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PROHIBITING OBSCENE ANIMAL CRUSH VIDEOS IN THE WAKE OF UNITED STATES v. STEVENS

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

SEPTEMBER 15, 2010

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PROHIBITING OBSCENE ANIMAL CRUSH VIDEOS IN THE WAKE OF UNITED STATES V. STEVENS

WEDNESDAY, SEPTEMBER 15, 2010

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10 a.m., in room SD–226, Dirksen Senate Office Building, Hon. Jon Kyl, presiding.

Present: Senator Kyl.

OPENING STATEMENT OF HON. JON KYL, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator KYL. This hearing before the Senate Committee on the Judiciary will come to order. I am Senator Jon Kyl. I am a member of the minority but have worked with the majority to ensure that this hearing can be held whether or not members of the majority are here. So I will conduct the hearing unless a member of the majority arrives.

I want to thank everyone for being here. This is an important hearing on prohibiting obscene animal crush videos in the wake of the U.S. Supreme Court case *U.S.* v. *Stevens*. Let me make a brief opening statement. Then I will swear in our two witnesses, and I look forward to their testimony.

Animal crush videos depict some of the most extreme animal cruelty in existence. Typical animal crush videos feature women, often clad in high heels, crushing live, helpless animals to death with their feet. The videos are usually filmed from an angle that conceals the perpetrator's identity. The videos are said to appeal to a sick subset of persons with a specific sexual fetish.

Congress banned the creation or distribution of animal crush videos in 1999 with the enactment of 18 U.S.C. Section 48. In April of this year, however, the U.S. Supreme Court in *United States* v. *Stevens* struck down the 1999 Act on First Amendment grounds, holding that the statute was unconstitutionally overbroad and that it applied to a substantial amount of protected speech. In other words, Section 48 was so broadly worded, the Court said its enforcement could reach many kinds of portrayals that did not even involve cruelty and might not involve illegal activity, including hunting videos that are widely distributed and have some redeeming social value.

The *Stevens* case did not involve crush videos, and the Court specifically stated that it was not deciding whether a statute limited

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to crush videos or other depictions of extreme animal cruelty would be constitutional. Instead, it left the door open for Congress to enact a narrowly tailored ban on animal crush videos that passes constitutional muster.

In the wake of the *Stevens* case, crush videos are again being marketed and sold on the Internet, the primary mechanism for their distribution in interstate and foreign commerce. Despite the fact that every State and the District of Columbia have animal cruelty laws, the proliferation of animal crush videos is a problem that cannot adequately be addressed by them. A number of challenges to prosecution exist, including difficulties in determining when and where the crimes occurred and in identifying the perpetrator since feet and the crushing of the animals are usually the only images on the video.

Concerned about this recent proliferation and the inadequacy of State animal cruelty laws to address the problem, the House took a first crack at a new ban by passing the Prevention of Interstate Commerce in Animal Crush Videos Act of 2010, H.R. 5566, sponsored by Representative Gallegly, who has been a leader in fighting animal cruelty. I am working with him and my colleagues Senators Merkley and Burr in the Senate here with this Committee to be sure that we can craft a ban that prohibits this extreme animal cruelty that will survive judicial scrutiny.

Today the Committee will receive testimony from two witnesses: Nancy Perry, who is Vice President for Government Affairs for the Humane Society of the United States; and Dr. Kevin Volkan, a psychologist and professor at California State University Channel Islands. As we all know, the Humane Society has been a longstanding champion against animal cruelty and is intimately familiar with the problem of animal crush videos. Dr. Volkan is an expert in atypical psychopathology. He will help us to understand more fully the sexual component of animal crush videos.

So let me now ask the two of you to stand and be sworn. Do you swear that the testimony you are about to give before the Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Ms. PERRY. I do.

Mr. VOLKAN. I do.

Senator KYL. I thank you and I appreciate your willingness to come here to help edify the Committee. The fact that there are not other members here does not signify a lack of interest as much as the fact that we are pulled and tugged in a lot of different directions. I will be talking to my colleagues about this, and certainly the transcript will be available for everyone, including the answers to the questions, and others will have an opportunity to ask you questions for a few days after the hearing, and I would appreciate your being willing to try to respond to those questions.

Ms. Perry, let me start with you, and then Dr. Volkan, and then I will have some questions for the two of you. Thank you.

STATEMENT OF NANCY PERRY, VICE PRESIDENT FOR GOVERNMENT AFFAIRS, THE HUMANE SOCIETY OF THE UNITED STATES, WASHINGTON, DC

Ms. PERRY. Thank you so much, Senator Kyl. I really appreciate the opportunity to be here today.

As you said, my name is Nancy Perry. I am Vice President of Government Affairs for the Humane Society of the United States. We are the nation's largest animal protection organization, with more than 11 million supporters nationwide. That translates to 1 in every 28 Americans, and as you have mentioned, we have been working to address animal cruelty for more than 50 years now as an organization, and for more than a decade we have been focusing on cracking down on these animal crush videos.

It is absolutely critical that we remedy this dire situation involving the worst cruelty we have ever uncovered. It is shocking. It is abhorrent. It is the stuff that nightmares are made of, as many people in this room will attest. And just so everyone knows what we are talking about, I will just explain yet again what a crush video is.

A typical animal crush video will show a scantily clad, high-heeled woman stomping, squishing, and impaling animals to death. The animals are often secured so they cannot escape, but are free enough to move so that their writhing in agony is clear to the viewer. This sickening torment is drawn out for many minutes intentionally and even for hours, during which time the animal's cries, moans, and squeals are actually highlighted along with their excretions of blood, urine, intestines, and even organs as they are crushed to death.

Until recently, the sale of videos like this was illegal. In 1999, as you have mentioned, Congress banned crush video sales, and they all but disappeared from the Internet. However, recent court decisions struck down that law, creating a resurgence of animal crush videos on the Internet.

Our 2009 investigation found that videos with rabbits, puppies, kittens, and other animals are readily available for sale on the Internet. Crush viewers can even place custom orders, articulating which type of animal they want to see tortured and what type of torture they want to see.

This July, we received a tip from a Russian investigator, who found numerous crush videos for purchase for as little as $80 using PayPal and Western Union. These clips show young girls maiming and killing dogs, goats, monkeys, rabbits, and pigs. And I apologize, but it is important that we hear at least one description of a video that is for sale online today.

A smiling girl in stilettos pokes her sharp heel through a live dog's eye socket. The dog's front legs are tied behind his back and his mouth is tied shut, but he screams and screams in horrendous pain as the girl relentlessly stabs her heel through his eye socket. At one point, her heel goes all the way in and makes a cracking sound, and the dog is still alive and screaming.

These videos appeal to a particular sexual deviancy. The women carrying out the slow, deliberate torture often talk to the animals in a dominatrix patter or other sexual tones. Camera angles are used to create the sensation for the viewer that they are in the

place of the tortured animal, looking up at the woman's body, keying into a crush fantasy.

My written testimony contains a host of such sickening examples and provides ample evidence of the sexual and cruel nature of these videos. Most importantly today, this resurgence is real and requires a response from Congress to spare the lives of thousands of animals waiting right now in torture dens until their number is up.

The HSUS worked closely with sponsors in the House to develop anti-crush legislation soon after the Supreme Court decision, and we are pleased that the House quickly passed H.R. 5566 by an overwhelming vote of 416–3 this July. So now it is up to the Senate and your leadership to move quickly to prevent the horrendous torture of more animals.

The Association of Prosecuting Attorneys, whose letter I would like to submit for the record today, states: "Those who produce and market these videos and those who carry out the animal cruelty in the videos do so in order to profit from appealing to the prurient interests of those with a sexual fetish involving specific forms of animal cruelty and suffering. The acts of animal cruelty captured on film would likely not be committed but for the production of the crush videos that can bring a profit in interstate commerce."

We know that this is one area where a law on the books can make an immediate and tangible difference, and so we truly appreciate your efforts and your leadership.

Thank you very much.

[The prepared statement of Ms. Perry appears as a submission for the record.]

[The letter appears as a submission for the record.]

Senator KYL. Thank you.

Professor Volkan.

STATEMENT OF KEVIN VOLKAN, CHAIR AND PROFESSOR OF PSYCHOLOGY, CALIFORNIA STATE UNIVERSITY CHANNEL ISLANDS, CAMARILLO, CALIFORNIA

Mr. VOLKAN. Thank you, Senator Kyl, for inviting me here today to testify. I am here today with my colleague Dr. Neil Rocklin, who is sitting behind me, who co-authored the written testimony.

My testimony today will focus on explaining the sexual nature of crush paraphilias and describing how crush videos are sexual in nature and that those who watch crush videos do so to obtain sexual gratification. And I should mention that paraphilia is the technically correct term. A lot of time these are called crush fetishes, but fetish is really a type of paraphilia. So I will be referring to them as paraphilias throughout.

Paraphilias are sexual disorders that involve recurrent and intense sexually arousing fantasies, urges, or behaviors related to non-human objects, including animals, non-consenting persons or children, and the suffering and/or humiliation of oneself or a partner. Generally, to be considered pathological, paraphilias should result in clinically significant distress or impairment in social, occupational, or other areas of functioning.

The following specific paraphilias are related to crush videos, and these would include fetishes, sexual sadism, and sexual masochism,

and I will talk a little bit about each of these. In my professional opinion, the crush paraphilia and crush videos contain elements of these specific forms of paraphilia in varying degrees, and I believe that crush paraphilia and crush videos are clearly sexual in nature.

A fetish is a strong recurrent sexual attraction to a non-living object. The most common fetish objects are clothing such as underwear, shoes, boots, et cetera. With regard to crush paraphilia, the fetish aspect is most likely related to the object that is doing the crushing—it is usually a foot or a shoe—but can also be other things. Sometimes it can be the buttocks or a plank of wood, or in one case even a car. The crush paraphilia can be thought of as an extreme version of something like a foot fetish where individuals with the paraphilia derive sexual pleasure from watching the object of their desire crushing a living creature to death.

Sexual sadism is where sexual gratification is achieved through the fantasy of harming a partner or as a consequence of directly subjecting a partner to pain or humiliation. Typically, sexual sadism involves a human partner. Obviously, in the case of crush paraphilia, the partner is an animal, of course, who is non-consenting. The animals used for sadistic purposes range from insects to larger mammals such as dogs, and many crush videos use small mammals such as mice, rats, puppies, and kittens. But regardless of the victim, the causes and the purposes and the ends of these crush videos are still the same.

It should also be mentioned that those involved in the creation and distribution of crush videos may themselves be sadists. It should be noted that there is a well-established relationship between animal sadism, antisocial personality disorder, which used to be called sociopathy, and violent crime. Sadistic acts perpetrated against animals may be an important indicator of someone who is capable of violent crime against human beings.

Sexual masochism is a feeling of sexual arousal or excitement resulting from receiving pain, suffering, or humiliation. Many of those involved in crush paraphilia take sexual pleasure in being crushed, squashed, or being put under pressure. Masochists often suffer from personality disorders in which they are only able to experience feelings in the context of situations where they are hurt or in pain. In terms of crush paraphilia, the masochistic aspect is an identification with the animals being tortured or killed, actually seeing themselves as the animal being crushed, and these individuals obtain sexual gratification through this identification.

It should be mentioned, like other paraphilias, crush paraphilia primarily involve men, and crush videos primarily appeal to men and are of most interest when the person doing the crushing is a woman. The theoretical reasons for this are outlined in my written testimony.

I would like to mention treatment. Typically, people who have a paraphilia do not seek treatment unless the paraphilia has resulted in legal consequences—in other words, unless they have been arrested and forced to go into treatment by the court. Paraphilias, especially the more egregious types such as pedophilia, are notoriously difficult to treat with high rates of relapse. One of the problems with successfully treating individuals with paraphilia is that they have a high rate of co-morbid mental disorders. Given the

rather more primitive nature of the crush paraphilia and its high level of social unacceptability, it is likely that most individuals involved with crush paraphilia will not seek treatment or even be willing to acknowledge that they engage in this activity. These characteristics would indicate that there would be a strong commercial market for crush videos that can be watched in secret.

I would like to conclude. Human males with certain abnormal psychological profiles have the capacity to learn to become sexually aroused by watching crush videos. The treatment prognosis for those involved in crush videos is very poor. Treatment is not likely to prevent the acquisition of a crush paraphilia, curb the current practice of this paraphilia, or prevent a relapse. Given the above characteristics associated with crush paraphilia, I believe that a prohibition on the sale of crush videos is one of the few ways in which the practice of crush paraphilias can be reduced.

Thank you.

[The prepared statement of Mr. Volkan appears as a submission for the record.]

Senator KYL. Thank you both very much. It is difficult to listen to testimony like this. It is obviously essential, not only to stop something that is enormously cruel to animals, but also to try to find ways to help those who may suffer from the disorders that you have discussed.

The Supreme Court obviously needs to be very careful about its definitions of speech to ensure that real speech is not unduly inhibited and, thus, the reason for, I think, the limited decision that it rendered. But it has also afforded us the opportunity, if we make the right case for the right kind of statute, to have such a statute upheld.

While we were working with the House of Representatives, we wanted to have the opportunity to perhaps refine even more the House legislation. I think because of the large vote in the House, if we make changes that are specifically designed to ensure that the bill will both be effective and will be upheld by the courts, that we should not have difficulty in getting House concurrence in that. So it will be our effort here using your testimony and additional aspects of the record to build the case for a very specific kind of statute that deals with a very specific kind of crime and disorder that can withstand constitutional scrutiny.

So in that regard, let me just ask three or four questions that help to, I think, flesh out the information that you have provided to us, the excellent information both in your written statements and in your oral testimony here.

First of all, for Ms. Perry, these animal crush videos fall within a category of speech in which there is an unusual and important relationship between speech and crime; that is, speech depicts a crime that was committed in order to depict a crime. Can you explain how the creation of animal crush videos is driving criminal conduct—in other words, the violation of State animal cruelty laws?

Ms. PERRY. Absolutely, Senator. That is a good question. Without a doubt, the anonymity of the use of the Internet provides fuel for the creation of these videos, and what we did see very clearly, we saw there were more than 2,000 crush videos readily available in

1999 prior to Congress' original law being enacted. And that industry essentially dried up as a result of a Federal protection being on the books. And then as testified, we saw this tremendous resurgence.

What we think is necessary is Federal action on this, because at the State level, as the Association of Prosecuting Attorneys clearly stated, it is very difficult to obtain a prosecution. Even though these are State crimes, the way these videos are created is fully to conceal the identity of the individuals perpetrating the crime because you are just seeing body parts. There is not any identifying information. It is sold over the Internet, which is obviously available everywhere and utterly ubiquitous. So it is critical that we have a Federal prohibition on the sales. That is the only way to actually get at this problem.

Senator KYL. And a key here is that the conduct occurs specifically because they can and they do sell them over the Internet.

Ms. PERRY. That is right.

Senator KYL. And you also said, if I recall your testimony, that there are actually situations in which they tailor—in which some of these traffickers offer to tailor their videos to specific requests.

Ms. PERRY. That is correct. The videos are produced for the market on the Internet, not for other purposes, and they are custom-produced for individuals who put in an order and within 48 hours a video will be created, which shows you how many animals are sitting waiting before they are tortured.

Senator KYL. Now, you heard Dr. Volkan's testimony, and I think you have some familiarity also with this underlying problem with a lot of the people who traffic in this. Can you explain any investigations the Human Society has done or what those investigations have revealed about the nature of the market for these videos in particular with regard to their appeal to deviant sexual interest?

Ms. PERRY. Absolutely. We undertook several investigations. The more recent one which showed the resurgence was reported on May 22, 2009. And in this investigation, we uncovered hundreds and hundreds of videos. And, of course, we are a nonprofit organization, and as large as we are, we still cannot take on overseeing this entire industry. There is no way we can police it on a day-to-day basis.

But in the investigations we have undertaken, we are shocked at the volume of videos that are now available. A single website can have links to multiple other websites, and those multiple other websites can each purvey hundreds of videos. And in each of those videos, multiple animals will be killed. So the numbers stack up exponentially with this.

It is obvious that the nature of this business is responsive to Federal law, because the trend that we saw was a dry-up when the Federal law existed and a resurgence almost immediately after the law was struck down. From what we understand, within a month of the Third Circuit decision coming out, we saw squishpuppy.com and squishkitty.com come online. This is very responsive to Federal law. And I think Dr. Volkan in his testimony, in his written testimony, indicates that individuals with this predisposition are sensitive to the legality, and that might be the one thing that would cause them to seek treatment.

Senator KYL. And that is, of course, one of the reasons why we would be wanting to pursue this.

Now, you alluded to something else I wanted to pursue a little bit. The House bill applies only to visual depictions of an animal being crushed, burned, drowned, suffocated, or impaled. This list obviously does not involve all forms of cruelty toward animals.

Have your investigations discovered crush videos that involve other types of violence, for example, videos in which the animal is cut or stabbed?

Ms. PERRY. Yes. Unfortunately, we saw several videos where there is cutting, there is burning, there are other forms of torture employed.

Senator KYL. Okay. Obviously, the reason for that is to try to find how we want to define what would be prohibited here, to include all of those things that are involved.

Ms. PERRY. Yes, we want to be comprehensive, although I do think that the vast majority of these videos do involve the crushing.

Senator KYL. And, Dr. Volkan, in your testimony today we learned that these animal crush videos do not involve actual sexual intercourse, or at least typically. Is it your professional opinion that animal crush videos are, nevertheless, sexual in content and, therefore, can fall within the definitions of obscenity which sometimes are the basis for courts looking at the issue?

Mr. VOLKAN. That is a very good question, Senator. I am not an expert to speak to the legal definitions of obscenity, but I can say in my professional opinion that these videos are produced almost purely for the object of sexual gratification of the people who are watching these videos. They are clearly sexual in nature.

Senator KYL. And just to be clear—I have not gone through all of your qualifications, but it is in your resume. Can you describe just a little bit of how you have come to these conclusions?

Mr. VOLKAN. Sure. Basically, I teach a class on atypical psychopathologies which include a whole list of things that we typically call bizarre behaviors and some things that are culture-bound syndromes. And of these things, paraphilias are a large category, and they are the bizarre behaviors, the deviant behaviors that unfortunately we see a lot of in our society. They are really quite prevalent. Most of these things are really quite mild. They are not serious. But we do have some, like pedophilia, like crush paraphilias, that are very, very serious and obviously have a lot of socially unacceptable aspects to them.

And so, you know, by teaching the class, through my clinical practice, I have come across some of these things and learned about these things over the years.

Senator KYL. So you have studied literature. You have had firsthand experience through your own practice and have made this part of your professional understanding and teaching.

Mr. VOLKAN. Yes. I have not actually treated somebody with a crush paraphilia, but I have treated people with different paraphilias.

Senator KYL. And you have certainly studied the literature on the subject.

Mr. VOLKAN. Yes, I have studied the literature pretty extensively at this point.

Senator KYL. Well, again, this is a subject that I think the Congress wants to deal with as quickly as we can in a way that will ensure this time that we get it right, the courts will uphold what we do so that we can prevent the kind of cruelty that is involved here, and hopefully help people who suffer from the sexual deviancy that you have identified.

If my colleagues have questions, we will leave the record open for a few days here to permit them to ask you questions, and I may think of something else that we need to ask.

The statements are part of the record. The letter that you submitted is part of the record.

I also want to put a statement into the record that Senator Feinstein has offered in support of what we are doing here.

[The prepared statement of Senator Feinstein appears as a submission for the record.]

Senator KYL. Also, we will insert in the record a statement by Senator Burr.

[The prepared statement of Senator Burr appears as a submission for the record.]

Senator KYL. Do either of you have anything else that you would like to offer at this time?

I certainly want to thank you for your concern about the issue and for your testimony. This is exactly the kind of hearing that may be the most productive for us: short, concentrated, to the point, and hopefully very effective.

Ms. PERRY. Thank you for your leadership.

Mr. VOLKAN. Thank you. Thank you, Senator.

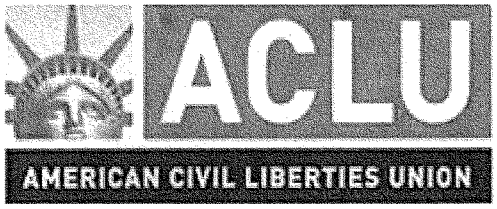
Senator KYL. You are very welcome, and I appreciate those of you in the audience being here as well.

This hearing will now stand adjourned.

[Whereupon, at 10:26 a.m., the Committee was adjourned.]

[Submissions for the record follow.]

SUBMISSIONS FOR THE RECORD



Written Statement of the
American Civil Liberties Union

Laura W. Murphy
Director, Washington Legislative Office

Michael W. Macleod-Ball
Chief Legislative and Policy Counsel

before the
Senate Judiciary Committee

September 15, 2010

Prohibiting Obscene Animal Crush Videos in the Wake of

United States v. Stevens

WASHINGTON LEGISLATIVE OFFICE
915 15th Street, NW Washington, D.C. 20005
(202) 544-1681 Fax (202) 546-0738
Caroline Fredrickson
Director

Written Statement of the
American Civil Liberties Union
Laura W. Murphy
Director, Washington Legislative Office
Michael W. Macleod-Ball
Chief Legislative and Policy Counsel
before the
Senate Committee on the Judiciary
September 15, 2010

Chairman Leahy, Ranking Member Sessions, and Members of the Committee:

The American Civil Liberties Union (ACLU) is a national, non-partisan advocacy organization with more than half a million members, countless additional activists and supporters, and 53 affiliates nationwide, dedicated to the preservation of individual rights under the U. S. Constitution. We offer this statement to express our concern that new animal crush video legislation proposals drafted in response to the Supreme Court decision in *U. S. v. Stevens* may reach too far and restrict individual speech rights more than is necessary to achieve the purpose of reducing animal cruelty.

While we understand the desire to respond to the Supreme Court's decision in *United States v. Stevens*[1] earlier this year, we urge the Committee to refrain from any legislation that fails to resolve the overbreadth problem with the prior law cited by the Court. Animal cruelty is an unlawful act and we of course do not contest the validity of such laws. Legislation aimed at banning the depiction of such acts, however, inherently violates Americans' free speech rights and, therefore, must be narrowly drawn to minimize impact on this fundamental freedom. Legislation that creates ambiguity surrounding the established standard for banned obscenity, thereby possibly opening the door to banning other forms of disfavored content will not pass Constitutional muster. Any bill that would ban the sale and distribution of depictions of animal cruelty for prurient purposes would arguably also ban the sale and distribution of those same depictions by animal rights groups and others who use the depictions in advocating for the elimination of animal cruelty and other legitimate purposes. It would be ironic if a bill intended to prevent animal cruelty actually inhibited the advocacy of those dedicated to achieving that goal. Any legislative initiative in this area must be careful to have as its purpose the elimination of acts of animal cruelty and not more generally the elimination of the sale and distribution of depictions of such cruel acts. If, in pursuing the legitimate purpose of eliminating acts of animal cruelty, legislation impacts depictions of those acts, it must be

[1] 559 U.S. ____, 130 S. Ct. 1577 (2010).

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narrowly drawn to minimize the impact on First Amendment rights. It must also avoid establishing a new definition of 'obscenity' that conflicts with established Court precedent.

I. Background

In *Stevens*, the Supreme Court invalidated 18 U.S.C. § 48, which made it a crime to create, sell, or possess a depiction of animal cruelty for commercial gain in foreign or interstate commerce. A depiction of animal cruelty was defined as one "in which a living animal is intentionally maimed, mutilated, tortured, wounded, or killed" if the depicted conduct violates federal law or the law of the state in which the creation, sale, or possession occurs. The statute contained an exemption for any depiction "that has serious religious, political, scientific, educational, journalistic, historical, or artistic value."[2]

The Supreme Court agreed with the Third Circuit that even depictions of animal cruelty are protected by the First Amendment.[3] The court rejected the government's argument that a balancing of societal costs and benefits should determine whether speech is protected.[4] However, rather than following the reasoning of the Third Circuit, which struck Section 48 after determining that the government did not have a compelling interest in preventing cruelty to animals and that section 48 was not narrowly tailored to use the least restrictive means, the Supreme Court instead relied on overbreadth doctrine.[5]

In construing the statute, the court expressed concern that the statute did not require that the illegal conduct depicted be outlawed *because of* its cruelty.[6] The statute covered depictions of activities that, while illegal in some jurisdictions, were not in others. The court was concerned with the patchwork of laws implicated by Section 48. A depiction of lawful activity in one state could be the basis for criminal prosecution if distributed in another state.[7] For these and other reasons, the court struck down the law as unconstitutional. Any future attempt to legislate in this area must, at a minimum, address the court's concerns and should, in our view, connect the conduct to be criminalized in a material way with the underlying animal cruelty crime.

II. Animal Crush Videos Do Not Meet the Court's Established Definition of Obscenity.

The most recent attempt to address *Stevens* attempted to incorporate the concept of 'obscenity' into the definition of this new crime. The House of Representatives recently passed H.R. 5566 – The Prevention of Interstate Commerce in Animal Crush Videos Act of 2010. As passed by the House, the bill would make it a crime to "knowingly and for the purpose of commercial advantage or private financial gain sell[ ] or offer[ ] to sell, or distribute[ ] or offer[ ] to distribute an animal crush video in interstate or foreign commerce".[8]

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[2] *Id.* at 1579.
[3] *Id.* at 1586.
[4] *Id.*
[5] *Id.* at 1592.
[6] *Id.* at 1588.
[7] *Id.* at 1589.

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In the bill "animal crush video" is defined as "any obscene photograph, motion-picture film, video recording, or electronic image that depicts actual conduct in which one or more living animals is intentionally crushed, burned, drowned, suffocated or impaled in a manner that would violate a criminal prohibition on cruelty to animals under Federal law or the law of the State in which the depiction is created, sold, distributed, or offered for sale or distribution." There are exemptions only for depictions of hunting, trapping, fishing, and "customary and normal veterinary or agricultural husbandry practices".[9]

H.R. 5566 incorporates the term "obscene" in two areas. First, the bill's findings assert that the country has a history of barring the sale of obscene materials and designates animal crush videos as per se obscene.[10] In the operative section of the bill, the definition of 'animal crush video' also incorporates the term 'obscene'.[11] In neither circumstance does the use of the term comport with the Court's accepted definition of 'obscenity' because the recordings in question typically depict nothing in the way of sexual conduct and because they sometimes have value beyond that for which they were perhaps intended.

The court set forth the landmark standard for 'obscenity' in *Miller v. California*:

> The basic guidelines for the trier of fact must be: (a) whether 'the average person, applying contemporary community standards' would find that the work, taken as a whole, appeals to the prurient interest . . . ; (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.[12]

One key aspect of the *Miller* decision was its determination that a national standard could not substitute for community standards. Chief Justice Burger wrote that the standards of New York and Las Vegas must not control those in Maine and Mississippi, noting that "[p]eople in different States vary in their tastes and attitudes, and this diversity is not to be strangled by the absolutism of imposed uniformity."[13] Implicit in this statement is the notion that those within a particular community are best qualified to judge the standards of their community, thereby also suggesting that a fact-finder – a judge or jury – and not Congress is best equipped to determine what content qualifies as obscenity.

Any federal legislation declaring animal crush videos to be obscene would run contrary to the intent of the court's community standard mandate. By the very nature of community standard, an individualized determination must be made. The obscenity standard cannot be applied in a blanket fashion to an entire category of visual depictions. To do so would fly in the face of the court's decision to set aside the notion of a national standard over 35 years ago.

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[12] *Miller v. California*, 413 U.S. 15, 24-25 (1973) (citation omitted).
[13] *Id.*at 32-33.

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Moreover, the *Miller* standard for obscenity by its very terms requires sexual content. Animal crush videos, on the other hand, typically contain no such content.[14] Instead, the worst of them contain depictions of cruelty to animals – which some claim appeals to the prurient interest of a small segment of the population. As disturbing as such depictions might be to the great majority of Americans, they do not generally qualify as containing sexual conduct. Accordingly, legislation attempting to merge animal crush videos into the definition of 'obscenity' will either conflict with established Supreme Court precedent or will be treated as a nullity. Either way, the attempt will be ineffective.

In our view, the First Amendment right to speak freely should be expanded by this Congress, not restricted. While animal crush videos, used for a prurient purpose, are an outrage, the attempt to ban them does harm to the speech rights of every American in general and to the legitimate speech rights of animal rights activists, journalists, and educators, in particular. The goal of stopping animal cruelty should be achieved by a more vigorous effort targeted at identifying and prosecuting those responsible for committing the cruel acts – and only animal crush legislation that protects legitimate First Amendment concerns will achieve that end.

III. Legislation Must Not Impact the Speech Rights of Law-Abiding Americans

A bill, such as H.R. 5566, that attempts to stop the distribution of depictions of animal cruelty will result in the restriction of speech rights because legitimate uses of the same depictions will be banned together with more unseemly uses. Walk into any significant conference of animal rights activists, and you are likely to find pamphlets and brochures with mind-numbing depictions of animal cruelty. These depictions could very easily be drawn from the materials intended to be banned by a bill such as H.R. 5566. And yet it is not unreasonable to assume there are more Americans interested in advocating against animal cruelty who use such depictions than there are those who use such depictions for prurient purposes. Legislation has not yet been offered that would make an exception for the use of these depictions to advance the political arguments of those opposing animal cruelty. The same holds true for educational and journalistic uses of such depictions.

Any bill that would restrict First Amendment speech rights, no matter how well-intended, must be narrowly tailored to achieve a compelling state interest. While some might argue that stopping animal cruelty is a compelling state interest, legislation to address the issue must be carefully tailored when it applies criminal sanctions to legitimate political, journalistic, or educational uses of depictions of animal cruelty. We urge the members of the Committee to examine closely any bill attempting to respond to the *Stevens* decision with an eye toward narrowing its impact on the expression rights of those who might make legitimate uses of depictions of acts of animal cruelty.

If you have any questions, please contact Michael W. Macleod-Ball at 202-675-2309 or by email at mmacleod@dcaclu.org.

[14] *U. S. v. Stevens*, 559 U.S. ____, slip op. at 2 (2010).

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Animal Welfare Institute

900 Pennsylvania Avenue, SE, Washington, DC 20003 • www.awionline.org
telephone: (202) 337-2332 • facsimile: (202) 446-2131

September 14, 2010

The Honorable Patrick J. Leahy
Chairman, Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Jeff Sessions
Ranking Member, Senate Judiciary Committee
152 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Sessions:

Thank you for scheduling a hearing on the important issue of "Prohibiting Obscene Animal Crush Videos in the Wake of United States v. Stevens," the Supreme Court decision that overturned the law prohibiting interstate commerce in crush videos, dog fighting videos, and other depictions of extreme animal cruelty. As you know, crush videos portray scantily clad women in stilettos, or even their bare feet, literally crushing, stomping on, or impaling small, helpless animals to satisfy sadistic viewers with a bizarre sexual fetish.

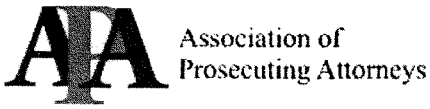
When, at the request of prosecutors, the law that was the subject of the decision was passed in 1999, the market for crush videos quickly dried up. Unfortunately, just as quickly after the recent decision, crush videos resurfaced. To address this reemerging problem in a way that would pass constitutional muster, the House overwhelmingly passed H.R. 5566, which was very narrowly crafted to prohibit interstate and foreign sales and distribution only of "crush videos" as obscene depictions of illegal acts.

The Animal Welfare Institute strongly supports H.R. 5566 and respectfully requests that the Committee quickly send an identical bill to the floor of the Senate for a vote before adjournment so that the market for this obscene and cruel material will be shut down as soon as possible.

As the Committee moves forward on this issue, the Animal Welfare Institute is ready to assist you and your colleagues in the Senate in any way necessary to help expedite this critical legislation. Please do not hesitate to contact us. With appreciation, I am

Sincerely yours,

Cathy Liss
President



Washington DC Office – 1615 L Street NW, Suite 1100 (202)861-2480

September 15, 2010

Honorable Patrick Leahy
Chairman
Committee on the Judiciary
United States Senate
433 Russell Senate Office Building
Washington, DC 20510

Honorable Jeff Sessions
Ranking Minority Member
Committee on the Judiciary
United States Senate
335 Russell Senate Office Building
Washington, DC 20510

Dear Chairman Leahy and Senator Sessions:

The Association of Prosecuting Attorneys (APA) is a private non-profit whose mission is to "Support and enhance the effectiveness of prosecutors in their efforts to create safer communities". We are the only national organization to include and support all prosecutors, including both appointed and elected prosecutors, as well as their deputies and assistants, whether they work as city attorneys, city prosecutors, district attorneys, state's attorneys, attorneys general or US attorneys. We have analyzed the recent Supreme Court decision in *United States v. Stevens* and believe that the deficiencies noted in the opinion can be addressed with new legislation.

On behalf of my organization, I am pleased to have the opportunity to offer our support for efforts underway in Congress to address the serious problem of "animal crush videos." We urge the Senate to act quickly, as the House did with its passage of H.R. 5566, to ensure prompt enactment of a new federal law that will effectively fill the gap left when the Supreme Court ruled that the 1999 Depiction of Animal Cruelty Act was overbroad.

It is clear to law enforcement that "animal crush videos" are created for and sold to viewers who find this particularly heinous sexually deviant behavior appealing. Those who produce and market these videos and those who carry out the animal cruelty in the videos do so in order to profit from appealing to the prurient interests of those with a sexual fetish involving specific forms of animal cruelty and suffering. The acts of animal cruelty captured on film would likely not be committed but for the production of the crush videos that can bring a profit in interstate commerce.

Our mission is to support and enhance the effectiveness of prosecutors in their efforts to create safer communities.

As prosecutors, we are well aware of how specific legislation can help or hinder our ability to do our jobs. Animal crush videos are an interstate problem and one that experience shows must be addressed by stopping the interstate commercial activity. State laws prohibiting animal cruelty are not sufficient to enable prosecutors to crack down on the perpetrators because these videos are made secretively and anonymously. Even if identities can be determined, it is often impossible to prove where and when the videos were made in order to establish jurisdiction and that the crime occurred within the relevant statute of limitations.

However, a federal law akin to H.R. 5566, prohibiting interstate commerce in animal crush videos, can be effectively enforced. We hope Congress will pass legislation swiftly to provide law enforcement the necessary tools to fight the spread of crush videos that involve horrible animal cruelty and undermine the safety and wellbeing of our society as a whole.

We are available to answer any questions the Committee may have, and we thank you for your attention to this real and pressing law enforcement concern. We look forward to prompt passage of a new Federal law that will satisfy the Courts while enabling prosecutors to address the pernicious problem of animal crush videos more effectively than is possible under state animal cruelty laws. Thank you for your consideration.

Sincerely,

David LaBahn
President and CEO

Our mission is to support and enhance the effectiveness of prosecutors in their efforts to create safer communities.

STATEMENT OF J. SCOTT BALLENGER

Partner, Latham & Watkins LLP

Before the Committee on the Judiciary

United States Senate

Hearing On:

"Prohibiting Obscene Animal Crush Videos in the Wake of *United States v. Stevens*"

PRESENTED ON SEPTEMBER 22, 2010

STATEMENT OF J. SCOTT BALLENGER

Prohibiting Obscene Animal Crush Videos in the Wake of *United States v. Stevens*

September 22, 2010

Greetings, Mr. Chairman and Members of the Committee. It is an honor to assist in this important discussion of the Supreme Court's recent decision in *United States v. Stevens*, 130 S. Ct. 1577 (2010), and the continuing need for federal legislation to combat the evils of depictions of extreme animal cruelty.

By way of introduction, I am a partner in the Supreme Court and Appellate practice at the law firm of Latham & Watkins LLP. Prior to joining Latham & Watkins, I clerked for the Honorable J. Clifford Wallace of the United States Court of Appeals for the Ninth Circuit and, during the October 1997 Term, for the Honorable Antonin Scalia, Associate Justice of the United States Supreme Court. I then served as Senior Counsel to the Assistant Attorney General in the Antitrust Division of the Department of Justice. My practice now focuses on appeals in the Supreme Court of the United States and the federal circuit courts, including numerous cases posing difficult constitutional questions. I briefed and argued two cases in the Supreme Court last Term, and represented the Humane Society of the United States in filing an *amicus curiae* brief in support of the government's position in *Stevens*. This statement is, however, submitted only on my own behalf and not as a representative of the Humane Society.

I. THE DECISION IN *UNITED STATES V. STEVENS*

In *United States v. Stevens*, the Supreme Court held that 18 U.S.C. § 48 is overbroad and facially violates the free speech guarantee of the First Amendment. Section 48 criminalizes the "creation, sale, or possession" of depictions of animal cruelty "with the intention of placing that depiction in interstate or foreign commerce for commercial gain." *Id.* § 48(a). The statute

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defines "animal cruelty" to include cruelty that "is illegal under Federal law or the law of the State in which the creation, sale, or possession takes place." *Id.* § 48(c)(1). Congress passed the law in 1999 after learning of the proliferation of so-called "crush videos," which show small animals being slowly tortured and crushed to death by women "with their bare feet or while wearing high heeled shoes." H.R. Rep. No. 106-397, at 2 (1999). Congressional testimony revealed that crush videos were made to "appeal to persons with a very specific sexual fetish who find them sexually arousing or otherwise exciting." *Id.* at 2-3. Although the states' respective animal cruelty laws prohibited the actual acts shown in these videos, Congress deemed § 48 necessary because of the difficulty local law enforcement had in identifying and timely prosecuting the persons involved in the acts. *Id.* at 3.

Federal prosecutors indicted Mr. Stevens under § 48 for three videos depicting animal fighting—two showing pit bull dogfighting and a third depicting pit bulls hunting wild boar and attacking domestic farm pigs. *Stevens*, 130 S. Ct. at 1583. A jury convicted him on all counts, and he was sentenced "to three concurrent sentences of 37 months' imprisonment, followed by three years of supervised release." *Id.* The Third Circuit took the case *en banc* and reversed the conviction. *Id.* It held that dogfighting videos are fully protected speech and that the government lacks any "compelling interest" in protecting animals from cruelty. *Id.* at 1583-84.

Following the Third Circuit's ruling, the government petitioned for and obtained a writ of certiorari from the Supreme Court. The Supreme Court affirmed the decision in an 8-1 opinion written by Chief Justice Roberts, but not for the reasons relied on by the Third Circuit. Instead the Court held § 48 facially invalid under the "overbreadth" doctrine, under which a court may strike down a statute if it finds that the statute prohibits a substantial amount of protected speech. *Id.* at 1587 (law is "overbroad if 'a substantial number of its applications are unconstitutional,

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judged in relation to the statute's plainly legitimate sweep.'" (quoting *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 449 n.6 (2008))). The Court rejected the government's arguments that § 48 should be construed as limited to depictions of conduct that would be unlawful under state and federal *animal cruelty* laws, and focused on various hypotheticals proposed by Stevens and his *amici* under which the statute might be understood to criminalize videos of hunting or slaughterhouse practices that are lawful in some states but not others. *Id.* at 1588-90. The Court also strongly rejected the government's argument that particular speech could be subject to lesser First Amendment protections under a balancing test derived from *Chaplinsky v. New Hampshire*, 315 U.S. 568 (1942).

Justice Alito alone dissented from the majority opinion, concluding that a facial attack was inappropriate under the circumstances and that the case should be remanded for consideration of whether the statute would be unconstitutional as applied to Mr. Stevens's materials. *Id.* at 1592-93 (Alito, J., dissenting). Justice Alito also disagreed with the majority's overbreadth analysis. *Id.* at 1594-1602. He concluded that "crush" videos and videos of animal fights are not constitutionally protected, by analogy to the Court's analysis of child pornography in *New York v. Ferber*, 458 U.S. 747 (1982), and would have interpreted § 48 in a manner that would not reach depictions of hunting or slaughterhouse practices.

II. RESPONDING TO THE SUPREME COURT'S CONCERNS

I understand that Congress has been considering new legislation to amend 18 U.S.C. § 48 in a manner that would address the Supreme Court's constitutional concerns while continuing the core federal prohibition on interstate trafficking in depictions of extreme animal cruelty. This summer the House of Representatives overwhelmingly passed a bill, H.R. 5566, designed to narrow 18 U.S.C. § 48 to a particular category of materials—obscene crush videos. I testified

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before the House Committee that ultimately drafted that legislation. I am submitting this testimony primarily to address whether a law banning only obscene crush videos would be facially constitutional, and to address certain concerns that I understand have been raised about the phrasing of H.R. 5566.

In my judgment, a law that bans interstate trafficking in depictions of animal cruelty that are also obscene is constitutional for reasons that follow almost (but not quite) automatically from Congress's power to regulate the distribution of *any* materials that are genuinely obscene. Obscene materials are not protected by the First Amendment at all. *E.g., Roth v. United States*, 354 U.S. 476 (1957). Although there are some limits on the power of Congress or a State to criminalize simple possession of obscene materials in the privacy of the home, *see Stanley v. Georgia*, 394 U.S. 557 (1969), the Supreme Court has repeatedly upheld the constitutionality of federal statutes like 18 U.S.C. § 1461, which prohibits the mailing of obscene material, and 18 U.S.C. § 1462, which criminalizes the transportation of obscene material by common carrier. *See, e.g., Hamling v. United States*, 418 U.S. 87 (1974); *United States v. Orito*, 413 U.S. 139, 143 (1973) ("we cannot say that the Constitution forbids comprehensive federal regulation of interstate transportation of obscene material"); *see generally* 18 U.S.C. §§ 1460-1470 (federal obscenity statutes). If Congress may ban interstate transportation of all obscene materials, as 18 U.S.C. § 1465 already appears to do, then presumably it also may prohibit interstate trafficking in a subset of obscene materials.

That statement requires one caveat, which is that a statute selectively banning some obscene materials but not others potentially could run afoul of First Amendment limitations on content or viewpoint discrimination if it appeared that Congress was attempting to suppress particular ideas that it dislikes. *See, e.g., R.A.V. v. City of St. Paul*, 505 U .S. 377, 391-96 (1992)

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(striking down ordinance prohibiting "fighting words that contain ... messages of 'bias-motivated' hatred and ... messages 'based on virulent notions of racial supremacy'"); *44 Liquormart v. Rhode Island*, 517 U.S. 484, 512 n.20 (1996) ("[A]lthough the government ha[s] the power to proscribe an entire category of speech, such as obscenity or so-called fighting words, it c[an] not limit the scope of its ban to obscene or fighting words that expressed a point of view with which the government disagrees."). Congress could not, for example, amend the federal obscenity laws to prohibit only obscene material that is critical of one party's candidates for public office but not the other party's candidates. But in my judgment a statute banning obscene crush videos need not raise any such concerns. Congress is contemplating singling out obscene crush videos for special prohibition not because of any particular ideas they express, but because of the horrific criminal acts necessarily involved in their creation. So long as the law is limited to depictions of actual, illegal cruelty to real living animals (and does not encompass, for example, simulations or videos merely expressing an opinion that torturing animals should be acceptable) then I do not believe the viewpoint discrimination cases should be implicated.

The great majority of the *amici* in *Stevens* who wrote against § 48 conceded that a law prohibiting crush videos alone would pose no First Amendment problem. *See, e.g.*, Brief of Amici Curiae Association of American Publishers, Inc., et al. Supporting Respondent, at 17, *United States v. Stevens*, 130 S. Ct. 1577 (2010) (No. 08-769) ("Had Congress sought to proscribe only 'crush videos,' it could have done so, and this would be a much different case."); Brief Amici Curiae of The Reporters Committee for Freedom of the Press and Thirteen News Media Organizations in Support of Respondent, at 22, *United States v. Stevens*, 130 S. Ct. 1577 (2010) (No. 08-769) ("Congress could have regulated legally obscene crush videos in a manner that did not threaten news reporting and other high-value speech."); Brief of Amicus Curiae

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National Rifle Association of America, Inc. in Support of Respondent, at 34-35, *United States v. Stevens*, 130 S. Ct. 1577 (2010) (No. 08-769) ("Congress could have drafted a statute that more precisely aimed at its objectives. For example, Congress could have defined and criminalized 'crush videos.'").

I understand, nonetheless, that civil liberties groups and others have raised concerns about the particular phrasing of H.R. 5566, and have suggested that it represents an improper attempt by Congress to redefine the constitutional standard for obscenity. I believe that those concerns misunderstand the language of H.R. 5566 and what the House was attempting to achieve. H.R. 5566 proposes to amend 18 U.S.C. § 48 to provide that "[w]hoever knowingly and for the purpose of commercial advantage or private financial gain sells or offers to sell, or distributes or offers to distribute, an animal crush video in interstate or foreign commerce shall be fined under this title or imprisoned not more than 5 years, or both." It further provides that:

> In this section the term 'animal crush video' means any obscene photograph, motion-picture film, video recording, or electronic image that depicts actual conduct in which one or more living animals is intentionally crushed, burned, drowned, suffocated, or impaled in a manner that would violate a criminal prohibition on cruelty to animals under Federal law or the law of the State in which the depiction is created, sold, distributed, or offered for sale or distribution.

In other words, under the operative language of H.R. 5566 a depiction would not be an "animal crush video," and therefore would not be prohibited, if it is not "obscene." H.R. 5566 does not spell out the full constitutional standard for obscenity under *Miller v. California*, 413 U.S. 15, 24 (1973).[1] But neither do the rest of the federal obscenity statutes; they all simply use the word

[1] That standard asks "(a) whether the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest; (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable . . . law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value." *Miller v. California*, 413 at 24 (internal quotation marks and citations omitted).

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"obscene," and the Supreme Court has repeatedly held that criminal statutes using that word will be understood as incorporating the necessary constitutional limitations. *See, e.g.*, *Hamling*, 418 U.S. at 105, 113; *Brockett v. Spokane Arcades, Inc.*, 472 U.S. 491, 505 n.13 (1985). I believe that precedent would require courts to interpret a law phrased like H.R. 5566 as requiring a jury finding of obscenity under the *Miller* test, just like the rest of the federal obscenity statutes.

I suspect that the critics of H.R. 5566 have been confused by a purported "finding" in the introductory portion of the bill, to the effect that "[a]nimal crush videos appeal to the prurient interest and are obscene." If that finding were understood as nullifying or displacing the later requirement that a video must be constitutionally obscene in order to *be* an "animal crush video," then the bill might be understood to usurp the courts' and the jury's final authority over what is obscene and what is not. Of course that would be impermissible, but I do not believe a reviewing court would understand the language of H.R. 5566 that way. The better way to understand that finding is that it just further confirms that the phrase "animal crush videos" later in the bill refers to a narrow subcategory of depictions of animal cruelty that *are proved to be* prurient and obscene. If the courts interpreted the finding as an attempt to declare what is and is not obscene for constitutional purposes, they would just disregard it. An unpersuasive factual "finding" by Congress does not make the substantive law it is attached to unconstitutional. *See, e.g.*, *Sable Communications of California v. FCC*, 492 U.S. 115, 129 (1989).

Nonetheless, the confusion that H.R. 5566 has engendered does support making the final legislation more clear on this point. It should be crystal clear that a finding that the materials are "obscene" is a separate, essential element of the offense. And if the legislation contains findings concerning the prurient and obscene nature of animal crush videos, I recommend that they stick to the objective facts and avoid categorical legal conclusions. For example, it plainly is true, and

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Congress may "find," that *certain* videos of extreme animal cruelty do appeal to the prurient interest in sex for a small group of deviant fetishists. But as to the legal issues I would recommend that the findings state only that "many" or "certain" videos of humans crushing, impaling, or otherwise harming animals "may be" prurient and obscene for constitutional purposes—to make clear that Congress understands that the ultimate determination of whether a particular video is obscene must be made by courts and juries in particular cases.[2] That phrasing should avoid the confusion about Congress's intentions that has (in my view unjustly) surrounded H.R. 5566.

In my opinion, a new law limited only to interstate trafficking in depictions of extreme animal cruelty that also satisfy the *Miller* test for obscenity (as properly found by a jury) is a very conservative and cautious approach to legislation in the wake of the *Stevens* case, and should be constitutional. Indeed, I believe the Supreme Court hinted strongly in *Stevens* that it might be receptive to a law that goes substantially farther—such as a law banning trade in depictions of illegal animal fighting even if those depictions do not meet the obscenity standard. It would have been very easy for the *Stevens* majority to hold that 18 U.S.C. § 48 was unconstitutional as applied to the dogfighting videos that Stevens was actually convicted for disseminating, or that the statute was facially unconstitutional because its application to animal fighting videos rendered it substantially overbroad. Instead, the Court scrupulously avoided offering any opinion about whether animal fighting videos are constitutionally protected. As Justice Alito explained, "the Court has taken pains not to decide whether section 48 would be unconstitutional

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[2] Expert testimony may be used to establish prurience "where contested materials are directed at such a bizarre deviant group that the experience of the trier of fact would be plainly inadequate to judge whether the material appeals to the prurient interest." *Paris Adult Theatre v. Slaton*, 413 U.S. 49, 56 n.6 (1973).

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as applied to graphic dogfight videos, including those depicting fights occurring in countries where dogfighting is legal." *Stevens*, 130 S. Ct. at 1597 n.5 (Alito, J., dissenting).

Thank you for the opportunity to testify on these important matters. I would be happy to discuss any further questions that the Committee or its staff may have.

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Statement for the Record
Senate Judiciary Committee Hearing
"Prohibiting Obscene Animal Crush Videos in the Wake of *United States v. Stevens*"
Senator Richard Burr

I want to thank Senator Kyl and other members of the Senate Judiciary Committee for making time for consideration of this issue.

This is not the kind of issue that one enjoys learning more about. I would like to think that a law like the one that I have been working on with Senators Kyl and Merkley is not necessary, but the evidence, sadly, shows that it is.

Animal crush videos are far beyond what most people would think of when they hear the phrase "animal cruelty" – they are shockingly gruesome, unbelievably cruel, and disturbingly perverse.

The videos at issue depict truly extreme forms of animal cruelty – usually involving young women, who we can't be certain are acting on their own volition – and are created for the prurient interest of a small, warped segment of the population. These women torture and kill small animals with their feet, usually with stiletto heels, while an onlooker videos the animal's expressions of terror. The women can frequently be heard speaking to the animals in a sexual manner, and the animals can be heard squealing as they writhe in pain.

The videos are horrendous, and the ready availability of such material cultivates a dangerous callousness of society.

All 50 states and the District of Columbia already have laws prohibiting animal cruelty. Yet right now, those who commit these acts of cruelty are able to tape their illicit conduct and sell the footage online for financial gain. Law enforcement officials tell us that the nature of the videos allows the perpetrators to remain anonymous: faces are frequently blocked out, and locations are unable to be determined for jurisdiction purposes. This frustrates the ability of law enforcement authorities to enforce the criminal statutes prohibiting such behavior.

Not only do the videos provide enforcement difficulties, but their sale in interstate commerce directly drives the illegal conduct, providing a financial incentive for the extreme acts of animal cruelty, and also helping to feed such perverse interests. In fact, many of the websites offering the videos for sale offer to create videos specific to requests – allowing consumers to choose both their "model" and their "victim" – a further demonstration that many of these acts occur directly because of the potential for an Internet sale. Our legislation will give law enforcement the tools they need to stop this abhorrent practice.

The U.S. Supreme Court in *U.S. v. Stevens* overturned a 1999 law on this subject on First Amendment grounds, saying the "presumptively impermissible applications of [the statute] far outnumber any permissible ones."

That law made it a crime to "knowingly create, sell, or possess a depiction of animal cruelty" with the intention of placing the depiction in interstate or foreign commerce. The Court spent much of the decision discussing the overbreadth of the law, laying out the swath of legitimate speech that could be

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swept into the law under consideration. Yet the Court explicitly reserved judgment on a statute narrowly tailored to the interstate commerce of crush videos.

We have been told that these repugnant videos virtually disappeared from the Internet while the 1999 law was in place, but in recent months, since the Supreme Court's April decision, we have seen a resurgence of the industry on the Internet.

This type of cruelty is already illegal by state law, and I really don't believe anyone could watch one of these videos and see it as an act of "free speech." But in order to enforce these animal cruelty laws, and in order to halt the financial incentive to those who inflict this type of cruelty for their prurient interests, we need a law specifically addressing the creation of these videos for interstate commerce.

The Court's decision in the *Stevens* provides us with an important reminder to exercise great prudence in our language, to ensure that any legislation does not hamper free expression of the First Amendment. However, it also allows us the benefit of a road map to the type of narrow tailoring that is required, and I am confident that our bill will be sufficiently tailored to withstand the scrutiny of the Court, and that we will be able to prohibit this detestable practice once again.

U.S. Senator Dianne Feinstein
September 15, 2010

Statement for the Record

Hearing on "Prohibiting Obscene Animal Crush Videos in the Wake of United States v. Stevens"

U.S. Senate Committee on the Judiciary September 15, 2010

I want to thank Senator Kyl for holding this hearing and express my strong support for efforts to ban obscene "animal crush" videos.

What happens in these videos is absolutely unspeakable. Scantily clad women, usually in high heels, torture, maim, and ultimately kill small kittens, rabbits, dogs, and even monkeys.

The Humane Society, which has investigated these videos, has found examples that violate all standards of basic human decency:

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- In one video, titled "Kitten Torture and Crush": "A kitten confined to a cage is repeatedly burned by cigarettes and a lighter and shrieks in pain as its back and face are set on fire. The charred (but living) animal is pulled from the cage, kicked and viciously ripped to pieces by the woman's high heel."

- In another, titled "High Heel Hell Part III - The Ritual": "A provocatively dressed model crushes five large rabbits, one by one, with high heels, pounding on their backs and heads until they are bleeding, and placing their dead bodies in the center of a room in the shape of a cross."

These videos and the industry that creates them exist to appeal to deviant sexual interests. They are both profitable and horrific.

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In 1999, when Congress first passed the "Depiction of Animal Cruelty Act," over 2,000 crush video titles existed. They sold on the internet for as much as $300 and brought in annual sales of nearly $1 million.

Today, after the Supreme Court has struck down that law, the industry is already re-emerging. The Humane Society has identified one website alone that has over 100 animal crush videos for sale.

That is why it is critical that we act carefully, but quickly to pass narrow, constitutional legislation to prohibit the sale and distribution of these disgusting videos.

I understand that there are First Amendment concerns about legislation in this area; and we must use the utmost care to ensure that any law we enact does not overreach.

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But what we are targeting here is not the ordinary, but the obscene. Not common hunting or agricultural videos, but the emergence of a sexual subculture that profits on the illegal mutilation, maiming torture, and killing of defenseless animals.

H.R. 5566, for example, which has already passed the House makes every effort to the problem narrowly:

- It only applies to videos in which animals are intentionally crushed, burned, drowned, suffocated, or impaled in a manner that violates Federal criminal law;

- It expressly exempts hunting and agricultural videos; and

- It limits the criminal violation to only those who sell or distribute these videos for financial gain.

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I commend Representative Gallegly for his work on that bill, and I look forward to working with him and with Senator Kyl to put an end to the creation of these horrific videos.

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Hearing before the
Senate Committee on the Judiciary
On
"Prohibiting Obscene Animal Crush Videos in the Wake of *United States v. Stevens*"

Wednesday, September 15, 2010
Dirksen Senate Office Building, Room 226
10:00 a.m.

Written Testimony of
Professor Cheryl Hanna
Vermont Law School
South Royalton, VT

My thanks to Senator Leahy, Senator Kyl, and Members of the Senate Judiciary Committee for inviting my written testimony on the constitutional implications of prohibiting obscene animal crush videos in the wake of *United States v. Stevens*. I am a professor and scholar of Constitutional Law at Vermont Law School and have written extensively on issues related to sexual and domestic violence. I am also a member of the United States Supreme Court Bar. In the past few years, I have studied and written about the evolution of the obscenity doctrine and its application to both extreme pornography and "crush videos." Along with my colleague Pamela Vesilind, I wrote a comprehensive preview of *United States v. Stevens* for the Charleston Law Review's annual Supreme Court Preview,[1] attended oral arguments at the United States Supreme Court, and have since followed the legal and policy debates surrounding the issue of obscenity and crush videos in light of the Supreme Court's decision.

[1] Cheryl Hanna & Pamela Vesilind, *Preview of United States v. Stevens: Animal Law, Obscenity, and the Limits of Government Censorship*, 4 CHARLESTON L. REV. 59 (2009).

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My testimony will focus on the question of whether a federal law specifically banning crush videos would likely withstand a First Amendment challenge after *United States v. Stevens.* As a legal scholar, I take no position on the desirability of prosecuting obscenity crimes more generally. Rather, I view my role as providing you with an objective analysis of existing law as applied only to crush videos in order to inform your final decision on the legislation.

It is my opinion that after the *Stevens* decision, crush videos could be legitimately excluded from the First Amendment under the pre-existing categories of both obscenity and speech integral to criminal conduct. Of particular relevance is the fact that the underlying sexual conduct portrayed in these videos both appeals to a prurient interest in sex and is illegal in every state, with the obscenity and the depicted illegal conduct intricately intertwined. It is the inescapable intersection between the criminal acts and the production of obscene material that makes crush videos particularly unworthy of First Amendment protection.

The statute at issue in *Stevens,* 18 U.S.C. § 48, was struck down because the Supreme Court refused to create a new category of unprotected speech involving depictions of animal cruelty and found that the statute itself was overly broad. However, the Supreme Court explicitly stated that its ruling did not preclude consideration of a more narrowly-drawn statute limited to crush videos or other depictions of extreme animal cruelty. In *Stevens*, the Supreme Court reaffirmed that the First Amendment permits restrictions on speech in historic and traditional categories, including both obscenity and speech integral to criminal conduct.

To that end, a narrowly drawn statute that limits distribution of crush videos to those that are both obscene and are integral to criminal conduct would allow the Supreme Court to confine its analysis to historic categories of restricted speech. This is crucial because in its analysis in

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Stevens, the Supreme Court was extremely skeptical of recognizing any new categories of unprotected speech, thereby precluding any justification of the statute solely on the grounds that it is intended to suppress animal cruelty more broadly. Thus, if this Committee were to pass a statute that bans only those depictions that are both obscene and intrinsically related to criminal activity, it would be limiting prosecutions only to that speech which has historically been unprotected under the First Amendment. This approach best protects existing First Amendment freedoms while at the same time provides law enforcement with the necessary legal framework to halt the production of crush videos.

The Current Doctrine of Obscenity as Applied to Crush Videos

The United States Supreme Court declared obscenity outside the area of constitutionally protected speech or press more than half century ago in *Roth v. United States*,[2] holding that "implicit in the history of the First Amendment is the rejection of obscenity as utterly without redeeming social importance."[3] But the Supreme Court did not articulate a test for evaluating whether speech was obscene until 1973, in *Miller v. California*.[4] The *Miller* test, as it is commonly referred to, asks the fact-finders to resolve three questions:

1. Does the work in question, when taken as a whole and viewed from the perspective of the average person in light of contemporary community standards, appeal to a prurient interest in sex?

2. Does the work depict or describe, in a patently offensive way, sexual conduct specifically defined by the applicable state law?

[2] *Roth v. United States*, 354 U.S. 476, 485 (1957).
[3] *Id.* at 484.
[4] *Miller v. California*, 413 U.S. 15 (1973).

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3. Does the work, when taken as a whole, lack serious literary, artistic, political, or scientific value?[5]

The *Miller* test is both fact-driven and open-ended, providing a relatively broad definition of obscenity in the first two prongs, but protecting works that have some other socially redeeming value apart from their appeal to a prurient interest in sex. This test is consistent with the Supreme Court's continued adherence to the concept that "there are legitimate state interests at stake in stemming the tide of commercialized obscenity, even assuming it is feasible to enforce effective safeguards against exposure to juveniles and to the passerby."[6]

Generally, there are three justifications for excluding obscenity from the First Amendment. The first is that a community should determine the moral environment of its citizens and that obscenity erodes the moral fabric of our people.[7] This justification finds ample precedent in Supreme Court jurisprudence.[8] The second justification is that obscenity can lead to antisocial behavior, including both physical and sexual violence against women and children.[9] The third justification is that obscenity is not speech, but should be classified as a sexual aid intended solely to produce a physical response rather than to communicate a cognitive message.[10]

The crush videos described in the testimony of Nancy Perry, Vice President for Government Affairs of the Humane Society of the United States, as presented to this Committee on

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[5] *Id.* at 24.
[6] *Paris Adult Theater I v. Slaton*, 413 U.S. 49, 57 (1973).
[7] *See* Erwin Chemerinsky, CONSTITUTIONAL LAW: PRINCIPLES AND POLICIES, 1016-24 (2006) (providing an excellent overview of current obscenity doctrine).
[8] *See, Paris Adult Theater I*, 413 U.S. at 49, 58.
[9] *See id.* at 688 (recognizing at least an arguable connection between obscenity and crime).
[10] Fred Schauer, *Speech and "Speech" – Obscenity and "Obscenity": An Exercise in the Interpretation of Constitutional Language*, 67 GEO. L.J. 899, 923-24 (1979).

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September 15, 2010, could clearly be found to be obscene under the *Miller* test. As she describes, "In a typical animal crush video, a scantily-clad, high-heeled woman or young girl is seen stomping, squishing, and impaling an animal to death for the titillation of viewers with a sexual fetish for animal crushing." In addition, Ms. Perry's testimony confirmed that such videos are marketed through websites that promote the sexual nature of the material being sold, which is also relevant to the analysis of whether such material could be classified as obscene.[11]

Under the first prong of the *Miller* test, crush videos, when taken as a whole and viewed from the perspective of the average person in light of contemporary community standards, unquestionably appeal to a prurient interest in sex, and particularly appeal to those consumers who may have certain sexual fetishes as described by the testimony of Dr. Kevin Volkan, also presented to this Committee on September 15, 2010. Indeed, as currently available on the market, crush videos are solely marketed and distributed as sexual in nature. Under the second prong of *Miller*, the question is whether crush videos depict, in a patently offensive way, sexual conduct specifically defined by applicable law. There is little doubt that juries are likely to find crush videos patently offensive. The primary legal consideration is whether the act of harming animals in a highly sexualized context is sexual conduct, or whether it is purely violent conduct that falls outside of an obscenity analysis. The Supreme Court has never specifically limited its definition of sexual conduct, but rather has left that question open as cases arise. Of particular relevance, in *Miller*, the Court stated:

> We emphasize that it is not our function to propose regulatory schemes for the States. That must await their concrete legislative efforts. It is possible, however, to give a few

[11] *Ginzburg v. United States*, 383 U.S. 463 (1966) (evidence that the petitioners deliberately represented the accused publications as erotically arousing and commercially exploited them as erotica solely for the sake of prurient appeal amply supported the trial court's determination that the material was obscene).

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> plain examples of what a state statute could define for regulation under part (b) of the standard announced in this opinion, supra:
>
> (a) Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated.
>
> (b) Patently offensive representations or descriptions of masturbation, excretory functions, and lewd exhibition of the genitals. [12]

Thus, the Supreme Court deliberately left the issue of whether the depictions in the second prong of the *Miller* test are sexual conduct to the fact-finder in light of contemporary community standards. Furthermore, the Court's non-exclusive list of examples, which include acts beyond ultimate sexual acts or the exhibition of genitals, suggests that the Court's intent was not to limit the definition of sexual acts, but provide a broad definition that could be applied on a case-by-case basis.

To that end, the lower courts have upheld obscenity prosecutions for material geared toward particular sexual fetishes. For example, in upholding an obscenity prosecution for films depicting bestiality, the Fourth Circuit Court of Appeals held that it did not matter if the material depicted did not sexually arouse the average person, or even the average "zoophiliac."[13] Rather, because the material appealed to a particular fetish and was extremely offensive in nature, the conviction was upheld. Similarly, while the average person may not be sexually aroused by crush videos, for some, the images are both sexual and sexually arousing, thereby falling within the Miller test's second prong.

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[12] *Miller,* 413 U.S. at 25.

[13] *U.S. v. Guglielmi,* 819 F.2d 451, 452 (4th Cir. 1987). *See also Paris Adult Theater I,* 413 U.S. at 56 n.6 (1973) (noting that expert testimony can be used "where contested materials are directed at such a bizarre deviant group that the experience of the trier of fact would be plainly inadequate to judge whether the material appeals to the prurient interest.")

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Of course, not all the conduct depicted in crush videos is *per se* sexual. A depiction of a child harming a kitten while at a playground might not likely be considered a sexual act. But what makes the same conduct a sexual act in a crush video is that the entire work, when *taken as a whole* as required by the *Miller* test, is both intended to be sexual and has a sexual impact on certain viewers. The Supreme Court has not limited the definition of sexual acts to exclude acts that could otherwise be non-sexual in a different context. For example, *Miller's* list of examples of sexual conduct includes excretory functions. Similarly, not all depictions of illegal animal cruelty will be sexual, but when presented in a particular overall context, where the product is intended to be sexual and appeals to the prurient interest in sex in certain viewers, the act becomes sexual. The *Miller* test requires a work to be viewed within its entire context, and unquestionably, the entire context of crush videos both appeal to a prurient interest in sex and are intended solely for the purpose of sexual arousal.[14] Thus, it is imperative that the statute addressing crush videos define the prohibited conduct in such a way as to focus on both the broader sexual context of the depictions and the actual underlying criminal acts themselves.

Finally, under the *Miller* test, whether a particular crush video lacks serious literary, artistic, political, or scientific value is primarily a factual question. To date, I am not aware of any legitimate argument that suggests that crush videos are intended to communicate a political message or have some other redeeming social value beyond appealing to the sexual desires of their consumers. Indeed, crush videos are so *de minimis* in value that one could consider them as sexual aids intended only to produce a physical response, not speech intended to provoke a cognitive reaction. This argument invokes the third policy reason obscene material is not protected speech, or any kind of speech at all.

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Speech Integral to Criminal Conduct as Applied to Crush Videos

As well as upholding bans on obscenity, the Supreme Court has recognized speech integral to criminal conduct as unprotected by the First Amendment.[15] Under this rationale, speech can be banned if it is an "integral part of conduct in violation of a valid criminal statute," and a "proximate link" to the underlying crime.[16] While the *Stevens* court rejected the argument that the dog fighting videos at issue in the case fell under this category of protected speech, it left open the possibility of such an argument being applied to crush videos.

This doctrine of speech integral to criminal conduct has been extended to include bans on the exhibition, sale, distribution, and possession of child pornography even if such depictions do not meet the *Miller* test.[17] With child pornography, the Supreme Court has primarily been concerned that children are harmed and exploited in the making of such material. More recently, the Supreme Court has held that in order to be considered child pornography, actual children must be used in the production and that virtual child pornography can only be banned if it is otherwise obscene under the *Miller* Test.[18] Crucial to this analysis was that child pornography was intrinsically linked to a crime, and thus the government's rationale for exclusion was grounded within the already pre-existing category of prohibited speech integral to criminal conduct.[19]

When examining the Supreme Court's overall approach to regulating both obscenity and child pornography, a relevant analogy to crush videos can be made. One way to rationalize the distinctions among actual and virtual child pornography and extreme pornography is that with

[15] *Giboney v. Empire Storage & Ice Co.*, 336 U.S. 490, 498 (1969).
[16] *United States v. Stevens,* 130 S.Ct. 1577, 1586 (2010) (citing *New York v. Ferber*, 458 U.S. 747, 761-62 (1982)).
[17] *New York v. Ferber,* 458 U.S. 747, 761 (1982).
[18] *Ashcroft v. Free Speech Coalition,* 535 U.S. 234, 240 (2002).
[19] *Id.* at 245.

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actual child pornography, the underlying conduct depicted in the images themselves involves criminal activity, such as child exploitation and child sexual abuse. In contrast, both virtual child pornography and obscenity do not generally require a crime to be committed in the making of the images and thus there is no additional state interest in deterring criminal activity. Therefore, with actual child pornography, a narrow application of the *Miller* test is less warranted because the justification for the ban includes deterring conduct that the state has already determined to be harmful to society. Child pornography is both sexually oriented speech and depicts or depends upon conduct that is criminal.

It is this combination of these two state interests of regulating both obscenity and criminal conduct that is most relevant to crush videos. These videos have commercial value only because they appeal to a prurient interest in sex by providing a visual aid to those who find women committing *criminal* acts on animals sexually arousing. The animal cruelty crimes in these videos are committed for the sole purpose of filming and distributing the obscene depictions, and thus arguably fall within this category of unprotected speech as well as within the unprotected category of obscenity.

Obscenity, Conduct Integral to Criminal Activity, and Concerns about First Amendment Freedoms

Reasonable, well-meaning scholars, advocates, and policy-makers can legitimately disagree on whether extreme pornography that does not otherwise involve criminal or nonconsensual conduct ought to be banned. Some argue that such prosecutions are necessary to maintain the social fabric, especially given that extreme pornography often degrades women and children. In contrast, others argue that prosecuting obscenity undermines the free expression

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guaranteed in the First Amendment and suppresses sexual autonomy otherwise guaranteed by the Constitution. Another legitimate debate posed by *Stevens* was that, if § 48 were upheld, it could have opened the door to expanded government regulation of speech that appeals to base instincts and otherwise lacks social value, but is not sexual.[20]

It is my opinion that a narrowly worded statute geared solely at crush videos will not invoke the debate over the appropriate limits of the obscenity doctrine. Were the Supreme Court to uphold a ban on crush videos under the rationale that they are both obscene and integral to criminal activity, it would not be expanding the obscenity doctrine. Whether depictions that appeal to sexual fetishes but do not otherwise involve criminal conduct, such as depictions that cater to acrotomophilia (sexual attraction to amputees), or those that are patently offensive but are nonsexual are obscene, would remain open questions. This two-pronged rationale for banning crush videos would also leave open the debate as to whether purely legal and consensual depictions that appeal to a prurient interest in sex ought to be the subject of criminal prosecutions as a matter of policy.

It is particularly noteworthy that the majority of the *amici* in *Stevens* who wrote against § 48 conceded that a law prohibiting crush videos alone would pose no First Amendment problem.[21] Thus, unlike in *Stevens*, where there was significant outcry that § 48 offended First

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[20] *See, e.g.*, *Am. Amusement Mach. Ass'n v. Kendrick*, 244 F.3d 572, 575 (7th Cir.) (Posner, J.), *cert. denied*, 534 U.S. 994 (2001) (suggesting that violent images could be considered obscene under *Miller* "even if they have nothing to do with sex.").

[21] *See* Brief for the Association of American Publishers, Inc. et al. as Amici Curiae Supporting Respondent at 17, *United States v. Stevens*, 130 S. Ct. 1577 (2010) (No. 08-769) ("Had Congress sought to proscribe only 'crush videos,' it could have done so, and this would be a much different case."); Brief for the Reporters Committee for Freedom of the Press and Thirteen News Media Organizations as Amici Curiae Supporting Respondent at 22, *United States v. Stevens*, 130 S. Ct. 1577 (2010) (No. 08-769) ("Congress could have regulated legally obscene crush videos in a manner that did not threaten news reporting and other high-value speech."); Brief for National Rifle Association of America, Inc. as Amici Curiae Supporting Respondent at 34-35, *United States v. Stevens*, 130 S. Ct. 1577 (2010) (No. 08-769) ("Congress could have drafted a statute that more precisely aimed at its objectives.

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Amendment freedoms, I would expect that a narrowly drawn statute geared solely at obscene crush videos would generate far less opposition from First Amendment advocates.

Finally, if the Justice Department were to proceed in cases involving the distribution of crush videos under the theory that they are both obscene and integral to criminal activity, it would likely face a favorable legal landscape in the Federal Courts. Recent experience with federal obscenity prosecutions suggests that both juries and the federal courts are willing to apply the obscenity doctrine to extreme pornography as well as written fiction despite what might be considered a growing cultural acceptance of an individual's right to sexual freedom and autonomy.

Under the Bush Administration in particular, there were a significant number of federal obscenity prosecutions by the Federal Anti-Obscenity Task Force, beginning in 2003 with *United States v. Extreme Assoc., Inc.*[22] This was the first federal obscenity prosecution in more than a decade. A grand jury indicted a couple who owned the Los Angeles production company for distributing five videos which included scenes of virtual child pornography, rapes and murder of women, and other grotesque depictions. The couple appealed, arguing that the right to privacy, then recently strengthened by the Supreme Court's opinion in *Lawrence v. Texas*[23], gave individuals the right to view such material as it involved private, consensual sexual conduct. That right could not be meaningfully exercised, they argued, without the corresponding right of companies to distribute such material. The District Court agreed, declaring that the federal anti-obscenity laws were unconstitutional. However, the Third Circuit reversed, holding that, because only the Supreme Court could overrule precedent, it could not extend the right of privacy under

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For example, Congress could have defined and criminalized 'crush videos.'")

[22] *United States v. Extreme Assoc. Inc.*, 352 F.Supp. 2d. 578 (W.D.Pa. 2005).
[23] *Lawrence v. Texas*, 539 U.S. 558 (2003).

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Lawrence to include the distribution of obscenity.[24] The Supreme Court denied the couple's petition for certiorari.[25] This case is perhaps the most prominent indication that the Supreme Court does not intend to revisit the constitutionality of the obscenity doctrine generally.

Conclusion

The Senate Committee on the Judiciary would be acting well within current Supreme Court jurisprudence were it to pass legislation that specifically banned crush videos that were both obscene and integrally related to criminal conduct. In *United States v. Stevens*, the Supreme Court reaffirmed that both obscenity and speech integral to criminal activity remain unprotected categories under the First Amendment, and essentially invited Congress to draft a narrowly-tailored statute geared at crush videos that fell within historically recognized categories of unprotected speech. Furthermore, there is ample evidence that crush videos are both obscene under the *Miller* test, and similar to the analysis in *Ferber*, are intricately linked to criminal statutes which ban cruelty to animals. Limiting a statute to those depictions that are both obscene and integrally related to criminal conduct would not compromise current First Amendment protections and would likely generate far less opposition from First Amendment advocates then did §48.

[24] *United States v. Extreme Assoc., Inc.*, 431 F.3d 150, 161 (3d Cir. 2005).
[25] *Extreme Associates, Inc. v. United States, cert. denied*, 547 U.S. 1143 (2005).

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Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Committee On The Judiciary,
Hearing On "Prohibiting Obscene Animal Crush Videos In The Wake Of *United States v. Stevens.*"
September 15, 2010

Today, the Judiciary Committee turns its attention to animal crush videos. These videos often depict obscene, extreme acts of animal cruelty, and were a target of the statute the Supreme Court overturned in *United States v. Stevens*. Earlier this year, in *Stevens*, the Supreme Court struck down a Federal statute banning depictions of animal cruelty on the basis that, as written, it was overly broad and in violation of the First Amendment. This Committee regularly looks at questions raised by Supreme Court decisions and the First Amendment, and today we will hear from experts who will discuss the obscene and criminal nature of animal crush videos.

I have long championed First Amendment rights. As the son of Vermont printers, I know firsthand that the freedom of speech is a cornerstone of our democracy. This is why I have worked hard to pass legislation like the SPEECH Act, which protects American authors, journalists and publishers from foreign libel lawsuits that undermine the First Amendment.

But, there are a few well-established exceptions to the First Amendment. The United States has a history of prohibiting the interstate sale of obscene materials. Many animal crush videos are obscene. They depict extreme acts of animal cruelty which are designed to appeal to a specific, prurient, sexual fetish. Indeed, these animal crush videos are patently offensive, lack any redeeming social value, and should be banned, consistent with the Supreme Court's obscenity jurisprudence. In today's hearing, the Committee hopes to learn more about these videos, why they are created, and how they are marketed.

The United States also has a history of prohibiting speech that is integral to criminal conduct. The acts of animal cruelty depicted in many animal crush videos violate state laws, but these laws are hard to enforce. The acts of cruelty are often committed in a clandestine manner that allows the perpetrators to remain anonymous. The nature of the videos also makes it extraordinarily difficult to establish the jurisdiction necessary to prosecute the crimes. Given the severe difficulties that state law enforcement agencies have encountered in attempting to investigate and prosecute the underlying conduct, closing the distribution network for animal crush videos is a viable, narrowly tailored means of combating the crimes of extreme and obscene animal cruelty that they depict.

This is an important issue, and I am pleased that there is bipartisan interest in ensuring we strike the right balance between the First Amendment, and the needs of law enforcement, while adhering to the separation of powers enshrined in our Constitution. I would like to thank Senator Kyl for his willingness to chair this hearing, as well as Senator Merkley, Ranking Member Sessions, and Senator Burr for their continued interest in addressing this important topic. I thank the Humane Society for raising this issue with many Members of Congress and for testifying today. I hope this hearing will advance our efforts to ban obscene animal crush videos.

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Testimony of Nancy Perry
Vice President for Government Affairs, The Humane Society of the United States

Before the Senate Committee on the Judiciary

"Prohibiting Obscene Animal Crush Videos in the Wake of *United States v. Stevens*"
September 15, 2010

Thank you, Chairman Leahy and Senator Kyl, for your leadership in addressing the problem of animal crush videos and for the opportunity to testify on this important topic. My name is Nancy Perry and I am Vice President for Government Affairs at The Humane Society of the United States, the nation's largest animal protection organization, with 11 million supporters.

The HSUS has been working to address the problem of animal crush video issue since this problem came to our attention in the late 1990s. HSUS supported the legislation that Congress enacted in 1999, the Depictions of Animal Cruelty Act. In 2009, HSUS conducted an extensive undercover investigation that revealed the resurgence of the animal crush video industry in the wake of the lower court ruling striking down the 1999 law, and submitted an Amicus brief to the Supreme Court in support of that law. When the Supreme Court decision in April 2010 overturned the 1999 law as overbroad, HSUS worked closely with sponsors in Congress to develop narrowly-drawn legislation to meet the Court's concerns but still effectively address the crush video problem. HSUS was very pleased that the House passed H.R. 5566 by an overwhelming vote of 416 to 3 in July.

Introduction

Congress has a longstanding and compelling government interest in preventing cruelty to animals. Criminal statutes designed to ensure the humane treatment of animals and to preserve public morals are older than our Nation and reflect its deepest values. All 50 states have enacted statutes that make it a crime to inflict cruelty on animals, and the Federal Government has enacted a number of laws to require the humane care and treatment of animals.

Cruelty to animals has been a core issue for The HSUS since our inception in 1954, as is reflected in our mission statement: "Celebrating Animals, Confronting Cruelty." We have worked successfully at local, state and federal levels in advocating for the adoption of stronger animal cruelty laws, and regularly offer rewards for information leading to arrests and convictions in animal cruelty and fighting cases.

We have partnered with numerous state Attorneys General in establishing some of these rewards. We have conducted thousands of workshops for law enforcement, animal control officers, and prosecutors on the proper investigation and prosecution of animal cruelty and animal fighting. Moreover, we have offered scores of workshops educating animal shelter and control officers, social service workers, law enforcement officials, mental health professionals, veterinarians and others about the connection between animal cruelty and human violence, while promoting inter-agency collaborations to reduce animal cruelty and other family and community violence.

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People who kill or abuse others often do so as the culmination of a pattern of abuse which often begins with the torture and killing of animals and should society become desensitized to the suffering of animals, it may too lose the ability to empathize with the suffering of humans. Our staff psychologists have helped create treatment programs for juveniles and adults adjudicated for animal cruelty and have contributed to the extraordinary body of research demonstrating the connection between animal cruelty and human violence, most recently partnering with the Center on Children and the Law of the American Bar Association to develop a handbook, "A Common Bond: Maltreated Children and Animals in the Home."

Animal Crush Videos

Animal crush videos are one of the most abhorrent forms of extreme animal cruelty our organization has ever encountered. In a typical animal crush video, a scantily-clad, high-heeled woman or young girl is seen stomping, squishing, and impaling an animal to death for the titillation of viewers with a sexual fetish for animal crushing. The animals are often secured to the ground so they cannot escape, but free enough to move so that their writhing in agony is clear to the viewer. This sickening torment is drawn out for many minutes or even for hours, during which time the animals' cries and squeals are featured, along with the animals' excretions of blood, organs, urine, etc., as they are crushed to death.

In 1999, Congress passed 18 U.S.C. § 48 with overwhelming bipartisan support to criminalize the interstate sale of animal crush videos. § 48 was intended to supplement state cruelty laws that were ineffective in stemming the acts of cruelty and torture necessary to create animal crush videos.

Congressional testimony during hearings on §48 revealed that crush videos appeal to a specific type of sexual fetish dealing with feet. Punishing Depictions of Animal Cruelty and Federal Prisoner Health Care Co-Payment Act of 1999: Hearing Before the Subcomm. on Crime of the H. Comm. On the Judiciary, 106th Cong. 41 (1999); (http://commdocs.house.gov/committees/judiciary/hju63862.000/hju63862_0.htm, at 52-58). The testimony described how men developed this sexual fetish and how crush videos were developed so that those with this fetish could "transfer their fantasy and excitement" of being crushed. Id. at 53.

The testimony noted that "[m]any videos are produced wherein defenseless animals are tortured and crushed to death for the sole purpose of sexually exciting men. The animals are tortured in a slow, cruel and deliberate way. The women torturing the animals talk to them as if they are human. The women play the part of a dominatrix. The women wear different types of shoes including spike heels and stilettos." *Id.*

The torture and cruelty carried out and filmed in crush videos are some of the most vile, repugnant images imaginable. As Representative McCollum of Minnesota noted in 1999, "I do not believe in my entire time in Congress, I have ever seen anything ... as repulsive as [crush videos]. And I doubt anyone else who had to watch it would say anything [differently]." 145 Cong. Rec. H10267 (daily ed. Oct. 19, 1999) (statement of Rep. McCollum)).

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U.S. v. Stevens

In *United States v. Stevens*, the Supreme Court struck down § 48 on very narrow grounds, finding that the 1999 federal law was overbroad because it could be interpreted to apply to many unintended circumstances, including hunting videos that had some redeeming social value. Slip Op. at 11-15.

The Court did not say that depictions of extreme animal cruelty are protected by the First Amendment. Instead, the Court unanimously recognized the long history of animal cruelty laws dating back to the founding of our country, Slip Op. at 6-7, and carefully left open whether Congress could draft a narrower law that would only reach depictions of extreme and illegal cruelty. *Id.* at 19 ("We therefore need not and do not decide whether a statute limited to crush videos or other depictions of extreme animal cruelty would be constitutional.").

At oral argument, Justice Breyer stated that if Congress passed a statute aimed solely at "crush videos," there would be "a very strong case" for upholding that law. Transcript of Oral Argument at 20. Likewise, many of the opponents of the 1999 law took the position in their Amici Curiae briefs in the *Stevens* case that a narrow bill focused on crush videos *would* be constitutional.

For example, the Reporters Committee for Freedom of the Press and Thirteen News Media Organizations jointly opined that, "Congress could have regulated legally obscene crush videos in a manner that did not threaten news reporting and other high-value speech," while the Association of American Publishers, et al., stated, "Had Congress sought to proscribe only 'crush videos,' it could have done so, and this would be a much different case." Likewise, the National Rifle Association of America, Inc. pointed out that, "Congress could have defined and criminalized 'crush videos'," and the CATO Institute referred to "the most vile kinds of animal cruelty – notably, 'crush videos,' which are not at issue here [in the *Stevens* case] and which (because they are 'designed to appeal to persons with a very specific sexual fetish,') are obscene by any standard."

The Resurgence of Animal Crush Videos

Over 2,000 crush video titles existed at the time of §48's passage, selling on the Internet for as much as $300 with annual sales totaling nearly $1 million. See 145 Cong. Rec. 31217 (1999); Thomas R. Collins, Long Odds Lead to Okeechobee 'Crush' Prosecution, Palm Beach Post, Oct. 24, 1999, at 7C. The enactment of §48 eliminated the financial incentive driving production of crush videos, and by 2007 sponsors of §48 declared the crush video industry dead. Press Release, Elton W. Gallegly, Beyond Cruelty, U.S. Fed. News, Dec. 16, 2007. Even overseas websites shut down in the wake of §48. Julia Reischel, Crush Me, Kill Me, Broward-Palm Beach New Times, Apr. 20, 2006, available at http://www.browardpalmbeach.com/2006-04-20/news/crush-me-kill-me&page=29.

In the wake of the Third Circuit and Supreme Court's decisions striking down §48, crush videos once again began repopulating the Internet. As of today, both so-called "soft crush" videos

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(involving crustaceans, insects, and fish), and "hard crush" videos showing the torture of puppies, kittens, and other warm-blooded animals are readily available for sale on the Internet.

In 2009, our organization conducted an undercover investigation and found extensive offerings that could be purchased online using PayPal or other convenient payment options.[1] The password protected part of one website had 118 videos for sale.[2] Videos ranged in price from $20 to $100.[3] Each of the videos for sale contained footage of multiple animals, translating into hundreds of small animals being tortured and crushed to death for the profit-making of this one website alone.[4] We found that purveyors also offer the opportunity for custom orders – with the customer specifying what type of animals and torture they want to see.[5]

I have included as Addendum A to my testimony a catalogue of the findings from our 2009 investigation, including for example, one 58-minute video described by the purveyor as "A cat got long time tortured then crushed to death by red platform," and another as "Kim crush 8 rabbits with 4 pairs of sexy high heels."[6] A side business to the videos themselves is the sale of the shoes, panties, and other items used in the crushing.

Also, in July of this year, we received a tip from a Russian investigator, who identified through online forums numerous crush videos readily available for purchase via download links for about $80, payable through PayPal or Western Union. His investigation found dozens of video clips showing young girls and women maiming and killing animals including dogs, goats, monkeys, rabbits and pigs.[7] An HSUS researcher viewed preview clips that are offered to potential customers. The videos depict horrifying forms of animal cruelty, including:

- A smiling girl in stilettos pokes her sharp heel through a live dog's eye socket. The dog's front legs are tied behind his back and his mouth is tied shut, but he screams and screams in horrendous pain as the girl relentlessly stabs her heel through his eye socket. At one point, her heel goes all the way in and makes a cracking sound, but the dog is still alive and screaming.

- A girl wearing a very short and tight patent leather mini-skirt and stiletto heels pokes the heel of her shoe through the eye of a small monkey. In another video, a girl in stilettos crushes a small monkey while the monkey's tiny hand keeps trying to hold on to her foot as she crushes him.

- A dog, who looks like he has been skinned and is lying in a pool of blood, is still very much alive. He flinches and raises himself up to try and escape when a girl cuts his tail off with a hammer and hatchet. The girl's feet are covered in blood.

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[1] Animal Crush Videos Research & Investigation: Descriptive Catalogue of DVD Folders Content, May 22, 2009.
[2] Id.
[3] Id.
[4] Id.
[5] Id.
[6] Id.
[7] Supplement to Animal Crush Videos Research & Investigation, July 21, 2010.

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- A girl wearing a flimsy negligee, stockings and stiletto heels crushes a rabbit, who screams as his hind legs are crushed. In another video, a live rabbit is crushed by a girl's bloody bare feet on a tile floor strewn with the guts of previously killed animals. She crushes the rabbit until its viscera are squished out of its body, then she crushes those as well with her bare feet.

- A girl with stiletto boots and a very short mini skirt is stabbing her heels through a dog's abdomen. A dead dog lies on the blood-soaked floor nearby.

- A girl with very high stilettos crushes the head of a small pig whose legs are tied. The pig screams in pain. The girl stabs her pointed heel through the pig's head.

- A live puppy is crushed by a girl wearing stilettos. As she crushes the puppy's head, blood comes out of his nostrils and the eyeball nearly comes out of his head.

These examples, along with others outlined in Addendum B to my testimony, help demonstrate the extent of this problem. We do not have an exhaustive picture of all the hard crush and soft crush videos being produced and peddled, but we know the problem is very real and cries out for action by Congress.

The Inherently Sexual Nature of Animal Crush Videos

As explained in the House Reports from both 1999 and 2010, and confirmed by HSUS's two investigations, crush videos are inherently sexual in nature. They are available through websites with names like www.xxxfetish-media.com and have prominent announcements such as: "**WARNING!!! This website contains Adult-oriented material**, which may include; without limitation, photographic, videographic, audio and textual depictions of adults engaging in consensual, sexually explicit conduct. Such depictions may adopt; without limitation, fetishistic, homosexual, bi-sexual or transexual qualities..."

The listings of available videos are replete with photographs of women with the camera trained on their bikini underwear or other sexual attire. Many are shot from below, looking up into the woman's genital area, creating the appearance of being from the perspective of the victim. For example, a website notes for one video, "By request, this clip contains more POV's and lingering up-views and shows Tynsley's unique twisting style. Seems to be driving a few guys crazy out there!"

The women carrying out the slow, deliberate torture on the videos often talk to the animals as if they are human, using a dominatrix patter or other sexual tones. For example, a website offering hundreds of different crush videos describes one as follows: "She gives you some really nice, slow crush. She really takes her time with her victims, giving them all the opportunity to feel every little bit of pressure being placed on them with the soles of her classy high heel pumps. Her voice is soft and sexy as she taunts them, teases them, and finally places all her weight onto her victims, making sure they die under her feet."

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Another boasts about Lady Oasis' "nice crushing style and lots of verbal abuse and taunting. These little guys get smushed very well by this little hottie, who shows absolutely no mercy as she steps on each one with a smile." Then there's "Midnight [who] seems to be having lots of fun with her victims. She returns in this clip ready to humiliate and torture these little guys. She even makes one of these little guys beg her to step on him. Of course, she grants him his wish." Another states: "Big bad Kellie takes on a few stronger victims. But they are still no match for her. She uses her super-strong, beautiful feet to brutally force these guys to submit to her. After a few short, stomps, they submit to her, allowing her to do anything she wishes to them. She owns them and kindly lets them know!" And yet another, "She does it with her vicious red, powerful, dominatrix boots. She stomps the hell out of these critters with absolutely no regret. Gawd, this girl is hot!!!"

Appealing to the viewers' prurient interest in watching other creatures be crushed to death and fantasy of being crushed themselves, a website says about one video: "You've been busted again! When are you going to learn that getting caught checking out the backside of a Dreamgirl without her permission is not good for you? Its a good way to get yourself stepped on! Just ask these craws [crawfish] who tried to get a glimpse of Baby's backside. She makes them PAY with their lives for not being able to control their wondering eyes! Yea, like thats gonna stop YOU!!!!" Another offers: "Here, this ruby haired seductress is wearing a skin tight black dress that hugs her voluptuous curves. She is all woman and she knows it. Venom tortures two hermit crabs for her pleasure and yours in a pair of gray feminine peep toe ankle boots. You can see her pretty toes as they peep out from them, teasing you for more. There are plenty of shots of her luscious legs as well to make your blood boil."

In its welcome message, one site proudly announces, "This clip store has been created to give you a feel of what its like to be turned into a Snail or bug and crushed by sexy young women. Many of our clips have the models talking about what they are doing and how they enjoy crushing you. All the clips are filmed in High def to get you closer to the action!" A description of Lady Precious' crushing says, "Hold on to your pants, Guys. This girl is sure to get you goin!" And Honey's "sexy taunting and laughing after each goldfish explodes under her boots is a huge turn-on. How would you like to be stuck to the bottom of this gorgeous woman's boots? Yea, thought so. I'd love it, too."

Some websites create the morbid fantasy that the animals enjoy their suffering, as presumably the viewers imagine themselves doing. For example: "Love a woman in a short dress? Hazely looks too dam good here....At least they get one last good view before being crushed." And, "Once again, Fire shows off her long legs and lovely toes. She is in a red-hot, two-piece fishnet outfit. Befitting for a goddess named 'Fire'. She takes care of a couple of 'volunteers' in this clip. Love the way she takes her sweet time, giving these volunteers plenty of time to enjoy the flavor of her sweet soles and toes." One description of popping and exploding under the crusher's feet concludes, "Lucky caterpillars!"

Offering unending variations, the promotional descriptions proclaim things like, "Gotta love her sexy grinding in this clip. Complete 180 degree twists when she grinds....Super-sexy! She has a great time smushing and smearing her victims into the ground. Enjoy!" And "Butt crush has always been a frequent request. So, we decided to play around with it. I've had this clip sitting in

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my computer for several days and today came the millionth request for one. So, what the hell. Why not? Your face is only inches from Fire's gorgeous ass." And describing one costumed crusher, "She plays the Queen of Hearts here, ready to take on any victims that may want to break hers. She shows us what she does to pathetic creatures that attempt to break her heart. Of course, this is just a warning. She uses innocent victims, just to show what she is capable of."

The sheer volume and steady stream of new offerings in the wake of the Supreme Court's decision is overwhelming – with more than 700 different titles offered on just one of 50 separate "top shops" specializing in crush videos on the www.xxxfetish-media.com website alone.

Clandestine and Difficult to Prosecute

Because crush videos typically reveal only the woman's leg or otherwise lack indentifying information, perpetrators often escape prosecution. See 145 Cong. Rec. 31217 (statement of Sen. Smith) ("It has been difficult for enforcement agents to determine when the practice occurred, where it occurred, and who has been involved, since feet and the crushing of the animals are the only images on the video."); id. at 25898 (statement of Rep. Bachus) ("In every State it is against the law for them to do it, but we cannot identify these people. But we can identify who is selling them."); id. at 25896 (statement of Rep. Gallegly) ("Federal and State prosecutors from around the country have contacted me to express the difficulty they have in prosecuting people for crush videos because the only evidence of the crime is on videotape."); id. at 25898 (statement of Rep. Shays) ("We cannot prosecute these people without this law.").

The proliferation of animal crush videos is not a problem that can be addressed effectively under state law. Though every state prohibits animal cruelty, these videos are marketed in interstate commerce and some enter the U.S. market from other countries. State authorities' ability to prosecute the animal cruelty crimes that occur in the production of crush videos is frustrated by the clandestine nature of these crimes, which allows persons who torture animals to remain anonymous. The creation, marketing, and sale of animal crush videos foster this anonymity, are intrinsically intertwined with the underlying criminal torture of animals, and allow the persons responsible to profit financially from their crimes. Advertising and selling of such records of actual animal cruelty provide an economic motive for, and are an integral part of, the continued creation of animal crush videos.

As attested by the Association of Prosecuting Attorneys – whose letter I ask to have entered in the Record – a federal law is essential because it is so difficult to prove who is responsible for the underlying cruelty shown in the videos and when and where that cruelty occurred, in order to bring the perpetrators to justice. As the Association of Prosecuting Attorneys explains, "these videos are made secretively and anonymously. Even if identities can be determined, it is often impossible to prove where and when the videos were made in order to establish jurisdiction and that the crime occurred within the relevant statute of limitations."[8]

Absent a federal prohibition, law enforcement agents must rely on the unlikely event of catching someone red-handed producing a crush video behind closed doors. They cannot effectively

[8] Letter from David LaBahn, CEO, Association of Prosecuting Attorneys, September 15, 2010.

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crack down on this abhorrent industry unless Congress again prohibits the interstate commerce that is fueling the underlying acts of animal cruelty by making them profitable.

Conclusion

As explained by the Association of Prosecuting Attorneys, "Those who produce and market these videos and those who carry out the animal cruelty in the videos do so in order to profit from appealing to the prurient interests of those with a sexual fetish involving specific forms of animal cruelty and suffering. The acts of animal cruelty captured on film would likely not be committed but for the production of the crush videos that can bring a profit in interstate commerce."[9]

H.R. 5566 and legislation being developed in the Senate is urgently needed to stem the tide of criminal and obscene animal torture videos now proliferating on the Internet in the wake of the Supreme Court's ruling in *Stevens*. The legislation has been carefully narrowed and redrafted to close the gap in the enforcement of state and Federal laws that prohibit animal cruelty which was left open by the Supreme Court's opinion, and to do so without infringing on important First Amendment freedoms that the Humane Society of the United States and all Americans hold so dearly.

Because the lead opponents of the 1999 law have gone on record before the Supreme Court as saying that animal crush videos are "designed to appeal to persons with a very specific sexual fetish" and "obscene by any standard," we hope that civil libertarians will join together with the law enforcement community, animal protection advocates, and the millions of Americans across the country who have been horrified and outraged by the resurgence of vile and sickening animal crush videos, to ensure swift passage of this critically needed, and narrowly targeted legislation. We know from what occurred following the 1999 law that this is one area where having a law on the books can make a real and immediate difference in preventing extreme animal cruelty, so time is of the essence. Thank you again for your leadership and consideration.

[9] Id.

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Animal Crush Videos Research & Investigation:

Descriptive Catalogue of DVD Folders Content

Bettina Camcigil

Research & Analysis

Humane Society of the United States

May 22, 2009

During the period from April 29, 2009 – May 22, 2009, extensive Internet research was conducted to ascertain the availability of small animal crush videos for sale on the Web. The research also served in general to gauge the pervasiveness of the online crush fetish community and the sale of videos of the more "mainstream" live crush victims, bugs, crustaceans and fish. In addition to Internet research, undercover communication was established via email with contacts found on some of the websites.

The folders in the attached DVDs are divided into 3 main ones:

(1) General crush-related websites

(2) Misc small animal crush and torture

(3) Misc fish, crustacean and bug crush

Within these folders are subfolders pertaining to each website/video storefront for which information was found. The documents are in a multitude of formats – webpages were saved as PDFs although in some cases photos of crushing from the websites were saved in JPEG format. Some of the websites and online stores selling crush videos had preview clips of the videos for sale. Debut Video Capture Software was used to record some of these preview clips as examples of the crushing content available, and these are saved in WMV format. A total of 7 videos of small animal crush were purchased from various vendors – 5 of these are in WMV format, one is

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in AVI format, and one is in DIVX format. The websites/vendors from whom videos were purchased have *video(s) purchased* denoted after the folder name in the descriptive list below.

[Note: All the headings in **bold** below correspond to folder or subfolder titles on the DVD. Also, all information referred to in the following list, including Paypal transaction details, undercover email communications and domain registration details are saved within the folder it corresponds to.]

Due to the size of the content of the data (particularly the video files), there are a total of three DVDs accompanying this descriptive catalogue of folder content, and the content per DVD is as follows:

DVD #1:

General crush-related websites

Copy of this Descriptive Catalogue of DVD Folder Content

DVD #2:

Misc small animal crush and torture-Part 1 (includes the following subfolders: Crushheaven.com-small animal torture & crush; extreme.crushfetish.net & lethal.crushfetish.net-small animal crush; Squishy kitty and Squishy puppy; Chinese kitten crush; Zippo Cat)

DVD #3:

Misc small animal crush and torture-Part 2 (includes the following subfolders: Crushing Feet in Action - Frog Crush; creative-feet.com - Toad gecko turtle crush; genki-genki.com - Frog Crush; sexycrush.com - Mice and pinkies; Squishingnemo.com – Mice; Other)

Misc fish, crustacean and bug crush

(1) General crush-related websites

Top Crush Fetish Site Lists:

- http://myfeetlinks.com/crush/ A top list of crush fetish sites or lists with dedicated crush fetish categories
- http://123crush.com/ A guide to the Net's best crush and trample fetish sites

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Online Stores Selling Crush Videos:

Although some of the larger, more prolific crush video producers have their own websites, the general trend is that crush fetishists make their own videos and then sell them through storefronts on the sites listed below. Even those that have their own crush websites, still seem to sell videos through these online video stores. Crush videos sold through these websites are the more "mainstream" bug, fish, or crustacean videos, and no small animal crush videos were uncovered for sale on any of these sites. Some of the sites, however, provided email addresses for the video producers/sellers, and undercover emails were sent to several of these.

- http://fetishworldclips.com One of the categories on the drop-down menu on the homepage is "crushing"
- http://nicheclips.com One of the categories on the drop-down menu is "crush fetish"
- http://prepaidclips.com One of the categories on the drop-down menu is "crush
- http://www.clips4xxx.com "Crushing" is one of the categories on this site
- http://www.xxxfetish-media.com One of the categories on the drop-down menu is "crush fetish"

(2) Misc small animal crush and torture

It is important to note here that all of the small animal crush videos uncovered for sale during this investigation were initiated through undercover email communication. Vendors of such material are generally wary of advertising these videos on websites. A couple sellers requested during undercover communication that the material not be shared with anyone.

Crushheaven.com-small animal torture & crush *videos purchased*

- http://www.crushheaven.com is registered through Godaddy.com, and the site's IP location is in Arizona. It is registered to a rain stuiet in beijin, China, though this is probably not the individual's real name or address. According to ranking data, the site had 281 U.S. visitors per month. (http://whois.domaintools.com/crushheaven.com)
- The website has the "standard" bug, fish and crustacean crush videos for sale on the "clipstore" section of its website. Some of these webpages are included as an example.

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- Undercover email communication was initiated with the website (email sent to rainstuiet@hotmail.com) based on the following statement about custom videos: "you can choose model and victim for your custom video . please tell us the detail of whats you want .our custom video costs $200 for 30 min / $300 for 60 min with one model . please notice that we don make nude or dog crush video ." (sic)

- In response to my email enquiry, someone using the name rainstuiet gave me the password (333026) for the "Video store" section of their website where I was told I would find something interesting. This password protected part of the website had a total of 118 videos for sale of small animals, including rabbits, hamsters, mice and pinkies, tortoises, quail, chicken, ducks, frogs, snakes, and even cats, being tortured (including being burned, drowned and having nails hammered into them) and crushed. The videos range in price from $20 to $100. Each of these webpages with the descriptions of the videos for sale is saved as a PDF file, and some of the images from the site are saved as JPEGs.

- I was informed that I could pay for the videos via Paypal or Moneybookers (which apparently were not working for them at the time), or I could pay via Western Union or bank wire. I selected to pay via Western Union, and sent $235 for the following 4 videos:
    1. A-110 kim VS rabbits 14: kim crush 8 rabbits with 4 pair of sexy high heels
       Price: $40.00
       Run Time: 42 minutes
       File Size: 620 MB
       Format: .wmv
       Updated: 2009-02-1

    2. A-026 Adas sexy boots: Ada burning her victims ---rabbit , mice with lighter and cig at first , then crush them using three pair of boots .
       Price: $40.00
       Run Time: 35 minutes
       File Size: 508 MB
       Format: .wmv
       Updated: 2008-06-13

    3. A-028 tragic fate of the cat: A cat got long time tortured then crushed to death by red platform (can not see models face)
       Price: $80.00
       Run Time: 58 minutes
       File Size: 841 MB

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Format: .wmv
Updated: 2008-06-13

4. A-091 tragic fate of the cats II Watch two cats got crushed to death after been long time tortured under sarahs cruel shoes .
   Price: $75.00
   Run Time: 56 minutes
   File Size: 800 MB
   Format: .wmv
   Updated: 2009-02-05

- The personal information I was given by the contact at crushheaven.com for the purposes of sending payment to via Western Union was:
  First name: Jinsong
  Last name: Ren
  City: ChengDu
  Province: SiChuan
  Country: china

- The same day of payment I started receiving downloads of the videos via YouSendIt. Since the videos were too large to forward in their entirety, they were broken into and sent in numerous WMV files. In total, the folder has 23 WMV files that correspond to the 4 videos I purchased. [Warning: The videos show rabbits and cats being brutally and slowly tortured, burned and crushed, and one can hear the animals continuously screaming and crying in pain.] The model speaks in English on occasion, for example telling the bunny he is so cute but he is going to die.

extreme.crushfetish.net & lethal.crushfetish.net-small animal crush *video purchased*

- http://extreme.crushfetish.net/ and http://lethal.crushfetish.net/ are registered through Godaddy.com and the IP location is in Nevada. Crushfetish.net is registered to:
  Lasnum, Sparekassegade 4, Aarhus C, Aarhus 8000, Denmark
  According to ranking data, the site had 1,042 U.S. visitors per month.
  (http://whois.domaintools.com/crushfetish.net)

- Links to the crushfetish.net sites are available at http://123crush.com/ and http://myfeetlinks.com/crush/ which provide lists of top crush fetish sites.

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- Both the extreme.crushfetish.net and lethal.crushfetish.net websites have an "Enter" link, which, when clicked, take you to bxdx.com Adult Entertainment Network Online (http://lethal.crushfetish.net/enter.php) which requires either the input of a username and password or payment of a monthly fee to join for "unlimited access". A free username and password were found at http://www.bugmenot.com/view/bxdx.com (a website which provides free account passwords to bypass compulsory registration) as follows:
  Username: hankman
  Password: luckycat

- Both websites do not actually have any videos, only pictures of small animals such as mice, pinkies, rats, frogs and turtles being crushed. All of these photos are saved as PDFs in the folder. The sites also have photos of snail, bug and crustacean crushing.

- Undercover email contact was initiated with the site (email sent to lasnum@gmail.com) enquiring whether there were any videos for sale. The individual responded saying that they have some real extreme rabbit and mouse videos which they purchased themselves for $100 per movie. I was informed that this extreme content cannot be purchased directly from the web. "Will give to many problems" (sic). The person explained that they had made contacts from the web, and some time ago the clips were available online. It seems, therefore, that this person does not produce their own crush videos, but rather buys them off the Internet and then tries to profit by selling the images and videos of other people's material.

- This was particularly evident when the individual sent me images from the rabbit crush videos they were offering to sell. Five of the videos appeared to be from crushheaven.com (same method of numbering and titling the videos such as "Ada's sexy boots", same models, and same type of vidcap photos of rabbit crushing available on their website.) Seven of the rabbit crush videos I was offered for sale appear to have been produced by someone other than crushheaven.com, seem to involve larger rabbits being crushed, and have titles such as "For Her Pleasure", "Crossed Leg Caress", "Bunnycide", "Bootcrush Series", "Higher Power" and "Rabbit Boots". I ordered a 41 min long video called "The Ritual" for $50. All of the vidcap photos of these videos that I was forwarded are saved as JPEGs in the DVD in a folder within this site's folder entitled **Email communication with person behind the sites.**

- Payment was sent for the video via Paypal, and the Paypal transaction details reveal this individual to be someone by the name of Johnny Pedersen. This individual was somewhat paranoid, and told me to not share these videos with others and to not tell anyone where I got the videos. He also requested that after I download the video I let him know so that he

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can remove it. "I dont want these files to be online at my server so the hosting company (or others) can see them."

- After payment was made, the individual forwarded me a link to download the video. The video (entitled "High Heel Hell Part III - The Ritual") is in AVI format and is saved in a folder within the **extreme.crushfetish.net & lethal.crushfetish.net-small animal crush** folder entitled **Email communication with person behind the sites.** [Warning: The footage features a kinkily clad model bringing 5 larger rabbits in consecutive order into a room on a leash. She then proceeds to crush them one after the other with high heels, pounding on their backs and heads until they are bleeding. At the end, the dead rabbit bodies are placed around the room while strange music plays and red lights flash, then the 5 dead rabbits are shown placed in the shape of a cross.]

  Throughout the video "lethalpressure.com" is displayed and at the end of the movie "© 2004 Lethal Pressure" is displayed. Lethalpressure.com no longer appears to be an active website. However, research on the Internet Archive's Waybackmachine (http://web.archive.org/web/*/http://www.lethalpressure.com) shows that the website, which was also called the "Russian Foot Fetish Project", had an Internet presence from the end of 2002 until the beginning of 2008. Not surprisingly, it seems that this was somewhat of a troubled Internet presence. Until about May 2003, the site actually made publicly available lists of their videos for sale which involved the crushing of mice, hamsters, frogs, and rabbits. In June 2003 they started restricting public access to the featured material, and visitors were informed that in order to gain access to the site, they must apply with their email address and await further instructions. In August 2003, the website posted the following statement: "We've got a massive attack from www.veganlink.it and a few other italian and international animal rights activists groups. That's why the only thing you can see at the moment is this page. SAY THANKS TO ARA! and remember that we, monsters, never give up :)" Finally, from the beginning of 2004 until the beginning of 2008, there was only an email address at the website, so they were likely selling small animal crush videos to people who emailed and specifically requested them.

sexycrush.com - Mice and pinkies ***video purchased***

- http://www.sexycrush.com/ is registered through Tucows Inc. and the IP location is in Budapest, Hungary. The site is registered to: pergel, Lajos str 113, budapest, obuda 1036, HU. According to ranking data, the site had 992 U.S. visitors per month (http://whois.domaintools.com/sexycrush.com).

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- The website does not actually have any crushing of live creatures for sale. The "videos" link on the site just has food and object crushing, and the link to "video clips" takes you to this individual's video store at http://www.clips4sale.com/store.pl?1054 which also does not seem to sell any animal crushing videos.

- Undercover email contact was initiated (email sent to ladycrush@sexycrush.com), and someone calling themselves Lady Crush responded saying that they have 17 mouse/pinky crush movies for sale and provided me a list with prices. The crushing videos include mice being crushed in-shoe, with different kinds of shoes, and with nylons. One video apparently involved the crushing of 20 mice in pantyhose. I was also forwarded a link on their website to vidcaps of all 17 videos. All of these images are saved as JPEGs in the folder. Oddly though, the mice in all the vidcap images are blurred out and each image includes the following statement: "Victim blurred to comply with law".

- I purchased the following video: "Video017 - 30 min indoors 4 pinkies and 4 mice crushed in-shoe and on the floor in thin nylons and fishnets. Two different mules, POV shots from under glass (price: USD 40)". Payment was forwarded via Paypal to what Lady Crush informed me was the Paypal account of her pedicurist. Paypal transaction details reveal the payment was made to a Zsuzsanna Toth.

- Once payment was received, I was forwarded a link that had been set up for me to download the video. I was informed that I have 24 hours to download it before it is automatically deleted from the server.

- The video is in WMV format. In it initially mice and then pinkies (new born mice with their eyes still fused shut) are strapped to the inside of a stiletto shoe with a rubber band while the woman steps on them. The animals are moving and struggling to get away while they are being crushed in the shoe. Some of the mice are crushed on the floor while wearing nylons. Bizarrely, throughout the video the woman makes sexual noises while crushing the mice.

Crushing Feet in Action - Frog Crush ***video purchased***

- This is not a website but rather the storefront name of someone who sells videos through the various online video stores selling crush videos. Videos of goldfish, crustaceans and

bugs being crushed by young women are available for sale by this storefront at the following sites:
http://nicheclips.com/shop.php?store_id=56
http://prepaidclips.com/store/3358
http://www.xxxfetish-media.com/shop51/shop.php?&dept=145

JPEG images and video captures of preview clips in WMV format of this vendor's fish and crustacean crushing videos are in the **Crushing Feet in Action** subfolder in the **Misc fish, crustacean and bug crush** folder.

- Undercover email communication was initiated with the person producing these videos (email sent to michaelstrada@hotmail.com). I received the following response from an individual going by the name of Michael Strada: "Unfortunately I don't do mouse crush or anything as hard as I wouldn't want to risk trouble for money (and I could never be persuaded to change my mind). The problem is that mice are mammals and so this has lead to problems especially for the people making and selling this material. The hardest thing that I do is African dwarf frogs. I have a lot of it done but mostly barefoot with a little shoe….Please keep in mind I am not the least bit troubled by your request and appreciate your boyfriend's preferences."

- I requested to purchase a frog crush video, and was given the options of choosing which girl I would like, what kind of crush I want to see (under glass, floor view, dance crush) and what part of the foot (ball of the foot, toe, or heel). I chose under glass footage and mentioned the names of a couple of his models. He replied that he had a 34.5 minute clip with one of the girls (she crushes with all parts of her feet but mostly her toes), and that I could have it for $50. He said that the video was made 2 years ago and it was the first time she did frogs. His comment: "I think it is a pretty good clip with a sexy girl." He also suggested that I download Yahoo Instant Messenger and add him as a contact so that he could give me the clip directly.

- He requested payment via Paypal. When I suggested that I could pay via Western Union and that I would need his first and last name and city and country to make a Western Union money transfer, he replied as follows: "I have too many enemies and I have had too many people try to get personal information from me over the years and so I am unwilling to give away personal information such as my real name in an e-mail to anybody requesting it…. I do not wish to to uncooperative or unreasonable but I have justifiable reasons for not wishing to disclose this information." I therefore cooperated and made payment via Paypal.

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- As he said he would, he sent me the link to download via Yahoo Messenger. The video is saved in the folder and is in DIVX format. (It may require the free download of a divx player available at www.divx.com). In the video, he is filming under a glass table as a young woman crushes numerous small frogs barefoot. Even after being crushed repeatedly, some of them are still alive and moving. The girl also rips some of the frogs apart with her toes. At one point in the video, the man filming speaks and has a very distinctive Canadian accent.

- During a Live Yahoo Messenger chat with this individual (which I recorded via Video Capture software and saved in the folder as a WMV file), he tells me that this was the girl's first time crushing frogs and that "she becomes even more cruel when she crushes frogs on subsequent sessions". He also admits that I will occasionally hear his voice on the video because they are unedited. He says that he doesn't have time to edit these clips because they do not go out to many customers, and that I am the first person to have this clip in its entirety. He asks me therefore not to share it. Interestingly, he also informed me that he had spent $25,000 making these clips and has had maybe $1,000 returned in sales.

- Despite this individual's worries about concealing his real identity, perhaps he is unaware that the Paypal transaction details have what presumably is the receiver's real name. My payment for the frog crush video was made to an individual by the name of Roberto Tonani. A bit of Internet research revealed that this person is likely a teacher at Neil McNeil High School in Toronto, Canada, part of the Toronto Catholic District School Board. A blurb from a 2005 edition of the school's newsletter (at http://www.tcdsb.org/neilmcneil/pdf/alumnifall2005.pdf) announces the "Return of Mr. Tonani": "Robert Tonani (Class of '84) has been a key player on the Neil teaching staff for the past 10 years. Rob was diagnosed with leukemia and over the last two years underwent chemotherapy, and had a successful bone marrow transplant. We are pleased to report that Rob has returned to teaching at Neil." A search in the Toronto Catholic District School Board's Staff Directory at http://www.tcdsb.org/PublicStaffDirectory reveals that Roberto Tonani is still listed as a teacher at Neil McNeil School.

Squishingnemo.com – Mice

- http://www.squishingnemo.com is registered through Tucow Inc. and the site's IP location is in California. The domain registration is only given in the whois record as Lunarpages Web Hosting in CA. (http://whois.domaintools.com/squishingnemo.com) In order to ascertain the country in which the website is actually registered, a call was made

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to Lunarpages Web Hosting. Someone in Tech Support informed me that the website was owned by someone in South Africa.

- The website has crush videos for sale of mostly goldfish, some crayfish, bugs, and snails which can be purchased through the site by emailing your request or by purchasing directly through their storefront at two of the online video stores who sell crush videos:
  https://www.xxxfetish-media.com/shop130
  http://www.nicheclips.com/shop.php?store_id=121
  PDFs of these webpages are in the **squishingnemo.com** subfolder in the **Misc fish, crustacean and bug crush** folder.

- The website has a "Custom Video" page which says that they can also do custom videos - contact them and they will do their best to meet your needs. (http://www.squishingnemo.com/CustomVideos.htm).

- Undercover email communication was initiated with the site (email sent to squishingnemo@squishingnemo.com). The following reply was received: "We plan to make some mice clips very soon. I'm just building up an email list, so I'll put you on the mailing list and will email you as soon as we've filmed them."

creative-feet.com - Toad gecko turtle crush

- http://www.creative-feet.com/ is registered through Network Solutions, LLC and the site's IP location is in New Jersey. The site is registered to Creative Site, 507A rue Vermont, Longueull, QC J4J2K4, CA. According to ranking data, the site had 180 U.S. visitors per month (http://whois.domaintools.com/creative-feet.com).

- The site sells crush videos through the "Video Store" on its website at http://www.creative-feet.com/videos_store.html, and payment is to be made via international money postal order to an address in Quebec, Canada. There are videos for sale of the crushing of bugs, snails, crustaceans and fish (including piranhas). In addition, there are also videos for sale of the torturing and crushing of other animals like toads (one video for sale involves the crushing of 24 toads with sandals and barefoot and another involves torturing toads with fire, wax, and cigarette), turtles, and geckos.

- The website has some free trailers of some of their crushing videos available at http://www.creative-feet.com/free_clip.htm. Video Capture software was used to record preview clips of crabs, lobsters, a scorpion, fish, tarantula, frog and geckos being crushed. These are all saved in the folder in WMV format. One preview clip (also saved

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in the folder) involves a baby duck being rather forcefully stroked by a foot – it is not clear whether the duck was a crushing victim or not.

- Undercover email contact was initiated (email sent to creativefeet@yahoo.ca), but no response was received.

Chinese kitten crush

- Photos of another Chinese kitten crusher were posted on the Chinese language news site http://bbs.news.163.com/bbs/photo/86705095.html. All of the images are saved as JPEGs in the folder. [Warning: The photos show a kitten being crushed by high heeled boots, including the eyeball coming out of the kitten's head. The crusher also cuts the kitten open with scissors and there is a photo of the guts hanging out.]

- Outrage about the photos are expressed at http://www.chinasmack.com/pictures/kitten-killers-return/

Squishy kitty and Squishy puppy

- These are two separate videos showing an Asian lady crushing a puppy in one video and a kitten in another. Both are saved in the folder in WMV format. [Warning: Both the puppy and kitten are crushed until blood is pouring out of their head. The eyeball comes out of the kitten's head and she tries to crush that. She inserts her heel through the puppy's eye socket.]

- Both of these videos were available at some point in the past through www.snuffx.com, a site which describes itself as containing graphic depictions of violence and explicit sex. Athough it appears that they are no longer on that website, they can both still be downloaded for free through rapidshare files on 4chan's Rapidshare board at http://rs.4chan.org/?s=squish.

- According to Snopes, the *Shanghai Daily* reported that the videos caused outrage in China and that volunteers tracked down the video producer. Reportedly, once the names of the actress and producer surfaced, Luobei government officials, aided by the police, contacted their employers and suggested that they be sent home from their jobs to write self-criticisms (http://www.snopes.com/photos/gruesome/crushvideo.asp).

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genki-genki.com - Frog Crush

- The Japanese website http://genki-genki.com produces and sells videos mainly involving the insertion of live marine animals (such as frogs, octopi, eels, sea slugs and fish) into genitalia and other orifices. One appears to involve the butt crush and ripping apart of a large live frog, and the preview clip of that video (at http://genki-genki.com/modules/tinyd36/index.php?id=13) was recorded via Video Capture software and is included in the folder in WMV format.

Zippo Cat

- This does not involve crushing, but is just included as an example of the demand for videos depicting animal cruelty. In a thread on snuffx.com's Forum entitled "Torturecat/Zippocat" (at http://forum.snuffx.com/showthread.php?t=1216&highlight=squish), an individual writes a post requesting these videos, apparently of a guy setting a cat on fire. Someone responds by posting a link to a "drowncat" video, and someone else posts a link to a "skinnedcat" video. Yet someone else posts the link to the Squishy Kitty video. Another person posts a link through rapidshare to zippocat. Finally, even on this twisted message board, someone posts the question: "Why do you need to see animals being tortured." The message thread is saved in the folder as a PDF.

- Though a Zippocat video could not be found, images from it which show a kitten set on fire are at http://www.zoneshot.com/server/dg/zippo%20cat.jpg and http://zippocat.ytmnd.com.

Other

- An advertisement for http://www.bestcrush.com (at http://crush-links.erogenous.biz/index.php?a=stats&u=bestcrush) says: "Hi there! My name is Brandy and this is my crush-fetish site! I do thousants of worms,bugs, some tarantulas, scorpions and even mouse! Hear them crunch under my sexy high heels and watch them die under my cute feet!" (sic) However, the website bestcrush.com is no longer active, so no contact was initiated.

- An image of a newt being crushed was found through one of the online video stores selling crush videos (http://nicheclips.com).

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(3) Misc fish, crustacean and bug crush

Though a few of the names listed below have their own crush-related websites, most of them are storefronts which sell crush videos through some of the several online video stores that cater to this fetish.

Crushing Feet in Action

- This is the storefront name of someone who sells videos through the various online video stores selling crush videos. Videos of goldfish, crustaceans and bugs being crushed by young women are available for sale at the following sites:
  http://nicheclips.com/shop.php?store_id=56
  http://prepaidclips.com/store/3358
  http://www.xxxfetish-media.com/shop51/shop.php?&dept=145

- JPEG images and video captures of preview clips in WMV format of this vendor's fish and crustacean crushing videos (including the burning of a live goldfish) are saved in the folder. For information about this individual's frog crush videos and real identity, please see above and subfolder entitled **Crushing Feet in Action – Frog Crush** in the main **Misc small animal crush and torture** folder.

squishingnemo.com

- http://www.squishingnemo.com is registered through Tucow Inc. and the site's IP location is in California. The domain registration is only given in the whois record as Lunarpages Web Hosting in CA. (http://whois.domaintools.com/squishingnemo.com) In order to ascertain the country in which the website is actually registered, a call was made to Lunarpages Web Hosting. Someone in Tech Support informed me that the website was owned by someone in South Africa.

- The website has crush videos for sale of mostly goldfish, some crayfish, bugs, and snails which can be purchased through the site by emailing your request or by purchasing directly through their storefront at two of the online video stores who sell crush videos:
  https://www.xxxfetish-media.com/shop130
  http://www.nicheclips.com/shop.php?store_id=121
  PDFs of these webpages are saved in the folder.

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- For information about the website's intentions to start making mice crush videos, see above and the **Squishingnemo.com – Mice** subfolder in the main **Misc small animal crush and torture** folder.

Crushbabes.com & Chloecreations.com

- http://www.crushbabes.com is registered through Godaddy.com, Inc. and the site's IP location is in New Jersey. The site is registered to: M Chloe, PO Box 83927, San Diego, California 92138. According to ranking data, the site has 3,968 U.S. visitors per month (http://whois.domaintools.com/crushbabes.com).

- http://www.chloecreations.com is registered through Network Solutions, LLC and the site's IP location is in New Jersey. It is registered to: Chloe Creations, P.O. Box 83927, San Diego, CA 92138. According to ranking data, the site has 9,489 U.S. visitors per month (http://whois.domaintools.com/chloecreations.com).

- Available crush videos are listed at http://www.chloecreations.com/cart/crushvideos.htm, and include the crushing of bugs, snails, goldfish, and crustaceans. One can also become view their older sit crush and crush material in the archives of photos and video clips that are no longer on the site by joining and becoming a member (http://www.crushbabes.com/ca/ca.html). Crush Babe's videos are also for sale at their storefront on the online video stores that sell crush videos: http://fetishworldclips.com/chloecrush/index.php?start=0 and http://nicheclips.com/shop.php?store_id=64

- A chloecreations.com video of two large live crabs being crushed by someone wearing sandals was found available as a rapidshare file on Rapid Library (http://rapidlibrary.com), and is saved in the folder in WMV format.

- Undercover email communication was initiated with the site (email sent to customs@chloecreations.com), enquiring about crushing videos of small animals such as mice. The response that was received from a Mistress Chloe was: "No that is illegal."

crushcuties.com & crushtalk.com

- http://www.crushcuties.com is registered through Godaddy.com, Inc. and the site's IP location is in New York. The site is registered to Domains by Proxy, Inc. in Arizona.

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According to ranking data, the site has 3,324 U.S. visitors per month (http://whois.domaintools.com/crushcuties.com).

- The contact and address listed on the website (at http://www.crushcuties.com/store01.html) are: Bill Tracy, P.O. Box 1065, Montague, NJ 07827

- Videos of bugs, goldfish and crustaceans being crushed are available not directly through the website, but through the site's clip stores at the following links:
  http://fetishworldclips.com/crushcuties/index.php?start=0
  http://nicheclips.com/shop.php?store_id=46
  http://prepaidclips.com/store/5862
  http://xxxfetish-media.com/shop12/shop.php?&dept=81

  One can also request clips on DVD (http://www.crushcuties.com/store01.html).

- Vidcap images from the videos for sale by Crush Cuties of goldfish and crustaceans being crushed are saved in the folder as JPEGs. A preview clip of some of their videos was recorded via Video Capture software and is saved in WMV format in the folder.

- Undercover email communication was initiated with crushcuties.com (email sent to sales@crushcuties.com) enquiring about small animal crush videos, and someone by the name of Bill responded as follows: "Sorry no, I don't make illegal videos. Never have and never will. I don't really associate with anyone that makes them either."

- Crush Cuties is also the site administrator of http://www.crushtalk.com, a message board for crush fetishists. Crushtalk.com is registered through Godaddy.com, Inc. and the site's IP location is in New York. The site is registered to: William Tracy, P.O. Box 1065, Montague, New Jersey 07827. According to ranking data, the site has 796 U.S. visitors per month (http://whois.domaintools.com/crushtalk.com). The message board rules include the following prohibition: "Discussion of illegal crush videos, or anything illegal - period. If you're into that crap - please go somewhere else and stay away from this board." (http://www.crushtalk.com/viewtopic.php?f=25&t=64)

Latin Crush Goddesses

- This is a storefront selling crush videos that describes themselves as: "Sexy young latina girls crushing insects, cockroaches, goldfishes, earthworms, snails, and other tiny pests

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under their SEXY feet, sandals, boots or even barefoot." The videos are for sale at the following sites:
http://nicheclips.com/shop.php?store_id=71
http://prepaidclips.com/store/10655

- Undercover email communication was initiated enquiring about small animal crush videos, and Latin Crush Goddesses responded that they don't produce "hard crush".

crush-fetish.net

- http://crush-fetish.net is registered through Enom, Inc. and the site's IP location is in the United Kingdom. The registrant is only listed in whois records as Whois Privacy Protection Service, Inc. According to ranking data, the site had 2,192 U.S. visitors per month (http://whois.domaintools.com/crush-fetish.net).
- Videos of bugs, snails, goldfish and crustaceans being crushed are available for sale directly through the Clip Store of the website at http://crush-fetish.net/store/index.php, as well as through their storefront at http://www.xxxfetish-media.com/shop68.

crush.to

- The website http://www.crush.to claims to produce "retrostyle psychedelic crush movies" (http://www.upgrade.to/crush/newmenu.htm). Crush videos of bugs, snails and crustaceans are not available for sale directly on the website, but can be purchased at the following sites:

  http://www.xxxfetish-media.com/shop184/

  http://nicheclips.com/shop.php?store_id=109

  http://prepaidclips.com/store/15620

  http://www.prepaidclips.com/store/1382

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Asian Crusher

- The storefront name of someone selling videos through the online video stores that sell crush videos. Videos of the crushing of fish, eels, crustaceans, snails, and bugs by Asian girls are available for sale at the following sites:
  http://nicheclips.com/shop.php?store_id=76
  http://prepaidclips.com/store/10440

- It is likely that crushheaven.com is behind the "Asian Crusher" storefront. The names of the models are the same, and where faces can be seen, some of the girls are the same ones who conducted the small animal crushing discussed above and for which photos and videos are saved in the **Crushheaven.com-small animal torture & crush** subfolder of the **Misc small animal crush and torture** main folder.

blackat crush fetish clips

- BlacKat has a website at http://216.246.15.24/blackat/index.htm which has sample pictures of their videos. They intend to start making custom videos very soon, though they state that they "will make movies with Objects, Food, Fruits, Crickets and Mealworms NO ANIMALS" (http://216.246.15.24/blackat/custom.htm)

- Their bug crush videos are for sale at:
  http://www.xxxfetish-media.com/shop164
  http://nicheclips.com/shop.php?store_id=114

Brenda's World

- Storefront with bug, fish and crustacean crush videos for sale at
  http://www.xxxfetish-media.com/shop137/

- A preview clip of the videos was recorded via Video capture software and is saved in the folder as a WMV file.

Bug Crush by Katelyn Brooks

- Storefront with bug, fish, crustacean and snail crush videos for sale at:
  http://fetishworldclips.com/goddesskatelyn/index.php?start=0

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http://prepaidclips.com/store/22696
http://prepaidclips.com/store/8427
http://www.xxxfetish-media.com/shop187/shop.php?&dept=308

- This individual also has a website at http://www.giantesskatelyn.com/ and has her crush videos for sale there as well at http://www.giantesskatelyn.com/store/index.php?_a=viewCat&catId=13

Chicago Crush Girls

- Storefront selling bug, snail and fish crush videos at: http://www.xxxfetish-media.com/shop114

Classic Stilleto Crush

- Storefront selling bug, goldfish and crustacean crush videos at: http://www.xxxfetish-media.com/shop212

- A preview clip of the videos was recorded via Video capture software and is saved in the folder as a WMV file.

Crush Angels

- http://crushangels.com/ and http://crushangels.net/ are the websites, but the videos of bugs being crushed are sold through their storefront at https://www.xxxfetish-media.com/shop42/.

Crush Cowboy

- Storefront selling bug, snail, crab and fish crush videos at http://www.xxxfetish-media.com/shop204/

Crush Goddess Kelly

- Storefront selling fish and crustacean crush videos at http://nicheclips.com/shop.php?store_id=89

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Crush Goddesses

- Storefront selling bug and snail crush videos at http://prepaidclips.com/store/2080 and http://www.xxxfetish-media.com/shop13/

Crush Palace Dreamgirls

- Storefront selling bug, fish and crustacean crush videos at http://nicheclips.com/shop.php?store_id=119

- A preview clip of the videos was recorded via Video capture software and is saved in the folder as a WMV file. JPEG images of fish and crustacean crush are also saved in the folder.

Crush Pro

- Storefront selling bug, fish and crustacean crush videos at http://nicheclips.com/shop.php?store_id=102 and http://prepaidclips.com/store/29127

Crush Studs

- Storefront selling bug, fish and crustacean crush videos at http://www.xxxfetish-media.com/shop87

- A preview clip of the videos was recorded via Video capture software and is saved in the folder as a WMV file.

Crush Them Slowly

- Storefront selling bug, fish and crustacean crush videos at:
  http://nicheclips.com/shop.php?store_id=77
  http://prepaidclips.com/store/11306
  http://www.xxxfetish-media.com/shop46

- JPEG images of crustacean crush are saved in the folder.

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Crush with High Heels

- Storefront selling bug, fish and crustacean crush videos at:
  http://nicheclips.com/shop.php?store_id=40

Crushed 2 Mush

- Storefront selling snail crush videos at:
  http://nicheclips.com/shop.php?store_id=116
  http://prepaidclips.com/store/21914

Crushed Under Jock Feet

- Storefront selling fish and crustacean crush videos at:
  http://www.xxxfetish-media.com/shop191

Crushedit

- Storefront selling bug, snail and fish crush videos at:
  http://nicheclips.com/shop.php?store_id=124

- GIF images of goldfish crush are saved in the folder.

Crush-Fetish PPV

- There is a website, http://www.crush-fetish.com, but the videos of snail, fish and crustacean crush are sold through the storefront at:
  http://nicheclips.com/shop.php?store_id=12

- JPEG images of crustacean and fish crush are saved in the folder.

Crush-Fun Holiday

- Storefront selling snail and crustacean crush videos at:
  http://nicheclips.com/shop.php?store_id=42
  http://www.xxxfetish-media.com/shop150/

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Crushgirl Arika

- Storefront selling bug, snail and crustacean crush videos at:
  http://www.xxxfetish-media.com/shop143/

Ebony Crush Beauties

- Storefront selling bug, fish and crustacean crush videos at:
  http://nicheclips.com/shop.php?store_id=67
  http://prepaidclips.com/store/10451

- JPEG images of crustacean crush are saved in the folder.

GTS Feet & Crush-Japan

- Sells videos of bug and crustacean crushing through their website
  http://www.feet-crush.com.

- Undercover email communication was initiated with the site enquiring about small animal crush videos, and the following response was received: "I'm sorry. I am unable to realize your request. In the case of Japan, it will be arrested."

- JPEG images of crustacean and bug crush are saved in the folder.

Guys Crushing

- Storefront selling bug, snail, fish and crustacean crush videos at:
  http://www.xxxfetish-media.com/shop155

Hot & Sexy Crusher

- Storefront selling bug and fish crush videos at:
  http://www.xxxfetish-media.com/shop202/

I-Love-Crush

- Storefront selling bug, snail and crustacean crush videos at:
  http://nicheclips.com/shop.php?store_id=122
  http://www.xxxfetish-media.com/shop213/

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Josephina's Crush Forum

- Storefront selling bug, snail, fish and crustacean crush videos at:
  http://nicheclips.com/shop.php?store_id=50

- JPEG images of crustacean and fish crush are saved in the folder.

Kay & Company-DnKs World

- Storefront selling bug, snail, fish and crustacean crush videos at:
  http://prepaidclips.com/store/120
  http://prepaidclips.com/store/4309
  http://www.xxxfetish-media.com/shop91

kristaworld.com

- The website http://www.kristaworld.com/ merely provides a means to link to the site's storefront selling bug, fish and crustacean butt crush and crush videos at:
  http://www.xxxfetish-media.com/shop28

Miss K's Crush

- Storefront selling bug and snail crush videos at:
  http://prepaidclips.com/store/2608
  http://www.xxxfetish-media.com/shop11/

Mistress Aryel

- Storefront selling snail, fish and crustacean crush videos at:
  http://nicheclips.com/shop.php?store_id=4

- JPEG images of crustacean and fish crush are saved in the folder.

Latin Angels

- Storefront selling bug and crustacean crush videos at:
  http://prepaidclips.com/store/14413
  http://www.xxxfetish-media.com/shop53

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Ms Christina's High Heel Crush

- Storefront selling bug, snail, fish and crustacean crush videos at:
  http://fetishworldclips.com/mschristina/index.php?start=0
  http://nicheclips.com/shop.php?store_id=118

Sexy Hot Milf Crush

- Storefront selling bug, fish and crustacean crush videos at:
  http://nicheclips.com/shop.php?store_id=55
  http://prepaidclips.com/store/18656

Southern Crush

- Storefront selling bug, fish and crustacean crush videos at:
  http://nicheclips.com/shop.php?store_id=112

Southern barefoot & finger crush

- Storefront selling bug and fish and crush videos at:
  http://prepaidclips.com/store/1990

Squish Vixens

- Storefront selling bug crush videos at:
  http://nicheclips.com/shop.php?store_id=117

Squished_Under _Shoes

- Storefront selling bug, snail and fish crush videos at:
  http://nicheclips.com/shop.php?store_id=28
  http://prepaidclips.com/store/1241

Starrs World of Crush

- Storefront selling crustacean crush videos at:
  http://www.xxxfetish-media.com/shop43/

Summertime Crush shop

- Storefront selling bug and snail crush videos at:
  http://www.xxxfetish-media.com/shop166

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Tales from her Soles

- Storefront selling bug and crustacean crush videos at:
  http://prepaidclips.com/store/14347
  http://www.xxxfetish-media.com/shop52

Texas Crush

- Storefront selling bug, fish and crustacean crush videos at:
  http://nicheclips.com/shop.php?store_id=101
  http://www.xxxfetish-media.com/shop169/

Thirsty for Feet

- Storefront selling bug, fish and crustacean crush videos at:
  http://nicheclips.com/shop.php?store_id=20
  http://www.xxxfetish-media.com/shop82

Undershoes & hightheelscrush.com

- The website http://www.hightheelscrush.com has a link called "insects crush" which takes you directly to their videos of bug, snail, fish and crustacean crushing for sale at their "Undershoes Store" at http://nicheclips.com/shop.php?store_id=60. They also have some crush videos for sale at http://prepaidclips.com/store/3575.

Urban Stomping-Ground

- Storefront selling bug and crustacean crush videos at:
  http://www.xxxfetish-media.com/shop174

Crush by Stilettos

- Storefront selling bug, snails and crustacean crush videos at:
  http://prepaidclips.com/store/22216

Crush Fantasies

- Storefront selling bug crush videos at:
  http://fetishworldclips.com/crushfan/index.php?start=0
  http://prepaidclips.com/store/18239

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Crush Crawler

- Storefront selling bug and snail crush videos at:
  http://prepaidclips.com/store/13831

Crush Flash 2

- Storefront selling bug, fish and crustacean crush videos at:
  http://prepaidclips.com/store/3299

Crushing Ellen Store

- Storefront selling fish crush videos at:
  http://prepaidclips.com/store/15008

Crushpage Clipstore

- Storefront selling bugs and fish crush videos at:
  http://prepaidclips.com/store/2758

Kasualkrush

- Storefront selling bugs crush videos at:
  http://prepaidclips.com/store/16704

Goddess Megan's Bug Crush

- Storefront selling bug, fish and crustacean crush videos at:
  http://prepaidclips.com/store/6484

First Best Crush Store

- Storefront selling snail and crustacean crush videos at:
  http://prepaidclips.com/store/2348
  http://fetishworldclips.com/ivanka/index.php?start=0

Crush Central

- Storefront selling and fish crush videos at:
  http://prepaidclips.com/store/16440

Underfeet crush store & underfeet.net

- The website, http://www.underfeet.net, has images of bug, snail and fish crushing, but clicking on the images takes one to a members-only, username and password required dialog box. Videos are for sale through the "Underfeet crush store" at http://prepaidclips.com/store/9332 and http://nicheclips.com/shop.php?store_id=106.

Emma's Kingdom Bug Crush

- Storefront selling bug, snail and crustacean crush videos at: http://prepaidclips.com/store/2057

Crush Playmates

- Storefront selling bug, fish and crustacean crush videos at: http://prepaidclips.com/store/13668

Sophia & Lou Crush Store

- Storefront selling snail crush videos at: http://prepaidclips.com/store/9704

Under her cruel shoes & boots

- Storefront selling bug and snail crush videos at: http://prepaidclips.com/store/4149

Nude Crush Girl

- Storefront selling fish crush videos at: http://prepaidclips.com/store/3039

Miss Crush and misscrush.com

- The website, http://www.misscrush.com, has bug crush videos available though one has to join and become and member to view. The videos are also available for sale at http://prepaidclips.com/store/8364.

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Sneakercrushing

- Storefront selling bug and fish crush videos at:
  http://prepaidclips.com/store/2050
  http://www.xxxfetish-media.com/shop183

I-Crushgirl

- Storefront selling bug, snail and fish crush videos at:
  http://fetishworldclips.com/I-Crushgirls/index.php?start=0

Sabrina's High Heel Stiletto Crush

- Storefront selling bug crush videos at:
  http://prepaidclips.com/store/1977

Ada Prett HighHeel Crush

- Storefront selling fish, crustacean and newt crush videos at:
  http://nicheclips.com/shop.php?store_id=104

- This storefront might also be related to the Chinese website www.crushheaven.com as the model seems to be the same one used on that site for the more "extreme" small animal crush videos.

Crazy Angel

- The website, http://www.crazy-angel.de, has fish crustacean, bug, and snail crushing videos available, although one has to email for a password to see what is available (Username: crazy and Password: welcome). They say on the site that they make custom DVDs, and while they say they are open to all crazy ideas and desires, they do not produce any movies with "vertebrates" (http://www.crazy-angel.de/en/CustomDVDs.htm).

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Addendum B

Supplement to Animal Crush Videos Research & Investigation

Bettina Camcigil

July 21, 2010

This is a supplemental report attached to the HSUS' 5/22/2009 ***Animal Crush Videos Research & Investigation*** report cataloguing the availability of and ease of purchase of "hard crush" videos involving the crushing of small animals. The previous report documented that during a one month online investigation, it was possible to locate several individuals who were selling videos of small animals, including rabbits, hamsters, mice, turtles, frogs, and even cats, being tortured and crushed to death by young women. All it took to purchase the videos was an email communication expressing interest, and then convenient payment through either Paypal or Western Union. The seller would then forward downloads of the videos via several means: downloads through YouSendIt; a special link set up on a website; or even through Yahoo Instant Messenger. The 5/22/2009 investigation and report revealed that anyone with a depraved interest in purchasing videos depicting small animals being crushed by women's feet, whether the preference is for high heels, barefoot or stocking-clad, could, through a little bit of Internet research, find someone selling such videos and purchase them with ease and convenience.

In July 2010, material was received from a Russian investigator whose research on a Russian hard crush fetish forum, where people shared sadistic and inhumane animal torture videos, led him to yet another supply of such horrifying videos. He provides the following links to this message forum which is mostly in Russian:
http://giantessa.ru/topic.php?forum=17&topic=2
http://giantessa.ru/topic.php?forum=17&topic=6&p=1

One post on this forum appears to provide links to hard crush videos with titles such as: ButtCrush Dog, Crush Dog, Cat Crush, Goattorture, and Masha For Her Pleasure. However, when one clicks on the megaupload.com download links, the following message is returned: "Unfortunately, the link you have clicked is not available". There are also links posted on this forum for video downloads at http://ifolder.ru, a site that is all in Russian. Interestingly, someone calling themselves "Newbie" posts a message in English:
"I am sorry I don't speak or even read Russian. Let me begin by saying
thank you very much to Infinity.black for his great contributions and his

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Ifolder tutorial. By pm I suggested to him that a lot of westerners were uncomfortable with using Rapidshare, Megaupload etc. I guess we will see. Enough talk ..... for my OFFICIAL FIRST POST let me begin with my favorite group of ladies --------- from the Philippines
It is an old clip and a little tame (frogs) But you have to learn to crawl before you walk."

According to the Russian investigator, someone on this Russian hard crush forum posted a message providing an email address to contact for the purchase of crush fetish videos, stating that you can send an email, transfer money to them and buy shocking video content. This provides further evidence that to this day, for those depraved enough to harbor an interest in hard crush fetish videos, there is a ready supply of such videos and the purchase thereof is easy and convenient.

The investigator describes how he wrote an email to "LynLyn" at the email address provided to him (lynburnok@gmail.com) under the pretext of being interested in their hard crush videos. He received an immediate response from this person who informed him that she was still doing such videos, and asking what kind of crush he liked:"barefoot, in heels, in boots, torture? what victims?" He was told that he could use Western Union or Paypal to pay for the videos which cost $80 each, $150 for 2 clips, or $200 for 3 clips. The seller then provided preview video clips via sendspace.com in order for him to select the ones he wanted to purchase.

The links to these preview clips are as follows:
http://www.sendspace.com/file/vc9x0f - 3girlscrushingdog
http://www.sendspace.com/file/3t8qbe - 3girlscrushingpuppies
http://www.sendspace.com/file/em2rom- aidarabbit
http://www.sendspace.com/file/i3jv3f - aidatokakpre(stomping)
http://www.sendspace.com/file/xo56ng - althealynlyn underglass
http://www.sendspace.com/file/dep8we - altheatessdogcrush
http://www.sendspace.com/file/x20p6e - altheacrushsexynighties
http://www.sendspace.com/file/w5mrlj - althearabbitcrush(heels)
http://www.sendspace.com/file/xoa3hr - ana hamster
http://www.sendspace.com/file/j0r65x - anakiraygoattort
http://www.sendspace.com/file/m5ct7y - anasuperbrendoguineapig
http://www.sendspace.com/file/azrm47 - anakiray
http://www.sendspace.com/file/71tf6g - arlenedogtorture(laplapulo)
http://www.sendspace.com/file/0aynaq - arlenestockingdogtort
http://www.sendspace.com/file/dgx1kl - arleneunggoy
http://www.sendspace.com/file/fgsn4r - arlene(skinnedrabbit)

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http://www.sendspace.com/file/aqn1k9 - arleneutotcraig
http://www.sendspace.com/file/2p3k8t - arlenepuppybikini_preview
http://www.sendspace.com/file/z568v4 - cherryloublackbootsasotort
http://www.sendspace.com/file/3in27o - cherrylou3rabbitstort
http://www.sendspace.com/file/xp4hcx - cherrylouanarabpre
http://www.sendspace.com/file/fr8sw7 - cherryloublackgoattort
http://www.sendspace.com/file/0a7rhb - cherryloubuttpre
http://www.sendspace.com/file/la1t6n - cherryloublackdogcrush
http://www.sendspace.com/file/rdkpx7 - cherryloudogtortredheels
http://www.sendspace.com/file/2m42wj - cherrylouchickglass
http://www.sendspace.com/file/ardoac - cherryloujarjaropuppre
http://www.sendspace.com/file/d3mkmv - cherryloumataaso
http://www.sendspace.com/file/26wgi1 - cherryloupupy
http://www.sendspace.com/file/ir6lb0 - preview_cherryloupups
http://www.sendspace.com/file/87mb76 - cherrylouihipre
http://www.sendspace.com/file/owu56o - cherrylouutotalutiit
http://www.sendspace.com/file/81itbt - cherrylou3rabbitspre
http://www.sendspace.com/file/nhij4c - cherrylouanarabpre
http://www.sendspace.com/file/uf5kx9 - cherrylouunggoy
http://www.sendspace.com/file/5pysq7 - cherrylouratguineapigcrush
http://www.sendspace.com/file/1mbltf - chonabarefootpigcrush
http://www.sendspace.com/file/npondi - claudiapuppyredhills
http://www.sendspace.com/file/rqxs2t - claudiautotpre
http://www.sendspace.com/file/por894 - puppy_preview (frank puppy)
http://www.sendspace.com/file/sspnl7 - gracefrog_preview
http://www.sendspace.com/file/7zn9ut - harharcustompig
http://www.sendspace.com/file/whzbph - kiraraaltheacrushpreview
http://www.sendspace.com/file/zq3jt6 - kiraybullfrogpre
http://www.sendspace.com/file/jswz28 - kiraymouseandmice
http://www.sendspace.com/file/muwhsa - kiraypuppycrush
http://www.sendspace.com/file/icaa31 - kiraythreesnakespre
http://www.sendspace.com/file/vspvdh - lynlyndogtorture
http://www.sendspace.com/file/6f65zw - LynlynArleneDogTort
http://www.sendspace.com/file/j93fdm - lynlynmonkeytorture
http://www.sendspace.com/file/ku973k - lynlyndgtortpreview
http://www.sendspace.com/file/qhdbgw - LynlyndogtorRedhills
http://www.sendspace.com/file/73v1fn - laplaplapayagpreview
http://www.sendspace.com/file/scmlu1 - LynlynGooseTorturepre
http://www.sendspace.com/file/4v0a9q - lynlynjosiedogtort_preview
http://www.sendspace.com/file/3w73ux - lynlynjoyrabbitandratcrushpre

http://www.sendspace.com/file/opi3nf - lynlynpuppiespreview
http://www.sendspace.com/file/7urvng - lynlynpuppytorture_crushpreview
http://www.sendspace.com/file/87kv27 - lynlyntorturepig_preview
http://www.sendspace.com/file/q1eqno - Mikelynlyn_preview
http://www.sendspace.com/file/saqymz - rosachicken mousegiuneapig
http://www.sendspace.com/file/r4wogn - rosarabbit_preview
http://www.sendspace.com/file/qdxq1c -? rosaclaudiachickrabbit_preview
http://www.sendspace.com/file/yswc4m - RosaRabbitAndMouse_preview
http://www.sendspace.com/file/vos6if - tessblackbootsdogmassacre_preview
http://www.sendspace.com/file/yzni7q - tessdogcrush_preview
http://www.sendspace.com/file/lhzb8r - tessdogcrushtorture_preview
http://www.sendspace.com/file/lzbmt2 - threegirls4puppies_preview

Further email communications between the Russian investigator and the crush video seller tried to establish how payment was to be made and the seller stated that Western Union may be better for a faster transaction. The investigator responded that he thinks he should go to the bank and transfer money from there, using this to segue into asking for her details.

The crush video seller responded with:
"ok..just send it then, here is my info:
Name: Chita Dorma Ridon
Address:
Street: Venflor Village
City: San Fernando City
Province: La Union
Zip Code: 2500
Country: Philippines
Contact Number: 09194276893
Please send me the MTCN (Money Transfer control number), your Name and Country if you're done..
i need that to claim your payment.
Send it in Dollar Currency
Select for CASH PICK- UP
use it in western union..ill just send you the download links."

The investigator states that he found this woman on Facebook. Indeed, if one conducts a Google search for the name "Dorma Ridon", the first item that appears is the following Facebook page link http://www.facebook.com/people/Dorma-Ridon/100000692113989. He claims that she appears in the video clips, in particular a frog crush video at http://www.sendspace.com/file/xo56ng where she is standing, with her arms folded, to the right of the girl doing the crushing. There does appear to be a lot of resemblance between the woman

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in this video and the woman in the profile photo of Dorma Ridon's Facebook page. Dorma Ridon has 69 Facebook friends, some of whom might be family members, such as a Vikdorma Ridon, whose profile picture shows the same woman standing next to a middle-aged man (possibly her husband). The investigator states that he checked all of her friends and compared them to preview links she gave him, and found a couple matches. For example, he claims that a woman by the name of Althea in Dorma Ridon's Facebook friend list, from the same city of San Fernando in the Philippines, appears to be the same woman who stars in the video titled "althearabbitcrush".

The Russian investigator shares the results of his investigation in hopes that this can be stopped before more animals die a horrible death. Upon viewing even these brief preview clips, which depict dogs, puppies, monkeys, pigs, goats, rabbits and other animals being slowly crushed, stomped on and tortured by young women in the most horrifying ways, which words cannot even describe, it is impossible not to join in his plea to put an end to crush videos and crack down on the trade in them.

The video preview clips whose links are listed above, and which were forwarded by an individual by the name of Chita Dorma Ridon in the Philippines to the Russian investigator, depict, among many others, some of the following sickening, disturbing, and intensely horrifying acts performed on live animals:

- 3girlscrushingdog_preview2: 3 very young girls are stepping barefoot on a medium sized white dog who is lying on his side, and whose legs and mouth have been tied with rope so that he can neither move nor make any sound, but one can see that he is alive because his glassy stare is interrupted by a blink.
- 3girlscrushingpuppies_preview1: 3 young girls are using one bare foot each to crush a puppy to death. One can hear cracking sounds as the puppy's bones break when they put their full body weight on him. Despite this, the puppy is still alive and moving his legs. 3 other dead puppies can be seen lying on the floor to the side.
- aidaagotukakpre_stomping: About 50 or so frogs are being stepped on by a barefoot girl.
- altheacrushsexynighties_preview: A young girl provocatively clad in a sexy, short negligee is stepping barefoot on a dog whose mouth and legs are tied tightly with wire. One can see the pain in the dog's eye as he is being trampled on.
- althealynlynunderglasscrush_preview: Under glass footage of a girl crushing a frog, while an older woman, who appears to be Dorma Ridon, stands with her arms folded next to the girl doing the crushing.
- althearabbitcrush_preview: A scantily clad girl wearing a flimsy negligee, stockings and stilettos crushes a rabbit. The rabbit screams as his hind legs are crushed.
- altheatessdogcrush_preview2: 2 young, smiling girls in stilettos are crushing a medium sized dog whose legs and mouth are tightly tied. One of the girls uses her sharp heel to

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poke through the dog's eye socket. One can see that the dog is still alive because his body flinches and one can hear a faint moan.

- anakiray_preview: 2 young girls in stilettos are crushing frogs.
- anakiraygoattort_preview2: A girl is cutting the testicles off of a live goat with a knife.
- arlenedogtorture_preview4(laplap ulo): A dog, whose mouth is tied with a chain, has had his head skinned, and a girl is proceeding to cut off his ear and more of the skin and fur on his head, while the dog's body flinches. Although his head has been completely skinned, including around his eye, his eye is still open and blinking.
- arlenepuppybikini_preview3: A young girl in a bikini holds a rope tied around a puppy's neck while she tries to crush him with stiletto heels. The puppy screams and tries to get away. There is also a dead puppy lying on the floor.
- arlenestockingdogtort_preview2: A girl wearing sharp pointed stilettos and a denim mini skirt is pounding a dog's head to pulp with her heel. The dog appears dead at this point, but the evidence is clear that he has been tortured in the most ghastly of ways. He is missing parts of his legs and is lying in a lot of blood. When the video pans on the girl doing the crushing, her hands are bloody presumably as a result of the torture she has inflicted on this dog.
- arleneunggoy_preview2: A provocatively clad girl wearing a very short and tight patent leather mini skirt and stiletto heels is poking her sharp heel through the eye socket of a small monkey.
- Arleneutotcraigpre: A live rabbit is crushed by a girl's bloody bare feet on a tile floor strewn with the guts of previously killed animals. She crushes the rabbit until its viscera are squished out of its body, then she crushes those as well with her bare feet.
- Buttpre: A smiling girl takes a small puppy and sits on him (butt crush). The puppy screams.
- cherrylou3rabbitspre: A girl in stocking feet crushes and flattens the head then the body of a white rabbit, then pulls the skin apart with her feet so that the viscera fall out of the body.
- cherrylou3rabbitstort3_preview: A small rabbit is being tortured by having a white powdery substance rubbed in its eyes. The rabbit screams in pain.
- cherryloublackdogcrush_preview: A medium sized black dog, whose mouth and legs are tied, is being stomped on by a barefooted girl.
- cherryloublackgoattort_preview: A black goat is having its head crushed by a barefooted girl. The goat screams in pain.
- cherrylouchickglass_pre: Under glass footage of a girl crushing a baby chick while music plays. The chick's guts are squished out of its body.
- cherryloudogtortredheels_preview2: A dog, who looks like he has been skinned and is lying in a pool of blood, is still very much alive. He flinches and raises himself up to try and escape when a girl cuts his tail off with a hammer and hatchet. The girl's feet are covered in blood.

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- Cherrylouihipre: A mouse is crushed by a girl's bare foot.
- Cherryloujarjaropuppre: A live puppy is crushed by a girl wearing stilettos. As she crushes the puppy's head, blood comes out of his nostrils and the eyeball nearly comes out of his head.
- cherryloumataaso – preview: A smiling girl in stilettos pokes her sharp heel through a live dog's eye socket. The dog's front legs are tied behind his back and his mouth is tied shut, but he screams and screams in horrendous pain as the girl relentlessly stabs her heel through his eye socket. At one point her heel goes all the way in and makes a cracking sound, but the dog is still alive and screaming.
- cherryloupupy_preview: A girl in stilettos crushes the neck and tail of a puppy who is screaming in pain.
- cherrylouunggoy_preview: A girl in stilettos is crushing a small monkey. The monkey's tiny hand keeps trying to hold on to her foot as she crushes him.
- chonabarefootpigcrush_preview1: A pig whose legs are tied together is being stomped on by a girl in bare feet.
- claudiapuppyredhills_preview: A puppy is stomped and crushed by a girl wearing extremely high red stilettos.
- Claudiautotpre: A white rabbit is crushed on a tile floor strewn with guts.
- harharcustompig_preview: A girl with very high stilettos crushes the head of a small pig whose legs are tied. The pig screams in pain. The girl stabs her pointed heel through the pigs head.
- kiraypuppycrush_preview: A very small puppy with a pink ribbon around his neck is crushed by a girl wearing stilettos. The puppy screams in pain. The girl briefly steps off the puppy who tries to hobble away, but then she crushes him again.
- Laplaplapayagpreview: A dog whose mouth is tied up and who is breathing heavily, has his ear cut off by a girl wielding a knife.
- LynlynArleneDogTort_preheels: A dog whose legs and mouth are tied is stomped on and kicked by 2 girls wearing stilettos.
- puppy_preview1: A small puppy is crushed by a bare foot girl wearing a very short and tight patent leather mini skirt.
- tessblackbootsdogmassacre_preview: A girl with stiletto boots and a very short mini skirt is stabbing her heels through a dog's abdomen. A dead dog lies on the blood-soaked floor nearby.
- threegirls4puppies_preview3: 3 girls wearing dresses and stockings are crushing and stomping 2 dogs whose legs are tied (their front legs are tied behind their backs) as are their mouths. Music is playing in the background.

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Suffolk County S.P.C.A.
363 Route 111, Suite 5
Smithtown, New York 11787
Phone: (631) 382-7722 Fax: (631) 382-4042

September 9, 2010

Dear Chairman Leahy and Ranking Member Sessions,

Thank you for the opportunity in allowing our agency, the Suffolk County Society for the Prevention of Cruelty, to provide written testimony regarding the Senate's consideration of legislation that will provide a structured framework for federal guidelines on animal cruelty.

The Suffolk County SPCA is a 501 3c not for profit located in Suffolk County, New York that, with its volunteers, enforce the Agriculture and Market Laws of the State of New York. Annually we respond to over 2,000 cases of animal cruelty. We provide these services at no cost to the taxpayers of our county and, in fact, help save the county tens of thousands of dollars responding to calls that would normally be handled by our county police department.

During our many years of public service we have seen acts of animal cruelty that would tear at the heart of our most hardened citizens. One such case occurred in 1998 when we discovered an individual, Thomas Capriola, who was making videos depicting acts of animal cruelty. Mr. Capriola bought small animals -- guinea pigs, snakes and others -- and used them in the filming of the videos, in which women wearing high heels crushed the animals to death while talking to them in seductive tones. "Debbie the Destructor" "Vanessa's Topless Crusher" and "Vanessa's Frog Stomp" were only a few of his many videos. NYPD Blue depicted crush videos in their show after our arrest.

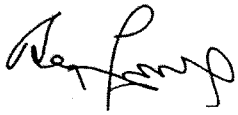
Mr. Capriola was found guilty of misdemeanor animal cruelty and sentenced to community service and probation. We felt that the sentence did not send a strong enough message.

We received praise for our work locally, nationally as well as from as far as Scotland Yard.

In 1999 the Suffolk County SPCA supported Representative Gallegly's legislation, H.R. 1887, to punish commercial sellers of animal cruelty videos.

We now support the enactment of H.R. 5566 to put an end to these heinous acts of animal cruelty.

Sincerely yours,



Roy Gross, Chief of Department

Suffolk County S.P.C.A.

Hearing before the Senate Judiciary Committee:
"Prohibiting Obscene Animal Crush Videos in the Wake of United States v. Stevens"
September 15, 2010

Written Testimony of Kevin Volkan,
Chair & Professor of Psychology,
California State University Channel Islands, Camarillo, CA

Thank you, Mr. Chairman and Members of the Committee, for inviting me here today to testify. My name is Dr. Kevin Volkan. I am Chair and Professor of the Psychology Program at California State University Channel Islands, where I teach courses on atypical psychopathology and culture-bound syndromes. I was formerly a faculty member at Harvard Medical School and I have training in both clinical psychology and public health. I also author a blog titled "Bizarre Behaviors and Culture-bound Syndromes" with my colleague Dr. Neil Rocklin, who lectures in my department and who has been in private practice for the last 35 years. Dr. Rocklin co-authored this written testimony.

My testimony today will focus on explaining the sexual nature of "crush" paraphilias, and describing how crush videos are sexual in nature and that those who watch crush videos do so to obtain sexual gratification. I will also explain the nature of this paraphilia from a variety of theoretical viewpoints.

Paraphilias are sexual disorders that involve recurrent and intense sexually arousing fantasies, urges or behaviors related to non-human objects, non-consenting persons or children, and the suffering and/or humiliation of oneself or a partner. Generally, to be considered pathology, a paraphilia should result in clinically significant distress or impairment in social, occupational, or other areas of functioning (Association & DSM-IV, 2000). The *Diagnostic and Statistical Manual of Mental Disorders* (Association & DSM-IV, 2000) lists the following specific paraphilias that we believe are related to crush videos:

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fetishes, sexual sadism, and sexual masochism. In my professional opinion, the crush paraphilia and crush videos contain elements of these specific forms of paraphilia in varying degrees and I believe that the crush paraphilia and crush videos are clearly sexual in nature.

Fetishes

A "fetish" is a strong recurrent sexual attraction to a non-living object. The most common fetish objects are clothing such as underwear, shoes and boots. With regard to the crush paraphilia, the fetish aspect is likely most related to the object that is doing the crushing–most often a foot or shoe. Crushing objects can vary and may include objects such as the buttocks or even a car. In fact one of the most notable crush fetishists who enjoyed the crushing of live animals, Bryan Loudermilk, was himself crushed to death by a vehicle in a scenario where he voluntary had a car driven on to his abdomen. (Reischel, 2006). Simply put, the crush paraphilia can be thought of as an extreme version of a "foot fetish" where the individuals with the paraphilia derive sexual pleasure from watching the object of their desire crush a living creature to death.

Sexual Sadism

The desire to see animals crushed to death by the fetish object (foot or shoe) may be explained in terms of sexual sadism and masochism. Sexual sadism is where sexual gratification is achieved through the fantasy of harming a partner or as a consequence of directly subjecting the partner to pain and humiliation. Typically, sexual sadism involves a human partner. In the case of crush paraphilias the partner is an animal. The animals used for sadistic purposes range from insects to larger mammals such as dogs. Many crush

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videos use small mammals such as mice, rats, puppies and kittens but regardless of the "victim," the cause and purpose of the action appear to be the same.[1]

Sexual Masochism

This is the feeling of sexual arousal or excitement resulting from receiving pain, suffering, or humiliation. The pain, suffering, or humiliation is real and not imagined and can be physical or psychological in nature. Many who are involved in crush paraphilias take sexual pleasure in being crushed, squashed, or being put under pressure. Masochists often suffer from personality disorders in which they are only able to experience feelings in the context of situations where they are hurt or in pain. These people need to surrender their needs and identity and experience extremely disturbing things to feel that they exist and to feel pleasure (Saretsky, 1976). Masochism in which a person receives sexual gratification from being crushed has been reported in academic literature, but such reports are uncommon (Shiwach & Prosser, 1998), perhaps due to a paucity of reporting of such cases. There are also reports of autoerotic asphyxiation due to chest compression, which may involve a masochistic component (O'Halloran, R., & Dietz, P., 1993). In terms of the crush paraphilia, it is possible that masochists identify with the animals being tortured and killed, actually seeing themselves as the animal being crushed, and these individuals obtain sexual gratification through this identification.

Discussion of Crush Paraphilias

Paraphilias and fetishes (which are often not well-differentiated in the psychological literature) have been described as far back as the turn of the last century as the association of something pleasurable (usually sexual) with some object other than a whole human.

[1] It should be noted that there is a well-established relationship between animal sadism and violent crime (Stone, 2007) and some studies suggest there is a mental association between animal sadism and severe abuse in childhood. Taken together, this points to animal sadism as an important warning sign of violent crime.

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These early writers also noted the association of sexual gratification with pain (Binet, 2001; Krafft-Ebing, 1922). Freud associated fetishes with the fear produced by the castration anxiety of the Oedipal complex. In this conception using the fetish object for sexual gratification was safe (Freud, 1961/2001).

Sexual sadism is thought by Freudians to be a defense against the anxiety produced by an aggressor. The sexual sadist identifies with this aggressor which reduces the sadist's anxiety. Masochism on the other hand represents pain that has become associated with pleasure. This also has a defensive characteristic in that by accepting the pain that is given the individual may avoid worse pain. Freud also talked about masochism being sadism turned in upon itself; from being active to passive.

Most of the psychoanalytic explanations refer back to the original idea that paraphilias serve to ward off castration anxiety and this explanation would explain why most individuals who derive sexual gratification from paraphilias are men. While psychoanalysis does not have anything specific to say about crush paraphilias it would recognize the relationship of crush paraphilias to humiliation. As Susan Creede, a police investigator with the Ventura County District Attorney's Office, testified before the House Subcommittee on Crime of the Committee on the Judiciary in 1999, (Creede, 1999), crush videos primarily appeal to men and are of most interest when the person doing the crushing is a woman.

Men with this type of masochistic fantasy have, through personal life experience, linked their sexual gratification with personal humiliation. Exhibitionism is an example of this process. Personal humiliation causes an unacceptable amount of pain and risk, so these individuals resort to watching the torture of animals, imagining what it would be like if they were the animal being tortured and/or squashed by a controlling, domineering, over-bearing female partner. The ultimate sexual release occurs with death, but the benefit of

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killing an animal is that the crush practitioners can return the next day for another opportunity to fulfill their sexual needs. Other explanations of the causes of paraphilias typically involve the association of pleasure with varying stimuli during childhood. These associations are reinforced and the person learns to experience sexual pleasure from the stimuli when they are older. This conditioning model has been verified in a series of studies done in the 1960s and 1970s (Marquis, 1970; Quinn, Harbison, & McAllister, 1970; Rachman, S., 1966, 1968). These researchers were interested in whether or not normal males could be conditioned to acquire a fetish. In one experiment, males were shown pictures of nude women while simultaneously viewing pictures of fur-lined boots. Penile plethysmography was used to measure the presence of arousal. After repeatedly seeing nude women with pictures of a variety of footwear, the men began to be aroused at the sight of the footwear alone.

With regard to crush videos this type of association may be seen in the foot that is doing the stomping. The act of stomping found in many crush videos typically features women's feet or shoes doing the stomping. The association of the foot with sexual pleasure may have pre-existed the sadomasochistic response to crushing animals, or the foot may have became eroticized by association with the abnormal sexual response to scenes of animal torture and killing. Both explanations are possible.[2]

The greater capacity for paraphilias in human males may be a byproduct of the successful evolutionary strategy whereby human females remain fertile throughout the

[2] Paraphilias can also be seen in primates, though not to the elaborate extent as in humans (Wilson, 1987). Epstein describes a chimpanzee that developed a foot fetish with a rubber boot. It is unknown how the fetish developed but the author speculates that the boot either became associated with the pleasure and food given by the caretaker or that the shiny color of the boot reminded the chimp of the genital display of a female chimp in heat (Epstein, 1987). As a recent *youtube.com* video graphically demonstrates, chimpanzees are quite capable of using different species of animals as a paraphilia (*Chimp Rapes a Frog*, 2010).

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year instead of seasonally like most primates. For fertility in females to be useful, males also need a correspondingly greater interest in sex, i.e. a stronger sex drive. This obviously had survival value for our primate ancestors. However, access to primate females exists in the context of a male dominance hierarchy that may not allow all males easy sexual access to females. Therefore human males, like other primates, may have evolved the behavioral capacity to find substitute sexual outlets (Wilson, 1987).

Treatment

Typically, people who have a paraphilia do not seek treatment unless the paraphilia has resulted in legal consequences. Treatment modalities include psychodynamic psychotherapy, behavior therapies, cognitive behavioral treatment, pharmacological treatment, and relapse prevention. Paraphilias, especially the more egregious types such as pedophilia, are notoriously difficult, but not impossible, to treat with high rates of relapse (Marvasti, 2004; McKay, Abramowitz, & Taylor, 2009; Nathan & Gorman, 2002; Rowland & Incrocci, 2008). One of the problems with successfully treating individuals with paraphilias is that they have a high rate of co-morbid mental disorders (Leue, 2004). Treatment combining different modalities is thought to be more effective than single modality treatment (Guay, 2009). Given the rather more primitive nature of the crush paraphilia and its high level of social unacceptability, it is likely that most individuals involved with crush paraphilias will not seek treatment or even be willing to acknowledge that they engage in this activity. These characteristics would indicate that there would be a strong commercial market for crush videos that can be watched in secret.

Conclusion

An important implication supported by all of these theories of the origins of paraphilias is that humans have the capacity to develop paraphilias in a wide variety of ways. A basic drive, such as sexual gratification, can be conditioned to occur while feeling

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humiliated or hurt. Adults, especially adult males, who have been so taught may also realize that subjecting others to pain is dangerous and socially reprehensible, so animals become the "safe" objects who, when tortured, give these men sexual gratification. Men who are unwilling to torture and kill the animals, or who want to hide their crush activities from society and others close to them, can obtain similar gratification by watching crush videos.

Certain human males have the capacity to learn to become sexually aroused by watching crush videos. In these videos the torture and killing of animals becomes associated with something males normally find sexually arousing, such as a beautiful woman. The treatment prognosis for those involved in crush videos is very poor. Treatment is not likely to prevent the acquisition of a crush paraphilia, curb the current practice of this paraphilia, or prevent a relapse. Given the above characteristics associated with crush paraphilias, I believe that a prohibition on the sale of crush videos is one of the few ways in which the practice and enjoyment of crush paraphilias can be reduced.

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References:

Association, A. P., & DSM-IV, A. P. A. T. F. O. (2000). *Diagnostic and statistical manual of mental disorders: DSM-IV-TR.* American Psychiatric Pub.

Beetz, A. (2004). Bestiality/Zoophilia: A Scarcely Investigated Phenomenon Between Crime, Paraphilia, and Love. *Journal of Forensic Psychology Practice, 4*(2), 1-36. doi:10.1300/J158v04n02_01

Binet, A. (2001). *Le Fétichisme dans l'amour.* Payot.

Blumstein, Philip W, & Schwartz, Pepper. (1993). Bisexuality: Some social psychological issues. In *Psychological perspectives on lesbian and gay male experiences. Garnets, Linda D. (Ed.); Kimmel, Douglas C. (Ed.).* New York, NY: Columbia University Press.

Butcher, N. (2004). *The Strange Case of the Walking Corpse: A Chronicle of Medical Mysteries, Curious Remedies,and Bizarre but True Healing Folklore* (1st ed.). Avery Trade.

Chimp Rapes a Frog. (2010). . Retrieved from http://www.youtube.com/watch?v=qVE60zwXx1k&feature=youtube_gdata

Creede, S. (1999). *Testimony on 'Crush Videos'.* Washington, DC.

Epstein, A. (1987). The phylogenetics of fetishism. In *Variant sexuality: Research and theory. Wilson, Glenn D. (Ed.).* Johns Hopkins University Press.

Freud, S. (2001). *The Complete Psychological Works of Sigmund Freud: "The Future of an Illusion", "Civilization and Its Discontents" and Other Works v.21: "The Future of an Illusion and Civilization and Its Discontents" and Other Works Vol 21* (New edition.). Vintage.

Guay, D. R. (2009). Drug treatment of paraphilic and nonparaphilic sexual disorders. *Clinical Therapeutics, 31*(1), 1-31. doi:10.1016/j.clinthera.2009.01.009

Krafft-Ebing, R. (1922). *Psychopathia sexualis, with especial reference to the antipathic sexual*

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instinct: a medico-forensic study. Medical art agency.

Leue, A. (2004). Mental disorders in a forensic sample of sexual offenders. *European Psychiatry, 19*(3), 123-130. doi:10.1016/j.eurpsy.2003.08.001

Marquis, J. N. (1970). Orgasmic reconditioning: Changing sexual object choice through controlling masturbation fantasies. *Journal of Behavior Therapy and Experimental Psychiatry, 1*(4), 263-271. doi:10.1016/0005-7916(70)90050-9

Marvasti, J. A. (2004). *Psychiatric treatment of sexual offenders: treating the past traumas in traumatizers : a bio-psycho-social perspective*. Charles C. Thomas.

McKay, D., Abramowitz, J. S., & Taylor, S. (2009). *Cognitive-Behavioral Therapy for Refractory Cases: Turning Failure Into Success*. American Psychological Association.

Nathan, P. E., & Gorman, J. M. (2002). *A guide to treatments that work*. Oxford University Press US.

O'Halloran, R., & Dietz, P. (1993). Autoerotic fatalities with power hydraulics. *ournal of Forensic Sciences, 38*(2), 359-364.

Quinn, J. T., Harbison, J. J. M., & McAllister, H. (1970). An attempt to shape human penile responses. *Behaviour Research and Therapy, 8*(2), 213-216. doi:10.1016/0005-7967(70)90095-1

Rachman, S., (1966). Sexual fetishism: An experimental analogue. *The Psychological Record, 16*(3), 293-296.

Rachman, S., (1968). Experimentally-induced 'sexual fetishism': replication and development. *The Psychological Record, 18*(1), 25-27.

Reischel, J. (2006, April 20). Crush me, Kill me. *New Times*. Broward/Palm Beach. Retrieved from http://www.browardpalmbeach.com/content/printVersion/140621/

Rowland, D. L., & Incrocci, L. (2008). *Handbook of sexual and gender identity disorders*. John

VerDate Nov 24 2008 12:43 Mar 08, 2011 Jkt 064411 PO 00000 Frm 00105 Fmt 6633 Sfmt 6633 S:\GPO\HEARINGS\64411.TXT SJUD1 PsN: CMORC

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Wiley and Sons.

Saretsky, T. (1976). Masochism and Ego Identity in Borderline States. *Contemp. Psychoanal.*, *12*, 433-445.

Semple, K. (2009, June 14). Bartender, Make It a Stiletto. *The New York Times*. Retrieved from http://www.nytimes.com/2009/06/14/fashion/14carpet.html?_r=2&pagewanted=2

Shiwach, R., & Prosser, J. (1998). Treatment of an unusual case of masochism. *Journal of Sex & Marital Therapy*, *24*(4), 303-307. doi:10.1080/00926239808403965

Stone, M. H. (2007). Violent crimes and their relationship to personality disorders. *Personality and Mental Health*, *1*(2), 138-153. doi:10.1002/pmh.18

Williams, C., & Weinberg, M. (2003). Zoophilia in men: A study of sexual interest in animals. *Archives of Sexual Behavior*, *32*(6), 523-535.

Wilson, G. D. (1987). An ethological approach to sexual deviation. *Source: Variant sexuality: Research and theory. Wilson, Glenn D. (Ed.).* Baltimore, MD: Johns Hopkins University Press.

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