

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
September 15, 2010

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.

#