

From: THE PRIVATE SECRETARY



HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

Our Ref: OB/91 1/22/5

11 JUL 1991

*Dear Mr Webb*

Thank you for your letter of 18 June to the Home Secretary enclosing a copy of your letter to Sir Peter Imbert about the police seizure of recorded material from Island Records Ltd.

I understand that following the seizure of this material on 4 June the police have forwarded a report to the Crown Prosecution Service. You will appreciate, of course, that it would not be appropriate to comment further on a case which may be the subject of criminal proceedings.

The Obscene Publications Act 1959 is the principal legislation controlling obscene and pornographic material. Under the Act, it is an offence to publish an article, which would include records, whose effect, taken as a whole, is such as to tend to deprave and corrupt those likely to read, see or hear it. Because the potential audience is an important element of the offence, material which would tend to deprave and corrupt young people and was aimed at them might be caught even if it was harmless to adults.

Powers of search and seizure are contained in Section 3 of the 1959 Act, under which a magistrate may issue a warrant authorising a constable to confiscate any article reasonably believed to be obscene and any additional material which may relate to the offence. It is for the Director of Public Prosecutions to decide whether to bring a prosecution or to proceed instead to a forfeiture hearing under Section 3. Any articles seized must be brought before a justice who may then summons any person to appear before the court and show cause why the articles should not be forfeited - and if he is successful in this the material will be returned to him. A person who appeared or was entitled to appear to show cause against the making of the order has a right of appeal to the crown court against the magistrates decision. The defence of 'public good' is also available in proceedings for forfeiture.

RECEIVED 13 JUL 1991

David Webb Esq

These seizure

These seizure powers, expressly provided by Parliament, are similar to the power of search at common law which permits the seizure of goods which are reasonably believed to provide material evidence in relation to the offence for which the warrant is issued. The police must not, of course, retain seized goods for longer than is necessary, and it follows that they are obliged to bring seized articles before a court within a reasonable time.

*Yours sincerely*

*Paul Pugh*

P W PUGH