

WRITTEN REASONS FOR DECISION SECTION 12

TITLE OF PUBLICATION: Reservoir Dogs

OFLC REF:601341

HEADNOTE

Type of Publication:	Console Game
Title of Publication:	Reservoir Dogs
Other Known Title(s):	Not Stated
OFLC No:	601341
Decision:	Objectionable.
Display Conditions:	Not Applicable.
Descriptive Note:	Not Applicable.

The publication was examined and the contents were recorded in an examination transcript. A written consideration of the legal criteria was undertaken. This document provides the reasons for the decision.

Submission procedure:

The publication was submitted by the Film and Video Labelling Body on 12 June 2006.

Under s23(1) of the FVPC Act the Classification Office is required to examine and classify the publication.

Under s23(2) of the FVPC Act, the Classification Office must determine whether the publication is to be classified as unrestricted, objectionable, or objectionable except in particular circumstances.

Section 23(3) permits the Classification Office to restrict a publication that would otherwise be classified as objectionable so that it can be made available to particular persons or classes of persons for educational, professional, scientific, literary, artistic, or technical purposes.

Description of the publication:

The publication is a third-person "shooter" console game formatted for play on the PlayStation 2 console. It is based on the 1992 film of the same name directed by Quentin Tarantino.

Throughout the game the player controls six central characters from the movie. A number of scenes from the movie, some memorable for their extreme violence, also appear as full motion video (FMV) sequences between levels, during which time the player has no control over his or her character.

The game adheres loosely to the film's structure and narrative. It begins with a diamond heist that goes wrong after police officers and SWAT team members arrive on the scene. Driving and shooting missions eventually lead the criminals to their warehouse hideout and the belated discovery that there is a traitor, an undercover policeman, in their midst.

Much of the game play is formulaic third-person run and shoot, with little problem-solving or stealth required to complete each mission. Assisting the player is a "bullet time" function that gives the player the ability to move faster than his or her opponents for a limited period of time, and afterwards presents a slow-motion replay of their demise at the player's hands. Bullet time ability is dependent on the player building up enough adrenaline, which is increased through the successful taking of hostages and dispatching of enemies. The gameplay also gives the player the ability to take any passerby hostage, to mistreat a hostage so that police will surrender their weapons, and to kill a hostage in a manner particular to each criminal.

The meaning of "objectionable":

Section 3(1) of the FVPC Act sets out the meaning of the word "objectionable". The section states that a publication is objectionable if it:

describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good.

The Court of Appeal's interpretation of the words "matters such as sex, horror, crime, cruelty or violence" in s3(1), as set out in *Living Word Distributors v Human Rights Action Group (Wellington)*, must also be taken into account in the classification of any publication:

[27] The words "matters such as" in context are both expanding and limiting. They expand the qualifying content beyond a bare focus on one of the five categories specified. But the expression "such as" is narrower than "includes", which was the term used in defining "indecent" in the repealed Indecent Publications Act 1963. Given the similarity of the content description in the successive statutes, "such as" was a deliberate departure from the unrestricting "includes".

[28] The words used in s3 limit the qualifying publications to those that can fairly be described as dealing with matters of the kinds listed. In that regard, too, the collocation of words "sex, horror, crime, cruelty or violence", as the matters dealt with, tends to point to activity rather than to the expression of opinion or attitude.

[29] That, in our view, is the scope of the subject matter gateway.¹

¹ *Living Word Distributors v Human Rights Action Group (Wellington)* [2000] 3 NZLR 570 at paras 27-29.

The content of the publication must bring it within the "subject matter gateway". In classifying the publication therefore, the main question is whether or not it deals with the following matters in such a manner that the availability of the publication is likely to be injurious to the public good:

Matters such as crime, cruelty and violence

The publication deals with matters of crime, cruelty and violence in terms of s3(1) of the FVPC Act. The player controls a ragtag collection of violent career criminals following a diamond heist gone wrong. In order to move through each mission and complete the game, the player is required to kill large numbers of police officers using a variety of high-powered weapons. The player may also kill other characters in the game without penalty. Whether the publication promotes or supports, or tends to promote or support, the infliction of extreme violence or extreme cruelty is discussed below in relation to s3(2)(f).

Certain publications are "deemed to be objectionable":

Under s3(2) of the FVPC Act, a publication is deemed to be objectionable if it promotes or supports, or tends to promote or support, certain activities listed in that subsection.

In *Moonen v Film and Literature Board of Review (Moonen I)*, the Court of Appeal stated that the words "promotes or supports" must be given "such available meaning as impinges as little as possible on the freedom of expression"² in order to be consistent with the Bill of Rights. The Court then set out how a publication may come within a definition of "promotes or supports" in s3(2) that impinges as little as possible on the freedom of expression:

Description and depiction ... of a prohibited activity do not of themselves necessarily amount to promotion of or support for that activity. There must be something about the way the prohibited activity is described, depicted or otherwise dealt with, which can fairly be said to have the effect of promoting or supporting that activity.³

Mere depiction or description of any of the s3(2) matters will generally not be enough to deem a publication to be objectionable under s3(2). When used in conjunction with an activity, the Classification Office defines "promote" to mean the advancement or encouragement of that activity. The Classification Office interprets the word "support" to mean the upholding and strengthening of something so that it is more likely to endure. A publication must therefore advance, encourage, uphold or strengthen, rather than merely depict, describe or deal with, one of the matters listed in s3(2) for it to be deemed to be objectionable under that provision.

The Classification Office has considered all of the matters in s3(2). The matter which it considers relevant to the publication is:

s3(2)(f) *Acts of torture or the infliction of extreme violence or extreme cruelty.*

² *Moonen v Film and Literature Board of Review* [2000] 2 NZLR 9 at para 27.

³ Above n2 at para 29.

The publication tends to promote and support the infliction of extreme violence and extreme cruelty. As taught in the opening training sequence designed to help familiarise the player with the game's controls, dangerous situations involving multiple police and security guards can be resolved by taking another person hostage. To perform a hostage-taking manoeuvre, the player moves his or her character close to another person, either a police officer or a civilian, and presses a single button on the console's controller. The player's character will then grab the person and stick a gun to their head at the same time shouting commands to hostile police or SWAT team members to throw down their weapons. For a speedier response from law enforcement the player can strike the hostage in the head with a gun butt or repeatedly smash his or her head onto nearby walls and surfaces. After the police comply with the player's command the police can be "neutralized," meaning that they are disarmed and are no longer a threat, or killed in whichever manner the player chooses. The player can also choose to set the hostage free, or execute him or her with a single, point blank shot to the head. When the person is shot in the head a large, exaggerated spray of blood appears. Alternatively, the hostage can be killed using each criminal character's "signature move." These movements include the ability to smash the hostage's head repeatedly with a gun, burn the hostage's eyes out with a lit cigar, chop the hostage's fingers off using a cigar cutter, and hack the hostage's ear off using a scalpel. While these grisly acts are shown in short, movie-like sequences, and are in part cut-away from, they still remain relatively graphic and can be perpetrated by the player on any game character at any time without penalty.

The bullet time function mentioned above is designed to make the game easier to play and in all likelihood make the action seem more explosive and dramatic. This function slows the game down for a short period of time and displays in gratuitous detail the destruction and mutilation of victims. When armed with the machine gun the player can shower a police officer, or a random member of the public, in bullets. This is then replayed in slow motion to show the bullets entering and leaving the person's body with large sprays of blood as he dies. When armed with the shotgun the player is able to perform exploding "headshots," which fling the person's body backwards in a realistic rag doll fashion as he is decapitated, leaving his headless body lying on the ground spilling blood. These decapitations are then replayed in cinematic slow motion for the player's entertainment. The player is able to repeat this violence and cruelty ad infinitum.

Most of the game's levels are set in benign, everyday environments, such as a jewellery store, a shopping mall and an automotive garage. This adds to the disturbing nature of the game's cruel possibilities. The familiarity with which most people would view these locations, in which the player is more or less encouraged to commit cruel and gratuitous acts of violence, is chilling, and because the player is able to perform grisly executions on women and other unarmed civilians without repercussion (other than the police will try to kill the player character, which they are trying to do anyway), the game's lack of any moral perspective becomes clear.

Perhaps going some way towards mitigating the game's depictions of cruelty and violence are the crude, pixellated, animated nature of its environments and characters, the visual similarity of the characters, and their limited repertoire of actions. These elements reduce the realism of game play. The storyline itself is also based on the film of the same name. The game shares the film's sense of "overkill" and excess, embodied in particular by the psychotic Mr Blonde, who nonchalantly severs an undercover policeman's ear with a razor. What the game lacks, however, is the original and "edgy" Tarantino humour and irony that pervades the film. Without this context, all that remains in the game is a prolonged series of brutal acts played out over many hours, the gratuitous and essentially pointless sadism apparently comprising a player's entertainment.

Reservoir Dogs differs from other R18 games in a number of ways, not least the graphic way in which people's deaths are depicted, and the accommodating approach it takes towards the ability of the player to inflict extreme forms of violence and cruelty upon police and civilian characters. The gameplay implicitly encourages and supports the attitudes required to commit anti-social and violent behaviour because it lacks both the stronger contextualizing factors present in the film and any consequences for the brutal acts the player is repeatedly able to commit in everyday environments at will.

New Zealand Bill of Rights Act 1990:

Section 14 of the New Zealand Bill of Rights Act 1990 (NZBR Act) states that everyone has "the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form". Under s5 of the NZBR Act, this freedom is subject "only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society". Section 6 of the NZBR Act states that "Wherever an enactment can be given a meaning that is consistent with the rights and freedoms contained in this Bill of Rights, that meaning shall be preferred to any other meaning".

Conclusion:

The console game entitled *Reservoir Dogs* is classified as objectionable. This classification is because the publication tends to promote and support the infliction of extreme violence and extreme cruelty.

Reservoir Dogs is a third-person "shooter" console game based on a popular film. The storyline and characters remain similar. The player controls a range of violent criminal characters who try to escape from the police after a bungled diamond heist. Internecine wrangling ensues after a "mole" is suspected amongst the criminals.

The central aspect of the game lies in killing large numbers of police and SWAT team members. To assist in this regard the player can take members of the public and police force hostage, forcing the surrender of armed interference. The interactive nature of the game means that the player is able to initiate, escalate and repeat ad infinitum and for the purpose of entertainment acts of violence, cruelty and torture against anyone who even momentarily happens to appear on screen. Of greatest concern is the player's ability to take and torture hostages, execute them, and execute the police after they have disarmed. The game is built around this capacity to perform and repeat callous, violent and bloody acts in everyday environments without penalty, and without any of the film's mitigating contextual factors. While the game involves fictional, animated characters, it nonetheless tends to promote and support the infliction of extreme violence and extreme cruelty by encouraging the player to perform, and then by showcasing in slow motion, the most extreme forms of violence and brutality for the purposes of entertainment.

The Classification Office has considered the effects of the Bill of Rights on the application of the classification criteria. The classification of this publication interferes with the freedom of expression, but this is an outcome that is consistent with Parliament's intention that publications falling under s3(2) are deemed to be objectionable. The classification is also a reasonable limitation on the freedom of expression that reflects the concern of "a free and democratic

society" to limit the availability of publications that tend to promote and support the infliction of extreme violence and extreme cruelty.

Classification:

The publication entitled *Reservoir Dogs* is classified as

Objectionable.

Written reasons are not legally required for section 12 submissions, but it is the policy of the Classification Office to provide them.

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Date	26/06/06	OFLC Ref	601341
Applicant	FVRB		
Applicant to Labelling Body	Ataw		
Title (On Screen)	Return Dogs		
Other Known Title	Not stated		
Director/s	Not stated		
Producer/s	Not stated		
System Format	Cartridge Game	Country of Origin	UK
Language/s	English		
Classification	Objectionable		
Descriptive Note	N/A		
Excision/s	No	Date Cleared	N/A
	N/A		
Total Running Time	N/A	Total Running Time after Excisions	N/A

Intro sequence - introductory film, some dialogue, key characters from the

Menu

- Play
- Select Chapter
- Options
- Extras
- Save
- Quit

Plan

FMW - character, being handed out names, Mr White, orange etc

Tranny Mrs - player introduced to variety of weapons -

Game of paintball played against real character

Tranny "crowd control" Game order.

"Hostage Taking" - "Security first" dilemma

Mentorship - "hold it first the subscriber" looks to best hostage, star his hat against the

Chapter 1 - "man out of the field up" "Moby fishing now" friends of security police armed outside

Game begins - Player inside bank shoot hostages shoot police

Player on the police hostage, and order other police to surrender. Game back by front doors.

Title Square

Driving mission - crazy driving street scene Run over car. Cash into other

Chapter 3

Being in alley (M) on right, grabbed as
hostage. Followed shot. Hostage received ✓
(like) my shot to head

When player takes some hostage, police may
be ordered to surrender. They can be
neutralised up against a wall or over left,
or executed.

"Drop the fucking gun!"

Police: "Oh asshole have the gun give."

Escape from alley way.

Greater 2 SWAT men

Go to back of East Portland car factory.

Player has an "adrenaline" function. When
adrenaline is full a bullet the car can be used,
with per play back in SB - no re drain
of an energy

Find a way from to Steve's Auto Repair

Run from landmines.

Cut scene - player hit by car "Shot
your fuckin' nose".

Chapter 4:

Player is now Mr White.

Player runs through same set of Animats. Some different direction choices can be made.

Running pass) through red room are bridge, car park etc check points.

picked up by Mr ? in car, mission completed.

Chapter 5:

DMV. Mr Orange shot in stomach by civilian. He starts back

Driving Load) mission Drive Mr Orange to warehouse by police

Chapter 6.

Inside service corridor of shopping mall.

Special hostage kills incl. cigar to face using gun burst to smash victim's head, (pink) taking victim's ear off w/ cigar cutter, cutting (black)