

In the  
United States Court of Appeals for the Seventh Circuit

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No. 00-3643

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**AMERICAN AMUSEMENT MACHINE ASS'N, et al.,  
Plaintiffs - Appellants,**

v.

**TERI KENDRICK, et al.,  
Defendants - Appellees**

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On Appeal From a Judgment of the United States District Court  
for the Southern District of Indiana, Indianapolis Division

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**BRIEF *AMICI CURIAE* OF SCHOLARS AND AUTHORS  
IN THE FIELD OF MEDIA AND COMMUNICATIONS  
IN SUPPORT OF PLAINTIFFS-APPELLANTS:  
HENRY JENKINS, RICHARD RHODES, JIB FOWLES,  
ROBERT HORWITZ, ELLEN SEITER, DONNA GAINES,  
VIVIAN SOBCHACK, CONSTANCE PENLEY**

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Marjorie Heins  
Free Expression Policy Project  
National Coalition Against Censorship  
275 Seventh Ave.  
New York, NY 10014  
212-807-6222

David Greene  
First Amendment Project  
1736 Franklin St.  
Oakland, CA 94612  
510-208-7743

Burton Joseph  
Joseph, Lichtenstein & Levinson  
134 North La Salle St. #400  
Chicago, IL 60602  
312-346-9270

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**INTEREST OF THE *AMICI CURIAE***

The *amici curiae* are scholars and authors specializing in the field of media and communications who are concerned about the misrepresentations and distortions that have, for many years, characterized political discourse on social science research into the effects of “media violence.” The district court in this case relied upon such research to rule that Indianapolis “had a solidly reasonable basis” for barring access by any person under 18 to any video game that contains simulated “graphic violence” and that is considered “harmful to minors.” *Amici* submit this brief in the hope that its discussion of the social science literature may assist the court in evaluating whether Indianapolis in fact had any scientific or empirical justification for its censorship law.<sup>1</sup>

**ARGUMENT**

I. SOCIAL SCIENCE STUDIES HAVE NOT ESTABLISHED THAT VIOLENT

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<sup>1</sup> Biographies of the *amici curiae* are found in the appendix. All parties have consented to the filing of this brief and their letters of consent have been filed with the court.

## ENTERTAINMENT CAUSES HARMFUL EFFECTS IN CHILDREN OR ADOLESCENTS

### A. The Limitations of Media Effects Research

So many claims have been made in the political arena about social science research into “media effects” that it is useful at the outset to explain a few of the basic characteristics of such research. First, social science studies generally start with a hypothesis – in this instance, that media depictions of violence cause children and adolescents to become more aggressive. But this “social learning” perspective is only one of many psychological approaches to the subject of human aggression; other theories look to factors such as social conditions, family environment, brain chemistry, and variations in human character, and fashion their research projects accordingly.<sup>2</sup> Thus, studies premised on a media effects hypothesis are narrowly focused and do not purport to identify or explain the broad range of interacting influences that cause some people to become violent. Indeed, in a field as inherently complex and multi-faceted as human aggression, it is questionable whether quantitative studies of media effects can really provide a holistic or adequately nuanced description of the process by which some individuals become more aggressive than others.

Art, entertainment, and other aspects of our culture influence different individuals in widely varying ways, depending upon their characters, intelligence, and upbringing. For a relatively few predisposed young people, a particular film, TV show, or video game may inspire imitation; but for a far greater number the same work may be relaxing, cathartic, or simply entertaining. As media studies professor Henry Jenkins explains, many young people move “nomadically across the media landscape, cobbling together a personal mythology of symbols and stories taken from many different

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<sup>2</sup> See, e.g., Debra Niehoff, *The Biology of Violence* (1999); Jonathan Kellerman, *Savage Spawn - Reflections on Violent Children* (1999); Richard Rhodes, *Why They Kill* (1999); Rollo May, *Power and Innocence - A Search for the Sources of Violence* (1972); Erich Fromm, *The Anatomy of Human Destructiveness* (1973); Konrad Lorenz, *On Aggression* (1963); Franklin Zimring & Gordon Hawkins, *Crime is Not the Problem - Lethal Violence in America* (1997).

places,” then invest these symbols with their own “personal and subcultural meanings.” Because of this wide variety of responses, “universalizing claims are fundamentally inadequate in accounting for media’s social and cultural impact.”<sup>3</sup> The National Research Council has likewise pointed out that media effects theories are simplistic because they fail to consider either how different individuals respond to identical stimuli, or how different individuals’ psychosocial, neurological, and hormonal characteristics interact to produce behavior.<sup>4</sup>

This does not mean, of course, that media effects experiments could not, *in theory*, show that some identifiable media content bears a causative relation to some overall increase in aggressive behavior. But the showing would, at best, be one of “probabilistic causation,” not scientific proof. As Professor Frederick Schauer explains, the “identification of a causal relationship under a probabilistic account does not entail the conclusion that the identified cause produces the effect in all, a majority, or even a very large proportion of cases.”<sup>5</sup> Studies that show a statistically significant link between violent entertainment and aggressive behavior do not necessarily mean that the link exists for most, or even a substantial minority of, individuals. “Significant” in the statistical sense “does not mean ‘important.’ It means simply ‘not likely to happen just by chance.’”<sup>6</sup>

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<sup>3</sup> Henry Jenkins, “Professor Jenkins Goes to Washington,” *Harper’s*, July 1999, p. 19; Henry Jenkins, “Lessons From Littleton: What Congress Doesn’t Want to Hear About Youth and Media,” <http://web.mit.edu/cms/news/nais9912> (1999).

<sup>4</sup> National Research Council, *Understanding and Preventing Violence* 101-02 (Albert Reiss, Jr. & Jeffrey Roth, eds.) (1993).

<sup>5</sup> Frederick Schauer, “Causation Theory and the Causes of Sexual Violence,” 4 *Am. Bar Fdn. Rsrch J.* 737, 752-53 (1987). Statistics, moreover, can be (and have been) manipulated to produce desired results. See, e.g., Jonathan Freedman, “Viewing Television Violence Does Not Make People More Aggressive,” 22 *Hofstra L. Rev.* 833, 849-51 (1994) (describing manipulations of data by two leading proponents of adverse media effects); Judith Rich Harris, *The Nurture Assumption: Why Children Turn Out the Way They Do* 18-23, 215 (1998) (describing similar manipulations in social science research).

<sup>6</sup> David Moore, *Statistics - Concepts and Controversies* 486-90 (4<sup>th</sup> ed. 1997).

An equally important point about media effects research is that both “violence” and “aggression” are very broad concepts. Researchers use different definitions or examples of violent content in the cartoons, film clips, or games that they study. Generalizations about all violence (or all “graphic violence”) from these specific examples are not necessarily trustworthy, and often fail to take account of the many different contexts in which works of art or entertainment present violence. Similarly, aggressive attitudes or behaviors are not the same as violent ones; aggression is not always socially disapproved; and measures of aggression tend to be subjective and inexact. Some researchers measure aggressive attitudes, cognition, or “hostile attribution bias” rather than actual aggressive behavior. In laboratory experiments, substitutes for real aggression must be used, such as hitting a Bobo doll or giving an electric shock. Psychologist Jeffrey Goldstein writes:

Some have argued that the link between media violence and aggressive behavior is as strong as the link between cigarette smoking and cancer. This is not so. We can measure the presence or absence of disease with reasonable precision, but we cannot easily or reliably measure aggressive behavior in laboratory settings. We have only indirect and often questionable measures of aggression at our disposal.<sup>7</sup>

Finally, and perhaps most important, many media effects studies are correlational; they do not purport to establish a causative link between the characteristics they are measuring. A correlation in itself gives no clue as to which of two linked characteristics, such as violent entertainment preferences and aggressive behavior, may have caused the other, or whether one or more independent factors, such as a violent home environment, predisposition, biochemistry, poverty, or parental neglect, may account for both the entertainment preference and the aggressive behavior. Yet the American Psychological Association, in its eagerness to assert a scientific basis for its belief that media violence causes harm, has inexcusably confused this point: in the summary volume of a

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<sup>7</sup> Jeffrey Goldstein, “Effects of Electronic Games on Children” (report prepared for the Interactive Digital Software Association, Mar. 2000), p. 1 (reproduced in the record, exh. P. 64).

1993 report it announced that based upon correlations,” the conclusion was “irrefutable” that “viewing violence increases violence.” Nowhere in this document does the APA acknowledge the fundamental difference between correlation and causation.<sup>8</sup>

#### B. Misrepresentations and Misinterpretations of the Research

The APA is not the only professional organization to have made inaccurate and irresponsible claims about the social science literature. In a recent *Joint Statement*, the American Medical Association and two other groups joined the APA in reiterating the oft-repeated but erroneous claim that thousands of studies have shown a causative link between media violence and aggressive behavior.<sup>9</sup> The fact is that although thousands of articles and book chapters have been *written* about the subject of media violence, only a few hundred laboratory experiments, field experiments, or correlation studies have been conducted, and their results are ambiguous and inconsistent.<sup>10</sup> As the Federal Trade Commission acknowledged in a recent report, no firm conclusions can be drawn from the media effects research. With specific reference to video games, the FTC said: “most researchers are reluctant to make definitive judgments” because of “the limited amount of empirical analysis that

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<sup>8</sup> American Psychological Association, *Violence and Youth - Psychology's Response*, Vol. 1, *Summary Report of the American Psychological Association Committee on Violence and Youth* 133 (1993).

<sup>9</sup> American Academy of Pediatrics *et al.*, *Joint Statement on the Impact of Entertainment Violence on Children* (July 26, 2000). A Senate staff reported estimated “more than 1,000” studies; see Sen. Comm. on the Judiciary, *Children, Violence, and the Media* (Sept. 14, 1999), p. 5 (reproduced in the record as exh. P. 64); just a few months earlier, the White House gave the more accurate estimate of “somewhere over 300,” but then erroneously asserted that “all” of them showed a link between violent entertainment and violent behavior. *Remarks by the President and Mrs. Clinton on Children, Violence and Marketing* (June 1, 1999; see exh. P. 64).

<sup>10</sup> An actual review of the literature identified fewer than 200 studies, most of them laboratory experiments; see Jib Fowles, *The Case for Television Violence* (1999). The commonly heard estimate of “more than 2,500 studies” is probably based on the entire bibliography of the 1982 government report, *Television and Behavior - Ten Years of Scientific Progress and Implications for the Eighties* (1982); see Richard Rhodes, “The Media- Violence Myth,” *Rolling Stone*, Nov. 23, 2000, p. 55.

has so far taken place.”<sup>11</sup>

Laboratory experiments have provided what is arguably the strongest evidence that exposing children to a violent film or TV show can, in the short term, cause some of them to imitate the activity they have just observed, although even in this highly controlled environment, not all experiments have yielded positive results. The classic experiments, conducted by Albert Bandura in the 1960s, showed children films of adults and cartoon figures hitting Bobo dolls, then invited the children to imitate. Bandura’s positive results have been questioned on numerous grounds, among them the fact that Bobo dolls are meant to be hit, so that the experiments did not really measure aggression. Moreover, laboratory experiments cannot replicate the complex mix of media experiences and other factors that in everyday life interact with any particular film, game, song, or TV show. Behaviors that are permitted and even encouraged in a laboratory setting, such as hitting Bobo dolls or delivering “noise blasts,” are weak proxies at best for actual, socially disapproved aggression outside the lab. Children in these circumstances (and indeed, adult subjects as well) are likely to act as they believe the researcher expects. Criminologist Joanne Savage explains:

It is unclear that willingness to shock someone in a lab after invited to do so is closely connected to willingness to shoot at someone, beat someone up, or threaten someone’s life in the real world where these acts are illegal. ... This calls into question the general conclusion we often hear that this line of research applies to the popular culture, that TV violence causes violence. These experiments have never established that. The leap from these mild measure of aggression to violence is quite large.<sup>12</sup>

In the case of video games, moreover, laboratory research has not even yielded the positive results that have been obtained in some studies of television violence. Psychology professor Kevin Durkin, who reviewed the literature on video game effects in 1995, found that lab experiments had

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<sup>11</sup> Federal Trade Comm’n, *Marketing Violent Entertainment to Children*, Appendix A, “A Review of Research on the Impact of Violence in Entertainment Media” 13 (Sept. 11, 2000).

<sup>12</sup> Joanne Savage, “The Criminologist’s Perspective,” Freedom Forum Roundtable, Dec. 8, 1999 (publication forthcoming, Freedom Forum First Amendment Center, Dec. 2000).

yielded “either no or minimal effects” and, indeed, that “some very tentative evidence indicates that aggressive game play may be cathartic (promote the release of aggressive tensions) for some individuals.” Durkin conducted a follow-up survey in 1999 and concluded that “early fears of pervasively negative effects” from video games “are not supported”; “several well designed studies conducted by proponents of the theory that computer games would promote aggression in the young have found no such effects.”<sup>13</sup>

Craig Anderson and Karen Dill, who performed a laboratory experiment on which the district court relied, also surveyed previous lab research. They reported that four studies had found some “weak” support for an imitation hypothesis, but none had ruled out “the possibility that key variables such as excitement, difficulty, or enjoyment created the observed increase in aggression.” Two additional experiments “found no effect of violence,” and five experiments on “aggression-related affect” (rather than actual behavior) yielded “mixed results” and “little evidence” of adverse effect.<sup>14</sup> In the face of this history, Anderson and Dill’s findings in their own lab experiment – that young adults assigned to play a violent game recognized aggressive words more quickly on a computer screen and gave longer “noise blasts” to opponents than those assigned to play a nonviolent game – are not the kind of convincing evidence that would support the district court’s “solidly reasonable basis” for upholding Indianapolis’ law. Jeffrey Goldstein comments on the Anderson and Dill experiment: “no evidence is given that reaction time to aggressive words is a valid measure of

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<sup>13</sup> Kevin Durkin, *Computer Games - Their Effects on Young People 2* (Australia Office of Film & Literature Classification, 1995); Kevin Durkin, *Computer Games and Australians Today* (Australia Office of Film & Literature Classification, 1999), <http://www.oflc.gov.au>, p. 3.

<sup>14</sup> Craig Anderson & Karen Dill, “Video Games and Aggressive Thoughts, Feelings, and Behavior in the Laboratory and in Life,” 78 *J. Pers. & Soc. Psych.* 772 (2000), <http://www.apa.org>, pp. 8-9.

aggressive thoughts, or that noise blasts are intended to injure another person.”<sup>15</sup>

Partly to remedy the problem of artificiality in laboratory experiments, researchers have conducted field studies that attempt to measure the effects of violent entertainment on real-world behavior. In the area of television violence, the results have been dramatically inconclusive. Savage states that the supposed link between media violence and its real-world counterpart shrinks to almost nothing when actual criminal violence is measured rather than a laboratory-induced proxy for aggression.<sup>16</sup> In one series of field experiments, psychologists Joyce Sprafkin and Kenneth Gadow found either no effect of violent television, or more aggressive behavior associated with nonviolent shows like *Sesame Street* and *Mr. Rogers' Neighborhood*. Sprafkin said: “I decided to look back carefully at the field and say, well, what have other people really found?” For pre-school children, the field studies simply “did not support a special significance for aggressive television.”<sup>17</sup>

In field studies, moreover, as in lab experiments, “aggression” is “not a unitary concept.” In some studies, writes Sprafkin, “a distinction was made between playful and hurtful aggression and in others both peer and adult-directed aggression was studied.”<sup>18</sup> After reviewing the literature, Jonathan Freedman concluded “categorically, with no hesitation,” that field experiments provide “no convincing evidence” of an adverse effect from media violence. He added:

I am not alone in this. Tom Cook, a highly respected psychologist, wrote a critique of the

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<sup>15</sup> Goldstein, *supra*; see also Mark Griffiths, “Violent Video Games and Aggression: A Review of the Literature,” 4 *Aggression & Violent Behav.* 203 (1999) (questioning whether aggressive free play observed in a lab setting is a useful measure or predictor of actual anti-social aggression).

<sup>16</sup> Savage, *supra*.

<sup>17</sup> Testimony of Dr. Joyce Sprafkin in *Eclipse Enterprises v. Gulotta* (CV-92-3416, Mar. 28, 1994), pp. 112-13; see also Joyce Sprafkin *et al.*, “Effects of Viewing Aggressive Cartoons on the Behavior of Learning Disabled Children,” 28 *J. Child Psych. & Psychiatry* 387 (1987); Kenneth Gadow & Joyce Sprafkin, “Field Experiments of Television Violence with Children: Evidence for an Environmental Hazard?” 83 *Pediatrics* 399 (1989).

<sup>18</sup> Gadow & Sprafkin, 83 *Pediatrics* at 401.

1982 NIMH [National Institute of Mental Health] report on television. In it, he and his co-authors said, “[i]n our view, the field experiments on television violence produce little consistent evidence of effects, despite claims to the contrary.”<sup>19</sup>

Correlation studies, by contrast, have often found a link between violent entertainment preferences and real-world aggression, but as already noted, they do not establish that the former is responsible, even in part, for the latter. On the contrary, it is at least equally likely that those with aggressive tendencies are attracted to more violent programs (or games); for some such individuals, violent entertainment may serve a cathartic function. Psychologist Jeffrey Arnett, documenting the correlation between adolescents’ reckless behavior and preference for violent music, found “sensation seeking” to be the independent factor that accounted for both the preference and the behavior. He observed that “adolescents who like heavy metal music listen to it especially when they are angry and that the music has the effect of calming them down and dissipating their anger.”<sup>20</sup>

One of the most frequently cited correlation studies was conducted by Brandon Centerwall, who linked the introduction of television to increased homicide rates in the U.S., Canada, and South Africa. Without examining whether early television even had much violent content, and ignoring many other possible explanations for the correlation, Centerwall announced that TV was responsible for a doubling in homicide rates.<sup>21</sup> Numerous commentators have debunked Centerwall’s claim,

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<sup>19</sup> Freedman, 22 *Hofstra L.Rev.* at 842 (quoting Thomas Cook *et al.*, “The Implicit Assumptions of Television Research: An Analysis of the 1982 NIMH Report on *Television and Behavior*,” 47 *Pub. Opin. Q.* 161, 181-82 [1983]).

<sup>20</sup> Jeffrey Arnett, “The Soundtrack of Restlessness - Musical Preferences and Reckless Behavior Among Adolescents,” 7 *J. Adol. Rsrch* 313, 328 (1992); Jeffrey Arnett, “Adolescents and Heavy Metal Music: From the Mouths of Metalheads,” 23 *Youth & Society* 76 (1991); see also Lawrence Kurdek, “Gender Differences in the Psychological Symptomatology and Coping Strategies of Young Adolescents,” 7 *J. Early Adol.* 395 (1987) (heavy metal music is useful to adolescents in purging anger). Anderson and Dill also note the possibility that a correlation they found between video game violence and delinquency was “wholly due to the fact that highly aggressive individuals are especially attracted to violent video games.” Anderson & Dill, *supra*, p. 22.

<sup>21</sup> Brandon Centerwall, “Television and Violence: The Scale of the Problem and Where to Go From Here,” 267 *JAMA* 3059 (1992).

including some who otherwise credit media violence literature.<sup>22</sup> Criminologists Franklin Zimring and Gordon Hawkins published a particularly thorough critique, pointing out that recent decreases in homicide rates in many countries including the U.S., despite increased violence on television, have completely undermined Centerwall's conclusions.<sup>23</sup>

Some researchers have conducted longitudinal correlation studies (observations over time) to determine whether early preferences for violent entertainment would correlate with aggressive behavior later in life. The results have been mixed, with Leonard Eron and L. Rowell Huesmann being among the most notable proponents of the view that at least some of the results support a theory of adverse media effects. But as Jonathan Freedman recounts, "a wonderful cross-national" longitudinal study that Eron and Huesmann designed found "no significant effect" for Australia, Finland, the Netherlands, Poland, the U.S., or Kibbutz children in Israel. The only strong significant effects over time were for two groups of Israeli city dwellers. Yet most of the researchers "tried to put the best face on it that they could" in the book that resulted:

they hedged, did other analyses, and tried to make it sound as if the results supported the initial prediction that television violence would increase aggression. The Dutch group did not hedge. Their write-up came right out and said that there was no evidence of any effect. Well, Huesmann and Eron would not publish their chapter unless they revised their conclusions. To this the Dutch replied that they were "competent enough to draw our own conclusions." And they had to publish their report separately. There may be another side to this story, but the fact is that they did publish separately and their view is that their contribution was rejected because they would not change their conclusions. This is an unfortunate incident and indicates, I think, how politicized this issue has become and how difficult it is for some of the researchers to be objective about the research.<sup>24</sup>

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<sup>22</sup> E.g., Sissela Bok, *Mayhem - Violence as Public Entertainment* 86 (1998).

<sup>23</sup> Zimring & Hawkins, *supra*, pp. 133-34, 239-43; see also Comm. on Communications & Media Law, "Violence in the Media: A Position Paper," 52 *Record of the Ass'n of the Bar, City of New York* 273, 292-93 (1997).

<sup>24</sup> Freedman, 22 *Hofstra L.Rev.* at 849-51 (citing Oene Wiegman *et al.*, *Television Viewing Related to Aggressive and Prosocial behavior* [1986]); see also Wiegman *et al.*, "A Longitudinal Study of the Effects of Television Viewing on Aggressive and Prosocial Behaviors," 31 *Brit. J. Social Psych.* 147 (1992).

Richard Rhodes documents an equally troubling episode regarding an earlier longitudinal study in which Eron and Huesmann found some – but not consistent – correlations between violent TV viewing at age 8, aggressive behavior at age 18, and violent crime at age 30. Huesmann highlighted the results of this study with a dramatic bar graph in his 1986 Senate testimony on behalf of the APA. Yet oddly, Eron and Huesmann’s published report of the last phase of the study did not mention the link between early viewing of violent TV and adult violent crime,<sup>25</sup> and when Rhodes asked Huesmann for the actual numbers, he received this reply:

[A]n examination of the scatter plot relating age 8 TV violence viewing to adult violent crime revealed that the correlation between them was entirely due to 3 boys who committed violent crimes and had scored high on age 8 TV violence viewing. ... It is enough to make the results significant according to statistical theory, but if just these 3 boys had behaved differently, all the significant results could have vanished.<sup>26</sup>

Huesmann’s dramatic bar graph, in other words, was based on just three individuals -- out of a pool of 145 subjects.

In 1986, reviewing two decades of intense media effects research, Yale professor William McGuire concluded that despite the hype, studies had found little or no real-world behavioral impact from TV violence. “That myths can persist despite conflicting evidence,” McGuire wrote, “is illustrated by the robustness of the belief that television and other media have sizable impacts on the public’s thoughts, feelings, and actions even though most empirical studies indicate small to negligible effects.”<sup>27</sup> With respect to video games, even Anderson and Dill have acknowledged that claims of a

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<sup>25</sup> See L. Rowell Huesmann, *et al.*, “The Stability of Aggression Over Time and Generations,” 20 *Devel. Psych.* 1120 (1984). For the earlier phase of the study, see Leonard Eron *et al.*, “Does Television Violence Cause Aggression,” 27 *Am. Psychologist* 253 (1972).

<sup>26</sup> Rhodes, *supra*; e-mail from L. Rowell Huesmann to Richard Rhodes (Mar. 13, 2000) (in the files of counsel and of Mr. Rhodes, and available to the court upon request).

<sup>27</sup> William McGuire, “The Myth of Massive Media Impact: Savagings and Salvagings,” in *Public Communication and Behavior*, Vol. 1, 174 (George Comstock, ed.) (1986).

causal relationship with delinquent behavior are “risky at best.”<sup>28</sup>

## II. CENSORSHIP BASED ON UNPROVEN ASSUMPTIONS ABOUT HARMFUL EFFECTS MAY BE COUNTERPRODUCTIVE

Essentially acknowledging that the social science research is inconclusive, the district court nevertheless upheld Indianapolis’ law on the basis of “important and legitimate reasons to be concerned about violent video games causing harm to children.” Slip op. at 2. These “important and legitimate reasons,” however, derive from conjecture and intuition, not science. Stephen Jay Gould has observed that efforts to invoke science to “validate a social preference” can distort both science and public policy; the risk is greatest when “topics are invested with enormous social importance but blessed with very little reliable information.”<sup>29</sup> In the case of youthful entertainment, erecting forbidden zones around certain disapproved content creates “important and legitimate reasons” for concern at least as great as the alarm felt by many adults when viewing fantasy violence in video games.

Although some psychologists announced in the 1960s and ’70s that their experiments had disproved the “hostility reduction” theory of art and entertainment,<sup>30</sup> the phenomenon of catharsis is too well-established in human experience to be so briskly dismissed. It may not be amenable to quantitative measurement, but experts on childhood have long recognized the importance of violent

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<sup>28</sup> Anderson & Dill, *supra*, at 22; see also Griffiths, *supra*, at 210-11 (“the question of whether video games promote aggressiveness cannot be answered at present”).

<sup>29</sup> Stephen Jay Gould, *The Mismeasure of Man* 22-23 (1981); see also Marc Galanter, “Real World Torts: An Antidote to Anecdote,” 55 *Md. L. Rev.* 1093 (1996)((beliefs based upon common sense are often wrong).

<sup>30</sup> See Albert Bandura *et al.*, “Imitation of Film-Mediated Aggressive Models,” 66 *J. Abnormal & Soc. Psych.* 3 (1963); Leonard Berkowitz & Edna Rawlings, “Effects of Film Violence on Inhibitions Against Subsequent Aggression,” 66 *J. Abnormal & Soc. Psych.* 405 (1963); Russell Geen & Michael Quarty, “The Catharsis of Aggression: An Evaluation of a Hypothesis,” in *Advances in Experimental Social Psychology*, Vol. 10, 2-37 (Leonard Berkowitz, ed.) (1977).

play and fantasy in processing anxieties and providing outlets for aggression.<sup>31</sup> As Henry Jenkins states, many young people struggling with social conflicts and unruly emotions are drawn to violent entertainment for fantasies of empowerment and transgression as well as “intensification of emotional experience.”<sup>32</sup> Likewise, many children and adults enjoy horror movies because they can “experience fear without real danger to themselves” and thereby “tame its effects on the psyche.”<sup>33</sup>

Jeffrey Goldstein writes:

Young people bring entertainment to bear on questions of identity, belonging and independence. Their taste in clothes, music, and video games has a social purpose. How else can we understand body piercing and tattooing, or the popularity of horror films or violent video games, except in reference to peer groups? Until researchers look, not at isolated individuals forced to play a video game for a few minutes as part of a laboratory experiment, but at game players as members of extended social groups, we are unlikely to come to terms with violent, or any other, entertainment.<sup>34</sup>

In short, by focusing on the wrong solutions, we ignore the real causes of violence and may damage speech that serves culturally important functions for some youths.

## CONCLUSION

For the foregoing reasons, *amici* believe that the judgment below should be reversed.

Respectfully submitted,

David Greene  
First Amendment Project  
1736 Franklin St.

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<sup>31</sup> See, e.g., Bruno Bettelheim, *The Uses of Enchantment - The Meaning and Importance of Fairy Tales* (1975); John Sommerville, *The Rise and Fall of Childhood* 136-38 (1982); Jean Piaget, *Play, Dreams and Imitation in Childhood* 132-33, 158 (1962); Erik Erikson, *Childhood and Society* 215 (1950).

<sup>32</sup> Jenkins, “Lessons From Littleton,” *supra*.

<sup>33</sup> David Blum, “Embracing Fear as Fun To Practice for Reality: Why People Like to Terrify Themselves,” *New York Times*, Oct. 30, 1999, p. B11; see also Norbert Elias & Eric Dunning, *Quest for Excitement: Sport and Leisure in the Civilizing Process* 89 (1986) (failing to pay attention to evident human need to watch mock violence is “one of the main gaps in present approaches to problems of mental health”).

<sup>34</sup> Goldstein, *supra*, pp. 2-3.

Dated \_\_\_\_\_

Oakland, CA 94612  
510-208-7744

Marjorie Heins  
Free Expression Policy Project  
National Coalition Against Censorship<sup>35</sup>  
275 Seventh Ave.  
New York, NY 10014  
212-807-6222

Burton Joseph  
Joseph, Lichtenstein & Levinson  
134 North La Salle St.  
Chicago, IL 60602  
312-346-9270

## APPENDIX

**HENRY JENKINS** holds the Ann Fetter Freidlaender Chair of the Humanities and is the Director of the Comparative Media Studies Program at MIT. He is the author or editor of seven books, including *The Children's Culture Reader* and *From Barbie to Mortal Kombat: Gender and Computer Games*. He holds a MA in Communication Studies from the University of Iowa and a PhD in Communication Arts from the University of Wisconsin-Madison.

**RICHARD RHODES**, an independent journalist and historian who specializes in investigating science issues, is the author of 18 books. His 1986 history *The Making of the Atomic Bomb* won a Pulitzer Prize in Non-Fiction and a National Book Award. He has received grants and fellowships from the Guggenheim Foundation, the Ford Foundation, the Alfred P. Sloan Foundation and the MacArthur Foundation and has been a visiting research fellow at Harvard and MIT.

**JIB FOWLES**, PhD, Professor of Communication at the University of Houston - Clear Lake, is the author of seven books including *Why Viewers Watch* and *The Case for Television Violence*. His articles have appeared in the *New York Times*, *The Atlantic Monthly*, *TV Guide*, *Advertising Age*, *the Chronicle of Higher Education*, and many scholarly journals. He has testified at U.S. Senate hearings on the subject of television violence.

**ROBERT HORWITZ** is Professor in the Department of Communication at the University of California, San Diego. He received his B.A. from Stanford University and Ph.D. in Sociology from Brandeis University. He is the author of *The Irony of Regulatory Reform: The Deregulation of American Telecommunications* (Oxford University Press, 1989) and several articles on communications media and free speech law in the United States.

**ELLEN E. SEITER** is Professor of Communication at the University of California - San Diego, where she teaches media studies and women's studies. She specializes in the study of children and the media and is the author of *Television and New Media Audiences* (Oxford University

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<sup>35</sup> The positions set forth by the National Coalition Against Censorship in this brief do not necessarily reflect the positions of all of its member organizations.

Press, 1999) and *Sold Separately: Children and Parents in Consumer Culture* (Rutgers University Press, 1993). Her articles have appeared in *Cultural Studies*, *Feminist Review*, *Journal of Communication*, *Journal of Communication Inquiry*, *Screen* and *Frauen und Film*. She received her MFA and PhD degrees in film from Northwestern University.

**DONNA GAINES** is a journalist, cultural sociologist, New York state-certified social worker, and author of *Teenage Wasteland: Suburbia's Dead End Kids* (1991; scholarly edition, University of Chicago Press, 1998). *Rolling Stone* declared *Teenage Wasteland* “the best book on youth culture,” and *Pacific Sociologist* described it as a “classic in sociology.” Dr. Gaines received her doctoral degree in sociology at the State University of New York at Stony Brook. An expert on youth violence and culture, she has been interviewed extensively in newspapers and on radio and television, and was a visiting professor at Barnard College of Columbia University from 1996-99.

**VIVIAN SOBCHACK** is an Associate Dean and Professor of Film & Television Studies in the School of Theater, Film & Television at the University of California, Los Angeles. She is the author and/or editor of five books and has published widely on American popular film; in relation to the topic of the brief, she is the author of “The Violent Dance: A Personal Memoir of Death in the Movies,” in *Screening Violence* (Stephen Prince, ed.) (2000)

**CONSTANCE PENLEY** is Professor and Chair of the Film Studies Department at the University of California - Santa Barbara. She has written and lectured widely on film, television, and new media technologies. All of her current projects involve demonstrating the importance of humanistic research on mass media to decision-making in the areas of public policy, regulation, and legislation. Her research areas include pornographic film, television fan culture, and popular science. Penley's research methods – textual, historical, and ethnographic – explicitly question the decontextualized results of media effects research.