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U.S. Department of Justice



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May 29, 2003

Ms. Sandy Rios, President
Ms. Janet M. LaRue, Chief Counsel
Concerned Women for America
1015 Fifteenth Street, N.W., Suite 1100
Washington, D.C. 20005

Dear Ms. Rios and Ms. LaRue:

Thank you for your letter dated April 30, 2003, inquiring into the status of our office's investigations and prosecutions of obscenity cases. We applaud your efforts to clean up the Internet. The level of pornographic materials on the Internet has reached unconscionable proportions. Because so much of what is offensive on the Internet does not meet the legal standard for obscenity, it is important that organizations like yours continue to pressure providers to take steps to prevent unsolicited pornographic spam.

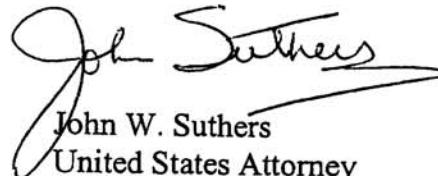
I can assure you that our office is committed to vigorously investigating and prosecuting cases involving obscenity and child exploitation. Indeed, four of our prosecutors (Patricia Davies, Jennifer Mardosz, Valeria Spencer, and Suneeta Hazra) have developed a particular expertise in regard to these types of prosecutions. Ms. Davies attended the Federal Prosecutors' Symposium on Obscenity in June of last year in Columbia, South Carolina. Additionally, Ms. Mardosz and Ms. Spencer will attend a specialized training session on the prosecution of child exploitation cases which will be held in Columbia, South Carolina in July.

In the past several years, this office has successfully prosecuted 17 cases involving the possession and/or distribution of child pornography and two obscenity cases. These defendants have received sentences in the range of 6-16 months (for obscenity cases) and 27-33 months (for the pornography cases). Additionally, there have been seven prosecutions against individuals who have traveled to our state with the intent to engage in sexual relations with a minor child. These defendants have generally received a sentence of 18-33 months. We also recently indicted an individual for attempting to produce child pornography. That person is facing a mandatory minimum sentence of ten years. I can assure you that there are many, many more investigations currently being pursued by prosecutors in our office. Because they are in the investigative stage, we cannot comment on those cases.

Although we are not able to provide specific reasons for declining a particular case, there are many reasons why obscenity and child pornography cases are ultimately declined by our office. For example, many of the complaints we receive in this office are not prosecutable because of the difficulty in identifying the people or companies that create and distribute the materials. It seems that the persons responsible for distributing these types of materials expend a great deal of effort moving their materials from place to place on the Internet, making their identification very difficult. Additionally, the objectionable material giving rise to a complaint may not be considered obscene under the Supreme Court's obscenity standard set forth in *Miller v. California*, 413 U.S. 15 (1973). In the area of child pornography, the Supreme Court also issued us a legal setback when it decided that virtual images could not form the basis of a child pornography prosecution. See *Ashcroft v. Free Speech Coalition*, 122 S. Ct. 1389 (2002). Fortunately, Congress has recently attempted to place a "legislative fix" on that ruling through the recently enacted "Protect Act;" however, it remains to be seen if Congress' efforts will be upheld by the Courts.

Thank you for your inquiry about the status of our obscenity prosecutions. Please be assured that we take all the complaints we have received very seriously and will continue to investigate and prosecute those individuals who violate federal obscenity and child exploitation laws. Please do not hesitate to contact myself, or any of the prosecutors listed above, if you have any additional questions regarding federal obscenity and child exploitation prosecutions.

Sincerely,



John W. Suthers
United States Attorney
District of Colorado