



U.S. Department of Justice

Criminal Division

Child Exploitation and Obscenity Section

1400 New York Avenue, NW
Suite 600
Washington, DC 20530
(202) 514-5780 FAX: (202) 514-1793

JUL 1 2004

Ms. Nancy Vernon

on 98387

Dear Ms. Vernon:

Thank you for your e-mails of May 26, 2004, to Attorney General Ashcroft and of June 15, 2004, to Assistant Attorney General Wray. Both of your e-mails have been forwarded to the Child Exploitation and Obscenity Section of the Criminal Division of the Department of Justice for a response. Because you provided two different addresses on your e-mails, we are sending this response to both addresses.

We understand that you have contacted the United States Attorney's Office for the Western District of Washington as well as the Federal Bureau of Investigation concerning your allegations that the State of Washington Office of Public Instruction has transferred obscene material to minors as a result of its "LINKS Learning" website. As explained in further detail below, given the nature of your allegations, your decision to report these allegations to local authorities familiar with applicable community standards was the correct one.

Your May 26, 2004, e-mail referred to the requirements of *Miller v. California*, 413 U.S. 15 (1973). As you know, in that case the Supreme Court set forth the three-part test that must be met before any material can be deemed to be legally obscene: (a) an average person applying contemporary community standards finds that the material, taken as a whole, appeals to the prurient interest; (b) an average person applying contemporary community standards finds that the material depicts proscribed behavior in a patently offensive manner; and (c) a reasonable person, viewing the material as a whole, finds that the material lacks serious literary, artistic, political, or scientific value.

Community standards are a key part of the *Miller* obscenity test. Given the importance of community standards under the *Miller* test, local prosecutors familiar with their communities are the proper authorities to determine whether obscenity allegations should be prosecuted.

Accordingly, we would defer to local authorities in your community – such as the United States Attorney's Office for the Western District of Washington – for a determination as to whether the facts and circumstances concerning the material available through the "LINKS Learning" website would support an obscenity prosecution.

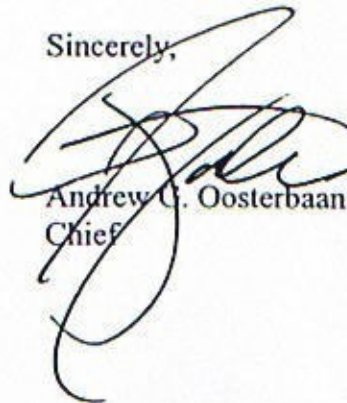
We are forwarding the materials you sent us listing your various allegations to the FBI with a request that they verify if your allegations have been investigated. If they determine your allegations have not been investigated, we are asking the FBI to conduct any investigation necessary to determine whether your allegations involve a violation of the obscenity statutes.

While we are pleased to insure that your allegations receive due consideration by the appropriate authorities, we understand that the material about which you complained is no longer accessible through the "LINKS Learning" website. It thus appears that your actions in bringing the nature of the material that could be accessed from the "LINKS Learning" website to the attention of the appropriate authorities helped result in that material no longer being accessible from that website.

We appreciate referrals from interested citizens such as yourself because law enforcement works best when citizens share in the effort to enforce the nation's laws. In the event you may have allegations concerning violations of obscenity laws in the future, we respectfully recommend that you address them to local law enforcement authorities for the reasons stated above.

Thank you not only for the information you provided, but for your interest in reporting alleged violations of the obscenity laws.

Sincerely,



Andrew C. Oosterbaan
Chief

Copy also sent to:

Ms. Nancy Vernon
PMB 192
17404 Meridian E., Ste. F
Puyallup, Washington 98375