

Clinton stops prosecution of obscenity

“Is the war on pornography over?” I have been asked that question periodically in the 18 months since leaving my Washington, D.C. post as head of the U.S. Department of Justice, Child Exploitation and Obscenity Section, the office responsible for prosecuting violations of federal obscenity (hard core pornography) laws. The question refers to the federal effort, begun by Attorney General Edwin Meese, III in 1986 targeting those trafficking in obscenity. The answer, though not readily apparent until recently is now clearly “yes.” *The war on pornography* (a phrase coined by Dr. James Dobson) is over and pornographers have won.

Nearly every battle in that war, however, was won decisively by the Department of Justice. This raises a far more important question: “How then, was it possible to lose the war?” That’s a fair question. To understand the answer, one must understand how the war was fought. In 1986, against the advice of nearly all his senior advisors, and with the strong encouragement of President Ronald Reagan, Meese set up a special prosecution task force to lead his effort. The task force, later renamed the Child Exploitation and Obscenity Section (CEOS), was staffed by first-rate and experienced obscenity prosecutors. The prosecution of obscenity was made a “priority” by Meese, and the 93 U.S. Attorneys, the chief federal prosecutors throughout the country, knew the boss meant business. Meese ordered each U.S. Attorney to designate and train from his staff an obscenity prosecutor. He also enlisted the considerable investigative resources of the FBI, the Postal Inspection Service, and the U.S. Customs Service. Working with the Los Angeles Police Department (L.A. is home to most of the country’s major pornographers.), CEOS developed a long list of pornography kings from coast to coast who were suspected of being major obscenity violators, and targeted them for investigation. Thus began the war.

Those targeted quickly learned how formidable the federal effort was and they had no doubt that war had been declared on them. One by one the porn kings were convicted and sent off to jail. Many of those convicted had their business assets confiscated by the federal government to assure they wouldn’t return to their businesses after serving their time. The nature of pornography itself changed. It became “softer” because the industry knew that the harder the material, the easier the conviction. We were working down

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our target list and by the end of the Bush Administration, those in the pornography industry knew it was just a matter of time until the feds arrived at their door. While the end of the war was not yet in sight, its outcome was not in doubt.

Three elements were critical to the Justice Department success against pornographers during the Reagan and Bush presidencies – leadership, commitment, and resources. Both Presidents Reagan and Bush and their Attorneys General provided strong leadership for the war on pornography and spoke out regularly on its importance. President Reagan got Congress to pass his Child Exploitation and Obscenity Act of 1988, giving strong new tools to federal prosecutors. President Bush, speaking for the White House, twice condemned the ACLU notion that pornography is one of the “blessings of liberty” in American society and promised no let up in the effort. The commitment from the U.S. Attorneys and their staffs to prosecute those trafficking in illegal pornography was firm and constant. But leadership and commitment would have been meaningless without the resources necessary to conduct a nationwide campaign. While for nearly twenty years prior to this time, no substantial federal resources were made available for the prosecution of obscenity and thus the pornography industry thrived, this changed dramatically under Meese and succeeding U.S. Attorneys Richard Thornburgh and William Barr. We were given the resources to win and while winning didn’t come easy, it came often.

It is easy to fix a date that the war on pornography was lost, January 20, 1993 – Inauguration Day – though we didn’t know it for sometime thereafter. No final battle was fought. It was just a quiet, slow surrender.

In the Clinton Administration, neither the President nor the Attorney General has provided any leadership on the issue. Soon after he was sworn in, the President fired Bush’s U.S. Attorneys and appointed his own. Those he appointed generally have demonstrated that they are not committed to obscenity prosecutions and, in fact, for the most part, oppose them. As a consequence of this lack of leadership and of commitment, no significant federal resources are spent on obscenity prosecutions. This explains a recent Wall Street Journal headline, “Porn Broker...

Thrives in Business of Supplying Adult Entertainment.” The article details Kenny Guarino’s recent rise to the top of the pornography industry with his company, Southpoint Industries, which since last fall is publicly traded on the NASDAQ national stock market. The fact that Guarino (who, the Journal article intimates has ties to the Gambino organized crime family) would sell stock in his company on a national stock exchange says more about the priority of obscenity prosecutions in the Clinton Justice Department than it does about the hubris of those in the pornography industry.

One federal prosecutor told me recently that the prosecution of obscenity is a “dead issue” in this administration. Another, who has personally been responsible for numerous successful prosecutions, lamented to me that the effort is right back to where we were several years ago – no Washington leadership and not much happening. Still another, a senior Justice Department official, told me that the Clinton Administration targeted CEOS for abolishment. Only the great public and Congressional outcry over the Department’s weakened child pornography prosecution standard saved the section. Senior Justice and White House officials realized such a move could only further embarrass the Administration and increase the public outcry. The Department’s child pornography debacle itself only served to embolden those trafficking in illegal adult pornography. They could readily assume that if the Department wasn’t serious about prosecuting child pornographers, it certainly wasn’t interested in them.

The Supreme Court has ruled that prevailing community standards determine what pornography is “obscene” and only obscene pornography can be outlawed. Thus, perhaps in Manhattan only the more extreme hardcore pornography may be illegal, while pornography showing “mere” lewd exhibition of the genitals may be illegal under community standards in Tupelo, Mississippi. But what is illegal is essentially determined by what is successfully prosecuted in a community. That is because all pornography is presumptively protected by the First Amendment, according to the Supreme Court, until a court (normally in a jury trial) determines it to be “obscene.” Once certain items of pornography are determined in a court proceeding to be obscene in a community, then those items serve as a guide for community standards. A typical prosecution may in-

volve, for example, five or ten pornographic videos. The jury may find all videos to be obscene or may say, based on the themes or content involved, some are obscene and others are not. Whatever they decide helps to define community standards. Thus, when a U.S. Attorney refuses to bring any obscenity prosecution within his jurisdiction, he is, in effect, setting the community standard. And the standard is "anything goes." This is the problem the Clinton Administration is now creating. All pornography will soon be considered, by default, "non-obscene" and, thus, in effect, legal in all communities across America.

The question I have for President Clinton is why surrender to the pornography industry? Decency should not be a Republican-only issue. Nor is the First Amendment the issue. The Supreme Court has held repeat-

edly that obscenity is without First Amendment protection.

By stating that the war on pornography is over, I don't mean that no one is fighting any longer. There are many across the land still in the fight and many will never give up. God bless them! But the spread of illegal pornography cannot be stopped without the leadership, commitment and resources of the federal government. Pornographers know this and, like Kenny Guarino, they're taking advantage of the opportunity President Clinton is giving them to expand their empires.

In his 1992 Presidential campaign, Bill Clinton wrote the following to those who would ask his views on the prosecution of illegal pornography: "Be assured that aggressive enforcement of federal obscenity laws by the Justice Department - particularly by the Child Exploitation and Obscenity section

- will be a priority in a Clinton-Gore administration." This unequivocal promise has been broken. The White House should hear from you on this. And it is appropriate to let your local United States Attorney know your views. (Some states have one U.S. Attorney, while larger states have as many as four. To locate the U.S. Attorney in your area, call information in the major cities.)

The short history of the Clinton Administration demonstrates that it has an extremely liberal agenda and the only way to alter it is with extreme public pressure. Let pressure begin.

Write or call President Clinton:
 President of the United States
 The White House
 1600 Pennsylvania Avenue, N.W.
 Washington, DC 20500
 202-456-1111

You can make a difference in family values in your community. Here's how.

Pornography Awareness Week

October 30-November 6

WHEREAS, the United States Supreme Court has repeatedly ruled that obscenity is not protected speech under the First Amendment:

WHEREAS, the sanctity of American homes has been invaded by dial-a-porn, cableporn, video porn, satellite-to-dish porn, radio porn, computer porn and rock music porn:

WHEREAS, pornography inflicts tremendous suffering and damage to individuals, families, children, business districts, communities and our nation:

WHEREAS, in this era of escalating violence, pornography features and promotes sadomasochism, rape and incest:

WHEREAS, children are increasingly sexually molesting other children in imitation of what they've seen:

WHEREAS, there are state and federal anti-obscenity laws on the books to protect public safety, public morality and public health:

WHEREAS, the obscenity laws are uniquely grounded in community standards:

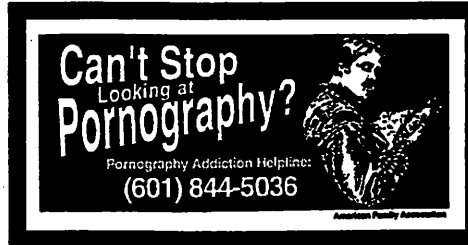
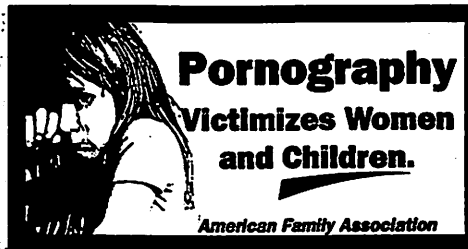
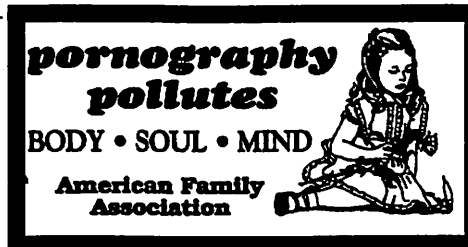
WHEREAS, millions of Americans throughout this great nation will be participating in Pornography Awareness Week:

NOW, THEREFORE, I _____ Governor (or Mayor) of _____ do hereby proclaim the week of October 30 through November 6, 1994 as PORNOGRAPHY AWARENESS WEEK in the state of (or city of) _____.

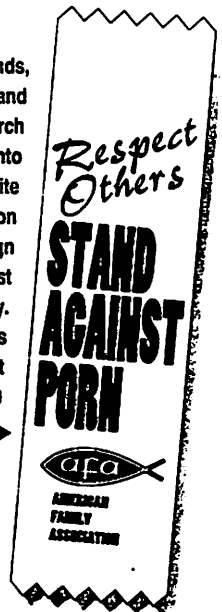
Encourage your governor and/or mayor to officially declare October 30-November 6 Pornography Awareness Week.

Order your PAW Information Packet today for only \$3. Call 601-844-5036.

Sponsor an anti-porn billboard in your community. They are inexpensive and very effective. See page 22 for pricing details.



Enlist friends, family and church members into the White Ribbon Campaign Against Pornography. Order ribbons from AFA at \$22/100



Use AFA's new porn prevention comic book as a Sunday school supplement. See page 19 for details.