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# Pornography, Public Culture, and the New Administration

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In contemporary America, pornography is both a public reality and big business. Ambient pornography — sexually explicit advertising, entertainment, and merchandising — is all around us. But pornography is also big business, producing sexually explicit materials in printed, video, and digital formats and making billions of dollars in the process.

The pornography industry has a big stake in defending itself against legal challenges and restrictive laws, and it has been stunningly successful in doing so. One of the leading legal defenders of pornography has been David Ogden, a lawyer who can only be described as a First Amendment extremist, who has even argued against laws against child pornography.



President Barack Obama has nominated David Ogden as Deputy Attorney General of the United States. This nomination is both ominous and dangerous. Given David Ogden's high visibility in defense of pornography, this nomination sends a clear and unmistakable message. The pornography business will have a friend in high office in the Department of Justice.

Writing at [ThePublicDiscourse.com](http://ThePublicDiscourse.com), Matthew Schmitz [explained](#):

*In addition to making it harder to prosecute those who sell images of child molestation and rape, Ogden has sought to ensure that pornography can be easily distributed and readily accessed in almost any medium or location. He has fought cases in Puerto Rico to allow Playboy to broadcast explicit programming on TV. He represented Philip Harvey, a man who runs the nation's largest mail-order pornography shop out of North Carolina, in his attempt to deflect a Department of Justice investigation of his business. Completing a sort of multi-media grand slam, Ogden has sued to allow sexually-explicit content to be transmitted over the phone. Taking this quest to its absurd limits, he has even claimed in court that there is a constitutional right for pornography to be kept in firehouses. Ogden's position is good for the industry groups he has represented but bad for female firefighters who could be subjected to humiliating and harassing images in the workplace. With an equal disregard for the comfort and protection of children, in 2000 Ogden sued to allow pornography to be accessed in public libraries.*

In essence, David Ogden has been in the forefront of arguing for the unrestricted sale and distribution of any and all pornography by any and all means - and now he will be in charge of prosecuting those who were his clients and arguing against all that he has argued in the past. Are we to believe that this will have no effect on prosecutions against pornography?

As British philosopher Roger Scruton has noted, David Ogden's extremism in defense of pornography is based in the legal theory that explicit pornography (visual, literary, video, digital) is a form of protected speech under the First Amendment of the U.S. Constitution. [He comments](#):

*The idea that pornography is "speech," within the meaning of the first amendment, and thereby protected by the Constitution, is so absurd that it is hard for an outsider to see how American judges have been persuaded to accept it again and again. Of course porn is big business, and can afford to keep beating at the doors of the courts. But the real*

*reason for the legalization of pornography in America lies in the culture of the liberal elite and in the strategy of legal activism whereby that elite continues its relentless assault on majority values. Porn has been incorporated into the “culture war” precisely because ordinary Americans see it as a threat to family and religious values. This fact is sufficient to prompt the liberal establishment to add porn to its agenda, as one more thing to be defended in the court against the legislature. Again and again we have seen this process at work, as the values and transgressions of elites are seized upon by the ACLU and similar organizations, rebranded as essential liberties, and defended as constitutional rights, regardless of their subversive effect on society as a whole.*

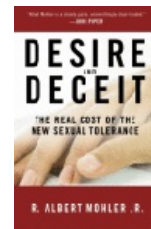
The legal defense David Ogden has presented in defense of the pornography industry is also applied to other arenas of legal activism as well. The spread of the contagion is inevitable.

Pornography is one of the most insidious dimensions of American culture today. It is a plague that is ruining lives, marriages, and public morals. It endangers women, children, and the most vulnerable among us. Putting one who can only be described as an extremist for pornography in such a high position in the Department of Justice — Deputy Attorney General of the United States — sends a clear signal at home and around the world. If David Ogden is confirmed, the U.S. Senate becomes a party to this disaster.

What signal does President Obama intend to send by this nomination, and to whom?

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I deal extensively with the pornography issue in my new book, *Desire and Deceit: The Real Cost of the New Sexual Tolerance* [Multnomah]. We will discuss this issue on Friday’s edition of *The Albert Mohler Program*.



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