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VIA EMAIL TO ALL STP CHIEFS/CAPTAINS

RE: 91.11 Guidelines

All -

Attached you will find 91.11 Guidelines. Please utilize this as a screening tool when reviewing charges for public library cases that are deemed to be "material" harmful to minors or otherwise.

If you have any questions regarding this matter, please do not hesitate to contact Chief of Criminal, Collin Sims.

Sincerely,

A handwritten signature in blue ink, appearing to read "W. Montgomery".

Warren L. Montgomery
District Attorney

WLM:wmo
Enclosure

Cc: President Mike Cooper
Councilman Jerry Binder
Chief of Civil Division, Cary Menard

La. R.S. 14:91.11 Guidelines

- (1) Sale, exhibition, or distribution of material harmful to minors, La. R.S. 14:91.11, pertains to:
 - “[T]he intentional sale, allocation, distribution, advertisement, dissemination, exhibition, or display of material harmful to minors ... to any unmarried person under the age of eighteen years”
 - “[T]he possession of material harmful to minors with the intent to sell, allocate, advertise, disseminate, exhibit, or display such material ... at a newsstand or any other commercial establishment¹ which is open to persons under the age of eighteen years.”
- (2) These provisions do not apply to “the spouse, parent, or legal guardian of the minor”
- (3) “Material harmful to minors” is defined as material “which exploits, is devoted to or principally consists of, descriptions or depictions of illicit sex or sexual immorality for commercial gain, and when the trier of fact determines that each of the following applies:”
 - “The material incites or appeals to or is designed to incite or appeal to the prurient, shameful, or morbid interest of minors.”
 - “The material is offensive to the average adult applying contemporary community standards with respect to what is suitable for minors.”
 - “The material taken as a whole lacks serious literary, artistic, political, or scientific value for minors.”
- (4) Commercial establishments² “shall require the individual purchasing the material harmful to minors to provide a driver's license, selective service card, military identification card, birth certificate, or other official form of

¹The “phrase ‘for commercial gain’ did not limit the application of the statute only to commercial establishments or direct commercial transactions.” *State v. Anderson*, 540 So. 2d 974, 976 (La. App. 2 Cir.), *writ denied*, 544 So. 2d 398 (La. 1989).

²The same logic gleaned from *State v. Anderson*, would apply here and it is our position that Public Library could be substituted for the “commercial establishment”.

identification which on its face establishes the age of the person as eighteen years or older.” La. R.S. 14:91.11 (D).

(5) Commercial establishments³ do not violate 14:91.11 where they:

- “[P]rovide[] for a separate area for the exhibition or display of material harmful to minors” La. R.S. 14:91.11(B)(4).
- “[D]esignates said area ‘NOT FOR MINORS’ or similar words and the commercial establishment prohibits persons under the age of eighteen years from seeing or examining the contents of material harmful to minors.” La. R.S. 14:91.11(B)(4).

³The same logic gleaned from *State v. Anderson*, would apply here and it is our position that Public Library could be substituted for the “commercial establishment”.