

September 20, 1972

The Acting Director, F. B. I.

HRJ:JMK
97-16-200

Henry E. Peterson
Assistant Attorney General
Criminal Division

Obscene Films Being Exhibited in Washington, D. C.

A member of the staff of this Division has viewed the films presently being exhibited at two midtown theaters, the Plaza at New York Avenue near 14th Street and the Trans-Lux, on 14th Street just north of New York Avenue. The films being shown at these theaters are, respectively, "Deep Throat" and "School Girl". In the opinion of this Division, there can be no question about the obscene character of each of these films as well as other "trailers" exhibited in each of them, particularly a trailer advertising the present film on view at the Playhouse Theater, 15th Street, N.W., north of New York Avenue, where the film "Sticky Situation" is being exhibited. While the last-named film was not viewed, the trailer shown at the other two theaters concerning it indicates a very strong likelihood that, like the other two films, the one being exhibited at the Playhouse Theater is similarly unquestionably obscene. Each of them is clearly of the genre labelled "hard core pornography". You are, accordingly, requested to conduct appropriate investigations to establish a violation of Section 1462, Title 18, United States Code. We will not attempt to set forth in this memorandum the details of such an investigation since you are well acquainted with the evidentiary requirements to prove such a violation.

Please give this matter priority and provide both preliminary oral report and confirming written report to the Government Regulations Section (formerly the Administrative Regulations Section) of this Division and to the United States Attorney for the District of Columbia. Telephone communication may be utilized and information and/or advice may be obtained from Mr. Donald H. Feige, extension 3605, of this Division.

For your information there is attached a clipping from the Washington Post for August 28, 1972, pertaining to the film "School Girl". The information contained in that article may provide sources from which investigation leads may be obtained.

145626-2

SEARCHED	INDEXED
SERIALIZED	FILED
SEP 29 1972	
FBI - WASHINGTON FIELD OFFICE	

[Redacted]

While this request is being limited to those film exhibitions concerning which this Division has received direct information as to the obscenity of the films being shown, it is altogether likely that other theaters within the District of Columbia which specialize in exhibiting "x-rated" films may be showing similar productions to those being exhibited in the theaters visited. If so, it is requested that investigation also be conducted as to those premises and the reports of investigation provided as above indicated.

Attachment

Wash Post - 8/28/72

MEDIA

Film

"Despite washed out color and uncertain sound, 'School Girl' is very good indeed. Coming to Washington with impeccable credentials it does not disappoint. An accurate reflector of the state of the art today, it is the latest skin flick to see if you're seeing only one."

High Grades for 'School Girl'

By Kenneth Tamm

The business for a good film needs to be everywhere, but we had a pointing millimeter today. The surface, too, is not necessarily, it is a hard to find.

A piece of film, a first of the kind, after a show in the 'School Girl' I was asked by the driver if the film was good. "Oh, yes," he said, "I was threatened to go to jail and so on if I didn't see it."

When I was informed that the reaction, one must be getting out of a film, the word, "School Girl" is good word, it is a good word.

It is a film washed out color and uncertain sound, but 'School Girl' is very good indeed. Coming to Washington with impeccable credentials and Grand Prize at American's Adult Film Festival, its distribution by Columbia Pictures, the success of the porno product it does not ob-

scure. An accurate reflector of the state of the art today, it is the latest skin flick to see if you're seeing only one.

It is a film that could not have been more explicit had it been made in order for the late King Farouk. While probably no more graphic— but certainly no less— than the general run of downtown vehicles, which have reached a level of directness that makes old-style studio look childish, "School Girl" is raised above the common level by a trio of interesting factors.

First, it is blessed with an ideal conceit, one that carries the story, such as it is, forward so nicely it's a wonder it wasn't tried before. Involved is our Debra, a college sociology student, assigned to do a paper emphasizing original research or a substitute of her choice.

With admirable fortitude, Debra chooses sexual subcultures and answers a series of ads in the underground Berkeley Barb involving un-

usual sexual proclivities. This leads her, in very rapid order, to a wife trying to awake the dormant sexuality in her jaded husband, a telephone pervert, a father and son team, a lesbian encounter and a very genuine orgy.

Her report to the class concludes that "these people are really lonely, they hate what they're doing, their sex lives are perverted and twisted in a frantic search for sexual fulfillment they never seem to find." Not bad for 90 minutes.

Even better is the slight but every amusing humor that enlivens much of the film and prevents tedium, the wry touch that is more welcome for being unexpected.

Debra's boyfriend, George, for instance, makes love in white socks because "I'm trying to bring 'em back—even Spiro Agnew wears 'em." When she leaves him after a particularly explicit session, he gripes, "I was Ryan O'Neal you

wouldn't do this to me. More reminiscent of Andy Warhol than Woody Allen perhaps, but in context, not bad at all."

The third major strong point of "School Girl" is cast. Gone are the hard-nosed prurient types, both male and female, who make other films of this type tiresome. The look here is of non-studied reality, of folks, decidedly young and collegiate, down to their just-filled, somewhat faces, just musing about

As an additional and welcome bonus, they to be genuinely curious about what they're doing, which way be

Let there be no "School Girl" is not but rather a sexual play complete with cloths and approval. It spends very little on passive behavior and is probably really a legitimate film.

SEP 29 1972

FBI

Transmit in _____ Via Airtel
(Type in plaintext or code)

(Priority)

To: SAC, WFO

Date 9/28/72

From: Acting Director, FBI

OBSCENE FILMS BEING
EXHIBITED IN WASHINGTON, D. C.
ITOM
OO: WFO

Enclosed for WFO are two copies of a self-explanatory memorandum (with its attachment) dated 9/26/72, from the Criminal Division, Department of Justice. Enclosed for the information of Memphis is one copy of this memorandum with attachment.

Reference is made to Memphis teletype to the Bureau 9/1/72, captioned, "Art Theater Guild, Inc., dba Studio Theater, Memphis, Tennessee, ITOM, OO: Memphis," which involves film entitled "School Girl."

WFO conduct investigation requested in Departmental memorandum. This investigation is to receive expeditious and preferred investigative and supervisory attention. Close contact should be established with the U. S. Attorney for the District of Columbia relative to this matter.

Submit first report, with extra copy for dissemination to the Department, by cover airtel, attention Criminal Section, to reach the Bureau no later than 10/20/72. Keep Bureau advised of pertinent developments.

Enclosure (2)

1 - Memphis (For Info) (145-234) (Enc. 1)

(Do not type below this line.)

b7c

145-626-3

SEARCHED	INDEXED
SERIALIZED	FILED
SEP 29 1972	
FBI OFFICE	
243	

10/20/72

AIRTEL

TO: ACTING DIRECTOR, FBI

FROM: SAC, WFO (145-626)

OBSCENE FILMS BEING EXHIBITED
IN WASHINGTON, D. C.
ITOM
(OO:WFO)

Re Bureau airtel to WFO dated 9/28/72.

Enclosed for the Bureau are the original and six copies of an LHM setting out results of investigation conducted at WFO in connection with obscene films which are being displayed in the Washington, D. C. area.

For the information of the Bureau on 8/24/72, investigation was instituted at WFO in connection with theaters in the WDC area which were displaying films mentioned in referenced airtel and departmental memorandum. WFO file number 145-622 is currently investigating the film "Deep Throat" which was displayed at the Plaza Theater, 1336 New York Avenue, N.W., WDC. On the same date, investigation was instituted on the Playhouse Theater, 727 15th Street, N.W., WDC, which was exhibiting the film "Sticky Situation". The Playhouse Theater is currently the subject of WFO file number 145-621. In addition, investigation has been conducted and completed at WFO in connection with the investigation of the film "School Girl", which was being displayed at the Trans-Lux Theater, 736 14th Street, N.W. This investigation was conducted and reported in WFO file number 145-623.

On 10/3/72, the facts as set out in departmental memo dated 9/26/72, were discussed with AUSA JOHN P. RUDY, II, Chief, Grand Jury Section, U. S. Attorney's Office, WDC.

2- Bureau (Enc. 7)
3- WFO
(1- 145-622)
(1- 145-621)

TEB:lap
(5)

145-622-5
SEARCHED _____
SERIALIZED _____
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Mr. RUDY stated that he would discuss the matter with USA HAROLD TITUS and advise of a decision after conferring with TITUS. On 10/13/72, AUSA RUDY advised SA [redacted] that the Grand Jury Section would proceed with investigation in this matter and after obtaining sufficient information, subsequent to Bureau investigation, he would issue a subpoena for the film "Deep Throat" to be brought into U. S. District Court, WDC for an adversary hearing.

WFO is continuing its investigation in the above matters and will submit reports to the Bureau in accordance with directions as set out in referenced Bureau airtel.

Washington, D. C. 20535
October 20, 1972

OBSCENE FILMS BEING EXHIBITED
IN WASHINGTON, D. C.

On August 24, 1972, investigation was instituted at Washington Field Office of the Federal Bureau of Investigation concerning the following movies being exhibited at the below listed theaters:

<u>FILM</u>	<u>THEATER</u>	<u>ADDRESS</u>
Deep Throat	Plaza Theater	1336 New York Ave., N.W., Washington, D. C.
School Girl	Trans-Lux	736 14th St., N.W., Washington, D. C.
Sticky Situation	Playhouse Theater	727 15th St., N.W., Washington, D. C.

Investigation determined that the film "Deep Throat" was distributed by Wheeler Film Company, 106 North Lee Street, Alexandria, Virginia. Subsequent investigation has also determined that the offices of Wheeler Film Company are located at 4701 42nd Street, N.W., Washington, D. C. and the actual warehouses for Wheeler Film Company are located at the Lee Street address.

Investigation has also determined that the film "School Girl" is currently being distributed by the Sherpix Corporation of New York. The film "School Girl" was judged obscene in U. S. District Court, Memphis, Tennessee on August 31, 1972, and on September 12, 1972, the Federal Grand Jury at Memphis, Tennessee returned a one count indictment against Art Theater Guild, Incorporated for distribution of the film "School Girl". Investigation at Washington, D. C. determined

7- Bureau
3- WFO (145-626)
(1- 145-622)
(1- 145-621)

TEB:lap
(10)

145-626-4

SEARCHED	_____
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OBSCENE FILMS BEING EXHIBITED
IN WASHINGTON, D. C.

that the film "School Girl" was selected by corporation officers of the Trans-Lux Corporation, 625 Madison Avenue, New York City, New York. The facts of that investigation are currently being presented to a Federal Grand Jury in Memphis, Tennessee for conspiracy prosecution for violation of Title 18, U. S. Code, Section 1462.

On October 3, 1972, Special Agents of the Federal Bureau of Investigation discussed with Assistant United States Attorney John F. Rudy, II the contents of the film "Deep Throat" for possible prosecution for violation of Title 18, U. S. Code, Section 1462. Assistant United States Attorney Rudy requested that an investigation be conducted to determine the exact location of a copy of the film "Deep Throat" which was the property of Wheeler Film Company so that a show cause order could be drawn up directing the film to be brought to U. S. District Court, Washington, D. C. for the purpose of an adversary hearing. Investigation is presently being conducted to locate copies of the film which are the property of Wheeler Film Company.

Assistant United States Attorney Rudy stated that in view of the fact that the film "School Girl" had been ruled to be obscene in U. S. District Court, Memphis, Tennessee and the United States Attorney at Memphis, Tennessee was attempting to prosecute the theater owners throughout the country who have exhibited the film "School Girl", he would decline prosecution at Washington, D. C. in favor of prosecution currently pending at Memphis, Tennessee.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency nor duplicated within your agency.

10/27/72

SA [redacted]

UNSUBS, Movies at the
Playhouse Theatre,
727 15th Street, N.W.,
Washington, D.C.,
telephone 783-8500
ITOM
(90:WFO)

Two movies have been viewed at the Playhouse Theatre, "Sticky Situation" and "Dynamite" which is playing there at the present time. FD-302's are in the file showing the results of viewing these films.

Also contained in the file is the results of an interview conducted with [redacted] at the Playhouse Theatre. [redacted] furnished information on the shipping labels of both of these films. The films are being shipped from Bonded Services, a division of Novo, aka Bonded Film Distributors, 550 Main Street, Port Lee, New Jersey, for the account of Distribupix, aka Distribpix. [redacted] is cooperative and stated he would furnish information in the future. [redacted] also stated that the mode of shipping for both of these films was the Clark Transfer or Shipping Company here in Washington, D.C.

On 10/18/72, AUSA JOHN F. RUDY II, Chief of Grand Jury Section, Washington, D.C., stated that he is of the opinion, personally, that most of the films being shown at the Translux Corporation Theatres are obscene. He stated that he will consult with the case agent in this matter on 10/31/72, regarding the possibility of obtaining this movie and conducting an adversary hearing to determine if the movie can be judged obscene. He recommended that the Clark Transfer Company be contacted to determine details of shipping the film "Dynamite" so that [redacted] [redacted] s name can be kept out of any affidavit in this matter.

h- WFO
(1- 145-622)
(1- 145-626)

JK:mfv
(h) mfv

145-626-6

SEARCHED	INDEXED
SERIALIZED	FILED
OCT 27 1972	
FBI - WASHINGTON OFFICE	

[redacted] 2473

LEADS

WASHINGTON FIELD

AT WASHINGTON, D.C. Will contact Clark Transfer Company to obtain records regarding shipping of film "Dynamite". Should be noted that [redacted], has been contacted in the past regarding ITOM matters. He also is the individual that would be subpoenaed to provide these documents as evidence.

2) Upon coverage of lead at Clark Transfer Company, contact AUSA JOHN F. RUDY II so that he may consider seizing the film "Dynamite".

Memorandum

TO : SAC, WFO (145-626)

DATE: 11/29/72

FROM : SA

b7C

SUBJECT: OBSCENE FILMS BEING EXHIBITED
IN WASHINGTON, D.C.
ITOM
(OO:WFO)

Reference WFO letter to Acting Director, dated 10/20/72 and LHM dated 10/20/72.

Investigation has been instituted at WFO and subsequent to these investigations the following films have been seized pursuant to the issuance of a search warrant on the below listed titles, theaters and dates:

<u>Film</u>	<u>Theater</u>	<u>Date</u>
"Hot Circuit"	Trans-lux	11/1/72
"Distortions of Sexuality"	Plaza	11/1/72
"Little Sisters"	Janus I	11/20/72

The above films are now subjects of substantive files at WFO with "Distortions of Sexuality" and "Hot Circuit" the subject of WFO file 145-630 and "Little Sisters" the subject of WFO file 145-634. Investigation is continuing at WFO to locate additional films in the WDC area which the U.S. Attorney at Washington, D.C. will deem suitable for prosecution and will subsequently be seized upon the issuance of a search warrant when approved by the U.S. Attorney. In view of the fact that each individual film is being handled as a separate case, it is recommended that this file with the general caption Obscene Films Being Exhibited in Washington, D.C. be closed inasmuch as a separate case is currently pending on each individual film.

THE STRIPPER

Date: 12/6/72

with file: [signature]

① - WFO

TEB:cmr
(1)

[Handwritten initials]

145-626-7

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 29 1972	
FBI - WFO	

[Handwritten signature over stamp]



12/14/72

AIRTEL

TO: SAC, DENVER
FROM: SAC, WFO (145-626) (P)
OBSCENITY FILMS BEING EXHIBITED
AT WASHINGTON, D. C.

Re WFO phone cal to Denver dated 12/12/72.

For information of Denver, investigation is currently being conducted by WFO in the above matter and to date three films have been seized from local theaters and investigation is continuing to develop prosecution against both distributors of subject films as well as corporation officials responsible for ordering films for theaters and subsequent transportation of them.

Currently prosecution in these matters are being conducted by AUSAs GAREY G. STARK and JOHN F. RUDY, II; Chief, Grand Jury Section, U.S. Attorney's Office. During November, 1972 AUSAs STARK and RUDY listened to motions being presented to the U.S. Supreme Court on Obscenity Matters in the cases of New York vs. HELLER and case of ROHDEN vs. Kentucky. During these motion presentations a question was presented by Justice HOWELL regarding the expense incurred in reproducing films rather than seizing them for the protection first amendment rights.

On 12/8/72, AUSA STARK advised SA [redacted] that the U.S. Attorney's Office was preparing prosecution on the three films seized at WFO and requested that information.

2- Denver
1- WFO *rae*
TEB:rae
(3)

145-626-8 SEARCHED _____
SERIALIZED *cll*

INDEXED _____
FILED _____
cll
WFO
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JATZ

b7c

be obtained should the above question be asked of them in preparation of their prosecution in this matter. AUSA STARK called attention to the fact that a recent film seizure had occurred at Denver, Colorado by the local police department in which a court order was obtained for the police department to enter a local theater and video tape a movie while in progress. AUSA STARK requested that in addition to obtaining information on the expense and time which would be incurred in a reproducing a film from negative copies, he would also desired to present information regarding the expense and time incurred in video taping a movie while in progress. He requested that if possible the information concerning this incident in Denver be obtained from the local police department for use in presentment of prosecution at Washington, D. C.

LEADS

DENVER

AT DENVER, COLORADO. Contact local police department involved in video taping obscene film and obtain information on expenses, time, and technical difficulties incurred in obtaining a video tape of film.

FBI

Date: 12/20/72

Transmit the following in _____
(Type in plaintext or code)

Via AIRTEL AIRMAIL, REGISTERED
(Priority)

TO: SAC, WFO (145-626)
FROM: SAC, DENVER (145-266) (RUC)
SUBJECT: OBSCENITY FILMS BEING EXHIBITED
AT WASHINGTON, D.C.

145-626-9

SEARCHED	INDEXED
SERIALIZED	FILED
DEC 22 1972	
FBI - WFO	

Re WFO airtel to Denver 12/14/72.

On 12/13/72 SA [redacted] interviewed Assistant DA for the City and County of Denver FRED ROGERS. He advised his office had attempted to use a procedure involving video tapes which now has become the subject of an appeal to the Colorado Supreme Court. The procedure utilized involved the viewing of potentially obscene films being shown in Denver by a Denver police officer who then furnished an affidavit of what he saw to the Denver County Court Judge who issued a court order indicating there was sufficient cause shown for a video taping of the film in question. Police officers armed with this court order would then return to the theater and video tape the movie. The tape would then be played to the judge who had issued the order and the officer who had first viewed the film would testify as to the accuracy of the video taping in relation to what he had seen initially. The judge upon viewing the video tape would make a finding if there was or was not sufficient cause to require the owners of the film to be noticed into court to show cause why the film should not be characterized as probably obscene. At this point an adversary hearing would be held between the owners of the film and the Government, but at this point no witness testimony would be admitted re the question of obscenity. The court would then find the film obscene and issue a search warrant for its seizure.

In the case currently at issue the defendants obtained a Writ of Prohibition requiring the Government to show cause why their actions should not be held in violation of the 1st Amendment of the U. S. Constitution. The Government has countered in a brief now before the Colorado Supreme Court requesting the USDC show cause why it should not have allowed

2 - WFO (RM) DAB:pld
1 - Denver (3)

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

b7c

JW
12/28/72

DN 145-100
the procedure to have taken place. He stated the issue concerning copyright laws was not raised in this particular case as the film involved ("Animal Lovers") was actually "pirated" from the true owners and therefore the defendants cannot claim violation of copyright laws.

On 12/13/72 Agent [redacted] Organized Crime Unit, Denver DA's Office, advised the following equipment was utilized re video taping of obscene movies: Sony Model AV3400 Video Rover Camera II. This is a camera-recorder ensemble weighing six pounds and being approximately ten inches in length. The unit has a 30-minute capacity and may be hand held or placed on a tripod. The recorder portion of the ensemble weighs 18 pounds and utilizes 1/2" tape. The built-in battery pack has a 45-minute life expectancy but can be converted to AC current with the use of an extension cord and adapter.

Lenses utilized for the camera are the VCL-16 which is a 16 to 64 mm zoom lense with F2 speed and a VCL-8 8.5 mm wide angle lens with an F1.5 speed.

[redacted] advised the entire outfit costs approximately \$1500. Also necessary for viewing the video tapes is a Sony 18" TV monitor which is priced between \$195 and \$295. [redacted] also advised that the heavier unit, not designed for portable or covert use, is the Sony Model AV3600 which has a one-hour capacity. This recorder's price is \$700 and its weight is 30 pounds.

[redacted] stated useable tapes can be produced with this unit with little experimentation. The tapes are as in any tape recorder reuseable. [redacted] also advised other brands of video tape equipment are available at comparable prices.

For information of WFO, the Bureau is in possession of video tape equipment utilized at the FBI Academy.

FBI

AIRTEL

Transmit in _____
(Type in plaintext or code)

Via _____

(Priority)

Date January 3, 1973

TO: SAC, Albany

FROM: *[Signature]* ACTING DIRECTOR, FBIINTENSIFIED INVESTIGATIONS OF
INTERSTATE TRANSPORTATION OF OBSCENE MOVIES
ITOM

The Criminal Division of the U.S. Department of Justice has requested intensified investigative efforts into captioned matters pledging its full support in the prosecution of cases arising from our investigations. At this time the Department is stressing in particular investigations concerning the interstate transportation of obscene movies which are being shown in various theatres throughout the country. In accordance with the Department's request and pursuant to the provisions of Section 57, Volume II, Manual of Instructions, all offices will institute investigation with the following guidelines.

Using experienced, mature Agents, conduct a survey of films being shown in theatres in each Headquarters City and its environs where it is indicated through newspaper advertising or other available sources that such films contain hard core pornography. Survey may likewise be conducted in other large cities where a proliferation of this activity has become evident and it is believed that there is a high prosecutive potential. For survey purposes, pornographic films are considered "hard core" when they contain explicit scenes showing actual acts of intercourse, cumilingus, fellatio, masturbation, or ejaculation all with a display of genitals. When observation of the films reflects such hard core obscenity, investigation should be conducted to determine whether they have moved in interstate commerce and by

2 - All Field Offices

(Do not type below this line.)

145-686-10

AD 145-00

SEARCHED	INDEXED
SERIALIZED	FILED
JAN 05 1973	
FBI	
[Signature]	

b7c

Airtel to All SACs

Re: INTENSIFIED INVESTIGATIONS OF
INTERSTATE TRANSPORTATION OF OBSCENE MOVIES

what means. This should include efforts to identify the persons transmitting and receiving the films; the common carriers used and if possible, the producers of the films. Experience indicates that theatres exhibiting hard core pornography usually have only one main source supplying these films on a regular basis and all films exhibited are of the same general nature.

Through the common carriers you should be able to establish the shipping patterns of subjects and obtain pertinent documents and records. It is recognized that the names of the films will not likely be shown on the documents held by the common carrier, but for establishing probable cause as to interstate shipment, the showing of a pattern of regular interstate shipments will satisfy that requirement.

The Department has advised that in order to insure the proper seizure of obscene films for evidence in trial it desires that "prior adversary hearings" be used prior to any seizures. This practice will consist of the following procedures which will require close cooperation between the investigating Agents, the U. S. Attorney (USA) and the U. S. District Court or U. S. Magistrate in each case:

1. When sufficient evidence has been obtained to establish probable cause in regard to the interstate shipment, Bureau Agents should then view a film as close as possible to its first showing at the local theatre. They should obtain full details of the film including the overall time viewed, the length and context of the various scenes of the film as well as the content of the sound track. In describing scenes in FD-302s, affidavits and related papers, Agents should utilize the clinical terminology similar to that used in paragraph two of this communication so that there is no factual doubt as to the acts being described. Avoid use of general terms such as obscene or lewd in describing acts as these terms indicate the viewer's opinion which should be left to the discretion of the court. Every effort should be made to identify the specific interstate shipment through which the film was received locally.

Airtel to All SACs

Re: INTENSIFIED INVESTIGATIONS OF
INTERSTATE TRANSPORTATION OF OBSCENE MOVIES

2. Immediately after viewing, an affidavit should be prepared setting forth the facts concerning the interstate transportation as well as the details of the contents of the film viewed.

3. The affidavit should then be presented to the USA who should prepare a petition for a temporary restraining order prohibiting the destruction, mutilation, alteration or other change of its character or the removal of the film from the theatre. He should likewise prepare a petition for an order to show cause why a search warrant (which should be prepared simultaneously) should not be executed. The order to show cause may authorize defendants to produce the film in court in defense of the order but should not otherwise authorize its removal from the theatre. The above orders should be directed to all parties who have a proprietary interest in the film.

4. The necessary documents should then be presented by the USA to the court or magistrate who should then issue the appropriate orders setting a time in the immediate future (preferably forthwith but usually no later than the following day) for the hearing on the order to show cause. The search warrant should be issued at that time, however, it cannot be executed until after the hearing on the order to show cause.

5. The order to show cause and temporary restraining order should then be served on the appropriate individuals. Service by mail may be made on out-of-state subjects, or the U. S. Marshal may serve them. It is noted in this regard that where possible, service should be at the end of the day's showing of the film and the hearing date and time should usually be the following morning. This should defeat any claim of a violation of the subjects' First Amendment rights.

Airtel to All SACs

Re: INTENSIFIED INVESTIGATIONS OF
INTERSTATE TRANSPORTATION OF OBSCENE MOVIES

6. If the Government prevails at the hearing on the order to show cause, the search warrant should then be executed. The search warrant should be for the search of the theatre premises appropriately described and should be for film in question as well as all shipping documents, advertising and other material connected with the film.

7. Seizure should not be made of other films located at the theatre and not made subject of the previous hearing but may be made subject to additional similar proceedings if appropriate.

Films seized under the above procedure may likely have to be produced in court or before a Federal Grand Jury a short time after seizure. Therefore, delay in sending these films to the Laboratory is authorized in order to avoid any conflict with such proceedings.

After seizure is made you should make every effort to insure the case is presented to the Federal Grand Jury at the earliest possible time seeking indictments against all subjects.

The Department is sending a communication to all USAs advising them of this stepped up program and furnishing them with appropriate instructions and directives. In any case where the USA refuses to prosecute or institute appropriate proceedings, you should immediately furnish the details of same in letterhead form to the Bureau so that the matter may be discussed with the Department.

The Bureau has gone on record strongly urging the prosecution of all local exhibitors where it will not jeopardize prosecution against the more serious violators, especially in those cases where it appears local authorities are taking no action. The Department has indicated it will take such action, considering each case on an individual basis. Where appropriate it will consider granting immunity to some individuals to provide essential testimony against principals.

Airtel to All SACs

**Re: INTENSIFIED INVESTIGATIONS OF
INTERSTATE TRANSPORTATION OF OBSCENE MOVIES**

Within 45 days of receipt of this communication, submit an airtel identifying the theatres surveyed and their locations within your divisions. Your communication should be captioned as above.

Furnish two copies of all reports in Interstate Transportation of Obscene Matter (ITOM) cases to the Bureau.

These instructions should in no way be interpreted to minimize investigation into other areas involving ITOM violations.

Memorandum

TO : SAC WFO (145-626)

DATE: 1/29/73

FROM : SA [Redacted]

b7c

SUBJECT: *obscene films being exhibited
at Washington D.C.*

Re Denver Airtel WFO 12/20/72

On 1/4/73 all facts in reference
airtel regarding expenses incurred in
video taping films were presented
to U.S. Magistrate Arthur L. Burnett as
requested by him.

It is recommended this case be
closed.

145-626-11

SEARCHED	INDEXED
SERIALIZED <i>ED</i>	FILED <i>ED</i>
JAN 31 1973	
FBI - WASHINGTON FIELD OFFICE	



Violate Rights

By Timothy S. Robinson
Washington Post Staff Writer

The American Civil Liberties Union has charged that four ongoing federal grand jury probes here into allegedly pornographic films violate the basic constitutional rights of distributors and theater owners being investigated.

"To the extent that these investigations focus on obscenity as a crime, we believe they are without redemptive social importance," the civil liberties group said in a statement issued by Florence Isbell, execu-

tive director of the National Capital Area of the ACLU.

While not having been called upon to represent anyone in the current probes, the ACLU said it opposes "any restraint, under obscenity statutes, on the rights to create, exhibit or distribute materials to adults or the right of adults to choose the materials they read or view."

U.S. District Court records show that the Janus movie theaters, two adjacent theaters near Dupont Circle, are the focal point of one of the

four grand jury investigations. John F. Rudy II, head of the grand jury section of the U.S. attorney's office, said during a hearing before U.S. District Judge Charles R. Ricketts two weeks ago that one of the investigators specifically ordered on the Janus theaters and their owner, Martin Field.

Rudy had earlier acknowledged that distributors of allegedly pornographic films in the Washington area and the owners of city theaters Old show them have been the subject of a four-month investiga-

tion by his office. The investigation will continue, he said, until the grand jury has completed its work.

Such owners and distributors could be indicted on charges of "knowingly participating in obscene activities," Rudy said in the hearing. He also said that the grand jury is investigating the activities of the theaters and their owners.

The grand jury also is investigating the activities of the theaters and their owners.

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DATE 2-12-73

PAGE C-1

THE WASHINGTON POST & TIMES HERALD

THE EVENING STAR

THE SUNDAY STAR

b7C

145-626-12

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3
OFFICE
243

2/20/73

AIRTEL

TO: ACTING DIRECTOR, FBI

FROM: SAC, WFO (145-626)

**INTENSIFIED INVESTIGATIONS OF
INTERSTATE TRANSPORTATION OF
OBSCENE MOVIES
ITOM**

Re Bureau airtel to Albany 1/3/73, and WFO airtel to Bureau dated 10/20/72.

WFO has been involved in an intensified ITOM program since August, 1972. The following is a summary of investigation currently pending.

WF 145-630. On 11/1/72 a search warrant was issued by U.S. Magistrate ARTHUR L. BURNETT at U.S. District Court, (USDC), Washington, D.C., (WDC), for the seizure of the film entitled "Distortions of Sexuality" exhibited at the Plaza Theatre, 1336 New York Avenue, N.W., and the film "Hot Circuit" exhibited at Trans Lux Theatre, 736 14th Street, N.W. An adversary hearing was held before U.S. Magistrate BURNETT on 11/3/72 and both films ruled obscene. Films have been displayed to a Federal Grand Jury which has also deemed the films to be obscene. Investigation is continuing to establish individuals at Sherpix, Distribpix and Trans Lux are responsible for shipment of films. Indictments expected to be forthcoming.

2 - Bureau

① - WFO

TEB: pmc

(3)

145-626-13

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Indexed	_____
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WF 145-633. On 11/21/72 a search warrant was issued by U.S. Magistrate ARTHUR L. BURNETT for the seizure of the film entitled "Little Sisters" being exhibited at the Janus I Theatre, WDC. Film seized on 11/21/72 and ruled obscene, at an adversary hearing on 11/22/72. Film entitled "Teenage Fantasies" also exhibited at Janus I Theatre and also subject of prosecution. Investigation determined that films distributed by Unique Film Distributors Inc., of New York and booked for the Janus Theatre by FRANK MORENO of California. On 2/16/73 FGJ, WDC, returned a 13 count indictment against MARTIN FIELDS, Janus Theatre, F and S Corporation, IRVIN DORFMAN, Unique Film Distributors, Inc., and FRANK MORENO. FIELDS testified before FGJ, WDC on 2/14/73 regarding transportation of above films.

145-624. Investigation regarding HERMAN LYNN WOMACK reflects that publications for which WOMACK previously convicted continue to be shipped in interstate commerce. Based on information obtained from evidence seized on execution of search warrant on 10/26/72 WOMACK along with DENNIS E. PRYBA and GARY J. WAHL were indicted on 2/9/73.

A survey of films currently being exhibited at WDC determined the following information:

Plaza Theatre, Playhouse Theatre, Prince Theatre (formerly Trans Lux) are all owned by the Trans Lux Corporation of New York. Subsequent to the seizure of films on 11/1/72 films displayed at these theatres are X-rated and in many cases do not even display exposed genitals. Most sexual acts are simulated.

Penn Theatre. This theatre also displays X-rated films which displays simulated sex acts.

Gayety Theatre. Films displayed at this theatre are of very poor quality. Films were reviewed at this theatre in November, 1972. A majority of the films showed mostly simulated sex acts, but contained numerous scenes of genital exposure and occasional scenes of penetration during sex acts. The attending AUSA did not feel at the time that these films were prosecutable.

Mark II Theatre. Films displayed at this theatre are of hard core material primarily of heterosexual activities. Investigation has determined that these films are obtained from Automatic Enterprises, 415 9th Street, N.W., WDC. Investigation is continuing to develop the source of these films before arriving at Automatic Enterprises.

Metropole Theatre. This theatre is an exclusive homosexual theatre for members only. Films shown are hard core homosexual films. Investigation has determined that these films are also obtained from Automatic Enterprises.

Art Theatre. Films displayed are hard core heterosexual films that are accompanied by a tape recorded sound which is unrelated usually to the scene displayed on the screen. Investigation has determined that these films are spliced from sections of other films at the offices of Sidney Lust Theatres in Bethesda, Maryland, and then delivered to the Art Theatre by

WFO is continuing its investigation to establish ITOM violations involving above theatres. Close contact is being maintained with the Grand Jury Section, U.S. Attorney's Office, WDC.

Memorandum

TO : SAC WFO (145-626)

DATE: 3-19-73

FROM : SA

b7c

SUBJECT: Intensified Investigations of
ITOM

Re WFO airtel to Bureau 2/20/73

Films in WDC area continue to be monitored on a frequent basis. No films have been observed that merit prosecution for which an interstate transportation element can be established.

Current prosecutive films and publications continue to be investigated in their substantive case files.

It is recommended case be closed.

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Date: 3/19/73

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145-626-14

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NR016 WA PLAIN
4:51 PM NITEL 6-15-73 VAE
TO ALL SACS
FROM ACTING DIRECTOR 2P

145-643-17-c
-18
N.P. COJ
N.P.

~~INTENSIFIED INVESTIGATIONS OF INTERSTATE TRANSPORTATION OF
OBSCENE MOVIES, ITOM.~~

REBUAIRTEL 1-3-73.

REFERENCED COMMUNICATION REQUESTED INTENSIFIED INVESTIGA-
TIVE EFFORTS INTO CAPTIONED MATTER AT REQUEST OF UNITED STATES
DEPARTMENT OF JUSTICE.

EACH OFFICE IS TO SUBMIT A SUMMARY OF ACTION TAKEN TO
IMPLEMENT INVESTIGATION REQUESTED FBI HEADQUARTERS. COMMUNICA-
TION MUST CONTAIN; NUMBER SURVEYS CONDUCTED, FURNISH TITLE OF
EACH CASE OPENED WHEREIN ADVERSARY HEARING HELD AND RESULTS OF
SAID HEARING. ALSO, IN THESE CASES ADVISE PROSECUTIVE PROGRESS
WHERE APPLICABLE TOGETHER WITH TITLE OF MOVIE.

END PAGE ONE

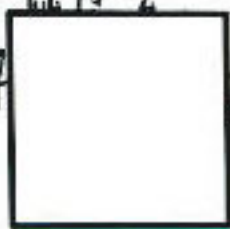
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PAGE TWO

COMMENT SPECIFICALLY RELATIVE TO ATTITUDE UNITED STATES ATTORNEYS TOWARD PROSECUTION OF VIOLATIONS BROUGHT TO THEIR ATTENTION UNDER THIS PROGRAM, AND IN THOSE INSTANCES WHERE UNITED STATES ATTORNEYS ARE RELUCTANT TO VIGOROUSLY PURSUE PROSECUTION, SET FORTH THEIR COMMENTS BY SEPARATE COMMUNICATION IN FORM SUITABLE FOR DISSEMINATION.

SUMMARIES ARE TO BE SUBMITTED BY AIRTEL TO REACH FBI HEADQUARTERS BY 6-27-73.

END

HOLD

6/26/73

AIRTEL

TO: ACTING DIRECTOR, FBI
FROM: SAC, WFO (145-626)

INTENSIFIED INVESTIGATION OF
INTERSTATE TRANSPORTATION OF
OBSCENE MOVIES
ITOM

Re Butel 6/15/73.

It is noted that the Bureau's first communication under the above captioned title dated 9/28/72, instructed WFO to conduct investigation regarding the films "Deep Throat" and "School Girl". In reply dated 10/20/72, WFO advised that investigation had been conducted on those films beginning 8/24/72. Regarding prosecution of the film "Deep Throat", Assistant United States Attorney (AUSA) JOHN RUDY advised that this film had been viewed by Assistant United States Attorneys of the Superior Court section who had declined prosecution and he felt he must also decline prosecution; however, AUSA RUDY was anxious to initiate prosecution of other pornography exhibitors in the Washington, D. C. (WDC), area. As a result the following cases have been opened and their prosecutive status listed below. It is noted that these cases were initiated prior to receipt of, Buairtel dated 1/3/73, under captioned title.

HERMAN LYNN WOMACK, ET AL
ITOM, OOJ
WF 145-624

On 10/26/73, Bureau Agents executed search warrants

2 - Bureau
1 - WFO
CDJ/jsk
(3)

145-626-17

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on the premises of Potomac News at 507 and 725 8th Street, S.E., WDC, at which time a large quantity of sexually explicit material and shipping records along with other business records were seized. As a result of subsequent investigation, WOMACK, along with DENNIS E. PRYBA and GARY J. WALL, were indicted on a ten count indictment returned on 2/9/73. Included in the indictment also was Potomac News and Media Arts, both corporations run by WOMACK along with J. E. News of Milwaukee, Wisconsin, and Publishers Direct Limited of North Hollywood, California. Trial in this matter was delayed pending a Supreme Court ruling on obscenity.

PAUL GLICKER, ET AL;
ITOM - CONSPIRACY
WF 145-630

On 11/1/72, Bureau Agents executed search warrants at the Translux and Plaza Theatres and seized two 35 mm films entitled "Hot Circuit" and "Distortions of Sexuality". These films were ruled obscene at an adversary hearing before U.S. Magistrate ARTHUR L. BURNETT on 11/3/73. As a result of subsequent investigation, seven individuals and six corporations have been indicted in indictments returned on 3/23/73, and 4/13/73. Subjects include producers, distributors and exhibitors of subject films. This case is currently in motion status and a trial date has not as yet been set. Subjects of prosecution in this matter include seven individuals and six corporations.

MARTIN L. FIELDS, ET AL
ITOM - CONSPIRACY
WF 145-633

On 11/20/72, Bureau Agents seized a 16 mm film entitled "Little Sisters" showing at the Janus I Theatre. The above film was ruled obscene at an adversary hearing before U.S. Magistrate ARTHUR L. BURNETT on 11/21/72. On 1/9/73, a copy of the 35 mm film entitled "Teenage Fantasies" was obtained through the issuance of a subpoena duces tecum. Investigation determined both films distributed by Unique Film Distributors Incorporated of New York and booked for Janus I Theatre by Indictments have been

WFO 145-626

returned by the Federal Grand Jury on 2/16/73, and 4/13/73, charging eight individuals and five corporations with ITOM-Conspiracy violations. Motions are pending before the Court and trial date has not as yet been set.

Since receipt of Buairtel, the following investigation has been conducted by WFO.

DONALD D. EPSTEIN, ET AL;
ITOM - Conspiracy
WF 145-645

On 3/6/73, Bureau Agents executed search warrants on the premises of Atlantic Magazine and Automatic Enterprises. As a result of the seizure by Bureau Agents, on 3/6/73, seizures by the Metropolitan Police, WDC, on 2/7/73, and seizures by the Los Alamitos Police Department on 3/2/73, a sixty-six count indictment was returned against eight individuals and four corporations charging them with ITOM - Conspiracy. Indictment against one of the individuals has since been dismissed. Motions are currently pending before the court and trial date has not as yet been set.

A summary of the above four cases reflects that currently WFO has pending indictments against twenty-five individuals and 19 corporations for various offenses in regards to the interstate transportation of obscene material. Although indictments against WOMACK and EPSTEIN are for shipment of printed material, it was noted that both of these individuals are involved in the shipment of 8 mm and 16 mm films although the U. S. Attorney, Washington, D. C., felt that prosecution of the printed material would be more feasible.

WFO continues to monitor X rated films in the WDC, area. At the present time, hard core X-rated films are being shown at the Art Theatre, 9th and F Streets, N.W., Mark II Theatre, 808 K Street, N.W., and the Stanton Art, 3110 18th Street, N.E. The Metropole Theatre, 411 L Street, N.W., continues to operate as a private club showing exclusively male homosexual films. WFO is currently conducting

WFO 145-626

b7C investigation in a case entitled [REDACTED] ET AL,
ITOM, OO:Miami" in which investigation may establish films
at the Mark II Theatre are being received from a Miami
source.

WFO has established contact with various projector
operators and the WDC theatres, and will be alerted to any
concrete evidence of ITOM violations at these theatres.

July 25, 1973

Director
Federal Bureau of Investigation

HMP:JIM:jr
97-012

Henry E. Petersen
Assistant Attorney General
Criminal Division

Obscenity Decisions

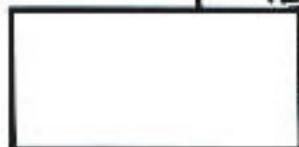
The decisions of the United States Supreme Court relating to the law of obscenity, which were handed down on June 21 and June 25, 1973, effect major changes in the substantive and procedural law relating to that subject. For your information there is set out below a brief analysis of the salient points of those decisions. It should be kept in mind that the principal decisions related to issues growing out of the construction of state laws relating to obscenity and the application of those decisions to cases based upon the enforcement of Federal laws may require further resolution by the Court. However, the principles enunciated appear, for the most part, to have clear and appropriate application in Federal contexts.

In Miller v. California the Court announced a new formula for determining whether materials may be considered obscene. Such material must meet the following three tests, to be judged by lay jurors without any necessity for expert testimony. The matter to which these tests pertain are books, films, magazines, etc. which depict or describe sexual conduct.

1. It must appear to the average person, applying contemporary community standards, that the work taken as a whole appeals to the prurient interest. The term "contemporary community standards" does not mean national standards, as had previously been understood by many courts, but the standards of the state in which the trial takes place. By analogy, and based upon a decision of the Court of Appeals for the Fifth Circuit (Greener v. United States) it would appear that community standards for Federal prosecution would likely be considered to be those of the Federal judicial district in which the trial takes place.
2. It must appear that the work depicts or describes in a patently offensive way, sexual conduct specifically defined by the applicable law, as written or authoritatively construed. Federal law which by its terms prohibits transactions relating to "obscene" matter appears to be adequate

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to meet the statutory requirements since the decisions announced by the Court can be regarded as authoritative constructions of that term; thus, the announced standards appear to be immediately applicable both to cases already developed and to those which may be developed in the future.

3. The work, taken as a whole, must lack serious literary, artistic, political, or scientific value. This constitutes a very significant change from the former test (which had never been subscribed to by a majority of the justices of the Supreme Court) which required that the work be shown to be utterly without redeeming social value, which test the Court expressly rejected.

The Court offered illustrations of what might properly be encompassed within appropriately drafted statutory provisions:

- A. Ultimate sexual acts, normal or perverted, actual or simulated;
- B. Masturbation, excretory functions, and lewd exhibition of the genitals.

The Court stated that the term "obscene" found in Federal statutory provisions would now encompass the type of works to which the Court made specific reference. Perhaps most significant among the enumerated types of works, as reflecting a rejection of that which had been thought in some quarters to be acceptable, are simulated acts or conduct, and depictions of the genitals exhibited in a lewd manner, without accompanying depictions of actual sexual conduct.

In Heller v. New York the Court dealt with the question of what procedures are constitutionally required for the seizure of obscene matter. The Court rejected the notion that an adversary hearing prior to seizure is absolutely required. However, in Rosen v. Kentucky the Court held that a film may not be seized without a prior judicial determination of obscenity, which determination of course need not be in an adversary proceeding. While permitting a seizure to be made pursuant to a warrant obtained ex parte, the Court made clear that a film or other material allegedly obscene may not be subjected to a "final" restraint, without an adversary hearing if requested by a person having an interest in the material seized. Under the rulings of the Court it is necessary, upon demand, the Government permit the seized matter to be copied so that exhibition can be continued pending a judicial determination of the obscenity issue, where it can be shown that other copies of the seized article are not available for that purpose.

It should be emphasized that in the Rowden case the Court reversed a conviction based upon a seizure of a film by a local sheriff made after the sheriff had viewed the film in question and himself determined that it was obscene but failed to procure a warrant from a judicial officer. The Court, however, mentioned the fact that there did not exist in that case any exigent circumstances which required prompt police action to preserve evidence of a crime. It thus appears that unless it can be shown that evidence will be unavailable without immediate action to preserve it, a warrant must be secured to justify seizure.

FBI

Airtel

Transmit in _____
(Type in plaintext or code)

Via _____

(Priority)

Date 7/27/73

To: SAC, Albany

From: Director, FBI

**INTENSIFIED INVESTIGATIONS OF INTERSTATE
TRANSPORTATION OF OBSCENE MOVIES**

FROM 145 0-81 62-9763-1
71-0-116

Reference Buairtel dated 1/3/73.

Enclosed for receiving offices are two copies of a self-explanatory letter from the Criminal Division, Department of Justice, to the Bureau relating to the obscenity decisions handed down by the U. S. Supreme Court on 6/21, 25/73.

The Department has advised that traditionally their policy relating to Interstate Transportation of Obscene Matter cases has been to regard the state and local jurisdiction as having the primary responsibility for the regulation of the sale, exhibition, and local distribution of obscene materials, while the Federal role was regarded as being primarily focused upon the prosecution of the interstate traffickers, who would normally be beyond the jurisdiction of local authorities. The Department believes that the effect of the recent U. S. Supreme Court decisions will be to restore effectiveness to local prosecutors in dealing with local obscene matter violations. Some jurisdictions, however, may require certain amendments to be made to their statutes or ordinances before they can resume an effective role in this area.

The Department desires that the FBI continue its active pursuit relative to captioned matter, which has achieved such an appreciable degree of success to date.

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Enclosures - 2

2 - All Field Offices (Encs. - 2)

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NOTE 8/7 DEADLINE

Airtel to SAC, Albany

Re: **INTENSIFIED INVESTIGATIONS OF INTERSTATE
TRANSPORTATION OF OBSCENE MOVIES**

The Department has advised that information is not available to them as to the current attitudes by local jurisdictions, and particularly by those jurisdictions which have encountered obstacles difficult or impossible to overcome, until the recent decisions of the U. S. Supreme Court. They, therefore, desire to know the overall attitude of the local authorities toward prosecution of these type cases and if local statutes preclude effective implementation.

Each office is to submit this information in a form suitable for dissemination, to reach FBIHQ by 8/17/73.

Washington, D.C. 20535
August 14, 1973

INTENSIFIED INVESTIGATIONS OF INTERSTATE
TRANSPORTATION OF OBSCENE MOVIES

On August 6, 1973, [redacted] Morals Division, Metropolitan Police Department (MPD), Washington, D.C. (WDC) stated that he has just recently taken over command of the Morals Division and is currently attempting to establish a relationship with the Superior Court Section of the United States (U.S.) Attorney's Office, WDC. It was [redacted] understanding that members of his department encountered a considerable amount of difficulty in obtaining prosecution for local obscenity violations in the District of Columbia. Since the U.S. Supreme Court decision on June 21, and June 25, 1973 his department has obtained only one search warrant from the U.S. Attorney at WDC and that was for the Art Theatre, 9th and F Streets, N.W., WDC. Members of the Morals Division have also presented to the U.S. Attorney, Superior Court Section, WDC, two hard-core publications, however, to [redacted] knowledge, no search warrant has been obtained on these magazines.

[redacted] advised that one of the problems encountered by his department is the fact that matters for obscenity prosecution are presented to a particular Assistant U.S. Attorney at the Superior Court Section, however, this individual changes on a month-to-month basis and there is no consistency in policy regarding obscenity prosecution. In addition, due to the large volume of cases at the Superior Court, District of Columbia, Assistant U.S. Attorneys are reluctant to take the time to view publications and films and are also reluctant to prosecute them due to the considerable amount of time required in the prosecution of an obscenity case. It was [redacted] opinion that if matters for obscenity prosecution could be presented to a particular Assistant U.S. Attorney and continue to present these matters to them for an extended period of time rather than changing on a month-to-month basis, a more consistent policy would be reached regarding these prosecutions. [redacted] advised that he is scheduled for a conference with Assistant U.S. Attorney Warren

6 Bureau
1-WFO (145-626)

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sld
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**INTENSIVE INVESTIGATIONS OF
INTERSTATE TRANSPORTATION OF
OBSCENE MOVIES**

7C
King, U.S. Attorney's Office, Superior Court Section, WDC on
September 6, 1973. [REDACTED] intends to bring
forth to Mr. King at this time the facts as set forth above.

This document contains neither recommendations
nor conclusions of the FBI. It is the property
of the FBI and is loaned to your agency; it and
its contents are not to be distributed outside
your agency.

Director, FBI

8/14/73

SAC, WFO (145-626) (MC)

INTENSIFIED INVESTIGATIONS OF
INTERSTATE TRANSPORTATION OF
OBSCENE MOVIES
ITOM

Re Bureau airtel dated 7/27/73.

Enclosed for the Bureau is an original and five
copies of an LHM setting forth a brief summary of local pro-
secution of obscenity violations in the District of Columbia.

2-Bureau (Enc 6)

1-WFO

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