

In October of 1994 a federal magistrate determined that Nassau County on Long Island in New York violated the first amendment to the United States Constitution when it passed a law making it a crime to sell minors trading cards with pictures of serial killers, mass murderers, and other 'Heinous criminals.' The law was prompted by a wave of protests of victims' rights groups in 1992 after a company named Eclipse Enterprises began to produce a series of "True Crime" trading cards, which included pictures of Charles Manson, Jeffrey Dahmer, and John Wayne Gacy, along with historically famous murderers such as Jack the Ripper, Lizzie Borden, and other famous criminals, such as Mafia leaders and bank robbers. The law made it a misdemeanor punishable by up to one year in jail and a \$1,000 fine to sell someone under the age of seventeen trading cards that depict a "heinous crime, an element of a heinous crime, or a heinous criminal, which is harmful to minors."

Does the Nassau County law violate the right of free speech either of people who sell "True Crime" trading cards to minors, or of minors who purchase them? If so, why? If not, why not?

MODERATOR'S ANSWER: Many find revolting the idea of trading cards with pictures of serial killers and mass murderers on them, marketed primarily for children under seventeen. Nonetheless, the federal magistrate correctly judged that the Nassau County law violated the rights of the trading card company and of minor children who might purchase the cards. Under any reasonable interpretation, the basic rights to communicate and to receive communications apply to children as well as to adults. Society may enforce reasonable limitations upon these rights in the interests of children, but the Nassau County law is unreasonable because of its vagueness. Two key phrases contained in the law, "harmful to children," and "heinous crimes," are both so vague that if the law applied to books it would give the County sweeping powers of censorship to keep books away from children -- on grounds of being harmful to them -- describing virtually any actions of which County officials disapproved --heinous crimes. The fact that the law only applies to trading cards doesn't make it acceptable. There is no more reason to grant sweeping censorship powers to County officials in regard to trading cards than in regard to books.

Case from the February 3, 1996 Intercollegiate Ethics Bowl. Copyright Robert Ladenson, Center for the Study of Ethics at the Illinois Institute of Technology, 1996.