

No. 23-1122

IN THE
SUPREME COURT OF THE UNITED STATES

FREE SPEECH COALITION, INC., ET AL.,

Petitioners,

v.

KEN PAXTON, ATTORNEY GENERAL OF
TEXAS,

Respondent.

*On Writ of Certiorari to the
United States Court of Appeals for the Fifth
Circuit*

BRIEF OF THE MATTHEW XVIII GROUP AND
THE REISMAN INSTITUTE AS
AMICI CURIAE IN SUPPORT OF RESPONDENT,
SUPPORTING AFFIRMANCE

Mary E. McAlister (Counsel of Record)
Vernadette R. Broyles
CHILD & PARENTAL RIGHTS CAMPAIGN
5805 State Bridge Rd., Suite G310
Johns Creek, GA 30097 (770)448-4525
mmcalister@childparentrights.org
Attorneys for Amici Curiae

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INTEREST OF AMICI CURIAE¹

The Matthew XVIII Group (“Matthew XVIII”) respectfully submits this brief as *amicus curiae* in support of Respondent. Audrey Werner RN, B.S.N., M.A., founder of Matthew XVIII, has 15 years nursing experience at Oakland County Health Department, was trained by the State of Michigan Health Department in HIV counseling and by the Centers for Disease Control (“CDC”) in sexually transmitted diseases (“STD”) counseling. She is Dean of Life Issues at Masters International University of Divinity, where she teaches courses about the history of the sexual revolution. Ms. Werner has presented in-depth information concerning this topic, and has testified before multiple entities, including various state legislatures and Ugandan parliament members.

Matthew XVIII is an advocacy group that has worked tirelessly for over 25 years to educate people in all arenas, from individuals to groups to churches to government officials, to expose the detrimental social “science” which has overtaken our culture in the realm of family life and marriage. Matthew XVIII has taught and advocated in the arena of

¹ No counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than the amici curiae or their counsel made a monetary contribution to its preparation or submission.

raising awareness of the dangers and faulty foundation of the history of sexual “science.”

The Reisman Institute is a non-profit research and educational organization founded by Judith Reisman, Ph.D. (1935-2021) to provide a platform for continuing her decades of research on the origins and effects of the “sexual revolution,” particularly of its devastating effects on children. Her life’s work was focused on protecting children from sexual exploitation and exposing the roots of the exploitation, particularly the work of Alfred Kinsey and its evolution into pornography and other sexually explicit media. The Institute continues to carry on her research and legacy of protecting children.

In this Brief, *Amici* provide critical background information based largely on Dr. Reisman’s research to assist this Court as it grapples with the legal interests in this case. *Amici* offer this historical information as foundation for understanding the moral basis of the legal issues at hand.

SUMMARY OF ARGUMENT

Children represent the future of society. They are also our most vulnerable citizens, still in the process of formation and fully dependent on adults to make the decisions necessary to preserve their health and safety. Parents have the primary responsibility to make decisions for their children. When parents are absent or otherwise unable to make those decisions, or when decisions involve an

entire state or country, society recognizes that government can and should step in to protect impressionable children from harm. That is what Texas has done through H.B. 1181, which protects children from exposure to harmful sexually explicit, *i.e.*, pornographic, material.

How did America come to the point where such a law is necessary to push back against widespread availability of pornography to our most vulnerable citizens? Ms. Werner began asking that question when she observed disturbing trends in her work at an STD clinic. She was told during training that providing sex education would help decrease teen pregnancy and STDs. Her experience told a different story. More children were sexually active than they were before sex education, and there was an explosive increase in rape of women and children.

Specifically, Ms. Werner witnessed alarming trends that led her to question what was presented to her in training, including:

- Children were becoming sexually active sooner than ever. In 1991, she witnessed that teenagers were reporting their first sexual contact at age 16 to 17. By 1999, she witnessed that some children were reporting first sexual contacts at age 10, and most contacts were not consensual.
- Teenagers viewed being sexually active as normal and acceptable behavior. In

1991, Ms. Werner witnessed some disapproval displayed by both teenagers and adults associated with teenage sexual activity outside of marriage. By 1999, such activity was being celebrated.

- In one instance, a 22-year-old man brought in a 13-year-old girl to receive a birth control shot. Ms. Werner learned that according to state law, at age 12 children were considered adults for purposes of obtaining birth control, so that 13-year-old did not need parental consent to obtain the contraceptive. According to Ms. Werner's supervisor, police would become involved only if an adult was caught in the act of having sexual contact with the 13-year-old.

The trends that Ms. Werner witnessed were part of a significant and damaging paradigm shift in society. Pornographic materials once the subject of nationwide prohibition campaigns to “try and control the spread of venereal disease and crime,”² and “suppress vice” that fueled public sex trafficking,³ became increasingly accepted and even

² JUDITH REISMAN, *SEXUAL SABOTAGE*, 6 (2010)..

³ *Id.*

legally protected for adults. That acceptance led to a widening sexualization of children.

Amici offer this Court an historic review of the “sexual revolution” that launched the sexualization that threatens our children. Faulty science and advocacy fundamentally changed American law and culture. That change has permeated the culture, wreaking havoc on all facets of society, but especially on vulnerable children. Understanding the history and effects of the fundamental societal transformation wrought by the “sexual revolution” is critically important to this Court’s consideration of this case. Amici submit that the information in this brief will elucidate the dangers that H.B. 1181 seeks to address.

ARGUMENT

I. Alfred Kinsey’s human sexuality books launched a monumental shift in American society.

The seismic societal shift known as the “sexual revolution” started with the publication of two books by Alfred C. Kinsey, a zoology professor at Indiana University who traded the study of gall wasps for the study of human sexuality.⁴ *Sexual Behavior in the Human Male* (1948) and *Sexual*

⁴ JAMES JONES, ALFRED C. KINSEY: A PUBLIC/PRIVATE LIFE, 360-361 (1997).

Behavior in the Human Female (1953)⁵ presented Kinsey's "findings" after conducting interviews and sex experiments and gathering data on reportedly thousands of men, women and children in the 1930s and 1940s.⁶ Kinsey's subjects were chosen carefully and the data manipulated strategically to "prove" his predetermined conclusion that all manner of sexual activity between males and females in any combination, between people and animals, and between adults and children was permissible and beneficial⁷.

A. Kinsey claims men and women engaged in rampant sexual promiscuity, fornication, adultery, and abortion on 1940s America.

1. Kinsey's "findings" regarding adults.

Kinsey claimed to have collected representative samples of men and women for his books. In reality, he obtained the data for his male volume by interviewing jailed sex offenders and other institutionalized men, homosexuals, and

⁵ ALFRED C. KINSEY, WARDELL B. POMEROY & CLYDE E. MARTIN, *SEXUAL BEHAVIOR IN THE HUMAN MALE* (1948) ("Kinsey MALE"); ALFRED C. KINSEY, *ET.AL.*, *SEXUAL BEHAVIOR IN THE HUMAN FEMALE*, (1953) ("Kinsey FEMALE").

⁶ JUDITH REISMAN, *KINSEY: CRIMES AND CONSEQUENCES*, 49-52, 88-100, 108-112, 134-136 (Institute for Media Education, 4th Ed. 2011) (1998).

⁷ *Id.*

criminals who were not incarcerated.⁸ Kinsey interviewed prostitutes, women cohabiting with men (designated as “married”) in the 1940s, and adolescent girls to collect his female data.⁹

Kinsey claimed that his “representative sample” of sexual behavior of men and women in the 1930s-1940s showed, *inter alia*:¹⁰

- 95% of men were sex offenders;
- 50% of men were adulterers;
- 85% of men were fornicators;
- 69% of men used prostitutes;
- 10% to 37% of men were bi-homosexual at some point in their lives;
- 100% of children were sexual from birth;
- 100% of children could climax with adult “help;”
- 50% of women were fornicators;
- 26% of wives were adulterers;
- 25% of wives had abortions and
- 85% of single women had abortions.

2. Kinsey claims children are sexual from birth.

The most stunning of Kinsey’s findings was his chapter on childhood sexuality in which he claimed that children are “sexual from birth.”¹¹

⁸ *Id.* at 90-100.

⁹ *Id.* at 108-112.

¹⁰ REISMAN, SEXUAL SABOTAGE, at 20-24.

¹¹ KINSEY, MALE, at 161.

Kinsey based his conclusion on data he received from serial child molesters who had raped hundreds of children (from 5 months to 14 years old), some over a 24-hour period.¹² One such contributor was Rex King:

Kinsey relied upon [King] for the chapter on childhood sexuality in the male volume...Many of his victims were infants and Kinsey in that chapter himself gives pretty graphic descriptions of their response to what he calls sexual stimulation. If you read those words, what he's talking about is kids who are screaming. Kids who are protesting in every way they can the fact that their bodies or their persons are being violated.¹³

Another child molester on whom Kinsey relied for his child data was Nazi Fritz Von Balluseck, who contributed to Kinsey's child abuse studies from 1936 to 1956.¹⁴ German news accounts during Von Balluseck's trial reported, "The Nazis knew and gave him the opportunity to practice his abnormal tendencies in occupied Poland on Polish children, who had to choose between Balluseck and the gas ovens. After the war, the children were dead, but Balluseck lived."¹⁵

¹² *Id.*, at 180.

¹³ REISMAN, KINSEY CRIMES AND CONSEQUENCES, at 135.

¹⁴ *Id.* at 137.

¹⁵ *Id.* at 166.

Kinsey described *children* as young as 5 months as having an “orgasm” if they cried, fainted, or fought away the “partner.”¹⁶ Kinsey presented his “data” in a series of tables, including Table 34 reproduced below:¹⁷

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.	13 yr.	{	3	70 sec.	
9 yr.	7	68 min.			11	8 hr.	
10 yr.	9	52 min.	14 yr.	{	26	24 hr.	
10 yr.	14	24 hr.			11	4 hr.	

Table 34. Examples of multiple orgasm in pre-adolescent males
Some instances of higher frequencies.

According to Kinsey, this data “confirmed that sexual activity is natural to the human ‘animal’ from birth, and that human children are therefore unharmed by sexual activity even from birth.”¹⁸

¹⁶ *Id.* at 148.

¹⁷ KINSEY MALE at 180.

¹⁸ REISMAN, KINSEY CRIMES AND CONSEQUENCES, at 132.

B. Kinsey's reports spark rapid societal changes.

Kinsey's child sex data gathered by Nazi and American child rapists and his other "findings" have influenced every institution in America. Fueled by a mass media blitz beginning with the 1953 launch of Kinsey's *Female* volume, leaders in law, education, medicine, and entertainment used Kinsey's reports to shift the morals of America concerning attitudes about sex and the family.¹⁹ Capitalizing on Kinsey's credentials as a Harvard-trained scientist, the media proclaimed that "science" had proven that the portrayal of 1940s society as sexually restrained was a lie.²⁰ These efforts were part of a purposeful plan to sexualize America, including its children:

To build pluralism we must firmly root out the narrow thinking about sex that exists in all of our basic institutions: family, political, economic, religious and educational. We need to change our whole basic social institutional structure...We don't need a majority of the nation in order to make significant changes in our society. We need only a small percentage of the population who are dedicated to promoting all of our sexual rights.²¹

¹⁹ REISMAN, SEXUAL SABOTAGE, at 70.

²⁰ *Id.*

²¹ IRA L. REISS, AN END TO SHAME: SHAPING OUR NEXT SEXUAL REVOLUTION, 217-237 (1990).

Some of the “significant changes” were immediate, such as Hugh Hefner’s 1953 founding of *Playboy*. Hefner proclaimed that “Kinsey was the researcher and I am his pamphleteer.”²² His launch of *Playboy* was his fulfillment of that statement as he sought to bring Kinsey’s view of sexuality to average men.²³ Fifteen years after *Playboy* debuted, *Penthouse* was launched, followed by *Hustler* ten years later, each building on the Kinsey legacy and pushing the limits on explicit sexual material.²⁴

1. The Kinsey-powered shift in American law.

Within four years of the publication of Kinsey’s Male volume and before publication of the *Female* volume, legal scholars were calling for revision of “ineffective, inhumane and thoroughly unscientific” state criminal laws not based on the truth now available through “‘objective’ scientific pursuit,” *i.e.*, the Kinsey reports.²⁵ Kinsey lawyer Morris Ernst said, “[v]irtually every page of the Kinsey Report touches on some section of the legal code...a reminder that the law like...our social

²² Judith Reisman & Mary McAlister, *Deconstructing Dignity by Eradicating Shame: The Pernicious Heritage of Alfred Kinsey*, 4 HUMANUM, ISSUES IN FAMILY, CULTURE & SCIENCE, 7 (2019).

²³ REISMAN, SEXUAL SABOTAGE, at 137.

²⁴ *Id.* at 147.

²⁵ Herbert Wechsler, *Challenge of a Model Penal Code*, 65 HARV. L. REV. 1103 (1952).

pattern falls lamentably short of being based on a knowledge of facts.”²⁶ Kinsey said:

It is ordinarily said that criminal law is designed to protect property and to protect persons, and if society's only interest in controlling sex behavior were to protect persons, then the criminal codes concerned with assault and battery should provide adequate protection. The fact that there is a body of sex laws which is apart from the laws protecting persons is evidence of their distinct function, namely that of protecting custom.²⁷

Kinsey's pseudo-scientific conclusions that included data from child rapists, became the impetus for a seismic shift in American law. The American Law Institute (“ALI”) used Kinsey's data to revise the sexual offenses provisions of the Model Penal Code (“MPC”).²⁸ Those revisions ended protections for women and children by lightening penalties for, *e.g.*, obscenity, prostitution, abortion, rape, sodomy, and child molestation, and eliminating penalties for, *e.g.*, adultery, fornication, and seduction.²⁹ ALI authors listed Kinsey as the

²⁶ MORRIS ERNST & DAVID LOTH, AMERICAN SEXUAL BEHAVIOR AND THE KINSEY REPORT, 132 n. 28 (1948).

²⁷ KINSEY MALE, at 4.

²⁸ REISMAN, SEXUAL SABOTAGE, at 231.

²⁹ *Id.* at 232-233.

sole authority on “normal” human sexual behavior. “Kinsey’s data ‘permeate all present thinking on this subject.’”³⁰

As ALI members were revising the criminal law related to sexual offenses, legal and psychiatric experts who were trained in Kinsey’s pseudo-science campaigned for changes in sexual consent laws to shift responsibility from adults to children.³¹ Some advocated for lowering the age of consent to seven.³² In 1950, the Group for the Advancement of Psychiatry asserted that young girls could be responsible for sexual behavior by stating, “[i]n general, persons *under the age of 7* are legally regarded as not responsible...It may be true that such persons cannot enter into contracts, but *many are by endowment and training* fully capable of part or exceptionally even *full responsibility for sexual behavior.*” (emphasis added).³³

One legal scholar took Kinsey’s “children are sexual from birth” a step further, claiming young girls could be “sexual seducers:”

³⁰ Linda Jeffrey, *Restoring Legal Protections for Women and Children: A Historical Analysis of the States’ Criminal Codes*, THE STATE FACTOR, 11 (American Legislative Exchange Council, April 2004)

³¹ REISMAN, SEXUAL SABOTAGE, at 265-266.

³² *Id.* at 266, citing Committee on Forensic Psychiatry of the Group for the Advancement of Psychiatry, *Psychiatrically Deviated Sex Offenders*, Report No. 9, February 1950.

³³ *Id.*

The sometimes-extreme seductiveness of a young female is a factor which has no place in the law, but it certainly affects motivation. *Even at the age of four or five, this seductiveness may be so powerful as to overwhelm the adult into committing the offense. The affair is therefore not always the result of the adult's aggression; often the young female is the initiator and seducer.* [emphasis added]³⁴

Such commentaries influenced lawmakers to look at children as sexual beings as they contemplated changes in the penal code. Section 207.5 in the sex offense section of the MPC proposed that consensual sodomy with “actors” as young as ten be classified as a misdemeanor. In Appendix A entitled *Frequency of Sexual Deviation*, Kinsey's book *Sexual Behavior and the Human Male* is cited in 19 of 21 quotations.³⁵

Prior to enactment of the MPC, showing obscene material to children was criminal for all adults in all circumstances. However, in order to incorporate Kinseyan philosophy into education, the law needed to be revised to provide a safe haven for educators. Section 251.4(3) of the 1962 MPC provided that safe haven in form of educational exemptions from liability:

³⁴ Ralph Slovenko & Cyril. Phillips, *Psychosexuality and the Criminal Law*, 15 VAND. L. REV. 809 (1962).

³⁵ Jeffrey, *supra* n 30, at 11.

(3) It is an affirmative defense to prosecution under this Section that dissemination was restricted to:

(a) institutions or persons having scientific, educational, governmental or other similar justification for possessing obscene material.³⁶

Drafters of the provision stated that it was “related to our decision elsewhere not to make sexual behavior of adolescents criminal, except where disparity of age suggests imposition or seduction.”³⁷ As well as fulfilling that objective, the affirmative defense made classrooms available for sexually explicit materials.

2. The Kinsey Reports transform education.

a. Training Sex Educators

Those classroom doors began opening in 1955 when the National Association of Secondary School Principals started offering education and training standards for “separate degrees for those qualified

³⁶ Judith A. Reisman & Mary E. McAlister, *Materials Deemed Harmful To Minors Are Welcomed Into Classrooms And Libraries Via Educational “Obscenity Exemptions,”* 12 LIBERTY UNIVERSITY L. REV. 518, 527 (2018).

³⁷ *Id.*

as sex educators.”³⁸ In 1957 Kinsey co-author Wardell Pomeroy founded the Society for the Scientific Study of Sex (“SSSS”) as the first organization dedicated to the systematic study of sexuality.³⁹

In 1964 and 1968 New York University and the University of Pennsylvania, respectively, began offering sex education training leading to certification as a sex educator.⁴⁰ Pomeroy founded a standalone training center, The Institute for the Advanced Study of Human Sexuality (“IASHS”) in San Francisco in 1968.⁴¹

In the 1970s students at IASHS and other schools started being trained in “Sexual Attitude Restructuring,” now called “Sexual Attitude Reassessment” (SAR).⁴² The SAR is described as:

A structured group activity and learning experience decided to challenge and question personal beliefs and values surrounding sex and sexuality. The SAR technique is advertised to “promote growth and compassion for others by exposing you to sexual behaviors and preferences

³⁸ REISMAN, *SEXUAL SABOTAGE*, at 177, citing RANDY ENGEL, *SEX EDUCATION, THE FINAL PLAGUE*, 48-49 (1989).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* at 178.

⁴² *Id.* at 179.

through erotic media while structuring a group conversation with other professionals.”⁴³

SAR training is required for certification as a sex educator in elementary or secondary schools.⁴⁴

Graduates of those Kinseyan based institutes became subject matter experts who would testify on behalf of sex offenders and businesses that specialize in the production of obscenity and pornography.⁴⁵ Others became sex educators, some of whom advocated that school boards needed to expose children to sexually explicit materials in the schools.⁴⁶

b. Pornographers support sex education.

Pornographers became benefactors of public elementary and secondary education to assist the newly trained sex educators in bringing Kinsey’s sexual worldview to children and teens. Playboy Enterprises funded the National Education Association (NEA) in 1978.⁴⁷

⁴³ Sexual Health Alliance, *What is a SAR?*, [What is a SAR \(Sexual Attitude Reassessment\)? — Sexual Health Alliance](#) last viewed November 17, 2024..

⁴⁴ *Id.*

⁴⁵ REISMAN, KINSEY CRIMES & CONSEQUENCES, at 82.

⁴⁶ *Id.*

⁴⁷ REISMAN, SEXUAL SABOTAGE, at 180.

SIECUS

Playboy facilitated the introduction of sex education in schools by providing funding for the Sexuality Information and Education Council of the United States (“SIECUS”), which was launched at the Kinsey Institute in 1964.⁴⁸ SIECUS became the primary provider of sex education materials for elementary and secondary schools.⁴⁹

Few people realize that the great library collection of...the Kinsey Institute...was formed very specifically with one major field omitted: sex education...It seemed appropriate, not only to the Institute but to its major funding source, the National Institute of Mental Health, to leave this area for SIECUS to fill. Thus we applied and were approved for a highly important grant from the National Institute for Mental Health that was designed to implement a planned role for SIECUS—to become the primary data base for the area of education for sexuality.⁵⁰

By the 1970s, when SIECUS had begun bringing sexually explicit materials to the classrooms, child sexual activity was starting to rise. An investigative reporter looking into the trend

⁴⁸ REISMAN, KINSEY CRIMES & CONSEQUENCES, AT 177.

⁴⁹ *Id.* at 177-179.

⁵⁰ Mary S. Calderone, *In My Opinion*, 10 SIECUS REPORT, 6 (May-July 1982).

interviewed SIECUS president, Harold Lief. He affirmed exposing children to sexually explicit materials. He said it was A-OK to engage in all forms of sex relations regardless of age and to feel guilt-free as long as the episodes are “growth producing” and “partners” are responsible and caring for the length of the relationships.⁵¹

SIECUS continued to advocate for the use of sexually explicit materials in classrooms. “When sensitively used in a manner appropriate to the viewer’s age and developmental level, sexually explicit visual, printed, or on-line materials can be valuable education personal aids, helping to reduce ignorance and confusion and contributing to a wholesome concept of sexuality.”⁵²

AASECT

Another pornographer-supported sex education resource is the American Association of Sex Educators, Counselors and Therapists (“AASECT”), which was formed in 1967 by Dr. Phyllis Schiller and Dr Albert Ellis, who served on the *Penthouse Forum*.⁵³ “AASECT’s job is to provide sex information to the sex educator, train him/her in the psychotherapy techniques necessary to

⁵¹ GLORIA LENTZ, RAPING OUR CHILDREN: THE SEX EDUCATION SCANDAL, 35 (1972).

⁵² *SIECUS Position Statements on Human Sexuality, Sexual Health and Sexuality Education and Information 1995-96*, 24, SIECUS REPORT, 21(February-March 1996).

⁵³ REISMAN, KINSEY CRIMES & CONSEQUENCES, 175.

communicate this knowledge to others and restructure his/her sexual values to equip him/her to expand their students' tolerance and acceptance of variant sexual practices and lifestyles."⁵⁴ As indicated in its mission statement, AASECT used SAR to train sex educators and therapists by "restructuring" their sexual values.⁵⁵

Ms. Werner went through mandatory AASECT training in order to be certified as a sex educator in schools. The training was attended by more than 100 teachers, counselors, and school nurses. Group leaders instructed all attendees to stand and chant the correct terminology for the genitals several times. Attendees were then taught how to teach children to put condoms on models of adult erect male genitalia. Attendees were strongly admonished that they had to get over any discomfort they had regarding sexuality and that they must help children better to understand their own sexuality. Abstinence from sex was presented as an "unrealistic goal for children." Kinsey's phrase that "children are sexual from birth" was endorsed and used as the reason that adults were to look at children as sexual "animals" (beings) who should not be restrained from sexual activity.

Ms. Werner heard the message that has permeated sex educator training, *i.e.*, only those trained through AASECT would be able to educate

⁵⁴ HERBERT OTTO, *THE NEW SEX EDUCATION*, 171 (1978).

⁵⁵ REISMAN, *KINSEY CRIMES & CONSEQUENCES*, 175.

children; parents were inadequate.⁵⁶ “The overwhelming majority of parents had never discussed sexual issues with their children at all... That’s why SIECUS exists...[I]t must not be left to X-rated movies, TV ads, and sleazy magazines, as the Moral Majority would have us do.”⁵⁷

Planned Parenthood

By 1953 Planned Parenthood was explicitly spreading Kinsey’s message of early sexualization through education:

[We must] be ready as educators and parents to help young people obtain sex satisfaction before marriage...and we must be ready to provide young boys and girls with the best contraception measures available so they will have the necessary means to achieve sexual satisfaction without having to risk possible pregnancy.⁵⁸

Planned Parenthood’s education efforts include curriculum that teaches children ages 10 to 17 how to make “healthy” decisions about relationships that involve significant age differences, *i.e.*, adult-teen “relationships.”⁵⁹ The

⁵⁶ *Id.* at 289.

⁵⁷ *Id.* at 176.

⁵⁸ Lena Levine, *Psychosocial Development*, PLANNED PARENTHOOD NEWS, 10 (Summer 1953).

⁵⁹ SUE MONTFORT & PEGGY BRICK, UNEQUAL PARTNERS—TEACHING ABOUT POWER AND CONSENT IN ADULT-TEEN AND

cover includes a depiction of a child hugging an adult male.⁶⁰

II. Research confirms that exposure to sexually explicit materials harms children, bringing about disease, dysfunction, sexual violence, and trafficking.

Scientific research and statistical data gathered over the last 60 years demonstrate how sexually explicit materials have caused great harm to children. This is particularly true since the advent of internet pornography in the 1990s.⁶¹ What once could only be purchased in public places (on VHS tapes and in magazines) under strict age restrictions could now be viewed by people of any age in the privacy of their homes via their computers, and today, smartphones.⁶² Advances in medical research and data collection provide evidence of how the now ubiquitous exposure to sexually explicit materials leads to disease, dysfunction, and sexual violence for children.

OTHER RELATIONSHIPS (3rd ed., Planned Parenthood of Greater Northern New Jersey 2007).

⁶⁰ *Id.*

⁶¹ PBS, *American Porn*, Frontline, (February 7, 2002), [American Porn | FRONTLINE | PBS](#)

⁶² *Id.*

A. Research demonstrates that exposure to sexually explicit materials reconfigures the brain.

Sexually explicit images such as those used in SAR to train sex educators and then by sex educators in classrooms have profound effects on the human brain, particularly on the underdeveloped brains of children.⁶³ Brain studies show that obscene images trigger a chemical reaction that mimics the response to addictive substances.⁶⁴ The reaction is an endogenous neurochemical cocktail of “naturally occurring psychoactive substances,” natural chemicals that induce arousal.⁶⁵ The brain experiences a burst of excitatory transmitters and an emotional cocktail mix of psychoactive chemicals, including testosterone (a steroid), dopamine (a neurotransmitter), norepinephrine (adrenalin), serotonin, oxytocin, and endorphins (“endogenous morphines”).⁶⁶ Highspeed internet pornography especially triggers a dopamine high.⁶⁷

Neuroscientist Joseph LeDoux discovered brain pathways that trigger immediate responses from the part of the brain that processes emotions

⁶³ REISMAN, KINSEY CRIMES & CONSEQUENCES, 173.

⁶⁴ Donald L. Hilton, Jr & Clark Watts, *Pornography addiction: A neuroscience perspective*, 2 SURG. NEUROL. INT. 19 (2011). See also, Candace Pert, *The Chemical Communicators*, in BILL MOYERS, HEALING AND THE MIND 177 (1993).

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ REISMAN, SEXUAL SABOTAGE, at 328.

called the amygdala before the part of the brain responsible for cognition, the neocortex, can process the inputs.

LeDoux discovered . . . something like a neural back alley—[that] allows the amygdala to receive some direct inputs from the senses and start a response *before* they are fully registered by the neocortex...The amygdala can have us spring to action while the slightly slower...neocortex unfolds its more refined plan for reaction. LeDoux overturned the prevailing wisdom about the pathways traveled by emotions through his research on fear.⁶⁸

This pathway can lead to impulsive emotional reactions. This is particularly significant for children and teens whose immature brains render them unable to make fully rational decisions, let alone differentiate whether the emotions they are experiencing come from fear or from sexual arousal. This can lead to them acting out what they see in pornography without understanding the consequences. This “act before you think” phenomenon is illustrated by the following example:

Why do most 16-year-olds drive like they're missing a part of their brain?
Because they are. The next time your

⁶⁸ DANIEL GOLEMAN, *EMOTIONAL INTELLIGENCE* 18 (1995).

teenager behaves inexplicably, remember: his brain is like a car without brakes. The more primitive parts of the brain are well developed, acting like a powerful accelerator encouraging teens to take risks, act on impulse and seek novel experiences. But the areas that control planning and reasoning have not yet matured. As a result, teens are less likely to stop, think things through, modify their behavior or fully consider the consequences of their actions.⁶⁹

Advances in digital imaging have given neuroscientists the ability to illustrate how teenagers are unable to make rational decisions because their brains are not fully developed. Scientists can digitally map brain development. They have found that the portions of the brain that regulate processing of complex concepts, evaluating risk—including the risks of premature premarital sexual activity—and making informed decisions are the brain structures that are the last to mature, usually in the early 20s.⁷⁰

⁶⁹ David Fassler, *Your Teen's Brain: Driving without the Brakes*, SCIENTIFIC AMERICAN BLOG NETWORK (March 15, 2012), <https://blogs.scientificamerican.com/guest-blog/your-teens-brain-driving-without-the-brakes/>.

⁷⁰ Mary Beckman, *Crime, Culpability and the Adolescent Brain*, 305 SCIENCE 596 (2004) (citing neuroscientific developments which establish that the portions of the brain responsible for decision-making and risk-taking are not fully

Dr. Jay Giedd, Chief of Brain Imaging at the Child Psychiatric Branch, National Institutes of Health, conducted MRI studies which demonstrated that children's immature brains cannot process sexually oriented text or images, let alone discern whether the images are part of education or stimulation.⁷¹

"The endless supply of novel images that can be clicked through in seconds have fused the concepts of sex and violence into the developing brains of today's pre-adolescents, adolescents, and young adults."⁷² That fusion has had devastating consequences.

B. Pornography fuels increases in sexually violent crime.

"Pornography itself is a recipe for rape that has rewritten the sexual script for the sexual behavior of the millennial generation and is currently rewiring the brains of the generation to follow."⁷³ There are over 100 studies showing that

developed until ages twenty to twenty-five). *See also* Jay N. Giedd *et al.*, *Brain Development during Childhood and Adolescence: A Longitudinal MRI Study*, 2 NATURE NEUROSCIENCE 861-63 (1999).

⁷¹ *See* Giedd, *supra* n.70, at 861-63.

⁷² John D. Foubert, *The Public Health Harms of Pornography: The Brain, Erectile Dysfunction, and Sexual Violence*, 2 DIGNITY: A JOURNAL ON SEXUAL EXPLOITATION AND VIOLENCE 1 (2017). DOI:10.23860/DIGNITY.2017.02.03.06.

⁷³ *Id.*

pornography use is both correlated with and is the cause (shown through experimental studies) of a wide range of violent behaviors.⁷⁴ Over 50 studies show a strong connection between pornography and sexual violence.⁷⁵ The results are the same in correlational, cross-sectional, experimental, and longitudinal studies: pornography use and acts of sexual aggression are directly connected.⁷⁶

In one of the studies researchers set up a group of UCLA college males to view a series of pornographic films that depicted common rape myths, including: 1) the victim enjoyed the rape, 2) the victim deserved the rape, and 3) the victim was not harmed by the rape. Prior to viewing the films, the students had expressed normal, non-violent sexual attitudes. After watching these films, more than half of the college men claimed they would rape a woman if they were sure they would not get caught.⁷⁷

The phenomenon is also apparent in elementary and secondary school boys, as Ms. Werner witnessed firsthand during her tenure at an STD clinic. She interviewed a 10-year-old boy who had raped two young girls, a 2-year-old and a 4-year-

⁷⁴ *Id.* at 4.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ Neil Malamuth, *Rape Proclivity Among Males*, 37 J OF SOCIAL ISSUES 138-157 (1981). *See also.* Neil Malamuth & James Check, *The Effect of Mass Media Exposure on Acceptance of Violence Against Women*, 15 J. OF RESEARCH AND PERSONALITY, 436-446 (1981).

old. Ms. Werner learned that the young boy had been schooled by SAR and was acting out the sexual stimuli he had witnessed through exposure to sexual materials.

Ms. Werner's experience is emblematic of the child-on-child sexual violence that has been increasing exponentially in American elementary and secondary schools since the introduction of Kinseyan sex education. United States Department of Education statistics released in 2019 showed a 55-percent increase in child-on-child sexual violence from the 2015-16 school year to the 2017-18 school year.⁷⁸

"Pornography teaches boys to hit girls and shows girls that they should like it."⁷⁹ The use of sexually explicit materials in classrooms and online has transformed K-12 schools into crime scenes instead of academic institutions.

C. Pornography fuels disease and dysfunction.

Public health data confirm that exposure to sexually explicit images, particularly on the internet, has led to exponential increases in sexually transmitted diseases and sexual dysfunction among

⁷⁸ Michael Stratford & Juan Perez, Jr., *Sexual Violence Reports Rise Drastically at Schools*, *Education Department Data Shows*, POLITICO, October 15, 2020, [Sexual violence reports rise drastically at schools. Education Department data shows - POLITICO.](#)

⁷⁹ Foubert, *supra* n. 72, at 2.

teens.⁸⁰ “Today’s pornography is having a devastating impact on the sexual health of the Internet generation.”⁸¹

Kinsey-fueled early exposure to sexually explicit content for 50 years has led to a public health crisis, with the CDC reporting the highest STD rates among teens in history.⁸² Of approximately 20 million new sexually transmitted infections (STIs) each year in the United States, half of cases occur among adolescents age 15 to 24 years.⁸³ Adolescents are uniquely at risk for STIs from both behavioral and biological perspectives.⁸⁴ Behaviorally, adolescents are more likely to engage in high-risk sexual behavior such as concurrent partners or sex without a condom, due in part to the fact that the prefrontal cortex, responsible for executive function, is still developing throughout adolescence.⁸⁵

Pediatrician Meg Meeker reported:

- 1 out of every 5 adolescents is living with an STD.

⁸⁰ REISMAN, KINSEY CRIMES & CONSEQUENCES, 133.

⁸¹ Foubert, *supra* n. 72, at 3.

⁸² C.L. Shannon & J.D. Klausner, *The Growing Epidemic of Sexually Transmitted Infections in Adolescents: A Neglected Population*, 30 CURR OPIN PEDIATR. 137–143 (February 2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5856484/>.

⁸³ *Id.* at 137.

⁸⁴ *Id.* at 138.

⁸⁵ *Id.*

- 80 percent of STD-infected kids are unaware they have an STD.
- Half of all new HIV infections are in our youth (male and female).
- Condoms do not offer protection for most STDs that exist today.⁸⁶

Dr. Meeker also reported that chlamydia and genital herpes have skyrocketed 500 percent among white teenagers in the last twenty years.⁸⁷

Rates of erectile dysfunction (“ED”) among young men are also skyrocketing and are directly related to the more frequent use of increasingly interactive internet pornography.⁸⁸ In the 1940s, fewer than 1 percent of men under 30 experienced erectile dysfunction.⁸⁹ In 1992, 7 percent of men under 30 experienced ED.⁹⁰ Several recent studies show that 30 percent of young men experience ED.⁹¹

D. Pornography primes children for sex trafficking.

Exposure to sexually explicit material desensitizes children and makes them more susceptible to sex trafficking, a multi-billion-dollar

⁸⁶ MEG MEEKER, M.D., EPIDEMIC: HOW TEEN SEX IS KILLING OUR KIDS, 11-18 (2002).

⁸⁷ *Id.*

⁸⁸ Foubert, *supra* n. 72, at 3.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

industry victimizing millions of children.⁹² Traffickers use pornography to accelerate the grooming process for children.⁹³ “The child may be given a sexual education or be exposed to pornography to desensitize her to sexual images and terms.”⁹⁴ “As instructions for desired behaviors, children are shown suggestive images, nudity is introduced, and then actual sexual abuse is carried out. Gradually the idea of sex between adults and children is normalized.”⁹⁵

Children exposed to sexually explicit images on their devices and in the classroom will already be desensitized. They will become prime candidates for sex trafficking since they will not require grooming to accept sexual behavior with adults.

III. The effects of Kinsey’s research prompt calls for change.

The widespread detrimental effects of Kinsey’s research have prompted legal scholars, researchers and legislators to work for change. Dr. Charles Rice, professor of constitutional law at Notre Dame, concluded: “Alfred Kinsey’s research was contrived, ideologically driven and misleading. Any judge, legislator, or other public official who

⁹² REISMAN, *SEXUAL SABOTAGE*, at 161.

⁹³ ALISA JORDHEIM, *MADE IN THE USA: THE SEX TRAFFICKING OF AMERICA’S CHILDREN*, 142 (2014).

⁹⁴ U.S .DEP’T OF JUSTICE, *THE NATIONAL STRATEGY FOR CHILD EXPLOITATION PREVENTION AND INTERDICTION: A REPORT TO CONGRESS*, 32 (2010).

⁹⁵ *Id.* at 31.

gives credence to that research is guilty of malpractice and dereliction.”⁹⁶

Dr. Judith Reisman, a leading Alfred Kinsey expert, shared with Ms. Werner that she had the opportunity to present to the late Justice Antonin Scalia information regarding Kinsey’s science and the law. Justice Scalia suggested to Dr. Reisman that since the old law (the common law) was thrown out based on Kinsey’s fraudulent and criminal science, instead of making new laws to protect our children, we should instead be restoring those once-held protections for them.

The American Legislative Exchange Council (“ALEC”), the largest bi-partisan group of state legislators, in the country, confirmed that Kinsey’s science was fraudulent and criminal and had been used to remove protections for children. ALEC conducted a comprehensive review of the history and effects of Kinsey’s research and concluded, “It is time to review many of the radical changes brought about by the enactment of the Model Penal Code and to restore the safety and security lost for our most vulnerable citizens (children).”⁹⁷

Parents and legislators are working at the state level to do just that. Six states have revised or rescinded their obscenity exemptions for education to remove the loophole that has permitted the

⁹⁶ Jeffrey, *supra* n. 30, at iii.

⁹⁷ *Id.*, at 14.

introduction of sexually explicit materials in K-12 classrooms.⁹⁸

In Texas, parents concerned about their children being sexualized by exposure to explicit materials are working with state legislators to enact laws that will protect children from being sexualized according to the Kinsey model. The law at issue in this case, H.B. 1181, requiring age verification for access to pornography sites, is one of the laws that Texas has passed to address these concerns.

The international community is also responding to the harms wrought by widespread access to sexually explicit materials. In 2019, Ms. Werner had an opportunity to present to Ugandan Parliament members the origins, intent, and outcome of exposing children to sexually explicit materials in American schools. During the comments time after her presentation, a lawyer there reminded those in parliament that their constitution provides that all Ugandan citizens have a duty to protect their children.⁹⁹ Parliament decided to prohibit sexually explicit materials in their schools, and that decision has been upheld

⁹⁸ ARK. CODE ANN. § 5-68-308(c), IDAHO CODE ANN. § 18-1517B, IND. CODE § 35-49-3-4(a), MONT. CODE ANN. § 45-8-206, N. D. CENT. CODE § 12.1-27.1-03.1, § 12.1-27.1-11, TENN. CODE ANN. § 39-17-902.

⁹⁹, CONST. Chap. 4, §31 (1995) (Uganda)
<https://ulii.org/akn/ug/act/statute/1995/constitution/eng%402018-01-05>.

despite pressure from organizations who promote the sexualization of children.

CONCLUSION

The teachings of Alfred Kinsey and his peers changed how Americans view sexual morals, including how children should be taught in this area. His faulty “data” and conclusions have led to abysmal outcomes for society. They hurt the development of American law in how it regulates sexual teaching. Unsound science also contributed its erroneous conclusions, ones that have resulted in harm to children by exposing them to a great deal of sexually explicit material. Knowing that many in our society actually desire to expose children to harmful sexual material helps us to understand why states must work hard to shield children.

The Court should uphold the decision of the Fifth Circuit.

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Mary E. McAlister (Counsel of Record)
Vernadette R. Broyles
CHILD & PARENTAL RIGHTS CAMPAIGN
5805 State Bridge Rd., Suite G310
Johns Creek, GA 30097 (770) 448-4525
mmcalister@childparentrights.org
Attorneys for Amici Curiae