are not to be included in the community. [1452] Moreov the fact that a state law fails to regulate distribution obscene material to adults is not a conclusive determination community standards for that jurisdiction. [1453] The "loc community standards" formulation of Miller is applicable to federal prosecutions for obscenity. [1454]

The prosecution is not normally required to offer evider of the contemporary standards of the community in the jurisdiction at trial. [1455] The materials, if "hard core," n

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1449 Id. at 32.

1450 Id. at 33-34.

1451 See, Hamling v. United States, 418 U.S. 87(1974 Jenkins v. Georgia, 418 U.S. 153(1974).

1452 See, Pinkus v. United States, 436 U.S. 293(1978 United States v. Bush, 582 F.2d 1016 (5th Cir. 1978).

1453 Smith v. United States, 431 U.S. 291(1977).

1454 Hamling v. United States, 418 U.S. 87(1974).

1455 Id.

speak for themselves. [1456] However, prosecutors have encount some problems in bench trials when they offered no evidenc the relevant community standards. [1457] The trial judge may on his own experience to decide what the community standard and whether the material in question violates them. If the j possesses little or no knowledge of the community's views, h turn to the government's evidence and if none has been off he or she may be relegated to a finding that the prosecution failed to sustain its burden. [1458]

Contemporary community standards may be proven by e testimony based upon properly conducted public opinion p taken in the relevant areas. [1459] Evidence of the availab or lack of availability of comparable materials may also be to show that the material in question enjoys a reasonable d

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[1456] See, Paris Adult Theatre I v. Slaton, 413 U.S. 49, 56(1

[1457] See, United States v. Obscene Film, Cards, & Maga 541 F.2d 810(9th Cir. 1976); United States v. 2200 Pape Books, 565 F.2d 566(9th Cir. 1977); United States v. Va Articles, 709 F.2d 132 (2d Cir. 1983); and United State Various Articles, 750 F.2d 596(7th Cir. 1984).

[1458] United States v. Various Articles, 709 F.2d 136(2d Cir. 1983).

[1459] See, United States v. Various Articles, 750 F 596(7th Cir. 1984); Carlock v. Texas, 609 S.W.2d 787(Tex. C App. 1980); Commonwealth v. Trainor, 374 N.E.2d 1216(Mass. 19 People v. Thomas, 346 N.E.2d 190(Ill. 1976); People v. Nel 410 N.E.2d 476(Ill. 1980); See generally, Zippo v. Rogers, 21 Supp. 670(S.D.N.Y. 1963); Randy's Studebaker v. Nissan, 533 F 510(10th Cir. 1976).

of community acceptance or that it does not.[1460] One st court has admitted lay opinion testimony as to commun standards, where the witness was properly qualified based knowledge of and experience with community attitudes.[1461]

The federal appeals courts have upheld geograph definitions of "community" to include the state,[1462] fede judicial district[1463] or county.[1464] When the issue of wh community's standard applies in a given case arises, the fede appeals courts have applied the standards of the situs of trial[1465] and the site from which the material in question mailed.[1466] The fact that distributors of obscene materi may be subjected to different community standards in the vari federal judicial districts does not render any of the fede obscenity statutes unconstitutional.[1467]

Finally, state courts have upheld geographic definitions

1460 United States v. Manerite, 448 F.2d 583(2d Cir. 197 United States v. Various Articles, 750 F.2d 596(7th Cir. 198 United States v. Battista, 646 F.2d 237(6th Cir. 1981); Unit States v. Petrov, 747 F.2d 824(2d Cir. 1984).

1461 Louisiana v. Short, 368 So. 2d 1078(La. 1979).

1462 United States v. Danley, 523 F.2d 369(9th Cir. 1975)

1463 United States v. Dachsteiner, 518 F.2d 20(9th Cir. 197

1464 United States v. Bagnell, 679 F.2d 826(11th Cir. 198 cert. denied 103 S. Ct. 1449.

1465 United States v. Sandy, 605 F.2d 210(6th Cir. 1979).

1466 United States v. Thomas, 613 F.2d 787(10th Cir. 1980 United States v. Langford, 688 F.2d 1088(7th Cir. 1982.

1467 Hamling v. United States, 418 U.S. 87(1974); Unit States v. Bagnell, 679 F.2d 826(11th Cir. 1982).

"community" to include the state, [1468] county, [1469] city [147] "local community." [1471]

While the application of local community standards i important component of the Miller standard, juries do not "unbridled discretion" in determining questions of "pru: interest" or "patent offensiveness." [1472] The Supreme Court stated emphatically that,

> It would be wholly at odds with this aspect of Miller to uphold an obscenity conviction based upon a defendant's depiction of a woman with a bare midriff, even though a properly charged jury unanimously agreed on a verdict of guilty. [1473]

In Jenkins v. Georgia, [1474] the Court reversed an obsc conviction based upon the motion picture "Carnal Knowledge."

[1468] Pierce v. State, 296 So. 2d 218(Ala. 1974); Peop Better, 337 N.E.2d 272(Ill. 1975); Commonwealth v. 767 Corp., 357 N.E.2d 753(Mass. 1976); People v. Colgud, Inc., N.E.2d 1140(N.Y. 1980) (held error to instruct on co standards); LaRue v. State, 611 S.W.2d 63(Tex. Cr. App. 1 Slaton v. Paris Adult Theatre I, 201 S.E.2d 456(Ga. 1973); v. Motion Picture, 547 P.2d Cal. App. 2d 789, 73 Cal. 587(1968).

[1469] State v. DePiano, 375 A.2d 1169(N.J. 1977); Davis State, 288 So. 2d 483(Fla. 1973); Brazelton v. State, 28 342(Ala. Cr. App. 1973); Sedelbaner v. Indiana, 428 N. 206(Ind. 1981), cert. denied 455 U.S. 1035.

[1470] People v. Ridens, 321 N.E.2d 264(Ill. 1974) denied 421 U.S. 993; City of Belleville v. Morgan, 376 N 704(Ill. 1974).

[1471] Price v. Commonwealth, 201 S.E.2d 798(Va. 1974), denied 419 U.S. 902.

[1472] Jenkins v. Georgia, 418 U.S. 153, 160(1974).

[1473] Id. at 161.

[1474] 418 U.S. 153(1974).

Court found that, despite the jury determination, the movie not depict sexual conduct in a patently offensive way. [1475] Court restated the principle enunciated in Miller, that "no will be subject to prosecution for the sale or exposure obscene materials unless these materials depict or descr: patently offensive, 'hard-core' sexual conduct . . . ." [1476]

The "prurient interest" prong of the Miller test has cau: considerable confusion. In Roth v. United States, [1477] t Supreme Court held that "obscene material is material which dea with sex in a manner appealing to prurient interest." [1478] lengthy footnote which followed, the Court cited the followi definitions of "prurient interest":

> i.e., material having a tendency to excite lustful thoughts. Webster's New International Dictionary (Unabridged, 2d ed., 1949) defines prurient, in pertinent part, as follow:
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> ". . .Itching; longing; uneasy with desire or longing; of persons, having itching, morbid, or lascivious longings; of desire, curiosity, or propensity, lewd. . . ."
>
> Pruriency is defined, in pertinent part, as follows:
>
> ". . .Quality of being prurient; lascivious desire or thought. . . ."
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> See also, Mutual Film Corp. v. Industrial Comm'n, 236 U.S. 230, 242, where this Court

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1475 Id. at 161.

1476 Id. at 160, citing 413 U.S. 15, 27(1973).

1477 354 U.S. 476(1957).

1478 Id. at 487.

> said as to motion pictures: ". . .They take their attraction from the general interest, eager and wholesome it may be, in their subjects, but a prurient interest may be excited and appealed to . . . ." (emphasis added.)
>
> We perceive no significant difference between the meaning of obscenity developed in the case law and the definition of the A.L.I., Model Penal Code, ©207.10(2) (Tent. Draft No. 6, 1957), viz.:
>
> ". . . A thing is obscene if, considered as a whole, its predominant appeal is to prurient interest, i.e., a shameful or morbid interest in nudity, sex or excretion, and if it goes substantially beyond customary limits of candor in description or representation of such matters . . . ." See Comment, id., at 10, and the discussion at page 29 et seq. [1479]

In Miller, the Court reaffirmed the prurient int requirement without further elaboration or definition. [148(]

The Supreme Court has also ruled that when material intended for a clearly defined deviant sexual group pr interest may be measured by the appeal of the material tc particular group. [1481]

The federal appeals courts have not strayed far fro definitions cited in the Roth footnote. [1482] State cour

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[1479] Id. at n.20

[1480] 413 U.S. 15, 24(1973).

[1481] Mishkin v. New York, 383 U.S. 502(1965); See Hamling v. United States, 418 U.S. 87(1973); Jenkins v. Ge 418 U.S. 153(1973); United States v. Petrov, 747 F.2d 8 Cir. 1984); Sedelbauer v. State, 455 N.E.2d 1159(1983).

[1482] See, Flying Eagle Publications v. United States F.2d 799(1st Cir. 1960) (unwholesome or unhealthy interes sex, it is material which portrays sex with a loosel

interpretations have also used very similar language to de "prurient interest." [1483] The Supreme Court's most re pronouncement on the prurient interest standard was in Broo v. Spokane Arcades, Inc., [1484] in June of 1985. A Washir

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sensuous leer.); United States v. 35 MM Motion Picture Film, F.2d 705 (2d Cir. 1970) (characterized by the "leer of sensualist," debasing, shameful or morbid quality in expres or depiction of human sexuality); United States v. Keller, F.2d 54(3d Cir. 1958) (itching, longing, uneasy with desir longing, lascivious thoughts, lustful desires.); Penth International Ltd. v. McAuliffe, 610 F.2d 1353(5th Cir. 1 (shameful or morbid interest in nudity, sex or excretio United States v. Langford, 688 F.2d 1088(7th Cir. 1982) (ap to a morbid interest as distinguished from a candid interes Eastman Kodak Co. v. Hendricks, 262 F.2d 393(9th Cir. 1958) Childs v. State of Oregon, 431 F.2d 272(9th Cir. 1970) (inci lascivious thoughts, arousing lustful thoughts.).

[1483] See, State v. LeWitt, 222 A.2d 579(Ct. App. C 1966); City of Chicago v. Universal Publishing and Dist. Co 34 Ill. 2d 250, 215 N.E.2d 251(1966); Attorney General v. Named John Cleland's Memoirs of a Woman of Pleasure, 349 M 69, 206 N.E.2d 403(1965), rev'd on other grounds, 383 413(1966); People v. Speer, 52 Ill. App. 203, 367 N.E 372(1977) (shameful, morbid interest in nudity, sex, excretion); City of Phoenix v. Fine, 4 Ariz. App. 303, 420 26(1966) and Andrews v. State, 639 S.W.2d 4(Tex. App. 1 (morbid or shameful interest in nudity, sex or lewdness g substantially beyond customary limits of candor in descriptio representation of such matters); State v. Little AA Corp., Neb. 448, 215 N.W.2d 853(1974) and People v. Ciampa, 394 N.Y. 727(1977) (tending to incite lasciviousness, and lasciviousn is defined as tending to arouse sexual desires); State v. G American Theatre Co., 327 Kan 633, 608 P.2d 951((1980) unhealthy, unwholesome, morbid degrading and shameful interes sex.); Spry v. State, 156 Ga. App. 74, 274 S.E.2d 2(19 (material which appeals to prurient interest is material wh has tendency to excite lustful thoughts.); State v. Barrett, S.E.2d 590(S.C. 1982) (shameful or morbid interest in nudity, or excretion and is reflective of an arousal of lewd lascivious desires.)

[1484] 105 S. Ct. 2794(1985).

state statute [1485] regarding "moral nuisance" defined "lew matter" in a manner synonymous with "obscene matter." [1486] statute's definition of "obscene matter" tracked the M standard, [1487] but included a definition of "prurient" as which incites lasciviousness or lust." [1488] The United S Court of Appeals for the Ninth Circuit found the entire st unconstitutional. [1489] The Appeals Court ruled that a defin of the word "lust" necessarily encompassed "healthy, whole human reaction common to millions of well adjusted persons i society, not shameful or morbid desire." [1490] The (therefore found the statute prohibited material protected b First Amendment. [1491] The United States Supreme Court rev and remanded. The Court reaffirmed the definition of "prur interest" contained in Roth. [1492] In his opinion for the (Justice Byron White stated,

> The Court of Appeals was aware that Roth had indicated in footnote 20 that material appealing to the prurient interest was "material having a tendency to excite lustful

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1485 Wash. Rev. Code S7.48A. 010 et seq.

1486 Id. at S7.48A. 020(2) (a).

1487 Id.

1488 Id. at 7.48A.010(8).

1489 J.R. Distributors, Inc. v. Eikenberry, 725 482(9th Cir. 1984).

1490 Id. at 492.

1491 Id.

1492 105 S.Ct. at 2798-99

> thoughts" but did not believe that Roth had intended to characterize as obscene material that provoked only normal, healthy sexual desires. We do not differ with that view. 1493

Justice White went on to conclude that the Court was "quite s that by using the words 'lustful thoughts' in footnote 20, Court was referring to sexual responses over and beyond t that would be characterized as normal." 1494

While the Supreme Court agreed with the Appeals Cou construction of the prurient interest standard, the Court f that the Court of Appeals erred in declaring the Washin statute facially invalid. 1495 The Supreme Court found par rather than facial invalidation to be the proper course and that the statute should have been invalidated only insofar as word "lust" be understood as reaching protected materials. The extent to which Brockett v. Spokane Arcades, clarified meaning of "prurient interest" may be debated. The Court s to have excluded normal, healthy sexual desires - whatever are - from the definition of "prurient interest."

Material must also lack serious literary, artist political or scientific value in order to be obscene. 1497

1493 Id. at 2799.

1494 Id.

1495 Id. at 2801.

1496 Id. at 2802.

1497 413 U.S. at 25.

Kois v. Wisconsin, [1498] the Supreme Court reversed the obsce conviction of a publisher of an underground newspaper. newspaper contained an account of the arrest of a photogra for possession of obscene material, and criticized enforcement officials for their handling of the case. Included in the article were two pictures described as simil those seized from the photographer. The picture depicted "a man and nude woman embracing in a sitting position." [1500]

The requirement of serious value necessitates the c review the material as a whole. If the material, as a wh conveys a literary, artistic, political, or scientific idea message, it possesses the requisite value. [1501] If it app that the publisher of the material has tried to redeem or "d up" otherwise obscene matter, sold and distributed for obscene contents rather than for its ideas or message, then value is not serious. [1502] As the Supreme Court reasone Kois, "[a] quotation from Voltaire on the flyleaf of a book not constitutionally redeem an otherwise obs publication." [1503] In Kois, the Court found the publication not a "mere vehicle for the publication of the pictures,'

1498 408 U.S. 229(1972).

1499 Id. at 229-30.

1500 Id. at 230.

1501 413 U.S. at 24.

1502 408 U.S. at 231.

1503 Id.

that the picture were rationally related to the article about photographer. [1504]

The courts have distinguished cases involving "s publications which include some form of literature in an att to save the rest of the material in them from being declare obscene. [1505] The determination is not difficult to mak cases of hard core pornography. [1506] On two occasions, fed courts have found that Penthouse magazine lacks ser value. [1507] The same result was reached in a case involving movie "Deep Throat." [1508] Federal courts have found se value contained in Playboy Magazine [1509] and in the movie " Tango in Paris." [1510]

The determination of serious literary, artistic, polit or scientific value is not made with reference to local commu

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[1504] Id. at 230-31.

[1505] See, United States v. Merrill, 746 F.2d 458(9th 1984); United States v. Various Articles, 536 F. S 50(S.D.N.Y. 1981).

[1506] See e.g., State v. J-R Distributors, 512 1049(Wash. 1973) ("Bedplay" and "E-Jac" Magazines).

[1507] Penthouse International v. McAuliffe, 610 1353(5th Cir. 1980) (January, 1978 issue); Penth International v. Webb, 594 F. Supp. 1186(N.D. Ga. 1 (September, 1984 issue). But see, State v. Walden Book Co., So.2d 342(La. 1980) (finding the June, 1980 issue of Penth had serious value).

[1508] United States v. One Reel of Film, 481 F.2d 206 Cir. 1973).

[1509] Penthouse International v. McAuliffe, 610 1353(5th Cir. 1980) (January 1978 issue).

[1510] United States v. Gladwell, 373 F.Supp. 247(N.D. Ohio 19

standards.[1511] This prong of the Miller test embodies the F Amendment protection of unpopular or distasteful opinions ideas, and is thus "particularly amenable to appell review."[1512] This is in contrast to the determination of "ap to the prurient interest" and "patent offensiveness". In Mi the Supreme Court found that there can be no "fixed, uni national standards of precisely what appeals to the 'prur interest' or is 'patently offensive'."[1513] The Court cle found these elements of the Miller standard subject to l community standards, leaving the question of serious litera artistic, political, or scientific value to be determined b national standard.[1514]

California retains a standard that requires a court to material "utterly without redeeming social value" in order t obscene.[1515] Under that formulation the material need possess a modicum of social value to be protected speech.[15

Under either Memoirs or the Miller standard, ex

1511 Smith v. United States, 431 U.S. 291, 301(1977).

1512 Id. at 305.

1513 Miller v. California, 413 U.S. 15, 30(1973).

1514 431 U.S. at 301, citing F. Schauer, The Law Obscenity, 123-24 (1976).

1515 See, People v. Enskat, 109 Cal. Rptr. 433, 33 Cal 900(1973), U.S. cert. denied 418 U.S. 937. The Governor California has signed Senate Bill 139 which amends the st obscenity statute as of January 1987. The new law contain requirement of "significant literary, artistic, politic educational, or scientific value."

1516 See, Memoirs v. Massachusetts, 383 U.S. 413(1966).

testimony may be used to demonstrate the value of a publication or film.[1517]

In the thirteen years since the Miller standar announced by the Supreme Court, federal and state courts consistently followed the mandate expressed in Miller that

> no one will be subject to prosecution for the sale o exposure of obscene materials unless these material depict or describe patently offensive 'hard-core sexual conduct.[1518]

[1517] See, United Artists v. Gladwell, 373 F.Supp. 24 Ohio 1974); Commonwealth v. 707 Main Corp., 357 N.E.2d 753 1976).

[1518] U.S. at 27; See, Hamling v. United States, 418 U (1974) (advertising brochure containing full page of pic portraying heterosexual and homosexual intercourse, sodomy variety of sexual acts); United States v. Gower, 503 189(D.C. Cir. 1974) (photos and films which showed nude mal females engaged in explicit sexual intercourse, fell cunnilingus and masturbation); United States v. Alexander F.2d 934(2d Cir. 1974) (photos with no text that dep fellatio, cunnilingus and sodomy); McKenzie v. Butler F.Supp. 1319(W.D. Tex. 1975) (movie "Deep Throat"); United S v. Various Articles, 460 F.Supp. 826(S.D. N.Y. 1978) (film c naked teenage boys enaging together in oral and anal interc and masturbation, which had no plot, point or messag displayed no acting or directoral skills.); Penthou McAuliffe, 610 F.2d 1353(5th Cir. 1980) (January, "Penthouse", including "2 photos in which the naked woman ha finger inserted in the lips of her genitals so that it cor her clitoris . . . [an] expression consistent with masturba . ." also letters with descriptions of "hard core" sexual ac United States v. Friedman, 506 F.2d 511(8th Cir. 1974) (mag with photos depicting men and women in heterosexua homosexual acts including intercourse with penetration, intercourse, fellatio, cunnilingus, and masturbation); Mill United States, 507 F.2d 1100(9th Cir. 1974), cert. denie S.Ct. 2620(1975) (magazine "The Name is Bonnie" with 45 photos depicting and emphasizing female sex organs); U States v. Miller, 455 F.2d 899, 505 F.2d 1247 (9th Cir. 1974) (photos of male genitals and close-ups of female geni descriptions of bestiality, lesbian activities, incest and s between man and woman); United States v. Pryba, 502 F.2d 391 Cir. 1974) cert. denied. 95 S.Ct. 815 (1975), (film of nud and women engaged in homosexual and heterosexual acts); U

States v. Womack, 509 F.2d 368(D.C. Cir. 1974), cert. denied. S. Ct. 2644(1975) (magazines containing photographs showing yo boys posed in a manner which highlights and emphasizes th exposed genitalia in full or partial erection . . . in m instances the position of the boys indicates that oral or a sodomy is imminent); Weissbaum v. Hannon, 439 F.Supp 873(N Ill. 1977) (S & M photos of naked people whipped and bound; wo in chastity belts with invitations for sex; ads for cock ri and humiliation collar, detailed articles about 15 year old initiating 12 year old girl to sex and bondage); United Sta v. American Theater Corp. 526 F.2d 48(8th Cir. 1975) (mo depicting men and women engaged in heterosexual and homosex intercourse, cunnilingus, masturbation and depicting semen sp on women's bodies) Penthouse Int. Ltd. v. Webb, 594 F.Su 1186(N.D. Ga. 1984) (Sept. & Oct. 1984 "Penthouse", includ photos of women in varying degrees of nudity, photos of les sexual activity and masturbation, columns "Penthouse Foru "Women's Forum" and "Call Me Madam" detailing various se acts.); Pierce v. State, 244 S.E.2d 589(Ga. 1978) (maga pictures of persons exhibiting genitalia and engaging in vari forms of sexual activities both homosexual and heterosexua State v. American Theater Corp., 230 N.W. 2d 209(Neb. 1 "Deep Throat." Heterosexual intercourse, group sex, expl penetration, fellatio, cunnilingus, female masturbation sodomy, seminal ejaculation, sex scenes with only mi interruption.); Slaton v. Paris Adult Theater I, 201 S. 456(Ga. 1973) (movies depicting simulated intercourse fellatio.); Dyke v. State, 209 S.E.2d 166(Ga. 1974) (movie "D in Miss Jones." Individual and group acts of intercou fellatio, cunnilingus with camera focusing on genitals.); York v. Buckley, 307 N.E.2d 805(N.Y. 1973) "Screw" magaz Photos of heterosexual and homosexual sex with geni prominently and lewdly displayed, movie review with worth b determined by degree of male erection is it likely to induce, for sex paraphernalia and personal ads.); Harlow v. Cit Birmingham, 296 So.2d 202(Ala. Ct. Cr. App. 1974) (magazines every page depicting nude males and females in intercou fellatio, cunnilingus, sodomy, including group sex. L stories including "I was Raped by a Black and Now Re Abortion", "I Carried My Father's Child", "Smoking Pot Changed Sex Life."); Herman v. Arkansas, 512 S.W.2d 923 (Arkansas 19 (movie "Deep Throat"); Burns v. State, 512 S.W.2d 928 (Ark.19 (magazine photos of nude female involved in heterosexual homosexual oral breast manipulation with others. Photos of acts with no less than three nor more than eight persons depic in each photo.); Kaplan v. United States, 311 A.2d 506 (D.C. A 1973) (peep show depicting naked female shamelessly display genitals and breasts and close-up shots with use of banana simulate sex and oral sex.); Trans-Lux Corp. v. State ex. r

In Ward v. Illinois,[1519] the Court upheld obs convictions based on two publications depicting sadomasoc sexual acts. The defendant had contended that these typ acts were not enumerated in Miller as possible patently off depictions of specifically defined sexual conduct.[1520] The Court ruled in Ward that the sexual acts mentioned in were merely examples and not intended as an exhau compilation of the sexual acts whose depiction, if pa offensive, is subject to regulation.[1521]

Sweeton, 366 So. 2d 710(Ala. 1979) (film "The Opening of Beethoven." Numerous scenes of explicit sexual conduct b members of the same sex and members of the opposit including cunnilingus, intercourse, masturbation and fella repetitive displays.); McKinney v. City of Birmingham, 296 197(Ala. 1973) (films graphically depicting nude men and with their genitals fully exposed in poses and activ involving actual sexual intercourse, fellatio and cunnil between both males and females and other sexual activi Illinios v. Ridens, 282 N.E.2d 691(Ill. 1972), cert. deni S.Ct. 2000(1975) (magazines showing nude men and wom seductive embraces, posed with their legs spread so as to on their genitals); North Carolina v. Horn, 203 S.E.2d 3 1974), cert. denied. 95 S.Ct. 238 (magazines depicting both and nude females engaged in both bi-sexual and homosexua play, nude males and females showed in various positio copulation and nude males and females engaged in cunnilingu fellatio.); North Carolina v. Bryant, 203 S.E.2d 27(N.C. cert. denied. 95 S. Ct. 238 (films showing actual acts of intercourse, fellatio and cunnilingus performed by and b human male and human females); Washington v. J-R Distri Inc., 512 P.2d 1049(Wash. 1973), cert. denied. 418 949(1974) (magazines "Bed Play" and "E-Jac" containing p graphically depicting unclothed males and females engag acts of masturbation, sexual intercourse, fellati cunnilingus.); Garcia v. State, 633 S.W.2d 611 (Tex. App. (magazine entitled "Best of Cum". Front and back c displaying full page photographs of male ejaculating onto females and containing 100 pages of photographs depictin males ejaculating onto females.).

1519 431 U.S. 767(1977).

1520 Id. at 773.

1521 Id.

While the overwhelming majority of cases finding material be obscene have dealt with depictions of patently offens "hard-core" sexual conduct, descriptions of the same conduct words alone may also be legally obscene. In Kaplan California, [1522] the Supreme Court upheld an obscenity convict based on a book called Suite 69 which had a plain cover contained no pictures. [1523] The Court described the book consisting,

> entirely of repetitive descriptions of physical, sexual conduct, "clinically" explicit and offensive to the point of being nauseous. [1524]

The content of the book was "unvarying" and included "all every conceivable variety of sexual contact, homosexual heterosexual . . . ." [1525] Chief Justice Burger wrote in Kap

> When the Court declared that obscenity is not a form of expression protected by the First Amendment, no distinction was made as to the medium of the expression. [1526]

The Court concluded that [o]bscenity can, or course, manif itself in . . . the written and oral description conduct."[1527]

Materials found not to be obscene under Miller freque depict nudity without explicit sexual activity or merely con

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[1522] 413 U.S. 115(1973).

[1523] Id. at 116.

[1524] Id. at 116-17.

[1525] Id. at 117.

[1526] Id. at 119.

[1527] Id.

some sexually explicit language.[1528] In Jenkins Georgia,[1529] The Supreme Court reversed an obscenity convict involving the motion picture "Carnal Knowledge". The Court nc that the film appeared on many "Ten Best" lists for 1971 received generally favorable reviews from critics.[1530] One the actresses in it received an Academy Award nomination.[1] The Court quoted one review of the film which described the p as the story "of two young college male, roommates and lifel friends, forever preoccupied with their sex lives."[1532] Court cautioned that under Miller, juries do not have "unbrid discretion" in determining what is patently offensive or appe

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[1528] See, United States v. Huffman, 502 F.2d 419(D.C. C 1974) (Collection of photos of two females engaged in undress caressing, fondling, and embracing each other. In many of photos the subjects were nude.); Penthouse v. McAuliffe, 610 F 1353(5th Cir. 1980) (January 1978 "Playboy" magazines); Sal v. Nashua Board of Education, 469 F.Supp. 69(D.N.H. 1979) ("Magazine." Some fiction articles "offensive", but contair materials of interest to researchers of feminist view poin Right to Read Committee v. School Committee, 454 F.Supp 703 Mass. 1978) (Poem entitled "The City to a Young Girl" wh included words "pussy" and "cunt". The court found the langu to be "tough" but not obscene.); Hunt v. Keriakos, 428 F 606(1st Cir. 1970) cert. denied. 400 U.S. 929 (photos of fem anatomy with no sexually explicit activities); United States Central Magazine Sales Limited, 381 F.2d 821(4th Cir. 19 (photo magazines containing nude photos including some Attorn 282 A.2d 126(Md. 1971) (nude young males with genit prominently displayed); State v. Cardwell, 539 P.2d 169(Or. A 1975) (entertainment guide with ads for adult book stores, te and pictures promoting "Sexy Saunas", photos of nude wo retouched with black markings on breasts and genitals) State Walden Books, 386 So. 2d 342(La. 1980) (Penthouse Magazine).

[1529] 418 U.S. 153(1974).

[1530] Id. at 158.

[1531] Id. at n.5.

[1532] Id. at 158.

to the prurient interest, and restated the proposition obscenity under Miller only encompasses materials that "depi describe patently offensive "hard-core' sexual conduct . ." [1533] The Court went on to describe "Carnal Knowle finding that,

> While the subject matter of the picture is, in a broader sense, sex, and there are scenes in which sexual conduct including "ultimate sexual acts" is to be understood to be taking place, the camera does not focus on the bodies of the actors at such times. There is no exhibition whatever of the actors' genitals, lewd or otherwise, during these scenes. There are occasional scenes of nudity, but nudity alone is not enough to make material legally obscene under the Miller standards. [1534]

The Court held that "Carnal Knowledge was "simply not the °p portrayal of hard core sexual conduct for its own sake, an the ensuing commercial gain'" which Miller proscribes. [1535] a matter of constitutional law, the film did not depict s conduct in a patently offensive way. [1536]

In Erzoznik v. City of Jacksonville, [1537] the Supreme found unconstitutional a Jacksonville, Florida, ordi prohibiting the showing of films containing nudity by a dri movie theatre where the screen is visible from a public stre place. The ordinance specifically proscribed any motion pi

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1533 Id. at 160, quoting 413 U.S. 15, 27(1973).

1534 Id. at 161.

1535 Id.

1536 Id.

1537 422 U.S. 205(1975).

depicting "the human male and female bare buttocks, human f bare breasts, or human bare pubic areas. . . ." [1538] Erzoznik, the Court concluded that,

> The ordinance is not directed against sexually explicit nudity, nor is it otherwise limited.
>
> Rather, it sweepingly forbids display of all films containing any uncovered buttocks or breasts, irrespective of context or pervasiveness. Thus it would bar a film containing a picture of baby's buttocks, the nude body of a war victim, or scenes from a culture in which nudity is indigenous. The ordinance also might prohibit newsreel scenes of the opening of an art exhibit as well as shots of bathers on a beach. Clearly all nudity cannot be deemed obscene even as to minors. [1539] (emphasis added)

However, the Miller standard may be adjusted to pro materials on the basis of their appeal to minors even if the not obscene to adults. [1540] In Ginsberg v. New York, 154 Supreme Court considered whether it was constitution impermissible for the state of New York to accord minors u age seventeen a more restricted right than that assured adul determine for themselves what sexual material they may rea see. [1542] The defendant was convicted of selling two "gi magazines to a sixteen year old boy. [1543]

1538 Id. at 207.

1539 Id. at 213.

1540 Ginsberg v. New York, 390 U.S. 629(1968).

1541 Id.

1542 Id. at 636-37.

1543 Id. at 631.

The Court found that these magazines were not obscene adults. [1544] The Court upheld the constitutionality of New statute recognizing both the authority of parents to direct upbringing of their children and the state's interests in well-being of its youth. [1545] As of 1970, forty-one states enacted some type of special prohibition regarding distribution of sexual materials to minors. Eighteen of t statutes were either identical or similar to the New York upheld in Ginsberg. [1546]

Pandering is the "business of purveying textual or gra matter openly advertised to appeal to the erotic interest o [its] customers." [1547] In Ginzburg v. United States, the Sup Court held that "where the purveyor's sole emphasis is on ma decisive in the determination of obscenity." [1548]

Pandering is neither a separate crime nor an element of offense of obscenity. It need not be included in the indict for obscenity. [1549] It is, however, relevant evidence t

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[1544] Id. at 634.

[1545] Id. at 639-40.

[1546] 2 Technical Report of the Commission on Obscenity Pornography, 45-52(1970).

[1547] Ginzburg v. United States, 383 U.S. 463, 467(19 quoting Roth v. United States, 354 U.S. 476, 495-96(1 (Warren, C.J., concurring).

[1548] 383 U.S. 463, 470(1966).

[1549] United States v. Palladino, 475 F.2d 65(1st (1973); United States v. Ratner, 502 F.2d 1300(5th Cir. 1974).

considered.[1550] In Ginzburg, the defendant sought ma privileges in Intercourse and Blue Ball, Pennsylvania, o basis of the salacious appeal of these names.[1551] The noted that "advertisements for the publication in question o boasted that the publishers would take full advantage of wh they regarded [as] an unrestricted license allowed by law i expression of sex and sexual matters.[1552] The Court found this evidence reinforced the government's claim that the mag was obscene.[1553] The courts generally, have found various of evidence to constitute pandering including sensati advertising,[1554] the name of the theater showing the movi question,[1555] motion picture previews,[1556] the us indiscriminate mailing lists,[1557] the types of books avai in the store where the publication in question purchased,[1558] and the use of a peep show booth to show a m

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1550 Hamling v. United States, 418 U.S. 87(1974); Pinku United States, 436 U.S. 293(1978).

1551 383 U.S. 467.

1552 Id. at 468.

1553 Id. at 471.

1554 United States v. Ratner, 502 F.2d 1300(5th Cir. 1 United States v. Dost, 575 F.2d 1303(10th Cir. 1978); U States v. Gundlach, 345 F. Supp. 709(W.D. Pa. 1972).

1555 People v. Sarnblad, 26 Cal. App. 3d 801, 103 Reptr. 211(1972) (movie shown at the "Por-No" theatre).

1556 State v. Boyd, 300 N.E.2d 752(Ohio App. 1972); Riviera Arts Theatre v. State, 412 S.W.2d 890(Tenn. 1967).

1557 Miller v. U.S., 431 F.2d 655(9th Cir. 1970).

1558 Orito v. State, 191 N.W.2d 763(Wisc. 1972).

picture.[1559] Courts have also found some evidence does constitute pandering, including mere advertising,[1560] a lewc enticing cover on a publication,[1561] references to other b by the same publishers,[1562] a high price[1563] and warn concerning the sexually explicit nature of the material.[1564] Evidence of pandering is relevant to the "literary, artis political or scientific" value prong of the Miller standard.[1565] In Ginzburg, the Supreme Court found that "The circumstance presentation and dissemination of material are equally rele to determining whether social importance claimed for materia the courtroom was, in the circumstances, pretense or reali

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1559 Sanza v. State Bd. of Censors, 226 A.2d 317(Md. 1 Hewitt v. State Bd. of Censors, 254 A.2d 203(Md. 1969).

1560 People v. Bloss, 201 N.W.2d 806(Mich. 1972); Peop Mature Enterprises, Inc., 343 N.Y.S.2d 911(1973); Luros v. U States, 389 F.2d 200(8th Cir. 1968) (nudist magazines advertised as erotica); United States v. Pelligrino, 467 41(9th Cir. 1972) (book "Woman: Her Sexual Variations Functions" with explicit color photos of female genit advertised as containing knowledge of female sexual response benefit of adults.

1561 Books Inc. v. United States, 388 U.S. 449(1 reversing 358 F.2d 935(1st Cir. 1966); United States v. Bara 418 F.2d 1051(9th Cir. 1969); Childs v. Oregon, 401 1006(1971), reversing per curium 431 F.2d 272(9th Cir. 1 Redrup v. New York, 386 U.S. 767(1967) (covers "Lust" and " Agent").

1562 Aday v. United States, 388 U.S. 447(1967) reve 357 F.2d 855(6th Cir. 1966).

1563 Potomac New Co. v. United States, 389 U.S. 47(reversing 373 F.2d 635(4th Cir. 1967).

1564 United States v. Stewart, 377 F.Supp. 299(E.D. 1971); City of Rochester v. Carlson, 202 N.W.2d 632(Minn. 1 State v. Lebovitz, 202 N.W.2d 648(Minn. 1972).

1565 Splawn v. California, 431 U.S. 595(1977).

whether it was the basis upon which it was traded i marketplace or a spurious claim for litigation purposes." The circumstances of sale, distribution and commer exploitation of a work for prurient appeal may thus be consi in determining whether a work has serious value. 1567

Aside from consideration of the Miller standard, ther several other important facets of obscenity law.

Obscenity statutes must contain a requirement of scient guilty knowledge on the part of the violator. 1568 The defe need not possess actual knowledge that the material is le obscene, 1569 nor must he be of the opinion that i obscene. 1570 It is only necessary that the individual knowledge of the general nature or character of material. 1571 Scienter may be proved by circumstantial evidenc and it may be sufficient that the accused had reason to kn

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1566 383 U.S. 470.

1567 Splawn v. California, 431 U.S. 595(1977).

1568 Smith v. California, 361 U.S. 147(1959).

1569 See, Henley v. Wise, 303 F.Supp. 62 (N.D. Ind. 1 People v. Tannahill, 38 Ill. App. 3d 767, 348 N.E.2d 847(1 People v. Finkelstein, 9 N.Y.2d 342, 174 N.E.2d 470(1961).

1570 See, Hamling v. United States, 418 U.S. 87(1974) also, United States v. Marks, 364 F.Supp. 1022 (E.D. KY. 1 aff'd 520 F.2d 913 (6th Cir. 1975), rev'd on other grounds U.S. 188(1977).

1571 Rosen v. United States, 161 U.S. 29(1969).

1572 Hamling v. United States, 418 U.S. 87(1973); Mi v. New York, 383 U.S. 502(1966); People v. Finkelstein, 9 N 342, 174 N.E.2d 470(1961); State v. Burgun, 384 N.E.2d 255 1978) (knowledge of character or nature of obscene materi constitutionally adequate indication of scienter and pr knowledge is not required).

the contents of the material or that the circumstances were s that would put him on inquiry. [1573]

The Supreme Court has recognized that,

> Eyewitness testimony of a bookseller's personal knowledge of a book hardly need be a necessary element in proving his awareness of its contents. The circumstance may warrant the inference that he was aware of what a book contained, despite his denial. [1574]

In Mishkin v. New York, [1575] the Court found the follow circumstantial evidence of scienter to be sufficient:

> . . .appellant's instructions to his artists and writers; his efforts to disguise his role in the enterprise that published and sold the books; the transparency of the character of the material in question, highlighted by the titles, covers, and illustrations; the massive number of obscene books appellant published, hired others to prepare, and possessed for sale; the repetitive quality of the sequences and formats of the books; and the exorbitant prices marked on the books [1576] "amply show(s), that appellant was 'aware of the character of the material' and that his activity was "not innocent but [a] calculative purveyance of filth." [1577]

Two recent state court decisions provide further ins into the type of evidence that is sufficient to prove scient In Beier v. State, [1578] the Court upheld the conviction of

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1573 Smith v. California, 361 U.S. 147(1954); People Rode, 57 Ill. App. 3d 649, 373 N.E.2d 605(1968); Peters v. Sta 449 N.E.2d 311(Ind. App. 1983).

1574 Smith v. California, 361 U.S. 147, 154(1959).

1575 383 U.S. 502(1966).

1576 Id. at 511-12.

1577 Id.

1578 681 S.W.2d 124(Tex. Cr. App. 1984).

"adults only" pornographic outlet manager where the evi showed that he removed money from the cash register, that store was stocked with large quantities of sexually exp films and magazines, and that he had in his possessi memorandum instructing store clerks to or not to cooperate vice officers. [1579] And, in Commonwealth v. Croll, 1580 court found that the jury could reasonably infer that defendant was aware of the character of the material sol police officers where he was seen instructing another indivi on the use of the cash register, acted in a supervisory capa during sales transactions, and was able to answer spec questions about the availability of various items in the stores. The evidence also showed that placards posted on the door the peep show booths gave notice of the nature of the films s inside. [1582]

Use of fictitious names or destruction of records also be evidence of scienter. [1583] Moreover, if the defendant corporation, scienter may be established by proof of knowledg the part of officers or directors. [1584] Proof of scienter ma difficult where "sham" corporations are used and corpor records contain names of individuals who actually posses

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1579 Id. at 126 and 128.

1580 480 A.2d 266(Pa. 1984).

1581 Id. at 271.

1582 Id.

1583 United States v. Battista, 464 F.2d 237(6th Cir. 19

1584 States v. American Theatre Corp., 244 N.W.2d 56(Neb. 19

knowledge of the business or its operations. Similar prob also may be encountered in prosecutions brought against abse owners or other individuals not observed on the busi premises.

Obscenity statutes must be carefully drafted to a encompassing protected speech. A statute which prohibits protected and unprotected speech will be struck down for b overbroad. [1585] In Butler v. Michigan, [1586] the Supreme C reversed a conviction under a Michigan statute prohibiting distribution of materials "tending to incite minors to violer depraved or immoral acts, manifestly tending to the corruptic the morals of youth." [1587] These materials were unlawful eve sold to an adult. The Supreme Court found the statute t overbroad because it prohibited the dissemination of material adults that may be harmful to minors but not to adults. [1588]

A New York statute governing the licensing of mo pictures was struck down as overbroad by the Supreme Cour Kingsley International Pictures Corp. v. Regents. [1589]

[1585] See, Ginsberg v. New York, 390 U.S. 629(1968); Un States v. Thevis, 484 F.2d 1149(5th Cir. 1973); Volklan State, 510 S.W.2d 585(Tex. App. 1974); State v. Hull, 86 Wash 527, 546 P.2d 912 (1976); (statute's definition of scie including a situation where person has information circumstances that would lead prudent person to form belief a subject matter and if followed by inquiry would disclose character, meets the constitutional requirement of scienter).

[1586] 352 U.S. 380(1957).

[1587] Id. at 381.

[1588] Id. at 382-3.

[1589] 360 U.S. 684(1959).

statute prohibited the licensing of any motion picture " portrays acts of sexual immorality, perversion or lewdnes which expressly or impliedly presents such acts as desir acceptable, or proper patterns of behavior." [1590] A m picture version of Lady Chatterly's Lover was denied a licen the grounds that it presented adultery as appropr behavior. [1591] The Supreme Court found that the st prohibited the advocacy of constitutional protected ideas this case, the idea that adultery may sometimes be proper was thus unconstitutionally overbroad in its reach. [1592]

Closely akin to overbreadth is the concept of vagueness statute that does not give adequate notice of what it proh is void for vagueness. [1593] This concept is especially impo in the area of obscenity where the distinction between prot and unprotected speech may be incomplete or unclear abse court determination. [1594] A vague statute may also permit enforcement authorities to exercise too much power to pros individuals based on their individual interpretations of law. [1595] Therefore, the Supreme Court has found obsc statutes unconstitutional when they lack "ascertainable stan

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1590 Id. at 685, quoting N.Y. Education Law S1 (McKinney 1958).

1591 Id. at 685.

1592 Id. at 688-9.

1593 F. Schauer, The Law of Obscenity 159(1976).

1594 Id.

1595 See, Joseph Burstyn, Inc. v. Wilson, 343 U.S. 504-05(1952).

of guilt" or are uncertain "in regard to persons within the s of the act" or uncertain "in regard to the applicable test ascertain guilt." 1596

The Supreme Court has rejected challenges based on vagu made against both the language of 18 U.S.C. S1461 and California state statute containing the words "obscen indecent." 1597 In Roth v. United States, the Court noted the terms of obscenity statutes are not always precise. 159 statute must convey a "sufficiently definite warning as to proscribed conduct when measured by common understanding practices." 1599 The Court concluded that the existenc "marginal cases in which it is difficult to determine the si the law on which a particular fact situation falls is n sufficient reason to hold the language too ambiguous to defi criminal offense." 1600

The law governing search and seizure of materi presumptively protected by the First Amendment was the subje a recent decision by the United States Supreme Court in New

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1596 See, Winter v. New York, 333 U.S. 507, 515-16((holding statute prohibiting "massing stories to incite cr unconstitutionally vague); See also, Gelling v. Texas, 343 960(1952) (holding statute prohibiting licensure of mo picture "of such character as to be prejudical to the interests of the people of the city;" to be void for vaguenes

1597 Roth v. United States, 354 U.S. 476, 491-92(1957).

1598 Id. at 491.

1599 Id. citing U.S. v. Petrillo, 332 U.S. 1,7,8.

1600 Id. at 491-2.

v. P.J. Video, Inc. [1601] The Court reaffirmed the propos that any such seizure must be made pursuant to a warrant and there must be an opportunity for a prompt postseizure judi determination of obscenity. [1602] The Court noted that the no requirement that the magistrate personally view the alle obscene material before issuing a warrant. [1603] However, search warrant must be supported by affidavits contai specific facts so that the magistrate may "focus searching o question of obscenity." [1604] The Court found that the New Court of Appeals erred in upholding the suppression of video tape cassette movies seized by police from a video s pursuant to a warrant in the case at bar because,

> The New York Court of Appeals construed our prior decisions in this area as standing for the additional proposition that are application for a warrant authorizing the seizure of books or films must be evaluated under a "higher" standard of probable cause than that used in other areas of Fourth Amendment law. But we have never held or said that such a "higher" standard is required by the First Amendment. [1605]

The Court held that,

> An application for a warrant authorizing the seizure of material presumptively protected by the First Amendment should be evaluated under the same standard of probable cause used to review warrant applications

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1601 54 U.S.L.W. 4396 (April 22, 1986).

1602 Id. at 43 98, citing Heller v. New York, 413 U.S. 483(19

1603 Id. at n.5.

1604 Id. citing Marcus v. Search Warrant, 367 U.S. 732(1961) and Lee Art Theatre, Inc. v. Virginia, 392 U.S. 636(19

1605 Id.

generally. [1606]

The use of municipal zoning ordinances to restrict the loca of "adults" theatres was upheld by the Supreme Court in Youn American Mini Theatres. [1607] The Detroit ordinance challenge Young prohibited "adult" theatres from being located within feet of any two other "regulated uses" or within 500 feet of residential area. [1608] A theatre was classified as "adult" i presented "material distinguished or characterized by an emph on matter depicting, describing, or relating to 'specified se activities' or 'specified anatomical areas' as defined elsew in the ordinance. [1609] The Court found that Detroit enacted zoning ordinance based on the opinions of urban planners and estate experts who believed that,

> the location of several such business in the same neighborhood tends to attract an undesirable quantity and quality of transients, adversely affects property values, causes an increase in crime, especially prostitution, and encourages residents and business to move elsewhere. [1610]

In a plurality opinion, the Court rejected challenges to ordinance based on vagueness and prior restraint. [1611] The C found that the only vagueness question related to the quantu

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[1606] Id.

[1607] 427 U.S. 50(1976).

[1608] Id. at 52.

[1609] Id. at 53.

[1610] Id. at 55.

[1611] Id. at 61.

sexually explicit activity that must be portrayed in orde the material to be "characterized by an emphasis" on suc matter. [1612] The Court reasoned that for most films the que was "readily answerable" and in doubtful cases, the ordinanc "readily subject to a narrow construction by the state courts. The ordinance did not amount to a prior restraint of sp since the theatres were not prevented from showing the m and viewers were not prevented from seeing them.[1614] Court stated that,

> The mere fact that the commercial exploitation of material protected by the First Amendment is subject to zoning and other licensing requirements is not a sufficient reason for invalidating these ordinances. [1615]

The separate zoning classification for adult theatres also not violative of the equal protection clause of Fourteenth Amendment to the Constitution. [1616] classification established by the Detroit ordinance adequately supported by the city's interest in the present future character of its neighborhoods. [1617]

The Supreme Court recently reaffirmed the validity of zo ordinances that restrict the location of adult theatres in Re

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1612 Id. at 61.

1613 Id.

1614 Id. at 62.

1615 Id.

1616 Id. at 70-71.

1617 Id at 72.

v. Playtime Theatres. [1618] Relying on Young v. Americ Mini-Theatres, a seven member majority of the Court upheld ordinance enacted by the city of Renton, Washington, th prohibited adult movie theatres from locating within 1000 feet any residential zone, single or multiple family dwelling, chur park, or school. [1619] The definition of adult theatres almost identical to that in Young but also included showings video tape cassettes, cable television, and any other such vis media. [1620] The Court analyzed the Renton ordinance a "content neutral" time, place, and manner regulation of spee since it was not aimed at the content of the speech but it directed at the secondary effects of the theatres on t surrounding community. [1621] The ordinance was designed to,

> prevent crime, protect the city's retail trade, maintain property values, and generally protec[t] and preserv[e] the quality of [the city's] neighborhoods, commercial districts, and the quality of urban life . . . . [1622]

The Court went on to analyze whether the ordinance was desig to serve a substantial governmental interest and whether allowed for reasonable alternative avenues of communication. city of Renton had relied heavily on the experience of studies produced by the neighboring city of Seattle. [1623]

[1618] Slip. op. No. 84-1360 (Feb. 25, 1986).

[1619] Id. at 1.

[1620] Id. at 2.

[1621] Id. at 4-5.

[1622] Id. at 6.

[1623] Id. at 8.

The Court ruled that,

> The First Amendment does not require a city, before enacting such an ordinance, to conduct new studies or produce evidence independent of that already generated by other cities, so long as whatever evidence the city relies upon is reasonably believed to be relevant to the problem that the city addresses. 1624

Reasonable alternative avenues of communication were found t available in that 520 acres or more than five percent of the area of Renton was left open for use as adult theatre locations.

Justice William Rehnquist wrote for the majority,

> That respondents must fend for themselves in the real estate market, on an equal footing with other prospective purchasers and lessees, does not give rise to a First Amendment violation. 1626

He added that the First Amendment does not compel government to "ensure that adult theatres or any other kinds speech related businesses . . . will be able to obtain sites bargain prices." 1627

These two decisions make it very clear that the Supr Court will uphold what Justice Rehnquist called "the essenc zoning" and enable local jurisdictions to preserve the quality life in their communities by restricting the locations of ac movie theatres. 1628

1624 Id. at 9-10.

1625 Id. at 11.

1626 Id. at 12.

1627 Id.

1628 Id.

The law of obscenity encompasses a myriad of legal is
As Chief Justice Burger wrote in Miller v. California,
consideration of these issues does not present "an easy r
free from difficulty."1630 The Chief Justice resolutely dec
that "no amount of 'fatigue' should lead us to adopt a conve
'institutional' rationale - an absolutist, 'everything goes'
of the First Amendment - because it will lighten
burden." 1631

1629 413 U.S. 15(1973).

1630 Id. at 29.

1631 Id.

Chapter 7

Citizen And Community Action and Corporate Responsibility

I. Preface

Our legal framework has developed in many respects int system where citizens have delegated their right to redr certain harms to government officials. Government, in turn charged with the responsibility of providing appropriate reme for its citizens, including the investigation and prosecutio individuals and corporations.

A preliminary analysis of governmental responsibilities significant for several reason. First, the Constitution of United States and the Amendments thereto, delineates apportions the powers delegated to the federal, state, and lo governments. Each of these levels of government h restrictions on the type of activity it can regulate as well the manner of such regulation. Some activities can be regula at all levels of government, while others are the s responsibility of a single level.

Second, government has been created to act on behalf of in the best interests of its citizens. The citizens, therefo have every right to request and expect that the laws developec the community (whether at the federal, state or local leve will be enforced by its elected and appointed governm officials.

Third, the law is not so simplistic that individual collective rights are mutually exclusive. Often, there competing rights. It is this competition which ultimately be reconciled by both government and citizens alike.

While citizens should and must rely heavily on off government action to ensure that obscenity and pornogr related laws are enforced, there are also a number of alterr remedies available to them in their effort to contro proliferation of pornography in their community. The pr actions initiated by groups or individuals are often as effe as a government-initiated action. For example, citizens organize pickets and economic boycotts against produc distributors and retailers of pornographic materials. They also engage in letter writing campaigns and media events des to inform the public about the impact of pornographic mate on the community.

A citizen's right to free speech is guaranteed unde First Amendment to the United States Constitution. [1632] right entitles individuals to organize and speak out even ag those offensive materials that are not proscribed by l cannot under the Constitution be regulated. While such act permissible and often desirable, there are social if not risks of going too far in mandating social conformity in

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1632 "Congress shall make no law respectin establishment of religion, or prohibiting the free exe thereof; or abridging the freedom of speech, or of the pres the right of the people peaceably to assemble, and to pet the Government for a redress of grievances." U.S. Const. amer

area. To avoid these pitfalls, citizens are encouraged tc vigorous, well-informed, but responsible advocates and exercise self-restraint so that in exercising their rights t do not prevent other citizens from exercising theirs.

II. Introduction

Citizen interest in pornography control is a vital compc of any local law enforcement program. Since one aspect o constitutional test for obscenity is the notion of contemp community standards, this is an area of the law which prese significant opportunity for public input.

Citizens concerned about pornography in their comm should initially determine the nature and availabilit pornographic materials in their community, existing prosec policies, law enforcement practices and judicial attitudes i community. They should inquire whether these enforce mechanisms are adequately utilized. They should dete whether the official perception of the current comm standards is truly reflection of public opinion. If enforce mechanisms appear inadequate or ineffective, if legisla change is necessary to enhance the effectiveness of the crin justice system, or if the volume of pornography or offen material is a particular problem in the community, citi should consider developing a community action program.

A successful community action program should contain following components:

1. Sincere citizen interest in controlling the proliferation of pornographic material in their community;

2. A police department that is willing to alloc reasonable portion of its resources to obscenity enforcemen

3. A prosecutor who, in keeping with his or her oat office, will aggressively pursue violations of obscenity stat with due regard for the right to distribute constitution protected material;

4. A judiciary that is responsive to obscenity violat and will sentence offenders appropriately;

Additional methods by which community action organizations express their concern about pornography is their commu include:

1. Citizen involvement in educating legislators, enforcement officials and the public at large as to the impac pornography on their particular community;

2. Citizen action in the area of lawful economic boyc and picketing of establishments which produce, distribute or sexually explicit materials in the community;

3. If the techniques of anti-display and nuisance laws well as zoning ordinances are determined to be appropriat tailored to the pornography problem in their community, citi are encouraged to advocate and measures to their lc legislators; and

4. A business community that exercises sound judgemen to the effect on the community they serve of material offere their establishment.

In the area of pornography regulation it is important the above items be seriously addressed and effectiv coordinated. The best written laws will be ineffective

prosecutors do not enforce them or if judges fail to recogniz the extent of citizen concern when sentencing offenders. goals of the community effort against pornography should be establish constitutionally sound obscenity laws that meet t particular needs, to encourage adequate enforcement of these l and to use private action to curb the flow of pornography obscenity in their community.

At the same time, citizens should be aware of the risk an overzealous approach. First, citizens should recognize there are a diversity of views as to what, if any, regulat should be imposed on pornographic material. The United St Supreme Court has established definitional guidelines obscenity, which are discussed elsewhere in the Report, but without considerable division of opinion. Undoubtedly, diver of views regarding regulations, enforcement priorities appropriate community action will exist to varying degree each community. These views should be recognized and addre by citizen advocates.

In maintaining a balanced approach, citizens should be a of the legal criteria for distinguishing material whic obscene from that which is merely distasteful to some. Howe citizen groups may wish to focus on materials which are not legally obscene and which are constitutionally protected government regulation. Citizens may pursue a variety of pr actions with respect to this non-obscene but offens pornographic material.

It is also important for citizen activists to recognize rights of other individuals' and organizations' when exerci their own. Advocates of strict enforcement of pornography should recognize the rights of individuals within opposing vi Moreover, while citizens have every right to picket, the pic should not preclude others from entering or leaving busi premises.

Finally, community action groups should guard against ta extreme or legally unsound, positions or actions, such as unfounded attacks on the content of school reading lists, lib shelves and general discussions of sex-related topics. I respect to their communications with a public official, mem of citizen action groups should also be aware that such offi keep duty bound to determine the legality of material wit regard to that official's personal opinion.

The decision to form or support a citizen action grou one that must be made by each community and participat individuals. If a decision is reached to established su group, its members should become involved in advocati establishing and maintaining community standards relatec pornography. The following discussion highlights ways in w citizens can maximize their efforts in this regard wl recognizing competing constitutionally protected interests. suggestions which have been developed were prompted by hund of telephone calls and tens of thousands of letters f concerned citizens seeking advice on how to address pornography issue.

III. Methods By Which Citizens Can Express Concern About Pornography And Other Offensive Materials In Their Area (Community).

1. CITIZENS CONCERNED ABOUT PORNOGRAPHY IN THEIR COMMUNITY (ESTABLISH AND MAINTAIN EFFECTIVE COMMUNITY ACTION ORGANIZATIONS.

2. COMMUNITY ACTION ORGANIZATIONS CAN SOLICIT SUPPORT FROM A BROAD SPECTRUM OF CIVIC LEADERS AND ORGANIZATIONS.

3. COMMUNITY ACTION ORGANIZATIONS CAN GATHER INFORMATION ABC PORNOGRAPHY IN THEIR COMMUNITY.

4. COMMUNITY ACTION ORGANIZATIONS CAN EDUCATE THE PUBLIC ABC THE EFFECT PORNOGRAPHY HAS ON THEIR COMMUNITY.

5. COMMUNITY ACTION ORGANIZATIONS CAN COMMUNICATE WITH LAW ENFORCEMENT OFFICIALS AND PROSECUTORS ABOUT THE PORNOGRAI IN THEIR JURISDICTION.

6. CITIZENS CAN FILE COMPLAINTS, WHEN APPROPRIATE, WITH THE FEDERAL COMMUNICATIONS COMMISSION ABOUT OBSCENE BROADCAS1

7. COMMUNITY ACTION ORGANIZATIONS CAN CONDUCT A "COURT WATCI PROGRAM.

8. COMMUNITY ACTION ORGANIZATIONS ARE ENCOURAGED TO REMAIN INFORMED OF DEVELOPMENTS IN OBSCENITY AND PORNOGRAPHY - RELATED LAWS AND MAY WISH, WHEN APPROPRIATE, TO LOBBY FOR

LEGISLATIVE CHANGES AND INITIATIVES.

9. COMMUNITY ACTION ORGANIZATIONS CAN PROVIDE ASSISTANCE AN SUPPORT TO LOCAL, STATE AND FEDERAL OFFICIALS IN THE PERFORMANCE OF THEIR DUTIES.

10. CITIZENS CAN USE GRASSROOTS EFFORTS TO EXPRESS OPPOSITIO TO PORNOGRAPHIC MATERIALS TO WHICH THEY OBJECT.

11. CITIZENS CAN EXERCISE THEIR ECONOMIC POWER BY PATRONIZIN INDIVIDUAL BUSINESSES AND CORPORATIONS WHICH DEMONSTRATE RESPONSIBLE JUDGEMENT IN THE TYPES OF MATERIALS THEY OFF FOR SALE.

12. PARENTS SHOULD MONITOR THE MUSIC THEIR CHILDREN LISTEN T(AND THE RECORDING ARTISTS AND PRODUCERS SHOULD USE DISCRETION IN THE FARE THEY OFFER TO CHILDREN.

13. ALL INSTITUTIONS WHICH ARE TAXPAYER FUNDED SHOULD PROHIB THE PRODUCTION, TRAFFICKING, DlSTRIBUTION OR DISPLAY OF PORNOGRAPHY ON THEIR PREMISES OR IN ASSOCIATION WITH THE INSTITUTION TO THE EXTENT CONSTITUTIONALLY PERMISSIBLE.

14. BUSINESSES CAN ACTIVELY EXERCISE THEIR RESPONSIBILITY AS "CORPORATE CITIZENS" BY SUPPORTING THEIR COMMUNITY'S EFFC TO CONTROL PORNOGRAPHY.

SUGGESTION 1:

CITIZENS CONCERNED ABOUT PORNOGRAPHY IN THEIR COMMUNITY ESTABLISH AND MAINTAIN EFFECTIVE COMMUNITY ACTION ORGANIZATI

Informed and vocal citizen action and community involve are the cornerstones of an aggressive program for enforcement obscenity laws. Presently some form of obscenity law exists the federal level and in all but a few states. While there some areas of the law in which this Commission has recommer change, [1633] the lack of prosecution of obscenity cases appe to be directly attributable to a failure of enforcement. Pul expression of concern about pornography and a call for redoul law enforcement efforts will undoubtedly trigger an increas official action.

In organizing a plan of community action, a reasona objective should be identified. This objective may take the f of increased prosecution, tougher sentencing or private act against merchants. Citizens should also acquaint themselves w the fundamental elements of obscenity law and the princi judicial decisions in this area. It is equally vital t concerned citizens work together to establish a commun standard which reflects the collective view of the community.

Citizens can become effective advocates by acting as

[1633] See, Recommendations for Law Enforcement Agencies Part Three.

models both within their families and their community. To t
end, they can choose (1) not to consume pornography; (2) not
patronize individual businesses or corporations which produ
distribute or sell pornography, while patronizing those that
not; (3) to voice their concerns to other citizens and governm
officials about the pornography problem in their community;
(4) to organize with other concerned individuals toward a com
goal.

In establishing and maintaining a community standa
citizens can engage in a variety of activities. Perhaps the b
way to establish and maintain a community standard is thro
educational campaigns. These can take the form of letter writ
campaigns, telephone banks, picketing and lawful boycotts.
end product of the information gathering and disseminati
process should be the emergence of a, solid collective commun
standard. It is important that in taking these actions citiz
be respectful of the constitutional rights of persons
businesses engaged in the marketing of materials thought to
offensive by citizen group members.

SUGGESTION 2:

COMMUNITY ACTION ORGANIZATIONS CAN SOLICIT SUPPORT FROM A BR
SPECTRUM OF CIVIC LEADERS AND ORGANIZATIONS.

A community action organization should solicit membership a

support from religious, charitable, educational, political, parent-teacher, civic, and other community organizatic Citizens should also seek the endorsement of public officials their activities. Moreover, the group should select respons citizens as organizational leaders. In this way, the commu action organization will reflect a cross section of civic lea and organizations and maintain diverse and broad based suppo

SUGGESTION 3:

COMMUNITY ACTION ORGANIZATIONS CAN GATHER INFORMATION A PORNOGRAPHY IN THEIR COMMUNITY.

The mainstay of any effective advocacy process is comp information. Citizen action groups must be informed as to w local, state and federal officials are responsible for enforcement of obscenity laws. These groups must also deter the nature and extent of the pornography problem in their community and have a working knowledge of the laws governing material.

There are basically three law enforcement tiers in eac the federal, state and local government systems. The first the investigative tier. At the state and local level, the po or other law enforcement agency investigates alleged violati of the law. At the federal level, the investigative agen which have jurisdiction over obscenity violations include: the Federal Bureau of Investigation (interstate transporta

of obscene material), the Postal Inspection Service (illegal u of the mail to send obscene material), and the United Stat Customs Service (importation of obscene material).

The second tier involves the prosecutorial function. some jurisdictions the local prosecutor may bring crimin actions as well as civil suits [1634] on behalf of the citize they represent, against those individuals and corporations w have allegedly violated the law. 1635

There are prosecutors at the local and state levels who a responsible for enforcing local and state, ordinances a statutes respectively. There are also prosecutors at the feder level, which are part of the United States Department of Justi and are located throughout the nation in regional United Sta Attorneys Offices. There are ninety-four such offices in t United States.

The third tier is the judiciary. The judicial branch responsible for offering a forum for the resolution of civ disputes and criminal allegations. The judge is also responsib for sentencing those convicted of criminal offenses. There ar judges at each level of government who are responsible f interpreting and upholding the laws in their jurisdiction.

It is important to note that the same illegal act may some instances give rise to both civil and criminal actior

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1634 Civil laws include nuisance laws and may include zonir

1635 In some jurisdictions a civil action brought on beha of the community is done through the city attorney's office, other jurisdictions the civil action is purely private in natur

Moreover, some offenses may be actionable under local, state federal law. It is equally important to remember that many the officials responsible for law enforcement are elected appointed for a term of years. These individuals are sensit to citizen input, but in the final analysis are obligated to b their prosecutorial decision on their interpretation of the l

With this law enforcement structure in mind, there are f basic steps citizens should follow in gathering information pornography in their community.

The first step in this information gathering process is review local, state and federal obscenity and pornography-rela laws. Second, citizens should also familiarize themselves w the pertinent legal decisions governing the control of obsc material. It is important to understand what is not obscene well as what is obscene. In order to develop this understanc citizens are encouraged to review state and federal case which discusses materials which have been found obscene as w as cases where sexually explicit materials have been found to constitutionally protected. Citizens are also encouraged consult with attorneys or other knowledgeable persons, on laws in this area.

Third, concerned citizens should survey pornogra producers, distributors, retailers and the actual mater available in the market place. The following is a breakdown the types of media and establishments that often of pornographic material in most communities in the United Stat

The series of questions listed below each heading sh
facilitate a thorough survey of these establishments and med

A. ESTABLISHMENTS AND MEDIA SURVEY QUESTIONS

1. "Adults Only" [1636] Pornographic Theatres

   a. How many pornographic theatres are there in the community? Where are they located?
   b. What movies are shown?
   c. Are sexually explicit advertisements in full public view?
   d. Are any of the theatres of the drive-in type?
   e. What precautions, if any, are taken to prevent minc from gaining access to these establishments?

2. "Adults Only" Pornographic Outlets

   a. How many pornographic outlets are there in the community and where are they located?
   b. What materials are sold? Magazines? Paperbacks? Se devices? Videos? Films?
   c. Are there peep show booths where movies are shown?
   d. Are there live peep shows?
   e. Is sexual activity taking place in these establishments?
   f. Are these pornographic outlets serving as a solicitation point for prostitution?
   g. Are these pornographic outlets adequately inspected public health violations?

3. Retail Magazine Outlets

   a. How many retail magazine outlets in the community o pornographic material?
   b. Where are they located?
   c. What magazines and paperbacks do they stock?
   d. Are they displayed on the counter?
   e. Behind the counter?
   f. In racks with general magazines?
   g. In blinder racks?
   h. What precautions, if any, are taken to keep minors

[1636] The term "Adults Only" is meant only to describe t nature of the material presented and not necessarily the age the patrons.

being exposed to these materials?

4. Video Tape Cassette Retailers
   a. How many of the video tape cassette stores, and convenience stores selling and renting videos in the community, stock sexually explicit or sexually viole videos?
   b. Where are the sexually explicit or sexually violent videos displayed?
   c. What precautions, if any, are taken to keep minors f purchasing, renting and being exposed to these video

5. Cable, Satellite and Over-the-Air Subscription Television
   a. Is there a cable franchise or over-the-air subscript service in your community?
   b. Are sexually explicit or obscene programs being distributed? When?
   c. What precautions, if any, are taken to keep minors f being exposed to these services?

6. Dial-A-Porn
   a. Does a telephone company in your community have a Di A-Porn service available through its MANS Announceme Network Service (976 prefix)?
   b. What is the nature of this service?
   c. Are there pre-recorded sexually explicit conversatio
   d. Are there live telephone conversations?
   e. Are children in the community calling this service?
   f. How are the Dial-A-Porn services advertised and are these advertisements directed to the attention of minors.
   g. What precautions, if any, are being taken to shield minors from exposures to Dial-A-Porn?

7. Hotels
   a. How many hotels in the community advertise and provi sexually explicit or sexually violent movies for the guests?
   b. Where are these hotels located?
   c. What precautions, if any, are taken to preclude mino from viewing these movies?
   d. Are these hotels used for prostitution or other rela crimes?

8. Computer Pornography
   a. Are pornographic computer services available in your community?
   b. What is the nature of the service?

c. Are conversations pre-programed?
d. Are conversations live?
e. Are children in the community using this service?
f. What precautions, if any, are being taken to keep minors from gaining access to this system?

B. OFFICIALS

Concerned citizens should also acquaint themselves with names of the elected and appointed officials responsible undertaking enforcement action against obscenity. At the l level, these officials include the mayor, city council memb county prosecutor, zoning officials and the chief of police. the case of a military community, citizens should contact Base Commander to inform him of the pornography problem pre in the community and the distribution of material on the mili base.

The community action leaders may also contact the s attorney general, state legislators, public health officials the governor, if local efforts prove unsuccessful.

In addition, if inadequate federal enforcement is a ma of concern, citizen action groups should consider contacting federal officials and agencies as Members of Congress, Uni States Senators, the Department of Justice through its Un States Attorneys, the Federal Bureau of Investigation, the Un States Postal Inspection Service and the United States Cus Service.

SUGGESTION 4:

COMMUNITY ACTION ORGANIZATIONS CAN EDUCATE THE PUBLIC ABOUT EFFECT PORNOGRAPHY HAS ON THEIR COMMUNITY.

Citizen interest in the pornography issue is a vi component of any community action program. In order to ins such interest, community action groups should dissemi information concerning the nature and extent of pornograph the community. This should include an assessment of the cur enforcement effort and the rationale for that policy. Cit groups can provide this invaluable educational service by only sharing their concerns about pornography, but by sha their knowledge. This information will encourage other citi to focus on the pornography issue and make an evaluation of effect on their community based on a factual analysis.

SUGGESTION 5:

COMMUNITY ACTION ORGANIZATIONS CAN COMMUNICATE WITH ENFORCEMENT OFFICIALS AND PROSECUTORS ABOUT THE PORNOGRAPH THEIR JURISDICTION.

Citizens and community action organizations should deter whether laws relating to obscenity are being adequately enfo in their area. Officials should be alerted to violations of

relating to obscenity and unlawful sexual activity within the

The section below entitled Police contains a detailed sér of questions concerning (1) investigations conducted, complai filed and arrests made, (2) indictments, prosecutions convictions, (3) citizen complaints, (4) problems faced by enforcement officials and (5) law enforcement priorities, wh can be used when discussing the pornography issue with any enforcement agency official.

A. QUESTIONS FOR LAW ENFORCEMENT AGENCIES

1. Police

If it appears that inadequate police resources are be devoted to enforcement of obscenity and pornography-related la citizens should meet with police officials and voice their concern. The following questions may serve as a foundation an analysis of the police role in enforcing laws in this area.

a. In the past year, how many obscenity a pornography-related complaints were filed with the police department? How many actual investigations were conducted? How many obscenity and pornography-related arrests did the department make? Did those arrests involve child pornography? Did the arrests involve adult obscenity violations? Other? Did those arrests evolve as a result of investigation or through some other circumstance?

b. How many obscenity and pornography-related cases did the police department present to the local prosecutor for prosecution during the preceding year? How

many cases have been presented to the local prosecutor for prosecution in the current year? How many of the cases did the prosecutor present for indictment? What type of cases were these? How many cases did the prosecutor decline to prosecute? What types of cases were these? What was the basis for the prosecutor's decision not to prosecute these cases?

c. In what types of cases have obscenity convictions been obtained in past year? Of the cases prosecuted, how many resulted in convictions? Of the convictions obtained, how many resulted in incarceration? How many resulted in fines? In how many cases was the charge reduced by negotiation?

d. How many citizens' complaints concerning pornography were received in the preceding year? How many in the current year? What action was taken on these complaints?

e. What problems do the law enforcement agents encounter in making obscenity and pornography-related arrests? What problems do law enforcement agents face in presenting these cases for prosecution?

f. What is the police department's general policy concerning obscenity and pornography-related law enforcement? What does the police department perceive as the community standard?

2. Local Prosecutor

The local prosecutor may be the district, county, c state or commonwealth's attorney, depending upon jurisdiction. Community action groups should arrange a mee with their local prosecutor and express their interest in pornography problem in their area. The line of questions li under Police above should provide a framework for questions f

the local prosecutor. Citizens should specifically inqu about the prosecutors' assessment of the community standard their area and the basis for the opinion.

3. United States Attorney

Violations of federal obscenity laws should be referred the United States Attorney in the jurisdiction where t violation occurred. The Office of the United States Attorney a division of the United States Department of Justice and guided in their prosecutorial decision making by Departmen Guidelines. Prosecutorial priorities are established on t basis of the United States Attorney's assessment of a particu problem in his or her district. If pornography appears to be major concern in a geographical area, the United States Attorn should be made aware of the severity of the problem. The Unit States Attorney, upon confirmation this fact, should contact t other members of the Law Enforcement Coordinating Committ (LECC's) in his or her jurisdiction 1637 to devise a coordinat approach to this problem.

In addition to those questions suggested under Police, t following are a list of questions which community action leade might wish to ask the United States Attorney:

a. How many obscenity cases were referred to the Office of the United States Attorney by the

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1637 See, The discussion in Recommendations for L Enforcement Agencies about LECCs.

Federal Bureau of Investigation, United States Customs Service, United States Postal Inspection Service or Federal Communications Commission during the past five years?

b. How many of those cases were prosecuted?

c. In how many cases was organized crime a factor?

d. How many citizens' complaints concerning obscenity were referred to the United States Attorney's office during the past five years for investigation by (1) The Postal Investigation Service when the United States mails were used illegally to send obscene material, (2) The United States Customs Service when the importation of obscene material was involved, (3) The Federal Bureau of Investigation where interstate transportation of obscene material was involved, or (4) The Federal Communications Commission where violations pertaining to cable pornography, obscene or indecent broadcasting or dial-a-porn were involved?

4. Local Offices of the Federal Bureau of Investigation, United States Postal Inspection Service and the United Sta Customs Service

The local offices of the Federal Bureau of Investigati the United States Postal Inspection Service and the United Sta Customs Service are the investigatory arms of the fede government for obscenity violations. Pornographic materi found in the community which may violate federal obscenity l should be referred to these agencies for further investigati These agencies should then refer all confirmed violations of federal law to the United States Attorney for prosecution, or

if appropriate, be referred to the local or state prosecutc Community action organizations may wish to visit the loc offices of these agencies and inquire about the level obscenity enforcement in their area.

SUGGESTION 6:

CITIZENS CAN FILE COMPLAINTS, WHEN APPROPRIATE, WITH THE FEDEI COMMUNICATIONS COMMISSION ABOUT OBSCENE BROADCASTS.

See the indepth discussion of the Federal Communicati: Commission (FCC) and its legal responsibility in the obscen: area in Part Three. If the FCC is unresponsive to citi: complaints, citizens should advise their state and fede: legislative representatives of such inaction and request th: intervention.

SUGGESTION 7:

COMMUNITY ACTION ORGANIZATIONS CAN CONDUCT A "COURT WATC PROGRAM.

A "Court Watch" program has the two-fold purpose informing citizens about the court disposition of signific: obscenity cases and expressing the citizens view about t handling of these types of cases. Citizens involved in a "Cc

Watch" program will often sit through a court hearing or tr
They will write to the prosecutor, judge, or police officer
relay their opinions of the investigation, prosecution
disposition of the case.

"Court Watch" participants will also relay their finding
other interested parties, the media and legislators.
addition, these individuals will often publicly disseminate
information they have gathered when officials come up
re-appointment or re-election.

"Court Watch" programs have been conducted by Moth
Against Drunk Driving (MADD) for the past several years. Thr
their efforts, MADD has not only increased community awarei
about drunk driving but has also been successful in influen
legislators and the law enforcement community. As a resu
penalties for drunk driving have been significantly increased
many states.

In sum, a "Court Watch" program will inform the judici
and other law enforcement officials of the community's conc
about obscenity in their area.

SUGGESTION 8:

COMMUNITY ACTION ORGANIZATIONS ARE ENCOURAGED TO KEEP INFORMED
DEVELOPMENTS IN AND PORNOGRAPHY-RELATED OBSCENITY LAWS AND
WISH, WHEN APPROPRIATE, TO LOBBY FOR LEGISLATIVE CHANGES
INITIATIVES.

In many, if not most jurisdictions, the unfettered flow obscenity is a direct product of the laxity of enforceme rather than the inadequacy of law.

Citizens are urged to encourage the enforcement of exist laws before they attempt to introduce new legislation. If t laws themselves prove to be inadequate, then the community sh identify and adopt more effective statutes. Citizens shou therefore, carefully assess the obstacles to enforcement.

See Chapter 9 of this Part for examples of state statu which have been determined to be constitutional by state federal courts. Chapter 9 of this Part also contains possi amendments to federal statutes which reflect Commiss recommendations. As with state laws, federal statutes should updated as the pornography industry moves into new areas technology and consumption not presently addressed by exist laws.

SUGGESTION 9:

COMMUNITY ACTION ORGANIZATIONS CAN PROVIDE ASSISTANCE SUPPORT TO LOCAL, STATE AND FEDERAL OFFICIALS IN THE PERFORM OF THEIR DUTIES.

Community action organizations can be a valuable resourc legislators and law enforcement agencies, by providing assist

and support. Such support can be evidenced in many including letter writing campaigns, petition drives, atten at public hearings, testimony at legislative hearing: electoral support.

SUGGESTION 10:

CITIZENS CAN USE GRASSROOTS EFFORTS TO EXPRESS OPPOSITI PORNOGRAPHIC MATERIALS TO WHICH THEY OBJECT.

Some types of pornographic materials may be har offensive and incompatible with certain community values, nonetheless fall short of the legal standard for prosecuti obscenity. In these instances grassroots efforts may b effective countermeasure. Grassroots actions are meas initiated and coordinated privately by citizens, wit governmental intervention.

Grassroots measures may include picketing and s boycotts, contacting cable casting companies to protest sex explicit programs, contacting sponsors of television and programs with pornographic or offensive content and the us the media to express public concern through letters to the ec and audience participation programs.

A number of community action organizations have confr retailers of pornography with the magnitude of public con about the display and sale of this material and have experie

positive results. Some stores have been persuaded to store th material in blinder racks behind the counter. Other merchan have elected to discontinue the sale of material altogether.

When discussions with retailers prove ineffective, picke and economic boycotts are an alternative method of citi: action. Pickets and boycotts serve to publicly ident. merchants which sell these types of materials. If utili: appropriately, they can be an effective means of communicat public opposition to such material and alerting retailers t every option available will be exercised to discourage th circulation.

It is well established that citizens have a constitutio right to boycott for political purposes. In Missouri v. Natio Organization For Women, [1638] the state of Missouri brought action against the National Organization for Women (N.O.W.) w they organized a campaign for a convention boycott of stat which had not ratified the Equal Rights Amendment. The co held that such boycotts were a legitimate means of petitic protected by the First Amendment. [1639]

This issue was later addressed by the Supreme Court in NA v. Claiborne Hardware Co., [1640] In this case, a local branch the NAACP launched a boycott of white merchants in Claibo County, Mississippi, to secure compliance by both civic

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1638 620 F.2d 1301(8th Cir. 1980).

1639 Id. at 1319.

1640 458 U.S. 886(1982).

business leaders with a list of demands for racial equality 1969, those merchants filed suit against the NAACP for injui relief and damages. The Supreme Court upheld the NAACP's ac stating:

> In sum, the boycott clearly involved constitutionally protected activity. The established elements of speech, assembly, association and petition, though not identical, are inseparable. (citation omitted). Through exercise of these First Amendment rights, petitioners sought to bring about political, social, and economic change.1641

While pickets and boycotts are constitutionally permiss and in some instances socially desireable, citizens exerc these practices should be sensitive to the competing righ others who adopt an opposing viewpoint. This approach i: only socially responsible but is effective advocacy.

Moreover, the visibility of pickets and lawful boycotts undoubtedly attract both media and corporate attention. important, therefore, that the community action organiz: carefully articulate their concerns. A rational and lo discussion of these issues is the best method to e constructive debate geared toward an acceptable resolution o pornography problem in the community.

Most importantly, retailers are in business to make m They realize that their success is a direct product of con satisfaction and community patronage. Citizen pickets boycotts are a sign of community dissatisfaction. Theref retailers are unlikely to view organized pickets and la

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1641 Id. at 911.

economic boycotts lightly.

These types of citizen initiatives can also be effect against cable and satellite television companies who sh offensive or sexually explicit programs. Cable operators are r required to offer sexually explicit subscription services.[1642] The economic realities of consumer dissatisfaction with s. programming may be felt when customers cancel subscriptions potential subscribers notify the cable company that they are r subscribing to the basic service because sexually expli programming is offered on the system. Citizen groups should a actively participate in the cable franchising process informing local officials and cable company representatives wh type of cable programming the community is willing to patroni

Advertisers may also be a influential in further grassroot initiatives. Advertisers are in the business promoting positive public relations. If an advertiser belie that sponsoring a program, advertising in a particular magaz or using provocative advertisements will have a negative imp on sales, it may reconsider this advertising program.

Community action organizations can also utilize numer outlets for public comment offered by the media. Newspapers magazines usually have "letters to the editor" columns wh invite comment on current or topical issues. Radio a television talk shows may offer audience participation. Th

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1642 See, Chapter 2 of Part three for a discussion of regulation of cable and satellite systems.

outlets offer a means of reaching large segments of community.

Another important grassroots measure is organi involvement in the legislative process. Citizen action essential to the enactment of local pornography-rela legislation. Citizens should determine if their community nuisance, zoning and anti-display laws and if said laws wo serve the particular needs of the community. [1643] Nuisance l prohibit certain illegal activities from taking place pornographic establishments and often result in closing down operation if a violation is found. Zoning laws regulate the land can be used in the community.

Finally, anti-display laws regulate the method by wh: pornographic materials can be publically displayed. Statutes ordinances may be enacted to restrict the display of sexual explicit materials to minors. In order to conform constitutional requirements, such laws should apply only materials that are obscene as to minors [1644] and should al contain reasonable time, place, and manner restrictions. [1645]

In light of the legislative options available, communiti can constitutionally exercise control over the location pornographic establishments as well as the display

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[1643] See, Chapter 7 in Part Three and Chapter 6 in th Part for a detailed legal discussion of the use of effectivene of these laws.

[1644] See, Ginsberg v. New York, 390 U.S. 629, 645-47(1968

[1645] See, Young v. American Mini-Theatres, 427 U.S. 50, 63(1976

pornographic materials by retailers.

Citizens should contact their legislators, law enforcem officials, community leaders and media representatives to dis the role such statutes might play in controlling the distribu of pornography in their community. Citizen action groups sh educate these individuals and organizations as to how such could ease the circulation of pornography in their commun. Only by making the control of pornography a community object and endorsing legislation toward that end, will the cit action group realize its goals.

SUGGESTION 11:

CITIZENS CAN EXERCISE THEIR ECONOMIC POWER BY PATRONI INDIVIDUAL BUSINESSES AND CORPORATIONS WHICH DEMONSTR RESPONSIBLE JUDGMENT IN THE TYPES OF MATERIALS THEY OFFER SALE.

Citizens should recognize individual businesses corporations which exercise sound judgement in the selectio their book, magazine and video tape inventory. Businesses w elect not to produce, or distribute pornography in an effort uphold or reinforce community standards should be commended. same logic applies with equal force to radio and televis stations which offer pornographic or offensive programmi Citizens, can use their economic power by patronizing t

businesses and corporations which support a standard of qua in the community. Such patronage and subscription will serv further evidence to merchants that the local community has its standard with respect to such material.

SUGGESTION 12:

PARENTS SHOULD MONITOR THE MUSIC THEIR CHILDREN LISTEN TO AND RECORDING ARTISTS AND PRODUCERS SHOULD USE DISCRETION IN THE F THEY OFFER TO CHILDREN.

Concern has been expressed over many of the lyrics heard contemporary rock music. Many popular idols of the yo commonly sing about rape, masturbation, incest, drug usa bondage, violence, homosexuality and intercourse. Given significant role that music plays in the lives of young peop and considering the fact that even pre-teenagers often listen such material several hours a day, 1646 this issue w considered carefully by the Commission. Two conclusions ensue

First, it is recommended that parents closely monitor music heard by their children. An effort should be made parents to evaluate the lyrics expressed on radio and televisi in rock videos and on pornographic records. Considerable conc has also been expressed about the violence and sexu

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1646 Washington, D.C., Hearing Vol. I, Kandy Stroud, 243-44.

explicitness portrayed on the covers of such albums. Some of album covers displayed to the Commission appeared to exhi depictions satisfying the legal standard for obscenity.

Second, in order to facilitate this parental involvem the Commission endorses the agreement reached in November, 1 between the Parents Music Resource Center and the Recor Industry Association of America. By the terms of this volun arrangement, the recording industry agreed to label all containing explicit sex, violence, drug or alcohol abuse with words, "explicit lyrics" or "parental advisory," or else actual lyrics would be printed on the album jackets.

The Commission strongly recommends that the record artists and producers use greater discretion in the music t offer to juveniles. As a first step, however, this voluntary agreement will help parents and teachers take a more active r in limiting their children's exposure to this material.

SUGGESTION 13:

ALL INSTITUTIONS WHICH ARE TAXPAYER FUNDED SHOULD PROHIBIT PRODUCTION, TRAFFICKING, DISTRIBUTION, OR DISPLAY OF PORNOGR ON THEIR PREMISES OR IN ASSOCIATION WITH THEIR INSTITUTION TO EXTENT CONSTITUTIONALLY PERMISSIBLE.

Federally funded or assisted institutions should prohibited from producing, trafficking, distributing,

displaying pornography except for certain well defined legiti purposes. These institutions include, but are not limited hospitals, schools, universities, prisons, government of buildings, military installations and outposts, and mental he facilities. We recognized that in many areas governmental ac may, as a matter of constitutional law, be taken only respect to materials that are legally obscene, and we do suggest that institutions go beyond their constituti limitations. In other cases, however, of which schools are most obvious example, content-based restrictions of the mate available in the institutions need not be limited to the leg obscene, and we recognized not only the right but responsibility of such institutions to control content consis with the needs of the institution.

SUGGESTION 14:

BUSINESSES CAN ACTIVELY EXERCISE THEIR RESPONSIBILITY "CORPORATE CITIZENS" BY SUPPORTING THEIR COMMUNITY'S EFFORT CONTROL PORNOGRAPHY.

As "corporate citizens," businesses should be responsive community sentiment regarding the production and distributior pornographic materials. Many different types of businesses involved in the various stages of production and ret distribution including film processors, typesetting and print

services, delivery services, warehouses, commercial realtc computer services, cable and satellite companies, record companies, hotels, credit card companies and numerous othe These businesses have a responsibility to exercise due care insure that they are not contributing to the moral detriment their community. Businesses can be encouraged to insure t they are not being unknowingly used as an instrument for spread of obscene or pornographic material which the commu has requested not be produced or sold on moral, social or cl legitimate grounds.

Corporations are encouraged to conduct site inspection their facilities and to conduct quality of content examinat of their inventory to safeguard against the sale of materials which offend the community standard. In the case of credit c companies, a review of the types of businesses that th "merchant" members are conducting might be useful. Informa and entertainment companies such as cable and satellite syste computer network services and recording companies should mor their systems for obscene or other material which offends community they serve. Broadcasters, advertisers and retail should diligently protect children and unwilling adults f exposure to sexually explicit communications.

A second role for corporations, as members of l communities, is to actively support citizen action effort curb the proliferation of pornography in the community.

Moreover, corporations, as part of their more general sc

responsibility, are encouraged to establish and participat pornography "victim" assistance programs. [1647] They can do by contributing to social service agencies who specialize i deal with sexual abuse. [1648] They can also provide di financial assistance, in the form scholarships and vocati programs, to "victims" of pornography. [1649]

Finally, corporations can sponsor local educational prog on pornography and its effects on the community. These prog could then be provided to schools, businesses, legislators, enforcement officials, churches, and other interested gro

Corporations can and do have an impact on commu standards and law enforcement practices. It is up corporations to act as responsible citizens to ensure that t community is not just a location for another retail outlet, b worthwhile place to live.

IV. CONCLUSION

Citizen and community involvement in law enforcement and formulation of legal initiatives is an age-old traditi Citizens create laws through their elected officials and dele enforcement of these laws to police, prosecutors and judges.

[1647] See, Chapters 1 and 2 of this Part for a discussion victimization.

[1648] See, Chapters 1 and 2 of this Part which discusses numerous forms of victimization associated with pornography.

[1649] Id.

When the law enforcement mechanism inadequately addresse particular problem, citizens and communities must explore o: avenues. Many times citizens must on their own publicly advo: a community environment which reflects their view of an i: place to live.

This Commission encourages citizen and commu involvement. Examples abound of where citizens have ma difference in the quality of life in their communi "Neighborhood Watch" programs, where citizens protect e others' homes is a prime example of positive citizen effo Mothers Against Drunk Driving is another example in which citi action has made communities across the country a safer plac: live. This Commission applauds such efforts and encourage ot to improve the quality of life in their community.

Chapter 8

Production and Distribution of Sexually Explicit Materia

I. HISTORICAL OVERVIEW OF THE INDUSTRY

II. PRODUCTION, DISTRIBUTION AND TECHNOLOGY

- A. MOTION PICTURES
- B. VIDEO TAPE CASSETTES
- C. MAGAZINES
- D. CABLE AND SATELLITE TELEVISION
- E. DIAL-A-PORN
- F. COMPUTERS
- G. OTHER MATERIALS SOLD IN PORNOGRAPHIC OUTLETS
- H. PAPERBACK BOOKS
- I. TABLOIDS
- J. PHOTO SETS
- K. AUDIO TAPES
- L. PEEP SHOWS

III. OUTLETS

- A. "ADULTS ONLY" PORNOGRAPHIC OUTLETS
- B. GENERAL RETAIL OUTLETS

IV. MILITARY BASES

V. PRISONS

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I. HISTORICAL OVERVIEW OF THE INDUSTRY

The pornography industry has grown considerably ove last thirty years by continually changing and expanding to a to new markets.[1650] In the last several decades, the ind has gone from a low yield, covert business to a highly vi multi-billion dollar industry.[1651] Over five hundred million dollar of this may be attributed to retail sales i Los Angeles area alone.[1652] The remaining billions of do worth of materials are distributed throughout the United S and abroad. In the 1950s, "adults only" pornogra establishments[1653] were dark and dingy stores and the located in the less desirable parts of urban areas.[1654] The related materials of this period generally depicted scantily women in seductive poses and were not readily available t public.[1655] The most graphic publication of this era wa Tijuana Bible, a book with illustrations of various s acts.[1656]

1650 Los Angeles Hearing, Vol. I, Robert Peters, p. 60A.

1651 Id. at 32, 60C; Chicago Hearing, Vol. I, Donald S p. 30.

1652 Id.

1653 See, The discussion of "adults only" pornogr outlets.

1654 Id. at 38.

1655 Id. at 38 and 60A.

1656 Id. at 38.

Magazines were usually produced in black and white and w grainy in quality.[1657] The photographs depicted were mostly provocatively posed nudes.[1658] Generally, the model's pub area was not shown in these photographs.[1659] As a result, nud magazines were extremely popular.[1660]

The films available during this period were also of ve poor technical quality.[1661] The films containers were a plain. Usually, the films did not have titles but wre gi numbers for identifying purposes.[1662] These films showed most females in "strip tease"[1663] activities.[1664]

The females depicted in the fims were often partia exposed in the breast area and the males, for the most part, we fully dressed.[1665] The first of these films to be a maj economic success was produced in 1959 for $24,000 and was about

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1657 Id. at 60A.

1658 Id. at 39, New York Hearing, Vol. I, Bruce Taylor, 240-241.

1659 Id.

1660 Los Angeles Hearing, Vol. I, Robert Peters, p. Nudist magazines were put out by members of nudist organizati and often depicted pictures of nudists and their families.

1661 Id. at 38 and 60A.

1662 Id.

1663 "Strip tease" refers to the slow and seduct disrobing of a woman usually to muisc while on stage.

1664 Id. at 38.

1665 Id. at 38-39. Some films did depict males undressi Id. at 39.

man who was unable to see clothing on women.[1666] This ultimately grossed $1,000,000.[1667]

While the above descriptions represent mainstream sex oriented materials during the 1950s, some more explict mate were also available.[1668] In some "adults only" pornogr outlets in major cities in the United States, sexually exp materials depicting individuals with clearly visible pubic could be purchased.[1669] Some "stag films,"[1670] mail operations and underground connections, were the sourc sexually explicit materials in which actual penetratio clearly visible.[1671]

In the 1950's the distribution of sexually ori materials often took place on an informal basis through " sales".[1672] During this time, Los Angeles had five "adults pornographic outlets all of which were supplied in this way.

1666 The Report of the 1970 Commission on Obscenit Pornography, 94(1970).

1667 Id.

1668 New York Hearing, Vol. I, Bruce Taylor, p. 240-

1669 Id. at 240.

1670 Stag Films was an actual film production label m Nashville, Tennessee. Los Angeles Hearing, Vol. I McIlvenna, p. 206.

1671 New York Hearing, Vol. I, Bruce Taylor, p. 241.

1672 Los Angeles Hearing, Vol. I, Robert Peters, p. 39, "Trunk sales" refers to the distribution of materials out o trunk of the seller's car.

1673 Id.

The stores selling this material fronted as general newsst and kept the sexually oriented materials in the back.[1674]

The early 1960s saw the emergence of sexually expli materials into the public eye. Simulated sex acts with exposed genitalia constituted the majority of sexually expli materials and an exposed genital was an obscenity violation almost any jurisdiction.[1675] Between 1960 and 1965, "adu only" pornographic outlet and theatre locations in Los Ange alone increased from five to eighteen.[1676] These outlets v primarily located in the central and "Skid Row" sections downtown.[1677] The "adults only" pornographic outlets were si and in some cases provided other publications in addition to sexually explicit fare.[1678]

The "adults only" pornographic theatres also began to em in small vacated business locations.[1679] These premises v often rundown and conducive to lewd activity.[1680]

During the 1960s, magazine print quality improved.[1] Magazines were generally four-color publications which contin

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1674 Id. at 39.

1675 Id. at 60A.

1676 Id.

1677 Id. at 60A-60B.

1678 Id. at 60B.

1679 Id. at 39.

1680 Id. at 60B.

1681 Id. at 40.

to depict female nudes.[1682] Nudist magazines also rem popular.

The 1970 Commission on Obscenity and Pornography desc the sexually explicit magazines of this period in detail.

> "Adult" Magazines Until the Late 1960s. Court decisions overruling obscenity convictions of sexually oriented magazines have affected the market almost as profoundly as similar court decisions dealing with textual material. In 1958, the Supreme Court reversed an obscenity conviction involving two nudist magazines containing pictures clearly revealing the genitalia of men, women, and children. During the early 1960s, nudist magazines slowly broke down the practice of segregating the sexes in photographs which had been observed earlier. Publishers remained very restrained about the situations portrayed in the photos. Any scene implying sexual activity was scrupulously avoided, and body contact was allowed only in situations of a wholly non-sexual nature. Nudist magazines of the early 1960s contained numerous articles extolling nudism and portrayed nudists only at work and play.
>
> By the mid-1960s, secondary publishers had become much bolder in pictorial nudity. Implied erotic activity became an integral part of pseudo-nudist magazines. The so-called "legitimate" nudist magazines, which attempted to reproduce candid shots of nudist camp activities, passed nearly into oblivion because they could not compete in the marketplace with magazines which copied the nudist format, but contained more erotic pictures and more attractive models. By 1967 or 1968, a whole new group of magazines featured nude females posed in a manner which emphasized their genitalia in complete detail (known in the industry as "spreader" or "split beaver" magazines). Most contained little, if any, text.
>
> At the same time, male homosexual magazines developed along the same lines, also assisted by favorable Supreme Court decisions which overturned previous obscenity convictions. Homosexual magazines through the late 1960s consisted primarily of posed pictures of

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1682 Id.

nude males. The genitals of the models, the focal points of the photographs, were flaccid. Photographs were usually of a single model, although group scenes were not unusual. There was little or no physical contact between models, and sexual activity was generally not even implied.

Relatively small quantities of fetish books and magazines were produced featuring uses of items such as rubber and leather wearing apparel, lingerie, high heeled boots, etc. Sadomasochistic depictions or descriptions of bondage, spanking, and "domination" by clubs, whips, etc. were also available in limited quantities. Sexual explicitness in these materials was usually far less than in typical "girlie" magazines. Although quite a number of titles were produced, these magazines were not a major factor in the marketplace.

Sexual Content of "Adult" Magazines - 1969-1970. Through June, 1970, there have been few dramatic innovations in the sexual content of "adults only" magazines. Additional female models have been added to the photographs, and many magazines have integrated male and female models. This has led to considerable implied sexual activity in the photographs. Actual sexual activity, or arousal of the male models is seldom depicted.

Magazines aimed at male homosexuals have changed somewhat in the last year or two, and self-imposed restrictions on implied sexual activity are eroding slowly. Most homosexual magazines, however, are considerably less graphic than magazines featuring females.

Fetish magazines continue to be a rather insignificant part of the total production, and have changed relatively little from the mid-1960s.1683

During the 1960s, the pocketbook emerged and replaced Tijuana Bible.1684 While the pocketbooks were not illustrat

1683 The Report of the 1970 Commission on Obscen Pornography, 115-16(1970).

1684 Los Angeles Hearing, Vol. I, Robert Peters, p. Pocketbooks were paperback books which fit into your pock They were the forerunner of today's paperbacks.

extremely graphic language was used in the text.[1685]

The 1970 Commission on Obscenity and Pornography descril the sexually explicit paperback book of this period as follows

> "Sex Pulp" Books Until the Late 1960s. The sexual content of paperback books published for the "adults only" market has become progressively "stronger" in the past decade, primarily because of court decisions involving books such as Tropic of Cancer and Fanny Hill (See, Legal Panel Report [of the 1970 Commission]).
>
> Until the mid-1960s, most paperback books published for the secondary market were known as "sex pulps". These followed a rather rigid set of ground rules: vulgar terms describing sexual acts, genitalia, excretion, etc., were not used, but rather euphemistic or symbolic language was substituted; the books consisted of a series of sexual adventures tied together by a minimal plot; sexual foreplay was described in great detail, but the mechanics of the sex act was not; and much of the sexual content was left to the imagination of the reader.
>
> By the late 1960s, however, the "sex pulp" formula had become relatively passe. A new breed of sexually oriented secondary books came onto the market, in which all restraints upon both language and descriptions of sexual activity were eliminated. In many there was little more than a compilation of non-stop sexual activity.
>
> Some paperback novels of the "sex pulp" type of the early 1960s are still published, probably because a portion of the market prefers less explicit material. However, the industry's criteria for "sex pulp" books has been broadened; this classification now includes any paperback which is badly written, edited, and typeset, and is apparently aimed at relatively poorly educated readers, irrespective of the degree of explicitness of its language or descriptions of sexual activity.
>
> Wholly Textual Sex Oriented Paperback Books in the Secondary Market, 1969-1970. Virtually every English language book thought to be obscene when published, and many similar books translated into English, have been reissued by secondary publishers. The entire stockpile

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1685 Id.

of "classic erotic literature" (e.g., The Kama Sutra, Frank Harris, De Sade, etc.) published over centuries has thus come onto the market. Another type of sexually oriented book has become popular in the last few years -- pseudo-medical, alleged case-study analysis of graphic descriptions of sexual activity. Although such books purport to be written by medical doctors or Ph.D.s, they primarily consist of graphic descriptions of sexual activity.

As of 1970, publishers of sex-oriented, wholly textual paperback books are convinced that there are no legal restrictions on the content of any wholly textual publication. As a result, "adults only" paperback books published and sold in the United States cannot possibly be exceeded in candor, graphic description of sexual activity or use of explicit language. The overwhelming majority of these books are intended for a heterosexual male readership. Almost no such books are written for a female audience. Perhaps 10% or more are directed at the male homosexual market, and less than 5% are specifically written for any of the various fetishes.

Illustrated Paperback Books, 1969-1970. In the past two or three years, some secondary publishers have included photographs in their books. Initially, such paperbacks included photographs in which young females posed with the focus of the camera directly upon their genitalia. In 1968 and 1969, however, two additional types came onto the market which revolutionized the sexual content of illustrated paperback books. One was the illustrated "marriage manual" containing photographs of couples engaging in sexual intercourse "for an educational purpose". The most recent marriage manual of this type depicts fellatio and cunnilingus in addition to vaginal intercourse (penetration shown in detail). The second "breakthrough" occurred in 1969 with the publication of books purporting to be serious studies of censorship and pornography. These books contain illustrations ranging from Oriental and European erotic art to reproductions of "hard-core" photographs taken from Danish magazines, which graphically depict sex activities such as vaginal and anal penetration, fellatio, and cunnilingus. Following this lead, a number of publications containing "hard-core" photographs with textual commentary have been published and are in circulation in many major metropolitan areas.

To some extent, therefore, the pictorial content of a number of paperbacks published and sold in the United

> States has reached the level of sexual explicitness found in Danish materials. However, Danish-type "pornographic" magazines (consisting entirely of photographs of sexual activity) have yet to be published and sold openly in this country; domestic publishers apparently believe that the inclusion of text is required to provide a legal defense in the event of an obscenity prosecution.[1686]

During the 1960s, the technical quality of sexually expl films remained poor, but the content began to change.[1687] Ir early 1960s, the majority of films involved simulated sexual with the focus on female genitalia.[1688] By the end of the 1 sexually explicit films showing oral and genital copulation more readily available.[1689] The packaging of the films changed. The boxes were more colorful and some had a photo on the cover depicting a scene from the film.[1690]

The 1970 Commission on Pornography and Obscenity desc the sexually explicit films during this period as follows:

> Between 1964 and 1968, exploitation films moved in a variety of directions. Some producers dropped all pretense of a plot and substituted nudity for a story line. Others produced "roughies," a mixture of sex and violence. Some films depicted women as aggressors (nymphomaniacs, lesbians, and prostitutes); others portrayed them as victims. A few films were self-styled "documentaries" dealing with sexual mores and aberrations. Still others were known as "kinkies"

1686 The Report of the 1970 Commission on Obscenit Pornography, 112-14(1970).

1687 Los Angeles Hearing, Vol. I, Robert Peters, p. 4

1688 Id.

1689 New York Hearing, Vol. I, Bruce Taylor, p. 292A.

1690 Los Angeles Hearing, Vol. I, Robert Peters, p. 4

(dealing with fetishes) and "ghoulies" (minimizing nudity and maximizing violence).

In 1969, and continuing into 1970, exploitation films dealt with the same themes often found in general release motion pictures: perversion, abortion, drug addiction, wayward girls, orgies, wife-swapping, vice dens, prostitution, promiscuity, homosexuality, transvestism, frigidity, nymphomania, lesbianism, etc. Almost all of the popular movie-making formulas have been utilized as settings for presenting these themes, including westerns and historical epics, although contemporary settings are still the most widely used.

The vast majority of exploitation films are directed at the male heterosexual market. Relatively few films are produced for a male homosexual audience, but the number of these films has increased in the past year or two. A small number of theaters exclusively exhibit male homosexual films and a few exhibit such films on occasion. This market is quite small at present, and is included in the estimate for the entire exploitation film market, although "male" films are developing their own producers and theaters.

Full female nudity in exploitation films has become common in the last year or two, although male genital exposure is almost unknown except in those films directed at the male homosexual market. Sexual activity covering the entire range of heterosexual conduct leaves almost nothing to the imagination. Actual sex acts, however, are not shown, only strongly implied or simulated. Self-imposed restrictions on the use of "vulgar" language have also disappeared in many films.[1691]

During the 1960s the distribution of sexually explic pornographic materials expanded significantly.[1692] Althou "trunk sales" remained the major method of distribution, lar

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1691 The Report of the 1970 Commission on Obscenity a Pornography, 94-95(1970).

1692 Los Angeles Hearing, Vol. I, Robert Peters, p. 41, 6

wholesale warehouses began to emerge.[1693] The wholesalers small storefront businesses and older commercial building storage and dissemination of materials.[1694] The channe distribution also became more complex with producers wholesalers providing a variety of materials to outlets whi stocked several different types of sexually expl materials.[1695]

The real proliferation of sexually explicit materials United States took place in the 1970s.[1696] During this p distribution locations for sexually explicit materials i Angeles alone increased from eighteen to over 400.[1697]

In the 1970s, producers of sexually oriented mate depicted sexually explicit and varied acts and contin tested the bounds of existing obscenity laws.[1698] While m these materials consisted primarily of simulated sexual materials depicting actual sexual intercourse and oral copu were increasingly available.[1699] Sexually explicit mag like Swedish Erotica were distributed widely and focus

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1693 Id.

1694 Id. at 60B.

1695 Id. at 41.

1696 Id. at 41 and 60B; New York Hearing, Vol. I, Shoffler and Ledra Brady, p. 238A-5.

1697 Los Angeles Hearing, Vol. I, Robert Peters, p.

1698 Los Angeles Hearing, Vol. I, Robert Peters, p.

1699 Id. at 43, 44, 60B.

depictions of actual sex acts.[1700] Most of the materi designed to appeal to paraphilias became prevalent during t period, including those showing harmful homosexual ac sadomasochism, bondage and discipline, children and animals well as visuals of ejaculation, urination and defecation.[1701]

Child pornography was more commonly available in the 19 and appeared in commercially produced magazines such as Mop and Where the Young Ones Are.[1702] Child pornography materials with depictions of bestiality were openly available some "adults only" pornographic outlets,[1703] sold under-c counter in others and also available through mail-or sales.[1704]

"Adults only" pornographic theatres became more noticea as they advertised and showed films of better techni quality.[1705] Many of the mainstream theatres went out business in the 1970s and were purchased to show sexua explicit films.[1706] The most widely circulated of these film

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1700 Id. at 44.

1701 Id. at 44, 45, 60B.

1702 Id. at 48.

1703 Child pornography was sold over the counter in New Y City during this period.

1704 Id. at 60B.

1705 Id. at 42.

1706 Id.

the history of the industry, "Deep Throat"[1707] and "The De
Miss Jones," were produced and marketed during this period.

In the late 1970s, the industry expanded to include larger "adults only" pornographic outlets, complete with show booths.[1708] The number of independently owned s declined and were replaced by stores owned by producer distributors of sexually explicit materials who wanted to the retail business.[1709] The company-owned "adults pornographic outlet became prevalent in the 1970s an continued to dominate the retail market.[1710]

The distribution of sexually explicit materials in the became a sophisticated business.[1711] Not only were distri investing in retail outlets, but they began to operate o more modern facilities with some distributors constructing own buildings to accommodate their growth.[1712]

The Industry Today

[1707] "Deep Throat" cost twenty-five thousand dolla produce and has earned over fifty million dollars.

[1708] Los Angeles Hearing, Vol. I, Robert Peters, p. 4 and 51; See, The detailed discussion of "adults pornographic outlets and peep show booths.

[1709] Id. at 42.

[1710] Id.

[1711] Id. at 51.

[1712] Id. at 51, 60B.

Southern California is the production capital of the w for sexually explicit materials.[1713] At least eighty percen the sexually explicit video tapes, eight millimeter films sexual devices and paraphernalia that are produced in the Un States are produced and distributed within Los Ange County.[1714]

Southern California has become the center of the sexu explicit film and film-related industries for the same reas that it is the center of the mainstream film industry: availability of resources and the temperate climate.[1 Processing facilities and equipment, as well as film technici camera operators and performers are readily accessible for lc operations producing sexually explicit material.[1716]

The 1980s have seen the complete transformation of industry into a big business with large scale distributors,[1 theatre chains,[1718] and technological advances such as h videos,[1719] subscription television,[1720] Dial-A-Porn[1721]

1713 Los Angeles Hearing, Vol. I, James Docherty, p. 6.

1714 Id.

1715 Id. at 7.

1716 Id.

1717 Id. at 60D.

1718 Id. at 52.

1719 Id. at 52-53.

1720 See, Section D, infra.

1721 See, Section E, infra.

computer sex subscription services.[1722] Distribution loc have become large complexes operating out of modern indus centers.[1723] The major distributors own their own buildin have incorporated all aspects of production into businesses.[1724]

The following portions of this chapter are devoted to depth discussion of the industry today. These portions des the various sexually oriented materials and services and hc where these products and services are produced and distribut

It should be noted that compiling information o production and distribution aspects of this industry was a difficult task. Much of the detailed information is cl guarded by industry representatives and was thus unavailab the Commission.

1722 See, Section F, infra.

1723 Id. at 54, 60D.

1724 Id.

II. PRODUCTION, DISTRIBUTION AND TECHNOLOGY OF SEXUALLY EXPL MATERIALS

A. MOTION PICTURES

Production

The average cost of producing a feature length sixtee thirty-five millimeter[1725] sexually explicit movie for theat release is seventy-five thousand dollars. The costs may r from thirty to one hundred fifty thousand dollars.[1726] A si millimeter film that will be marketed on video tape costs be ten and thirty thousand dollars to produce.[1727]

The sexually explicit film industry is presently in a s of transition from a theatre centered base to one dominate video tape cassettes viewed in the home.[1728] Not surprisin the most rapidly growing method of production is to sho sexually explicit movie directly on video tape.[1729] A s

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[1725] Thirty-five millimeter films are more expensiv produce than sixteen millimeter films.

[1726] Los Angeles Hearing, Vol. I, William Roberts, p. John Weston, Counsel, Adult Film Association of Ameri estimates that a feature length film costs between $75,00($125,000 to produce. Interview with John Weston, Counsel, A Film Association of America(Mar. 8, 1986).

[1727] Los Angeles Hearing, Vol. I, William Roberts, p.

[1728] Los Angeles Hearing, Vol. I, Les Baker, p. 203B-

[1729] Los Angeles Hearing, Vol. I, William Roberts, p.

minute video can be produced in two days at a cost of be four and eight thousand dollars.[1730] A ninety minute vid often taped within three days at a cost between ten and t thousand dollars.1731 The costs primarily consist of perf and crew fees.[1732]

Most sexually explicit movies begin by the produce choosing a title.[1734] The producer attempts to choose a that will attract the customer's eye and make the movie marketable. One current trend is to take popular general re movies and develop sexually explicit "takeoffs" based or titles and plots of the general release movies.1735

After a title has been selected, the script is writte suit the title. Sometimes, however, the script ha relationship to the title.[1736] In addition, it is not unc for producers to use the same script for more than one movie

Once a title is chosen and a script written, the proc

1730 Id.

1731 Id.

1732 Id.

1733 The term "producer" is used to include the prod writer and director as one individual, since this is usuall case. Id. at 62.

1734 Id.

1735 Id. at p. 63(e.g., Romancing the Stone, Romancin Bone; On Golden Pond, On Golden Blonde; The Wizard of Oz, Wizard of Ahas; the Cotton Club, the Cotton Tail Club).

1736 Id.

1737 Id.

finds a location at which to shoot the movie.[1738] Films may shot in motel rooms, private homes or on sound stages.[1739] primary consideration for the type of location used is often budget allotted to the particular film.[1740]

After a location is selected, the producer chooses performers.[1741] Producers sometimes contact performers thr agents.[1742] The producer usually looks through the agent's listing performers along with their photographs.[1743] producer may choose a performer on the basis of appearance a or on the basis of previous performances.[1744] The producer select performers by using a "cattle call," in which ten fifteen performers are asked to appear at his location for interview.[1745] In Los Angeles there are two agents specialize in providing performers for sexually expli films.[1746] The agent receives forty-five to fifty dollars a

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1738 Id.

1739 Id.

1740 Id. at 63-64.

1741 See, Chapter 2 of this Part for a detailed discus of performers.

1742 Id. at 64.

1743 Id.

1744 Id.

1745 Id.

1746 Id.

for each performer that he provides.[1747]

The producer is looking for several things when choosinc performers. The most important factor is appearance. Producers may want performers who have certain anatom characteristics or who look particularly youthful.[1749] second criterion is that the performer must be able to do sexual acts called for in the script.[1750] These acts may inc sadomasochistic activities, anal sex, group sex, urination defecation.[1751]

Female performers earn $350 to $500 per day of formance.[1752] Male performers earn $250 to $450 per da performance.[1753] Better known "stars" of sexually expl movies earn from $1,000 to $2,500 per day of performance. Performers may also be paid on the basis of the number and of sex acts in which they engage.[1755] Some performers rec

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1747 Id.

1748 Id.

1749 Id.

1750 Id. at 65.

1751 Id.

1752 Id.

1753 Id.

1754 Id.; The War Against Pornography, Newsweek, 62(Mar. 1985).

1755 Los Angeles Hearing, Vol. I, William Roberts, p. 65

$250 per sex act.[1756]

As with any filming, the producer must own or rent lig cameras and props.[1757] The necessary equipment costs i hundred to one thousand dollars per day to rent.[1758] Lar production companies usually own their own equipment.[1759]

The technicians used in sexually explicit movies also work in the general release film industry.[1760] Others wor the sexually explicit film industry when they are unemploye need to supplement their income. Still other technicians b and remain exclusively in the sexually explicit f industry.[1761]

When the producer is ready to begin filming, he will c contact the agent and instruct the agent to have the perfo meet the producer at a designated location.[1762] The proc sometimes transports the performers to the shooting locatic avoid attracting the attention of the police or others.[1763] police often learn of sexually explicit movie shootings wh

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1756 Id.; See, Chapter 2 of this Part which discu performers.

1757 Los Angeles Hearing, Vol. I, William Roberts, p. 6

1758 Id. at 66.

1759 Id.

1760 Id.; Interview with John Weston, Counsel, Adult Association of America (Mar. 8, 1986).

1761 Los Angeles Hearing, Vol. I, William Roberts, p. 6

1762 Id. at 67.

1763 Id.

neighbor complains about activities next door.[1764] The pr may also have security personnel check for police surveil while the shooting is in progress.[1765]

Once on site, the performers go through make-u wardrobe, and have a script review.[1766] The script is us minimal and is rewritten during the filming.[1767]

Dialogue scenes are usually shot in the first two or takes.[1768] The sex scenes are usually filmed in one take The director will usually tell the performers exactly wh wants them to do.[1770] The director will tell them which w turn their heads and what positions to use while they enga sexual activity.[1771]

The most important part of the movie is considered b trade to be the male ejaculation scene.[1772] This scene is a filmed when the male's penis is outside the partner's body The male usually ejaculates on the buttocks, breast, or fa

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1764 Id.

1765 Id.

1766 Id. at 68.

1767 Id.

1768 Id.

1769 Id.

1770 Id.

1771 Id. at 68-69.

1772 Id. at 69.

1773 Id.

his partner.[1774]

Still photographs may also be taken during the shooting[1775] and are used for promotional material such as fliers, film video package covers, posters, as well as unrelated magaz. layouts.[1776]

It is also common for two versions of a movie to be produ during the filming.[1777] One version contains more sexual explicit scenes than the other.[1778] The less sexually explic film is sometimes introduced into the subscription televisi market.[1779]

A day's shooting may last from seven in the morning unt two o'clock the following morning.[1780] During this time, performers and crew are literally locked into the location.[1] The meals are prepared or brought in and lunch and dinner bre are taken on site.[1782]

At the conclusion of the shooting the performers are ask

1774 Id.

1775 Id.

1776 Id. at 69-70.

1777 Id. at 70.

1778 Id.

1779 Id.

1780 Id. at 69.

1781 Id. at 70.

1782 Id.

to sign a "Model Release."[1783] The performers are then paid their work. Payment is generally made in cash.[1784] After shooting is complete, the producer prepares a master print t sold to the distributor.[1785]

The distributor first edits the movie and then adds soundtrack.[1786] There are basically three types of sexu explicit films marketed: eight millimeter, sixteen millime and thirty-five millimeter.[1787] The eight millimeter films usually made into loops.[1788] A "loop" is a seven to eight mi excerpt of a feature length film.[1789] A film may be purchase viewed as several different loops such as "Swedish Erotica On Six." "Swedish Erotica Two" is actually a continuation "Swedish Erotica One."[1790]

While eight millimeter film was a popular medium production in the past, it is no longer widely used.[1791] One enforcement officer estimated that by 1990, eight millime

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1783 Id.

1784 Id. at 71.

1785 Id.

1786 Id.

1787 Interview with Don Smith, Los Angeles Police Departm (Mar. 9, 1986).

1788 Id.

1789 Id.

1790 Id.

1791 Id.

sexually explicit movies will be a thing of the past.[1792] prediction was based on the fact the eight millimeter films usually of poor technical quality, lack audio sound, and the that lower cost video tapes of improved technical quality replacing eight millimeter films in peep show boo nationwide.[1793]

Most of the feature length films shown in "adults o theatres across the country are shot on sixteen millim film.[1794] Sixteen millimeter is a popular medium beca through film processing technology, it can be easily conve into eight millimeter or thirty-five millimeter.[1795] sexually explicit films are made on thirty-five millim because production costs are prohibitive.[1796]

[1792] Id.

[1793] Id.; See, The discussion of peep show booths further information.

[1794] Id.

[1795] Id.

[1796] Id.

Distribution

a. Motion Picture Association of America's Rating System

An overview of the Motion Picture Association of Ameri (MPAA) rating system provides an initial perspective as to content of some sexually explicit films. The rating system established on November 1, 1968, by the MPAA, the Nati Theatre Owners and the International Film Importers and Dis butors of America.[1797] The rating system evolved because motion picture industry recognized that it had an obligatio the parents and children of America to provide information a its films in advance of their viewing.[1798]

The Motion Picture Association of America has establi five rating categories:

(1) G: "General Audiences - All ages admitted."[1

(2) PG: "Parental Guidance suggested; some mate may not be suitable for children."[1800]

(3) PG-13: "Parents are strongly cautioned to c special guidance for attendance of chilc under 13. Some material may be inappropr

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1797 Los Angeles Hearing, Vol. II, Jack Valenti, p. 55B.

1798 Id. at 55C.

1799 Id. at 55H.

1800 Id.

for young children."[1801]

(4) R: "Restricted, under seventeen requ accompanying parent or guardian."[1802]

(5) X: "No one under seventeen admitted."[1803]

Some of the language in "G" rated movies may go b polite conversation. The violence in these films is minima there are no nudity or sex scenes.[1804] In a "PG" film, ther be some profanity and violence. There are no explicit sex s but brief nudity may be present.[1805]

The film's use of one of the harsher sexually derived w though only as an expletive, will require the rating boar initially issue that film at least a "PG-13" rating.[1806]

If the same sexually derived word is used in a sex explicit context, the film will receive an "R" rating.[1807] than one expletive in a film results in an initia rating.[1808] An "R" rated film contains some explicit mat relating to language, violence, nudity, sexuality, drug us

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1801 Id.

1802 Id. at 55K.

1803 Id.

1804 Id. at 55H.

1805 Id. at 55I.

1806 Id.

1807 Id.

1808 Id.

other content.[1809] However, explicit sex is not found in rated films.[1810]

No children are admitted to an "X" rated movie. "X" r films may contain brutal or sexually related language, expl sex or excessive and sadistic violence.[1811] A film which is submitted for a rating by the MPAA cannot, without authorizat use any rating except "X".[1812]

Some producers of sexually explicit movies attach an rating to their product without ever submitting the film to MPAA. In the opinion of MPAA President, Jack Valenti, this because the producers have assured themselves of the characte their movie and feel the rating is unnecessary.[1813] Moreov many of these films are produced for the "X" rated movie consu market.

All advertisements and publicity material must also submitted to the MPAA for approval prior to the public release the film.[1814] This includes, but is not limited to, newspap magazine, radio and television advertisements, as well as p views of coming attractions.[1815] Once a rating is determined

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1809 Id. at 55K.

1810 Id.

1811 Id.

1812 Id. at 55M.

1813 Id. at 12-13.

1814 Id. at 55N.

1815 Id.

assigned, it must then appear on all approved advertisements. The MPAA ratings may be displayed only on versions of the video or advertising that are identical to the one rated by MPAA board.[1817] Any violation of this rule will be met "cease and desist" demands and, if necessary, legal action by MPAA.[1818]

The scope of the rating system has recently expanded. In 1984, the fourteen major home video companies announced the MPAA ratings given to films for theatrical release automat- ically appear on video cassette and disc versions identical to the rated theater version.[1820] This agreement formalized the procedures most home video companies have since the begin- ning of the industry.[1821]

Since its inception through September 30, 1985, the rating board had rated 7,036 feature films.[1822] Table One forth the number of films which have been rated in each cate-

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1816 Id.

1817 Id. at 55M.

1818 Id.

1819 Id. at 55P.

1820 Id.

1821 Id.

1822 Id. at 55L.

TABLE ONE*

RATING	NUMBER	PERCENTAGE
G	900	12.9
PG	2523	35.9
PG-13**	60	.8
R	3190	45.2
X***	363	5.2

* This Table covers the period from the beginning of the I to September 30, 1985.

** Introduced in July, 1984.

*** This number represents a small portion of films advert: as "X" rated. The remaining "X" rated films are se designated and are not reflected in the 363 figure.

The sexually explicit film industry has established its structure and guidelines. The Adult Film Association of Amer (AFAA), represents two hundred of the producers, distributors exhibiters of the sexually explicit film and vic industries.[1823] The AFAA credo states:

1823 Los Angeles Hearing, Vol. I, Les Baker, p. 203B-2

1) That films of adult subject matter will be produced for and exhibited to adult audiences and that persons not of legal age will not be admitted.

2) That the definition of an "adult" is that designation set by the constituted authorities of the community, but in no event any person under the age of eighteen years.

3) That we will produce and exhibit only films that are in conformity with the Free Speech provisions of the Constitution of the United States of America.

4) That we will respect the privacy of the general public in our advertising and public displays.

5) That we in no manner will condone, produce, or exhibit child pornography in any form.[1824]

John Weston, counsel to the AFAA, testified that films r with unconsenting adults and children, as well as mater depicting bestiality and excrement would be considered off lir by the AFAA.[1825] Unlike the MPAA, there is presently enforcement mechanism to ensure that the above procedures

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1824 Id. at 203B-3.

1825 Los Angeles Hearing, Vol. I, John Waston, p. 17. See also, Los Angeles Hearing, Vol. I, Les Baker, p. 203B-4-2 5.

followed.1826

1826 Los Angeles Hearing, Vol. I, John Weston, p. 182

158-315 Vol. 2, O - 86 - 12

b. Sexually Explicit Motion Pictures

Independent of the rating systems, there are several s involved in the distribution of a sexually explicit mot picture. Once a film is completed, the master print is sold distributor at a one hundred percent profit to the producer. sexually explicit film distribution process is similar to t used for general release films. The sexually explicit f distributor reproduces the movie and packages it. Advertis and promotional materials are prepared by the distributor announce the new movie. The distributor then markets the mc to wholesalers.

The wholesaler carries hundreds to thousands of titles. quality, genre and type of film may influence the wholesale retail prices. The retailers realize a sizeable profit for sexually explicit films. While eight millimeter sexua explicit films are not the major influence in today's market t they were five years ago, they continue to have a large pro margin.[1827] Both general release and sexually oriented ei millimeter films are processed at the same cost, but there i significant difference in cost at the retail level. A gene release film has a four hundred percent markup as compared to eight hundred to one thousand percent markup for the sexua oriented film.[1828] The sexually explicit eight millimeter fi

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1827 Los Angeles Hearing, Vol. I, Robert Peters, p. 6)

1828 Id.

are mainly distributed to "adults only" pornographic out across the country.

At present, there are approximately twelve to twenty- production companies involved in making sexually expl theatrical release sixteen millimeter or thirty-five millim films.[1829] These films are sold to distributors who in turn or rent the films to "adults only" pornographic movie thea across the country.

In 1985, approximately one hundred full length sexu explicit films were distributed to nearly seven hundred "ad only" pornographic theaters in the United States.[1830] T theatres sold an estimated two million tickets each week to t sexually explicit movies.[1831] The annual box-office rece were estimated at five hundred million dollars.[1832]

Sexually explicit motion pictures are advertised on the marquis and posters. These films are also advertised in sexu explicit tabloids and magazines. Many major city daily ne papers also advertise "X" rated movies alongside general rel films.

John Weston, Counsel for the Adult Film Association America, stated that the "adults only" pornographic thea

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1829 Interview with John Weston, Counsel, Adult F Association of America (Mar. 8, 1986).

1830 The War Against Pornography, Newsweek 62(Mar. 1985).

1831 Id.

1832 Id.

business has been declining and will be virtually nonexistent 1990.[1833] He believes this will occur for a variety of reaso First, the theatres themselves are expensive to maintain operate. Second, with the advent of video tape cassette Americans are choosing not to go out to movie theatres for th movie entertainment. Weston bases this latter statement on fact that theater admission costs are higher than video renta as well as his belief that an increasing number of people wo rather watch movies in the comfort of their own home.[1834] predicts these same trends will hold true for general relea movies as well.1835

1833 Interview with John Weston, Counsel, Adult Fi Association of America (Mar. 8, 1986).

1834 Id.

1835 Id.

B. VIDEO TAPE CASSETTES

Production

Video cassette recorders (VCRs) were first introduced i the American market in 1975 and are now used in approximat twenty-eight percent of all American homes.[1836] It has b estimated that VCRs will be in thirty-eight percent of Ameri homes with televisions by the end of 1986[1837] and eighty-f percent of these homes by 1995.[1838]

Most consumers initially used their VCRs for recordi broadcast and cable programming that they were unable to view its scheduled hour.[1839] In the late 1970s, "X" rated vi tapes, which were retailing for over one hundred dollar constituted over half of the pre-recorded industry sales.[1840] was uncertain during this beginning stage of the VCR indus what consumer demand would be for purchase and sale of p recorded tapes. It was equally uncertain, what type programming, aside from "X" rated films, would appeal to

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1836 The Abernathy/MacGregor Group, Press Release entit "Home Video Cassettes to Become Dominant Entertainment Medium 1990's" 2(1986).

1837 Id. at 3.

1838 Id. at 1.

1839 Merrill Lynch, The Home Video Market: Times Turbulence and Transition, (Jan. 6, 1986).

1840 Id.

public.[1841]

As evidenced in the following Table prepared by the V Software Dealers Association, a wide range of video program is consumed by the public.

TABLE TWO[1842]

TYPE	PERCENT OF MARKET
Action/Adventure	25.2%
Science Fiction	19.6%
Adult	13.0%
Children's	10.4%
Comedy	8.8%
Drama	8.6%
Horror	8.0%
Music Video	2.9%
How - To	2.7%
Foreign	0.8%

[1841] Id.

[1842] Video Software Dealers Association, 1984 VSDA Ann Survey 1; Current estimates place the figure for "Adult" vi tape cassettes at no more than nine percent. Interview w Ronald Siegal, The Fairfield Group (Mar. 6, 1986).

The thirteen percent of the video market identified by industry as "Adult" excludes most of the sexually viol material that the Commission found to be the most harmful forr sexually explicit material. The categories labeled "Act: Adventure," "Science Fiction", and "Horror", which toget comprise more than half the market, include many films t contain scenes of rape, sexual homicide, and other forms sexual violence. The harmfulness of these materials is lessened by the fact that the breasts and genitals are covered some scenes, nor the fact that these films are not given an rating by the Motion Picture Association of America, nor the f that the industry does not consider them "Adult" materia Indeed, all of these features increase the availability of th materials to minors. Moreover, the "music video" category, wh includes many sexually violent depictions, is specifica marketed to young people.

The sexually explicit pre-recorded video tape industry provided a new means of growth for the sexually explicit f market.[1843] Sexually explicit films were first put on video t around 1977, a year before general release features appeared the home video market.[1844] Presently, seventy-five percent the sexually explicit videos are being made by independ

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1843 Los Angeles Hearing, Vol. I, Robert Peters, p. 35.

1844 Stricharchuk, Selling Skin: "Porn King" Reu Sturman Expands His Empire With the Help of a Businessma Skills, Wall St. J., (May 8, 1985) p. 24, col 1.

producers.[1845] Of the forty-five identified major producers the United States, thirty-nine are located in Los Angeles.[184

There are thousands of different video titles currentl the market.[1847] Adult Video News, a publication about sexu explicit videos, estimated that 1,700 new sexually expl videos were released in 1985.[1848] It projects this high gr trend will continue.[1849]

While the steps necessary to produce a sexually expl movie on video are basically the same as for a film,[1] producers are making more movies available on video primaril three reasons.[1851] First, the cost of producing a movie on v is substantially less than shooting the same movie on f Producing a movie on film is expensive because of the high c of film and equipment.[1852] The average cost of making a sixt ninety minute feature length movie on film is seventy-f

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1845 Los Angeles Hearing, Vol. I, William Roberts, p. 74A.

1846 Chicago Hearing, Vol. I, Donald Smith, p. 31; Angeles Hearing, Vol. I, James Docherty, p. 7.

1847 Los Angeles Hearing, Vol. I, Robert Peters, p. 53

1848 Los Angeles Hearing, Vol. I, William Roberts, p. 6

1849 Id.

1850 See, The detailed description of how a typ sexually explicit movie is produced in this chapter.

1851 Interview with John Weston, Counsel, Adult Association of America (Mar. 8, 1986).

1852 Id.

thousand dollars.[1853] The same movie shot directly on video t costs between $4,000 and $20,000.[1854]

Second, those productions made on video tape can be vie immediately.[1855] In the film industry, there is a necessary t delay while the film is being processed.[1856] If, af processing, more filming is needed, the entire product operation including crew and performers must be reconvened.1 Finally, it may take several weeks to edit a film. Video ta can be edited by computer in a matter of days.1858

When the producer has completed the video, it is ready to sold to a distributor. The producer often sells his film at one hundred percent profit.[1859] Generally, if it costs producer fifteen thousand dollars to make a ninety minute vid he will sell it to a distributor for twenty-five to thi thousand dollars.[1860]

1853 Id.

1854 Los Angeles Hearing, Vol. I, Robert Peters, p. 73.

1855 Los Angeles Hearing, Vol. I, William Roberts, p. Interview with John Weston, Counsel, Adult Film Association (M 8, 1986).

1856 Id.

1857 Id.

1858 Id.

1859 Los Angeles Hearing, Vol. I, William Roberts, p. 74D.

1860 Id.

Distribution

The distribution network for sexually explicit video cassettes is similar to that for sexually explicit films. the distributor receives the video tape, he duplicates it. master tape is used to produce thousands of video tapes in o to supply the thousands of "adults only" pornographic outlets general video tape retailers across the country.[1861] The dis- butor also packages the video tape and prepares his adverti and promotional material. The cost to the distributor for purchase, reproduction, packaging and advertising of a video is on average between eight and fifteen dollars.[1862] distributor then sells the video tape to a wholesaler for al thirty-one dollars.[1863] Generally, the distributors prc margin is between one hundred percent and four hundred perc for a video tape.[1864]

Recently, the major sexually explicit film distributors h rapidly entered the national video tape market.[1865] Some these distributors have completely discontinued eight millim films and are focusing on video tape distribution.[1866] This

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1861 Los Angeles Hearing, Vol. I, William Roberts, p.7

1862 Id. at 72.

1863 Id.

1864 Id.

1865 Los Angeles Hearing, Vol. I, Robert Peters, p. 35,

1866 Id.

not surprising in light of the fact that the sexually expl video industry's profits are in the hundreds of millions dollars annually.[1867]

The wholesalers sell the video tapes to retailers across country. Each wholesaler may carry thousands of titles different distributors and sell the video tapes to retailers two to six dollar profit.[1868]

Many times the distributor and the wholesaler are one the same.[1869] Sometimes, the producer, distributor wholesaler are the same individual or corporation.[1870]

It has been estimated that there are at least twe thousand home video retail outlets nationwide.[1871] Many gen convenience stores now carry pre-recorded cassettes for sale rental.[1872]

More specifically, it has been estimated that in 1985 t were approximately nineteen thousand video specialty stores the United States. A video specialty store is a retail ou which derives more than fifty-one percent of its gross reve

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1867 Id.

1868 Los Angeles Hearing, Vol. I, William Roberts, p. 7

1869 Id.

1870 Id.

1871 Merrill Lynch, The Home Video Market: Times Turbulence and Transition, 5(Jan. 6, 1986).

1872 Id.

from the sale or rental of video products.[1873] It has also b estimated that in the United States there will be approximat twenty-four thousand video specialty stores in 1986 and twer seven thousand in 1987.[1874]

Sexually explicit video tapes can be purchased in "adu only" pornographic outlets as well as a significant numbe general video retail outlets.[1875] One source estimated that least twelve thousand of the over twenty thousand general vi retail outlets across the United States distribute sexua explicit video tapes.[1876]

Once the tapes are in the stores, they are either rented sold.[1877] In 1985 it was estimated that one in five pre-reco video tapes was purchased.[1878] The average price of all p recorded video tapes was forty-two dollars[1879], while the ave price of sexually explicit video tapes ranged from sixty

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1873 Interview with Ronald Siegel, The Fairfield Gr (Mar. 6, 1986).

1874 Id.

1875 New York Hearing, Vol. I, Gerald Piazza, p. 294.

1876 Los Angeles Hearing, Vol. I, John Weston, p. 203A· citing, VCRs: Coming on Strong, Time 47(Dec. 24, 1984).

1877 Merrill Lynch, The Home Video Market: Times Turbulence and Transition, 9(Jan. 6, 1986).

1878 Id.

1879 Id. at 3; Video Software Dealers Association, 19 VSDA Annual Survey 3.

eighty dollars.[1880] The sexually explicit video tapes a rented for between four and seven dollars a day.[1881] T retailers of these sexually explicit video tapes often realize profit of twenty-three to twenty-eight dollars on each video t sold.[1882]

The proportion of sales to rentals is expected to incre as the price of pre-recorded video tapes declines.[1883] In 19 at the retail level there were approximately $3.5 billion sales of pre-recorded video tapes as compared to approximat $3.8 billion spent on theatre tickets.[1884] An estimated eig percent of the $3.5 billion spent on pre-recorded video tapes on general release movie programming.[1885]

It has also been estimated that VCR playback will acco for twenty-five percent of total television set usage 1995.[1886] In evening prime time hours in 1995, VCR playback command seventeen percent of total television set usage.[1887]

1880 Miami Hearing, Vol. I, Mike Berish, p. 91; Los Ange Hearing, Vol. I, William Roberts, p. 72.

1881 Los Angeles Hearing, Vol. I, William Roberts, p. 7

1882 Id.

1883 Merrill Lynch, The Home Video Market: Times Turbulence and Transition, 9(Jan. 6, 1986).

1884 Id.

1885 Id.

1886 The Abernathy/MacGregor Group Press Release entit "Home Video Cassettes to Become Dominant Entertainment Medium 1990s," at p. 4.

1887 Id. at 5.

The Video Software Dealers Association (VSDA)[1888] condu a survey of its members on September 6, 1985 regarding the re of "adult" video tapes. The following is a reproduction of survey the VSDA sent to the Commission:

[1888] The Video Software Dealers Association is a nati trade association whose regular membership consists approximately two thousand retailers and wholesalers of v software throughout the United States and whose associate mem include a number of motion picture companies, independent v producers and manufacturers of various products related to video industry. Letter from Charles B. Ruttenberg, Coun Video Software Dealers Association to Alan E. Sears, Execut Director, Attorney General's Commission on Pornography (Jan. 1986).

TABLE THREE

"Adult" Survey[1889]

* Number of individual stores that responded to survey: 227
* Number of companies that responded to survey: 705
* Stores which carry "adult" product:

	YES	NO
Number of stores	965	1314
% of respondents	42%	58%

* The following questions were answered by retailers who ca "adult" product:

1. What percentage of your gross dollar volume is "adult" product?

% of "Adult" Product	% of Respondents
0 - 5%	13%
6 - 10%	23%
11 - 15%	25%
16 - 20%	19%
21 - 25%	8%
26 - 35%	11%
36 - 90%	1%

[1889] The term "adult" was not explained or defined in survey. It is therefore somewhat uncertain what participa included in this category. Interview with Charles Ruttenbe Counsel, Video Software Dealers Association (May 9, 1986).

2. What percentage of your daily transactions are i "adult" product?

% of "Adult" Product	% of Respondents
0 - 5%	18%
6 - 10%	25%
11 - 15%	25%
16 - 20%	16%
21 - 25%	6%
26 - 35%	9%
36 - 90%	1%

3. What percentage of your total inventory is in "adult product?

% of "Adult" Product	% of Respondents
0 - 5%	15%
6 - 10%	45%
11- 15%	19%
16- 20%	11%
21- 25%	5%
26- 35%	4%
36- 90%	1%

Sexually explicit video tapes are advertised on pc inside "adults only" pornographic outlets as well as magazines such as Adult Video News. These videos are advertised in sexually explicit tabloids, magazines and pape books. In addition, some video clubs advertise "X" rated v in their publications and some general video retailers advertise these sexually explicit videos.

C. MAGAZINES

Production

Mainstream sexually explicit magazines have grown in numb since the arrival of the first of this genre, Playboy, in 19 These magazines generally follow a formula of sexually explic photographs featuring primarily nude females in a variety sexual activities interspersed with textual content that either also sexually oriented or covers general interest topic

The content of the April, 1986 issues of twelve of the m widely circulated of these magazines was examined and analyzed more systematically portray this material. The magazin examined were: Cheri, Chic, Club International, Gallery, Genesi High Society, Hustler, Oui, Penthouse, Playboy, and Swank.

To get a better understanding of the range of materi available in one issue of these magazines, frequency counts we obtained of the advertising, editoral and pictorial content.

Each advertisement was counted regardless of whether it w a display or a classified advertisement. In terms of the pe centage of sexually oriented advertising, the amounts ranged f 100 percent of the advertising being sex-related as was the c with Club International and High Society, to twenty percent Penthouse and ten percent in Playboy.

Phone sex was the product/service most heavily adverti across these magazines, with forty-nine percent of the adv

tising featuring this service. This was followed by sex explicit video (sixteen percent) and sexually oriented mag (ten percent) advertisements.

Editorial content in these magazines similarly varied being totally or almost totally sex-related (Club Internat had one hundred percent sex-oriented content, followed by Cl with ninety-four percent, Club with ninety-three percent, High Society with ninety-one percent), to having a gre proportion of general interest topics (sixty-seven percer Playboy and sixty percent in Penthouse were on nonsex-re topics).

Pictorial matter generally consisted of a "centerf other photographs of females posed alone, with other females with one or more males, and featured a variety of sexual act ties. The most common of the acts portrayed was that of a female in what the jargon of the trade calls the "split bea shot, a shot of a female with her legs spread apart and in instances, also spreading open her vaginal lips with her finc One in five of the acts portrayed in these magazines were of variety. Nineteen percent of the activities depicted showed type of touching or fondling, followed by oral-genital (tw percent) and sexual activities between two women (nine percer

In 1983, a similar content analysis was carried out on issue of eleven of these magazines by Canadian Nati

Commission studying sexual offenses against children.[189] Included in this analysis were Playboy, Penthouse, Hustler, Gallery, Cheri, Playgirl, Forum, Oui, Club, Swank, and Genesis. The results showed that

- o A large majority of the photographs depicted partial dressed females.
- o The largest category of photographic depictions was f female body parts, primarily breasts, nipples (17%) followed by genitals (14%).
- o The most common sexual act depicted in the text w masturbation (21%) followed by oral-genital contact (14%).
- o The use of force in these textual depictions (anal per tration, bondage equipment, weapons, rape and murde accounted for 10% of the sexual acts depicted.
- o Sexually oriented products featuring children were mo heavily advertised in Hustler magazine.

In 1980, Malamuth and Spinner conducted a more speci analyzed the content of all Playboy and Penthouse cartoons a pictorials from 1973 through 1977.[1891] Pictorial viole

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1890 Committee on Sexual Offenses Against Children a Youths, Sexual Offenses Against Children (1984).

1891 Malamuth and Spinner, A Longitudinal Content Analy of Sexual Violence in the Best-Selling Erotic Magazines, 16 Journal of Sex Research 226 (1980). See also, Miami Heari Vol. II, Judith Reisman, p. 242; A Content Analysis of Playb Penthouse, and Hustler Magazines With Special Attention to Portrayal of Children, Crime and Violence (The Institute Media Education, Judith Reisman 1986); The Playboy Carto Information Delivery System and Client Sexual Exploitation

sexuality was found to have increased significantly over the years analyzed both in absolute numbers and as a percentag the total number of pictorials. However, pictorials r sexually violent were still a small percentage of the t pictorial material, reaching about five percent in l Throughout this period, Penthouse was also found to ha greater percentage of sexually violent cartoons than Pla (thirteen percent versus six percent).

The sexually explicit magazines which are not include the studies discussed above and are primarily available "adults only" pornographic outlets portray masturbation as as group, lesbian, gay, and transvestite sexual activit Actual anal and vaginal intercourse as well as fellatio, cu lingus and sodomy are also prevalent.[1892] There are depict of rape, incest, bondage and discipline, sadomasochism, urina and defecation, bestiality, and simulated sexual activity juveniles.[1893] Additionally, they cater to every type paraphilia which has currently been identified.[1894]

Health Professionals, Sexual Exploitation of Clients by He Professionals (Accepted for publication, A.W. Burgess ed. 198

1892 See, The Imagery Found Among Magazines, Books, F in "Adults Only" Pornographic Outlets discussed in this Pa Los Angeles Hearing, Vol II, Joseph Haggerty, p. 16-66.

1893 Chicago Hearing, Vol. I, Jack O'Malley, p. 106, 1

1894 Paraphilias are psychosexual disorders where "unus or bizarre imagery or other acts are necessary for sex excitement. Such imagery or acts tend to be insistently involuntarily repetitive and generally involve either: preference for use of a nonhuman object for sexual arousal, repetitive sexual activity with humans involving real

In 1982, Dietz and Evans classified 1760 heterosexu pornographic magazines according to the imagery portrayed on t cover photographs.[1895] Four shops were randomly selected fr the 42nd Street district in New York City and every magazir format publication with a female or cross-dress male on the cc was categorized. Depictions of a woman posed alone predomina these covers in 1970, according to the authors, but only c stituted eleven percent of the authors' 1980 sample. Bondage domination imagery was the most prevalent imagery (sevent percent of the covers) while smaller proportions of material w devoted to group sexual activity (10%). The authors sugges that pornographic imagery is an unobtrusive measure of t relative prevalence of those paraphilias associated w preferences for specific types of visual imagery.

In 1985, Dietz, Harry and Hazelwood[1896] analyzed the cont of nineteen detective magazines representing eighteen differ titles from six publishers. The study found that covers ten to juxtapose erotic images with images of violence, bondage, domination. Sadistic imagery accounted for twenty-eight per

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simulated suffering or humiliation, or (3) repetitive se activity with nonconsenting partners. In other classificati these disorders are referred to as "Sexual Deviations." Amer Psychiatric Association, Diagnostic and Statistical Manual Mental Disorders 266 (3d ed. 1983).

1895 Dietz and Evans, Pornographic Imagery and Preval of Paraphilia, 139 American Journal of Psychiatry 1493 (1982).

1896 Dietz, Harry and Hazelwood, Detective Magazi Pornography for the Sexual Sadists? (1985) (available from Dietz, School of Law, University of Virginia).

of the covers and women were most often shown as dominat men. Bondage was depicted in thirty-eight percent of the cc with all the bound subjects females.

The layout of these magazines varies. Most sexu explicit magazines are four color and usually undated. magazines contain all photographs and others have less pl graphs and a few editorials.[1897] Some magazine content: tailored to consumers who prefer less sexually explicit mat and others are produced with predominantly graphic ult: sexual acts or specific paraphilias depicted.[1898] Advertisi generally sexually related and includes advertisements for order sales, sexual devices and paraphernalia, sexually exp videos and telephone sex.[1899]

Law enforcement sources have stated that most of the pr tion work associated with these magazines is done in-house The models are hired, the film is shot and processed, pictorial layout is completed and the magazine is printed within the corporate network.[1901] They believe that thi particularly the case with two major producers of the magaz:

1897 Telephone interview with Sergeant Donald Smith, Angeles Police Department (Mar. 9, 1986).

1898 Id.

1899 Telephone interview with Detective Robert Peters, Angeles Police Department (Mar. 9, 1986).

1900 Id.

1901 Id.

Star Distribution, Inc., and Parliament News.[1902]

In order to determine the extent and nature of pornograp magazines available, the Commission staff conducted a survey pornographic outlets in six major cities in the eastern Unit States. The results of the survey indicated that there were o 2,300 different magazine titles available in these 16 sto alone. For a further discussion of the types of magazines other material surveyed see the discussion of specific mater in Chapter 9 of this Part.

1902 Id.

Distribution

Since the arrival of Playboy magazine in 1953, the m for mainstream sexually explicit magazines has expanded.[1903] growth of these magazines was evident through the early after which time circulation appears to have decl significantly.[1904] Table Four sets forth the thirteer

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[1903] Chicago Hearing, Vol. I, Peter Petruzzellis, 288 conducting our analysis of the most widely circulated sex explicit magazines, the Commission received substan assistance from the Audit Bureau of Circulation (A.B.C.) whi a repository possessing factual information concerning audited circulation of major magazine publications. information made available by the A.B.C. provides the basi estimated changes in the extent, volume and regional distrib of sales from 1975 to 1984. The information also describes minimal market value of a significant portion of the pornogr magazine business in the United States.

The A.B.C. prepares and issues standardized statement circulation, geographical analysis, and other informa reported to it by its membership. It also verifies the fi contained in the members' statements by means of an an auditor's examination of the publisher's records. Finally distributes the above information, without editorial comment.

The A.B.C. publishers' reports are prepared twice annu Publishers submit figures indicating their total sales for month as well as their average circulation for a given six r period. The publishers also submit geographical analyses their total paid circulation based on a one month period.

The A.B.C. records only provide circulation figures sexually explicit magazines which are part of its members A.B.C. records, therefore, are not a comprehensive listing of circulation of all sexually explicit magazines. In addition, list of sexually explicit publications whose circulatio reported by the A.B.C. has changed from time to time. Not sexually explicit magazines surveyed in this section consistently been members of the A.B.C. However, A.B.C. fig were available for nine of the surveyed sexually expl magazines in 1975, for thirteen in 1980 and for ten in 1 Audit Bureau of Circulation Brochure, This is the ABC; Inter with Jackie Kid, Audit Bureau of Circulation (Feb. 10, 1986).

[1904] See, Table Four.

selling mainstream sexually explicit magazines audited by t
A.B.C. and the average monthly circulation for each from 197
1984.

TABLE FOUR

Top Selling Sexually Explicit Magazines

Audited By The Audit Bureau of Circulation***

Average Circulation Per Month For 1975 - 1984

	1975	1976	
Cheri			*
Chic	*		282,221
Club Magazine	*255,146	543,010	738,152
Club International			
Forum	*318,728	466,295	637,416
Gallery	647,173	688,612	700,491
Genesis	*342,589	368,508	373,399
High Society			
Hustler	554,559	1,681,889	1,826,156
Oui	1,276,498	1,166,784	994,737
Penthouse	3,966,109	4,235,021	4,599,903
Playboy	5,663,149	5,388,522	4,914,381
Playgirl	1,061,010	921,061	747,230
Total	14,084,961	15,450,702	15,814,086

* Indicates an initial report. The report is based on second half of the year, starting July 1 of the repo year and ending on December 30 of the same year.

*** The average monthly circulation is based on annual rep made by the Audit Bureau of Circulations (ABC), 123 N Wacker Drive, Chicago, Illinois 60606. Annual reports not available for the publications listed below for years indicated:

Club Magazine - 1984
Club International - 1984
High Society - 1984
Hustler - 1983
Playboy - 1984

The last entries for these publications were calculate taking the average of two six month reports for the yea which the final entries were made. The two six mo periods were from January 1 through June 30, 1984 and July 1 through December 30, 1984.

Table Four (Cont't)

Average Circulation Per Month For 1975-1984

	1978	1979	1980
Cheri		*362,572	395,805
Chic	22,952	294,331	268,340
Club	579,648	529,834	528,192
Magazine Club International			*241,761
Forum	728,028	805,624	721,233
Gallery	661,077	660,302	583,123
Magazine Genesis	382,802	414,506	*361,481
High Society			*443,142
Hustler	1,517,011	1,639,284	1,531,855
Oui	882,066	862,488	780,420
Penthouse	4,367,094	4,429,911	4,542,910
Playboy	4,978,490	5,378,069	5,308,553
Playgirl	625,252	727,259	772,406
Total	14,984,420	16,104,180	16,479,221

* Indicates an initial report. The report is based on t second half of the year, starting July 1 of the report year and ending on December 30 of the same year.

Table Four (Con't)

Average Circulation Month For 1975-1984

	1981	1982	1983	1984
Cheri	443,034	409,958	388,497	360,993
Chic	212,356	164,507	**N/A	**N/A
Club Magazine	539,783	518,463	486,776	463,605
Club International	254,768	242,152	217,214	185,532
Forum	581,917	523,163	500,313	438,132
Gallery	541,065	481,186	484,506	475,321
Genesis	333,588	311,178	273,720	284,897
High Society	448,767	414,729	377,033	360,723
Hustler	1,309,473	1,147,181	1,075,141	**N/A
Oui	731,166	480,615	**N/A	**N/A
Penthouse	4,248,554	4,017,853	3,596,758	3,275,677
Playboy	5,091,266	4,619,572	4,187,452	4,209,824
Playgirl	670,721	650,605	602,499	562,778
Total	15,406,458	13,981,162	12,189,909	10,617,482

* Indicates an initial report. The report is based on second half of the year, starting July 1 of the repor year and ending on December 30 of the same year.

** Indicates information not available due to resignation the client or temporary suspension of service.

Of the three top selling magazines, Playboy, Penthouse, Hustler, Penthouse and Hustler experienced a significant incr in monthly circulation from 1975 to 1980. In 1975, Penthouse a monthly circulation of 3,966,109 and in 1980 this number risen to 4,542,910. In 1975, Hustler had a monthly circul of 554,559 and in 1980, that figure had risen to 1,531,8 Playboy, on the other hand, experienced a slight decreas monthly circulation between 1975 and 1980. In 1975, 5,663 Playboy magazines were circulated each month and in 1980 figure had decreased to 5,308,555. However, by 1983, all experienced a decrease in average monthly circulation; Pla sold 4,187,452, Penthouse sold 3,596,758 and Hustler 1,075,141. Moreover, between 1984 and 1985 most of t magazines again experienced a significant declin circulation.[1905]

The A.B.C.'s Magazine Publisher's Statements provide the issue single copy and subscription prices for the magazines. calculating a total dollar value for these thirteen magazine used the 1982 figures and single copy prices. 1982 was the year that all thirteen magazines were represented by the AB a vast majority of these magazines are single copy sales. dollar value of each magazine was calculated by multiplyin number of magazines sold by the per issue single copy price 1982, the estimated monthly sales value in the United St

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[1905] Media Industry Newsletter, Vol. 39, No. 9(Ma 1986).

alone for these thirteen magazines was approximat $38,602,502.25.

Besides the thirteen magazines discussed above, it has l estimated that there are currently between fifty thousand sixty thousand different sexually explicit magazine tit available in the United States.[1906] In fact hundreds of titles come out each month.[1907] As discussed above, th magazines depict a variety of sexual themes and acts.[1908]

Sovereign News and Star Distributors, Inc., are ma distributors of many of these magazines.[1909] These compan distribute magazines to "adults only" pornographic outlets mail order operations across the country through a sophistica nationwide network.[1910] In those areas of the country serviced by Sovereign News or Star Distributors, smaller s distributors are used to transport the magazines to "adults on pornographic retail outlets.[1911]

At least half of the retail sales of sexually expli

1906 Interview with Sergeant Donald Smith, Los Ange Police Department (Mar. 9, 1986).

1907 Id.

1908 See, The Imagery Found Among Magazines, Books, Fi in "Adults Only" Pornographic Outlets, infra.

1909 Interview with Sergeant Donald Smith, Los Ange Police Department, Mar. 9, 1986.

1910 Id.; Mail order companies can be found in most la cities such as Los Angeles, New York and Chicago as well as s smaller cities. Id.

1911 Id.

magazines are made by pornographic outlets and the remainde
these magazines are sold by mail order.[1912]

The profit margin for producers and distributors of sexu
explicit magazines remains high.[1913] The cost of producing
sexually explicit and non-sexually explicit magazines are sim
at the processing level.[1914] The processing costs range
only sixty cents to one dollar per issue,[1915] but, the pr
margins are vastly different. The non-sexually expl
magazines are often marked up 240 percent from the wholesal
retail levels, while the sexually oriented publications
marked up more than four hundred to five hundred percent.
Retailers in turn mark up the magazines based on consumer su
and demand.[1917] Usually the maximum markup at the retail l
is one hundred percent.[1918]

Sexually explicit magazines are advertised in sexu
explicit paperbacks, tabloids and other magazines. Some of
more mainstream magazines, for example Playboy, also adver

1912 Id.

1913 Los Angeles Hearing, Vol. I, Robert Peters, p. 3

1914 Id.

1915 Id.; Some magazines cost as much as two dollars
produce. Miami Hearing, Vol. I, Mike Berish, p. 91.

1916 Id.

1917 Interview with Detective Robert Peters, Los An
Police Department (Mar. 9, 1986); Interview with Washing
D.C., Metropolitan Police Department Detectives (Mar. 10, 19

1918 Id.

through direct mail, television and in many major city d newspapers and magazines.

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D. CABLE AND SATELLITE TELEVISION

Production

Cable television is a subscription service that fi
appeared in the United States in the 1940s to serve areas wh
broadcast television signals could not be received.[1919]
cable television industry expanded slowly until the 1970s, w
the Federal Communications Commission (FCC) adopte
deregulatory philosophy to allow cable services to offe
greater number of channels and to foster program diversity.[1
Cable subscriptions also increased when satellites were use
cable programming networks to distribute programming to l
cable operators across the country.[1921] As a result of t
developments, cable operators were able to offer programming f
a wide variety of sources.

Today there are over sixty-five hundred cable televi
systems in the United States serving over forty mil
subscribing households.[1922] Cable television is curre
available to seventy percent of the eighty-five mil

1919 Los Angeles Hearing, Vol. I, Brenda Fox, p. 283.

1920 Id.

1921 Id.

1922 Letter from James P. Mooney, President and Ch
Executive Officer, National Cable Television Association to He
E. Hudson, Chairman, Attorney General's Commission on Pornogra
(May 2, 1986).

television households in the country.[1923]

Programs offered by cable companies are distribute subscribers through a closed circuit wire system.[1924] The c wire is strung along utility poles or buried in an undergr conduit and enters the subscriber's home in the same way telephone line.[1925] This differs from broadcast television w transmits its signals through the airwaves to anyone in vicinity with a television.[1926]

While broadcast television stations are required t licensed by the Federal Communications Commission (FCC) c systems are not. They operate based on a contractual agree or franchise with a state or local government body.[1927] Cable Communications Policy Act of 1984[1928] establish national policy regarding the areas of the cable televi industry which are subject to federal, state and l regulation.[1929]

In addition to cable, there are several other type television services including Satellite Master Antenna Televi

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1923 Los Angeles Hearing, Vol. I, Brenda Fox, p. 306-R.

1924 Id. at 306-N-306-O.

1925 Id. at 306-8.

1926 Id. at 282.

1927 Id.

1928 47 U.S.C. S521 et seq.

1929 Los Angeles Hearing, Vol. I, Brenda Fox, p. 306-O-P. See, The discussion of FCC regulatory responsibilities ir Recommendations for Law Enforcement Agencies.

(SMATV), Over-the-Air Subscription Television (STV), Backy Satellite Receiving Dishes (TVRO) and Multipoint Distribut Service (MDS).[1930]

SMATV signals are received by a large antenna and delive to individuals in multiple unit dwellings by wire. The ser is usually provided without charge to occupants of apartn buildings and to hotel and motel guests.[1931] STV signals transmitted over the airwaves in a scrambled mode by a broad station. Viewers in the service area who desire the program must rent a decoding device for their televisions.[1932] The has preempted most state and local regulation of the SMATV STV services.[1933] Backyard satellite receiving dishes (TV are large antenna discs used by individuals to receive satell transmitted programming. Often these discs are used to interc programming that is transmitted via satellite from the ca programers to the local cable operators.[1934] MDS signals prov one to eight channels of programming to subscribers.[1] Subscribers must have a special antenna and signal to receive convert the transmitted signal into a frequency compatible wi

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1930 Id. at 306S-306U.

1931 Id. at 306S-306T.

1932 Id. at 306T.

1933 Id.

1934 Id. at 306U.

1935 Id. at 306-T.

standard television.[1936] MSD is used most commonly in mul unit dwellings and to a lesser extent in single fa residences.[1937]

Individual local cable operators control what progra will be offered on their systems.[1938] One of the l attributes of cable television is "narrowcasting" or prese programming designed for a particular audience, suc children's programs, educational programs, "adults o programs, and foreign language programs.[1939] Most cable sy offer a basic service package consisting of local broad channels and other nationally or regionally distributed cha such as Cable News Network (CNN), Christian Broadcasting Ne (CBN) and the sports channel (ESPN).[1940] Cable systems us offer at least one of the "pay television" channels such as Box Office (HBO), Cinemax, Showtime or the Disney Channel. T channels usually carry unedited movies without commer interruption and are sold to subscribers on a per channel or program basis.[1941] The subscriber pays a monthly fee for basic service and an additional fee for the "pay televis

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[1936] Id. at 386-T -306-U.

[1937] Id. at 306-U.

[1938] Id. at 291. The exception to this rule occurs w under the terms of the cable franchise agreement, cable opera are required to indiscriminately lease channels to the public

[1939] Id. at 284-85.

[1940] Id. at 283-84.

[1941] Id. at 284.

channels.1942

1942 Id. at 286.

Distribution

An analysis of the various forms of television transmi discloses that most of the sexually explicit programs appe "pay television." This programming includes movies that been given an "R" rating by the Motion Picture Associatic America (M.P.A.A.) and self-designated "triple X" films Movies in the "R" category may depict violence, nudity sexuality, and contain sexually explicit or profane language Unedited programs with these ratings are generally not shown regular broadcast television, therefore, cable and sate television programs often contain more sexually explicit sc than those shown over broadcast television. The differenc fare offered over regular broadcast television and cable satellite television is due in part to the different l restriction placed on each. Under current law, regular broac television cannot offer either indecent or obscene prog Cable and satellite programs cannot offer obscene programs, have been permitted to show material that would meet the crit for indecency.

Nevertheless, a significant amount of material appear network television that qualifies as the type of sexual viol

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1943 Id. at 285, 306-X; Los Angeles Hearing, Vol. Charles Dawson, p. 173.

1944 Los Angeles Hearing, Vol. II, Jack Valenti, p. 5 Theatre goers under seventeen must be accompanied by a pare guardian.

that the Commission has found to be the most harmful form pornography. Although the sexually violent material aired network television is probably never legally obscene the cover of breasts and genitals does not render the material any l harmful.

The Commission also recognizes that the nonviolent sex content of network television is offensive to many America Sexually suggestive and provocative attire and performanc sexual humor and innuendo, and themes of adultery, fornicati prostitution, sexual deviation, and sexual abuse are prevalent in broadcast television and treated with vary degrees of sensitivity.

Channels which carry "R" rated programming reach in ex: of 14.5 million homes over sixty-nine hundred cable and S systems.[1945] Instances have been reported where mo represented as having an "R" rating were actually unrated f or even milder versions of "X" rated movies shown in "ad only" pornographic theatres throughout the country.[1946] addition to the sexual activity, the violence depicted in rated movies can also be very explicit. Many times the viole depicted is of a sexual nature.

Other "pay television" channels carry programming that

[1945] Los Angeles Hearing, Vol. I, Brenda Fox, p. 289.

[1946] Citizens for Decency Through Law, Cable Pornogra Problems & Solutions 2(Jan. 1985).

exclusively "adult oriented" or sexually explicit.[1947] One
channel began in December of 1980 and currently has over se
hundred thousand subscribers over five hundred eighty ca
television systems.[1948] The channel's sexually explicit prog
are shown during the hours of 8:00 p.m. and 6:00 a.m.
addition to "R" rated movies, the channel programming incl
original adult programs and unrated movies.[1949] For exam
this channel has shown a version of the movie "The Opening
Misty Beethoven", which, in at least one version, has b
declared legally obscene.[1950]

In addition to this channel, there are two satell
delivered networks which distribute sexually oriented programs
cable and satellite systems. One of the networks began operat
in January of 1985 and delivers sexually explicit movies o
both cable and satellite television. Its programs are sh
between 11:00 p.m. and 4:00 a.m. over six cable systems.[1951]

Another network shows "triple X", unedited ad
programming.[1952] A "triple X" rating is attached by the mc

1947 Los Angeles Hearing, Vol. I, Brenda Fox, p. 306-Y.

1948 Id.

1949 Id.

1950 Los Angeles Hearing, Vol. I, James Clancy, p. 345
See, Trans-Lux Theater v. People ex rel. Sweeton, 366 So. 2d
(Ala. 1979) (finding "The Opening of Misty Beethoven" to
obscene).

1951 Los Angeles Hearing, Vol. I, Brenda Fox, p. 306-Z.

1952 Los Angeles Hearing, Vol. II, Charles Dawson, p. 1

producer and generally covers the same material as the "X" ra but is meant to connote very explicit fare.[1953] This network been in existence since 1983 and its programs are shown to 26 subscribers over eleven cable and satellite systems.1954

There are two other potential sources of sexually expl programming over cable: local origination and access chann Cable industry representative Brenda Fox, testified before Commission that the National Cable Television Association (N knows of only one system that locally originates "X" rated mo on a pay-per-view basis.[1955] However, she recognized that t may be other systems that locally originate sexually orie programs on a per-channel or per-program basis.[1956]

In the area of leased access channels, Ms. Fox stated the cable operators have no editorial control over the less programming.[1957] For example, pursuant to federal, state local laws, Manhattan cable is required to set aside a numbe channels for use by the public on a first-come, first-se basis.[1958] The cable operator must offer the "access" chan

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[1953] Los Angeles Hearing, Vol. II, Jack Valenti, p. 12-

[1954] Los Angeles Hearing, Vol. I, Brenda Fox, p. 306-Z.

[1955] Los Angeles Hearing, Vol. I, Brenda Fox, p. 306-Z.

[1956] Id.

[1957] Id. at 306-AA.

[1958] Letter from Ralph P. Davidson, Chairman of the Bo Time, Inc. to Alan E. Sears, Executive Director, Attor General's Commission on Pornography 3-4(Mar. 14, 1986).

to all applicants on a non-discriminatory basis.[1959] This requirement has resulted in late night sexually explicit pro which are available to all cable subscribers.[1960] One pro Midnight Blue, shows sexually explicit fare over the Manha cable television system owned by TIME, Inc. Midnight Blu produced by Al Goldstein, publisher of Screw magazine.[1961] I P. Davidson, Chairman of the Board of Time, Inc., addressed Commission:

> "Midnight Blue". Although Midnight Blue appears on Manhattan Cable Television, a subsidiary of Time Inc., we would like the record to be clear and unambiguous--Midnight Blue is not now nor has it ever been a program of Manhattan Cable. It is a program created locally by an unaffiliated third party which is carried on one of Manhattan Cable's commercial "access" channels.
>
> There should be no misunderstanding -- Manhattan Cable would not carry Midnight Blue in the absence of state, local and federal requirements that it do so. Manhattan Cable is required by federal, state and local law to set aside a number of channels for use by the public on a first-come, first-served basis. Further, Manhattan Cable is prevented by law from exercising any editorial control over the content of commercial access programming, unless such programming is legally "obscene." The current obscenity law in New York is based on the "community standards" criterion set forth by the United States Supreme Court in Miller. It should be noted that Manhattan Cable operates in a community (the southern half of Manhattan) which is generally regarded as among the most tolerant in the country of adult material.
>
> As you are undoubtedly aware, Section 612(h) of the

1959 Los Angeles Hearing, Vol. I, Brenda Fox, p. 306-A

1960 Id.

1961 Los Angeles Hearing, Vol. II, Al Goldstein, p. While the NCTA believes that Midnight Blue is an isolated c there is no guarantee that a similar situation will not occu other cable systems.

> Cable Communications Policy Act of 1984 imposes responsibility for policing the content of commercial access programming on the franchising authority, which in the case of Midnight Blue is New York City. Time Inc., would welcome any Commission recommendations that would enable cable operators to exercise full editorial discretion over such access programming. We can assure you that, if this were done, Midnight Blue would be removed from Manhattan Cable.1962

As mentioned above, in addition to the cable transmitte television channels, "X" rated and other sexually explicit m are also available on direct satellite channels. Some of th rated movies shown over satellite television[1963] include Opening of Misty Beethoven,"[1964] "Sex Wish," "Easy," "Talk I to Me," "Vista Valley PTA," "Insatiable," "Taboo," "Insati II," and "The Devil in Miss Jones."[1965] Although cit complaints about obscene programming have been filed with Federal Communication Commission, no action has yet been take regulate this programming.[1966]

Cable television operators have taken some precaut regarding the showing of sexually explicit programs.[1967]

[1962] Letter from Ralph P. Davidson, Chairman of the Bo Time, Inc., to Alan E. Sears, 3-4(Mar. 14, 1986).

[1963] See, Film World, X-Rated Movie Handbook, Vol. 2, 8(1986).

[1964] See, Trans-Lux Theatre v. People ex rel. Sweeton, So. 2d 710(Ala. 1979) (this movie was found legally obscene).

[1965] Los Angeles Hearing, Vol. I, James Clancy, p. 345.

[1966] Id. at 314.

[1967] Los Angeles Hearing, Vol. I, Brenda Fox, p. 287.

cable programmers and operators offer detailed program gu giving specific information about the content of upco programs.[1968] Some provide on-screen notices or warnings be sexually explicit programs are shown.[1969] Most operators l such programming to the late evening hours and transmit material in a scrambled mode to ensure against inadver reception by non-subscribers.[1970] Finally, all cable systems required by federal law[1971] to provide lockboxes, upon requ for either lease or sale. This device enables a subscribe lock out a particular channel or channels during cer periods.[1972]

1968 Id.

1969 Id.

1970 Id.

1971 47 U.S.C. S544 (d)(2)(A).

1972 Los Angeles Hearing, Vol. I, Brenda Fox, p. 287-88.

E. DIAL-A-PORN

Production

In the 1920s, the Bell Telephone Company began provi recorded messages which gave the time of day and weather tc customers. The technology developed for such message serv enabled Bell to provide these services at reduced costs bec an operator did not have to handle the calls and give information.[1973] Such recorded messages were called "Dial services.

By the 1970s, this service had expanded and incl recordings such as dial-a-joke and sports score lines.[1974] telephone company was solely responsible for the cont distribution and advertising of the recorded messages.1975

In the early 1980s, the Federal Communications Commis ruled that providing information by recorded messages w service beyond the permissible scope of the telephone compar authority.[1976] As a result of this ruling, the entire telep Dial-it service network was transformed.

Today, the delivery of all recorded message serv involves two entities: the information provider, which

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1973 Los Angeles Hearing, Vol. I, William Dunkle, p. 24

1974 Id. at 249.

1975 Id.

1976 Id.

responsible for the content, distribution, and advertising o message; and, the telephone company, which is responsible transmitting the calls and billing the caller.[1977]

The recorded messages referred to as "Dial-A-Porn" beg 1982 after the deregulation of the Dial-it service.[1978] Wit advent of telephone deregulation, some telephone companies holding lotteries to select providers of recorded message Dial-it services. One provider or Dial-A-Porn Services w winner in the lottery conducted in New York State and by Feb of 1983 was offering Dial-A-Porn services over three telep lines. It had acquired the lines either through the lo process or by leasing them from other lottery winners.[1979] this company has become one of the leading providers of Di Porn services, there are now many other Dial-A-Porn provide the market.[1980]

There are two types of Dial-A-Porn calls.[1981] The fi involves the customer dialing a number and carrying on a

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[1977] Id.

[1978] Los Angeles Hearing, Vol. I, Brent Ward, p. 228. B Ward has been the United States Attorney for Utah since 1981. recently represented the United States in FCC v. Ca Communications. In this case, an investigation was condu which resulted in a judicial proceeding. Witnesses and evi were subpoenaed regarding the Dial-A-Porn industry in general the defendant in particular.

[1979] Id.

[1980] Los Angeles Hearing, Vol. I, Teresa Hillman, p. 388A-6; Los Angeles Hearing, Vol. I, Brent Ward, p. 227.

[1981] Id.

conversation with a paid performer on the other end of the li The performer who answers the call will talk to the caller terms as sexually explicit as the caller desires and encourage him to perform sexual acts during the course of phone conversation.[1982] The call may last up to forty-f minutes and the caller is billed on his credit card for an am usually between fifteen and thirty dollars.[1983]

The second type of Dial-A-Porn call involves the receip a pre-recorded message when the caller dials the design number.[1984] These calls are a part of the Mass Announce Network Service (MANS) and all begin with the prefix "976."[1985] MANS recorded messages provide other information such as pray racetrack results, weather forecasts, sports scores, time of and children' stories.[1986] The caller is charged for each to this service on his other monthly telephone bill.[1987]

The Dial-A-Porn recorded messages often consist of ve illustrations of sex acts. These acts are frequently descr by the performer as though they were actually occurring dur the call with the caller and the performer was an act

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1982 Id.

1983 Id.

1984 Id. at 228.

1985 Id. at 228.

1986 Id.

1987 Id. at 230.

participant in the acts.[1988] The acts described may ir lesbian sexual activity, sodomy, rape, incest, excr functions, bestiality, sadomasochistic abuse, and sex acts children.[1989] One Dial-A-Porn number in California,[1990] o the caller a choice of five "pleasures" including descriptio sadomasochistic abuse, urination, and anal intercourse.[1991]

[1988] Id. at 231.

[1989] Id.

[1990] The telephone companies have issued such numbe 976-FOXX, 976-4LUV, 976-SLUT and 976-LUST upon the request Dial-A-Porn provider. These numbers not only indicate nature of the 976 service but are memorable numbers as well.

[1991] Los Angeles Hearing, Vol. I, Teresa Hillman, p. Flesh Fantasy News Paper, Vol. XIII, No. 23, Issue, No. 612 9, 1985).

Distribution

Dial-A-Porn recordings are now available locally in York, Los Angeles, San Francisco, Philadelphia, Denver, Pit burgh, Baltimore, Washington, D.C., and other major cities ac the country.[1992] These services generate large numbers of ca

Many Dial-it providers can communicate fifty-seven se messages to a maximum of 50,000 callers per hour without caller receiving a busy signal.[1993] During one day in May 1983, eight hundred thousand calls were placed to one sexua explicit recorded message service.[1994] In the year end February 28, 1984, 180 million calls were made to the s numbers. [1995]

In 1984, Dial-A-Porn recordings represented forty-f percent of the twenty-seven million messages on the "9 exchanges offered by Pacific Bell.[1996] This figure dropped twenty-seven percent in 1985, but was due to an increase in volume of other "976" offerings.[1997]

Dial-A-Porn providers and the telephone companies real

[1992] Los Angeles Hearing, Vol. I Teresa Hillman, p. 380; Angeles Hearing, Vol. I, Brent Ward, p. 229.

[1993] Los Angeles Hearing, Vol. I, Brent Ward, p. 228.

[1994] Id.

[1995] Id.

[1996] Los Angeles Hearing, Vol. I, William Dunkle, p. 25

[1997] Id.

significant revenues from the Dial-A-Porn services. Wh caller is charged on his monthly telephone bill for prerec Dial-A-Porn messages, the provider of the message and telephone company divide the revenues according to t tariffs.[1998] The telephone company generally earns from t nineteen cents for a one-minute call[1999] with the remainder to the Dial-a-Porn provider.

In New York, one Dial-A-Porn provider earns two cents call and the telephone company earns 9.4 cents.[2000] California, Dial-A-Porn providers earn $1.26 per call whil telephone company earns seventy-four cents.[2001] In some areas, Dial-A-Porn providers earn $1.45 per call while telephone companies receive fifty cents.[2002] At two cent call in New York City, one major Dial-A-Porn provider e sixteen thousand dollars a day and a total of $3.6 millio the year ending February 28, 1984.[2003] The telephone compan the state of New York has earned as much as thirty-five tho dollars a day from Dial-A-Porn calls.[2004] Pacific Bell esti

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1998 Los Angeles Hearing, Vol. I, Brent Ward, p. 229.

1999 Id.

2000 Id.; Los Angeles Hearing, Vol. I, Teresa Hillman 380.

2001 Los Angeles Hearing, Vol. I, Teresa Hillman, p. 3

2002 Los Angeles Hearing, Vol., I, Brent Ward, p. 229.

2003 Id.

2004 Los Angeles Hearing, Vol. I, Judith Trevillian, p.

that their company earned twelve million from Dial-A-Porn ca between October 1984 and October 1985.[2005]

Not all Dial-A-Porn call are local calls. Eighty percent the calls made to Dial-A-Porn recordings provided by one ma service in New York are local calls and twenty percent are l distance.[2006] A direct long distance call from Michigan t Dial-A-Porn number in New York costs the caller fifty-eight ce per message during the day, thirty-four cents per message a five o'clock in the evening and twenty-three cents per mess after eleven o'clock at night.[2007]

Telephone companies face a dilemma as a result of the ra rise of Dial-A-Porn. The telephone companies support the M concept as a means of providing information to the public earning revenues to help keep basic telephone rates down.[2 However, they have been subjected to mounting public critic for helping to provide sexually explicit messages to anyone can dial the assigned number.[2009]

In response, some companies have taken legal action agai Dial-A-Porn providers. For example, one telephone company h refused to offer Dial-A-Porn services at an estimated reve

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2005 Los Angeles Hearing, Vol. I, William Dunkle, p. 259.

2006 Los Angeles Hearing, Vol. I, Brent Ward, p. 229.

2007 Los Angeles Hearing, Vol. I, Judith Trevillian, p. 2 74.

2008 Los Angeles Hearing, Vol. I, William Dunkle, p. 250.

2009 See generally, Los Angeles Hearing, Vol. I, Tere Hillman; Los Angeles Hearing, Vol. I, Judith Trevillian.

loss of five hundred thousand dollars per year.[2010]

One telephone company recommended to the Commission sev steps to alleviate the growing Dial-A-Porn problem. It prop that all advertising clearly and plainly disclose the cost of telephone call.[2011] If an individual is unaware of the cha or if a child makes an unauthorized call, the company sh offer a one-time adjustment of the telephone bill to delete charges.[2012] They also suggested that a telephone subscr could have "976" access "blocked" from his or her lines.[2013]

The advertising of Dial-A-Porn numbers has become pervas In the San Francisco area, Dial-a-Porn numbers are listed ir white pages of the telephone directory under "Dial-It" and ir yellow pages under "Recorded Announcements."[2014] Listings u the San Francisco yellow pages heading include "Adult Fanta "Gay Phone" and "High Society."[2015]

In addition to telephone directories, the numbers are openly advertised in sexually explicit magazines and tablc For example, the June 1985 issue of one leading sexually expl

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2010 Los Angeles Hearing, Vol. I, Judith Trevillian, p.

2011 Id. at 253.

2012 Id. at 254.

2013 Id.; See, The discussion in recommendations for Enforcement Agencies for more information about the legal is surrounding Dial-A-Porn.

2014 Los Angeles Hearing, Vol. I, Teresa Hillman, p. Los Angeles Hearing, Vol. I, Brent Ward, p. 229.

2015 Los Angeles Hearing, Vol. I, Teresa Hillman, p. 388

magazine contained ten pages of Dial-A-Porn advertisements.2
Many of these publications are sold on the public streets w
the Dial-A-Porn numbers openly displayed.2017

Dial-A-Porn numbers have also been advertised in a ma
California newspaper, although many newspapers have now disc
tinued the advertisements.2018 In addition, Dial-A-Porn numb
are found in magazines in convenience stores and newsstands
are passed around among children and even written on walls.201

Moreover, some Dial-A-Porn advertising is deceptiv
Advertisements often refer to "free phone sex" or "free lo
when in fact the caller is charged on their telephone bill
they make the call.2020 This misapprehension is especia
common among younger callers and minors.2021

2016 Los Angeles Hearing, Vol. I, Brent Ward, p. 230.

2017 Los Angeles Hearing, Vol. I, Teresa Hillman, p. 383

2018 Los Angeles Hearing, Vol. I, Teresa Hillman, p. 383

2019 Los Angeles Hearing, Vol. I, Brent Ward, p. 231; Angeles Hearing, Vol. I, Teresa Hillman, p. 377.

2020 Id. at 384-5; Los Angeles Hearing, Vol. I, Brent Wa p. 230; Los Angeles Hearing, Vol. I, Judith Trevillian, p. 26

2021 Los Angeles Hearing, Vol. I, Brent Ward, p. 230. 1985 Dr. Victor Cline conducted research involving fourt children (eleven boys and three girls) and their parents on effects of Dial-A-Porn on children. He found that each of children displayed an addictive behavior toward the Dial-A-P recordings. Cline reported that none of the children stop placing the calls until they were admonished by their par upon discovery of the practice. The research also concluded the children retained very vivid and recurring memories of Dial-A-Porn recordings. Cline observed that the child exhibited characteristics of embarrassment, guilt and shame ab their involvement with Dial-A-Porn. Cline suggested that long-term effects of the Dial-A-Porn experiences may be the m

F. COMPUTERS

Production

The personal home computer provides individuals wit extraordinary new form of communication and information acc Providers of sexually explicit materials have taken advantag this new technology by making computer subscription service most recent advance in "sexually explicit communications."

In order to set up a computer information service, information provider must have a computer facility with capability of handling a number of incoming calls to the in mation service. The computers used by information providers cost from twenty to thirty thousand dollars for a micro-comp (which can handle approximately ten calls at one time) to t share computers costing one hundred thousand dollars or (which can handle significantly more calls). The basic cos providing an information service of any type depends on magnitude and complexity of the service offered. Comp services offering sexually explicit communications run the g from small bulletin board operations to large scale multifac services.

The types of information provided also vary. The comp services are similar to Dial-A-Porn telephone services[2022]

2022 See, Section E for a complete discussion of Dial-A-P

that some offer live conversations with an employee of service, pre-recorded messages or an open line where individ can communicate with other subscribers. Sexually expl services may offer one or all of these features. Other, gen information providers may offer open "adult" channels w subscribers can carry on sexually explicit conversations others on the system.

Distribution

Communicating by personal computer requires stan computer equipment. Computer communications require a pers computer (PC), a modem[2023] and access to a standard telep line.[2024] The computer operator needs only a rudimen knowledge of the equipment for effective communication.[2025]

The computer operator may subscribe to the services of of many computer information firms. These firms provide ac to their computer system for a fee.[2026] Once a computer fir selected, the operator must acquire a working knowledge of systems commands to operate the computer effectively. T firms provide a manual which explains the system's command the operator following his or her subscription to t service.[2027]

The computer firms offer a wide variety of communica services and provide varying degrees of privacy and security.

2023 A modem is an inexpensive device which connects computer to the telephone system and allows the personal comp access to computer information systems. A modem can b separate device that sits alongside your computer, or it ca an electronic board built inside the machine.

2024 Miami Hearing, Vol. I, Paul Hartman, p. 117A4.

2025 Id.; The owner's manual is supplied by the comp company and explains the mechanics of operations in detail. I

2026 Id.

2027 Id.

2028 Id. at 117A4 - A5.

The firms may offer subscribers access to electronic "bull boards" where individuals have the opportunity to publicly p and read messages.[2029] These messages are accessible to subscribers.

Firms may also offer a feature which permits one subscr to send a confidential message to another subscriber.[2030] service is similar to mailing a letter directly to anot person. The message is sent by computer and received only by person for whom the message is intended. The sender directs messages to the recipient by routing them to the recipie assigned identification number.[2031]

Many computer companies offer a "conference" feature w enables three or more subscribers to engage i conversation.[2032] Conferences can be monitored by any subscr to the service and afford no measure of privacy to particip in the dialogue.[2033] This is analogous to the Citizens radio network that can be monitored by anyone with a CB radic

Computer services generally charge an initial subscrip fee and a users' fee based upon the time of day and amount

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2029 Id. at 117A4.

2030 Id. at 117A5.

2031 Id.

2032 Id. at 117A6.

2033 Id.

computer time the subscriber uses.[2034] The initial fe usually between thirty-five and one hundred dollars and user range from fifteen to twenty-five dollars per hour.[2035]

Sexually explicit computer subscription services are available. One sexually explicit magazine, in January of 1 began what they advertise as an "uncensored erotic" ser called SEXTEX.[2036] This service offers an array of feat

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[2034] The two largest home computer information servi CompuServe and The Source, operate in this manner. Telep interview with CompuServe and The Source sales representati (March 6, 1986).

[2035] Bane, X-Rated Computers, Genesis 76, 80(Jan. 1984)

[2036] SEXTEX is the only service offered by CVC Online New York. SEXTEX is synonymous with "COMPUSEX". Interview Chris Rogers, sales representative, CVC Online (Mar. 6, 1986)

In the July 1985 issue of High Society an article discus SEXTEX described the following as examples of SEXTEX comm cations.

> "Here's just a taste of the kinds of carnal conversations that go on every night with SEXTEX":
>
> Phone: How about sitting on my face?
> Ultima: First tell me how really great you are at eating pussy.
> Phone: I like to take things slow, I start by rimming around your pussy with long strokes.
> Ultima: That sounds great, I'm already getting wet.
> Phone: I like to tease until I see the sweet juice start to run out of your pussy.
>
> -
>
> Slick: You said a mouthful? While you've got your big shaft between my beautiful knockers you can stick the head of it in my mouth. Will you let me suck it and swallow the cream?
> Lust: I sure will! I'm going to blow a load any minute. How's your pussy? I'll hold off for you.
> Slick: I've got my fingers working on it

including: (1) conference calls with unlimited parties, (2
"sex shop" that allows the operator to purchase sexual devi
sexually explicit magazines and video tapes by computer,
bulletin boards where the operator can post related messages
other subscribers to read and/or respond to, (4) an electr
mail service which allows one subscriber to send personal m
to other SEXTEX users and to other computer information serv
(5) A "Guide" which features articles on sex and travel, and
the opportunity to place or answer a personal ad or seek
sexual advice.[2037]

The privacy of all communications is stressed by SEXTE
indicated in their advertisements:

> Your privacy is of paramount importance to us. SEXTEX has a password system that prevents unauthorized access, and you can change your password anytime you want. Your real identity need never be revealed; you will be known only by a user-name you select. Each SEXTEX transaction is strictly confidential. Information is used only to process the transaction and cannot be monitored even by us. The name SEXTEX will never appear on any bill. Your credit card statement

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> frantically, but I wanna hold out a little longer.
>
> Lust: Do you wanna come in my mouth?
>
> Slick: Do you wanna come all over my titties and pretty face? Maybe I should get out my instant camera so I can take a picture of your cum shooting out.
>
> Lust: Do you really have a camera? I think the keyboard would look great covered with your cum.

Getting User Friendly with Computer Sex, High Societ
(July 1985).

2037 Id. at 6-7.

will simply read "Video-tex Services."[2038]

SEXTEX subscribers are asked to sign a written contract w they apply for the service. This contract states that applicant is eighteen years of age or older and that he will let anyone under eighteen use the service.[2039] However, there no indication that the computer services engage in any indep dent age verification for users or subscribers.[2040] The lack verification permits young computer users and computer hack easy access to the system.

Billing for SEXTEX services is currently done on subscriber's credit card account.[2041] Alternate forms of paym (i.e. cash and checks) may be accepted in the future.[2042]

There are also a number of sexually oriented national local bulletin boards systems.[2043] GENDERNET describes itself

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[2038] SEXTEX Brochure received by Commission February 1986 by CVC Online Inc.

[2039] Id.

[2040] CVC Online representative Chris Rogers stated that application asks for the date of birth but no independ verification is sought. They rely on the fact that credit ca are needed for billing as a deterrent to under age subscribe Interview with Chris Rogers, sales representative, CVC On (Mar. 6, 1986).

[2041] SEXTEX Brochure received by Commission February 1986 by CVC Online, Inc.

[2042] CVC Online Representative Chris Rogers stated that s time in the future alternative methods of payments may available. Interview with Chris Rogers, CVC Online sa representative (Mar. 6, 1986).

[2043] Carr, Type Dirty to Me, Playboy 174(Mar. 1985).

an "information source for the transvestite and transsexual." ODYSSEY II is designed for nudists and swingers.[2045] SYSLAV known as "the kinkiest in L.A."[2046]

Sexually explicit computer subscription services bulletin boards are often advertised in sexually expl tabloids and magazines. Some are advertised through newsle or direct mail.

Sexually oriented computer communications are not limite subscription services offered by pornographers. Any two comp operators with compatible systems can carry on a sexu oriented conversation. Moreover, one of the largest pers home computer information networks with over 250,000 subscri offers its own "Adult Channel."[2047] This designated chann one of several conference channels offered by the comp network.[2048] Subscribers may use the "Adult Channel" a introduction and then continue private conversations elsewhe the network by a simple system command.[2049]

Computers have also emerged as a method of communica

2044 Id.

2045 Id. at 175.

2046 Id. at 176.

2047 "X"-Rated: The Joys of CompuSex, Time (May 14, 1

2048 Id.

2049 Id.

between pedophiles about child victims.2050

2050 This issue is specifically addressed in Chapter 3 Part Three, discussing child pornography.

M. OTHER MATERIALS SOLD IN PORNOGRAPHIC OUTLETS

Production

There is a wide variety of sexual devices and sex oriented paraphernalia available in the United States. Institute for the Advanced Study of Human Sexuality, attempt to collect and catalogue these devices, estimated there were at least five thousand different "sexual enhan that had been marketed in the United States.[2051]

Sexual devices and paraphernalia which can be purchas many "adults only" pornographic outlets or through mail include: dildos, penis rings, stimulators, french tick aphrodisiacs, inflatable dolls with orifice police and detective equipment.[2052] Some are purchase internal use while others are bought for external stimulatio

There are also sexual devices and paraphernalia designe specific types of sexual activity. For example, there products specifically designed for sadomasochistic se activity. Such products include masks, whips, chains, manac

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2051 Los Angeles Hearing, Vol. I, Ted McIlvenna Loretta Haroian, p. 224E.

2052 Id. The Commission received reports rega individuals that used such "police" equipment to assis obtaining access to victims of sexual abuse and/or rape; See, Imagery Found Among Magazines, Books, Films in "Adults O Pornographic Outlets in Chapter 9 of this Part.

clamps and paddles.2053

The majority of sexual devices and paraphernalia produced offshore at the request of suppliers in the Uni States.2054 The manufacture of these products is of subcontracted out to locations in the Orient because labor available at a substantially reduced cost.2055 After products are made, they are shipped to suppliers in the Uni States.

The largest supplier of sexual devices and paraphernalia country is alleged to be Reuben Sturman through his "Doc Johns line of products.2056 "Doc Johnson" products account for seve to seventy-five percent of the sexual device and parapherna market.2057 The remainder of the market is mostly made up

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2053 Other sadomasochistic sexual devices include orif spreaders, testicle harnesses, body harnesses, branding iro penis stretchers, crosses, enema bags, hand cuffs, rubber ha for anal insertion, underwear with openings for sexual usa hoists, horse penises, leather straight jackets, lock restrain mace, pins, racks, rectal catheters, restraining tables, stoc breast chains, and nipple clamps. See, The Imagery Found Am Magazines, Books, Films in "Adults Only" Pornographic Outlets Chapter 9 of this Part.

2054 Interview with Ted McIlvenna, President, Institute for the Advanced Study of Human Sexuality (Feb. 1986); Interview with Sergeant Don Smith, Los Angeles Pol Department (Mar. 9, 1986).

2055 Some small scale manufacturing of these produ still goes on in the United States. Id.

2056 Interview with Sergeant Don Smith, Los Angeles Pol Department (Mar. 9, 1986). For further information about Rueben Sturman operation, see, The discussion of the organi crime influence, in Chapter 4 of this Part.

2057 Id.

smaller specialty companies.2058

2058 Id.

Distribution

The Sovereign News Company, which is owned and operate Rueben Sturman and headquartered in Cleveland, Ohio, alleg distributes the majority of "Doc Johnson" and other sexual de and paraphernalia products.[2059] Sovereign News has eighty- to ninety major "news agencies" or distributorsh nationwide.[2060] Each distributorship has a different com name and handles a designated region of the country.[2061] Of they are operated by a local person who has been formally tra at the Sovereign News facility in Cleveland.[2062]

These distributors provide approximately 12,000 of 14,000 to 15,000 pornographic outlets within the United St with "Doc Johnson" and other products.[2063] In those few area the country that the Sovereign News network does not cover, products are sold to sub-distributors who then sell to retai in their area.[2064] Most of the distributors use trucks or tr

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2059 For further information on the Rueben Stu operation See, The discussion of organized crime in Chapter this Part.

2060 Id.

2061 Id.

2062 Id.

2063 Id.; Some sources estimate the number of "adults o pornographic outlets to be sixteen thousand. Los Ang Hearing, Vol. II, Dennis Sobin, p. 259.

2064 Interview with Sergeant Donald Smith, Los Ang Police Department (Mar. 9, 1986).

to transport the materials.[2065]

In essence, the supplier and the distributor are one in t same for this product line at pornographic outlets. Moreove Reuben Sturman owns numerous pornographic outlets across t country.[2066] In some instances, then, he supplies, distribut and sells his own products.

Most of the "adults only" pornographic outlets in the Unit States carry sexual devices and paraphernalia as part of th general stock and account for approximately fifty percent total sales of these products.[2067] Sexual devices and paraph nalia are sold along with sexually explicit magazines, paperb books, periodicals, videos and films.

The remainder of these products are distributed through m order operations.[2068] Advertisements for such goods are found sexually explicit paperback books, magazines and tablo nationwide.[2069] Sometimes, these products are advertised thro direct mail.

2065 Interview with Ted McIlvenna, President, Institute the Advanced Study of Human Sexuality (Mar. 8, 1986).

2066 Interview with Detective Robert Peters, Los Ange Police Department (Mar. 9, 1986).

2067 Interview with Ted McIlvenna, President, Institute f the Advanced Study of Human Sexuality (Mar. 8, 1986).

2068 Cook, The "X"-Rated Economy, Forbes 81(Sept. 1 1978); Interview with Ted McIlvanna, President, Institute for t Advanced Study of Human Sexuality (Mar. 8, 1986).

2069 See, The Imagery Found Among Magazines, Books, Fil in "Adults Only" Pornographic Outlets in Chapter 9 of this Part

H. PAPERBACK BOOKS

Production

The volume of sexually explicit paperback books which been published is tremendous. The 1970 President's Commissi Obscenity and Pornography estimated that approximately thousand new "adult" titles were published each year.[2070] R studies of this segment of the industry suggest that while doubtful that five thousand sexually explicit paperback still published each year, the actual number published is large.[2071]

Two major publishers of sexually explicit paperback Star Distributions, Inc., and Greenleaf Classics.[2072] Distributors, Inc., is located in New York City and is alleg be controlled by Robert Dibernardo.[2073] Greenleaf Classic

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2070 Sampson, Commercial Traffic in Sexually Orie Materials in the United States (1969-1970), in 3 Technical Re of the Commission on Obscenity and Pornography 98(1971).

2071 Eisenberg, Toward a Bibliography of Erotic Pulps J. of Popular Culture 175, 176(1982); See, The Imagery I Among Magazines, Books, Films in "Adults Only" Pornogra Outlets, infra.

2072 Interview with Daniel Eisenberg, Modern Languages Linguistics Department, Florida State University (Apr. 10, 19

2073 See, The discussion on organized crime influenc the pornography industry for more information on Ro Dibernardo and Star Distributors, Inc.

located in San Diego, California.2074 William Hamlin Greenleaf's director in 1971, was convicted of obscenity violations for publishing the Illustrated Report of the President's Commission on Obscenity and Pornography.2075

The content of sexually explicit paperback books is similar to the content of any other sexually explicit medium.2076 Incest, sadomasochism, bondage and discipline, bestiality and sexual acts involving children are all common themes in these books.2077 Current paperbacks available include titles such as Suckalot Wife, Grandma's Horney Visit, Daddy's Sweet Slut, Hot Wet Nun, Transvestite in Chains, Vietnamese Pleasure Girls, Rape High School, Rhonda's Trained Dobermans, Pony for Daughter and Tying up Rebecca.2078

Paperback books often are developed as part of a series.2079 Such series include Siren Slavegirls, Tales of Terror, Pedophilia in the American Family, Incest Tales, and Forbidden Fantasies.2080

The cover of these paperbacks is often illustrative of the

2074 Eisenberg, Toward a Bibliography of Erotic Pulps, J. of Popular Culture 175, 179 (1982).

2075 Id. at 180.

2076 See, The Imagery Found Among Magazines, Books, Film in "Adults Only" Pornographic Outlets in Chapter 9 of this Part

2077 Id.

2078 Id.

2079 Id.

2080 Id.

contents.[2081] I Want All Night Abuse pictures a kneelinc about to whip a partially nude, large-breasted woman wh bound, gagged and crying.[2082] Naughty Family Urges depicts nude men and two nude women involved in orgy-like se activity.[2083] Kneeling for Daddy depicts the back view muscular man from the waist down including the buttocks genitals. A pigtailed girl with one breast exposed and holdi lollypop can be seen through his legs.[2084]

The paperback books are very detailed in their descript of sex-related themes and acts and are often written a elementary school reading level.[2085] The books are usu between one hundred and two hundred pages long and have re cover prices of $2.95 to $4.95.[2086]

These books generally do not provide specific informa about the authors of the books.[2087] Many books do not include the name of the author.[2088] And, when the author's

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2081 Id.

2082 Id.

2083 Id.

2084 Id.

2085 Id.

2086 Id.

2087 Interview with Daniel Eisenberg, Modern Languages Linguistics Department, Florida State University (Apr. 10, 19

2088 Id. This is particularly true with Star Distribut Id.

is given, many times this name is fictitious.2089

The majority of publishers care little about the litera quality of these paperbacks and pay authors small lump s amounts of five hundred dollars per book or employ in-hou authors on salary who write these paperbacks full time.2090

Many sexually explicit paperback books conta advertisements on the back cover or the inside flap.2091 T advertisements may be for sexually explicit paperbac magazines, or sexual devices and paraphernalia.2092 So paperbacks also have personal advertisements.2093 Person advertisements often contain names and addresses or may use confidential number postal exchange system for correspondei with the individual described in the advertisement.2094

These paperbacks also contain order forms for the s related products shown in the advertisement.2095 When orderi

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2089 Eisenberg, Toward a Bibliography of Exotic Pulps, J. of Popular Culture 175, 176(1982).

2090 Id. at 181.

2091 See, The Imagery Found Among Magazines, Books, Fi in "Adults Only" Pornographic Outlets in Chapter 9 of this Par

2092 Id.

2093 Id.; One such advertisement read: "Animal of Acti Sexy Model has those hard to find and elaborate poses availabl Tell her what you want to see, from golden showers, slave master, animals and action or bi-scenes, I ah, should I say I c pose anyway you want, live or in person or by mail. Send $10 cash with your order."

2094 Id.

2095 Id.

the purchaser is required to sign a release on the form th states he or she is over age of eighteen.[2096] The product personal advertisement orders may be paid for by cash, chec money order, or credit card.2097

2096 Id.

2097 Id.

Distribution

Star Distributor is not only a major publisher, but al major distributor of sexually explicit paperbacks.[2098] sexually explicit paperback books are distributed through "a only" pornographic outlets across the country. These paperl are also sold through mail order operations advertise sexually explicit magazines, tabloids and other paperback boc

Sexually explicit paperback books are advertised in sexu explicit magazines, tabloids and other paperbacks. These b are also advertised in some Book Club publications Publisher's Catalogs.

2098 See, The Imagery Found Among Magazines, Books, F in "Adults Only" Pornographic Outlets in Chapter 9 of this Pa

I. TABLOIDS

Production

There are few nationally distributed sexually expl tabloids.[2099] The vast majority of sexually explicit tabl are regional publications.[2100] Some of these tabloids published by a swinger or sex club.[2101] Others are establi by individuals or regional corporations.[2102] Most of tabloids are independently owned.[2103]

Sexually explicit tabloids vary in their sexual explicit and content diversity. Some contain all photographs. Ot contain text and photographs. The photographs depicted in of these tabloids include sadomasochistic activities, sexual between two women, masturbation, oral-genital contact, vaginal and anal intercourse. The text may be sexually orie or of a general interest nature.

The advertisements in these tabloids are mostly regional for sexually related goods and services. The tabloids c

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2099 The best known of these tabloids is Screw Maga: Even Screw Magazine is predominantly regionally circul (seventy percent in New York). Interview with Dennis So President, First Amendment Consumer and Trade Society (FA (Apr. 11, 1986).

2100 Id.

2101 Id.

2102 Id.

2103 Id.

contain advertisements for sexually explicit video tapes, fil photo sets, magazines and paperback books.[2104] Sexual paraph nalia, aphrodisiacs, and sadomasochistic devices are a advertised. The majority of the advertisements in tabloids for escort services, prostitution, massage parlors, sexua explicit telephone messages, and classified listings. Advert ments comprise a significant portion, if not the majority, of tabloids.

The following examples of advertisements are from Hollywood Press. The Hollywood Press is published weekly sold predominantly California.[2105] Two advertisements for esc agencies included:

> International Escorts Featuring Beautiful Blondes, Brunettes, Blacks and Orientals. Master Charge & Visa Accepted. 24 Hours at Your Location for Your Convenience & Pleasure . . .

And,

> Gourmet Treats Escort Agency Menu (Take Out) Entrees
> - Blondes, Brunettes and Redheads (long, shoulder-length, straight or curly)
> - Busty or Slender, Classic Builds (38-25-36; 34-23-34; 36-24-36, etc.)
> - International & American Beauties
> - Tall to Petite
> - Novices to Mature "Experts"2106
>
> Each Dish: Available individually or in any combination . . . Prepared to order . . . Served for Short but Satisfying Meal or Full Course. Delivered:

2104 See, The Imagery Found Among Magazines, Books, Fi in "Adults Only" Pornographic Outlets in Chapter 9 of this Par

2105 Hollywood Press, July 5, 1985, at 2.

2106 Id. at 11.

ANYTIME. Checks & All Major Credit Cards Accepted. Delicious Dolls Interviewed.[2107]

Other advertisements for sex-related services included:

CLINIC specializing in Special Specialties.
- Bondage and Discipline
- Two Completely Equipped Dungeons
- Enemas - Give & receive
- T.V.'s - Complete Wardrobes, Maids Outfits
- Infantilism - Diapers, Rubber pants
- Spankings - The Best in Town
- Wrestling - Mats and Showers Available
- Videos & Slides - For Your Viewing Pleasure
- 5 Dominants
- 5 Submissives

Open 7 Days A Week, Visa, Mastercharge . . . [2108]

GOLDEN RAIN. Drips & Drips, Golden Showers, Cum Down My Crotch, Let Me Stand Over You & Give You My "Golden Juices! Call . . .[2109]

SHE MALE. Exceptionally attractive transsexual, flawless complexion, refined features, cock intact. Cauc. brunette, 24 yrs, $100 cash 1/2 hour. In call. Clean cut, muscular athletes 18-30 free . . . .[2110]

The classified advertisement section of the Hollywood P edition surveyed also had help wanted advertisements. T included advertisements for nude models, escorts, nude danc performers and masseuses.[2111]

2107 Id.

2108 Id. at 21.

2109 Id.

2110 Id.

2111 It should be noted that the fact that a publica has advertisements for prostitution does not make it a sexu explicit publication. Sexual explicitness refers to publication as a whole, not simply its advertisements.

Many of these tabloids are produced in-house. This has be made possible by the advent of inexpensive machines which ha typeset and photo screening capabilities.2112 These machines c now be purchased for approximately six thousand dollars.[2113]

2112 Interview with Dennis Sobin, President, Fir Amendment Consumer and Trade Society (FACTS) (Apr. 11, 1986).

2113 Id.

Distribution

Sexually explicit tabloids are generally published distributed on a regional basis. These tabloid publis exercise several options in distributing their product. A sell their tabloid to conventional distributors who sel newsstands.[2114] Many publishers sell their tabloids to dis butors who specialize in sexually explicit products and sel "adults only" pornographic outlets.[2115] Others sell directl newsstands and "adults only" pornographic outlets in tl area.[2116] Still others sell their tabloids from street ven machines.[2117] The selling of these tabloids through st vending machines is particularly problematic because children view and purchase these publications.

Sexually explicit tabloids are also offered through scription and mail order sales.[2118] The tabloids adver through direct mail, other regional tabloids and magazines, even some radio stations.[2119]

2114 Id.

2115 Id.

2116 Id.

2117 Id.

2118 Id.

2119 Dennis Sobin states that sexually explicit magazi such as Playboy, sell their mailing lists. These lists extremely useful to these small publications. Id.

The cost of these tabloids ranges from one to fc dollars.[2120] Some cost as much as eight dollars.2121 T majority, however, cost two dollars.[2122]

2120 Id.

2121 Id.

2122 Id.

J. PHOTO SETS

Production

There is a market among consumers of sexually expl materials for individual custom made photographs and p sets.[2123] This portion of the industry can best be describe a "cottage industry" since the product is often homemade or by very small scale commercial producers.[2124]

Individuals who produce these photos sets can do so minimal overhead. The necessary costs for producing photo include renting or buying a camera, purchasing film, pl processing, location and model fees and mailing. Models often found by the photographer placing advertisements "models" in newspapers.[2125] The photographer's home is o used as a studio.[2126]

These photo set photographers must find photo processors will develop their sexually explicit film. Some photograp use general commercial photo processors including one hour p

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2123 See, Los Angeles Hearing, Vol. II, Charles Sulli p. 66; Los Angeles Hearing, Vol. II, Caryl Cid, p. 127; Angeles Hearing, Vol. II, Brian Cid, p. 134. See also, discussion of advertisements in tabloids for these photo sets

2124 Sexually explicit magazines include solicitations photographs through amateur photograph contests. See, Domina Domain, No. 17, p. 33.

2125 Los Angeles Hearing, Vol. II, Charles Sullivan, p. 76B.

2126 Id. at 66.

services.[2127] Others use mail order services which adverti "confidential and uncensored" photo processing in sexua explicit publications.[2128] One such photo processing lab w Crystal/Spectra Photo in Syracuse, New York.[2129] Spectra Pho was the focus of a Federal Bureau of Investigation underco operation in 1981 and 1982.[2130] The sexually explic photographs knowingly processed by Spectra Photo inclu depictions of bestiality, excretion, homosexuality, examples extreme mutilation, castration, torture and chi pornography.[2131] These types of photos were processed o regular basis.[2132]

Individual photographs or photo sets often depict s related activities not generally represented in commercial

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2127 Id.

2128 Los Angeles Hearing, Vol. II, Caryl Cid, p. 127.

2129 Id.

2130 Id. at 127-29; United States v. Petrov, 747 F. 824(2d Cir. 1984).

2131 Id. at 129. In a different case in Colorado a "sear resulted in the seizure of approximately five thous photographs, negatives and video cassettes depicting young and women in their late teens and early twenties in vari sadomasochistic and other types of pornographic poses. Vari props for these photographs such as wooden stocks, wooden rac a jail cell, ropes, boards with nails protruding from them other torture devices were located." Los Angeles Hearing, V II, Charles Sullivan, p. 66. See also, The Imagery Found Am Magazines, Books, Films in "Adults Only" Pornographic Outle infra. for a description of depictions from the Spectra Ph case which appeared in the magazine Big Tit Dildo Bondage.

2132 Chicago Hearing, Vol. II, Frederick Scullin, p. 56

produced pornography. These activities include piercing, scat,[2134] castration and extreme sadomasochism.

The photo set business enables a producer to offer "cus service.[2135] Often the customer writes or telephones his or requests and photographs are taken of the described activity. The photographs may be ordered through contacting the indivi photographer directly or through a mail order service.

Sexually explicit photo sets are a lucrative endeavor photographers and photo processors alike. Photo sets usu include six to ten photographs and sell for nine to twenty-f dollars to individual consumers.[2137]

Some film processors have made substantial revenues f

2133 "Piercing" is a slang term for a paraphilia in wh sexual arousal requires piercing the skin, and often genitals, with pins, needles, and other sharp instruments.

2134 "Scat" is a slang term describing sexual conduct which feces are either used or ingested by one of participants.

2135 "Love to model in person or by mail. Custom pos Any position, any attire, any partners. Nothing too radic Try me. Send a $5 bill for 3 gorgeous color photos or send a bill for 10 mind-shocking photos and private phone. You won't disappointed." Trained Teen Slave and Over Daddy's K 174(1984). See also, Dominatrix Domain, No. 17, p. 34; Fundo Times, Vol. 1, No. 4, p. 15.

2136 A Federal Bureau of Investigation agent testif before the Commission, ". . . the actual order from the custo was located in his or handwriting. Some of these orders were custom shots with a customer actually describing the poses the models should effect and naming particular models they wan to see in these photographs." Los Angeles Hearing, Vol. Charles Sullivan, p. 68-69; See, Washington Hearing, Vol. II, Lanning, p. 30-31.

2137 Los Angeles Hearing, Vol. II, Charles Sullivan, p.

processing and duplicating sexually explicit photo sets. Spec Photo, mentioned above, earned approximately six hundred thous dollars from April 1, 1981, until March 31, 1982, through mail order pornographic photo processing business.[2138] Fede Bureau of Investigation agents were able to identify that volume of business attributable to one individual producer, Byrum, accounted for thirty thousand dollars of the six hun thousand dollar total.[2139]

Moreover, some of these photo set photographers sell t photos to sexually explicit commercial publications. Th publications often offer the photographer hundreds of dollars a few rolls of film.[2140]

[2138] Los Angeles Hearing, Vol. II, Caryl Cid, p. 127; also, Chicago Hearing, Vol. II, Frederick Scullin, p. 45.

[2139] Special Agent Brian Cid stated, ". . . from 1978 u 1982 Byrum did thirty thousand dollars worth of business v Spectra. Byrum, doing business as Dorthy Byrum, operated a m order company from his apartment in Pottsville, Pennsylvania. specialized in photographs depicting the bondage and torture women. He sold the photographs in color set packages of ten eight dollars and black and white set packages for sex doll His mailing list consisted of over three hundred custom nationwide." Los Angeles Hearing, Vol. II, Brian Cid, p. 134

[2140] Los Angeles Hearing, Vol. II, Charles Sullivan, p.

Distribution

Once the photo set photographer has taken the photogr and had the film processed he has several options. He may the final product to commercial publishers for reprint in t publications or he may sell them to individual consumers. The photo sets sold for individual consumption are availabl "adults only" pornographic outlets[2142] and through mail o operations offering sexually explicit products. Often, photographers advertise their photo sets in sexually expl publications.[2143]

2141 Id. at 68.

2142 See, The detailed discussion of "adults only" po graphic outlets in this Chapter.

2143 The advertisements often accompany a photograph. following are a few examples of these advertisements.

"Ten photos of this faceless slave. She is bound onto a m chair. Rope is wrapped around her neck and chest. Great fan set." Fundgeon Times, Vol. 1, No. 4, p. 10.

"Tim's slave girl is bound upside down hand and foot. Clip her nipples and pussy. See her twist and turn. Ten good shot Id.

"This is one of the best selling photo sets. Debbie was boun the bed and a riding crop as well as severe nipple clamps used on her. The marks are real!!" Id. at 12.

K. AUDIO TAPES

Production

In order to commercially produce a sexually explicit au cassette tape the producer needs a cassette recorder a performers. He must duplicate and package the tape in-house through an outside firm, or sell the master to a distributor will handle this process for him. These tapes look and packaged like general music cassette tapes.

The commercially produced audio tapes contain sexua explicit conversations and acts. Audio tapes are similar to p recorded Dial-A-Porn recordings.2144 Both are audio record of sexually oriented conversations or activities. The activit described in these tapes include sadomasochistic acts and se relations with children, among others.

The Commission also heard testimony about homemade n commercial audio tapes. One ex-prostitute testified how her p made recordings of sexual activities and brutal beatings.2 Another woman testified that her husband wanted to record l domination of him in a sadomasochistic scenario:2146

> There was another time when he wanted to record on a cassette tape recorder the sounds of him being spanked

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2144 See, The discussion of Dial-A-Porn in this Chapter

2145 Washington, D.C., Hearing, Vol. I, Sarah Wynter, 183.

2146 Chicago Hearing, Vol. I, Diann, p. 29N.

> and me being the dominant female giving him a punishment. He wanted the tape so he could listen to it on his own later for pleasure.[2147]

While these non-commercial audio tapes are generally produce private consumption, they may be, and have been, shared wi distributed among close friends and associates.

2147 Id.

Distribution

Audio tape recordings of sexually explicit conversations a activities are available in "adults only" pornographic outle and mail order operations throughout the United States. The ma order audio tape dealers often advertise their product i sexually explicit magazines and tabloids.

L. PEEP SHOWS

Production

The average peep show booth has dimensions of about thre five feet.[2148] The booths are partitioned four-sided cubi generally made out of wood or plastic.[2149] Often, a benc built onto one of the walls. On the wall next to the benc the coin or token-operated box.[2150] A customer places coins tokens into the box and the movie inside the booth is activat

If a film is shown, the booth is equipped with a m projector.[2151] If a video is shown, the peep show booth is wi so that a selected video appears on the television screen.[2152] Sometimes, the video system in the booths is compu operated.[2153] If the peep show involves live performances, th is usually a clear partition between the performer and viewer.

Peep show movies come in eight millimeter, sixt

2148 Washington, D.C., Hearing, Vol. II, Dennis DeBord, 9; Some booths are as large as four feet by eight feet. New Y Hearing, Vol. I, Bookstore Operator, p. 127.

2149 Washington, D.C., Vol. II, Dennis DeBord, p. 99.

2150 Id. at 97.

2151 Id. at 99.

2152 Id.

2153 New York Hearing, Vol. I, William Kelly, p. 84.

millimeter or VHS format.2154 The eight millimeter films do have sound and are shorter in length than the videos. The mov include homosexual, heterosexual and sadomasochistic sex activities between two women, coprophilia, bestiality simulated juvenile sexual activities.2155

2154 Washington, D.C., Hearing, Vol. II, Dennis DeBord, 97-98.

2155 Id. at 98.

Distribution

Some "adults only" pornographic outlet owners buy their p show booths outright while others rent their booths.[2156] initial cost of purchasing a peep show booth is between twe and thirty thousand dollars.[2157] If booths are rented, the st owner usually shares the profits of the booths with the less in exchange for the lessor's installation and maintenance of booths.[2158]

Inside the booths the viewer may see approximately minutes of the movie for twenty-five cents.[2159] As the number sexually explicit scenes or diversity of sexual acts increa the viewing time decreases.[2160] Tokens or quarters are needed operate the peep shows and can be obtained at the outlet's sa counter.

The average peep show booth has enough room for two adu to stand shoulder to shoulder. The inside of the booth is da when the door is closed, except for the light which emanates f the screen or enters from the bottom of the door.

The inside walls of the peep show booths are often cove

2156 New York Hearing, Vol. I, Bookstore Operator, p. 14

2157 Los Angeles Hearing, Vol. I, Robert Peters, p. 105.

2158 Id. at 149.

2159 Washington, D.C., Hearing, Vol. II, Dennis DeBord, 98-99.

2160 New York Hearing, Vol. I, Bookstore Operator, p. 12

with graffiti and messages.[2161] The graffiti is generally c sexual nature and consists of telephone numbers, names, requ and offers for homosexual acts, anatomical descriptions sketches.[2162] The booth may also contain a chart which is to schedule appointments and meetings in that partic booth.[2163] In some cases, this arrangement has been used for solicitation of prostitutes.

After purchasing tokens from the store clerk,[2164] the pa selects the type of movie he wishes to view. A brief descrip of the film is usually posted on the outside of the peep b door.[2165] A number or letter is assigned to each film indicates which coin box inside the booth corresponds with selected movie.

The film or video tape[2166] is operated by placing quarter, coin, slug or token into the coin box, which, in t activates the movie projector or video tape player to begi

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2161 Washington, D.C. Hearing, Vol. II, Dennis DeBord 99-100.

2162 Id.

2163 An appointment schedule may indicate a person's age, penis size, sexual preference, age and description of sexual partner being sought, such as "young boy looking for ." and the date, time and location of a future meeting. Id.

2164 Some stores impose a minimum number of tokens w must be purchased.

2165 Washington, D.C., Hearing, Vol. II, Dennis DeBord 97.

2166 Some peep booths are equipped with closed ci television. Houston Hearing, Vol. I, W.D. Brown, p. 41.

movie.[2167] Quarters or tokens must be repeatedly inserted continue viewing the movie[2168] which may last from ten to nin minutes.[2169]

In addition to movie viewing, the booths also provide pla for anonymous sexual relations.[2170] Many booths are equip with a hole in the side wall between the booths to allow patr to engage in anonymous sex.[2171] The holes are used for oral anal sexual acts.[2172] Sexual activity in the booths invol mostly males participating in sexual activities with another.[2173] However, both heterosexual and homosexual engage in these activities.[2174] The anonymity provided by "glory holes" allows the participants to fantasize about gender and other characteristics of their partners.[2175]

[2167] Id.; Washington, D.C., Hearing, Vol. II, Dennis DeBo p. 98.

[2168] Washington, D.C., Hearing, Vol. II, Dennis DeBord, 98-99.

[2169] Interview with Detective Robert Peters, Los Ange Police Department (Mar. 10, 1986).

[2170] Houston Hearing, Vol. I, W.D. Brown, p. 36.

[2171] The holes are commonly referred to as "glory hold Id.

[2172] Interview with Detectives, Washington, D.C Metropolitan Police Department, in Washington, D.C. (Feb. 1986).

[2173] Washington, D.C., Hearing, Vol. II, Dennis DeBord, 101-03.

[2174] Id. at 103; Houston Hearing, Vol. II, W.D. Brown, 39.

[2175] Houston Hearing, Vol. I, W.D. Brown, p. 39.

The booth is sometimes equipped with a lock on the door. Many patrons intentionally leave the door unlocked. Some pat look inside the booths in an attempt to find one alr occupied.[2177] It is commonplace for a patron to ente occupied booth, close the door behind him, and make adva toward the occupant.[2178] He may grab the occupant's genital an effort to invoke sexual activity[2179] or attempt to arran later sexual encounter.[2180] The sexual activities reporte peep show booths include masturbation, anal intercourse, fellatio.

Inside the booths, the floors and walls are often wet sticky with liquid or viscous substances, including semen, u feces, used prophylactics, gels, saliva or alcoholic erages.[2181] The soles of a patron's shoes may stick to ce areas of the floor.[2182] The booths are also often littered cigarette butts and tobacco.[2183] The trash and sewage and application of disinfectants or ammonia on occasion crea

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[2176] Washington, D.C., Hearing, Vol. II, Dennis DeBor 101.

[2177] Id. at 101-02.

[2178] Id. at 101.

[2179] Id. at 101-02.

[2180] Id. at 102.

[2181] Id.

[2182] Id.

[2183] Id.

particularly nauseating smell in the peep booths.[2184]

It has been estimated that peep shows are the big moneymaking portion of this industry.[2185] Annual net profits peep show booths alone have been projected at two bil dollars.[2186]

2184 Id. at 100-01.

2185 New York Hearing, Vol. I, William Kelly, p. 85.

2186 Id.

III. OUTLETS

a. "Adults Only" Pornographic Outlets

"Adults only" pornographic outlets can be found in bo large metropolitan areas and many small towns throughout t United States. Although these "adults only" pornographic outl are frequently located in downtown metropolitan areas, they h also appeared in business and residential sections of subur communities.2187

The windows of "adults only" pornographic outlet storefro are usually opaque to prevent the general public from looki into the store from the outside.2188 Prominently displayed the outside facade of the outlets may be large signs such "adult books, movies and magazines" and "$.25 movies" to ent patronage.2189 These signs are sometimes accompanied by neon a flashing lights designed to attract attention and arouse pub curiosity. Sometimes, there are also signs displayed which s "no one under 18 is permitted inside."2190 Although most sta require patrons to be at least eighteen years old to enter th establishments, few, if any, stores have employees at the po

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2187 Houston Hearing, Vol. I, W.D. Brown, p. 35.

2188 Washington, D.C., Hearing, Vol. II, Dennis DeBord, 95.

2189 Id.

2190 Id. at 96.

of entry to verify ages and enforce this law.

The inside of a "adults only" pornographic outlet can divided into distinct display and sales areas. The display a include sections devoted to sexual devices and paraphernal reading materials and peep show booths.2191 In the typ pornographic outlet it is not uncommon to see anywhere from 1, to 2,000 different items for sale.2192

In some "adults only" pornographic outlets, patrons required to pay a nominal fee to get into the sexually expli material and peep booth areas. This fee is sometimes deduc from a future purchase.2193

The "novelty section" of the average pornographic out contains numerous sexual devices and paraphernalia such dildos, rubber vaginas, tools used to simulate sodomy, medi appliances to spread anal and vaginal orifices, "love" crea blow-up dolls with orifices, stimulants, inhalants,2194 whi

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2191 Houston Hearing, Vol. I, Brown, p. 37.

2192 Houston Hearing, Vol. I, W.D. Brown, p. 37.

2193 Id.

2194 It has been found that most of these chemical age contain volatile nitrites which are schedule D drugs. Th chemical agents are primarily used for the alleged stimulation sexual desires and sexual arousal, although many are marke under the pretext that they have other purposes such as r deodorizing or for use as perfume. "The Spanish fly," prominent chemical product on the market, has a h concentration of caffeine. Houston Hearing, Vol. I, W.D. Bro p. 38-39.

leather harnesses, edible panties and rubber cloth articles.[2195]

The "magazine section" is often divided into categories s as heterosexuality, homosexuality, lesbianism, sadomasochi bondage and discipline, excretion, bestiality and simulated cl pornography.[2196] There are many other types of magazines wl are meant to appeal to specific sexual interests.[2197] example, Mother's Milk[2198] depicts women who have milk in tl breasts engaged in various sexual acts that include squirl milk. Poppin' Mamas[2199] depicts pregnant women engage various sexual acts including lesbian activities.[2200] magazines are often wrapped in cellophane to prevent custon from thumbing through the magazines, to restrict law enforcer officers from examining the magazines, and to provide argume in the event of prosecution as to "lack of knowledge" by ou

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2195 Id.; Washington, D.C., Hearing, Vol. II, Dennis DeB p. 96.

2196 Washington, D.C., Hearing, Vol. II, Dennis DeBord 96.

2197 Id. at 96-97.

2198 Id. at 96.

2199 Id.

2200 For a more thorough discussion and descriptic magazines, See, The Imagery Found Among Magazines, Books, I in "Adults Only" Pornographic Outlets in Chapter 9 of this I One expert has advised the Commission Staff that the Amer Psychiatric Association could rewrite its Diagnostic Statist Manual Sections on psycho-sexual disorders based on the var subjects of sexually explicit magazines.

personnel.[2201]

The "paperback book" section contains paperbacks wit variety of themes including incest, child sex,[2] bestiality,[2203] group sex,[2204] and sadomasochism.[2205] A Pony Daughter, Teen Sex Slaves of Saigon, Family Lovers and Whip Wives are among current paperback titles.[2206]

The "movie section" of these "adults only" pornograp outlets contain mostly eight millimeter films and video t cassettes. There are thousands of titles on the market today subjects running the gamut of sexual behaviors with s appealing to specific paraphilias.[2207]

Eight millimeter films retail for approximately eig dollars in these stores.[2208] Video tape cassettes sell for si to eighty dollars depending on the type and quality of

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[2201] Houston Hearing, Vol. I, W.D. Brown, p. 37. Some these outlets also have a list of vice squad officers so they be identified and not sold sexually explicit materials. Id. 39.

[2202] Washington, D.C., Hearing, Vol. II, Dennis DeBord, 96.

[2203] Id.

[2204] Id.

[2205] Id.

[2206] See, The discussion of paperback books observed "adults only" pornographic outlets in The Imagery Found Am Magazines, Books, Films in "Adults Only" Pornographic Outlets Chapter 9 of this Part.

[2207] Washington, D.C., Hearing, Vol. II, Dennis DeBord, 96.

[2208] Id. at 97.

product.2209

In addition, an "adults only" pornographic outlet contain anywhere from five to one hundred "peep show booths". These booths are usually located in a secluded section near rear of the establishment.

Some pornographic outlets also have live sex acts. "Show World", in the Times Square District of New York City, booths where patrons can watch nude dancers and observe live acts.2212 Some booths are equipped with telephones so that patron can engage in a conversation with the nude performer Some booths have glass between the patron and the performer w others are constructed with holes in the glass to permit phys contact between the patron and the performer.2214

Most "adults only" pornographic outlets advertise t services and products on their storefronts. Some of t establishments advertise in local phone directories like other business establishment. Some also advertise thr

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2209 Los Angeles Hearing, Vol. I, William Roberts, p. Miami Hearing, Vol. I, Mike Berish, p. 91; See, The discus and description of the sexually explicit video industry further information.

2210 New York Hearing, Vol. I, William Kelly, p. 84; The detailed discussion of peep show booths in this Chapter.

2211 Houston Hearing, Vol. I, W.D. Brown, p. 42.

2212 Commission staff survey of "adults only" pornogr outlets, New York City Times Square District, October, 1985.

2213 Id.

2214 Id.

sexually explicit tabloids and magazines, flyers and bus
cards.

Pornographic outlets generally, and peep shows in p
cular, are a primary focus of organized crime involvement
These outlets are primarily a cash business and as such, i
relatively easy to "launder" or hide actual profits.[2216]
witness who had operated numerous "adults only" pornogra
outlets, advised, that the daily receipts for his stores
sixteen hundred dollars a day in quarters from peep shows
three hundred fifty dollars a day from magazines sales.[2217]

The store operator also stated it was common practic
this industry, like many other businesses, to keep two se
financial records: one for the Internal Revenue Service a
second personal set.[2218] The witness observed that it was
commonplace to state no more than one hundred dollars as c
gross revenue for an "adults only" pornographic outlet,
although he estimated that his stores would gross between
and eighty thousand dollars a month.[2220]

The impact of sexually explicit videos on "adults c

2215 See, The discussion of organized crime involvemer
the pornography industry for further information.

2216 New York Hearing, Vol. I, Bookstore Operator, p.
55.

2217 Id. at 149.

2218 Id. at 146-47.

2219 Id. at 144.

2220 Id. at 149.

pornographic outlets is uncertain. Videos are being increasir used in the outlets' peep show booths. In addition, the stc sell and rent videos as part of their general business. In t way, the proliferation of sexually explicit video tape casset has become a positive revenue source.

In addition, some individuals patronize "adults oi pornographic outlets primarily for the atmosphere and potent for sexual activity. Others go to these outlets to purc sexually explicit magazines, books or sexual devices. T patrons will undoubtedly not be significantly influenced by availability of video.

At the same time, however, the "adults only" pornogra outlet is no longer the exclusive source for an individual wants to buy or rent a sexually explicit video tape cassette. may rent sexually explicit videos at general video retail out which also stock general release and children's videos. He then view them in the privacy of his own home.

In sum, it is unclear at this point what long term effe sexually explicit videos will have on these "adults only" por graphic outlets.2221

Nearly all of the general information stated above regar the typical outlet and peep show booth, except financial inf mation, was observed first hand by the members of the Commissi As part of the public hearings conducted in Houston, Texas,

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2221 See, Section B in this Chapter for a detailed cussion of sexually explicit video tapes.

Attorney General's Commission on Pornography toured three of fifty "adults only" pornographic outlets operating in that c The Commissioners were accompanied on this tour by sev detectives from the Houston City Police Department. The t locations visited were Mr. Peepers, 4330 Richmond High Hillcroft News, 6455 Hillcroft Street and Talk of the Town, Gulf Freeway.

During this tour, the Commissioners observed the mater available in the outlets, the peep show booths - complete patrons engaging in explicit sexual activity - and the gener unhealthy environment posed by the sexual activity and debri the store.

Each of the outlets viewed by the Commission, which described as representative of those in Houston generally, divided into two areas. An entering patron initially encount a room well stocked with sexually explicit publications covers depicting a variety of homosexual as well as heterose activities. A number of materials portraying sodomy and s masochistic acts were also conspicuous. Several of the st had glass cases displaying an assortment of sexual devices paraphernalia. The rear portion of each store contained show booths in which patrons could observe segments of sexu explicit movies for twenty-five cents per minute or two of footage. Some outlets charged admission to the peep booth a typically one dollar.

The peep show booth area of each of the outlets toured

minimal illumination, stark decor and a pervasive darkness. peep show booths were equipped with holes in the wall to en genital contact with patrons in other booths. Uniformly walls and floors of booths were stained with substances ide fied by the accompanying vice detectives as semen, urine, sa and feces.

In addition, individual Commissioners took private tou the New York Times Square area and Washington, D.C., pornogr retail establishments.

b. General Retail Outlets

"Adults only" pornographic outlets are by no means exclusive retailers of sexually explicit materials in the Uni States. Sexually explicit magazines rely heavily on single is sales in convenience stores and general bookstores and newssta across the country.[2222] Some of these mainstream stores now a sell "X" rated video tapes.[2223]

Sexually explicit magazines and tabloids are also sold newsstands. Newsstands often place these magazines in ra alongside non-sexually explicit magazines. This often means t such magazines are in full view of passersby and children.

Vending machines are also used as a retail outlet f sexually explicit tabloids.[2224] These unmonitored machines p serious problems because anyone can purchase a tabloid from th machines and anyone can view the exposed portions of the tabl

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2222 For example, of the three top selling sexually expli magazines at least fifty percent or more of their total sales 1982 were attributed to single copy sales. Audit Bureau Circulation, ABC Audit Report - Magazine for Playboy, Penthou and Hustler, 1982.

2223 The Commission heard testimony regarding of convenie stores nationwide which sell pornographic magazines and vi tapes. Thousands of such retail outlets have stopped sell sexually explicit magazines in recent months.

2224 See, The discussion of newspaper distribution further information.

MILITARY BASES

The Commission contacted Army, Air Force and Navy Base hange representatives to determine what, if any, regulations st which govern (1) the types of pornographic materials base hanges, located on federal property, can purchase and sell and the method of display of pornographic materials in the nanges.

Army and Air Force Base Exchanges

The individual exchange managers, in coordination with the e commander, make the decision as to which magazines are sold the Army and Air Force base exchanges.[2225] These managers are tructed in the Army and Air Force Exchange Service Manual to lor the magazine assortment at the exchange to the demand of tomers in the local military community.[2226]

Regulations require magazines which have been classified by Army and Air Force as "adult-oriented"[2227] to be displayed in

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2225 Army and Air Force Exchange Service Manual 40-11, Ch. Sec. 2 (Jan. 1985).

2226 Id.

2227 The "adult-oriented" classification is determined as llows:

> Army installations: The installation commander should use the consumer advisory council to decide which magazines stocked by the exchange should be classified as adult-oriented for display purposes. The council will meet, when necessary, to review new magazines

a specified manner.2228

Once the magazine has been classified as adult-oriented must be put on the top shelf of the self-service magazine disp racks in the exchanges.2229 The magazine front must completely covered so that only the title is visible to public.2230

In the case of video cassette films, it is the policy these military exchanges to offer "G", "PG", "PG-13" and rated videotapes for sale or rent.2231 No "X"rated videos shc be available at the exchanges.2232 The exchanges feel they

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offered for sale, and to review the entire assortment every 2 years . . . .

Air Force installations: The exchange manager, in coordination with the installation commander, should decide which magazines stocked by the exchange should be classified as adult-oriented . . . .

On both Army and Air Force installation, departmental policies define magazines to be classified as adult-oriented as those that: (1) When considered as a whole, are patently offensive under contemporary standards of the local military community as to what is suitable material for children, and (2) If openly displayed or with portions of their contents exposed to unconsenting customers or other patrons, would invade those persons' right to privacy. Id. at Sec. 3(a)-(c).

2228 Id. at Sec. 3-4.

2229 Id. at Sec. 4.

2230 Id.

2231 Interview with Phil Alsup, Washington Legal Couns Army and Air Force Exchange Service in Washington, D.C. (Mar. 1986).

2232 Id.

draw this line based on a widely accepted MPAA rating system.

Marine Base Exchanges

The Marine Base Exchange regulations require that "bo periodicals, and recordings sold in exchanges should confo generally accepted moral standards."[2234] The base commande required to establish an offensive literature review board periodically reviews "adult" publications and recording submits a report to the commander for his consideration.[2235] base commander then determines what material will be available at the base.[2236] Those "adult" publications which sold are to be made available for sale in a manner which red public exposure and discourages browsing by patrons who minors.[2237] Display methods consistent with this policy inc behind the counter sales and display racks which only expos

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2233 See, The discussion of the MPAA rating syste Section A of this Chapter for further information.

2234 Marine Corps Exchange Manual, Ch. 2, Sec. 11, p. 2

2235 Id.

2236 Id.; SALE OF "ADULT" TYPE LITERATURE. Commanders ensure that "adult" type literature sold in Marine C exchanges is made available for sale in a manner which re public exposure and discourages browsing by patrons wh minors. One method of reducing public exposure to "a literature would be to place all such material behind the counter, posting notice to "inquire at the sales counte adult literature." Another method would be to display literature on the top shelf exposing only the titles. Marine Corps Exchange Manual, Ch. 2(May 1983).

2237 Id. at p. 21109.

title of the publication.[2238]

Naval Base Exchanges

The Naval Base Exchanges operate much the same way as Army, Air Force, and Marine Exchanges. The individual Commander directly decides what, if any, sexually expl materials will be available at his Base.[2239] The N Regulations generally prohibit printed or visual matter whic considered offensive.[2240] The types of magazines offered at

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[2238] Id.

[2239] Interview with Estelle Shenkler, Counsel, Navy Re Services Support Office (Mar. 6, 1986).

[2240] f. Literature and Recordings

(1) Policy on Offensive Literature: The sale of magazines, comics, pocket-size books and other periodicals that are considered offensive is prohibited. Magazines, comics, pocket-size books and other periodicals as well as their covers will be screened by the commanding officer or his/her designated representative(s) and those that are considered offensive will not be sold.

(2) Policy on Offensive Recordings: The sale of phonograph records and other recordings (including video tape recordings) deemed offensive is prohibited. Phonograph records and other recordings as well as their package covers will be screened by the commanding officer or his/her designated representative(s). Those items considered to be offensive will not be placed on sale . . . .

(4) Screening Program: Using the suggested guidelines, a continuing program which requires regular screening of all adult reading material and adult recordings before they are placed on sale will be maintained by the commanding officer or his/her designated representative. Any material which is considered offensive will not be sold. An exchange's physical location and patronage are factors to be considered. When a deter-

Navy exchanges is based on consumer demand and subject to approval of the Commanding Officer or his representatives.[2241] Sexually explicit materials which are offered at the exchan must be stocked and displayed so that they are not accessible children.[2242] In addition, no "X" rated video tapes are sol rented at the Navy exchanges.

The Commission received testimony with respect to the mar in which some military commanders have dealt with the prolif tion of "adults only" pornographic outlets in the communi adjacent to their bases.[2243] In North Carolina, the Comman Generals of two large military bases at Camp Lejeune and Bragg declared a number of these pornographic outlets off li

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> mination is made to sell adult type material, it will not be put on open display. Magazines may be offered from racks in which only the title portion of the magazines is visible. Adult type literature and recordings which by virtue of the title or package design are not suitable for open display will be made available, upon request, at such locations as checkout counters, customer service desks or other similar areas where a clerk is in attendance. A sign will be placed on the appropriate racks or counters informing customers that the adult type material is located at designated counters and is available upon request. Counters designated as appropriate to the sale of adult type material will be identified with an informative sign.

Navy Exchange Manual, Ch. 4, Part A, Sec. IV, p. 4134, 2.f (1 1984); Id. at f(1), f(2), and f(4).

2241 Interview with Estelle Shenkler, Counsel, Navy Re Services Support Office (Mar. 6, 1986).

2242 Navy Exchange Manual, Ch. 4, Part A, Sec. IV, p. 4 2.f (Nov. 1984).

2243 New York Hearing, Vol. I, Sam Currin, p. 85.

to military personnel.2244 The action of the commanding off had the effect of closing these establishments. This resul praised by the citizens in the nearby communities.2245 The limits order was later challenged vigorously in the courts.2

In its decision dismissing the North Carolina action, District Court concluded that a military commander has an riding duty to safeguard the morals, welfare and disciplin his men and that the military commander may exercise legitimate and important responsibility to place establishm selling sexually explicit materials off limits.2247 The orde the Chief District Judge in North Carolina upholding Commanding General's order was affirmed by the Fourth Ci Court of Appeals.2248

2244 Id.

2245 Id.

2246 Enslin v. Fulham, No. 83-137-Civ.-4 (E.D.N.C. 198

2247 New York Hearing, Vol. I, Sam Currin, p. 127A-11.

2248 Id. at 86; See also, Hustler v. Gsell, Civil Actio R-79-1482. In 1979, Hustler Magazine, Inc., Chic Magazine, and Flynt Distributing Company, Inc. filed a legal action ag Army and Air Force Exchange Service representatives. The charged that the base exchanges in the Capitol Exchange R refused to sell Hustler and Chic although similar maga published by their competitors were sold in the exchanges. plaintiffs claimed that this decision was arbitrary a violation of their First and Fifth Amendment rights. The exchange operators argued that they stocked their exchanges on customer demand and sales potential. The plaintiffs ass that all of the three base exchanges in question sold Playbo Penthouse, the two most widely circulated sexually expl magazines for men; Playgirl, the highest selling sexu explicit magazine directed toward women, and Players, an widely circulated sexually explicit magazine.

The Court in entering a judgment in favor of defend

PRISONS

Seventeen prison systems were polled regarding their .icies for the admission of sexually explicit material into ;ir penal institutions for consumption by inmates.2249 Fifteen the systems had written policies. All of those with such licies cited state or federal law as the basis for the .icies.

The United States Bureau of Prisons (BOP), Arizona, .ifornia and Wisconsin all use pertinent state or federal ıtutes solely as the basis for their written policy. No .empt appears to have been made to interpret or apply the tutes.

Alabama and Nevada have no written policies regarding :ually explicit material distribution in their penal ;titutions. However, Alabama does not allow the sale of ually explicit materials within the system, and will allow y Playboy magazine to be received by inmates. Alabama keeps other sexually explicit magazines in the prison libraries. sole basis for rejection of a publication or materials in the bama system is the judgment of the reviewer of this material.

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ied its decision on defendants' testimony that the decision to ick merchandise was a business decision. Hustler and Chic were excluded because of content.

2249 The seventeen systems included Alabama, Arizona, the ted States Bureau of Prisons, California, Florida, Illinois, tucky, Massachusetts, Michigan, Nevada, New Jersey, New York, nessee, Texas, Virginia, Washington, and Wisconsin.

The reviewer was not specified in the correspondence Alabama.

Nevada, on the other hand, indicated that no revi materials occurs because there is no written or unwritten p on the subject. Prison officials are not allowed to co censorship of any type. Anything is acceptable, and no prov is made for restricting obscene or unlawful materials.

All the other systems that had a written policy named e the warden, superintendent or a designee, or a review comm appointed by the warden or other chief administrator, a reviewing authority. Alabama, Arizona, Michigan, Texas Wisconsin do not specify the reviewing authority, but ind that a review does take place.

In most cases criteria for rejection of sexually exp material is based on its propensity to be prejudicial to order and conduct (BOP's only criterion) or if the materi obscene or unlawful. In the case of material being prejud to good order and conduct, the decision is made by the revi body without much in the way of guidelines.

In the case of material being obscene or unlawful, a va of definitions arose. "Unlawful" is either left undefin references state or federal law. The definition of obsce less consistent among the systems. Where obscenity is de (in seven out of the seventeen), the Miller definition is e used verbatim or is paraphrased in total or in part. Ten o seventeen states define the type of material to be restrict

describing the Miller test and/or citing examples. Five of t
do both. Washington state is a notable example because
Miller definition of obscenity is used, examples are cited, a
by law, the material in question must not be protected by
United States or Washington State Constitutions.

The sex acts defined by the eight systems which chose specifically describe sexually explicit depictions prohibited their institutions were fairly consistent. These acts w generally: intercourse, normal or perverted, anal or or interest in excretory functions in a sexual context; masturbation. Some provisions were also made for the l exhibition of genitalia.

Michigan appeared to have the most restrictive policy. restrictions pertain to photos of persons in "see throu garments and provides for a list of restricted publicatio However, testimony from a Michigan inmate, named Grant Hendrick as part of a Walter H. Annenberg Foundation Crimino Study,[2250] indicates that sexually explicit materials are read available, sold in prison commissaries, and shown on pri closed-circuit television.

There were three other systems which had a list permissable publications: Florida, Illinois and New York.[2] New York's list is the most comprehensive and approves l

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[2250] Affidavit of Grant H. Kendrick, Michigan State Pris #131851 (Sept. 9, 1984).

[2251] New York also has a list of disapproved publicatio

quantities of sexually explicit materials. The United S
Bureau of Prisons and Kentucky expressly forbid the compil
of a restricted publication list.

The only states which stated that sexually exp
materials are provided in prison libraries were Alabama an
York. Six other states specifically said such publications
not provided in the libraries. The rest of the states sur
did not respond to that question. Finally six of the s
responded that no sexually explicit publications were so
prison commissaries. The remaining states did not comment.

Chapter 9

The Imagery Found Among Magazines Books, Films in "Adults C Pornographic Outlets

Among the most common inquiries made to the staff o Attorney General's Commission on Pornography was a reques information on the content of currently available pornograp the United States. The only pertinent data available t Commission was a single report in the American Journa Psychiatry,[2252] and brief descriptions which have appear current periodicals and other works.[2253] In order to pr data concurrent with the deliberations of the Commission, Commission through its staff investigated the conte currently marketed materials.

METHOD

Six major cities were selected for inclusion i investigation, based in part on their proximity to the Commi offices in Washington, D.C. The six cities selected Washington, D.C.; Baltimore, Maryland; Miami, Flor Philadelphia, Pennsylvania; New York, New York; and Bo

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2252 Dietz and Evans, Pornographic Imagery and Prevala Paraphilia, 11 American Jounal of Psychiatry 139(1982).

2253 See for example, The Report of the Commissi Obscenity and Pornography, 115-37 (1970).

Massachusetts. In each city, "adults only" pornographic outle were selected randomly by listing all of the identifiable outle and selecting specific outlets for investigation using a table random numbers.[2254] The investigative instruments were design to identify the city, outlet, type of material (magazine, boo or film), and a variety of specific details about the forms conduct portrayed and the participants portrayed. In addition a coding form which was completed for each item included in t investigation, the other materials available for sale in ea outlet were also recorded. In each outlet, the total number magazines titles, film titles and book titles was recorded.

Completion of the coding forms was done by trair investigators.[2255] In addition to their investigative experie and training, the coders were trained specifically for th project in a uniform training session in which all we instructed on the forms to be used, the manner of completing forms, the technique for random selection, and the distincti necessary to complete the forms (e.g., the distinction betwe whipping and spanking) and the specific selection procedures

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2254 In New York, the random selection had been made at t time of the earlier study referred to in footnote 2309. Of t four stores studied earlier, three were identified and locate The fourth was no longer found at the previous location, thu three of the four stores selected previously were investigated.

2255 Investigators included an Arlington County, Virgin Police Department detective, Edward H. Chapman; a Washingto D.C., Metropolitan Police Department detective, Joseph Haggerty; a United States Postal Service inspector, Daniel Mihalko, and special agents of the United States Customs Servic David H. Borden, and Ramon Martinez.

be used. These selection procedures included selecting
magazine sold as new merchandise which had one or
photographs on the front cover, every fifth book going from
to right and from top to bottom which had one or more vi
depictions on the front cover, and every fifth film with or
more photographs on the box front. Pamphlets, packet
photographs, and tabloid newspapers were excluded.
magazines, books and films, duplicate titles were eliminate
that a particular issue of a magazine was only coded once.
multiple copies were available for sale, that item was only
once.

The following number of outlets were investigated in
city: Washington, D.C., four (4); New York, New York, three
Baltimore, Maryland, three (3); Boston, Massachusetts, three
An effort to study outlets in Miami, Florida was aborted wha
individual requested that the investigators discontinue t
work. Eighty-five forms were coded in Miami, before the inve
gation was halted and these specific items are noted in Miami
contained within the list of specific titles observed. Like
an effort to study two outlets in Philadelphia had t
terminated because the investigators were asked to leave
premises by a person purporting to "represent the owner."
neither Philadelphia outlet was data collection completed
total of 350 magazines, 115 books, and 105 films had been
in Philadelphia before data collection was halted. The spe
titles observed in Philadelphia are, however, included ir
list of titles which follow.

RESULTS:

In all stores surveyed magazines and bookstores wi depictions of vaginal intercourse between one female and one m were in a minority among the types of sexual activity depicted.

There was geographic difference in only a very few types sexual activity depicted on the covers of books and magazi displayed for consumer purchase. Films and magazines wh depicted actual photographs of sexual encounters between hum and animals were seen in New York, New York; Philadelphi Pennsylvania and Miami, Florida, but not in Washington, D.C Boston, Massachusetts, or Baltimore, Maryland. Stores in least two cities, Boston and Baltimore, had magazines whi depicted and featured sexual activities involving one or m persons with amputated limbs. Materials depicting actual scer of urination and/or defecation were present in some of locations but not in others. All outlets, with the exception one store in Baltimore and one in New York City, had paperb books which featured the preceding themes as well as incest child molestation. Every store surveyed featured magazines wi photographs depicting bondage, simulated child pornography[2256] and various other paraphillic activity[2257] in significa

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2256 For a discussion of simulated child pornography, Se the discussion found in the Recommendations for Ch Pornography.

2257 The essential feature of disorders in this subcl (Paraphilias) is that unusual or bizarre imagery or acts necessary for sexual excitement. American Psychiat

percentages.[2258]

In addition to visual and written materials, every s surveyed sold dildoes, vibrators, "aphrodisiac" pills, lotior cremes for sexual use and condoms. Many of the stores sold c devices such as knives, throwing stars, "police" badges, wh handcuffs, vials or "poppers" of anylnitrite or butylnitr lingerie, restraints, penis rings, odorizers, studded collars leashes, blow up dolls, artificial vaginas, penis "enlargers" a variety of other items.

These findings are supplemented by observations, by the investigative team members, of the types of materials so outlets in Houston, Texas;[2259] New York, New York; Mi Florida;[2260] Los Angeles, California; and Chicago, Illinois, determined similar types of materials were sold in each reviewed.

In the sixteen stores specifically surveyed the follc number of titles of written and visual material were found:

Association, Diagnostic and Statistical Manual of Me Disorders, 266(3d ed. 1980).

2258 Full formal results were not completed at the ti printing of this final report. The Commission, through archives, will make such information available to per conducting future research on this subject.

2259 The Attorney General's Commission on Pornography t three pornography outlets in Houston, Texas.

2260 An informal survey of stores was conducted in I after the unsuccessful formal survey attempt descri hereinafter.

CITY	MAGAZINES	BOOKS	FILMS
Baltimore	938	196	796
Boston	1,372	1,365	290
Miami (partial)	85	0	0
New York	454	320	1,700
Philadelphia (partial)	350	115	105
Washington, D.C.	1,145	1,920	680
Totals	4,644	3,916	3,571

Of the totals listed above 2,325 separate magazine titl 725 book titles and 2,370 film titles were found. The title the magazines, books and films found follow.

AGAZINES

Cock Between Friends (DC
Date with Pussy (BN
Few Good Men (BN
Good Fuck (DC
Hole Lot of Fucking #1 (DC, BN
Lust So Deep (BA
Piece of Candy (DC
Sierra Domino Dictionary (DC
Thing for Getting Butt Fucked (BN
C/DC Bisexual Swingers (DC, BN
irls #1 (BN
ccu Jacking (PA
e in the Hole (PA
ts of Love (NY
am (DC, BN
am #30 #1 (DC
am #30 #2 (BN
am Film World (BN
am Film World #11 #5 (BA
am Girls (DC
am Girls #1 #12 (DC, BN
ult Cinema (BN
ult Cinema #4 #11 (DC
ult Cinema Review #5 #1 (BN
ult Erotica (DC
ult Video (DC
ult Video News (DC
vocate (DC
vocate Men 3-86 (BN
robic Orgasm (BA
gressive Blondes (PA, BN
gressive Women (DC
l About Balls (BA
l American Super Bitches (BA
l Black (DC
l Day Fuckers (BN
l Muscle (DC
l Those Juicy Young Pussies #1 (DC
l Tied Up (PA, BN
l Ways Cara (BN
most Incest (NY
mateur Bondage (BA, DC
mateur Bondage #3 (DC
mateur Photographer's Guide to
Available Models #4 #5 (DC
mazon (DC, NY)
nd Jeremy Makes 3 (BA, DC
ngie, My Sister and Me (NY
nimal Action (DC, PA, BN
nything Goes #2 (DC

American Erotica #2 (DC, BN
American Erotica, Tammy's "
Amour (PA
Amputee Times (BA, BN
An Anal Flight (BN
Anal (NY, BN
Anal Action (DC, PA, BN
Anal Agony (DC, PA
Anal Biker (BN
Anal Blondes (BA AC/DC
Anal Blondes #2 (BN
Anal Climax (BA, DC, PA, BN
Anal Cum (BA OC PA, BN
Anal Dreams (DC, PA, BN
Anal Ending (BN
Anal Eruptions (BA, DC, PA,
Anal Explosion (MI, PA, BN
Anal Fantasy (NY
Anal Fuck (BA
Anal Girls (DC
Anal Girls That Like Black
Anal Graduates (NY
Anal Hump (BA
Anal Jock (BN
Anal Leather (NY, BN
Anal Magic (DC
Anal Masturbation (DC, BN
Anal Mistress (BA
Anal Neighbors (NY, BN
Anal Nympho (BA, DC
Anal Persuasion (NY, BN
Anal Secretary (DC
Anal Sex (BA
Anal Squeeze (DC, BN
Anal Stud (DC
Anal Sweat (DC, BN
Anal Sweat #1 #2 (BN
Anal Threesome (BA, NY, BN
Anal Thrust (PA
Anal Treat (NY
Anal Virgins (BA
Anal Virgins #2 (NY
Anal Weekend (DC, BN
Analese (PA, BN
Analism (PA, BN
Anally Yours Amazon #14 (DC
Ambushed (PA
American Erotica (DC, NY
American Erotica #102 (NY,
American Erotica #133 (NY

ack & Proud (NY
ack Nurse (NY
ack & Slick (PA
ack & Tan (PA
ack & White & Horny (DC, PA, NY
ack & White Ballers (BA, DC
ack & White Dynamite (BA
ack & White Fetish Exchange (BA
ack & White Lust (NY
ack & White Shaved Pussy (BA
ack and Bitchin (PA
ack and Blonde Lesbians (BN
ack and Blonde Lesbians #2
ack Babes (DC
ack Balled (NY
ack Balled #2 (NY
ack Balled Broads (DC
ack Baller (PA
ack Bazooms & Beavers (BA
ack Beauties (BA
ack Beaver Fever (NY
ack Birds (PA
ack Bitch (PA
ack Boob & Body Bondage (BA
ack Boobs (PA
ack Box (BA
ack Bush Fuckers (DC, PA, NY, BN
ack Bust (BA, DC, BN
ack Chix (PA
ack Cock (BN
ack Dick (PA
ack Dick for Two (DC
ack Dragons (DC, BN
ack Ecstasy (PA
ack Fantasy #1 (NY
ack Girl Review (PA, BN
ack Girl Review #19 (BA
ack Gold (BA, DC, BN
ack Hairy Beavers (BA
ack Heat (NY
ack Hot Honey (BA, PA
ack Hustler (NY
ack Impact (PA
ack in White #1 (DC
ack Jumbo Jugs (DC
ack Lasses #1 #2 (BA
ack Lesbo (BA
ack Lover (BA, PA

ack Lust (BA
ack Magic (DC
ack Mama (DC, NY

Black & Nasty #2 (BA
Black & Sexy (PA
Black Nurse, White Cock (BA,
Black on Black (NY
Black Oriental (NY
Black Pimp (NY
Black Pussy (DC
Black Pussypals (BA
Black Pussyrama (BA, DC, PA
Black Sappho #1 (NY
Black Satin (BN
Black Scorpi (PA
Black Sexercise (BA PA
Black Shaved Pussy (BA, BN
Black Shavers (DC
Black Snack (DC, PA
Black Snatch, Tits & Butts (
Black Sugar (DC, NY
Black Tit & Body Torture
Black Tit Black Bitch (BA,
Black Tits & Twats (PA
Black Towers (BA
Black Whoppers (NY
Black Whore (BA
Black with Cream (NY
Black Zingers (PA
Black, Bald & Beautiful (PA
Blacks & Blondes (DC, NY
Blacks & Blondes #2 (NY
Blacks & Blondes #3 (NY
Blacks & Blondes #4 (BN
Blade (PA
Blazing Cocks (BN
Blazing Russies (MI
Blindman's Boff (DC
Blond Stallions (BN
Blonde Ass Fucker (NY
Blonde Belly Buster (PA, BN
Blonde Bitches (BA, DC, BN
Blonde Cannibals (DC, PA
Blonde Heat (BN
Blondes (PA
Blondes Cum Hard (NY
Blondes Have More Cum (DC, 1
Blondes Have More Cum #3 (B
Blondes Have More Cum #5 (D
Blondes Love to Fuck (BN
Blondes Ripe for Fucking (
BN
Blondie (MI
Blow Job (BA
Blown by the Butler (NY

Black Mamba (PA
Black Meat Fucked Raw (BA
Black Meat/Black Heat (BN
Black Milker (PA
Blueboy (BA, DC, BN
Blueboy 3-86 (BN
Bobby Sox and Tennis Shoes (DC
Body Fuckers (DC
Body Heat (DC
Bon Appetite (MI
Bond Maid (PA
Bondage (DC
Bondage Annual #6 (BN
Bondage Artwork (BN
Bondage Beauties (DC
Bondage by Europa (BN
Bondage Cabin (BA
Bondage Exchange (DC, BN
Bondage in the Buff (BA
Bondage Latex Catalog (BN
Bondage Life (BA, DC, NY
Bondage Moods (DC, BN
Bondage Moods #2 (DC
Bondage Parade (NY
Bondage Photo Treasures #1 (DC
Bondage Prisoners (BA
Bondage Scenes (DC, PA
Bondage Video (MI
Bonds of Love (DC
Boners (PA
Boob & Body Bondage (DC
Boob & Body Bondage #1 #2 (BN
Boob Game (BN
Boobs & Balls (DC
Boobs & Beavers (DC, BN
Boobs & Beavers #1 #2 (BN
Boobs & Buns (DC, BN
Boobs & Milk (BA
Boobs, Busts & Bazooms (BA
Book of Blacks II (NY
Book of Blacks III (PA
Boots (PA
Bordello Studs (PA, BN
Boss Lady #3 (BN
Bosslady (BN
Bottom (BA, PA, BN
Bottoms Up (MI
Bound Pleasures (BA
Bound Restraint (DC
Bound to Obey (BA, DC, BN
Bound to Please (DC, BN
Bound to Please #3 #12 (DC
Blue Climax (BA, DC
Blue Climax #10 (BN
Blue Climax #8 (NY

Blueboy Collection (BA
Boy on Girl (BN
Boy Toys (PA, BN
Boys from Man-Age (DC, BA
Boys in the Brothel (DC,
Boys out of Uniform (BN
Boys Town (BN
Boys Will be Girls (BA, D
Boys with Toys (BA
Brentwood (PA
Broads & Boobs (BA, BN
Brown Baby Dolls (DC
Brown Dolls (BA, DC
Brown Juicy Bitch (BA, DC
Brown Sugar Buns (NY
Buck Shots (PA
Buddy Blast (PA, BN
Buds (PA
Built to the Hilt (PA
Bull (MI
Bums Geschichlen is Germa
Fuckstones (BA, DC
Buoys Up (PA
Bushwack (BN
Bust Out (BN
Buster & Bill (PA
Busty (DC
Busty & Shaved (BA
Busty Cum Suckers (DC, PA
Busty Milker (DC, BN
Busty Moms (DC
Butt Fucked (DC, BN
Butt Fucked Again (BN
Butt Fucked Script Girl (
Butt Fuckers (MI
Butt Fuckin' with Soul (B
Butt Fucking (BA
Butt Lover (DC
Butt Plugged (BN

)und to Tease (DC
)und to Tease #3 #1 (BN
)x Lunch (BA, DC
.ack Butt (BA
)y Chicks (BN

C.O D. (DC, BN
California Boys (BN
California Cock (PA
California Hardcore (BN
Call-a-Girl #2 #6 (BA
Candy Samples (PA
Candy Samples Gives Great Head (DC
Captured (BA
Career Girls
Carnal Cara Lott (NY
Casting Couch (DC, BN
Catalog of Trainers & Gags (BN
Catfights Galore (BA
Caught Between Two Cocks (BN
Celebrity Fuckers (BA, DC, PA, BN
Centurian (PA, BN
Chair Bondage (BA, DC, BN
Chair Bondage #1 #2
Champs (BN
Champs Going For The Big One (BN
Chastisement (BN
Cheating Wives (PA
Cheeks (PA
Cheri (DC
Cherry Pie (PA
Cherry Tarts (BN
Chesapeake Swinging Moderns (DC
Chesapeake Swinging Moderns #3 (BA
Chic 2-86 (DC
China Lady (PA
Chocolate Boods & Cunts (NY
Chocolate Box (DC
Chocolate Cupcake (MI
Chocolate Milk (PA
Chocolate Pussy (BA, BN
Chocolate Teen (DC
Christopher Street (DC
Christy Canyon (BA
Chubby Cheeks (BA
Chubby Cheeks #9 (BN
Chunky Asses (BA, DC
CIAO (PA
Cinema Blue (DC
Cinema Blue 2-86 (BN
Cinema Blue 3-86 (BA
Cinema Blue 4-86 (BA
Class Erections (PA, BN
Classy Bitch (NY
Classy Black (BA, PA
Clean Pussy (DC
Clean Up Crew (DC
Climax (NY
Clinique (PA
Close-Up (DC
Club (DC
Club Contact (BA
Club Golden Rod (BN
Club Golden Rod #17 (BN
Club International (DC
Club International 1-86 (DC
Coast to Coast Connection (BA
Cock Bite (BN
Cock Biter (PA
Cock Crammed (BN
Cock Craving Blondes (PA
Cock Crazy (DC
Cock For Dessert (DC
Cock For Lunch (DC
Cock Hard (BN
Cock Hold (DC, BN
Cock Hounds (DC
Cock Hungry Stewardess (NY
Cock Hungry Women (DC
Cock Mates (PA
Cock on Delivery (BN
Cock Ring (DC
Cock Shots (DC
Cock Smith (BA, MI, DC, NY, BI
Cock Struck Brunettes (NY, BN
Cock Stuffed Sluts (BN
Cock Suck (PA
Cock Swallowing Ass Fuckers (I
Cock Teaser's Delight (BA
Cock Throbs (BA, DC
Cock Throbs Annual #1 (DC
Cockey Girls (DC, NY
Cockeye (DC, NY
Cockpit Cunt (NY
Cocksuckers (BA, DC
Cocksucking Guys (DC
Cocksucking Jogger (DC, PA, B
Coco Cups (BA, DC
Codi's Fuck Feast (DC
Collection Today #2 (NY
Color Climax (BA
Color Climax #115 (DC
Color Climax #94 (BN
Colt Men (DC
Colt Men #2 (PA
Coming On At 5 (BN
Companion (DC
Connexion (DC
Consenting Adults (DC, BN
Consenting Adults #4 (DC

Climax Corner (PA
Consenting Couples (BA, DC, BN
Continental Spectator #168 (DC, BN
Cookies & Cream (NY
Cornholed Blondes #2 (BN
Corporal (DC, BN
Corporal Quarterly #3 #1 (DC
Corporal Review (BA
Corporal Video Letters to Sandy (BN
Country Cunt (NY, BN
Couples (DC
Couples In Heat (BA, DC
Cover To Cover Cum (NY, DC
Coverboys of the Eighties (PA
Cowboys (PA
Cozy Cunt (DC
Cream of Cocoa (NY
Creamy Black (DC
Creamy Pussies (DC, BN
Crossfire (PA
Crotch (BA
Crotch Eaters (PA
Crude (DC
Cult of Sodomy (BN
Cum And Get It (DC, PA
Cum Clean (BN
Cum Coated Lips #2 (NY
Cum Crased Babes (BN
Cum Dripping Blow Jobs (DC
Cum Freaks (DC
Cum Fuckers (DC, NY
Cum Hungry Girls (DC
Cum In Me (DC, PA
Cum On My Nipples (NY
Cum On Strong (DC, BN
Cum Shots (MI
Cum Shots II (DC, BN
Cum Soaked Threeway (DC, BN
Cum Sucking Vixens (DC
Cum 4 Ever (OC
Cumming Out (BA, BN
Cumming Trios #1 (BA, DC
Cunt Sucking Cock Fucking (DC
Cunts & Cocks #3 (NY
Cunts and Cocks (NY
Cunts Out of Town (BN
Cycle Studs (PA
Consenting Adults #5 (BA

Danny Combs, Cocksmith (BN
Dark & Dirty (NY
Dark & Sweet #2 (NY
Dark & Sweet #3 (NY
Dart (DC
Daughters Of Sodom (DC, NY
Daughters of the Orient (PA
Deep Fuck (NY
Deep Penetration (BN
Deep Plunge (BA
Deep Throat Dudes (PA
Deep Within Ginger Lynn (NY
Deep Within Stacey Donovan (BA
Delux Hardcore International (BA
Desades World (NY
Desires with Asian Girls (BA
Deviations (PA, BN
Deviations Directory 86-87 (BN
Dial Your Mistress (BA
Dial Your Mistress #1 #9 (BA
Diamond #2 (BA, BN
Diamond Collection #14 (DC
Diamond Collection #15 (DC
Diamond Collection #18 (DC
Diamond Fever (BN
Diamond Fever #2 (BN
Dick Addicts (BA, DC
Dick Exam (DC
Dick Fix (DC, BN
Different Kind of Loving (DC
Different Lays (NY
Dildo Babes (DC, PA
Dildo Babies (BA
Dildo Daze (BA
Dildo Fever (BN
Direct Contact (DC
Direct Line (DC
Dirty Blondes #2 (BN
Dirty Blondes #3 (BA
Dirty Boys (DC
Dirty Shary (NY
Discreet Swingers (BA, DC
Do Not Disturb (BN
Doc Black Cock #1 (BN
Doctors & Vampires (MI, DC, BN
Domina (BN
Domina #2 #3 (BN
Domina #3 #2 (BN
Domina In Leather (BN
Dominant Black Bitch (PA, BN
Dominant Mistress (DC
Dominant TVs (BA
Dominatrix Connection (BA
Dominatrix Domain (DC
Dominique #3 (BN
Domino And Her Men (PA
Double Action (MI
Double Blonde Dynamite (DC, BI
Double Cocked (DC
Double Dip (DC, PA, BN
Double Double Orgy (DC
Double Dykes (DC, PA, BN
Double Dynamite (PA, BN
Double Fucked Gal (BN
Double Fucked Special (PA, BN
Double Fucked Special #2 (DC,
Double Fucked Special #3 (BN
Double Jam Fucked (DC
Double Lickers (BA, DC, BN
Double Orgy (DC
Double Sucked Stud (DC, NY, BI
Dracula Fucks (DC
Drag Desires (BN
Drag Fantasies #1 #1 (BN
Drag Fantasies #2 #1 (BN
Drag Queens #4 #3 (BA
Dream (DC
Dream Fuck #2 (BN
Dream Suck (NY
Dreamer (DC
Dresden Diary Journal (DC
Drive Shaft (PA
Drive Shaft Video (BN
Drummer (BA, DC, PA, BN
Dushca (DC
Dushca's Lesbian Affairs (BA
Dynamic Duos (BA, DC, PA, BN
Dynamic Duos #2 (BN
Dynamic Duos #4 (BN
Dynamic Duos #5 (DC, BN
Dynamite Tits (DC, PA, BN

E/Z Spreaders (DC, BN
Eager Beavers #1 (DC, PA, BN
Eager To Please (PA, BN
Eastern Connection (PA, BN
Easy Access (DC
Easy Action (BN
Easy Pieces (DC, PA, NY, BN
Easy Pieces #1 #3 (BA
Easy's Swingers Connection (BA, DC
Eat Out My Hole (BA, DC
Eating Girls (BA
Eating Pussy #2 (DC
Eau d'Anal (PA
Endless Orgies (BA, BN
Enema Adventures (DC
Enema Erotica (BA
Enema Erotica #8 (BA
Enema Fantasies (BN
Enema Thrills (DC
English Tanning (BA, BN
English Tanning #2 #3 (BN
English Tanning #3 #1 (BA
Enslave (BN
Enslave #3 #2 (BA
Ero (BA, BN
Ero 11 (BA
Eros 3-86 (DC, BN
Erotic And Hot (BA, DC, BN
Erotic Ass (PA, NY
Erotic Fantasies (DC
Erotic Video (NY
Erotic World of Seka (PA
Erotic X-Film Guide 2-86 (DC
Erotica Piercing & Slave Piercing (BN
Eroticon #1 #3 (BA
Erotomic (DC
Europe on 5 Fucks A Day (DC, PA
European Heat (BA, PA
European Heat #2 (BN
European Pussy (DC
Eusi Na Eupi (BA, DC, BN
Eusi Na Eupi #6 #4 (BA
Every Dog Has His Day (PA
Exciting #9 (DC
Executive Load (BA, BN
Exotique (BN
Exotique #2 #3 (BN
Experienced Sluts (NY
Expose (Dc
Express (DC
Exquisite (BN
Extas (DC, BN
Extas #4 (BN
Extas #6 (DC
Extas #11 (DC

F.M.I. (DC, PA
Fanny (DC PA
Fantasy (DC
Fantasy #18 (DC, BN
Fantasy #19 (BA
(DC,BN
Fantasy Fuck (BA
Fantasy Register (DC, BN
Fantasy World #2 #4 (BN
Far Eastern Pussy (DC, NY, BN
Fat Fucks (DC, BN
Feel the Heat (DC
Fem-Dom Video (BN
Female Mimics International (BN
Female Models (DC
Female Models #8 (DC, BN
Female Sexual Fantasies (BN
Female Swingers (DC, BN
Femme Fatale #3 #3 (BN
Fetish Action (BA
Fetish Bizarre (BN
Fetish Fantasies (DC, BN
Fetish Films Quarterly (BN
Fetish Phonebook (DC, BN
Fetish World (BN
Fetishist (DC
Fetters In London (BN
Fiesta Wives Spec. #3 (BA
Fifteen (BA
Fighting Hellcats (DC
Review#1(DC,NY
Film Fucks (BA
Film World (DC, BN
Filthy Women (PA, BN
Final Action #1 (NY
Finger Friggin (BA, DC, BN
Finger Friggin' #2 (BA
Finger Fucking Femmes (DC, PA, BN
Finger Fucking Femmes #2 (DC, BN
Finger In (BA
Fireman's Fantasies (PA
Fireside 3 Way (BN
First Fuck (NY
First Time Anal Sex (BN
Fizz Bang (BA
Flair (DC, BN
Flashback 3 (PA
Flashbacks (BN
Fleshtones (PA
Flick Trick (PA, BN
Foot Lovers #1 #3 (DC
Foot Photos (BA
Foot Play (BN
Foot Play #1 #2 (BN
Foot Worship (DC, BN
For Adults Only (DC
For Guys Who Love Big Tits

For Rent (PA
For the Love of Black Cock (D
For the Love of Cum (NY
Forbidden Lust (DC, BN
Foreign Cock (BA, DC
Forest Fuck (PA, BN
Forever Anal (BN
Fortuna #2 (DC
Fortune Nookie (NY
Four Play (BA
Fox Hunt (DC
Foxy (BA
Foxy #5 (DC
Foxy #6 (DC
Foxy Black (DC, PA
Foxy Hardcore Girls (NY
Foxy Hardcore Girls #4 (DC
Foxy Hardcore Girls #5 (DC
Foxy Hardcore Girls #6 (DC
Foxy Lady (BA, DC
Frathouse Fuck (BA, PA, NY
Freaks Cum (NY
Free Sex (BA, DC, NY
French Cinema & V

French Fireworks (PA
Fresh Hot Pussy (DC, BN
Fresh Milk & Big Tits (PA, BN
Fuck Alley (DC
Fuck Buddies (PA
Fuck Dancers (BN
Fuck Feast (BA DC
Fuck Frenzy (BA DC BN
Fuck Games (BA
Fuck Her In the Ass (DC, BN
Fuck Junkies #1 (NY
Fuck Lickers (BA
Fuck Loving Couples (BA, DC,
Fuck Masters (NY
Fuck Me Deep (DC
Fuck My Hot Wet Cunt (BA
Fuck'n'Suck (BA
Fuck Poker (BA
Fuck Queen (BA, DC, NY

Floppers (BA, DC, PA
Foot & Body Bondage (NY, BN
Foot & Body Bondage #1 #2 (BN
Foot Lights #1 #1 (BN
Foot Lovers (BA, BN, DC
Fuck-A-Lotta Hot Pussy #1 (BN
Fuckatash (BN
Fuckathon (PA
Fucked Butt Fucked Again (BA, BN
Fuckface (PA
Fuckin' Around (DC, BN
Fuckin' Hard (BN
Fuckin' Hefty (BN
Fuckin' Pregnant (DC, BN
Fuckin' Wild (BN
Fucking & Sucking (BN
Fucking By the Book (PA
Fucking Couples (DC
Fucking Housewives (BA
Fucking Power (DC
Fucking Redhead (BA
Fucking Sex Stars (DC
Fucking Superstars (DC
Fucking Superstars of Sex (DC, BN
Fucking Swingers (DC, BN
Fucking Virgin Ass (DC
Full Service Salon (BA
Full Throttle (PA, BN
Fun & Games
Fung-U (BA
Fuck Sucking Trios (DC
Fuck This Job & Suck It (PA
Fuck Toy (BN

Gallery (DC
Gallery 1-86 (DC
Gals Galore (DC
Game (BN

Gang Babes (BA

Gang Bang (DC, PA, BN
Gang Bang Birthday (BN
Gay Cocksucker #3 (BA
Gay is Beautiful (DC, BN
Gay Sex (DC, NY
Geisha (DC
Geisha Girls (DC, BN
Geisha Twat (BA
Gentleman's Companion 1-86 (DC
Gentleman's Companion 3-86 (BA
Get It While It's Hot (DC, PA
Get Kinky (BN
Getting Off
Getting the Shaft (BA, DC, BN
Ginger Lynn (DC
Girl Next Door (DC
Girl On Girl (BN
Girls (DC
Girls #5 (BA
Girls Galore (DC, BN
Girls Galore #4 #4 (BN
Girls Just Wanna Get Fucked (BA
Girls Just Wanna Have Sex (PA, BN
Girls Loving Girls (BA, DC, PA, BN
Girls of Greece (PA
Girls Of London (DC, PA, BN
Girls of X-rated Movies #8 (DC
Girls That Love It From Behind (BA
Girls That Love It Slick (BA, PA, BN
Girls That Love to Sit on It (BA
Girls Who are Black & Juicy (PA
Girls Who Crave Big Cocks (NY
Girls Who Eat Cum (BA
Girls Who Eat Dark Meat (DC
Girls Who Eat Girls (DC
Girls Who Eat Hot Cum (DC
Girls Who Fuck Around (BA
Girls Who Like To Sit On It #2 (DC
Girls Who Love Girls (NY, BN
Girls Who Love Girls #4 (DC, NY
Girls Who Love It From Behind (DC,BN
Girls Who Love It From Behind #2 (DC, BN
Girls Who Love It Slick (PA, NY, BN
Girls Who Love It Slick #2 (BN
Girls Who Love Uncut Dicks (I
Girls Who Suck Each Other (MI
Girls Who Take It Deep (PA, B
Girls Who Take It Up The Ass PA
Girls Who Take It Up The Ass#5(NY,BA
Glory Hole Gang (PA
Goin Down (DC, NY
Golden Girls (BA, BN, DC
Golden Girls #13 (NY
Golden Girls #14 (NY
Golden Girls #15 (NY
Golden Girls #16 (NY
Golden Girls #17 (NY
Golden Girls #15 (NY
Golden Girls #19 (NY
Golden Girls #2 (BA
Golden Girls #20 NY
Golden Girls #21 (NY
Golden Girls #22 (NY
Golden Girls #23 (DC, NY, BN
Golden Girls #24 (NY
Golden Girls #25 (NY
Golden Girls #26 (NY
Golden Girls #27 (NY
Golden Girls #28 (NY
Golden Girls #29 (DC, NY
Golden Girls #30 (DC
Golden Girls #31 (BA
Golden Rod (BA
Golden Seka (DC
Good Girls, Bad Girls, Women Play (DC
Gorgeous Girls Who Gotta Have Cock (DC
Gorgeous Girls Who Like to G: Ass(DC
Gourmet Anal Collection (DC,
Gourmet Anal Collection #2 (I
Gourmet Collection #5 (DC
Grade A Squirts (DC
Greek & Deep (BN
Greek Bonus (DC, PA, BN
Greek Brothers (BA
Greek Letterman (DC
Group Fucking (DC
Group Love (DC
Gulp (DC
Guys Who Fuck Tight Black Pussy (BA, BN
Guys Will Be Girls (DC

Girls Who Love Their Toys #55 (DC
Girls Who Love to Sit On It (DC
Girls Who Love To Sit On It #2 (DC
Girls Who Love To Sit On It #115 (B
Gym #2 (BN
Gym Jocks (BN
Gym Nasty (NY

Hairy & Horny (PA, NY, BN
Hanging Breasts (DC, PA, BN
Hanging Tits Special (DC
Hard & Horny (BA
Hard & Wet (BN
Hard Blasting (PA
Hard Bound (BN
Hard Cock Astern (PA
Hard Dick Workout (BA
Hard Edge Hunks (BN
Hard Facts (PA
Hard Fuck Bodies (BA
Hard Fuckin' Buddies (BN
Hard Knots (DC
Hard Leather (BA, DC
Hard Meat (DC
Hard On (DC
Hard Ons In Sex Wear #1 (BN
Hard Outtakes (NY, BN
Hard Pleasures (NY
Hard Riders (DC
Hard Riders #2 (BN
Hard S & M (DC
Hard S&M #2 (PA
Hard Shots (BN
Hard Sucker #1 (BN
Hard Throbs (DC
Hard Times (DC, BN
Hard to Cum By (PA
Hard to Get (BA
Hard TV (BA, PA, NY
Hard TV #2 (BA, DC
Hard TV #3 (BA
Hard TV #6 (BA
Hard TV #8 (BA, DC, NY
Hard TV #9 (DC
Hard, Fast & Deep (DC, BN
Hardball (BA, NY
Harlequin Affair (BA, DC
Harvey (DC
Hayracker (PA
Head of the Class (BN
Head or Bust (DC, PA
Head to Head (PA
Head Waiter (PA
Headman (PA
Heat (PA
Heather Irons Bondagette in Love (BA, DC
Heavy Care Load (PA
Heavy Traffic (DC, PA, BN
Heel to Toe (DC
Here We Cum (DC, BN
Here's Looking At You (BN
Here's Looking At You #113 (BN
Here's The Beef (MI, PA
Hey You, Fuck My Ass #1 (BN
High Heeled & Dominant (BN
High Heeled Sluts #1 #1 (BN
High Heels (BA
High School Memories (DC, BN
High School Memories #64 (BN
High Society 2-86 (DC
High Voltage (PA
Hired Cock (BN
Hogtie (BN
Hogtie #4 #8 (BN
Honcho (BA, DC, BN
Honcho 2-86 (BN
Honcho 4-86 (BA
Hooker 2-86 (DC
Horny (PA
Horny Hard On (BA
Horny Mama (NY
Horny Trio (NY
Horny Undergrads (DC
Hot & Gettin Hotter (PA
Hot & Horny (NY, BN
Hot & Hung Latinos (BN
Hot & Hungry Hole (BN
Hot Anal Orgasms (DC, PA
Hot Anus (BN
Hot Ass #1 (BA, DC, NY
Hot Babes Masturbating (BA, BN
Hot Bitches In Heat #2 (BN
Hot Black (PA
Hot Black Pussy (NY
Hot Blonde Cunt, Big Black Coc
Hot Bodies (DC
Hot Box (DC, BN
Hot Brunettes (BA, BN, MI
Hot Brunettes #2 (DC
Hot Chocolate #1 (DC, NY
Hot Cum (DC
Hot Dick Licker #1 (BN
Hot Dog (DC
Hot Encounters (DC
Hot Flesh (BA
Hot For Cum (BA, DC
Hot Fucker (PA
Hot Fucking Cunts (DC, NY
Hot Fucking She Male (NY
Hot Fuses (BA, DC, PA, NY

Heels & Toes #2 #1 (DC
Hefty Mamas (BA, DC
Hot Juices (DC, PA, NY, BN
Hot Lashes (BN
Hot Legs (DC, BN
Hot Male Review (DC
Hot Male Review #2 #3 (PA
Hot Male Review #2 #5 (BA
Hot Mechanics (DC, NY, BN
Hot Moment (BA
Hot Pieces of Ass (DC, BN
Hot Pussy (BN
Hot Rodders (BA, DC, BN
Hot Shaves (BA
Hot Shot Gunslingers (BN
Hot Shots #1 (PA, BN
Hot Spell (DC, BN
Hot Stripper (BN
Hot Stuff #3 (BN
Hot Sucker (DC, NY
Hot Swinging Couples (DC
Hot Swinging Couples #4 (BA
Hot Titties & Twat (DC
Hot to Pop (PA, BN
Hot Tricks (MI, DC, BN
Hot Tub Orgasm (DC
Hot Type (PA
Hot Wet Pussy (DC
Hot Young Sluts (PA
Hot, Knocked-up & Horny (NY
Hottest X-rated Film Scenes of 80s (DC
House Master (DC
Housewife Hookers (BA, BN
How I Fucked My Buddy (BN
How To Play An Organ (PA
Humbly Yours (BN
Hunk (DC
Hunky & Funny (PA
Hustle (BA
Hustler #10 (DC
Hustler Humor (DC
Hustler 2-86 (DC
Hustling Pussy (NY
Hot Goods (BA
Hot Hard Meat (DC, BN

I Love To Fuck Cowboys (DC
If It Moves Fuck It (MI, DC, BN
Impulse (PA
In Crowd (DC
In Style (DC
In Style For Men 3/4-86 (BA
In The Pink (BN
In Touch For Men (DC, PA
In Touch For Men #110 (BN
In Touch For Men #112 (BA
Inch For Inch (PA, NY
Inches (BA, DC, PA
Incurably Anal (BA
Insatiable Pussy (BA, DC, NY, BN
Insatiables #20 Weekend Pass (DC
Inside Ginger Lynn (NY
Inside Lesbian Lifestyles (BA, BN
Inside Marilyn (DC
Inside Shauna Grant (NY
Instant Porn (DC, BN
Interracial Sex Directory (DC
Intimate (BA, DC, BN
Intimate #1 #11 (DC

J/O Buddies (BN
Jackin Off (DC, BN
Jacks Are Wild (DC
Jailhouse Rock (BN
Janey Robbins Sensually Kinky (BA
Jets Of Jizz (NY
Jewels of the Orient (BA, PA
Jiggle (PA
Jizz Tits (BN
Jock (BA, DC
Jockstrap (PA
Jockstrap, One To One (BN
John Holmes (DC
John Holmes & Ursula (DC
Johnny Harden & Friends (PA
Joy Juice (BA, BN
Joys of Masturbation (NY
Jug Juice (BA
Juggs (DC
Jugs (PA
Juicy Black Nurse (NY
Juicy Jasmine (BA
Junior Cadets (PA
Just For Lust (BA, DC
Just For You (BA, PA
Just Fuck Me (DC, NY
Just Me And Two Dicks (PA
Just Men (BA, DC, PA

Karen Swallows Cum (BA, DC, BN
Keyhole (PA
Kidnapped Girls Agency (DC
King of the Thoroughbreds (PA
Kingsize (BA, PA
Kinky Action (DC
Kinky Anal (NY
Kinky Contacts (PA
Kinky Couples (BN
Kinky Couples #9 (BA
Kinky Kicks (BA
Kinky Pussy (DC, PA, BN
Kinky Sex (BN
Kinky Three Ways (MI
Kinky Ways (MI
Kinky World (BN
Kinky World #2 #3 (BN
Kinky World #2 #4 (BN
Knocked Up Black Mama (BA, DC
Knocked Up Mama (DC, PA, BN
Knocked Up Titters (DC, BN
Knots & Kinks #3 (BA
Kum #1 (DC

L.A. Ladies (DC, BN
L.A. Ladies #1 #2 (BN
La Difference #1 #1 (BN
La Difference #1 #3 (BN
La Difference #1 #4 (BN
Ladies In Lace (NY
Ladies In Lace #1 #2 (NY
Ladies Night (DC, BN
Ladies Of the Orient #13 (BN
Ladies Of the Orient #9 (NY
Ladies Roped (BA
Lady Domina (DC, BN
Lady Fuck (BA, DC
Lady With A Dick (BA, DC
Lady You Need To Get Dicked (DC, NY
Lashes (BA, DC
Lashes #6 #6 (BA
Latent Image (DC
Latex Annual (BN
Latex Catalog #4 (BN
Latin Babes (DC, PA, BN
Latin Lances (DC, BN
Latin Lances #1 #2 (BN
Latino Lust (BN
Laurel Blake by Mark Mar (BA
Layover (DC
Leather Bound (DC
Leather Hoods (BN
Leather Lips #1 (DC, BN
Leather Pussies (DC
Leather Slease (DC
Leg Parade (BA
Leg Show (DC
Leg Show 5-89 (BA
Legs (BA
Legs & Asses (DC, NY
Legs & Lace, Love & Lust (BN
Legs, Lace & Lingerie (BA, BN
Legs, Legs, Legs (PA, BN
Lesbi (BA
Lesbian Affair (NY
Lesbian Cunt Suckers (NY, BN
Lesbian Desire (BA
Lesbian Foot Lovers, The Movie (BN
Lesbian Girls (DC, BN
Lesbian Girls #3 #1 (NY
Lesbian Girls #3 #2 (NY
Lesbian Gymnasium (PA, BN
Lesbian Lifestyles (PA, BN
Lesbian Love (BA
Lesbian Lovers (DC, BN
Lesbian Pussies (DC
Lesbian Seduction (BA, PA, BN
Lesbian Seduction #3 #1 (BN
Lesbian Trio (DC
Lesbians (BN
Lesbo Trio (NY
Lesbos Life (BN
Let's Cum Together (BA, DC
Let's Have A Fuck Party (DC, BN
Let's Have a Threeway (PA, BN
Letters To Corporal (DC
Letters To Corporal #2 #2 (BN
Letters To Gourmet (DC, NY
Letters To Gourmet #2 (NY
Lewd (DC, NY
Lez (DC
Lez Acts (BA, PA, BN
Lez Bitches In Heat (NY
Lez Lovers (NY, BN
Lez Lovers #2 #4 (BN
Lez Lovers #3 #1 (BN
Lez Lust #1 (BN
Lez Luv (DC
Lez Milker (DC, PA, NY
Lez Mouth (BA
Lez Snatch, Tits & Ass (BN
Lez Urgent Desires (PA, BN
Lez Urgent Desires #2 (MI, BN
Lezgo Crazy (DC, BN
Liberated Lovers (DC
Liberated Lovers #12 (BA, DC
Liberated Lovers #13 (BA, BN
Lick A Dick (BA, NY
Lick My Balls (DC
Lickable Lovelies (DC
Licked Into Shape (NY
Lickin Lez (DC
Licking Lesbians (BA, DC, NY
Like A Horse (PA NY
Like Large (PA
Like To Give Ass (DC, BN
Lil' Shavers (BA
Limited Edition Catalog
Films1-208(BA
Lip Service (DC
Lisa DeLeeuw Raunchy Redhead (N
Lisa's World (BN
Little Milk (PA
Live Wire (DC, NY, BN
Loads of Lust (DC
Local Swingers (BN
Local Swingers (BN

Lesbian Lust (NY
Lesbian Melting Pot (BA
Long Black Super Cock (BA
Long Hard Summer (DC
Looking Glass (MI, DC
Looking Good (DC
Love (DC
Love #15 (DC
Love Girls (PA
Love Greek Style (BA, DC, BN
Love Makers #1 #1 (BN
Love Muscle (BN
Love Slaves (DC, PA
Love Sucker (NY
Love Too (BA, NY
Loving Lashes (BN
Lust (BA, NY
Lust Bisexual (DC
Lust Flood (PA
Lust For Black Flesh (BA
Lust For Leather (MI, PA
Lustful Action (DC
Lusty Black Meat (DC
Lusty Ladies (PA, NY
Lusty Ladies #2 (NY
Lusty Latin, Vanessa Del Rio (DC
Lusty Young Ladies (BN
Locker Room (BN
Locker Room Lust (BN

Macho Motel (DC, PA
Made for Anal (DC
Made In Europe (DC, BN
Made In Europe #2 (BN
Magnum Griffin (BN
Make Mine A Double (NY
Making Contact With Live Models (DC, BN
Male Calls (DC
Male File (BA, DC, BN
Male File #3 (DC, BN
Male File #4 (BA
Male Stars (BA, DC
Mama Milked (PA
Man-Age Joy Sticks #1 #2 (BN
Mandate (BA, DC, BN
Mandate 2-86 (BN
Manhood Rituals (BA
Manpower (DC, BN
Man's Best Friend (PA
Manscape (DC
Marathon Lezzies (BN
Marathon Lezzies #2 (BN
Martinet (BN
Masturbation Fantasy (DC, PA, BN
Matched Pair (DC
Max (DC
Max Big Busty Beautiful (DC
Mean Bitch (DC, NY, BN
Meat Packers (DC, NY, BN
Men (DC, BN
Men of Arena (BN
Men of Arena #9 (BA, BN
Men of Men (DC
Men of Revolt (DC
Men Who Crave Tight Pussies (BA, DC
Men 5-86 (BN
Menage-A-Twat (DC
Mentor #2 (PA
Military 3 Way (PA
Milk & Honey (NY
Milk Mama (DC, PA, BN
Milk Shooters (DC
Milkin' Moms (DC
Milky Mamas (BA, BN
Milky Melons (BA
Milky Miss (DC
Milky Squirts (DC
Milky Way (PA, NY
Mistress (BN
Mistress Antionette's Coll. #4 (BA
Mistress Antionette's Kinky Contacts (DC
Mistress of Pain (PA
Moms (PA
More California Boys (BA
More Fat Fucks (BN
More Than Girlfriends (BN
More Than Two #37 (BA
More Than 2 (BN
Motel Menage-A-Trois (BN
Mother Jugs (BN
Mother Jugs #4 #1 (BN
Mounds (BA
Mouthpiece (NY
Mr. Fix-it, Fucks It (BA
Mud (PA
Mud Cats (BN
Mulatto #3 #2 (BN
Mulatto Splits & Tits (BA
Multiple Orgasms (DC, BN

Nana's Farewell 3-Way (BN
National Connections (DC
National Connections #22 (DC
National Connections #23 (BA
National Exchange (MI, DC
National Exchange #20 (BN
National Sex Hotline (BA
National Swingers Quarterly (DC
Nationwide Swingers Yellow Pages #15 (DC
Naughty Babies (BN
Naughty Babies #2 (BA, BN
Naughty Daughter in Heat (DC
Naughty Nancy (BA, NY
Naughty Nikho (DC
Naughty Nikho #2 (BA
Naved Snatch (NY
New Breed #1 (PA, BN
New Breed #2 (DC
New Cummers #1 (BN
New National News (BA
New Tricks (BA, DC
New Wave Hookers (NY
New Wave Sex (PA, NY, BN
New York Swinging Moderns #6 (DC
Night Lust (PA, BN
Night of the Wang #1 (BN
Night Shift (BN
Night Stars (DC
Nikho's Revenge (BA
Nippon Nookie The Suckin' Cookie (BN
Nippon Nookies (BN
No Holes Bared (BN
Not Just Another Butt Fuck (NY
Now Darling (DC
Nude Touch (PA
Numbers (DC
Numbers & Son of Drummer (BA
Numbers Annual #1 #4 (BA
Numbers Annual #3 (BA
Numbers 2-86 (BN
Nuts & Bolts (PA
Nympho Takes Two (BN

Obeah (BA, DC
Obeisance (NY
Obey Me (BN

Odyssey (DC, PA, BN
Odyssey Express (DC
Odyssey 3-86 (BA
Ofty #10 (DC
Ofty #2 (BA, DC
Ofty #4 (BA, DC, NY
Ofty #5 (BA, DC
Olympus (DC
One Hot Time (DC
One on One (PA
One Size Fits All (DC, BN
One Size Fits All #2 (BN
OOO-AAH (BA
Open Invitation (BN
Open Throat (DC
Oral Lover (NY, BN
Oral Lust (BA, DC
Oral Orgasms (DC
Oral Suckers (PA
Orgy (DC, BN
Orgy in Cum (BN
Oriental Callgirls (MI
Oriental Cock (DC
Oriental Delight (BN
Oriental Delight #17 (
Oriental Delight #5 (NY
Oriental Dishes (BN
Oriental Doll's Erotic Fantasies (BN
Oriental Dreams (BA
Oriental Erotica (MI, DC, PA
Oriental Erotica #3 (NY
Oriental Fetishes (DC
Oriental Lovers (BA
Oriental Lovers #2 (BN
Oriental Mystique (DC, BN
Oriental Mystique #2 (PA
Oriental Nymphs (NY
Oriental Orgasms (DC, PA BN
Oriental
Orgasms #5 (BN
Oriental Orgies (BA, MI
Oriental Orgies #2 (BN
Oriental Sexpot (DC
Oriental Squeeze (DC, NY
OSO Ass (NY
Oui (DC
Oui, Dazzling Blondes & Redheads (DC
Oui, Fantasy Females (DC

Outtakes (DC
Over 200 Pictures of Cock Shots (
Over 289 Pregnant & Milk Mamas #1
(BN
Over 289 Big Tit Photos (DC, BN

Oui, Sun & Fun (DC
Our Boys in Uniform (DC, BN

Pain By Lana (DC BN
Pain in the Ass (MI
Painful Pleasure (BN
Painful Pleasures #3 #1 (BN
Panty Babes (NY
Panty Passions #4 (BN
Partner (BN
Partner 3-86 (BN
Party Fuck (PA BN
Party Fuckin' (MI
Party People's Directory #7 (BA
Passion For Black (BA DC
Passion Party (DC
Peach Fuzz Pussies (BN
Peek-A-Boo Pussy (PA BN
Pennsylvania Connection (BA
Perfecting Erotic Passion (BN
Person to Person (DC
Personal Bondage (BA DC
Peter Pillow (PA
Photo Slut (BA, DC, BN
Pictorial (BN
Piece of Cake (DC
Pink Hole (BA
Pink Snapper DC
Platinum Play Dudes (PA

Play Guy (BA, DC, BN
Play Guy 2-86 (BN
Play Guy 4-86 (BA
Players (DC
Players #12 #9 (DC
Players Girls Pictorial #6 #7 (DC
Please Me (BN
Pleasure (BA, DC
Pleasure Mountan (DC
Pleasure Reader #1 #2 (DC
Pledge Suck (DC, BN
Pocket Journal #1 (BN
Pocket Journal #2 (BN
Pocket Journal #3 (BN
Pool Fuck (BN
Pool Tools (BN
Poolside Pricks (PA, BN
Poppin Mamas (PA, BN
Porn (PA
Porn Pussys (BA
Porn Star 1986 Annual (BA
Pornoboy #12 (DC, BN
Pornoboy #19 (DC
Pornorama (BA

Pregnant Lesbians (DC, BA
Pregnant Pussies (DC, BA, MI
Prescription for Passion (DC
Pretty Girls (BA, DC, PA, BN
Pretty Girls #3 (DC
Pretty Girls #4 (DC
Pretty Girls #53 (DC
Pretty Girls of the Orient (BA,
Pretty Young Girls (DC, BN
Prick Pleasers (PA
Pride (MI
Prima (BA
Prima #8 (BA
Prima II (DC
Prima III (DC
Prime Time TV (BN
Prince (DC, BN
Prince #11 (DC
Prince #13 (BN
Prince #14 (DC, BN
Prince #17 (DC
Prince #18 (DC
Private (DC
Private #38 (DC
Private Harem (DC
Private Pleasures of John Holm
(BA,DC
Private X-posure (DC
Pro Ass Fucker (NY, BN
Prod #4 (PA
Prudish People (DC, PA
Pruds (PA
Pumping Ass (NY
Pumping Iron (BN
Punished (PA, NY, BN
Punished #2 #4 (BN
Punk Fuck (DC
Puritan #11 (BA
Puritan #7 (BA, DC
Puritan #8 (DC, BN
Purple (BA
Pussies & Lace (PA
Pussy #1 (BA, BN
Pussy Cream (PA
Pussy Masters (MI, DC
Pussy Masters #2 (BN
Pussy on a Stick (PA, BN
Pussy Pageant (BN
Pussy Pals (DC
Pussy Poking (NY
Pussy Pumping, Cock Suckers,
Fuckers (DC

Pregnant Cock Fuckers (PA, BN
Pregnant Cock Fuckers #2 (BN
Pregnant Dildo Bondage (DC
Pussy Rammer (BA
Pussy Sandwich (DC

Quadrafuck (NY
Queens of Anal Sex (NY
Queens of Double Penetration (DC
Queens of Drag (BA, DC
Quest (DC

Ram (DC
Rammin' Pussy (BA
Ranchland
Raunch (PA
Raven (BA
Red Cheeks Bonanza (BN
Ream-O-Rama (DC, BN
Rear Ended (BN
Rear Guard (PA, BN
Red Cheeks (BN
Red Hot (BN
Red Hot Pussy (DC, BN
Red Hot Russian (DC
Red Joy Stick (PA
Reflections (BA, DC
Renault and Jason meet Rose (BA, PA
Rene's Fuck Book (BA, NY, BN
Ridin' the Hump (BN
Rim It (NY
Ripe and Eager (DC, BN
Ripe Nipples (DC, PA, BN
Roadside Cherry's Revenge (PA
Rock Sucker (BN
Rodox (BA
Roger's Boys Out of Uniform (BN
Roger's Young Leather Hoods (BN
Romancing the Bone (BA
Room Mates (BA, DC
Rope Discipline (DC, BN
Roped & Tied (BA
Roped Ladies (BA
Rough & Ready Annual (BA
Rough Boys (DC
Roughtrade (PA, BN
Round 1 (PA
Roxanne (DC
Rubber Quarterly (DC
Rubber Quarterly #1 #6 (BN
Rubber TV (DC, BN
Rumpbusters (DC, BN

·ina (DC
·ina Returns (BA
or's Delight (DC
ts & Sinners (DC, BN
ts & Sinners #25 (BN
ts & Sinners #26 (BN

ts & Sinners #28 (BN
s Agent (DC
Happy (BN
blast (PA
ho (PA
h Foster Tate in Bondage (DC,BA,BN
ge Sucker (NY, BN
Bi Bi (BA, BN
win & Cock Fuckin (DC
wtime (BA, DC
(BA
ct (DC
ctra #18 (DC
ctra #21 (DC
ctra #5 (DC
xion (MI, DC
n Hard Men (BA
Sisters (BN
Dancer (BN
Freaks (BA, DC, PA, BN
Goddesses #9 (DC
Mania (DC
Master (PA
Scenes (PA
Sister #3 #4 (BN
Stars Favorite Position (NY
Tapes (PA
Toys (DC
Wear (DC
Workout (BA
est mouths in X-Films (DC
raverts (DC, BN
raverts #12 (BA
al Excess (DC
al Positions (NY
al Positions #2 (BN
Black (PA
Senoritas (BN
ted (DC
na
e Me & Fuck Me (NY
ed (DC
ed Box, Wild Tits, Tight Ass #1(BN
ed Butt Fuck (BN
ed Pussies (DC

She (BN
She Male Fuckers (BA, DC, BN
She Male Sex & Sandwich (BA
She Male Superstar #4 (BA
She Males (DC, NY
She's at the End of Her Rope

Shipping Studs (BA, BN
Shoot Out (DC, BN
Shooting Pussy (DC
Show Girl Superstars #2 (NY
Show Girl Superstars #5 (NY
Shower Male (BA
Showgirl (PA
Showtime (PA
Sinful Swingers (BN
Sinful Swingers #3 (DC
Single Handed (PA
Single Swingers (BA
Single Swingers #24 (BA
Sister Trio 11 (BN
Sisters (BA
Sit On It (NY
Sit On My Cock (DC, NY, BN
Sixty Niners (DC, BN
Sizzling Clits (DC
Sizzling Rear (NY
Ski Meat (BN
Skin (DC
Skin #2 (PA
Skin Flicks #1 (BA, DC, PA
Skin Game (DC
Skin Game #8 (DC
Skin Sin (PA
Skin Tight (BN
Skirts up-Pants Down (PA
Sky Fuck (NY, BN
Slap & Swat (BN
Slap Bam (DC
Slap Shots (PA
Slap Shots #2 #2 (BN
Slave (NY
Slave Exchange (BA
Slave Exchange #3 #2 (BA
Slick Gets a Freebie (PA
Slippery Love (BN
Slippery One (DC
Slit Sucking Sluts (DC, PA
Slit Sucking Sluts #1 #3 (BN
Slurp Eze (BA, DC
Slut From Shanghai (BA
Sluts (DC

Shaved Review (DC
Shaved Slits (MI
Shaved Sluts (PA
Snatch (PA, NY, BN
Snatch #1 #2 (BN
Snob (BA
Snob #2 (BA
So Big, So Thick, So Black #1 (BA, NY
So Black (NY
Social Swinger (DC, PA BN
Sock it to me (PA
Something Different (DC
Something Wild (MI, DC, BN
Soul Butts (PA
Spank (BA, DC, PA, BN
Spank #2 #1 (BN
Spank #3 #2 (BA
Spanking (BN
Spanking Gazette (BA
Spanking Letters (DC, BN
Spanking Video #1 (DC
Spikes Domination (BN
Spikes Domination #1 #4 (BN
Spikes Domination #2 #1 (BN
Split Beavers (BN
Spread'em (BN
Spurs (DC, PA
Spurter (BA
Squeeze (BA, DC, BN
Squirt 'em (DC
Stag (DC
Stag 1-86 (DC
Stallion (BA, DC
Stallion 1-86 (PA, BN
Star Chix (DC, BN
Starlight (BA
Stars (DC, NY
Steam Heat (DC, PA, BN
Stick It In (DC
Stiletto (DC, BN
Stiletto #5 (DC, BN
Sting (PA
Stockroom Studs (BN
Street Girl from Taiwan (BA, DC, NY
Strip (DC, BN
Strip Down (BN
Striptease (BA, DC, BN
Stroke (BA, DC
Stroke-Safe Sex (BA
Stud #5 (BN
Stud Alley (PA, BN
Stud Flix (BA, DC, BN
Sluts in Uniform (BA
Smooth Chix (BN
Smooth Moves (DC, PA
Submit (BA
Suck (DC, PA, BN
Suck It (NY
Suck Me, Fuck Me (DC
Suck My Balls (MI, BN
Suck Off (BA, DC
Suck Throat (DC
Suck 2 Dicks (BA
Suckers #1 (NY
Suckin' Candy (DC, BN
Suckin Meat (DC
Sucking Seniors (PA, NY
Suckle (DC, BN
Sultry Black Dolls (BA, BN
Summer Day, Summer Lovers
Summer Fantasy (BN
Summer Fantasy #2 (BN
Summer Rose Forever (PA, BI
Summer's Anal Passion (BA
Sunstrokes (BN
Super Big (PA
Super Bitch (BN
Super Black Milk (DC
Super Boobs & Beavers (PA,
Super Girls (BA
Super Gourmet Review #2 (N
Super Gourmet Review #8 (N
Super Gourmet Review #9 (N
Super Hard Shots (PA, BN
Super Hard Shots #2 (BN
Super Head #5 (DC
Super Hot Shorts (DC
Super Hot Shots (DC, BN
Super Hot Shots #18 (DC, BI
Super Hot Shots #5 (BN
Super Intense (PA
Super Seka (DC, NY
Super Sex Star (DC
Super Sluts (NY
Super Snatch (DC
Super Spikes (BN
Super Studs #2 (BN
Super Studs in Drag (BN
Super Suckers (DC, NY, BN
Super Tits (DC, BN
Superstar (DC
Superstar Studs (BN
Superstar Studs #2 (BN
Superstar Studs #3 (BN

Stud Flix #3 (BA
Stud Service (PA
Stud Sucker (BA, DC, BN
Student Lovers (BN
Stuffed Pussy (DC
Superstars of Erotica #3 (DC
Surfer Blue (DC
Surrender to the Beaver (PA BN
Sushi (DC PA BN
Sushi Cunts (BA
Swallow Hard (PA
Swallow Party (NY
Swank (DC
Swank Letters #9-1985 (DC
Swank 2-86 (DC

Sweat #1 #1 (PA

Swedish Erotica (DC, BN
Swedish Erotica #10 (DC
Swedish Erotica #100 (DC
Swedish Erotica #101 (DC
Swedish Erotica #102 (DC
Swedish Erotica #103 (BN
Swedish Erotica #2 (DC
Swedish Erotica #3 (DC
Swedish Erotica #33 (BA
Swedish Erotica #4 (DC
Swedish Erotica #45 (DC
Swedish Erotica #49 (NY
Swedish Erotica #54 (DC
Swedish Erotica #6 (DC
Swedish Erotica #60 (DC
Swedish Erotica #63 (DC
Swedish Erotica #7 (DC
Swedish Erotica #74 (DC
Swedish Erotica #75 (DC
Swedish Erotica #78 (DC
Swedish Erotica #79 (DC
Swedish Erotica #8 (DC
Swedish Erotica #80 (BN
Swedish Erotica #85 (BN
Swedish Erotica #87 (DC, BN
Swedish Erotica #88 (BN
Swedish Erotica #89 (DC, BN
Swedish Erotica #90 (DC, BN
Swedish Erotica #91 (DC, NY
Swedish Erotica #92 (DC
Swedish Erotica #93 (DC
Swedish Erotica #96 (DC
Swedish Erotica #97 (DC
Swedish Erotica #98 (DC

Superstar Tits & Twats (DC
Superstars of Erotica #2 (I

Superstars of Film (DC
Sweeties (DC, PA, BN
Swing Women (DC
Swinger's Advertiser (DC
Swinger's Almanac (BA
Swinger's Almanac #2 (BN
Swinger's Bible #1 #4 (DC
Swinger's Connections #1 (I
Swinger's in Action (DC
Swinger's National Registe
(DC,BN
Swinger's National Registe
#2(DC
Swingers Participation (DC
Swingers Phonebook (DC
Swingers Satisfaction (DC
Swingers Today (PA, BN
Swinging Contacts (DC
Swinging Gals (DC
Swinging Gals #30 (BN
Swinging Ladies (PA
Swinging Ladies #1 #4 (BN
Swinging Nymphos (BA
Swinging Playmates (MI
Swinging Singles (DC
Swinging Sinners (DC, BN
Swinging Sinners #28 (DC
Swinging Women (BN
Swinging Women #3 #3 (DC
Swinging/Group Sex (BA
Switch Hitters (DC, PA, BN

Sweet Chocolate (NY, BN
Sweet Cocks (BN
Sweet Cream (PA
Sweet Starlets (BA
Sweet Young Foxes & Finger Talkin (PA

Taboo (BA, DC, BN
Taboo #3 #3 (DC
Tabu (BA, DC
Take It All Off (DC, BN
Take 3 (PA
Tami's Incredible Asshole (BA, NY
Tan Tigeress (NY
Tan Tigeress, A Cocksucking Slave (PA, NY
Target #2 (DC
Taste of Lust (NY
Taut Adventure (DC, BN
Teachers's Pet (DC
Teaser's Collection #1 (NY
Teen (DC
Teen Boobs & Twats (BA, DC, PA, BN
Teen Holes (DC
Teen Moms (BA
Teen Playmates (PA
Teen Splitters (PA, BN
Teen Tits & Twats (NY
Teen Twats, Tits & Ass (DC, BN
Teenage Masturbation (BN
Teenage Tramp (BN
Teenagers (BN
Teeny Tits (DC, PA
Ten Inch Tools (PA, BN
Tender Loving Care (BA, DC, BN
Tender Shavers (BA, BN
Tender Twat (PA, BN
Tender Young Tits (DC, PA, BN
Tender Young Tits #2 (BN
Tendres Voyour (PA
The Adventures of Dick Rambone (DC, PA, BN
The Adventures of Luna (NY
The Adventures of Marc Noll (PA
The Advocate 1-86 (BN
The Assman Cometh (PA, BN
The Bank Dick (PA
The Bellhop Meets the Bull (BN
The Best Little Studhouse in Town (PA
The Best of Cum (NY, BN
The Best of Cum #2 (NY
The Best of F.I. News (DC
The Best of Fetish Times (BN
The Best of Foot Worship (BA
The Best of Hustler #11 (DC
The Best of Lesbian Gymnasium (BN
The Best of Nova Annual I (MI
The Best of Pretty Girls (DC
The Big 3-Way Fuck Off (NY
The Bitch Goddesses (BN
The Bitch Goddesses #4 (BN

The Boiler Room (PA
The Boys (BA
The Boys from Man-Age #4 (BN
The Boys of Mardi Gras (DC, PA
The Boys of Rio (NY
The Continenta Spectator (DC, NY
The Digest (DC, BN
The Digest #3 (BN
The Doomed Courier (BN
The Dresden Diary (DC
The Erotica World of Cara (NY
The Fabulous Shannon (BN
The Falcon File (DC, BN
The Falcon File #15 (BN
The Farmer's Daughters (BA
The Four Thursdays (BN
The Foxiest Blonde of All, Seka (NY
The Fucking Surprise (PA
The Gourmet Book of 69
The Gourmet Treasury of Cum (NY
The Honey Intern (PA
The Hot Rodders (BA, DC
The Joy of Bondage #1 (DC
The Joy of Screwing (DC
The Legend of Jennie Lee (BN
The Male (BA
The Man Who Fucked
Two Cunts #1 (BN, BA
The Many Faces of Rene (BN
The Marriage Bed (DC
The Meet Market (MI, BN
The Meeting Place (DC
The New Swedish Erotica #80 (BN
The New Swinging Sinners #19 (DC
The Original Swedish Erotica #90 (BN
The Other Side of Vanessa (BN
The Painter (PA
The Print Masters Apprentice (BN
The Right Squirting Stuff (BA
The Seekers (BA, DC, BN
The Seekers #67 (DC
The Seekers #68 (BA
The Seekers 1986 (DC, BN
The Sensuous Girls of Swank (DC
The Sinners (MI
The Taste of Lust (DC
The Wide World of Licorice Dick (NY
The Wonderful World of Feet (PA
The Wonderful World of Harvey #1 (BN
The Wonderful World of Lesbians (BN
These Gals Need Deep Penetration #2 (DC, BN
These Girls Need Deep Penetration (BN

This Butts's For You #1 (BN
This Stud For Hire (MI, DC, BN
Three Day Pass (BN
Three Score (BN
Touch Me (BN
Tough Competition (DC
Tourist Attraction (PA
Traci Lords Superstars (NY
Tracy & Christy (DC
Trainers & Gags (BN
Transexual Temptation (DC, BA
Transit Stop (PA
Transsoul (BA
Transvestite (NY
Trapped (DC
Trashy Ladies (DC
Tri-Suck (NY
Triangle (DC, BN
Triangle #2 (BN
Triangle #3 (MI, DC, PA, BN
Tricking at the Office (BN
Tricking Off the Street (BN
Tricking Off the Street #5 (BN
Tricks (BA, BN
Tricks of the Trade (DC, NY
Triple Action (DC, BN
Triple Action-2 Cunts and a Big Cock(NY
Triple Cum (DC, BN
Triple Fucked (BA
Triple Licks (PA
Triple Tongue (NY
Triple Traction (PA, BN
Triple Trouble (MI
Truckers (PA, BN
Tub Studs (BN
Tubs (BN
Turnabout (NY, BN
Turnabout #1 #2 (BN
Turned On II (DC
Turned On To Black Dick (BA
TV Cum (BA, DC, NY
TV Dinner (BA
TV Hot Dreams (BA
TV House Party (NY
TV Queens (DC, BN
TV Queens #3 #1 (BA, BN
TV Queens #3 #2 (BA
TV Sampler (BN
TV Sex #1 #4 (NY
TV Times (BA, DC
TV Tricks (BA
TV Triple Play (DC
Three Score #3 (DC, BN
Three the Hard Way (DC,
Three Way Blow-out (DC
Three Way Cram (DC
Three Way Cum (BA
Three Way Cum #5 (DC,
Three Way Heat (DC
Three Way Lay (PA, BN
Three Way Orgies (BA, DC
Three Way Sex #2 (NY, BN
Three Way Spreads (MI, B
Thrill Fucking (BA
Throbbing 3-Way #2 (BA
Thundertits (BA
Tie Down (NY, BN
Tied & Tickled (DC
Tied & Tormented (DC, BN
Tied & Tormented #1 #3 (
Tied & Tortured (DC, NY,
Tight Black Pussy (BA N
Tight Grip (BN
Tight Hole (NY
Tight Rubber (PA
Tight-N-Anal (DC
Tightropes (DC
Tiny Tits #3 (BN
Tip Top (BA, DC
Tit Fuckers (BA PA, BN
Tit Hangers (BN
Tit Parada (PA Tubs (BN
Tit Stars (BA
Titanic Tits (PA
Titans (PA
Titorama #4 #1 (BA
Tits (DC
Tits & Tight Twats (DC
Tits 4 Ever (NY
Tits 4 U (BA
Titters (DC
Tittie Milk (BA, DC, BN
Titty Fruity (PA, BN
TNT (PA
Tongue (PA
Tongue Twisters (DC, PA
Tool #2 (BN
Tool Job (NY
Top to Bottom (DC
Torrid TV's (BA, BN

TVs Getting Together (NY
TVs Top to Bottom (BA, DC
Twat Eating Girls (BA, DC, BN
Twin 44's (BA, DC, BN
Two Cocks in Heat (DC, BN

Two Cunts (BN
Two Girls (DC
Two Way Swingers (MI, BN

Torso (DC
Torso 1-86 (PA
Torso 2-86 (PA
Torso 3-86 (BA
Total Tits (DC, PA
Totally Anal (NY

ra (PA
ut (MI
erfoot (DC
ergrads (DC
sex Shoes & Boots (BN
:e (BA, DC, BN
:e #23 (BA
eal People (DC
and Coming (BA, NY
Close & Personal (BN
Close & Personal #7 (BN
Her Ass (BA, PA, BN
Her Ass #3 (DC
My Ass (BN
The Ass (NY, BN
ate (DC
ate #37 (DC, BN
e (BA, DC
ent Desires (DC
ula's Lesbian Lust (DC, BN
ula (DC, NY
ula's Anal Friends (BA, DC, NY

Vanessa (DC, NY, BN
Velvet (DC, BN
Velvet Talks (DC
Velvet 2-86 (DC
Velvet 3-86 (BN
Very Uncut (AP
Vickie's Vices (BA
Video View (DC
Video X (BN
Video X #7 #3 (BA
Virgin Love (NY
Virgin Pussy (BA, DC, BN
Volcanic Loads (BN
Voyeur (BN
Vulgaire (DC, BA

Wanna Fuck (NY, BN
Watch Me Masturbate (BN
Watching Turns Me On (DC, PA
Water Works #4 #2 (BA
Wave Riders (BA, DC BN
Waves of Lust (PA
Welcome Home Fucker (BA
Wet Black (PA
Wet Cunts (BA, NY, BN
Wet Dream (PA
Wet Dream Come True (BA
Wet Lips (BA
Wet Pussy (BN
Wet Shots #1 #1 (NY
Wet Snatch Wet to the Skin (BN
Wet, Wild and Black (BA
Wham Bam (PA
Wham Bam Window Washers (PA
What the Fuck #1 (BN
Whips & Rope #10 (BA
White Chicks Love Black Dick (BA, NY, BN
White Cock, Black Pussy (NY
White in Black (PA, BN
White Meat (NY
White Meat for a Black Stud (DC, PA
Whopper Kings III (PA
Whoppers Workout (BN
Wicked Women (BN
Wicked Women #2 #4 (BN
Wicked Women #3 #1 (BN
Wild Black (BA, PA
Wild Cats (PA
Wild in the Woods (NY
Wild Menage (BA, BN
Wild Screw (BN
Wild Screw and Anal Too (BN
Wild Teen (DC
Wild West Boys (DC, BN
Wild West Fuckers (DC
Wild, Wet & Black (PA
Wilde Wood (BN
Wish (BA
Women on Women (PA
Women to Women (DC
Women Who Crave Hot Dick (BA, DC
Women Who Love Black Cock #1 (DC, NY
Women Who Love Black Cock #2 (DC
Women Who Love Cum (DC, BN
Women Who Love To Suck Cock (DC, NY
Working Girls (BA
Working Girls Need Love Too (DC, NY
Workload (PA, NY
Workout Bench (BN
Wrestling Meat (PA

X-films (DC
X-Rated Cinema (DC
X-Rated Cinema 1-86 (DC
X-Rated Couples (DC
X-Rated Couples #5 (BA
X-Rated Fantasies (BA
X-Rated Stars in Action #5 (DC
X-Rated Swingers (DC
X-Rated Video 10-85 (DC
Xmas Goodies (DC
XXX Movie III (DC

Yearling (DC
Yearling 8 (PA
Young & Black (BA
Young & Horny (BN
Young & Hungry to Fuck (DC, NY
Young & Shaved (BN
Young & Very Hung (PA
Young and Lonely (BN
Young Beavers #1 (DC, PA, BN
Young Black Beauties (BA
Young Box (DC
Young Buns, Twats & Tits (BN
Young China Dolls (BA, DC, NY, BN
Young Girls (DC
Young Love (BA
Young Love #17 (BN
Young Love #18 (BA
Young Love #2 (BA
Young Love #9 (BA
Young Milky (PA
Young Pussy (NY, BN
Young Shavers (BN
Young Snatch (NY
Young, Tight and Ready to Fuck #1 (NY
Your Cock Up My Ass (DC, PA, BN
Yummy Black (PA

100 Pages of Big Beautiful Bosoms (DC, BN
100 Pages of Eating Pussy (DC, NY, BN
100 Pages of Eating Pussy #2 (NY
100 Pages of Fucking & Sucking (PA, BN
100 Pages of Ursula (DC, BN
13-1/2 (DC
19 and Bound (BN
1986 Directory of Adult Films (BN
1986 Directory of Adult Films #2 #10 (BA
2 Dicks for Terry (DC
200 Pictures of Cock Shots (DC
230 Pictures of Erotic Lustful Lovers (DC
250 Pairs of Legs (DC
299 Shaved Pussys (NY
3 on 1 (PA
300 Young Darling (NY
301 Big Tits (BN
4 Way Sex Festival (BN
69 (BA
69 Hot Panties (BA, BN
69 Lesbians munching (DC, BN

PAPERBACK BOOKS

A

1. Abbies Lesbian Love (DC
2. A Bedside Odyssey (DC
3. Abnormal Youth (DC
4. Abused, Defiled and Degraded (BA
5. Abused Runaway (BN, DC
6. Abused Slave (BN
7. Abused TV (BN
8. Abused Vietnamese Virgins (BC
9. Abusing Their Servants (BN
10. AC/DC Party Swinger (DC
11. Action On The Street (BA
12. Adultery - A Turn On (PA
13. After Dinner Nymph (DC
14. A Girl & Her Dog (BN
15. Alice - Sex Crazed Runaway (DC
16. All Night Abuse (BN
17. All the Way In (DC
18. All The Way In Mom (BA
19. A Mother's Loving Son (DC
20. Amy the Happiest Hooker (DC
21. An Adulterer's Guide (NY
22. Anal Compulsives Needing Rear Service (BN
23. Anal Reunion (DC
24. Anal Slave (DC
25. Andrew's Ball Sucking Mouth (DC
26. Apartment House Swappers (BA
27. A Pony for Daughter (DC
28. Arab Captives (BN, DC
29. Army Cock (BN
30. A Side Order of Sex (DC
31. Ass Fucking Cowboy (BN
32. Aunt Brenda Sex Tutor (DC
33. A Virgin's Shame (BN
34. A Wife Used (PA

B

1. Back Door Housewife (BN
2. Back Door Teen (BN
3. Back Row Tramps (BN
4. Backseat Tease (DC
5. Back Woods Animal Fun (BN
6. Bad Little Good Girl (BN
7. Ball Buster (DC
8. Balling Aunt (PA
9. Barbara (BN
10. Barry's New Bra (DC
11. Battered Bride (BN
12. Beach Boy Studs (BN
13. Bed to Bed Bonnie (DC
14. Bed to Bed Debbie (DC
15. Betty's Animal Lover (DC
16. Big Butch Brother (DC
17. Big Rig Ball Licker (DC
18. Big Tits, Hot Cock (DC
19. Biker Brutes (BN
20. Biker's Hot Oil Boy (BN
21. Bisexual Nympho (PA
22. Bisexual Sister (BN
23. Bizarre Sisters in Submission (BN
24. Black Heat (BN
25. Black Leather Biker (DC
26. Black Leather Doll (DC
27. Black Lesbian Teacher (BN
28. Black Marine D.I. (BN
29. Black Stepfather (BN
30. Blow Hard Secretary (DC
31. Bondage Brat (DC
32. Bondage Fetish (BN
33. Bondage For Three Wives (BA
34. Boss Trucker (BN
35. Both Ways Baby Doll (DC
36. Bound for Sex (BN
37. Bound Lesbian (BA
38. Bound to Pain (DC
39. Bound, Whipped & Raped Schoolgirls (BN
40. Boy Convict (DC
41. Boys at Sea (BN
42. Boys Gang Orgy (DC
43. Boys in Beirut (BN
44. Boy Slaves For Sherry (DC
45. Boys On the Beach (DC
46. Brawling Cunts (BN
47. Breaking In a Recruit (DC
48. Break My Cherry (DC
49. Brenda's Eager Surrender (DC
50. Brenda's Lust Fulfilled (DC

C

1. Caldwell High - Lust Factory (DC
2. Campaign Girl (DC
3. Camping Sex Club (BN
4. Campus Gang Bang (BN
5. Candy Kane (DC
6. Carnal Ecstasy (DC
7. Cat Girl in Heat (DC
8. Cathy's Sore Bottom (DC
9. Celebrity Sex Scandals (DC
10. Center Field Catcher (DC
11. Chained Slave Secretary (PA
12. Chained Up Babysitter (DC
13. Chained Youth: Girls in Bondage (DC
14. Chain Whipped Bride (DC
15. Cheerleader Gang Bang (BN
16. Cheerleader's Loving Pet (BN
17. Cheerleader with Hot Pants (BN, NY
18. Chicken Farm (BN
19. Child Bride (BN
20. Climbing the Ranks (DC
21. Cock Starved Nympho (BN
22. Cock Suckin' Wife (DC
23. Come Join the Fun (DC
24. Come with Sister (DC
25. Coming Out Together (BN
26. Confidential Sex Survey (DC
27. Convent of Satan (BN
28. Convict Lesbian (DC
29. Coralie Camelot (NY
30. Country Girl (PA
31. Cousin Blew Them All (DC
32. Cousin in Chains (DC
33. Cowboy Chicken (BN
34. Crazy For Rope (BN, DC
35. Creamy Virgin Nymph (BN
36. Cult of Lust (BN, DC
37. Cunt Sucking Girls (BN

1. Daddy's Hot Daughter (DC
2. Daddy Tastes So Sweet (BN
3. Dad Goes Down (BN, DC
4. Dad + Daughter = Ecstasy (NY
5. Damien: The Young Years (DC
6. Damien II: The Youth (BN
7. Danny Does (DC
8. Darling, Darling Niece (DC
9. Daughter Learns Fast (BA
10. Daughter Learns How (DC
11. Daughter Loves Doggy Fun (MI
12. Daughter Loves It (DC
13. Daughter's First Time (BN
14. Daughter's Hot Urges (DC
15. Daughter's New Hot Family (BN, DC
16. Daughter's Peeping Fun (DC
17. Debbie's Dinge Binge (DC
18. Deck The Bitch (BA
19. Deep Throat Daughter (DC
20. Deep Throat Ecstasy (NY
21. Desert Gang Bang (BN
22. Desperately Sucking Teacher (BN
23. Devil Woman's Whip (NY
24. Diner Doll (DC
25. D.I.'s Big Stick (DC
26. Discipline Lust (DC
27. Dockside Dicks (NY
28. Dog Act (BN, DC
29. Doggie Goes Down (BN
30. Dog House Daughter (BN
31. Dog Loving Daughter (DC
32. Doing What She Does Best (NY
33. Donna's Secret (DC
34. Doris' Older Lover (DC
35. Dorothy: Slave to Pain (DC
36. Down on Dad (DC
37. Drag Queen Marine (DC
38. Dripping Dykes (DC

E

1. Eager Hot Butt (DC
2. Eager Naked Daughter (BN, DC
3. Easy Come, Easy Flow (NY
4. Easy Office Girls (BN, DC
5. Ecstasy Between Young & Old (BN
6. Enriching Her Desire (NY
7. Erotic Lingerie: Satin, Leather & Lace (BN
8. Ever Ready Randi (DC

F

1. Factory Swapper (NY
2. Family Captives (DC
3. Fanny Loving Girls (DC
4. Finding True Lust (DC
5. Fireballer (DC
6. Foot Loose & Sexy (DC
7. Forced Into Spanking (DC
8. Frank's Oversized Aunt (DC
9. Frathouse Initiation (BN
10. Frat House Lovers (BN
11. Freshman Class Stud (BN, DC
12. Freshman Class Virgin (BN
13. Freshmen on the Floor (BN
14. Fuck Crazy Wives (DC

1. Gag the Bitch (BN, NY
2. Gang Bang Brothers (DC
3. Gang Bang Teens (BN
4. Gangs All Here (MI
5. Gary & Sheila (DC
6. Gas Jockey Studs (BN, DC
7. Ghetto Girls (BN
8. Ghetto She Male (BN
9. G.I. Blow (DC
10. Ginny's Desire For Lust (DC
11. Girls Who Can't Say No (DC
12. Girls Who Submit (DC
13. Girls With Kinky Needs (DC
14. Gloria's New Conquest (DC
15. Going All the Way (BN
16. Going Down on Her Dad (DC
17. Golden Girls (DC
18. Good Girl Gone Bad (DC
19. Greta's Dungeon Ordeal (BN

1. Hard At Work (DC
2. Hard Black Stud (DC
3. Hard Cock Killers (DC
4. Hardcore Hustler (DC
5. Hard to Please (DC
6. Hard Training (DC
7. Harry Gets the Sisters (BN
8. Heather is a Nympho (BN
9. Heavy Hung Recruit (BN, DC
10. Held For Seduction (NY, DC
11. Helen's Hidden Urge (DC
12. He-Man Sissy (DC
13. Her Flair For Affairs (BA
14. Her Hidden Treasures (BN
15. Her Hot Tits (BN
16. Her Husband Crawls (BN
17. Her Kinky Needs (DC
18. Her Mean Stepmother (DC
19. Her Neighbor's Sexy Ways (DC
20. Her Sensuous Search (DC
21. Her Strange Aunt (BN
22. High School Buddies (BN
23. High School Comers (BA
24. High School Nymphs (DC
25. High School Transvestites (DC
26. High Society Slut (DC
27. His Daughter's Big Tits (BN, NY
28. His Girlfriend's Father (NY
29. Hitchhiking Boy (BN
30. Holding Wendy Down (BN, DC
31. Hollywood Ball Buster (BN
32. Hollywood Hustler (BN
33. Hollywood Transvestite (BN
34. Hooker in Pigtails (DC
35. Horny Balling Babysitter (DC
36. Horny Big Sister (PA
37. Horny Cheating Wife (NY
38. Horny Darling Niece (DC
39. Horny Family Suckers (NY
40. Horny Holy Roller Family (BN
41. Horny Little Nieces (BN
42. Horny Newlyweds (DC
43. Horny Peeping Family (DC
44. Horny Schoolgirls (PA
45. Horny Widowed Sister (BN, NY
46. Hospital Orgy (BN
47. Hostage Nurse (BN
48. Hot & Willing Daughter (DC
49. Hot Assed Coach (DC
50. Hot Bed Librarian (DC
51. Hot Chains, Cold Wife (D
52. Hot Cheerleaders (PA
53. Hot Chicken Take One (DC
54. Hot Cock Nazi Master (BN
55. Hot Coming Niece (DC
56. Hot Crotch Kathy (DC
57. Hot Dean Hung Hunk (NY
58. Hot Easy Sis (BN, DC
59. Hot Family Lovers (DC
60. Hot For Black Flesh (BN
61. Hot Fun Schoolgirl (DC
62. Hot Hunk Jock (BA
63. Hot in the Hamptons (DC
64. Hot Live-in Babysitter (I
65. Hot Model (BN
66. Hot Mouth Deb (BN
67. Hot Mouthed Virgin (DC
68. Hot New Daughter (BN
69. Hot Schoolgirl Sister (BI
70. Hot Shorts (BN
71. Hot Stuff (DC
72. Hot to Trot Betsy (DC
73. Hot Wide Spread Daughter
74. Humiliate Me (DC, NY
75. Hungry Teen (DC
76. Hunky Cruiser (DC

1. I Am Curious Blue (DC
2. Illicit Pleasure (DC
3. Incest Mommy (NY
4. In Hot Pursuit (DC
5. Initiation Night (DC
6. In Pain (PA
7. Iron Rod Luke (BN
8. Island Of Incest (BA
9. Island of Lust (PA
10. It's All Over (DC
11. I Want All Night Abuse (BN, DC

J

1. Jake Gets Everything (NY
2. Janet (BN
3. Janice's Sensual Delights (NY
4. Japanese Sadist Dungeon (BN
5. Jap Sadist's Virgin Captives (BN
6. Jap Sadist's Virgin Slave (BN
7. Jim & Susan (DC
8. Jock in a G-String (DC
9. Jock Rape (BN
10. Jodie's Lust (DC
11. John's Kinky Mom (BN
12. Josephine's Submission (BN
13. Juicy Hot Mom (DC
14. Juvenile Sluts (BN

K

1. Karen A Loving Daughter (DC
2. Kathy's Confession (DC
3. Kathy's Dark Desires (NY
4. Kay Wanton Wife (BN
5. Kinky Call Girl (BN
6. Kinky Sex (MI
7. Kneel Asshole (NY
8. Kneeling For Daddy (DC

L

1. Lady Has Balls (DC
2. Larry Sex Master (BA
3. Laurie's Horny Schemes (NY
4. Lavender Triangle Murders (DC
5. Lawfully Wedded Nymph (NY
6. Leather Licking Slut (DC
7. Leather Master (DC
8. Lee's Easy to Excite (NY
9. Left on Her Own (DC
10. LeRae's White Tricks (BN
11. Lesbian Dildo Slave (BN
12. Lesbian in Leather (BN
13. Lesbian Journal: The Making of a Lesbian (BN, DC
14. Lesbian Journal: XZ (DC
15. Lesbian Lieutenant (DC
16. Lesbian Mother (BN
17. Let's Go Lust (DC
18. Letting Herself Go (NY
19. Lewd Interludes (DC
20. Liberteens - Janet (BN
21. Liberteens - Lucy (DC
22. Liberteens - Mary (BN
23. Licking Her Balls (DC
24. Lick It, Sis (DC
25. Limited Edition (DC
26. Lorinda (BN
27. Lori's Anguish (DC
28. Lovers in Paradise (DC
29. Lovers on the Side (NY
30. Loving Her Brother (DC
31. Loving It (DC
32. Loving the Coach (BN
33. Low Life Brutes (NY
34. Lumberjacks Little Brother (BN
35. Lust Around the Clock (DC
36. Lust at School (NY
37. Lust For Black Flesh (BN
38. Lustful Pleasures (DC
39. Lust In The Wild (BA
40. Lust Knows No Rules (BA
41. Lust Lovers (DC
42. Lust Unleashed (NY, DC
43. Lusty Paula (DC

1. Macho Man In Heels (BA
2. Madame Made Him Crawl (BN
3. Made to Yield (DC
4. Make Her Yell (DC
5. Making Mother Suck (DC
6. Many Loves (DC
7. Massage Parlor Secrets (DC
8. Melanie's Torment (DC
9. Mike's Dominating Ways (DC
10. Miss Lee Easy Lay (DC
11. Moist For Any Man (DC
12. Moist For Black Cock (BN
13. Moist Little Rich Girl (DC
14. Mom And Me (BA
15. Mom and the Twins (NY
16. Mom, Dad and Becky (BN
17. Mom Does It Best (DC
18. Mom Loves Hot Dogs (PA
19. Momma's Slave Boy (BN
20. Mommy's Boy Lovers (DC
21. Mom My Teacher (DC
22. Mom's Doggy Days (BN
23. Mom's Golden Shower Nights (DC
24. Mom's Hot & Horny Kids (DC
25. Mom's Hot Sucker (DC
26. Mom's Incest Urgers (DC
27. Mom's Sweet Thighs (BN
28. Money Makes the Lust Go Around (NY
29. Motel Maiden (DC
30. Mother Ready For All (DC
31. Mother's Hot Sucking (PA
32. Mother's Lap Dog (BN
33. Mother's Loving Beat All (DC
34. Mother's Private Need (NY
35. Mother's Special Needs (DC
36. Mrs. Barrett's Black Boys (BN
37. Muscle Beach Brutes (BN
38. Muscle Men (BN
39. My Cousin, My Wife (BA
40. My Sister, My Lover (DC
41. My Wife the Nymph (DC

1. Naked Horny Wife (DC
2. Naked Naughty Niece (DC
3. Naked Teen On A Leash (BN, DC
4. Naked Wet Wife (PA
5. Nam Recruit (BN, DC
6. Naughty Family Orgy (DC
7. Naughty Family Urges (BN
8. Naughty Sister in Heat (DC
9. Naughty Spread Sister (DC
10. Nazi Abuse (BN
11. Nazi Dungeon Slave (BN
12. Nazi Lust (DC
13. Nazi Masters (BN
14. Nazi Sex Slave (BN
15. Nazi Slave (BN, DC
16. Needing Black Cock (DC
17. New Boy On the Street (BN, DC
18. New Kid in Prison (BN
19. Niece Without Panties (DC
20. Night of Agony (DC
21. Nights of Malta (DC
22. Nights with Daddy (BN
23. Night Time Nymph (PA
24. Nina's Break In (BN, DC, MI
25. No Holding Out (DC
26. No Holes Barred (DC
27. Nothing Short of Passion (DC
28. Nurse in Distress (DC
29. Nurses Bedside Skills (DC
30. Nymph in Full Glory (DC
31. Nympho Hunger (DC
32. Nympho Mother's Incest Obsession (BN
33. Nymph's Love Nest (NY

O

1. Off Camera Action (DC
2. Of Thee I Swing (DC
3. Oil Rig Ramrod (BN, DC
4. One Final Orgy (DC
5. One More For the Road (DC
6. On The Make (NY
7. Open Butt Welder (BA
8. Orgy Afternoon (DC
9. Orgy in Uniform (DC
10. Orgy Niece (PA
11. Over Daddy's Knee (DC
12. Overheated Mother (NY

P

1. Panic in Prison (DC
2. Panthology Tree (DC
3. Panties For Daddy (DC
4. Park Avenue Bitch (BN
5. Pass Around Playgirl (DC
6. Passion and Teacher (PA
7. Peeping Mother & Daughter (DC, NY
8. Peeping Sisters (DC
9. Penthouse Shit (BN
10. Piano Bar Pickup (BN
11. P.I.'s Big Stick (BN
12. Pilar's French Touch (BN, DC
13. Playing the Field (NY
14. Pleasure For Everyone (DC
15. Pleasures Revealed (NY
16. Popping Nancy's Cork (DC
17. Porno Pussies (MI
18. Pound That Pussy (BN, DC
19. P.O.W. Sex Slave (BN
20. Prescription For Pussy (DC
21. Pretty Panty Marine (BN
22. Prowling Housewife (DC
23. Punished Naughty Schoolgirl (BN
24. Punishing His Wife & Daughter (BN
25. Punk Hustler (BN Pussy Rammers (NY
26. Pussy Slaves (BN

1. Rammed, Crammed Sister (PA
2. Raped by Arab Terrorists (BN
3. Raped Stepdaughter (BN
4. Rape Fantasy (BN
5. Rape Heat (BN
6. Rear Attack (BN
7. Rear End Teacher (DC
8. Rebel Rape (DC
9. Rent A Nude Model (DC
10. Rich Bitch's Nigger (BN
11. Rich Bitch's Wet Slit (BN, DC
12. Rich Girl's Black Stud (BA
13. Rich Trashy Bitch (DC
14. Rick's Big Stick (BN, DC
15. Rita's Black Fetish (BN
16. Romeo & Romeo (BN, DC
17. Rub a Big Stud (BN, DC
18. Ruth's Wild Orgy (DC

S

1. Sally's Anal Punishment (DC
2. Sally's Big Brothers (BN, NY
3. S&M Bike Stud (BN
4. S&M Club Raid (NY
5. San Quentin Slaveboy (DC
6. Scat Boy (DC
7. Scat Slavers (PA
8. Schoolgirl Sugar Daddies (BN
9. School Sugar Daddies (BN
10. School Yard Slut (BN
11. Scratching Sluts (BN
12. Sea Weary, Sex Hungry (BN
13. Second Honeymoon (DC
14. Sensual Relations (NY
15. Sensuous Student Counselor (BA
16. Sentenced to Sex (DC
17. Serving Her Dad (DC
18. Sex Behind the Barn (DC
19. Sex Filled Days (NY
20. Sex Guide For the Single Girl (DC
21. Sex Marks the Spot (DC
22. Sex Sharing Pairs (DC
23. Sex Slave Daughters (BN
24. Sex Swamp Camp (DC
25. Sex Toy Daughter (BN
26. Sex With a Nurse (DC
27. Sexy Student Bodies (NY
28. Sharon (BN
29. Sheer Torture (DC
30. She Made Him Do It (BN
31. She-Male In Bondage (DC
32. She-Male M.D. (DC
33. She-Male Slut (BN
34. She Married For Lust (DC
35. Sherry (BN
36. Shipboard Swing-Fest (DC
37. Shower Room Orgy (BN
38. Sibling Sex Swing (NY
39. Sister Blows Big Ones (DC
40. Sister's Hot Secret (DC
41. Slant-Eyed Savages (NY
42. Slave Brood Farm (BA
43. Slave Girl & the Lash (BN
44. Slave of Desire (DC
45. Slave to a Sadist (BN
46. Slave to the S.S. (BN
47. Slave to the Whip Mistress (DC
48. Slave Wife Sucks (BN
52. Slutty Little Susan
53. Slutty Street Bitch
54. Small Town Affair (
55. Small Town's Bad Gi
56. Small Town Sisters
57. Soccer Field Studs
58. Society Sucker (BN
59. Soft Sucking Lips (I
60. Somewhere Over The (BA
61. Soviet Sadist's Sla
62. Soviet Sex Slaves (
63. Spanked Daughter (BI
64. Spanked Daughters (I
65. Spanked Son (BN
66. Special Reports - T Twins (DC
67. Spread Angel (BN
68. Spread Ass Surfer (I
69. Spread Black Beauty
70. Spread For Her Pet
71. Spread Schoolgirl (I
72. Spread Wider Mom (D
73. Spunky Lad (BN
74. Stacked Hot Mom (DC
75. Stars in Their Eyes
76. Stepfather's Slave (
77. Stock Car (BN
78. Stock Car Sadist (D
79. Stock Car Stud (BN
80. Stradella (DC
81. Street Boy (BN
82. Student Victims of F Torture (BN, DC
83. Studlorn Column (DC
84. Stud Repairman (NY
85. Stud Sissy (DC
86. Submissive Miss (DC
87. Suck Eager Daughter
88. Suck Harder Cousin (
89. Suckin' Amy (BN
90. Sucking Balling Wife
91. Suck Loving Mother (
92. Sue's Sex Needs (DC
93. Sunset Strip Runawa (BN,DC
94. Super Stud For Hire
95. Super Sucker (DC
96. SWAP Fest Galore (BN
97. Swapper (MI

49. Slurping Pussy (BN
50. Sluts of Tuckerville High School (BN
51. Sluttish Daughter (BN

98. Swapping Sluts (NY
99. Swapping Surfers (DC

100. Swedish Sex Trip (DC
101. Sweet Spread Teen (DC
102. Switch Hitter Summer (B
103. Switch Hitting Pitcher (BN, NY

T

1. Take It, Wimp (DC
2. Take Me Hard (DC
3. Taking It All (DC, NY
4. Taking Tanya's Cherry (BN
5. Tanya's Touch (DC
6. Taught Sex and Remembering (DC
7. Teacher & The Team (DC
8. Teacher Loves It All (DC, NY
9. Teacher's Bad Boy (BN
10. Teacher's Rape Attack (BN
11. Team Circle Jerk (DC
12. Teen D.J. (BN
13. Teen Fetish Fantasies (DC
14. Teen In Terror (DC
15. Teen Nymphos: Needing it More (BN
16. Teen Rape Orgy (BN, DC
17. Teens Brutal Ordeal (MI
18. Teen Sex Hunger (DC
19. Teen Sex Slaves of Saigon (DC
20. Teens In Bondage (BN
21. Teens In Heat: Taking All Comers (BN
22. Teens In Restraint (BN
23. Teen Street Sluts (BN
24. Teen Swinger (BN
25. Teen Teases Showing All (BN
26. Teen Whip Mistress (DC
27. The Boys and Mabel (DC
28. The Captains Hot Rod (BN, DC, NY
29. The Doberman Next Door (BN
30. The Erotic Instructor (DC
31. The Family's Not Nights (DC
32. The Governor's Wild Wife (BN
33. The Jagged Edge (DC
34. The Kid Next Door (BN
35. The Landlady Gets Hers (BN
36. The Luxuries of Lust (DC
37. The Master's Revenge (BN
38. The Mirror Chronicles (DC
39. The Neighbor's Kids (MI
40. The Nuns Animal Fun (NY
41. The Oral Urge (DC
42. The Passion Pageant (DC
52. The Wayward Teenager
53. The Willing Housewif
54. They All Make Mother
55. The Young Coach (BN
56. Three Cheers For Sex
57. Thrust Into Pleasure
58. Tied & Tormented (DC
59. Tied Up Tits (BN, DC
60. Tight End (DC
61. Tim's Loving Mother
62. Tongue Fucked Asshol
63. Too Young (DC
64. Too Young To Be Wed
65. Top Notch Nymph (DC
66. Torture Hunger (BA
67. Total Surrender (BN NY
68. Tough Chicken (BA
69. Trained Teen Slave (
70. Trained To Be Chaine
71. Training Their Men (
72. Transvestite Athlet
73. Transvestite Brideg (BN
74. Transvestite Lesbian
75 Transvestite Mania (
76. Transvestite Next D (BN
77. Transvestite Quarte (DC
78. Transvestite Secret (BN
79. Transvestite Seduct (BN
80. Transvestite Torment
81. Transvestite TV Star
82. Transvestite Bondage Playmate (DC
83. Treat Me Rough (DC
84. Trial of the Virgin Captive (BN
85. Trucker's All Night Slut (BN, DC
86. Trucker Stud (BN
87. Turkish Jail Terror
88. Turned On Doctors (D
89. Twin Brothers In Lov
90. 2 Horny Sisters (DC
91. Two Hot Horny Babysi (DC

43. The Payola Game (DC
44. The Pride & Power (DC
45. The Ravished Coed (BN
46. The Schoolgirl's Rape Night (BN
47. The School Tease (BN
48. The Small Rooms of Paris (DC
49. The Speed Bunnies (DC
50. The Unfulfilled Housewife (DC
51. The Wandering Wives (DC

92. Two Naughty Horny Mo
(DC
93. Two Sucking Nieces (D
94. Tying Up Rebecca

U

1. Ummm! Mom's A Hot One (BN
2. Uncle Don's Secret (DC
3. Uncle's Desires Satisfied (DC
4. Unwilling Sex Slave (BN
5. Up All Night (NY
6. Up the Ying Yang (DC
7. Used by the Gestapo (BN

1. Very Horny Daughter (PA
2. Vicky's Cock Fucking Throat (DC
3. Virgin Cheerleader's Lust (BN
4. Virginia Student Nurse (DC
5. Virgin's Black Stud (BN
6. Virgin Slave's Torment (BN, DC
7. Virgin Students (BN
8. Voyer Wife on Vacation (DC

1. Wanda (DC
2. Wanda and the Whip (BN
3. Wet Black Slits (BN, DC
4. Wet Horny Mom (DC
5. Wet, Spread & Ready (DC
6. Wet Spread Show Off (DC
7. Wet Teen Lezzie (BN
8. Whipped & Chained Cousin (DC
9. Whipped Cousins (BN
10. Whipped Wives (PA
11. White Masters: Black Slave Girls (BN
12. Wicked Little Bitch (DC
13. Widow Karen (DC
14. Widow on the Prowl (BN
15. Wife Punishers (DC
16. Wife's Puppy Love (BN
17. Wife's Sex Search (DC
18. Wild & Kinky RN (DC
19. Wild Easy Daughter (DC, NY
20. Wild Hot Bride (DC
21. Wild School Girls (BN
22. Wild Sin Park (DC
23. Wild Teen For Hire (DC
24. Wild Virgin Babysitter (DC
25. Willing Student (BN
26. Windy's Straying Lust (DC
27. With This Ring I Thee Lust (NY

Y

1. Young & Horny Widow (BN
2. Young & In Love (NY
3. Young Ass Lovers (DC
4. Young Easy & Willing (BN
5. Young Girls Who Like It Kinky (BN
6. Young Legs Wide Open (DC
7. Young Moist & Black (BN
8. Young Moist Lesbian (DC
9. Young Slit Slurpers (BN
10. Young Tracy Gets It (BA
11. Young Wife, Hot Wife (BN
12. You've Come a Long Way Barbara (DC

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A FEW GOOD MEN (DC)
A GIRL LIKE THAT (DC)
A LACY AFFAIR (DC)
A LICENSE TO THRILL (DC, PH, BA
A LITTLE DYNASTY (DC)
A LITTLE SEX IN THE NIGHT (DC)
A MARRIED MAN (DC)
A MATTER OF SIZE (DC)
A NIGHT AT HALSTEAD'S (DC)
A NIGHT FOR LOVERS (DC)
A NIGHT TO REMEMBER (DC)
A STAR IS BORN (DC)
A TASTE OF CHERRY (DC)
A TOUCH OF SEX (DC, BA)
A WINTER STORY (DC)
A WINTER'S TALE (DC)
A WOMAN'S TORMENT (DC)
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ABDUCTED AND TRAINED (DC)
ADAM & CO-MODERN MEN/MODERN TOYS (DC)
ADAM/FORESKIN FANTASY #1/ (DC)
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BETWEEN THE SHEETS (DC)
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BEYOND HAWAII (DC)
BEYOND TABOO (DC, BA)
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BI-COASTAL (DC)
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BIG BAD BBRTHA (DC)
BIG BROTHER (DC)
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BLONDE GODDESS (DC)
BLONDE HEAT (DC)
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BLONDES LIKE IT HOT (DC)
BLONDIE (DC)
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BLOWN AWAY (DC)
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BLUE ICE (DC)
BLUE INTERVIEW (DC)
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BLUE VOODOO (DC)
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BODIES BY JACKIE (DC)
BODIES IN HEAT (DC)
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CHINA DE SADE (DC, BA)
CHINA GIRLS (DC)
CHINA SISTERS (DC)
CHIP OFF THE OLD BLOCK (DC)
CHOCALATE CREAM (DC)
CHOCOLATE CANDY (DC)
CHOCOLATE CHERRIES (DC)
CHOCOLATE DELIGHTS (DC)
CHRISTOPHER STREET BLUES (DC)
CISSY (DC)
CITY OF SIN (DC)
CLASS OF '84/PART 2 (DC)
CLASS REUNION (DC)
CLASSICAL ROMANCE (BA)
CLASSICS OF IRVING KLAW #2 (D
CLEOPATRA'S BONDAGE REVENGE (
CLIMAX #301 (NY)
CLIMAX #316 (NY)
CLOSE UP (DC)
CO-ED TEASERS (DC)
COCK LUST #2 (NY)
COCK TALES (DC)
COED FEVER (DC)
COFFEE TEA OR ME? (DC, MI)
COLLECTION (PH)
COLLEGE GIRLS IN BONDAGE (DC)
COLOR CLIMAX #282 (NY)
COLOR CLIMAX #284 (NY)
COLOR CLIMAX #303 (NY)
COLOR CLIMAX #313 (DC, NY)
COLOR ME AMBER (BA)
COLT VT-303 (DC)
COLT VT-308 (DC)
COLT VT-311 (DC)
COLT VT-312 (DC)
COME AGAIN DOCTOR (DC)
COME AS YOU ARE (DC)
COME GET ME (DC)
COMING ATTRACTIONS (DC)
COMING SOON (DC)
COMING THROUGH THE WINDOW (DC)

COMING TOGETHER (DC)
COMPANIONS (DC, NY)
COMPUTER GIRLS (DC)
CONFESSIONS OF A CANDYSTRIPER (DC)
CONFESSIONS OF A NYMPH (DC)
CONFESSIONS OF A TEENAGER (DC)
CONFIDENTIAL CASE HISTORIES (DC)
CONSENTING ADULTS (DC) CORPORAL (DC)
CORPORATE ASSETS (DC)
CORRUPTION (DC)
COTTONTAIL CLUB (DC)
COUNTRY GIRL (DC)
COUPLE ON A LEASH (DC, NY)
COUPLES (DC)
COUSIN BUCK (DC)
COUSINS (DC)
COVER GIRL (DC, BA)
COVERBOY (DC, BA)
COWGIRLS IN CHAINS (DC)
CRACKED ICE (DC)
CRAM COURSE (DC)
CREAM PUFF (DC, BA)
CREME DE BANANA (DC)
CREME DE COCOA (BA)
CREME D'FEMME/VOL 1 (DC)
CRIME DOES PAY (DC)
CRY FOR CINDY (DC)
CUM SHOT (NY)
CUMMING LOVERS (DC)
CUMMING OF AGE (DC)
CUNT II (BA)
CUPIDS ARROW (DC)
CURIOSITY EXCITED THE KAT (DC)
CURIOUS (DC)

DADDY DEAREST (DC)
DADDY DOESN'T KNOW (DC)
DADDY'S DAY OF RECKONING (DC)
DADDY'S GIRLS (DC)
DADDY'S LITTLE GIRLS (DC)
DAISY CHAIN (DC)

DALLAS-SIX BALL SIDE POCKET (BN)
DAMES (DC)
DANCE FEVER (DC)
DANGEROUS (DC)
DANGEROUS PASSION (NY)
DANGEROUS STUFF (DC)
DANICA RHAE/STAR CUTS VOL 2 (DC)
DANIELLE (DC)
DANIELLE'S GIRLFRIENDS (NY)
DARK PASSIONS (DC)
DAUGHTER OF DARKNESS (DC)
DAUGHTER OF EMMANUELLE (DC, NY)
DAUGHTERS OF DISCIPLINE PT. 2 (DC)
DAY AND NIGHT (DC)
DEAR FANNY (DC)
DEAR THROAT (DC)
DEBBIE DOES DALLAS (DC)
DEBBIE DOES DALLAS 3 (DC)
DEBBIE DOES 'EM ALL (DC, MI)
DEBBIE'S FANTASY (DC)
DEBBI'S CONFESSION (DC)
DEEP CHILL (DC, BA)
DEEP PASSAGE (DC, NY)
DEEP ROOTS (DC)
DEEP THROAT (DC, NY, BN)
DEEP THRUST (DC)
DELICIOUS (DC)
DELIVERIES IN THE REAR (BA)
DELIVERY BOYS (DC)
DER LANG FINGER (NY)
DER PERVERSE ONKEL (NY)
DER SEX-SPION (NY)
DESIRE FOR MEN (DC)
DESIREE (DC)
DESIREE LANE (DC, NY)
DESIRES OF THE DEVIL (DC)
DESPARATELY SEEKING SUZIE (DC, BA)
DEVIATIONS (DC)
DEVIL'S ECSTACY (DC)
DEVIL'S PLAYGROUND (DC)
DEVINE ATROCITIES (DC, NY)
DIAMOND #69 (DC)
DIAMOND #70 (DC)
DIAMOND #52 (DC)
DIAMOND #56 (DC)
DIAMOND #61 (DC)
DIAMOND COLLECTION (NY, BN, DC
DIAMOND COLLECTION #64 (NY)
DIAMOND COLLECTION #67 (NY)
DIAMOND COLLECTION #89 (NY)
DIAMOMD COLLECTION-DESIREE LA
(NY)
DIAMOND LITTLE GEMS VOL 8 (DC)
DIAMOND LITTLE GEMS VOL 10 (D
DIAMOND LITTLE GEMS VOL 11 (D
DIAMOND LITTLE GEMS VOL 12 (D
DIAMOND LITTLE GEMS VOL 7 (DC
DIAMOND LITTLE GEMS VOL 9 (DC
DIAMOND LITTLE GEMS/VOL 1 (DC
DIAMOND LITTLE GEMS/VOL 5 (DC
DIANNA'S DESTINY (DC)
DIAPER TIME (DC)
DICK CASSIDY AND THE SUNDANCE
GIRLS(NY)
DILDO #1 (BA)
DICK OF DEATH (DC, BA)
DIFFERNT STROKES (DC)
DILDO LUST #1 (NY, BN)
DILDO LUST #2 (NY)
DIRTY BLONDE (DC)
DIRTY GIRLS (DC)
DIRTY LETTERS (DC)
DIRTY OLD MAN (NY)
DIRTY SHARY (DC)
DIRTY SUSAN (NY)
DIRTY WASH (NY)
DISCO LADY (BA)
DISHONORABLE DISCHARGE (DC)
DISROBICS (DC)
DO ME EVIL (DC)
DOCTOR DESIRE (DC)
DOCTOR YES (DC)
DOCTOR'S ENEMA (DC)
DOG FUCKERS (NY)
DOG IN LOVE (NY)
DOG SEX (NY)
DOING IT (DC)
DOMINA LADY HELL (NY)
DOMINATED BY DESIRE (BN)
DON'T TELL DADDY (DC)
DOOGAN'S WOMAN (DC)
DORMITORY DAZE (DC)
DOUBLE WHIPPING (DC)
DOUBLE YOUR PLEASURE (DC)
DOWNSTAIRS/UPSTAIRS (DC)
DR. BIZARRO (DC)
DR. STORM (DC)

DIAMOND #57 (DC)

DREAM GIRL (DC)
DREAMER (DC)
DREAMS OF MISTY (DC)
DREAMS OF PLEASURE (DC)
DREAMS OF SULKA (NY)
DRESSING LESSON (DC)
DRILLER (BA)
DUTCHESS OF PORNO-HOT PANTS (NY)
DUTY AND DISCIPLINE (DC)
DYNAMITE (DC)

DR. STRANGESEX (DC)
DRACULA EXOTICA (DC)
DREAM BOYS (DC)

E-3/THE EXTRA TESTICLE (DC)
EAGER BEAVER (DC)
EARTHMAN (DC)
EASY (DC)
EASY ALICE (DC)
EAT AT THE BLUE FOX (DC)
EAT IN EAT OUT (DC)
EBONY EROTICA II (DC, NY)
EBONY LUST (NY)
EDUCATING EVA (DC)
EDUCATING MANDY (DC)
EDUCATING TRICIA (BA)
EDUCATING WANDA (DC)
EDUCATION OF VELVET (DC)
EIGHTEEN AND ANXIOUS (DC)
EL BIMBO (DC)
ELEVEN (DC, NY)
ELIZABETH AND HER AUNTY (DC)
EMBASSY AFFAIR (DC)
ENEMA AFFAIR (DC)
EXQUISITE AGONY (DC)
EROTIC DREAM HOUSE (DC)
EROTIC EXPRESS (DC)
EROTIC FANTASIES (DC)
EROTIC FANTASIES #3 (DC)
EROTIC GOLD (DC)
EROTIC INTERLUDE (DC)
EROTIC MOMENTS (DC)
EROTIC REFLECTIONS (DC)
EROTIC WORLD OF RENEE SUMMERS (DC)
EROTIC ZONES #1 (DC)
EROTIC ZONES #2 (DC)
EROTICA #6 (DC)
EROTICA COLLECTION #10 (DC)
EROTICA COLLECTION #6 (NY)
EROTICA COLLECTION #9 (DC)
EROTICA JONES (DC)
EROTICA VOL #7 (DC)
ESCAPE ME NEVER (DC)
ESP (DC)
ESSEX PREVIEW #2 (DC)
EVERY MAN'S FANTASY (DC)
EVERY WHICH WAY (DC)
EVERYTHING BUT THE KITCHEN SINK (DC)
EXCHANGE STUDENT (DC)
EXHAUSTED (DC)
EXPENSIVE TASTE (DC)
EXPERIMENTS IN BLUE (DC)
EXPOSE ME LOVELY (DC)
EXPOSE ME NOW (DC)
EXPOSED (DC)
EXTRA LARGE (DC)
EYES OF A GAY STRANGER (DC)

'F' (DC)
FACES (DC, BA)
FADE IN (DC)
FADE OUT (DC)
FADE TO RED (DC, MI)
FALCON #41/NIGHT FLIGHT (DC)
FALCON PAC #10 (DC)
FALCON PAC #11 (DC)
FALCON PAC #12 (DC)
FALCON PAC #14 (DC)
FALCON PAC #15 (DC)
FALCON PAC #16 (DC)
FALCON PAC #17 (DC)
FALCON PAC #19 (DC)
FALCON PAC #2 (DC)
FALCON PAC #21 (DC)
FALCON PAC #23 (DC)
FALCON PAC #24 (DC)
FALCON PAC #25 (DC)
FALCON PAC #26 (DC)
FALCON PAC #27 (DC)
FALCON PAC #28 (DC)
FALCON PAC #29/HUGE 1 (DC)
FALCON PAC #3 (DC)
FALCON PAC #30 (DC)
FALCON PAC #38 (DC)
FALCON PAC #4 (DC)
FALCON PAC #5 (DC)
FALCON PAC #8 (DC)
FALCON PAC 20 (DC)
FALCON PAC 22 (DC)
FALCON PAC 30 (DC)
FALCON PAC 31/HUGE 2 (DC)
FALCON PAC 37 (DC)
FALCONHEAD I (DC)
FALCONHEAD II (DC)
FALCONPAC /THE BROTHERS (DC)
FALCONPAC 18 (DC)
FALCONPAC 32 (DC)
FALCONPAC 33/SPOKES (DC)
FALCONPAC 36 (DC)
FALCONPAC 39 (DC)
FALCONPAC 40/SPLASH SHOTS (DC)
FALCONPAC 42 (DC)
FALCONPAC 43 (DC)
FALCONPAC 44 (DC)
FALCONPAC 45 (DC)
FALCONPAC 46/SPRING TRAINING (DC)
FALCONPAC 6 (DC)
FAMILY AFFAIR (DC, NY)
FAMILY SECRETS (DC)
FANTASIES UNLTD (DC)
FANTASY (NY)
FANTASY CLUB (NY, DC, BA)
FANTASY CLUB #53 (NY)
FANTASY CLUB #58 (NY)
FANTASY CLUB-DIKE DREAMS (NY)
FANTASY CLUB-QUICK LICKS (BA)
FANTASY CLUB-REAP CANAL (NY)
FANTASY FOLLIES #1 (DC)
FANTASY LAND (DC)
FANTASY MANSION (DC)
FANTASY WEEKEND (DC)
FANTASY WORLD OF NICOLE (DC)
FANTISEX ISLAND (DC)
FAREWELL SCARLET (DC)
FARMERS DAUGHTER (DC)
FASCINATION (DC)
FAST CARS/FAST WOMEN (DC)
FAST TIMES AT CHERRY HIGH (DC
FC #25 (DC)
FEELS LIKE SILK (DC)
FEMME (DC)
FEMME FATALE (DC)
FEMMES DE SADE (DC)
FIGHTING FEMMES (DC)
FILM #170 (DC)
FINGER LICKIN'GOOD (DC)
FIONA ON FIRE (NY)
FIREFOXES (DC)
FIRST TIME AROUND (DC)
FIRSTS (DC)
FIST & FIRE (DC)
FINING WHITES WAGON (NY)
FLAMING TONGUES (DC)
FLASH/CAUGHT IN THE ACT (DC)
FLASHBACKS (DC)
FLASHTRANCE (DC)
FLESH AND ECSTASY (DC)
FLESH AND LACE PT 2 (DC)
FLESH AND LACES PART 1 (DC)
FLESH 1995 (DC)
FLESHDANCE (DC)
FLESHDANCE FEVER (DC)
FLESHTONES (DC)
FLYING SKIRTS (DC)
FLYING SIX MAN (DC)
FOOT SHOW (DC)
FOOT WORSHIPPERS (DC)
FOR ME LOVE OF PLEASURE (BA)
FOR MEMBERS ONLY (DC)
FOR RICHER FOR POORER (DC)
FOR SERVICES RENDERED (DC)
FOR THE LOVE OF PLEASURE (DC)

FANTASIZE (DC)
FORBIDDEN ENTRY (NY)
FORBIDDEN FANTASIES (NY)
FORBIDDEN FRUIT (DC)
FORBIDDEN PORTRAIT (DC, NY)
FORBIDDEN WAYS (DC)
FORGIVE ME I HAVE SINNED (DC)
FORMAL FAUCETT (PH)
FOUR O'CLOCK (DC)
FOUR WAY STUD (NY)
FOXHOLES (DC)
FOXY LADY (PH)
FOXY LADY #1/L.A. VIDEO (DC)
FOXY LADY/CALVISTA (DC)
FRAT HOUSE FROLICS (DC)
FRAT HOUSE MEMORIES (DC)
FREEWAY HONEY (DC)
FRENCH CLASSMATES (DC)
FRENCH EROTICA (DC)
FRENCH FANTASIES (NY)
FRENCH FLESH (NY)
FRENCH HEAT (NY)
FRENCH LETTERS (DC)
FRENCH LIEUTENANT'S BOYS (DC)
FRENCH POSTCARD GIRL (NY)
FRENCH SCHOOLGIRLS (DC)
FRENCH TOUCH (DC)
FRENCH WIVES (DC)
FRISKY BUSINESS (DC)
FRITZ THE CAT (DC)
FROM HOLLY WITH LOVE (DC)
FROM RUSSIA WITH LUST (DC)
FURY IN ALICE (DC)
FUTURE SEX (DC)
FUTURE VOYEUR (DC)

FORBIDDEN (DC)

G THEY ARE BIG (NY)
G.G. VOL 26 (DC)

GAMES (DC)
GAMES WOMEN PLAY (DC)
GANG BANG LUST (NY)
GANG BANGS (DC
GARAGE GIRLS (DC)
GARTERS AND LACE (DC)
GAYRACULA (DC)
GEISHA GIRLS (BA)
GEISHA SLAVES (DC)
GETTIN' READY
GETTING AHEAD (DC)
GETTING IT (DC)
GETTING OFF (DC)
GETTING OFF CAMPUS (DC)
GG #15 (DC)
GG #16 (DC)
GG #20 (DC)
GG #7 (DC)

GIANTS PT.2 (DC)
GINGER LYNN (NY, BN)
GINGER LYNN VOL 1/STAR CUTS (DC)
GINGER ON THE ROCKS (DC)
GINGER VIVID (DC)
GINGER'S LUST (NY)
GIRL FROM S.E.X. (DC)
GIRL WITH HUNRY EYES (DC)
GIRLFRIENDS (DC, NY)
GIRLS & DOGS (NY)
GIRLS AND GUYS AND GIRLS
OR GUYS (BA)

GIRLS FROM THE CANDY STORE (NY)
GIRLS OF HOLLYWOOD HILLS (DC)
GIRLS OF KLIT HOUSE (DC)
GIRLS OF THE NIGHT (DC)
GIRLS ON CELLBLOCK F (DC)
GIRLS ON FIRE (DC)
GIRLS ON GIRLS (DC)
GIRLS ON THE RUN (DC)
GIRLS THAT LOVE GIRLS (DC)
GIRLS USA (DC)
GIVE IT TO ME (DC)
GLADYS THE PLUMBER (DC)
GLITTER (DC)
GLORY HOLE - THE SUNSHINE BOYS (BN)
GLORY HOLE #104 - BATHING BEAUTIES (BN)
GO FOR IT (DC)
GOING BOTH WAYS (DC, NY)

GOLDEN GIRLS (DC, PH, BA)
GOLDEN GIRLS (WRESTLING VOL
(DC)
GOLDEN GIRLS (WRESTLING) #13 (D
GOLDEN GIRLS #11 (NY)
GOLDEN GIRLS #14 (NY)
GOLDEN GIRLS #2 (BA)
GOLDEN GIRLS #24 (NY)
GOLDEN GIRLS #25 (NY)
GOLDRN GIRLS WRESTLING #14 (DC)
GOLDEN GIRLS WRESTLING #17 (DC)
GOLDEN GIRLS WRESTLING #2 (DC)
GOLDEN GIRLS WRESTLING #39 (DC)
GOLDEN GIRLS WRESTLING #7 (DC)
GOLDEN GIRLS WRESTLING #9 (DC)
GOOD GIRL/BAD GIRL (DC)
GOOD HOT STUFF (DC)
GOODBYE GIRLS (DC)
GOURMET #3 (DC)
GOURMET #5 (DC)
GOURMET QUICKIE - CHRISTY CAI
(NY)
GOURMET QUICKIE - MAI LIN (NY)
GOURMET QUICKIE - PAM JENNING (I
GOURMET QUICKIES (DC)
GOURMET VIDEO #9 (DC)
GOURMET VIDEO 102/PARTY GIRLS (I
GRABBER (NY, DC)
GRANADA AFFAIR (DC)
GRAND OPENING (DC, BN)
GREASE MONKEY/MISTRESS RENATA (I
GREASE MONKEYS (DC)
GREAT SEXPECTATIONS (DC)
GREATEST LITTLE CATHOUSE OF VI
(DC
GREEK LADY (DC, NY)
GREY HANKY LEFT (DC)
GROWING UP (DC)
GUYS WHO DO (DC)
GVC #138/BROADCAST BABES (DC)
GVC 109 (DC)
GVQ #706 (DC)
GVQ #709 (DC)
GWEN'S TIT TORMENT (DC)
GYM COACH BONDAGE (DC)

GOING DOWN (DC)
GOLD RUSH BOYS (DC)
GOLDDIGGERS (DC)
GOLDEN BOYS OF THE SS (DC)
GOLDEN GEISELL VIDEO (NY)

HALF THE ACTION (DC)
HALF-TERM PUNISHMENT (DC)
HANDFUL OF DIAMONDS (DC)
HANDY RANDY GUYS (DC)
HARD DISK DRIVE (DC)
HARD FOR MONEY (DC)
HARD FOR THE MONEY (DC, BA)
HARD LUCK NUMBER (DC)
HARD MEN AT WORK (NY)
HARD MONEY (DC, BN)
HARD SOAP (DC)
HARD TO SWALLOW (DC, MI)
HARD TO SWALLOW/LITTLE ORAL ANNIE (DC)
HARD WORKER (DC)
HARDY GIRLS (DC)
HAREM GIRLS IN BONDAGE (DC)
HARLEQUIN AFFAIR (DC)
HEAD (DC)
HEAD AND TAILS (DC)
HEAD OR TAILS (DC)
HEAD TRIPS (DC)
HEALTH SPA (DC)
HEARTBREAKER (DC, BA)
HEAT (DC)
HEAT OF THE MOMENT (DC)
HEAT WAVES (DC)
HEAVENLY DESIRE (DC, NY)
HEAVENLY NURSE (DC)
HEAVEN'S TOUCH (DC, BA)
HEAVY EQUIPMENT (DC)
HEAVY LOAD (DC)
HELLFIRE WEST (DC)
HER NAME WAS LISA (DC, MI)
HER TOTAL RESPONSE (DC)
HERMAPHRODITE (DC)
HEROS (DC)
HIGGINS/PIZZA BOYS (DC)
HIGH SCHOOL BUNNIES (DC)
HILL STREET BLACKS (NY)
HIS LITTLE BROTHER (DC)
HOLE (DC)
HOLLY MCCALL'S FANTASIES (NY)
HOLLYWOOD AT LARGE (DC)
HOLLYWOOD CONFIDENTIAL #1 (DC)
HOLLYWOOD CONFIDENTIAL #2 (DC)
HOLLYWOOD CONFIDENTIAL #3 (DC)
HOLLYWOOD CONFIDENTIAL #4 (DC)
HOLLYWOOD COWBOY (DC)
HOLLYWOOD GAY (DC)
HOLLYWOOD HEARTBREAKERS (DC)
HOLLYWOOD PINK (DC)
HOLY ROLLING (DC)
HOMETOWN GIRLS (DC)
HONEY DRIPPER (DC)
HONEY PIE (DC)
HONG KONG DONG (BA)
HONORABLE JONES (DC)
HOOKED UP HOOKER (NY)
HOOKER'S HOLIDAY (DC)
HORNY HOUSEWIFE (DC)
HORROR IN THE WAX MUSEUM (D
HORSE (DC)
HORSE LOVER (NY)
HORSE POWER (NY)
HOSTAGE GIRLS (DC, BA)
HOT ACTION (DC)
HOT BLOODED (DC)
HOT BODIES (DC)
HOT CARS NASTY WOMEN (MI)
HOT CHOCOLATE (DC)
HOT CIRCUIT (DC)
HOT CLOSE UPS (DC)
HOT COUNTRY (DC)
HOT CUNT SERVICE (NY)
HOT DALLAS NIGHTS (DC)
HOT DOGS (DC, NY)
HOT DREAMS (DC)
HOT FOR CASH (DC)
HOT FUDGE (DC)
HOT GIRLS IN LOVE (DC)
HOT GYPSY LOVE (DC)
HOT HIGH AND HORNY (DC)
HOT JOBS (DC)
HOT LEGS (DC)
HOT LINE (DC)
HOT LUNCH (DC)
HOT MERCHANDISE (DC)
HOT NIGHTS & HARD BODIES (B
HOT NUMBER (DC)
HOT NURSES (DC)
HOT OFF THE PRESS (DC)
HOT PANTS (NY)
HOT PURSUIT (DC)
HOT PINK (DC)
HOT ROCKERS (DC)
HOT ROOMERS (DC)
HOT SCHOOL REUNION (DC)
HOT SHOTS (DC)
HOT SHOTS / VOL 1 (DC)
HOT SPA (DC)
HOT SPANKING (BA)
HOT SPOTS (DC)
HOT SPUR (DC)
HOT TAILS (DC)

HOME FOR UNWED MOTHERS (NY)
HOT TOUCH (DC)
HOT WIRE (DC, BA)
HOT WIRED VANESSA (DC, BA)
HOTEL HOOKER (DC, NY)
HOTLINE (DC)
HOTTER THAN HELL (DC)
HOTTEST HUNKS (DC)
HOUSE OF ILL-REPUTE (DC)
HOUSE OF LUST (DC)
HOUSE OF PLEASURE (DC)
HOUSE OF SIN (DC)
HOUSE OF STRANGE DESIRES (DC)
HOUSESALE DISCIPLINE (DC)
HOW DO YOU LIKE IT? (DC, BA)
HOW I GOT THE STORY (DC)
HOW TO ENLARGE YOUR PENIS (DC, NY)
HOW TO PERFORM FELLATIO (DC, NY)
HUGE #1 (NY)
HUGE BOOBED BABY (NY)
HUGE BRAS (DC, BA)
HUGE BRAS VOL 3 (DC)
HUGE BRAS #4 (NY)
HUGE LADIES #1 (NY)
HUNGRY HOLE (DC)
HUNGRY HOLES (BA)
HUNK (DC)
HUSTLER #17 (DC)
HUSTLER VIDEO MAGAZINE #1 (DC)
HUSTLER VIDEO VOL. 2 (DC)
HUSTLERS (DC)
HYAPATIA LEE - SWEET YOUNG FOXES (NY)
HYPERSEXUALS (DC)
HYPNOTIC SENSATIONS (DC)
HOT TEENAGE ASSETS (DC)

I DREAM OF GINGER (DC)
I WANT TO BE A MISTRESS (DC)
I WANT TO BE BAD (DC)
I WANT WHAT I SEE (DC)
ICE CREAM (TUESDAY'S LOVER) (DC)
ICE CREAM/NAKED EYES (DC)
ILLUSIONS OF ESCTASY (DC)

ILLUSIONS OF EXTASY (BA)
IMMORAL MISTER TEAS (DC)
IMPULSE (BA)
IN A WEEK (DC)
IN LOVE (DC)
IN SARAH'S EYES (DC)
IN SEARCH OF THE PERFECT MAN (DC)
IN THE HEAT OF THE KNIGHT (DC)
IN THE NAME OF LEATHER (DC)
IN THE PINK (DC)
INCEST DELIGHT (NY)
INCEST/BROTHER LOVE (DC)
INCH BY INCH (DC)
INCH BY INCH/MATT STERLING (DC)
INCHES (DC)
INDECENT EXPOSURE (DC)
INDECENT PLEASURES (DC)
INDECENT WIVES (DC)
INDIAN LADY (DC)
INFLAMED (DC)
INITIATION OF A MARRIED WOMAN (DC)
INITIATION OF CYNTHIA (DC)
INNOCENTS FROM HELL (DC)
INPUT (DC)
INSANE LOVERS (DC)
INSATIABLE (DC)
INSIDE CANDY SAMPLES (DC)
INSIDE CHINA LEE (DC)
INSIDE DESIREE COUSTEAU (NY)
INSIDE GEORGINA SPELVIN (DC)
INSIDE JENNIFER WELLES (DC, NY)
INSIDE LITTLE ORAL ANNIE (NY)
INSIDE MARILYN (DC)
INSIDE SEKA (NY)
INTEGRATED (NY, BA)
INTENSIVE CARE (DC)
INTERLUDE OF LUST (DC)
INTERLUDES (DC)
INTERNATIONAL INTRIGUE (EMBASSY GIRLS) (DC)
INTERNATIONAL SKIN (BA)
INTIMATE COUPLES (DC)
INTIMATE DESIRES (DC, BA)
INTIMATE REALITIES #2 (DC)
INTIMIDATION (DC)

IRA'S ORDEAL (DC)
IRRESISTABLE (DC)
ISLAND OF PASSION (DC)
IT'S INCREDIBLE (DC)
IT'S MY BODY (DC)
I'VE NEVER DONE THIS BE
(DC)
IVY LEAGUE (DC)

INTRODUCTIONS (DC)
INTRUDERS (DC)

JACK N JILL #2 (DC)
JACK'N'JILL (DC)
JACKS ARE BETTER (DC)
JACQUETTE (DC)
JADE PUSSY CAT (DC)
JAILHOUSE GIRLS (DC)
JAILMATES (DC)
JANE BONDA'S WORKOUT (DC)
JAP/VOL 23 (DC)
JAP/VOL 24 (DC)
JAPANESE EROTICA #1 (DC)
JAPANESE EROTICA #2 (DC)
JAPANESE EROTICA #25 (DC)
JAPANESE EROTICA #26 (DC)
JAPANESE EROTICA #27 (DC)
JAPANESE EROTICA #28 (DC)
JAPANESE EROTICA #3 (DC)
JAPANESE EROTICA #4 (DC)
JAPANESE EROTICA #5 (DC)
JAPANESE EROTICA #6 (DC)
JAPANESE EROTICA #7 (DC)
JAPANESE EROTICA #8 (DC)
JAPANESE EROTICA/VOL 11 (DC)
JAWBREAKERS (DC)
JOCK EMPIRE (DC)
JEFF NOLL'S BUDDIES (DC)
JESSIE ST. JAMES' FANTASIES (DC)
JOB SITE (DC)
JOCKS (DC)
JOE GAGE'S (DC)
JOE GAGE'S CLOSED SET #2 (DC)
JOE GAGE'S HEATSTROKE (DC)
JOE ROCK (DC)
JOHNNY DOES PARIS (DC)
JOINT VENTURE (DC)
JOSEPHINE (DC)
JOY (BA)
JOY TOYS (DC)
JOYS OF EROTICA (NY, BA)
JOYS OF EROTICA-RAVEN-SERIES 107 (NY)
JOYS OF EROTICA-RENEE SUMMERS-SERIES 112 (NY)
JUANITA (NY)
JUBILEE OF EROTISCISM (DC)
JUDGE FOR YOURSELF (DC)
JUDGEMENT DAY (DC)
JUDI'S B & D SCHOOL (DC)
JUGGS (DC)
JUICE (DC)
JUNIOR CADETS (DC)

K-KUM (BA, DC)
K-SEX (NY)
KAKTEEN FREUND (NY)
KANSAS CITY TRUCKING CO. (DC)
KAREN'S B & D PHONE SEX (DC)
KEPT AFTER SCHOOL (DC)
KIDNAPPED GIRLS' AGENCY (DC)
KIMONO (DC)
KING SIZE (DC, NY)
KINKORAMA (DC)
KINKY BUSINESS (DC)
KINKY COUPLES (DC)
KINKY LADIES OF BOURBON STREET (DC)
KIP NOLL AND THE WESTSIDE BOYS (DC)
KIP NOLL SUPERSTAR (DC)
KIP'S CASTING COUCH (DC)
KISS AND TELL (DC)
KISSIN COUSINS (DC)
KNEEL BEFORE ME (DC)
KNOCKOUT (DC)
KRISTARA BARRINGTON #1 (BN)

L.A. BOILING POINT (DC)
L.A. PLAYS ITSELF (DC)
L.A. TOOL & DIE (DC)
LADIES IN LACE (DC)
LADIES NIGHT (DC)
LADIES OF THE EIGHTIES (DC)
LADIES THREE (DC)
LADIES WITH BIG BOOBS (DC)
LADY DOG (NY)
LADY CASANOVA (DC)
LADY MADONNA (DC)
LAS VEGAS EROTICA (DC, MI)
LASSIE (NY)
LAST TABOO (DC)
LAYOVER (DC)
LE VOYEUR (DC)
LEATHER LOVER (DC)
LEATHER MISTRESS (DC)
LEATHER PERSUASION (DC)
LEATHER REVENGE (DC)
LEATHERS BOND (DC)
LECHER (DC)
LEGACY OF LUST (DC)
LEGEND OF LADY BLUE (DC)
LEO AND LANCE (DC)
LESBIAN DESIRES (DC)
LESBIAN FOOT LOVERS (DC, BN)
LESBIAN PASSION (DC)
LESBIAN REVENGE (DC)
LESLIE BOREE'S FANTASIES (BA)
LET ME TELL YA 'BOUT BLACK CHICKS(DC)
LET MY PUPPETS COME (DC)
LETS PLAY DOCTOR (DC)
LET'S TALK SEX (DC)
LICKEN GOOD (NY)
LICORICE TWISTS (DC)
LIKE A HORSE (DC)
LIKE A VIRGIN (DC)
LIMITED EDITION (DC, BA)
LINDA WONG (DC)
LINGERIE (DC)
LIPPS AND MACAINE (DC)
LIQUID ASSETS (DC)
LISA THATCHER'S FANTASIES (DC)
LISA'S RUBBER SEDUCTION (DC)
LITTLE BLUE BOX (DC)
LITTLE BROTHER'S COMING OUT (DC)
LITTLE FRENCH MAID (DC)
LITTLE GEMS - BIG SISTER (NY)
LITTLE GEMS - PILE DRIVER (NY)
LITTLE GEMS #2 (DC)
LITTLE GEMS #6 (DC)
LITTLE GIRL (NY)
LITTLE GIRL LOST (DC)
LITTLE GIRLS BLUE PART II
LITTLE GIRLS OF THE STREE
LITTLE GIRLS TALKING DIRT
LITTLE KIMMIE JOHNSON (DC
LITTLE MUFFYY JOHNSON (DC
LITTLE OFTEN ANNIE (DC)
LITTLE ORAL ANNIE TAKES MANHATTAN
LITTLE ORPHAN DUSTY PART
LITTLE ORPHAN SAMMY (DC)
LITTLE SCHOOL GIRL (DC)
LOADSTAR (DC)
LOCKERROOM FEVER (DC)
LOG JAMMIN' (DC)
LOLITA RAPE (NY)
LOLLIPOP PALACE (DC)
LONG HARD NIGHTS (DC, MI)
LONG JEAN SILVER (DC)
LONG JOHN (DC)
LONG RUSH (DC)
LOOKING FOR LOVE (DC)
LOOSE ENDS (DC)
LOOSE MORALS (BA)
LOOSE TIMES AT RIDLEY HIG
LOSING CONTROL (DC)
LOST IN LUST (DC)
LOTTERY LUSTY (BA)
LOVE BUTTONS (DC)
LOVE DREAMS (DC)
LOVE NOTES (DC)
LOVE TO MOTHER (DC)
LOVE UNDER SIXTEEN (DC)
LOVES OF LOLITA (DC)
LUSCIOUS (DC)
LUST AMERICAN STYLE (DC)
LUST AT FIRST BITE (DC)
LUST BUG (DC)
LUST CAMERA ACTION (NY)
LUST FLIGHT 2000 (DC)
LUST IN SPACE (DC)
LUST IN THE FAST LANE (DC
LUST OF LESBIAN SEDUCTION
LUST WEEKEND (DC)
LUST-SEX SERVANT (BA)
LUSTFULLY SEEKING SUSAN
LUSTY ADVENTURES (DC)
LUSTY BUSINESS (NY)
LUSTY COUPLES (DC)
LUSTY LADIES (PH)

LITTLE GEMS #3 (DC)
LITTLE GEMS #4 (DC)

LOVE THEATRE (DC)

MACHO WOMEN (DC)
MAD JACK, BEYOND THE THUNDERBONE(BA)
MADE IN THE SHADE (DC, NY)
MADE TO ORDER (DC)
MAGIC GIRLS (DC)
MAGNUM GRIFFIN COLLECTION MALE
EROTICA (NY
MAGNUM GRIFFIN VOL 2 (DC)
MAGNUM-GRIFFIN #1 (DC)
MAGNUM-GRIFFIN #3 (DC)
MAGNUM-GRIFFIN #4 (DC)
MAID IN MANHATTAN (DC)
MAID TO BE SPANKED (DC)
MAKE IT HARD (DC)
MAKE IT HURT (DC)
MAKE ME FEEL IT (DC)
MAKE MY NIGHT (DC)
MAKING IT BIG (DC, BA)
MAKING IT HUGE (DC)
MAKING PORNO MOVIES (DC)
MALE STAMPEDE (DC)
MALES IN MOTION (DC)
MALIBU DAYS/BIG BEAR NIGHTS (DC)
MALIBU SWINGERS (BA)
MAMA'S BOY (DC)
MAMAS IN BONDAGE (DC)
MAMED WOMEN (BA)
MAN HUNT (DC)
MANDY'S EXECUTIVE SWEET (DC, MI)
MANHATTAN MISTRESS (DC)
MAN'S COUNTRY (DC)
MANSON (DC)
MARATHON (DC)
MARILYN CHAMBERS (DC)
MARILYN CHAMBERS' PRIVATE
FANTASIES #2 (DC
MARILYN CHAMBER'S PRIVATE
FANTASIES #6 (DC
MARILYN CHAMBERS PRIVATE
FANTASY #1 (DC)
MARILYN CHAMBERS/PRIVATE
FANTASIES #5 (DC
MARILYN MY LOVE (DC, MI)
MARINA HEAT (DC)
MARINE FURLOUGH (DC)
MARQUISE MARIE (DC)

MASCARA (DC)
MASTER AND MS. JOHNSON (DC)
MASTER CONTROL (DC, NY)
MASTER OF DISCIPLINE (DC)
MATINEE IDOL (DC)
MEN & STEEL (DC)
MEN COME FIRST (DC)
MEN OF THE MIDWAY (DC)
MENAGE-A-TROUX (NY)
MEN'S VIDEO MAGAZINE (DC)
MIAMI VICE (PH)
MID-SUMMER'S NIGHT DREAM
MIDNIGHT HEAT (DC)
MIDNIGHT HUSTLE (BA)
MIDNIGHT LADY (DC)
MIDNIGHT SPECIAL #1 (DC)
MIDNIGHT SPECIAL #2 (DC)
MIDNIGHT SPECIAL #3 (DC)
MIDNIGHT SPECIAL #4 (DC)
MIDNIGHT SPECIAL #6 (DC)
MILK CHOCOLATE (DC)
MIND GAMES (DC)
MISS AMERICAN DREAM (DC)
MISS PASSION (DC, BA)
MISS SEPTEMBER (DC)
MISSING PIECES (DC, BA)
MISTRESS (DC)
MISTRESS CANDY (NY)
MISTRESS ELECTRA (DC)
MISTRESS MARIANNE'S SLAVE
LOVE (DC)
MISTRESS MICHELLE (DC)
MISTY BEETHOVEN (DC)
MODE DE SADE (DC)
MODERN MEN MODERN TOYS (D
MOMMA'S BOY (DC)
MONDO FETISH (DC)
MOONSHINE MAMA (NY)
MORE MIND GAMES PART TWO
MOST VALUABLE SLUT (DC)
MOVE OVER JOHNNY (DC)
MOVIE STAR (DC)
MOVING (DC)
MR. DRUMMER 1984 (DC)
MR. GOODSEX (BA)
MRS. SMITH'S EROTIC HOLID
MRS. WINTER'S LOVER (DC)
MUDHONEY (DC)
MUSCLE BOUND (DC)
MUSCLE UP (DC)
MUSICAL SEDUCTION - TH
(NY)
MUSTANG (DC)
MY PRETTY GO BETWEEN (DC)
MY SISTER SEKA (DC)
MY STRAIGHT FRIENDS (DC)
MY TONGUE IS QUICK (DC, B

MATING SEASON (DC)
MAXIMUM (DC)
MAXIMUM I (DC)
MELANIE'S HOT LINE (DC)
MEMBERS ONLY (DC)
MEMORIES WITH MISS ANGIE (PH)
MEMPHIS CATHOUSE BLUES (DC)

NAKED CITY NIGHTS (DC, NY)
NAKED LUST (DC)
NAKED NIGHT (DC)
NASTY (DC)
NASTY LADY (DC)
NASTY LADY LUST #1 (NY)
NASTY NURSES (DC)
NATIONAL BAD TASTE COMEDY FINALS (DC)
NAUGHTY GIRLS NEED LOVE TOO (DC)
NAUGHTY NANETTE (DC)
NAUGHTY NIECES #1 (DC, NY)
NAUGHTY NIECES #2 (DC, NY)
NAUGHTY NURSES (DC)
NAUGHTY SUZANNE (DC)
NAVY BLUE (DC)
NEON NIGHTS (DC)
NETWORK SEX (DC)
NEVER A TENDER MOMENT (DC)
NEVER BIG ENOUGH (DC)
NEVER ENOUGH (DC)
NEVER SO DEEP (DC)
NEW CUMMERS (DC)
NEW KID IN TOWN (DC)
NEW WAVE HOOKERS (DC)
NEW WAVE HUSTLERS (DC)
NEWCOMERS (DC)
NICE 'N' TIGHT (DC)
NICOLE/STORY OF (DC)
NIGHT AT HELLFIRE (DC)
NIGHT CALLER (DC)
NIGHT HUNGER (DC)
NIGHT MOODS (DC)
NIGHT MOVES (DC)
NIGHT OF LOVING DANGEROUSLY (BA)
NIGHT OF SUBMISSION (DC)
NIGHT OF THE HEADHUNTER (DC)
NIGHT PROWLERS (DC)
NIKKIE CHARM (NY, BN)
NINE LIVES OF A WET PUSSYCAT (DC)
NO HOLES BARRED VOL 2 (DC)
NON-STOP (DC)
NOONER (DC)
NOSEY NURSE (DC)
NOSTALGIA BLUE (DC)
NOTHING BUT THE BEST (DC)
NOVA VOL 26 (DC)
NOVA VOL. 20 (DC)
NOVA/MADE TO ORDER (DC)
NOW THE CANE (DC)
NURSE LUST (NY)
NURSE WITH A CURSE (DC)
NURSE'S LUST NUTCRACKER (DC)

OBEDIENCE SCHOOL (DC)
OBSESSION (DC)
ODDS & ENDS (NY)
ODYSSEY (DC)
OFFICE DISCIPLINE (DC)
OH BROTHER (DC)
OH DOCTOR (DC)
OH FANNEY (DC, BA)
OH THOSE NURSES (DC)
OIL RIG #99 (DC)
OIL WELL WORKER (DC)
OLD RELIABLE VT-13 (DC)
OLD RELIABLE VT-18 (DC)
OLD RELIABLE VT-20 (DC)
OLD RELIABLE VT-29 (DC)
OLDER MEN WITH YOUNGER GIRLS (DC, BA)
OLDER WOMEN WITH YOUNG BOYS (DC)
OLINKA/GRAND PRIESTESS OF LOVE (DC)
OLYMPIC FEVER (DC)
OLYMPIX AFFAIR (DC)
ONCE AND FOR ALL (DC)
ONCE UPON A MADONA (DC)
ONCE UPON A SECRETARY (DC)
ONE IN A BILLION (DC)
ONE LAST FLING (DC)
ONE NIGHT IN BANGKOK (MI)
ONE NIGHT OF PASSION (DC)
ONE SIZE FITS ALL (DC)
ONE-TWO-THREE (DC)
OPEN FOR BUSINESS (DC)
OPEN NIGHTLY (DC)
OPENING NIGHT (DC, NY)
OPPOSITES ATTRACT (DC)
ORANGE HANKY LEFT (DC)
ORGY II (BA)
ORGY LUST #1 (BN)
ORGY OF THE DOLLS (DC, BA)
ORIENTAL DICK (DC)
ORIENTAL ENCOUNTERS (DC)
ORIENTAL LESBIAN FANTASIES (DC)
ORIENTAL LUST (DC)
ORIENTAL MADAM (BA)
ORIENTAL SEXPRESS (DC)
ORIENTAL TABOO (DC)
ORIENTAL TECHNIQUES OF PAIN & PLEASURE (DC)
ORIFICE PARTY (DC)
OTHER SIDE OF LIANNA (DC)
OUR MAJOR IS SEX (DC)
OUTLAW LADIES (DC)
OUTLAW WOMEN (DC)
OUTRAGE (DC)
OZARK VIRGIN (DC)

P.M. PREVIEW #1 (DC)
P.M. PREVIEW TAPE #3 (DC)
PACIFIC (DC)
PAIN & PLEASURE (DC, NY
PAIN & PUNISHMENT (DC)
PAIN BY LANA (DC)
PAIN DANCE (DC, BN)
PAIN MANIA (DC)
PAINFUL REUNION (DC)
PAINMANIA/DAUGHTERS OF DISCIPLINE (DC)
PALACE OF PLEASURES (DC)
PAPER DOLLS (DC)
PARIS CONNECTION (DC)
PARTY GIRL (DC, NY)
PARTY STRIPPER (DC)
PARTY OF SYMPHONY (NY)
PASSAGE TO ESTASY (DC)
PASSING STRANGERS (DC)
PASSION FOR BONDAGE (DC)
PASSION NO SHAME REGRETS (DC)
PASSION PIT (DC, BA)
PASSION TOYS (DC)
PASSIONATE LEE (DC)
PASSIONATE PISSING (NY)
PAULA'S PUNISHMENT (DC)
PAYING FOR IT (DC)
PEACHES AND CREAM (DC)
PEEK-A-BOOK GANG (DC)
PEEP HOLE POKER (NY)
PEEP SHOW/YMAC (DC)
PEEPHOLES (DC)
PEGASUS (DC)
PLEASURE PRODUCTIONS #4 (NY)
PENETRATION (DC, BA)
PENETRATION #6 (DC)
PENETRATION 5 (DC)
PERFECT WEEKEND (DC)
PERFECTION (DC)
PERFORMANCE (DC)
PERILS OF PRUNELLA (DC)
PERSONAL TOUCH 2 (DC)
PERVERSE (DC)
PERVERSION (DC)
PET OF THE MONTH (DC)
PETER GALORE (DC, BA)
PHADRA GRANT'S FANTASIES (NY)
PHOENIZ #1 (DC)

PHONE SEX FANTASIES (DC)
PHYSICAL ATTRACTION (DC)
PHYSICAL II (DC)
PIGGY'S (DC)
PIMMLICHE TOCHTER (DC)
PINK CHAMPAGNE (DC)
PINK LIPS (DC)
PIPE DREAMS (DC)
PIPELINE (DC)
PISS & CHAMPAGNE (NY)
PISS SERVICE (NY)
PLATIMUM-TICKLED PINK (BN)
PLAYGIRL (DC)
PLAYING WITH FIRE (DC)
PLAYMATE (DC)
PLEASE MR. POSTMAN (DC)
PLEASURE #1 (DC)
PLEASURE #2 (DC)
PLEASURE BEACH (DC)
PLEASURE CHANNEL (DC, BA)
PLEASURE ISLAND (BA)
PLEASURE MASTERS (BA)
PLEASURE MOUNTAIN (DC)
PLEASURE OF INNOCENCE (DC)
PLEASURE PARTY (DC)
PLEASURE PRODUCTION (NY, BA
PLEASURE PRODUCTIONS #3 (NY
PLEASURE PRODUCTIONS #8 (NY
PLEASURE SEEKERS (DC)
PLEASURE SO DEEP (DC)
PLEASURES IN THE SUN (DC)
POINT ME TOWARD TOMORROW (D
POLITICAL PARTY (PH)
PONY GIRLS (DC, NY)
POOL SERVICE (DC)
POPULAR MECANICS (DC)
PORKY'S PEEKERS (NY)
PORN STARLET CONTEST (DC)
PORNBIRDS (DC)
PORNO SHOW (NY)
PORTRAIT OF DESIRE (DC)
PORTRAIT OF LUST (DC)
POWER OF NICOLE (DC)
PRACTICE MAKES PERFECT (DC)
PREGNANT BABYSITTER (DC)
PREPPY SUMMER (DC)
PRETTY GIRL #2 (NY)
PREVIEW #2 (DC)
PRISONER OF PARADISE (DC)
PRISONER OF PLEASURE (DC)
PRIVATE AFFAIRS OF PAME
(DC)
PRIVATE COLLECTION (DC)
PRIVATE COLLECTION OF LARR
BRONCO (DC)

PICK UP (DC)
PIERCING OF JAMIE (DC)
PIERCING OF LAURA (DC)
PRIVATE NURSES (DC, NY)
PRIVATE PARTY (DC)
PRIVATE PARTY/BUCKSHOT (DC)
PRIVATE PLEASURES OF JOHN C. HOLMES (DC)
PRIVATE PRACTICE (DC)
PRIVATE TEACHER (DC)
PRIZED POSSESSION (DC)
PRO BALL CHEERLEADER (DC)
PROBATION OFFICER'S DISCIPLINE (DC)
PROGRAMMED FOR PLEASURE (DC)
PROJECT: GINGER (DC, MI)
PRUNELLA (DC)
PUBLIC AFFAIR (DC)
PUNISHED #2 (DC, BN)
PUNISHED #3 (DC, NY)
PURELY PHYSICAL (DC)
PUSS N BOOTS (DC)
PRIVATE FANTASIES (DC)
PRIVATE LESSONS (DC)
PRIVATE MOMENTS (DC)

QUEEN OF WRESTLING PART II (DC)
QUEEN OF WRESTLING PART l (DC)
QUICK LICKS (DC)

RAM ROD (NY)
RAMBONE - THE FIRST TIME (DC)
RAMBONE THE DESTROYER (BA)
RANDY THE ELECTRIC LADY (DC)
RAVAGED (DC, NY)
RAVEN (DC, NY, MI)
RAVEN VOL 1/STAR CUTS (DC)
RAW COUNTRY (DC)
RAW TALENT (DC, BA)
RAWHIDE (DC)
REAL ESTATE (DC)
REAR ACTION GIRLS #1 (DC)
REAR ACTION GIRLS #2 (DC)
REAR ENDED (DC, BA)
REBECCA'S DREAM (DC)
RED ALL OVER (DC)
RED BALL EXPRESS (DC)
REDWOOD ROMANCE (DC)
REEL PEOPLE (DC)
REFLECTIONS (DC)
REFLECTIONS OF YOUTH (DC)
REGAL VOL 3 (DC)
REGAL VOL 5 (DC)
REGENCY (DC)
REGENCY #14 (DC)
REGENCY #18 (DC)
REGENCY #4 (DC)
REINCARNATION OF SERENA (DC, NY)
REN SAKATA (DC)
RENDEVOUS WITH DESTINY (DC)
RETURN TO ALPHA BLUE (DC)
REVENGE (DC)
REVENGE AND PUNISHMENT (DC)
REVENGE BY LUST (BA)
REVENGE OF THE NIGHTHAWK (DC)
REVOLUTION (DC)
RHINESTONE COWGIRLS (DC)
RHODA JO (DC)
RIBU 039 (NY)
RICH BITCH (DC)
RICH QUICK/PRIVATE DICK (DC)
RIDING MISTRESS (DC)
RIKKI BLAKE (NY)
RIPPLE WRINKLE (NY)
RIPPLES AND WRINKLES (DC)
RIVERMAN ROBIN'S NEST (DC)
RODEO (DC, BA)
ROLLERBABIES (DC)
ROMANCING THE BONE (DC)
ROMP AROUND (DC)
ROOM SERVICE PLUS (DC, NY)
ROOM 2-D (DC)
ROOMMATES (DC, NY)
ROPE BURN (BN)
ROPE THAT WORKS (DC)
ROSE MARIE (NY)
ROSEMARIE VOL 2/STAR CUTS (DC)
ROUGH RIDERS #3-HELPER (BN)
ROUTE 89 (DC, BA)
ROXBURY VOL #1 (DC)
RUB DOWN (DC)
RUBBER PARTY (DC)
RUMP HUMPERS (BA)
RUNNING WILD (DC)
RUSHING (DC)

STRANGE BEDFELLOWS (DC)
STRANGE FAMILY (DC)
STRANGE LUST #1 (NY)
STRANGE LUST #3 (BA)
STRANGE PLACES STRANGE THINGS (DC)
STRAY CATS (DC)
STREET BOYS (DC)
STREET HEAT ORGY (DC)
STREET KIDS (DC)
STREET STAR (DC)
STRICKLY FOR LADIES ONLY (DC)
STRICKLY FORBIDDBN (DC)
STRICTLY FUCKING BUSINESS (DC)
STRIPTEASE (DC)
STUD HUNTER (DC)
STUD WARS (DC)
STUDENT BODIES (DC)
STUDHUNTERS 1 (DC)
STUDHUNTERS 2 (DC)
SUBMISSION OF SERENA (DC)
SUBURBAN LUST (DC)
SUBWAY (DC)
SUE PRENTISS R.N. (DC)
SULKA (NY)
SULKA'S DAUGHTER (DC)
SULKA'S WEDDING (DC)
SUMMER BEACH HOUSE (NY)
SUMMER BREAK (BA)
SUMMER DAYS/SUMMER LOVERS (DC)
SUMMER IN HEAT (DC)
SUMMER OF LAURA (DC)
SUMMER OF SCOTT NOLL (DC)
SUNNY DAY (NY)
SUPERBOWL BONDAGE (DC)
SUPERCHARGER (DC)
SUPERGIRLS DO GENERAL HOSPITAL (DC
SUPERSTUDS (DC)
SURGE STUDIOS/RANGERS (DC)
SUSAN HART #1 (BN)
SUSAN HART VOL 2/STAR CUTS (DC)
SUSI 1ST BONDAGE (BA)
SUZES CENTERFOLD (DC)
SUZE'S CENTERFOLDS #7 (DC)
SUZY ALBERT VS. LITTLE JIMMY (DC)
SUZY'S BIRTHDAY BANG (DC)
SWAP MEAT (NY)
SWAPMEET (DC)
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SWEATBOX (DC)
SWED. EROTICA #11 (BN)
SWED. EROTICA #111 (BA)
SWED. EROTICA #12 (NY)
SWED. EROTICA #18 (BN, BA)
SWED. EROTICA #2 (NY)
SWED. EROTICA #20 (NY)
SWED. EROTICA #22 (BN)
SWED. EROTICA #23 (BN)
SWED. EROTICA #24 (BN, BA)
SWED. EROTICA #25 (BN, NY)
SWED. EROTICA #26 (BN)
SWED. EROTICA #27 (NY, BN)
SWED. EROTICA #28 (BN)
SWED. EROTICA #29 (BN)
SWED. EROTICA #30 (BN)
SWED. EROTICA #31 (BN, DC)
SWED. EROTICA #32 (BN)
SWED. EROTICA #33 (BN)
SWED. EROTICA #34 (BN)
SWED. EROTICA #35 (BN)
SWED. EROTICA #36 (BN)
SWED. EROTICA #37 (BN)
SWED. EROTICA #38 (BN)
SWED. EROTICA #39 (NY, BN)
SWED. EROTICA #10 (NY, BN)
SWED. EROTICA #41 (BN)
SWED. EROTICA #42 (BN)
SWED. EROTICA #43 (NY, BN)
SWED. EROTICA #44 (NY, BN)
SWED. EROTICA #45 (BN)
SWED. EROTICA #46 (BN)
SWED. EROTICA #47 (NY, BN, BA
SWED. EROTICA #48 (BN)
SWED. EROTICA #49 (BN)
SWED. EROTICA #5 (NY)
SWED. EROTICA #50 (BN)
SWED. EROTICA #51 (BN)
SWED. EROTICA #52 (BN)
SWED. EROTICA #53 (BN)
SWED. EROTICA #54 (BN)
SWED. EROTICA #55 (BN, BA, DC
SWED. EROTICA #56 (NY, BN)
SWED. EROTICA #57 (BN)
SWED. EROTICA #58 (BN)
SWED. EROTICA #59 (BN)
SWED. EROTICA #60 (BN, DC)
SWED. EROTICA #61 (BN, DC)
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SWED. EROTICA #64 (BN, DC)
SWEDISH EROTICA ALL YOU C
SWEDISH EROTICA VOL 63 (DC)
SWEDISH SORORITY GIRLS (DC)
SWEET ALICE (DC)
SWEET CHASTITY (DC)

SWED. EROTICA #14 (BN)
SWED. EROTICA #16 (BN)
SEXTASY (DC)
SEXTOOL (DC)
SEXUAL POSITIONS (DC)
SEXUAL WITCHCRAFT (DC)
SEXY (DC, MI)
SEXY BLACKMAIL (NY)
SEXY SHAVERS (NY)
SGT. SWANN'S PRIVATE FANTASIES (DC)
SHACKING UP (DC)
SHADES OF ECSTASY (BA)
SHAMEFUL DESIRES (DC)
SHANA (DC)
SHANA GRANT'S FANTASIES (DC)
SHANGHAI GIRLS (DC)
SHAPE UP FOR SENSATIONAL SEX (DC)
SHARON IN THE ROUGH HOUSE (DC)
SHAUNA (DC)
SHAUNA GRANT (NY)
SHAVED (NY, BA)
SHAVED BUNNIES (DC, NY)
SHAVED PINK (BA)
SHAVETAIL (DC)
SHE DID WHAT HE WANTED (DC)
SHE MALE (NY)
SHE-MALE COLLECTION #3 (DC)
SHE-MALE CONFIDENTIAL (DC)
SHE-MALE ENCOUNTERS #1 (DC)
SHE-MALE ENCOUNTERS #5 (DC)
SHEER DELIGHT (DC)
SHE'S A BOY TOY (DC, BA)
SHOE SHINE (DC)
SHOOTING STARS (BA)
SHOPPE OF TEMPATIONS (DC)
SHORE LEAVE (DC)
SHOW YOUR LOVE (DC)
SHOWGIRLS (MI)
SIGHS (DC)
SILHOUETTE - INNOCENT GIRLS (NY)
SILK/SATIN & SEX (DC)
SINDEROTICA (DC)
SISTER DEAREST (DC)
SISTER EVE (DC)
SIX EASY PIECES (BA)
SIX FACES OF SAMANTHA (DC)
SIZING UP (DC)
SIZZLE (DC)
SIZZLING SUBURBIA (DC)
SKI HUSTLERS (DC)
SKIN DEEP (DC, PH)
SKIN ON SKIN (DC)
SWEET DOMINANCE (DC)
SWEET DREAMS (DC)
SLAVE PIERCING (DC)
SLAVE THERAPY (DC)
SLAVES FOR SALE PART ONE (DC)
SLAVES FOR SALE PART TWO (DC)
SLAVES OF MISTRESS MONIQUE (DC
SLEAZE (DC)
SLEAZE/C.RAGE (DC)
SLEEPLESS NIGHTS (DC)
SLICE OF LIFE (DC)
SLIP INTO SILK (DC)
SLIP UP (DC)
SLIT SKIRTS (DC)
SLUTS IN HEAT (DC)
SMALL TOWN BOY (DC)
SMALL TOWN GIRLS (DC)
SNACK TIME (DC)
SNAKE FUCKERS (NY)
SOFT STROKE (DC)
SOMETHING WILD (DC)
SONG OF THE LOON (DC)
SOPHISTICATED PLEASURE (DC)
SORE THROAT (DC)
SOUND OF LOVE (DC)
SOUNDS OF SEX (DC)
SOUTH OF THE BORDER (DC, BA)
SOUTHERN COMFORT (NY)
SPACE VIRGINS (DC)
SPACEMAN (DC)
SPANKING TUTOR (DC)
SPANK ME DADDY (DC, NY)
SPANKING SALESMAN (DC)
SPECIAL REQUEST (DC)
SPERMA (NY)
SPITFIRE (DC)
SPLIT IMAGE (DC)
SPORTS EROTICA 2 (DC)
SPREAD SCHOOL GIRL (BN)
SQUALOR MOTEL (DC)
STACY'S HOT ROD (DC)
STALAG 69 (DC)
STAND BY YOUR WOMAN (DC)
STAR CUTS - ALI MOORE #1 (BA)
STAR '85 (DC, BA)
STARLET NIGHT (DC)
STARVED FOR AFFECTION (DC)
STEAM HEAT (DC)
STEAMIN' HOT (DC)
STEPHANIE'S LUST STORY (DC)
STICKY FINGERS (DC, BA)
STIFF COMPETITION (DC)

SKINTIGHT (DC)
SKY PIES (DC, BA)
SLAVE OF PLEASURE (DC)
S&M NEW ENGLAND STYLE (DC)
S&M DOUBLE FEATURE (DC)
S&M PARTY AT MIDNIGHT (NY, BN, DC)
SADDLE HORNY (DC)
SADIE (DC)
SADISTIC SWEETHEART (DC)
SAILOR IN THE WILD (DC)
SALLY ROBERTS IN BONDAGE #1 (DC)
SALLY ROBERTS IN BONDAGE #3 (DC)
SALLY ROBERTS IN BONDAGE #4 (DC)
SALLY'S FIRST LESSON (DC, BN)
SALON FOR SEDUCTION (DC)
SALT AND PEPPER (DC)
SALT AND PEPPER BOYS (DC)
SAME TIME EVERY YEAR (DC)
SAMURAI DICK (DC)
SAN FRANCISCO (NY)
SAN FRANCISCO GENERAL HOSPITAL (DC)
SANTA COMES TWICE (DC)
SAPPHO SEXTET (DC)
SATIN DOLLS (DC)
SATIN FINISH (DC)
SATIN VIDEO WALL TO WALL SEX #1(NY)
SATISFACTIONS (DC)
SATISFIERS OF ALPHA BLUE (DC)
SAURE GURKEN (NY)
SAVAGE BUNS (DC)
SAVAGE SADISTS (DC)
SAVAGED AND RAVAGED (DC)
SCANDAL IN THE MANSION (BA)
SCANDAL MANSION (DC)
SCANDALOUS SIMONE (DC)
SCATMAN (DC)
SCENT OF HEATHER (DC)
SCHOOL CHUMS (NY)
SCHOOL GIRL REUNION (DC)
SCHOOL REPORTS #1 (DC)
SCHOOL REPORTS #2 (DC)
SCHOOL TEACHERS (DC)
SCHOOLDAZE (DC)
SCHOOLGIRL BY DAY (DC)
SCHOOLMATES II (DC)
SCHWARZE GIER (DC)
SCOTT MADSEN'S AEROBIFLEX (DC)
SCOUNDRELS (DC)
SCREEN PLAY (DC)
SCREEN TEST (DC)
STORY OF BOBBY (DC)
STORY OF JOANNA (DC)
STORY OF PRUNELLA (DC)
SECRETS OF SEKA (PH)
SEDUCE ME TONIGHT (DC)
SEDUCTION OF CINDY (DC)
SEDUCTION OF SEKA (DC)
SEDUCTRESS (DC)
SEKA'S FANTASIES (NY, DC)
SEKA'S LACY AFFAIR/PART 2 (D
SENSATIONS (DC)
SENSUAL ENCOUNTERS OF EVER
(DC)
SENSUAL EROTICA (DC)
SENSUOUS DETECTIVES (DC)
SENSUOUS TALES (DC, BA)
SENSUOUS MOMENTS (DC)
SERENA-ADULT FAIRY TALE (DC)
SERVICE ENTRANCE (DC)
SERVICED WITH A SMILE (DC)
SEVEN INTO SNOWY (DC)
SEVEN SEDUCTIONS (DC)
SEVEN SEDUCTIONS OF MADAM
(DC)
SEX AND THE CHEERLEADERS (DC
SEX APPEAL (DC)
SEX AS YOU LIKE IT (DC)
SEX BAZAAR (DC)
SEX CLINIC GIRLS (DC)
SEX CRIMES 2084 (DC)
SEX DREAMS ON MAPLE STREET (
SEX DRUGS ROCK AND ROLL (DC)
SEX FIFTH AVENUE (DC)
SEX GAMES (DC)
SEX IN THE COMICS (DC)
SEX ON THE SET (DC)
SEX SEX ORGY #236 (NY)
RITUALS OF THE OCCULT (DC)
SEX ROMANCE (DC)
SEX SHOOT (DC)
SEX SHOWS OF PARIS (BA)
SEX STARS (DC)
SEX STEWARDESSES (DC)
SEX TOYS (DC)
SEX TRICKS (DC)
SEX U.S.A. (DC)
SEX-A-VISION (MI)
SEX-ED WITH LITTLE RED (DC)
SEXAHOLIC (DC)
SEXAVISION (DC)
SEXBUSTERS (DC)
SEXCALIBUR (DC)

SCREW #1 (DC)
SCREWPLES (DC)
SEA CADETS (DC)
SECLUDED PASSION (DC)
SECRET DREAMS OF MONA (DC)
SECRET TABLETS OF RAMA (DC)
SWEET NIGHTMARES (DC)
SWEET SISTER (DC)
SWEET SURRENDER (DC, BA)
SWEET TASTE OF HONEY (DC)
SWEET YOUNG FOXES (DC, BA)
SWING SHIFT (DC)

SEXDRIVES (DC)
SEXEO (DC)
SEXERCISE GIRLS (DC)
SEXORCIST DEVIL (DC)
SEXPERT (DC)
SEXSATIONS (DC)

TABOO (DC, NY)
TABOO AMERICAN STYLE (DC)
TABOO II (DC)
TABOO III (DC, NY)
TABOO IV THE YOUNGER GENERATION (BA, DC)
TAIL ENDERS (DC, NY)
TAILHOUSE ROCK (DC)
TAKE MY BODY (DC)
TALK DIRTY OF ME ONE MORE TIME (DC, BA)
TALK DIRTY OF ME PART II (DC, BA)
TALK DIRTY TO ME (DC)
TALK DIRTY TO ME III (DC)
TALL TIMBER (DC)
TAMING OF REBECCA (DC)
TAO PREVIEW TAPE (DC)
TAROT TEMPTRESS (DC)
TASKMASTER (DC)
TASTE OF CANDY (DC)
TASTE OF MONEY (DC)
TASTE THE LASH (DC)
TATTOOED LADY (DC)
TAXI GIRLS (DC, NY)
TAYOLR EVANS FANTASIES (DC)
TEACH ME (DC)
TEACHER TEACHING (DC)
TEACHER'S PET (DC)
TEACHER'S WEEKEND VACATION (DC)
TEASE ME (DC)
TEASERS (DC)
TEEN CLIMAX (NY)
TEENAGE CLIMAX-ANAL CLIMAX (NY)
TEENAGE CYCLE SLUTS (DC)
TEENAGE DESSERT (DC)
TEENAGE DEVIATE (DC)
TEENAGE DOG ORGY (NY)
TEENAGE HUSTLER (DC)
TEENAGE MADAM (DC)
TEENAGE SEX (NY)
TEENAGE SEX #778 (NY)
TEENAGE SEX #788 (NY)
TEENAGE SEX-GREEDY GIRLS (NY)
TEENAGE SEX-LUST LESSON (NY)
TEENAGE SEX-SALESMAN'S LUST (NY)
TEENAGE STEPMOTHER (DC)
TEMPLE OF LOVE (BN)
TEMPTRESS (DC)
TEN LITTLE MAIDENS (DC, BA)
TENNIS WITHOUT BALLS (DC)
TENNYBUNS (DC)
TERMS OF EMPLOYMENT (BA)
TERRI'S LESSON IN BONDAGE (DC)
THAT BOY (DC)

THAT BOY NEXT DOOR (DC)
THAT LADY FROM RIO (DC)
THAT LUCKY STIFF (DC)
THAT'S MY DAUGHTER (DC)
THE ANALYST (DC, BA)
THE ANIMAL IN ME (DC, BA)
THE AROUSERS (BA)
THE ARRANGEMENT (DC)
THE AWAKENING OF EMILY (DC)
THE AWAKENING OF SALLY (DC)
THE BACK ROW (DC)
THE BAD BRIDE (DC)
THE BEST OF RICHARD RANK (NY)
THE BIG E - #2 (DC)
THE BIG E - VOL #4 (DC)
THE BIG E - VOL. #5 (DC)
THE BIG E REVIEW TAPE (DC)
THE BIG FANTASY (DC)
THE BIG SPENDER (DC)
THE BIG SURPRISE (DC)
THE BIG SWITCH (DC)
THE BIG THRILL (DC)
THE BIGGER THE BETTER (DC)
THE BIGGEST ONE I EVER SAW (DC)
THE BITE (DC, BA)
THE BLONDE (DC)
THE BLONDE NEXT DOOR (DC)
THE BOARDING HOUSE (DC)
THE CLUB (DC)
THE COMING OF JOYCE (DC)
THE COMPANY WE KEEP (DC)
THE DANCERS (DC)
THE DESTROYING ANGEL (DC)
THE DEVIL IN MISS JONES (DC)
THE DIRTY PICTURE SHOW (DC)
THE DRESDEN DIARY (BA)
THE EIFFEL TOWER (DC)
THE EMBASSY GIRLS/OPEN FOR BUSINESS (DC)
THE ENCHANTRESS (DC)
THE EROTIC WORLD OF LINDA WONG (DC)
THE EX-WIFE (DC)
THE EXPERIMENT (DC, NY)
THE EYES OF EDDIE MARS (NY, BA, DC)
THE FALCONHEAD COLLECTION-GOLDEN BOYS (BN)
THE FILTHY RICH (DC)
THE FINE ART OF ANAL INTERCOURSE (DC)
THE FINE ART OF CUNNILINGUS (DC)
THE FIRE IN FRANCESCA (DC)
THE FISHERMAN (BN)
THE GINGER EFFECT (DC)
THE GIRL FROM CHINA (DC)
THE GIRLS FROM SEX (DC)

THE GIRLS WITH THE HUNGRY EYES (BA)
THE GIRLS OF KLIT HOUSE (DC)
THE GIRLS OF THE A TEAM (DC)
THE GOOD THE BAD AND THE HORNY(DC)
THE GRAFENBERG SPOT (DC)
THE HEARTBREAK GIRL (DC)
THE HEAT IS ON (DC)
THE HORNY DOG (NY)
THE HOT ONES (DC)
THE HUNG AND THE RESTLESS (DC)
THE IDOL (DC)
THE INTERVIEW (DC)
THE IRVING CLAW CLASSICS #1 (DC)
THE JANITOR (DC)
THE JOY STICK GIRLS (NY, DC)
THE JUNK YARD (DC)
THE LADY VANESSA (DC, NY)
THE LAST SUPPER (DC)
THE LEATHERMEN (NY)
THE LOVE SCENE (DC, MI)
THE LOVER GIRLS (DC)
THE LUSTY ADVENTURER (BA)
THE MAIN ATTRACTION (DC)
THE MILLIONAIRE (DC)
THE ORGY MACHINE (DC)
THE OTHER SIDE OF ASPEN (DC)
THE PEEK A BOO GANG (DC)
THE PERFECT FIT (DC)
THE PERFECT GIFT (DC)
THE POONIES (DC)
THE PROSTITUTE (DC)
THE PUNISHMENT OF GARY WILDE (DC)
THE RETURN OF ALCATRAZ (DC)
THE SEX GODDESS (DC)
THE SHOE STORE (DC)
THE SISTER'S PUNISHMENT (DC)
THE SLAVE EXCHANGE (DC)
THE SPERMINATOR (DC)
THE STORY OF JOANNA (NY)
THE STORY OF O (NY)
THE T & A TEAM (DC)
THE THERAPIST (DC, NY)
THE TONGUE (DC)
THE TOTAL WOMAN (DC)
THE TRAINERS (DC)
THE TRAINING OF JULIA (DC)
THE TRAP (DC)
THE ULTIMATE IN X-RATED #6 (NY)
THE ULTIMATE O (DC)
THE UNTAMED (DC, NY)
THE VIRGIN AND THE LOVER (DC)
THESE BASES ARE LOADED (DC)
THEY ALL CAME (DC)
THEY GAVE A PARTY AND EVERYBOD
CAME (BA)
THEY LAY IT ON THE LINE (BA)
THEY WORK HARD FOR THEIR MC
(DC)
THINKING BIG (DC)
THOROUGHLY AMOROUS AMY (DC)
THREE DAY PASS (DC)
THRILL STREET BLUES (PH)
THRILLING DRILLING (DC)
THROAT/TWELVE YEARS AFTER (DC)
THRU THE LOOKING GLASS (DC)
THRUST (DC)
THUNDER THIGHS (NY)
TIED AND TICKLED (DC, BN, NY)
TIFFANY MINX (DC)
TIGHT AND TENDER (DC)
TIGHT DELIGHT (DC)
TIGHT END (DC)
TIGHT OF TENDRE (BA)
TIGHT THAI CUNT 67s (NY)
TIMES SQUARE STRIP (DC)
TINA MAKES A DEAL (DC)
TINA'S PARTY (DC)
TIT #1 (BA)
TITILLATION (DC)
TNT TITALATORS (NY)
TO RIDE A TIGER (DC)
TODAY TOMORROW YESTERDAY (DC)
TOILET ORGY (NY)
TOMBOY (DC)
TONGUE IN CHEEK (BA)
TONIGHT (DC)
TONS OF BUNS (BA)
TONS OF BUNS #2 (NY)
TONY'S INITIATION (DC)
TOO GOOD TO BE TRUE (DC)
TOO HOT TO TOUCH (DC)
TOO MANY PIECES (DC)
TOO MUCH TOO SOON (DC)
TOO NAUGHTY TO SAY NO (BA)
TOO YOUNG TO KNOW (DC)
TOP SECRET (DC)
TOPLESS WAITRESS WANTED (NY)
TORTURE DUNGEON (DC)
TOTALLY AWESOME (DC)
TOUCH ME IN THE MORNING (DC)

THE WHORE'S PORT (BA)
THE WIZARD OF AHHHS (DC)
THE WOMEN IN PINK
THE X FACTOR (DC)
THE YOUNG AND THE HUNG (DC)

TOWER OF POWER (DC)
TRACI LORDS (DC)
TRACY DICK (DC)
TRACY IN HEAVEN (DC)
TRADING PARTNERS (DC)
TRAINING ACADEMY (DC)
TRANSEXUAL ENCOUNTERS (NY, BA)
TRANSFORMATION OF SULKA (DC)
TRANSVESTITES IN BONDAGE (DC)
TRASH (DC)
TRASHY LADY (DC)
TREASURE CHEST (DC)
TRI-SEXUAL ENCOUNTERS #1 (DC)
TRICK OR TREAT (DC)
TRICK TIME (DC)
TRILOGY OF THE BIZARRE (NY, BA)
TRINITY BROWN (DC, BA)
TRIPLE TREAT (DC)
TRIPLETS (DC)
TRIPPLE CROSS (BN)
TRIPS (DC)
TRISEXUAL (DC)
TRISEXUAL #2 (DC)
TRISEXUAL ENCOUNTERS #2 (DC)
TROPHY #1 (DC)
TROPHY #2 (DC)
TROPHY #4 (DC)
TROPHY #5 (DC)
TROPHY #7 (DC)
TROPHY #8 (DC)
TROPHY #9 (DC)
TROPHY/SCREEN PLAY (DC)
TROPIC OF DESIRE (DC)
TRUCK STOP (DC)
TRUE CONFESSIONS (DC)
TRUE CRIMES OF PASSION (DC)
TUB TRICKS (DC)
TUESDAY MORNING WORKOUT (DC)
TUESDAY'S LOVER (BA)
TWELVE AT NOON (OC)
TWO TIMER (DC)
TWO VS. ONE (DC)

TOUCH OF MISCHIEF (DC)
TOUGH AND TENDER (DC)
TOUGH COMPETITION (DC)
TOUGH GUYS (DC)
TOURIST TRAP (DC)
TOWER OF LOVE (DC)

ULTIMATE MOMENTS (DC)
UNDER CONSTRUCTION (BA)
UNDERCOVERS (DC)
UP (DC)
UP & IN (DC)
UP DESIREE LANE (DC, BA)
UP IN THE AIR (DC)
UP UP AND AWAY (DC)
UPSIDE DOWN (DC)
URBAN COWGIRLS (DC)
URBAN HEAT (DC)
URGED IN YOUNG GIRLS (DC)
URGENT DESIRES (DC)
USDA CHOICE (DC)

VALLEY BOYS (DC)
VALLEY GIRL'S REVENGE (DC)
VALLEY VIXENS (DC)
VAMP'S BLACKMAIL (DC)
VANESSA - MAID IN MANHATTAN (DC)
VANESSA #2 (DC, NY)
VANESSA'S BED OF PLEASURE (DC, BA)
VANESSA'S HOT NIGHT (DC)
VARIATIONS (DC)
VCA PREVIEW #2 (DC)
VCX PREVIEW #1 (DC)
VELVET HIGH (BA)
VELVET TONGUE (DC)
VICTORIA'S SECRET DESIRES (DC)
VIDEO ENCOUNTERS (DC)
VIDEO GIRLS (DC)
VIOLATED (DC)
VIVA VANESSA THE UNDRESSER (DC)
VIXEN (DC)
VIXENS OF KUNG FU (PH)

WALL TO WALL (DC)
WALL TO WALL #2 (DC)
WALL TO WALL SEX #2 (NY)
WANDA WHIPS WALL STREET (DC)
WANTED - BILLY THE KID (DC)
WATERMELON BABES (DC)
WEEK-END COWGIRLS (DC)
WEEKEND FANTASY (DC)
WET (DC)
WET AND WILD #1 (BA)
WET DREAMS (DC, BA)
WET LUST (BN)
WET RAINBOW (DC)
WET SEX (DC)
WET SHORTS (DC)
WET WIDE AND WICKED (DC)
WHAT BOTTOMS ARE FOR (DC)
WHAT'S MY PUNISHMENT? (DC)
WHEN SHE WAS BAD (DC)
WHITE CHICKS (NY)
WHORES POINT (DC)
WHORSEMAN (DC)
WICKED SCHOOLGIRLS (DC)
WICKED WAYS (DC)
WICKED WHISPERS (DC)
WILD ABOUT HORSES (NY)
WILD BILL'S HUGH LADIES (NY)
WILD DALLAS HONEY (DC, PH)
WILD OATS (DC)
WILD SIDE (DC)
WILD TOGA PARTY (BA)
WILD WEEKEND (DC)
WILDE HOUSE (DC)
WILDSIDE (DC)
WINDOWS (DC)
WINGS OF PASSION (DC)
WISH YOU WERE HERE (DC)
WITH LOVE ANNETTE (DC)
WITH LOVE LONI (DC)
WOLLUST IN LEADER (NY)
WOMEN AND ANIMALS DOG-LOVERS (NY)
WOMEN AND ANIMALS (NY)
WOMEN AT PLAY (DC)
WOMEN IN LOVE (DC)
WOMEN WHO LOVE WOMEN (DC)
WOMEN WHO SEDUCE MEN (DC, NY)
WOMEN WITHOUT MEN (DC)
WOMENS DESIRES (DC)
WOMEN'S FANTASIES (DC, NY)
WORKING GIRLS (DC)
WORKING IT OUT (DC)
WORKING MEN (DC)
WORKING OVERTIME (NY)
WORKLOAD (DC)
WORLD OF SUPERSTARS (DC)
WRECKED 'EM (DC)
WRESTLING MEAT (DC)

X TEAM (DC)
X-RATED BLOOPERS (DC, MI)
XRCO (DC)
YAMA HAMA MAMAS (NY)
YANK MY DOODLE (DC)
YELLOW FEVER (DC)
YES MY LADY (DC)
YOUNG AND INNOCENT (DC)
YOUNG AND RESTLESS (DC)
YOUNG GIRLS DO (DC)
YOUNG OLYMPIANS (DC)
YOUNG ONES (DC)
YOUNG PREY (DC)
YOUNG SEKA #1 (BN)
YOUNG SEKA VOL 1/STAR CUTS (DC)
YOUNG SEKA VOL 2/STAR CUTS (DC)
YOUNG STAR GAZER (DC)
YOUNG YANKEES (DC)
YOUNGBLOODS (DC)
YOU'RE THE BOSS (DC)
YOUTHFUL LUST (DC)
1001 NIGHTS (DC)
18 CANDLES (DC)
4 IN HAND (DC)
5 DAYS WITH PHIL/OLD RELIABLE (DC)
69 PARK AVENUE (DC)
7 - CARD STUD (DC)
800 FANTASY LANE (DC)

1. SPECIFIC MATERIALS

In addition to the quantitative data presented al Commission staff members also reviewed specific materials prepared descriptions of selected materials as conta hereinafter.

Materials were rented, purchased or obtained from the Ui States Postal Inspection Service, the United States Cus Service and state and local police agencies that had been se or otherwise obtained during the course of offi investigations of commercial obscenity sales and distribut The Kentucky State Police provided numerous exhibits purchase a recent investigation and obscenity prosecution involving cassettes and other items in the Western District Kentucky.2261

No claim is made that the materials described are the representative sample that could be found in there is no exi source of information to identify such materials. The mate that were selected however were not to be rare, one-of-a- items or the "worst" representative materials found. All selected from stores were from an identifiable class of mat in the display areas of the store and were representative of class. In addition to the foregoing, all materials had to b

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2261 United States v. Sovereign News Company, General of America, No. Cr84-00149-L(A), Western District of Ken (1985).

sale to the general public, over the counter or through r order at addresses that could easily be obtained from mater in pornography outlets in the districts obtained. Videocass films were rented, or available for rental, at "neighborhc video dealers and were also required to be available pornography outlets in nearby locations. Some of the materi were specifically selected because they had been found tc obscene in a federal or state criminal proceeding and/or bec of their virtual nationwide availability.2262 Each descript identifies the staff member preparing the description, the sc from which the material was obtained and other relev information.

Magazine Descriptions.

Tri-Sexual Lust2263 is a 32 page, four-color magazi measuring 8-1/2 X 11 inches, containing 63 four-c photographs. The magazine shows no copyright and identi itself as a "Visions of Fantasy" publication with no add listed. It lists a retail price of $15.00. There is one f page of advertisements for a hardcore magazine. The c

2262 Three film were selected because of their substant history of litigation. A summary of cases relating to the t films follows.

2263 Description of Senior Investigator Chapman. magazine was seized by Kentucky State Police and found obscen U.S. v. Sovereign News Co., General Video of America, et. No. CR 84-00149-C(A) (W.D. KY).

features an apparently naked caucasian-female lying on her ba with two male caucasian erect penis touching her cheek, next her wide open mouth. A limited written text accompanies t photographs. The magazine contains photographs of one or more the following acts:

1. One photograph of an apparently naked caucasian-fema lying on her back. There are two erect penises lying on h cheek next to her wide open mouth.

2. Two photographs of two clothed caucasian males with clothed female.

3. One photograph of a partially clothed female holding t penis of a naked male. The male is massaging her vagina throu her underwear. A partially clothed male is holding one of t female's breasts in his hand.

4. Six photographs of a partially clothed female performi fellatio on a male while the other naked male is performi cunnilingus on the female.

5. Three close-up photographs of the partially cloth female performing fellatio on a naked or partially clothed male

6. One photograph of the partially clothed fema

performing fellatio on a naked male while the other male one of her breasts in his hand and licks her arm with his t

7. Eighteen photographs of the partially-clothed performing fellatio on one of the naked males while the naked male enters her vaginally from the rear with his peni

8. Six photographs of the partially clothed f performing fellatio on a naked male while the other naked enters her vaginally with his penis from the front.

9. Three photographs of the naked female perfo fellatio on what appears to be an ejaculating naked male the other naked male is next to her.

10. Three photographs of a naked male vaginally ent from the rear partially clothed female with his penis whil other naked male kisses one of her breasts.

11. Three photographs of the partially clothed f performing fellatio on a naked male while holding the pen the other naked male in her hand.

12. One photograph of the partially clothed f performing fellatio on a naked male while the other naked holds one of her breasts in her hand.

13. One photograph of a partially clothed male kissir partially clothed female while the other naked male is perfor cunnilingus on the female.

14. Five photographs of a partially clothed fem performing fellatio on a male while the other naked male ho her breasts and places his erect penis on the back of her neck

15. One close-up photograph of the female perform fellatio on one male while the other male's erect penis rests her cheek.

16. One photograph of the female performing fellatio on two males at the same time. The heads of the penises touching, forming a 180 degree line.

17. Two photographs of a female performing fellatio on ejaculating penis.

18. One photograph of the male vaginally entering partially clothed female with his penis while the other na male kisses her mouth.

19. One photograph of the partially clothed female b vaginally penetrated by one of the naked male's penis while

other naked male is licking her buttocks.

20. One photograph of one naked male vaginally penetra the partially clothed female with his penis while she perf fellatio on the ejaculating penis of the other male.

Teeny Tits, Big Boobs to Chew & Suck On #1,[2264] i eighty- eight page four-color magazine, measuring 8 X 10 inches, containing 123 photographs. Sixteen photographs are color photographs. The magazine indicates a copyright identifies itself as an "Oarmore Enterprises, Inc.," publics of 1779 W. Adams St, Los Angeles, California. It has a li retail price of $7.50. There are three full page: advertisements for hardcore, sexually explicit magazines, vi and films. The cover of the magazine features two photograp: partially clothed caucasian females with their hair in pig: and their breast exposed. A written text accompanies photographs throughout the magazine describing several scena: These include an abduction and sexual assault with the f: ultimately becoming a willing partner and a female encounter number of strange men, becoming engulfed in group sex with men and engaging in acts of sexual intercourse, fellatic cunnilingus. The magazine contains photographs of one or mo: the following poses:

2264 Description by Senior Investigator Chapman. magazine was purchased at a pornographic outlet in Washinc D.C.

1. Thirty-four photographs of a partially clothed cauca female exposing her breasts.

2. Thirteen photographs of a partially clothed cauca female licking her breasts.

3. Five photographs of a partially clothed caucasian fe licking her breasts and exposing her vagina.

4. Eighteen photographs of a partially clothed cauca female exposing her breasts and spreading open her vagina w her fingers.

5. Thirty-seven photographs of a partially clot caucasian female exposing her breasts and her vagina.

6. Twelve photographs of a partially clothed cauca female exposing her breasts and inserting a finger or fing into her vagina.

7. Four photographs of a partially clothed caucasian fe exposing her breasts and her buttocks.

8. Three close-up photographs of a caucasian fema vagina spread open with her fingers.

Big Tit Dildo Bondage Vol #1, Number 1,[2265] is a 44 p four-color cover magazine measuring 8-1/2 X 11 inches, conta 123 photographs. Ten photographs are four-color photogra The magazine indicates a copyright date of 1985, by Hc Publications, 12011 Sherman Rd, North Hollywood, Califc 91605. It has a listed retail price of $7.00. There are full pages of advertisement for sado-masochistic magazines video-tapes involving foot worship and torture. One video- entitled "Foot Torture" is described as follows:

> "A pretty jogger is taken to a man's apartment and made to remove her outfit right down to her panties and sweat socks. After smelling her socks he licks her bare feet, ties them up and places them over a Hibatchi. Then he tickles them and . . . . "

The cover of the magazine features four, four c photographs. Each photograph depicts a naked female bound rope, gagged and displaying a vibrator-dildo partially inse into their vaginas. A written text accompanies the photogr throughout the magazine. It graphically describes how w enjoy being bound, gagged and humilated even though they ma first resist engaging in such activity. The magazine cont photographs of one or more of the following depictions:

2265 Description of Senior Investigator Chapman. magazine was purchased from an adult bookstore in Washing D.C.; photographs appearing in this magazoine were part collection which were the subject of a Federal Bureau Investigation inquiry resulting in a prosecution and convict See, Los Angeles Hearing, Vol. II, Charles Sullivan, p. 65.

1. Two photographs of a naked caucasian-female with mouth gagged and her arms and legs tightly bound with rope. rope is tightly looped around the base of each breast cau them to swell to an abnormal size. There is a vibrator-d partially inserted into the vagina.

2. Seven photographs of a naked black-female with her m gagged and her arms and legs tied to two posts. Rope is tig looped around the base of each breast causing them to swell t abnormal size. There is a vibrator-dildo partially inserted the vagina.

3. Sixteen photographs of a naked-caucasian-female with mouth gagged. Her arms are tightly bound to her legs cau them to the spread apart. A vibrator-dildo is partly inse into the vagina. She is wearing a wide leather collar around neck. A metal ring is attached to the front of the co through which the restraining ropes are passed.

4. Five photographs of a partially-clad or naked fe inserting a vibrator-dildo into her vagina.

5. One close-up photograph of a caucasian female's va with a vibrator-dildo held in close proximity.

6. Thirteen photographs of a partially clothed and ga caucasian female with her arms bound with rope. The rope tightly looped around the base of each breast causing them swell to an abnormal size. There are clothes pins pinching nipple and a vibrator-dildo partially inserted into her vagin

7. Three close-up photographs of a naked caucasian fe bound with rope, a vibrator-dildo is partially inserted into vagina.

8. Two photographs of a naked black-female blindfolded gagged with her arms tied to two posts. The rope is tig looped around the base of each breast causing them to swell t abnormal size.

9. One photograph the same as #8 without the blindfold.

10. One photograph of a naked and gagged black-female her arms and legs bound with rope to two posts. The rope tightly looped around the base of each breast causing them swell to an abnormal size.

11. One photograph the same as #10 with a pipe wre affixed to her left nipple.

12. Two close-up photographs of the wrench affixed to

left nipple.

13. Three photographs of a partially-clo caucasian-female with rope tightly looped around the base of breast causing them to swell to an abnormal size.

14. Three close-up photographs of a gagged and r caucasian-female with rope looped tightly around the base of breast causing them to swell to an abnormal size. Clothes are pinching each nipple.

15. Five close-up photographs of a dildo-vibrator part inserted into the vagina of a partially clothed caucasian fe

16. One photograph of a partially clothed caucasian-f with her feet tied to the ends of a pole spreading her legs dildo-vibrator is partially inserted into her vagina.

17. Three photographs of a naked and ga caucasian-female bound with ropes and her arms to her side. ropes are attached to a hoist.

18. Four close-up photographs of ropes looped aroun base of a caucasian-female's breast causing them to swell abnormal size.

19. A close-up photograph of a bound and nak caucasian-female's buttocks exposing her vagina.

20. One photograph of a naked caucasian-female on her kn with her arms bound with rope to a pole behind her back.

21. Five photographs of a gagged and naked caucasian-fem with her arms bound with rope to a pole behind her back. Rope tightly looped around the base of her breasts causing them swell to an abnormal size. A dildo-vibrator is partial inserted into the vagina.

22. One photograph of a partially clothed caucasian-fem with her arms bound with rope behind her back. Her wrists attached to a rope hoist causing her to bend over.

23. One photograph of a partially clothed caucasian-fem with her arms apparently bound over her head. Her breasts being tightly squeezed in a vice-like instrument.

24. Three close-up photographs of a naked caucasia female's buttocks with a dildo partially inserted into her vag and a long douche-like hose partially inserted into her rectum.

25. One extremely close-up photograph of a dildo partial inserted into a caucasian female's vagina.

26. One photograph of a partially clothed caucasian-f secured with ankle and wrist restraints to a rack mounted wall.

27. One photograph of a partially-clothed caucasian-f her wrists are tied together and hoisted over her head. Her are attached to the ends of a pole spreading her legs apart.

28. One photograph of a gagged and naked caucasian f with a dildo-vibrator partially inserted into her vagina.

29. Eight photographs of a gagged and naked cauc female. Her arms are bound and hoisted over her head. ankles are tied to the ends of a pole spreading her legs a A dildo-vibrator is partially inserted into her vagina.

Squirt 'Em,[2266] has a retail list price of $6.95. It is four color cover magazine measuring 8-1/4X11 inches. There are 48 pages containing 69 photographs, 12 of which are four color photographs. The magazine is identified as a Golden State Publication, copyrighted by Oakmore Enterprises, Inc., 1779 Adams Blvd, Los Angeles, California. The magazine contains three full pages of ads for adult magazines and video cassettes. The cover of the magazine features four photographs of two caucasian females, apparently naked, manually expressing a stream of milk from their engorged breasts. One of the photographs involves a close-up view of a breast expressing milk into a glass. The written text which accompanies the photographs throughout the magazine describes the sexual fantasies and activities in graphic detail of the two featured caucasian females. The 69 photographs depict one or more of the following acts:

1. Seventeen photographs of a naked caucasian female manually expressing a stream of milk from her engorged breasts with her fingers.

2. Five close-up photographs of an engorged breast expressing a stream of milk into a glass.

3. Four photographs of a naked caucasian female who whi

[2266] Description by Senior Investigator Chapman. The magazine was purchased from an adult bookstore in Washington D.C.

lying on her back manually expressed a stream of milk int
air from her engorged breast causing the stream of milk to
back onto her chest.

4. Six photographs of a partially clothed female mar
expressing a stream of milk from her engorged breast.

5. Three photographs of a naked female caressin
engorged breasts.

6. Two photographs of a partially clothed female
engorged breasts displaying full frontal nudity.

7. One photograph of a partially clothed female squ
her engorged breast with what appears to be her milk dri
from her hand.

8. Eleven photographs of a partially clothed f
exposing her vagina to the camera.

9. One photograph of a partially clothed female exposir
vagina to the camera while eating a banana.

10. Eight photographs of a partially clothed f
displaying full frontal nudity with what appears to be he
milk covering her from her chest to her vagina.

11. One close-up photograph of an engorged breast be manually expressed with what appears to milk dripping from fingers and inside a glass being held close to the breast.

12. Two photographs of a partially clad female, lying her back with what appears to be her milk on her chest.

13. Three close-up photographs of a female manua expressing her engorged breast showing milk on her nipple.

14. One photograph of a partially clothed female apparen drinking her own milk from a glass.

Al Parker and Sky Dawson in Turned On II,[2267] is an 8-1, inch four-color cover magazine containing 76 photographs, which are four-color photographs. It lists a retail p $10.00. There is no statement of copyright nor any publ information. The magazine features one full page ad for #1 displaying two photographs of fellatio and one of or contact. The cover of Turned on II features two fou photographs. The large one consists of a close-up photog a caucasian male licking the flaccid head of a black penis. The smaller photograph depicts a caucasian-male the head of another caucasian-male's penis. The male per fellatio has what appears to be semen dripping from his chin. There is no written text accompanying the photo The 76 photographs depict one or more of the following act

1. Two close-up photographs of a caucasian male lick flaccid head of a black male's penis.

2. Four photographs of a caucasian male licking the another caucasian male's penis. The male performing fella what appears to be semen dripping from his tongue, lip and

3. Three photographs of a group of naked males mastu in the presence of a large figure of a penis.

2267 Description by Senior Investigator Chapman. magazine was purchased from an adult bookstore in Washi D.C.

4. Twenty-two close-up photographs of a naked caucasi male performing fellatio on another naked caucasian male with without others present.

5. One photograph of a naked caucasian male with his ha on the buttocks of a naked black male.

6. One close-up photograph of a naked caucasian male wi the testicles of another naked caucasian male in his mouth.

7. One photograph of a naked caucasian male biting a pulling on the lower rear straps of another caucasian male atheletic supporter.

8. Five photographs of a naked caucasian male engaged oral-anal contact with another naked caucasian male with without others present.

9. One photograph of a naked caucasian male holding in h hand the flaccid penis of another caucasian male.

10. Four photographs of a naked caucasian male engaged fellatio with another naked caucasian male.

11. Two close-up photographs of a naked caucasian male wi

his mouth close to the erect penis of another caucasian male.

12. One photograph the same as #11 with the caucasian holding in his hand the erect penis of the other caucasian ma

13. One close-up photograph of a caucasian male engage fellatio with a black male.

14. One photograph of a naked caucasian male bending c exposing his anus and testicles to the camera.

15. Eleven photographs of a naked caucasian penetrating the anus of another naked caucasian male.

16. Two photographs of a naked caucasian male bent with another naked caucasian male standing behind and over masturbating.

17. One photograph of two naked caucasian males star together kissing.

18. One photograph of one naked caucasian male engage fellatio with another caucasian male while a third caucasian stands nearby masturbating.

19. One photograph of one naked caucasian male engage fellatio with two other naked caucasian males at the same tim

Bizarre Climax No. 9,2268 is 36 page, four-color magaz measuring 6-1/2 X 9 inches, containing 64 four-color photogra There is no list price. The magazine indicates a copyright of 1979, and identifies itself as a "Viola-Press" publicat 6000 Frankfurt Postfach 700734, Printed by ZBF-Vertriebs Gm Schossbergstrasse 23, 6200 WI-Schierstein. There are two pages advertising adult 8mm movies and magazines. The co features four photographs. The large one depicts 3 ad caucasian females wearing constrictive latex and leather outfits. One female is bound, gagged and blindfolded. She restrained to rack-like apparatus and is being dominated by other two females. The 3 smaller photographs depict the s females; one female receives an enema from a douche then ex the contents from her rectum into a chamber pot.

The 3rd photograph depicts one of the females with buttocks spread exposing her anus and vagina. She is urina into a chamber pot held by another female. A tri-lingual (English, German and French) accompanies the photogr throughout the magazine, describing in graphic and nausea detail the use of urine and feces in sado-masochistic se activity. Unless otherwise indicated, the caucasian females wearing leather or latex constrictive S&M attire which at ti exposes their breasts and vaginas. The 64 photographs depict or more of the following acts.

2268 Description by Senior Investigator Chapman. Seize the United States Postal Inspection Service. This magazine available by mail order.

1. Three photographs of a caucasian female bound, gag blindfolded and restrained to rack-like apparatus. She is b dominated by two other caucasian females.

2. One photograph the same as #1 with a dildo inserted the vagina of the bound and gagged female.

3. Four photographs depicting the adminsitration o enema with a douche-like appliance, fully exposing caucasian-female's anus and vagina.

4. Eight close-up photographs of a caucasian fe expelling the liquid enema and fecal matter from her rectum a chamber pot.

5. Two close-up photographs of a caucasian fema buttocks spread to expose her anus and vagina, urinating in chamber pot held by another white female.

6. One photograph of a caucasian female wearir constrictive full head and face latex mask. She is supporti black dildo between her breasts with the head of the dildo in mouth.

7. One close-up photograph of a caucasian female inser

a dildo into the shaved vagina of another caucasian female.

8. One photograph of two caucasian females kissing
clear glass bath tub, half-full of a yellowish liquid w
appears to be urine.

9. One photograph of two caucasian females standinc
facing the camera exposing their vaginas.

10. One photograph of a caucasian female with the hos
the douche inserted into her nose. She is sitting with her
spread exposing her vagina. Another caucasian female is be
the first holding the hose.

11. One photograph of two caucasian females; one wi
dildo inserted into her rectum and the other female with the
of the dildo in her mouth.

12. One photograph of a caucasian female sitting on a c
toilet seat inserting a black dildo into her vagina while anc
caucasian female is apparently holding the chair off the grou

13. One photograph of a caucasian female sitting on a c
toilet seat urinating. Another caucasian female is apparei
holding the chair off of the ground.

14. Two photographs of a caucasian female sitting or chair toilet urinating onto the masked face of a caucasian fe under the chair.

15. One close-up photograph of the caucasian fem buttocks on the chair toilet seat urinating, with a black c inserted in her vagina.

16. One close-up photograph of a caucasian female sit on the chair toilet seat defecating.

17. One close-up photograph of a caucasian female wi douche hose inserted in her nose, spreading her legs and expc her vagina and anus.

18. A series of five photographs showing a clo caucasian male encountering two clothed caucasian fe prostitutes.

19. One photograph of a naked caucasian male being fell by one of two caucasian females who are attired in S&M appa exposing their breasts and vaginas.

20. One photograph of one caucasian female straddli naked caucasian male on his hands and knees while the se caucasian female masturbates on a couch nearby.

21. One photograph of one of the caucasian females sit on the face of the other caucasian female who is perfor cunnilingus.

22. Two close-up photographs of a penis penetratir vagina.

23. One photograph of a caucasian female with her r open and tongue protruding. Semen is dripping from her face.

24. A series of four photographs showing a caucasian fe servant preparing her caucasian female mistress for defecati

25. Three close-up photographs of the caucasian mist defecating into a silver plated dish.

26. Two photographs of two caucasian females wearing sc uniforms. One is sucking and fondling the breast of the o while masturbating.

27. One photograph of a caucasian female teacher weari fullbody constrictive latex outfit holding a switch in fron the two caucasian female students.

28. One photograph of the teacher spanking the exp

buttocks of one of the students while the others looks on.

29. One photograph of the teacher wearing the ful latex outfit standing next to the two naked students.

30. One photograph of the teacher sitting on top of a urinating into one of the students.

31. One close-up photograph of one of the students wit legs spread exposing her anus and vagina while kissin teacher on her mouth.

Lisa, 10 years, and her dog,[2269] is 32 page two-color magaz measuring 5 3/4 x 8 1/4 inches, containing 29 two-color phot There is no list price. The magazine indicates a copyright identifies itself as a "Exim Training" publication Blagardsgade 36, dk 2200, Copenhagen-N-Denmark. The magaz contains 2-1/2 pages of advertisements for other ch pornographic magazines. The ads features photographs of na prepubescent females identified as 10 years and committ fellatio on an adult male, there is also an advertisement for magazines featuring adults and children. The cover of Lisa, years, and her dog, features a photograph of a naked prepubes caucasian female identified as 10 years old, holding a n dachshund in her arms. A tri-lingal written text (Engli German and French) accompanies the photographs throughout magazine describing in grapic detail bestial acts involv cunnilingus and masturbation. The 29 photographs depict one more of the following acts including the child identified Lisa.

1. Three photographs of a naked prepubesent female hol a male dachshund in her arms.

2. Two photographs of a partially clothed prepubes female exposing her vagina.

[2269] Description by Senior Investigator Chapman. Siezed the U.S. Postal Inspection Service in cooperation with the U Customs Service. This magaine is available by mail order.

3. One photograph of a partiarly clothed prepubesce female exposing her buttocks.

4. Four photographs of a partially clothed prepubesc female posed with the dog.

5. Four photographs of a naked prepubescent female po with the dog.

6. Six photographs of the dog licking the vagina of partially clothed prepubescent female.

7. One photograph of the naked prepubescent fem masturbating the male dog.

8. Five photographs of the dog licking the vagina of naked prepubescent female.

9. One photograph of a naked prepubescent female lying her stomach with the dog straddling her back in a positi commonly referred to as "Doggie Style".

10. Two photographs of a naked prepubescent female expos her vagina to the camera and posed with the dog.

Every Dog Has His Day, 13/ has a list price of $10.00. is a 48-page magazine, measuring 8-1/2x11 inches displayi four-color cover. It contains one hundred and ele photographs, eleven of which are in color, and the remainde black and white. There is no statement of copyrights publishing rights. The cover features two photographs. large photograph depicts a naked caucasian male fellating a dog, described in the text as a cross between a german shep and a collie. The smaller photograph depicts one naked cauca male licking the anus of the other naked caucasian male wh masturbating.

The written text, continuing throughout the entire maga describes two men who after meeting in a bar go home togethe ultimately become involved in homosexual acts and bestia The one hundred and eleven photographs depict one or more of following acts in a living room setting, many of which inv close-up photography.

1. Four photograhps of a naked male licking the anu another naked male.

2. Five photographs of a naked male masturbating.

3. Eleven photographs of a naked male engaged in fel with a dog.

4. Two photographs of two naked males masturbating other.

5. Twelve photographs of one naked male licking

testicles of another naked male.

6. Eighteen photographs of a naked male engaged in fell with another naked male.

7. One photograph of a naked male squeezing his testicl

8. Seven photographs of a naked male engaged in intercourse with another naked male.

9. Two photographs of a naked male masturbating a dog.

10. Two pictures of a dog licking a naked male's penis.

11. One photograph of a naked male kissing the dog's mo

12. Seven photographs of a dog licking the anus of a n male.

13. Three photographs of a dog licking the compres testicles of a naked male.

14. Four photographs of a naked male licking the d testicles.

15. Three photographs of a naked male engaged in fell with another naked male who is engaged in fellatio with the d

16. Four photographs of one naked male standing and naked male kneeling in front of him with what appears to be s dripping from the kneeling male's face.

17. Three photographs of a naked male posing with an e penis.

18. Four photographs of two naked males kissing.

19. Three photographs of a naked male licking the bod the other naked male.

20. Three photographs of naked males posing.

21. Three photographs of a naked male engaged in a intercourse with the other naked male with the dog in t picture.

22. One photograph of the dog straddling a naked m laying on his back.

23. One photograph of a naked male engaged in fellatio w another naked male while having his testicles licked by the do

24. One photograph of the naked males kissing while the licks the testicles of one of the males.

25. One photograph of a naked male engaged in fellatio w the other naked male while the dog licks the knee of one of males.

Pregnant Lesbians No. 12270, is a 8-1/4" x 10-3/4", 32-
four-color magazine. It contains 46 four-color photographs
lists a retail price of $11.95. There is no statement
copyright, "Graficolor Productions" is the only publis
information provided. The cover features 3 photographs.
large one shows two obviously pregnant, partially cloth
caucasian females, kissing with their tongues, and th
distended abdomens touching. The two smaller photographs
the same females inserting their tongues into the vagina of
other. A written text accompanies the photograph and contir
throughout the magazine graphically describing what is occu
in the photographs. The 46 photographs depict one or more of
following acts:

1. Six photographs of two partially clothed, obvio
pregnant caucasian females kissing with their tongues and
their abdomens touching.

2. Seven close-up photographs of the same females with
inserting her tongue into the vagina of the other.

3. Three photographs of one of the females licking
abdomen of the other while inserting a finger into the ot
female's vagina.

4. Nine photographs of one female licking or sucking
breast of the other female.

5. One photograph of one female lying on top of the ot

2270 Description by Senior Investigator Chapman. Purcha
in an adult bookstore in the Washington, D.C. area.

female with their abdomens pressed together.

6. Two photographs of one female lying on her back wh the other female touches the first female's vagina with fingers.

7. Three photographs of one female inserting her tor into the vagina of the other.

8. Two photographs of one female kissing the buttocks the other female while inserting her finger into the ot female's vagina.

9. Two photographs of one female touching the o: female's breast with a vibrator.

10. Two photographs of one female inserting her tongue a vibrator into the vagina of the other.

11. One photograph of one female kissing the buttocks and inserting a dildo into the vagina of the other female.

12. Two photographs of one female on her hands and k with the other female on her knees behind her. There appear be a dildo inserted into their vaginas between them.

13. One close-up photograph of the same dildo inserted both female's vaginas.

14. Three close-up photographs of one female inserting finger into the vagina of the other.

15. One photo of the two females sitting together. touches the other's breast. While one touches the abdomen of other.

Asian Slut,[2271] is an 8-1/4 x 10-1/4 inch, 32 p
four-color magazine. It contains 42 four-color photographs
lists a retail price of $12.50. There is no statement
copyright or publishing information. The cover feature
close-up photograph of the face of an asian female with the pe
of a caucasian-male in her mouth. There appears to be se
dripping down her face and hands. A written text, accompany
the photographs and continuing throughout the magazi
graphically describes what is occuring in the photographs.
42 photographs depict one or more of the following acts occur
in a bedroom setting:

1. Two close-up photographs of the face of an asian fem
with the penis of a caucasian male in her mouth. What appears
be semen is dripping down her face and hands.

2. One photograph of a partially clothed asian fem
masturbating.

3. One photograph of a partially clothed asian female w
a clothed cauoasian male licking her breast and inserting one
his fingers into her vagina.

4. One photograph of a partially clothed asian female wi
the penis of a partially clothed caucasian male in her mouth.

5. Six photograhps of a partially clothed asian female wi
the penis of a naked caucasian male in her mouth.

6. Three photographs of a naked caucasian male inserti

[2271] Description by Senior Investigator Chapman. Purcha
from an adult bookstore in the Washington, D.C., area.

his tongue into the vagina of the asian female.

7. Nineteen photographs of a caucasian male inserting penis into the vagina of the partially clothed asian female.

8. Seven close-up photographs of the caucasian male's p inserted into the asian female's vagina.

9. Two photographs of the naked caucasian male holding penis in his hand while ejaculating onto the abdomen of partially clothed asian female.

2. PAPERBACK BOOKS

TYING UP REBECCA[2272]

The following is a description of a paperback book entitle
Tying Up Rebecca. On the cover the title is above an illustrat
picture of a red haired female who is nude from the waist u
She has one rope around her neck, another around her body & arm
and her ankles are tied to a bar, spreading her legs apart. S
s standing but is bent at the waist from the pull of the rop
She has a ball gag in her mouth, and is wearing a garter belt
stockings and shoes. The illustration is framed in black. A
the bottom of the picture is printed "ADULTS ONLY." Printed i
the upper left hand corner at the cover is "SIREN SLAVE GIRLS.
Printed in the upper right hand corner is the price, $3.9
Across the binding of the book is printed the title and SS-11
The back of the book is an advertisement for a sexual devi
called the "Deep Stroker", from Star Distributors Box 362, Can
St. Station, NY, NY 10013. The packaged device is shown with
narrative describing what it does and it's price, $19.95.

Inside the cover is another advertisement for Stallic
Slo-Cum Spray. A photograph of the product is on this page ar
printed below the photograph is "Get it up and keep it up! wit
Stallion spray!" A three paragraph narrative explains it

2272 Description was completed by Senior Investigator Josep
B. Haggerty. This papaerback book was purchased from an "adult
only" pornographic outlet in the Boston, Massachusetts, area.

application and why it's needed. The price is $10.00 a order form has been supplied on page 192. On the inside c back cover is another advertisement for an Anal Ecstasy ki photograph of the products is shown and beneath the pho printed "For Sophisticated Sensualists." The Anal Ecstasy according its narrative contains a heavy duty variable vibrator with assorted sleeves and extensions, includin called "prickly knob" and "prickly sleeve". The extensions inches - "Big Bummer", and 7 inches - "Skinny Finger." Th includes a "butt plug" and batteries and costs $22.95.

The next page the book contains disclaimers and copy information. The copyright is dated 1985 by Star Distributc

On page numbered 3 is a section titled "Foreword". foreword describes a male gymnastic coach's fantasy of havir with his most talented female gymnast, a thirteen year old named Becky. The story is ten chapters. The following description of that story as printed in the book.

Chapter One begins on the page numbered 5 and finish the page numbered 25. The chapter begins with Becky M working out on the parallel bars with the assistance o coach, Vern Lawless. Lawless is described as a former ath balding and well built, in his early forties. Lawles described as having a failing marriage, and being loveles eleven years, sexless for seven. Becky Mingus is described ginger haired thirteen year old with the potential the gymnast in the Midwest and become a member of the United S

Olympic gymnastic team. This story take place at St. Mary's Catholic School. Coach Lawless lusts after Becky and remembers when she first started on his team two years ago.

When she had first been accepted to the team, she mistakenly changed her clothes in the teacher's lockerroom. Lawless accidentally walked in and saw her bent over naked. Becky was eleven years old at the time. She didn't notice him and quickly withdrew. However, the memory of of this incident continued to haunt him.

Back to the present, Lawless leaves the school to go home and tell his wife he wants a divorce. Becky leaves the gym to go to the girl's locker room just as the gym lights are being turned off by Mr. Schultz, the janitor. In the locker room Becky encounters the school's head cheerleader and former gymnast Patty Jones, who is taking a shower. Patty Jones is described as a fifteen year old girl with dark hair, physically more mature than Becky. She calls Becky into the shower to look at something. She then shows Becky a hole in the wall through which she has been watching a boy, Judd Loomis, taking a shower in the boy's locker room. Loomis described as bad, with a legendary reputation as a stud soon to be expelled from school. As Patty watches Loomis she begins to masturbate herself but discovers she has her fingers in Becky's vagina. She stops immediately and leaves the shower soon after.

Becky then watches Loomis examining his body complete. She sees Patty enter the boy's locker room, wrapped only in

towel. She drops the towels, fondles her breasts and spreads
labia. Loomis forces her to her knees where she commence:
lick his penis and testicles. Patty sticks her tongue in Loo
urethra from which he had urinated only moments before.
performs analingus on him. Soon after he grabs her by the
and forces her face down into a drain well. He then penetr
her anally with his penis. Next Loomis performs cunnilingu:
Patty and she performs fellatio on him. Becky is masturba
herself as she watches this. Loomis ejaculates in Patty's m
as he continues to perform cunnilingus on her. Loomis then
vaginal intercourse with Patty.

Becky then hears someone yell, "Hey, who's in there."
thinks it's Mr. Schultz entering the boys locker room.
scampers to get her clothes on. Her panties are all knotte
and she can't get them on. Schultz sees her. Becky continue
try to straighten her panties with one hand and covers
breasts with the other. Schultz apologizes but enters the lo
room anyway and circles Becky as she continues to try and
herself covered. Unfortunately, she realizes that she is g
to have to remove her panties to straighten them properly.
decides to run to the bathroom and to do it in the privacy of
of the stalls.

Once in the stall she removes her panties and straigh
them. Too startled to cover herself, she gets the urge
urinate. As Schultz watches, masturbating himself, Be
urinates into the toilet. Some of the urine splashes

extinguishes Mr. Schultz's pipe. He ejaculates on his clot
and Patty enters the bathroom dressed only in panties and b
She orders Schultz out. Patty opens the stall's door and watc
Becky masturbate herself. When Becky sees Patty she stops
they embrace. They then go to their lockers and get dressed.

Chapter two starts on page numbered 26 and finishes on p
42. Coach Lawless is walking home. He's thinking about
marriage. He remembers when he and his wife first had sex. T
were in an oat field. She performed fellatio on him until
ejaculated in her mouth. Mrs. Lawless was in the house wait
for him to come home. She knew her marriage was in trouble
intends to try and make it better. She remembers a particu
lacrosse game in which Vern played in college. He was a g
player and they had a championship team. After the game she
waited for him. When he didn't come out of the locker room w
the rest of the players she went in. She found him cry
against a locker upset over a missed goal, and wanted to
anything to help. He pushed her down on a bench and penetra
her vaginally with his penis. He ejaculated in her and t
performed cunnilingus and analingus on her.

Earlier that day, Mrs. Lawless went to Hiram's Apparel Sh
a store specializing in "naughty" lingerie. There she was wai
on by a teenage Puerto Rican girl who was working for her fat
because several other employees were out sick. The girl's n
was Carmelita. She showed Mrs. Lawless some quarter cup bras
lace crotchless panties. Mrs. Lawless wanted Carmelita to try

the lingerie so that she could see how it looked. Carmelita only because she felt she had to do so in order to perserv father's job. A detailed description of Carmelita removin clothes is given. She exited the dressing room and showed Lawless the black half bra and matching lace crotchless pan Mrs. Lawless is aroused and without control she approa Carmelita and licked her breast. As she continued to suc Carmelita's breast, Mrs. Lawless placed her finger Carmelita's vagina. When she was finished Mrs. Lawless purc the soiled garments.

As Coach Lawless entered his house he found his wife sit on the couch completely naked except for the black crotchless panties. The coach undid his pants and masturt himself. Mrs. Lawless was then lying on a rug inviting Mrs. Lawless fingered his anus. Just prior to penetration coach saw a picture of Becky Mingus hanging on the wall and his erection. This has happened ever since his accide viewing of the eleven year-old two years ago in the locker r He retired to the couch and began to cry. He confessed to wife his problem and she understood. She went to the bath and masturbated herself.

Chapter Three begins on the page numbered 43 and end page 61. This chapter begins with Henry Mingus, Becky's fat sitting alone in the dark in his living room. The book ment the rumored strange sexual practices that took place in Mingus house when Mrs. Mingus was there. She, however, left

and their infant daughter. Since that time he devoted himself raising his daughter and he was unquestionably a model fathe Mr. Mingus was lonely. He sat in the dark living room a remembered a sexual encounter he had as a teenager.

The girl's name was Hilda Plummer. She was rather pla looking with horn-rimmed glasses. One day he followed her to t library and waited for her outside. When she came out s discovered him and told him to follow her to the rear of t library. She then told him to expose himself and stick his per in her mouth. However, before he could so she got on all fou and pulled up her dress. She commanded him to tear off h panties. He did. He then performed cunnilingus on her. S kicked him in the groin. She then stripped and took his per between her breasts. Henry then took command. He ordered her open her mouth and forced had her to perform fellatio on him.

The book returns the reader to the present with Mr. Min masturbating himself. He turned on a nearby light as he c close to ejaculation. Unbeknownst to him Becky arrived hor She entered the house just as he was ejaculating. He accid tally ejaculated on her face. With the semen sliding down h face, she saw her father with his pants down around his ank and his erect penis sticking up from his lap. She went upsta crying and did not wash herself off because she was too ups Becky could not get the image of her father in that chair out her mind. Mr. Mingus was very sorry the incident occurred h determined that he was going to start living life for himself f

awhile.

The next morning he had breakfast with Becky. He de whatever he did he would not involve Becky. Yesterday w accident. Becky left for school.

Louise Lawless came to Mr. Mingus' door. She intro herself when he answered the door. She eventually told hi she discovered about her husband and Mr. Mingus' daughter. drank and she cried. She became exhausted from crying an alcohol. Mingus suggested she lie down. He took her upstai a room. The room was filled with strange equipment: le garments, chains, ropes, pulleys, alter suspensions and sheaths. Mrs. Lawless expected Mingus to leave the room so she could undress and lie down. Instead he started to unb her blouse. He then pulled up her skirt and pulled dowr panties. She engulfed his hand between her legs and his ere ripped through his pants. They fell on the bed. He perf cunnilingus and analingus on her and she performed fellat him. She climaxed but he insisted on waiting.

Chapter four begins on the page numbered 62 and ends on 79. The chapter begins with Henry Mingus getting his equip This is the same equipment that made his wife leave and g him a reputation as strange. He ordered Mrs. Lawless to put leather hood he took from the wall and she did so. He ordered her to perform fellatio on him and she did. He ord her to take his testicles in her mouth and hum, "I Only Have For You." He called her a slut, stupid wench, and a bitch.

ordered her to roll over like a dog and called her a sla put her ankles in iron anklets attached to chains on t post. He put her wrists in similar attachments at the ot of the bed.

He then ordered her to take off her bra. With her a legs chained she had to try to bite it off. He slapped h her attempts failed. He placed a finger into some blue then placed the finger in her anus. He stuffed her panti her mouth and again called her a slut and a bitch. He rip her bra and sucked on her breasts. He then ordered perform analingus on him. She moved her mouth betwe buttocks and between bits of feces in his hairs. After t had vaginal intercourse with her. He ejaculated in her, knocked her half of a foot backwards. He collapsed on her. He later removed the hood and the panties from her and asked her if she would like to have another drink.

Becky decided to go skinny dipping in the Sunnyflow A detailed description is given of her removing her clothe she entered the river, she stepped on a used prophylactic picked it up and threw it into some bushes. The bushes mo she swam in the water to discover the reason.

Patty Jones and Judd Loomis were curious about h prophylactic managed to return. They get into an argumen something else. Patty kicked Loomis in the groin. Loom nude from the waist down. Patty left him.

Becky saw Loomis in pain and wanted to help hi

accordance with her Girl Scout oath, but she hesitated becaus
she was nude. She saw Loomis' clothes, put them on and went t
Loomis' aid. She told him she wanted to help. He told her t
rub it. She masturbated him to ejaculation. Then she licked th
semen from his penis and then she went to sleep.

Chapter five begins on the page numbered 80 and ends on pag
87. The chapter begins with Vern Lawless waiting at the gym
furious that Becky missed her practice. His wife called ar
wanted him to meet her.

Becky woke up and realized she missed practice. Sh
stripped off Loomis's clothes and jumped into the water. Sh
returned to where she left her clothes but found that they wer
missing. They were stolen by a little boy hiding in the bushes
The sight of the nude Becky excites him because she was so old
Becky saw him watching her and liked the feeling. She spread he
labia at the boy. He became more excited and ran away with he
clothes. Becky decided to stay in the water all day ar
masturbate herself.

Vern Lawless met his wife at a coffee shop. She told h
that she talked to Henry Mingus who showed her some things. Sh
now wanted to show Lawless and insists he come home with her. O
the way home they came upon Patty Jones who was crying on benc
Mrs. Lawless invited Patty to come along. Once in the house Mr
Lawless suggested that Patty take a shower and have a drink. Sh
told Vern to show Patty where the shower was and to get her
towel. Patty anxiously stripped to take the shower. Ver

returned with the towel and found her nude.

They both stared at each other until Mrs. Lawless a and put Mr. Lawless's hand on the fifteen year old's breas Vern lost control and sucked on Patty's breast, Mrs. L undid his pants which then dropped to the floor. Patty jum him and he penetrated her vaginally with his penis. As h about to climax, Mrs. Lawless grabbed his testicles. Lawless was now dressed in black lace crotchless panties black leather harness studded with sharpened steel rivets Patty licked her own drippings from the bathroom floor, Lawless ordered them into the bedroom. Patty performed fe on Mr. Lawless as they moved into the other room.

There were bizarre devices on the wall and a shin piece of metal was across the bed. A rack displayed leatherhoods, gags, oils and ointments. She ordered both o to get on the bed and called them peons and swine. They re to her as "Mistress." She ordered her husband to pe cunnilingus on her as she stood on the flat piece of metal bed. He did so. She then ordered Patty to perform analin her at the same time. She then said Vern was the kir ordered Patty to perform fellatio on him. Patty did as s told and Vern ejaculated in her mouth. So ended lesson one.

The next page was an advertisement. The top of th reads, "We interrupt this story to bring you a sp money-saving offer!" Offered was a series of books categ

as "Strange Tales" and entitled, "Wife's Puppy Love," "Cani Corps SweetHeart," "Dog Act" and "High in the Saddle." All we books which described acts of bestiality. They were described erotic best sellers with savings of up to sixty percent.

Chapter six begins on the page numbered 99 and ends on pa 115. This chapter begins with Becky in the same situation; s still did not have her clothes and was in the water or in t surrounding woods all day. She figured it would be safer to home after dark but was afraid that it would be too cold. S decided to take one last swim. While in the water she had cra and began to drown.

Patty Jones was walking, confused by the whole day. S decided to go down to the river. She heard Becky's cries f help. She stripped and went into the water. She rescued Bec and pulled her to the river bank. She attempted mouth to mou resuscitation but discovered she had her mouth on Becky's vagi by mistake. Becky was revived anyway and performed cunnilin on Patty. Patty performed cunnilingus on Becky at the same ti Patty also performed analingus on Becky. Becky then urinated Patty's mouth. Becky pushed Patty over and performed analin on her. Patty had to defecate.

Meanwhile Becky had an idea. She heard a bullfrog croa found him and squatted over him. Patty saw what was happeni and tackled Becky. Then Patty decided to tie Becky to a tre She used river reeds as hand cuffs and tied Becky's arms and le around a tree. Then she found a piece of wood shaped in

phallic image. She commenced to call Becky a fool, a b pubescent scumbag and a douchebag. She took the piece of and slowly inserted it in Becky's vagina. She made Becky be it, and called her a swine maiden and a slut. "Fuck Me, Fucl Fuck Me," Becky screamed. "No", said Patty and she tossed stick in the river. Patty bit off the reed and kicked Be telling her to get away.

Later in the darkness Becky found her house. She went stairs to her room. She passed her father's room and saw asleep nude. She went to him, kissed his penis and rubbed testicles. She then went to her room and fell asleep.

Chapter seven begins on the page numbered 116 and end page 133. The chapter begins with a change in the weat October began the competitive season for most athletes i Olympic year. A town about sixty miles away, Midville, was location for the first international trials. A bus took Lawless and his gymnasts to these trials. Although the loca had the best equipment, its locker room facilities were enti too small. Vern Lawless was forced to change clothes in the locker room with the girls.

Although he tried not to look at the girls, in an effor put on his jockstrap he became entangled and fell to the fl The girls surrounded his half nude body hoping to see manhood. Vern slowly inspected the individual girls' bo around him until he came to the nude body of the thirteen old Becky Mingus. This excitement became obvious and he s

showing all. Becky and Patty disappeared and his exciteme diminished. Becky and Patty waited in the gym with the competitors, the Russian gymnastic team. Several of the gi reacted to his turgidity. One girl ripped off her panties a started masturbating herself. Another girl fainted with a smi When Lawless turned his back to finish dressing, a girl nam Henny Wicker approached him from the rear and felt his buttock She fondled his testicles and then placed her fingers in h anus.

Lawless turned on her suddenly. He ripped off her panti wrapped them around her neck and pulled her to his penis. forced her to perform fellatio on him. He placed his fingers her vagina and then tasted his finger. He then turned He upside down and performed cunnilingus on her. Several ot girls who were watching masturbated themselves. Then Vern her on a bench and pulled her up onto all fours. He rub vaseline on himself and her. He then penetrated her vagina and fingered her anus. Henny was a virgin. He pulled himse out before he climaxed and showed his erection to the three doz girls.

Two girls started fighting. They each wanted to perfo fellatio on Mr. Lawless. An Irish girl named Celia Corcoran wo Nude she grabbed his erection with both hands and began pe forming fellatio on him. Another girl name Liza Montcla started performing cunnilingus on Celia, and a girl named Sal Martia performed analingus on Liza and all of this occurr

simultaneously. When Vern was ready to climax he pull penis from Celia's mouth and masturbated himself to ejacul Celia kissed his testicles and the other girls cheered.

A hush then fell over the locker room. Vern looked saw the Russian coach, Svetlana Poussekovsky. She had wait the American team and had decided to investigate the c Several of the American girls were still masturbating them and Celia was in Vern's lap sucking on his testicles. Sv ordered Vern to appear in the Committee's Suite at five afternoon. The trials were cancelled for that day.

Chapter eight begins on the numbered page 134 and er page 151. This chapter begins with Vern Lawless going t Olympic Committee Suite anticipating the worst. He was g by a thin Russian woman who left almost immediately. He sa vodka and drank it. Svetlana Poussekovsky then arrived mu his surprise wearing only a cross halter of bullets (bando and a piece of light silk covering her pubic area. On it the symbol of the Soviet Union. The thin Russian women completely nude behind Svetlana except for bracelets of blades around both tights. Svetlana ordered Vern to his She then ordered her assistant to strip him, then to "ge hard." The assistant fondled Vern's genitals. Svetlana says she wants to see Vern's anus. The assistant, who is Porkch, is given a "butt plug" by Svetlana and told to inse in Vern's anus. He yells in pain as she does so. Sve cracks a bullwhip across his buttocks to quiet him. She

:rders Porkch to bring her some of Vern's anal hair. Porkch a
first starts to bring Vern to Svetlana, but Svetlana says sh
wants them in her hand. Porkch then bites the hairs betwee
Vern's buttocks. He yells in pain. Again Svetlana cracks th
whip. When Porkch brought the hairs to Svetlana she perform
:unnilingus on her. While the two women were engaged in sex Ver
:ries to escape. Svetlana sees him and tells him if he wants t
)e exonerated by the committee he'd better stay. Vern stopp
.mmediately. Porkch continued to perform cunnilingus
Svetlana. The whip lay on the floor beside them. Vern grabb
:he whip and cracked it at the two women. Porkch went to h
nees. Svetlana did not move. Vern wrapped the whip around h
egs and pulled her to the floor. He ordered her to remove th
light silk covering with the symbol of the Soviet Union and t
ipe herself with it. Vern grabbed his neck tie and ordere
:orkch to tie Svetlana's wrist to the bottom of the radiator. H
:hen ordered her to call room service for a plate of spaghet
smothered in olive oil. Vern then performed cunnilingus
Svetlana while Porkch was ordered to kiss his testicles. He th
:urned from Porkch who was sucking his testicles and shoved h
)enis in her mouth. He took the Russian garment and put it
Svetlana's anus. He ejaculated in Porkch's mouth. A knock ca
:o the room's door. It was room service. He ordered Porkch
)et the door but first to put on some clothes. She did. He to
ier to sign for it and to give the boy a fifteen percent ti
Vern grabbed the plate of spaghetti and went to the bathroo

There he plugged the bathtub and poured the olive oil in i then untied Svetlana, forced her into the tub, basted her the oil and then tied her to the toilet. He turned to still trying to figure out the tip. He revealed himself boy and pulled him into the room. He tied the boy to the of the radiator and stripped him. He then ordered Pork perform analingus on the boy. Soon after he broke them with the whip and told Porkch to bring the boy into the bat He tied the boy to the toilet next to Svetlana and forced into the tub. After she was basted like Svetlana he did th with the boy. Then he threw all three of them into the t cracked the whip above them. They slid around in the tub to get out, but they slipped repeatedly. The boy ejaculat the tub. Vern stood on the tub and urinated on them. The landed in Svetlana's mouth. The boy performed cunnilinç Svetlana. Vern then got dressed and left.

Becky left Midville on foot. She decided to hitchhike since the match was cancelled. She was picked up by a man Sid Crampton who was described as being the most disgu individual in the county. After driving a while Sid fi Becky was looking for some action since she was hitchhikinç undid his overalls and attempted to find his penis unde enormous belly. Becky saw what he was doing, stepped o brakes of the car and escaped across a field.

Chapter nine begins on the page numbered 152 and en page 169. Henry Mingus is again sitting alone in the dark.

thinking about his encounter with Louise Lawless and of h daughter competing in Midville. He sees headlights in h driveway. A woman comes to his door. He can't see her ve well. She enters the house. It's his former wife. She tel him that she was wrong to leave him. She got married again t that was wrong too. She left her second husband too a wandered. She tells him about being shipwrecked on the Cape Good Hope. She was found by some big black natives who treat her special. They had a feast in her honor and that same ni the chief came to her hut asking if there was anything he co do. She wanted to see what was under his grass skirt. exposed himself and she inquired of him how hard and how long he have intercourse with her. Then he lifts her up and vaginal intercourse with her. She then performs fellatio on h. She says he ejaculated six times and she dreams of h ejaculating in her eyes. While she tells her ex-husband tl story she take off her clothes. Henry tells her he can do better "than that black stud."

She says, "prove it." He grabs her, rips off her panti stuffs them in her mouth and performs cunnilingus on her. He an erection and tears his pants. He continues perform cunnilingus on her while he masturbates himself. She pulls do his pants and puts her fingers in his anus. She then perfor analingus on him and eventually fellatio. Henry then perfor analingus on her until she yells for him "to fuck her in t ass." Before he can oblige his ex-wife, Becky enters the roo

Becky and her mother recognize each other. They embrace. Mingus then strips her daughter and performs cunnilingus on Henry moves around behind Becky with the desire to have intercourse with his thirteen year old daughter. Mary cont to perform cunnilingus on her daughter. Just as Mr. Mingu about to penetrate his daughter with Mrs. Mingus encour him, Becky Mingus did a triple backflip to elude them escaped, something she said Coach Lawless had taught her but for the same purpose of course. Henry Mingus then put on a I Sinatra record and "french" kissed his ex-wife.

The final chapter begins on the page numbered 170 and on page 187. It begins with Becky Mingus and Vern Law roaming the streets of Sunnyville. One is the hunter the c the hunted. Each senses the other's presence. Becky has no where to go, but ends up in the school gymnasium and hides ir shadows. Vern Lawless then enters the gym. He moves to wooden grandstands and listens. Becky was not making a sc After an hour of this silence she got a cramp and made a sc The coach moved toward her. She attempted to escape para bars above the gym floor. She didn't realize her hunter Coach Lawless who created her parallel bar routine. He p tioned himself in a place where he knew she would be close the floor and waited. She swung and he grabbed her. He qui strapped her wrist with his belt to one of the leather hoops. removed her belt and strapped her other wrist. He ripped off blouse and pulled off her jeans. He removed her bra and for

her breasts. He removed her panties. He performed cunnilir on her. As Lawless steadied her to engage in vaginal intercou she swung around and kicked him in the groin. She freed hand. Lawless got to the wall and turned on the lights. Be still had one hand bound. Her other hand was on one of uneven bars. Lawless regained his strength and strapped Be spread eagle across the uneven bars. He removed his clothes pulled himself on the bars. He hit her across the face and her to be quiet. He forced her to perform fellatio on him. ejaculated in her mouth. She choked. She spit half of it He hit her again, demanding that she swallow it. He held head and ejaculated some more in her mouth. He then swung ar and grabbed a wooden scoring peg and put it in Becky's anus. ejaculated in her. He continued and ejaculated again. He removed the wooden peg and engaged in anal intercourse. ejaculated in her rectum. She faints. Vern unties her and t her off.

The next few pages contain advertisements for paperb books and for magazines. The first is a series called Inc Tales with titles, Her Black Step-Brother, Lesbian Twin Siste Daddy's Live-In Slut, Mommy's Hard Boy, Family Reunion, Inc House, Abused By Her Uncle and Hot Black Brother. The n series of paperbacks is called Trisexual Books with tit including, High Heeled Husband, A Bra For Bobby, Boys Wil Girls, Daddy In Drag, Trucker's Sweet Shame, Jock In Jew Barbara With Balls and Pretty Panty Marine. Each of the book

these two pages sell for $3.95 and the covers of four books each series is shown. The next two pages show the covers of different magazines. The covers show bondage, infantili enemas, and engorged breast being milked, a magazine about a sex showing the bare buttocks of a female in a parochial unif with her hair in pigtails, three magazines emphasizing fem breasts and one showing a foot between a female's breasts. magazine titles are, Kinky World Vol. #3 #2, Water & Power V #4 #1, Painful Pleasures Vol. #2 #5, Lesbian Foot Lover Vol. #1, Naughty Babies #2, Broads & Boobs Vol. #1 #2, Ass Bust Vol. #1 and Boobs & Beavers Vol. #1 #2. Six of these magazi cost seven dollars each, four cost six dollars each. The bu must include an additional one dollar for postage. The last p before the back cover is the order form for any of the it advertised in this book. It directs the purchaser to send form to Star Distributors, Box 362 Canal St. Station, New Yo New York. A form certifying that the purchaser is over the of twenty-one must be completed.

3. MOTION PICTURES AND VIDEO TAPE CASSETTES

a. FORGIVE ME--I HAVE SINNED[2273]

Forgive Me I Have Sinned is available in 8mm and formats. The credits appear. The film represents that it produced and directed by Phil Princ and presented by Productions.

The first scene shows a male opening a book with "sinn written in red letters on the cover. The male opens the book checks off some of the names listed inside. Another male is shown walking on a sidewalk carrying what appears to be mail. writes something on a pad puts this note into an envelope, then deposits several envelopes into a mail box.

Another scene shows an envelope being pushed through a slot. Next, a young looking girl is shown running on a side and then into a playground. She then runs on a sidewalk alo wooded area. A male is shown driving a car and is identifie Ron Jeremy. He slams on his brakes to avoid hitting the girl is now running across the street. She then runs up some s and enters a house while strange animal-like noises are pla in the background. The sounds stop once she enters the house

A male dressed in a robe is seated behind some lattice

2273 Description By Senior Investigator Haggerty. nationally distributed film was rented from a neighborhood store. It was found obscene in U.S. v. Soverign News, General Video of American, et al., No. CR84-00149-L(A) (W.D.

with smoke surrounding him. The young girl, who is dresse what looks like a parochial school uniform, stands on the side of the lattice work.

"Who are you," she asks?

"Tell me about the sins of the flesh," the man says. person is believed to be played by George Payne.)

"What do you want me to say?" The girl moves closer to lattice work.

"You little fool. Tell me of your sins if you want t forgiven."

"It was when Serena and I went camping. It was so much The campfire was warm. I was so tired my sleeping bag wa warm. I just went to sleep. I dreamt Serena was touching me

"How was she touching you? How did she touch you?"

"She touched my face. She touched me with her hands and mouth. She kissed me. And then she moved her hands further and I couldn't breathe."

"Tell me more how you've sinned." "And then and then" then what little sin heart."

"She put her hands between my legs and I felt all warm strange."

The scene changes to the young girl laying on her stor An oriental female runs her hand over the young girl's clo body. She then undresses. The young girl rolls over on back, still seemingly asleep. The oriental female unfastens young girl's trousers and removes them. She then moves her h

to the young girl's breasts pushing up the girl's top. The gi
wakes up. "What are you doing Serena?" The response is n
heard. Next, Serena pinchs the young girl's nipples, licks th
and then performs cunnilingus on her. Next, they kiss and r
their bodies together and The Oriental female licks the you
girl's nipples. They change position and perform cunnilingus
each other at the same time.

The scene returns to the young girl talking to Payne thro.
the lattice work. She is rubbing her eyes. "And that's how
happened. I couldn't help myself."

"I can see that you are not the true guilty one. Ser
must be punished. On Saturday night come back and bring her w
you. After all you do want your friend to be forgiven, dor
you?"

"Oh yes, Serena she must be forgiven. I'll bring her back
She cries.

The scene changes to a male opening an envelope. He reads
letter in the envelope "Dear Brad, we all know what a filt
little boy you are. I intend to get to the bottom of you a
insist that you come to see me in the back room for tea a
toast. We will have a little chat. Signed, the confessor.

"This can't be true. How could anyone know? Oh God, I'm
ashamed."

The scene changes to a room similar to the room shown in t
beginning of the film. Many candles illuminate the room. T
man who read the letter is present as is George Payne,

confessor. He (the confessor) says, "don't be worried, I k
you have many things on your mind. I'm here to help you." "

But aren't you a black-mailer or something?"

"Me a blackmailer, of course not. My sole purpose is
cleanse young sinners of their guilt."

"Then you know what happened with my sister, Marie, a
myself."

"Yes, Yes I know. Tell me the story, please."

"It was about two weeks ago. I was standing near her r
and she comes in and gets undressed in front of the mirror an
was just watching. I wanted to see if her tits were really
big as they seem to be under her clothes."

"Were they really that large?"

"How should I say this? Even bigger! I just got so excit
I got a hard on and I took it out and I started to jerk off. S
must have heard me. She opened the door."

The Scene changed to the man standing with a robe o
slightly opened in front, masturbating himself. There is
reflection off a mirror where his sister is seated examini
herself in the mirror. She is wearing a white lace-like r
over a black bra and runs her fingers along the edges of the br
After opening the robe, she sees her brother's reflection in t
mirror. She turns to look at him. He is still masturbatin
"Well, well, well, what have we here? Little brother Brad wi
his dick hanging out. Or, should I say sticking out. Get ov
here."

"But, but, but," he says.

"Get over here " she commands.

I'm sorry," he says.

She raises her hand. "You are a poor excuse. Who w have ever thought that little brother Brad was hiding such a piece of meat between such skinny little legs." She grabs penis.

"But, but, Marie you are my sister." "Oh you're disgusting."

"Get over here." She pushes him on a bed.

"Please don't hurt me Marie."

"Brad, you really think that you could look around ou of my room pulling at this silly little prick of yours, ol for this one you gotta pay."

"But, but, Marie you know I don't have any money."

"Money, money, you think I want money? You men are crass."

She turns and walks to a curtain and opens it. "You Brad its not going to be this easy." Behind the curtain were types of S&M and B&D equipment. She takes a pair of handc and addresses Brad.

"Now get over here."

"What are you going to do to me?"

She laughs, "No Brad it's not so much what I'm going t to you as what you're going to do for me. Now get down on knees." She puts the handcuffs on his wrists.

"But, but, I'm your brother."

"So, you should have thought of that before you star sneaking around outside of my damn room. Like some grumpy lit fuckin' school boy. I mean you're going to pay for this you're going to pay for it my way."

"But you know I don't have any money Marie."

"You should have thought of that before you started play around jerk. Now take your fucking clothes off."

He's then shown nude on his knees. Marie takes a paddle slap and hits him with it. "Maybe this will loosen your tongu

"Don't hit me anymore."

"Answer me."

"Just once, I just wanted to see your tits." "My tits, dare you. How dare you even think that you're worthy enough look at me. You are nothing, less than dirt under my fe You're a worm, just a sleazy little worm. Get over there on bed."

"Please don't hurt me anymore Marie." He gets on the b She walks up to him.

"So you wanted to look at my tits did you? You wanted feel them." She strikes him again. "Answer me."

"I just wanted to look."

"Get up."

He rises to a sitting position. Marie exposes her l breast. "Go ahead, look at them. Would you like to touch the

"Yes."

"Well then put them in your slimy little mouth. Suck t
Worship them." He licks her left breast. "You good
nothing," she says and she pushes him back on the bed." Li
jerk-off artist. You are good for nothing. You aren't ever
to lick my shoes. However, I'll tell you what, if you be
maybe I'll relent and let you kiss my heels. Lick the ankle,
of it." She strikes him again. "Do it. You see Brad, as
as you obey me we'll get along just fine, but everytime
resist me it means more punishment. Now lick."

He resumes his licking. She strikes him again. He l
her legs then begins to lick her crotch. She stops him. "I
tell you to suck my pussy you little pig."

"No ma'am."

"Get over here."

They move from the bed. "Did I tell you to get on
knees?"

"No." He gets up.

"Get down," she yells. He does. "Crawl across the fl
on your belly like the worm that you are. Come on, come
She dangles the slap between her legs and strikes him a
across his back. She squats. "Now lick my pussy." She h
the slap against her crotch. "Now you are a pig. Get up, yo
worthless." She strikes him again, across his left shoul
The impression of the slap can be seen.

"Don't hurt me anymore."

"I should punish you for being out there outside of my

You little pig, you're going to have to plead with me for a l time to pay for this one Brad. Do you understand me?"

"Anything you want, anything."

"Come on." He moves to the bed again. She takes off robe and removes her panties. "Now, let's see what you can Come on." She lays on the bed with her legs spread and moti to him to come between her legs. "Lick my pussy." He commen to perform cunnilingus on her.

"Worship it, you know this is what you've been dreaming o A close up is shown of him performing cunnilingus. "Isn't Brad?" Additional marks can be seen on his back from the sl "You nasty boy." She fondles her own breasts. "Well I think you practice a whole lot at that you'll become real good. your big sister show you how its done. Suck that pussy. B your tongue way in it. Yeah all of it in and out. Do it Br suck that pussy, suck that cunt. Come on, make me cum right your face. Do it Brad."

She continues to fondle her breasts. "You need much m practice, but it wasn't bad. Now I want you to show me how m you love your sister. I want to see you get that cock nice hard, rock hard."

She sits up on the side of the bed and removes her bra. stands in front of her and fondles himself. She strikes l again across the chest. "Did I say get up?" He gets back dow

"I'm sorry."

"Never, ever, stand before me. Now rub that cock. Ans

me when I talk to you." "Yes ma'am."

"Yes, mistress, you don't ever use my name anymore if want to say anything to me it's °yes, mistress'."

"Yes, mistress."

"That's better." She pinches his neck. "Now rub cock." A close up is shown of him masturbating himself. "R. nice and hard."

"Yes mistress."

She fondles his testicles at the same time. "Come on lets see that nice big piece of meat down there. Well I with a lot of practice you could be real good at that." masturbates to ejaculation on her right thigh. He rubs his on her right breast nipple.

The scene changes back to Payne and Brad discussing happened.

"But I think maybe I am an animal or something. I these thoughts."

"Brad, you know my boy, listen, your sister is the ar She needs to be cleansed; to be purified. You bring her wi Saturday here and then you will have your revenge. Only Yes, trust me." He laughs with a clenched fist. A scre heard and the camera focuses in on a candlelight.

The scene changes to a woman dressed in a white blou black pants or skirt standing in front of the lattice "Vicki Jones please come in, please."

She walks closer, "Who are you and what are you doing

that screen?"

"My, what a lot of questions you ask," Payne says. "I know that you have something terrible on your mind. And you going to tell me about it. I'm behind this screen so it woul easier for you to tell me. Please come, kneel before me."

"Yes maybe you are right I do need to talk to somebody a it. Ever since it happened I've been so ashamed I coul sleep. You see I was hired from the secretarial pool to work Mr. Burke I was so happy. I was so nervous, you understand could have been my big break. And then I went in and everyt went wrong." She starts to cry.

"Please Vicki, don't cry. Don't cry, Vicki. Finish tel me exactly what happened."

"Alright, I went to see Mr. Burke at his office and I in," she cries some more. "I can't."

The scene changes to Mr. Burke believed to be played by Jeremy sitting at a desk writing. Vicki walks in carryin notepad.

"Yes, what is it? Where's my secretary?" He says. Vicki Jones, Mr. Burke. I was sent here by the secretarial to replace your other girl.

"I'm a good secretary."

"Yeah, I bet you are." Next his thoughts are heard al "Oh, Jesus, what a dog and I was looking forward to gettin cock in that hot bitch Lola. Oh, no chance of that with primp faced iceberg. Hmm, somebody ought to ruffle her feath

and give her a good fucking.

"Ah, Ms. Jones we have to keep this kinda quiet I have private letters I want to dictate to you. Is that okay? have a seat." She sits in a chair. "You ready? This is to Cock & Balls. Dear John, I really enjoyed the party you last night especially the part where your wife reached unde table took out my cock and played with it she has such hands. Then when your sister took me outside well. . What is the matter Ms. Jones?"

"Mr. Burke I can't write anything like this. It's ob it's filthy and I can't write anything like this down."

"It's obscene, who made you the judge, Ms. Jones? Wha you some kind of sexless stick of a woman? I'll bet you even saw a dick."

"Mr. Burke I don't have to take any of this from you."

"You walk out that door you're walking out of your ca Is that the way you want it?"

"You really mean that?"

"Yes I do. Miss Jones come over here. Miss Jones ge ass over here. Now!" he yells.

She walks over to the desk. He grabs her arm from b the desk, and walks around to the front. His pants are ope his penis fully exposed.

"Now, Miss Prim and Proper Jones we're going to dictation the way I like to take dictation. We're going t my cock as the pen and your mouth as the note book." He fo

pushes her to her knees. She struggles with him a little. holds her head.

"I want you to suck on this. Put it in your mouth. All it, and don't act like you don't like it. All your life I kn you've wanted a good hard dick in your mouth. This is yo chance enjoy it." He rubs his penis on her face. Open yo mouth, open your month," he yells.

"Okay," she says, "just don't hurt me."

He puts his penis in her mouth and, holding her by the hai he moves her head onto his penis.

"Don't try to fool me I know this is what you always wante You girls are all the same. You act like you don't like it b you really do. You want a good stiff dick right in your mont I know that's what you like, I know. I understand, you see understand. Oh suck on it, suck," he yells. "Oh that's it, good you're getting the hang of it."

He continues to hold her by the hair and making her perfo fellatio on him. She starts to cry. He says "Shut up."

"Mr. Burke why are doing this to me?"

He says, "shut up." His penis falls from her mouth. "Op your mouth, open," he commands.

She does and he puts his penis in her mouth again. "I d it for you, for you I'm doing it." She starts crying again. jerks her head forward. His penis falls out again. She cough He demands she open her mouth again. She does and he puts h penis in her mouth again. He continues to push her head a

mouth against his penis.

"Suck on it baby. I know you love a good hard cock in mouth. That's nice, a little faster. That's a girl. A l faster good, good." He reaches down and pulls up her swe "Not bad, nice tits, beautiful tits. Come here."

He moves her to the desk. He pulls up her skirt and off her panties. He moves his fingers over her labia and penetrates her vaginally. A close up is shown o penetration.

"Let me go. Please, let me go."

"Say °I like it,' say it, say it."

"I like it. You're hurting my pussy, ow. Don't, d She yells.

"You love it, say fuck me some more. Say fuck me more

"No, No."

"You're not fooling me I know you like it. Say I like

"Don't," she says. "Please don't."

"Say fuck me some more." "Fuck me some more." "Yeah fuck me some more."

"I can't take it. Please, I can't take it. It hurt bad."

"I know it you girls are all the same." He pulls his out and ejacalates on her pubic hair. A roaring noise is with each squirt of his semen. "The best lay you eve right?" He reenters her, tilts his head back and laughs.

The scene changes to Vicki crying in front of the l

work. Payne comes from behind the screen. He has her lay acr
a pillow and he straps her wrists to a fixed object.

"What are you doing? What are these? I don't like th
Tell me what you're doing? You're no different."

"Oh, but I am different, my dear. I have my own purpose
cleanse sinners of their guilt. I'll use my rod to chasti
them. Yes, you have been touched with sin. Now you must
touched and cleansed by me your confessor. Now you must ta
the rod. Taste its purity. My rod will cleanse you. You w
to be cleansed, sinner?"

"You are different. Confessor cleanse me with your rod."

He had been masturbating himself and now pushes her h
down to his penis. She licks it.

"Be cleansed sinner."

She then performs fellatio on him.

"You will soon be cleansed. Deeper, your mouth is ful
more. That's a good sinner, that's excellent. Make my rod
that it can go in you. Yes, you will be forgiven. Put it a
all the way down. I want to feel your chin on my balls. Do
stop. Do you like it my dear? You can talk. More. You can
speak. Your mouth is full. You will be cleansed. Do you w
my rod in you now?" He removes his penis from her mouth a
masturbates himself.

"Yes," she says. "Yes, cleanse me confessor."

He moves behind her pulls up her skirt. He penetrates h
from the rear. "Your forgiveness is soon. You'll be cleansed.

He masturbates to ejaculation on her buttocks. Thunde heard in the background. He unstraps her. "One last thi child. This man, this Jason Burke. You are to go to him, want to see him again. You then bring him here, Saturday, f must be cleansed. He is a sinner and you, you will get revenge."

The scene changes to Payne gazing at a small metal chalice on top of a wine bottle surrounded by wine glasses pours wine into the glasses. He drops some white powder int three glasses, that he has poured so far.

With the first glass he says as he drops in the po "Jason Burke, slime, garbarge, trash." The next glass, "M Martin sadist." The last glass, "And last but not least Se child molester, perverted bitch." A clap of thunder is he "They'll all be taken care of. Yes they will."

He holds up one glass and swirls the wine around making the powder dissolves in the wine. He pours three more glass wine and says, "And now the people I've cleansed." He then up one glass of wine without powder and one glass with powde

Looking at the glass of wine without the powder he s They will get their revenge." Then looking at the glass of with the powder he says, "And you my sinners will be clear He laughs and drinks from the metal chalice. Another cl thunder is heard. He laughs again and sets the chalice dow arranges the glasses and puts his hands to his head. While praying position he kisses his robe.

The scene changes to a black background. The wo "Saturday Nite" appear on the screen. Payne is shown kneel at a table with the wine glasses on it. All the expec participants enter the scene and gather around the table. E of the sinners to be cleansed is introduced. Payne gives each the sinners a glass of wine with the powder in it. He then gi the last three glasses to the people already cleansed. Pa holds up the metal chalice and toasts to all of them. They drink. Serena looks shakey.

Payne says, "You were all brought here for a reason t evening. My sole purpose is to cleanse sinners. Jason Burke a rapist." Maria passes out on the floor. "Sick bitch," Pa says. Next Serena passes out. With the three sinn unconscious, Payne says, "The cleansing will begin."

Vicki Jones is shown completely nude squatting over Ja Burke. Payne says, "My sinners all to be cleansed by y confessor." Burke is laying on the floor with his hands ti Serena is tied to a chair or ottoman. Maria's head and hands in a stock. her brother, Brad, stands behind her with a sl Everyone is nude.

Payne holds Serena by the neck and tells her she must purified. "Open your month." The young girl, Ingrid, sa "Punish her confessor, with your rod." Payne stands n Serena's head masturbating himself. "Look at me, Serena look me," he yells. Payne pulls her by her neck and brings her clo to him. She yells.

Next, Burke is shown awakening. "Ms. Jones, what is on here? Vicki, a joke is a joke, but this is going a littl far."

"Oh Mr. Burke, Jason, and what you did to me did you that was very funny? Well I didn't think it was funny. Th what's going to be funny."

Maria is shown in the stock from the front and back. paddles Maria's bare buttocks saying, "Now who's got the hand little sister? Who's in control now?" He paddles her and runs the paddle through her crotch.

"Are you out of your fucking mind?" Maria cries. ", go. Let me out of here." He continues to paddle her.

"Yes, who's in control now?" Redness is visible (buttocks. "My turn. Who's got the upper hand now, sister

Next Payne is shown with Serena and Ingrid. He Serena, "You must be purified for the abuse of little In You liked sucking her nipples didn't you? Didn't you lik sweet little nipples growing in you. And you liked her little clit pulsating in your lips. That was sinful," he continuing to masturbate himself. "It's not her fault."

Payne holds Serena by the neck and positions his pe her mouth." You must be cleansed. Suck the rod. Suck t of your confessor." She yells, "No No." He puts his pe her mouth.

Burke is shown on the floor. "Look at that cock you proud of. Look at that thing. No wonder you have to res

raping women. No real woman would want that. Look at y you're hung like a hamster."

Brad is with his sister. "Let me out of here right nc she yells.

"Nah, it's not that easy is it?"

"Are you out of your mind? Get me out of here."

"So I'm a worm am I? Well even a worm can turn."

"Brad, get me out of here now."

"It's not that easy sister dear. You treated me like meat and all I wanted to do was look."

"Brad, I'll punish you for this you motherfucker."

Payne is shown with Serena and Ingrid. "Open it," Pa says. "Anything but that," a voice says. Payne holds Seren neck and puts his penis in her mouth.

"Let's punish her. Confessor give her the rod," Ing says. "Look at how she pleads. You were bad you shouldn't h made me do it." Serena is shown with Payne's penis in her mou He moves her head against him.

The scene goes back to Burke. "You called me a cunt," Vi says. "Cause you like that word so well why don't you have real thing." She squats down rubbing her labia. "Stick y tongue out lick my pussy, lick my cunt." Burke perfor cunnilingus on her. "Lick it good," she says.

Payne still holds Serena by the neck with his penis in l mouth. "You like to abuse little Ingrid, yeah." Her cries anguish are heard. "Silence, silence," Payne yells. "You l

sucking on little young tits." Serena continues fellatio on

Burke continues to perform cunnilingus on Jones.

Brad is paddling Maria's bare buttocks. "It's not easy," he says. "It's my turn. Now let's see who's got upper hand. You should know that."

"If you don't let me out of here I'll, God Damn."

"What's the matter, you can't handle it now? It's not is it?"

"Brad I'm going to punish you for this, now get me out here."

"Punish me?"

"Brad, please get me out now."

Burke continues to perform cunniligus on Jones. "Would like for me get down and give you a little dictation?" reason I want to fuck you. Why don't you try me and let me you? Can you see how hard and hot I am, look?" He moves penis up and down. "Don't leave me like this."

Brad is still paddling Maria's buttocks. "Is that what is? It's my turn, you're going to pay now."

"I'll pay, motherfucker," she says.

"It's my turn now, sister dear, its my turn, I'm the o

"If I ever get out of here," she says.

"It's my turn, yes. Not yours."

Burke is again performing cunnilingus on Ms. Jones.

Serena is still performing fellatio on Payne. "Suc holy fluid out of the rod."

Burke is still performing cunnilingus on Jones. "Look juices flowing. Stick your tongue in my cunt."

Burke stops, "Ms. Jones I'm in agony, please fuck me."

"Do you hear?" Maria squirms in agony.

"Yes Master, forgive me."

"Yes, call me master," Brad says. "Tell me you want fuck you."

"Yes master, I do want you to fuck me." "Yes, now kis whip."

"No," she says, "No," shaking her head.

"Yes, kiss the whip. I said kiss it. I can see if you well trained you'll be okay." He puts the whip in her The next shot is from under the stock. "Yes tell me you w to fuck. You tell me." Her legs are shown turning and h from his whipping.

"Yes, master."

"How do you want me to fuck you?"

"Yes master, please forgive me. I was so wrong befc do want you to fuck me."

"Oh God, I want to fuck you. Look how hard you mal Burke says.

"You, fuck me?" Vicki asks incredulously. "Maybe say very nicely Miss Jones please fuck me put your bea cunt, slide it down my cock then maybe I'll let you fuck i say it very nice. Say please." Burke stops perf cunnilingus on Miss Jones and says, "Slide your beautifu

over my cock up and down."

Serena continues to perform fellatio on Payne. He tell Ingrid to watch. He's still holding her neck. He runs his har over her breasts and then back to her neck. "Sinner Suck th rod," he says. "With my whole spirit I shall cleanse."

Burke says, "Please I'll make it good for you. I'll make i feel good you'll be glad you did."

"Oh master, please forgive me," Maria says. "I was so wror before. I do want you to fuck me. Please I beg you fill me wit your cock." "Yes I'll shove it all the way in yes." Bra penetrates her vaginally from the rear. "Yes it's so good, Maria says. She is still is the stock.

Serena is on her back. Payne's penis lays across her fac She licks it then commences to perform fellatio again.

"You'll be glad, really. I'll make it good for you." Bur says again. "Please, please sit on my cock." "Well, I'll thi about it." Vicki says, "It's too big, "oh, no," she says.

"Loving master, I want you to fuck me. How do you li this?" "I want you to fuck me," Maria says. Brad continu intercourse from the rear.

"That's right my son, you are teaching her well." Pay says to Brad. "She will be cleansed for her sickness. H degradation of you, now it's your turn, very well."

"Oh you're going to split me open," Maria cries. "Please, beg you, fill me with your cock. Forgive me I was so wron before." Brad continues the intercourse of his sister fro

behind.

"Oh, Miss Jones, please I'm in agony," Burke pleads. that beautiful cunt over my cock up and down. Please I'l it good for you, you'll enjoy it. I'll make you happy, you glad you did. Come on I'll make it good for you come on on."

"I know you'll make it good for me. You just wat see." She rises and then straddles his penis. She inserts her vagina. "That feels so good," she says.

Serena is performing fellatio on Payne. He holds his up so she can lick his testicles. He masturbates.

A close up is shown of Miss Jones continuing inter with her on top of Burke.

Serena is still licking Payne's testicles whi masturbates. "I will cleanse her," he says to Ingrid. Ser then shown performing fellatio on him. "Now you must while I put the rod" "No. Ingrid," Serena says. "Dow says pushing on Serena. "Are you a sinner?" Payne asks S "You're mad," she says. "Watch," he says.

"You'd like me to like your pussy, huh?" Ingrid s Serena. "Please," Serena says. "Ingrid, let me tast pussy." Payne moves behind Ingrid.

A close up is shown of the intercourse between Miss and Burke with her on top.

A close up is shown of Brad having intercourse wi sister, still in the stock, from behind, "Screw you, m

fucker, oh please fuck me, oh please, I beg you fill me with you cock."

Again the close up of the intercourse between Miss Jones and Burke is shown.

"Please Ingrid, please Ingrid," Serena says as they are shown from behind. Payne who is behind Ingrid who is between Serena's legs as she lays on her back, are tied, "No Ingrid," Payne says.

"Please, I beg you, please." Serena pleads. "Say forgive me I have sinned." "No." "Say it, say it you pig sinner." "No" "Slut" "No" "Slut," "If you don't, I will let her piss on your face. Say it. "You must say it."

"She's not yours, she's mine."

"Oh really, silence," he says. Serena cries. "I belong to him now," Ingrid says. "No" Serena says. "Yes," says Payne "I own her."

The intercourse between Burke and Miss Jones continues "Come on, please," he says.

Brad continues his intercourse with his sister in the stock "Brad, please," she says. "Oh yes, sister, yes," "Oh, its so good," she says "Yes, fuck me hard."

Payne is still behind Ingrid. Serena is still crying "Would you like to see me own you? If you want her back you must be good for her." "You don't like that," Serena says to Ingrid Payne's penis is shown at Ingrid's buttocks. He penetrates her from behind. "Fuck me," she says. Payne is shown havin

intercourse with Ingrid from behind.

The intercourse between Burke and Miss Jones is shown a

The intercourse between Brad and his sister is shown a "Yeah", he says. "Yes, fuck me harder," she says.

Again the intercourse between Jones and Burke is shown.

Back to Payne having intercourse with the young (Ingrid, from the rear, "You don't like that," Serena tells "Take it out of there," Serena says to Payne. "Yes s repent," he says.

Again the intercourse between Jones and Burke. "Co please," Burke says. She stands up and positions her vagina Burke's face. He performs cunnilingus on her. Then she's performing fellatio on Burke. A close up is shown. "Co balls," Burke says.

Back to Payne having intercourse with Ingrid from b "Yes, sinner repent."

Back to Miss Jones still engaged in fellatio with Burk

"Oh hurt me, make me pay," Maria yells as her br continues to have intercourse with her from behind while still in the stock. "Oh, yes master, forgive me, I was so before." "What do you think of it now, bitch?"

Back to Miss Jones performing fellatio.

Payne is continuing his intercourse with Ingrid from b Serena continues to cry and yell, "No, No. Wait, wait," says, stopping his movement in Ingrid. Referring to Sere tells Ingrid, "She needs my holy fluid." You must drink my

the rod of my thighs. "No," she yells. "Oh you will drink
uid. Say forgive me I have sinned. To cleanse, say forgive
have sinned. Say it."
"Forgive me I have sinned," Serena says, She repeats it.
aptized, sinner," Payne says.
Miss Jones is still engaged in fellatio.
Brad is continuing intercourse with his sister, "Yes, yes,"
ays. "I do want you to fuck me." "Ooh yeah, Ooh, baby."
Back to Miss Jones still performing fellatio on Burke.
Payne continues his intercourse of Ingrid from behind. "My
fluid from the rod that baptizes will cleanse thee," he says
erena. He moves from behind Ingrid to the side of Serena
ng her to lay back and not to cry.
Brad continues his intercourse from the rear with his sister
e stock.
"Think I'm a worm sister dear? Ooh I'm coming." "Thank you
r." Brad pulls his penis out of his sister and masturbates
aculation on her buttocks.
He then slaps his penis in the semen on her buttock. "Oh,
onna cum," Burke says. Miss Jones is shown still performing
tio on him. Then she removes his penis from her month and
rbates him to ejaculation on her lips. She licks his penis.
erforms fellatio on him.
"She needs to be cleansed then she'll be happy." Payne
He then masturbates himself to ejaculation on Serena's
breast.

Miss Jones is again shown performing fellatio on Burke.

Brad is shown slapping his penis in the semen on sister's buttocks and then moving it against her backside.

Payne is shown holding his dripping penis above Ser chest. Ingrid moves forward and licks his penis and Ser right breast with the semen on it. She also takes Payne's in her mouth.

Next Payne is shown leaving the room. Ingrid is engag cunnilingus with Serena. Miss Jones is performing fellati Burke and Brad is engaged in intercourse with his sister fro rear while she's still in the stock.

Again the book is shown with "Sinners" written in r the cover and a list of names inside. A hand holding the open runs down the list without touching the page.

The film ends showing the credits in red on a b background.

b. THE TAMING OF REBECCA[2274]

The film begins with the credits, "Avon presents." Durir the credits and title are scenes of fellatio, intercourse ejaculation and spanking. The film stars Sharon Mitchell a Rebecca.

The first scene shows Sharon Mitchell, Rebecca, leaving house dressed in a school girl outfit. She calls at Ms. Zord and very excitedly tells her that her father had sex with her an beat her too. Ms. Zorda tells her to calm down and that it' alright for her to come over.

Next Rebecca is driving the car and having flash backs c her sexual experience with her father, scenes of fellatio an intercourse are shown. She pulls her car up to a wooded are with a large fence. She gets out of the car and walks on a pat to some large steps and up to a big house with white columns.

Next she shown entering the office of Ms. Zorda. Ms. Zord tells her they understand her problems that they have othe sexually abused children in their school. Rebecca tells Ms Zorda what happened with her father.

Next her father is shown completely nude sitting on a toile n the bathroom masturbating himself. He calls Rebecca. Call: er a horny little bitch, what are little girls for? She enter: he bathroom wearing a one piece red and black lingerie outfit

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2274 Description by Senior Investigator Haggerty. This filr as seized in the District of Columbia, where it was playing at n (adults only) theater. Prosecution was declined by the U.S. ttorney's Office of Superior Court, 1984.

He tells her to come over to him saying what do you th daughter is for. He has her perform fellatio on him. He "good isn't it? "Yes Daddy" she replies dolefully. "That bitch, suck on it hard. That's why your mommy and I made y make Daddy feel good," her father says. She continue fellatio on him. "Suck on it, Suck on it," he orders. A cl is shown of her taking his penis in her mouth and the licking the head of his penis. She continues perfo fellatio.

Scene switches back to her telling Ms. Zorda what hap next. He made me sit on his cock.

Back to her and her father in the bathroom. He has he up and positions her to sit on his penis. She straddle facing away and lowers herself as his penis enters her va As they engage in intercourse he says, "Make Daddy feel g He fondles her nipples at the same time. She says, "Daddy hurting me." They continue intercourse. "Alright Bitch, to taste a little bit of your cunt. Get off of me." straddles the commode he performs cunnilingus on her. fondles her own nipples.

Scene switches back to her telling Ms. Zorda, "That all. He bent me over the tub and spanked me."

Back to her father ordering her over to the tub are bending her over. He spanks her buttocks. Her buttocks obviously red. He says, "say thank you Daddy." He rul buttocks then spanks her more. He then bends her into th

and has intercourse with her from the rear. He tells her, " that feels good Daddy." She says, "That feels good Daddy." then has her turn around again and perform fellatio on him aga He tells her to feel his balls " make Daddy cum." She licks penis. He says, "take it in your mouth slowly go down." closeup is shown. He ejaculates on her face. "Now do wha like best. I want you to pee all over my cock." She stradd him and massages her labia, then urinates on his penis and area around his penis. This is shown in its entirety.

Scene switches back to Ms. Zorda telling her she will h to stay here. She then takes Rebecca to introduce her to ot student and staff. They enter another room and Ms. Zo introduces her to the other students both boys and gir Another male and female enter the room, the male is introduced Mr. Minindao, the Dean of Discipline. Minindao is played George Payne. The female is his secretary, played by Ni Before he leaves he says he wants to see Rebecca and Sandy in office.

Scene changes to the Dean and his secretary, Linda, in office. He tells her how rough it is being around these ki He says he wants her to take some dictation, and he sta undoing his pants. She performs fellatio on him. "These yo girls don't do that the way you do. I love your dictation." close up is shown of her performing fellatio on him. "Come baby let's fuck. Get your clothes off," he says. She strips he strips. She continues fellatio on him. He then perfo

cunnilingus on her as she lays back in a chair. He then en
in intercourse with her in the same position. A closeup is
of the insertion showing her wet labia. She holds her
apart. "You want my cum?" "Yes" she says. "Say please D
beg me to cum in your face, say please Daddy," the Dean
"Please Daddy," she says. He ejaculates in her mouth and c
face. She licks the semen from his penis.

Scene changes to two girls talking in their room.
talking about Zorda and about the cave. They say the last
taken to the cave was tied up. Afterwards she told the cop
next she disappeared. Rebecca and another girl enter the
Rebecca says the Dean is real scary. They tell her about
cave, she doesn't believe it. They tell her to ask the
She calls the boys over. One of the boys tells her the ca
for real, alot of scary things happen down there. Then he
he wants some serious action everybody. They begin to s
One couples is shown, the female performing fellatio on the
Rebecca performs fellatio on one male as another female pe
cunnilingus on her. A third couples is shown, the f
performs fellatio on the male, also. The camera switches
one couples to another. The first couple engage in inter
with the female on top facing away. A closeup is shown c
intercourse. Another couple is shown in a 69 position. An
couple is engaged in intercourse from the rear. A fourth f
is shown sitting on the bed masturbating herself. Then the
from the first couple has intercourse with the fourth female

him on top he kisses the first female. He ejaculates on
fourth female's pubic hairs and thigh, kissing the first fema
Another couple is shown engaged in intercourse with the male
top. The third couple is engaged in intercourse from the si
Another female rubs the third male's testicles at the same ti
He ejaculates on the third female's pubic hairs and stomach.
male of the second couple goes to the female of the first coup

Scene changes to Zorda reporting to the Dean, in the offi
She tells him she is having discipline problems with Rebecca
Sandra.

Scene switches back to the boys and girls in the room.
of the boys, John, puts a cream on and around the first fema
vagina. He then begins to fist her vagina. The Dean and
Zorda enter the room and catch them. The Dean orders Rebecca
John to his office.

Scene changes to the Dean's office. He tells Ms. Zorda t
will have to be punished. John goes with Ms. Zorda. Rebe
remains in the office. The Dean yells at her she's a bad g
participating in an orgy in my school. She says she used to
it with her father all the time. He orders Rebecca to bend o
his desk and lift her skirt. She refuses. He laughs and te
her the last girl that refused, he beat her until she vomit
then he made her eat it, all over her face. He feels her b
buttocks, then strikes her buttocks with a black leather look
rod. She yells. Then he takes out his penis and has rear
intercourse with her, a closeup is shown. Then he has

perform fellatio on him saying, "I'm going to shoot right in face." He ejaculates on her face and in her mouth. "That teach you a lesson won't it?" he says. "Yes Daddy D". last kiss on the head," he says. She kisses his penis leaves.

Next the Dean is shown calling Ms. Zorda. He tells he wants John and another girl in his office. They come to office. As John and this other girl stand in front of his d The Dean shows them a large safety pin. He tells John to off her clothes and to stick the pin in her tit.

John refuses. The Dean threatens to do it to him. strips the girl and as she struggles he sticks the point of pin through her left nipple. Blood spurts out and she scre This is actually done. Blood is shown on her breast and rur down her body. She urinates on the floor. The Dean gets upset and orders her out.

The scene changes to the girl standing in front of a mi examining the pin still sticking through her nipple. What l like blood still on her body under her breast and around the The secretary comes up behind her, sees her injury, and of sympathy. Under the guise of helping her the secretary takes girl to the cave. In the cave she orders the girls to strip She tells the girl I'm going to give you more pain and pleas She has the girl perform cunnilingus on her. The girl doe want to so the secretary says she'll turn the pin still inse in the girl's nipple. She does and the girl screams. She pu

the girl to the ground and squats over the girl's face for m cunnilingus. She says, "Suck it". The girl says, "I don't h to do this". "Yes you have to," the secretary says. The D comes up behind them and watches. He then steps forward and s "What the fuck is going on in my cave?" The secretary tells she was going to tell Zorda and the cops. The girl denies th accusations. The Dean yells, "you pissed on my floor you st my pin," and has her lick his black rod. The secretary remo the safety pin from the girl's nipple which is obviously v swollen. They make the girl lick the blood off the pin. Dean then says he's going to fuck her and stick his black rod her ass. He then strips. "what are you doing?" he says. " don't touch my dick. Say it, you don't touch Daddy D's di Now if you're real good, Daddy will put my fist up your ass. threatens her move. She protests. He yells at her, "Shut y fucking mouth, you remember," He then has intercourse with h with him on top. She yells and crys. Dirt adheres to h buttocks and thighs. "I won't ever do it again Daddy D. please fuck me." He ejaculates on her stomach. The secret licks his penis.

Scene changes to Rebecca entering Zorda's office a frantically telling her about the other girl in the cave.

Next Zorda and Rebecca enter the cave and observe what t Dean is doing. He laughs at their presence and astonishmer Zorda pulls a gun from her purse and points it at the Dean. laughs again and puts his hands to his hair.

Again the credits appear and finally "The End." A shot heard.

c. THE DEVIL IN MISS JONES2275

The film is available in 8mm and VHS formats. The begins with an ackowledgement to Arrow films. The film represented to be produced by Piere Productions.

A woman's face is shown. The woman says, "if you touch can get off, we'll get off together. Just put your cock in then we can get off I can't do it by myself. Damn you, touch please, damn you. You don't have to do anything, just lie th I'll lick you all over. I'll suck your cock, I'll suck balls, I can't do it by myself."

The woman character, who is believed to be portraye Georgina Spelvin, inserts her finger in her vagina with her open. "You'll help me to get off, we'll get off together. suck your ass, your beautiful ass."

A male character who is believed to be portrayed by Ge Damiano is seated against a wall and he raises a finger to mouth. He tells her to be quiet and tells her to close her e "You'll see I'm not crazy, he's here, you'll see, he'll come he's here, he'll come."

The woman is shown with her fingers in her vagina. " right there." She said." Just touch, we'll get off toget Just stick your cock in me and I can get off. Damn you." then removes her finger and closes her legs.

The scene changes to the woman nude entering a bathroom

2275 Description by Senior Investigator Haggerty. nationally distributed film was rented from a neighborhood v store.

turning on the faucets to the bath tub. She pours some liq
from a small bottle into the bath water. She removes a saf
razor from the medicine cabinet and steps into the tub. She s
down in the bath tub. She turns the water faucet off with h
feet. The camera runs slowly from her feet up her nude body
her face. She removes the blade from the razor and cuts h
wrists. Blood drips from her wrists into the water, near h
pubic area. She drops the blade into the water and lays h
bloody wrists crosswise over her pubic area then slowly brir
her wrists to her side. The camera shows a profile of her fac
Her eyes seem to roll back into her head. Her body is shown fr
the neck down. Blood has turned the bathwater to red. H
profile is shown. She closes her eyes and her head tilts to t
side towards the camera. Her eyes are now open. She is appea
to be dead.

The scene changes to the woman in a room walking towar
man sitting behind a desk. The man asks her if she knows w
she's here. She says for a job interview she thinks. S
apologizes, she's been confused. Confused since "your accident
the man says. He identifies himself as Mr. Abaa. She
identified as Miss Jones. He tells her there are two positi
available, but she is only eligible for one. He offers her
cigarrette. She appears frightened and she decides she does
want the job and wants to leave. He stops her and says he'll g
to the point. He repeats that he's not prepared. He tells
she was supposed to go the higher office and her whole rec

indicates this, but her accident has prevented it. She want: know what her accident has to do with it.

He says, "Everything, after all you did take your own li

"Are you trying to tell me that I'm dead?" she said. " I'm sorry, but that's exactly what I was trying to avoid." replies. "You're telling me that I'm dead and you're tryin decide whether to send me up to heaven or down to hell," says.

"Actually, I'm afraid that in your case there is no choi He tells her because she committed suicide they won't accept in heaven.

She asks, "What's the purpose of the interview if already decided". He says he really doesn't have any autho to make decisions and he just tries to help people along. accepts the situation, but she appears troubled over it. says she could understand if she had ever done anything wrong

He says, "you don't expect me to send you back to rob, s or commit murder."

"Of course not," she says.

"What then?" He asks.

She says, "how about lust? It is one of the seven de sins isn't it?"

"That's true but you're still a virgin." He says. "Ye know I've done nothing, not even that. To be condemned for.

How long?" she asks "Eternity," he says.

"If I had my life to live over," she says.

"It's out of the question," he says.

"If I did have my life to live over,"

"What would you do?"

"I would live a life filled, engulfed, consumed by lust."

"You would?"

"Yes."

"Engulfed?"

"Consumed."

"With lust?"

"Yes."

"It's out of the question." "But still, it's a fact the not expecting you for some time, oh what the hell why not."

"Can I? Just for a short time."

They agree to send her back for a short time.

"I'll be watching you and as soon as I feel you've enough I'll call you back and no nonsense." he said.

"When can I start?" she asks. "Now just walk through t door," he points to the other side of the room. She kisses hand and leaves.

The scene changes and she's shown opening two large bl doors and entering a bedroom. She walks up to a man sitting i chair. "Can you help me? I seemed to have lost my way." said.

"I'll help you all I can, but you're not lost." he t: her.

"But where am I?" she asks.

"You're here." he said.

"Well, that doesn't tell me very much." she said. She introduces herself as Justine and extends her hand to the The man doesn't move.

"Well, if you won't tell me where I am will you at l tell me your name." she said.

"I'm the teacher. You may call me that." he tells her.

"Okay, teach, what's the lesson for the day and when c start." she asks.

"As soon a I cure you of your inhibitions." he replies.

"Is that necessary?" she asks.

"Yes. My task will be easier and your pleasure heighte he said. The teacher is believed to be played by Harry Reem

"Come closer to me. Bring down your head." he tells He places his open hand on her face for a short moment withdraws it.

"Straighten up so I can see you better." he says. He motions with his hands. She removes her robe. She cups her breasts and says, "there's not much to look at is there?"

"No," he says.

"Does it matter?" she asks.

"No. Most men prefer roundness and firmness in a wo It's pleasing to the eye. A body such as yours is much practical. The limbs are suppler and the penetration is de in both your openings." he said. He has her turn around the tells her to bend over. She's wearing a lingerie outfit

exposes her breasts and doesn't cover her pubic area. It h
garter straps with stockings attached.

He instructs her to spread her buttocks. "Open yourself
to me." he says. She tells him she feels foolish. He inserts
dildo in her anus.

"What's that for?" she asks.

"To relax your muscle. You must hold it in. If it fal
out I'll punish you," he said.

"Can I stand up now my legs hurt," she asks.

"When I tell you." He gets up from the chair and lays cr
bed. She asks to straighten up again. He tells her
straighten up and to walk over to him. He opens his robe a
fondles his penis.

"By what name do you call this? Cock, penis, prick," s
asks as she gets on the bed looking closely at his penis.

"I call it cock, big beautiful cock," he said.

"It excites me and makes me feel tingly all over. May
touch it?" she asks. She then fondles his penis.

"May I kiss it?" she asks. She kisses his penis and rubs
all over her face. "It feels so smooth," she says.

"Put it in your mouth," he says. She puts his penis in
mouth and licks it.

He says, "all the way."

She performs fellatio on him.

"I love the taste of it," she says.

"Stroke it with your hand," he says. "Take it all the

in."

"But, it's getting so big and so hard," she says.

"Do you like it?" he asks. "Yes," she says, "I love t it feels big and hard in my mouth. She continues fellat want it," she says.

"Lick it with your tongue. Stroke it with your han says.

He holds her head and moves his penis in her mouth. describes it as a beautiful love tower, so smooth and so "I can feel you against the roof of my mouth, so deep. The in my hand, the strength, the power." she says. "I mus that power. I must have you inside me." she says. "Pl want to know what it feels like in my cunt."

She lays on top of him with her back against his st "Will it hurt?" she asks.

"Yes," he says.

"Please be gentle," she says.

"No," he says. "But I'm afraid, you'll rip me apart."

"Forget the pain, concentrate on the pleasure," he s he penetrates her vagina.

She yells, "Oh yes, yes, I want more of your prick, all of your prick up inside me. Oh yes, I can feel it. to touch your balls, I want to kiss your cock. I want to f up inside me, your big prick, please take that thing out backside, let me have it please, now, put your fingers in where it was."

Reems inserts his thumb in her anus. She rubs the dildo her face, then places it in her mouth and sucks on it.

Reems is shown penetrating her anus, first with his fin and then with his penis. "Can I have you? I want you," says. "I want to feel your cock, I want to feel your cock, y hard cock spreading me wide apart and tearing me apart. I h your cock. Oh, God, let me have it please. Slow, slow, don't it so fast, not so fast, oh it hurts so."

Reems inserts his penis in her anus. "Hold still, plea don't move for a minute. Hold still a minute." he tells h "Put it in slow, put it in there. I want to feel you in my a Come into my ass. Hurt me, hurt me, hurt me," she echos.

The scene changes to Miss Jones in a bathtub with wat She's holding a hose squirting water first to her mouth and t down her nude body to her pubic area. She fondles her labia t inserts the hose into her vagina. She moves the squirting h up her body to her left breast running the water over the nipp She then moves her hose up to her face again and into her mou Then down her nude body to her pubic area. She fondles her la then inserts the hose into her vagina. She gets on her hands knees and inserts the hose into her anus as she would an ene She lays on her side and then on her back.

The scene changes to Reems' face. He's looking down. "I the way in your mouth," he says. Miss Jones is shown performi fellatio on him. "That's it," he says. You must have mo patience he says, and he pulls his penis from her mouth. "I wa

to have you in my mouth." "But you must go slowly, savo pleasure."

"But I can't, just one more kiss." she says. "One kiss and then what?" he says.

"More, More." she says. "Yes," he says. "You like i like to suck on my cock, don't you."

"I want to taste your cum. I want you to come in my I want to feel your hot cum squirt in my mouth," she says.

"Faster, faster," he says. He ejaculates in her mou her face and on her hands. She moves her face underneat penis. He masturbates to release more semen. She lick penis. The scene changes to Miss Jones laying in a bed wearing only stockings. She removes a bunch of grapes f nearby bowl of fruit, eats a couple of pieces and lays the of the grapes on her stomach. She takes an apple from the She licks and bites the apple. She moves one hand to betwe legs and places it on her labia. She puts the apple on her and moves the apple back and forth. She then moves the back to her mouth where she licks it again. She rolls indi grapes to her labia across her stomach and then pushes them her vagina. She then removes the grapes and individually each one into her mouth.

The woman removes a banana from the fruit bowl. She p one end of the unpealed banana in her mouth and begins to it. She is shown in a mirror inserting the banana in her va She removes the banana and peels it halfway. She stick

..ed half in her mouth and again sucks on it. She then sticks banana between her legs and then returns it to her mouth. repeats these maneuvers again and finally eats the banana.

The head of a snake is shown. The woman's face is shown empting to imitate the snake's tongue movements. The snake's d is shown moving across her pubics. A full shot of the woman the snake is shown. The snake crawls up her body from ween her legs. She attempts to keep the snake crawling to the ter of her body. The woman picks up the snake and holds its d close to her mouth. Several times she places the snake's d into her mouth.

The scene changes to the woman, Miss Jones, and a male cing through the field. She tells the man that for the first e she has found contentment. "How much time do I have?" she s.

"Enough," he says. "Could you ask them to let you stay?"

"Yes." he says.

"To live out the time you had alotted?"

"Yes."

"The time you wasted when you took your life." "Yes, please .. do anything, everything." "You'll do that now without any ::essions." he says. "No, what you ask is quite impossible."

"My voice is nothing like my thoughts. In many respects I'm e you, nothing."

The scene changes to Miss Jones and another female engaged fellatio with a male. The woman takes the male's penis out of

her mouth and moves it toward Miss Jones. After Miss Jones m the penis toward the other female, she asks, "can I feel it i cunt, please?" "I feel it in my cunt."

"Is it hard? "Hard and big?" The other female engage fellatio with the man and then positions herself so the man insert his penis in her vagina. The other female inserts male's penis in Miss Jones' vagina. The other female perf cunnilingus on Miss Jones at the same time. The female rer the male's penis from Miss Jones' vagina.

Miss Jones says, "put it in , put it in, I want it in wh come." The female inserts the male's penis in Miss Jones s "I can't hold it, I'm going to come."

The other female removes the male's penis and he ejacul in her mouth and on her face. Miss Jones joins her and licks semen from the other female's tongue and mouth. Both women the man's penis and each other's mouth. Both females also their hands clean of the semen. The two female embrace kiss, then relax on the male's body.

The scene changes to Miss Jones between two males. One is lying on his back and Miss Jones is straddling him. The man is on his hands and knees over Miss Jones.

"Now, now, put it in my ass", she says. The male unde penetrates her vaginally. The male on top of her penetrate anus.

She says, "harder, harder." "Fuck me," she says, "your in my cunt is so hard. Can you feel him in my ass? Can you

him? Can you feel his prick?" She looks up towards the man (her. "Can you feel your cocks together? Rubbing against my v and filling me up completely. Oh yes, further, further ir ass. Can you put your prick further up my ass, and further i cunt." She says, "all of it, all of you, harder and fas harder and faster, oh fuck me, faster, harder, faster, I can f them throbbing inside me, hold still, hold still, I don't wan come yet, hold still. Ah, yes, now slow, slowly, that's ni can you feel your cocks together. Can you feel me, can you f me getting wetter and wetter, I'm gonna come, I'm gonna c come with me, don't come inside me, I want to feel you (outside, I want to feel you come on my leg. I want to feel juice run down my leg."

The male underneath her removes his penis from her va and ejaculates on the other male's scrotum. The second removes his penis from her anus and ejaculates on the c male's testicles.

Miss Jones says, "don't pull it out so fast it hurts. hurt, hurts, hurts."

The scene changes to Miss Jones sitting in a chair next Mr. Abaca's desk. She is smoking a cigarette. He asks, "are ready?"

"Yes," she says. "Can I?"

Abaca starts writing. "What?" he says.

"Stay," she says. "But just for a little while."

"No, it's time."

"I'm frightened. Of what, the fiery furnance?" "Well I guess so." he says. "There's no such thing, it's a m you'll see, you'll be quite comfortable."

"I've done everything I've been taught. Doesn't that c for anything." she asks. "I'm sure you pleased the master, nothing can ever change. Come now, time is important. Touc hand." He extends his hand to her. He commands her, "touc hand." Very nervously she does.

The scene changes to show her looking around a room. sees a man seated against a wall and asks, "Am I here?" replies, "that's a silly thing to say. Of course you're here

"It's just that I didn't expect this."

"No," he says, "who could have expected this." This is same male as in the first part of film. The man is believe be Gerard Damiano, who is also purportedly the director of film.

"Maybe witches and goblins running around sticking pin you or rats, thousands of rats staring at you eating your fl picking at your eyes, roaches crawling all over your skin there are no rats, no roaches, I found a spec of dust, it wa tiny I don't know how I found it. It was shaped kind of odd was pointed, it wasn't round. I thought a fly must have done I'm not crazy. Flies eat. They have digestive tracks, d they, you can't see him, he's too smart for that but if listen you concentrate and listen, I close my eyes, I pretend asleep. You must sit very still pretending you're asleep.

he comes out."

The woman says, "it seems like a silly waste of ti Pretending you're asleep so you can hear a fly."

"You see what I have for you," Miss Jones says as she op her legs to the man. As she places her fingers on her labia says, "its all wet and juicy. See how the juice flows out of hot cunt." She has two fingers inserted in her vagina and moving them vigorously, "you don't think its important. think I'm crazy. We have plenty of time. I want you to lick cunt. Stick your fingers in here," she says.

The man looks around. "He's here, somewhere. I know Don't you see I must pretend, he says.

"Give me your prick, I want to suck on it. I want to it in my mouth. Taste it, when it gets all big, fat and hard slippery, then you could stick it in my ass," she says.

"I must pretend, I must pretend. If I fall asleep, he co be out flying around and I'd never hear him." he says.

"If you touch me, I can get off, we'll get off togeth Just put your cock in me. Put your cock in me and we can off. I can't do it by myself. Damn you touch me, please. W you're finished, you don't have to do anything, just lie tha I'll lick you all over. I'll suck your cock and I'll suck y ass, your beautiful ass, I'll suck your balls." she says. man holds a finger to his lips for her to be quite. He tells to close her eyes. "I'm not crazy, he's here, you'll see, ha come out. He's here, he'll come."

Miss Jones is shown continuing masturbation. "It's there, just touch me and I can get off, we'll get off toge just stick your cock in me and then I can get off, damn you, says removing her hand from behind her legs and closing her "I can't do it by myself, you'll help me and I can get off can get off together, I can't do it by myself. Please help damn you, damn you. Please touch me. "Help me, help me," yells. The film ends. The credits represent that the film written, directed and edited by Gerard Damaino.

d. DEEP THROAT2276

Deep throat is available in 8 mm and VHS formats. As video begins the captions state that the film is presented Arrow2277

A female is shown driving a car. The title appears on screen "Deep Throat". The female is driving on a street borde by a body of water.

The credits of the film are shown. The film credits st that it was edited, directed and written by Jerry Ger believed to be an alias of Gerard Damiano. The film was prod. by Lou Perry, believed to be an alias of Louis Periano.

The car is shown pulling into the driveway of a house. female exits the car carrying a couple of boxes and enters house. She announces to a woman named Ellen that she's h The female, who is played by Linda Lovelace, walks into the where a male is engaged in performing cunnilingus with El while she sits, legs spread, on a table. Ellen asks Linda help her put away groceries. The male, who appears to hispanic, continues to perform cunnilingus on Ellen. Ellen a Linda for a cigarette. After taking the cigarette she stops male who is performing cunnilingus on her and asks him if

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2276 Description by Senior Investigator Haggerty. I nationally distributed film was rented from a neighborhood vi store.

2277 Deep Throat is reported to be the most widely sold distributed pornographic film in history.

minds if she smokes while he's eating. He says no and re performing cunnilingus on her. Linda starts to leave the Ellen asks her where's she going. Linda tells her she's goi slide up and down the bannister in case he wants a warm su Linda leaves the room. The male is shown performing cunni on Ellen. He continues until Ellen throws her cigarette i sink.

The scene changes to Ellen in a swimming pool. Lin sitting by the pool painting her toe nails. Ellen joins he they talk about the way they are living now. Ellen says going out with some guy to watch the dogs. Linda says th more to life than just screwing around.

"Sounds like you're ready to settle down", Ellen says.

"Not me, I've been through that before," Linda says. says she can't get married, "it wouldn't work out." She do really enjoy sex. She gets tingly all over, but nothing She says, "there should be bells ringing, dams bursting, going off. She says she has never gotten off.

Ellen suggests that maybe she isn't doing it ri "There's a lot more to fucking that just bam, bam, than maam. You gotta find what's right for you, experiment. Wh you say we get a bunch of guys here. Someone has got to get bells ringing."

Linda agrees, "Okay, okay, the way I feel I'll anything."

Scene changes to a car with two males pulling int

driveway of the same house. Ellen lets the two males into house and gives them numbers eleven and twelve.

Ellen says, "everybody gets a little piece of this actio

The scene changes to Linda who is nude on her hands knees. A male is engaged in anal intercourse with her. pubic area is shaved. The male ejaculates on her buttocks.

Ellen is shown performing fellatio on one male while an male is engaged in vaginal intercourse with her. She kisses male in front of her as the male behind her continues h intercourse with her. The second male ejaculates on buttocks.

Linda then is shown engaged in fellatio with a male. two males with Ellen are shown. One is licking her breast the other is performing cunnilingus on her. Linda is performing fellatio on a male. Ellen is shown with the males, one of whom is performing cunnilingus on her.

Linda is engaged in fellatio with the same male.

Ellen is shown with one of the males engaged in vag intercourse, while the other male slides underneath her between her legs and engages in cunnilingus with her.

Linda is then shown engaged in intercourse with a male, is holding her legs up and apart. Then she's shown on top o male and engaged in intercourse with him.

Ellen and the two males are shown lounging on the c Another nude male approaches and asks who is number eleven. of the males with Ellen says he is number eleven, but declin

take his turn with Linda. Ellen inquires of number twelve he declines also, apparently exhausted from his time with El

Ellen says, "is there anyone else?" An older male appe

He looks down at the group and says, "What's a nice like you doing in a girl like this?" This older male is bel to be Gerard Damiano.

Ellen says, "How did you get in here."

"Well listen, honey,", the older male says, "You calle I didn't call you."

Ellen and Linda are shown walking along the sidewalk. now?" Linda says, "How many was it fourteen and that counting the one who cum twice." She then corrects her Eng "Who came twice."

Ellen asks if she got off. "Sure," Linda replies, "I hundred times and it was great, but not real, you know, ringing, dams bursting, bombs going off. What can I do?"

Ellen suggests she see a psychiatrist, Dr. Young. might have a mental block."

The scene changes to show the doctor, Dr. Young, play Harry Reems, talking to Linda. He suggests some chil experience caused her problem, all the while he's blowing bu like a child. Reems calls in the nurse to take the bubbles

She tells Reems her problem, "no bells, dams and bombs.

Reems repeats what she's said and grabs an American fla waves it. Linda asks him to be serious. He calls in the again and tells her to take the flag away.

He tells Linda he thinks her problem maybe physical inst of psychological. He suggests an internal examination. I walk over to a large bed. He tells her to remove her pants. does. He calls for the nurse for sterilization. She brin bowl of water and he dips his fingers. Linda gets up on the and spreads her legs, exposing her vagina. Reems takes ou carpenter's measuring device and measures from her crotch up thigh. He then spreads her labia and says, "this is amazing."

Linda says, "don't tell me, someone forgot his watch."

Miss Lovelace you don't have one," Reems exclaims.

"You clutz, I'm a woman, I'm not supposed to have one."

"I didn't mean one of those. You don't have a clitoris," says. He tells her to look for herself. She does. "No wo you hear no bells you have no tingler."

Linda starts to cry and says, "that's not funny."

He asks her, "when you have sexual intercourse what exc you the most?"

"Giving head," she replies. "What do you feel?" He ask

"I get excited."

"Where?" he asks.

"You'll laugh," she says. He says he won't.

She points to her throat and says "here." He laughs. then examines her mouth and discovers her clitoris in her thr She cries some more.

He says, "having your clitoris in your throat is better t having no clitoris at all."

Crying, Linda says, "that's easy for you to say. Su your balls were in your ear."

He says, "Then I could hear myself coming. Listen we the problem solved all we have to do now is find a solution."

"Like what?" she asks.

"Like deep throat," he replies. "Have you ever tak penis all the way down to the bottom of your throat?"

"No," she says, "I try, but I choke."

"You have to learn to relax your muscles. You hav regulate your breathing to the movement of your head. Try you'll like it."

"What do I have to lose?" Linda says.

"Try it with me," he says. Reems lays on the bed removes his pants. Linda performs fellatio on him. Eventu she takes his penis all the way into her mouth down to testicles. She continues this until he ejaculates on her f Bells are shown being rung. Fireworks are going off. continues to perform fellatio on him.

She turns and thanks him for saving her life. She asks to marry her. She wants to be his slave.

He says he can't, his nurse won't let him.

"Besides, how much deep throat do you think I can take."

Linda says, "You're not getting off that easy. You're g to throw me into the street, to go from one man to another. are you crazy? It's your fault. I need it. I need love."

He says he's not throwing her into the street and offers

a job working in his office, going out on house calls. could be a psycho-therapist." He says he will teach her how. tells her all that she will need is a uniform. She was born all the other equipment she needs.

The scene changes to show Linda walking through a trop area, dressed in a mini-skirted nurse's uniform. She enter house and goes up to a man sitting in a chair and undresses wh he undresses. He sits on a table and she performs fellatic him. Then she gets up on the table and they engage in vag intercourse. He then inserts a glasslike specimen jar in vagina. He then pours what looks like champagne in the jar. puts one end of a clear tube in the jar and sucks on the o end. He shakes his head negatively and stops sucking on tube.

The man with Linda opens a soda can and pours some intc jar which is still inserted in Linda's vagina. He sucks on tube and this time nods his head approvingly. A coca-cola ji is the background music. Linda sucks on the tube next. The pours more soda in the jar, takes another sip and gives the to Linda. The man penetrates her anus with his penis. The is shown sipping the tube again. Linda is shown smiling.

The scene changes to Linda driving a Cadillac into a m parking lot. Still in the nurse uniform she goes to a m room, knocks and enters.

"Case 653, Jacobs Malls," Dr. Young says into a microp while he is engaged intercourse with his nurse. "The patient

not had sexual intercourse since his wife died three years He now has pain in his groin. Linda has been sent ove relieve his pain."

A male is shown laying in bed dressed only in undershorts. Linda asks him how he feels now. "Wonderful, says. "I haven't felt this good since my wife died."

Linda is dressing and she tells him she's glad she c help him. The man says he wants her to come by maybe tw three times a week. She says she would be glad to, but it be expensive.

He says, "money is no object, he has blue cross."

The scene changes to show Reems in bed. A hot water bo is on his head. He moves it to his crotch. He calls for nurse. Linda comes in wearing her uniform, but she is wearing pants.

"Case 007, Dr. Young, old Dr. Young. Trying to ball nurses, that is two nurses simultaneously at the same ti He's shown having intercourse with the blonde nurse. The ca shows them from the rear between his legs. There are sev rapid shots of the nurse's face.

Linda is shown taking Reem's temperature, orally, whil lays in bed. She gives him some pills. He takes them. pulls down the covers. He's dressed in undershorts.

The blonde nurse is shown performing fellatio on Reems a again talks into a microphone.

The film flashes back and forth showing the blonde n

performing fellatio and Linda removing Dr. Young's shorts. covers his genitals with his hands. A bandage is around penis. Linda fondles his penis then slowly removes the banda

Dr. Young is then shown having sexual intercourse with blonde nurse. Linda is shown performing fellatio on Reems.

Dr. Young is shown having intercourse with the blonde nu

Then Linda is shown on top of Reems engaged in interco with him.

The scenes switch back and forth, showing acts of fell and intercourse with the man and the two women.

Dr. Young is shown performing cunnilingus on one of women.

Linda is shown engaged in fellatio.

Dr. Young is shown performing cunnilingus on one of women with his thumb in the woman's anus.

Linda is shown performing fellatio.

Linda and Dr. Young shown engaged in intercourse. S then shown performing fellatio.

Linda is shown giving Dr. Young something to drink. I laying in bed. She gives him the glass and helps him to a ch She then bends over the bed and positions her bare buttocks his face. He takes a drink and moves his face to her buttocks

The scene changes to a male wearing a kerchief over bottom half of his face. He's peeking through an open door. sneaks into a room holding a pistol in his hand. He moves t doorway, where he sees Linda sitting on the tank of a toilet

her legs spread preparing to shave her pubic area. He watc
She shaves her pubic area.

"Case 218, Wilbert Wayne," a female voice says, "ex
tionally shy." The blonde nurse is shown talking into
microphone while Dr. Young is shown performing cunnilingu
her. "He likes to feel he's overpowering and he likes to pl
burglar and pretends to rape his victims. Believes Linda t
well suited for this patient."

Linda says, "What I need is a big strong man." She le
the bathroom.

The man, Wilbert Wayne, grabs her from behind. "This
stickup, your money or your life."

Linda says, "Please don't hurt me." She gives him
money.

"Now," he says, "I'm going to rape you. Don't cry out
got this gun."

"Okay," Linda says, "but please don't hurt me."

He pulls down his mask and says, "Oh, no, you're suppose
be frightened." Linda suggests they try it again. "No,
says, "you always spoil it." Linda says the mask turns he
and she wants to go to bed with him. He says, "Okay,
remember, I'm raping you and you have to do everything I sa
I'll shoot you."

"Okay," she says, "but you know I'll do anything for you

Wilbert proposes marriage. Linda says she can't marry
"The man I marry has to have a nine inch cock."

Wilbert says, "its always something. I'm only four inc away from happiness." Linda and Wilbert agree it's Dr. Youn fault. Linda tells him he could get silicone injections something. She suggests he call Dr. Young. Wilbert does.

Wilbert tells Linda that Dr. Young says he can do it. can cut it down to any size you want."

He then unzips his pants and exposes his penis. Linda sa "Oh, Wilbert!" she then engages in fellatio with him. Li continues the act of fellatio and places his penis into mouth, she then engages in vaginal intercourse with him. eventually ejaculates in her mouth and on her face. The be are shown ringing, a rocket blasting and fireworks. Seve animal figurines are shown rotating through what appears to b large clock.

Linda is again shown engaged in fellatio with Wilbert. displays a big smile and rubs his penis on her face. She t lays on the bed besides him.

The end is presented upside down. Then right side up w an additional caption "and deep throat to you all."

e. DEBBIE DOES DALLAS[2278]

Debbie Does Dallas is a motion picture available ir formats. The film is purportedly presented by School Day Fi

A number of females dressed as cheerleaders are shown g a cheer. The cast is listed with the presumed names of characters. A couple of the cheerleaders are shown bending One is not wearing pants. A number of males dressed in foot uniforms are shown running in front of the cheerleaders.

One of the cheerleaders congratulates another cheerle who has been picked to become a "cowgirl". She has to g Dallas, but her parents are against it. They called it out burlesque. She is going to have to raise the money to pay own fare. Debbie has only two weeks to raise the money. Son the other cheerleaders say they'll help.

The football players are shown running a play. cheerleaders are shown leaving the field. More credits shown. The director and producer is listed as Jim Clark. cheerleaders are shown entering a lockerroom area.

Debbie says, "I don't think I can make it to Texas in two weeks." She removes the top half of her cheerlead uniform. She has nothing on underneath.

Another cheerleader suggests they all help Debbie ir money. Then she says that they'll all go to Texas on the ir

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[2278] Description by Senior Investigator Haggerty. nationally distributed film was rented from a neighborhood v store.

they raise. They all agree. Several other females are s removing their clothes. A couple of females are shown lea the locker area completely nude. One female is shown nude shower washing her breasts. Some of the other cheerleaders talking about how they are going to make money. Indivi females are shown talking about different jobs they can Each one of these females is nude at least from the waist Three females are shown nude in the shower also talking a jobs. Females are shown walking back and forth from the sh to the locker area and most are nude.

Scene changes to show one female asking for a job record and book store. A male asks her about her experie She says she has worked at a flower shop last summer but because her boss got fresh with her. The male at the books says he could understand that because she's cute. The man h her for the job.

The scene changes to show Debbie entering a store. approaches a man behind a counter and begs for a job. Debbi played by Bambi Wood. The man behind the counter, Greenfields, is played by Richard Bolla. He looks at Debbi imagines her removing her top and exposing her breasts. image he has created is shown. He hires her immediately s than an opportunity like she has only comes along once lifetime. He says he can always find something for her t He again imagines her laying on her back with her blouse exposing her breasts. He is dressed in a football jersey.

goes on to explain some of the things she can do. He sugg she could come in on Sunday and he'd show her the store. thanks him and leaves.

Scene changes to show another one of the cheerlea walking down a sidewalk in her cheerleader uniform. A I leaving a house sees her and joins her. Her name is Roberta she's on her way to cheerleader practice. She tells him sl looking for a job. He offers her a job with him and his wif their candle shop doing inventory. She accepts and asks how can show her gratitude. He tells her he'll think of somethin

Scene changes to the cheerleaders giving a cheer. football players are shown running a play. One cheerleade shown asking another cheerleader why she doesn't wear pants. says she likes to feel free. She says, "we should walk ar like we were born, stark naked".

Another cheerleader says, "If we all didn't wear under we would never get anything done."

All the cheerleaders are sitting together on the fi They talk about the fact that several of them got jobs. They to do some work on their cheers. Some of the football play talk about their frustration with their girl friends. One of football players is designated to talk to his girlfriend al making better arrangements. Then they line up and run anot play.

The scene changes to show the cheerleaders in the lo room area again. Most are nude or partially nude. Two fem

are shown nude in the showers. One says, "Rick say's he'll us. He said it'll be a big surprise." The females at lockers are getting dressed and leaving. As the last girl l the locker area, four males are shown entering the showers the two females. Two males and the two females embrace. are two males with each of the two females. One of the fe is shown performing fellatio on one of the males. The s female is shown engaged in intercourse with one of the m She is on top of him on the shower room floor. The male an female are shown. She is on her hands and knees while he en in intercourse with her. He ejaculates on her buttocks.

A male and a female are shown engaging in intercourse. female is on her back and the male is on top of her. The ma shown having intercourse with the female. She is on her h and knees. The male ejaculates on the female's buttocks.

Another female is shown on her knees performing fellat a standing male. Several different angles are shown c female performing fellatio.

A female is shown performing fellatio on a male layi the floor against the wall. Another male is kissing and li the female's body while she continues the act of fellatio c male lying down. The male is laying on the floor whil female performs fellatio on him. Another male is having s intercourse with her. A close-up is shown of the va penetration. The female seems to have a scar from her nav her pubic area. The male is shown ejaculating on the fem

pubic area. The female is shown performing fellatio. The m
ejaculates on the female's face and her left eye. She licks
semen from his penis and rubs his penis on her face and contin
fellatio. She lays her head on the male's stomach.

The scene changes to show Debbie sweeping the front
Greenfield's store. A female in a minidress is shown runn
onto a tennis court picking up a tennis ball and throwing
Debbie is straightening some items on the shelves of
Greenfield store. Greenfield is watching her. The woman in
tennis dress is shown raking. She is shown bending over. She
not wearing pants. Greenfield is shown flirting with Debb
The girl at the bookstore is shown getting a book for a custom
The man who hired her offers to help. As he helps her down
touches her breast. He says, "Oh, I'm sorry."

She says, "I bet you are."

Debbie is again shown this time from behind. She is b
over working on a bottom shelf.

She asks, "what time is it Mr. Greenfield?" Mr. Greenfi
comes up and tells her its five thirty. "Oh good, that mean
can go home." He says he has locked all the doors. Debbie s
she's been working there for three days and they haven't star
work on the stock room and she really needs the extra money.

"There are other jobs girls can do." he says

"To make a lot of money, oh yeah, like what." she asks

"You could do little favors." "What kind of favors, M
Greenfield?" she asks.

He offers her ten dollars to look at her breasts. refuses. He begs. She accepts the money and pulls up he exposing her breasts.

Mr. Greenfield tries to touch them, but Debbie pulls her top yelling, "Mr. Greenfield, you promised." He offer another ten dollars to touch her breasts. He continually until she agrees. She again pulls up her top and he place hands on her breasts. He bends his head down to put his mo one breast and Debbie quickly pulls her top down again. hands are still on her breast.

He offers her another ten dollars to let him suck c breast. "A little suck on each one."

She asks if he would give her twenty dollars. He sa will and tells her to take it out of his shirt pocket. Bot hands are still on her breasts. She removes the money fro pocket and pulls up her top. Mr. Greenfield starts li Debbie's right breast. She says he going too far. She sa he doesn't stop right away, she is going to tell her mo Greenfield stops.

The scene changes to the women dressed in leotards. woman talks about problems she is having or expect to have her boss. Debbie enters the scene and suggests they cou their earnings. She shows them what she has made. They as she made so much money. Debbie removes her top and tells that's how.

"Debbie what are you saying?" they ask.

"Well, this is what they want."

"You mean all you do it shake your tits and you get all t money?"

"Not exactly, a little kissing and stuff." Debbie t them about Greenfield. "Listen girls, there's money to be h fast money, and we don't have to do anything more than we do w our boyfriends." "They certainly have fun don't they and we all still virgins aren't we."

"Well most of us are," one girl says looking at anot girl. Debbie says, "it doesn't matter to us what she does w her boyfriend, to us she's still a virgin. Anyway, she co probably give us some good advice."

"If we're really serious about this then let's be hon with each other." "We all do things with our boyfriends but don't go all the way."

"Exactly", Debbie says, "and there are men willing to for that fun on our terms."

"But how do you keep it from getting out of hand?" standing firm on what you will do and what you won't do."

"Exactly," Debbie says. Then she asks if everyone agr with this method of making money. Everyone agrees. Debbie t asks for techniques. She says everyone has something spe they don't mind doing. One girl tells another that she seems keep her boyfriend happy and is still a virgin.

Scene changes to one of the girls moving candles arou The telephone rings. She goes to one phone but it's the wr

one, so she goes to another. The caller is a man called Tom. first she scolds him for calling her on the private phone, they talk about old times. The girl fondles one breast whic exposed while she talks about the job and her bosses. She she misses him and agrees to meet him at dance school. She p up the phone and fondles her breast. Then she removes her p and inserts a candle into her vagina. A close-up is shown of candle being pushed in and out of her vagina.

Mrs. Harwick comes in and sees her. At first she s angry saying, "Is this what we're paying you for?" apologizes to the woman and takes her into another room. sit down on a couch. Mrs. Hardwick runs her hands over woman's body and prevents her from dressing. The woman be offended by Mrs. Hardwick's attention. Mr. Hardwick enter room and sits on the other side of the woman so she's between and his wife. The woman's clothes keep coming off. Mr. Hard says, "you remember me talking about earning extra money special jobs." The woman says she didn't know this is wha meant.

Mr. Hardwick stripped completely. The girl says he h nice body.

"So do you," he says, "don't be afraid." Mrs. Hard places her fingers in the woman's vagina.

"Is she wet?" Mr. Hardwick asks.

"She's very wet," Mrs. Hardwick replies.

"I think she's ready dear," she says to her husband w

masturbating.

Mrs. Hardwick moves to one end of the couch pulls up skirt and pulls down her blouse exposing her breasts. Hardwick is shown engaged in intercourse with the woman. M Hardwick is shown masturbating. Mr. Hardwick continues to eng in intercourse with the woman. A close-up is shown of intercourse between Mr. Hardwick and the girl. Mrs. Hardw starts rubbing the woman's pubic area and licking her bre while her husband is engaged in intercourse with the woman. Mr. Hardwick ejaculates Mrs. Hardwick moves to lick the se from his penis.

The scene changes to show two of the girls going to a hou They knock on the front door. No one answers. They begin wash the car. They say they want to wash the car before Bradley comes home. One girl squirts the other with a hose. other girl picks up a bucket full of water and douses the g Mr. Bradley pulls into his driveway. He gets out of the car asks the girls why they are washing the car in the rain.

"We're waiting for the sun to come out."

"Listen you girls better get inside and dry off." They enter the house. He tells the two girls to go upstairs change their clothes. The two girls stop at the foot of steps and ask, "Are you sure there isn't anything else that could do for you, Mr. Bradley".

"Yes there is, but I don't think you'd understand."

"You'd be surprised at what we understand. Mr. Bradl

were not just washing cars anymore."

"Well, I really don't think you'd be into what I have mind."

"You'd be surprised at what we're into Mr. Bradley."

"You're serious aren't you?" he says.

"Oh, yes very serious."

"How can I be sure you're not going to tell anybody?"

"We wouldn't tell anybody. Would we, Annie?"

"This is between you and us," Annie says.

"If I ask you to undress how much would it cost me?" girls tell him it will cost ten dollars.

"We've never done anything like this before Mr. Bradl You're our very first customer." Both girls completely disr "How is that Mr. Bradley? Is that what you wanted?"

"Yes, that's beautiful, beautiful." Both girls grab th clothes and start to go upstairs.

"Wait a minute," Mr. Bradley says. "Is there anything e we can do for you, Mr. Bradley?"

"I'll give you twenty-five dollars to let me kiss you over?"

"Yeah, that would be fine, Mr. Bradley."

"I mean really all over girls."

"That's okay.

"The two girls go to a couch in the lounge. Mr. Brad starts licking Annie's right breast. He then begins to lick other female's breast. Then returns to lick Annie's breas

Mr. Bradley performs cunnilingus on Annie. Then he perf cunnilingus on the other girl. A close-up is shown. He ret to performing cunnilingus on Annie. He continues cunnilingu the other girl starts unzipping his pants. She's sl performing fellatio on him. Both girls are shown engage fellatio with him. Mr. Bradley then engages in anal interco with Annie.

She says, "fuck me in the ass, fuck me in the ass."

He fondles the other girl's breasts at the same time. other girl masturbates him until he ejaculates on Ann buttocks. The girl then licks the semen and rubs her face in semen on Annie's back. They all lay back as if they exhausted.

Mr. Bradley says, "Oh My God, I think I hear my coming." They all scramble. The two girls grab their clo and run upstairs.

The scene changes to show a girl getting ready to enter library. Her boyfriend stops and says he wants to see her la She says she can't because she has to work at the library. goes into the library and he leaves.

Inside the library she sees her boss, Mr. Biddle. character name is Donna and the performer has been identifie Arcadia Lake. Mr. Biddle follows her upstairs. He says understands she and the other girls are forming a company asks how they are coming along.

"Oh everyone is coming fine she says."

"Do you think you'll be able to raise the amount of mo you need?"

"I certainly hope so, we've added on a few new services know." She pulls up her skirt a little.

"Oh, what are they."

"This isn't exactly the place for details, but I can t you there's something for everybody and everybody li something."

He says he has to go to the office and asks her to keep eye on things while he's gone. Her boyfriend immediat appears. He comes up behind her and grabs her buttocks. places his hand under her skirt and tells her he's going nuts.

She says, "Mr. Biddle is coming right back, we don't h time".

He says, "You gotta do something, look at me."

She says, "Do you want me to show you what my girlfri showed me."

He says, "Sure."

She pulls down his pants and performs fellatio on him as stands and she is on her knees. He ejaculates on her face. takes her hand and wipes the semen into her mouth and contin fellatio on her boyfriend. She licks the semen from her fing and his penis.

Mr. Biddle walks up and sees them. He orders her boyfri out and he tells her to go to his office. She begs him not tell her parents. He agrees, but says she needs a good spank

and he's just the one to give it to her. He bends her across lap and spanks her buttocks occasionally squeezing her buttoc

He asks her about this company she and her friends forming. "What kind of services are you providing?"

"We'll do anything. Anything you like. Anything you l just please don't tell my parents."

"I always wanted to pull up your skirt and to pull down pants and spank you on your bare bottom", he says.

"That's okay, Mr. Biddle."

"Will that cost me very much?" he asks "I'll leave entirely up to you." Then he pulls up her skirts and pulls her pants. He then spanks her bare buttocks occassion squeezing occassionally.

"Really not a bad idea this company you girls form She's shown leaving the library. Her boyfriend is waiting. wants to know what happened. She says "everything is okay, Biddle is really an alright guy."

The scene changes to show two guys playing tennis. tells the other, "That woman's sixteen and beautiful."

"Isn't that kinda dangerous."

"Don't worry," he says.

"I'll coach you though." "I don't know."

"Here she comes now, see for yourself."

The girl brings one of the men some towels. He inst her to get a nearby clipboard. As she bends over she reveals fact that she is not wearing underpants. He then introduces

friend. He says, "we were talking about the services you gi perform." The man named Ashley says, "Is there anything girls wouldn't do." The female character is introduced as Li The other male, Hamilton, tells Lisa to bring them some fr towels in the locker room when they finish the game. As the males walk off the tennis courts to go to the showers, Hamil tells Ashley that he is going to have a good time.

"These girls are sixteen and built."

Next, the two males are shown both nude sitting on the bunks in a room. Lisa is seated between them, but lower d She stands and Hamilton unzips the front of her dress. Sh completely nude underneath. Once nude, both males begin fondle her. She's shown engaged in fellatio with one of the m The other male is shown engaged in intercourse with her. The male masturbates and ejaculates. Lisa takes his penis and l the semen.

The scene changes to show Debbie adjusting some things shelf in Greenfield's store. Greenfield comes up behind her puts his arms around her. He fondles her breasts and begin feel her body. He says he wants something more.

She says, "we promised we would save ourselves for future husbands."

Greenfield says, "there are things he can do that w spoil her." She says,

"There are other girls more experienced.

He says he doesn't want another girl. He wants her.

says he'll make her a deal, he'll pay for her trip and for expenses of her girlfriends.

Debbie says, "That's great, but what do I have to do."

He says, "We'll work something out. It'll be a surprise

The scene changes to show Lisa receiving a phone call on tennis court. She says, "you don't need me." Yeah, I di yesterday. It was a cinch, you'll enjoy it. Oh come on, c be scared. It's okay. It's really easy. But you know i cost for me too. Do you really think so? If you're s Anything for the old cause." She hangs up the phone.

The scene changes to the record store. A male is talkin a female. "How are you girls doing?" he asks.

"The other girls are going fine," she says.

"What about you," he asks?

"I seem to be behind."

"And why is that?"

"I guess I just need more time."

Lisa enters the scene. "Hi, I'm Lisa. Tammy and I are into the service company and she says you might be interest what we have to offer."

"What do you have to offer."

"Oh, anything." Lisa replies.

"You mean you'll do anything I like?"

"Not anything," Tammy says.

"Oh, but I'm sure we can work it out."

"Oh, definitely we can work it out," he says.

He tells Tammy to go lock up. Lisa moves to the male they embrace.

"You mean I can have anything?" he asks.

"Almost", Lisa says. They kiss.

"What will it cost me?" he asks

"Oh we'll leave that up to you." They kiss again. Next hand is shown lifting her blouse and her left breast is expos He begins licking her left breast. He pulls up her skirt exposes her buttocks. He unfastens her skirt and pulls it d and her pubic area is exposed. She pulls open his shirt. then pulls down his pants. She begins to perform fellatio him. Tammy joins them and Lisa pushes the male's penis at Tammy licks the end of the male's penis and then perfo fellatio on the male while Lisa holds his penis. As Ta continues to engage in fellatio Lisa fondles the man's testi and then licks his penis. Lisa also licks his testicles. male pulls his penis from Tammy's mouth a few times and rub on her face before she places it back into her mouth. Lisa shown engaged in fellatio with the male while Tammy licks testicles. Tammy and Lisa then take turns performing fellati the male. While Lisa is engaged in fellatio the male is s fondling Tammy's right breast. The male then ejaculates Tammy's breast. Lisa fondles his testicles and licks his pen.

The scene changes to show Debbie entering Greenfield's s dressed as a Dallas Cowboy Cheerleader. She shouts, ' Greenfield, I'm here dressed like you wanted me."

"Debbie, this is Mr. Greenfield," a voice on the publ address system says. "Please lock the doors and come up to t mezzanine level." She does so.

She calls for Mr. Greenfield. "Mr. Greenfield where a you?" Greenfield emerges from behind some clothes. He's dress in a football uniform. His pants are open and his penis erect. Debbie laughs and Greenfield comes after her. M Greenfield chases her and then catches her on an exercise ben As he holds her down he tells her ever since he was a little he wanted to be the Captain of the Football team but, "I was small, but I had the one thing that was big enough."

"My, Mr. Greenfield how big are you", Debbie says.

"I've always dreamed of being the quarterback and mak love to the captain of the cheerleaders." He bends down and t kiss. He unfastens her top and her breasts are exposed. He t licks her breasts and fondles them.

Debbie is shown licking his penis then engaging in fella with him. She stops and looks up, "am I doing alright M Greenfield."

"Oh yeah," he says. She licks his penis again and perfo fellatio on him. She stops again and pulls down his pants. T she lays back on the exercise bench and Mr. Greenfield unfast her pants and removes them. He places his fingers on her la and licks her body moving toward her breasts and then back d to her pubic area. A close-up is shown of her labia and clito as he rubs them. Mr. Greenfield is shown engaged in cunnilingu

with her. He's shown lifting her up and carrying her to anoth part of the store.

"You're so strong."

"That's because I eat my Wheaties everyday."

They embrace. With Debbie is laying on her side as performs fellatio on Mr. Greenfield while he is on his kne She fondles his penis and licks his testicles. They kiss engage in intercourse. He is also fondling one of her brea and licking it. He then withdraws his penis from her and te her to turn over. She is on her hands and knees. They are sh engaged in intercourse. Greenfield is on his back and Debbie on top of him. Debbie lays on her back and Greenfield gets top of her. Then he withdraws his penis from her and ejacula on her pubic hair. She masturbates him while he ejaculat Different camera angles are shown of the ejaculation.

Scene changes to a lined background with touchdown for Greenfield across the screen. Then a blue background with st that says, "Score One for Debbie" is shown across the scre Debbie's face is then shown. She is lying down and she turns head to one side. Then a dark blue background with, "next . across the screen. The credits appears, the film is over.

The following chart and accompanying material identify ca in which the movie "Deep Throat," "The Devil in Miss Jones," "Debbie Does Dallas" was named as part of a criminal prosecu or civil action. The list is not exhaustive as unrepor decisions are not included.

	THE DEVIL IN MISS JONES	DEBBIE DOES DALLAS	DEEP THROAT	TOTA
STATE CRIMINAL PROSECUTIONS	8[A]	1G	17K	26
STATE CRIMINAL CONVICTIONS UPHELD ON APPEAL	3B	0	9M	12
FEDERAL PROSECUTIONS	0	1H	9L	10
FEDERAL CRIMINAL CONVICTIONS UPHELD ON APPEAL	0	0	4N	4
STATE CIVIL ACTIONS	8C	0	9O	17
STATE CIVIL ACTIONS AFFIRMED ON APPEAL	3E	0	6Q	9
FEDERAL CIVIL ACTIONS	1D	1I	10P	12
FEDERAL CIVIL ACTIONS AFFIRMED	1F	1J	4R	

ON APPEAL

A/

See, Colbert v. State No. 01-82-0943-CR, Slip. Op. (Ct. App. Texas. Aug. 9, 1984); Commonwealth v. Capri Enterpris Inc., 365 Mass. 179, 310 N.E. 2d 326(1974) (found guilty exhibiting an obscene motion picture; conviction was rever statute was unconstitutional under Miller standard; People Llewellyn, 401 Mich 314, 257 N.W. 2d 902(1977) (convicted exhibiting obscene films; reversed on appeal on the basis t the city standard was preempted by state law); State v. X Corp., 536 S.W.2d 836(Mo. App. 1976) (conviction of possess with intent to circulate obscene film); State v. Riggins, S.W.2d 113(Mo. App. 1983) (conviction for promotion pornography in the second degree); City of Souix Falls Mini-Kota Art Theaters, Inc., 247 N.W.2d 676(S.D. 19 (convicted of violating city obscenity ordinance); Circle Cin Inc. v. Town of Colonie, 82 Misc. 2d 527, 371 N.Y.S.2d 344(1 (seizure procedure did not meet constitutional standar Commonwealth v. MacDonald, 464 Pa. 435, 347 A.2d 390(19 (criminal complaint quashed for failure to meet Mil constitutional standards);

B/

See, State v. XLNT Corp., 536 S.W.2d 836(Mo. App. 1 (conviction for possession with intent to circulate affirmed); State v. Riggins, 645 S.W.2d 113(Mo. App. 19 (conviction for promotion of pornography in second degree

affirmed); City of Souix Falls v. Mini-Kota Art Theaters, I
247 S.W.2d 676(S.D. 1976) (conviction for violation of
obscenity statute was affirmed);

C/

See, Fairvilla Twin Cinema II v. State ex rel. Eagan,
So.2d 909(Fla. App. 1977) (enjoined further showing of alleg
obscene films) State ex rel. Gerstein v. Walwick Theatre Co
298 So. 2d 406(Fla. 1974) (petition to enjoin showing of
denied by trial court; reversed on appeal and compl
reinstated); Miller v. Robert Emmett Goodrich Corp., 53 M
App. 267, 218 N.W.2d 771(1974) (order granting injunction
vacated on appeal); State ex rel. Cahalan v. Diversi
Theatrical Corp., 59 Mich. App. 223, 229 N.W.2d 389(1
(nuisance action brought against theater for exhibiting obs
films); Kent City Prosecutor v. Robert Emmett Goodrich Corp.,
Mich. 253, 240 N.W.2d 242(1976) (civil obscenity statute c
not be be brought to prohibit the exhibition of a film); Stat
rel. Cahalan v. Diversified Theatrical Corp., 396 Mich. 244,
N.W.2d 460(1976) (statute deeming places of lewdness, assigna
or prostitution to be public nuisances did not apply to mo
picture houses); Lazarus v. Yorkview Theater Corp., 74 Misc.
729, 345 N.Y.S.2d 413(1973) (court enjoined the sale
distribution of film); Vergari v. Pierre Production, Inc.,
A.D. 950, 352 N.Y.S.2d 34(1974) (trial court denied prelimi
injunction to prohibit exhibution of film; reversed
injunction granted on appeal).

D/

See, United States v. Various Articles of Obsc Merchandise, 536 F. Supp. 50(S.D. N.Y. 1981) (forfeiture condemnation);

E/

See, Fairvilla Twin Cinema II v. State ex rel. Eagan, So. 2d 909(Fla. App. 1977) (affirmed order enjoining furtl showing of allegedly obscene films); State ex rel. Cahalar Diversified Theatrical Corp., 59 Mich. App. 223, 229 N.W. 2d (1975) (nuisance action brought against theater owner; o enjoining exhibition of films affirmed); Vergari v. Pie Productions, Inc., 42 A.D. 950, 352 N.Y.S.2d 34(19 (preliminary injunction granted on appeal).

F/

See, United States v. Various Articles of Obsc Merchandise, 536 F. Supp. 50(S.D.N.Y. 1981)(forfeiture obscene materials);

G/

See, People v. P.J. Video, Inc. d/b/a Network Video James Erhardt, No. 270, Slip. Op. (N.Y. Ct. App. July 5, 1 (Motion to suppress granted).

H/

See, United States v. Various Articles of Obsc Merchandise, 709 F.2d 132(2d Cir. 1983) (seized items found obscene).

I/

See, United States v. Various Articles of Obs Merchandise, 536 F. Supp. 50(S.D.N.Y. 1981) (forfeiture condemnation of obscene materials).

J/

See, United States v. Various Article of Merchandise, F.Supp. 50 (S.D.N.Y. 1981) (forefeiture and condemnatio obscene materials).

K/

See, Dexter v. State case number 223,343 (Boxer Co. Nov. 11, 1974) (film found obscene); Circle Cinema Inc., Tow Colonie, 82 Misc. 2d 527, 371, N.Y.S.2d 344(1975) (conti seizure procedure found unconstitutional); Commonwealt MacDonald, 464 Pa. 435, 347 A.2d 290(1975) (criminal compl quashed for failure to meet Miller constitutional standa State v. Auippa, 293 So. 2d 391(Fla. 1974) (on certificat state supreme court upheld constitutionality of state standar Menefee v. City and County of Denver, 190 Colo. 163, 544 382(1976) (conviction for possession and promotion of obs film revised; statute was found unconstitutionally vague); Pe v. Tabron, 190 Colo. 149, 544 P.2d 372(1976) (Conviction promoting obscenity reversed; statute was unconstitution Pussycat Theater v. State, 355 So. 2d 829(Fla. App. 1978) (E guilty of contempt of an order requiring legends "Rev Version" or "Edited Version" on film); Western Corp. Commonwealth; 558 S.W.2d 605(Ky. 1977) (convicted of exhibi an obscene film) People v. Thomas, 37 Ill. App. 3d 320, 346

2d 190(1976) (conviction for exhibiting obscenity was reverse
People v. Mature Enterprises, Inc., 35 N.Y.2d 520, 323, N.E
704(1974) (convicted of distributing obscene materia
Commonwealth v. 707 Main Corp., 371 Mass. 374, 357 N.E.2d
(1976) (convicted of violating obscenity statute by exhibit
the film); People v. Mature Enterprise, Inc., 73 Misc. 2d
343 N.Y.S.2d 911 (1971) (found guilty of promotion or possess
with the intent to promote, obscene material); People v. Ma
Enterprises, Inc., 76 Misc. 2d 660, 352 N.Y.S. 2d 346(App.
1974) (conviction for promoting obscene material affirme
People v. Hausman, 82 Misc. 2d 1032, 372 N.Y.S.2d 503 (1
(conviction for exhibiting obscene film reversed for failure
apply appropriate community standards); Smith v. State, 530
2d 955(Crim. App. Tx. 1976) (conviction for exhibition of obs
materials was reversed on the basis there was insuffici
evidence to establish a commercial purpose); State v. Runio
654 S.W.2d 407(Tenn. App. 1983) (conviction for distribut
obscene material).

L/

See, Butler v. Dexter, 425 U.S. 262(1975) (charges w
never presented to grand jury); United States v. Various Arti
of Obscene Merchandise, 709 F.2d 132(2d Cir. 1983) (not paten
offensive under contemporary standards in the New York are
United States v. Battista, 646 F.2d 237(6th Cir. 19
(convictions for conspiracy to violate obscenity statute
United States v. Peraino, 645 F.2d 548(6th Cir. 1981) (f

guilty of violating federal obscenity statute, convic reversed on appeal); United States v. Cohen, 583 F.2d 10 Cir. 1978) (convicted of mailing obscene materials); U States v. Marks, 585 F.2d 164(6th Cir. 1978) (conviction transportation of obscene materials was reversed upon applic of Bruton rule); United States v. Marks, 520 F.2d 913(6th 1975) (convictions for transporting obscene materials for and distribution); United States v. Pinkus 551 F.2d 115 Cir. 1977) (convicted of eleven counts of mailing obs materials); United States v. Defalco, 509 F. Supp 127 (S.D. 1981) (Motion to suppress was granted).

M/

See, Dexter v. State, case number 223, 343, (Boxa Tex. Nov. 11, 1974) (film found to be obscene); State v. Au 298 So. 2d 391(Fla. 1974) (State obscenity statute upl Pussycat Theatre v. State, 355 So. 2d 829(Fla. App. (affirmed finding of contempt for failure to provide le "Revised Version" or Edited Version" on films); Western Co Commonwealth, 558 S.W.2d 605(Ky. 1977) (convictions exhibiting an obscene film affirmed); People v. Ma Enterprises, Inc., 35 N.Y.2d 520, 323 N.E.2d 704(1 (conviction for showing obscene film affirmed as modifi excessive fine imposed); State v. American Theater Corp. Neb. 84, 230 N.W.2d (1975) (conviction for distributio obscene material was affirmed); Commonwealth v. 707 Main C 371 Mass. 374, 357 N.E.2d 753(1976) (conviction for exhib

obscene films was affirmed); People v. Mature Enterprises, In
76 Misc. 2d 660, 352 N.Y.S.2d 346(App. Div. 1974) (conviction
promoting obscene material affirmed); State v. Runions,
S.W.2d 407(Tenn. App. 1983) (conviction for distributing obs
materials was affirmed).

1. Colbert v. State, No. 01-82-0943-CR, Slip Op., (Ct. of. Tex. Aug. 9, 1984) (The Devil in Miss Jones).

Defendant was charged with selling an obscene video, Devil in Miss Jones." He pled not guilty. After a trial be a jury, he was found guilty, fined $2,000 and sentenced t days confinement.

On appeal, judgement of conviction was reversed. Two of assignments of error were sustained:

1) The trial court erred by charging the jury th person who promotes obscene material or posesses same with intent to promote it in the course of business, is presumed to know the character and cor of the material;

2) The evidence was insufficient to support conclusion.

2. People v. P.J. Video, Inc. d/b/a Network Video and J Erhardt, No. 270, Slip.Op. (Ct. of App. N.Y. July 5, 1 (Debbie Does Dallas)

Defendants were charged with six counts of obscenity in third degree based upon their possession of allegely obs video cassette movies. Defendants moved to suppress the s films on the grounds that the warrant was not based upon pro cause. The Justice Court sustained the motion to suppress.

state took an appeal from the ruling. The appellate cou affirmed the lower court decision. ". . . the statements rel upon are conclusory and patently ambiguous. They may interpreted as alleging that sexually explicit acts are pervas in the two films described but they may also be interpreted other, less inculpatory ways. That being so, the magistrate required to require and clarify the affidavits' meaning and record does not establish that he did so." Slip Op. at 7.

3. United States v. Various Articles of Obsc Merchandise, Schedule No. 2102, No. 81 Civ. 5295, Slip. Op. (S N.Y. Nov. 4, 1981) (Deep Throat).

United States sought forefeiture and condemnation of ite of allegedly obscene materials. Found the materials were patently offensive to the average person in that community. complaint was dismissed.

4. Hicks v. Miranda 422 U.S. 332(1974) (Deep Throat).

Four copies of the film "Deep Throat" were seized. Superior Court declared the movie to be obscene and ordered copies at the theater to be seized. (No appeal was taken this judgment). Subsequent action brought to enjoin enforcem of the order. Court ordered the complaint should be dismissed

5. Butler v. Dexter 425 U.S. 262(1975) (Deep Throat).

Charged with commercial obscenity and use of a crim instrument (16-mm movie projector). Felony complaints lodged and bond was posted, but the charges were not presente the grand jury. Supreme Court vacated and remanded.

6. United States v. Various Articles of Obsc Merchandise, 709 F.2d 132(2d Cir. 1983) (Deep Throat) (De Does Dallas).

Southern District of New York court found items seized not obscene. United States appealed. Appellate court affi the decision. "Having reviewed a representative sample of t works and in the absence of contrary evidence of prevail community standards, we cannot say that the trial court ab its discretion in finding that the articles on Schedule 2102 not patently offensive under contemporary standards in the York area." 709 F.2d at 137.

7. Young v. Abrams, 698 F.2d 131(2d Cir. 1983) (I Throat).

Petition for habeus corpus from a conviction for obsce in second degree. The district court found guilt beyo reasonable doubt. Appellate court affirmed.

8. United States v. Battista, 646 F.2d 237 (6th Cir. 198
(Deep Throat).

Conviction of conspiracy to violate the obscenity statute
18 U.S.C. S1462 and S1465 by transporting the obscene film De
Throat in interstate commerce. Convictions were affirmed
appeal.

9. United States v. Peraino, 645 F.2d 548 (6th Cir. 198
(Deep Throat).

Indicted in Western District of Tennessee for conspiracy
violate federal obscenity statute by transporting "Deep Thro
in interstate commerce. Found guilty and sentenced to eight
months, twelve months suspended and a $10,000 fine. Rai
issues of due process concerning lack of venue.

Court held:

"One who has no connection with the district of venue at the time of the venue-setting act may not be convicted there for subsequently transporting the materials into other communities whose standards were not established. Merely joining the conspirators in their lawful distribution efforts in other communities

after the film was no longer being shown in Memphis does not evidence intent to further or advance the illegal purpose of the conspiracy to ship the film into Memphis. Absent any evidence of adherence to the criminal purposes of the conspiracy, defendants Joseph Peraino and Plymouth Distributors cannot be held to have become members of the conspiracy." 645 F.2d at 551.

Convictions of Peraino and Plymouth Distributors were reve and indictments dismissed.

10. Universal Amusement Co. v. Vance 559 F.2d 1286(5th 1977).

Application of Texas nuisance statute. The statute restrains such expression as is not constitutionally prote and is not prohibited by state law.

11. United States v. Pinkus 579 F.2d 1174(9th Cir. 1 (comparison of Deep Throat and the Devil in Miss Jones to named firm).

On remand from the Supreme Court. Supreme Court reverse two grounds: 1) holding the jury instructions improper insofa they permitted children to be included in the community by w

standards obscenity was to be judged; 2) held improperly invok the concurrent sentences doctrine in declining to address t court's rejection of the defendant's offers of sexually explic films allegedly "comparable" to the charged film "No. 613" evidence of community standards.

Court stated:

". . . A defendant must meet a two-pronged test to establish that the proffered comparable materials are admissible as probative of community standards. First, there must be a reasonable resemblance between the proffered comparable and the allegedly obscene materials. Second, the proponent must establish a reasonable degree of community acceptance of the proferred comparables.

* * *

We held that the assertedly comparable films, "Deep Throat" and "The Devil in Miss Jones," satisfied the first prong of the Jacobs test because they bore resemblance to the film "No. 613." Id., we did not decide whether the second prong had been satisfied, but that is another question." 579 F.2d at 1175.

12. United States v. Cohen 583 F.2d 1030(8th. Cir. 197

Defendants were charged with violations of 18 U.S.C. SS and 1462 alleging the mailing, use of common carriers for carriage in interstate commerce, from California to Iow obscene materials, and advertisments informing how obs materials might be obtained. Convictions were affirmed.

13. United States v. Marks 585 F.2d 164(6th Cir. 1978

Convicted of two counts of transporting obscene material interstate commerce and one count of conspiracy to commit offense. Court applied rule in Bruton v. United States and f statements made by the codefendant were inadmissible. Reve and remanded on this issue. Court also stated with respec the issue of first amendment protection for the films as being obscene, "we observe that neither in this nor in the p appeal have the appellants specifically pointed to any virtue the films in question which might characterize them as other classic examples of hard core pornography, nor did our vie the films reveal any."

14. United States v. Battista 646 F.2d 237(6th Cir. 1 (Deep Throat).

Convicted of conspiracy to violate obscenity statute

U.S.C. S514 and S1465 by transporting the obscene film " Throat" in interstate commerce.

[Anthony Novello, Angelo Miragliotta and Mano DeSalvo found not guilty; Louis Peraino was found guilty, sentenced years (30 months suspended) and $10,000 fine; Gerard Damison Production, Inc. fined $10,000; T. Anthony Arnone sentenced years (19 months suspended) and fined $3,000; Anthony Bat: sentenced to 2 years (22 months suspended) and fined $2,000; R. Carter, suspended sentence, 5 years probation and $. fine; Mell Friedman sentended to 4 months, 1 year probatio $3,000 fine; Michael Cherubino, mistrial and charges dismissed.] Convictions were affirmed.

15. United States v. One Reel of Film, 481 F.2d 20 Cir. 1973) (Deep Throat).

Forfeiture proceding under 19 U.S.C. S1305(a) for the "Deep Throat." Affirmed the order of forfeiture. The c found the film obscene stating.

"We are thus left with a rarity: a film so single-minde to fail even the older Roth-Memoirs test -- unless on tempted, as plainly a majority of the Supreme Court is not find redeeming social value in the explicit portrayal wi more, of sexual congress itself." 481 F.2d at 209.

16. United States v. Marks, 520 F.2d 913(6th Cir. 1975)

Convicted of transporting obscene, lewd, lascivious filthy films and film previews for the purpose of sale distributions in interstate commerce and conspiracy to co that act. Conviction affirmed.

17. United States v. Pinkus, 551 F.2d 1155(9th Cir. 197

Convicted of eleven counts of mailing obscene materia violation of 18 U.S.C. S1461. Convictions were affirmed.

18. United States v. Various Articles of Obsc Merchandise, 536 F. Supp 501 S.D.N.Y. 1981) (The Devil in Jones, Deep Throat, Debbie Does Dallas).

Action under 19 U.S.C. S1305(a) for forfeiture condemnation of certain materials. Condemned as obscene: Health Spa; Disco Lady; Cry for Cindy; Pizza Girl; Many, Ma Finishing School; The Devil In Miss Jones; Swedish Erotica; Feel Good; excerpts from The Untamed; Deep Throat; The Devil Miss Jones; the Defiance; Reflections; Teenage Madam; Dev Playground; The Other Side of Julie; Cherry Truckers; China L For Love of Money; The Possession; Pink Lips; Like Mother-D Daughter, Lacey Bodine, Sheila's Payoff; All the Senator's Gi

Blackmait for Daddy, And Then Came Eve; The Blonde In Black L
Kowloon Connection; House of Kristina; Super Rod; Bedr
Athelete; What Kind of Girls Do you Think We Are; Taxi Girls;
Opening of Misty Beethovan; Honeysuckle Devine; Juke Joint;
of Novocaine; Superstar; Inside Jennifer Welles; Exploring Y
Girls; AWOL; Never a Tender Moment; Hot Nazis; Southern Bel
New York Babes; The Pony Girls; Seven Into Snowy; Pool
Pleasures; The Wish; Dream Goddess; The Anniversary; Suzie's
Reels; Women in Uniform; Flip Chicks; Teenage Deviate, Jail B
Barbara; Broadcast; and Debbie Does Dallas.

19. United States v. Defalco, 509 F. Supp. 127(S.D.
1981) (Deep Throat).

Heard motion to suppress. The court found "that warrants gave the searching agents abundant authority, insufficient guidance. . . . the warrants fail to meet requirements of particularity". 509 F.Supp. at 135. Motion Suppress were granted.

20. McKenzie v. Butler, 398 F. Supp 1319(W.D. Tex. 1
(Deep Throat).

Cites Dexter v. State, Case Number 223,343. (Boxar
Tex. Nov 11, 1974).

The film "Deep Throat" was declared obscene.

Exhibitors sought return of seized copies of the film "I Throat". Court denied motion and dismissed the cause.

21. Miranda v. Hicks, 338 F. Supp. 350(C.D. Cal. 1974).

Declaratory relief as to the constitutionality of Califor obscenity statute. Court found: 1) the California obscen statute as written does not meet the specificity test of Mil and 2) the California courts interpreting the statute may h liberalized it beyond its wording but have not specifica construed it so as to give fair notice as to what constitutionally prohibited.

22. Inland Empire Enterprises, Inc. v. Morton, 365 F.Su 1014 (C.D. Cal. 1973) (Deep Throat).

Sought to enjoin any further searches and seizures involv the film "Deep Throat." Court stated, "Upon the doctrine Federal abstention from invidious interference with st prosecutions for obscenity and upon the failure of Plaintiff show any irreparable injury or violation of any constitutional other rights, the complaint . . . is hereby dismissed w prejudice." 365 F.Supp. at 1019.

23. United States v. One Reel of Film, 360 F.Supp. 106 Mass. 1973) (Deep Throat).

Action for forfeiture of the film "Deep Throat" pursuan 18 U.S.C. S1305. Court entered an order for forfeiture. reaching its judgment the court noted,

> "Whatever claims may be made about °Deep Throat', it was designed to have an impact only through the sexual scenes. These dominant in tedious succession, and tend to arouse a prurient interest in sex.
>
> * * *
>
> "Thus, the court reaches the conclusion that the dominant theme of the film, taken as a whole, appeals to a prurient interest in sex; that the film is patently offensive in that it affronts contemporary community standards with respect to description and representation of sexual matters; and that it is utterly without redeeming social value. It is therefore obscene and not protected by the Constitution." 360 F.Supp at 1073.

24. Commonwealth v. Capri Enterprises, Inc., 365 Mas 310 N.E.2d 326(1974) (The Devil in Miss Jones).

Indicted and found guilty of knowingly having in the possession for the purpose of exhibition, an "obscene, indec and impure"motion picture film entitled "The Devil in Mi Jones." Each defendant was fined $5,000 in Miss Jones." E defendant was fine $5,000. The individual defendants w sentended to 2 years in jail.

Conviction reversed. The court held, "Section 32, the fore, fails to meet the standard of specificity required by Miller decision, and for the same reasons expressed in decision in the Horton case, ante, we decline to reinterpret to provide judicially the description of specific sexual cond which must exist to satisfy the First Amendment requirements now defined.

25. Fairvilla Twin Cinema II v. State ex. rel. Eagan, So.2d 909(Fla. App. 1977) (Deep Throat, The Devil in Miss Jone

Complaint issued seeking an injunction and tempor restraining order, alleging that three obscene films were be exhibited. "Deep Throat," "The Devil in Miss Jones," and "Gla and Her All Girl Band." Court issued order restraining further showing of the films. Court held, "It is necessary o that the sworn complaint describing the alleged obscen personally observed by the affiant provide a sufficient ba upon which the judicial officer issuing the restraining order

make an independent determination that the material is obscene

26. State ex rel. Gerstein v. Walwick Theatre Corp. So.2d 406(Fla. 1974).

Individual employee and corporation were indicted exhibiting obscene material. The individual was found not gu and the jury was unable to return a verdict as to the corp tion. State then began legal proceedings to enjoin exhibitio the film. That court dismissed the injunction proceedin grounds of due process and double jeopardy.

Court held:

> The civil injunction provision is not unconstitutional on its face as denying due process or as violating double jeopardy principles. The State is not precluded from persuing an alternative and cumulative remedy of injunction which was available even had there been no criminal proceeding or had the prior criminal proceeding resulted in a verdict of not guilty. Judgment was reversed with instructions to reinstate the complaint.

27. Miller v. Robert Emmett Goodrich Corporation, 53 M App. 267, 218 N.W.2d 771(1974) (The Devil in Miss Jones).

Defendant-Theater operator was enjoined from showing t film "The Devil in Miss Jones." The court concluded that "t injunction was improperly granted since there is no state l either statutory or judicial, which specifically defines definition of sexual conduct which the state may regulate." judgment was reversed and the injunction vacated.

28. State ex rel. Cahalan v. Diversified Theatri Corporation, 59 Mich. App. 223, 229 N.W.2d 389(1975) (The De in Miss Jones, Deep Throat).

Action brought against defendant-motion picture thea operators alleging a public nuisance for exhibiting lewed mot pictures. The jury found the four films introduced, "The De in Miss Jones. "Deep Throat," "It Happened in Hollywood" "Little Sisters" to be lewd. The order enjoining the showing the four named films was affirmed.

29. Kent City Prosecutor v. Robert Emmett Goodri Corporation, 396 Mich. 253 240 N.W.2d 242(1976) (The Devil Miss Jones).

Issue was whether or not a civil obscenity statute could used to prohibit the showing of the film "The Devil in Mi Jones." The court found that the civil obscenity statute was

directed to the exhibition of a film.

30. State ex rel. Cahalan v. Diversfied Theatrical Co 396 Mich. 244, 240 N.W.2d 460(1976).

Issue was whether a statute which provides that a plac lewdness, assignation or prostitution is a public nuisance ca applied to motion picture houses. The court found the sta did not apply to motion picture houses and did not reach question of obscenity.

31. People v. Llewellyn, 401 Mich. 314, 257 N.W. 902(1977).

Convicted of exhibiting two allegedly obscene films. convictions were reversed on appeal on the basis that the c standard used for obscenity was invalid under the theory of s preemption. The question of whether the films were obscene u Miller was not addressed.

32. State v. XLNT Corp., 536 S.W.2d 836(Mo. App. 1976) Devil in Miss Jones).

Conviction of possessing an obscene film. "The Devi Miss Jones," with intent to circulate it. The conviction affirmed. There was no question regarding the factual or l

determination that the "The Devil in Miss Jones," was obscene.

33. State v. Reggins, 645 S.W.2d 113 (Mo. App. 1985) (Devil in Miss Jones).

Defendant was convicted of promotion of pornography in second degree. He received a six-month suspended sentence was placed on two years probation. The films were "The Devil Miss Jones" and "Hot and Saucy Pizza Girls." The conviction affirmed. There was no question raised on appeal as to pornographic material of the films.

34. City of Souix Falls v. Mini-Kota Art Theatres, In 247 N.W. 2d.676(S.D. 1976) (The Devil in Miss Jones).

Convicted of violating the Souix Falls obscenity ordina by showing the movie, "The Devil in Miss Jones." The defen was fined three hundred dollars.

Judgment was affirmed.

35. Lazarus v. Yorkview Theater Corp., 74 Misc. 2d 729, N.Y.S.2d 413(1973).

Action was brought to enjoin the defendants from the sale distribution or further distribution or acquisition or posses

within the State of New York of the film "The Devil in I
Jones" and specifically to enjoin the exhibition of the filr
Monroe County. The court denied the motion to dismiss
continued the preliminary injunction.

36. Circle Cinema, Inc. v. Town of Colonie, 82 Misc. 527, 371 N.Y.S. 2d 344(1975) (Deep Throat, The Devil in M Jones).

Police seized six films, "Deep Throat," "The Devil in M Jones," "Marriage Manual," "Climax," "Feel" and "Kitt Pleasure Palace." The court found the continued seiz procedure did not meet constitutional standards.

37. Vergari v. Pierre Productions Inc., 42. A.D. 950, N.Y.S. 2d 34(1974) (The Devil in Miss Jones).

State sought to enjoin defendants from exhibiting the f "The Devil in Miss Jones." The trial court found a prelimir injunction was not an available remedy under the statute. appellate division reversed and granted the prelimin injunction. The defendant was also convicted of obscenity in second degree.

38. Commonwealth v. MacDonald, 464 Pa. 435, 347 A 290(1975) (Deep Throat, The Devil in Miss Jones).

Defendants were charged with exhibiting the films, "
Throat" and The Devil and Miss Jones." The trial court qua
the criminal complaint on the basis that the statute did not
the constitutional standards of Miller. In affirming the t
court judgment, the court stated, "We therefore conclude
section 5903(a) fails to satisfy the Miller standard
therefore may not constitutionally be applied unless and it
amended to specifically define the sexual conduct whose depic
or description is to be regulated thereby."

39. State v. Auippa, 298 So. 2d 391(Fla. 1974) (I
Throat).

Defendant was charged distributing an obscene film, "
Throat" by exhibition. Trial court certified questions to
Florida Supreme Court. The court found:

1. The definition of what material is obscene under Flc
statutes was sufficient under the Miller standards;

2. Florida Statute requires a standard of proof that
material is utterly without redeeming social value; and,

3. Florida Statutes set forth what specifically def
conduct is prohibited.

40. Roberts v. State, 373 So. 2d 672(Fla. 1979).

Court ordered destruction of obscene materials a seizure. The court reversed on the grounds that no seizure occurred within the meaning of the statute. The court did reach the issue of obscenity.

41. Menefee v. City and County of Denver. 190 Colo. 544 P.2d 382 (1976) (Deep Throat).

Menefee was found guilty of possession and promotio obscene material, "Deep Throat." The convictions were rever The court found the Colorado statute was unconstitutionally v and overbroad.

42. People v. Tabron, 190 Colo. 149, 544 P.2d 372(1976).

Defendant was found guilty of promoting obscenity. He fined $1,000 and sentenced to a twelve month jail term. convictions were reversed. The court found the statute unconstitutional under the Miller standard.

43. Pussycat Theatre v. State. 355 So. 2d 829(Fla. A 1978) (Deep Throat).

Theatre was found in contempt of an order requiring it advertise "Deep Throat" with the legends "Revised version" "Edited version." The finding of contempt was affirmed, but fine was reduced from $3,000 to $500.

44. Gayety Theatres, Inc. v. State ex. rel. Gerstein, So. 2d 915(Fla. App. 1978) (Deep Throat).

Theatre was held in civil contempt for violating an or enjoining it from showning the film "Deep Throat." The co affirmed the order as applied to the Theatre, but reversed a was applied to individual defendants not named in the orig order.

45. Western Corp. v. Commonwealth, 558 S.W. 2d 605 1977) (Deep Throat).

Western and two employees were charged with four counts exhibiting an allegedly obscene film, "Deep Throat." The found Western guilty on all counts and it was fined $1,00(each count. The jury was unable to reach a verdict as to charges against the two employees and the charges were dismis The conviction was affirmed. The court stated:

> "The movie 'Deep Throat' was introduced in evidence and has been viewed by this court. It

contains repeated scenes of actual sexual intercourse, anal sodomy, fellatio and cunnilingus. The story line consists entirely of the sexual activities of Miss Linda Lovelace. We failed to find any serious literary, artistic, political or scientific value in this motion picture. We, therefore, agree with the jury's conclusion that this exhibited material was obscene and violative of contemporary community standards under the tests prescribed in Miller . . . ."

46. Mangum v. State's Attorney for Baltimore City, 275 450, 341 A.2d 786(1975) (Deep Throat).

Theater was permanently enjoined from showing the fi "Deep Throat", by the Maryland State Board of Censors. license was denied on the basis that the film was found to obscene. The order was affirmed. The court noted,

> . . . the trial judge as trier of the facts viewed the film "Deep Throat" and found that it was obscene under the Miller test. The court found that it was hard-core pornography and °was nothing more or less than a so-called °stag' film . . . ." On the basis of our viewing the film, it is clear that this is an accurate categorization.

The film "Deep Throat" is for the most part a series of explicit depections of sexual acts, including cunnilingus, fellatio, masturbation, normal and anal intercouse, and group sex. Effort was obviously made by the film makers to concentrate on the actors' genitals during the scenes of sexual activity. Well over half of the length of the film was devoted to displaying these explicit sexual acts. The satirical scenes referred by some of petitioner's witnesses were brief and sophomoric, serving as little more than introductions to the scenes of explicit sexual activity.

This case is the first case in which the question of hard-core pornography has been considered by this Court since the Miller definition was formulated by the Supreme Court. The film is clearly within the Miller definition of obscenity or hard-core pornography. In fact, "Deep Throat" would probably be deemed obscene under any meaningful definition of that term, including that set forth by the plurality opinion in Memoirs. It is noteworthy that in other jurisdictions where the matter has arisen, "Deep Throat" has consistently been found to be obscene."

47. People v. Thomas, 37 Ill. App. 3d 320, 346 N.E. 2d

190(1976) (Deep Throat). Defendant was convicted of obsc violation for exhibiting, for public patronage, the film, Throat". He was sentenced to sixty days in jail and f $1,000. The conviction was reversed. The court stated tha elements of the offense in Illinois must include the requir that the prosecution prove the subject material to be utt without redeeming value.

48. People v. Mature Enterprises, Inc., 36 N.Y.S.2d 323 N.E.2d 704(1974) (Deep Throat).

Defendant was convicted of two counts of obscenity showing the film, "Deep Throat." It was fined $100,000. judgment was modified on the grounds of an excessive imposed. The defendant did not dispute the finding that the was obscene within the meaning of the statute.

49. State v. American Theater Corp., 194 Neb. 84, N.W.2d 209(1975).

Defendant was found guilty of distributing obscene mat and was fined $500. The judgment was affirmed on appeal. quoting from United States v. One Reel of Film, the concluded, "We find that the film is hard-core pornography a obscene under both the Roth-Memoirs test and the more recen less stringent, Miller test."

50. Houston v. Hennessey, 534 S.W.2d 52(Mo.App. 1975) (D
Throat).

Petitioner, Houston, had been enjoined from exhibiting
film, "Deep Throat". The order was violated and he was held
contempt. The movie had been found to be obscene. The co
quashed the writ of habeus corpus it had issued earlier.

51. Commonwealth v. 707 Main Corp., 371 Mass. 374,
N.E.2d 753(1976) (Deep Throat).

Defendant was found guilty of two counts of violating
obscenity statute by exhibiting the film, "Deep Throat".
judgment was affirmed. The defendant made no contention that
jury was not warranted in finding that the motion picture "D
Throat" was obscene, "and the uncontroverted summary in
record as to the content of the motion picture confirms
correctness of this approach."

52. Coleman v. Wilson, 123 N.J.Super. 310, 302 A
555(1973).

Prosecutor sought to enjoin the further showing of
films, "Deep Throat" and "Love for Sale". The court found
statute constitutional and found both films obscene.

reviewing the film, the court noted,

> "Deep Throat" is a one hour and five minute motion picture portraying a young woman whose clitoris is in her throat. Early in the film there is an extended exhibition of cunninlingus. This is soon followed by a scene of group sex between two women and a number of men showing explicit acts of intercourse, fellatio, cunnilingus and sodomy. . . . The young woman consults a buffoon psychiatrist who diagnoses her amazing deformity and prescribes fellatio to achieve an orgasm. The balance of the film deals with the young woman serving as the doctor's assistant by engaging in sexual acts with him and his patients. Long detailed scenes of fellatio, cunnilingus and sodomy are repeatedly shown."

53. State v. Spoke Committee University Center, 270 N.I 339(N.D. 1978) (Deep Throat).

Three-judge district court found the film, "Deep Thr obscene and issued a statewide injunction prohibiting furt showing of the film. The judgment was reversed on the basis c defective search warrant and illegal seizure of the film.

54. People v. Mature Enterprises, Inc., 73 Misc. 2d 7

343 N.Y.S.2d 911(1971) (Deep Throat).

Defendant was found guilty of promotion, or possession w intent to promote, obscene material, knowing the contents character of the material, namely, "Deep Throat." In finding defendant guilty, the court stated,

> "The film runs 62 minutes. It is in color and in sound, and boasts a musical score. Following the first innocuous scene ("heroine" driving a car), the film runs from one act of explicit sex into another forthrightly demonstrating heterosexual intercourse and a variety of deviate sexual acts, not °fragmetary and fleeting' as to be de minimus . . . but here it permeates and engulfs the film from beginning to end."

55. People v. Mature Enterprises, Inc., 76 Misc. 2d (352 N.Y.S.2d 346(App. Div. 1974) (Deep Throat).

On appeal court found "Deep Throat" constitutiona obscene. Affirmed the conviction.

56. People v. Hausman, 82 Misc. 2d 1032, 372 N.Y.S 503(Cty. Ct. 1975) (Deep Throat).

Defendant was found guilty of a violation of the obscer

statute by exhibiting the film, "Deep Throat". The convic was reversed and a new trial was ordered on the grounds that court needed to apply the appropriate community standards.

57. Smith v. State, 530 S.W. 2d 955(Ct. Crim. App. 1976) (Deep Throat).

Convicted of commercial exhibition of obscene material (Throat). The judgement was reversed on the basis that there insufficient evidence to establish a commercial purpose. court noted,

> "If the appellant had been charged with the possession of obscene material for the purpose of commercial exhibition, the evidence in the record might have supported a conviction for that offense."

4. PEEP SHOWS

The following is a description of a film loop.[2279] segments may overlap as the film is continually played. title of the film, according to an advertisement on the outs of the peep show booth, is "Angel Gets Raped."

The film begins by showing a female dressed in a short dress and knee high socks playing with some dolls. Two men, black, one white, enter her room and grab the girl. They rip her clothes. The girl at first struggles with them qu convincingly. The white male holds her down, fondles and kis her breasts. The black male holds her legs and rips off panties. He then performs cunnilingus on her. Her pubic area either shaved or hairless. The black male is then shown pull down his pants. The white male continues to lick the gir body. The black male again performs cunnilingus on the girl. close up is shown. The white male is now nude and the fem performs fellatio on him while laying on the floor between legs. He rubs his penis on her face and she continues fellat The black male is shown continuing cunnilingus and with fingers in the girl's vagina. The two men then change positic She performs fellatio on the black male while the white m

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[2279] Description was completed by Senior Investig Haggerty. The film was viewed in a peep show booth in an "a only" pornographic outlet in the Washington, D.C., area. affidavit for seizure had previously been prepared and prese the U.S. Attorney's office of Superior Court but was declined 1984.

engages in intercourse with her with him on the top. The w male is then shown ejaculating with the semen running down crotch and in between her buttocks. She is shown contin fellatio on the black male until he ejaculates in her mouth. semen is shown on her cheek and running down her chin. The w male is then shown with his fingers in her vagina and wiping appears to be blood from around her labia. She is then s kissing both men.

Next is a description of a film loop which is made u film clips titled on the outside of the peep show booth "V Lesbians," "Bad Girls."[2280]

The first segment observed was of two white females performing cunnilingus on each other. One of the females shown inserting a dildo in the anus of the other female w continuing cunnilingus. She's shown spreading the female's l with her fingers. The two females are then shown breaking a and one female inserting a dildo in the other's anus performing cunnilingus on her at the same time. Then she's s just moving the dildo in the other female's anus. Then the females are shown positioning themselves so their vaginal a are touching each other. They move against each other and their fingers on their own labias, one fondles her own breasts

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2280 Description was completed by Senior Investigator Jos B. Haggerty. The film was seized from a pornographic outle Washington, D.C. An affidavit for seizure was submitted t times before it was finally approved by the U.S. Attorn office of Superior Court, but was later declined for prosecut in 1983.

the same time.

Another film clip is shown, showing a black female ins
her fingers in a white female's vagina.

The next segment shows the black female continuing t
her fingers in and out of the white female's vagina. The
three females in this segment, two white and one black.
black female is then shown inserting her fist in the
female's vagina as she fingers her labia and per
cunnilingus. Then the brunette white female is shown ins
her fist in the black female's vagina. The two white femal
shown kissing the black female. A close up is shown c
brunette white female inserting her fist into the black f
The black female's face is shown and appears to be yelling
brunette white female is shown inserting her fist into the
white female. Then she's shown inserting her fists into bo
blonde white female and the black female at the same time.

The next segment shows the faces of both females
fisted. The blonde white female appears to be yelling. Th
brunette white female performs cunnilingus on the blonde
female, while the black female licks the blonde white fer
breasts. Then the brunette white female places her finge
the blonde white female's vagina, as she continues cunnil
The blonde white female is now performing cunnilingus o
black female at the same time. The females change posit
The blonde white female and the black female both pe
cunnilingus on the brunette white female.

The next segment shows the black female and the blonde whi female continuing to perform cunnilingus on the brunette whi female. The black female also places her fingers in the brune white female's vagina as she continues cunnilingus on t brunette white female. Then the black female and the blon white female flick their tongues together. Then they both pl their fingers in the brunette white female's vagina at the s time. Then both kiss the brunette white female.

Another film clip begins, showing a white female laying o bed. Her face is shown with her mouth open grimacing. Sh between her legs is a black female.

The next segment shows the white female's face again. black female is shown inserting a dildo in the white femal vagina. Then with the dildo inserted in both their vagi moving together. Then the white female pulls away and reinse the dildo in the black female's vagina. As she moves the dil in the black female's vagina the white female licks the other e of the two headed dildo. Then the white female is sho inserting three fingers in the black female's vagina.

The next segment shows the white female continuing to ha her fingers in the black female's vagina. The white female th is shown inserting her fist in the black female's vagina. T black female holds the wrist of the white female as she continu to fist the black female's vagina.

Another film cip is shown, showing a white fema (represented to be known porno star Marlene Willoughby) insert

one finger in the vagina of another female (represented known porno star Vanessa Del Rio). Then Willoughby inser fingers in Del Rio's vagina. One finger has a large rir close up is shown of the insertion. Then Willoughby use left hand and inserts one finger in Del Rio's vagina, the fingers are inserted, then three fingers are inserted. Th inserts her fist in Del Rio's vagina, twisting it around.

The next segment shows Willoughby removing her fist fr Rio's vagina then inserting it again. Del Rio holds Willou wrist as she continues to fist her vagina. Willoughby is w a gold colored bracelet on her left wrist. A close up is of the insertion with Willoughby twisting her fist around Rio's vagina. Then Willoughby removes her fist from Del vagina and reinserts one finger from her right hand in Del vagina and performs cunnilingus on her at the same time. A up is shown of Willoughby performing cunnilingus on De spreading her labia and inserting her tongue.

The next segment shows Del Rio inserting a fing Willoughby's vagina as Willoughby fondles her own breasts. Del Rio inserts one end of a two headed dildo in Willoug vagina. She then inserts the other end in her own vagina. move together. Willoughby grabs a camera to take a pictu them. Then Willoughby moves and reinserts the dildo in Del vagina and performs cunnilingus on her at the same time. Ar close up is shown of Willoughby performing cunnilingus on De with her mouth on her clitoris.

The next segment is another film clip showing two whi females nude. A close up is shown of one performing cunniling on the other. The spreading of the labia and continu cunnilingus. Then a dildo is shown being inserted in one of t female's anus as she fingers her own labia. The dildo is sho being moved in and out of the female's anus and continu cunnilingus. The other female is shown with the first fema performing cunnilingus and inserting fingers in both her vagi and anus. A dildo is inserted in her anus as cunnilingus continued.

The next segment is a repeat of the first.

5. TABLOID

The following is a description of newspaper-like public entitled ALL PLEAZURE.[2281] It is printed on newsprint. thirteen inches x twelve inches and retails for $1.50. "ALL the title is printed vertically and "PLEAZURE" horizonta The price is in the upper right hand corner. A female is in a picture which covers 9-1/2 inches x 10 inches of the c She is drawn in a black slip which is pulled off her r shoulder exposing her right breast. She is not wearing pan but has on dark colored or black boots or stockings that go her thighs. She appears to be in a standing position with foot up on an object with her legs spread open. Her forearms hands are gloved. She has her right hand on her genital Her left hand is around her own throat. Her lips are pursed her eyes are closed. In the background is a hall tree mirrors. In smaller print at the bottom of the cover pag "ADULT TYPE MATERIAL NOT TO BE SOLD OR READ BY PERSONS UNDE YEARS OF AGE."

The first inside page has six photographs of nude fema Two of these photographs depict caucasian females completely facing the camera. One photograph shows a black female pouring a glass of liquid down the front of her body sh spreading her labia with her fingers. Another photo shows a

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2281 Description by Senior Investigator Haggerty. publication was purchased from a pornographic outlet ir District of Columbia, March 1986.

caucasian female from between her legs while she's in a lyi position. She has her left arm over her face. What looks like bruise can be seen on her upper arm. Another photograph depi a nude caucasian female from the shoulders to pubic area. H head is cut out of the picture as well as her legs. The l photograph shows a nude caucasian female in a prone position w a telephone held to the side of her head. Her mouth is open, h eyes closed. With her right hand she is spreading her lab The text says, "DON'T MESS WITH MY MOUNTAIN IF YOU CAN'T T CARE OF MY VALLEY."

The next page repeats the title of the publication. It printed the same way as on the cover. The reproduced photo o nude caucasian female is in the background. She is bent o showing her buttocks. A profile of her face is shown. Her e are closed and she has a finger in her mouth. On this page the mast head and some disclaimers. ALL PLEAZURE is represent to be published weekly by Valerie Publications, 204 West 20 Street, New York City, New York 10011. The editor is reported be Marcy Witherspoon; Managing Editor Mario Disco; Desi Director Nero Bauhaus; Photo Editor Will Lee; Foreign Corre pondents Tiguana Lil and Al Lamilan; Contributing writer Alberto Squaire, Liz Maybee, Corky Taverner and John Dra Contributing Artist, Tinto-Retto, Excalibre and Nero Bauhau There is also another address for the advertising representat Insertion Advertising Agency, 132 West 24th Street, New Y City, New York 10011. The copyright is also on this page.

Page four contains three photographs. One photograph close-up of a female's labia being spread by fingers. An photograph depicts a nude caucasian female laying on her with her legs spread. Her left hand is on her right breast. right hand is on her pubic area, laying beside her is a st animal. The last photo is a nude caucasian female laying o side. She has her right hand on her right buttocks and her hand is spreading her labia from under her body. Her fa turned toward the camera and her right breast is exposed.

Pages five and six is entirely all text. It is t "OVERSEXED JUNGLE BUNNY." The text is about a female Margaret Manners. It first explains how hair grows on female vaginas and anal areas and how Margaret Manners is because she doesn't have much hair in those areas. It tell she manicures her own finger and toe nails and becomes very when a nail breaks. She also fantasizes about having sex w black male.

The story continues with a black couple checking into lodge and getting a room next to Margaret and her boyf Christopher Cummings. The black couple can see through the Margaret and Christopher having sex next door. At first the embarassed, then they decide to listen and become excited The conversation between Margaret and Christopher while continued to engage in intercourse with each other is printe

Page seven is made up of three photos of the same caucasian female. In each photo she is shown spreading leg

her labia with her fingers. The last photo only shows her hanc spreading her labia exposing her vagina.

Page eight is the continued story from pages five and six The text continues to describe Margaret and Christopher engage in intercourse. It talks of Margaret's orgasms and how sh feels. The text ends with Christopher reaching orgasm.

Page nine is a full page advertisement of Bondage Magazine from STAR DISTRIBUTORS, LTD., New York City, New York. Th magazines offered run from six dollars to eight dollars. Eleve magazines are offered and their covers are shown. The titles ar as follows: WICKED WOMEN VOL 2/7; DIAL YOUR MISTRESS VOL 1/1 BIZARRE COMIX VOL 2/1; BONDAGE VOL 1/5; HOGTIE VOL 4/7; B & REVIEW VOL 1/7; BIZARRE COMIX VOL 22; KNEEL VOL 1/3; LATEX IMAGE; FANTASY REGISTER NO.8.

Page ten contains a large photo and text to another stor titled, "FUCK ME, TUFF." The photo shows a partially clothe caucasian female laying on her back with her knees in the air Her hands are across the back of her thighs with her finger spreading her labia. She is wearing light colored socks. Wha appears to be her skirt is gathered around her waist. She i nude from the waist up and is not wearing panties. Her righ breast is visible. She has her head back with mouth open ar eyes closed.

The text continues to page eleven. The story is about th guy in his office. He's very upset and won't talk to hi secretary about it which is what he usually does. His wife and

female neighbor arrive at the office. The secretary tries tc her boss to talk to his wife but he refuses. The secre finally asks the wife what the problem is. The wif reluctant, so the neighbor tells the secretary. It seems husband and the wife got into some bondage and discipline and husband was upset because the wife had been the dominatrix.

Page twelve is made up of two photographs. One photoc is a close up of a female's labia being spread open by finc The other photos is of a nude caucasian female laying on stomach smiling at the camera. Her legs are bent with her in the air. Her hair is in pigtails and she's hugging a stu animal.

Page thirteen and fourteen is the continued text of " ME, TUFF." As the story continues the secretary tells the that she has had sex with the husband for the last year an always begins with bondage and discipline. She tells the that there is nothing wrong with what they have been doing that the wife should be the one being dominated. She instr the wife. The wife goes into the husband's office and ins him further. He becomes mad, strips her, binds her wrists, a dog leash on her and forces her to perform fellatio on which she does willingly. He ejaculates into her mouth. swallows it. He throws her on the carpet and slides a dildo her vagina. She climaxes. He becomes aroused again and vaginal intercourse with her. They tell each other how much love each other and she asks if she can dominate sometimes.

husband doesn't know right now. He wants to have children. says she knows he doesn't want to talk about their bond relationship, but she doesn't care because she still has a w under her bed.

On page fifteen there are twenty seven different ads information on how to get five free ads placed in the PLEAS PERSONAL CLASSIFIEDS. The largest ad on this page is for a pe enlarger from Victor Products in North Hollywood, Californ The apparatus is shown and costs $9.95. The following is a br description of the remaining twenty six ads.

"CHERRY POPPER": personal polaroids shot at home by swing "families." Very explicit, daring and dirty from MAILART No Hollywood, California.

PIDDLY DIDDLERS GETTING OFF: secretary shot pictures of g doing it with boys. Picture of nude causasion female in pigta accompanying ad. From Jody's, Studio City, California.

FREE LIFESIZE SEX DOLL: with large breasts and hairy vag Not a cheap toy a beautifully realistic depiction of a real g Products Ltd., Los Angeles, California.

30 DIRTY SEX COMICS: all 30 for $2.95 Comics, Los Ange California.

SUCK-OFF FILMS: in color five films, "Sucking Orgy", "Force
Suck", "Cream Licker", "School Suck-Off", "Deep Throat Sis
from VUECO Los Angeles, California.

WET VIDEOS: photo of female sitting on toilet accompanying
Four videos available; "Golden Showers," "Wet Sex Party,"
For Pleasure," "Little Wet Panties," from Video Exchange,
Nuys, California.

SAVE YOU MONEY! FREE HARDCORE SAMPLES! We'll fill your mail
with 100's of redhot photos, films, books, magazines
catalogues not available to the general public. Mailcorp,
Angeles, California.

"LITTLE PORNO" MAGAZINES: The Hard-To-Get-Kind. Four ti
available; "Nasty Playmate," "Cherry Suckers," "Tight Pussi
"Lollipop Pet," all from UNIQUE SALES, Los Angeles, Califor
A photo of a young female's face accompanies ad.

FREE! FREE! 16 glossy photos from new films made especially
"young stuff" collectors. PERSONA, Sherman Oaks, California.
photo of a females' nude body from the breasts up accompar
this ad.

FORBIDDEN PORNO: Nasty subjects quitely imported from Da
smut Centers from CAM-PIX, Panorama City, California.

FREE MAGAZINES: Illustrated-Forbidden-Hardcore. Six magazi available; "Suck-Off Orgy," "Playground Pussy," "School Doctc "Virgin Rape," "Three In a Barn," "Jill & Judy Jack Off." from Essex Magazines, Van Nuys, California.

PICTURES OF MY 4 GIRLS: New censorship restrictions on magaz publishers prevent me from telling you how old they are or w my girls are doing in them. Mr. Hale, Los Angeles, Californi:

YOUR NAME & ADDRESS IS WORTH $20: Buy direct & enjoy the bes explicit hardcore viewing. Act now & receive authentic ru dildo free. The Exchange, Los Angeles, California.

WOMEN WHO SEDUCE: Drawing of woman and young boy accompanies ad. Four videos offered: "Come Class," "Peter's Snat "Rubbing Dickie," "The Paperboy" all from Hollywood Video, Angeles, California.

NEW STUFF/HARDCORE 60 MIN. VIDEO: Five videos offered; " Covered Cherries," "Peach Fuzz Playmates," "Virgin Ass Fuckin "The Dirty Daughters," "Bound in Bobbysox." All from VIDE Hollywood, California.

FREE WE'LL GIVE YOU $25 worth of colorfully illustrated HARDC MAGAZINES for you name and address. The Magazine Exchange,

Angeles, California.

WOMEN WHO FUCK ANYTHING MAGAZINES: Four magazines offer "Farmgirl Fantasies," "Fucked On All Fours," "Balling In Barn," "Susies Stud Service." A drawing of a female bent c with a dog's snout near her crotch accompanies this ad. NUW PUBLICATIONS, Los Angeles, California.

12 SUCK MAGS: Genuine "Swedish Erotica" Series. Featuring l & lasses of unusual oral talent from Mag Plan, North Hollywc California.

FREE HARDCORE MAGAZINE OFFER: A photo of a female sitt between two males who appear nude with their torsos pre toward her head while the female masturbates herself accompa this ad. Six bizarre sex subjects: *ASS FUCKING *FORCED VI *DOUBLE SUCKER *BARN BALLING *YOUNG STUFF *INCEST ORGY. Biz sex acts by perverse sex freaks from Patnel Press Los Ange California.

I'LL MAKE US BOTH COME!! When I spread it wide open, rub finger it & masturbate just for you! I also do sucking pict and other home sex with my husband & 2 girls. Mrs. Ma Alexander Van Nuys, California.

LITTLE PORNO PICTURES The Forbidden kind. Over 600 Hardc

pictures of cute and tempting fucking & sucking secretly impo from Europe. The photo of a female's face looking young with hair in pigtails accompanies ad from Mini-X, Los Ange California.

FORBIDDEN VIDEO: Five videos offered; "Down On the Fa "Virgins in Bobbysox," "Orgies For Perverts," "Beauties And Beast," "Wife Swappers Cum Club." A picture of two pe kissing wearing riding clothes with their pants pulled standing next to a horse accompanies this ad from VIDEOCOM, Angeles, California.

PART-TIME PROSTITUTES: Housewives, Schoolgirls, Secreta Available for all kinds of wild and unusual sex. Meet girls all over the U.S. by phone, letter, or personal contact thr our constantly updated listings. ACTION LIST Los Angel California.

KNOCK OUT FORMULA: No prescription - Safe to use. Al uninhibited sex with any girl. She'll never know you used LABS Los Angeles, California. A nude female's photo accompa this ad she is laying on her back with her arms behind her and her eyes closed. A males head can be seen he has his to out around the female's pubic area.

GAY PORNO: Cleancut lads only. Hetero dealer has sele

hardcore gay material in all media. Always an unmarked wrapp
You will not be placed on a gay mailing list. DYN
PRODUCTIONS, Van Nuys, California.

8 INCHES IN 8 WEEKS or your money back. Our story is shor
sweet 8 thick hard inches in just 8 weeks or full refund. S
no creams, pills, weights, stretchers. Reeda Co., No. Hollywo
California.

Pages sixteen and seventeen contain seven photographs
caucasian women. Page sixteen has four photos all with the w
nude or partially clothed with their legs spread. One is o
woman completely nude sitting next to a pool facing the car
with her legs spread. Another is of a woman sitting pullir
garment between her labia. She is completely nude except
that garment. Another photo shows a female laying on her l
with her legs spread. She is completely nude except for a sl
she has pulled up exposing her breasts. A stuffed teddy l
sits beside her. The biggest photograph on the page show
female laying on her back with her legs spread. With her ri
hand she is fondling her right breast. She has her head turn
her mouth open eyes closed. Page seventeen contains th
photographs of the same girl. In one photograph she is sh
completely dressed in sports jersey and cut-off jeans. She
the jersey up over her right breast while she fondles her nipp
Her hair is in pigtails and her eyes are closed. Anot

photograph shows her bent over tying her tennis shoes. She fully clothed. The largest photo on the page shows her laying her back with her legs spread. She is completely nude. She her left hand on the underside of her left thigh near her pu area. Her right hand is next to her head. Her finger is in mouth.

Page eighteen also displays several photographs. Two of same female. One shows a female on her head facing the came Her body is bent so her head is between her legs. Her hands on the underside of her thighs. A garment is gathered around waist. Both her vagina and anus are exposed. Her panties cl to her right thigh. She holds a small vibrator in her r. hand. Her breasts are exposed also. The small photograph s her licking the vibrator. She is laying back with her spread and bent back with her feet in the air. The vaginal is exposed next to a garment on her left thigh. Her hair i pigtails and she's wearing socks with the face of Mickey Mous them.

Page nineteen is the beginning of another story. This is titled, "Uncle's Incestuous Bung-holein." The text on page is about an Uncle Bobby performing cunnilingus on sixteen year old niece, Joanie. Then she wants him to penet her anally but first she wants him to perform analingus on her

Pages twenty and twenty-one contain advertisements for fc different dildos and electric vibrators and two artific vaginas. A device to tighten the vagina and an adjusta

universal harness. Also there are advertisements for t different inflatable dolls: Big John with realistic penis John with vibrating penis, Big John with vibratinç ejaculating penis, Sweet Sexteen deluxe Teenage Greek Doll vibrating vagina, Sweet Sexteen Teenage Greek Doll with breasts, Miss Greek, Electronic Greek, Virgin Greek with i hymen and Natural Hair Greek. Accompanying these Love Dol is a drawing of a nude male bent back on his knees holdin feet, he has an erection. A photograph of a nude female o fours looking back at the camera her right breast is exposed

Page twenty-two contains advertisement for eight more d and vibrators three different butt plugs two artificial va and two masturbators. Also on this page is the order blan any of the items advertised on the last three pages from Va Publications, New York, New York. This page also has a photo of a female dressed in a seductive maid's outfit.

Page twenty-three is an advertisement for Pleazure Pers and a form to write an advertisement. The writer is direct send the advertisement to Valerie Publications New York York. Accompanying this ad are photographs of two females. females are on their knees. Both are wearing light colored and light colored shirts. One has her shirt open and clutching her right breast. She is nude from the waist except for the socks. The other female is bent forward sh her right hand on her anus and her left hand on her pubic Her face is turned toward the cameras, with her eyes close

her mouth open.

Page twenty-four and twenty-five contain forty-four perso ads from men and woman seeking men and women. Page twenty-f provides a description for advertising rates for, "ALL PLEASUR "FUNSEEKERS" and "S & M PLEASURE" two other publications.

Payments are to be made to Valerie Publications. Pa twenty-six contains two photographs of the same female th appears on page eighteen. One photo shows two hands spread the female's labia. The other photo shows the female insert the small vibrator in her vagina.

Pages twenty-seven and twenty-eight contain the continu text of "Uncle's Incestous Bung-holein". Uncle Bobby lubrica her anus and penetrates her anally with his fingers and then h penis. This is her first time. At first there's great pain, h it subsides. She is bleeding.

Page twenty-nine is a series of three photographs, ea showing a woman's labia being spread open. One photo also sh a spread open anus.

Page thirty is the final text of "Uncle's Incest Bung-holein." Joanie has an orgasm and so does Uncle Bobby they continue anal intercourse. Joanie performs fellatio Uncle Bobby to clean him off. They decide to watch more movies

Later Joanie is taking a shower. Her father enters washes her breasts, thighs and pubic area. They go into master bedroom where Joanie undresses her father and fondles penis and testicles. He then has an erection. Her father t

has vaginal intercourse with her breaking her hymen. intercourse continued until her father ejaculated inside her

Page thirty-one contains two photos of the same w caucasion female. In one photograph she's laying back or elbow and one leg up on the bed so her legs are spread With her right hand she spreads her labia with her left han holds her left breast. She has a tank top on but it is pull so both of her breasts are exposed. She is completely except for the pulled up top and white socks and tennis sl In the other photograph the female is laying on her back both her hands between her legs spreading her labia. Her to still pulled up so both breasts are exposed. She has her closed and her mouth open.

The last page, page thirty-two is called ALL PLEAZURE M and contains five different ads. Starting from the upper hand corner and going clockwise they are: MEET SWINGERS, our club of broad minded couples, men and women in every are the country who share your interests and desires write for details. THE SEEKERS, Cherry Hill, New Jersey; ERECT PROBLEMS? HALF HARD? SOFT TOO SOON? YOHIMBE COULD BE ANSWER. Doctors discover an APHRODISIAC that produces HARD LASTING ERECTIONS. Limited supply rush you order today. MEN, LTD., Avon, Massachusetts; FREE/Star Distributors want send you free brochures offering erotic books and magazines every taste. The covers of several magazines and paperbacks shown only a few of the titles can be discerned; Modern

Bondage (magazine), PUNISHED (magazine), Liberteens/Wanc
Teenager With a Whip (paperback), A Girl & Her Dog (paperbac
Coed's Black Lovers (paperback), Mommy's Boy (paperback), S
DISTRIBUTORS LTD., New York, New York; MAKE EXTRA MONEY/PAY
TOP DOLLAR/MALES & FEMALES NEEDED FOR XXXX MOVIES/DIE
PRODUCTIONS; LEARN HOW TO FLY/F.A.A. CERTIFIED & A.T.P. JET RA
FLIGHT INSTRUCTOR.

Chapter 10

Sample Forms

I. OBSCENITY STATUTE UTILIZING MILLER STANDARD

II. FORFEITURE STATUTES (WITH POSTAL SERVICE AMENDMENT)

III. SEARCH WARRANTS

I. OBSCENITY STATUTE UTILIZING MILLER STANDARD

A. Material is obscene if:

(1) to the average person, applying contempor community standards, taken as a whole, it predominantly appe to a prurient interest in nudity, sex or excretion;

(2) the material taken as a whole, lacks seri literary, artistic, political or scientific value, and

(3) the material depicts or describes, in a pate offensive way, sexual conduct specifically defined in paragraphs (i) through (v) below:

(i) acts of sexual intercourse, heterosexua homosexual, normal or perverted, actual or simulate

(ii) acts of masturbation;

(iii) acts involving excretory functions or exhibition of the genitals;

(iv) acts of bestiality or the fondling of organs of animals;

(v) sexual acts of flagellation, torture other violence indicating a sadomasochistic se relationship.

II. FORFEITURE STATUTES (WITH POSTAL SERVICE AMENDMENT)

Possible Criminal Forfeiture Provision:

(a) A person who is convicted of an offense under secti 1461, 1462, 1463, 1464, or 1465 of this title shall forfeit the United States such person's interest in --

(1) any property constituting, or derived from, gro profits or other proceeds obtained from such offens and

(2) any property used, or intended to be used, commit such offense.

(b) In any action under this section, the court may ent such restraining orders or take other appropriate act (including acceptance of performance bonds) in connection wi any interest that is subject to forfeiture.

(c) The court shall order the forfeiture of prope referred to in subsection (a) if the trier of fact determin beyond a reasonable doubt, that such property is subject forfeiture.

(d) (1) Except as provided in paragraph (3) of th subsection, the customs laws relating to disposition seized or forfeiture property shall apply to prope under this section, if such laws are not inconsist with this section.

(2) In any disposition of property under this secti a convicted person shall not be permitted to acqu property forfeited by such person.

(3) The duties of the Secretary of the Treasury respect to dispositions of property shall be perfo under paragraph (1) of this subsection by the Atto General, unless such duties arise from forfeit effected under the customs laws.

Possible Civil Forfeiture Provision:

(a) The following property shall be subject to forfei by the United States:

(1) Any material or equipment used, or intended use, in producing, reproducing, transporting, shipp or receiving any visual depiction in violatio section 1461, 1462, 1463, 1464, or 1465 of this tit

(2) Any visual depiction, production, transpor shipped, or received in violation of section 1 1462, 1463, 1464, 1465 of this title, or any mate containing such depiction.

(3) Any property constituting or derived from, o profits or other proceeds obtained from a violatio section 1461, 1462, 1463, 1464, or 1465 of this except that no property shall be forfeited under paragraph, to the extent of the interest of an ow by reason of any act or omission established by owner to have been committed or omitted without knowledge or consent of that owner.

(b) All provisions of the customs law relating to seizure, summary and judicial forfeiture, and condemnatio

property for violation of the customs laws, the disposition
such property or the proceeds from the sale thereof, t
remission or mitigation of such forfeiture, and the compromise
claims, shall apply to seizures and forfeitures incurred,
alleged to have been incurred, under this sec ·on, insofar
applicable and not inconsistent with the provisions of th
section, except that such duties as are imposed to seizures a
forfeitures of property under this section by such officer
agents or other persons as may be authorized or designated f
that purpose by the Attorney General or the Postmaster Gener
except to the extent that such duties arise from seizures a
forfeitures effected by any customs officer.

Amended Title 39 S2003

S2003. The Postal Service Fund

(a) There is established in the Treasury of the Un States a revolving fund to be called the Postal Service which shall be available to the Postal Service with fiscal-year limitation to carry out the purposes, functions, powers authorized by this title.

(b) There shall be deposited in the Fund, subject withdrawal by check by the Postal Service --

(1) revenues from postal and non-postal serv rendered by the Postal Service;

(2) amounts received form obligations issued by Postal Service;

(3) amounts appropriate for the use of the Po Service;

(4) interest which may be earned on investments of Fund;

(5) any other receipts of the Postal Service;

(6) the balance in the Post Office Department established under former section 2202 of title 3 the commencement of operations of the Postal Serv and

(7) amounts from any civil administrative forfei conducted by the Postal Service.

(c) If the Postal Service determines that the moneys of

Fund are in excess of current needs, it may request investment of such amounts as it deems advisable by the Secret of the Treasury in obligations of, or obligations guaranteed the Government of the United States, and, with the approval the Secretary, in such other obligations or securities as deems appropriate.

(d) With the approval of the Secretary of the Treasury, Postal Service may deposit moneys of the Fund in any Fede Reserve bank, any depository for public funds, or in such ot places and in such manner as the Postal Service and the Secret may mutually agree.

(e) The Fund shall be available for the payment of expenses incurred by the Postal Service in carrying out functions under this title and, subject to the Postal R Commission. Neither the Fund nor any of the funds credited to shall be subject to apportionment under the provisions of sect 665 of title 31.

(1) The Fund shall be available for the payment of expenses incurred by the Postal Service in carrying its functions under this title including expen incurred in the conduct of seizures, forfeitures, disposal of forfeited property pursuant to title 18 subject to the provisions of section 3604 of t title, all of the expenses of the Postal Rate Comm sion. Neither the Fund nor any of the funds credi to it shall be subject to apportionment under t

provisions of subchapter II of chapter 15 of title

(2) Funds appropriated to the Postal Service ur section 2401 and 2004 of this title shall apportioned as provided in this paragraph. From total amounts appropriated to the Postal Service any fiscal year under the authorizations contained sections 2401 and 2004 of this title, the Secretary the Treasury shall make available to the Postal Serv 25 percent of such amount at the beginning of e quarter of such fiscal year.

(f) Notwithstanding any other provision of this secti any amounts appropriated to the Postal Service under subsect (d) of section 2401 of this title and deposited into the F shall be expended by the Postal Service only for the purpo provided in such subsection.

III. SEARCH WARRANTS

The following search warrants have been provided as examp] of warrants which have been successfully used in crimin proceedings with only minor editorial changes. Blanks are le to protect the identity of the victims, agency, or officer. Ea law enforcement agency should modify the warrants as needed giv the constraints of available information, expertise of t affiant and particular legal requirements of respecti jurisdictions.

A. AFFIDAVIT FOR SEARCH WARRANT - CHILD PORNOGRAPHY

(name of affiant), being sworn, says that on t information contained within this affidavit, he/she has probat cause to believe and does believe that the property descrit below is seizable pursuant to (Penal Code Section _____) in th it: (CHECK APPROPRIATE BOX OR BOXES)

_____ tends to show that sexual exploitation of a child h occurred or is occurring.

_____ was used as the means of committing a felony

_____ is possessed by a person with the intent to use it as means of committing a public offense or is possessed another to whom he may have delivered it for t purpose of concealing with or preventing its discove:

_____ is evidence which tends to show that a felony has committed or a particular person has committe felony; (or appropriate statutory requirements) and that he/she has probable cause to believe and does bel that the described property is now located at and will be f at the locations set forth below and thus requests the issu of a WARRANT TO SEARCH. _____(location)_____ , described a _____, _____ and identified from _____ as _____(name)_____, _____(address)_____. 2. _____(name)_____, female/male, further description with a address of _____(address)_____.

For the following property: 1. Phone books, address bo notations, identifying a male/female juvenile(s), "name an other juveniles or adults who are being sexually exploited or are exploiting children. 2. Photographs and/or undeveloped depicting (name), and or other juveniles nude or in se activity. 3. Movies and/or magazines depicting juvenile sexual activity. 4. Identification including but not limite _____.

Your affiant says that the facts in support of the issu of the search warrant are contained in the attached STATEMEN PROBABLE CAUSE which is incorporated as it is fully set f herein. Wherefore, your affiant prays that a search warran issued for the seizure of said property or any part thereof any time of the day or night, good cause therefore having

shown.

_____

SIGNATURE OF AFFIANT

Subscribed and sworn to before me

this _____ day of _____, 19__.

_____

Signature of Magistrate

Judge of the _____ _____

Superior/Municipal Judicial District

Prepared with the assistance of, or reviewed by:

_____

Deputy District Attorney

Your affiant is _____(name)_____. I am a (detective) for t
(city) of _____(name)_____, and have been so employed f
the past ___ years. For the past ___ years, I have been assigr
to the (Sexually Exploited Child Unit of Juvenile Division).
have been assigned to said Division for the past ___ years.
have participated in an excess of ____ investigations involvi
the sexual exploitation of minors and children. I ha
personally conducted in excess of ___ investigations resulting
felony charges of child molestation and exploitation. I ha
received extensive training and have read numerous publicati
dealing with the sexual exploitation of children. I have tal
to in excess of ____ sexually exploited children and in excess

___ admitted child molesters. I have read and examined in ex
of _____ letters between pedophile offenders describing t
admitted sexual conduct with children and the manner in w
they exploited said children for sexual gratification. I
examined in excess of _____ photographs during these invest
tions which depict children engaged in sexual activities with
offenders, with other children, with animals and with adults
have examined and read publications distributed from for
countries and in the United States which describe in de
sexual activities between adults and children. I am fami
with the manner in which pedophile offenders entice and encou
children to engage in sexual conduct and the manner in which
exchange children with each other, and make contact with o
adults who engage in such conduct. From my training
experience, I am aware that pedophile offenders have a spec
age preference for the juvenile victim and that when the vi
surpasses this age, the pedophile offender, no longer ha
sexual interest in her or him, will seek out a younger juve
to take the victim's place sexually. It has been my experi
that pedophile offenders will not stop or remain with
juvenile victim but will constantly seek out new victims, u
the same method of seduction that had been successful for
It has been my personal experience and knowledge of pedop
offender from other officers that a pedophile offender has n
stopped with one juvenile victim but has continued to mo
juveniles whenever the opportunity arises. From interviewing

speaking with pedophile offenders, both in an official capac
and during undercover operations, I am aware that pedophi
offenders will retain photographs, magazines, movies a
correspondence. This retention will span many years and t
material is used by the pedophile offenders to lower the chil
inhibitions and to relive the pedophile offender's experienc
From the prior investigations that I had conducted and fr
talking to other detectives involved in pedophilic investigatic
worldwide, I am aware of pedophile offenders retaining the
pedophilic and pornographic material in excess of twenty yea
and that this material has been shown to juveniles to lower t
victims' inhibitions. I am aware that, depending upon the age
the juvenile victims, that pedophile offenders will often furni
drugs and alcohol to lower their inhibitions. A pedophi
offender will frequently seek out employment or volunteer his
her service to be close to children and to use and to use
authority over the children and to victimize them. I h
testified as an expert in both the (Municipal and Superi
Courts in the field of the sexually exploited child and h
assisted the United States Attorney's Office in formulat
procedures in the federal prosecution for the importation
non-commercial distribution of child pornography.

Your affiant received intelligence that a _____(name)_____ of _____(address)_____, has had contact with pedophil in the _____(name)_____, area and traveled to _____(name)_____ engage in sexual activity with juveniles. This intelligence w

received from (name), (address) who had interviewed a child pornographer suspect and had se evidence indicating _____, activities.

Your affiant began an undercover investigation of (name) corresponding with him under the alias of (n ___, In the first letter (name) stated that a tru friend supplied (name) and that (name) w firm believer in the liberal upbringing of children and raised and photographed his ten year old daughter. Enclose the letter was an unmounted color slide depicting a fe juvenile, approximately eight to ten years old. (Copy of le incorporated herein as Attachment 1.) On July 12, 1983, affiant received a letter with a return address of (name) (address).

The letter, dated July 7, 1983, stated in part: "Thanks your letter and its absolutely charming enclosure. enclosures are photos of young ladies with whom I have extensive personal contacts in recent years. I do have slides of the two of them engaged in educational activities probably are similar to some that you had in mind when mentio your daughter's liberal training. It is a good many years since I participated directly in the educational games of my eldest daughters, (name), and (name), or their young half sisters.

There is also a granddaughter but even she is well into teens. For a few years, thought, she was one of the

uninhibited and enthusiastic preteen I've ever known! constant responses were, Can we do it again Grandpa? and Teach something else! I'll be in _____(name)_____ the last week July and the first one in August. I'll arrive in _____(name)_____ the 23rd or 24th. Write soon, _____(name)_____." (Copy letter incorporated herein as Attachment 2.)

Enclosed in this letter were three color photographs preteen females nude. One photograph depicts a juvenile n with body paint on her chest, the second photograph depict juvenile nude, eating watermelon. She is crouched down, her l slightly apart and her vagina exposed. The third photog depicts a female juvenile nude from her waist down her butt towards the camera and her vagina exposed. (Copy of photogr incorporated herein as Attachment 3.)

On July 12, 1983, your affiant responded to _____(name)_____ letter suggesting that they could meet when _____(name)_____ arrives in _____(name)_____ (copy of letter incorporated he as Attachment 4). On July 20, 1983, your affiant receive second letter from _____(name)_____ addressed to _____(name)_____. Enclosed were two black and white photographs and three co photographs all depicting preteen families in nude or semi n poses. _____(name)_____stated in part: "The two B&W's of clowning around are from color negs. . . . I have quite a I have about 30 ektachromes of each and _____(name)_____ action together doing most of the things two little girls car to each other. Presently I am cultivating the daughters nine

six of an American-Vietnamese couple here in (location) I plan to arrive in (location) next Sunday aftern the 24th, to check into a meeting at the Hilton at the park (location), then to the (location). Fr night a friend is driving me to (location) for little girl photos at Black's Beach and a kiddy porn mo festival. Time in running short. If you'd like to phone, number is (number)." (Copy of letter incorporate herei Attachment 5.) The two black and white photographs depict same female juvenile with her vagina exposed and in one, her are wide apart. Two of the three color photographs depict female juveniles nude laying on the beach with their legs ap The third photographs depicts a female juvenile nude bending with her legs spread with her vagina and buttocks to the cam (Copy of photographs incorporated herein as Attachment 6). July 21, 1983, your affiant contacted (name) at residence and recorded the conversation. (name) indicated that (name) is a girl living in (nam with whom he had extensive sexual contact beginning when she six till two years ago at age ten. He also indicated that he going with a friend from (location) to a child film festival given by some other friends in (location) He indicated that he would bring some undeveloped film to developed. He also identified himself as an engineer who wo for the (name).

On July 25, 1983, your affiant contacted the Hilton-at-

Park in (name) and determined that (name) registered on July 24, 1983, and that he gave his home addres (address), _____ Your affiant then contacted the _____ and learned that (name) has reserved a room for July 27/29, 1983. registration had (name), return address (addre

Based on the photographs sent and the letters indicatinc (name)'s sexual interest in juveniles, your affian of the opinion that (name) engaged in child se exploitation. The photographs sent are exhibiting the pubic rectal areas of juveniles under fourteen years of age for purposes of sexual stimulation of the viewer.

Based upon your affiant's experience, expertise and all the information contained above, your affiant is of conclusion that the property listed in the warrant will be fc at the locations to be searched for the following reasons:

1. That the person listed is a pedophile offender,
2. That such persons do not destroy photographs and any ot reproductions depicting sexual conduct,
3. That such persons retain these materials for the purpose personal gratification, to gain the acceptance, confide and trust of other pedophiles, to exchange such materi from other pedophiles, to receive monetary gains for furnishing of such material, to ensure protection exposure to police authority from other persons,
4. That correspondence from other persons is kept with the

full allegiance,

5. That such persons gain a certain pride from the exhibit of such material,

6. Such materials are kept secure in residence, vehicl storage facilities and bank deposit boxes to prot themselves against seizure by police authorities; and,

7. That all of the other materials requested for seizure w identify other children being sexually exploited and ot adults who are engaging in such exploitation.

Your affiant therefore says that there is probable and reasona cause to believe that items requested to be seized are it which tend to show that a violation of Section _____ of (Penal Code) has occurred or is occurring. Your affiant reasonable cause to believe that grounds for the issuance o search warrant exists as set forth in Section _____ of _____ code based upon the facts and the attachments.

B. AFFIDAVIT FOR SEARCH WARRANT - CHILD PORNOGRAPHY

_____(name)_____, being sworn, says that on the basis of information contained within this affidavit, he has proba cause to believe and does believe that the property descril below is seizable pursuant to (Penal Code) Section _____ in t it: (CHECK APPROPRIATE BOX OR BOXES)

(MODIFY FOR JURISDICTION)

_____ tends to show that sexual exploitation of a child occurred or is occurring

_____ was stolen or embezzled

_____ was used as the means of committing a felony

_____ is possessed by a person with the intent to use it
means of committing a public offense or is possesse
another to whom he may have delivered it for
purpose of concealing it or preventing its discover

_____ is evidence, which tends to show that a felony has
committed or a particular person has committe
felony; and that he has probable cause to believe
does believe that the described property is now lo
at and will be found at the locations set forth
and thus requests the issuance of a WARRANT TO SEA

1. _____(location)_____, described as a two story wood
house covered with brown asphalt shingles. The numerals
are attached to the door frame. 2. _____(name)_____,
caucasian, black hair, brown eyes, _____(description)_____.
For the following property: 1. Photographs, negatives, sl
depicting juveniles including, but not limited to _____(nam
_____(and description)_____, undressed, nude and/or en
in sexual activity. 2. Magazines and/or movies depicting n
and/or sexual activity used to lower the inhibition of juven
3. Cameras and camera equipment including, but not limite
camera, enlargers, developing equipment, projectors. 4. I
of identification including but not limited to, utility bi
cancelled mail tending to identify the person or persor
control of the premise. 5. Address books, notations, reco

phone books tending to identify the juveniles.

Your affiant says that the facts in support of the issua of the search warrant are contained in the attached STATEMENT PROBABLE CAUSE which is incorporated as if fully set fo herein. Wherefore, your affiant prays that a search warrant issued for the seizure of said property or any part thereof, any time of the day or night, good cause therefore having b shown.

_____

Signature of Affiant

SUBSCRIBED AND SWORN TO BEFORE ME

This ____ day of _____, 19__.

_____

Signature of Magistrate

Judge of the _____ Court _____

Superior/Municipal Judicial District

Prepared with the assistance of, or reviewed by:

_____

Deputy

Your affiant is ___(name)___ .

I am a detective for the _____(location)_____, and have been employed for past _____ years. For the past _____ years, I h been assigned to the (Sexually Exploited Child Unit of Juvenile Division). I have been assigned to said (Juver

Division) for the past ___ years. I have participated in excess of ____ investigations involving the sexual exploitat of minors and children. I have personally conducted in excess ____ investigations resulting in felony charges of ch molestation and exploitation. I have participated in train and have read numerous publications dealing with the sex exploitation of children. I have talked to in excess of sexually exploited children and in excess of ___ admitted ch molesters. I have read and examined in excess of _____ lett between pedophiles describing their admitted sexual conduct w children and the manner in which they exploited said children sexual gratification. I have examined in excess of _____ photographs during these investigations which depict child engaged in sexual activities with themselves, with ot children, with animals and with adults. I have examined and r publications distributed from foreign countries and in the Uni States which describe in detail sexual activities between adu and children. I am familiar with the manner in which pedophi entice and encourage children to engage in sexual conduct and manner in which they exchange children with each other and m contact with other adults who engage in such conduct. From training and experience, I am aware that pedophiles have specific age preference for the juvenile victim and what when victim surpasses this age, the pedophile, no longer having sex interest in her or him, will seek out a younger juvenile to t the victim's place sexually. It has been my experience t

pedophiles will not stop or remain with one juvenile victim will constantly seek out new victims, using the same method seduction that had been successful for him. It has been personal experience and knowledge of pedophiles from otl officers that a pedophile has never stopped with one juven victim but has continued to molest juveniles whenever t opportunity arises. From interviewing and speaking w: pedophiles, both in an official capacity and during underco operations, I am aware that pedophiles will retain photograp magazines, movies and correspondence. This retention will s many years and the material is used by the pedophiles to lo the child's inhibitions and to relive the pedophile's experien From the prior investigations that I had conducted and f talking to other detectives involved in pedophilic investigati worldwide, I am aware of pedophiles retaining their pedophi and pornographic material in excess of twenty years, and th this material has been shown to juveniles to lower the victi inhibitions. I am aware that, depending upon the age of t juvenile victims, that pedophile will often furnish drugs a alcohol to lower their inhibitions. A pedophile will frequent seek out employment or volunteer his or her service to be clc to children and to use the authority over the children and victimize them. I have testified as an expert in both t (Municipal and Superior) Courts in the field of the sexual exploited child and have assisted the United States Attorney Office in formulating procedures in the federal prosecution f

the importation and non-commercial distribution of c
pornography. On March 25, 1983, _____(name)_____, __(address
went to Police Station and reported that _____(name)_____,
been molesting their son, _____(name)_____. Your affian
contacted by _____(name)_____ detectives and advised o
complaint. Your affiant contacted _____(name)_____, had n
been married and has always had an interest in boys. On M
24, 1983, _____(name)_____, told his father _____(name)_____,
sexual relations with him between the age of twelve to sixte
_____(name)_____, is aware that _____(name)_____is a ___(nam
school teacher and a Boy Scout Leader. In addition, he was a
Brother and a Parks Director. _____(name)_____, is frequ
with young boys, taking them on trips and having them ir
home. On March 25, 1983, your affiant interviewed _____(n
, stated that he is nineteen years old. When _____(name)_____
was twelve he would frequently visit _____(name)_____, a
residence, _____(address)_____. _____(name)_____
items such as trains and clay that was of interest to ___(n
While there _____(name)_____ would encourage _____(name)_____
be photographed and as this photography continued, _____(nam
was convinced to be photographed nude. _____(name)_____
began to molest _____(name)_____. The majority of
molestation being oral copulation. The victim stated that (n
did try to sodomize him on some occasions. _____(name)_____
stated that _____(name)_____, is a photographer and h
darkroom set up in the attic. Most of the photographs were

in black and white and _____(name)_____ observed photographs himself, nude and being orally copulated by _____(name)_____. _____(name)_____ stated that he also saw photographs of other m juveniles, taken inside _____(name)_____, house and th photographs depicted juveniles nude and engaged in sex activity. _____(name)_____, stated that _____(name)_____ movies depicting sexual activity and that _____(name)_____ wo show _____(name)_____ these movies to get him excited. (nam stated that _____(name)_____ kept many of the photographs un his bed or in other parts of his bedroom and in the attic w the darkroom equipment. Based upon your affiant's experien expertise and all of the information contained above, y affiant is of the conclusion that the property listed in warrant will be found at the locations to be searched for following reasons:

1. That the person listed is a pedophile,
2. That such persons do not destroy photographs and any ot reproductions depicting sexual conduct,
3. That such persons retain these materials for the purposes personal gratification, to gain the acceptance, confiden and trust of other pedophiles, to exchange such materi from other pedophiles, to receive monetary gains for t furnishing of such material, to ensure protection fr exposure to police authority from other persons.
4. That correspondence from other persons is kept with the s full allegiance.

5. That such persons gain a certain pride from the exhib: of such material.

6. That such materials are kept secure in residence, vehi storage facilities, and bank deposit boxes to pro themselves against seizure by police authorities, and

7. That all of the other materials requested for seizure identify other children being sexually exploited and o adults who are engaging in such exploitation.

Your affiant therefore says that there is probable and reasor cause to believe that items requested to be seized are i which tend to show that a felony has been committed. To Section _____ of the (Penal Code). Your affiant has reason cause to believe that grounds for the issuance of a se warrant exists as set forth in Section _____ of the (P Code), based upon the facts and the attachments.

C. AFFIDAVIT FOR SEARCH WARRANT - CHILD PORNOGRAPHY

(name) swears or affirms that he believes and has gc cause to believe that photographs and film projectors, mov machines, and various documents, including: diaries, phc records, maps, receipts, ledgers, letters of correspondence a other documents used for the purpose of permitting a facilitating the sexual exploitation of children, and t distribution of obscene matter are being kept and concealed by (name and location).

Said apartment is within an apartment building and entrance is located the 6th Door South from (street) that has the letter "F" next to the entranceway, with t building being made of red brick, two story structure witl basement, and flat roof. Said above building is located in (county, state). Affiant makes the above allegati on the basis of the fact that:

I. Affiant for a fact that: I, (name), an detective assigned to the vice branch of the (name) Police Department for the past fifteen months and ha investigated pornography and deviate sexual conduct.

II. On August 8, 1977, the (name) Police Departm received from (name) Police Department a brochi (see attached #1) concerning photography, conducted by (name and address). Included in the brochure we offerings concerning male homosexual activities includ masturbating and mutual male sex.

III. On June 16, 1978, Detective _____(name)_____ assign pornography investigations, interviewed _____(name)__ age seventeen years who advised _____(name)_____ he had approached by _____(name)_____ who had furnished ___(n sample photographs and had discussed the making of sex explicit films with _____(name)_____ as a partici Thereafter on June 17, 1978, _____(name)_____ ad Detective _____(name)_____ that he had been informed ɔ (name)_____ that sexually explicit films made by __(n were not marketed in _____(location)_____ but were se of state for distribution. _____(name)_____ further a ___(name)_____ that he could make extra money by mo at the rate of $5.00 an hour with clothes on, $10.00 a for sexually explicit photographs and $15.00 an hour f making of sexually explicit films.

IV. On September 19 and 20, 1978, _____(name and locatio was interviewed by Detective (name, sex offense branc (name)_____ Police Department who advised that she had among the personal effects of her son _____(name)_____. (D.O.B.) a series of seventeen photographs as well business card of _____(name)_____, copies of whic attached 2-19.

V. A review of the attachments reveals that they are p graphs of a young caucasian male removing underwea thereafter while in a nude condition, entering a smal of water, the foregoing series consisted of seven p

graphs. In addition the remaining ten photographs consi
of the same young white male also removing underwear th
after photographed nude in various positions within
interior of an apartment type dwelling.

VI. On September 25, 1978, during a surveillance of (n
___, Detective (name) observed (name)
be the operator of a 1973 Brown Mercury Comet.

VII. On May 1, 1979, I interviewed (name), a y
white male, (D.O.B.) who advised me that the follow
events occurred during the summer of 1978.

A). That he was engaged as a male model by (name)
for the purpose of fashion modeling followin
presentation to his mother by (name) tha
would be utilized as a model for fashion t
photography.

B). That in regards to this photography he was identi
as being fifteen years of age in a consent f
executed by his mother.

C). That thereafter (name) enticed him to
while nude at (name) apartment located
(name) by promising him and thereafter paying
the sum of $10.00 per hour for such service.

D). That during some of the nude photography sessions
(name) apartment, (name) also appe
in the nude and engaged in touching activity around
torso of (name).

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E). That as a part of the nude modeling, he was reque to strip nude by removing one article of clothing time and thereafter being placed in various positio

F). That on one occasion he was introduced to (nam last name unknown, described by (name) homosexual. Thereafter, during a nude modeling ses at (name) residence arranged by (nam (name) last name unknown displayed to numerous photographs of nude males. (name) continued that (name) requested him to at penial erection for purposes of additional photogra

G). That as a result of the nude photography sessions (name) was remunerated with checks bearing logo "Filmmakers" and as well was furnished copie prints of himself appearing in the nude.

H). That (name) maintained complete dark facilities at his apartment including developing t lights and an enlarger. (name) conti that he was personally handed folios of correspond related to (name) photo activities and continued that such folios were maintained in kit cabinets as well as a desk located in an entryway (name) apartment.

I). That on one occasion in August 1978 he was transp in a brown Comet automobile regularly used by (name) to a park located in (name

County. (name) continued that he directed again to disrobe in a piecemeal manner enter a small body of water. (name) adv that he was photographed and while nude, by (name)

J). That (name) suggested to him that they v a Y.M.C.A. for the purpose of additional photograph

K). That during the nude photo sessions (name) solicited his participation in sexually expl homosexual and heterosexual motion pictures.

L). That in March, 1979 he was again contacted by (name) who reconfirmed the earlier prop concerning sexually explicit photography and offered him $15.00 an hour for his participation.

VIII. On May 1, 1979, I spoke with (name). (name states that he had obtained from discarded wastepape package of papers relating to "Filmakers" attached correspondence directed to (name). The foreg papers were provided to the affiant and are attachments thru 23. (name) verified that (name) currently a resident at (location).

IX. Thereafter the papers were reviewed and revealed a dupli copy of a check drawn on the (name) National bearing the logo "Filmakers." In addition was a note-o- dated March 28, 1979, addressed to (name), as as two pages of handwritten notes containing words "Ca Res Rm at Y" as well as "Model Session 1 Hour. $5.00 E

my bed. . ."

X. On this date I spoke with _____(name)_____ the wife of individual mentioned above who advised on April 27, 1 she observed a young white male exit _____(name)_____ ca brown 1973 Comet and enter the apartment building with _____(name)_____.

XI. On May 1, 1979, I observed a 1973 brown Mercury Comet pa in front of the apartment building where _____(name)_____ resides.

XII. Affiant for a fact states that: I, _____(name)_____, b upon my experience in past investigations related in t area, and based upon numerous search warrants condu personally or with my assistance, I know that persons distribute or deal in pornography maintain business reco checks, receipts, correspondence, invoices, and account records reflecting orders, sales, payments and distribu of sexually explicit materials for distribution.

Based on my experience, I believe that presently conce at _____(location)_____ are the previously set forth photogra and or picture film, projectors, movie machines, receip ledgers, letters of correspondence, and other documents used the purpose of permitting and facilitating sexual exploitatio children and the distribution of obscene matter. Search include but not limited to all rooms and any passageways which they may open, all furnishings, cabinets, close containers, desks and drawers contained therein: spec

compartments in floors/walls and the personal property of per
controlling the premises. To include all other areas of
premises where photographs and other above described arti
could be kept and concealed.

D. AFFIDAVIT FOR SEARCH WARRANT - OBSCENITY

(name) - swears or affirms that he believes and good cause to believe: From my investigation I learned reliable persons the following facts and attending circumsta that: On January 20, 1986, at approximately 1:00 p.m., my and (name) entered (store name and location). observed a white, male, later identified as (name) sitting behind a display counter. I looked at the movies ir display case and bought a VHS video entitled Biker Slave Gi The front of the box showed a bound female lying on the fl next to a male crouched down next to her with some type of st The paragraph on the back of the box gave a synopsis of storyline including nipple torture and fisting, the ac shoving a human fist all the way into the vagina or anu another.

We took the video back to the vice office at (locat and viewed this same video. The video opens with the t Biker Slave Girls against a black background. The first s opens with a white female putting a videotape into a VCR watching it on TV. This video depicts a white male perfor intercourse on a white female while she is bent over a table.

The scene switches back to the female who put the videc on, lying on her bed fondling her breast and masturbating. opens a box containing a set of two round metal balls, comm referred to as ben wa balls, and inserts them into her vagina starts masturbating again.

The scene switches back and forth from the television sc to the female on the bed.

Another female enters the room and they both begin to w the television while the first female starts talking abo "guy" she had previously been with.

The scene changes to a male who opens a matchbook c which has printing on the inside cover that says "I have coc - I want your body."

The next scene shows the female being handcuffed and get onto the back of a motorcycle behind the male.

They ride along until their destination is reached. male and female get off the motorcycle and the female, s handcuffed, stands on some type of platform, the male tells female to take her clothes off and he then starts fondling breasts. He then starts kissing her buttocks.

During the course of this particular scene, the male exp the female's vagina and inserts his fingers into her vag This continues until the female starts masturbating eventually reaches climax.

The scene changes to the male nailing the handcuffs female is wearing to a beam above her head. The male runs claw hammer over the female's breasts and vagina. The fe kicks the hammer out of the male's hand. The male slaps female and tears her underwear off. He starts kissing her then performs cunnilingus. The male tells the female s enjoying it too much, takes her out to his motorcycle,

handcuffs her to the wheel. At this point, the male attempts force the female to perform fellatio. She refuses. The m gets what appears to be a cat-o-nine tails and starts whipp the female across the back and buttocks.

The scene changes to the female, who has been released f the motorcycle, performing fellatio. The male is now wearin pair of black leather chaps exposing his genital area.

The male has the female turn over onto her knees while puts a leather ring onto his penis. The male begins a intercourse with the female who is crying and in apparent pa This continues for several minutes until the male pulls his pe out and ejaculates onto the back of the female.

The scene changes back to the two females on the bed kiss and fondling each other.

The next scene has both females nude inserting double-headed dildo into each other.

The scene changes again to both females performi cunnilingus on each other.

The next scene shows one female asleep while the oth female turns out the light. The movie ends.

The retail merchant's certificate is in the name of (name) from previous investigations, it has been discove that (name) is, in fact, the owner of said premises business.

The above events occurred in (county & state)

E. SEARCH WARRANT EXAMPLE

On _____, the affiant met Detective (name) learned that Detective (name) has b employed as a Police Officer by the Metropolitan Pol Department, of the (location) for the past 18 yea For the past 15 years, Detective (name) has b assigned to the Sex Offense Branch, Criminal Investigati Division of the Metropolitan Police Department. During tenure of his experience in the Sex Offense Branch, Detective (name) has participated in more than 1,500 investigat involving the sexual exploitation of minors and childr Detective (name) has personally conducted more than investigations resulting in the arrest of defendants on fe charges of Child Molestation and Exploitation. Detective (name) has received extensive training and has read numer publications dealing with the sexual exploitation of childr Detective (name) has interviewed more than 2, sexually exploited children, and more than 1,300 admitted ch molesters. Further, Detective (name) has read examined more than 1,000 letters exchanged between pedophil describing their admitted sexual conduct with respect children, and the manner in which such offenders exploited s children for the purpose of sexual gratification. Furth Detective (name) has examined more than 2, photographs, during the course of his experience, wh photographs depict children engaged in sexual activities w

fenders, with other children, with animals, and with adults. tective (name) is familiar with the manner in which dophiles entice and encourage children to engage in sexual nduct, and the manner in which they exchange children with each her and make contact with other adults who engage in such nduct.

On (date) Detective (name) whose experience in e investigation of the activities of pedophiles has been herein forth, provided the affiant with certain of his observations garding pedophiles, as based upon his personal experiences in e investigation of persons who exhibit pedophilic behavior. tective (name) related the following information:

1) Pedophiles are persons whose sexual objects are children. They receive sexual gratification and satisfaction from actual physical contact with children, as well as from fantasy involving the use of pictures or other photographic or art media.

2) Pedophiles collect sexually explicit materials, including but not limited to photographs, magazines, motion pictures, video tapes, books, and photographic slides, which materials are used for personal sexual gratification.

3) Pedophiles employ sexually explicit materials, including the types of material listed above, for the purposes of lowering the inhibitions of children, and sexually stimulating both themselves and children, as

well as for demonstrating desired sexual acts bef during, and after sexual activity with children.

4) Pedophiles rarely, if ever, dispose of sexually ex cit material, particulary when it is used in seduction of victims.

5) Pedophiles frequently correspond and/or meet with another for the purpose of sharing information identities of victims, as a means of gaining sta trust, acceptance and psychological support.

6) Pedophiles rarely destroy correspondence received other pedophiles.

7) Pedophiles engage in activities and/or gravitate programs which will be of interest to the type of c victims they desire to attract, which activities an programs will provide the pedophile with easy acces children.

8) Pedophiles obtain, collect, and maintain photograph the children with whom they are or have been invol Such photographs may depict children fully clothed, various stages of undress, or totally nude. Pedoph rarely, if ever, dispose of such photographs, w photographs are considered by pedophile to be treas possessions.

9) Pedophiles employ such photos, as described in Ite as a means of reliving actual encounters an fantasies with the depicted children. Pedophiles

employ such photographs as a means of ga
acceptance, status, trust, and psychological su
from other pedophiles.

10) Pedophiles remove pictures from magazines, newspa
books, and other publications, around which photog
pedophiles fabricate fantasy relationships.

11) Pedophiles collect books, magazines, newspapers,
other writings on the subject of adult-child se
activities, which writings pedophiles maintai
justify an understanding of their specific fee
towards children, as well as their illicit behavio
desires.

12) Pedophiles, who are generally afraid of discov
often maintain and operate their own photogra
production and reproduction equipment, including
not limited to photocopy equipment, "instant" p
equipment, video equipment, and photo proces
equipment.

13) Pedophiles exercise great caution to conceal
protect their collections of illicit materials
discovery, theft, and damage.

14) Pedophiles frequently collect and maintain list
names, addresses, and phone numbers of persons who
similar sexual interests.

15) Pedophiles frequently retain the names of children
whom they currently have or formerly have had se

contact.

16) Pedophiles frequently employ sexual aids in the se tion of their victims. These sexual aids, suc dildos, serve as a means of exciting and arousing curiosity of the pedophile's victims.

17) Pedophiles frequently maintain diaries of their se encounters with children, which accounts are used means of reliving sexual encounters with children.

18) Pedophiles frequently collect and maintain bo magazines, articles, and other writings on the sub of sexual activity. Such books and materials may on the topic of human sexuality, sexual educatio consist of instructional material. Such books materials are used by the pedophile as means seduction of the victim by arousing curiosity, de strating the propriety of acts desired, explaining demonstrating what the pedophile desires from victim, and a means of sexual arousal on the part the pedophile, particulary when naked children depicted within the materials.

19) Pedophiles frequently employ alcohol and narcotic d to induce a child to a particular location, such as pedophile's home, and to lower the child's inhibit with respect to sexual involvement with the pedoph

Chapter 11

Witnesses Testifying Before the Commission

The Commission wishes to express its gratitude appreciation to the following people who have appeared in pe before us and rendered testimony. The information these pe have provided the Commission is invaluable and serves substantial data base for this report.

Washington, D.C. June 19, 1985.

Lois H. Herrington, Assistant Attorney General for Jus Programs in the Department of Justice.

Kenneth Lanning, Supervisory Special Agent with the Fed Bureau of Investigation assigned to the behavi sciences unit at Quantico, Virginia. He has involved in the study of deviant sex crimes and se victimization since 1972.

David, 17 years old, participated in Straight, Incorpora a drug rehabilitation program, and the victim of se abuse.

Senator Mitch McConnell, Kentucky. Senator McConnell se on the Senate Judiciary Committee, the Ser Agriculture Committee and the Senate Select Commi on Intelligence. He has served as chairman of Kentucky Task Force on Exploited and Missing Child:

Lisa, 21 years old, a resident of Baltimore. She was on nude dancer and has been involved in video pornogra

Representative Frank R. Wolf, 10th District of Virgi serves on the Appropriations Committee and the H Select Committee on Children, Youth and Families.

Sharon, formerly married to a medical professional who i avid consumer of pornography.

Dr. Dennis M. Harrison, psychologist who practices ir area of forensic and clinical psychology. He has engaged in private practice for eleven years.

Senator Arlen Specter, Pennsylvania, is chairman of

Subcommittee on Juvenile Justice of the Senate Judiciary Committee and is the co-chairman of the Senate Children's Caucus.

ıator Jeramiah Denton, Alabama, is a member of the Committee on Veterans' Affairs, the Armed Services Committee and the Judiciary Committee. He serves as chairman for the Subcommittee on Terrorism.

:ricia Foscato, social worker and coordinator of a sex abuse prevention project for St. Anne's Institute in Albany, New York. She also maintains a private practice in psychotherapy for adolescents and young adults.

nie, 31, mother of two daughters. She has been sexually abused by each of her two husbands who consumed pornography.

helle, 11, sexually abused by her father and her step-father who were pornography consumers.

bie, 13, sexually abused by her father and her stepfather were pornography consumers.

rles R. Clauson, Chief Postal Inspector, United States Postal Inspection Service.

k Swagerty, Assistant Chief Postal Inspector, United States Postal Inspection Service.

iel Harrington, General Manager, United States Postal Inspection Service.

iel Mihalko, Postal Inspector, New York, United States Postal Inspection Service.

f, 20 years old, was sexually molested and is currently a participant in Straight, Incorporated, a drug rehabilitation program.

ah Wynter, former prostitute and victim of sexual abuse who was forced to participate in pornographic films.

chen Leidholt, a founder of Women Against Pornography.

erie Heller, victim of sexual abuse as a child. She is currently affiliated with the organization, Victims of Incest Can Emerge as Survivors (VOICES).

dy Stroud, journalist and has been chief diplomatic correspondent for Cable News Network and a concerned

parent.

Reverend Jeff Ling, Associate Pastor at New Cove Fellowship in Manassas, Virginia, serves as consu to the Parent's Music Resource Center.

Dr. Harry N. Hollis, Jr., Associate Executive Directo Family and Special Moral Concerns of the Christian Commission of the Southern Baptist Convention.

Washington, D.C. June 20, 1985.

Dr. C. Everett Koop, Surgeon General of the United St Public Health Service in the Department of Healtl Human Services.

Bill, convicted of the sexual molestation of two adole females.

Ann Wolbert Burgess, Ph.D., University of Pennsylv School of Nursing and the Department of Health Hospitals in Boston, Massachusetts.

John, victim of child sex ring in Boston, Massachusetts

Tom, brother of child sex ring victim.

Dr. Robert Prentke, Chief Psychologist and Directo Research at the Massachusetts treatment cente sexually dangerous persons.

Judge William H. Webster, Director of the Federal Bure Investigation.

Dennis DeBord, Investigator with the vice section of Fairfax County, Virginia Police Department.

Patricia Powers, Psychiatric Nurse Clinician and Direct an in-processing unit of Psychiatric patients large private hospital.

Betty Berneman, News Director for a major radio sta WWDB, in Philadelphia.

Reverend Richard C. Halverson, Chaplain of the United S Senate.

Ingrid Horton, President of Society's League Ag Molestation in Washington, D.C., and Baltir Maryland.

Barry Lynn, Legislative Counsel for the American Ci Liberties Union.

Isabelle Pinzler, Director of the Women's Rights Project the American Civil Liberties Union Foundation.

Lillian BeVier, the Dougherty Foundation Professor of Law the University of Virginia.

Senator Dennis DeConcini, Arizona, a member of the Judici Committee and ranking member of the Constitut Subcommittee.

Senator William V. Roth, Delaware, Chairman of the Commit on Governmental Affairs and the Permanent Committee Investigations.

Cora Lynn Goldsborough, Psychologist specializing in treatment of sexual abuse.

Susan, victim of sexual abuse.

Richard W. Miller, Associate Commissioner of the Uni States Customs Service.

John Forbes, Special Agent, Customs Attache Office in Bo Germany.

Townsend Hoopes, President of the Association of Amer Publishers.

George, former psychiatrist convicted of sexually molest three juvenile patients.

Deborah Chalfie, District of Columbia Feminists Aga Pornography.

Martha Langelan, District of Columbia Feminists Aga Pornography.

Dr. Fern Waterman, family physician specializing psychiatry with an emphasis on the psychotheraphy children in high crime or high stress communities.

Chicago, Illinois July 24, 1985

Thomas Bohling, Detective, Chicago Police Departme organized crime division, vice control section.

George Bizek, Lieutenant, Chicago Police Department.

Diann, Homemaker, Minnesota, married to an avid consumer of pornography.

Donald Smith, Sergeant, Los Angeles County Police Department, Supervisory Investigator of Pornography Unit.

Duncan McDonald, vice-president of Citicorp and general counsel for retail services division.

Paul McGeady, General Counsel for Morality in Media and Director of the National Obscenity Law Center.

Harold Mills, Lieutenant, Cincinnati, Ohio Police Department, Commander of Vice Section.

Jack O'Malley, Special Agent, United States Customs Service.

Andrew P. Weisner, Lieutenant, Allentown, Pennsylvania Police Department, Vice-President of Eastern States Vice Investigators Association.

David Techter, member, Lewis Carroll Collectors Guild.

Evelyn, Mother and homemaker, Wisconsin formerly married to an avid consumer of pornography.

Geoffrey Stone, Harry Kalven, Jr., Professor of Law at the University of Chicago Law School.

Beverly Lynch, President, American Library Association.

Joan Weber, Assistant United States Attorney for the Southern District of California in San Diego.

Jane Whicher, Staff Counsel, American Civil Liberties Union of Illinois.

Thomas Blee, Attorney, a member of Citizens for Decency Through Law, Indianiapolis, Indiana.

Cass Sunstein, Professor, University of Chicago Law School.

Pam Dorres, Chicago Feminist Ad Hoc Pornography Group.

Nettie Sabin, Feminist Community Activist in Chicago, Illinois.

Peter Petruzzellis, Sergeant, Toronto, Canada Metropolitan Police Department.

Robert Sklodowski, Judge, Criminal Division of the Circuit

Court of Cook County, Illinois.

Jeremy Margolis, Inspector General of the State of Illino

Brenda Miller Mackillop, former Playboy Bunny.

Brad Curl, President, National Christian Organization.

Chicago, Illinois July 25, 1985.

Burton Joseph, Special Counsel with Playboy Enterpris Incorporated.

Frederick J. Scullin, United States Attorney for Northern District of New York.

Bernard J. Malone, United States Attorney for the North District of New York in Albany.

John Ruberti, Inspector, United States Postal Service.

Jack Swagerty, Assistant Chief Postal Inspector for Crimi Investigation.

Raymond Oldham, Regional Chief Postal Inspector for Central Region.

Dr. Frank Osanka, President of behavioral consultants therapist, Naperville, Illinois.

Mary Steinman, sexual abuse victim.

Nan Hunter, Founder of the Feminist Anticensorship T Force.

Steve Goldsmith, District Attorney, Indianapolis, Indian

Catherine MacKinnon, Professor of Law, University Minnesota and former Visting Professor of Law at University of California at Los Angeles.

Terese Stanton, Co-Founder of the Pornography Resou Center in Minneapolis, Minnesota.

Hinson McAuliffe, former Solicitor General for Ful County, Georgia.

John Dugan, Detective, Buffalo, New York Police Departmen

Larry Parrish, Attorney, former Assistant United Sta

Attorney from the Western District of Tenness Memphis.

H. Robert Showers, Assistant United States Attorney fo Eastern District of North Carolina in Raleigh.

Paul McCommon, Legal Counsel for Citizens for De Through Law in Phoenix, Arizona.

James S. Reynolds, Principal Deputy Chief of the Ge Litigation and Legal Advice section of the Cri Division, United States Department of Justice.

Michael G. Krzewinski, Detective, Milwaukee, Wisc Police Department.

Houston, Texas September 11, 1985.

Edward Donnerstein, Professor of Communication Arts a University of Wisconsin at Madison.

W. D. Brown, Sergeant, Houston, Texas Police Depar Obscenity Division of the Vice Squad.

S. R. Andrews, Houston, Texas Police Department, Vice S

D. E. Elder, Houston, Texas Police Department, Vice Squ

W. W. Bollier, Houston, Texas Police Department Vice Sq

Linda, resident of Texas, formerly married to avid con of pornography.

Neil Malamuth, Professor and Chair of the Communica Studies Program at University of California a Angeles.

Jennings Bryant, Professor and Chair of the Departme Radio and Television, School of Communications a University of Houston.

Dr. Richard Green, Professor, Department of Psychiatr Behavioral Science at the State University of Nev at Stony Brook.

Wendy Stock, Assistant Professor at Texas A & M Unive and Sex therapist.

Don Byrne, Professor and Chairman of the Departme Psychology at the State University of New Yo

Albany.

Kathryn Kelley, Associate Professor of Psychology at State University of New York at Albany.

Donald Mosher, Professor of Psychology at the University Connecticut.

Diana Russell, Professor of Sociology, Mills Colle Oakland, California.

Victor Cline, Professor of Clinical Psychology at University of Utah.

Paul Abramson, Associate Professor of Psychology University of California at Los Angeles.

Houston, Texas September 12, 1985.

John Court, Clinical Psychologist and Director of Spect Psychological Counseling Center.

John Money, Professor of Medical Psychology and Pediatri The John Hopkins University and Hospital.

Diana Scully, Associate Professor, Department of Sociol and Anthropology at Virginia Commonwealth University

Dan, former Consumer of Pornography.

Dr. Gene Abel, Professor of Psychiatry, Emory Universi Atlanta, Georgia.

William Marshall, Professor, Department of Psychology Queens University in Ontario, Canada.

Dr. Mary Calderone Co-Founder, Sex Information and Educat Council of the United States.

Ann Welbourne-Moglia, Executive Director of the Information and Education Council of the United Stat

Larry Baron, Lecturer, Department of Sociology at Y University.

Dr. C. A. Tripp, New York Psychotherapist and contributor Forum magazine.

Los Angeles, California October 16, 1985.

James Docherty, Captain, Los Angeles Police Depar
Commanding Officer of the Administrative Vice Div

Robert Peters, Detective, Los Angeles Police Depar
Administrative Vice Division.

William Roberts, Detective, Los Angeles Police Departm

Mary, Actress and performer in pornography industry.

George, performer in pornography industry.

Chris, performer in pornography industry.

Ken Gillingham, Detective, Kentucky State Police, Sp
Investigations Unit.

Randall Gibbs, Detective, Kentucky State Police, Sp
Investigations Unit.

John Weston, Attorney, Adult Film Association of Ameri

Dr. Ted McIlvenna, President, Institute for Advanced
of Human Sexuality.

Dr. Loretta Haroian, Dean of Professional Studies, Inst
for Advanced Study of Human Sexuality.

Brent D. Ward, United States Attorney, Utah.

William Dunkle, General Manager for the Information Se
Business Unit of Pacific Bell.

Judith Trevillian, Citizens Against Pornography, Li
Michigan.

Brenda Fox, Vice-President and General Counsel, Nat
Cable Television Association.

James J. Clancy, Attorney, Citizens for Decency Throug

Thomas R. Herwitz, Legal Assistant to the Chairman o
Federal Communications Commission.

Teresa L. Hillman, Parents Opposed To Pacific B
Exploitation of Children.

Monica Hill, Los Angeles Radical Women.

William Margold, actor, agent, critic, director

scriptwriter of sexually explicit films.

Los Angeles, California October 17, 1985.

Jack Valenti, President and Chief Executive Officer of t
Motion Picture Association of America.

Michael Antonovich, member, Los Angeles County Board
Supervisors.

Charles Sullivan, Special Agent, Federal Bureau
Investigation.

Catherine Goodwin, Assistant United States Attorne
District of Colorado in Denver.

Dibri Beavers, Former Editor of Cleveland-based Connecti
Magazines.

Miki Garcia, Playboy Playmate, January 1973, former direct
of Playmate Promotions.

Caryl Cid, Special Agent, Federal Bureau of Investigation.

Brian Cid, Special Agent, Federal Bureau of Investigation.

Donald E. Wildmon, Executive Director, National Federati
for Decency.

Joseph Haggerty, Detective, Washington, D.C., Metropolit
Police Department, Vice Investigation.

Charles Dawson, Founder and Chairman, Fantasy Unrestrict
Network.

G. Albert Howenstein, Executive Director of the Governo
Office of Criminal Justice Planning for California.

Margaret Prescod, member, United States Prostitu
Collective.

Priscilla Alexander, member, COYOTE, National Task Force
Prostitution

Matthew Tekulskeywell, American Society of Journalists a
Authors, Incorporated.

Angus McKenzie, National Writers Union.

Dennis Sobin, President, First Amendment Consumer and Tra
Society.

Al Goldstein, President, Milky Way Production, Incorpora publisher, Screw Magazine.

Miami Florida November 20, 1985.

William Dworin, Detective, Los Angeles Police Departme Sexually Exploited Child Unit.

Harry James, convicted child pornography producer distributor.

Mike Berish, Sergeant, Miami Police Department, Vice Unit

Laura and James Brennan, Parents of two and a half year daughter who was sexually exploited at a pre-school,

Paul Hartman, Inspector, United States Postal Service.

Kenneth J. Herrmann, Jr., President, Defense for Chil International.

John Michael Jupp, Executive Director, Defense for C International.

Toby Tyler, Deputy Sheriff, San Bernadino, California.

Richard Lane, Trustee, American Sunbathers Association.

Dr. Roland Summit, Psychiatrist and founder of the Angeles County Child Sexual Abuse Project.

Robert Northrup, Inspector, United States Postal Service

Kenneth Lanning, Special Agent, Federal Bureau Investigation.

Dr. Lore Stone, Psychotherapist, Los Angeles, California

William Phelps, Detective, Newark, Ohio, Police Departme

Miami Florida November 21, 1985.

Tom Rodgers, Lieutenant, Indianapolis, Indiana, Pol Department.

Garrett Gilbert, child victim of sexual exploitation thr the use of pornography.

Judy Gilbert, mother of child exploited through the use

pornography.

Paul Der Ohannesian, Assistant District Attorney, Al County, New York.

Barbara Hattemer, Coordinator, Florida Coalition for C Cable.

Dennis Shaw, Lieutenant, Metro Dade Police Department.

William DeHart, Former consumer of child pornography.

Ken Elsesser, Inspector, United States Postal Service.

Joyce Karlin, Assistant United States Attorney, Los Ange

Dr. Simon Miranda, Clinical Psychologist Miami, Florida.

Larry Madigan, Former consumer of pornography.

William Cassidy, Law Director, North Ridgeville, Ohio.

Dr. Ulrich Schoettle, Psychiatrist and Clinical Professo the University of Washington in Seattle.

Judith Reisman, Research Professor, School of Educati American University, Washington, D.C.

Al Danna, Detective, Baltimore, Maryland Police Departm Criminal Investigation Division, Sex Offense Unit.

New York, New York January 21, 1986.

James D. Harmon, Jr., Executive Director and Chief Cou of the President's Commission on Organized Crime.

Homer E. Young, retired Special Agent with the Fede Bureau of Investigation, specializing in investiga pornography and organized crime.

Linda Marchiano, principal performer in the film "D Throat."

William Kelly, retired Special Agent with the Federal Bu of Investigation and special consultant for Bro County, Florida, Sheriff's Office.

Edward Chapman, Detective with the Arlington County Pol Department assigned to the sex offense unit detailed to the staff of the Attorney Gener

Commission on Pornography.

Christopher Mega, New York State Senator and Chairman o: New York Senate Crime and Correction Committee.

Thomas Bohling, Detective with the Chicago, Illinois, P(Department.

Marilyn B. Sommers, Administrative and Technical Ser\ manager for the Middle Atlantic Great Lakes Organ Crime Law Enforcement Network (MAGLOCLEN).

Carl Shoffler, Detective with the Washington, D Metropolitan Police Department assigned to organized crime section of the Intelligence Divisic

Ledra Brady, Supervisor of the Analytical section of intelligence division of the Washington, D. Metropolitan Police Department.

Bruce Taylor, General Counsel for Citizens for Dec Through Law.

Jerome Piazza, Captain and Commanding Officer for Manhattan South Public Morals Division of the New City Police Department.

New York, New York January 22, 1986

Marcella Cohen, Special Attorney in the Criminal Divisic the United States Department of Justice, organ crime and racketeering section, assigned to the St Force in Miami, Florida.

Larry Schuchman, investigator with the Orlando, Flo Police Department, detailed to the task forc(narcotics, vice and racketeering.

Sam Currin, United States Attorney for the Eastern Dist of North Carolina in Raleigh.

H. Robert Showers, Assistant United States Attorney Special Prosecutor for the Eastern District of N Carolina in Raleigh.

William Johnson, Captain and Commander of the Major C: Investigation Division of the Fayetteville, N(Carolina, Police Department.

Andrea Dworkin, author of Men Possessing Women and co-au

of legislation recognizing pornography as a viola
of the civil rights of women.

Colleen Dewhurst, Performing artist and vice president
the Actor's Equity Association.

Heather Grant Florence, vice-president and general cou
for Bantam Books, Incorporated, and chairperson of
Freedom to Read Committee of the Association
American Publishing, Incorporated.

J.D. Landis, Bantam Book author.

Patrick F. Fagan, Executive Vice-President of the F
Research and Education Foundation.

Most Reverend Edward Egan, Auxiliary Bishop of
Archdiocese of New York and the Vicar for Education.

Ardeth Kapp, President of the Young Women Program, Ch
Jesus Christ of Latter Day Saints.

Harriet Pilpel, General Counsel for Planned Parent
Foundation of America, Incorporated, and Gen
Counsel to the American Civil Liberties Union.

Alan Dershowitz, Professor of Law at Harvard Law School
Columnist with Penthouse Magazine.

Dottie Meyer, former Penthouse model and coordin
involved with circulation and Pet productions.

Loring Mandel, Writer, representing the Writers Guil
America, East, Incorporated.

Corrine Jacker, Representative of Writers Guild of Amer
East, Incorporated.

June Griffin, Christian Missionary with the Cumber
Missionary Society.

David Cohen, Executive Officer of the Academic Fre
Committee of the American Civil Liberties Union
member of the New York Library Association.

Father Val J. Peter, Executive Director of Boys Town.

Lane Sunderland, Associate Professor of Political Scienc
Knox College specializing in Constitutional Law
Political theory.

Daniel Cohen, Chairman of the Jewish Community Aff

Committee of the Philadelphia chapter of the Amer
Civil Liberties Union.

Reverend Stephen J. Mathew, member of the interfa
coalition of the Philadelphia chapter of the Ameri
Jewish Committee.

Jeremiah Gutman, Past president of the New York Ci
Liberties Union and vice president of the Ameri
Civil Liberties Union.

Jerry Kirk, Pastor of the College Hill Presbyterian Ch
in Cincinnati, Ohio, founder of Citizens Concer
about Community Values in Cincinnati, and presidem
the National Coalition Against Pornography.

NOTE: All biographical information is current as of the date
the individual's testimony.

Chapter 12

Witnesses Invited But Unable to Appear Before the Commission

The Commission would like to acknowledge the follc persons who were extended a formal invitation to perso appear during a scheduled hearing, but were unable to do Many other people were informally invited, but declined befc written invitation was issued.

William von Raab, Commissioner, United States Cust Service

Albert Bandura, Standford University

Senator William L. Armstrong, Colorado

Senator John Stennis, Mississippi

Representative Ralph M. Hall, Fourth District, Texas

Senator Paula Hawkins, Florida

Senator Edward Zorinsky, Nebraska

* Senator Paul S. Trible, Virginia

Robert Pitler, New York District Attorney

Robert Reynolds, District Attorney, Albany,

Georgia Tim O'Neal, Attorney

Dennis Nixdorf, President, Western States Vice Investiga Association Incorporated

Charles J. Cooper, Deputy Assistant Attorney General C Rights Division, United States Department of Justic

Marty Reddish, Northwestern University School of Law

* Jeanette Boone

Rudolph W. Giuliani, United States Attorney, Soutl District of New York

Raymond J. Dearie, United States Attorney, Eastern Dis
of New York

Richard C. Stiener, INTERPOL

Jack E. Yelverton, Executive Director, National Dis
Attorney's Association

C. Raymond Marvin, Executive Director, National Associ
of Attorneys General

Gerald Robertson, President, Eastern States
Investigators Association, Incorporated

Douglas Paluschak, Attorney

Sherman Block, Sheriff, Los Angeles County

Danny Goldberg, Gold Mountain Records

Jack Chapman, Detective, Las Vegas Metropolitan Po
Department

Kay Parker, Cabellero Control Corporation

Gloria Leonard, High Society Magazine

* Candida Royalle, FEMME Productions

Mickie Granberg, Video Software Dealers Association

* Seth Goldstein, Inspector, Office of the District Attor
Santa Clara County, California

Dr. Judianne Densen-Gerber

James A. Baker III, Secretary of the Treasury

G. A. Dexter, Inspector, United States Postal Service

* Tim O'Hara, Rene Guyon Society

* Dr. D. James Kennedy, Fort Lauderdale, Florida

Richard H. Bloser, Director of Film Security, Motion Pic
Association of America

Charles Gurtsack, Lieutenant, Organized Crime Fi
Intelligence Unit, Cleveland, Ohio Police Departmen

Richard Phinney, Security Director, Western States-

Services

Robert Coles, Harvard University Health Services

Richard M. McIntosh, Lieutenant, Cleveland, Ohio Po Department

Dr. James Q. Wilson, Harvard University

Dr. Christopher Lasch

Norman Lear

Bridgette Berger, Professor, Sociology Department, Welle College

Dr. Bruno Bettleheim

Catherine R. Stimpson, Acting Dean, Graduate School - Brunswick

Ernest Van Den Haag, National Review

David E. Warren, Department of the Treasury, United St Customs Service, Philadelphia, Pennsylvania

Edward Gallen, Department of the Treasury, United St Customs Service, Philadelphia, Pennsylvania

Marie Winn

Erick Homburger Erikson

* Provided a written statement

Chapter 13

Persons Submitting Written Statements

The Commission would like to express its sincere appre
tion to the following people for their written statements
recognize the submission of other additional information.
testimony was given substantial consideration and the time
effort which went into such submissions was clearly evident.
Commission regrets that it did not have the resources avail
to hear each person as they appeared.

Karen

Rex A. Cuff

William B. Randolf, Vice-President, Buckingham Chapter,
Prison Atheist League of America.

Senator Paul S. Trible, Virginia

Debbie H. C. Williamson

Don J. Lewittes, Ph.D.

Anonymous, September 9, 1985

Jeanne Fleming, Ph.D.

Melvin Anchell, M.D.

Ann, October 21, 1985

Jane Doe

Grant Henderick

Anonymous

Eileen McGinley

Florida Coalition for Clean Cable

Candida Royalle, FEMME Productions

Rene Guyon Society

Los Angeles County Commission for Women

John Dentinger

Dr. D. James Kennedy

Anonymous, October 10, 1985

Anonymous

Don Miller

Susan Miller

Anonymous

Gayla Deathrage

James P. Check

Brad Blackmun

Dale Young

Deborah Sheldon

Richard and Deborah Podgurski

Anonymous, October 25, 1985

Wallace P. Hay

Fedenic Schroeder

Marion Douglas

Anonymous

Ruth Harmen/Crew

Tim O'Hara

Seth Goldstein

Maxwell J. Lillienstein, Counsel, American Booksell Association

Nicholas D'Antonio, Bishop, Archdiocese of New Orleans

Philip M. Hannon, Archbishop of New Orleans

R. Donald Shafer, General Secretary, Brothers in Ch
Church, Upland, California

Victor H. Balhe, Bishop, Crookston, Minnesota

James T. Draper, Jr.

Robert M. Blackburn, Resident Bishop, United Metho
Church, Richmond, Virginia

The Right Reverand Peter E. Gillquist, The Evangel
Orthodox Church, Goleta, California

Paul A. Tanner, Executive Secretary, Executive Cou
Church of God, Anderson, Indiana

Most Reverand John L. May, Archbishop of St. Louis, Miss

William K. Cober, Executive Director, National Ministr
American Baptist Home Mission Society

Most Reverend Timothy J. Harrington, Bishop of Worces
Massachusetts

Ernest E. Mosley, Executive Director, Illinois Baptist S
Association

Karen De Crow, Attorney-at-Law, Jamesville, New York

Geraldine Darrow

E. Harold Jansen, Bishop, Eastern District, The Amer
Luthern Church

Lloyd Klein, Department of Sociology, Brooklyn College

Patricia Gmerek, New York State Pro-Family Coalition

Joan McCain,

Barbara Hattemer, Florida Coalition for Clean Cable

Edward Donnerstein, Professor, University of Wiscor
Madison

Roger W. Libby

James Alleva, Assistant Director of the Morality in M
National Obscenity Law Center

Anonymous, Madison, Wisconsin

Martin S. Raffel, Executive Director, Pennsylvania Region of the American Jewish Congress

W. Thomas Larkin, Bishop of St. Petersburg, Florida

Robert E. Craig President, Union University, Jackson, Tennessee

Sidney Westbrook, South Central District, International Church of The Foursquare Gospel

Edward A. McCarthy, Archbishop of Miami, Florida

Most Reverend L. T. Matthiesen, Bishop of Amarillo, Texas

Sean A. Fanelli, President, Nassau Community College

Bill Weber, Pastor, Prestonwood Baptist Church

Jeffery Smith, American National News Service

Eber B. Dourte, Executive Director, Board For Brotherhood Concerns, Brethern in Christ Church

The Right Reverend Willian C. Wantland, Bishop of Eau Claire, Wisconsin

Most Reverend Stanislaus J. Brzana, Bishop of Ogdensburg, New York

Robert Hess, General Superintendent, Eastern Region, Evangelical Friends Church

Reverend L. T. Charter, Great Lakes District of the International Church of The Foursquare Gospel

Most Reverend Edward D. Head, Bishop of Buffalo, New York

W. B. Tichenor, Missouri Baptist Convention

Douglas A. Houck, Director, Metanoia Ministries, Seattle, Washington

Mike Weldon, Executive Director, The Association of Independent Methodists

Feminists Fighting Pornography

Leanne Katz, Executive Director, National Coalition Against Censorship

Diana Ronald, New York-Connecticut Americans for Moralit

Paul A. Duffy, Bishop, The United Methodist Chu
Louisville, Kentucky

Don Moore, Executive Director, Arkansas Baptist S
Convention

His Eminence Archbishop Iakovos, Primate of the G
Orthodox Church of North and South America

Gerald L. Stow, Executive Director, Tennessee Bap
Children's Homes, Inc.

Reverend Dr. K. Gene Carroll, General Secretary,
Primitive Methodist Conference

Martin Doorhy

Joyce A. Karlin, Assistant United States Attorney,
Major Narcotics Violators Unit, Los Angeles, Califc

Mrs. J. Solembrino

Mike Douglas

Kurt Vonnegut, National Coalition Against Censorship

William H. Webster, Director, Federal Bureau
Investigation

Skeek Frazee, The Family Crisis Shelter, Community Resp
Program, Portland, Maine

Most Reverend John R. Roach, Archbishop, Saint Paul
Minneapolis, Minnesota

Billy A. Melvin, Executive Director, National Associatic
Evangicals

C. L. Gustafson, Pastor, Berean Fundamental Chu
Ogallala, Nebraska District

Gloria Morgan

Detective Donald Smith, Administrative Vice Division,
Angeles, California, Police Department

Thomas J. Webb, Bishop, Allentown, Pennsylvania

Women Hurt in Systems of Prostitution Engaged in Re

(W.H.I.S.P.E.R.)

Anonymous

Judy Perkins, Bath Area Citizens For Decency

Mrs. Kermit S. Edgar, President, National Woman's Christian Temperance Union

Reverend Monsignor Ronald C. Bill, Vicar for Community Services, Syracuse, New York

Andrew J. McDonald, Bishop, Little Rock, Arkansas

Leonard W. DeWitt, President, Missionary Church, Fort Wayne, Indiana

Paul E. Jones, Supervisor, Southern California District Headquarters, International Church of The Foursquare Church

William R. Houck, Bishop, Jackson, Mississippi

Susie Hoeller, Advisory Board Member, Dallas Association For Decency

Mike Weldon, Executive Director, The Association of Independent Methodist

June B. Griffin, Cumberland Missionary Society

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Affidavit For Search, Warrants, Richard N. Rosfelder, Jr., Cleveland, Ohio.

John Rinck

Jerome J. Hastrich, Bishop, Gallup, New Mexico

Dr. Walter A. Maur, Concordia Theological Seminary, I
Wayne, Indiana

Mrs. Bob L. White, Baptist Missionary Association of Ame

Jim Norwood, Tate Springs Baptist Church

Reverend J. R. McArley, III, St. James United Metho
Church, Manchester, Georgia

Gerald E. Free, President, Nebraska District, Wisco
Evangelical Lutheran Synod

PART FIVE

Chapter 1

Bibliography

The following bibliography provides a listing of resources relied upon by the Commission in drafting formulating this Report. The Commission acknowledges tha lacks completeness and does not include all footnote or enc references. Specific source citations accompany the text.

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_____, Vol. I, Linda Marchiano.

_____, Vol. II, Christopher J. Mega.

_____, Vol. I, Carl Shoffler.

_____, Vol. II, Robert Showers.

_____, Vol. I, Marilyn Sommers.

_____, Vol. IV, W.H.I.S.P.E.R..

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Chapter 2

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18 U.S.C. S1736

18 U.S.C. S1737

18 U.S.C. S2251

18 U.S.C. S2252

18 U.S.C. S2253

18 U.S.C. S2254

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18 U.S.C. S1968

D. Organizations

1. National

Department of Justice
Criminal Division
Room 2107,
Washington, D.C. 20530
(202) 633-2601

National Association of Attorneys General
444 North Capital Street
Washington, D.C.
(202) 628-0435

American Bar Association
750 North Lakeshore Drive
Chicago, Illinois
(312) 988-5000

Citizens for Decency Through Law, Inc.
11000 North Scottsdale Road
Suite 210
Scottsdale, Arizona 85254
(602) 483-8787

The American Civil Liberties Union
122 Maryland Avenue, N.E.
Washington, D.C. 20002
Barry W. Lynn
(202) 544-1681

National Federation For Decency
P.O. Drawer 2440
Tupelo, Mississippi 38803
Don Wildmon, Director

Feminists Anti-Censorship Task Force
Box 135
660 Amsterdam Avenue
New York, New York 10025
Nan D. Hunter

Rene Guyon Society
256 S. Robertson Blvd.
Beverly Hills, California 90213
Tim O'Hara
National Coalition Against Pornography, Inc.
Compton Road
Suite 9248
Cincinnati, Ohio 45231

Morality in Media
475 Riverside Drive
New York, New York 10115

2. State

State Attorney General
(located in particular state capital)

State Bar Association
(in particular state)

Chapter 3

Staff Listing

PROFESSIONAL STAFF

David Cayer
J.D. American University

Genevieve McSweeney R
J.D. University
Michigan

Peggy Coleman
J.D. University of Akron

Edna Einsiedel
Ph.D. Indiana Univers

MEDIA CONSULTANT

Richard Kimberly

FULL TIME INVESTIGATIVE STAFF

Detective Edward Chapman
Arlington County, Virginia, Police Department

Detective Joseph Haggerty
Metropolitan Police Department, Washington, D.C.

Inspector Daniel Mihalko
United States Postal Inspection Service

ADDITIONAL INVESTIGATIVE ASSISTANCE

Special Agent David Borden
United States Customs Service

Special Agent Sterling Epps
United States Customs Service

Supervisory Special Agent Kenneth Lanning
Federal Bureau of Investigation

Special Agent Ramon Martinez
United States Customs Service

Special Agent William Ramey
United States Customs Service

STAFF INTERNS

Jessica Feder
Lois Ulm
Laureen Buckert
Frenchette Chatman

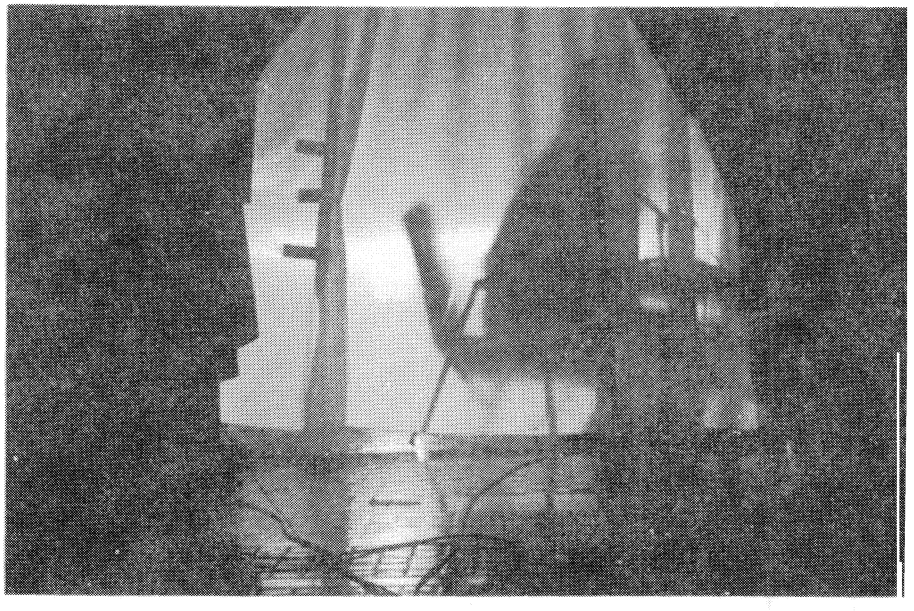
Great appreciation is expressed to the many persons w
served with the staff to make the completion of this proj
possible. Special appreciation and recognition goes to Jess
Feder who devoted hundreds of volunteer hours while she atten
law school. The Commission expresses special appreciation
David Cayer who spent countless hours insuring that appropri
legal work was included within this Report and to Peggy Cole
for her work and editing. The Commission also specia
recognizes the investigators who kept us in touch with the r
world and its concerns.

PART SIX

1935

Chapter 1

Photographs



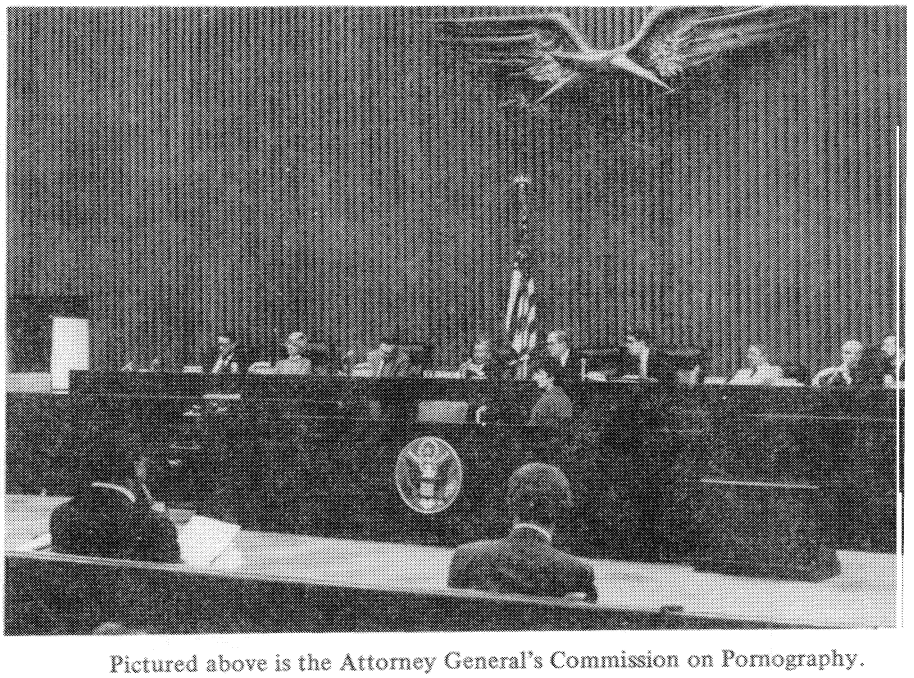
Testifying before the Commission in the outline of an anonymous witness.



Senator William V. Roth from Delaware, Chairman of the Committee on Gov
mental Affairs and the Permanent Committee on Investigations is seen here test
ing before the Commission in Washington, D.C., June 19, 1985.



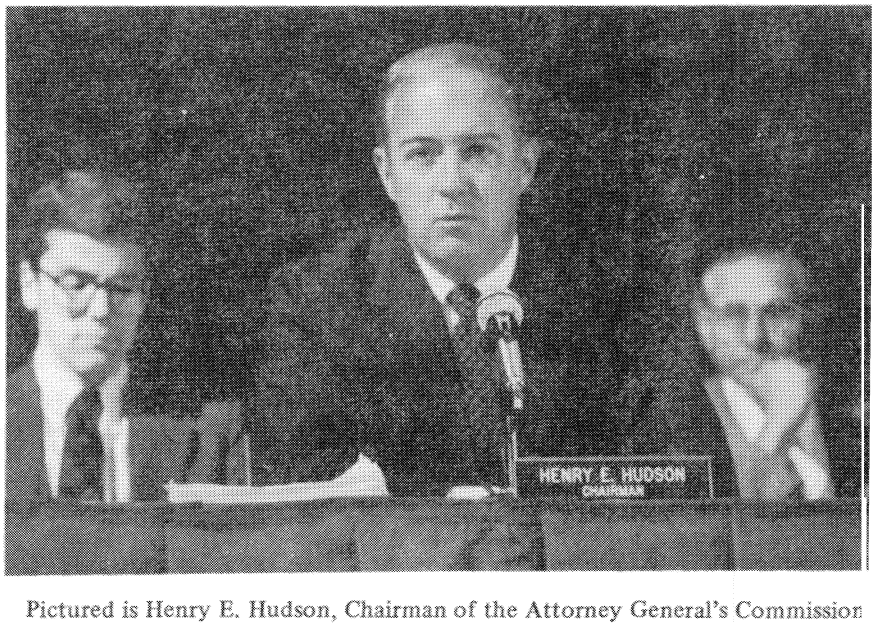
At the Washington, D.C., hearing held on June 19, 1985, Judge William Webs
Director of the Federal Bureau of Investigation testified before the Commissi



Pictured above is the Attorney General's Commission on Pornography.



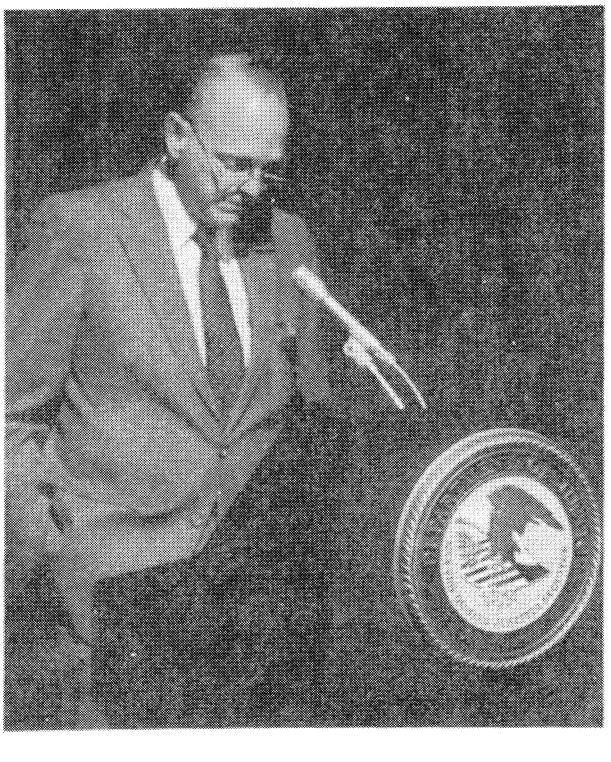
An anonymous witness testified before the Commission.



Pictured is Henry E. Hudson, Chairman of the Attorney General's Commission
Pornography.



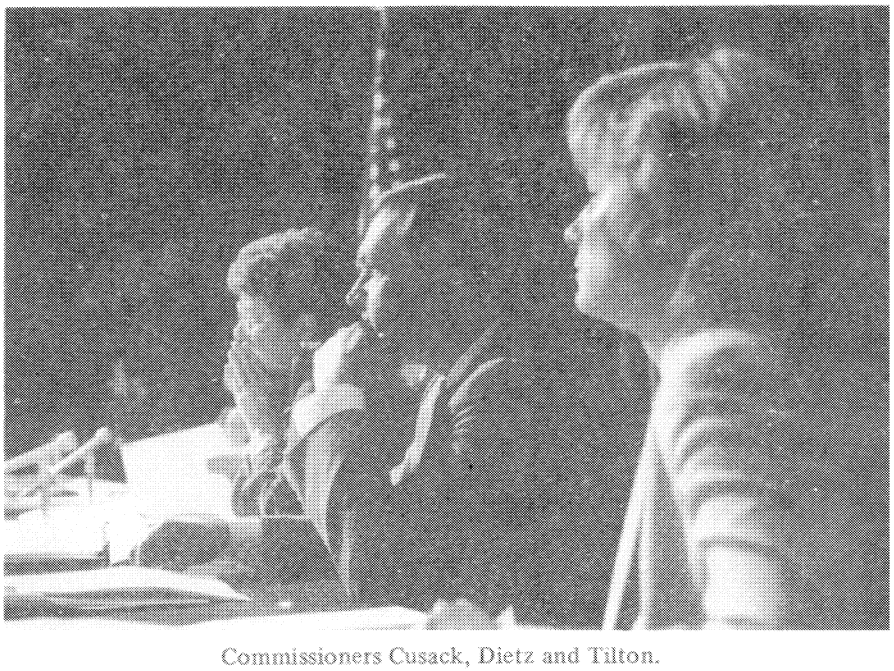
The Attorney General's Commission on Pornography.



Senator Dennis De
from Arizona testi
fore the Commissi
Washington, D.C.,
19, 1985.



Lois H. Herrington, Assistant Attorney General for Justice Programs in Department of Justice testified before the Commission in Washington, D.C.



Commissioners Cusack, Dietz and Tilton.

Heather Grant Florence, vice president and general counsel for Bantam Books and J.D. Landis, a Bantam Book author testified before the Commission during the New York hearings on January 21, 1986.





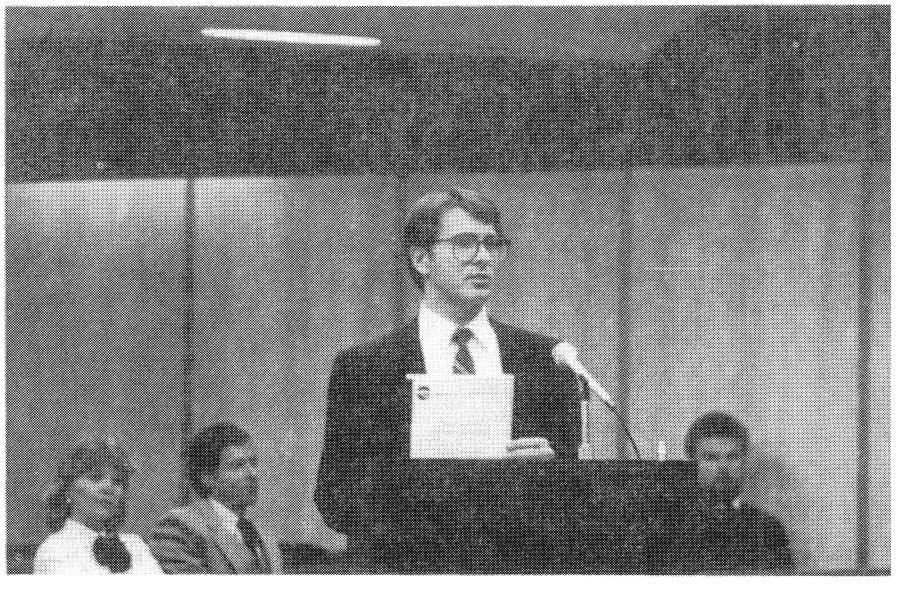
Alan Dershowitz, professor of Law at Harvard Law School and columnist v Penthouse magazine, and Dottie Meyer, a former Penthouse model and coord tor involved with circulation and Pet productions, testified before the Commiss during the New York hearing on January 21, 1986.



William Johnson, Captain and Commander of the Major Crimes Investigation Division, Fayetteville, North Carolina, police department, testified before the Commission during the New York hearing.



Andrea Dworkin, au
of Men Possessing W
and co-author of legi
tion recognizing pro
graphy as a violation
the civil rights of wo
testified before the
Commission in New



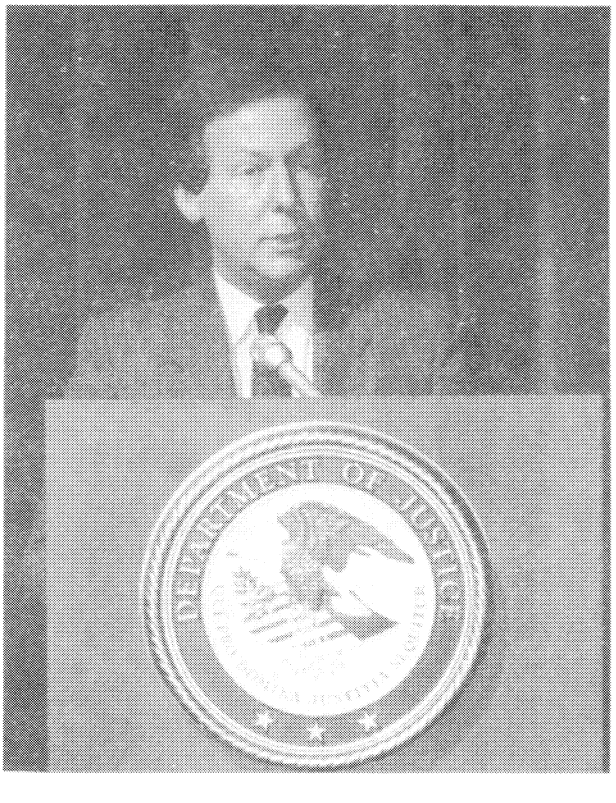
General Counsel for Citizens for Decency through Law, Bruce Taylor, testifi before the Commission in New York.



During the New York hearing, Christopher Mega, New York State Senator Chairman of the New York Senate Crime and Correction Committee, and J McKenna, General Counsel for the New York State Select Committee on Cri testified before the Attorney General's Commission on Pornography in New Y



Carl Shoffler, Washington, D.C., Detective and Ledra Brady, supervisor of t
Analytical section of the Intelligence Division of the Washington, D.C., Poli
Department testified before the Commission at the New York hearing.



Senator Mitch McCor
from Kentucky/ who
serves on the Senate
Judiciary Committee
the Senate Agricultur
Committee and the
Senate Select Commi
on Intelligence testifi
before the Commissic
at the Washington, D.
hearing

APPENDIX A

CHARTER OF THE ATTORNEY GENERAL'S COMMISSION ON PORNOGRAPHY

1. Authority and Official Designation

The Attorney General's Commission on Pornography (t "Commission") will operate pursuant to the provisions of t Federal Advisory Committee Act, Pub. L. No. 92-463, 86 Stat. 7 (1972), as amended by the Government in the Sunshine Act, Pub. No. 94-409, S 5 (c), 90 Stat. 1241, 1247 (1976) (the "Act" Pursuant to Section 9(c) of the Act, the following information provided regarding the Commission.

2. Objectives and Scope of Activity

The objectives of the Commission are to determine t nature, extent, and impact on society of pornography in t United States, and to make specific recommendations to t Attorney General concerning more effective ways in which t spread of pornography could be contained, consistent wi constitutional guarantees.

The scope of the Commission includes: a study of t dimensions of the problem of pornography, particularly visual a graphic pornography, including changes over the last seve years in the nature of pornography, its volume, the impact of n technology, and pornography that relates to children; examination of the means of production and distribution pornographic materials, specifically including the role organized crime in the pornography business; a review of t available empirical and scientific evidence on the relationsh between exposure to pornographic materials and antisoci behavior, and on the impact of the creation and dissemination both adult and child pornography upon children, including, appropriate, the commissioning of new research on these subject a review of national, State, and local efforts, whether by t government or others, to curb pornography; and the explorati and, where appropriate, the recommendation of possible roles a initiatives that the Department of Justice and agencies of loca State, and Federal government could pursue in controllir consistent with constitutional guarantees, the production a distribution of pornography.

3. Organization and Membership

A. Membership. The Commission shall be composed of more than eleven members appointed by the Attorney General. vacancy in the Commission shall not affect its powers but ma filled by the Attorney General in his discretion.

B. Officers. The Attorney General shall designate or the members of the Commission to be the Chairman. The Chai may appoint, from among the members of the Commission, such o officers as he deems appropriate. The Attorney General s appoint an individual to serve as the Executive Director of Commission.

C. Designated Government Official. The Attorney Ger shall designate one officer or employee of the Departmen Justice to serve as the Designated Government Official requ by section 10(e) of the Act.

4. Operations

A. Functions of the Chairman. In accordance with the and consistent with its provisions regarding participation of Designated Government Official, the Chairman shall:

(1) call meetings and set hearings;
(2) develop the agenda for meetings and hearings;
(3) preside at meetings and hearings;
(4) provide for the keeping of detailed minutes o meetings and transcripts of hearings of the Commission;
(5) provide for the maintenance and retention of records of the Commission; and
(6) certify the accuracy of the minutes of meet and transcripts of hearings of the Commission.

B. Functions of the Designated Government Official. Designated Government Official shall exercise those duties responsibilities required by the Act.

C. Functions of the Executive Director. The Exec Director shall:

(1) serve as contact point for the public to pr current information concerning the operation the Commission;
(2) under the general direction of the Commi acting through its Chairman, supervise operations of the staff; and
(3) perform such other duties and responsibiliti the Commission acting through its Chairma assign.

D. Meetings and Hearings of the Commission. It estimated that the Commission will hold approximately se meetings during its term. In addition, the Commission empowered to hold hearings and take testimony concerning any the issues within its scope of activity, and may hold as m hearings as it deems necessary to fulfill the objectives of Commission. A majority of the appointed and qualified memb shall constitute a quorum, but a lesser number may cond hearings.

All meetings and hearings of the Commission shall be open the public unless a determination has been made by the Attor General, in accordance with section 10(d) of the Act, that meeting or hearing, or a portion thereof, should be closed to public. Timely notice of each meeting or hearing shall published in the Federal Register stating the name of Commission, the time, place, and purpose of the meeting hearing and the name, address, and telephone number of Designated Government Official or other Department of Just employee, whom members of the public may contact for furt information. Other than in exceptional circumstances, s notice shall be published at least fifteen days in advance of meeting or hearing day. If shorter notice is given, the rea must be stated in the notice.

E. Records of the Commission. The Commissions's reco shall consist of all papers, documents, and other materi pertinent to its establishment and activities, including charter, agendas of meetings and hearings, determinations closed meetings and hearings, minutes, reports, and all docume related to its proceedings and those of its subgroups, includ working papers, drafts, studies, or other documents m available to or prepared for or by the Commission or i subgroup. These records shall be available for public inspect and copying to the extent required by the Act. These reco shall be maintained by the Commission for the term of operations, and shall be deposited with the Department of Just upon the termination of the Commission.

F. Minutes of the Meetings. Detailed minutes shall kept of each meeting of the Commission, which shall includ record of the persons present, a complete and accur description of matters discussed and conclusions reached, copies of all reports received, issued, or approved by Commission. The accuracy of such minutes shall be certified the Chairman.

G. Public Participation. At any meeting of the Commiss that is open to the public, but not at a closed meeti interested persons shall be permitted to attend and to f written statements with the Commission. At any time prior subsequent to a closed meeting, interested persons shall

nitted to file written statements with the Commission.

Duration

The Commission shall terminate one year from the date of the st Commission meeting, which will be sufficient time for the mission to file the report required by Paragraph 6. The term the Commission may be extended by the Attorney General upon determination that the Commission requires additional time to plete its work.

Reporting

Within one year of its first meeting, the Commission shall ort its findings and conclusions to the Attorney General. If Commission determines that more time is required to provide opportunity to review additional evidence or complete its k, it shall so report.

Support Services

The Department of Justice shall provide all necessary port services for the Commission.

Duties

The duties of the Commission are solely advisory; these ies are to carry out the objectives set forth in Paragraph 2.

Remuneration

Commissioners shall receive no remuneration other than pensation for travel and per diem expenses incurred in nection with the Commission's business.

Estimated Annual Costs

The Office of Justice Programs and the Office of Legal icy shall provide the estimated annual cost of $400,000 for operation of the Commission. Approximately ten work-years of ff support will be required.

Date Charter Filed

The Commission's Charter was filed on March 29, 1985.

William French Smith
Attorney General

1960

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