

# PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION

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## HEARINGS BEFORE THE SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY OF THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE NINETY-FIFTH CONGRESS. FIRST SESSION

CHICAGO, ILL.—MAY 27, 1977  
WASHINGTON, D.C.—JUNE 16, 1977



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[95th Congress]

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(II)

# CONTENTS

## FRIDAY, MAY 27, 1977

Statement of—	Page
Bilandic, Hon. Michael, acting mayor, city of Chicago, Chicago, Ill.....	7
Bliss, George, reporter, Chicago Tribune, Chicago, Ill.....	57
Carey, Bernard, State's attorney for Cook County, Ill.....	48
Culver, Hon. John C., a U.S. Senator from Iowa.....	1
Kelly, Ronald, sergeant, Chicago Police Department, Chicago, Ill.....	11
Lehman, Jack, investigator, Cook County, Ill.....	48
Marty, Chicago, Ill.....	18
Mathias Hon. Charles McC., Jr., a U.S. Senator from Maryland.....	3
Osanka, Prof. Frank, Lewis University, Glen Flynn, Ill.....	65
Percy, Hon. Charles H., a U.S. Senator from Illinois.....	5
Richards, Gerald S., Jackson State Prison, Jackson, Mich.....	34
Sneed, Ms. Michael, reporter, Chicago Tribune, Chicago, Ill.....	57
Strait, Guy, Statesville Illinois Penitentiary, Joliet, Ill.....	22
Wallop, Hon. Malcolm, a U.S. Senator from Wyoming.....	4
<b>Miscellaneous documents:</b>	
Letter from Senator Harrison A. Williams, Jr., chairman, Committee on Human Resources, transmitting a resolution regarding exploitation of children for pornographic purposes.....	6

## THURSDAY, JUNE 16, 1977

Statement of—	Page
Bender, Paul, professor of law, University of Pennsylvania.....	101
Culver, Hon. John C., a U.S. Senator from Iowa.....	71
Flaherty, Peter, Deputy Attorney General, Department of Justice, accompanied by John Keeney, Deputy Assistant Attorney General, Criminal Division, and Donald Nicholson, staff attorney, Criminal Division, Department of Justice.....	79
Florence, Ms. Heather Grant, attorney, ACLU's Communications Media Committee, New York, N.Y.....	97
Guggenheim, Martin, staff attorney, juvenile project, American Civil Liberties Union, New York, N.Y.....	92
Mathias, Hon. Charles McC., Jr., a U.S. Senator from Maryland.....	72
Roth, Hon. William V., a U.S. Senator from Delaware.....	72
<b>Miscellaneous documents:</b>	
Letter from Patricia M. Wald, Assistant Attorney General, Department of State, to Senator James O. Eastland, commenting on S. 1011.....	75

## APPENDIX

Federal and State statutes regulating use of children in pornographic material.....	113
Press protection under first amendment.....	118
Letter from the Department of State regarding disposition of name cards from Dallas Police Department.....	119
Letter from the Department of Justice concerning the number of indictments and convictions in obscenity cases.....	119
Letter from the Office of the Postmaster General regarding criminal investigations of the postal statutes on obscenity.....	120
"Child's Garden of Perversity"—reprint from Time magazine, April 4, 1977.....	121
"Kiddie Porn"—reprinted courtesy CBS news from "60 Minutes," May 15, 1977.....	123
Chicago Tribune investigation of child pornography, four-part series of articles, May 15-18, 1977.....	130
"The Last Porno Show"—reprinted from the New Times, June 24, 1977.....	150

# PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION

FRIDAY, MAY 27, 1977

U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
SUBCOMMITTEE TO INVESTIGATE  
JUVENILE DELINQUENCY,  
*Chicago, Ill.*

The subcommittee met at 9:30 a.m., pursuant to call, in room 3619, 230 South Dearborn Street, Chicago, Ill., Hon. John C. Culver, chairman of the subcommittee, presiding.

Present: Senators Culver, Mathias, and Wallop.

Also present: Senator Charles H. Percy.

## STATEMENT OF HON. JOHN C. CULVER, A U.S. SENATOR FROM IOWA

Senator CULVER. The subcommittee will come to order.

Today the U.S. Senate Judiciary Subcommittee to Investigate Juvenile Delinquency is convening in Chicago to hear from witnesses in an investigation of the sexual exploitation of children.

I should mention at the outset that in addition to addressing an urgent problem in the jurisdiction of our own subcommittee, this hearing is also in response to a formal request of the Senate Human Resources Committee to the Judiciary Committee to hold hearings to consider legislation designed to eliminate the exploitation of children in pornographic materials. The request was signed by Senator Alan Cranston, chairman of the Subcommittee on Child and Human Development.

With me are Senators Charles McC. Mathias, Jr., of Maryland, who is the ranking minority member of the subcommittee, and Senator Malcolm Wallop, of Wyoming, another member of the subcommittee.

Also present is Senator Percy, whom you all know, from Illinois.

The Subcommittee to Investigate Juvenile Delinquency has a long history of concern about the misuse of children. This subcommittee wrote a major piece of legislation, the Juvenile Justice and Delinquency Prevention Act of 1974, to attempt to protect children from abuse within the juvenile justice system, to fund experiments in reducing juvenile crime, and to provide a program to shoulder runaway youth. Drug abuse, child prostitution, and institutional violence are other examples of subcommittee investigations.

During the past several years, a new menace to youth has mushroomed into a big business in America. The exploitation of young boys and girls for the purpose of producing pornography. It is reported that millions of dollars changed hands in this business last year, and the business is tragically increasing. Clearly the abuse of children for pornographic purposes urgently needs investigation and corrective action, and this is the subject of these hearings.

Who is involved? How extensive is the network of operations? Are Federal funds being used in any part of it?

Another topic that requires investigation, of course, is the transport of the children themselves across the country for improper purposes.

Now, because of our great concern with this rapidly growing and as yet unmet problem, Senator Mathias and I introduced before the Senate this week S. 1585, which would impose severe criminal penalties on those convicted of knowingly inducing any minor under the age of 16 to participate in sexual activity for the purpose of producing pornography.

Incredibly, there is at the present time no Federal law which is directed at this particular form of child abuse. Some States, of course, do have laws dealing with various aspects of the problem, but there is at the current moment a real need for a strong nationwide law to hit at the people who are most directly inflicting sexual abuse on these children.

The child pornography industry knows no national boundaries. In this country, it is centered primarily in the large cities, but certainly not exclusively. We chose Chicago for the first of these hearings because it is commendably in the forefront of the efforts to study and combat this tragic problem.

City officials, such as Mayor Bilandic and Alderman Burke, county officers, the Chicago police, the press, and numerous concerned citizens have been taking action on this problem for some time. We have drawn from these people, who have been in the frontlines of the local effort, for a witness list today in this field hearing. We also will hear testimony from those who are directly involved as well as those affected by this sordid business.

The focus of this hearing is necessarily limited. In future hearings, we will widen the scope and will bring in as witnesses other nationally recognized experts in several disciplines to address aspects of this general problem area.

I want to emphasize very strongly that child pornography is just one aspect or symptom of a larger context of social problems that confront this Nation. It is estimated that there are some 700,000 to 1 million runaway juveniles in the country at the present moment. So far as I know, there is no reliable estimate of the vast number of emotionally disturbed children and teenagers in our society today. Millions of cases of child abuse each year have led to the alienation of young people from their parents. And against this backdrop is the breakdown of the family and the fundamental values of our society. Questions must be asked regarding the adequacy of our educational system, the effectiveness of our social agencies, the responsibility or lack of responsibility being demonstrated by American parents in their marriage relationships, our ability to deal with poverty and unemployment in America, and the quality of our justice system. The child pornography industry is just a tip, and a small tip, of this larger social iceberg. What national resource do we have that is more important or precious than our children and youth? The challenge that faces us is not simply one of physical protection. Its nuances are infinitely more subtle and complex, and the problem cuts across social

strata, all economic and regional groups. We are all involved and vitally affected.

Finally, stern laws and strict enforcement are imperative to deal with such aspects of the overall problem we are investigating today. But these will take us only part of the way. As individuals, as families, as a nation, we need certainly to develop more sensitive responses to the needs of children, and unless we do this, we will find ourselves on the treadmill of dealing continually with symptoms and not addressing the basic illness.

It is my pleasure at this time to call on the ranking minority member of the subcommittee, Senator Mathias, for any statement he might wish to make.

**STATEMENT OF HON. CHARLES McC. MATHIAS, JR., A U.S. SENATOR  
FROM MARYLAND**

Senator MATHIAS. Thank you, Mr. Chairman.

The Senate Judiciary Committee has been concerned for many years with problems of juvenile justice and the problems of young people. In 1974 we passed a Juvenile Justice and Delinquency Prevention Act and the Runaway Youth Act. So this has been a long and very serious preoccupation of the Judiciary Committee.

As the chairman has indicated, it is a problem of very large proportions with perhaps up to 1 million young people in America who have at some time in their lives been runaways. The reasons are very complex and deep seated in our society. Parental drug abuse, personal strife, parental abuse, sexual abuse, parental emotional instabilities, peer relationships, lack of jobs, trouble at school are all viewed as contributing factors. But I think it is testimony to the seriousness with which the Senate approaches this problem that Senator Culver, Senator Wallop and Senator Percy have all come together here, because this is a problem which seems to have some new aspects.

Now, thanks to the work of the press, including the "60 Minutes" television story on child pornography and the series in the Chicago Tribune, we are seeing another aspect of this youth problem.

One of the concerns that I have in the hearings that we are now holding is to determine whether this is in fact a new aspect of the problem or simply a new perception of an old problem; whether this boom in child pornography is a new element in the American scene or whether we are just becoming sensitive and conscious to it. But in any event, it has deeply shocked the American people, and I think an aroused public will want to see some action taken.

In the bill that Senator Culver and I have introduced, I think we have effective restraints to the problem of child pornography. The bill deals solely with the sexual exploitation of children by individuals who recruit and use children in the production of pornographic material, and I think it doesn't raise the kind of first amendment questions that perhaps those engaged in this vicious trade hoped would be raised so that they can fudge over the issue.

Ellen Goodman, the columnist, wrote recently that "it is a matter of protecting the real lives of the young models: the children are victims, and kid porn is the exploitation of the powerless by the more powerful." I think what we want to try to do is to give recognition to the needs of these powerless children.

Senator CULVER. Thank you, Senator Mathias.  
Senator Wallop?

STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM  
WYOMING

Senator WALLOP. Thank you, Mr. Chairman.

I share the concerns expressed here, but I would go a step farther, I think, and I would say that the Congress and the courts and the States really stand indicted by the mere fact that these hearings are necessary. I think it displays a mutual vacuum of leadership which can be filled by prompt action of all three of those entities in their respective arenas.

I think the Congress can fulfill its role by strengthening its laws with such proposals as those by Senator Mathias and Senator Culver, dealing with interstate pornographic or sexual abuse and exploitation of children. And Congress has ignored the problem too long. I don't think this is a new problem. I think this is something that many people in the law enforcement business have recognized for a long time. Yet I think that in the Congress' zeal we must be careful not to overstep our rightful bounds of lawmaking authority. Congress must both strengthen those areas in which congressional authority exists by the adoption of model laws and also encourage the States to adopt similar legislation to fill the vacuum in their own laws. I think particularly that the enforcement standards of the States all over the country are low.

I looked at our own State's laws this morning for the first time, part of my vacuum. I find them remarkably lacking. In most instances such crimes are merely misdemeanors. I don't think that our State is unique by any stretch of the imagination, because I looked at those laws of a number of other States this morning. I think the States and Federal enforcement agencies together can move with some strength to remove this evil activity. The courts, ever too lenient, are ever too ready to grant the protective shield of the Constitution to those who prey and not to their victims. We must take courage now and serve this Nation and its people.

I can't believe that those who drafted the first amendment ever dreamed that it would be used to shield those who abuse the public dignity. The Constitution was drafted to protect the public from evil, not subject us to it. The court interpretations to the contrary mock that document of freedom and they debase this country. There is a reversal of the whole foundation of America and those whose philosophy of dignity and freedom charted our course. The courts bear a heavy burden of guilt and face the immediate task of reversing this dismal course.

I just cannot believe that those who would abuse and use the products of that abuse for profit can be in any way able to claim the protection of the first amendment.

Rather than the States and Congress and other people wallowing and haggling in phrases, I think the idea now is to forget what we have done and pick up and go on. It is a problem that can be solved and I am happy to be here this morning, Mr. Chairman, and appreciate this opportunity.

Senator CULVER. Thank you, Senator Wallop.

We are also pleased to have with us this morning Senator Percy, of Illinois, who although not a member of the subcommittee is extremely welcome, and we are very grateful for his courtesy in joining us and

all the cooperation he has extended on the occasion of our visit to this great city.

Senator Percy.

STATEMENT OF HON. CHARLES H. PERCY, A U.S. SENATOR FROM ILLINOIS

Senator Percy. Mr. Chairman, I merely want to, on behalf of Adlai Stevenson and myself, welcome you and the fine members of your staff here. We deeply regret that Chicago has been a center for this unseemly activity, but we are very proud of the fact that Mayor Bilandic and Governor Thompson have seen fit to take due leadership in showing the Nation how local and State officials can move with dispatch. Alderman Burke and the State legislature will respond, I know, to resolve this problem. So I think it is fitting that we hold these hearings here in Chicago, and I am delighted to have received an invitation from my seatmate, Mac Mathias and our neighbor, John Culver, to be here. And we also welcome the Wyatt Earp of Wyoming, Malcolm Wallop.

I think Mayor Bilandic and I will refrain from discussing other problems affecting Chicago, though we hope while you are here you will ride on the rapid transit. I would also take note of the fact that the House yesterday saw fit to see their duty and appropriate \$132 million in the Appropriations Committee to meet our needs, and Adlai Stevenson and I will be calling on your help in this regard.

Child pornography, sexual exploitation of children for profit, is a new phenomenon which has frightening implications for all of us. I think you have rightly pointed out, Mr. Chairman and Senator Mathias, the work of the media in exposing this, so that public conscience can be made aware of the problem and facilitate swift action by State and local officials.

The testimony that we are to hear this morning, as the reports we have seen in the press and elsewhere so far, are very unsettling indeed. The time has come for government to face up to this problem and take action. The problem is not going to go away by our simply ignoring it. It is getting worse over the months and not better.

We must focus through these hearings, I think, on the human aspects of the problem. Child pornography is clearly a form of child abuse. The scars left on those young children could remain and will remain for an entire lifetime. I think we must seek remedies quickly beyond just law enforcement. I think we must provide those children whose lives have been damaged by this experience, help through rehabilitation and care and not left to live in a shadow of stigma and guilt for the rest of their days, as Senator Mathias has pointed out. Under our constitutional form of government, neither the States nor the Federal Government can solve this problem alone. It will take the cooperative effort of all levels of government, Federal, State, and local.

But unlike consenting adults, I think—and we have two eminent Members of the Senate who have introduced legislation that I fully support—we do not have a constitutional problem in this case. This ought to be crystal clear, that we can deal with children in a way that does not abridge the first amendment or any other rights of individuals, because these rights have been so tarnished and abused. I hope that these hearings that will follow this morning will generate the neces-

sary momentum to pass strong, effective legislation both in the Congress and the States to stem this form of child abuse and to help heal its victims.

We certainly are very grateful indeed for everything Mayor Bilandic and other witnesses are doing. Mayor Bilandic has shown great leadership in this field. We are grateful to have him here, and I am delighted to join at least the opening of this session this morning. I appreciate the invitation, Mr. Chairman.

Senator CULVER. Thank you, Senator Percy.

I would like to introduce for the record a letter transmitting a resolution approved by the Committee on Human Resources regarding the exploitation of children for pornographic purposes and requesting that the Senate Judiciary Committee act on this social problem.

Without objection, it will be so entered at this point.

[The letter referred to follows:]

U. S. SENATE,  
COMMITTEE ON HUMAN RESOURCES,  
Washington, D.C., May 9, 1977.

HON. JOHN C. CULVER,  
Russell Senate Office Building,  
Washington, D.C.

DEAR SENATOR CULVER: I am transmitting to you a resolution approved by the Committee on Human Resources regarding the exploitation of children for pornographic purposes. This resolution was approved on May 6, 1977 following the discussion of the matter at a Full Committee Executive meeting on May 5, 1977. Copies are being sent to each of the members of the Senate Judiciary Committee.

Sincerely,

HARRISON A. WILLIAMS, JR.,  
Chairman.

Resolution of the Committee on Human Resources.

Whereas the Committee on Human Resources has a deep and abiding concern for the health and welfare of the children and youth of the United States; and

Whereas such concern repeatedly has been demonstrated through legislation developed by such Committee to protect and benefit such children and youth; and

Whereas it has come to the attention of the Committee on Human Resources that there is a substantial amount of trafficking in the United States today in pornographic materials in which children as young as three (3) years of age are used and exploited for pornographic purposes; and

Whereas legislation has been introduced in the United States Senate and in the United States House of Representatives to impose criminal and civil sanctions on persons who engage in the production, transportation, and marketing of material exploiting children for pornographic purposes; and

Whereas the Committee on Human Resources condemns such base and sordid activities which may permanently traumatize and warp the minds of the children involved; now therefore be it

*Resolved*, That the Committee on Human Resources herewith urges the Committee on the Judiciary to hold hearings at the earliest possible time, either singly or in conjunction with the Committee on Human Resources, for the purpose of considering legislation designed to eliminate the exploitation of children in pornographic materials; and be it further

*Resolved*, That a copy of this Resolution shall be sent to each Member of the Committee on the Judiciary.

Approved by Committee on Human Resources: May 6, 1977.

Senator CULVER. In light of the number of witnesses who are scheduled to testify today and the limited time available for the hearing, the subcommittee will attempt to impose a 10-minute limitation on the questioning of a witness by each Senator. Then we will rotate for an additional 10 minutes if there are further questions.

In order to insure that each witness has ample time to provide the subcommittee with testimony, the hearing record will remain open for sufficient time for the witness to provide the subcommittee with additional written material or statements. And the hearing record will also remain open for the subcommittee to receive written responses to additional questions that the members may wish to submit to the witnesses in the near future.

Our first witness this morning is the Honorable Michael Bilandic, who was appointed acting mayor of the city of Chicago on December 28, 1976.

We are very honored to have Mayor Bilandic here today as our initial witness. The mayor and the Chicago Police Department have demonstrated a remarkable degree of concern with regard to the subject of child pornography. We very much appreciate your kindness, Mayor, in joining us this morning and sharing your views and experience with us. If you would be kind enough to join us at the witness table, we look forward to your statement.

**STATEMENT OF HON. MICHAEL BILANDIC, ACTING MAYOR, CITY OF CHICAGO, CHICAGO, ILL.**

Mayor BILANDIC. Thank you very much, Senator Culver. We certainly appreciate your committee coming to Chicago and looking into this problem, and we would like to welcome Senator Mathias and Senator Wallop, and, of course, it is always nice to see our senior Senator from Illinois, Charles Percy.

There is no question that there is unanimity of opinion on the question of finding a solution to this very important problem that faces the entire Nation. And, of course, there is also unanimity of opinion on the role that the media have played. I don't think that we have ever had an issue in which we have had greater support from the media, and I think that they are having their finest hour, particularly those that have been identified by your committee, Chicago Tribune, and CBS, for the outstanding manner in which they have focused this problem and brought it to the public attention.

Before I proceed with the formal statement, I would like to add that I do have with me today our corporation counsel, Bill Quinlan, our deputy mayor, Ken Sain, and Alderman Edward Burke.

They are three of the five members of the mayor's task force that we have used to fight this problem.

Superintendent Rochford is represented here today by other members of the police department, and Commissioner Louis Hill of our department of development and planning, rounded out the task force that we used to fight this problem with some degree of success.

Pornography has posed serious problems in recent years for communities throughout the United States. Local governments, perceiving the threat to public morality and in some instances the very economic survival of entire neighborhoods, have attempted to cope with these problems in a variety of ways. Local legislative measures ranging from movie censorship to zoning regulations have, in virtually all cases, met with only limited success.

Much of the discussion in this area has focused upon the competition of first amendment values and the communities' desire to protect themselves from the harms inflicted by pornography. Many responsible

people questioned the need and the desirability of governmental intervention in an area which they felt was best left to individual choice. Others suggested that pornography was perhaps not really harmful and should be tolerated as, at worst, a public nuisance. Sexual exploitation of youth, however, is an activity universally condemned and having little to do with freedom of speech.

In recent weeks, public realization of the widespread use of children in the making of pornographic materials has sharply altered dialog in this area. This new form of pornography, immeasurably more offensive to community sensibilities and demonstrably harmful to society's most vulnerable members, is abhorred by all. No one argues that child pornography is a victimless crime. No one suggests that this destructive commercial exploitation of young people far below the age of consent can be tolerated or left to cure itself.

Moreover, testimony already presented to this committee has revealed that this problem is national in scope. It is not isolated in only a few metropolitan areas. For this reason local efforts alone cannot cope with the problem. Municipal and State governments will, of course, persist in the fight with the legal tools at their disposal, but the profit motive, the helplessness of the young people used in these activities, the large scale distribution networks, and other factors restrict the effectiveness of local law enforcement officers.

Obscenity laws which are primarily directed against the sale and distribution of pornographic materials do not strike at the heart of the problem which is the psychological and sexual trauma of the youth immediately involved. Similarly, criminal statutes such as those penalizing indecent liberties with a child will in some instances be effective. But child pornography cases will not readily be dealt with in this way. The cooperation and silence of young people can be coerced through intimidation, narcotics, and other means so that the complaints and evidence essential to successful prosecutions are unavailable. Moreover, the probability that materials will be distributed in communities distant from their place of manufacture creates additional difficulties for local prosecutors. And I do want to emphasize this point because this is the keystone upon which Federal legislation can be enacted.

The investigation that we have had here in the city of Chicago and the task force that had been working from the mayor's office since January of this year resulted in raids last Friday, just 1 week ago today, that resulted in the closing of 34 establishments. It was interesting to note that 90 percent of the materials that were distributed in these establishments came from the city of Cleveland, which is obviously in another State, and directly affects interstate commerce. And it is also significant to note that 60 percent of the owners of the adult-use bookstores that were involved in the distribution of these pornographic materials were from outside of the State of Illinois.

In the suit that was filed in the Federal courts to reopen these places, of some 13 plaintiffs, 12 of them were from outside of the State of Illinois. They invoked and used the Federal courts to restrain a purely local action which we had instituted. So these are very significant facts which would clearly invoke Federal jurisdiction for legislation that would help to solve this problem.

For these reasons, Federal legislation in this area is essential and urgently needed.

I might add that the actions that we have taken here in the city of Chicago dealing with a similar problem, massage parlors, which were in vogue and are in vogue in some other jurisdictions, the legislation that we enacted locally and through our local efforts, we were able to reduce the number of these massage parlors within the past year from 72 to 5. So it does show that some of our local laws are effective.

We have also passed locally an ordinance to protect the youth of our community against types of film that would increase criminal or obscene action through our movie license ordinance, which was adopted unanimously by our city council. We also have enacted last December an ordinance which dealt with the control and regulation of amusement devices, and although we may not have had this specific thing in mind—we had other devices in mind—we were able to use this as an effective tool to confiscate all of the machines that have been used in these peepshows through these adult bookstores and we confiscated them last Friday and that part of the action by our local government has not been challenged by anybody. We do have those machines. But we do have a limited jurisdiction in that area, and I think you might be able to do a better job with that than we can.

We have some additional legislation that is pending before our city council, and we do expect that it will be passed and passed rather quickly. In fact, I might predict that we would do it within the next 30 days, because we don't have to go through as long a process as the Federal Government. So we will have some additional tools to work with. But by no means will they be as sufficient or as effective as this problem requires.

The protection of our youth has traditionally been given a high priority. America has consistently recognized that its young people are its future. The U.S. Supreme Court has recognized in *Ginsberg v. New York*, for example, that in the area of pornography the peculiar vulnerabilities of young people may require legislative measures which might not be appropriate if adults alone were affected. Congress, too, has frequently acted to provide extraordinary measures for the protection of young people. Accordingly, legislation moderated by the need to protect children has regulated the manufacture of toys, the exploitation of child labor, and a multitude of other activities peculiarly affecting children. The perverse and deliberate exploitation of children by traffickers in pornography, much like the interstate traffic in narcotics, urgently requires the legislative attention which only Congress can provide.

I would add that the hearings that our city council committee has on a variety of our ordinances is being conducted by Alderman Edward Burke, the chairman of our police and fire committee and chairman of our subcommittee on those obscenity laws, and we would make the record of our proceedings available to this committee, and any materials that we gather, if you so desire.

Senator CULVER. We very much appreciate that, Mayor, and want to thank you for your appearance here today. Would any of the Senators like to pose a question to the mayor?

Senator MATTHIAS. Just this one question, Mayor. You indicated that you felt this was at least in degree a new problem, am I right? Did I get that feeling from your testimony?

Mayor BILANDIC. Well, it is new in the proliferation and in the manner in which it is used. I think that obscenity and pornography are as old as the ages. It is just that the form changes, and we have to adjust to modern forms of distribution.

For example, the way that problem had started here in Chicago, and I would disagree with our distinguished Senator from Illinois, that the problem is not centered in Chicago. It is centered elsewhere. We just are the victim of it. And here is the way it came about.

The Federal court in the western district of Illinois had struck down the Illinois obscenity statute. The legislature had not been in session, so we were in effect operating without an obscenity statute in the State of Illinois. Now, the people that deal in this type of activity know their way around the laws and how to use and abuse the laws. So they quickly shifted operations from Cleveland and came into Chicago and indeed the State of Illinois during the period of this void. The legislature is now acting to fill the gap and is passing an obscenity law. They haven't done so yet. So during the time that this opening had shown itself, and our evidence and our investigations that we will document for your committee indicates that people from Cleveland where a major portion of this has been centered have shifted and moved their operations into Chicago.

Senator MATHIAS. Is it a new activity here?

Mayor BILANDIC. It is a new activity here, but if you are speaking generically, it is an old activity under a new form.

Senator MATHIAS. Anybody who is familiar with ancient Rome or ancient Greece or any other place?

Mayor BILANDIC. That is right.

So it is new in the sense of its form and the modern day society that we have, and our laws must be adjusted to cope with it on that basis.

Senator MATHIAS. I think it is of interest to us to know what has caused this particular type of activity to flourish at this moment.

Mayor BILANDIC. I think it was the fact that we had a void in the law, the court having struck it down and the legislature not being able to catch up as fast.

I suppose if there were other types of matters involved, there might have been a special session of the legislature called just to meet a particular problem and pass the laws quickly, but unfortunately that wasn't done in this case, and during this legislative process this is happening.

Fortunately, we were able through our local activities to be able to curtail a great part of it.

Senator MATHIAS. Thank you.

Senator CULVER. Thank you, Mr. Mayor. We appreciate your appearance here today.

Mayor BILANDIC. Thank you so much.

Senator CULVER. Our next witness is Sgt. Ronald Kelly.

Sergeant Kelly has been a youth officer in the Chicago Police Department for 7 years. He is presently head of a special unit from the department's youth division. The function of this unit is to investigate child pornography and prostitution in the Chicago area. It has been reported that it is one of only four such units in the entire country.

The diligent work of the unit recently resulted in the arrest of two persons who allegedly used two 14-year-old boys in a pornographic movie intended for nationwide distribution. And the unit has a number of other cases under investigation.

We appreciate very much, Sergeant Kelly, your cooperation and your appearance here today.

What the committee would be interested in obtaining from you, Sergeant Kelly, is a general sense and picture of the nature and extent of this activity in your immediate area.

On the basis of your experience, would you describe the type of child pornography activities which are presently a problem in the Chicago area?

Specifically, what kinds of materials are being produced and distributed? Generally what is the content of those materials? Where and how are they produced and distributed? How extensive is the problem, and how long has it been a problem?

**STATEMENT OF RONALD KELLY, SERGEANT, CHICAGO POLICE  
DEPARTMENT, CHICAGO, ILL.**

Sergeant KELLY. I think child pornography has been a problem for the past few years and it is a growing business for many people. The fact that many pictures and many types of literature are coming allegedly from outside the country, coming in the United States from foreign countries, was a great stumbling block for a lot of people, especially for our undercover people, because we believed that all this literature was being brought into the country from outside. Through a covert undercover operation, undercover police officers of the Chicago Police Department were able to infiltrate a group of people who were directly manufacturing, making film, manufacturing it, and then selling it to bookstores, through the mails, for national distribution.

The particular individuals ordered 2,000 copies of a 200-foot reel of film which they intended to distribute for \$100 per copy. They stated to us and to our undercover people that they would be back within 10 days. They could get rid of 2,000 copies in 10 days and come back for another 2,000 copies. One individual at the time of his arrest stated that he felt that we could have gotten rid of 10,000 to 20,000 copies of this particular movie within 5 months.

Senator CULVER. What about the cost of producing that film?

Sergeant KELLY. The cost of producing the film? They paid neither one of the juveniles involved any moneys. The one adult who was a participant in it was supposed to get \$25 and \$10 for every copy that was sold.

Senator CULVER. Nothing was paid—

Sergeant KELLY. The manufacture and cost of the film is approximately \$21 a roll.

Senator CULVER. And nothing in this instance was paid to the juveniles?

Sergeant KELLY. Nothing in this instance was paid to the juveniles, according to the arrested person.

Senator CULVER. When and how are these films produced?

Sergeant KELLY. They are produced in hotels, apartments, individuals' homes, using a strictly one-scene operation. In other words, using one part of the house and only one part of the house for being photographed.

Senator CULVER. How many known situations in the Chicago area would you estimate there are?

Sergeant KELLY. From talking to different individuals and people on the street, we know of several instances. I don't think anybody can give an estimate of exactly how many. It would be unfair to the city of Chicago or to anybody to state exactly how many.

Senator CULVER. How are these films distributed?

Sergeant KELLY. They are distributed through periodicals that are destined for what we call the children hawk trade, one of which is Hermes Delta Project, the Broad Street Journal, and several other type pieces of literature and then also through local bookstores who buy the film that we know of.

Senator CULVER. Have you determined any instances where the film has in fact been produced here in the Chicago area and sent abroad and subsequently reentered the country in an effort to disguise the origin of its contents?

Sergeant KELLY. We cannot definitely say that because we have not been able to definitely follow the film to Europe and back, but we do know of distributors here in Chicago or people here in Chicago who have produced the film, sent it over to Germany, and had it come back to this country as being manufactured in a foreign country.

Senator CULVER. As far as the Chicago area is concerned—could you give us any breakdown of the problem and its magnitude with regard to boy prostitution and girl prostitution?

Sergeant KELLY. In all of our instances in this particular investigation, they have been involved in boy prostitution, either the transporting of boys across State lines for prostitution or the using of young boys as prostitutes on the street, enticing them into actual acts of abuse by male adult individuals.

Senator CULVER. Is traffic in prostitution in the Chicago area limited to young boys?

Sergeant KELLY. No; it is not, but we have had very minimal instances of using young girls.

Senator CULVER. And what is the modus operandi of child prostitutes? What is their life style on the street?

Sergeant KELLY. The child is usually a runaway, a victim of a broken home, a victim of a lack of love at home, a victim of lack of parental control. In all instances, the child is a victim. Maybe the State of Illinois, or in some instances the DCFS, department of child and family services, have not properly supervised some of these children, and they are placed in different types of homes in which the supervision is not the best in the world.

Senator CULVER. How extensive is this problem in the Chicago area in numbers of young people involved?

Sergeant KELLY. In 1976 there were 7,000 runaways in the city of Chicago, ranging from periods of 2 days to 6 months.

Senator CULVER. And of that number, how many would you estimate to be involved in either prostitution or pornographic activity of the general nature you have described?

Sergeant KELLY. I would say a small number, but the number is significant enough for us to be worried about because they are put in a situation where the young person who is a runaway goes out on the street and actually they are attracted to a specific area of the city, which is an area which is mostly young people, people who are active, and they go to this area and this is the area in which they find themselves lonely, without a home, without moneys, and they are put into situations where they can earn moneys and can get housed and are placed in this home for a period of time and slowly indoctrinated to acts of prostitution or put out on the street as prostitutes later on.

Senator CULVER. Senator Mathias?

Senator MATHIAS. Thank you, Mr. Chairman.

Sergeant, you mentioned a minute ago that of the films that have turned up in the market, some are foreign and some are produced within this country?

Sergeant KELLY. Senator, when we first delved into this child pornography thing, we were led to believe by a lot of people, even police departments throughout the country, that all the film being produced was being produced outside the country and being brought into the country for mass marketing.

I think here in Chicago we have taken the standpoint that we have disproved all these people through a very fine police department, tremendous cooperation of the superintendent of police, James Rochford, that this is not true. These films are being manufactured and are distributed through local areas.

Senator MATHIAS. Do you think this is a new situation or is it just better information about the situation?

Sergeant KELLY. I would say it is better information.

Senator MATHIAS. So that in fact this has been a condition which has been growing for a long time in your judgment?

Sergeant KELLY. I would say it is a condition that has been growing and most people have been unaware of.

Senator MATHIAS. And this sudden ballooning of interest does not represent a new situation but a new look at an old situation?

Sergeant KELLY. Well, I would say it represents a new situation, because we were unaware of exactly how much was being produced here in this country. We are now becoming more and more aware. So it is a new situation. It is a situation that people, that the public should be made aware of, that some of their children who may be runaways or some of their children who are not coming home at night or keeping late hours, may be aware of. And maybe their cooperation and the cooperation of many of the citizens of the city of Chicago, we can better enforce laws that we do have and better detect some of the people who are engaged in this type of activity.

Senator MATHIAS. In the course of your investigations, have you become aware of any information regarding the use of the mails to transport pornographic materials?

Sergeant KELLY. Yes; we have.

Senator MATHIAS. Specifically those including children?

Sergeant KELLY. We have a letter here that came in on May 10 of this year, which strictly exploits child pornography.

Senator MATHIAS. Where is it postmarked?

Sergeant KELLY. It is postmarked San Francisco, Calif.

Senator MATHIAS. And addressed to Chicago?

Sergeant KELLY. Addressed to Chicago post office box, which was in cooperation with the Chicago postal authorities. "Boy Scout Sex Manual," "Dutch Boys," "Night Boys," "Boys Who Love Boys," "Chicken Delight," "Boy Studies." All such types of literature are available through the mails.

Senator MATHIAS. What about the use of the mails to procure children for use in this trade?

Sergeant KELLY. Delta Project's main design is to ship children around the country for the specific purpose of putting them in homes and in my belief for the specific purpose of prostitution or indecent liberties with the child.

Senator MATHIAS. What contact have you had with postal authorities with regard to the use of the mails?

Sergeant KELLY. Postal authorities in the Chicago area have been most cooperative and have done an excellent job.

Senator MATHIAS. Do you think that there is enough coordination among Federal and State and local authorities, and all of the enforcement agencies in controlling dissemination of these materials? Do you have any suggestions for us as to how that coordination could be improved?

Sergeant KELLY. Well, I think you always can look for more coordination and for more people to come forward with more information. All agencies sometimes have a tendency of not divulging everything they know about specific crimes and where other agencies may have a little information, that may help intertwine the agencies together. We can always use more cooperation among all agencies.

Senator MATHIAS. What about the effectiveness of Federal law in this area?

Sergeant KELLY. Well, as you are well aware, the Mann Act strictly covers females. There are no laws presently about transporting the males across State lines for acts of prostitution, which is the whole basis for Delta and other type organizations. Therefore there are no Federal laws of mailing across the State lines at this time that I know of, at least in my investigation. When we see literature like this that may be purchased through a company in San Francisco.

Senator MATHIAS. What cooperation do you get from the Federal Bureau of Investigation in this area?

Sergeant KELLY. We receive very fine cooperation from the Federal Bureau of Investigation in all areas of this investigation, but seeing that it was a local investigation, it was more concerned here locally, and there was not a great deal for them to do other than our local laws being enforced.

Senator MATHIAS. So that the lack of a Federal statute was an inhibiting factor in the Bureau's participation?

Sergeant KELLY. Yes. I would say the lack of a Federal statute was inhibiting because we do have instances of boys being transported across State lines.

Senator MATHIAS. Thank you.

Senator CULVER. Senator Wallop?

Senator WALLOP. Thank you, Mr. Chairman.

Sergeant Kelly, I understood from the mayor that yours is an unusual unit in the country, that very few like it exist, is that correct?

Sergeant KELLY. Well, as I said before, the unit was designed to cope with this problem. The superintendent of police, Superintendent Rochford, Deputy Superintendent Killackey, and Commander Thomas gave us the task to go out and try to find out as much as we could, and through an undercover operation, covert operation, we were able to determine who was manufacturing the film in some instances, what their distribution was, and we were able to infiltrate them enough to have one of our undercover people act as a developer for this film and accept orders for this film on the number of copies they so desired. We were able to identify the participants in the film. We were able to identify the manufacturer, the producer, and the filmer of the film.

Senator WALLOP. Are there any Federal funds such as LEAA funds involved?

Sergeant KELLY. We have received no Federal funding for this particular operation.

Senator WALLOP. Has there been an application for them, to your knowledge?

Sergeant KELLY. Not at this point, there has not been, because it is a relatively new investigation which started in December of 1976.

Senator WALLOP. Is this just a natural extension of a lax attitude toward other forms of pornography or is this a uniquely sick area?

Sergeant KELLY. I would say it is a unique area, because these particular individuals, particular adults who abuse these young people only desire people up to a certain age, usually up to 16 years of age, or very, very young-looking people who appear to be 16, and usually will try to get into preteens and early teenagers for their acts and for their movies and films.

Senator WALLOP. What kind of adults participate in this? Is there any particular background that characterizes them?

Sergeant KELLY. No; we have had people from very affluent to middle-income people to factory workers involved in this type of activity.

Senator WALLOP. What about the use of drugs among the juveniles?

Sergeant KELLY. In most instances, we found that drugs are very much used among all of these young people. They are using marihuana, PCP, cocaine, and other types of amphetamines and barbiturate drugs on the street. Also the people who are filming some of this stuff will use drugs to entice some of the young people into it.

Senator WALLOP. Generally speaking, are they the ones who introduce these young runaways to the drug scene or are they already involved with drugs when they arrive?

Sergeant KELLY. I think there are some there when they arrive, and there are also those that will introduce them in if they find the young person a little more resigned not to do it at the beginning and so it is a slow indoctrination period into bringing these people into the drug scene and trying to lower their resistance as much as possible and take advantage of them as much as possible.

Senator WALLOP. Not to say that this activity is by itself not as low a form as you can go, but are these children abused in any other ways? Are these people apt to be cruel or sadistic?

Sergeant KELLY. Yes. They are people that are very cruel. We have spoken to people in the street who have revealed that there are several

individuals who have beaten some of the young people and committed all sorts of acts with them. I think we are facing a unique problem. In the cases we have investigated where a runaway on the street is involved who is suddenly put into sexual acts with another male adult, there is a reluctance to openly talk about what has happened, even if he returns home. He does not want to say that, "I suddenly had homosexual acts with another male" or "I was put out in the street as a prostitute" or "I was used, misused." And the parents do not want to believe that their child in any manner or form was placed in this type of situation while he was a runaway or while he was out in the streets or while he was put in a specific situation.

Senator WALLOP. It is difficult to get testimony?

Sergeant KELLY. It is very, very difficult to obtain testimony, in many instances, or have cooperation by the parents to have their children come in and cooperate 100 percent with the police department and come forth in court and testify to exactly what happened, what the situation was and how it came about.

Senator WALLOP. Nothing in the Federal statutes will particularly help that, will it? That probably is one of the more difficult problems.

Sergeant KELLY. No; there is really a lack of parental guidance on the part of the parents to come forward and say "Our job may have been ineffective, but we agreed to protect other children in the community and other people in the community so they are not involved in this type of activity and we can clean up the situation."

Senator WALLOP. Thank you, Mr. Chairman.

Thank you, Sergeant.

Senator CULVER. Senator Percy?

Senator PERCY. Sergeant, I just have three very brief questions.

First, is the Chicago crime syndicate involved in this action, and in what phases of it?

Sergeant KELLY. As far as the filming goes, we have had no indications that they are involved in the filming or in the parts of the local distribution, but when you come into the bookstores, there could be a very great influence on the crime syndicate being involved.

Senator PERCY. In the bookstores?

Sergeant KELLY. Yes, sir.

Senator PERCY. You head one of four units in the country in this area. Do you feel that your own efforts, having that concentrated and specialized authority have been effective enough that you would recommend other cities faced with this same problem adopt that specialized approach?

Sergeant KELLY. Yes; I would. I think Chicago has proven the leadership in this area, and I think that it has proven through this operation that there should be other units formed to concentrate on this particular area of child pornography and child abuse.

Senator PERCY. Finally, there are estimated to be upward of 100,000 children that had been affected. Do you have any idea how many in Chicago? And do we have rehabilitation services, social services available that are helping some of these children in the rehabilitative process?

Sergeant KELLY. To estimate how many would be a very unfair question—very unfair answer, because we don't really know, Senator

Percy, and I think at this point it would be very difficult because the unit is only 3 months or 5 months old, and most of our effort has been concentrated on this particular investigation. But the Chicago Department of Human Resources has facilities available, that children can be sent to and it can be worked with through other agencies that are part of the Department of Chicago Human Resources.

Senator PERCY. Thank you very much.

Senator CULVER. Sergeant Kelly, how current is the estimate of 7,000 runaways in the Chicago area?

Sergeant KELLY. These were the figures for 1976, Senator.

Senator CULVER. As of a year ago?

Sergeant KELLY. Yes.

Senator CULVER. Of that number, could you estimate the percentage that would be non-Chicagoans in effect?

Sergeant KELLY. What I am talking about when I quote that figure, Senator, is that these are the number of runaways reported here in the city of Chicago. The number of out-of-town runaways that have been apprehended here in the Chicago area is somewhere around 3,000.

Senator CULVER. Actually apprehended?

Sergeant KELLY. Yes.

Senator CULVER. But the 7,000 figure only represents reports from parents or agencies to the Chicago Police Department?

Sergeant KELLEY. Yes, sir.

Senator CULVER. So, actually the number in the Chicago area would be much larger than that, when we talk about 700,000 to 1 million in America today, is that correct?

Sergeant KELLEY. Correct.

Senator CULVER. When you add in these others?

Sergeant KELLEY. Correct.

Senator CULVER. Of those who involve themselves in prostitution or pornographic activity of one kind or another, how many do you estimate go out periodically and participate in this but live relatively in a family structure on a day-to-day basis, as distinguished from the real street runaway?

Sergeant KELLEY. There are a number of them that are involved in this type of activity that are from structured homes and who are out to make money, maybe, off of their activities, male prostitutes or young women prostitutes.

Senator CULVER. This personality profile that you described earlier in your testimony with regard to child neglect or abuse or parental problems of various kinds would also be true in these instances, is that right?

Sergeant KELLEY. Yes, sir, they would.

Senator CULVER. Now, Sergeant Kelley, our next witness is a 17-year-old boy who has engaged in prostitution and has participated as a model in pornographic films. Are you acquainted with him?

Sergeant KELLEY. Yes, I am, sir.

Senator CULVER. Is he in fact known to you as a boy prostitute?

Sergeant KELLEY. Yes, he is, sir.

Senator CULVER. I want to thank you very much, Sergeant Kelley, for your appearance here today.

Sergeant KELLEY. Thank you for coming to Chicago.

Senator CULVER. Now, we are going to call as a witness the young boy whom we will call Marty, although that is not his actual name. He has come forth voluntarily to explain to us his experiences as a boy prostitute and as a participant in pornographic movies. Because our basic purpose is to protect children, he will not appear in this room but will answer our questions over a loudspeaker system.

**STATEMENT BY MARTY, AGE 17, CHICAGO, ILL.**

Senator CULVER. Marty, at the outset, I want to insure that you are aware of your rights under the Constitution and the rules of the committee to be accompanied by a lawyer and to exercise your rights under the fifth amendment not to incriminate yourself.

Do you understand that?

MARTY. Yes.

Senator CULVER. Marty, how old are you?

MARTY. Seventeen.

Senator CULVER. Marty, it is our understanding that you engage in prostitution with adult males. Is this true?

MARTY. Yes, sir.

Senator CULVER. How long have you been doing this?

MARTY. Since I was 15.

Senator CULVER. How do you meet customers?

MARTY. Well, I start out at the "Yankee Doodle," then I go out on the street, at the corner of Diversey, and cars pick me up.

Senator CULVER. How much are you paid for your services?

MARTY. \$20 to \$25. That is what my minimum is.

Senator CULVER. And how many customers do you have on the average in the course of an evening?

MARTY. Two or three. Usually two.

Senator CULVER. And how many days a week do you work?

MARTY. Usually 7.

Senator CULVER. And what do you do, Marty, with the money that you obtain this way?

MARTY. Well, I spent it on drugs. I buy clothes, I give my mother some, to buy something for the house.

Senator CULVER. Have you ever posed for pornographic materials?

MARTY. Yes.

Senator CULVER. Any films?

MARTY. Yes, sir.

Senator CULVER. How many, Marty?

MARTY. About three.

Senator CULVER. In these films, did you appear with other people?

MARTY. Yes.

Senator CULVER. Were they older people or younger people?

MARTY. They were older people.

Senator CULVER. They were older people?

MARTY. Yes; they were adults.

Senator CULVER. And were they male or female?

MARTY. Male.

Senator CULVER. Marty, why do you engage in prostitution and pose for pornographic materials?

MARTY. Well, prostitution I engage in because it is an easy way of making money while I am young, you know, so I don't have to work. The films, I don't particularly like doing.

Senator CULVER. Senator Mathias has some questions for you, Marty.

Senator MATHIAS. Marty, can you tell us how far did you go in school?

MARTY. Eighth grade.

Senator MATHIAS. What kind of grades did you make?

MARTY. Usually good grades. I wouldn't say perfect grades, but they were usually good.

Senator MATHIAS. Did you like school?

MARTY. Not particularly.

Senator MATHIAS. Were you absent a lot?

MARTY. Yes.

Senator MATHIAS. You say yes, you were absent. How about things at home? What sort of family do you have? Brothers and sisters? Are your mother and father living together? What about that?

MARTY. I would prefer not to answer that, because the answer might reveal my identity.

Senator MATHIAS. What about other boys that you know who follow this same pattern. Do you know anybody else who lives the way you do?

MARTY. Yes; I know a lot of them.

Senator MATHIAS. You say a lot? How many are we talking about?

MARTY. Maybe about 50.

Senator MATHIAS. Fifty?

MARTY. Yes; all around Clark and Diversey.

Senator MATHIAS. All around what?

MARTY. All around Clark and Diversey Streets, because that is where I do my hustling in Chicago.

Senator MATHIAS. What age are they?

MARTY. Anywhere from 12 to 19.

Senator MATHIAS. Are they still in school or have they dropped out?

MARTY. Well, those that are 12 to about 15 or 16 might still be in school. I wouldn't say all of them would be.

Senator MATHIAS. Do you know them well enough to know whether they do well in school? Do they have school problems?

MARTY. No; I don't think I know them that well. I don't ask them how good they do in school.

Senator MATHIAS. How many of them are on drugs?

MARTY. Just about all of them that I know.

Senator MATHIAS. About all of them that you know are on drugs?

MARTY. Yes.

Senator MATHIAS. Tell me just a word about the people who make these movies. What sort of equipment do they have? Is it a kind of home movie equipment or does it look like professional equipment?

MARTY. Well, it is like home equipment. The cameras look like regular movie cameras, and they have lights.

Senator MATHIAS. How many people are involved in filming, I mean as far as cameramen and lights and that kind of technical people?

MARTY. The ones that I made involved about two or three people.

Senator MATHIAS. Not more than two or three in any filming?

MARTY. No, not the ones I made.

Senator MATHIAS. And where were they filmed?

MARTY. Well, the ones that they made with me were in a hotel.

Senator MATHIAS. In Chicago?

MARTY. Yes.

Senator MATHIAS. Thank you.

Senator CULVER. Senator Wallop?

Senator WALLOP. Marty, you say you give some of this money to your mother. Do you maintain regular contact with your family?

MARTY. Yes; usually when I get ready to go to sleep, I go home.

Senator WALLOP. So you aren't an Illinois native?

MARTY. What do you mean by that?

Senator WALLOP. I mean, you don't live in Illinois, or didn't?

MARTY. Yes; I live in Illinois.

Senator WALLOP. Marty, what do you plan to do in the future, after this period is over in your life?

MARTY. After I finish with this, I plan to go to a trade school. It might be too late then, but I am not particularly interested in it now.

Senator WALLOP. Any special kind of trade, or are you just kind of casting your eye toward the future and thinking that might be something to do?

MARTY. Well, I was thinking about being a mechanic, or electrician.

Senator WALLOP. Mr. Chairman, I have no further questions.

Chairman CULVER. Senator Percy?

Senator PERCY. Marty, first I want to express appreciation to you for helping the subcommittee.

Do I understand correctly that you have made a clear-cut decision in your own mind to change your style of life now and to seek a vocation and earn a living in a perfectly acceptable manner?

MARTY. Yes.

Senator PERCY. Could I ask this question, then, Marty? Do you feel the need for any kind of assistance from a social worker or a doctor, a psychiatrist, to help you over the problems that you have had? Do you have any hangups on this situation and mental concerns that you would feel the need of counseling to help you rehabilitate yourself now into an entirely new kind of life?

MARTY. Well, not now. I don't feel that I need that kind of help now.

Senator PERCY. Thank you very much, Marty.

Senator CULVER. Marty, did you ever know your father?

MARTY. No, sir.

Senator CULVER. Did you ever know any other relatives?

MARTY. I only met one person in my family and that was my mother's great uncle.

Senator CULVER. You spoke of the 50 other young people who were involved in this activity in the area; could you tell us something about them? Are most of them boys who have run away from their homes from out of State?

MARTY. Some of them are runaways. I don't know if all of them are runaways.

Senator CULVER. And did most all of them come from homes similar to your own, in the sense of not having fathers?

MARTY. I don't know about that, because I never asked them questions about their homes.

Senator CULVER. Well, Marty, is there anything else that you would like to say now to the committee?

MARTY. No.

Senator CULVER. I think Senator Wallop has one more question for you and we appreciate very much your cooperation this morning.

MARTY. All right.

Senator WALLOP. Marty, are there any girls down in the Diversey area?

MARTY. Yes, there are a few of them, but not as many as there are guys.

Senator WALLOP. Do you know any of them?

MARTY. Yes.

Senator WALLOP. Are they in any way part of your social life when you are not working? I mean, do you have parties or do you in any way associate with each other?

MARTY. Yes.

Senator WALLOP. So, you do have friends other than guys on the street?

MARTY. Yes.

Senator MATHIAS. Marty, I have just one final question. I am not sure on one thing. How did you get started in this business? Did somebody suggest it to you or did you just try it out on your own, or just what happened?

MARTY. Yes; someone got me started, a friend of mine.

Senator MATHIAS. A friend of yours?

MARTY. Yes. He got me started after I came to Chicago.

Senator MATHIAS. How old was that friend?

MARTY. He was 15 or 16.

Senator MATHIAS. And you were how old at that time?

MARTY. I was 15.

Senator MATHIAS. So he was just a little older than you?

MARTY. Yes.

Senator MATHIAS. What were the circumstances under which this happened?

MARTY. What do you mean by circumstances?

Senator MATHIAS. Well, I mean did he just come to you and say, "Let's go out on the street and make some money," or just what happened?

MARTY. Well, first I was a friend and I knew him for about a month or so, and he brought me down to the Yankee Doodle on Clark and Diversey and he explained to me everything that was going on and what to do and how to do it, and that's how I got started. He just filled me in on all the procedure.

Senator MATHIAS. Did he give you any drugs or any alcohol or anything of that sort?

MARTY. No; he just introduced me to a few of his friends, a few of his connections, and then I made friends and I just kept going. And that's how I got started.

Senator MATHIAS. Marty, I want to join the other members of the committee in thanking you for giving this insight and this firsthand

experience. I think we all want you to know that if you need help, help is available, and that there are lots of good things to do with your life, but you have to get on with it pretty soon. And if you stay on the streets, I think there is nothing but trouble for you.

Good luck.

MARRY. Thank you.

Chairman CULVER. Our next witness is Mr. Guy Strait. Mr. Strait is an inmate of Stateville Prison in Joliet, Ill., where he is serving a 10- to 20-year sentence for sexual acts with a minor. He was brought here in response to a request by the subcommittee.

**STATEMENT BY GUY STRAIT, STATEVILLE ILLINOIS  
PENITENTIARY, JOLIET, ILL.**

Senator CULVER. Mr. Strait, when were you first taken into custody at Stateville Prison?

Mr. STRAIT. I have been in custody in Illinois for a little over 13 months.

Senator CULVER. Now, it is our understanding that prior to being taken into custody, you conducted a mail order business for certain materials which was based in San Francisco; is that correct?

Mr. STRAIT. That is correct.

Senator CULVER. Would you describe these materials?

Mr. STRAIT. Senator, if I may, I would like to make a statement before the committee starts the investigation.

Senator CULVER. Well, before you make any statement, I want to advise you of your rights. I want to insure that you are aware of your rights under the Constitution.

Mr. STRAIT. I am aware of them.

Senator CULVER. And are you aware of the rules of the committee which permit you to be accompanied by a lawyer.

Mr. STRAIT. I asked my lawyer to come, or at least the warden was supposed to have called my attorney to ask him to be here, because he was very disturbed about the article that was in the Tribune.

Senator CULVER. Well, you do understand that you have a right to be accompanied by a lawyer on this occasion, and to exercise your rights under the fifth amendment not to incriminate yourself. Do you understand that?

Mr. STRAIT. Yes.

Senator CULVER. And you understand that if you waive that right, to be accompanied by a lawyer, that is a voluntary waiver of that right?

Mr. STRAIT. If my lawyer shows up, I would like for him to sit by my side, but he won't have a hell of a lot to say about what I say.

Senator CULVER. In the event he doesn't appear?

Mr. STRAIT. I will go ahead.

Senator CULVER. You are appearing here voluntarily and you waive your right to counsel on this occasion, is that correct?

Mr. STRAIT. I do not waive my right to stop answering questions.

Senator CULVER. Do you waive your right to have counsel with you today?

Mr. STRAIT. Yes.

Senator CULVER. Would you stand and be sworn?

Do you want to raise your right hand? Do you want to state that the testimony that you are about to give to the committee will be the whole truth and nothing but the truth so help you God?

Mr. STRAIT. The testimony I am going to give to the committee is the truth and the whole truth, so help me God.

Senator CULVER. You may be seated.

Now, Mr. Strait, it is our understanding that prior to being taken into custody, you conducted a mail order business for certain materials which was based in San Francisco, is that correct?

Mr. STRAIT. Approximately 3 years prior to being taken into custody, I did, yes.

Senator CULVER. Would you describe these materials? Were these films or books or magazines?

Mr. STRAIT. All three.

Senator CULVER. Did you send these materials throughout the United States?

Mr. STRAIT. I will have to ask the fifth amendment on that one.

Senator CULVER. You invoke the fifth amendment in response to that?

Mr. STRAIT. Yes.

Senator CULVER. Did you ever use the U.S. mails?

Mr. STRAIT. I will have to invoke the fifth amendment.

Senator CULVER. Where did you obtain these materials?

Mr. STRAIT. Various and sundry places.

Senator CULVER. Could you be specific?

Mr. STRAIT. I have produced some of it. Some of it I bought in Los Angeles. Some of it I bought in New York.

Senator CULVER. You say you did produce some of them yourself?

Mr. STRAIT. Yes.

Senator CULVER. How many films did you produce?

Mr. STRAIT. I think the committee has to make a differentiation between production and release. There is a vital difference. Release, possibly I think around 60.

Senator CULVER. Around 60?

Mr. STRAIT. Right.

Senator CULVER. And how many did you actually produce?

Mr. STRAIT. I would say possibly 25.

Senator CULVER. And how do you make the distinction between the one and the other?

Mr. STRAIT. Production is what these people are doing. Releasing is what you do when you prepare it for sale.

Senator CULVER. Now, did you produce these yourself or in cooperation with others?

Mr. STRAIT. You mean the physical act of production?

Senator CULVER. Yes, the physical act of production.

Mr. STRAIT. You mean as far as film developing and so forth?

Senator CULVER. Yes.

Mr. STRAIT. Certainly.

Senator CULVER. You did them yourself?

Mr. STRAIT. Oh, certainly not.

Senator CULVER. No. Then how many others would it normally take to produce the film?

Mr. STRAIT. It takes one cameraman to make a film. When the film is made he has to send it to a laboratory. I don't know how many people work in the laboratory, but if you talk about how many people are necessary to make a film, it is just one.

Senator CULVER. Did you have any lights person to operate the lights?

Mr. STRAIT. Similar to what you have here.

Senator CULVER. So normally when you produce these films, it was an operation that involved just yourself in terms of the actual filming?

Mr. STRAIT. That's right.

Senator CULVER. Now, would you nevertheless consider yourself a major producer of these materials?

Mr. STRAIT. No.

Senator CULVER. You did not consider yourself a major producer of these films?

Mr. STRAIT. Certainly not.

Senator CULVER. And yet you talked about producing as many as 60 films yourself.

Mr. STRAIT. These are loops.

Senator CULVER. These are loops. Would you describe the loop for the record?

Mr. STRAIT. A loop is a 10 to 12 minute film.

Senator CULVER. And so when you speak of producing films, you are talking about producing those loops, is that right?

Mr. STRAIT. Yes.

Senator CULVER. Now, did you ever have occasion to splice those loops into a larger production?

Mr. STRAIT. No.

Senator CULVER. Did others do that with your materials?

Mr. STRAIT. I am sorry, that is correct, I did.

Senator CULVER. You did what?

Mr. STRAIT. I did make a larger production, but it has nothing to do with anything the committee would be involved in, would be interested in.

Senator CULVER. But occasionally those loops would be used and spliced together to make a larger film?

Mr. STRAIT. Not with my knowledge.

Senator CULVER. Not with your knowledge? Now, what would be the estimated expense of the production of one of those loops? What is the overhead in the business?

Mr. STRAIT. Zero.

Senator CULVER. Virtually zero, you say?

Mr. STRAIT. Yes.

Senator CULVER. Just the price of film, your own time and minimum—

Mr. STRAIT. Cameras are rather expensive.

Senator CULVER. And then what would you sell a loop for?

Mr. STRAIT. It would depend, \$25 to \$50.

Senator CULVER. Per copy?

Mr. STRAIT. Per copy.

Senator CULVER. And then how many customers would you have normally for one of those loops?

Mr. STRAIT. I have to explain a little bit. Pornography is a self-defeating business. The more there is, the fewer you sell. Therefore, the first one sold very well—I would say up to possibly 500 copies. The latter ones, 25 to 50 copies. I am sorry I can't say how many it will sell. It's like saying how many apples will sell.

Senator CULVER. To your knowledge, at the time that you were engaged in this business, how many other producers of these materials were there?

Mr. STRAIT. Three.

Senator CULVER. In the entire country?

Mr. STRAIT. Yes.

Senator CULVER. Who are they? Can you name them?

Mr. STRAIT. There was Roy Ames. There was a man by the name of Jerry, whose last name I do not know. And then there was a Walter. His name is similar to the name of this building. Polish name. He was operating out of New Jersey, Kunsig or something of that sort.

Senator CULVER. How would you spell it, to the best of your recollection?

Mr. STRAIT. K-u-n-s-i-g.

Senator CULVER. Where was Roy Ames' base of operation?

Mr. STRAIT. Houston.

Senator CULVER. Is he still there?

Mr. STRAIT. No, sir.

Senator CULVER. Is he still alive?

Mr. STRAIT. He is doing 10 years in Leavenworth.

Senator CULVER. What about Jerry?

Mr. STRAIT. He is doing 14 years in prison.

Senator CULVER. And what about the third party?

Mr. STRAIT. I have no idea where he is.

Senator CULVER. To the best of your knowledge, he is still in operation?

Mr. STRAIT. He is still around.

Senator CULVER. Operating?

Mr. STRAIT. Possibly.

Senator CULVER. But you do not know his whereabouts, where he is operating?

Mr. STRAIT. No. I would say somewhere in New Jersey, Pennsylvania, Washington area.

Senator CULVER. Did you ever put out a newsletter during the period of your operation?

Mr. STRAIT. Yes, I did.

Senator CULVER. Could you describe the newsletter, what it contained?

Mr. STRAIT. Oh, if it were being written today it would probably be covering this meeting, this hearing.

Senator CULVER. Let's describe the one that you used to put out. What was the nature of its content?

Mr. STRAIT. That is difficult to recall after 4 years.

Senator CULVER. You were the author, weren't you?

Mr. STRAIT. Yes.

Senator CULVER. You had pride in your work?

Mr. STRAIT. Yes.

Senator CULVER. Well, can't you recall what it was?

Mr. STRAIT. I have written, oh, I would say roughly, 10,000 pages in my lifetime. I can't remember.

Senator CULVER. Just give us a description, if you would, of the average newsletter.

Mr. STRAIT. It had nothing to do with sex, if that is what you mean.

Senator CULVER. Who did the newsletter go to?

Mr. STRAIT. To my customers.

Senator CULVER. And who were the customers.

Mr. STRAIT. People just like people here.

Senator CULVER. What was the subject matter of the newsletter?

Mr. STRAIT. Politics is the primary factor.

Senator CULVER. It didn't have any sexual content at all?

Mr. STRAIT. It had no sex, no prurient content, certainly not.

Senator CULVER. Did it have a catalog?

Mr. STRAIT. It had a catalog.

Senator CULVER. Did it advertise the availability of films?

Mr. STRAIT. Yes, it did.

Senator CULVER. What was the nature of those films that it advertised, the availability?

Mr. STRAIT. Prurient films.

Senator CULVER. So it had something to do with regard to sex?

Mr. STRAIT. You said the newsletter, Senator.

Senator CULVER. This information was not contained in the newsletter at all?

Mr. STRAIT. Certainly.

Senator CULVER. Was it attached to the newsletter?

Mr. STRAIT. It was put in the same envelope.

I am not trying to be difficult, but they were two separate and distinct things.

Senator CULVER. It was placed in the same envelope?

Mr. STRAIT. Oh, yes.

Senator CULVER. And to the same customer list?

Mr. STRAIT. Yes.

Senator CULVER. How many customers were on the list?

Mr. STRAIT. I at some time had as many as 1,200.

Senator CULVER. How did a person become a subscriber?

Mr. STRAIT. He would write me a letter saying that he was interested in buying materials. I would send him back a letter together with a form wherein he would have to swear that he was not a police officer or a member of the Communist Party and that he was over 21 years of age and so forth and so on. And he would describe the type of materials that he wanted.

If it looked like it was a police officer, or something of the sort then—he had to send a dollar back with it—I would put the dollar in my pocket and I would throw the application away.

Senator CULVER. How did he obtain your name in the first place?

Mr. STRAIT. Word of mouth.

Senator CULVER. And again what was your maximum circulation?

Mr. STRAIT. 1,200 to 1,300 would be the very tops. When I was arrested in Los Angeles, my mailing list had exactly 942 names on it, contrary to what Mr. Martin has testified that I had 50,000 names on the mailing list. It was 942.

Senator CULVER. Is it true that the customers could by checking a card express the sexual preferences that they had?

Mr. STRAIT. Yes.

Senator CULVER. Could you be more specific as to the kind of alternatives that you listed on your card?

Mr. STRAIT. Some of them are quite ridiculous. He could specify whether he was interested in bestiality, whether he was interested in geriatrics, whether he was interested in almost any of the fetishes or the perversions that are normally called in the behavior fields.

Senator CULVER. Senator Mathias?

Mr. STRAIT. Senator, I still have not been allowed to make my statement.

Senator CULVER. We will afford you an opportunity to make your statement after the questioning.

Senator MATHIAS. Mr. Strait, you were familiar with the market in pornography?

Mr. STRAIT. Yes.

Senator MATHIAS. You say that the law of supply and demand operates very effectively in that market?

Mr. STRAIT. Yes, sir.

Senator MATHIAS. When did you first become familiar with that market?

Mr. STRAIT. I would have to say somewhere from 15 to 20 years ago.

Senator MATHIAS. At that time were most of the materials available produced in the United States or were they imported from other places?

Mr. STRAIT. There was very little material available.

Senator MATHIAS. Where did it originate? Did it originate in this country or did it originate in other countries?

Mr. STRAIT. You are taking me back a long way.

I think it originated in this country, yes.

Senator MATHIAS. You think the production has been going on for 15 or 20 years?

Mr. STRAIT. Of pornography in this country? I would say 200 years.

Senator MATHIAS. I am talking about films.

Mr. STRAIT. Not films, naturally.

Senator MATHIAS. And other photographic materials.

Mr. STRAIT. I still maintain, Senator, that Mr. Jefferson did not exclude pornography from the first amendment. Only our later Government did that.

Senator MATHIAS. Now, when did you first start producing yourself?

Mr. STRAIT. Pornography, or what?

Senator MATHIAS. Films.

Mr. STRAIT. Films, I would say about 1969. But I don't want to be—a year one way or the other—

Senator MATHIAS. We won't hold you to the exact day.

Mr. STRAIT. This is an estimate.

Senator MATHIAS. When you began to produce movies, how did you recruit the actors?

Mr. STRAIT. I would say that that is the smallest problem.

Senator MATHIAS. The smallest problem?

Mr. STRAIT. The committee might be very disturbed to find out that there are a multitude of people who are willing to jump in front of a camera, as these people will tell you, with or without their clothes on. It has very little bearing on it. Governmental attitudes toward smut as opposed to the popular attitude toward smut are very far apart.

Recruit, I think that is a bad word to use. You have to say how did I beat them away from my door. At first I would—people would come up to my place and I would photograph them merely because I felt sorry for them. I would run three or four rolls of film.

Senator MATHIAS. You felt sorry for them? Did you pay them anything for posing?

Mr. STRAIT. \$5 or \$10. I have thrown away probably 200,000 negatives.

Senator MATHIAS. What kind of people were they?

Mr. STRAIT. Just about everything that you can describe, sir.

Senator MATHIAS. Age?

Mr. STRAIT. Say from 12 to 120, basically.

Senator MATHIAS. How did they hear about your activity?

Mr. STRAIT. Word of mouth.

Senator MATHIAS. All word of mouth?

Mr. STRAIT. I recall advertising that I had materials for sale, but I do not ever recall advertising for models.

Senator MATHIAS. So you claim that everybody that you photographed was a volunteer?

Mr. STRAIT. Absolutely.

Senator MATHIAS. Did you instruct them?

Mr. STRAIT. I told them I wanted them to do nothing in front of a camera that they did not ordinarily do, because the stuff shows up on camera.

Senator MATHIAS. Now, Mr. Strait, Thomas Jefferson isn't here with us today to expound his views, but you and I are.

Let me ask you this question. Would you agree regardless of how you interpret the first amendment of the Constitution, the use of children to make pornographic films is out of bounds and is not only damaging to those children but it is damaging to our society?

Mr. STRAIT. Please define what you mean by children.

Senator MATHIAS. I mean anyone under 16.

Mr. STRAIT. I will agree with you to 14, and so will most of the other civilized countries.

Senator MATHIAS. You think that the use of any children under the age of 14 in a pornographic exhibition for films is not only damaging to those children but damaging to society?

Mr. STRAIT. I think the man that does such a thing should be exactly where I am living.

Senator MATHIAS. Did you do it?

Mr. STRAIT. No.

Senator MATHIAS. You never engaged any child under the age of 14?

Mr. STRAIT. I never engaged in the photography of a less than an adolescent person, never.

I would say that in many cases 12 years is one thing, 14 years is entirely different thing. I wouldn't agree that all 18-year-olds should be photographed. I certainly would not. I would not agree that any per-

son should be forced or coerced into doing anything pornographic or even erotic.

Senator MATHIAS. Or lured or entrapped?

Mr. STRAIT. Right. I would call for the strongest measures against the use of drugs, force or anything of that sort. I would call for the strongest measures against anyone who abuses children. I have spent all of my fortune and I have made one and all of my life fighting for the rights of juveniles, and I stand by it. I stand in very bad shoes at the present time to talk about it, but this country, I don't believe, gives a damn about their juveniles. I think it is proved day after day that the cities, the States and Federal Government does not care at all. The cities, the States and the Federal Government has taken due process of law away from them. They have denied them every right of citizenship, yet you hear people talking about protecting the children.

You are going to hear today 2 men who can prevent the rape of at least 40 to 50 boys tonight, and they will not lift a single finger to stop it. So don't talk to me about the interests of juvenile children. I don't believe it.

Senator MATHIAS. Thank you.

Senator CULVER. Senator Wallop?

Senator WALLOP. Mr. Strait, do you feel that your activities were harmful to society?

Mr. STRAIT. I wish it were possible for me to bring some 40 children that I have raised into this meeting, to prove to you whether or not they have been harmful.

Senator WALLOP. Were they raised in an environment where their sexual activities were photographed?

Mr. STRAIT. They were never photographed, sir. I would not allow it.

Senator WALLOP. But they knew it existed?

Mr. STRAIT. They knew it existed, certainly.

Senator WALLOP. I am not talking about your activities with those children. Do you feel that your activities were harmful to society?

Mr. STRAIT. No, sir.

Senator WALLOP. Were they beneficial?

Mr. STRAIT. Yes, sir.

Senator WALLOP. In what way?

Mr. STRAIT. I would just have to say that the House committee spoke to a Mr. Martin in Los Angeles. He has been investigating my activities for the last 5 to 10 years. He has yet to find one of the people who were involved with me that has suffered harm. He says that he has interviewed 50,000 children. I don't believe him, by the way.

Senator WALLOP. My question was, do you believe that your activities were beneficial and not harmful to society? Claiming that they were beneficial is scarcely——

Mr. STRAIT. I would hate to say that I did no good in my life. I would hate to make that statement.

Senator WALLOP. What did you do before you got into the business of producing these loops?

Mr. STRAIT. There is a period of time in my life there where I was involved in some publications, some civil rights activities.

Senator WALLOP. Gay liberation civil rights?

Mr. STRAIT. No. I don't believe in that particular type of civil rights. I think that we all are equal and I am no more interested in this man's rights than I am interested in my rights. So I think President Carter puts it right when he talks about human rights. Gay rights if you want, yes. I think that they should have an opportunity to engage in whatever sex that they wish so long as they do not harm others.

I wrote in 1953, I believe it was, I published a small book called *The Right to Go to Hell*, wherein I said that I believe a man has the right to go to hell or heaven, whichever he chooses, at whatever speed he wishes, so long as he does not take anybody with him by force.

Senator WALLOP. Did you know what you were doing was illegal?

Mr. STRAIT. The Supreme Court didn't say so.

Senator WALLOP. Well, somebody has.

Mr. STRAIT. I am not here in Illinois as a result of any filming, on the record. And if I were to offer my brief to the three Senators and if they found me guilty, I would withdraw my appeal.

Senator WALLOP. But with regard to the activities of filming and making these loops, did you know that that was illegal?

Mr. STRAIT. It was not illegal at the time, sir.

Senator WALLOP. So it was legal?

Mr. STRAIT. Sir?

Senator WALLOP. You are claiming that it was legal?

Mr. STRAIT. At the time, yes.

Senator WALLOP. And there were minors involved?

Mr. STRAIT. Yes.

Oh, I see what you are saying. The State law rather than the Federal.

Senator WALLOP. State or Federal?

Mr. STRAIT. No, at that time it was legal, that was before Mr. Burger's Court made its decision. You will have to remember, gentlemen, that I haven't had anything to do with the pornographic business involved for 4 years.

Senator WALLOP. Well, I guess I cannot understand how you draw the distinction that what you were doing with children was in any way beneficial to them or beneficial to—

Mr. STRAIT. It might have been beneficial, yes.

Senator WALLOP. It might have been beneficial?

Mr. STRAIT. It might have been beneficial, yes.

Senator WALLOP. How could it have been? Would you describe that?

Mr. STRAIT. In the behavioral sciences, contrary to Dr. Densen-Gerber who seems to get around so much, hiding sex relations is far more detrimental than bringing them out in the open. I think any behavioral scientist would agree with me on that. I do not have any single person that I had anything to do with who has ended up in any sort of a mental institution or has ended up in a penal institution.

Senator WALLOP. Are they not trapped by guilt and do they not live troubled, unhappy lives? Just because they are not in institutions does not mean that there are beneficial results from—

Mr. STRAIT. Are you speaking of being traumatized? I doubt it.

Senator WALLOP. Do you think it a normal thing for a 14-year-old boy to be with a 50-year-old man and be filmed?

Mr. STRAIT. I am sorry, sir, that was never filmed or offered for sale by anything that I had ever anything to do with. Always peer groups. Never anything beyond peer groups.

Senator WALLOP. OK. You think that it is normal for 14-year-old boys to be filmed and have their activities displayed to the world?

Mr. STRAIT. If you would read the book that Kinsey wrote, I think you will find that he backs me up.

Senator WALLOP. Do you think that it was beneficial to them for you to photograph them?

Mr. STRAIT. I don't think it was harmful.

Senator WALLOP. Mr. Chairman, I have no further questions.

Senator CULVER. Mr. Strait, concerning these films that you have produced over the years, what was the breakdown in terms of the kind of firm, for example, boys, boy-girl, adult, of the total number of films you produced? What was the percentage of films involving adult conduct and activity?

Mr. STRAIT. Mr. Rapp of the subcommittee staff asked me that question and I have been trying to pin it down more in my mind.

I will be honest. I couldn't say, other than just say half and half. I really couldn't say.

Senator CULVER. Half adult?

Mr. STRAIT. Yes.

Senator CULVER. What about the other half? Did that involve boys or boy-girl?

Mr. STRAIT. Boy-girl, boy-boy, yes. Girl-girl.

Senator CULVER. Both? Is there any breakdown on that in terms of films?

Mr. STRAIT. No, a lot of water has gone under the bridge since then.

Senator CULVER. What was the profile of a typical model that you had? What kind of background? You mentioned the relative ease with which you found people willing to lend themselves to this kind of activity. Was there any general profile of the young person involved?

Mr. STRAIT. Yes. I want to be sure and put this exactly correct, because the Tribune misquoted me so badly. There are two types and very broad types of juveniles who are available to be photographed.

The first type comes from what is called the classic broken home. But being from a broken home has no particular guarantee that that is where they will go.

The other one comes from the home where the father didn't have time to be with his son. He may have thought he loved him dearly and maybe every month he took him to a ball game to impress his son with how much he was sacrificing to see that his son grew up normally.

So you have to say that there were the sons and the daughters of those men who had worked so hard in their young married life but they didn't have time to be a father.

Money has no bearing on it. I have yet to see anybody who would get in front of a camera for money. Money was part of it, because ego is the primary reason that a man jumps in front of a camera, a boy, a girl, a woman, regardless. If they haven't been appreciated by their parents. They would love to be appreciated by someone. So money is strictly secondary.

I made enough money from writing, from various publishing ven-

tures and so forth where I could give a lot of things away. I did. Never for anything but merely because I wanted to give.

The committee might believe that you are sitting in front of a sex fiend or at least an ex-sex fiend. Quite the contrary. I think you can find that most of the pornographers, most of the pornographic photographers are primarily asexual. They have very little sex drive. Therefore they can be a photographer.

Senator CULVER. Would you estimate the annual dollar volume in the industry today? Do you have any estimate on that?

Mr. STRAIT. I have heard that it is 11 percent. And I think that is like going down here to Oak Street Beach and determining that Oak Street Beach has 11 percent of the sand in the world. As I remember, I am sorry, Oak Street Beach is concrete. Belmont.

Senator CULVER. Now, Mr. Strait, you indicated that you had a statement to make. We have some time constraints here. I want to assure you that we can make your statement in its entirety a part of the record. If you would like to give some of it, we have about 5 minutes on our witness schedule left, if we are going to accommodate all the witnesses we planned today. So if you want to give some of it or submit the whole thing for the record.

Mr. STRAIT. I hope to give this first. I will read it the way it is written. I had hoped to give the committee copies, but it is rather difficult to type where I live.

Senator CULVER. You may proceed.

Mr. STRAIT. I know what Daniel might have felt like when he looked at the lions, but I welcome the opportunity to say that many things that have been testified to before this committee have been untrue. Unfortunately, I have nothing to lose, at least not much, by telling the truth. Some things I cannot tell, for to do so would take from me the only thing I do have left.

Senator CULVER. You are fearful of your life if you would tell all you know about this matter, is that what you are saying?

Mr. STRAIT. Hell, I am fearful of my life anyhow, Senator, from merely appearing here. I am fearful of my life because I gave an interview to a Mr. Bliss and a Miss Michael Sneed of the Tribune where my name was not to be used, and they used my name and my address. And certainly my fear is not ungrounded when the Captain of Security called down and had the Sergeant come over to check to see if everything was all right with me. Certainly my fears are not ungrounded.

The headline for the Tribune article said that I had only one regret, that I was caught. And that is untrue. I said that my one regret was that I was tried and convicted in the State of Illinois for I am accustomed to more civilized society.

I would have the committee know that pederasty has been around for a long long time, both in the classical sense and in a sexual sense. The classical sense should be between an adult and a child. Nevertheless, Chicago and possibly the country is in debt to the Chicago Tribune for rediscovering pederasty. Pederasty has absolutely no relation to homosexuality. In fact, it is the antithesis to homosexuality, but neither the police, the newspapers nor in fact the public cares to have their prejudices subjected to scrutiny.

I recall telling Officer Martin of Los Angeles, who has testified before the House committee, that I loved my pet, which happened to be a white sheep gibbon. The next time I saw a police report from Los Angeles, I was accused of bestiality.

I would tell the committee that a gibbon is the smallest of the sheep family, weighing some 20 pounds.

I have, as I told the counsel, many reservations about the sincerity of this committee. I certainly know that the Governor, the mayor, are not sincere about being disturbed about the juvenile delinquency. If the committee is interested in the sexual abuse of minors, I suggest they adjourn these meetings and go down to a place called St. Charles, here in Illinois, that is called the sissy factory of the world. Rape is the rule, not the exception.

Of course the juvenile division is as successful a coverup as the adult division. This committee would see nothing.

I have considerable respect for President Carter, but it is ridiculous to hear him talking about human rights in South Africa, East Germany, and Russia when the minors in this country are treated worse than lepers in their own country.

Only recently has the court held that a minor must have legal counsel before he is committed to a mental institution.

Here in Illinois a minor can live under one jurisdiction but then be hauled before the court and tried as an adult. This is on the face, *ex post facto*, unless Latin has lost its meaning.

I have no desire to cause any trouble for those engaged in the production and distribution of pornography. I think pornography has a worthwhile place in the American family. I certainly believe that Mr. Jefferson would agree with me. After a lifetime of fighting book burners, I cannot bring myself to join hands with them regardless what the cause.

The committee said you will say, we are not interested in this. But I am saying that the committee coming here, plus the very convenient drive against pornography, has closed down bookstores in the city of Chicago that have as much right to operate as does the Baptist Book Store.

I have seen on my television set a woman who claims to be a psychiatrist rave and rant about child porno and she holds up a copy of the book "Show Me," and I would tell the committee that the book "Show Me" is a translation of a sex education book that is given to the seventh grade in the schools in Germany. She showed copies of a thing called "Moppets" that has been tried by the courts in Los Angeles and found nonobscene. The committee will hear that such things are ruining the legitimate theater in New York on 42d Street. And I will tell them that legitimate theater was run out of 42d Street many years ago because the pimps and the whores kept congregating around it.

I have heard for years how the Mafia is involved in the production and distribution of pornography. I know only one Italian in the business, and his firm absolutely will not handle hardcore materials, nor will they handle what is called kiddie porno.

Others in the business who are Greek, Italian, Irish, but predominantly Jewish. But I hardly think ethnics have anything to do with

it. But in this country it has long been the practice to blame everything on either floods or droughts, or on the Mafia or on the Communists.

The legislature can pass laws until hell freezes over and they usually do about election time, but the committee will be better served if they engage in sex education in a large dose.

Because I still believe that if I know the truth, it will set me free.

Senator CULVER. Thank you. Thank you very much, Mr. Strait.

Our next witness is Mr. Gerald S. Richards, an inmate of the Jackson State Prison, Mich.

**STATEMENT OF GERALD S. RICHARDS, JACKSON STATE PRISON,  
JACKSON, MICH.**

Senator CULVER. Mr. Richards, would you please stand?

Mr. Richards, I want to assure you that you do have certain rights on the occasion of your appearance here today, and I want to make sure that you are aware of those rights, under the Constitution and the rules of the committee.

First is the right to be accompanied by a lawyer. And second, you have the right to refuse to answer any question under the fifth amendment which you may feel could possibly incriminate you.

Have those rights all been explained to you?

Mr. RICHARDS. Yes.

Senator CULVER. So you appear here voluntarily.

Mr. RICHARDS. Yes.

Senator CULVER. And you waive your right to counsel on this occasion; is that correct?

Mr. RICHARDS. Yes.

Senator CULVER. And you also know you have the right to invoke the fifth amendment if you do not wish to answer any question; do you understand that?

Mr. RICHARDS. Yes.

Senator CULVER. Would you raise your right hand please, and do you solemnly swear that the testimony that you are about to give will be the whole truth and nothing but the truth so help you God?

Mr. RICHARDS. Yes.

Senator CULVER. You may be seated, Mr. Richards.

Mr. Richards, where are you from?

Mr. RICHARDS. Port Huron, Mich.

Senator CULVER. How big is Port Huron?

Mr. RICHARDS. About 35,000 or 40,000 people.

Senator CULVER. And where are you now, which prison?

Mr. RICHARDS. I am incarcerated in the State Prison of Southern Michigan.

Senator CULVER. On what charges were you convicted?

Mr. RICHARDS. Criminal sexual conduct of the first degree.

Senator CULVER. How did you plead to those charges?

Mr. RICHARDS. Guilty.

Senator CULVER. Mr. Richards, how did you first get involved in the pornography business?

Mr. RICHARDS. My first contact was when I was going to college. I worked nights in an adult bookstore. And that was my first connec-

tion with pornography. I worked there for 2½ years from September 1969 to March 1972, and that is where I made initial contacts and different types of connections with the pornography business.

I was married at the time, and I am still married, but I was supporting my family there and working part time on weekends doing hotel auditing work.

Senator CULVER. In what year did you actually begin to produce child pornography?

Mr. RICHARDS. I first met a young boy in January of 1973 who became our babysitter and a model. He was 13 or 14 years old and a neighbor. I filmed him for 2 years but the material was not sold. I first began to produce semipro boy-porno with this babysitter and another boy in January of 1975. In the years that followed 1973, my wife developed serious gynecological problems, and this boy became a sex substitute in a homosexual relationship that lasted until my arrest. My arrest was a charge of a sex act with a 10-year-old model; however, we were making a film of my boyfriend (15 at the time) having sex with the 10-year-old at the time. I plead guilty to protect my models and exposure of my affair with my boyfriend, "Matthew." He was the boy-partner in my operations.

Senator CULVER. Around January of 1975?

Mr. RICHARDS. Yes.

Senator CULVER. And for how long a period were you involved.

Mr. RICHARDS. Through to about January of—well, about February of 1976.

Senator CULVER. And what exactly did you do in connection with that work?

Mr. RICHARDS. I sent out only material certain people wanted and never mailed any unsolicited pornography or brochures.

Senator CULVER. Would you explain to the committee how you initially went about getting involved in the production of child pornography films. What were the circumstances?

Mr. RICHARDS. There were some ads in various magazines for the type of material that was sought, and I had access to material that I would make available to the people who wanted it. And as it progressed, I ran into a man who assisted in making places available where I could film models. As to the models themselves, I really only had one who was a fellow that I had met—a young neighbor actually, who agreed to pose.

Senator CULVER. How old was he?

Mr. RICHARDS. At the time he was, I believe, 13 or 14.

Senator CULVER. Thirteen or fourteen?

Mr. RICHARDS. Yes; now, these were not particularly offensive types of posing at that time. They were generally physique type of posing, and through the contact with an organization I met other men that were in the same type of situation who had models and they would swap pictures back and forth and I realized that there was an area where maybe I could profit by selling more, producing more, and this particular person would obtain another model for me, and that's basically how I started. That's basically how I got into it, on a local level.

Senator CULVER. How many models did you have overall?

Mr. RICHARDS. Between other guys that had boys available, there could be either rented or traded from in the State and paying to use their models—I would say that I would have access of 30 models I could work with.

Senator CULVER. Thirty models?

Mr. RICHARDS. Yes.

Senator CULVER. Would those mostly be obtained in the Port Huron community?

Mr. RICHARDS. Only about 10. I would think there was only two or three directly in Port Huron, and the others I got from Pontiac and the Detroit area, by making arrangements to swap models.

Senator CULVER. What ages, Mr. Richards, would the models range from?

Mr. RICHARDS. Generally, mine were anywhere from 13 to 15. I only had one younger who was 10, a former student, introduced at age 8-9 to sex by another Boy Love member from Detroit.

Senator CULVER. Did most of them come from a similar background?

Mr. RICHARDS. Yes; very much so.

Senator CULVER. And how would you describe that background?

Mr. RICHARDS. Generally, what I and anyone else that you have seen getting models would look for would be someone that had a poor family background as far as father image in the home. It was part of the whole picture of a model involved. There is no father there and the young model looks for the man who is his friend. The photographer, too, is a father substitute many times. Second, they very seldom have any kind of a religious or moral background. Third, they meet the attributes that are required for the business.

Senator CULVER. Senator Wallop.

Senator WALLOP. Thank you, Mr. Chairman.

Mr. Richards, you implied that the road to your career in pornography started in an adult bookstore.

Mr. RICHARDS. Yes.

Senator WALLOP. Was it the fact that sexually explicit materials are generally available in adult bookstores that led you into child pornography?

Mr. RICHARDS. Well, it is an area. When you said child, I am talking about basically a particular type of child pornography, which I'd like to mention later on. These are young boys, and this area back in the early seventies, my involvement really is because when I worked in the store I did have a liberal philosophy that anything goes as long as no one got hurt, and a lot of the people in the business felt the same way. And when I started back there, I retained addresses of various people that were either advertising or in this field, and filed it away. And the influence of the bookstore was that I got very good pay for working there in the evenings. I knew there was "money" in pornography. I just worked there nights and went to school in the daytime.

My son was about to be born Dec. 8, 1971, and I didn't want to continue this adult bookstore business after that, but it was certain obligations that I had and I realized that if I could get one model to pose, maybe I could make some money and I did. But what happened was, when you start dealing with other people, and I am not saying that I dealt through the mail exclusively, but I am saying sooner or later they are going to want another model. Before long you have to have

other models. It is an area that is very specialized. Since then it is not so specialized because a lot of people are into it.

But that's how I got my influence. My feeling about the thing, was that I was not involved in anything that was going to change anybody's mind. I didn't think I was harming anyone, as long as they wanted to go along with it.

Senator WALLOR. Did the customers in the bookstores ask for this and find it unavailable? Is that when you began to identify the market?

Mr. RICHARDS. It was available back in the late sixties, yes. But it was kept under cover, in fact, I have filed away sample copies of all this material, but that wasn't enough for a lot of people. They wanted more. And they wanted the independent dealers to make contact through the papers, because a lot of them are looking to actually meet the models. That is what they really want to do. The model is just the vehicle.

In other words, what you can do is charge so much for a sample of certain prints, then sell the prints and sooner or later they are going to want to see the model. They can make more money by using the model that way.

Senator WALLOR. You mentioned the trading of models. Was there any resistance amongst the young models to being traded?

Mr. RICHARDS. No. The ones that I knew, there never has been any type of a force or pressure put on anybody. They either had the propensity for that involvement, and I could identify it right away and utilize that propensity. But, it is true that the organization did philosophize a lot of techniques and beliefs that they had taught to members. That was the best way to go about obtaining models.

Senator WALLOR. You talk of the organization. What is the organization?

Mr. RICHARDS. Well, the main organization in the United States is an organization called Better Life, which is a philosophical group. It is basically run through the mails, and it is the only organization. Well, there is another one, but this is the basic one that prophesies a real belief. I am not saying that I adhere to this philosophy, because it ruined my life. But in part this was a way that I could use a defense mechanism within myself to say: it's all right because they are organizing, they want to legalize, and if nobody gets hurt it's all right. That's where most of the ads were run for men that wanted photographs, and where I would run an ad maybe in that respect.

Senator WALLOR. Was there profit, moneys being handed out, in the exchange of these models? I get the impression that trading models is much like the trading of baseball players.

Mr. RICHARDS. Yes and no. Some of them that didn't care about making anything, they would just do it as friends. OK? But certainly there are men that would make sure that they got something for the services that they went through the bother to do it.

Senator WALLOR. And who cared for these models? Where did they live? Were you responsible for their well being when they were under your—

Mr. RICHARDS. Only if they were one or two of my own. Yes, I took care of them. If they lived in their own homes. But as I said, a lot of the ones that I used were from other places.

Senator WALLOR. And the philosophy of this Better Life organization is that it is all right as long as nobody is getting hurt?

Mr. RICHARDS. That really is the concept. I am talking about organization pederastia—they claim they are not bisexuals or homosexuals. That applies to anything in the field of deviations, you know, in the pornography business. But more exclusively with them, they believed in a sort of reliving of an old Dorian Greek philosophy, a belief that man and boy relationship, mind, body and spirit. It is a metaphysical thing. And they actually wanted to legalize this type of relationship. Most of the men are amphigenous inverts (passive bisexuals) or homosexuals who have misdirected their attentions toward young boys or do so because of an inferiority or passivity toward adult relationships. "Boy Love" may well be the product of our growing liberal acceptance of androphilic (adult) homosexuality as "near" normalcy in our country. Homosexuality has never produced children, but it does recruit them in many and diverse influences.

But the point is that all of the literature is designed under the guise that they don't approve or condone any illegal activity, which is true in "print." But my belief is that there is a causal relationship between pornography and the sex acts. I had seen it when I was in the bookstore business. I had somebody come in and ask for this particular literature when we didn't have it or were out of it and there was at least a couple of cases where a gentleman who was an average citizen, a teacher, and father of 5 small children, asked for this material, out of curiosity he said, and then came back months later saying that he had obtained a boy. He confided in me because the owners of the business had an agreement that we never talked about the customers, naturally, because a lot of them were well-known people and average citizens in the street.

Senator WALLOR. So there is and was in your opinion a causal relationship between—

Mr. RICHARDS. I believe that theory today, I really do, because I have seen it happen with a lot of kids. I have seen people write to me over and over again also. They like this particular print that I had available, but now they want to see the model. And naturally I didn't make those kinds of arrangements, you know, in every case. If I did—because, for one thing, I was not particularly interested in prostitution.

Senator WALLOR. I want to thank you, Mr. Richards.

I have to leave, and it has nothing to do with you if I get up and leave the table.

Thank you, Mr. Chairman.

Senator MATHIAS. Mr. Richards, your activity in this field, as I understand it, began as a clerk in a bookstore?

Mr. RICHARDS. Assistant to the manager, yes.

Senator MATHIAS. Then—

Mr. RICHARDS. Just a minute. I would like to explain the crimes that I was involved in. The photography itself was absolutely started after I left the shop, but I had made the initial contacts through magazines they had published. I don't want to accuse them of setting me up in business. They weren't the people.

Senator MATHIAS. I am just interested in your own personal involvement. You were a clerk in a bookstore which dealt in pornographic materials?

Mr. RICHARDS. Yes.

Senator MATHIAS. Then you began to traffic on your own in pornographic films and pictures?

Mr. RICHARDS. Yes, some of those.

Senator MATHIAS. Stills and movies, is that right?

Mr. RICHARDS. Right. The very first time I did this was by ordering materials from other people and then reselling.

Senator MATHIAS. Then you progressed to producing the pictures?

Mr. RICHARDS. When I found a model, right.

Senator MATHIAS. When you found a model?

Mr. RICHARDS. Yes.

Senator MATHIAS. How did you find that model?

Mr. RICHARDS. I found the model by just coming out and asking the person if he would model, quite frankly. He agreed to and from there on in he worked with other models.

Senator MATHIAS. Did you have to pay him any substantial amount of money?

Mr. RICHARDS. No. He might charge other men, but I would help him, the family, by buying clothes and things because I felt a little guilty on making money. So that way——

Senator MATHIAS. How much money did you make on that first film?

Mr. RICHARDS. I couldn't recall.

Senator MATHIAS. What is an average film?

Mr. RICHARDS. I didn't make a motion picture.

Senator MATHIAS. Just stills?

Mr. RICHARDS. Yes.

Senator MATHIAS. What do these stills sell for in the market?

Mr. RICHARDS. Well, through the particular market area, maybe 12 prints would be maybe \$10, which isn't much. But once they are hooked on it, you get them to order more, like send them a sample and they will get hooked and they want more. We do it that way. Pretty soon you can use one series of prints over and over, or else have the model pose again and then you have to be able to utilize that model because eventually you will expend that model's potential for making money.

Senator MATHIAS. What about movies? What does a movie film cost?

Mr. RICHARDS. Anywhere from \$75 to \$200 for a 200-foot reel. It depends on the "action." Strait's is strictly hardcore.

Senator MATHIAS. You have been in this business. Have you got any guesses as to what the overall size it is in the country?

Mr. RICHARDS. Yes. I think that there is a lot of money spent on this type of material. I had been involved in it and no one knew I was working in this field.

Senator MATHIAS. When you say no one, you mean——

Mr. RICHARDS. My wife or my family.

Senator MATHIAS. Your family and your friends and your other business associates?

Mr. RICHARDS. I had decided in the fall of 1975 that I had to stop this type of activity, because I felt I had broken a promise that I had made to get out of the bookstore business before my little boy was born. He was 2½ and I was still working there.

Senator MATHIAS. And who did you make that promise to?

Mr. RICHARDS. I made this promise to God that I didn't feel it was right, and didn't want my son to be brought up, with me working there.

Senator MATHIAS. But it was all right for other people's children?

Mr. RICHARDS. Right. It was all right with anybody else's kid as long as I didn't hurt my boy and my family.

Senator MATHIAS. Your son?

Mr. RICHARDS. Right. That was my biggest mistake, because I became greedy and I knew that I still had to make money and the others are willing to go along with it. Then I would try to make more money. But I didn't want my boy and my wife to get involved at all. And when we could afford to move near a school, then I would quit. But I didn't do it. Instead, for what reason I don't fully understand, when my wife lost the last child 30 days before my crime with the particular model that I got involved with, I realized then that I had gone too far. What had happened was the crime was committed before I was going to film or had filmed this particular group together, a 10-year old with a 15-year old, and I had an offer from a man for this particular scene, this particular type of activity, this particular type of age group in action together. It would be worth a lot of money to me and I felt I just sold my morals right out at that level because of my greed in going that far, and I never got the "connection" and didn't get paid.

I became rather ill afterwards and all last summer I had been working to change my life I was arrested at my doctor's office, and the crime had taken place several months before my arrest.

Senator MATHIAS. Mr. Richards, how many customers did you have in this field?

Mr. RICHARDS. You mean over a period of a year, a given year?

Senator MATHIAS. In the whole time you were in the pornography business.

Mr. RICHARDS. Well, the 2-year period, I would think maybe 600. They were mostly curiosity seekers, about 10 percent paying buyers and swappers too. I ended up with Sheldon, Grossman, Keller, and another. But prostitution and any type of payment went to the boys themselves.

Senator MATHIAS. And the business grew pretty rapidly, right?

Mr. RICHARDS. Yes.

Senator MATHIAS. Did you have any trouble in selling either stills or movies?

Mr. RICHARDS. I never had any trouble at all.

Senator MATHIAS. How widespread do you think the field is across the country? Did you deal in materials that came from different parts of the United States?

Mr. RICHARDS. There are people that you can contact in every major city, in New Brunswick in the provinces, Ontario, also up in Canada.

Senator MATHIAS. What you are telling the committee is this is a business which moves back and forth over the States and over international boundaries?

Mr. RICHARDS. Yes. Also I think what is important is that I am one of the numerous what I call individual or small-time operators.

Senator MATHIAS. Can you tell us just a couple of places that, where you know of your own knowledge, that there is production of material?

Mr. RICHARDS. One has already been closed. I think I told what I know about that.

Senator MATHIAS. Where was that?

Mr. RICHARDS. That was Boys Farm in Tennessee, which sold raw film to other men. They would bring it to me to process. I am sure there are other places right now, homes, that men who are in this sort of scene work in legitimate homes, and I felt that I shouldn't mention any particular home because—

Senator MATHIAS. Just give us the geographical locations where these places are located.

Mr. RICHARDS. OK. Washington State and New York State, possibly District of Columbia, Nebraska, Iowa, Vermont, California, Pennsylvania. Those are a couple of places where there may be homes. From correspondence and type of material sent to me, they had to be using legitimate Boy's Home, infiltrated by "Boy-Lovers".

Senator MATHIAS. What about the Washington, D.C. area? Is there much activity there?

Mr. RICHARDS. All I know there is that one of the other organizations that sponsored me, put me up in business, was going to open a home in Washington, D.C., too.

Senator MATHIAS. When you say "open a home", what do you mean opening a home in Washington?

Mr. RICHARDS. Opening up this type of home. A year-and-a-half ago some people came to me to open, pay for office rent. I would continue to produce materials for them and put them in contact with others in the business. They were wealthy individuals and I needed the money and I did everything I could for them. I am guilty of using them, too, I suppose.

Senator MATHIAS. Were they the ones that were going to open the home in Washington?

Mr. RICHARDS. Yes, one of them.

Senator MATHIAS. Do you know if they did open?

Mr. RICHARDS. I heard it was opened. The man told me it would be.

Senator MATHIAS. Is it still open?

Mr. RICHARDS. I don't know.

Senator MATHIAS. Did they actually produce films there?

Mr. RICHARDS. Not to my knowledge.

Senator MATHIAS. You don't know?

Mr. RICHARDS. Not for a certainty.

Senator MATHIAS. You think they did?

Mr. RICHARDS. I assume they could, yes. I am not certain.

Senator MATHIAS. Now, Mr. Richards, Port Huron is not a very big town.

Mr. RICHARDS. No.

Senator MATHIAS. 40,000?

Mr. RICHARDS. Yes.

Senator MATHIAS. Bigger than the town I grew up in but it isn't big in the sense of a big metropolitan area. Do people pretty much know what their neighbors are doing in Port Huron?

Mr. RICHARDS. Yes and no. It is not a small town.

Senator MATHIAS. What about the police there? Did you have to go to a lot of trouble to conceal what you were doing in producing these pictures?

Mr. RICHARDS. No, none whatsoever.

Senator MATHIAS. You didn't have to take extra precautions?

Mr. RICHARDS. Well, I would say you take precautions but you have to remember that the crime and the problem and the evil and everything that I got involved in is very simple and easy to get involved in. The participants and so forth are probably more prevalent today than it was 10 years ago, but it's not that easy to get into it if you want to make money in pornography.

I had a girlie studio called Photo Arts studio. I just used girls there from college. But the funny thing about it is that you can make more money with young male models. Well, for one thing there is a lot of competition in girls. And you also have a stigma of society, the girl. But what society doesn't realize is, you don't look down upon the boys going into a shop or the boys going into a studio or this sort of thing.

If I go to you and you know me and I ask you to take your son on a camping trip, we don't question it. But if I want to take your little girl for 4 nights, you begin to question it. What is happening, they are taking advantage of the situation for the pederastic trade, the homosexual trade, the bisexual trade, whatever it is. And it can be very lucrative if you promote it and make money.

Senator MATHIAS. You say you got girls from the college?

Mr. RICHARDS. These were older girls. They weren't, you know, 14, 15. They were college.

Senator MATHIAS. College age. They were, in fact, college students?

Mr. RICHARDS. Yes. There was no prostitution involved.

Senator MATHIAS. Just posing?

Mr. RICHARDS. Right. And it was a scheme—not a scheme, I mean a business, that the man that owned the bookstore set me up in, before I got into the male models business.

Senator MATHIAS. Did you pay these girls?

Mr. RICHARDS. I didn't. They were paid, of course.

Senator MATHIAS. They were paid? Did they do it for the money or did they do it for the kicks?

Mr. RICHARDS. For the money. Well, they were posing, remember. They weren't—it wasn't prostitution.

Senator MATHIAS. I understand. Now, let me get back to this question of the police in Port Huron. Did you ever have a sense that the police were active in this field or did you ever feel that they might be watching you?

Mr. RICHARDS. I had no reason to.

Senator MATHIAS. You had no reason to?

Mr. RICHARDS. No; I had reason to, but not reason to suspect the police, that they were involved in surveillance or anything of that nature.

Senator MATHIAS. As far as you know they didn't have any surveillance set up for this kind of activity?

Mr. RICHARDS. There was never any complaint against me filed. In fact, the charges I was sent for—

Senator MATHIAS. You were never nervous about the police?

Mr. RICHARDS. Yes; from my own emotional standpoint, like I say, after my own particular crime. Up to that point I did go and seek help, and that's what I was doing this summer. I had a suspicion that maybe at that point I was going to—

Senator MATHIAS. Let me ask you one more question on this point. What do you feel the role of the police is in child pornography? Are they very active? Are they passive?

Mr. RICHARDS. It is not a matter of police, I don't believe. The police cannot—the police as we know the police are powerless really, because it goes a lot deeper than that. It goes into family structure. It goes into the U.S. mail, for example, as I believe that 90 percent of the business is handled by the U.S. mail, 90 percent of the contacts; 90 percent is all done through the U.S. mail. And it is not the police's fault, you know. I think that pornography plays a major part in it, but I don't blame the police or have any animosity toward the police.

Senator MATHIAS. Thank you, Mr. Richards.

Senator CULVER. Mr. Richards, did you know of Guy Strait in the child pornography business?

Mr. RICHARDS. I know of him.

Senator CULVER. Could you name any of his organizations?

Mr. RICHARDS. The main one, the only one really that I have any knowledge of is a movie film business.

Senator CULVER. What was the name of that, Mr. Richards, do you recall?

Mr. RICHARDS. It has now been changed. It's now called F & F Distributors, and I don't remember what the old name was. I don't know if he used his own name or not.

Senator CULVER. Do you know if any of his organizations continue to operate even though he is now in prison?

Mr. RICHARDS. Oh, yes. That's the interesting thing is that it was a 1- or 2-month break, where the brochures stopped, ceased. And I happen to know today that they are still delivered to the door.

Senator CULVER. They are still being delivered today, even though he is in prison?

Mr. RICHARDS. Yes. I am not saying that the gentleman is running the business, you know, I really don't know who is running it, but the same merchandise is available—the pamphlets were changed, the mailbox—post office box number—so it must be the same substation and they picked it right up, the same type of brochure, same type of material.

Senator CULVER. Do newsletters from Mr. Strait's organization still come to your home address?

Mr. RICHARDS. Not to my home address, no, but to a friend that I can trust, because I had made a decision to try to change things. I wanted that literature for a reason. Not for my own interest, but for something I wanted to do some day.

Senator CULVER. Mr. Richards, you observed that we of course are involved here with a problem that is not simply one of law enforcement. You said that it was more fundamental in its development and in the reasons for its presence. It appears to be the result of the basic alienation of a young person from the family. And a result of the

absence of the love from within the family structure. Do you think this is the root of the matter and the reason children run away and are so vulnerable to the people that are involved in this activity and industry?

Mr. RICHARDS. Yes. First I would like to say that I am really cognizant of criminal fact, because a lot of the men are really using techniques such as desensitizing the child. This is from the literature published by these people that are in sort of a coordinated effort. And that is the very criminal part, that they do desexualize the child. In other words, preach to the boy to encourage heterosexuality, when he knows at 13 or 14 he can't perform that function. So then he subconsciously will go along with the man, OK. By preaching to the child that he wants to be straight appearing and everything, the child has no other recourse but to go along with the man who has then become his new mentor and new leader and so forth. That's the criminal part.

The second, yes, the mentor is looking for the boy who doesn't have a father, and doesn't have those attributes at home. And then of course the physical qualities that match what they look for. Certainly one of the things is the church and synagogue and so forth. Anyone affiliated with those would be in a sense a "no-no." They don't want to get involved with anyone in any type of pornography that has any morals, really—and if they do, then you are going to have a moral conflict.

Senator CULVER. You mentioned the network or underground organization in this pornography business. You mentioned Better Life. Who are its leaders?

Mr. RICHARDS. The leader is a man named Barry Wright, which may be an alias. However, an associate told me twice that his real name was Wayne Smith or some other first name similar to Wayne, I believe, but cannot be certain. I believe this is the same man who runs the Mail-O-Matic operations in Rocky Mount. But that's the name I knew him by. That's the name that one of my partners, when I say partner, a man who was very influential in getting me—helping me get further involved, mentioned it, that was an alias. But that is the name he uses in the business.

I think that is one of the problems in all the relationships I have talked about are all people that have been related in some way or another to this particular movement. I am not talking about the individual child molester and so forth. Because one of the significant parts about the Boy Love organization is they pride themselves. I mean that they are not aggressive, sadistic, or violent type people. They have a real deep seated belief, whether you or I believe it or not, that what they are doing is wholesome, natural, and good for the boy. It may be, only the point is someone is taking an interest in that kid's life that could sway his normal sexual development. But through the deviants and the type of problems that even I got involved in, it is self-defeating, because I ended up destroying my own self. And being a father, it was the last thing I wanted to do. As you said in the beginning, it was all right as long as my boy didn't get hurt or my wife didn't get hurt, because these kids had these propensities and most of the people I worked with did have the propensity toward homosexuality, and what they are doing is actually molding the child's

sexual orientation without his own free choice. He loses that inalienable right to his own sexual life.

When he has been preached the gospel of abnormality at this age it may do permanent damage. If he wants to become that type of person later, that is his business.

Senator CULVER. Where is Wright located?

Mr. RICHARDS. Their address is a Beverly Hills, Calif., post office box. The magazine is printed by the Broad Street Journal in Colorado.

Senator CULVER. Who are the other leaders of Boy Love?

Mr. RICHARDS. I am not certain who the other leaders are. I understand who may be one or two of the regional directors and the regional representatives are. They had elections a couple of years ago or were going to appoint men that would scout around the country to meet the other BL's. Now, BL is a code for Boy Love. And that's what they call it. And that's why they all have a number. Of course, when I placed ads to hear from other people—

I am not saying I dealt, you know, through the mail with them or reached them exclusively through the mail as a vehicle, but I am sure you realize that that is the central way that a lot of men that were dealing or would have been dealing would have made contacts with that particular unique group. So they all had a number like I did, BL 147. Last time I knew, they were in the thousand consecutive number of men in the United States. I suspect and believe that about 75 percent of them actually are involved with boys. The others are using the services such as mine to get pictures or to swap pictures or buy them or to look for models. Or they will write to pornographers and say, "Well, can I buy the model?" or meet the model? Or, "Can he fly down to my house? I will pay his way."

Senator CULVER. Who is Francis Sheldon?

Mr. RICHARDS. He was a friend of mine. He paid for my office. I believe he was going to help me pay for my boy's college education someday.

Senator CULVER. I have heard it said that if you want to find the child pornographers, go where the children are. And you mentioned the camping. Do you know of child pornographers running homes or camps for children now?

Mr. RICHARDS. There were some men that wanted to start a camp and I think there are people that have a lot of money that will provide that. That is true. But most of the ones I came into contact with were just average teachers, Boy Scout leaders, and youth workers. They belonged to Big Brothers and the Boy Scouts, which, of course, is a No. 1 area for a Boy Lover to be working in that field. I am not knocking the Boy Scouts of America, because I am trying to tell them and tell you that our whole society has to be looked at. I can't drop the name and say this is the organization. I think every organization where a teacher works with boys is potential area for "Boy Lovers." And if any of these people are true pedophiles, which means a lover of child, that in itself is not inherently wrong. It has to be an overt sexual act. Many of the people I talked with never wanted anything to do with the child. They wanted pictures. Maybe it was for their own sublimation. That's one thing some psychiatrists argue. But I don't believe it now. I believe it is a direct causal relationship between these people and the pornography.

Senator CULVER. Do you know of any adults who show any psychological or sexual disorientation as a result of this kind of exposure to child abuse when they were young?

Mr. RICHARDS. Yes. That's something that after I got to prison, I realized I had seen, not in the prison particularly, but in the background of four prisoners I worked with or became acquainted with in the natural course of prison life. One young man was telling a fellow worker about a newspaper article on a Boy Scout leader who was arrested for involvement in pederasty.

He told in detail how he got involved at age 10 or 11 with a wealthy architect in his hometown (Traverse City, Mich.) and how the relationship grew . . . he told how he learned to enjoy it and looked forward to the 10 dollar gift every Saturday when he and his brother would go to the man's home to do yard work.

I was eavesdropping but a week later was curious to know if he was truthful and tricked him into discussing the subject and he accurately repeated the scenario word for word in every detail. I felt sorry and hoped I could do something for others to prevent this in the future. This particular inmate is a young, healthy man, and good worker and yet got into crime and exhibits sadistic-homosexual impulses in a kidding-way. He pretends to be kidding about his interests in young boys over and over, yet, he is in prison for the rest of his life.

The homosexual influences are great. Often they prevent a person from developing deep interpersonal relationships and think only of themselves and instant gratification. Many crimes of a nonsexual nature at all, have homosexual influences as a base.

On the other hand, some forms of man/child sexuality may have its basis also in a childhood trauma. Not until I was a victim of sexual abuse and assault in jail/prison, did I recall thoughts of a similar childhood incident with a babysitter that I certainly repressed. To this day, my parents know nothing of the relationship which had to be around age 8 and through age 10, but it was the opposite—not violent—but nothing the less, it was a shame I successfully "forgot." So I mean it has nothing to do with the prison management.

There are, in particular, a couple of cases where I have seen people who are now adults who are into the same thing who were either violently attacked or involved in what they call these BL liaisons with an adult. I personally know of two or three, and I would not like to mention names because I don't think that would interest you. Some of them are well-known people.

Senator CULVER. In view of the problem of the alienation of young people and their desperate need to be loved, to have their identity reinforced, to have a sense of self; what can be done, given the family background, given the economic pressures on our society generally, to help the young people who have suffered because of participation of pornography? What can society do? What kind of social response can be made by agencies or schools?

Mr. RICHARDS. You will find that as many more people are being arrested or exposed or found out, the child and many parents quite often will be reluctant to prosecute. What happens is then the child doesn't get any counsel, or not very much, because many of the prob-

lems happen in the home in the first place. I am not blaming the child, but it is a 50-50 proposition. I feel that they have to be, in some States I think, I am not sure on this, demand a type of therapy for the child involved, compulsory therapy. And it may be in some States that go so far as to treat the child, in a sense if it is a certain age group, because what has happened in this BL movement which is so tragic for the kids is that the children are never forced into these things, but are usually dropped when secondary sex characteristics begin and the child loses his "friend." I am talking about exclusively this BL syndrome in the country. Not the child molester, which is a different situation altogether. OK?

What I am saying is that they are willingly going along because they are looking for this. So maybe if their sexual responsibility was taught—because our level of sexual maturity is lowering. Some sociologists feel that there has been nothing done—in particular about crimes that I was involved in—and sexual maturity, that is lowering to 13, 14, they are becoming more eagerly interested in sexual life. They are frustrated with the heterosexual unavailability. They are looking into filling this need in a man who is a big brother.

Senator CULVER. Senator Mathias, do you have any questions?

Is there anything else that you have to say to the committee this morning, Mr. Richards? If not, we wish to express our appreciation to you for your appearance here today and your cooperation in terms of assisting us and achieving a better understanding of the nature of this problem, and in an effort to seek responsible remedies wherever possible.

I wondered if you had any other comment or observation you wish to make.

Mr. RICHARDS. Though I was involved in immoral activities and am guilty of the sins and crimes I have attempted to make reparation for in my penance, I never ever defrauded or hurt anyone through the mail. I always gave my customers what they wanted and had them sign statements to that effect.

I opposed certain boy-sex schemes I knew about such as Father Bud Vermyle's Welcome Wagon deal, the political-motives of Guy Strait and his pushing of sex with very young boys, the "cadet" rackets of the Oddysy Foundation, and others. I was "burned" myself in believing the Church of the New Revelation would help my wife and I get a new home, and all of this and more is accomplished solely through the U.S. mail.

No matter what I did, at least I was honest and sincere in my delivery of what the "boy lovers" wanted. Now all I want to do is be just as open to the American public to help parents and others understand that Sodom was on the verge of reconstruction here. I know a 13¢ stamp can sexually frustrate a young boy for the rest of his life.

Because of my own wife's gynecological operations, numerous miscarriages and growing frigidity, I utilized my knowledge of pornography markets and bisexual involvement with my first model, a neighbor boy, who began to pose for me in 1973. Due to financial problems I turned to the mail—found ads in underground papers catering to men who liked young boys—ran ads and sold or swapped photos of my neighbor boy—but I was loyal to him and gave most

of any money back to him in various ways. He was poor. Later, although I had contact with about 600 correspondents and customers, I used some of these for data in college themes. I gave away a lot of materials in an effort to latch on to a very few wealthy men as supporters. They in turn, took advantage of my own passivity and gullibility which I learned from a prison psychologist and ended up just accepting gifts of telephones, gadgets, and things.

In many respects, my life was ruined by the mail. Through correspondence, I thought I had made contact with men who would support a real home and/or camp for boys, but they just wanted my models—and I, in trying to develop a certain type of boy for another man, ended up in prison. But I have better work to do now and will spend my life making a better life for myself and many other people too.

My own little son was not a product of the mail, but of love. I must make my life better for my son's sake. I want to die someday knowing I've tried to make life better for all boys.

Just briefly, that is what happened to my life—you mentioned the police being involved—very simply has happened and is going to be happening to a lot of other people that were very much accepted for what they are doing. A lot of them weren't into photography that I was in before. A lot of them are just into it for the one or two boys that they can keep. What I would like to see done is some legislation so that we can help the children because more and more, as I look back in the case of the ones that are being arrested you will find as you said they were introduced at an early age. We have put them into prisons of course, and I don't want to talk about prisons, but there is not really a rehabilitation there except in one State. So we have a vicious circle of the same activity over and over again. Now, it is progressing today, and these boys who grow up with their orientation already in a sense fouled up and have a tough time.

All I can do is pick up the pieces and start over again.

Senator CULVER. I want to thank you very much for your appearance here, Mr. Richards, and I wish you well in your own personal rehabilitation effort. I commend you for your very sincere efforts in that regard. Thank you, very much.

Our next witnesses are Mr. Bernard Carey and Mr. Jack Lehman.

Mr. Carey is the State's attorney for Cook County. He was first elected in 1972. He has established a distinguished record as prosecutor and public servant.

And Mr. Lehman is an investigator for the Cook County State's Attorney's Office. He has conducted an extensive investigation into organized child prostitution.

And however you gentlemen would like to proceed, we are very appreciative of your appearance here today.

**STATEMENT OF BERNARD CAREY, STATE'S ATTORNEY FOR COOK COUNTY, CHICAGO, ILL., AND JACK LEHMAN, INVESTIGATOR, COOK COUNTY, ILL.**

Mr. CAREY. Mr. Chairman, I thank you for the opportunity to appear before this committee today to discuss one of the most outrageous

and disgusting forms of criminal conduct that I have come across during my years of law enforcement—the sexual abuse of children.

As State's attorney of Cook County, I am the chief criminal prosecutor of the Nation's second largest jurisdiction, which includes the city of Chicago and a total population of more than 5½ million persons. My primary duty is to prosecute those who violate Illinois law within Cook County.

The phenomenon of child pornography made its first appearance in the Chicago area approximately 18 months ago in the form of magazines and films sold in local X-rated bookshops. These materials explicitly depicted actual or simulated sexual acts involving young children between the ages of 6 and 14. These acts included sexual intercourse, deviate sexual conduct as defined by Illinois law, and lewd conduct.

On the basis of this material, criminal actions were instituted against five Chicago bookstores under Illinois' obscenity law. However, before the cases could be brought to trial, the State obscenity law was challenged and declared unconstitutional. Therefore, the distribution of this material spread to other areas of Cook County, which resulted in a number of complaints from the public.

The Illinois General Assembly is currently considering several proposed obscenity statutes, including one dealing specifically with child pornography.

In a related area, my office initiated an investigation in August 1976, into a nationwide scheme in which the homosexual services of young men were offered through a program known as the Delta Project. Under this scheme, a variety of newsletters and magazines were circulated by mail offering the sexual services of a so-called "cadet" for a fee of \$45 plus travel expenses.

Our investigation indicated that subscription lists totaled between 35,000 and 45,000 persons from across the Nation.

Senator CULVER. This is the Delta Project?

Mr. CAREY. Yes.

During various stages of this investigation, which is still going on, our office has cooperated with law enforcement agencies in Los Angeles, Calif.; New Orleans, La.; the FBI, and elsewhere. Their efforts were directed at local aspects of this prostitution scheme.

Recently, while working in cooperation with the youth division of the Chicago Police Department, seven persons were arrested in Chicago on various charges including indecent liberties with a child, and contributing to the delinquency of a minor in connection with pornographic films and a child prostitution ring.

In addition, my office in cooperation with the Chicago Police Department is laying the groundwork for a grand jury investigation into the producers of child pornography within Cook County. Since there is no obscenity statute in Illinois at this time, my office is operating under existing laws that prohibit such sexual conduct with children.

As you can see by this brief summary of the activities of my office, our experience has been considerable. I have found substantial deficiencies in existing law, both on the State and Federal level.

In order to attack the problems pointed out by the Delta Project directly, a Federal law is needed to expand the current Mann Act to

prohibit the transportation of males across State lines for immoral purposes. Through this legislation, the power of the Federal Government could be brought directly against this nationwide scheme.

Second, the Federal Government can play a key role in removing the profitability from the production, sale and distribution of child pornography. Since in all but a very few cases, the actual production of such explicit material violates existing State laws that protect children against sexual abuse, I propose that Congress enact a law declaring such explicit films and photographs to be contraband material.

As contraband, this material could be seized until a court determines whether the actual production of the material violated the law. In this way, those who profit most would be directly hit and deterred from the production or distribution of such material.

Again, let me thank you for giving me the opportunity to appear before this committee. I would be pleased to answer your questions. State's attorney's investigator Jack Lehman who participated directly in the Delta Project investigation has also come along to answer questions.

Senator CULVER. Mr. Lehman, do you have a prepared statement or do you wish only to respond to questions?

Mr. LEHMAN. I am here to respond to questions.

Senator CULVER. Mr. Carey, do you believe that the appropriate approach for a prosecutor of these child pornographers lies with the obscenity or child abuse laws, and what specific evidentiary or procedural problems do you encounter with one or another of those two approaches?

Mr. CAREY. That is a very complex question.

First of all, I believe that as I mentioned, that to produce this material would violate the laws of most of our States; therefore, it should not be protected if they are able to successfully smuggle it from one State to another and avoid any interstate transportation laws that become protected somehow under the first amendment. Inasmuch as it takes a violation of the law to produce this, I think that ought to be considered contraband. That is what I mean by contraband. Therefore, the first amendment should not play any role in this. If someone steals something in Indiana and brings it to Illinois, it is still stolen property once it arrives in Illinois. So in a sense it is still a form of contraband, so to speak, and the person with the original title could always retrieve that property. Well, this is a property that would normally be protected. It is not necessarily the contraband itself, but it becomes distinguished by the fact that it is a result of a crime. I think possibly in some respects, utilizing or considering children. Therefore, it is the most important aspect of this, should not be so intertwined in the areas of homosexuality and/or pornography in general or obscenity, because that raises many questions which are clouded by the protection of the first amendment, which I think is quite important.

I am very zealous of all first amendment rights, but I think in the area of child abuse, we are talking about pre-pubescent children, that we are far removed from the area of protecting the first amendment of the Constitution.

Now, you also have the problems of prostitution, a specific law regarding obscenity involving the utilization of children in sexual

explicit acts which will present some prosecutorial problems, inasmuch as if we could not find the producers of the materials or the original models used in the production. We would have the difficulty of testimony in court which could establish the age of the individual utilizing the material, if we set a certain age, and it would be difficult to do that. We may have to bring in experts, anthropologists and others who would be able to look at a picture and give us proper determinations of the age involved. If we set an age limit, however, that is not to say the problems themselves, should present something that we don't think we can overcome. We are willing to accept those problems because of the outrageous nature of this activity that is involved.

Senator CULVER. You are suggesting that we consider an amendment to the Mann Act to include males as well as females?

Mr. CAREY. Yes, minors, male and female.

Senator CULVER. It has also been suggested that the use of the post-Civil War Federal statute outlawing all forms of involuntary servitude can be effectively employed against child pornographers. Do you agree?

Mr. CAREY. I would assume from that, I haven't read that aspect, but I assume what they are saying there is that the child would be too young to give a valid consent and therefore is being pressed into service. Well, I suppose that is one approach, but that can be debated back and forth quite vigorously. We set the age limit too high. That would be one that would be very difficult to prosecute.

Senator CULVER. What about the existing Federal Conspiracy Statutes? Are they an effective tool at all against child pornography?

Mr. CAREY. I am sure they are. I am sure they would be. As I mentioned, we do have some problem of production here in Cook County. I don't think it is vast. I think that most of the material that we have seen for sale in our bookstores has been produced in other States or out of the country in foreign countries. I don't think that we should look the other way and say that we cannot do anything here. Let us assume for the moment that none of this material would be produced here. Do we have an obligation, then, to turn our heads the other way and say that the first amendment, which we all should zealously guard, doesn't protect the individuals who are profiteering from this and therefore encouraging others to produce it. Conspiracy is a very difficult crime to prove. As to how well any conspiracy laws are enacted is also difficult to prove and does not solve the problem here, because if you are trying to enforce a conspiracy law in Illinois, the bookseller's conspirator would be the producer. But what if you couldn't find the producer?

We would like to remove this material so that we don't contribute to the profit taking that encourages further production, which encourages further child abuse.

Senator CULVER. Mr. Lehman, it is our understanding that you investigated an operation that is known as the Delta Project.

Mr. LEHMAN. Yes.

Senator CULVER. Would you describe this project, how it works?

Mr. LEHMAN. OK. It is a mail order project. It is operated by a man named John Norman, who is presently serving time, 4 years and 1 day in Pontiac. He has a post office box here in Chicago. It is box 5094.

He sends out material and receives material from other agencies similar to his, which invites men to—well, one program is called the Don program. In this program, he invites anyone who is willing to have a cadet, which is a young boy between the age of 13 and 19 right in there, to have him live in his house, he will take—a don should take one to three cadets to live with him in his house. He would pay a fee of \$50 a month for having these cadets live in his house. But at the same time, these cadets would not only serve him sexually, but would also—any other members of the Delta Project, which is quite vast, would contact these dons and he could invite them for a weekend and these people would in turn pay him for letting them use his facilities, his house and the youth. And John Norman would get a percentage of this back.

Another program he set up was called the Cross Country program. In this program, if an individual would like to take a trip to New Orleans but he lives here in Chicago, he would simply pick up the phone and either John Norman or his associate who is very close to him in running this operation, Philip Paski, would arrange for him to have a youth waiting for him to stay with him for a weekend up in wherever it may be, San Diego, Los Angeles, wherever.

The cross country part of this program died rather quickly, because John Norman was sentenced back in November 30 of last year. The Delta Project right now is still in existence here in Chicago and is still run. However, it is not that widespread at this time because John Norman is confined.

John Norman has had similar projects before. He has set up John Norman Odyssey Foundation out of Dallas, Tex. He has set up the Conquest Agency out of San Diego, Demalco International out of San Diego, and he set up Sex 2 publications out of St. Louis, Mo.

John Norman is up for parole and goes before the board on August 1 of this year and he will be eligible on October 1. Once he is out, I would definitely say that the operation will go back into full swing, with some new clientele and the same old clientele. He has vast files. He will probably set up in another city but he will still have his contacts here in Chicago and other parts of the Nation.

Mr. CAREY. Wasn't it true that he ran quite a bit of this project while he was an inmate of the Cook County Jail? That is also quite interesting.

Mr. LEHMAN. When he was in the Cook County Jail he published a newsletter called the John Norman Newsletter. This was to get inmates to give him money for his cause for setting up these type of foundations so that he could get up his bail money to get out on the outside and get new clientele for his operation. The operation started here in Chicago in March last year.

Our office had a fraud investigation, and this is what they currently do. It is a very hard operation to detect.

Senator CULVER. Thank you.

Senator MATHIAS?

Senator MATHIAS. Yes; Mr. Carey, I want to join the chairman in thanking you and Mr. Lehman for being here.

Mr. CAREY. Welcome to Chicago, Senator.

Senator MATHIAS. It is a great city. I am just sorry we are here because of this problem.

In your statement, you say the phenomenon of child pornography made its first appearance in the Chicago area approximately 18 months ago in the form of magazines and films sold at local X-rated bookshops. I think it is important for us to find out whether this is simply a new perception of an old problem or whether we are dealing here with essentially a new problem, and if it is new, we need to know the cause of it.

Now, in your statement you said, "It made its appearance 18 months ago." Is the committee to believe that this particular vicious and tragic kind of pornography wasn't available in Chicago before that time?

Mr. CAREY. No, I don't think, Senator, that we would suspect that that was the case. I would think that it was probably more underground and sold more under the counter before that time. I think 18 months ago is the time in which we noticed that it was being sold more openly, blatantly and was more widely available in some bookstores which had not handled that type of material previously.

Senator MATHIAS. Do you think that they were just testing the length of the leash or they were just testing how far they could go?

Mr. CAREY. I think you are correct in that assumption. I think that is what happened and about that very time was the time that the Illinois obscenity law was thought by many to be unconstitutional and ultimately several months ago, about a year ago, it was declared unconstitutional. Therefore, the individuals felt more secure in selling this type of material openly.

Senator MATHIAS. Do you have any information as to whether or not what was available in the past was of foreign origin and there is now a larger domestic production, or don't you have any information?

Mr. CAREY. Yes; I do, based upon my personal experience in law enforcement, I believe the only type of material that I had ever seen in the past always seemed to be and appeared to be of foreign origin, but in the last 18 months I was talking about there is a proliferation of what appear to be more domestic type of material.

Senator MATHIAS. So you would say then what is new in this picture is not the traffic itself, but the domestic production?

Mr. CAREY. I believe so, yes.

Senator MATHIAS. Do you have any idea what the factors were that brought about the domestic production as opposed to depending on foreign sources?

Mr. CAREY. No. Well in Illinois, our own personal experience has shown obviously the lack of a law at all which would prevent anyone from enforcing the sale of it. That could have certainly been a factor here. I don't really personally know whether this is an expanding proposition as far as the numbers of individuals in this country who are interested in this material. I really have no idea. I think it would take a greater expert in that area to give you an opinion on that.

Senator MATHIAS. What sort of cooperation do you as State's attorney receive from Federal authorities?

Mr. CAREY. We normally have very excellent cooperation in this area from Federal authorities. However, we were sometimes given the impression that the Federal Government was not including the interstate transportation of pornographic material as its No. 1 priority. That is certainly understandable. I believe that that is generally the feeling in most law enforcement circles today, that pornographic

material involving consenting adults is not that much of a concern to the community or to the law enforcement authorities. However, the appearance of the child abuse in relation to pornographic material is what has caused the uproar certainly in our community, and that is the specific issue that I am dealing with here today.

I would like to separate that entirely from any overall discussion of obscenity or pornography or homosexuality. I think that we have to clearly delineate the problem that we feel is one which must be dealt with immediately is that utilization of prepubescent children or very young children in making sexually explicit—

Senator MATHIAS. I think the committee would share your view. That is really the reason that we are concerned, urgently concerned, at the moment. The Judiciary Committee as you know, has had a long interest in problems of young people generally. In writing the Run-away Youth Act and the Juvenile Justice Act and other legislation, we sought to deal with those problems. But this problem is so vicious that it does set itself apart from other problems.

Let me ask you specifically about the FBI. Are they within the limits of their responsibilities and authority able to be of any assistance?

Mr. CAREY. Well, they certainly have been of assistance as far as they could go, but with the absence of the provision that I mentioned within the Mann Act, that would relate to this proposition, they could be of little help.

Senator MATHIAS. If the Mann Act is expanded to cover a situation such as those we have been discussing this morning, do you believe you could get more help from the FBI?

Mr. CAREY. Yes, it would have been applicable certainly to the Delta Project that we were discussing.

Senator MATHIAS. How about postal inspectors?

Mr. CAREY. Well, the postal inspectors' cooperation has been outstanding in this area. They have done excellent work in the Chicago area, and they would do everything that would be possible under the existing laws again, but I again wonder about the priorities. I am not criticizing the fact that whatever is determined today to be, obscenity itself is not of A-type priority, because I believe that is a common feeling throughout the country. We are talking here about the specific area where I understand now that they are working feverishly, the Federal authorities in assistance. They may have been a little slow to initiate their activities a year and a half ago.

Senator MATHIAS. Is there any other part of the Federal Establishment that occurs to you that could be more helpful to you than it is being?

Mr. CAREY. Well, just the Congress, if they could give us laws that we are talking about that would give us the opportunity to call in the Federal authorities where we feel frustrated because of the fact that we did not oftentimes attack the problem directly because its origin isn't here.

Senator MATHIAS. That is the reason we are here.

Mr. CAREY. Yes.

Senator MATHIAS. Tell me just one thing further. You mentioned cadets in Norman's program, in your testimony.

What kind of kids are these?

Mr. CAREY. Jack could answer that question better because I think he was directly involved.

Mr. LEHMAN. Cadets are your runaways, kids they met through Boy Scouts. As I say, John Norman has been around for a long time. He's got a lot of contacts. He met a lot of kids through his contacts and sets them up in his program.

Senator MATHIAS. What age groups?

Mr. LEHMAN. Between 13 and 19, possibly 12. I never ran across anybody that young. He does once in a while, he goes to schools, churches. Basically, what he does is get a name through his contacts and he will follow them. He's never been hurting as far as having applicants for his cadet program. He's got lots of names. But, he does a background on them.

Senator MATHIAS. He does a job of selective recruiting?

Mr. LEHMAN. Very selective, as are his members after they get in. I was a member of the project myself.

Mr. CAREY. I am sorry, maybe you didn't explain that clearly. It needs a little more elaboration.

Mr. LEHMAN. Once we ran across this thing, I joined the Delta Project so I could start getting information, making contact. We tried to make arrangements to have a little party so we could find out how who these people are, if there are in fact young boys involved. Although we weren't successful at this time because of John Norman being sentenced 1 week later—the program was up for grabs at that time.

Senator MATHIAS. What percentage of these cadets end up in some form of prostitution or exploitation?

Mr. LEHMAN. I wouldn't want to give you a percentage. I would say that all of them are used sexually. I would like to read one statement by John Norman describing himself. "I am a nonviolent person, who has never found it necessary to force anyone to do anything, but I am persuasive, and I have a certain charm for young people." This is how he sees himself. He was arrested out here in Homewood, Flossmoor. He starts out very slow with these children, shows them love, kindness, doesn't come on right away with his heavy sexual abuse. That comes later, after a month or two, after they have actually seen him as their father figure. He has them in his power.

Senator MATHIAS. When you enrolled as part of the Delta Project, did you have direct communication with him?

Mr. LEHMAN. I did receive all his newsletters and publications, but my only communications were with his partner, Phil Paski. That was over the telephone.

Senator MATHIAS. I thank you both again. Thank you very much.

Senator CULVER. Mr. Carey, when you look at your prosecutorial arsenal in dealing with this problem at a local level, are you pretty well limited to the misdemeanor statute?

Mr. CAREY. No; under the age of 16 in Illinois if the adult is engaged actually in sexual conduct, we are talking about a felony.

However, we are limited possibly to misdemeanors for the mere photographer of individuals.

Senator CULVER. That is what I was referring to.

Mr. CAREY. Yes. I am afraid that we would be. We could, in attempting to extend that—which we say do—we may run into some problems.

Senator CULVER. Mr. Lehman, I heard about John Norman having lists with 5,000 or even 35,000 names. Could you enlighten us on these lists?

Mr. LEHMAN. Norman keeps his own files on anyone who will subscribe to him. He has had them for years. He has a system set up that he will send them a membership card. The membership card has a little star on it. It might be red. It might be blue. It changes from time to time. If it is red, it means he is a member. He gets Norman's pamphlets. If it is blue—I am just throwing out different colors right now—but if it is blue, that means he not only gets pamphlets, but he has contacted him by telephone and has shown an interest in making arrangements to meet a young individual. Another color is used if the individual has indeed used a child on occasion for a weekend or what have you. Another color, final color, would be used if a person has either set up a dormitory or has an apartment building, and is letting children stay there between their tours back and forth to the other individuals.

Senator CULVER. Can you help us with these numbers? The 5,000 number, 35,000 number, what are we talking about here?

Mr. LEHMAN. All right. Through my investigation, I had reason to contact Lieutenant Hancock out of the Dallas Police Department. He related to me when John Norman was arrested out there, they confiscated 40,000 index cards of which all his members of his project were included.

Senator MATHIAS. These were the sponsors? These were the adults; right?

Mr. LEHMAN. Yes. These cards were then forwarded to the State Department in Washington. I have since contacted the State Department in Washington to see if I could get a copy of his files, and the files are no longer there. I don't know if they ever received them or not. They just told me that they didn't have the files.

Senator CULVER. Where does the 5,000 figure come? Is that a different list?

Mr. LEHMAN. I have never mentioned that figure.

Senator CULVER. I want to thank you both very much for your appearance here this morning.

Mr. CAREY. Thank you very much for the opportunity. We hope you enjoy Chicago, anyway, regardless of this distasteful duty.

Senator CULVER. Our next witnesses that we will bring on together, I believe, and hope they are here, are Mr. Bliss and Michael Sneed.

Mr. Bliss and Miss Sneed, we are very pleased to welcome you here today.

Mr. George Bliss is a three-time Pulitzer Prize winner. And his fellow reporter, Michael Sneed, are both of the Chicago Tribune. They have carried on a 3-month investigative program of intensely reviewing the social problem of child pornography and prostitution in the Chicago area and throughout the United States. This four-part service on the problem has been carried in not only the Chicago Tribune but over 200 other newspapers throughout America.

I think perhaps more than any other single journalistic effort, it has really been critical the extent to which it has sensitized people to this problem. It has informed the public as well as public officials of the nature and magnitude of this very tragic and reprehensible situation, so we are indebted to you both, not only for your appearance here but for the other contributions you have already made in this area and we hope that we will be worthy of some of the initiatives you have undertaken.

**STATEMENT OF GEORGE BLISS AND MICHAEL SNEED, REPORTERS,  
CHICAGO TRIBUNE, CHICAGO, ILL.**

Mr. BLISS. Could I volunteer something now? Because of the last witness, we can clear up a point for you on the State Department. We asked the State Department to check into it and they say that they shredded the 35,000 cards in 1974 because they couldn't find any use for them. They didn't pertain to their department.

However, Lieutenant Hancock of the Dallas Police, said he gave the State Department the public and State employees in the cards. The police thought it would be significant to the State Department. There was also some information there that some passports were issued for taking a boy across the seas and into another country. And the other cards, there are 5,000 cards, were found here when John Norman was arrested in Homewood. That's where those 5,000 cards came from.

Senator MATHIAS. Why the State Department? Why didn't they send them to the Justice Department?

Ms. SNEED. Sir, that was a question we brought up, obviously. When we asked the State Department before our series ran, specifically why this happened, the first question they asked was, "Why us? Why not the Justice Department?" The State Department took some time to investigate and their response to us was yes, that they had indeed received the cards, and the information they received with the cards had been shredded and destroyed. Apparently the reason was because they could find no passport fraud violation. That was the response we received.

Senator CULVER. What was the name?

Mr. BLISS. I think it was William Minitz.

Ms. SNEED. William Minitz.

Senator CULVER. What is his official position?

Ms. SNEED. Legal counselor.

Senator CULVER. These lists are both from Norman; essentially, the Dallas 35,000 as well as the 5,000 here locally; is that correct?

Ms. SNEED. Yes.

Senator CULVER. Now, you heard the testimony from Mr. Lehman and are very familiar with his activities. Are there any details for our record that you think would be useful? We are going to also submit, I might say, for the record, your very excellent articles in this area. But is there anything with regard to the purpose of the Delta Project network, the extensive nature of the network, how communication was conducted, or how many children were involved? Is there anything that you feel perhaps would be of value to the committee to have the sense of this problem?

Ms. SNEED. Yes. Our investigation was nationwide. We traveled all over the country.

When I was in Los Angeles talking to police officials there, they were very familiar with Mr. Norman. I might add that Mr. Strait, who testified before you today, was very familiar with Mr. Norman. Mr. Norman has been operating this kind of situation since the fifties. He went by various names: Evan Goodwin, Allen Hitchcock, John Shanks, John Norman, the Odyssey Foundation, Hasting Foundation, and Epic International. The Delta Project was set up and in operation in Illinois when Mr. Norman was arrested.

Senator CULVER. How many children were involved?

Ms. SNEED. The cards that were found in Dallas were supposed to be primarily people who subscribed to his network or part of his network. They were also, however, cards that were supposed to have been cadets. These are boys that were sent across State lines to service these dons for whatever purpose: pornography, prostitution, whatever. In Illinois, the cards—the index cards—not only were dons but they were in fact cadets. There were hundreds and hundreds of names.

Senator CULVER. Could you describe this distribution network, the names of the major participants, major centers of activity, and the methods of communication? We know that now four cities, I believe, have established these formal special task force efforts within their police departments. We understand that most of the major activity, because of the nature of the business, is largely centered in large metropolitan areas. We also know that it is a pervasive problem elsewhere, at least in certain forms. This is evident from today's testimony.

Could you give us a sense of major participants, and where it is located?

Ms. SNEED. As far as the Delta Project is concerned, the index cards listed places all over the country and the world. Apparently the Yukon Territory was even included in these cards, as well as countries in Europe. As far as other organizations are concerned, one of the things that we discovered was—

Senator CULVER. Excuse me. We have heard of Scandinavian materials being imported. From what other areas of the world are they coming?

Ms. SNEED. Belgium. Countries like Belgium were listed. Other places in Europe were listed. I believe the Philippines was listed. We know that some of these people who were arrested in New Orleans for having participated in a Boy Scout operation were wanted throughout the world on bugging charges. This is not new to them. These people have been involved in this for a long time.

Now as far as the other thing is concerned, the newsletter service is a very effective conduit for these people. The newsletters, that is, the Broad Street Journal, Better Life Monthly—Better Life, by the way, is the code word for BL, which stands for Boy Love—and Hermes magazine, which we discovered to be located here in the Chicago area. These journals contain coded, not so coded, and sometimes very specific advertisements. These advertisements are very important. First, they put the kind of people who have these beliefs, in touch with other people who share the same feelings. They also are subscription conduit for magazines, pamphlets, whatever. They are also advertise-

ments for traveling sex shows that might be coded like a magic act, that is, "My assistant and I would like to come visit with you." I asked one such person why the elaborate code methodology, and he told me that subscribers are screened quite heavily. They check the typewriter that is used to type these letters, the type of paper that is used, and the amount of letters that are sent in.

I said, was it because you worried about the authorities? He said, oh, no, "We knew the authorities had no idea how widespread we were and how vast we were. We just wanted to make sure that these people were sincere and had money."

I also might add that on the Delta Project, for instance, Mr. Norman corresponded with people all over the country. These people all know each other. They become privy to information that one of the main people arrested, charged, and convicted in New Orleans was in one of Mr. Norman's address books. These people all correspond with each other.

Concerning this farm in Tennessee, I wasn't privy to the interview with Mr. Richards this morning, but Mr. Richards was very familiar with that operation.

Senator CULVER. What about the extent of the interstate traffic, international traffic in young boys or girls, particularly in terms of some of this sadomasochistic business? There have been reports of illegal aliens who have been brought in on the west coast. There have also been suggestions that even in the Houston situation, there were boys brought in that were subsequently murdered.

Ms. SNEED. Well, in Dallas, for instance, they were investigating John Norman as a possible solicitor for these boys that were among the 27 boys that were found murdered in Texas.

As far as Lieutenant Martin in California is concerned, he told us that there is an operation going on right now in California where young children are transported from Mexico into the confines of a car. I am not talking about the trunk of a car—these cars are specially constructed to put children inside the body of the car. They are driven across the border, driven to Los Angeles and the method is to drop them off in a garage. Then the boys are extracted from the car. Lieutenant Martin said one of the difficulties in breaking such a ring was that if in fact their undercover agents did subscribe to such a child—order such a child—and that child in fact came to California and suffocated, they would hear no end that they were in fact responsible for this child's death.

Senator CULVER. Can you estimate the number of children who become involved in this children pornography situation? I know how imprecise necessarily this whole track is.

Mr. BLISS. Hundreds of thousands. We know that. They have no idea how many are from Illinois or Chicago, but Lieutenant Martin said there are at least 35,000 they know of in Los Angeles, these runaways are involved—mostly runaways—directly in this ring.

Ms. SNEED. Lieutenant Martin estimates that in Los Angeles alone about 30,000 children that they know of are involved in prostitution and pornography. We know through correspondence between people that subscribe to these journals and that take these pictures, that they are all over. They write to people in Iowa. They write to people in

every State in the Union. I might point out that there is a journal known as Where the Young Boys Are—Where the Young Ones Are—published in California. The journal sold for \$5 a copy. They sold 70,000 copies. This journal does nothing but specifically point out where you can find young children in every State of the Union, and I might add in my own State, North Dakota, they certainly found places in where the journals were found. We checked this out.

We know the places in Chicago where children congregate, and in fact these places are mentioned in this journal.

Senator CULVER. Senator Mathias?

Senator MATHIAS. Going back to this list, I am interested why that list, No. 1, should have been sent to the State Department and, No. 2, why it should have been destroyed. Did the Dallas police report that they had kept a copy of it?

Mr. BLISS. No, they did not. I think the list in Dallas was 35,000. Then there is a list of 10,000. Was that the list of 10,000?

Ms. SNEED. 5,000.

Mr. BLISS. There is list of 10,000 in Homewood. In addition there is another list of 5,000 which Norman's lawyer has now. We took it from another person. So there actually are three lists.

Senator MATHIAS. Which list went to Washington?

Ms. SNEED. The list that went to Washington was the one from Dallas.

Senator MATHIAS. The 35,000?

Ms. SNEED. Estimated between 35,000 and 40,000 names. Mr. Bliss specifically asked Mr. Hancock if a copy had been kept and his answer was negative. I find that difficult to believe, but that was the answer we received.

Mr. BLISS. I might mention that the States attorneys office has a specific record of this. Mr. Lehman was on the panel just before us. He inquired of Dallas and they have a memo to that effect from the State Department according to Lieutenant Hancock.

Senator MATHIAS. While we are mentioning Washington, Mr. Richards said that among his contacts in this business, there were several people who had projected the establishment of what he called a camp in the Washington, D.C. area, and that he believed they had actually established such a camp. Did you find any evidence of that in your investigation?

Ms. SNEED. No, we did not, sir. But that would not be an unusual modus operandi for such a situation. I don't know whether Mr. Richards addressed himself to the camp in Michigan, where children were taken and tested to see if they would fit into the operation. One of the things that we found very interesting is this. Neighborhood children that were recruited as prospective models might be taken to a camp by this very nice neighbor who the family trusted and thought was a very nice individual. Then a tradeoff would take place in which another person would have been contacted before the trip. He would be there at the camp and then the child would be lost sight of for a while. This man would in effect test him out. If the boy complained to his parents that in fact something had happened, the nice neighbor would say, "Gee, that's just terrible. I didn't know what happened. I lost sight of him for a while. I think it's horrible." Therefore, no

proof. He was not involved. He didn't see the man. He didn't know who the man was. It was all a horrible misunderstanding, a horrible thing had taken place.

Senator MATHIAS. What cities did you cover in your investigation?

Ms. SNEED. We went to Los Angeles, New Orleans, Washington, D.C., contacted—we had contacts all over the country.

The interesting thing about New York was that with all the investigations they have done, they said that even though they had succeeded in confiscating pornographic film that was being processed there, they had no evidence that the films were actually made in New York. And I might add that in February that was the footing on which we stood. We had no idea whether in fact it was being produced in Illinois or whether American children were actually used in child pornography and as you probably read in our Tribune series, the Chicago Police Department did in fact arrest a pornographer, a script writer and children that were used in films that were produced here in Chicago.

Senator MATHIAS. Did you find any other locations in the country where you feel sure that there is production?

Ms. SNEED. Production of—

Senator MATHIAS. Of films.

Ms. SNEED. Los Angeles, definitely.

We know that children in New Orleans were sent to Florida. I don't know whether this operation was explained to you. I am sure the Boy Scout situation was explained. One of the interesting side notes in the Boy Scout operation in New Orleans was that these Boy Scout leaders, who specifically came to New Orleans to set up their Boy Scout troop had, in fact, other plans. They were also voluntary probation officers who would reactivate files of these children that had been in trouble with authorities—personally reactivate the files. They would go to the parents and would say, "I am now in charge of your son's case. We know your child has some problems. We think that this school environment is what is really hurting him. We have an excellent opportunity to send him to another school." The parents would say, "Well, we can't afford this." He would then say, "Don't worry about it. We have scholarship funding for such a thing." These boys were actually sent to Florida. It was a series of six or seven schools, only one of which, I might add, was used for this purpose stated by the officer. The boys, according to Florida and New Orleans authorities, were kept in one room, where the man who supposedly was one of the owners of the school stayed, and they were used for sexual and pornographic purposes. The boys told the New Orleans officials that they were given marijuana, valium, et cetera, to relax. The boys were questioned, "Why valium?" and they said, "Well, for the pain afterwards."

Senator MATHIAS. Let me say as a preface that the Judiciary Committee has been concerned a number of years over the problems of runaway children. We believe, as Senator Oulver said earlier in the hearings, that the number is very high. Nobody knows precisely, but it may run into the hundreds of thousands. Estimates go as high as a million children who are runaways or have been runaways at some time in their life. Have you been able to make any correlation between exploitation of children, either boys or girls, and the fact that they may at some time in their lives have been runaways?

Ms. SNEED. Yes. Lieutenant Martin in California had a very interesting quote that he used when he testified the other day. That is that children run away. He estimates about 1 million a year. And thousands of them flowed to the New Orleans area—I mean to the Los Angeles area or the New Orleans area—because its warm conditions are conducive to what they want and money is available. Lieutenant Martin asks, How do they make their money? They pull up their skirts or they pull down their pants. The money is there. It is very readily available.

There is a section in Los Angeles known as the "meat rack." Mr. Bliss was there. He had observed what was happening. It is unbelievable, like a parade of humanity walking back and forth, back and forth, waiting to be picked up by chicken hawks. Children, young people, were interviewed out there. People who are involved in this business, whether they sell their pictures on the market or whether they take them, love taking pictures of their victims. They point with pride, the more youthful, the better. They say, "Look at this, 3 years old, 5 years old. Look what I did." Sometimes these pictures are swapped with other friends and they show up in magazines and journals.

Senator MATHIAS. One of the duties of the committee is to of course follow and oversee the kinds of programs that we have recommended to the Congress. One of them is the Runaway Youth program and the runaway houses. Do you have any knowledge that these houses that are assisted by this Federal program are used in any way for exploiting the children who end up in them?

Mr. BLISS. There is an investigation going on now concerning the children—Family Services Department of the State of Illinois—about some of these foster homes and how they are run. It looks very much like there will be a scandal in there before this is over.

Ms. SNEED. One of the children that was arrested the other day in Chicago—picked up for questioning the other day in Chicago—was a prostitute for a number of years. He is now 14, and has been a prostitute since he was 10. The boy started living with this man, and I'd say 2 weeks after living with him, the man applied to become a foster parent. He was in fact made a conditional foster parent and the boy was placed in his home. He was given money for the boy and the boy testified that he was having sex with the man.

Senator MATHIAS. But do you know of any institution which participates in Federal funding or Federal programs?

Ms. SNEED. According to information that the authorities gave us, the farm in Tennessee received such funds. Additional funds came, however, from the filming of orgies involving these young boys and patrons who would pay money for these films.

Senator MATHIAS. Is there anything else that you think would be helpful in our investigation?

Mr. BLISS. He pointed out the DCFS receives Federal funding for these foster homes. I think I pointed that out.

Ms. SNEED. One of the interesting things, too, is DCFS contends they can't collect background on their prospective foster parents. For instance we find that in the case of this man who was arrested the other day, the foster father, he did have, or he was charged with having

taken indecent liberties with a child. You will find that these people who are involved in this business will have one probation after another as far as child molestation is concerned. What do they get? Probation, three months psychiatric treatment, on and on. They know that the penalties are not stiff. They know they will be out in a short while.

In Los Angeles, there is the case that involved a 3-year old little girl whose mother took her to be filmed by a photographer, a pornographer. The mother was a porno star herself, was a prostitute, and had had some difficulties with drugs. The pictures that were taken were sex action pictures—I mean, were nude shots. They were not sex action. The child was dressed in stockings and was placed in certain positions that would attract the child molester. It was after the filming that the mother permitted the child to engage in oral sex with the man that had provided the house. The man was subsequently arrested. The mother turned State's witness, but the man received 3 months psychiatric care, and that was it.

Senator CULVER. Do you plan to follow up on your series in terms of some social response and remedy and recommendations in terms of what this problem represents to the country? For example, I personally feel very strongly that the most disturbing cancer in our society today is the fact that we have 1 million runaways in America. Without a million runaways you are not going to have the vulnerable prey that gives rise to this social tragedy and reprehensible conduct. What does it say about America, our values, our inability to cope with poverty or to have a stable family structure? We've got 10 million alcoholics in America. Most of these young people have experienced some form of child abuse or at least neglect. Most of them have gone to schools and regardless of their IQ they have had emotional problems in terms of their own ability to accommodate a system that may or may not be responding to what they could do and do well. And I wondered what thoughts you were going to have about what television does in terms of materialistic values. Some of these young kids in poverty look at this other life out there. They are abused and they run into it. They have never had love and someone exploits that fact. How do we introduce humanity into this Nation and our national life?

I am not asking you to solve all this. But I think anyone that looks away from this aspect of the problem is never going to get in touch.

Mr. BLISS. I think it is spelled out in the news media.

Ms. SNEED. I think the public has become very aware of the problem now, too. The tremendous response we have had indicates this. One thing that is interesting is that the parents are now calling. They want to know about this Boy Scout troop. They want to know about this canoe trip.

Second, I think what they are learning is that this is not necessarily a condemnation of the Boy Scouts of America or Big Brothers or what not. Parents should know, however, just exactly who their Boy Scout leader is. As one pornographer said to me, "It is the easiest thing in the world to get a child. All you have to do is have the father who is psychologically absent, who is involved in his work, who has

no time to spend with his child." That is a wonderful breeding ground for that type of victim.

Senator CULVER. Who is going to take care of the young people in the future? What happens when we have both an over-achieving father and an over-achieving mother? What is going to happen?

Mr. BLISS. I am a father of 10 children and I know that television has a lot to do with us being home raising them and participating very closely in their activities. I think nobody can do anything more than participate, and continue to participate until they are in their teens.

Ms. SNEED. I think, too, both parents must be involved with their children. Certainly in the instances of people we have talked to, the mother has been the participant. The father has been absent.

Senator CULVER. Are you planning to do anything with regard to more imaginative social agency options for runaway programs in that area, counseling, so forth on a more substantial basis?

Mr. BLISS. That is written quite often in the Tribune, I know, in another department. We don't handle that.

Ms. SNEED. The Tribune, however, always does have side trips and investigations and has done quite an extensive series of articles in the past on child abuse.

Senator CULVER. One thing I believe should be emphasized, is a lot of help is provided to children by the dedicated people involved in Scouting, youth work and church groups all over America. We have referred today only to a fraction of 1 percent of those people who might be involved in abusing these children. And in these cases we want to emphasize that it is certainly the burden of the parent to be sufficiently concerned about their child to care and to be active in those programs. But I do think it is important that we note that we have people who will in the most responsible way lend their time and their efforts to character development in the most constructive, positive sense of young people, particularly when we have so many parents who are indifferent to that responsibility.

Ms. SNEED. I do think the burden is also on the youth agency who does hire people to work for them to at least check the background of people they hire. I don't know whether that would fall into the realm of requiring such agencies to do so or not, but we hear over and over again, "We cannot do this. We can't check on a person's background." I would think that would be very important.

Senator CULVER. I can assure you it is important to this committee and we appreciate very much your testimony here today. We also would like to express again our very real indebtedness to you in your energetic enterprise in this area. I think you have done a very significant public service and we appreciate it very much.

Mr. BLISS. Thank you very much.

Ms. SNEED. Thank you for being here.

Senator CULVER. This ends our witnesses for today. We have received a written statement from Prof. Frank Osanka, which will be made a part of the record and we would welcome statements from other individuals or organizations in the Chicago area who have information concerning child pornography and prostitution.

[The statement referred to follows:]

## STATEMENT OF PROFESSOR FRANK OSANKA, LEWIS UNIVERSITY, GLEN ELLYN, ILL.

The act and the depiction of the act of children in explicit sexual interaction is a clear case of child abuse and/or child neglect. Existing child abuse and neglect statutes should be strengthened to provide strong criminal penalties for all adult participants, from the cameraperson to the "adult" bookstore clerk. The law should be so specific that even the act of selling such pornography be interpreted as a party to child abuse and neglect. I realize that these are extreme measures, but the socially corrupting nature of child pornography and the current inability of the criminal justice system to stop it demand strong protective legislation. In my view, a person who purchases child pornography is a party to child abuse since his purchase will insure a profit for the pornographer and thereby guarantee abuse of additional children through the production of new items. The purchase is also a reward to the pornographer for the child abuse he has already commissioned.

The incidence of child sexual abuse is on the rise in the United States and this form of social deviance will be made worse by the introduction and widespread distribution of various forms of pornography utilizing children as the principal sex object.<sup>1</sup> Such materials, in my view, represent a socially-disintegrating assault upon basic moral principles of American society. Child pornography is a clear case of child abuse and neglect with the potential for short and long-term damage to the children and perhaps to the adult readers involved.

As a concerned citizen, a responsible scholar, and a startled father of four, I urge the Congress of the United States to take immediate remedial action to provide adequate legal provisions guaranteed to secure maximum protection for American children from this insidious commercial exploitation of children's vulnerabilities which is at the same time clearly child abuse and/or neglect. I urge the designer of such legislation to go to great length to insure that the sexual use of children in pornography be viewed as child abuse and/or neglect. H.R. 3913 ("Child Abuse Prevention Act"), which is now under consideration by the United States Congress, seems so directed.

Legislation must take care to word protective laws regarding the sexual abuse of children in pornography with such precision that time-consuming and often futile debates on the prevailing definitions of obscenity and pornography will be avoided.<sup>2</sup> Such debates do not provide protection for the victimized and often traumatized child. The sexual abuse of children in pornography is demonstrably child abuse and/or neglect and is a clear danger to the dependent children involved and to the basic moral fiber of the American society. Children in American society are conditioned to obey adults and very young children operationally do not have the right of refusal.

Persons who coerce children into pornographic activities are violating the civil rights of these children. The sexual abuse of children for commercial pornographic purposes is not guaranteed by the First Amendment. Some may debate the degree of obscenity that is involved in the sexual exploitation of children, but none can deny that such insidious manipulations are clearly child abuse and/or neglect.

Offenders under this definition must be vigorously pursued and severely punished. While I personally favor clinical treatment of individual child sexual molesters, I urge the provision of strong penalties for American pornographers convicted of using children in pornography. Further, serious penalties should be provided for the importation and exploitation of child pornography. In brief, protective legislation in this area must take the profit out of child pornography. It is not social or cultural need, but individual greed that has given birth to the wholesale introduction of child pornography. In my view, Ellen Goodman's words reflect the majority opinion of Americans when she says, "This is not a First Amendment issue. It is not a matter of legislating the sexual fantasies of adults. It's a matter of protecting the lives of the young models." (Chicago Sun-Times, 3/15/77, p. 32)

I suspect that child pornographers hope that the judicial system gets bogged down in lengthy debate over the First Amendment and obscenity definitions

<sup>1</sup> For example, the Rape Study Committee of the Illinois General Assembly published (December 1974) findings that 80 to 100 children per day are sexually abused in Illinois. In Chicago in 1970, a medical doctor reported to the American Academy of Pediatrics that 800 11-year-old girls gave birth to babies in Chicago in 1975.

<sup>2</sup> H.R. 286 recently passed by the Illinois General Assembly is already showing the potential for endless debate.

thereby postponing (perhaps for years), meaningful action against child pornography. The result, of course, will be an avalanche of depictions of the sexual abuse of children.

With all due respect to men and women legislators, I would urge you to avoid the very understandable inclination to decline from a personal examination of representative samples of child pornography. It is a painful, sickening, and often very sad experience, but you are obligated to be satisfied in your own mind that none of this material realistically contains any cultural or scientific value. Through such an examination you will fully appreciate the challenging psychological and social implication of most examples of child pornography.

On February 4, 1977, Dr. Judianne Densen-Gerber and I held a closed press conference in the Executive House in Chicago. The assembled newsmen, many of them hardened veterans of the "crime beat," reacted emotionally by expressing shock and verbalizing anger. Indeed, a tape recording of the press conference indicates that one Chicago Sun-Time columnist and popular "talk show" hostess said, "I'd like to just say that it is the worst thing I have ever seen in my entire life and I wish they (child pornographers) were all dead."

After the press conference many of the assembled newsmen expressed their concerns in their respective media and some became active crusaders for public awareness and public demand for protective legislation against the sexual molestation of children. For example, the people in the Chicagoland area owe a debt of gratitude to Roger Simon of the Chicago Sun-Times, Mike Kline of the Chicago Sun-Times, Bob Wiedrich of the Chicago Tribune, and the Chicago Tribune's child pornography/prostitution investigative team made up of George Bliss, Michael Sneed and Ray Moseley.

Responsible citizens have learned of child pornography and have demonstrated their disapproval through press conferences, TV/radio<sup>3</sup> and by physically demonstrating outside of "adult" bookstores that sell child pornography. The press has investigated and responsibly reported this new form of social degenerateness. The elected legislature must act now! In my view, local, state, and federal legislators must now take the ball and run toward the goal of adequate protection for children from sexual exploitation and provide strong criminal penalties for all guilty of this new form of child abuse.

I began researching sexual abuse of children last year in seeking data for my special 3-credit-hour course at Lewis University (Glen Ellyn, Illinois) entitled "Child Abuse and Neglect Prevention and Treatment." Scholarly research into the sexual abuse of children usually takes into consideration intrafamily sexual abuse (incest), molestation by strangers, and child prostitution. However, in the last two years there has been a massive introduction of pornographic materials depicting children in explicit sexual acts with each other and with adults. Such materials constitute a fourth, and heretofore unsuspected type of sexual abuse of children. Many of my social justice students are active law enforcement officials and they began to bring confiscated examples of child pornography to class. My research and their samples so startled me that I initiated my own public awareness campaign through radio and television talk shows and through cooperation with the newspapers and law enforcement agencies. More shocking than even the crass nature of the child pornography itself was the discovery that there is a total lack of protective laws or that the existing laws are so vague that meaningful prosecution is not possible.

My aim was and is to heighten public awareness, mobilize public disapproval against the child pornographer, and to urge voters to demand the enactment of protective legislation.

Let's be clear what we are talking about. I am referring to books, pamphlets, playing cards, and 8mm films which vividly depict children in sexual poses and/or in explicit sexual acts with each other or with adults. Much of the materials have clear themes of sado-masochism. The pamphlet Child Discipline is a prime example of this theme. Child Discipline advocated adult sexual satisfaction

<sup>3</sup> Please see Attachment VII for a list of Radio/TV who cooperated in public awareness in Chicago. Special credit should go to Steve Edwards and his "AM Chicago" (WLS-TV-ABC). "AM Chicago" featured Dr. Judianne Densen-Gerber twice, members of the Rape Study Committee, Illinois General Assembly; Representative Ronald Sternoy; Chicago Tribune's Michael Sneed and George Bliss and Frank Osanka and "Shella" a sexual abuse victim, and the Chairman of the Illinois General Assembly Subcommittee on Obscenity.

<sup>4</sup> Both acting Mayor Michael Bilandic and Alderman Edward M. Burke (14th Ward) have drafted protective city ordinances.

through the spanking of children. It provides both written and pictorial depictions of adults spanking children.

#### DESCRIPTIONS OF CHILD PORNOGRAPHY

##### A. *Playing Cards*

Depicts naked children in suggestive poses.

##### B. *Magazines*

"Moppets", \$5-\$7.50—Depicts children 3-8 years old.

"Lollitots", \$5-\$7.50—Depicts children 11-14 years old.

"Oh Boy;" "Incest: The Game the Whole Family Can Play;" "Children Love;" "Torrid Tots;" "Suckulent Youth;" "Dutch Boys;" "Chicken;" "Brats."

##### C. *Picture Books*

Child Discipline, \$7.50—Advocates spanking of children for adult sexual pleasure.

Lust for Children, \$10—Sex primer for a man to learn to go to a public park and pick up a little girl and what he can do to that little girl sexually and not get caught by the police.

School Girl—Talks of a 12-year-old girl and how her alleged father can experience sexual intercourse with her.

Preteen Sexuality—Illustrates what positions to place a child when that child is too small for "normal" sexual intercourse.

##### D. *Films—\$35-\$50 each*

Vietnam War Hero, \$30—Depicts alleged war hero returns home and brutally rapes his 11-year-old daughter.

Lillpops—Depicts 3 boys, ages 11-13 performing various homosexual acts.

Suzzie and Her Brother—Depicts Suzzie (age 10) and her alleged brother (age 8) in various sexual acts, including intercourse.

First Communion—Hell's Angels-types deflower in a violent rape scene, five communicant young girls in front of a crucifix upon which they have impaled the parish priest.

Young Lollitas—Depicts 7-11 year olds performing sex with each other and with adults.

Daddy Love—Depicts 11 and 6-year old girls urinating in their alleged father's mouth.

Child Love—Depicts 2 boys and 2 girls in oral copulation, masturbation and sexual intercourse. Ages 9-12.

Lollipop No. 10—Depicts 3 boys, 11-14 years old, performing oral genital contact, anal-genital contact, and digital manipulation.

The theme of sado-masochism prevails in much of these materials. The children are represented as powerless—and the adults all-powerful. The dominant theme is that sexual abuse of children is enjoyable and socially sanctioned by the sexual liberated members of society.

Special attention should be given to the potential damage that this kind of child abuse can have on the children involved. I hope you will ask me about specific projects during the questions and answer session. In the meantime, the following chart will give you some idea where the pornographers get the children that they exploit.

#### Chart

##### HOW ARE CHILDREN RECRUITED

Runaways—(Bewildered, without money, afraid, and lonely—big city bus stations/for a meal, \$5 or \$10/a kind word).

Child Prostitution—(Pornography by-product/30,000 boys, 60,000 girls.).

Foster Parents Sell/Rent—(Rockford, Ill., social worker jailed for allowing his 3 foster sons to perform sex acts before a camera for \$150 each.).

Kid drug addicts.

Parent drug addicts.

Children of prostitutes.

Let me conclude by drawing special attention to the energetic work of Dr. Judianne Densen-Gerber, president, Odyssey Institute of New York in focusing nationwide attention on this problem.

Finally, the people of the United States are repulsed by child pornography and letters to the editor and editorials are immediate measurements of this uniform concern.

STATEMENT OF WILLIAM B. KELLEY, ILLINOIS GAY RIGHTS TASK FORCE, CHICAGO, ILL.

My name is William B. Kelley, I am here today as a spokesperson for the Illinois Gay Rights Task Force, which is headquartered at 22 East Van Buren Street, in Chicago, Illinois.

The sole purpose of the Task Force is to promote and protect the rights of homosexual women and men to full and equal participation in society.

We are not, as a group, directly involved with the pornography issue or with any of the other issues that have been associated with it in recent days, including child abuse and foster-child placement—with one very important exception.

We are totally opposed to, and we protest vigorously, the repeated insinuations and sometimes overt allegations by some of the news media and some State and local officials that gayness is in any way synonymous with any form of child abuse.

We are happy to note that this subcommittee does not appear to be joining such a homophobic chorus and that your investigation is being conducted within properly defined limits and is aimed at child abuse, pure and simple—a target that we in the Task Force would agree needs to be before you.

However, since portions of the recent media anti-gay blitz have helped to inspire Congressional attention to child abuse and the Chicago Tribune series on child abuse has been inserted into the hearing record of at least one other Congressional subcommittee (the House Judiciary Subcommittee on Crime), I would like briefly to review for this subcommittee the manner and degree of misleading anti-gay reportage involving this issue, so that the subcommittee may understand better the traps of bigotry into which some persons may, consciously or unconsciously, try to lead it. In addition, since the record of these hearings will be referred to in the future, I think it is important that it contain as balanced and accurate a statement of facts as possible.

The first obvious attempt at fabricating a prejudicial linkage between homosexuality and child abuse began locally on May 15, when the Chicago Tribune series seized upon two cases in Chicago that happened to involve allegations of unlawful same-sex activity. The series then dragged in every other remotely similar case the writers could find from throughout the country during the last few years, almost totally ignoring the far greater number of cases involving heterosexual child abuse, then sprinkled the word "homosexual" liberally through the Tribune's pages and tried to use the lurid result as a realistic illustration of child sexual abuse.

Not to be outdone by the Tribune, at least two Chicago television stations then picked up on the series and treated their viewers to such things as live coverage from the intersection of Clark Street and Diversey Parkway, described as a center of homosexual activity, supposedly to illustrate the child abuse problem. Viewers saw shots of gay bar scenes in "coverage" of the same story.

We have seen the Chicago Police Youth Division commander denounce the Department of Children and Family Services of the State of Illinois for supposedly refusing to cooperate with his investigations, while in the same breath he charged a DCFS office with being a so-called center of homosexuality that places up to 5 percent of its foster children with homosexuals—as though foster placement of homosexual teenagers, or allowing homosexuals to be foster parents, were in and of itself in any way relevant to the child abuse issue.

And the chairman of the Chicago City Council's Police Committee, in announcing hearings on child pornography, allowed it to be widely publicized that he intended to invite Anita Bryant to be a witness, evidently on the strength of her latest career of purveying antigay bigotry in Florida.

This kind of sensationalized, prejudiced reportage and official reaction to it can easily mushroom into a genuine witch hunt, managing also to ignore the realities of the child abuse problem and possible solutions to it, unless bodies like this subcommittee continue to maintain a rational, discerning approach to the issue.

It is well documented, both in studies by the "Kinsey" Institute for Sex Research at Indiana University and in reports from police departments and other

agencies, that the homosexual sex offender is in a small minority among other sex offenders. Within the past week, San Francisco Police Chief Charles Gain has made a public statement to this effect. In addition, it is a well-known fact that the large majority of cases of pedophilia involve adults who are rather indiscriminate above the sex of the children with whom they become involved, the fact of childhood itself being paramount with them.

As I have noted already, the Gay Rights Task Force is not directly involved in the pornography or child abuse issue. Because of this fact and the fact that there has been insufficient opportunity to study the details of the legislative proposals now pending, I am not fully prepared today to offer many specific suggestions on how to cope with the problems the legislation seeks to address.

I will note, though, that while there is a diversity of opinion within the Task Force and in the gay and lesbian community over specific points involved in the child-abuse and pornography issues, the Task Force at least seems unanimous in the concern it shares with many others that, while dealing with the issues, First Amendment rights of free press and free association be respected. We applaud sensitivity by public officials to such concerns.

A few days ago in Washington, a psychiatrist who is crusading against child abuse—Dr. Judianne Densen-Gerber—announced to a House subcommittee that she would gladly give up some of her First Amendment freedoms in order to put an end to the problem.

We don't want children to be abused either, but we would quote Benjamin Franklin in response to her willingness to eliminate part of the Constitution: "They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety."

None of us, nor any responsible person, is in favor of child abuse or exploitation, and we would favor reasonable means of preventing it. This is a problem that homosexuals, no less than heterosexuals, are concerned with.

While we are looking at child abuse, we might also bear in mind the need for precision in what we are talking about. We need to be realistic both about the types of conduct proposed for control as well as the question, just who is a child. It seems clear that a definition of 18 years old, for instance, which is often proposed as the dividing line between childhood and adulthood, is subject to some criticism as being unrealistic.

Teenagers above a certain age are not children in the same way as pre-pubescent individuals are, particularly when it is considered that many of the teenagers coming to official attention are sexually active and often prostitutes. They may be subject to economic coercion or be somewhat immature at 16 and 17, but so are many "adults." Moreover, besides the fact that for different purposes the chronological dividing line between childhood and maturity is fixed at different ages, the age of consent in a number of states is 14 or 16 (it would be 16 under the currently proposed Federal criminal code), 16- and 17-year-olds have gotten married for decades, and in a number of ways it is evident that in recent news reportage the legitimate issue of child pornography has been carelessly linked with teenage sexual commercialism, which are two different issues. And, of course, homosexuals are only a small part of either.

Whatever the specifics of Congressional action on these matters, we are here simply to urge that, both in their drafting and in their enforcement, the laws treat homosexuals on the same basis as all other persons.

In an editorial published last weekend, Chicago's chain of Lerner neighborhood newspapers said it as well as anyone:

"There is a danger of having homosexuality equated with child pornography. It's important to remember that the goal of ordinances to prohibit discrimination against homosexuals is to allow them equal freedom so that they don't have to take refuge in closet relationships or kinky entertainment."

Senators and the Congress should continue to make it clear by their actions that they reject the false notion that being gay has any connection with abusing children or with any other type of obscenity.

Senator CULVER. As this most informative hearing draws to a close, I do wish to express the subcommittee's appreciation to all of those who have provided us with assistance in setting up these hearings.

I would like particularly to thank the following for their assistance. The office of the mayor of the city of Chicago, the General Services Administration, the Federal Protection Agency, the U.S. Mar-

shal's Office, the officials of the Stateville Penitentiary in Joliet, Ill., and the officials of the Jackson State Penitentiary.

I am sure as well that Senator Mathias and Senator Wallop will agree with me that the testimony today has shed a great deal of light on this problem of child pornography and child prostitution. The committee will continue its investigation of this problem, and as I indicated at the beginning of the hearing, we shall draw upon the expertise of nationally recognized experts in several related disciplines to address various aspects of this problem.

In conclusion, I would like to say that the testimony today makes even more clear in my judgment the need for appropriate Federal legislation. Hopefully, the bill that was recently introduced by Senator Mathias and I, will be a constructive step in that direction. We will be entertaining other suggestions and recommendations, not only in terms of remedy, but equally, if not more importantly, is the problem suggested by this extremely disturbing number of runaway youth. The implications of this problem have far more significant implications if they are not corrected.

The hearing will now stand in recess.

[Whereupon, at 1:46 p.m., the subcommittee adjourned, to reconvene on Thursday, June 16, 1977, in room 6226, Dirksen Senate Office Building, Washington, D.C.]

# PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION

THURSDAY, JUNE 16, 1977

U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
SUBCOMMITTEE TO INVESTIGATE JUVENILE  
DELINQUENCY, SUBCOMMITTEE ON CRIMINAL  
LAWS AND PROCEDURES,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 6226, Dirksen Senate Office Building, Hon. John C. Culver, chairman of the subcommittee, presiding.

Present: Senators John C. Culver, Charles McC. Mathias, Jr., and Malcolm Wallop.

Staff present: Subcommittee to Investigate Juvenile Delinquency staff members: Stephen J. Rapp, staff director; and Dr. Josephine Gittler, special counsel. Subcommittee on Criminal Laws and Procedures staff member: Paul Summitt, chief counsel.

## STATEMENT OF HON. JOHN C. CULVER, A U.S. SENATOR FROM IOWA

Senator CULVER. The subcommittee will come to order.

Today the Subcommittee to Investigate Juvenile Delinquency is holding its second hearing on the sexual exploitation of children. This morning we will be joined by members of the Criminal Laws and Procedures Subcommittee and will specifically hear testimony on the three pieces of legislation, S. 1011, S. 1499, and S. 1585, which have been referred to the subcommittee.

At our first hearing in Chicago, the Juvenile Delinquency Subcommittee heard testimony from witnesses ranging from undercover investigators to convicted child pornographers to a young boy whose life is being ruined by involvement in prostitution and in the production of pornographic films. In the last few weeks the subcommittee staff has gathered other evidence from around the country indicating the depth of this problem.

What emerges is a picture of a shocking form of child abuse taking place across the Nation. Young girls as well as boys are involved in the production of pornographic materials and in prostitution. Most often these children are tricked or enticed into these activities by adult predators using gifts, food, drugs, or threats of violence. This activity and the materials it produces have grown into a multimillion-dollar trade threatening the well-being of thousands of young people. Closely related is the increasing exploitation of young boys as prostitutes for adult men. A national network of contacts, exchanges, and

prostitution rings has arisen in recent months involving thousands of boys and tens of thousands of adult contacts.

As chairman of the Senate Subcommittee on Juvenile Delinquency, I am deeply concerned not only about the flagrant use of children in pornography and prostitution, but also how this sexual abuse fits into the larger problem of juvenile crime, child abuse, and runaway youth. The Juvenile Delinquency Subcommittee will continue its investigation into this larger problem in the coming months.

Today, however, we must consider legislation to fill the voids in Federal criminal law—and to examine the ways that we can reasonably and constitutionally make it more difficult for individuals to engage in a particularly outrageous form of child abuse.

Senator Mathias?

**STATEMENT OF HON. CHARLES McC. MATHIAS, JR., A U.S. SENATOR  
FROM MARYLAND**

Senator MATHIAS. Mr. Chairman, I think you have summed up very thoroughly what the issues are. I think this hearing continues the concern and merits the attention of the whole Judiciary Committee with respect to these young people. Our previous legislation dealing with problems of runaway youth, of whom there are perhaps 1 million in the country who have been runaways or who are now runaways, brings to us the problems that we have to deal with. Now we have the related problem of child pornography.

The usefulness of these hearings is illustrated by the fact that as a result of our Chicago investigation we have seen that it was necessary to further strengthen and amend the original bill which the chairman and I introduced to cover the cases of transportation of both males and females across State lines for the purpose of prostitution. I am sure that the continuation of these hearings will further cast light on what is a very dark subject in America. I believe it would be useful to have the testimony of the Deputy Attorney General and the senior Senator from Delaware relating to these matters. I look forward to hearing their views.

Senator CULVER. We are pleased to have as our first witness this morning the distinguished Senator from Delaware, Senator Roth.

Senator, would you approach the witness table?

Senator Roth, it is a pleasure for us to welcome you here today. We understand you have several meetings to attend and will have to be leaving shortly. We very much appreciate your willingness to come before the subcommittee. We know about the initiatives that you have taken in this tragic area of our national life. The subcommittee is very appreciative of your consultation and your support as we consider this general problem area. We are delighted that you are here with us this morning.

**STATEMENT OF HON. WILLIAM V. ROTH, JR., A U.S. SENATOR FROM  
DELAWARE**

Senator ROTH. Thank you, Mr. Chairman. I'd like to congratulate both you and Senator Mathias for the speed with which you are moving in this most serious problem. I am pleased to say that the legisla-

tion that I introduced has broad support in the Senate. We already have something like 20 cosponsors including Majority Leader Senator Byrd as well as the chairman and the ranking member of the Judiciary Committee.

The sexual abuse of children for profit is so despicable that it almost defies description. It occurs in a dark underworld where innocent children are recruited or coerced, bought and sold as if they were commodities instead of human beings. It is a depraved world where children are made or led to perform perverted sexual acts that are photographed or filmed by sleazy sexual entrepreneurs who market this smut for an enormous profit at the expense of their defenseless victims.

Because the production of child pornography is carried on in this dark underworld, its exact dimensions remain unknown. However, as the number of investigations of child pornography grows, we are beginning to realize the appalling magnitude of this immoral business.

Child pornography appears to be a growing, multimillion dollar business involving hundreds of thousands of children. Robin Lloyd, author of "For Money or Love: Boy Prostitution in America," found 264 different magazines depicting sexual acts between children, or between children and adults, being sold in adult bookstores throughout the country. Conservative estimates by the Los Angeles Police Department indicate that 30,000 children are exploited in the Los Angeles area alone each year. And Dr. Judianne Densen-Gerber, a lawyer, psychiatrist, and founder of the Odyssey Institute, which specializes in drug addiction and child abuse, estimates that as many as 120,000 children in the New York area are engaged in some type of money-making sexual activity.

These statistics alone, however, cannot adequately describe the demoralized nature of those who sexually exploit children or the depths of psychological damage inflicted upon these children. Recent investigations reveal that pornographers in at least five States have used or attempted to use Government funds to establish foster homes for their pornography operations. In one instance, a Federal income tax exemption as a "church" was obtained for a pornographic operation.

In Tennessee, a man of the cloth who ran a farm for wayward teens has allegedly staged homosexual orgies with boys and mailed pictures of the activities to his donors around the country.

Frequently, parents are paid to allow their children to be photographed performing some perverted act. In Mineola, N.Y., a film ring was broken up which included policemen who had been filmed having sex with their daughters. And Los Angeles police found a 3-year-old girl, a 5-year-old girl, and a 10-year-old boy whose mothers had sold them into pornography.

Mr. Chairman, I am shocked that any children, much less children as young as 3 and 4 years of age, are being used in pornography. Children who are subjected to this type of physical and mental abuse may have a difficult time leading a normal, healthy adult life.

In his testimony before the House Select Education Subcommittee, San Francisco District Attorney Joseph Freitas, Jr., recently noted the opinion of Dr. Stuart Finch, a psychiatrist at the University of Michigan Medical School—Ann Arbor—who says that "sexual seduction" of children by adults "almost always distorts the child's future

ideas about sexual relations. The untoward results range from an acute traumatic neurosis to chronic character disorder."

The legislation I am offering seeks to prevent the use of children in pornographic films and photographs and to prevent interstate traffic in pornography featuring children.

I might say that in my opinion it is only part of the total picture. Much of the legislation needs to be adopted at the State level and I congratulate you on your legislation which would extend the Mann Act to boy prostitution as well as girl.

My bill would make it a felony to cause or knowingly permit a child under age 16 to engage in specified sexual acts if the person has reason to know that the child's sexual conduct could be photographed and transported in interstate commerce. The bill also makes it a felony for any person who knowingly transports or ships child pornography through interstate commerce or receives for the purpose of selling or sells any photograph or film depicting a child engaging in a prohibited act.

Consistent with my past position, my bill embodies my conviction that the creation of mandatory minimum sentences will be an effective tool to combat this tragic situation. I am convinced that mandatory minimum sentences serve as deterrents to crime. The unscrupulous pornographer or the procurer of innocent children may think twice if he knows punishment will be quick and certain.

For too long, the law has centered its attention on the rights of the criminal defendants. I want all of those who take advantage of children to know that if convicted, there is no judicial discretion.

Accordingly, my bill, unlike a similar version introduced in the House, calls for mandatory fines or jail sentences or both as penalties for violators.

Mr. Chairman, I'm not a constitutional lawyer and I don't doubt but what the legislation we have introduced can be strengthened and sharpened. There are a number of refinements that have been proposed by the Justice Department which I find at least on the surface to be desirable. I know that you and your subcommittee will attempt to make this bill workable. I must say that I think it's particularly important that we make it as tough as possible.

Specifically, a mandatory fine of from \$10,000 to \$50,000 or 4 to 20 years imprisonment or both is required for those who cause or knowingly permit a child to engage in specified sexual acts with the knowledge that such acts could be photographed and transported in interstate commerce. A mandatory fine of from \$5,000 to \$25,000 or 2 to 15 years imprisonment, or both, is required for those who knowingly transport or ship child pornography through interstate commerce or receive for the purpose of selling or sells such child pornography.

There are those, Mr. Chairman, who would camouflage this type of demented conduct behind the first amendment rights of guaranteed speech. I, for one, am confident that an overwhelming majority of Americans cannot find any artistic or socially redeeming value in illicit sexual activity by children.

Mr. Chairman, my bill and similar bills in the House are designed to stop the outrageous sexual exploitation of hundreds of thousands of children. They are not antiobscenity bills, but rather measures in-

tended to halt the unconscionable abuse of human beings who, having not yet reached the age of consent, are used for the profitmaking purposes of the unscrupulous child pornographer.

I hope you will join the outcry to end this mockery of public decency by speedily reporting to the Senate the strongest possible legislation to end this abuse.

Senator CULVER. Thank you very much, Senator, for your testimony. You can be assured that your legislation will be given careful consideration in the course of our deliberations. We want to thank you very much for your appearance here today. I know you have some other commitments. We will continue to confer with you as we go forward on this legislation.

I have no questions for you at this time.

Senator ROHR. I thank you gentlemen and I look forward to working with you in developing meaningful legislation in this area.

Senator CULVER. Thank you very much.

Our next witness is Mr. Peter Flaherty, Deputy Attorney General of the United States. As the No. 2 executive in the Department of Justice Mr. Flaherty has critical responsibilities in the overall formulation and implementation of policy of the Department.

At Mr. Flaherty's request his testimony will be directed at S. 1585. The Department's comments on S. 1011 have already been expressed in a letter from Assistant Attorney General Patricia Wald to Senator Eastland on June 14, 1977. The comments in this letter also apply to S. 1499 which has the same substantive provisions of S. 1011.

Without objection, I ask that the letter of Ms. Wald be included in the record at this point.

[Material follows:]

DEPARTMENT OF STATE,  
Washington, D.C., June 14, 1977.

HON. JAMES O. EASTLAND,  
Chairman, Committee on the Judiciary,  
U.S. Senate,  
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on S. 1011, a bill "To amend Title 18, United States Code, to prohibit the sexual exploitation of children and the transportation in interstate or foreign commerce of photographs or films depicting such exploitation."

The bill amends Title 18, United States Code, by adding proposed sections 2251, 2252 and 2253. Section 2251 provides a fine of not more than \$50,000 or less than \$10,000 or imprisonment for not more than twenty years or less than four years or both for any individual who causes or knowingly permits a child to engage in a prohibited sexual act as defined in the bill or the simulation of such an act if such individual knows, has reason to know or intends that such act may be photographed or filmed and that the resulting photograph or film be transported, shipped or mailed through interstate or foreign commerce or may affect such commerce. The same penalty would apply to any individual who photographs or films a child engaging in a prohibited sexual act or in a simulation thereof if such individual knows, has reason to know, or intends that any resulting photograph or film may be transported, shipped, or mailed through interstate or foreign commerce or may affect such commerce. Section 2252 provides that any individual who knowingly transports, ships, or mails through or in such a manner as to affect interstate or foreign commerce any photograph or film depicting a child engaging in a prohibited sexual act or in the simulation of such an act, or any individual who receives for the purpose of selling or sells any such photograph or film which has been transported, shipped, or mailed through or in such a manner as to affect interstate or foreign commerce shall be fined not more than \$25,000 or less than \$5,000 or imprisoned not more than fifteen years or less than

two years or both. Section 2253 defines "child" as any individual who has not attained age sixteen and defines "prohibited sexual act" to include sexual intercourse, anal intercourse, masturbation, bestiality, sadism, masochism, fellatio, cunnilingus, "any other sexual activity" or "nudity; if such nudity is to be depicted for the purpose of sexual stimulation or gratification of any individual who may view such depiction."

We share the concern of the Congress with regard to the production of films and photographs portraying sexual abuse of children. However, we think that the proposed legislation needs to be modified in certain ways in order to deal with the problem.

In the first place, the bill is, in our opinion, jurisdictionally deficient. It is well settled that Congress may bar articles it deems undesirable from interstate or foreign commerce or from the mails. *E.g.*, *United States v. Orito*, 418 U.S. 139 (1973); *United States v. Darby*, 312 U.S. 100 (1941); and *Periara v. United States*, 347 U.S. 1 (1954). Leaving aside for the moment the effect of the First Amendment, there is little doubt that the Commerce Clause authorizes the enactment of criminal penalties for persons who mail or ship in interstate or foreign commerce or receive in the mail or from interstate or foreign commerce for sale films or photographs of the type in question.

It is also settled that Congress may prohibit the manufacture of an article within a state if the article will enter or affect interstate or foreign commerce. *E.g.*, *United States v. Darby*, *supra*; *Wickard v. Filburn*, 317 U.S. 111 (1942); and *United States v. Wrightwood Dairy Co.*, 315 U.S. 110 (1942). Congress may also punish conduct which has only a potential effect on commerce. *E.g.*, *United States v. Addonizio*, 451 F. 2d 49 (3d Cir. 1971); and *United States v. Prano*, 385 F. 2d 387 (7th Cir. 1967). Congress could, therefore, prohibit the manufacture of the films or photographs in question if the producer knows, has reason to know or intends that they will move in or affect interstate or foreign commerce.

Congress could also prohibit causing or knowingly permitting a child to perform a prohibited sexual act where the person responsible knows, has reason to know or intends that the acts will be filmed or photographed and will be placed in or will affect interstate or foreign commerce. Congress could rationally conclude that children below age 16 are incapable of making a free and understanding decision to participate in the acts which the bill prohibits. See *Ginsberg v. New York*, 390 U.S. 629 (1968). Moreover, adults who permit children to participate in these activities play an essential role in the production process somewhat akin to the supplier of an essential material. See *United States v. Perry*, 389 F.2d 103 (4th Cir. 1968); and *Oall v. United States*, 265 F.2d 167 (4th Cir. 1959), wherein suppliers of sugar and containers to illicit distillers were convicted under 26 U.S.C. 5086(a), which forbids possession of property with intent to violate the internal revenue laws.

However, the bill extends liability to cases where a child "may" be filmed or photographed and the resultant material "may" enter the mailstream or enter or affect interstate or foreign commerce. Since what "may" occur also may not occur, the bill could cover a purely local act of child abuse in which there is, in fact, no filming or photographing and no possible effect on interstate or foreign commerce. The bill, therefore, would reach situations not properly cognizable under the Commerce Clause. This defect can be remedied by changing the word "may" where it occurs in the bill to "will".

The words "affect interstate commerce or foreign commerce" should also be deleted from the bill. Without this change the bill would cover a purely intrastate photographing and distribution operation on the theory that commerce is "affected" in that the processing of the film or photographs utilize materials that moved in interstate commerce. See *United States v. Addonizio*, *supra*, and *United States v. Prano*, *supra*. In our opinion, the investigation or prosecution of purely local acts of child abuse should be left to local authorities with Federal involvement confined to those instances in which the mails or facilities of interstate commerce are actually used or intended to be used for distribution of the film or photographs in question.

The same language which renders the bill jurisdictionally questionable also poses problems with regard to intent. Under the proposed legislation, a person may be convicted if he "intends" that the act in question "may" be photographed and "may" be shipped in interstate or foreign commerce or mailed. We suggest that a person may intend that something happen or that it not happen. The standard of intent used in this bill, which is based on the mere possibility that certain

acts will occur would seem to be an insufficient basis on which to predicate criminal liability. An individual may also be convicted if he "intends" to "affect interstate commerce or foreign commerce." While an individual may intend to mail or ship an article, which is a physical act, the question of whether an action "affects commerce" is an ultimate conclusion based upon the assessment of physical acts rather than a matter of intent. For these reasons also, we recommend that the bill be limited to situations in which a person knows, has reason to know or intends that the act in question will be photographed and mailed or shipped in interstate or foreign commerce.

Secondly, the bill does not distinguish between material which is obscene and material which is protected by the First Amendment. In *Miller v. California*, 413 U.S. 15 (1973), the Supreme Court required that material be evaluated as a whole in determining whether it is obscene. However, the present bill would forbid the manufacture and distribution of a film containing one brief scene of prohibited conduct and otherwise innocuous. For example, the bill would apply to the film "The Exorcist", which contains a scene in which a minor simulates masturbation but is clearly not legally obscene.

I would like to emphasize at this point two very significant results which would follow from the enactment of this legislation. First, an existing motion picture, such as "The Exorcist", could no longer be distributed in interstate commerce so long as the simulated scene involving the minor is retained in the film, and second, any future production of a motion picture film which contains a depiction of a minor engaged in a prohibited sexual act would be criminally proscribed even though, as in the case of "The Exorcist", the offensive scene is merely a small part of the film which, taken as a whole, would not be legally obscene under the standards set forth by the Supreme Court in *Miller*. This would be a clear statement of public policy by the Congress which would undoubtedly create severe problems for the courts, particularly in situations where the offensive material is a small part of what is otherwise a socially acceptable product.

Certain infringements on protected expression have been justified under the principle expressed in *United States v. O'Brien*, 391 U.S. 367 (1968), wherein the Court ruled that a regulation is sufficiently justified if it is within the constitutional power of the government, if it furthers an important or substantial governmental interest unrelated to the suppression of free expression, and if the incidental restriction on alleged First Amendment rights is no greater than is essential to the furtherance of that interest. Viewed against the background of this principle it would appear that the bill would further government's legitimate interest in protecting the welfare of children. See *Ginsberg v. New York*, *supra*; and *Prince v. Massachusetts*, 321 U.S. 158 (1944).

On the other hand, the Court has held that, as a general rule, a criminal statute which would reach protected expression as well as obscenity is void on its face for overbreadth. See *Erznoznik v. City of Jacksonville*, 422 U.S. 205 (1975); and *Butler v. Michigan*, 352 U.S. 380 (1957). Although the Court has modified this doctrine in the case of a statute dealing with distribution to children only, see *Ginsberg v. New York*, *supra*, the proposed bill would prohibit distribution to anyone. In the face of the strong constitutional protection accorded material which is not obscene, we cannot say with any certainty that the proposed legislation would withstand constitutional challenge.

Thirdly, certain of the definitions of "prohibited sexual act" set forth in section 2253 do not appear to be appropriate to deal with the conduct sought to be prohibited. "Sadism" and "masochism" are broad enough to cover activities which are not necessarily sexually oriented. They could include filmed episodes of physical mistreatment of orphans, child laborers or inmates of a juvenile detention facility or a child inflicting injury upon himself. Such portrayals would have no sexual appeal except, perhaps, to some tiny segment of society. These terms should be deleted or should be modified to refer to sexually oriented sadism and masochism. If the terms are retained as modified, the legislative history should state what forms of conduct are intended to be covered. The term "nudity . . . depicted for the purpose of sexual stimulation or gratification of any individual who may view such depiction" is also troublesome. This definition differs from the "average person" test for obscene material set forth in *Miller v. California*, *supra*, and it would be difficult to determine by what standard the "sexual stimulation or gratification" could be assessed. We would suggest as an alternative definition "lewd exhibitions of the genitals", a phrase used by the Chief Justice in *Miller v. California*, *supra*, to describe one of a

variety of types of conduct which could be prohibited under state obscenity statutes. Congress could make clear in the legislative history of the bill what types of nude portrayals of children were intended to be encompassed within this definition.

Fourthly, the bill should be expanded in two respects. First, the coverage of the bill is limited to "photographs or films" of prohibited sexual acts. Since photographs may very well end up as inclusions within magazines before they are mailed or shipped in commerce, the title of the bill and subsections 2251 (a) (2), 2251 (b), 2252 (a) (1) and 2252 (a) (2) should be amended to include "printed matter containing photographs" in order to avoid possible problems of admissibility at trial based on the contention that the bill does not include such magazines. Second, since we view the bill as an attempt to deal with the commercial exploitation of sexual activity involving children, subsection 2252 (a) (2) should be amended to include any individual who manufactures, reproduces or duplicates the subject films or photographs with the requisite intent as well as those who receive or sell such films or photographs. This will enable the bill to cover film processing laboratories and others who are instrumental in the distribution process and who are aware of the nature of the material and the use of the mails or facilities of interstate or foreign commerce.

Fifthly, there will be difficult problems of proof under the bill. The bill is limited in its application to activities involving children, and the term "child" is defined to mean, "any individual who has not attained age sixteen." Since in a great many cases the age of the subject will not be readily apparent from an observation of the film or photograph, the Government will not be able to sustain its burden of proof in such cases unless the actor himself is identified and produced in court or other competent evidence of his age is available. In light of the clandestine fashion in which many of these films and photographs are produced, it will often not be possible for the Government to produce this necessary evidence. In addition, the Government will not be able to prove interstate transportation unless it can establish where the films or photographs were made.

Sixth, the word "knowingly" in the second line of section 2251 is unnecessary and should be stricken. It can be established that the defendant knew that he was permitting a child to engage in a prohibited sexual act by proving, as the Government is required to do, that the defendant knew, had reason to know or intended that "such act" would be photographed and transported in the mail or in interstate or foreign commerce. In the context in which it appears, "such act" clearly means a prohibited sexual act. Unless "knowingly" is deleted here, the bill might be subject to an interpretation requiring the Government to prove the defendant's knowledge of everything that follows "knowingly", including the age of the child. We assume that it is not the intention of the drafters to require the Government to prove that the defendant knew the child was under age sixteen but merely to prove that the child was, in fact, less than age sixteen. In this respect, the bill would resemble 18 U.S.C. 2423, that portion of the White Slave Traffic Act which makes it an offense to knowingly induce or coerce girls under the age of eighteen to travel by common carrier in interstate commerce for immoral purposes. There is no requirement under the statute that the Government prove the defendant knew the girl's age. See *United States v. Hamilton*, 456 F.2d 171 (3rd Cir. 1972).

On the other hand, the use of the word "knowingly" in subsection 2252 (a) (1) is appropriate to make it clear that the bill does not apply to common carriers or other innocent transporters who have no knowledge of the nature or character of the material they are transporting. To clarify the situation, the legislative history might reflect that the defendant's knowledge of the age of the child is not an element of the offense but that the bill is not intended to apply to innocent transportation with no knowledge of the nature or character of the material involved.

Finally, the penalties are excessive to the point of making convictions extremely difficult to obtain except in the most aggravated cases. We suggest that the penalties should be comparable to those found in 18 U.S.C. 2423, namely, a fine of not more than \$10,000 or a prison sentence of not more than ten years or both. Moreover, and consistent with the Department's general policy, we do not feel that mandatory minimum penalties are appropriate in this legislation. They interfere unduly with the trial judge's discretion and present unnecessary problems at trial.

As noted above, we have concerns about the bill, as to both its constitutionality and the problems of proof it creates. We also believe its utility would be limited.

Nevertheless, if the changes we recommend are incorporated, the Department of Justice would not object to this legislation.

It is our understanding that many of the photographs and films the legislation would attempt to cover are in fact produced abroad; the legislation would not apply to such materials except for that portion of subsection 2252(a) (2) which punishes receipt from foreign commerce. Moreover, with regard to material which is produced in the United States, recent newspaper accounts have indicated that law enforcement agencies who have investigated in this area for years have had little if any success in ascertaining where and how the films and photographs are made and in discovering the persons responsible for making them. Finally, to the extent that such investigations may prove fruitful, there are appropriate local statutes and ordinances, such as child abuse laws and laws prohibiting contributing to the delinquency of a minor, which would apply to the conduct made criminal in section 2251 of the proposed bill; and we do not think it likely that local prosecutors would hesitate to bring charges. The principal advantage to be gained from enactment of this legislation would be to provide the Federal Bureau of Investigation and the Postal Service with investigative jurisdiction in an area that is basically a local law enforcement problem.

To the extent that section 2252 deals with obscene material, the offenses are covered by existing Federal statutes. See 18 U.S.C. 1461-1505. The Postal Service and the FBI have informed us that they presently have several cases dealing with obscene material involving the use of children under investigation. In one respect, the proposed bill is more restrictive than present law because it requires mailing across state lines. The offense denominated in 18 U.S.C. 1461 is complete once material is deposited in the United States mail. Of course, to the extent that the bill deals with material which is not obscene, it is an extension of present law.

The Department of Justice has no objection to enactment of this legislation if it is amended as suggested above.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PATRICIA M. WALD,  
*Assistant Attorney General.*

Senator CULVER. Mr. Flaherty, we are delighted to welcome you here this morning and I wish to express the appreciation of the subcommittees for your coming up here to share the views of your Department.

If you have a prepared statement you may deliver it.

**STATEMENT OF PETER FLAHERTY, DEPUTY ATTORNEY GENERAL,  
DEPARTMENT OF JUSTICE, ACCOMPANIED BY JOHN KEENEY,  
DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION,  
DEPARTMENT OF JUSTICE, AND DONALD NICHOLSON, STAFF AT-  
TORNEY, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE**

Mr. FLAHERTY. Thank you, Mr. Chairman and members of the committee. It's a pleasure to appear before you today on the revised bill S. 1585 which deals with sexual exploitation of children. We share the concern of this committee in curbing this type of abuse of conduct with children.

I have a fairly lengthy statement which I would like to submit for the record and briefly summarize.

Senator CULVER. That would be fine.

Mr. FLAHERTY. The Department of Justice supports the concept of this legislation to curb the sexual exploitation of children. We certainly support the commerce clause as a proper basis for the legislation.

The proposed legislation in this area necessarily involves constitutional questions. Some of these problems, as I'm sure the committee

understands, are highly technical in nature. We have made several suggestions in the printed statement which we hope will be constructive.

The current Federal laws on obscenity actually do not protect against the use of children in the production and promotion of pornographic materials. This legislation is keyed on the protection of minors where they are used or abused in the production of pornographic materials.

The new legislation also provides that the minor shall be defined as a person under the age of 16 and the Justice Department supports this amendment as well.

S. 1585 also makes much needed improvements in the extension of the Mann Act, which heretofore applied only to young females, and by including young boys and changing the definition to "any minor" this certainly will be an improvement to prevent the transportation of any minor, whether male or female, across State lines for the purpose of prostitution.

Penalties have also been increased, and we support the bill which would provide up to 10 years and up to \$10,000 in fines for the abuse of children in sexual exploitation.

Some of our suggestions in the printed statement deal with definitions. For example, in the use of the word "promoting" we think it should be "promoting for commercial gain" rather than just the use of the word "promoting" itself. The other amendments are intended to enhance enforceability and minimize the constitutional problems.

The Justice Department supports legislation to prevent the use of minors engaged in sexually explicit conduct. However, we are keenly aware of several important legal obstacles which will have to be overcome in order to make such legislation enforceable and to effectively achieve the purposes for which this bill is designed.

Please be assured that the Justice Department and our staff will be available to work with the committee staff on any problems that we have or differences we have in order to resolve the technical matters that arise in the constitutionality test that I'm sure will result from any such legislation.

We would be glad to answer questions that the committee may have.

Senator CULVER. Am I correct in my understanding that it is the position of the Department of Justice that new Federal legislation is needed to control child pornography?

Mr. FLAHERTY. At the present time there is a gap in the legislation. Although we do have five criminal obscenity laws, they are geared basically to obscene materials. The definition of the Supreme Court is applied to obscene materials. This legislation, as you know, takes a different approach. It protects children from their being used in any pornographic material.

So it really applies to a use that is not now really protected.

The answer is yes.

Senator CULVER. What about the adequacy of existing conspiracy statutes to reach this problem?

Mr. FLAHERTY. I do not know that it would actually reach it as effectively as this bill would. There are State laws that also would reach it. A survey of 36 States shows that a number of States have

specific statutes on child pornography. Some come under the child labor laws in the States.

But there is no overall bill such as this S. 1585 which specifically sets up the abuse of children as effectively as S. 1585 does.

Senator CULVER. So you believe the substantive statute is aimed specifically at this form of child abuse and clearly delineates this special offense and that it is preferable to some catchall conspiracy statutory approach?

Mr. FLAHERTY. Yes, I believe it is. I believe that when you have a bill that sets it up as specifically as this bill attempts to do, then I think it clears the air better rather than the vagueness of conspiracy statutes.

Senator CULVER. Historically how much has the Department of Justice or the U.S. attorneys utilized the conspiracy statute approach?

Mr. NICHOLSON. The conspiracy statute has been used, not with a great deal of frequency, but it has been used from time to time in connection with obscenity prosecutions. Since the obscenity statutes deal with the mailing and distribution of the material rather than the production of it, the conspiracy has been brought in in terms of conspiracy to distribute in the mail or interstate commerce. But the statute has been used from time to time. We do not have any statistical breakdowns as to how many cases it has been used in, but it's not unknown in this area.

Senator CULVER. It's not been overworked either has it?

Mr. NICHOLSON. That's true.

Senator CULVER. But it has been a useful remedy?

Mr. NICHOLSON. It has been most useful. The statute has been most useful in a number of cases, particularly a couple of years ago when we had two or three rather large-scale obscenity prosecutions in the Western District of Tennessee, in Memphis.

Senator CULVER. How many indictments are currently pending in this category, do you know?

Mr. NICHOLSON. In terms of the use of conspiracy statute I could not say. We have figures as to the current case load overall in the obscenity area but the figures are not broken down with regard to that.

Senator CULVER. Do you think the U.S. attorneys of the Criminal Division would be more likely to prosecute if they had a specific substantive statute that was aimed at this form of child abuse?

Mr. NICHOLSON. I think, as Mr. Flaherty said, there are some problems with vagueness undoubtedly in the conspiracy area. A statute that is specifically directed in this area could indeed be useful.

Senator CULVER. Do you believe that the FBI, for example, would be more likely to investigate in this area with this additional statutory authority?

Mr. NICHOLSON. I cannot speak for the FBI but I would think they would.

Senator CULVER. The penalty provisions of S. 1585 provide a penalty of 10 years in prison and \$10,000 in fines. Do you think this is adequate to deter this conduct.

Mr. FLAHERTY. I do, Senator. I think this provides sufficient discretion as well.

Senator CULVER. I gather from your statement that you do agree with the policy of setting a 16-year-old age limit for violations of section 2251.

Mr. FLAHERTY. Yes; we do concur in that.

Senator CULVER. You have no reason to feel that it should be higher or lower?

Mr. FLAHERTY. No, I think that's a good standard—the age of 16 or under.

Senator CULVER. As I understand the Departments' position on legislation such as S. 1585 is about as far into the criminal area as one can go without raising the constitutional issues which might prevent successful prosecution; is that correct?

Mr. FLAHERTY. That is right. The further you go into this, of course, the more you run into the first amendment problems. Even here, I'm sure we will face constitutional tests if the bill is finally enacted.

Senator CULVER. I note in your statement that you urge that the definition of "promoting" be expanded to include "sale and offering for sale." The effect of that would be to expand the coverage of the statute so as to include constitutional protection of speech; would it not?

Mr. FLAHERTY. Yes, there's no question that it would.

Senator CULVER. Senator Wallop, do you have any questions?

Senator WALLOP. Thank you, Mr. Chairman.

Mr. Flaherty, in your prepared statement there is an area where you begin to describe serious constitutional problems. You say "Let me explain."

I will quote it:

We have little doubt that the material which contains only depictions of sexually explicit conduct as defined in the bill would meet the obscenity test laid down by the Supreme Court in *Miller v. California*, 413 U.S. 15 (1973), whether children or adults are used as models. However, the Court has held that material must be evaluated as a whole in determining whether it is obscene.

Is there any other way that we can avoid a first amendment problem and protect the rights of the minors of this country? Does it not go back to the old decision that you're not allowed to scream fire in the firehouse and proclaim the right of free speech? It seems to me that we ought to be able to draft this legislation so that anybody who abuses a child is not protected by the first amendment.

Mr. FLAHERTY. The test set down by the Supreme Court is referred to you here. The average person there must be as applying the contemporary community standards. They take the work as a whole rather than a piece of the work in determining whether it has social value or merely appeals to a prurient interest. That's a Supreme Court test of obscene material.

In the bill here, S. 1585, you are taking a different approach. It will remain to be seen whether or not it will be held constitutional. I think it would have a better chance of being held constitutional if you were working on obscene material in which there is the use of children.

Again, it is a question of whether the Supreme Court would apply the definition in this bill to the use of children in pornography as opposed to the definition of obscene material.

There is a slight difference. There is a substantial difference between the two, in fact. I have to say that the present definition does require

the material to be taken as a whole. That's why I wanted to caution in the bill that that is the Supreme Court definition at the present time. It could very well apply to S. 1585.

Senator WALLOR. It just would seem possible, to me—

Senator CULVER. If the Senator will yield, it's important to keep in mind that our bill is aimed at conduct.

Mr. FLAHERTY. That's right.

Senator CULVER. There's more than just a distinction without a difference between the thrust of our bill and the obscenity statute. In section 2251 we're talking about conduct, not about restricting the contents of speech.

When you have the use of children in the production of these materials, I do not see where the *Miller* case would have any relevance.

Mr. FLAHERTY. I agree that your bill makes that distinction between conduct and obscene material and the *Miller* decision was applied to obscene material. There is a clear distinction.

Senator CULVER. This thing could be burdensome.

Mr. KEENEY. We feel that the courts would be more sympathetic when we're dealing with conduct in relation to children, and the Congress is right to look out for the welfare of children. But the caveat that we are putting forth, and that we're trying to emphasize, is that it is an approach, and we think it is a good approach, but we're not certain that from the constitutional standpoint the Supreme Court is going to adopt that approach. If the courts apply obscenity standards, then we do have problems with respect to a publication or a movie that includes this type of proscribed material that has some literary merit.

Senator CULVER. If the Senator will continue to yield, let me say this.

I do not see how section 2251 confronts the courts with a first amendment constitutional issue. It deals with an individual who entices, forces, or coerces a subject under 16 years of age to engage in conduct sexually explicit. I do not see how this restricts speech in violation of the first amendment.

Mr. KEENEY. We have no problem with the conduct as such, Senator. We think the conduct is proscribed.

Senator CULVER. If it subsequently appears in film or magazine, then that is another situation and another problem which raises other potential issues and questions.

Mr. KEENEY. But when the total product is in interstate commerce, that is where the constitutional issues has to be faced. We do not think you face a constitutional problem; of course, when you are just sending the conduct—the exploitation itself—by itself in commerce. We think that is clearly within the province of Congress.

Senator CULVER. Our bill deals with that.

Mr. KEENEY. But we're raising the problem with your bill insofar as its application goes into a larger product that is sent in interstate commerce such as "The Exorcist." We think we are in an uncharted area there. That's what we are suggesting.

Senator WALLOR. I would hope that we could chart this carefully. It does not seem to me to be any good for us to sit here and build a piece of legislative history that would permit all of this kind of activity if you put a paragraph of Shakespeare on both sides of it.

We really do have to get at that. I would hope that we could get more specific recommendations than those presented which do not explain why we cannot get at the people regardless of the artistic merit that may exist on both sides. If you are abusing children in the middle then I don't understand.

Mr. FLAHERTY. Senator, what we are saying is that in the statutes that deal with obscenity we have definite standards that have come out of the Supreme Court.

We're dealing with conduct for the first time here. We're dealing with use and exploitation of children. We do not have, therefore, the precedents that we have had on the other side. We are not saying that it would not be constitutional. We are just explaining to you that there are not the precedents that exist yet.

Of course, only time and resulting cases will determine what problems lie ahead.

Senator WALLOP. I realize that. It would seem to me that we could do something. We have the fear that has been expressed here and I would hope that we could get a recommendation as to how to specifically deal with it. I'm talking about the caveat that you're issuing to the committee.

Mr. FLAHERTY. At the present time the decisions are based upon the material. We do not have the decisions that we would like to have at this point based upon the conduct because we have never had a bill before on conduct.

I think the approach you are taking is the proper approach. From a standpoint of constitutionality, it is a safer test than when you are dealing with obscene material in which the *Miller* case definitely applies.

So we do say that in our prepared statement that when you are dealing with the exploitation of children you are on safer ground than if you were dealing with obscene material. We are talking about being constitutional here.

Mr. KEENEY. Senator, the suggestion we could make in that regard and which is implicit in what we're saying is this. To the extent that you can make findings of fact and legislative findings and legislative history indicating the scope of the problem and a congressional concern with that specific problem of child exploitation, the more you do that the more you maximize the chances of ultimately its being upheld constitutionally.

Senator WALLOP. You do, in fact, say that there is a serious constitutional problem arising here. I would hope that we could find some way to avoid that constitutional problem.

Mr. NICHOLSON. Senator, if I may put my 2 cents in here, I think the difficulty is this. When you are talking about someone who abuses a child, then you are talking about local conduct. There must be a nexus of jurisdiction. The appropriate one would be the commerce clause, which is done here.

But by utilizing that nexus what we're talking about is conduct which results in materials which move in interstate commerce.

To that extent, prohibiting the conduct which results in the production of materials which would not be legally obscene, but which cannot be shipped in commerce because of the conduct which was en-

gaged in, you interfere with the distribution in commerce of first amendment protected materials. You have a chilling effect on the distribution in commerce of that material. That is why we feel we have the first amendment problem here.

If all you are talking about is abuse of children, then it can be handled two ways. It can be handled either under the local statutes, if they are available, dealing with child abuse; or in the Federal area where you have the nexus of the interstate commerce as in the Mann Act. In other words, children transported across State lines would be dealt with and there is a Federal nexus. Any kind of child abuse of this nature could be dealt with, but there has to be some basis of Federal jurisdiction in the commerce clause. The result of this bill, covering conduct which results in the production of materials which are not obscene, gives a chilling effect on the transportation in interstate commerce or the mails of protected material.

On the other hand, you have the recognized and longstanding interest of the Congress in protecting the welfare of children.

What we are saying is that there is a clash between these two interests here. It may very well be that this bill is constitutional. What we are saying is this. You have on one hand the decisions of the Supreme Court that have struck down ordinances and statutes which deal with material which is not obscene. You have the decisions of the Supreme Court striking down those.

On the other hand, you have decision of the Court recognizing the interest in protecting the welfare of the children.

What we are saying is that there is clash there. This bill may very well be constitutional, but there is a problem. If the bill was clearly limited in its coverage to the use of children in producing materials which were themselves obscene, there would be no problem at all as far as we see it.

I think that is where we see the constitutional problem.

Senator WALLOP. Thank you very much, Mr. Chairman.

Senator CULVER. With regard to the Mann Act, you know that we in our legislation have proposed an amendment to the act to cover all minors. The Mann Act is presently crippled in its ability to cope with exactly this kind of problem; isn't that right?

Mr. NICHOLSON. Absolutely. That is why we firmly support the changes that are being made here in the Mann Act. They are long overdue. We think they are extremely valuable.

I think that the way which we could perhaps get at the portion of the proposed bill here which deals with conduct and avoid a constitutional problem would be to keep these changes in the Mann Act which are germane and rather than—

Senator CULVER. Is this the official Justice Department position we're hearing?

Mr. FLAHERTY. We made the same suggestions in the House, Senator.

Mr. NICHOLSON. We would amend the obscenity statutes in two ways. We would amend the obscenity statutes to cover producers and manufacturers who manufacture this material with knowledge or reason to know that it will move in interstate commerce, and further amend the obscenity statutes by providing a higher penalty when children are used in the sexual activities in the production of this material. By making these changes you would accomplish the following.

By adding producers and manufacturers who make this material with the knowledge that it will move in interstate commerce, you would be able to go after the people who make the films and the photographs. And through the use of 18 U.S.C. 2, which is aiding and abetting, you would be able also to go after the people who bring the children in to make these materials.

By adding a higher penalty provision for obscene materials where children are used, following the approach of the Mann Act in other words, you would have that higher penalty there. This sort of approach would limit the bill to obscene materials, but it would enable you to go after the people who make the films and the people who bring the kids in and who are instrumental in making the films, as long as the final product is limited to materials which are obscene. You would avoid the constitutional problems that we're talking about.

Senator CULVER. How does that really differ with what we have in our bill?

Mr. NICHOLSON. The difference is this. This bill would prohibit any film or photograph which contains depictions of sexual conduct as defined in the bill, but the bill does not say that the final product must be taken as a whole.

On its face, the bill would cover a film such as "The Exorcist" where there is a small segment or a portion of it—

Senator CULVER. Referring to child abuse, maybe we should give consideration to whether or not the depiction of the conduct in the film taken as a whole constitutes child abuse.

Mr. NICHOLSON. Well—

Senator CULVER. It should be exorcised itself in terms of the first amendment protection in view of that consideration.

Mr. NICHOLSON. Taken as a whole, we would have no problem. We would have no problem with this bill whatsoever if it were dealing with situations where all the sexual conduct that is described here results in a final product which is to be evaluated as a whole.

For instance, this bill would cover on its face a film such as "The Exorcist," where you have one brief scene, because it is prohibited conduct as defined in the bill. But the bill does not talk about the material taken as a whole. That's why we have the problem.

Senator CULVER. Are you suggesting in effect then that we cannot regulate the use of children engaged in what is sexually explicit conduct whether or not it is obscene?

Mr. NICHOLSON. I believe we most certainly can where the children, for instance, are moved in interstate commerce.

Senator CULVER. Congress has the right to decide that, doesn't it?

Mr. NICHOLSON. Absolutely. This is what the Mann Act does. Where there is a basis for jurisdiction in interstate commerce and the children are moved in interstate commerce, there is no question. That's what the Mann Act does.

Senator CULVER. Whether or not that particular scene constitutes child abuse?

Mr. NICHOLSON. Absolutely. You could go after it under the Mann Act.

Senator CULVER. But you could also go after it under a new Federal statute such as we have proposed which would designate that employ-

ing a child in specific explicit sexual conduct in that instance constitutes child abuse, if the child is under 16 and engages in that kind of conduct.

Mr. NICHOLSON. The problem here is that the basic jurisdiction in this bill is the movement of the finished material in interstate commerce and not the movement of the children.

Senator CULVER. I understand that. But I'm saying that it is within our purview and our authority to prescribe that conduct.

Mr. NICHOLSON. Yes.

Senator CULVER. As being abuse of the child.

Mr. NICHOLSON. Yes.

Senator CULVER. We do not worship at that shrine to the extent that any form of depravity involving children is sanctified.

Mr. NICHOLSON. You are absolutely correct.

Senator WALLOP. Along these lines, what recommendations would you make to this bill?

Mr. NICHOLSON. What we are suggesting is this. One of two things could be done. Under the present bill you could modify it in such a way that the material that is referred to which ultimately moves in interstate commerce would be taken as a whole in terms of this conduct.

Alternatively, rather than taking the approach embodied by proposed section 2251, the obscenity statutes could be amended by adding producers and manufacturers and the higher penalty for the use of juveniles coupled with the changes in the Mann Act that you suggest.

Senator WALLOP. Thank you.

Senator CULVER. I don't see where we need to get into that as long as it is conduct that we are regulating. Whether we take it as a whole or part of the obscenities, we are talking about conduct. I just do not follow this inescapable nexus that you are referring to.

Mr. KEENEY. To the extent that you are talking about sexually explicit conduct and proscribing that, with knowledge on the part of the producer that that sexually explicit conduct or the product thereof would move in commerce, then I think you have something. We think it can be worked on. We would be glad to work with you on it.

Our problem is this. The problem I have is this. As Mr. Nicholson pointed out and as the Deputy Attorney General has pointed out, the proscribed conduct is merely a small part of a larger production which is not obscene under the obscenity statutes.

It is entirely possible that those can be separated and with careful draftsmanship you can get the producer who knows that the product is going to be shipped in interstate commerce. Then you can face the constitutional issue as to whether or not the statute can be constitutionally applied to something such as "The Exorcist."

I think it would be worthwhile to discuss with staff whether or not an appropriate amendment to the obscenity statutes could be worked out along those lines.

Senator CULVER. What is the Department's view with regard to the interrelationship between State and local law enforcement for both child abuse and obscenity laws and the enforcement of S. 1585 on the Federal level?

Mr. KEENEY. I'm not sure I understand specifically your question. Our survey indicates that most of the States have laws that in one

way or another address themselves to the problem. There are four or five exceptions.

One of the difficulties that we found in our research is that many of them are misdemeanors. They do not carry the penalties that would be carried by this legislation and would not be a deterrent.

Senator CULVER. How about problems of proof?

Mr. KEENEY. Problems of proof would be much easier on the local level normally. But what we are dealing with in our investigations, to a very considerable extent, is sexually explicit material that is being imported. That does create problems of proof. It is an area where it is appropriate for Federal intervention very clearly.

Senator CULVER. Does the Department of Justice through LEAA or any other agencies within the Department have any efforts underway to either develop or implement programs aimed at cutting down on the use of children in the production of pornography and child prostitution or in dealing with the problems of runaway youth as it relates to child pornography and prostitution?

Mr. NICHOLSON. We just checked on that. LEAA as of the present time has not launched any projects either on its own or with funding at the State level to deal with this area.

I understand that HEW has something going on, but I do not know the details.

Senator CULVER. Do you believe that there is a role for LEAA or other agencies within the Department in developing some non-court-oriented responses to some of these distressing problems? Today there are anywhere from 700,000 to 1 million runaways on the streets. There are 80,000 in Los Angeles County alone.

Their profiles are disturbingly similar to those of children involved in sexual exploitation. You have parental alienation, child abuse and child neglect. They are often the children of some of the 10 million alcoholics in America. Oftentimes their fathers beat them. Finally they leave a home where they are alienated and unloved. On the streets in circumstances of sexual exploitation they often find the first and only love they have ever received.

The real question here is this. Are we going to be dealing with these symptoms or are we going to get at the fundamental illnesses in these complex problems? We're talking about the family and its role and its responsibility, and the economics and our ability to cope with unemployment and poverty and to deal with alcoholism.

How interested are you in the Department in getting some kind of concerned commitment for dealing with this more basic problem area. Clearly our juvenile system has been a disaster. It is characterized by recidivism and by people coming out of that process more times than not in worse shape than they went in in terms of their likely social conduct the rest of their lives.

What kind of creative, sensitive, enlightened, and progressive response have you contemplated at the Department to deal with this? Either with regard to your own resources or in a coordinated way with HEW?

It distresses me when we have people from the Criminal Division come up and say, "We checked on that today." Is that not a coincidence? If we did not have these hearings, you would never check on them.

You tell us that you think HEW is doing something. But I want to know what the Department of Justice is going to do about this. What are you going to do with the general problem here, Mr. Flaherty?

Mr. FLAHERTY. We are looking carefully into LEAA at the present time to evaluate the program.

Senator CULVER. It's depressing, isn't it?

Mr. FLAHERTY. Yes, it is. There is a great deal of reorganization that has to come about in LEAA.

In the area of juvenile justice I think you will find in the future that LEAA will be devoting a larger portion of its budget and its programs to juvenile justice.

In the past I cannot say what the amount of juvenile justice was but it was very low when LEAA came out in 1968. It was then devoted to basically hardware programs and street crime types of things.

More recently there has been a tendency for the courts to get into LEAA and correctional institutions and now juvenile justice. LEAA is becoming more of an umbrella for all criminal justice and not just street crime and street hardware type of things. I think you will see a larger share going to juvenile justice programs in LEAA. That is our intention.

Senator CULVER. How about the problem of coordination with HEW? What are we doing to integrate on the general problems of welfare and runaways and unemployment and so on?

Mr. FLAHERTY. I cannot speak for HEW, Senator, but the LEAA people are aware of the runaway program. There are some programs which are similar to HEW. You are correct when you say if there is a similar program we ought to combine them so we can have one program to evaluate.

The problem with LEAA is that we do not control all the programs. The way the present legislation is set up 85 percent of the funds in LEAA go directly to the 50 States. They determine on a local level what they are going to do with the funding. That is why you get a duplication like you just mentioned.

Senator CULVER. I would hope, Mr. Flaherty, that you would take an initiative to ascertain the degree of coordination in this area with HEW. I know you have just come aboard and you have a lot on your agenda. But I would hope that you could designate some of your people to really see if you can have a more good faith effort in coordination and cooperation in this area.

This is particularly important because under the Juvenile Justice Amendments of 1977, the National Institute of Juvenile Justice and Delinquency Prevention would be authorized to conduct research and make grants concerning sexual violence toward children.

I would hope that you would try to see what strength you could lend to a coordinated effort to give greater emphasis to programs like these which will help us to deal with this problem in a more basic and fundamental way.

I frankly think we have had too much ad hockery in our responses. We have had a proliferation of programs poorly funded and uncoordinated and splintered. It is therefore important that you involve Labor, HEW, and other agencies.

We have to attack the problem on a multiplicity of fronts. I hope that you would be a point agency in terms of that effort.

Mr. FLAHERTY. Your suggestion is well taken. I assure you that we will take an active role in that.

Senator CULVER. I want to thank you and your colleagues for your cooperation and your kindness in appearing here today. You have made some extremely valuable and useful suggestions to us. We appreciate your constructive suggestions. We would like to accept your offer to coordinate at the staff levels as we go forward here with our hearings on this legislation. I think you have flagged some problems that we will want to review carefully. We appreciate very much the expertise that you have brought to this general problem area.

[Mr. Flaherty's prepared statement follows:]

STATEMENT OF PETER FLAHERTY, DEPUTY ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE

It is a pleasure to appear before you today to discuss revised S. 1585, which makes unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting a film, photograph, negative, slide, book, magazine or other print or visual medium and makes certain amendments to the White Slave Traffic Act. The Department has already submitted a report to this Committee in connection with S. 1011 and I shall not add to the comments contained therein.

The bill adds sections 2251 to Title 18, United States Code. This section punishes with a fine of not more than \$10,000 or imprisonment for not more than 10 years or both any person who knowingly employs, uses, persuades, induces, entices, or coerces, or a parent, legal guardian, or person having custody or control of a minor who knowingly permits, a minor to engage in or assist any other person to engage in sexually explicit conduct for the purpose of promoting a film, photograph, negative, slide, book, magazine or other print or visual medium, if such person knows or has reason to know that such film or other medium will be mailed or otherwise transported in interstate commerce. A minor is defined as "any person under the age of 16 years." Sexually explicit conduct is defined as "(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) sado-masochistic abuse for the purpose of sexual stimulation; and (E) lewd exhibition of the genitals or public area of any person." Promoting is defined as "producing, directing, manufacturing, issuing, publishing, or advertising."

The bill also amends 18 U.S.C. 2423 to make it unlawful for any person to transport or cause to be transported in interstate or foreign commerce or within the District of Columbia or any Territory or Possession of the United States a minor, defined as "any person under the age of 18 years," for the purpose of prostitution or with the intent to induce, entice, or compel a minor to engage in prostitution. The present penalties of 18 U.S.C. 2423, a fine not to exceed \$10,000 or imprisonment for not more than 10 years or both, are retained.

We support the concept of legislation which will help to curb sexual abuse of children. In addition, we have comments on possible evidentiary and constitutional problems.

First, if the word "permit" is added after "coerce" in subsection 2251(a), subsection 2251(b) is unnecessary. Clearly, one cannot "permit" if he does not have the authority to prevent, so "permit" here would only apply to parents, guardians, or others having custody or control of a minor. The retention of provisions which are unnecessary and which deal with specific aspects of a problem covered by a more general provision raises unnecessary questions of legislative interpretation which could potentially weaken the entire statute.

Second, unless "knowingly" is deleted from subsection 2251(a) the bill might be subject to an interpretation requiring the Government to prove the defendant's knowledge of everything that follows "knowingly," including the age of the child. Proof of this knowledge is not required under 18 U.S.C. 2423, and we assume that it is not the intention of the drafters to require it here. The bill already requires the Government to prove knowledge of interstate transportation or use of the mails, and a requirement for proof of knowledge as to promotion can be included by adding "if such person knows or has reason to know that

such conduct is" immediately before the words "for the purpose of promoting." To avoid redundancy, the words "if such person knows or has reason to know" between "medium" and "that" should then be stricken and the word "and" substituted.

Third, the language "mailed or otherwise transported in interstate commerce" leaves the implication that mailed items must cross state lines. This should not be required. For example, a violation of 18 U.S.C. 1461, the postal obscenity statute, is complete once material is deposited in the mailstream. Also, it would be appropriate to include transportation in foreign commerce as a jurisdictional basis. Both of these results could be accomplished by substituting "transported in interstate or foreign commerce or mailed" for the present language.

Fourth, the definition "sado-masochistic abuse for the purpose sexual stimulation" is unduly vague. For example, it is unclear who is to be sexually stimulated—the minor, the photographer, or the intended audience. Use of the term "sexually oriented sado-masochistic abuse" would appear to more accurately define the conduct sought to be prohibited and the legislative history should state what forms of conduct are intended to be covered.

Fifth, the definition of "promoting" is inadequate in two respects. It should be broadened to include selling and offering for sale. Furthermore, it should be modified to make it clear that the delineated conduct must be for profit or commercial gain. The present definition of "promoting," when applied to the violation in subsection 2251(a), would make it an offense for a person to photograph his consenting minor wife engaging in sexually explicit conduct and thereafter carry the photograph in his wallet in interstate commerce. A statute this broad may very well unconstitutionally infringe upon the right of privacy and should be limited to commercial activities.

Finally, some much needed improvements in 18 U.S.C. 2423 have been proposed. The section as amended would cover young boys as well as young girls, would cover their transportation, and would no longer require use of a common carrier. It is unnecessarily limited, however, in that it would no longer reach persuading, inducing, enticing, or coercing a minor to travel in interstate commerce. We believe that this language should be added, as well as "debauchery or other immoral practice," also found in present law, in order to retain the present scope of 18 U.S.C. 2423. The language "within the District of Columbia" is anachronistic because the District has its own set of laws, and this problem should be dealt with under the District of Columbia Code.

Under the best of circumstances, Mr. Chairman, there may be difficult problems of proof under the bill. The age of the minor is an element of the offense, and in many cases the minor's age will not be readily apparent from observation of the film or photograph. The government, therefore, will not be able to sustain its burden of proof in such cases unless the actor or actress is identified and produced in court or other competent evidence of age is available. In light of the clandestine fashion in which many of these films and photographs are produced, it will often not be possible for the government to produce this necessary evidence. In addition, the government will not be able to prove interstate transportation unless it can establish where the film or photograph was made.

The bill is properly grounded on the commerce clause as the basis for federal jurisdiction. However, a serious constitutional problem arises in regard to the scope of the bill when one considers the material that may be banned from commerce under it. Let me explain.

We have little doubt that material which contains only depictions of sexually explicit conduct as defined in the bill would meet the obscenity test laid down by the Supreme Court in *Miller v. California*, 413 U.S. 15 (1973), whether children or adults are used as models. However, the Court has held that material must be evaluated as a whole in determining whether it is obscene. This bill would reach films, photographs or other media of expression in which the portrayal of offensive conduct in but a small part of the whole. To that extent, the Government's legitimate interest in protecting the welfare of children clashes with the First Amendment.

The Justice Department supports legislation to prevent the use of minors engaged in sexually explicit conduct. However, we are keenly aware of several important legal obstacles which must be overcome in order to make such legislation enforceable and effective to achieve the purpose for which it is designed. Please be assured that the Justice Department will continue to be available to help shape strong and effective legislation to make unlawful the use of minors engaged in sexually explicit pornographic activities for commercial purposes.

Senator CULVER. Our next witness is Mr. Martin Guggenheim, the staff attorney of the Juvenile Rights project, American Civil Liberties Union, New York, N.Y. He is also assistant clinical professor of law at New York University Law School. It's a pleasure to welcome you, Professor Guggenheim, before the subcommittee this morning. I'm grateful to you for coming here to share some of your views and observations on this general problem area and on our legislation. We appreciate your willingness to answer some of our questions.

I understand you do have a statement and you may proceed however you would like.

**STATEMENT OF MARTIN GUGGENHEIM, STAFF ATTORNEY, JUVENILE PROJECT, AMERICAN CIVIL LIBERTIES UNION, NEW YORK, N.Y.**

MR. GUGGENHEIM. Thank you very much. It's a pleasure to be here and I welcome the opportunity to express my views and the views of the American Civil Liberties Union on this question of the use of children for matters dealing with sexually explicit conduct.

My name is Martin Guggenheim. I am an attorney with the Juvenile Rights Project of the American Civil Liberties Union and I am testifying on behalf of the ACLU. I will speak today first on the particular legislative concern of the use of children in the production of sexually explicit matters. Then I will address the broader needs of children in this country.

The sexual exploitation of children for the production of visual or print materials is an issue of concern for the ACLU. The Juvenile Rights project of the ACLU, a national project engaged in litigation, legislation, and public education involving important issues concerning the rights of children, is especially interested in laws directed specifically at problems which affect children. Additionally, the ACLU has a significant interest in any law which directly or indirectly regulates the dissemination of thoughts or ideas.

The ACLU condemns the sexual exploitation of children for any purpose, including commercial purposes and strongly urges that existing criminal laws prohibiting child abuse and contributing to the delinquency of minors be more vigorously enforced.

To the extent that additional legislation is required, however, it is appropriate only to proscribe the conduct of persons who directly engage in illegal action, for example, persons who act directly in the production of pornographic material in which children are used. It is inappropriate, unnecessary and unconstitutional to prohibit the publication, sale or distribution of such printed or visual materials. Distribution of such materials is protected by the first amendment. Because the proposed legislation carefully distinguishes between production and distribution of such materials, the ACLU supports the bill. At the same time, we are concerned that the underlying needs of children, including those who are the victims of the "child pornographers" are not addressed by this bill.

We have carefully reviewed the Mathias-Culver bill. The bill has two parts. The first adds a new chapter, chapter 110, entitled "Sexual Exploitation of Children," to title 18. The bill prohibits the use of

children engaged in explicit sexual conduct as defined in the bill for the purpose of promoting visual or print materials from being mailed or transported in interstate commerce. The second part amends title 18, section 2423—the “Little Mann” Act—to prohibit interstate and foreign transportation of male minors for the purpose of prostitution.

This part of the bill is acceptable to the ACLU. It presents no first amendment problems. The bill seeks only to regulate conduct, not constitutionally protected speech. By making criminal the use of children in the production of pornographic materials and not attempting to regulate the distribution or dissemination of materials, the ACLU views this section as meeting constitutional requirements. Moreover the bill properly fills a gap in existing law as no Federal statute directly prohibits the production of such materials. For these reasons, the ACLU supports this part of the Mathias-Culver bill.

Section 2423 of title 18 presently prohibits the interstate transportation of minor females, but not of minor males, for the purpose of prostitution. Distinguishing between boys and girls in this way is inappropriate and perhaps unconstitutional. Boys should receive the same State protection from this type of exploitation as girls. There is sufficient evidence today that the boys as well as the use of girls for prostitution is a problem. To this extent 18 U.S.C. 2423 is deficient and should be amended as proposed by the Mathias-Culver bill. Accordingly the ACLU supports the Mathias-Culver bill which amends 18 U.S.C. 2423 so as to expand its coverage to both boys and girls.

A spokesperson for the ACLU—Heather Florence—has previously testified in opposition to the House version of the Roth bill. A copy of that testimony is submitted herewith for the record.\* Comparing the ACLU’s position on S. 1011 with our position on the Mathias-Culver bill highlights the constitutional infirmity with S. 1011 and what is acceptable in the Mathias-Culver legislation.

First, unlike the Mathias-Culver bill, section 2251 of the Roth bill contains vague and overbroad language. Instead of extending criminal penalties to persons who “knowingly permit” a child to engage in prohibited acts—a phrase broad enough perhaps to include persons not intended to be punished such as landlords—the Mathias-Culver bill specifically makes it unlawful for people to “employ, use, persuade, induce, entice or coerce” children into committing prohibited conduct.

Second, unlike the Mathias-Culver bill, section 2252 of the Roth bill prohibits the distribution of specified visual materials. The first amendment prohibits restraints on speech even when that speech is offensive or of little or no value. See, for example, *Cohen versus California*, 403 U.S. 15—1971.

Although ACLU endorses the Mathias-Culver bill and its penalties for those who engage children in pornography, we believe that it does not address the underlying needs of these child victims. Indeed, sexual exploitation of children is, in our view, a direct consequence of Congress inattention to the needs of these children.

For example, we know that many children involved in pornography and prostitution are runaways. That is not to say, of course, that most

\*See p. 97.

are involved in these activities. Nevertheless, it is clear that many of the children who are paid by adults to perform sexual acts are homeless for all practical purposes. They resort to these activities because they have few alternatives for survival.

State laws significantly interfere with the opportunity for youths who are not living with their families to work or to obtain welfare. In light of this, it is not surprising that some of these children turn to the only sources for making money available to them—pimps and pornographers. What's worse, these children are compelled to live as fugitives or to be locked up in reformatories as runaways. It is particularly ironic moreover that in many of the institutions to which these runaways are sent, they are subjected to sexual abuse, including gang rapes, that are as bad if not worse than the sexual exploitation which the Mathias-Culver bill addresses.

It is time for the Government to recognize that a significant number of children are living on their own trying to survive without support from their families. If we fail to provide them with alternatives, only we are to blame if they turn to sexual exploitation for survival. So long as the options for kids in need of money remains as limited as the present, it is a certainty that some kids will turn to easy sources for money.

We must create jobs for youths who are able to work. We need to create shelters to which runaways can go with no sanctions and no strings attached. It is necessary to face the fact that the criminal process is wholly inappropriate to deal with such significant problems as runaways and the breakdown of the family.

The Federal Government can play a crucial role in this process by providing Federal funds for such services. The Juvenile Delinquency and Prevention Act of 1974 sets this process on the right track. By seeking the deinstitutionalization of status offenders, the law takes a long first step in the right direction. However, sufficient funds have not been authorized or appropriated to the States to carry out even this objective.

If the recent publicity about child pornography and child prostitution helps focus public and congressional attention upon the larger problem of child welfare and ultimately leads to more and better services for runaway, homeless and deprived children, the publicity will have served a worthy end. If, on the other hand, the result of this attention leads to nothing more than using the criminal law to deal with child pornography, we can be certain that the problems we face today will only get worse.

Senator CULVER. I want to thank you very much for your statement. Senator Mathias and I are appreciative of your support for our legislation and for indicating that it is preferable to some other legislation proposals.

I have a little concern about your sentence on the the part of your statement in which you say: "At the same time, we are concerned that the underlying needs of children, including those who are the victims of the 'child pornographers' are not addressed by this bill." I hope you are aware of the fact that the spirit of approaching the subject area that you have articulated is exactly what we have repeatedly attempted to do in all of our pronouncements in our hearing state-

ments. We have emphasized that this is a symptom of a more fundamental problem. I don't know if you were here for my earlier exchange with the Deputy Attorney General but certainly we do have to deal with this fundamental issue.

I would say that my concern equals or exceeds yours about the failure in doing the things that you suggest we should address. But I do think you also understand that we cannot incorporate all of the cures to bring about a Utopia in one bill.

Mr. GUGGENHEIM. I understand that.

Senator CULVER. We are aiming at a specific form of abuse and problem. We hope that this will lead to a more serious attention to other aspects of the problem. We're talking about what is essentially a societal breakdown. The magnitude and complexity with an appropriate response to sufficiently cope with that kind of situation, of course, would have to have more than just a title to another bill.

I hope we do understand each other along those lines. I don't want this bill to be used as a whipping boy by suggestion or implication that we could somehow add a couple of more verses and deal with the problem.

Mr. GUGGENHEIM. It is because of our understanding of the larger picture and your ultimate interest that we do support the bill. The purpose of that sentence and the thrust of the testimony today is to emphasize that that is not a solution and that if we stop with this bill we will not go very close to solving the problems that we agree exist.

Senator CULVER. The provision of S. 1585 which prohibits the use of a person under 16 in the production of pornographic materials requires that a person commit the act knowingly.

In your judgment would this require the prosecution to prove that the person knew the age of the actor?

Mr. GUGGENHEIM. I believe so. I do not have a definitive view on that, but I think that that would be a required element of the crime, as I think it should be.

Senator CULVER. Do you think the requirement of knowledge as to age is reasonable?

Mr. GUGGENHEIM. I do. We are dealing here with a serious penalty, a criminal law which will lead to significant infringements of the accused's rights and liberty. In order to make sure that the person is appropriately going to be sent to prison, for example, we should understand that that person knew that he was working with a person whom Congress meant to prohibit in that endeavor. The only way do that is to include "knowingly" in the statute.

Senator CULVER. In the case of statutory rape, do you think it would be bad policy in our bill to eliminate the knowledge requirement as to age as it is with statutory rape?

Mr. GUGGENHEIM. I do for the reasons that I said a moment ago.

Senator CULVER. Are you familiar with S. 1643, the sexual abuse of a minor provision of S. 1437? That's a proposed criminal code revision. It does not require knowledge as an element of the prosecution's case, but allows the lack of knowledge to be raised as an affirmative defense.

Do you believe that this would be a reasonable policy?

Mr. GUGGENHEIM. I'm not familiar with that particular proposal. Obviously that is a middle ground between having no defense and

strict liability and requiring the burden of proof on the prosecutor. But it is self-evident that when the burden of proof is placed on the defendant, it makes the case much more difficult to defend.

As a middle ground, it is more acceptable than having strict liability. But I still would stick with my position that the requirement of "knowingly" as an element of proof for the prosecution is appropriate.

Senator CULVER. As you properly point out; S. 1585 does not deal with the question of sale and distribution of pornographic materials dealing with children. It was our feeling that such a provision probably is not necessary because there already are Federal statutes barring the interstate transportation, the mailing and shipment by common carriers of these obscene materials.

Do you believe that these laws can be effectively used to prosecute the sale and distribution of child pornography?

Mr. GUGGENHEIM. Yes, I do, particularly if the proposed bill was enacted into law in combination.

Senator CULVER. As a complementary one?

Mr. GUGGENHEIM. Yes. That is right.

I think the Federal prosecutors would be in a position to go after the makers of the films or materials in a way that the bill provides and at the same time to utilize the present Federal obscenity laws which would cover the same acts anyway. It would be to that extent redundant.

Senator CULVER. In your opinion, is it possible to constitutionally enact a statute containing a strict standard of obscenity for pornography involving children or pornography involving adults? For example, in your opinion, does the *Miller* test apply?

Mr. GUGGENHEIM. It's difficult to answer that. The Supreme Court, of course, has not specifically addressed that question. It has held in *Ginsburg* that a different standard with respect to children and adults is appropriate when we are talking about the materials which children or persons have a right to read or own or possess so that in pandering to children. For example, the Supreme Court has said that it is appropriate to proscribe that conduct even if that conduct would not be unlawful if the materials were going to adults.

The particular question which you have just asked has not been addressed by the Supreme Court. It is conceivable that the Court would set down a separate standard for children as well as in the production of materials.

Congress' concern, as I understand it, as you have well stated it in responding to the Deputy Attorney General a few moments ago, is with the acts themselves more so than with the ultimate result in terms of the product which is distributed.

I think that it is better policy for Congress to focus this attention on acts which it thinks children under a certain age should not be permitted to engage in.

Senator CULVER. Have you reviewed Senator Roth's bill, S. 1011?

Mr. GUGGENHEIM. Yes; I have.

Senator CULVER. It seeks to amend title 18 to deal with the sale and distribution of child pornography. Do you believe that this is constitutional?

Mr. GUGGENHEIM. No; I do not. We had previously testified in opposition to the same version of that bill in the House. The bill

is not only vague and overbroad in certain material respects but most importantly it explicitly prohibits the distribution and sale of materials. We regard that to be a violation of the first amendment.

Senator CULVER. I wonder if you could provide for the record at this time, if you think it is appropriate, the testimony you referred to in your statement by Heather Florence.

Mr. GUGGENHEIM. Yes; I have it here.

Senator CULVER. Could we put that in the record at this time?

[The statement referred to follows:]

#### STATEMENT OF AMERICAN CIVIL LIBERTIES UNION OPPOSITION TO H.R. 3913

I am testifying today on behalf of the American Civil Liberties Union. My name is Heather Grant Florence and I am an attorney in private practice in New York as a member of the law firm of Lankenau Kovner & Bickford. I sit as a member of the ACLU's Communications Media Committee, which studies current issues with impact on First Amendment rights.

#### INTRODUCTION

The problem of "child pornography" or "kiddie porn", as it has been dubbed by the press, has recently come to the attention of the ACLU which, after much consideration, has developed views on the issue which I shall be articulating here today. In discussing the issue, generally, and H.R. 3913 specifically, I shy away from the phrase "child porn" as that confuses two distinct issues—child abuse which is unlawful activity and the dissemination of printed or visual materials which is constitutionally protected.

The problem we are discussing today is a difficult one, not only for society and for this Congress, but also for the ACLU. For, unlike many issues on which the ACLU speaks out, it fully supports the purpose of the proposed legislation. The ACLU wholeheartedly joins with the many legislators, private individuals and community groups in condemning the sexual exploitation of children for any purpose, including commercial purposes. The actions of those responsible for these abuses are reprehensible. The ACLU believes, and strongly urges, that criminal laws prohibiting child abuse and contributing to the delinquency of a minor should be vigorously enforced, and if appropriate and useful, enhanced in order to eliminate this repugnant activity. So long as the imposition of criminal penalties upon those responsible for the sexual exploitation of children is done with the constitutionally-required due process, it raises no civil liberties problems and will be fully supported by the ACLU.

Yet, however unlawful the sexual exploitation of children for commercial purposes may be, and however repugnant the resulting materials may be, the Constitution requires that any legislation designed to cure these evils not trample on First Amendment rights in the process. H.R. 3913 does. Accordingly, the ACLU opposes this proposed legislation.

The ACLU's basic position is that while it is perfectly proper to prosecute those who engage in illegal action, constitutionally protected speech cannot be the vehicle. Accordingly, the ACLU submits that those who directly cause and induce a minor to engage in a sexual act, or engage in it with a minor, are those who violate the laws; those who recruit and offer children for sexual acts clearly should be prosecuted. Indeed, the ACLU believes that even the activities of one who records the event of the sexual behavior, such as the photographer at the scene, can be found within the group of persons who have caused the act to occur. In contrast, those who have not participated in causing or engaging in the sexual activity but who may profit as a result of it, such as a publisher, editor, distributor or retailer, are not violating the law. While we may vigorously dislike and reject what they do, their activities in publishing and disseminating printed or visual materials are wholly protected by the First Amendment.

#### OVERVIEW OF H.R. 3913

H.R. 3913 (the "Bill") is divided into three sections. The first section, section 2251, entitled "Sexual Abuse of Children," would outlaw the engaging of a child in prohibited sexual activity as well as the photographing or filming of a child so engaged. The ACLU believes that with some modifications and amendments, this section of the Bill could be made to be constitutional. The second

section of the Bill, section 2252, entitled "Transportation of Certain Photographs and Films," is, the ACLU submits, patently unconstitutional since it relies entirely on the dissemination of written or visual material. It is in this section that the Bill goes beyond the prohibition of physical acts and encompasses speech, fully within the First Amendment protections. The third portion of the Bill, section 2253, contains a list of definitions which, when incorporated into section 2252, are impermissibly vague and, in some cases, facially unconstitutional.

Because the entire Bill hinges on prohibiting protected speech and would punish those who are engaged solely in its exercise and not in violation of laws prohibiting conduct, it is unconstitutional.

#### SECTION 2251

The problem with the first section of the Bill, section 2251, is its vagueness and overbreadth in extending criminal penalties to those who "knowingly permit" a child to engage in the prohibited acts. Because of overbreadth this could be applied to the publisher, editor or distributor of material who had no participation in arranging, causing or engaging in the child abuse itself.

Indeed, to cover those persons actually participating in the unlawful acts, this Committee might consider elaborating on the phrases "causing" to include presenting or delivering a child for the illegal acts, paying and/or obtaining compensation for a child to perform, participating in the acts both physically and by obtaining others to engage in them with the minor, setting the stage and running the camera.

However done, it must be emphasized that the definitions be clear and specific so that they do not draw within their ambit those who, while they may benefit from the behavior through publication and sale, were not a direct party to the illegal conduct. Even legislation with a constitutional purpose can, through too broad a sweep, become unconstitutional in its overbreadth, see *Graynard v. City of Rockford*, 408 U.S. 104, 114 (1972) and *Gooding v. Wilson*, 405 U.S. 518 (1972).

#### SECTION 2252

This portion of the Bill, section 2252, is patently unconstitutional and in the view of the ACLU cannot be redeemed with any conceivable amendments. The section makes it unlawful to distribute or receive specified visual materials, with penalties of up to \$25,000 in fines or 15 years imprisonment. The gross defect with the section is that the materials, the distribution or receipt of which is the sole offense, are constitutionally protected. If the First Amendment means anything, it means that except for those few very limited and carefully drawn exceptions discussed below, speech cannot be restrained nor can its exercise be punished.

That the Bill relates to pictures instead of words makes no difference as visual expression is just as entitled to protection. See, e.g., *Joseph Burstyn, Inc. v. Wilson*, 343 U.S. 495 (1952); *Kingsley Corp. v. Regents of U. of N.Y.*, 360 U.S. 684 (1959); *Jenkins v. Georgia*, 418 U.S. 153 (1974) and *Erznoznick v. City of Jacksonville*, 422 U.S. 295 (1975).

The areas of "unprotected" speech are small, indeed, and the material prohibited by the Bill does not fall within any of them. Even those narrow areas where the Supreme Court held that protection is not always available are carefully drawn to preserve protected expression: sexually explicit material (*Miller v. California*, 413 U.S. 15 (1973)); harshly critical opinions and defamatory statements of facts (*Gertz v. Robert Welch, Inc.*, 418 U.S. 323 (1974)) and exposure of secrets involving the Nation's foreign policy and national security (*New York Times v. United States*, 403 U.S. 713 (1971)).

Moreover, the Supreme Court and other courts following its dictate have upheld as constitutionally protected speech which many, if not most, people would find hateful, offensive, of no value and of potential harm: advocacy of racial hatred and violence (*Brandenburg v. Ohio*, 395 U.S. 444 (1969)); discussions of illegal sexual conduct (*Gay Students Organization of University of New Hampshire v. Bonner*, 500 F.2d 652 (1st Cir. 1974)); vulgar expressions, symbols and illustrations (*Cohen v. California*, 403 U.S. 15 (1971) and *Papish v. Board of Curators of U. of Mo.*, 410 U.S. 667 (1973)).

Above all, it is clear that the Constitution does not tolerate restraint or punishment of offensive speech. We have had only a few days to research these legal

questions, but our research has revealed no case which has deviated from this cardinal rule. For recent decisions, see, e.g., *Papish, supra*, *Cohen, supra*, and, most recently, *Erznoznick v. City of Jacksonville, supra*, and *Pacific Foundation v. FCC*, — F.2d —, 2 Media L.Rptr. 1465 (D.C. Cir. 1977). Just within the last month, the Supreme Court of Louisiana struck down as clearly unconstitutional a state statute proscribing the depiction of patently offensive acts of violence (*Louisiana v. Hensley* (No. 58,495)).

It is equally clear that the fact that material may advocate illegal behavior by its arguments or its attractive and even seductive portrayal of illegal or antisocial acts provides no basis to suppress it or to punish those who publish, produce or disseminate it, *Kingsley Corp. v. Regents U. of N.Y.*, 360 U.S. 684 (1959). Equally protected by the First Amendment is the dissemination of published material obtained through illegal means. See *New York Times v. United States, supra*, and *Dodd v. Pearson*, 410 F.2d 701 (D.C. Cir. 1969), cert. denied, 89 S.Ct. 2021 (1969). What the ACLU suggests to this Committee is really no different from what the Courts in the "Pentagon Papers" case and the *Dodd* case stated to be the law—if the actions allowing the publication to occur are unlawful, proceed against the perpetrators of those acts, but do not punish those who publish or disseminate the material, which acts are constitutionally protected.

#### SECTION 2253

Because section 2252 of the Bill is, in its entirety, unconstitutional, the definitions in the following section, section 2253, cannot cure the defects. When read into section 2252, however, they exacerbate the problems. Clearly, portrayals of nudity cannot be proscribed; see *Jenkins v. Georgia, supra*, and *Erznoznick v. City of Jacksonville, supra*, and the phrase "any other sexual activity" simply is too vague and overboard to withstand constitutional challenge when directed to printed or visual materials. See, e.g., *Miller v. California, supra*. Of course, if section 2252 is deleted from the Bill, the definitions in section 2253 would be appropriate in defining the conduct prohibited under the first section of the Bill.

#### EFFECTIVE CHILD ABUSE PREVENTION

In view of the foregoing summary analysis of the law, the ACLU concludes that, as drafted, H.R. 3913 is unconstitutional. Passing it in its present form could have no deterring effect on the true harm—the abuse and sexual exploitation of children—as such a law could not withstand judicial scrutiny. Amending the Bill to omit section 2252 completely and to cure the deficiencies in section 2251 is an option the Committee certainly has.

Because the ACLU fully supports constitutional legislation to battle the problem, the illegal conduct at its core, it has considered additional ways in which the Federal Government might assist in the battle against child abusers. Among the legislative alternatives this Committee might consider are amendments to the Mann Act (18 U.S.C. 2421 et seq.) to substitute minors of both sexes for "girls and women" as the law currently provides.

Another legislative possibility would be amendments to the Child Abuse Prevention and Treatment Act (42 U.S.C. section 5101 et seq.). That Act creates a commission which, among other things, may provide financial assistance to states with effective child abuse programs. The Committee may wish to consider adding in section 5103, as a prerequisite for grants of Federal funds to a state, the requirement that a state have and enforce a constitutional law prohibiting the sexual abuse of minors for commercial purposes. As this Committee is aware, many state legislatures are examining the problems under discussion here and the Congress could be of assistance in assuring through appropriate guidelines that such new state legislation be constitutional and effective.

#### CONCLUSION

The ACLU hopes that the presentation of its views will be of assistance to the Committee, and it would welcome the opportunity to continue to share its thoughts on how best to solve this most troublesome problem. Thank you for the opportunity to come and speak with you today.

Senator CULVER. Senator Mathias?

Senator MATHIAS. Thank you, Mr. Chairman.

I wonder if we could turn our attention to the question of penalties. What is your view on the subject as to whether it's bad to add new provisions for the sale and distribution bearing in mind all the difficulties in that area that we have discussed?

What about the penalty provisions of existing law about the sale and distribution? Could they simply be increased to provide a more severe penalty in instances involving abuse of children in the production of pornographic material?

Do you think that would be a preferable way to go?

Mr. GUGGENHEIM. Myself and the ACLU regard the laws against proscribing sale and distribution to be unconstitutional so that basically in an absolute position we regard any laws that go to that to be beyond the power of Congress to enact.

But given that we do have such laws on the books presently, there is a danger in terms of opening up a Pandora's box and creating new legislation dealing with that sale and distribution with respect to codifying perhaps the *Miller* standard or in some other way either making reference to the *Miller* standard or omitting the *Miller* standard from legislation. So, to that extent, though I would not support such a bill—

Senator MATHIAS. As between the two options?

Mr. GUGGENHEIM. As between the two options increasing the penalties of the present law would be the better route.

Senator MATHIAS. We are dealing then with a known fact aren't we.

Mr. GUGGENHEIM. That's right.

Senator MATHIAS. Then we're not opening up a whole new thing.

Leaving aside legal and constitutional issues with respect to child pornography, as the chairman has stated, this subcommittee concerns itself with the full range of juvenile problems to work and protect children within the juvenile system from that abuse for a number of years.

What specific suggestions do you have for the subcommittee as to how we can get to the root problems which are not perhaps solely responsible for child pornography but which set children up to become victims in this system?

Mr. GUGGENHEIM. We have permitted through most of this century to allow States to lock kids up who commit no act other than running away from their homes. Often it is a home where it was proper to run away from for survival.

We have permitted them to be locked up in conditions which are intolerable.

The power of the State should not go that far. Congress has recognized that in passing the Juvenile Justice and Delinquency Act of 1974. In that regard all that Congress can do is to hold out a carrot to the States in order to accept the essence of the bill with respect to run-aways and status offenders generally by enticing States under the threat of losing Federal funds to cease locking such kids up.

Unfortunately, the carrot has not been made sufficient, and the States are not complying with the law in the way that Congress had initially hoped. So, in the first instance, authorizing and appropriating more funds to the States pursuant to that act would go a long way toward reducing the possibility of kids being locked up for noncriminal be-

havior. That is a very important first step because presently kids who are runaways are forced to behave as fugitives from the law. If they are seen by the police they are subject to arrest. As such, they often go to the parts of town where they can hide out, where they can make contact with people and friends who know how to keep them away from the law. We are forcing them to the element of society that we should be shielding them from. We make them feel that they are criminals.

Beyond that, Congress can affirmatively support runaways shelters where kids can go with no sanctions, with no strings attached, and where they can hang out and get some help and have people to talk to and the opportunity to figure out where they want to go and get them back into school and so on. Basically what it means is a commitment to the needs of these kids. That commitment, I think, has to be shown in the form of appropriations.

Senator MATHIAS. We have tried very hard to get increased funding for the very programs that you are talking about. This subcommittee has taken a lead in that very program. It is surprising as to the amount of education of adults that is needed in this area. All the help you can give us would be greatly appreciated. Getting the public excited is an enormous burden not just because of child pornography but for the wider and greater problems that exist in our society today.

I am glad, therefore, to hear your thoughts here and I hope you will continue to do this louder and more often and before other audiences.

Thank you, Mr. Chairman.

Senator CULVER. Thank you, Senator Mathias, and we thank you, Professor Guggenheim, for coming here today.

Mr. GUGGENHEIM. I appreciate the opportunity.

Senator CULVER. Our next witness is Prof. Paul Bender, professor of law at the University of Pennsylvania. Professor Bender was the general counsel of the President's Commission on Obscenity and Pornography. I'm pleased with your very valuable contributions in this critical area of our national life. I look forward to your statement here this morning.

#### STATEMENT OF PAUL BENDER, PROFESSOR OF LAW, UNIVERSITY OF PENNSYLVANIA

Mr. BENDER. Thank you very much, Senator Culver.

I'm afraid I do not have a prepared written statement because I did not get the bills in time to write one. I've reviewed both the Roth bill and the Mathias-Culver bill and I'd like to say some general things about their different constitutional concepts.

Since this is an informal statement, if questions occur to you as I go along, do not hesitate to interrupt.

In general, I think the Roth bill has three parts to it. There is a section 2251 (a), section 2251 (b), and section 2252. In general, I think section 2251 (a) embodies a sound constitutional concept, whereas section 2251 (b) and section 2252 do not. I think these two sections are basically unconstitutional.

The Mathias-Culver bill seems roughly similar to 2251 (a) of the Roth bill. Again I think it embodies a sound constitutional concept,

I think the Mathias-Culver bill is more tightly drafted and has less vagueness and overbreadth problems, and I prefer it as it now stands to section (a) of 2251 of the Roth bill.

Let me try to explain these conclusions. The reason I think the Mathias-Culver bill and 2251 (a) of the Roth bill are sound constitutionally is because they direct themselves to the conduct of abusing children rather than to the distribution of material, some of which would be protected by the first amendment. It is very difficult to be dogmatic about what the first amendment permits and prohibits; all you can do is guess as to what the Supreme Court would say. As things now stand, there are enormous constitutional problems, I think—

Senator MATHIAS. Justice Black took the safest ground.

Mr. BENDER. You mean by saying that you could do nothing to prohibit "speech"? But even there he had to say what "speech" was. That's difficult also.

So to address the abuse of the children seems to me to be the much sounder—constitutionally sounder—approach. The one constitutional difficulty that perhaps is inherent in both the Mathias-Culver bill and section 2251 (a) of the Roth bill arises from the fact that your jurisdictional link, the basis for congressional affirmative power in both of these bills, is the movement of material, some of which is protected by the first amendment, through commerce.

I do not think that should stand in the way. I think it is constitutional to prohibit conduct whenever that conduct has an effect on commerce when the effect on commerce is the movement of material that would otherwise be protected by the first amendment. For example, I think you could prohibit the theft of books if the theft were done with the intention to move the proceeds of the theft in interstate commerce even though the books were protected by the first amendment.

However, there is a constitutional doctrine which says that legislatures are not, when they can avoid it, to discriminate against speech. I'm a little troubled with both these bills because the only jurisdictional link is speech. That is true of the Roth bill. That is true of section 2251 of the Mathias-Culver bill.

What I would suggest is this. To erase that constitutional problem, I would prefer to see you have one section that prohibits various types of child abuse which would include having minors acting in pictures as well as child prostitution and other kinds of abuse. Then you could have another section which had the jurisdictional links, some of which would be speech but others which would not be speech. For example, the jurisdictional link in the Mann Act is not speech at all. If you combine them that way, then no one could possibly say that you'll be doing this to discriminate against speech. You would be doing what I think you are doing, which is trying to deal with child abuse when you have constitutional power to do that.

The fact that one of the links that gives you constitutional power is speech, as I said before, I do not think is disabling. But I would prefer your chances in court, although I think they are pretty good anyway, if the bill did not separate out speech links but tried to do these other things. There are other ways that child abuse is linked to

commerce and you could think of a range of ways and cover them all rather than just emphasizing this one particular link.

Aside from that, let me say a few general things about the Roth bill. I said that I did not think it was as tightly drafted as the Mathias-Culver bill. There are a few reasons why I think that and why I prefer the Mathias-Culver bill.

Most importantly, is the definitional section of the Roth bill. It uses the conduct which it prohibits as having children engage in prohibited sexual acts and then it defines prohibited sexual acts in a number of ways. Most of these definitions are okay. But some of them strike me as vague and so vague as to perhaps be unconstitutional.

For example, "any other sexual activity" in section (I). It would be difficult to give meaning to that. I do not think the fact that it's in this list tells you what "any other sexual activity" is. I think that either this provision should be left out, or there ought to be some qualifying language saying what "other sexual activity" or what other kinds of sexual activity the bill has in mind. I'm not sure why section (I) is needed anyway. I don't think you have that in the Mathias-Culver bill.

The nudity provision is a little bit troublesome also. It says, "nudity: if such nudity is to be depicted for the purpose of sexual stimulation or gratification of any individual who may view such depiction." I have a problem with that in knowing whose purpose they are talking about and when that has to be the purpose. Is the notion of this that the person taking the picture has to take the picture for the purpose of stimulating or gratifying someone else sexually, or is it enough if the picture is simply used that way for that purpose by somebody later even if that was not the purpose of the person who took the picture?

Nudity generally, I think, may be a bit overbroad in terms of the purposes of the legislation. I would not want to classify as child abuse anyone who takes a picture of a child without any clothes on. Lots of people do that of their children. They send it to the child's grandparents in interstate commerce. I don't think you would want to cover that. So I think it's right to qualify "nudity." But this qualification strikes me as vague.

The other problem I have is with the definitions in subsections (e) and (f)—"sadism" and "masochism." They may be self-evident terms to others but they do not have any self-evident meaning to me. They have some self-evident meaning, but there is a lot in the words "sadism" and "masochism" that I do not understand. I think it would be better if those terms were more tightly defined.

In Mathias-Culver you say "sado-masochistic abuse for the purpose of sexual stimulation." That is a lot better. I think you can make it even tighter than that.

Senator MATHIAS. Do you have any suggestions?

Mr. BENDER. Not right now but I'll think about it.

Senator CULVER. Professor Bender, I am delighted that you are not against us on this issue.

Mr. BENDER. In the Obscenity Commission we tried to draft legislation giving tight definitions of these things and I think we had something a bit more tight on sado-masochistic abuse than yours. But in all events, your seems to be tighter than the definition in the Roth bill.

Let me go on to what I think is wrong with subsection (b) of section 2251 of the Roth bill and with section 2252. Subsection (b) prohibits any individual from photographing or filming a child engaged in a prohibited sexual act if the photograph or film is going to move in interstate commerce. That is overbroad and unnecessary. I think it is unconstitutional also. Let me try to illustrate why by an example.

Suppose that the Washington Post sent an investigative reporter to investigate a child abuse in a juvenile detention facility. The Post itself moves in interstate commerce. Suppose that investigative reporter took along a camera and surreptitiously photographed guards at this institution abusing children. Those pictures are not only enormously valuable, but they are also protected by the first amendment. Yet this bill would prohibit that individual from taking those photographs because those pictures of child abuse are going to move in interstate commerce. I doubt if that is the intention, but by focusing on the photographer, whether or not the photographer has any connection with the child abuse, it seems to me that this bill goes much too far. Or you could think of a documentary film, for example. A film maker made a film of the practices at a mental institution in Massachusetts and this proved valuable in exposing to the public what goes on in these places. Such a film of sexual child abuse at a juvenile institution—the taking of such a film—would be illegal under this section.

I think it is unnecessary as well. If, in fact, the photographer is in league with the person who is exploiting the child, he can be prosecuted under the ordinary conspiracy or aiding-and-abetting concepts. You do not need a special section to deal with a photographer if he is aiding or abetting or conspiring. On the other hand, if he is not, that is when it seems to me he is probably protected by the first amendment.

So, I would not enact subsection (b) of section 2251 because I think it is unconstitutional. Similarly section 2252 of the Roth bill focuses on the distribution of material in interstate commerce. I think it is also unconstitutional. The fact that a picture depicts child abuse does not remove the picture from the protection of the first amendment for the same reasons as applied to the Washington Post investigative reporter that I was just talking about.

It seems to me that there are two possible theories as to why section 2252 of the Roth bill might be constitutional. One is what Senator Culver mentioned a few minutes ago as to whether the definition of obscenity could be altered when a child is an actor in the picture. Perhaps it can be altered to some extent, although the Supreme Court has never said so, but section 2252 would just totally leave out the three-part approach to the constitutional definition of obscenity that the Supreme Court reaffirmed in 1973 in the *Miller* case. In *Ginsburg v. New York*, the Supreme Court did permit a slight variation of the definition of obscene when the material was sold to children. Still, that legislation and all other juvenile legislation, of which I am aware sticks to the three-part model of the *Miller* test. There has to be an appeal to the prurient interest of children, rather than that of adults, but still it has that element. It has to be blatantly offensive and has to be without redeeming social value. Section 2252 has none of those elements in it. I think this departs so far from the *Miller* test that even if

you thought some variation were possible because children acted in the film as compared to children receiving the film, this would still not be constitutional.

Second, I'm not sure why you ought to permit a variation in the definition of "obscene" because children are actors in the film. Obscenity law has always focused, or at least the constitutional concept of obscenity has always focused, on the appeal of material for people who view it, and not on the effect that it has upon the actors or authors.

So in trying to justify this section under standard obscenity law Congress would be doing something entirely novel and would be departing so far from the *Miller* framework that it will probably be unconstitutional.

The other arguable basis I could imagine for this provision would be that, insofar as it covers nonobscene material, it is still constitutional to prohibit the distribution of that material because that nonobscene material creates a danger of harm. We know that in some circumstances you can prohibit constitutionally protected nonobscene material when it causes or creates a sufficient danger of harm. Perhaps a theory of this bill is that it does that. But I do not think it would stand up on that theory for essentially the following reason.

You are dealing here with what amounts to pure speech. You are dealing with what amounts to a total prohibition of that speech within your jurisdiction. The normal constitutional test that is applied in such cases is a test that requires an intention to do harm, indeed an incitement, on the part of the speaker. There is nothing in here that says that the person shipping the material in commerce is guilty only if he does so because he intends to encourage child abuse, or to incite child abuse or to cause child abuse. Without that, I think it is very dubious this would pass the *Brandenburg v. Ohio* clear and present danger type of test.

Since this is not advocacy you might say you would use a different constitutional test. If speech actually causes harm or sufficient danger of harm then, even without incitement, perhaps it can be prohibited. But everything we know from recent Supreme Court cases suggests that, when there is no incitement or intention to cause harm, you can only ban speech on the theory that it causes harm when you actually prove that it causes harm. Here you have merely the speculation that interstate traffic in this material will, in fact, increase the incidents of child abuse. The recent case of *Linmark Associates v. Town of Willingboro* suggests that such speculation is not sufficient to ban speech—even, as in that case, speech in the form of commercial advertisements.

I think that the conclusion that child pornography causes child abuse involves too much speculation in view of the social situation as we know it and the fact that it seems to me that most kinds who act in these films probably are doing these acts aside from the films anyway. You would have to have a finding, based on evidence that, in fact, the distribution of this type of film substantially increases the incidence of child abuse before you could possibly support the constitutionality of this. This would be true even under a milder constitutional test, as in the *Willingboro* case, and I don't think the milder test applies because we're dealing with pure speech and an absolute prohibition.

Also you would have to show that there is no adequate alternative toward prohibiting the speech. You're doing something unusual. You're trying to get to conduct through speech. Normally, as Justice Brandeis said in *Whitney v. California*, we do not do this in this country. Normally if we're after conduct we penalize the conduct. We do not try to reach conduct through speech.

The only time we can reach it is when it causes a clear and present danger of harm and also where there is no practical alternative to reaching the conduct except through speech. Here I do not think it is possible to say that. Here there is an alternative. It is section (a) of 2251 of the Roth bill and the first provision of the Mathias-Culver bill, which deal directly with the conduct.

So I do not think that 2252 of the Roth bill would be constitutional. If you want a concrete example of its unconstitutional overbreadth, consider a documentary film on child abuse in a juvenile institution. Section 2252 would make it illegal to send such a film through commerce, yet such a film is clearly constitutionally protected. That is another reason why I prefer the Mathias-Culver version which would not prohibit such a film. Why don't I stop with my general statement here and see if you have any questions?

Senator CULVER. Thank you very much.

I want to propose to you and get your response to some of these particular areas of concern to us. We have the question of the provision of our bill that prohibits the use of a person under 16 in the production of pornographic material. We require that the person commit the act knowingly. Do you think the requirement of knowledge as to age is reasonable?

Mr. BENDER. Yes, I think it is reasonable. I think there would be a lot of instances where people would use children without knowing that they were children. It's sometimes difficult to tell ages at around the age of 16. I think strict criminal liability is something we ought to disfavor unless it's absolutely necessary. I don't see any reason to put it in here. I think it is much more reasonable to have a "knowing" provision.

Senator CULVER. What are your thoughts about making knowledge a defense as proposed in the criminal code?

Mr. BENDER. As opposed to putting the burden on the prosecution to prove knowledge?

Senator CULVER. Yes.

Mr. BENDER. I don't think there is a terrible amount of difference between the two. There might be a difference if you had to prove your affirmative defense beyond a reasonable doubt, but I do not think you would want to require that.

If one alternative would be that if the defendant can raise a reasonable doubt as to whether he knew he could escape conviction, then that does not seem to me to be too far from saying that the prosecution has to prove beyond a reasonable doubt that he did know. The main difference between those two alternatives is in who has the burden of raising the issue.

Senator CULVER. Would the prosecution actually in this case have to establish the fact that the question be posed and answered by the victim as to age?

Mr. BENDER. No.

Senator CULVER. What are the factors or indexes to be drawn upon or established here?

Mr. BENDER. For example, if a child is 10 years old, I would think just from that fact, especially if a jury saw the child or saw the picture of the child, that the jury could find that somebody seeing the child would have known that the child was below the age of 16. I think that would be all the proof that would be necessary.

Senator CULVER. That would be a sufficient standard, do you think?

Mr. BENDER. Yes.

Senator CULVER. As you point out, we do not deal with the question of sale and distribution of pornographic material dealing with children. It was our feeling that this type of activity perhaps is already adequately covered by existing Federal statute authority under the obscenity statutes. Do you believe that these laws that we now have barring the interstate transportation, mailing, and shipping on common carriers of obscene materials can be effectively used to prosecute sale and distribution of child pornography?

Mr. BENDER. The present law?

Senator CULVER. Yes.

Mr. BENDER. Yes, I think it can. My view is that present law is probably adequate and that no new legislation is really needed at all. Perhaps if you thought it was wise—I don't know how to think about these things, but if you thought it wise to raise the penalties where children are exploited, as I think some of the bills in this package do, then that might be appropriate. I do not, however, have any reason to believe that the present penalties are inadequate.

But aside from that possibility, I think the existing laws are adequate. Most of the things that people think of as child pornography it seems to me are obscene under existing law.

Senator CULVER. Were you here when the Justice Department witnesses appeared?

Mr. BENDER. No.

Senator CULVER. Speaking of this issue of overbreadth the hypothetical situation was posed of the use of a child involving prohibited conduct under our bill in the picture "The Exorcist." The possible problems that such participation posed were mentioned in terms of passing constitutional measures.

How about your views on that?

Mr. BENDER. You're asking me whether it would be constitutional to make it illegal to use a child in a film which is a nonobscene film when the child is acting in the film and doing things that involve sexual conduct?

Senator CULVER. Yes.

Mr. BENDER. I think it would be constitutional. That is perhaps one example of where the existing laws would be inadequate if you thought you wanted to prohibit that.

Senator CULVER. On the basis of reaching child abuse.

Mr. BENDER. That's right. Under the existing law "The Exorcist," which I'm afraid I've not seen but I assume is not obscene either because it has serious something—literary, artistic or some kind of value in it—or maybe it doesn't appeal as a whole to the prurient interest or whatever.

"The Exorcist" is not obscene and therefore if you are worried about whatever the child did in "The Exorcist," then you could not reach that through prohibiting "The Exorcist." I'm not sure you should be worried about a child acting in a film that is protected by the first amendment under present obscenity standards. It is hard for me to conceive of a child acting in a film like "The Exorcist" as being child abuse of the sort that I think you are mostly worried about. After all, that takes place in a more or less open situation with a well-established business. There are parents or guardians around who are looking after their child's best interest. This is not some child that they are abusing in the ordinary sense of that word. It's a child that they are using as an actor. Although the child may be doing things that you or I would not want our children to do, I do not think there is a major social problem when you are dealing with material protected by the first amendment. I think the major social problem here is children being abused in ways that show up in material that is not protected by the first amendment under present constitutional doctrine.

Senator CULVER. Senator Mathias?

Senator MATHIAS. You have already commented briefly on the question of penalties. Do you have any further thoughts on that subject?

Mr. BENDER. I am not an expert in any sense in substantive criminal law generally. As I said before, I find it very hard to think about what adequate or proper penalties are. There is such a tremendous difference between what you write in the statute and the penalties that are imposed. I think that is a proper difference.

I do not usually put an awful lot of stock in what the penalty provisions say in a statute. The existing penalties under section 1461 of the criminal code are pretty large, aren't they? They are a few years in jail and fairly sizable fine. It strikes me that that is a significant penalty. Raising it by a few years or the fine by \$10,000 or \$20,000, I do not think will have a serious effect upon the problem you are dealing with.

The most important ingredient is the level of enforcement and the effectiveness of enforcement and the swiftness of enforcement, rather than the abstract size of the penalty.

Senator MATHIAS. You commented earlier about the fact that you thought there ought to be a requirement of knowledge as far as the question of age is concerned. What about knowledge that the material—like films or printed material—would be mailed and otherwise transported in interstate commerce?

Mr. BENDER. I like your bill because it does provide that there has to be knowledge that the material will be mailed.

Senator MATHIAS. Is that a necessary bar?

Mr. BENDER. I would be very troubled by a statute that penalized someone under the commerce power for doing something, when some product of what he did happened to move in commerce even though that person had no way of knowing that it would.

I cannot think of a case offhand that says that that would be unconstitutional or that is too much of an extension of the commerce power. But I would not want to argue that in Supreme Court. I think it's unnecessary.

Why pose constitutional problems that you do not have to pose? If you restrict the legislation to people who know or who have reason to

know that it will move in commerce, or who intend that it will move in commerce, then you would be covering almost everyone that you could possibly want to cover. The people that produce these films do it intending that it move in commerce.

Senator MATHIAS. The alternative to raising that issue, of course, would be to leave it to the discretion of the local prosecutor. If he felt that it was a case of purely local production for local consumption, then they would pull down that particular flag.

Mr. BENDER. And you mean not prosecute?

Senator MATHIAS. Yes.

Mr. BENDER. But even if they did that, when they prosecuted somebody who did have some link to commerce they would be faced with the challenge that the statute is unconstitutional on its face because it had no apparent commerce clause, or any sufficient commerce clause, link. Again, you could not predict how that challenge would come out. It would seem an unnecessary hurdle to place in the way of the prosecutor. You are saddling him with a statute that seems overboard on its face. You can limit it as you have to people who knowingly do it.

I don't think it would seriously affect the scope of the bill.

Senator MATHIAS. I have been curious about why this problem has surfaced in the way it has at this moment in history.

Mr. BENDER. So have I.

Senator MATHIAS. In light of your experience I was hopeful that you might have some thoughts on this. Clearly pornography itself is not new. It's as old as the human race. But this particular vicious form which has come on the public scene seems to be in greater circulation now than ever before. Is this merely because our perception is more accurate or in fact is it an inflationary trend?

Mr. BENDER. Let me say that when we studied the market in pornography in 1970 on the Obscenity Commission, and we did an extremely thorough study not only on the market at that time but we spent a lot of time looking at the history of pornography, we found that child pornography has existed for many years just as pornography has existed for many years. You can find pictures many years old showing children like this. Certainly in 1970 there were pictures of children. For example, there was a fairly substantial amount of stuff for male homosexuals showing children.

So, it has been around, for a while. I do not know whether there is a greater traffic in it now than there was earlier. I have no way of knowing what the present traffic is. But I do know that at least in the recent past there has been a traffic in these materials. I remember magazines that we saw in 1970 which contained pictures of boys and men designed obviously for the homosexual market.

Why the public concern has suddenly been aroused by this, I do not know.

Senator MATHIAS. In the Commission's studies did you have evidence of the interstate solicitation or mail order catalogs for the services of male prostitutes; female prostitutes?

Mr. BENDER. I thought you were asking about mail order catalogs for the material. That there was. I do not remember seeing any catalogs of prostitutes as such. There were these lists of swingers which I think is very close to being lists of prostitutes, at least some of them. We saw

those. I do not remember any of those including children, but some of them may have.

We did not go into, in any depth, prostitution. We restricted ourselves mostly to books and pictures.

Senator MATHIAS. So you can really not help us with the question as to whether we are dealing with a problem of perception or not.

Mr. BENDER. Other than saying that material has been around for a long time, no, I cannot help you with that. I have no clue as to why this has suddenly erupted as a major social problem.

It would be comforting to think that it has suddenly erupted because there is a greater concern now with children being abused. If that is true, as I say, I am comforted by it. I think it is right to respond to that concern.

But in terms of the pictures themselves, I am not aware that there is anything radically different going on now in terms of the distribution of the pictures of the children engaged in sexual acts then that which went on 10 years ago.

Senator MATHIAS. A related problem is trying to estimate how big the whole issue is and how many children are involved. We have difficulty in estimating the numbers of runaway youth, for example. Not every runaway youth is involved in pornography but that is a principal area where they have become targets.

The estimates range as high as 1 million.

Mr. BENDER. One million children who are runaways?

Senator MATHIAS. In this field we are told that there may be more than 200 magazines that regularly carry pictures of child pornography. Would that give us any kind of clue as to the number of children that may be involved?

Mr. BENDER. It would help if you saw the magazines. Some of these pictures may be old. If I am right, and I think I am, the pictures have existed for many years. Many of these magazines may carry pictures that are not recently taken.

Some of the pictures may come from abroad. That is a common phenomenon in this business. That may involve child abuse, but I do not think it is child abuse that we are primarily concerned with if the pictures come from Scandinavia, let's say.

If you saw the magazines you might have some clue as to that. You could also see how many of the magazines are using the same pictures, which can also happen, or the same models. In the pornography business generally, especially where you are talking about males, there are talents to being a male model in pornography that not everyone has. There are a limited number of males who act as models and as actors in these films. It would not surprise me at all if you found the same people reappearing in magazine after magazine and also in issue after issue of the same magazine.

So, if you did collect these magazines and analyzed them in those ways, I think you could get a clue as to how many children are actually involved and as to whether they are children in this country and also as to whether they are children living now or were children 10 years ago.

We tried doing that in the Obscenity Commission to some extent with the material available then with regard to the general question

of pornography. It is difficult to do and it's time consuming. But people are saying that there are 200 magazines and it should not be too much trouble to get them. I think that would be a first step. Then you can analyze them and you can get some information from that.

Senator MATHIAS. The implication of your testimony is that we should be very careful about speculating on the size of the problem; is that right?

Mr. BENDER. Yes. In my experience the estimates of the size of the pornography problem are usually much, much too large. For example, at the time of the Obscenity Commission in 1970 the estimates about the size of the market in pornographic materials which were commonly given in Congress bore almost no relationship to the size of the industry as we found it.

We worked on that over the course of 2 years. The industry turned out to be much smaller than people were commonly saying.

I would not be at all surprised if the same thing is true here.

Senator MATHIAS. Thank you, Mr. Chairman.

Senator CULVER. Mr. Rapp?

Mr. STEVE RAPP [Subcommittee Staff Director]. Can you comment on the suggestion that when we amend the current obscenity laws by increasing the penalties we will need to write the *Miller* standard into the statutes because we're acting post-1973?

Mr. BENDER. I do not think you would have to. The Supreme Court has not said you have to. The Supreme Court's conduct since 1973 suggests that they do not really care whether you do or not. They have, for example, a few weeks ago, upheld an Illinois statute which had plenty of opportunity to be rewritten since *Miller* and was not. They were not troubled by that. They have said of the Federal statutes that they will read in the *Miller* definition. So especially if all you are doing is raise the penalties, I would think it would be safe to leave just the word "obscene" in there as it now is along with the other words. If you leave it the way it is now and simply raise the penalties, the Supreme Court has told you that it will construe those statutes as going to the outer limits of what *Miller* permits, probably including, for example, sado-masochistic materials as in *Ward v. Illinois*, which has just been decided.

I don't think it's necessary to write in the *Miller* definition. Maybe if you wrote in the *Miller* definition, you would be limiting the statute more than you would need to because next week they might decide that something else was added to the *Miller* definition. If you had already written in the concept of it as it is today, then you would not take advantage of what they add next week.

They are at a period now of extending the obscenity laws. I do not think they are doing the right thing there. But if you want to write a bill that occupies as much constitutional power as you have, then I think the thing you would want to do is to not write in the specific definition but to leave the definitional provision the way it is today.

Senator CULVER. In your work on the Obscenity Commission, I was interested in the extent to which you involved yourself in any psychiatric or sociological evaluations of possible personality and character consequences in adult life as a result of abnormal sexual experiences as a child.

Mr. BENDER. We did study that. I did not do that personally. I was the General Counsel. We had an effects panel which spent time evaluating the effects of explicit sexual materials on children as well as on adults.

Remember that we were talking about the effects of sexual materials, not the effects of engaging in sexual conduct.

What we found was that we could not find any discernible harm to children from being exposed to explicit sexual materials as children, just as we could not find any discernible harm to adults from being exposed to that. The harms that we found to children who were exposed to these things were harms that flowed, not from the materials, but from the social settings in which they saw them.

I would find it very hard to speculate on what kind of damage it would do to a 12-year-old by his having been forced—just by saying “forced,” you suggest the difficulties. There’s perhaps a difference between forcing and enticing and encouraging. You would have to know the precise circumstances and the way it was done and who did it and the situation the child was in at the time in order to know whether it would have any lasting harm. I’m sure there are situations where it would be harmful.

Senator CULVER. The correlation of the abuse of the child as distinguished from being exposed to the materials themselves—that correlation is different.

Mr. BENDER. Yes; I would expect more lasting harm would be caused to a child being physically abused, than to the child being exposed to sexual materials.

Senator CULVER. One of the studies that I was recently referred to in New York City, I believe, dealt with 14 juveniles who were convicted of homicides. I think in every single case the person involved had been physically abused as a child. Not necessarily sexually abused but physically. Every single one was abused physically. So the manifestations of that prior experience and the antisocial conduct were certainly very disturbing and impressive.

I know this is a difficult thing to evaluate. There is such a great variety of forces and influences that shape the contours of conduct that a personality goes through. How you isolate the decisive determination influence is very difficult.

Mr. BENDER. I would assume that children who are abused sexually are probably also abused in other ways in many cases. It would be awfully hard to say whether the sexual abuse added anything to it. I imagine in most cases the sexual abuses flow out of a context of enormous general abuse. It’s terribly harmful—all of it. I think it’s good to try to deal with all of it and it’s certainly right to deal with the sexual abuse because it’s part of it. I would be hopeful that you would not just focus on the sexual abuse but would try to deal with abuse generally.

Senator CULVER. We want to thank you very much. It has been a pleasure to have you with us.

The hearing is adjourned.

[Whereupon, at 12:15 p.m., the subcommittee adjourned subject to call of the Chair.]

## APPENDIX

THE LIBRARY OF CONGRESS,  
CONGRESSIONAL RESEARCH SERVICE,  
Washington, D.C.

### FEDERAL AND STATE STATUTES REGULATING USE OF CHILDREN IN PORNOGRAPHIC MATERIAL

There are presently five federal laws which prohibit distribution of "obscene" materials in the United States. One prohibits any mailing of such material (18 U.S.C. § 1461); another prohibits the importation of obscene materials into the United States (19 U.S.C. § 1305); another prohibits the broadcast of obscenity (18 U.S.C. § 1464); and two laws prohibit the interstate transportation of obscene materials or the use of common carriers to transport such materials (18 U.S.C. §§ 1462 and 1465). In addition, the 1968 federal Anti-Pandering Act (39 U.S.C. § 3008) authorizes postal patrons to request no further mailings of unsolicited advertisements from mailers who have previously sent them advertisements which they deem sexually offensive in their sole judgment, and it further prohibits mailers from ignoring such requests. There is no present federal statute specifically regulating the distribution of sexual materials to children.

Five federal agencies are responsible for the enforcement of the foregoing statutes. The Post Office Department, the Customs Bureau, and the Federal Communications Commission investigate violations within their jurisdictions. The F.B.I. investigates violations of the statutes dealing with transportation and common carriers. The Department of Justice is responsible for prosecution or other judicial enforcement.

It has long been recognized that the state has a valid special interest in the well-being of its children. *Prince v. Com. of Massachusetts*, 321 U.S. 158 (1944). A state may regulate the materials that juveniles view and read even if they could not be proscribed for adults.

In *Ginsberg v. New York*, 390 U.S. 629 (1968), the U.S. Supreme Court upheld a New York criminal statute that makes it unlawful to knowingly sell harmful material to a minor. The defendant in *Ginsberg* contended that the state statute violated the First Amendment. In response, the Court stated that the statute applied only to sexually oriented material that was found obscene under a constitutionally acceptable definition of obscenity. There was no First Amendment violation since, as the Court had noted in prior decisions involving "general" (adult) obscenity statutes, obscene material is not protected speech under the First Amendment. The *Ginsberg* opinion also noted that the state had ample justification to sustain its regulation of an activity that was not protected by the First Amendment. The Court noted two state interests that justify the New York limitations on the commercial dissemination of obscene material to minors. First, the legislature could properly conclude that those primarily responsible for children's well-being are entitled to the support of laws designed to aid discharge of that responsibility. Second, the state has an independent interest in protecting the welfare of children and safeguarding them from abuse.

Forty-seven states and the District of Columbia have some type of special prohibition against the dissemination of obscene material to minors. However, our research revealed that only six of these states have provisions prohibiting the participation of minors in an obscene performance which could be harmful to them. These states are:

#### CONNECTICUT GENERAL STATUTES ANNOTATED

##### § 53-25. Unlawful exhibition or employment of child

Any person who exhibits, uses, employs, apprentices, gives away, lets out or otherwise disposes of any child under the age of sixteen years, in or for the

vocation, occupation, service or purpose of rope or wire walking, dancing, skating, bicycling or peddling, or as a gymnast, contortionist, rider or acrobat, in any place or for any obscene, indecent or immoral purpose, exhibition or practice or for or in any business, exhibition or vocation injurious to the health or dangerous to the life or limb of such child, or causes, procures or encourages any such child to engage therein, shall be fined not more than two hundred and fifty dollars or imprisoned not more than one year or both. (1949 Rev., § 8373.)

NORTH CAROLINA GENERAL STATUTES

§ 14-190.1 Obscene literature and exhibitions.—(a) It shall be unlawful for any person, firm or corporation to intentionally disseminate obscenity in any public place. A person, firm or corporation disseminates obscenity within the meaning of this Article if he or it:

(1) Sells, delivers or provides or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or

(2) Presents or directs an obscene play, dance or other performance or participates directly in that portion thereof which makes it obscene; or

(3) Publishes, exhibits or otherwise makes available anything obscene; or

(4) Exhibits, presents, rents, sells, delivers or provides; or offers or agrees to exhibit, present, rent or to provide: any obscene still or motion picture, film, filmstrip, or projection slide, or sound recording, sound tape, or sound track, or any matter or material of whatever form which is a representation, embodiment, performance, or publication of the obscene.

(b) For purposes of this Article any material is obscene if:

(1) The material depicts or describes in a patently offensive way sexual conduct specifically defined by subsection (c) of this section; and

(2) The average person applying contemporary statewide community standards relating to the depiction or representation of sexual matters would find that the material taken as a whole appeals to the prurient interest in sex; and

(3) The material lacks serious literary, artistic, political, educational or scientific value; and

(4) The material as used is not protected or privileged under the Constitution of the United States or the Constitution of North Carolina.

(c) Sexual conduct shall be defined as:

(1) Patently offensive representations or descriptions of actual sexual intercourse, normal or perverted, anal or oral;

(2) Patently offensive representations or descriptions of excretion in the context of sexual activity or a lewd exhibition of uncovered genitals, in the context of masturbation or other sexual activity.

(d) Obscenity shall be judged with reference to ordinary adults except that it shall be judged with reference to children or other especially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be especially designed for or directed to such children or audiences. In any prosecution for an offense involving dissemination of obscenity under this Article, evidence shall be admissible to show:

(1) The character of the audience for which the material was designed or to which it was directed;

(2) Whether the material is published in such a manner that an unwilling adult could not escape it;

(3) Whether the material is exploited so as to amount to pandering;

(4) What the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;

(5) Literary, artistic, political, educational, scientific, or other social value, if any, of the material;

(6) The degree of public acceptance of the material throughout the State of North Carolina;

(7) Appeal to prurient interest, or absence thereof, in advertising or in the promotion of the material.

Expert testimony and testimony of the auditor, creator or publisher relating to factors entering into the determination of the issue of obscenity shall also be admissible.

(e) It shall be unlawful for any person, firm or corporation to knowingly and intentionally create, buy, procure or possess obscene material with the purpose and intent of disseminating it unlawfully.

(f) It shall be unlawful for a person, firm or corporation to advertise or otherwise promote the sale of material represented or held out by said person, firm or corporation as obscene.

(g) Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor and, unless a greater penalty is expressly provided for in this Article, shall be fined or imprisoned in the discretion of the court. (1971, c. 405, s. 1; 1973, c. 1434, s. 1.)

§ 14-190.6. Employing or permitting minor to assist in offense under Article.—Every person 18 years of age or older who intentionally, in any manner, hires, employs, uses or permits any minor under the age of 16 years to do or assist in doing any act or thing constituting an offense under this Article and involving any material, act or thing he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1, shall be guilty of a misdemeanor, and unless a greater penalty is expressly provided for in this Article, shall be punishable in the discretion of the court. (1971, c. 405, s. 1.)

#### NORTH DAKOTA CENTURY CODE

12.1-27.1-03. Promoting obscenity to minors—Minor performing in obscene performance—Classification of offenses.—1. It shall be a class C felony for a person to knowingly promote to a minor any material or performance which is harmful to minors, or to admit a minor to premises where a performance harmful to minors is exhibited or takes place.

2. It shall be a class C felony to permit a minor to participate in a performance which is harmful to minors.

#### CODE OF LAWS OF SOUTH CAROLINA

§ 16-414.1. Distribution, etc., of obscene matter; definitions.—For the purposes of §§ 16-414.1 to 16-414.9:

(a) "*Obscene*" means that to the average person, applying contemporary standards, the predominant appeal of the matter, taken as a whole, is to prurient interest among which is a shameful or morbid interest in nudity, sex or excretion, and which goes substantially beyond customary limits of candor in description or representation of such matters. If it appears from the character of the material or the circumstances of its dissemination that the subject matter is to be distributed to minors under sixteen years of age, predominant appeal shall be judged with reference to such class of minors.

(b) "*Matter*" means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statute or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other article, equipment, machine or material.

(c) "*Distribute*" means to transfer possession of, whether with or without consideration.

(d) The word "*knowingly*" as used herein means having knowledge of the contents of the subject matter or failing after reasonable opportunity to exercise reasonable inspection which would have disclosed the character of such subject matter. (1965 (54) 470; 1966 (54) 227.)

§ 16-414.4 Same; employment of minor under sixteen.—It shall be unlawful for any person who, with knowledge that a person is a minor under sixteen years of age, or who, while in possession of such facts that he should reasonably know that such person is a minor under sixteen years of age, to hire, employ, or to use such minor to do or assist in doing any of the acts prohibited by §§ 16-414.1 to 16-414.9. (1965 (54) 470.)

#### TENNESSEE CODE ANNOTATED

39-3013. Importing, preparing, distributing, possessing or appearing in obscene material or exhibition—Distribution to or employment of minors—Penalties.—(A) It shall be unlawful to knowingly send or cause to be sent, or bring or cause to be brought, into this state for sale, distribution, exhibition, or

display, or in this state to prepare for distribution, publish, print, exhibit, distribute, or offer to distribute, or to possess with intent to distribute or to exhibit or offer to distribute any obscene matter. It shall be unlawful to direct, present, or produce any obscene theatrical production or live performance and every person who participates in that part of such production which renders said production or performance obscene is guilty of said offense.

(B) Notwithstanding any of the provisions of §§ 39-3010—39-3022, the distribution of obscene matter to minors shall be governed by § 39-1012 et seq. In case of any conflict between the provisions of §§ 39-3010—39-3022 and § 39-1012 et seq., the provisions of the latter shall prevail as to minors.

(C) It shall be unlawful to hire, employ, or use a minor to do or assist in doing any of the acts described in subsection (A) with knowledge that a person is a minor under eighteen (18) years of age, or while in possession of such facts that he or she should reasonably know that such person is a minor under eighteen (18) years of age.

(D) (1) Every person who violates subsection (A) is punishable by a fine of not less than two hundred fifty dollars (\$250) nor more than five thousand dollars (\$5,000), or by confinement in the county jail or workhouse for not more than one (1) year, or by both fine and confinement. If such person has previously been convicted of a violation of §§ 39-3010—39-3022, a violation of subsection (A) is punishable as a felony by a fine of not less than five hundred dollars (\$500) nor more than ten thousand dollars (\$10,000), or by imprisonment in the state penitentiary for a term of not less than two (2) nor more than five (5) years or by both fine and imprisonment.

(2) Every person who violates subsection (C) is punishable by a fine of not less than two hundred fifty dollars (\$250) nor more than five thousand dollars (\$5,000) or by confinement in the county jail or workhouse for not more than one (1) year, or by both fine and confinement. If such person has been previously convicted of a violation of §§ 39-3010—39-3022, a violation of subsection (C) is punishable as a felony and by a fine of not less than five hundred dollars (\$500) nor more than ten thousand dollars (\$10,000), or by imprisonment in the state penitentiary for a term of not less than two (2) years nor more than five (5) years. [Acts 1974 (Adj. S.), ch. 510, § 3; 1975, ch. 306, § 1.]

VERNON'S TEXAS CODE ANNOTATED

§ 43.24. Sale, Distribution, or Display of Harmful Material to Minor.—(a) For purposes of this section:

(1) "Minor" means an individual younger than 17 years.

(2) "Harmful material" means material whose dominant theme taken as a whole:

(A) appeals to the prurient interest of a minor, in sex, nudity, or excretion;

(B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and

(C) is utterly without redeeming social value for minors.

(b) A person commits an offense if, knowing that the material is harmful:

(1) and knowing the person is a minor, he sells, distributes, exhibits, or possesses for sale, distribution, or exhibition to a minor harmful material:

(2) he displays harmful material and is reckless about whether a minor is present who will be offended or alarmed by the display; or

(3) he hires, employs, or uses a minor to do or accomplish or assist in doing or accomplishing any of the acts prohibited in Subsection (b) (1) or (b) (2) of this section.

(c) It is a defense to prosecution under this section that:

(1) the sale, distribution, or exhibition was by a person having scientific, educational, governmental, or other similar justification; or

(2) the sale, distribution, or exhibition was to a minor who was accompanied by a consenting parent, guardian, or spouse.

(d) An offense under this section is a Class A misdemeanor unless it is committed under Subsection (b) (3) of this section in which event it is a felony of the third degree.

The power of the Federal Government to legislate with respect to obscenity per se is not expressly granted to Congress in Article I, or elsewhere, in the United States Constitution. Therefore, in enacting Federal laws seeking to deal with the obscenity problem, Congress has traditionally invoked its power to legislate under the commerce clause (Art. I, Sec. 8, cl. 3) and under the postal power (Art. I, Sec. 8, cl. 7). As interpreted by the United States Supreme Court, even though Congress' power to legislate under the commerce and postal powers is undisputed, nevertheless the manner of exercising these constitutional powers may be subject to some limitations.

The right of a sovereign state to limit, regulate and prohibit the labor of its minor children in employment prejudicial to their life, health or safety has never been denied. Nearly all of the states have undertaken to regulate child labor. However, in the presence of a great diversity of child labor standards in the different states the Federal Government undertook to remedy in some degree the lack of uniformity and insufficiency in state standards for child labor.

The Congress of the United States, after much agitation on the subject, enacted the Fair Labor Standards Act which, in part, provides that no goods shall be shipped or delivered in commerce where such goods were the results of oppressive child labor employment. 29 U.S.C. § 212 (1970).

This law is based upon the power of Congress to regulate interstate commerce. The next general effect of the law places restrictions upon interstate traffic in the products of child labor. Prior Federal child labor laws were declared unconstitutional on the grounds that Congress had exceeded the proper exercise of its power to regulate interstate commerce, and had invaded powers reserved to the states. *Hammer v. Dagenhart*, 247 U.S. 251 (1918); *Bdiley, Collector of Internal Revenue v. Dracel Furniture Co.*, 259 U.S. 20 (1922).

The *Dagenhart* case represents an era when the Supreme Court had a narrow view of commerce. Since that time, the whole concept of commerce has changed. Under the more recent decision, the power of Congress is recognized to be broad enough to reach all phases of the vast operations of our national industrial system. *Mandeville Island Farm v. American Crystal Sugar Co.*, 334 U.S. 219 (1948); *United States v. Darby*, 312 U.S. 100 (1941); *Wickard v. Filburn*, 317 U.S. 111 (1942); *United States v. South-Eastern Underwriters Assn.* 322 U.S. 533 (1944). Therefore, it would appear that Federal legislation could be proposed which would operate similarly to the child labor provision of the F.L.S.A. This law could have the effect of prohibiting the shipment into commerce any motion picture or photograph in which children under a certain age have appeared in the nude or depicted in some other objectionable manner.

In *United States v. Darby*, *supra*, the U.S. Supreme Court stated that "while manufacture is not of itself interstate commerce, the shipment of manufactured goods interstate is such commerce and the prohibition of such shipment by Congress is indubitably a regulation of the commerce. The power to regulate commerce is the power 'to prescribe the rule by which commerce is governed'". 312 U.S. at 113. The power of Congress over interstate commerce "is complete in itself, may be exercised to its utmost extent, and acknowledges no limitation other than are prescribed in the Constitution". *Ibid.*, at 114. This "power can neither be enlarged nor diminished by the exercise or nonexercise of state power." *Ibid.* "Congress, following its own conception of public policy concerning the restrictions which may appropriately be imposed on interstate commerce, is free to exclude from the commerce articles whose use in the state for which they are destined it may conceive to be injurious to the public health, moral or welfare, even though the state has not sought to regulate their use." *Ibid.*

It has also been established that Congress may by appropriate legislation regulate intrastate activities where they have a substantial effect on interstate commerce. *Maryland v. Wirtz*, 392 U.S. 183 (1968); In *Atlanta Motel v. United States*, 370 U.S. 241, 251-252 (1964), the Court stated that in those cases where commerce is involved, "Congress is clothed with direct and plenary powers of legislation over the whole subject" and therefore it "has the power to pass laws for regulating the subjects specified in every detail, and the conduct and transactions of individuals in respect thereof".

Consequently, it would appear that legislation could also be proposed which would have the effect of prohibiting the act itself (use of children in the production of sexually explicit motion or still pictures) regardless of whether the ma-

terial will enter into commerce inasmuch as it can be expected to "affect commerce": As Mr. Justice Clark stated in *Atlanta Hotel v. United States*, *supra*:

[T]he power of Congress to promote interstate commerce also includes the power to regulate the local incidents thereof, including local activities in both the States of origin and destination, which might have a substantial and harmful effect upon that commerce. 379 U.S. at 258. See *Maryland v. Wirtz*, 392 U.S. 183 (1968); *Daniel v. Paul*, 395 U.S. 298 (1969); *Katzenbach v. McClung*, 379 U.S. 294 (1964).

PAUL S. WALLACE, JR.,  
Legislative Attorney, American Law Division.

LIBRARY OF CONGRESS,  
CONGRESSIONAL RESEARCH SERVICE,  
Washington, D.C., October 10, 1977.

To: Senate Judiciary Subcommittee on Juvenile Delinquency

Attn: Steve Rapp.

From: American Law Division.

Subject: Press Protection under First Amendment.

This is in response to your request whether judicial decisions establishing that the press as an institution and business is not immune from general regulations of the government may be extended so as to permit governmental regulation of the expressive productions of these institutions irrespective of the First Amendment guarantees. The precedents clearly establish that it is not permissible so to extend these cases.

Newspapers, radio and television broadcasters, book and magazine publishers are all business institutions in our society, organized to return a profit. The First Amendment guarantee of freedom of the press does not immunize these businesses from regulation that includes them within other profit making institutions and attempts to correct or ameliorate social and economic ills. Thus, these institutions may be required to observe wage and hour and collective bargaining legislation in their dealings with their employees, *Oklahoma Press Pub. Co. v. Walling*, 327 U.S. 186 (1946); *Associated Press v. NLRB*, 301 U.S. 103 (1937), and they may not claim any privilege to monopolize markets denied other businesses. *Associated Press v. United States*, 326 U.S. 1 (1945); *Lorain Journal Co. v. United States*, 342 U.S. 143 (1951).

The Court has, however, always been clear that such regulation even of an economic nature cannot end in a restraint upon expression. *Oklahoma Press Pub. Co. v. Walling*, *supra*, 193. Thus, for example, while government's power to classify for taxation purposes is extremely wide, that power does not extend to permitting discriminatory taxing of newspapers which imposed a substantial restraint upon publication of news. *Grosjean v. American Press Co.*, 297 U.S. 233 (1936). And a general social interest in seeing all sides of an issue publicized has been held not enforceable by a governmentally imposed "right to reply" requirement on the editorial discretion of newspapers. *Miami Herald Pub. Co. v. Tornillo*, 418 U.S. 241 (1974). That a newspaper or a book publisher receives a profit from disseminating expression does not disqualify both the publisher and the published from First Amendment protection. *New York Times Co. v. Sullivan*, 376 U.S. 254, 265-266 (1964); *Smith v. California*, 361 U.S. 147, 150 (1959), nor does it expose the content of what is published to unrestricted regulation, else the mere fact that a profit making business is involved in the communication would remove all restraint upon government infringement of expression. In that event, for example, there would have been no necessity for the Supreme Court to deal, as it did, with governmental attempts to bar a drive-in motion picture theatre whose screen could be seen from the street from exhibiting motion pictures with nudity in them, *Erznoztik v. City of Jacksonville*, 422 U.S. 205 (1975); or with a municipal auditorium's refusal to license the exhibition of the musical "Hair" for which admission was to be charged. *Southeastern Promotions v. Conrad*, 420 U.S. 546 (1975).

In brief, cases such as *Oklahoma Press* stand for the proposition that the First Amendment does not immunize the publishers and disseminators of communications and expression from economic regulations; they do not stand for any proposition that the expressive products of these businesses are not entitled to full First Amendment protection.

JOHNNY H. KILLIAN,  
Assistant Chief.

DEPARTMENT OF STATE,  
Washington, D.C., June 27, 1977.

HON. JOHN C. CULVER,  
Chairman, Subcommittee on Juvenile Delinquency, Committee on the Judiciary,  
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to request of Mr. Clifford G. Vaupel, a member of the Subcommittee staff, concerning the details surrounding the receipt and disposition by the Department of three cartons of cards provided by the Dallas Police Department, incidental to its investigation of a homosexual prostitution ring, I am happy to provide the following information.

On August 17, 1973 the Special Agent-In-Charge of the Los Angeles Field Office, Office of Security, Department of State, advised the Department that the Dallas Police Department was conducting an investigation of a homosexual prostitution ring. The investigation had revealed that the ring, using the name of "Odyssey Foundation" undertook to provide young males to individuals responding to solicitations of the "Foundation" for a variety of purposes including international travel.

On August 23, 1973 the Dallas Police Department requested assistance of the Resident Security Agent of the Department in Dallas to assist in obtaining passport information concerning a juvenile American citizen allegedly travelling in Europe under the auspices of the Odyssey Foundation. The Dallas Police noted that its investigation revealed the possibility that a passport had been fraudulently obtained. The Resident Agent forwarded the request to the Department where it was investigated and determined to have been properly obtained.

On September 5, 1973 the Dallas Resident Agent forwarded to the Department material concerning the Odyssey Foundation and its methods of operation. This material was provided with the understanding that there be no dissemination made outside the Department.

During the investigation the Dallas Resident Agent was advised that a review by the Dallas Police of card files maintained by the Odyssey Foundation revealed that two individuals in these files appeared to have State Department affiliation. The Security files of two Department employees having similar names to those in the Odyssey files were examined; however, no formal investigation was initiated because the information was considered insufficient to take action at that time. One such individual was in the Department and the other individual had been assigned to our Mexico City Embassy, but was no longer employed by the Department at the time.

On December 12, 1974 the Dallas Police Department turned over to the Dallas Resident Agent three cartons containing several thousand 3x5 cards which were obtained from the Odyssey Foundation in the investigation. Dallas Police indicated that they provided these cards so that a more complete search could be made bearing upon questions of passport fraud.

On January 2, 1975 three cartons received from the Dallas Police were sent to the Department in care of the "Special Assignment Staff, Office of Security" for review and appropriate action. Due to the bulk, the cards were not thoroughly reviewed but placed in storage where they remained until September 1975.

On September 27, 1975 the operative portions of the Privacy Act, 1974 (Public Law 93-579) came into effect and the Department undertook a systematic review of its files to identify those individual name files which were relevant and necessary to accomplish the Department's statutory purpose. This is the criteria by the law for the maintenance of such files and files not meeting that criteria were destroyed in accordance with Department policy. The file cards received from the Dallas Police were determined not to qualify as records relevant to the Department's statutory purpose and were destroyed.

If you have further questions, please contact Louis G. Fields, Jr., Assistant Legal Adviser, Office of The Legal Adviser, on 632-1462.

Sincerely,

DOUGLAS J. BENNETT, Jr.,  
Assistant Secretary for Congressional Relations.

DEPARTMENT OF JUSTICE,  
September 13, 1977.

HON. JOHN C. CULVER,  
Chairman, Subcommittee to Investigate Juvenile Delinquency of the Committee  
on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of August 24, 1977, to Donald Nicholson, an attorney in this Division, requesting information con-

cerning the number of indictments and convictions in obscenity cases for fiscal years 1972 through 1976 and the number and extent of current investigations and indictments involving child pornography.

Our records concerning the prosecution of commercial distributors of obscene material reflect that in fiscal year 1972, 87 defendants were indicted in 39 cases and 50 defendants were convicted in 27 cases. In fiscal year 1973, 44 indictments were obtained naming 144 defendants and convictions of 37 defendants in 25 cases were obtained. In fiscal year 1974, the Department obtained indictments of 82 defendants in 36 cases and convicted 49 defendants in 35 cases. In fiscal year 1975, 43 indictments were returned naming 123 defendants and 49 defendants were convicted in 31 cases. In fiscal year 1976, 54 defendants were named in 28 indictments and convictions were obtained in 42 cases involving 80 defendants.

In recent months the Department of Justice and the Postal Service have intensified their efforts in the child pornography area. The Postal Service currently has 37 open investigations of distributors of child pornography, four of which have resulted in indictments of five individuals during the last three months. The defendant in one of these cases was convicted on September 1, 1977. We have requested the Federal Bureau of Investigation to advise us concerning the number of current investigations involving distributors of child pornography. That information should be available by about September 21, and I will be happy to forward that figure as soon as we get it.

Very truly yours,

BENJAMIN R. CIVILETTI,  
Assistant Attorney General,  
By JOHN C. KEENEY,  
Deputy Assistant Attorney General.

OFFICE OF THE POSTMASTER GENERAL,  
Washington, D.C., September 22, 1977.

HON. JOHN C. CULVER,  
Chairman, Senate Judiciary Subcommittee on Juvenile Delinquency, U.S. Senate,  
Washington, D.C.

DEAR SENATOR CULVER: Postmaster Benjamin F. Bailar has asked me to reply to your recent communication concerning child pornography. The Postal Inspection Service—the criminal investigative arm of the Postal Service—provided the following information in response to your inquiry:

1. "Any policy decision made by the Postal Service to focus on the problem of child pornography in its postal inspections."

The Postal Inspection Service enforces several statutes designed to curb the mailing of pornographic material. Investigations featuring children engaged in sexual activity would be carried out within the framework of these statutes. The Postal Obscenity Statute, Title 18, United States Code, Section 1461, is the primary vehicle used in obtaining criminal prosecutions and it continues to be an effective deterrent toward use of the mails for such illicit activity.

In August of 1977, as a result of increased emphasis placed on child pornography by Congress and others, and following a Department of Justice reevaluation of their prosecutive policy, Postal Inspectors were instructed to give priority to pornography cases involving children. All violations of the Postal Obscenity Statute are promptly brought to the attention of United States Attorneys for prosecutive consideration.

2. "The number of indictments and convictions for the importation or transportation of obscene matter under 18 U.S.C. 1461 for each of the past five fiscal years (1972-1976)," and

3. "The number and extent of any current investigations involving child pornography."

Currently 38 child pornography cases are receiving investigative attention. Of the above 11 have been brought to the attention of a United States Attorney for prosecutive consideration. Criminal action initiated by United States Attorneys in Fiscal Year 1977 has, to date, resulted in 5 indictments and 1 conviction.

I hope the above information will be of benefit to you.

Sincerely,

JIM FINCH,  
Assistant Postmaster General,  
Government Relations.

DEPARTMENT OF JUSTICE,  
Washington, October 11, 1977.

HON. JOHN C. CULVER,  
Chairman, Subcommittee to Investigate Juvenile Delinquency of the Committee  
on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further response to your letter of August 24, 1977, requesting information concerning the number of indictments and convictions in obscenity cases for fiscal year 1972 through 1976 and the number and extent of current investigations and indictments involving child pornography.

In our original response, dated September 13, 1977, we stated that information had not yet been received from the Federal Bureau of Investigation concerning that agency's current investigations involving distributors of child pornography and that the information would be furnished to you as soon as it became available. The Bureau has now informed us that 28 such investigations are currently under way.

I also wish to correct certain erroneous indictment and conviction figures which were supplied in our letter of September 13. In fiscal year 1974, the Department obtained indictments of 84 rather than 82 defendants in 37 rather than 36 cases. In fiscal year 1976, convictions were obtained in 43 rather than 42 cases involving 83 rather than 80 defendants.

I trust this satisfies your inquiry.

Very truly yours,

BENJAMIN R. CIVILETTI,  
Assistant Attorney General.  
By JOHN C. KEENEY,  
Deputy Assistant Attorney General.

[From Time magazine, Apr. 4, 1977]

#### CHILD'S GARDEN OF PERVERSITY

Lolittots magazine is one of the milder examples. It features preteen girls showing off their genitals in the gynecological style popularized by Penthouse and Playboy. Other periodicals, with names such as Naughty Horny Imps, Children-Love and Child Discipline, portray moppets in sex acts with adults or other kids. The films are even rauchier. An 8-mm. movie shows a ten-year-old girl and her eight-year-old brother in fellatio and intercourse. In another film, members of a bike gang break into a church during a First Communion service and rape six little girls.

These and a host of other equally shocking products are becoming increasingly common fare at porn shops and sex-oriented mail-order houses across the nation. They are part of the newest growth area pushed by the booming, billion-dollar pornography industry: child porn.

"I just found out about these magazines and films this summer, and I've become a raving banshee over it," says Dr. Judianne Densen-Gerber, a Manhattan psychiatrist who has been barnstorming around the country in a crusade against this abuse of minors. Her effort is only one part of a new campaign against child porn. New York City has cracked down, and police have at least temporarily forced kiddy-sex periodicals and films out of the tawdry Times Square area. Some twenty states are considering child-porn laws. Last week the Illinois house of representatives approved a bill setting stiff penalties for producing and selling child porn. The bill is expected to pass the senate and become state law.

Child porn is hardly new, but according to police in Los Angeles, New York and Chicago, sales began to surge a year or two ago and are still climbing. Years ago much child pornography was fake—young-looking women dressed as Lolittas. Now the use of real children is startlingly common. Cook County State's Attorney Bernard Carey says porno pictures of children as young as five and six are now generally available throughout Chicago. Adds Richard Kopeikin, a state's attorney investigator: "They are even spreading to the suburbs, where they are now considered rare items, delicacies."

Among recent developments:

Underground sex magazines are heavily stressing incest and pedophilia. One current West Coast periodical ran ten pages of photos, cartoons and articles on sex with children.

In San Francisco hard-core child-porn films were shown in a moviehouse for five weeks before police seized the films last February. Even San Francisco's Mitchell brothers, the national porn-film kings, were outraged. Says Brother Jimmy: "We think obscenity laws should start with child porn."

An Episcopal priest, the Rev. Claudius I. Vermilye Jr., who ran a farm for wayward teens in Winchester, Tenn., is awaiting trial on charges that he staged homosexual orgies with boys on the farm and mailed pictures of activities to donors around the country.

Until recently, much child porn sold in America was smuggled in from abroad. Now most of it appears to be home grown, with the steady stream of bewildered, broke runaways serving as a ready pool of "acting talent" for photographers. Pornographers who stalk children at big-city bus stations find many victims eager to pose for \$5 or \$10—or simply for a meal and a friendly word. Says Lloyd Martin, head of the Los Angeles police department's sexually abused child unit: "Sometimes for the price of an ice-cream cone a kid of eight will pose for a producer. He usually trusts the guy because he's getting from him what he can't get from his parents—love." In many cases, the porn is a byproduct of child prostitution. Pimps invite children to parties, photograph them in sex acts, and circulate the pictures as advertisements to men seeking young sex partners. Frequently, the pictures are then sold to porn magazines.

Even worse, some parents are volunteering their own children to pornographers, or producing the sex pictures themselves. Last year a Rockford, Ill., social worker was sent to jail for allowing his three foster sons to perform sex acts before a camera for \$150 each. In January, a couple in Security, Colo., was charged with selling their twelve-year-old son for sexual purposes to a Texas man for \$3,000.

Some children in porn photos are victims of incest. Parents will have intercourse with a son or daughter, then swap pictures with other incestuous parents, or send the photos to a sex publisher. Sex periodicals, particularly on the West Coast, publish graphic letters on parents' sexual exploits with their own children. Says Los Angeles' Martin: "We had one kid in here the other day who is eleven years old. His father started on him when he was six, then sold him twice as a sex slave. The kid had been in movies, pictures, magazines and swap clubs. After a while, he broke down and cried and said how grateful he was to have been pulled out of it."

Such experiences can of course scar a child for life. Warns New York Psychanalyst Herbert Freudenberger: "Children who pose for pictures begin to see themselves as objects to be sold. They cut off their feelings of affection, finally responding like objects rather than people." Some psychiatrists believe that children who pose in porn pictures are often unable to find sexual fulfillment as adults. Another danger, says Los Angeles Psychiatrist Roland Summit, "is that sexually abused children may become sexually abusing adults."

Child porn poses fewer hazards for the pornographers. Producers of child porn can be prosecuted for sexual abuse of children, but the children are hard to identify and locate. So are the producers, who often hide behind a welter of dummy corporations. Thus most prosecutions are under the obscenity laws, which generally make no distinction between children and adults as porn models. One result: many lawyers believe that the genital pictures in Lollitots, however offensive, might be judged no more obscene under the law than similar photos of adult women routinely published in most men's magazines.

To make prosecutions easier, angry legislators in several states and Congress are proposing a kind of end run around the obscenity laws—a ban on sexually explicit pictures of children, whether legally obscene or not. One bill introduced into the House of Representatives by Democrats John Murphy of New York and Dale Kildee of Michigan already has 103 co-sponsors. It would make any proven involvement with the production and sale of explicit sex pictures of children a felony. Says a Kildee aide: "Our bill is clearly enough directed toward child abuse so that the First Amendment should not arise. This is why we defined child pornography as a form of abuse, rather than a form of obscenity."

Under this approach, a salesman in an adult bookstore could be prosecuted as an active participant in the crime of sexually exploiting the children pictured in the store's magazines. New York Lawyer Charles Rembar, who successfully defended "*Lady Chatterley's Lover*" and "*Fanny Hill*" against obscenity charges, thinks the seller of child porn is a suitable target: "It is totally unrealistic to say that the people who sell these magazines and films are not involved in the act

themselves." Yet other lawyers consider a broad child-abuse law a form of back-door censorship. Says Ira Glasser of the New York Civil Liberties Union: "I assume if you put your mind to it, you could come up with an acceptable statute prohibiting adults from using children in explicit sex films and photos; but controlling what people see or read is another matter. Everything published ought to be absolutely protected by the First Amendment."

Despite First Amendment problems, public pressure for some kind of law is likely to grow. Many Americans battling against child porn view their efforts as a last stand against the tide of pornography. Says California State Senator Newton Russell: "This is a reflection of the social and spiritual morality of this nation. If there is to be any reversal in the trend, the place to start is child porn."

[Reprinted courtesy CBS News from "60 Minutes," Vol. IX, No. 33, as broadcast over the CBS Television Network, Sunday, May 15, 1977, with CBS News correspondents Mike Wallace and Morley Safer]

KIDDIE PORN—(Produced by Barry Lando)

ABU DHABI—(Produced by John Tiffin)

Mr. WALLACE. Tonight, a shocking and depressing story. Some of you may not want to watch it. It's a report on child pornography, a small but growing part of this nation's huge pornography industry: the story of "Kiddie Porn."

Mr. SAFER. Come along with us tonight to a place you've probably never heard of, a place you're not likely to visit, a place where the streets do run with gold, where a citizen never pays a doctor's bill, never pays rent, never pays taxes; man for man, woman for women, child for child, the richest people on earth:

Mr. SAFER. I'm Morley Safer.

Mr. WALLACE. I'm Mike Wallace. Those stories and more tonight on 60 MINUTES.

Mr. WALLACE. Our first story tonight is about one little known aspect of the huge pornography industry, kiddie porn, child pornography—the production, distribution and sale of books, magazines, films featuring pictures of naked children, most of them engaged in explicit sex with each other or with adults. We hesitated before filming this report, and you should be advised it is not standard fare for the family hour; but authorities trying to wipe out kiddie porn believe it's important that the story be understood in all of its ramifications. Some of you may be offended by the report. You may wish to tune out for the next 23 minutes. Our story begins on the streets of Los Angeles.

It used to be easy to find kiddie porn in the display cases of most Los Angeles porno shops, but no longer. With all the recent publicity about child pornography, the heat is on. That's what we found when we talked to the clerk in one L.A. porn shop.

CLERK. I understand the people that sell these films sell them out of the trunk of their car, because none of the respectable distributors will touch them. You have to go to—

Mr. WALLACE. You mean this is a respectable film? This is just—

CLERK. Oh, yes, I—[laughs]. It's to your own taste, you know, whether it's respectable or not—

Mr. WALLACE. Yeah.

CLERK [continuing]. But it's not—it's not a chicken film or a little girl film or a little boy film.

Mr. WALLACE. I see. And you stopped carrying little boy and little girl films.

CLERK. We—we never carried them, so to speak. We—we had them for special customers. If a customer would come in and ask for them, we could get them.

Mr. WALLACE. We were in here—we were in here 3 weeks ago, and they were carried inside that cabinet behind you.

CLERK. Hmm. Well, I wasn't working, was I? Because I didn't see you come in here 3 weeks ago.

Mr. WALLACE. But you don't carry them any longer?

CLERK. No. No way we'd carry them any more.

Mr. WALLACE. Too much heat?

CLERK. Too much heat, and it's—well, the boss just says it isn't worth it. You know, why—why get your—your head in a sling over it? So.

Mr. WALLACE. But despite the heat from the police, some dealers are still willing to risk selling child pornography from under the counter. That's what producer Barry Lando and Larry Travis—who was operating a camera hidden in a shoulder bag—that's what they found in another Los Angeles porn shop.

Mr. LANDO. Larry, look at this. They've got all the Lolita movies here, the whole—the whole series of them. How old are the kids in this one right here?

CLERK. In this one, the girl's about twelve and the guy's about twenty-five.

Mr. LANDO. The girl's twelve years old, and the guy's twenty-five.

CLERK. No, no, you're—

Mr. LANDO. Oh! My Sister and I.

CLERK. This is Lulu. Beautiful.

Mr. LANDO. How old is she?

CLERK. Thirteen.

Mr. LANDO. Thirteen?

CLERK. Uh-huh.

Mr. LANDO. No kidding?

CLERK [indistinct]. You see.

Mr. LANDO. Amazing. Yeah, let me have that one right there. It's twenty bucks?

CLERK. Yes.

Mr. LANDO. OK. I'll get this one right here, and that one. Those two. All right?

Mr. WALLACE. Just as the clerk in the porn shop had promised, the two films we purchased had children, apparently twelve years old or less, engaging in sexual acts with each other. A week later, to see if it was still being sold, Lando returned to the same shop, said he wanted more kiddie porn, handed the clerk two twenty-dollar bills, and was given two more films. At that point, I came in. This time our camera was no longer hidden.

What have you got? Lolita films? You got some for sale?

CLERK. No.

Mr. WALLACE. Where did you get these?

Mr. LANDO. Just—he just handed me those films right now. He said he has these films in stock right here.

CLERK. I don't have those.

Mr. LANDO. He has—

Mr. WALLACE. It's supposed to be illegal.

CLERK. Yeah, I know.

Mr. WALLACE. What's in these films?

CLERK. This one? This is—is nothing about that.

Mr. LANDO. But you sold me one of these movies last week.

CLERK. Not me. I—that one I don't sell. [Gestures.]

Mr. WALLACE. What?

CLERK. What's that?

Mr. WALLACE. What's what? That's a microphone.

CLERK. So you want to record all these things?

Mr. WALLACE. Huh? Yeah, yeah, you're—you're being recorded.

CLERK. Yeah, but—

Mr. WALLACE. How long have you been in this business?

CLERK. I cannot answer anything. [Phone rings.]

Mr. WALLACE. Just, just—come on—

CLERK. Excuse me.

Mr. WALLACE. Sure.

CLERK. Hello? Ben. What's happening, Ben? Uh-huh. OK, see you later.

Mr. LANDO. The films you sold me last week did have kids performing sex acts in them.

CLERK. No.

Mr. LANDO. We've taken a look at them.

CLERK. But I don't sell that one to you. That's—

Mr. LANDO. Yes, you did.

CLERK. No, no. I don't sell.

Mr. WALLACE. We have pictures of you selling films—

CLERK. No.

Mr. WALLACE [continuing]. To my colleague here.

CLERK. No, no, no way.

Mr. WALLACE. All right. There's—there's a law now against your selling kiddie porn stuff?

CLERK. Yeah.

MR. WALLACE. When did that start?

CLERK. Last week, I think.

MR. WALLACE. The pressure started to go on?

CLERK. Yeah, there's pressure, uh-huh.

MR. WALLACE. I got you.

CLERK. So, that's why we're not going to sell no more—no, nothing. [Smacks hands.]

MR. LANDO. Who buys them?

CLERK. Some [indistinct]. Wait, what it is, this?

MR. WALLACE. What?

CLERK. I don't—I don't sell those one.

MR. WALLACE. What do you mean you don't sell them?

CLERK. No, no. But—

MR. WALLACE. You charged him twenty dollars.

CLERK. No, no, no, that's from his.

MR. WALLACE. You just handed him twenty dollars?

CLERK. No, no, I don't take no—better be careful, because I'm going to call my lawyer right now.

MR. WALLACE. You're going to call your lawyer right now?

CLERK. Yeah. You—you're robbing my films. That is not the films I'm going to sell to him. That is different films.

MR. WALLACE. We gave you forty dollars. You gave us—

CLERK. No, no. You don't give me for that.

MR. WALLACE. [continuing]. These films.

CLERK. You don't give me for that, no.

MR. WALLACE. Well, where did these come from?

CLERK. I don't know. He put over there. This is my films. And that's all.

MR. WALLACE. You sold them, We got the—you got our forty dollars.

CLERK. No [indistinct]. Wait one minute.

MR. WALLACE. We got the film. OK? So long.

CLERK. OK.

MR. WALLACE. Later, when we screened those two films, we found the clerk was half right when he said they had nothing to do with children: only one involved children and hard-core sex; the other showed grown up women having sex with animals. The owner of the porn shop later claimed he had no idea his clerk was selling kiddie porn films. It's not surprising there are people willing to risk selling child pornography. The money's there. Child porn magazines sell for five to ten dollars a copy. They're still advertised by a score of mail-order distributors. And grainy eight-millimeter films like this one can bring up to fifty dollars a reel.

Los Angeles is the center of the child porn industry; and the man who probably knows most about that scene is Sergeant Lloyd Martin of the L.A. Police Department. [Screening porn film.]

That is nothing in the world but hard-core pornography, except it involves kids—boys—and I guess a girl there, too. Tell me something, where do the kids come from? Who produces the films? What—what's this all about?

Sergeant MARTIN. The people that produce this type of film are the child molesters themselves. This particular film, I would say, was produced by a "chicken hawk". That is, an adult male who likes little boys. And I would guarantee you that the two boys that are depicted in this film have been molested by this male prior to this production.

MR. WALLACE. So that we understand what we're talking about, and the variety of publications: "Incest, The Game the Whole Family Can Play;" "Children Love;" "Succulent Youth;" "Oh, Boy; Children Love;" "Torrid Tots;" "Dutch Boys;" "Children Love;" "Homosexual Boys of Europe;" "A Study in Incest;" "Children Love;" "Gay Boys;" "Children Love, again;" "Chicken;" "Brats;" "Lolita." It's apparent that this is a huge industry.

Sergeant MARTIN. Very much so. It's a multimillion-dollar industry. Pornography is swinging towards the young adult, to the young juvenile and into the children. This is the only place pornography can go. This is what's left.

MR. WALLACE. What about parents? Are they ever involved in selling, using, their own children?

Sergeant MARTIN. Yes, they are.

MR. WALLACE. Model agencies? Do they provide children?

Sergeant MARTIN. Yes, sir, they do.

Mr. WALLACE. I understand some youngsters are smuggled in from Mexico?

Sergeant MARTIN. Yes. I can probably—for example, if your sexual preference was a twelve-year-old boy, within about three days' period of time I can have a twelve-year-old boy delivered to you here in Los Angeles in your garage. If it's a twelve-year-old girl, I can do the same thing.

Mr. WALLACE. Where do you get them?

Sergeant MARTIN. From Mexico.

Mr. WALLACE. Kids on order?

Sergeant MARTIN. Kids on order.

Mr. WALLACE. And the amount of money that will change hands?

Sergeant MARTIN. Anywhere from seven hundred and fifty to fifteen hundred dollars.

Mr. WALLACE. And you mean that child will be yours to do with as you care for a period of time?

Sergeant MARTIN. Yes, [indistinct]. Say, for example, you're a sadomasochist, or a super-sadist, that the only way you can achieve sexual fulfillment would be to buy a twelve-year-old boy and put him in a rack, molest him, then kill him. This is your only sexual satisfaction. So, where would you go to look for a boy? You would get one with no background—a runaway from Podunk, Alaska, an alien from Mexico, some kid with no background.

Mr. WALLACE. Officer Martin, you will forgive me, but what you're telling me I find almost impossible to believe, You're a police officer. You've been in the business for—twelve years?

Sergeant MARTIN. That is correct.

Mr. WALLACE. And you swear that what you're telling me is the truth?

Sergeant MARTIN. I do.

Mr. WALLACE. Boys are more in demand for child pornography than girls, which, says Sergeant Martin, is one reason Los Angeles is such a center for the industry. There are so many boys there hungry, alone, and available.

Sergeant MARTIN. You take a runaway kid from Minnesota that hits Los Angeles. He's thirteen years old. How does he find money, shelter and support? The only thing that that young boy has to offer to anyone is his body.

Mr. WALLACE. Then how does a chicken hawk find him?

Sergeant MARTIN. At the local bus station, at several locations throughout Los Angeles where kids congregate.

Mr. WALLACE. And there he simply picks him up?

Sergeant MARTIN. Picks him up, takes him to his room, offers him friendship, love, and attention—something this boy is seeking, which caused him to run away from home. The location that we're going to is known worldwide.

Mr. WALLACE. This is called "The Meat Rack"?

Sergeant MARTIN. Yes. This is a location in Hollywood. Actually, it's one square block of where young boys and young men come to—runaways—to sell their bodies.

Mr. WALLACE [to boy]. Come here. What's you waiting for?

Boy. I'm waiting for a friend of mine. He's supposed to be down here in a little bit.

Mr. WALLACE. This is called "The Meat Rack" here?

Boy. It is?

Mr. WALLACE. Oh, come on.

Boy. I don't know. I guess so.

Mr. WALLACE. How much—how much can you make?

Boy. Well, some people make a lot.

Mr. WALLACE. What kind of money?

Boy. Two, three hundred, maybe.

Mr. WALLACE. In the course of one night?

Boy. Some people do.

Mr. WALLACE. What kind of—what kind of men come here?

Boy. All kinds.

Mr. WALLACE. And then, do they take pictures in addition to everything?

Boy. Some of them do.

Sergeant MARTIN. Not only do your adults come up here looking for—to satisfy their sexual pleasures, but you will also find the pornographers that's looking for models. A typical place for them to go would be in here to the Gold Cup restaurant here. This one down—

Mr. WALLACE. The Gold Cup right over here?

Sergeant MARTIN. Yes, right here on the right. And I've seen them as young as six years old in here, all the way up to eighteen or nineteen.

Mr. WALLACE. Six years old?

Sergeant MARTIN. Six years old. A lot of the hot dog stands and pinball arcades, this is where the young ones, the real young ones, would come to—to play the pinball machines. This is where the chicken hawk would come with a pocket full of quarters to give the young kids. This is how he makes his introduction. Then it leads up: Would you like to go home and smoke a joint? And it's little by little, but it maybe only take an hour, and hour and a half, till he's got him home and got him in the bed. After that point, after the act of oral copulation has occurred, or sodomy, what's—what's a little bit of picture taking? That's nothing. Other kids that don't—that don't score at "The Meat Rack" walk down Highland Avenue here to the Arthur J's restaurant.

Mr. WALLACE. This is a regular beat?

Sergeant MARTIN. It's a regular beat, yes.

Mr. WALLACE. [to boy]. Who are you waiting for?

Boy. Huh?

Mr. WALLACE. Who are you waiting for?

Boy. I'm waiting for a trick.

Mr. WALLACE. How old are some of the kids who work here?

Boy. Some of them is young. Here?

Mr. WALLACE. How young?

Boy. Sixteen. A lot—there's a lot of chicken around here. There's a lot of old men who likes chicken. That's what they call chicken.

Mr. WALLACE. Yeah. But how old are the youngest kids that you know who do it out here?

Boy. Thirteen, fourteen. Thirteen on up.

Mr. WALLACE. And the men that take them are how old?

Boy. It varies—even sometimes senior citizens [indistinct].

Mr. WALLACE. How much can young kids—ten, twelve, fourteen, fifteen—make out of it?

Boy. Financially? Twenty-five on up.

Mr. WALLACE. Twenty-five a trick? And then what about if you appear in pictures?

Boy. A hundred, three hundred. It depends on what you do, and how long.

Mr. LANDO. You've been in a chicken film?

Boy. Yes, I have. They tied me to a board, and they were hitting me with little whips. And they tied me to these weights on the floor, and they put this harness and a bag over my face.

Mr. LANDO. Then there was another film you were in.

Boy. Yeah, this was another one. It was a straight gay movie, though, with another little kid fifteen years old at the time. That was a bad experience. I—I felt really low doing it, and I wouldn't do it again. The money's just not worth it.

The younger you are, the more money they'll pay for you.

Mr. LANDO. What?

Boy. The younger you are, the more money they'll pay you.

I met a kid that was eleven years old that has done one. He ran away when he was, like, nine years old. He was living with this old man, and he had to give something in exchange for living there and the food and clothes and everything. So, the old man sort of got him into the movie. He's—he's still around, and he's probably still doing the movies.

Mr. WALLACE. How old were you when you got into the racket?

Boy. Twelve, thirteen.

Mr. WALLACE. Where'd you come from?

Boy. Oklahoma.

Mr. WALLACE. How did you happen to come out here?

Boy. I ran away from home. Hitchhiked out here.

Mr. WALLACE. And so you came out and made your living—

Boy. In prostitution, pornography, whatever.

Mr. WALLACE. What about your folks? Do they know it?

Boy. Well, my mother knows it.

Mr. WALLACE. And what does she tell you?

Boy [laughs]. She, you know, she just tells me she doesn't like it, that's all.

Mr. WALLACE. And your dad?

Boy. He can't do anything about it. He just doesn't ever say anything about it.

Mr. WALLACE. Does he know?

Boy. Of course he knows. In all the large cities I've ever been in, it's been very, very prevalent. It's not just here. It's everywhere.

Mr. LANDO. And—and have you been in any porno films?

Boy. Sure, I have—in Detroit, Michigan. I was—I was in porno pictures in Philadelphia. A lot of kids come from broken homes. I mean, if you're cold, if you're hungry, you do what you have to—to survive.

It really didn't bother me that much. I felt good, I felt warm, and, like, I felt loved in a way. It's—it's not pretty, but it's—it's there, and—and it's easy. It's very easy. How are you—how are you going to convince a kid that it's wrong for him to make seventy-five to two hundred dollars a day hustling and making pornography, you know? I don't see it as trading my body for money. I—I see it as a—as a good money opportunity.

Mr. LANDO. What do you think of child pornography films?

Boy. I think they're sick.

Mr. LANDO. You think they're sick?

Boy. Yeah.

Mr. LANDO. But you act in them yourself?

Boy. One. I did one. [Laughter.]

Mr. LANDO. What? One?

Boy. Just one.

Mr. LANDO. Why?

Boy. And I thought it was—I needed quick bread. I needed some fast money.

Mr. WALLACE. Tough way to make a living, isn't it?

Boy. What?

Mr. WALLACE. I say, it's a tough way to make a living, isn't it? Again, the clerk from the porno shop. What kind of people want this kiddie porn stuff?

CLERK. Well, those, to me, those are freakos—really weird people, you know. I don't ask them what their likes or what their—their dislikes or anything is, you know, when they buy the film or they want to see a book like that.

Mr. WALLACE. How old are they when—

CLERK. Oh, it's really weird, because it ranges—I've seen people come in with—that are twenty, twenty-one years old and—and want stuff like that. And I've seen people that—fifty, sixty years old who want stuff like that. Respectable businessmen. You know, coats and ties. Looks as—as well as you gentlemen. So, how can you explain it? Just, I guess, there's different strokes for different folks. Everybody's got their own bag.

Mr. WALLACE. Um-hmm.

CLERK. It doesn't do anything for me, but that doesn't mean it doesn't do—somebody's for something else.

Mr. WALLACE. In fact, there are some who claim that child pornography actually cause molesters to go after children. For an opinion on that, we came to this high-security state hospital at Atascadero, California. Two hundred thirty of the men confined here have been convicted of sexually molesting children. Behavioral psychologist Dr. Richard Laws is working with some of those men, using pornography as part of a program to redirect the men's sex drives from children to adults. The results, says Dr. Laws, are still very tentative. We asked him how important child pornography is in provoking men to molest children?

Dr. LAWS. I would say it's probably not very important at all, in that respect. I would say if it has any importance it is probably to maintain the individual's interest in that kind of an object. Keep his interest up, so to speak.

Mr. LANDO. And if those kinds of films and pictures didn't exist? If he couldn't get them?

Dr. LAWS. He'd do it in his head.

Mr. WALLACE. Later, we spoke with five child molesters about child pornography.

MAN. The thing is, I'd go into the store and buy the magazine and take it home; and, well, when I got uptight, when I became upset and wanted to calm myself down, I'd grab the book or would lay down and look at the picture and fantasize a sexual occurrence with the child. And that would alleviate the—the bad feelings and the pressure that I had built up myself. But it would not

cause me to want to go out and find a girl or find a little boy and have sex with them. I believe in my case, it did increase the desire to go out. On the other hand, it did keep me from going out many times.

Mr. WALLACE. But it's what child pornography does to the children involved in it that worries most authorities. Police in Tennessee have arrested an Episcopal priest who was operating a home for wayward boys. He has been indicted, and faces trial on charges of staging homosexual orgies with the boys, photographing the action, then sending the pictures to financial backers of the home. The discovery of similar photographs prompted police in New Orleans to bring charges against seventeen men who were molesting boys in a Boy Scout troop with the connivance of the scoutmaster. Some available films may be far more grisly. A few years ago in Houston, the police investigated the case of a man who first had sex with runaway boys, then killed them and buried the bodies. Altogether, twenty-seven bodies were recovered. The Houston police say they know nothing about such films, but a man in Los Angeles told us he had recently viewed a film showing the actual murders. But until recently, the police, troubled by crime in the street, among other things, have paid little attention to kiddie porn. Then came a surge of stories in the news, and now police raids like this one at an L.A. porno shop have become a nightly occurrence. Yet, the biggest slice of kiddie porn profits goes not to the bookshops, nor to the men who produce the films in small fly-by-night studios, but to the distributors—the people who wholesale thousands of copies of films and magazines at huge markups.

Who are these distributors? Are they just ordinary businessmen?

Sergeant MARTIN. Well, there—some of them are pillars of our community that distribute this material.

Mr. WALLACE. Some of them are what?

Sergeant MARTIN. The pillars of our community that distribute this material.

Mr. WALLACE. Is it actionable, what they are doing?

Sergeant MARTIN. Yes, it is.

Mr. WALLACE. Can they be prosecuted?

Sergeant MARTIN. Yes; but the real pillars of the community have removed themselves so far away from the actual distributing of this particular film that they are very hard to get to.

Mr. WALLACE. For their part, U.S. Postal investigators in Los Angeles are trying to track down the distributors, who make even more millions selling kiddie porn through the mail, but those people operate behind a frustrating screen of mail forwarding services and anonymous post office boxes. For instance when we answered one ad for kiddie porn by writing to an address in Germany, the reply came with a post mark from Washington, D.C. Another problem: authorities say they just don't have the laws they need. But now there is legislation pending in many States and the U.S. Congress aimed specifically at the child pornography business. Most observers applaud those moves, but not Beverly Hills attorney Stanley Fleishman, who has argued many First Amendment cases. He is currently defending a client charged with distributing pictures of naked children.

I take it—though I may be wrong—Mr. Fleishman—that you're against explicit sexual film, explicit sexual magazines, involving children?

Mr. FLEISHMAN. That is correct. I personally do not like it.

Mr. WALLACE. And yet you believe there is some good in it?

Mr. FLEISHMAN. I believe there's good in the First Amendment, and I think that the fact that I don't like something gives me no reason, no mandate, to tell people who may find something of interest to them, satisfy their curiosity or their needs, that they can't experience it. It seems to me to be no different than the book "Lolita," for example. People came to "Lolita" because they have an interest in that subject. They read it, and it satisfies something inside of them.

Mr. WALLACE. That's written by Vladimir Nabokov. That is different from some two-bit photographer—

Mr. FLEISHMAN. Of course it's—

Mr. WALLACE [continuing]. Trying to make a buck, a quick buck—

Mr. FLEISHMAN. Oh, I'm—

Mr. WALLACE [continuing]. Involved in sleazy smut with eight-year-old boys and forty-five-year-old men.

Mr. FLEISHMAN. Of course it's different, but I think that an author wants to make a buck, too. All I'm saying is that the fact that I don't like something,

something is not to my taste, does not give me a mandate to choose what other people should not read.

Mr. WALLACE. An Episcopal priest runs a farm for wayward teenagers. He stages homosexual orgies and with boys on the farm, and mails pictures of that to people who send in money from around the country.

Mr. FLEISHMAN. He should be punished for engaging in the conduct. He should not be punished for sending the pictures.

Mr. WALLACE. Purely First Amendment.

Mr. FLEISHMAN. Purely First Amendment.

Sergeant MARTIN. Well, the only way I could answer you there, Mike, is, to me a crime against a child has no equal. And if sex—explicit sexual activity involving children is protected by the First Amendment—God help us all!

## CHICAGO TRIBUNE INVESTIGATION

### INTRODUCTION

The Chicago Tribune began an investigation of child pornography and child prostitution last February, following legislative hearings on the subject in Chicago.

The investigation continued for three months. Tribune reporters George Bliss and Michael Sneed traveled to Los Angeles, New Orleans, Michigan and Washington, D.C. to gather facts for the four-part series of articles that The Tribune published May 15-18, 1977.

They interviewed police officials, child pornographers and child victims in various parts of the country. In Chicago, they worked closely with the Chicago Police Department in its own investigation, and accompanied police officers on a number of surveillance missions and during the arrest of two pornographers caught in the act of making a pornographic movie.

In the latter stages of the investigation, they were joined by Ray Moseley who, together with Bliss, purchased several pornographic magazines and films from so-called adult bookshops in Chicago, and interviewed experts in the fields of psychiatry, sociology and law.

The Tribune investigation is probably the most extensive that has been made into this problem in the United States.

It has been established conclusively that child pornography and child prostitution, multimillion-dollar industries exploiting thousands of children as young as three years old, operate without benefit of an overall organizational framework but through the connivance of groups of individuals in various parts of the country.

The child exploiters maintain liaison with one another through so-called "boy love" newsletters and share their child victims. They also have had some success in obtaining Federal, State and county funding for phony child-care institutions set up as fronts for their illicit operations.

Following are some of the major findings of The Tribune investigation:

John D. Norman, a convicted sodomist serving a four-year term in the Illinois State Prison, heads a nationwide ring that sends young boys across the country to serve a network of pedophile clients.

A Norman mailing list of more than 30,000 clients was seized by Dallas Police in 1973 and forwarded to the State Department in Washington. According to Department officials, the list was destroyed after it was determined that the names on the list were not used in any passport fraud violations. The department has given no explanation as to why the list was not turned over to the FBI for further investigation.

A group of Chicago-area men have been publishing clandestinely a "boy love" newsletter called Hermes, one of the three principal publications of this type in the United States.

The newsletter contains photographs and line drawings of nude boys, articles on "boy love" and coded advertisements that tell pedophiles how to obtain the services of young boys.

Pornographic movies have been made in various parts of the United States, shipped to Europe and sent back to the United States on the pretext that they were filmed in Europe. Some pornographic films have been made in Chicago.

Male perverts in New Orleans established a Boy Scout troop for the sole purpose of having sex with boys in the troop.

An estimated 30,000 children have been exploited in pornography and prostitution in the Los Angeles area, including children smuggled in from Mexico in specially constructed automobiles.

Children in Michigan have been sexually abused at a summer camp on an island owned by a millionaire pedophile who is now in flight from Federal prosecution.

The children involved in pornography and prostitution are for the most part runaways and children from broken homes. In some cases, parents have sold their children into pornography and prostitution.

[From the Chicago Tribune]

#### CHILD PORNOGRAPHY: 'SICKNESS FOR SALE'

The smiling, no-longer-innocent faces of little children look up from the pages of more than 260 pornographic magazines sold in America—children engaged in almost every known sexual perversion.

The book racks in America's smut shops contain volumes that advise child molesters how to pick up children from school playgrounds; tell parents how to have incest with their children; and describe the joys of sexual gratification that come from beating the young.

For sale also are horror movies such as Hollywood never conceived. The horror is in the celluloid portrayal of children from 3 to about 15 years old—some smiling, some bewildered—participating in a variety of sexual perversions with adults and each other.

In Chicago and other cities, adult perverts run boy prostitution rings, luring fuzzy-cheeked youths into street-walking, sending them on cross-country trips to serve a network of customers and selling their young flesh at auction to the highest bidder.

Child pornography and child prostitution, once confined to the darker shadows of American life, have blazed into the open in cities across the country in the last 18 months. They have become highly organized, multimillion-dollar industries, operating on a scale that few Americans have begun to comprehend.

These industries involve films made in private apartments, shipped to Europe, and sent back into the United States on the pretext they are European-made; children lured into sexual misconduct by drugs, alcohol, money, and expensive gifts; and adult exploiters who range from the dregs of society to prominent men, including several millionaires and at least one clergyman.

They involve "adult" bookshops, many controlled by organized crime, that openly sell child pornography or, where they have begun to feel the heat from police, keep it under the counter for sale to regular customers.

Dr. Judianne Densen-Gerber of New York, who heads a national movement to prevent child abuse and neglect, believes the use of children in pornography and prostitution is equivalent to murder.

"They are destroyed by these experiences. They are emotionally and spiritually murdered," she said.

No one knows exactly how many children are involved, but authoritative estimates range upward from 100,000.

"We are ruining young lives in record numbers," says Kenneth L. Gills, deputy state's attorney for Cook County, who has been participating in an investigation started by the state's attorney's office earlier this year.

Why haven't the law-enforcement agencies stamped out the rackets?

A three-month, nationwide investigation by The Chicago Tribune has shown that this is not as easy as it might first appear.

The pornographers, operating out of private residences, have used a maze of post office box addresses, clandestine printing operations and elaborate shipping routes to make detection extremely difficult.

The sale of child pornography went on for months before most agencies even became aware of it, and many have been slow to react. Only four cities—Chicago, Los Angeles, New Orleans, and Houston—have special police units to deal with it.

The Tribune investigation has established that child sex rackets operate on a national and international scale involving thousands of adult perverts often working with one another and exchanging child victims. Among the findings:

Chicago is the headquarters of a nationwide ring trafficking in young boys—"chickens," in the argot of the streets—and placing them in various "homes" to serve male customers, or "chicken hawks." Although federal law makes it a crime to transport a female under 18 years of age across state lines for immoral purposes, there is no such protection for boys. So extensive are these nationwide deal-

ings that The Tribune was able to obtain a list of 5,000 names and addresses of the ring's clients living in every part of the country.

A newsletter for the "boy love" trade is published clandestinely in the Chicago area by a group of men police say includes an employe of a church-run college. The newsletter serves as a nationwide conduit through which pedophiles—adults whose sexual preference is for children—can buy films, contact boys and establish liaison with one another.

In Los Angeles, the leading center of child pornography and prostitution in America, police estimate as many as 30,000 children are involved, including Mexican youngsters smuggled into the country in specially constructed automobiles. Los Angeles police are investigating the murder of several Mexican children to determine if they might have been among the smuggled cargo.

Some children are sold into prostitution and pornography by their parents. Los Angeles police recently found a 3-year-old girl, a 5-year-old girl and a 10-year-old boy, all children of prostitutes, whose mothers had sold them into pornography.

Police who smashed a pornographic film operation in New York last month and seized 4,000 copies of films involving children 8 to 12 years old, said much of the material was destined for buyers in Chicago.

In New Orleans, police say, a group of adult perverts established a Boy Scout troop in 1974 for the purpose of using boys ranging from 11 to 15 years old for homosexual purposes. Nineteen men have been charged with multiple counts of crimes against nature, which carries a maximum penalty of 15 years on each count. Among them are two Boston-area millionaires and a California millionaire alleged to have flown to New Orleans to have sex with the boys. Police investigation of the case extended into 34 states.

An Episcopal priest in Tennessee, the Rev. Claudius I. [Bud] Vermilye, Jr., is awaiting trial on charges he took in runaway and neglected children at his Boys Farm, encouraged them to engage in homosexual orgies, secretly filmed the orgies and allowed adult "sponsors" to abuse the boys.

The Tribune investigation disclosed that a half-dozen Illinois men had bought films from the priest. Vermilye was indicted on 16 charges, including 3 counts of crimes against nature, 8 counts of aiding and abetting crimes against nature, 4 counts of contributing to the delinquency of minors, and 1 count of using minors in the production of pornographic materials.

Pornographers in at least five states—Michigan, New Jersey, Tennessee, Louisiana, and Florida—have used or have attempted to use federal, state and county funds to establish foster homes and child care camps for their operations, and some have used foster children in pornographic movies. In at least one instance, pornographers obtained a federal income tax exemption for a "church" later identified as a front for their operations.

Although the various pornography and child prostitution operations extend across the nation, police say there is no single organization running them. But the adults involved maintain contact through newsletters and exchanges of children.

"It seems to be like spider webs strung out all over the nation," said Mason Spong, a New Orleans juvenile division detective involved in the investigation of the Boy Scout operation there.

Child pornography as a big business began with the importation of such material from Europe about 18 months ago. The child magazines and films quickly became big sellers in adult bookshops and American pornographers, alert to a good business opportunity, rushed into the market.

The child victims are typically runaways, who come to a city with only enough money to sustain them for two or three days, or boys from broken homes.

Adult exploiters pick up the runaways at bus stations, hamburger stands, and amusement arcades, and offer them money and gifts in exchange for sexual favors. Frequently they show the children pornography to arouse them sexually, and give them drugs and alcohol to lower their inhibitions.

With small children, Los Angeles police say, dolls and candy are used. And in one Chicago case, "the kids were so young that pizza and Coca-Cola were sufficient," said Gills, the deputy state's attorney.

According to a Los Angeles police report, "Many suspects are wealthy and financially secure men who can afford to give elaborate gifts, including automobiles and motorcycles, to their victims."

Experts say many of the children are attracted to adult exploiters because they receive from them something else they never had in the broken homes from which they came—approval and affection.

"A lot of these children are told for the first time that they are worthwhile. Unfortunately, they are not complimented because of good grades or because they are good at basketball, but because they have been sodomized," said Frank Osanka, 41, a sociologist at Lewis University in Glen Ellyn.

Osanka teaches the only course in the United States on child abuse and neglect, and numbers several law-enforcement officials among his students.

The costs of sexually exploiting children are minimal and the profits enormous. In Los Angeles, where most of the material is produced, police estimate a pornographic publication that retails for \$7.50 to \$12.50 per copy can be produced for 35 to 50 cents.

A cheap home-movie camera can be used to produce films that sell thousands of copies for \$30 to \$50 each.

Children can earn up to \$150 a day posing for pictures or movies, and in Los Angeles police found one 12-year-old boy who was making up to \$1,000 a day as a prostitute.

Often the money winds up in the hands of pimps, police say, but the pimps spend generously on food, clothing and entertainment for the children.

Stephen F. Hutchinson, legal counsel of Dr. Densen-Gerber's Odyssey Institute, said most child pornographic material now on the market is produced in the United States, shipped to Scandinavia, and then shipped back to America to give the impression it was made in Europe.

"We have evidence of companies producing this filth in Arizona and California and one such operation going 24 hours a day, seven days a week, in New York," he said.

Tennessee police said they have evidence that films taken at the Boys Farm orgies were shipped to Europe and back to the United States.

The pornography business has flourished amid a welter of legal confusion and conflict, with obscenity laws being struck down in some states as unconstitutional and prosecutors groping for other means of attack.

It is extremely difficult to catch pornographers in the act of filming children, because this normally is done in private apartments or homes.

In cases where pornographers are apprehended, their child victims often are unwilling to testify against them, out of loyalty for the favors and attention they have received.

If they are willing to testify, judges and juries sometimes will not believe their stories or will consider them too young to be key witnesses in a criminal prosecution.

Prosecuting the sellers of pornography also presents other problems. Obscenity laws cannot be used in Illinois and other states where they have been declared unconstitutional because of vague terminology, although a number of bills aimed at overcoming these objections are pending in the Illinois legislature.

And when obscenity convictions are obtained, they often are successfully challenged on grounds that any prosecution involving printed or film matter infringes on the right of free expression guaranteed under the 1st Amendment.

Child abuse laws are a weapon, but in some states law-enforcement officials say they do not provide sufficient penalties. In California, the maximum sentence for child abuse is only two years, and in 40 arrest cases in Los Angeles since September authorities have obtained just one conviction.

Sgt. Lloyd Martin, a Los Angeles policeman who heads a special unit dealing with child abuse, doesn't pretend to have the answer, but he rates child pornography as a crime worse than murder.

"A homicide, once committed, is over," he said in an interview. "But a crime against a child is never over. It has ruined a life."

Psychiatrists and sociologists agree that the social cost from this wholesale exploitation of one of America's most precious resources—its children—may be staggering.

Sexually abused children frequently grow up to enter a life of drugs and prostitution, they say, because they can find no place in normal society.

The experts say premature sex can leave children with genital damage and even lead to cervical cancer in girls. Psychologically, the victims often become prey to grotesque fears and are unable to experience normal sexual fulfillment as adults.

"Interference can become painful for them for the rest of their lives," said Dr. Nalman Greenberg, associate professor of psychiatry at the University of Illinois School of Medicine and an expert on child sexual abuse.

Los Angeles police say some sadistic adults torture children who do not follow orders, or threaten to disfigure them.

Robin M. Lloyd, author of "For Money or Love, a study of juvenile male prostitution generally considered the most authoritative work on the subject, suggests that America's children comprise one of the most disadvantaged minorities.

"They are too young to vote; too young to have consumer spending power; too young to have lobbyists speak for them," he said.

What kind of people are the men who exploit them?

"The pedophile is a well-known type," said Dr. Greenberg. "His kind of interest in children is probably extremely narcissistic. He seeks sexual gratification out of a projection of himself.

"He doesn't look for a dirty, scruffy kid. He is usually looking for a very fine, elegant boy, who represents for him the symbol and height of what he would like to have been himself.

"The pedophile believes he is adoring, indulging, gratifying the boy [a theme that runs through "boy love" publications]. He also hates this boy. He envies him, has contempt for him. It's purely jealousy; the boy represents what he would like to have been."

Greenberg said the large market for child pornography does not mean there are more pedophiles today than in past times.

"The market hasn't been present because the law has been more restrictive," he said. "Many people who before were less likely to chance buying it [child pornography] and producing it are now more inclined to.

"It's doing a great disservice. Any civilization to exist has to maintain certain kinds of civilizing behavior and restraint of urges, instinctual trends which may get twisted into areas of perversion."

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#### PROFILE OF A PREDATOR OF BOYS

Has poor interpersonal relationships with adults; often financially secure; intelligent, often holds a college degree; married; acts considerate of victims; usually nonviolent, passive; prides self in cleanliness; often works with youth services, likes children; associates with other 'boy lovers'; often considered a 'good citizen'; and generally takes pictures of victims and swaps them with pals, the younger the subject the better.

#### PROFILE OF THE BOY VICTIMS

Young—8 to 17 years old; underachievers in school or at home; usually no previous homosexual activity; underdeveloped and no secondary sex characteristics; from a low-income background in West and East coast areas; from average background in Midwest; parents absent physically or psychologically; no strong moral or religious affiliations; No previous delinquency; poor sociological development; and warm personality.

Sources: Los Angeles Police Department, interviews with pornographers.

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#### IT'S EASY TO BUY CHILD PORNOGRAPHY

(By George Bliss)

Buying child pornography in some of Chicago's "adult" bookshops is as easy as shopping for groceries.

Two Tribune reporters recently bought more than \$80 worth of films and magazines involving children as young as 5 years old in visits to three shops on South State Street.

At the first shop at 412 S. State, a clerk denied any child pornography was in stock. But a reporter found a copy of Boys School, a slick color magazine featuring teen-age boys, and bought it for \$7.50.

Next door at 414 S. State, a clerk also denied selling child pornography. But a glass display case in front of him contained a variety of 8 mm. child films.

He readily sold two films entitled "Lolita" and "Golden Boys" for \$30 each.

Asked if the shop had any copies of Lollitots, the biggest-selling child pornography magazine in America, the clerk said, "No, but we're supposed to get it in next month."

The widest assortment of child pornography was found in a shop at 426 S. State.

Several months ago, 15 members of the New York-based Odyssey Institute, a national organization campaigning against child abuse and neglect, picketed outside this shop with signs reading "Save the Children."

A dozen men then emerged from the shop with signs reading "Sex Is God" and "I'll Read What I Damn Well Please."

A clerk in the shop obligingly pointed out a large display of films and magazines to the reporters, who purchased three pocket-sized magazines—"Hanna and Her Uncle," "Childrensex 3000," and "Torrid Tots"—for \$5 each.

But a reporter who asked for child pornography at Fran's bookshop at 6234 S. Western Av. met with a different reaction.

"You're sick! You're really sick!" a woman clerk shouted as the reporter retreated out the front door.

A few days earlier, Chicago undercover police had visited the same shop and said they had bought a variety of child pornography magazines openly displayed on the shelves.

Because of the publicity that has been focused recently on child pornography, police said, some Chicago shops have withdrawn these materials from display and have put them under the counter, to be sold only to regular customers.

#### FATHER, TEACHER: TANGLED LIFE OF CHILD PORNOGRAPHER

(By Michael Sneed)

For all anyone knew, he was a schoolteacher devoted to his family and community in Port Huron, Mich.

An average guy with aspirations. The fellow next door, who liked kids and went to church on Sundays. The father of a young son. A man who held college degrees in youth services and electronics.

The son of a policeman turned elected official. An amateur photographer who learned to use a camera by taking mugshots at the police department.

What they didn't know was that he was one of the Midwest's leading child pornographers and the worst kind of pimp. A flesh profiteer who fed off the young, who filmed, processed and sold child pornography film, who sold sexual services of his young male models.

From his cell in a Michigan prison, where he is serving a 2-to-10-year sentence for molesting a 10-year-old boy, Gerald S. Richards, 36, talked about the child pornography business, a business he likens to a nationwide spiderweb.

While going to college and supporting his family in 1968, Richards started working in one of the first porno shops to open in Port Huron.

"I had no reason to get into the business," he said. "I was curious and I needed the money."

He planned to get out when his son was a year old, but was hooked. "I was making good money on the side reselling porno prints I got at the store," he explained.

So, armed with shop contacts with pornography publishers, distributors and customers, Richards left the store and set up his own mail order business.

His life became a maze of forwarding addresses for his mail order pornographic picture operation; his home and downtown office became his pornography mills; and his contacts grew nationwide. His young "porno" brigade included 20 boy models.

"I led two lives," he said. "My family thought I was teaching physical education in a parochial school. I was but it took very little of my time. My Cadillac was my only sign of wealth. I put a lot of money into better photo equipment. I was careful. They never knew."

Richards was married, but he also became homosexually involved with one of his male models—a 12-year-old boy who was his babysitter, next-door neighbor, assistant in his professional magic act, and his solicitor for other young boy models.

"He took care of things and nobody ever squealed. It was procedure to keep a blackmail photo file on each boy to avoid any squealing—but I eventually threw his away. He was a genius."

Recruiting children was not difficult: "It's the easiest thing in the world to get a kid," Richards said.

"What you want is a kid with no moral, religious background, and you have got it made. A kid whose father is absent or doesn't care about him. They don't have a chance. They are brainwashed and left sexually-confused. They can end up like the men who entice them."

Behind it all, Richards said, is the BL movement, which stands for "boy love." Promoters of the BL syndrome publish magazines and newsletters which contain their philosophy and carefully coded classified ads.

"It is through these ads that subscribers make their contacts, contacts for films, pictures, and sex with others who feel the same way about the sexual use of children," he related.

Richards subscribed to the BL magazines, and advertised in them to build up his "boy hungry" clientele. His magic act was also coded in the BL ads.

He found his business partner through an ad in a California magazine called the Better Life Monthly, America's No. 1 boy love journal.

"I screened his mail for four months. Subscribers are screened through an intricate process. You check the grade of paper, typewriter keys, numbers of letters—weighing sincerity and insistence. Of course, you keep the letters as a security measure."

With the help of his partner, he incorporated as a tax exempt-front known as Brother Paul's Children's Mission. Richards was Brother Paul. His partner is being sought on a fugitive warrant by the Michigan State Police.

Several times, Richards made trips to Chicago with his partner, where contacts for boys were made with porno shop proprietors.

"The names would be furnished either by a porno shop guy or through a hotel clerk," he explained.

He eventually was arrested for molesting one of his models—a model who was in demand because he was very young. He was only 8 years old when he was "tested" on a camping trip to see if he'd fit into the operation.

"It was a bad scene," Richards said. "I was teetering between wrong and right. But the money was too good. I couldn't stop. I just couldn't put that rubber stamp down when I'd see all that mail coming in and thought of the money."

He refuses, however, to estimate just how much money he made from his pornographic career.

"Sometimes I would even use self-hypnosis to figure out ways to make money," he recalled.

Richards was arrested on July 23, 1975, and pleaded guilty.

"I was guilty. I felt like I had murdered by own son." He has also voluntarily turned over his files and is scheduled to appear before the Michigan State Assembly "to prevent other kids being trapped in this business."

Summing up the results of his porno business career, Richards sighed:

"My wife is now divorcing me, my son is being deprived of a father, my father's public career is ruined, and my assistant probably will be a homosexual."

#### CHICAGO IS CENTER OF NATIONAL CHILD PORNO RING

A nationwide homosexual ring with headquarters in Chicago has been trafficking in young boys, sending them across the nation to serve clients willing to pay hundreds of dollars for their services.

Existence of the ring was uncovered by a Chicago Tribune investigation of child pornography and child prostitution throughout the country.

The investigation also has disclosed that a clandestine newsletter is being published in Chicago which serves as a conduit for perverts throughout America in engaging children in pornographic modeling and prostitution and in making contact with one another.

Both operations, the police said, were controlled by separate groups of men working together in an interlocking web of vice.

The ring trafficking in young boys goes under the name Delta Project. According to police in Chicago, Los Angeles, and Dallas, it is masterminded by 49-year-old John D. Norman, a convicted sodomist serving a four-year sentence in the Illinois state prison at Pontiac.

His closest associate is Phillip R. Paske, 25, a convicted murderer and thief who police said is now on probation and is carrying on the project in Norman's absence.

The clandestine newsletter is known as Hermes. Police said the principal figures in its publication are Elden Gale [Rusty] Wake 40, an employe of Trinity College

in Lake Forest; Patrick Townson, a Chicago man who operates a citizens band radio information show for homosexuals and is connected with the Gay News and Events newspaper, and David Berta, who along with Townson was involved in Norman's operation.

Berta was arrested Saturday on a charge of contributing to the delinquency of a minor in connection with the filming of a pornographic movie.

But police said they could take no action against the Hermes operation in the absence of an Illinois obscenity law. The law was declared unconstitutional by a federal court last year.

The Cook County state's attorney's office and Chicago police said Norman's Delta Project was born in Cook County Jail last spring while he was awaiting trial on charges of taking indecent liberties with 10 teen-age boys.

Unknown to jail officials, they said, Norman used the jail's printing facilities to send out three "newsletters" about the project to homosexual clients throughout the country and to people who answered his advertisements in gay publications.

The newsletters said the aim of the Delta Project was "to provide educational, travel and self-development opportunities for qualified young men of character and integrity."

Norman told his readers that "Delta-Dorms" were being established around the country. "Each is a private residence where one of our sustaining members acts as a 'don' for two to four 'cadets'. . . . The nature of the relationship between cadet and sponsor is left entirely to the two of them."

In a prison interview with The Tribune last week, Norman said the Delta Project was a program to provide self-development and training for young men.

"This has nothing to do with sex," he said. "I didn't want to get young kids involved in sex."

But police said Norman's "dons" are pedophiles—adults with a sexual preference for children—and the "cadets" are boy prostitutes recruited for Norman in the Chicago area.

Norman, a tall man with wavy gray hair, acknowledged in the interview that he published his newsletter in Cook County Jail until jail officials stopped the operation, and said he carried on a correspondence with more than 7,000 persons.

"It was quite a project and I would work all day, 16 hours, and I paid another inmate to do the typing and other work during the other eight hours of the day," he said.

Norman said he also plans to go into the business of selling pornographic TV cassettes when his prison term is up, but denied that children would be involved.

How many "cadets" have been sent to "dons" on Norman's mailing list is unknown. But police said Paske, out of jail on probation since last July, has kept the project going while Norman is in prison.

The Delta Project operates from P. O. Box 5094 in Chicago.

The Chicago police Area 3 youth division, tipped to the existence of the project last February, began an investigation and determined that the post office box was registered to Paske and Norman.

The probe led police to the discovery that Norman has a long career of sexual abuse of children. Norman, who came to the Chicago area in mid-1973 from Dallas, has a record of 13 arrests for sex offenses going back to 1964.

The Delta Project was only the latest of a series of organizations he set up to supply boy prostitutes to male customers around the country, police said.

Earlier, they said, his operation had gone by such names as the Norman Foundation, Epic International, and the Odyssey Foundation. Ironically, Dr. Judianne Densen-Gerber of New York City, heads a national movement to prevent child abuse and neglect, called Odyssey Institute. She is an outspoken foe of child pornography.

Dallas police told Sgt. Ronald Kelly, head of the Area 6 youth division, that they have information associating Norman with the ring that helped transport to Texas the 27 boys murdered in Houston in 1973 in a widely publicized sex and sadism case.

That case involved Dean Coril, a 33-year-old bachelor who police said paid two teen-agers to bring other boys to his home where they were sexually assaulted and murdered.

The murders were discovered after one of the teen-agers, Elmer Wayne Henley, shot and killed Coril because, he said, Coril threatened to kill him.

Norman came to suburban Homewood in mid-1973 and lived in the home of one of his Epic International clients. Homewood police said the client later told

them that Norman supplied him in the summer of 1973 with a 16-year-old Missouri boy whom he took on a three-week, \$4,500 tour of Europe.

Norman, who was then using the alias Steven Gurwell, was arrested in October, 1973, after an anonymous tipster told police he had lured the 10 teenagers into committing sex acts with him by giving them beer.

The police confiscated from Norman a large collection of pornography and a list of 5,000 names and addresses which they say identified clients of his various "foundations." The Tribune subsequently obtained a copy of the list from other sources.

It was not the first that Norman compiled.

Lt. Harold Hancock of the Dallas police arrested Norman in March, 1973, on charges of contributing to juvenile violation of state drug laws. Hancock told The Tribune he confiscated from Norman more than 30,000 index cards listing clients around the country, some of them prominent people and some federal employes in Washington.

"I felt that some federal agency should get the cards and I contacted the State Department through the FBI, I think it was," Hancock said. "All the cards were sent to Washington to the State Department, and that's the last I heard of it."

The State Department confirmed to The Tribune that it had received the cards. Matthew Nimetz, a counselor for the State Department, said officials there determined "the cards were not relevant to any fraud case concerning a passport" and therefore destroyed them.

Nimetz was unable to explain why the State Department looked at the cards only from the standpoint of possible passport irregularities or why it had not turned them over to the FBI or postal inspectors.

Shortly after Norman published his first newsletter from Cook County Jail last year, someone in California whom police have not been able to identify provided the \$36,000 cash needed for his bail.

Norman went free until December, 1976, when he pleaded guilty to eight counts of indecent liberties with a child and was sentenced to four years in prison.

The police first learned last March of the existence of the Hermes newsletter. An informant in the area of Clark Street and Diversey Parkway, a center of homosexual activities in Chicago, obtained a copy of it and turned it over to police.

Hermes a bimonthly publication, contains line drawings and photographs of naked boys, articles on "boy love," and advertisements listing coded names that enable subscribers to contact one another and to engage children in pornographic modeling and prostitution.

It is one of three principal "boy love" newsletters in the United States. The others are Better Life Monthly, published in California, and the Broad Street Journal, published in Milliken, Colo.

According to police, Hermes sells more than 5,000 copies nationally every two months and, at \$10 a copy, grosses more than \$300,000 a year.

Hermes lists its mailing address as P.O. Box 802, North Chicago.

Police said the box was registered to Wake, who works in the audio-visual department at the Lutheran church-run Trinity College, and to the National Press Business, 1445 11th St., Waukegan.

Trinity College has been cooperating with the Lake County state's attorney's office in the investigation of Wake.

In addition to his job at Trinity, Wake is a salesman for National Press Business—a legitimate printing concern—but his only account is himself, police said. He receives a 15 per cent commission on materials sold—materials that police said go into the production of Hermes.

Police have not determined where Hermes is printed.

The Lake County state's attorney's office has identified Wake as an employe of a children's home and two children's camps between 1964 and 1968.

Police said Townson screens prospective subscribers for Hermes and Berta helps with the layouts.

Townson, 30, has a record of arrests over the last 15 years for fraud, sodomy, and escape from a mental hospital. Berta has no previous arrest record.

Police said they believe Wake is the printer of Hermes.

Copies of Hermes have turned up in arrests of pornographers in California, Michigan, and other parts of the country.

## HUNT 6 MEN, 20 BOYS IN CRACKDOWN

Chicago police said Sunday they were looking for about 20 juvenile boys used as models for pornographic pictures and six men believed to have had sex with boys in the last three months.

Three men and two 14-year-old boys already are under arrest in a crackdown on child pornography and child prostitution that the police began Friday night. Among them are two men accused of having made a pornographic movie with children.

Sgt. Ronald Kelly of the Area 6 youth division said Sunday that an undercover police officer had bought a packet of dozens of pornographic pictures of Chicago boys.

He said one of the children has been identified as an 11-year-old boy from the Andy Home, the Cook County juvenile detention center.

"There are at least 20 juveniles in the pictures, and we are looking for all of them," he said.

Kelly said one of the 14-year-olds arrested Saturday named six men, including a doctor who the boy said had sex with juvenile boys and had taken pictures of them in the last three months.

Kelly said the six men are being sought.

The principal figures arrested Saturday were David J. Berta, 32, of 3710 N. Pine Grove Av., and John Bell, 19, of 506 N. Clark St.

Police said Berta and Bell used two 14-year-old boys to film a pornographic movie in which Bell also participated. Berta and Bell were charged with taking indecent liberties with a child.

Bell told police after his arrest that he had posed for 108 pictures for a group of Chicago pornographers when he was 15, and had been paid \$3,400. Police said Bell also told them he had participated in two pornographic films in New York when he was 15, earning \$375 for each film.

Officials of the Illinois Department of Children and Family Services said Bell has been in and out of orphanages and foster homes since he was 6.

They said Bell was one of several hundred Chicago children sent to foster homes in Texas between 1952 and 1973 by the department.

A scandal blew up in 1973 when it was reported that some of the children had been stripped, beaten, and kept in solitary confinement for infractions of rules in the homes.

Among other things, Bell was reported to have been chained to a bed when he killed a dog and forced to wear the dog's tail around his neck for two weeks.

Police said Berta and Bell, after making their pornographic movie in Chicago, handed it over to a police undercover agent April 15 when he assured them he had syndicate connections and could get it processed without risk.

Berta and Bell told the undercover operative they planned to sell 2,000 copies of the film at \$50 each to customers throughout the country, according to police.

On Friday night police took into custody a 14-year-old foster child they said had participated in the movie, and arrested his foster father, David Welch, 26, of 2616 N. Clark St. on charges of having had sex with the boy.

The boy told police that Berta had promised him \$100 to participate in the movie but had never paid him. Police said the boy had been in Welch's care as a ward of the state since May 2.

The boy told police he had had sex with Welch on three occasions, they said.

Welch, who police said denied the accusation, was charged with taking indecent liberties with a child.

Police said they were looking for the other 14-year-old boy involved in the film and for a man believed to have done the filming for Berta and Bell.

## 'CHICKEN' MAKES \$500 A WEEK, BUT AT 17 HE'S GETTING TOO OLD

(By Michael Sneed)

In the parlance of the street, they are called "chickens," boys who sell their bodies for prostitution and pornography.

One such boy talked to The Tribune about his street hustling career which began when he was 14 years old. Call him Marty.

Several rings adorn his fingers, and he wears a belt buckle that doubles as a weapon. Dressed in well-worn denim, he has no effeminate characteristics.

He had turned a "trick" for \$100 the night before and still had \$60 in his pocket.

Marty, who recently became 17, turned to prostitution when he moved to Chicago several years ago. The boy who showed him the ropes, he said, was only 13.

"He told me what to say, how to look for 'chicken hawks' [adult men] and where to go. New Town, that's where the action is. Near the pinball machines, the arcades, certain restaurants, and other places along Clark Street.

"You just hang around and watch who's watching you. It's easy, real easy. The hawks are cruisin' everywhere. In cars, walkin' the streets, sittin' in restaurants. It's better than workin'.

"I can make all the money I want. Rates depend on what they want. Some things cost more. Some want you to watch porno movies. Or they give you drugs and booze. Some like to take pictures.

"I once thought about being a mechanic, but man, my mom works for a day labor employment office, eight hours a day for \$16. That's work, man. I'm not greedy. I make about \$500 a week, tax-free. I could make more. I only do two or three tricks a night.

"I like my life. But I'll be too old soon for this business. Most chicken hawks like 'em real young. They always ask what age you are. The youngest kid I saw hustling was about 11 or 12 years old."

Marty said he spends most of his money on drugs. He's been getting high since he was 13. He says:

"Each day is the same for me. I know that may sound boring, but it's the life I dig. I sleep all day, wake up, make some money, party until daylight, and I'm too high on drugs to walk the streets. Then I go to sleep again. I like it.

"I'm pretty healthy, although I caught VD twice."

Life is a little easier for Marty these days. Now that he's 17, he doesn't have to worry about the 10:30 city curfew, when his younger counterparts must be off the street. It is the one law they obey, in order to avoid police hassles.

He hasn't gone to school since he was 13.

"I never liked school much," he said. "My mom was always after me to go, but she had put me in state institutions for being, ah, ungovernable or something. I never met my father. Never met any relative in my life, except an uncle once. My mom tried getting me a Big Brother, but they never would send me one.

"We came to Chicago 'cuz mom was chasing some old boyfriend, who wound up not caring for her anyway. She's got two boyfriends now. I have a one-year-old sister. She's my half-sister, I guess, but I really like her."

Some time ago Marty's mother was told of her son's activities in New Town. He recalled:

"She asked me if it was true that I was hustling and I said 'Yeah.' You know what she did? She just laughed. She didn't say nothing."

#### POLICE SPEND LONG NIGHTS WATCHING PARADE PASS BY

(By George Bliss)

At the corner of Clark Street and Diversey Parkway, the teen-age boy prostitutes were making their usual rounds, on the lookout for lone male drivers circling the block.

Police call it Clark and Perversity because of the homosexual activity that goes on in the area.

"You see the cars going 'round and 'round the block all night long," said Officer Joe Bongiorno of the Area 6 youth division as he sat in unmarked car with engine running at Lehmann Court and Diversey.

"Some of the kids are runaways, but some of them are Chicago boys who come down here just once a month to turn a trick when they need some money. The prices start at \$20 and vary, depending on what the boys are asked to do."

The boys hang out at junk food stands on Clark Street and occasionally walk around the block bounded by Clark, Diversey, Lehmann Court and Drummond Place.

The male drivers follow the same circuit, wheeling around the corners one after the other like riders on a carousel.

Bongiorno said most of the youngsters are in the 14 to 19 age group. "When you hit that 19 to 20 mark you're too old," he said.

Night after night for three months, eight men and eight women of the youth division, working in pairs, staked out this square block, gathering evidence for a crackdown on child prostitution.

"That female impersonator has just shown up at the corner of Lehmann and Drummond."

"Here comes that green Pontiac again. Did somebody get the license number?" But there were few boys on the street, and no pickups.

Precisely at 10 p.m. however, a 1977 yellow Cadillac with white vinyl top turned into Lehmann Court from Diversey.

A 15-year-old boy, walking along Lehmann in white hat and coat, suddenly gestured toward the car and the driver stopped.

Bongiorno tensed in his seat and began describing the scene to police in other nearby cars over his radio.

"Oh, that damn squad car is coming out of the alley," he groaned, muttering another expletive, as a cruising district police car happened on the scene.

The boy saw the squad car at the same moment and darted away from the Cadillac. The driver of the Cadillac quickly pulled away.

Minutes later, occupants of another police car saw the Cadillac in a nearby parking lot, then saw it move away.

"I can see only one head in the car," the officer radioed.

"That kid is smart. He's probably lying on the floorboard," Sgt. Ronald Kelly, head of the youth division, radioed back.

#### HOW RUSES LUBE VICTIMS TO CHILD PORNOGRAPHERS

About 350 families in southern California belong to the Guyon Society, an organization dedicated to sexual freedom and the motto, "Sex by the age of eight or else it's too late."

"We think the law should allow children to be encouraged to have sexual relations with each other and with adults as early as possible," says Tim O'Hara, a 46-year-old Beverly Hills aerospace engineer and spokesman for the group.

"Sociologists feel that a child's moral attitudes are pretty well set by the age of 8 and after that it's pretty hard to change them."

The rationalizations vary, but the methods of child sexual abuse are the same in Los Angeles, Chicago, New Orleans, New York, and other cities across the land.

A three-month investigation by The Chicago Tribune of child pornography and child prostitution throughout the United States has led to a Boy Scout troop in New Orleans, homes for runaway and neglected children in Tennessee and Florida, a children's summer camp in Michigan, film studios in New York, and private homes across the country.

The investigation has turned up evidence that pornographers in widely scattered localities keep in touch with one another, subscribe to one another's literature, and share their child victims.

Scout leaders, an Episcopal priest, and several millionaires are among those who have been arrested as law-enforcement authorities begin to recognize the scope of the operations and crack down.

Some are behind bars, some await trial, and others are in flight to avoid prosecution.

But child pornography and child prostitution still flourish on a multimillion-dollar scale involving thousands of youngsters, and nowhere in America do they flourish more than in Los Angeles.

A liberal attitude toward sex, a warm climate that draws thousands of runaway children from all over the country, and an absence of strict laws have combined to make Los Angeles the child pornography capital of the United States.

The Los Angeles-based Guyon Society with its approach to child sex would seem to be skirting the edge of legality, but California authorities so far have been unable to prove that the society has translated its talk into the kind of action that could be prosecuted.

Certainly California has no dearth of cases that clearly do qualify for prosecution.

Sgt. Lloyd Martin, who heads a special police unit set up in Los Angeles last September to deal with the problem, estimates more than 3,000 children under age 14, and more than 25,000 in the 14 to 17 age group are being exploited sexually by at least 17,000 adults in the Los Angeles area.

Recently, Martin told The Tribune, police have found evidence that Mexican children are being smuggled into California in specially constructed cars.

"They lay eight children under the floorboards and fender wells," he said. "They stuff those kids in. Then they take them across the border, put them into a hotel, and clean them up."

Martin said several young Mexicans have been killed recently and their bodies found in plastic bags. He suspects they may have been among the children smuggled in for sex purposes, and may have been murdered by "super sadists" who can only achieve sexual gratification by torture and killing.

Martin said 70 per cent of the cases he deals with involve abuse of boys by men.

"Society is made up to take care of little girls, not boys," he said. "You don't tell boys not to take candy from a stranger. What we need is re-education of families where boys are concerned."

In Los Angeles, police told the Tribune, the favorite gathering place of runaway boys and the men who prey on them is in the area of the Gold Cup Restaurant at 6700 Hollywood Dr.

One night recently, a Tribune reporter watched about 14 youths, between 12 and 20 years old, waiting on the sidewalk in front of the Gold Cup. Occasionally a man would walk up, a whispered conversation would ensue, and the man would walk away with a boy.

"We have no problem finding our sex offenders here," Martin said. "But we don't have laws to detain them."

Since September, Martin's unit has made 40 arrests and obtained only one conviction.

"We've been charging them with child molesting and sodomy," he said. "But the maximum sentence here for child molesting is only two years, and for the second offense three years."

Martin cited two cases to illustrate his problems:

A wealthy man in his 50s was arrested and charged with contributing to the delinquency of a 3-year-old girl. The girl's mother, a prostitute who had consented to sex acts between the child and the man, testified against him and he pleaded guilty. His sentence: Three months of psychiatric treatment.

A prostitute who stars in pornographic movies and a photographer were arrested on charges of conspiracy to contribute to the delinquency of a minor after the photographer took pornographic pictures of the woman's 5-year-old daughter. The pair were acquitted because the prosecution could not prove specific intent on the part of mother and photographer to contribute to the delinquency of a child.

"We've got to establish contacts with police districts all over the country to crack this nationwide disgrace," Martin said. "Sexual exploitation of children is not only nationwide but worldwide."

Martin said Hermes, a clandestine newsletter for the "boy love" market that is published in Chicago, is well known in Los Angeles. He also said boys are recruited in Los Angeles for a nationwide homosexual ring that is headquartered in Chicago.

A case in New Orleans, which led to arrests in other parts of the country, further demonstrates the connections that exist between child abusers in widely scattered localities.

New Orleans police, acting on a tip, last summer arrested Richard S. Halvorsen and Raymond T. Woodall on charges they had set up a Boy Scout troop for the purpose of sexually abusing children.

Eventually 19 men were charged in the case with multiple counts of crimes against nature. New Orleans Detective Mason Spong said the investigation extended into 34 states.

Among those arrested were Richard C. Jacobs of Arlington, Mass., millionaire president of the Jet Spray Corp. and a former part-owner of the New England Patriots football team; Robert B. Mallers, a California millionaire; and Hugh Scott Mellor of Brighton, Mass., millionaire president of a real estate holding company.

New Orleans police said Jacobs has forfeited a \$50,000 bond to avoid standing trial in Louisiana.

They said Halvorsen and Woodall went to New Orleans from Coral Gables, Fla., where they had worked as maintenance men for the Adelphi Academies, identified by Florida police as a former male prostitution front that was recently sold to legitimate operators.

In 1974, Halvorsen and Woodall organized Boy Scout Troop 137 with about 40 boys as members. From that group they selected about 10 to go on Scout trips. Police said sex acts between the men and boys occurred during these trips, and in the process one boy suffered injuries that resulted in his being hospitalized.

Halvorsen and Richard A. Pass, one of the 19 men charged in the case, also recruited boys for sex by working with community volunteer agencies dealing with runaways or boys from broken homes, police said. They said the two men gave the boys guitars and motorcycles as an inducement.

New Orleans District Att. Harry Connick said the Scout leaders also drew up applications for state and federal money to establish and operate homes for boys, but had not carried through with these plans.

Peter Bradford, formerly a co-owner of the Adelphi Academies, is among the 19 men charged in New Orleans.

Sgt. Tony Raimondo of the Coral Gables police said evidence shows that Halvorsen went to a number of mothers in New Orleans and recruited six boys for the Adelphi Academies.

He told the women he could get free scholarships for their sons to a Coral Gables school that would provide better education than they were getting.

New Orleans police said Bradford then flew to New Orleans and had sex with one of the boys and met the parents. Bradford flew back to Coral Gables and the six New Orleans boys subsequently enrolled at the academy.

Bradford is charged with two counts of aggravated crimes against nature in New Orleans but has forfeited bond and remained in Florida, where no charges have been filed against him.

As an indication of the close links that exist among child sex abusers, police said the address book of John Norman, now in the Illinois state prison at Pontiac, contained the name of Raymond Woodall. According to Chicago police, Norman operated a ring that sent boys around the country to serve a network of homosexual clients.

Woodall and Halvorsen have both been convicted and are awaiting sentencing.

A police search of Halvorsen's files turned up the name of Rev. Claudius Ira [Bud] Vermilye Jr., 47, who operated a home for wayward boys in Winchester, Tenn.

Tennessee authorities were notified, and began an investigation. Vermilye was eventually arrested on charges that his Boys Farm, Inc., which had been partly financed with state and county funds, was a front for child pornography and sexual abuse.

Vermilye is awaiting trial on 16 charges, including 3 counts of crimes against nature, 8 of aiding and abetting crimes against nature, 4 counts of contributing to the delinquency of minors, and one of using minors in the production of pornographic materials.

Tennessee Atty. Gen. J. William Pope said Vermilye, divorced and the father of five sons, showed obscene movies to the boys to arouse them sexually and gave them liquor to overcome their inhibitions.

Then he encouraged them to engage in orgies, and filmed the orgies with a hidden camera, Pope said. He said some of the films was sold to "sponsors" to raise money and some of the sponsors came to the farm to have sex with the boys.

Police seized a list of more than 270 "active sponsors" of the farm.

A Tribune investigation of the Tennessee case disclosed that a half-dozen Illinois men had bought films from the priest, including one who paid more than \$4,000.

The New Orleans and Tennessee cases turned up evidence of another homosexual network involving the Church of the New Revelation of Kearny, N.J., the Ocean Living Institute of New Jersey, Brother Paul's Children's Mission on North Fox Island, Mich., and the Educational Foundation for Youth of Illinois.

Further information on these operations came with the arrest last July of

Gerald Richards, a Port Huron, Mich., man subsequently convicted of having had sex with a 10-year-old boy.

Richards told police all four of these organizations were fronts for homosexual activity involving boys and all were set up as tax dodges. He identified himself as the organizer of Brother Paul's Children's Mission.

The Church of the New Revelation, which police said placed advertisements in a homosexual publication in California, was granted tax-exempt status by the U.S. Internal Revenue Service as a charity.

"There is no church," said Pete Bouldin, an investigator with the Tennessee attorney general's office. "It's just a referral agency which distributes pornography around the country."

Police said leaders of the organizations drew up plans to obtain federal, state and county funds for child care homes they planned to establish for homosexual and pornographic purposes.

A letter to Richards from Dyer Grossman, a New York teacher and officer of the four organizations, said counties would pay up to \$150 per month per boy, states would pay up to \$400, and federal agencies up to \$700.

Grossman, a member of a wealthy Long Island family, is sought by the FBI on charges of sex conduct with 10- and 14-year-old boys in Michigan.

Francis D. Sheldon, 48, an Ann Arbor, Mich. millionaire sought on sex charges with boys 8 and 11 years old, owns North Fox Island where Brother Paul's Children's Mission operated. Police said pictures that later turned up in pornographic magazines were taken on the island.

Sheldon's name also appears among "sponsors" of the Boys Farm in Tennessee. In New York, another pornography investigation led last month to the arrest of eight alleged pornographers on felony charges and the seizure of 4,000 copies of pornographic films involving children 8 to 12 years old.

Manhattan District Atty. Robert M. Morgenthau told The Tribune that much of the film material processed in New York was destined for sale in Chicago.

New York undercover detectives made a \$20,000 purchase of 4,000 copies of two child pornography films at Criterion Film Labs Inc. Police then raided the lab and also seized thousands of copies of 100 pornographic films at Hol-Jay Studios.

"The pornographers were duplicating child films but there is no evidence any of the films were made in New York," Morgenthau said.

#### HIS ONLY REGRET: I GOT CAUGHT

Guy Strait is a child pornographer whose only regret is getting caught. The nomadic child abuser is serving a 10-to-20 year sentence in Stateville penitentiary for molesting one of three foster children of an associate in Rockford shortly after filming them in pornographic movies.

He said his only regret is the three boys testified against him. "Their lives were ruined because they went to trial. One boy eventually committed suicide," he said.

When arrested, Strait, 57, was one of the nation's leading pornographers. A pornographer for more than 20 years, he had cornered the market on the production of "kiddie porn."

"Let me tell you about kids involved in child pornography," he said. "They are children of lawyers, doctors, policemen, preachers—who are attracted to older men because their fathers have no time for them. They are searching for a father.

"And no one jumps in front of a camera for money. These kids do it for ego. Take a youngster who has never been appreciated. You tell him he's good looking enough to be in front of a camera and that people will want to see him and be interested.

"I've helped a lot of kids. Raised about 40 of them, although I didn't have sex with all of them," Strait said. "Some are 40 years old now, I put those in college who wanted it. I've given away bikes. I love to give gifts to children.

"The most beautiful people in the world are children."

And he scoured the country searching for young victims for his pornographic films.

California police, who hold a warrant for his arrest, have a voluminous file on Strait, including detailed order blanks from his subscribers requesting sex-action photography for children as young as four years old.

Police estimate Strait made \$5 million to \$7 million from his business, which is still in operation.

"He had it all," said Los Angeles Police Department Sgt. Lloyd Martin. "Warehouse, editing lab, studio, pamphlets, magazines, books—you name it. The children would constantly file in and out of his house. California was his base."

Strait said he is ready to "put a stop to traffic in sex action photography of those under, say 16. I will not be a party to helping law enforcement types harass those who enjoy such materials.

"I would fight the banning of any kind of printed, graphic or spoken material. There was no thought in the framing of the Bill of Rights to exclude pornography from First Amendment protection."

Strait said he knows John Norman, who ran a national male prostitution ring employing young boys and helping put together a "neater package" to attract customers. He also said he wrote an article for Hermes magazine, a Chicago-based journal publishing philosophy and sex stories of "boy love."

"I am a student of Western sexual practices," Strait said. "And I know people may find this hard to believe, but I am an arch conservative."

#### POLICE SEIZE 2 IN SEX FILM RING EXPLOITING 14-YEAR-OLD BOYS

(By George Bliss and Michael Sneed)

Chicago police Saturday arrested two men who they said used two 14-year-old boys in a pornographic movie intended for nationwide distribution.

Sgt. Ronald Kelly of the Area 6 youth division said the pornographic movie was the first known to have been filmed in Chicago using children.

In other action climaxing a three-month investigation into child pornography and prostitution, police took into custody a 14-year-old boy who they said took part in the pornographic movie, and arrested his 26-year-old foster father on charges of having had sex with him.

Kelly, who heads the special police unit that directed the investigation, said the movie production was part of a pornography and prostitution racket exploiting runaways and boys from broken homes.

He identified the film producers as David J. Berta, 32, of 3710 N. Pine Grove Av., and John Bell, 19, of 506 N. Clark St. They were charged with taking indecent liberties with a child.

Police said Bell participated in the movie with the two 14-year-olds and Berta had sex with one of the boys on another occasion.

They said Berta and Bell shot four rolls of 8 mm film and on April 16 gave them to a police undercover agent after he assured them that he had syndicate connections and could get it processed easily.

Berta and Bell told the undercover operative they planned to sell 2,000 copies of the film at \$50 each to customers throughout the country, police said.

Berta was arrested at 1 a.m. Saturday during the filming of a second pornographic movie at a room he rented, police said.

Two youths, 18 and 19 years old, participated in the filming but were not charged because they are not minors.

Bell was arrested Saturday night in the area of La Salle and Illinois streets. Police said he worked as a go-go dancer at a night club.

In a statement to police after his arrest, Bell said he had previously participated in two pornographic films in the Holiday Inn motel at 4800 N. Marine New York when he was 15 and was paid \$375 for each film.

He also said that at age 15 he posed for 118 pictures for a group of pornographers in Chicago and was paid \$3,400, police said.

The arrest of the 14-year-old boy and his foster father, identified as David Welch, 26, of 2616 N. Clark St., occurred Friday night.

Police said the boy told them he had engaged in sex acts with Welch on three occasions. Welch, who police said denied having sex with the boy, was charged with taking indecent liberties with a child.

The boy had been in Welch's care as a ward of the Illinois Department of Children and Family Services since May 2, police said. Bell also is a ward of the department, they said.

The three-month police investigation directed by Kelly that culminated in the arrests was supervised by Sgt. Robert Becker of the Area 6 youth division and involved Youth Officers Patrick Deady, Joseph Bongiorno, William De Giullo, and Luis Alvizu.

Sgt. Kelly credited police Supt. James Rockford with a major role in the outcome of the investigation. "Without the manpower he assigned to our unit, this result would not have been possible," he said.

#### CHILD PORNOGRAPHERS THRIVE ON LEGAL CONFUSION

If a vote were taken on the most despised profession in America, that of child pornographer probably would win hands down. So it should be a simple matter to legislate the business out of existence. Right?

Wrong. Child pornography has flourished in America because the law, or at any rate the use of the law, has not been up to the challenge.

Congress, state legislatures, municipalities, and law-enforcement officials at all levels are just beginning to come to grips with the problem.

And many legislators are finding that attempts to write laws in this field are as full of hazards to getting the problem solved as taking candy from a stranger is to a child.

The legal profession, the legislatures, and law-enforcement officials are sharply divided over what approach to take.

The dispute is between those who favor strong obscenity laws and those who would forget the question of obscenity and prosecute child pornographers under child-abuse laws.

The debate is more than philosophical. The central question is which type of legislation would be most effective and also withstand constitutional tests in the courts.

Those who prefer enforcing child-abuse laws ask whether prosecution of published material on grounds of obscenity can be consistent with guarantees of free expression under the First Amendment.

Their critics ask whether anyone can argue that the First Amendment was intended to protect those who ruin the lives of children.

The legal solution may be months or years away, but already a great deal of thought is being given to the problem, and fresh bills are being tossed into legislative hoppers almost every week.

Sidney Baumgarten, legal assistant to New York Mayor Abraham Beame, suggests that child pornography be defined as obscene per se, with police empowered to seize it as contraband, just as they do weapons or drugs.

United States Attorney David Marston of Philadelphia proposes use of a Civil War-era federal law barring involuntary servitude of children.

Illinois legislators have proposed eight separate bills to revive the state obscenity law declared unconstitutional last June.

But 70-year-old Elmer Gertz, a nationally known legal authority, who has made a career of defending unpopular causes, argues that new legislation is a mistaken approach.

"Legislators and law-enforcement officials tend to think in terms of new legislation instead of looking at the books to see what is already there," Gertz said in an interview.

"The attitude is: To hell with the old law—let's go for a new one. Very often, though, the new law is poorly drafted and very ineffective. Also, there's no publicity mileage in using the laws that exist. Prosecutors simply are not conditioned to look at what is on the books. They look for something new."

Gertz is a strong proponent of using child-abuse laws rather than obscenity laws to prosecute child pornographers.

"With an obscenity prosecution, there are all sorts of problems," he said. "You first have to have a seller, who probably had nothing to do with the creation of the material, and there is a constitutional requirement that the prosecution show the seller had knowledge of the contents, which is not always easy to do.

"It is easier to phrase an indictment, easier to try a case, and easier to get convictions if you use the child-abuse laws rather than the obscenity laws.

"You can also use the (federal) interstate commerce laws where child pornography is shipped across state lines," he added.

Gertz, a professor at Chicago's John Marshall Law Center, has more than a passing acquaintance with obscenity prosecutions. In one of his more famous cases, he successfully defended author Henry Miller against charges that his novel "Tropic of Cancer" was obscene.

"There are relatively few obscenity convictions," he said. "Even before the (Illinois) statute was declared unconstitutional, how many obscenity prosecutions were there in Chicago? Not many."

Gertz's argument is essentially the same as that presented by New York lawyer Charles Rembar in an article in the April issue of the Atlantic Monthly entitled "Obscenity—Forget It."

Rembar, who won landmark decisions against censorship in the 1960s, suggested that those who induce children to engage in sexual activity, who photograph them doing so, and who publish and sell magazines in which the photographs appear, can be prosecuted more effectively under child-abuse than under obscenity laws.

Kenneth L. Gillis, deputy state's attorney for Cook County and currently involved in the Chicago investigation of child pornography, disagrees.

"I think we had an adequate law before the federal District Court enjoined use of the Illinois obscenity law," he said. "I think we should have another obscenity law, amended so that the court would uphold it."

The U.S. Supreme Court has left room for plenty of argument on both sides of the question.

In 1957, it held that obscenity is not protected by the First Amendment. But it also ruled that to be obscene, a work must cater to prurient interest in sex, must affront contemporary community standards, and must be "utterly without redeeming social importance."

Thus, each publication or film in question must be judged on its own merits, a requirement that complicates the task of the prosecutor in trying to remove such works from sale.

Prosecutions for pornography usually must relate to display or sale because of the difficulties of catching producers in the act. Gertz argues that the sellers can be prosecuted under conspiracy laws.

"Anyone who conspires, aids, abets, and solicits is just as guilty as the one who commits the actual offense," he said.

Maybe so, said Gillis, but "I don't know how you could prove a case like that without first having arrested some of the people involved in producing the pornography."

Child pornography has opened a division in the ranks of the First Amendment Lawyers Association, a national organization of which Gertz is vice president.

Some members have announced they will not defend any obscenity cases involving child pornography. Others argue that every person accused of a crime is entitled to a defense, no matter how repugnant the crime.

"They are torn with question and doubts, even in the area of pictorial representation," Gertz said.

Gillis believes the federal government has been "lax" in not prosecuting those who ship child pornography in interstate commerce.

He also favors legislation to make it easier to identify the real owners of adult bookshops.

"It is difficult to build a case against the owners," he said. "Those listed on the incorporation papers are often people from Skid Row brought forward as shills."

He argues too for tougher penalties for obscenity convictions.

"The old obscenity statute had a \$1,000 fine for selling obscene material," he said. "That's obsolete now; it's not enough."

A related problem is child prostitution involving boys. Although the Mann Act makes it a crime to transport a female under 18 across state lines for immoral purposes, there is no such protection for boys.

But Gertz believes such cases can be prosecuted under existing state laws.

"The Illinois criminal code in sex matters is the most permissive in this country, in fact in the Western world," he said. "But if children are involved, even the permissive Illinois code does not protect those involved from prosecution."

Of the eight obscenity bills now before the legislature, the one considered most likely to become law is sponsored by Rep. Robert Mann (D, Chicago), who headed a study by the House Judiciary Committee.

The bill would provide punishment of 1 to 20 years in prison for the most serious offenses, compared with six months under the old law.

Mann, who is not related to the proponent of the federal Mann Act, said his bill protects the First Amendment freedoms of adults to read what they wish but also protects adults and minors from having obscene materials forced upon them.

On the municipal level, Chicago Ald. Edward M. Burke (14th) is planning hearings on a proposed obscenity ordinance that would impose a mandatory six-month jail term and a \$1,000 fine on anyone dealing in child pornography. The fines for dealing in other types of pornography range from \$200 to \$500.

In New York, mayoral aide Baumgarten said current obscenity statutes involve a "tortuous procedure" to get convictions.

"By the time you have gone through judicial review, appeals, and everything else involved, it can take a year or a year and a half to get a conviction," he said.

"If the community feels child pornography is so objectionable, it should give police the power to seize this material as contraband, just as you would a weapon or a quantity of heroin," he said.

"You make it an almost irrefutable assumption that if a child is under a certain age, say 13, the material is obscene per se and no judicial review is required."

Gillis has doubts about the enforceability of such a law.

"With sex involving a toddler, that law might be okay," he said. "But with an older child, how do you prove he's 13 or 14 and not 17 when the only evidence you have is a photograph? I think you would have some problems there."

In California, where authorities say most U.S. child pornography is produced, a bill before the legislature provides 50 years in prison for pornography involving children 7 years of age or younger, 25 years for the use of children 8 to 12 years old, and 10 years for the use of children 13 to 18 years old.

On the Federal level, Rep. John Murphy (D., N.Y.) and Rep. Dale E. Kildee (D., Mich.) are sponsoring legislation that would make it a federal crime to ship child pornography across state lines.

The penalty would be a maximum \$50,000 fine or 20 years in prison.

U.S. Attorney Marston in Philadelphia says a federal law on the books for the last 100 years can be used to prosecute child pornographers.

"There's a tremendous prosecution problem with obscenity laws in the area of free speech and First Amendment rights," he said. "I think if you check the record, those prosecutions haven't been very effective."

Marston said the law he has in mind provides five years in jail and a \$5,000 fine for persons convicted of willfully or knowingly holding a child in involuntary servitude.

The law was used in the 1880s to prosecute a case in which Italian children were being forced to act as street musicians in New York.

There are some who go part way with Gertz in arguing that more concerted law enforcement as well as more laws may be the answer to the problem.

Sgt. Lloyd Martin, who heads a Los Angeles police unit dealing with child pornography, calls for greater coordination of efforts by police districts all over the United States "to crack this nationwide disgrace."

Gertz urges more cooperation among the country's prosecutors, saying, "If there were a concerted effort by state's attorneys everywhere, working together, there would be no problem in putting these pornographers out of business."

#### 'ADULT' BOOK STORES HIT IN U.S. CHILD-PORN RAIDS

(By George Bliss and Michael Sneed)

United States Atty. Samuel Skinner said Tuesday that he has opened an investigation of child pornography and federal agents have seized large quantities of such material throughout Chicago.

Skinner said his investigators have been helped by the "voluminous" information published by the Chicago Tribune in its investigation of child pornography.

"I think the Tribune series on child pornography is the most professional series I've seen in a newspaper," the federal prosecutor for northern Illinois said.

"The Tribune series will go a long way in helping us identify the people in the racket. I hope the Tribune's investigation will lead to new laws which will become effective in cracking down on child pornography."

Skinner said FBI agents and postal inspectors have been assigned to the investigation. Federal agents armed with subpoenas have gone into so-called "adult" bookshops throughout the city and seized large quantities of pornographic films and magazines exploiting children, he said.

Skinner's action coincided with a Chicago police crackdown on child pornography and child prostitution in which four men have been arrested so far. Three have been accused of making a pornographic movie with children, and the 4th accused of having had sex with his 14-year-old foster son.

Two 14-year-old boys who police said were involved in prostitution also have been taken into custody.

Cook County State's Atty. Bernard Carey announced Monday that he would undertake a grand jury investigation of the child pornography racket. Earlier,

U.S. Rep. Peter W. Rodino Jr. [D., N.J.], chairman of the House Judiciary Committee, responded to the Tribune series by ordering his crime subcommittee to begin hearings next Monday.

The House select education subcommittee, headed by Rep. John Brademas [D., Ind.], will hold child abuse hearings May 27 and 28 in Los Angeles, the leading producer of child pornography in the United States, and May 31 in New York, a spokesman said Tuesday.

Dr. Lloyd William Lange, 42, a Park Ridge dentist, was the latest person arrested in the police investigation. Police charged Monday that he had been the cameraman for a pornographic movie involving two 14-year-old boys.

David J. Berta, 32, and John Bell, 19, both of Chicago, were arrested Saturday and accused of producing that film. All three men are charged with taking indecent liberties with a child.

Lange was freed Monday night on a \$15,000 bond and Bell was released on a \$2,500 bond, reduced from \$10,000. Berta remained in jail, his bond set at \$10,000.

#### FAMILIAR STORY—A CASE THAT FAILED

Many legal experts argue that laws are inadequate for dealing with sexual abuse of children but there's another side to the problem too.

That is the reluctance of some parents to let child victims testify out of fear that the experience of reliving the crime in a public courtroom will be too traumatic.

Yet, without the child's testimony the defendant almost invariably goes free.

But even when children do testify, judges and juries often refuse to believe them, either because they're too young to testify coherently or because they are suspected of confusing facts with fantasies.

This is the story of a child sex-abuse prosecution that failed, a story that is a familiar one in American courts.

It happened last Oct. 6 in Cook County Circuit Court.

Laurence Jacobson, 36, of 1950 N. Lincoln Park West, the owner-director of Camp Pinemere, a summer camp for girls in Minocqua, Wis., and Alan McQuaid, 43, of 4425 N. Hazel St., a travel agent, were charged with indecent soliciting and contributing to the delinquency of a minor.

The prosecution charged that on Sept. 10 Jacobson photographed a 9-year-old girl in the nude in his apartment after he and McQuaid picked up the girl and her 6-year-old sister on a Chicago street.

McQuaid had a record of three previous arrests—for assault and battery, indecent solicitation of a child, and battery.

Jacobson had no record, but a police search of his apartment turned up 128 photographs of nude little girls.

In this case, the child did testify.

A Chicago police report written at the time of the arrests said: "Juvenile victim very explicit in her interview and cites numerous points which verify or tend to verify the incident."

But once the child took the stand, questions were immediately raised about her competence to testify because she had difficulty understanding Associate Judge Charles Durham's questions about the meaning of testifying under oath.

"What the meaning of the oath? Why do we swear you to tell the truth?" the judge asked.

"I don't know. I don't understand," the girl replied.

She then went on to give an explicit, detailed account of the alleged incident of Sept. 10. She said she removed her clothes and posed for pictures after McQuaid told her, "You either do it or else."

"I was really scared," she said.

At the end of the trial, the two defense lawyers moved for acquittal on these grounds:

The child was incompetent to testify, as demonstrated by her not knowing what the oath meant.

She was not lured into Jacobson's car, as charged, because her younger sister got in the car when asked and then persuaded her sister to join her.

There is nothing lewd or lascivious about taking photographs of a nude child. No evidence had been submitted to show that Jacobson's intent in taking the pictures—assuming he took them—was to arouse sexual desire in himself.

Judge Durham granted the defense motion for acquittal.

As recently as two weeks ago, Jacobson was still answering inquiries about his Wisconsin camp and identifying himself as owner-director.

His brochure describes the camp as "a special summer experience for girls 7-15."

Wisconsin officials told The Tribune there is no licensing requirement for children's camps in the state and no questions are asked about the character of camp operators.

[From the New Times, June 24, 1977]

### THE LAST PORN SHOW

(By Robert Sam Anson)

WE WEREN'T HAVING SEX, THE KID SAID, HE JUST WENT DOWN ON ME, THEN I WENT DOWN ON HIM

It was, as such films go, a rather tame affair. Merely two lovers in the midst of feigned passion, doing the things that people do in pornographic movies. No production values. No socially redeeming features. Not a dog or chain or bathroom in sight. Just average porn. With one exception. The stars were aged ten and eight. They were brother and sister. And the person who made the movie was their mother.

The lights snap on in one of the screening rooms of the New York City Police Department, revealing half a dozen beefy shapes, who have spent the better part of a sunny afternoon watching this and similar films. Usually, these are humorous occasions for vice cops. Some of the films are unintentionally hilarious, and the cops vie with one another to make smart cracks. But not this afternoon. As they move out of the room, they are quiet still, grim-looking, jaws set, bodies sagging. One of the cops walks to his desk and kicks an open drawer shut with a loud bang.

Something is happening today, and no one is quite sure what it is. Child pornography—"kiddie porn," as it's called—is only part of it, a symptom of something much larger. Something so pervasive and elusive, something so quietly frightening, that people don't like to talk about it, don't like to think about it, don't even like to imagine it exists. It was here, in its grossest form, that afternoon in the police screening room. You hesitate to use the words that truly describe it, because they sound so old-fashioned, so moralistic. All you know is that something is terribly wrong, and that, suddenly, you need some air.

This is a story about children, little kids, eight, nine, ten years old, some as young as three, few over fourteen. It is a story about what is being done to them, and the people who are doing it. I wish I could tell you that it was a story about good and evil, dirty old men and innocent young children. But I can't. Because this is a story about what happens when concepts like good and evil lose their meaning. It is a story about today.

Times Square is as good a place as any to begin, and maybe better, if only because Times Square is the symbolic center of what is happening. On warm summer nights, you literally have to push your way past the battalions of pushers, hookers, hustlers and whores to get where you are going, which, on Times Square, invariably means to a massage parlor, prostitute or one of the live sex acts that have become the current rage.

There used to be a lot of kiddie porn in Times Square, sold right out in the open. Apparently, it had been there for some time, but only came to the attention of the police after the cops opened their own pornographic bookstore, in an attempt to make some contacts in the business. "It was sort of like picking out groceries in the supermarket," one of the cop-proprietors later recalled. "You'd tell the guy what you wanted, I mean, anything, you name it, and they would get it for you, usually within three days." The operation was so efficient, for a time, some kiddie producers were running a studio on wheels, picking up kids in a van, photographing them on the spot, then putting them out on the street \$200 richer.

One well-heeled pederast, a prominent lawyer, used to arrive each week at the cop's porno store in his chauffeured limousine, and dispatch his manservant to pick up the goods. His tastes ran to little boys, and he could afford to be quite selective. There were books specializing in boys of virtually any age, race or description: long penises, short penises, circumcized or no, brothers, twins—like

the cop said, *anything*. There were items for heterosexuals, too. Films, magazines and paperbacks by the dozens: one instructed fathers on how to insert locks in their daughters' labias "to keep them all for you"; while another provided step-by-step instructions for the would-be child molester, including instructions on ignoring a child's screams (merely a sign of pleasure, the book suggests); another advised on having sex with preteenagers who are "too small."

Most of the kiddie porn is gone now, at least temporarily, since, for the moment, the cops have been cracking down. (It's election year in New York.) But you can still find an occasional peep machine, like the one in the big porno shop on 42nd Street, two blocks down from the police department substation. The film is called "First Communion," and, to see all of it, you have to drop in a total of a dollar in quarters.

The first reel shows five eight-year-old girls receiving their first communion, perfect innocents in the perfect ceremony of innocence. Suddenly, a motorcycle gang breaks into the church. Right then, you know what is going to happen, but you can't stop from dropping in the second quarter. And here there is a surprise. For, instead of immediately commencing to rape the girls, the gang pauses to beat up the priest with chains. Then they crucify him to the cross above the altar. Finally, by reel four, the sex begins. You can actually see the little girls bleeding. All of them are screaming. Except the movie is silent, and you can't hear their cries.

Back on the street, the pimps and prostitutes and hustlers are still there, but something has changed. Some sort of line has been crossed.

The people who know about these sorts of things—cops and shrinks and prosecutors—say it all began to happen a couple of years ago, when the Supreme Court finally decided that it really didn't know what was obscene, and left it up to "community standards" to decide. That, they say, opened the floodgates. Sure, they admit, there had always been some kiddie porn around—Lewis Carroll, the author of *Alice in Wonderland*, was an avid collector—but now it came pouring out, the really hard-core stuff, little boys masturbating and little girls fellating and an occasional priest getting nailed to a cross. A lot of the states, like Illinois and Michigan, didn't have any laws against it, and many that did, like New York, seldom, if ever, prosecuted. Porno and sex were everywhere—so many obscenity and prostitution-related arrests in Manhattan alone last year—so why just single out children? A couple of months ago, before kiddie porn became a hot issue, a Manhattan D.A. advised one anti-kiddie-porn group that his office should spend its time "going after really dangerous criminals, like muggers." Besides, the courts would just throw the cases out. Always, it was the courts. They were to blame.

And, to an extent, maybe they were. What, after all, were the cops to do when child molesters routinely got off with probation, and a big operator like Eddie Mishkin, a New York porn dealer busted a few months back, was sentenced to 27 weekends in jail? It certainly didn't stop Eddie. The third week into his sentence, he was busted again for the same crime. But there was something more to it. Someone had to be buying the stuff. There had to be a market, a taste, a demand, or there would not have been a supply in the first place. The reasons for that are a lot tougher to get at.

Porn is an industry, a service industry you might call it, and, like any industry, it has to constantly create a demand for new products, or else the market becomes stagnant. And, the fact is, until kiddie porn came along, the porn business was in trouble. Everything had been tried. People were bored. Why, *Deep Throat* was so chic you could take your wife or girlfriend to see it. So the great search commenced. First, explicit ejaculation. Then orgies. Then bisexuality.

Then SM. Then urination and defecation. Then bestiality. And still, the senses were sated. What would happen to dear, sweet Hef, we debated. Would *Playboy* have to "go pink" to stay *au courant*? Could *Hustler* outgross *Playboy* and *Penthouse*? We held our breath, signed our *New York Times* ads (poor, persecuted Larry Flynt, it developed, shared the plight of Soviet dissidents), threw our cocktail parties for Harry Reems, and, as we did, the industry found The Answer, "the last frontier," as one "straight" porn producer puts it, the ultimate turn-on: kids.

It was not a barrier that was crossed in a day or a week or even a year. Only looking back, from the perspective of the little girls in their first communion dresses, do you see the signposts: the soft-focus pix that began showing up in *Playboy* a couple of years ago, the "art" photographs of preteenagers

getting in and out of their leotards, while looking dreamily at one another; the progression of Jody Foster from spoiled, corrupting brat in *Alice Doesn't Live Here Anymore* to 13-year-old whore in *Taxi Driver*; the phenomenal success of *Show Me*, the explicit "sex education" book, showing little kids examining themselves and one another, giggling over an older brother's oral sex. Then, last November, *True*, the "man's magazine" it used to call itself, took the big step: "32 Pages of Beautiful Pussy!" the cover headlined, the vagina in question belonging to a 14-year-old runaway.

#### A LITTLE CHILD SHALL LEAD THEM

Now kiddie porn is out of the closet altogether, and business, as you might expect, is booming. Yearly profits are in the tens of millions. For one thing, the initial investment is low—often no more than an inexpensive home movie camera and the "cooperation" of some neighborhood children; and even the fact that "professionally shot" kiddie porn features can cost up to \$50,000, as compared to a "one-day wonder" professional adult porn film, which comes in at \$6,000, doesn't deter producers. They know they can recoup with rental and purchase rates five to six times higher. Nearly the same arithmetic holds for magazines: \$7.50 for kids, a dollar and a half for adults. After a while, it begins to dawn on people; there is money to be made here.

And it is being made all over the country. Not just in major cities, but in middle-sized and small towns as well. Quiet, unlikely places like North Bellmore, New York, out on Long Island, in the very bosom of tree-lined, buttoned-down suburban comfort. Gene and Joyce Abrams used to live in North Bellmore, and they were just as quiet and unlikely as the town they lived in. Gene was an aerospace engineer, and a good one: some of his inventions had been included in the first manned mission to the moon. Joyce was just the average suburban housewife, with a taste for the good things in life. Gene was anxious to please, so, to make his salary stretch, he placed an ad in Al Goldstein's *Screw*, offering "\$200 fee for girl model, 8-14 (must have parents' consent) one-day photographic session." Before long, people started knocking on the Abrams' door, leading their kids by the hand. Some of the parents appeared in the pictures *with* their children; others merely allowed their children to have sex with Gene. One little girl, age 11, who ran crying from a bedroom after being told to have sex with a man of 40, protested, "Mommy, I can't do it. I won't do it." "You have to do it," her mother answered. "We need the money." And, of course, the little girl did.

By the time the cops arrived, some 18 children had had their pictures taken by or with Gene Abrams. Joyce no longer had to worry about Gene's salary. The porn operation was bringing in \$250,000 a year, tax free. The material in the house alone filled an entire van: 4,000 envelopes prepared for mailing, 3,000 negatives of kids having sex and \$70,000 worth of photographic equipment, not to mention orders from as far away as Trinidad, England and South Africa. Because Gene, with his precise, methodical, engineers' mind, had gone big-time. He had a deal with a New York photo studio, which processed and duplicated his film, and then passed it on to a mob-controlled company for distribution. From there, it was not long before it was on stands of porno shops across the country.

Quiet North Bellmore is just like quiet Yonkers, where a friendly suburban couple takes in runaways, houses and feeds them, then charges them "rent" in the form of appearing in pornographic films; and quiet San Jose, California, where a mother recently fell afoul of the law for appearing in a porn film with her son, age three; and quiet Winchester, Tennessee, and quiet Port Huron, Michigan, and quiet Security, Colorado, and a lot of other quiet, nice towns that have recently been the sites of porno exposes.

After a while, the stories take on a depressing similarity. There is the Boy Scout master in Santa Monica (not to be confused with the Boy Scout leaders in New Orleans), the boys' camp in Michigan (just like the boys' camp in North Carolina), the father who sells his sons in Illinois, the family who does the same in Colorado.

They are all such average folks, so relentless in the banality of their evil. Not at all what you expect and hope for: some stereotyped dirty old man in a semen-stained raincoat, lusting after a little girl. It would be more comforting, perhaps, to think that most child pornographers are like that. But that is the trouble: they are so normal.

That is what the people in Studio City, California, say about their neighbor, Ed Leja. You come to Los Angeles to meet people like Ed Leja, because, of course,

L.A. has got to be the center of kiddie porn. It is only right. This, after all, is the place where the production of fantasies is the major industry, where the whole youth cult began. And you are not disappointed. The cops report that yes, indeed, L.A. is the center, with 3,000 kids and 17,000 adults actively involved in porn and prostitution. Ed Leja is one of those statistics. Four arrests, one conviction. Punishment: a \$250 fine.

When, a year ago, Leja was arrested the latest time—for conspiring to endanger the welfare of a child—his neighbors professed shock and indignation. A number of them rallied to his support. Ed was not a pornographer; all you had to do was see his house, as well-kept as any house on the block, or meet his three fine sons, or know of his community activities. Why no, it couldn't be. The cops were merely out to get him.

And, true enough, in the flesh, Ed Leja seems just as nice and friendly and normal as any of his neighbors. To show you the kind of man he is, Ed subscribes to the Reader's Digest Condensed Books, and thinks that "the government is just one giveaway scheme after another. Why don't they make people work for a living?" Leja, burly-chested, bearded and 57, has reason to sound bitter. Although the judge threw out the case against him and his co-defendants—the parents whom Leja had paid for permission to photograph their children—a plague of misfortune has descended on him. First, an earthquake undermined the foundation of his house. Then his wife left him, running off, he says, with the associate editor of one of his magazines. Then there was the arrest and all the bad publicity, and legal bills amounting to more than \$40,000. And, on top of all that, his magazines (Leja used to publish several of them) ran into financial trouble—trouble, Leja says, directly attributable to the "kiddie porno witch-hunt."

Ed Leja wants you to know that he is not a child pornographer. There is no explicit sex—not so much as an erect miniature penis—in the "Moppets" series he used to publish. He would like to get his hands on some of these pornographers, Leja says; they are ruining his business. What Leja, a former engineer, is, by his own description, is a photographer, publisher and practicing nudist.

"I know for a fact that nudism for children doesn't hurt them," Leja says. "Whether sex activity does or not, well, I don't know." He seems an eminently reasonable man, propounding an eminently reasonable, if somewhat eccentric, philosophy. Moppets itself seems reasonable—well, some of it, the part that shows the kids cooking hotdogs or frolicking down at the beach. It is when you reach the other part—the Penthouse-style spreads of open-crocheted little girls looking longingly at the camera—that the uneasiness sets in. But Ed is constantly reassuring. "See," he says, pointing to an older woman cuddling her child. "That's her mother. A practicing nudist. All my subjects are practicing nudists."

Only later do you learn that two of the parents arrested with Leja are professional hard-core porn actresses, one of them a junkie and prostitute as well, and that the "nudist camp" turns out to have been Ed Leja's backyard.

It is about then that you begin to wonder about Ed Leja, whether he is so nice and warm and friendly after all. Because he never mentioned those things, never mentioned the testimony at his trial—like the part about the two-and-a-half-year-old girl being molested during one of his shootings—never mentioned where Moppets winds up after it leaves the racks of the adult bookstores. The police found a copy not long ago in the briefcase of a child molester, arrested outside a playground. Also included in the case were several other kiddie porn books, a few rubber dolls and one item essential to his line of work: a jar of vaseline.

Sergeant Lloyd Martin knows the child molester with the jar of vaseline, and he knows the work of Ed Leja; he knows, too, how one leads inexorably to another. There are a lot of people in Los Angeles, including some within his own department, who think that Martin has become obsessed. For the last six months, he and his squad of five detectives have been working 16-hour days, almost seven days a week. It is backbreaking, frustrating work, filled with round-the-clock surveillances and leads that never pan out.

But Martin asked for it. There was no kiddie-porn squad in Los Angeles, or anywhere else in the country, until Martin thought it up. It was about 3 years ago, and Martin, then working Administrative Vice, helped bust a notorious pornographer named Guy Strait. Strait jumped ball, but the material he left in the hands of the LAPD sickened Martin.

Martin thought he had enough to keep investigating indefinitely. But there was resistance from within the department. Other crimes had higher priority. Martin was told to get back to work on his other cases.

But, in his spare time, Martin kept probing, kept pulling together material, until he had finally compiled a thick black looseleaf notebook, filled with kiddie porn, m.o.'s of the major purveyors and a detailed proposal for going after them. In September, the department gave Martin the green light.

Today, Martin and his unit operate out of a crowded warren of borrowed offices in the Juvenile Division. The phones ring constantly. The FBI wants to know about an upcoming raid. A police department in Michigan is looking for information. The D.A.'s office has a question about a search warrant. A plaque on Martin's desk reads: "Expect a Miracle." With the way things have been going, Lloyd Martin needs one.

There is a threat to cut off funds and shut the whole operation down. Not enough arrests, too few convictions, the homosexual community screaming about police harassment. But it goes deeper than that. Even now, people have a difficult time believing that Martin isn't making the whole thing up. "The only way to get to people is to really horrify them," he said to a friend not long ago. "But how do you horrify them if you can't show them the stuff that is supposed to do it?"

This morning, Martin makes an exception. He pulls out a portable file drawer, and begins talking. He is still talking, still showing pictures, two hours later. The briefing starts out slowly, with innocent-looking nude studies of young girls. Then boys. Then girls with boys. Then girls and boys awkwardly making love. Then children being sodomized by adults. Then bondage. And then finally, and most grotesquely, a series of pictures taken not by a professional pornographer, but by the children he had enticed, showing him smeared head to foot in his own blood, various torture devices sticking out of his body, nearly all of which require children to operate. The pictures lie on Martin's desk without comment, until, after several moments, he clears his throat: "Now this individual," he explains, in the most dispassionate police argot, "is a machoist. That is to say, he receives his sexual satisfaction from others hurting him, in this case, children. Now what do you suppose would have happened . . ." He pauses ". . . if he were a sadist?"

You don't have to suppose very long in Martin's business. Once you imagine the worst, it invariably happens, and, sure enough, it has already happened. Green plastic garbage bags keep turning up in and around Los Angeles, 18 of them so far in the last 18 months. Inside the bags are the dismembered, mutilated bodies of young boys, Mexicans mostly, some of the kids who Martin says are being smuggled across the border, sometimes in specially constructed compartments concealed in the floor-boards and fenders of cars, to infuse fresh, exotic blood in the kiddie porn industry. Kiddie porn, though, has a constant appetite for young faces, the newer, younger and smoother-skinned the better. Disposal, then, becomes the chief problem.

As Martin talks, the image of a young New York hustler comes to mind. His name, he said, was "Jersey," and his occupation of the moment was servicing chickenhawks on East 53rd Street. He had been at it now for 12 years, ever since he was eleven. But he had been a kiddie porn star once, he claimed—before he got too old, maybe 15. Between tricks, he had talked matter-of-factly about the experience. "This guy Eddie took pictures," he had said. "At first, he was just going to go down on my Johnson for \$55. But he came out with this pad, asking me all sorts of questions. Did I have any hair—you know, that kind of hair. Well, I really didn't have much, and they seemed to like that. They also wanted to know whether I had any scars. I made \$80 that night. Put on white stockings, took them half-way down, scratched myself, played with myself. They wanted me because I have baby skin." But Jersey was luckier than the kids Lloyd Martin was talking about: he had gotten out. "They was getting into bizarre things, into freaky things," he had explained. "like whips and dildos and 18-year-olds with Teddy bears. I was leery at the time."

Now, Lloyd Martin was talking about the kids who didn't get out, the children in the plastic bags. There was one film reportedly making the circuit—supposedly it had been a big hit at an L.A. party a few weeks before—showing a boy actually being murdered. He had been one of Dean Corill's kids down in Texas, the story went. That had happened to a lot of Dean Corill's kids. By the time they finished digging them up, the Houston police had come up with 27 of them. Police strongly suspected that a number of young porn stars were among Corill's victims.

You could begin to see why Lloyd Martin was obsessed, and when he talked about the chickenhawk rings that shuttled kids from one city to another, the kiddie porn key clubs where a member had to produce a photograph of him-

self having sex with a young boy to gain admittance, the mutilations and murders, it seemed not only eminently probable, but inevitable, even logical, given the business.

Where were they coming from, these kids? How was it happening? Who was doing it to them? "Go to the Cup," someone said. "Stay there for a night. Check it out. You'll know."

#### THE CUP AND THE RACK

In Los Angeles, when police say "the Cup" they mean the Gold Cup Cafe, at Hollywood Boulevard and Las Palmas, first stop on what is called "the meat rack." The meat rack begins at the Cup, runs down Las Palmas, then turns right on Selma, goes on for a couple of blocks, then left on Highland to Santa Monica. It is not hard to find it. Simply follow the slowly cruising cars and look for kids lounging on the street. When the cars stop and the kids walk over, you're there.

On any night of the week, the Gold Cup is jammed: with kids, both boys and girls, menacing-looking black pimps, a few assorted lesbians and a sizable contingent of middle-aged chickenhawks. The atmosphere is a cross between a YMCA club and Dante's ninth circle. In the back of the Cup half a dozen teenage boys are playing pinball. A scantily dressed prostitute wanders in to watch the action. Then she leans over one of the machines to see the score, one of her breasts fits out. No one looks twice. In the front of the cafe, three beefy chickenhawks sit in a booth, chatting, sipping coffee, and commenting on the passing merchandise. "Who's that sweet little blond?" one of them calls out, and blows a kiss to a boy sitting at the counter. The youth turns, smiles knowingly, and walks to the table. One of the chickenhawks reaches out and fondles his crotch.

At 9:30, when the cafe closes for the night, the kids straggle out the door, some heading off for other well-known "chicken coops" in the neighborhood, others around the corner to the bookstall on Las Palmas (where one of the gay magazine features pictures of one of the boys who'd been playing pinball that night), and still others down the block to Selma Avenue. There they queue up for the cruising chickenhawks.

The girls are not being left out. One 14-year-old—call her "Ginny"—is nursing a badly split lip, received in an altercation outside the Cup two nights ago. She is originally from New York, she says, but the family moved to Hollywood when she was eight. She and her mother—the father left years ago—still live in the neighborhood. Going to the Cup for her is a nightly ritual. She first had sex at 11, and turned her first trick at 12—"But I ain't no pro," she insists. "I only do it when I need money, like for pinball or drugs." Twice she had been asked by passing motorists—"They were driving expensive-type cars"—if she wanted to appear in films, but both times she turned them down. Some of her friends had not, however. "It's easy work," she shrugs. "You just fuck and suck a little and they give you fifty bucks."

Ginny more or less dropped out of school a little more than a year ago. She spends most of her days at home, sleeping, "or doing Quaaludes when I can get them," waiting for night to fall, and the chance to come to the Cup. The stupid question more or less pops out on its own: "Do you think your childhood is, well, kinda different from other kids'?" "Like how?" she answers, genuinely perplexed. If there were ever a truly vacant face, it belongs to Ginny: "Well, yeah, I guess you could say I'm a little different," she says at last. "You see, most of my friends don't live at home. But I got a good relationship with my mom. She's real cool. I can talk to her. My mom's okay. What I want to do, that's all right with her. I told her about turning tricks and all, and she just kinda laughed. I don't think she likes it, I don't think she dislikes it. She's cool. And she's got her own boyfriend too, you know."

Ginny is about to say more, when a white Buick glides to the curb. The man inside gestures Ginny over. They talk briefly, and Ginny gets in. As the car pulls off, she waves goodbye.

She's cool. Everyone is so cool. On the Strip, they are still talking about Roman Polanski and the alleged rape of a 13-year-old. Polanski will get off, the betting goes. The chick was a pro. Part of a mother-daughter act. No big deal.

They come to Los Angeles by the tens of thousands, these kids. Runaways, some of them; others simply "throwaways," a million of them in the country, according to the best estimates. With no skills, no job prospects, there is only one way they can survive, Martin says: "Drop their pants or pull up their dress." First porn, then pros, then, well, no one knows. Somehow, though, they must grow up, get old, have their own kids. They must.

Like Serena. Serena has been in the biz a long time, a very long time. She's 20 now, a veteran. She ran away from home the first time at 12, was caught, spent some time in "juvie," as she calls it, then came home, just long enough to plan how to run away for good. It was her parents, you see; "working-class heroes," she calls them, her mother a waitress and semi-invalid, her father a bartender. She hasn't seen them in more than five years. The last time she did, her father yelled at her mother not to talk to "that whore." When she split the second time, she was, as she puts it, "kinda back and forth, bus rides, hitching. I just kinda floated out on that one." There was some more time in juvie, then picking pears in Oregon, bumming around Berkeley, and, finally, a steady fella. Money, though, was always a problem, so, at 14, she turned her first trick—"I needed money for cigarettes." By 16, two years under the legal limit, she was doing nude modeling. A career in hard-core films followed. She has remained in hard-core ever since, between occasional gigs as a stripper, such as her current engagement at the Cave in Hollywood, and as a performer in one of the Mitchell brother's lesbian sex acts in San Francisco, where, as she describes it, "I make love to three ladies six times a day."

Serena, in short, has seen and done it all, and to hear her tell it (which, she politely informs you, will cost \$30), there are no regrets, save an occasional wondering "what it would have been like to have been a real kid, you know, with proms and bubble baths and all that."

There is a break between her shows, and we are sitting in a Howard Johnson's, talking. Serena is drinking milk. She is blond, smooth-faced, strikingly attractive, and far younger-looking than her age. "That's some of my appeal, you know," she explains. She is reminiscing about growing up in Glendale, California, what it was like to discover she had a body that attracted older men, dropping out of school after the eighth grade, and being the best dancer in her modern ballet class. "I was really a precocious kid in dance," she says. "My teacher said I was the best she had seen, the way I moved so naturally. Not like a kid at all, but like a grown-up."

It is tough these days looking so young in Los Angeles, when you happen to work in Serena's profession. The heat is really on. Modeling agencies, which seldom looked at IDs, are now demanding three proofs of age. Everyone is worried about Lloyd Martin and his cops. The other day they were hassling one of Serena's friends, a prominent porn photographer accused of taking hard-core shots of a 14-year-old. The police couldn't make the beef stick, but Serena knew it was true. "He was asking if I knew of any really young stuff. You know, really young. But he's okay. He only shoots kids getting it on with other kids. And what an artist he is. He is totally into his art. He really demands a lot from you."

What he demands doesn't bother Serena, "so long," she says, "as the kids can handle it." She has her own daughter now, just a year old, and already she can sense that "she is going to be a far-out, free little kid." Let her do porn, say at 10? "Well, it's possible," Serena says. "Kids are growing up so fast now, even faster than I was. I mean, I was fucking at 12, so she'll probably be fucking at 10. You know, that's how these things work." The child of one of Serena's friends is already doing porn, "and she is only five." So, it's possible. Everything is possible.

"You oughta catch my act," Serena says. It is an invitation impossible to resist. We go next door, and, in a few moments, Serena is there on stage, bathed in a red light, nude but for childish knee socks. The music scratches on, and Serena begins to dance, languidly, invitingly, an erotic ballet, tracing again the steps learned as a girl.

After an evening at the Gold Cup, a talk with Serena and Ginny, you no longer wonder where the kids are coming from. The talent pool is bottomless: the million runaways, the 2.4 million children of drug addicts, the 2.8 million children of prostitutes, the unnumbered children who can't be lumped under any group, but simply belong to parents who don't give a damn. Now the stories take on some meaning. Like the porn producer who operated, undetected, in Houston for more than 18 years, employing dozens of kids in the neighborhood, including one set of 12-year-old twin boys, who in turn recruited their younger sister, who in turn recruited a still younger brother. . .

"Let me tell you about kids involved in child pornography," a notorious porn producer said in a recent interview. "They are children of lawyers, doctors, policemen, preachers—who are attracted to older men because their fathers

have no time for them. They are searching for a father. And no one jumps in front of a camera for money. These kids do it for ego. Take a youngster who has never been appreciated. You tell him he's good-looking enough to be in front of a camera and that people will want to see him and be interested. It's a great boost to his ego."

"I've helped a lot of kids," he added, "raised about 40 of them, although I didn't have sex with all of them. Some are 40 years old now. I put those in college who wanted it. I've given away bikes. I love to give gifts to children. I've spent a fortune on them."

It is a theme you hear over and over again about child pornographers: how much they love children, how they are giving them, as Martin says, "what they aren't getting at home, attention and affection, even a perverse kind of love." And there is love of a sort. One child pornographer operated in Santa Monica for a long time without detection, precisely because he was so loving, so caring about the children. He was their scoutmaster. There seemed to be nothing he wouldn't do for them. Take them on overnight camping trips, go-carting, expeditions to Disneyland. The parents, many of whom were divorced, didn't give his motives a second thought; they were glad to have the children off their hands.

The Santa Monica pornographer never threatened his children, never used force at all. He didn't have to. He was doing something for them, something no one else was doing. Such friends seldom testify against one another. In one recent case, an Illinois boy, 12, did; afterward, he committed suicide. More common, though, is the experience of Tennessee authorities, who have been having a tough time making a case against Reverend Claudius "Bud" Vermilye, the 47-year-old Episcopal priest who was arrested for turning his "Boy's Farm" into a kiddie porno production studio. "These kids," says one cop, "have a strange sense of loyalty to him." Well, why not? As his lawyer, Joe Bean, puts it indignantly: "These boys had been kicked out of their homes and mental and penal institutions. They were what they were before they got there. They expect the defendant to have done what their parents couldn't do—reform the boys. Vermilye has done much good for humanity. He's a nice humanitarian, dedicated to doing good for the helpless and the wayward."

They are all such nice humanitarians, so interested in young people, so appreciative of their beauty. The mail-order ads for kiddie porno fairly gush in their enthusiasm. One 13-year-old is "a blonde beauty," an 11-year-old "a cute little fellow with curly black hair." Their sexual proress is only secondary. The ads exult when a child is not well-developed, when he performs clumsily and innocently. Forever young, the kiddie porno industry wants them. Let us all stay forever young. There is even an organized lobby in California—it calls itself the "Renee Guyon Society"—that wants to drop the age of sexual consent down to five. "Sex before eight," goes their motto, "or else it's too late." "In the spring-time of childhood, sex doesn't seem very important—to an adult, but to a child, it is the very mystery of life," one of Ed Leja's magazines rhapsodizes. "There is a faint stirring of the libido heard in the deep uncomplicated recesses of a child's mind. There is the tingling of flesh, the sensuous thrill of touch, when all the senses seem to be electrified by nature."

A Helena Rubenstein ad could not have put it better, or a plastic surgeon, or the director of a fat farm, or any other aspect of the culture that hates age and worships youth. Kiddie porno is only part of it, the nastier, less genteel part, but part of it nonetheless: the logical, ultimate fulfillment of the youth cult.

You wonder, after a while, what is going to happen. For the kids, it is easy to predict. The lucky ones end up talking to Lloyd Martin, "breaking down and crying," he says, "so relieved that it is finally over." They are the exceptions. Most are like Serena's friends, "dead," as she puts it, "burnt out on prostitution, drugs, or just life." It has happened already to the little girl who appeared in the film the cops watched that afternoon in New York. She is in a Catholic children's home now, where the authorities describe her as "very greatly disturbed." Such children will grow up, according to a Detroit police psychiatrist, "with no sense of modesty or privacy, no sense of the specialness of sex and the human body, basically, no moral sense at all." There was a kid like that whom the L.A. cops picked up recently. They asked him whether he had had sex with a pornographer. "No," he said. "I went down on him, and he went down on me, but we didn't have sex." The shrinks say that as an adult he will be subject to grotesque fears, and have difficulty experiencing normal sexual ful-

fillment. For others, there can be physical problems, too: among the very youngest, severe damage to the vagina and anus; in girls, an increased incidence of cervical cancer. Many will not be able to bear children. None will ever remember what it was like to be a child.

But what will happen to us, the adults? What has happened? Why does Lloyd Martin have to carry a picture around, a color shot of a very young boy, maybe seven, eyes wide with wonder and fear, having oral sex with a man in his forties? The boy is looking out to the person taking the picture, as if asking what to do. What are we telling him?

"I don't know who that guy is," Martin says of the adult in the picture. "But I am going to find him before I retire. I am going to get him." He pauses for a moment, as if trying to keep control. "Isn't this the pits?" he says finally.

No, Lloyd, this isn't the pits. This is the end of the world.

