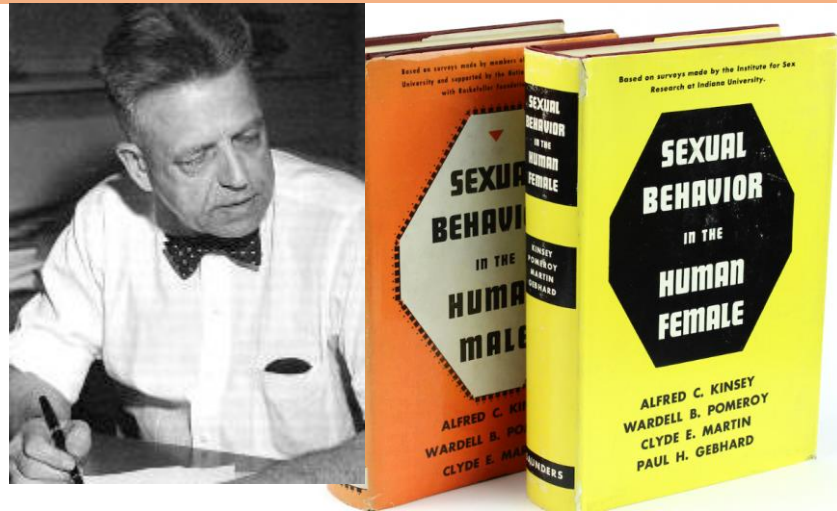




SUMMIT #3
OMAHA, NE • Fri/Sat September 14 & 15, 2018

Repealing Obscenity Exemptions Workshops

Genesis of the Educational Obscenity Exemptions: Alfred Kinsey's Fraudulent Sex Research



AGE	NO. OF ORGASMS	TIME INVOLVED	AGE	NO. OF ORGASMS	TIME INVOLVED
5 mon.	3	?	11 yr.	11	1 hr.
11 mon.	10	1 hr.	11 yr.	19	1 hr.
11 mon.	14	38 min.	12 yr.	7	3 hr.
2 yr.	{ 7	9 min.	12 yr.	{ 3	3 min.
	{ 11	65 min.		{ 9	2 hr.
2½ yr.	4	2 min.	12 yr.	12	2 hr.
4 yr.	6	5 min.	12 yr.	15	1 hr.
4 yr.	17	10 hr.	13 yr.	7	24 min.
4 yr.	26	24 hr.	13 yr.	8	2½ hr.
7 yr.	7	3 hr.	13 yr.	9	8 hr.
8 yr.	8	2 hr.		{ 3	70 sec.
9 yr.	7	68 min.	13 yr.	{ 11	8 hr.
10 yr.	9	52 min.		{ 26	24 hr.
10 yr.	14	24 hr.	14 yr.	11	4 hr.

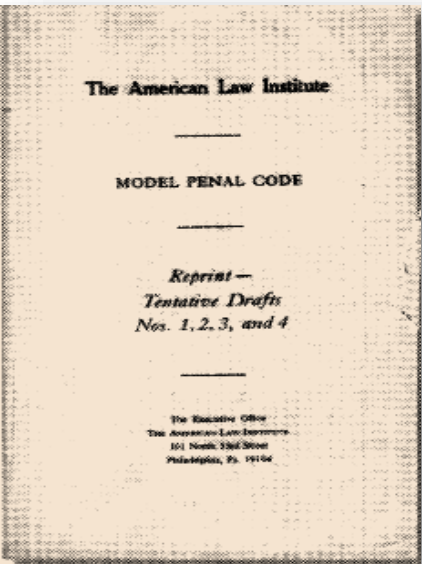
Table 34. Examples of multiple orgasm in pre-adolescent males

Alfred Kinsey claimed to have “proven” that children are sexual from birth and unharmed by sexual activity.

His “proof” was data collected by “trained” serial child rapists presented as scientifically credible evidence.

That pseudoscience was heralded as landmark research requiring fundamental social/legal transformation

Genesis of the Educational Obscenity Exemptions: Model Penal Code Based on Kinsey



- Kinsey Reports cited as “scientific proof” that sex offense criminal laws were outdated, ineffective and must be completely overhauled.
- A select group of legal scholars, judges, psychiatrists, other academics, including Kinsey team members, gathered to compile model laws regarding criminal conduct, especially sexual offenses.
- Result was the Rockefeller funded ALI Model Penal Code, which proposed decriminalization or reduction in punishment for sex offenses in accordance with Kinsey model.
- Obscenity was redefined and an exemption from prosecution added for “institutions or persons having scientific, educational, governmental or other similar justification for possessing obscene material”

“Miller” Test for “Obscenity” (unprotected by the First Amendment):



1. Whether ‘the average person, applying **contemporary community standards*** would find that the work, taken as a whole, appeals to the prurient interest;
2. Whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and
3. Whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

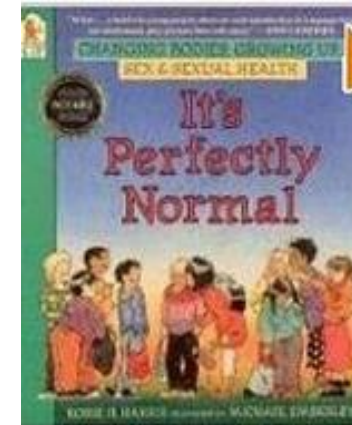
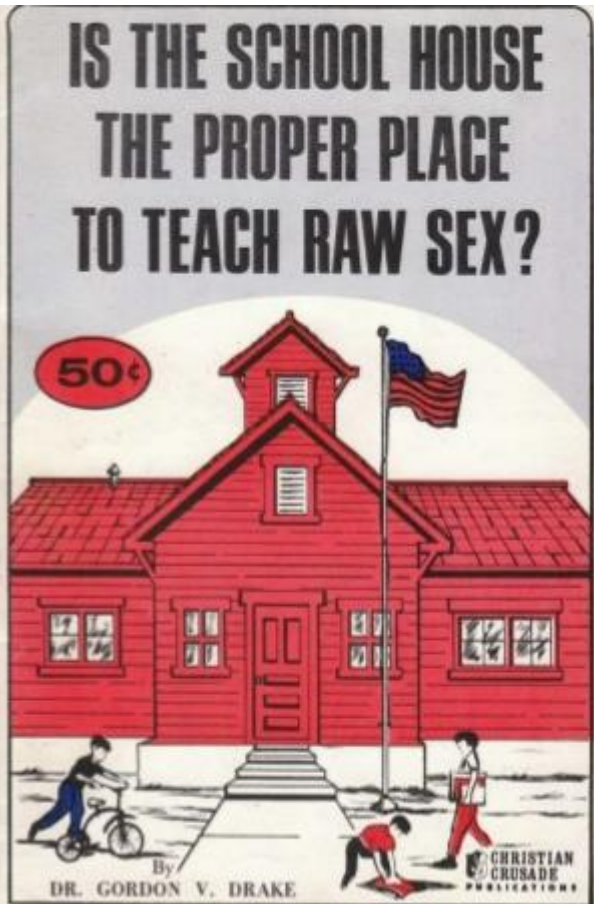
Miller v. California, 413 U.S. 15, 24, 31-32 (1973).

➤ **Modified for minors:** “harmful to minors” laws imposing increased fines, jail time for providing obscene/indecent materials to children even if the materials would not be obscene for adults:

- ❖ “Appealing to the prurient interest in sex of minors;
- ❖ Patently offensive to **prevailing standards in the adult community** with respect to what is suitable material for minors; and
- ❖ Lacking serious literary, artistic, political, or scientific value for minors.

Model Penal Code: Obscenity in Schools, Libraries

- 43 states adopted the MPC exemptions for providing obscene/indecent materials to children if the materials are used by “educators” and/or for “educational” purposes, as part of courses of instruction and/or in libraries in K-12 schools and in public libraries.
- Therefore, in these states, a person providing obscene/indecent materials to a child faces fines and jail time for “harming” the child, EXCEPT when the person is a teacher, librarian, lecturer, consultant, etc. providing the materials in an “educational” context!



Repeal the Exemptions to Close the Loopholes



- The exemptions are part of the criminal law of 43 states and can be repealed by legislation that would delete that portion of the statute and/or include revised language clarifying that schools, libraries are not exempted from “harmful to minors” laws.



- In states without exemptions, legislation could be proposed to specify that schools, libraries, and their personnel are not exempt from the harmful to minors laws.
- Model state-specific bills available as a starting point for discussions with legislators.
- Also a generic proposed act is available that includes additional discussion of purposes and need for the legislation. Might be preferred format for some.

Key Issues Regarding Proposed Laws To Repeal O.E.



- Must include provision for a “private right of action.”
 - ❖ Would enable parents, students to file lawsuits against school boards, districts for distributing material harmful to minors and obtain an injunction (an order halting the distribution), damages and attorneys’ fees regardless of whether the county prosecutor decides to seek fines, jail time.
 - ❖ Without a private right of action, parents/students are at the mercy of county prosecutors for relief. Prosecutors have discretion whether to bring a case, are usually underfunded and overwhelmed with major crimes.
 - ❖ A private right of action would provide parents with leverage against school boards which would be subject to liability even if prosecutors don’t act.
- Repealing the exemptions will NOT affect **the teaching of factual information about the human body in the context of biology, physiology and human anatomy as scientific disciplines**

If Obscenity Exemptions Are Repealed:

- Schools, libraries, etc. will be subject to the same “harmful to minors” laws as are other people.
- Materials used in schools would have to be defined as “harmful to minors” under the state law definition. Not a simple proposition.
- Must establish that the materials are harmful to minors according to “contemporary community standards” which has not been defined. It would likely have to be determined by a jury drawn from the relevant community, which is also not defined.
- The Supreme Court has sided with those producing content over those offended with the content because of misapplication of the First Amendment.
- Important to engage publicly in the community to set some boundaries for what is appropriate for children to begin to define the standard.
 - If we don't define the standard, then those making the materials will.
 - Read/show actual materials to parents, legislators, organizations and encourage them to object.

Before Repeal or If Not Repealed...



Keep your *heart*
with all vigilance,
for from it flow the
springs of life.
Proverbs 4:23

Be Vigilant:

Constant monitoring of what is being assigned, taught.
Object to inappropriate materials.

**ETERNAL VIGILANCE
IS THE PRICE OF
LIBERTY.**

Wendell Phillips

**The way to
right wrongs is
to turn the
LIGHT of TRUTH
upon Them.**

Educate Parents & Community:

Shine the light of truth onto school board decisions, materials.

Educate fellow parents, churches, organizations on what is going on with their children and what is being taught; encourage making voices heard about what is appropriate/inappropriate for the community's children. This will help establish "community standards" for possible future use to challenge materials.

Other Tools for Challenging Explicit Sexual Materials

- ✓ **Propose Opt In Laws:**
 - RNC Resolution
 - Sample laws from Virginia and Wyoming
- ✓ **Follow Indiana's lead in enacting detailed opt out law and hold schools accountable**
- ✓ **With or Without Expanded Opt Out, use LC comprehensive opt out notification form and insist it be placed in student's file.**
- ✓ **Propose laws like La and Mo that prohibit PP or affiliates from providing materials to schools.**
- ✓ **Targeted litigation—stop particular incident/speaker (Sally W. in Illinois)**
- ✓ **Student free speech—flyers, discussion groups to counter agenda. If students denied access, sue for violation 1st Amendment.**