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## **“Can’t Kill the Murderabilia Industry”**

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### **Abstract**

People the world over collect a vast array of items for personal enjoyment. When the collections focus on innocuous items like coins, sports memorabilia, or works of art, nary an eyebrow is raised. However, when the focus of the collection is on more controversial or macabre items, like memorabilia related to serial killers or other nefarious criminals, many in society are appalled. Some are so offended at the notion that people would collect items associated with individuals who have committed heinous crimes that they have sought to limit the availability of such items. Attempts to limit the “murderabilia” industry have taken many forms, from pressuring e-commerce providers, to prohibiting the sale of such items to introducing legislation that would criminalize the sale of murderabilia. This paper will provide a brief overview of the murderabilia industry, discuss the current efforts to prohibit or limit the availability of such items, and speculate as to the future of this niche market.

### **Introduction**

On September 11<sup>th</sup>, 2014, three inmates escaped from the Allen Oakwood Correctional Institution in Lima, Ohio.<sup>1</sup> While all three men were violent offenders

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<sup>1</sup> At 7:38 p.m., Lindsay Bruce, Thomas Lane III, and Clifford Opperud escaped from the Oakwood Unit of the Allen Oakwood Correctional Institution via a 13 ½ foot ladder fashioned from materials gathered over several months and stored in a maintenance access area. Bruce was apprehended at 7:47 p.m. on the 11<sup>th</sup>, Lane at 1:20 a.m. on the 12<sup>th</sup>, and

serving lengthy sentences, one name stood out from the rest.<sup>2</sup> Among the escapees that day was mass murderer and convicted Chardon High School shooter, Thomas “T.J.” Lane.<sup>3</sup> In February 2012, the nation looked on in horror as details of Lane’s rampage hit national media outlets. Lane shot and killed three high school students and injured three others as they ate breakfast in the school cafeteria.<sup>4</sup> This senseless act of violence would ensure T.J. Lane is forever linked to such nefarious characters as Eric Harris, Dylan Klebold, Adam Lanza, and Michael Carneal, but it was his actions after he was apprehended that gained Lane even more notoriety.<sup>5</sup>

During the sentencing phase of his trial, Lane showed no remorse for his actions and openly antagonized the families of his victims. He wore a white shirt emblazoned with the word “killer”, gave the victims’ families the middle finger, and coldly stated, “The hand that pulled the trigger that killed your sons now masturbates to the memory. Fuck all of you.”<sup>6</sup> These outrageous antics, coupled with his bloody past, make T.J. Lane a minor celebrity to those who collect what many refer to as “murderabilia”.<sup>7</sup>

Although Lane only managed to escape from the prison for a few hours and was found only a short distance from the prison, he has once again become the center of a

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Opperud at 4:22 a.m. See: Ohio Department of Rehabilitation and Correction, Allen Oakwood Correctional Institution Escape Investigation Report, at [http://www.dispatch.com/content/downloads/2014/11/Investigation\\_Summary\\_of\\_Chardon\\_shooter\\_T.J.\\_Lanexs\\_prison\\_escape.pdf](http://www.dispatch.com/content/downloads/2014/11/Investigation_Summary_of_Chardon_shooter_T.J._Lanexs_prison_escape.pdf)

<sup>2</sup> Lindsay Bruce was serving a life sentence for kidnapping and aggravated murder. See: <http://www.drc.ohio.gov/OffenderSearch/details.aspx?id=A508485&pg=x>; Clifford Opperud was serving 17 years for kidnapping, aggravated robbery, and aggravated burglary. See: <http://www.drc.ohio.gov/OffenderSearch/details.aspx?id=A579262&pg=x>; and Thomas Lane III was serving a life sentence for three counts of aggravated murder, attempted aggravated murder, and felonious assault. See: <http://www.drc.ohio.gov/offendersearch/details.aspx?id=A640654>

<sup>3</sup> Ronald M. Holmes & Stephen T. Holmes, *Serial Murder 17* (3rd ed. Sage 2010) (mass murder is the killing of three or more people at one time and in one place.).

<sup>4</sup> John Horton, *3 Students Killed, Several Hurt in Shooting at Chardon High School; Suspect in Custody*, The Plain Dealer, Feb. 27, 2012 at, [http://blog.cleveland.com/metro/2012/02/at\\_least\\_4\\_students\\_hurt\\_in\\_sh.html#incart\\_special\\_report](http://blog.cleveland.com/metro/2012/02/at_least_4_students_hurt_in_sh.html#incart_special_report).

<sup>5</sup> Eric Harris and Dylan Klebold killed 13 people at Columbine High School in Columbine, CO; Adam Lanza killed 26 people at the Sandy Hook Elementary School in Newtown, CT; Michael Carneal killed three people at Heath High School in West Paducah, KY.

<sup>6</sup> John Caniglia, *T.J. Lane Wears 'Killer' Shirt at Sentencing; Judge Sends Him to Life in Prison Without Parole*, The Plain Dealer, Mar. 19, 2013 at available at [http://www.cleveland.com/chardon-shooting/index.ssf/2013/03/a\\_swearing\\_defiant\\_tj\\_lane\\_wea.html](http://www.cleveland.com/chardon-shooting/index.ssf/2013/03/a_swearing_defiant_tj_lane_wea.html)

<sup>7</sup> Murderabilia is a term first coined by Andy Kahan. In a document Kahan provided to the authors, he breaks murderabilia into three distinct categories: Personalized Items, Manufactured Items, and Miscellaneous. Personalized items would include items produced by, or directly related to the criminal, including: artwork; letters; clothing worn or belonging to the criminal; autographs; hair samples; nail clippings, etc. Manufactured items are generally produced by third parties, and include action figures, trading cards, comic books, calendars, etc. The Miscellaneous category includes items like crime scene dirt, autopsy reports, or death certificates. It should also be noted that many collectors find the term murderabilia to be derogatory, and prefer true-crime collectors.

media storm. The family of victim Danny Parmertor became aware that a Florida based website had been selling memorabilia related to T.J. Lane, most notably, they were offering letters written by Lane while incarcerated, asking as much as \$600 for some items.<sup>8</sup> Not surprisingly, the family was outraged, and is opposed to the sale of these items, a sentiment echoed by many, including prominent victims rights advocate Andy Kahan, and surprisingly, even some relatively well-known serial killers.<sup>9</sup>

Given the fact that so many are outraged by the sale of such items, what can be done to eliminate the market for these macabre collectibles? Both state and federal legislatures have attempted to limit or prohibit the sale of such items, and individual companies, like eBay, have implemented policies designed to restrict the availability of such items on their website. Despite these efforts, it seems that there is no shortage of interest in the murderabilia industry, and a wide variety of items, ranging from letters, to artwork, to locks of hair, and even skin scrapings have been offered for sale by online sellers. These can be found quite easily by performing a simple internet search. As such, it would appear that the murderabilia industry is here to stay, whether we like it or not.

### **Humans as Collectors**

Human beings have been avid collectors of “things” for centuries. Today, many would identify themselves as collectors of works of art, sports memorabilia, coins, cars, or stamps. While collecting items such as those mentioned above has become fairly common, many are puzzled by those whose collecting interests are centered on more non-conventional items, and are often times flummoxed by those who collect murderabilia. While the murderabilia industry may have only garnered the attention of the mainstream media in recent years, and is generally considered by most to be a new phenomenon, it can be argued that there is a long history of collecting items that may be viewed as morbid or ghoulish.

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<sup>8</sup> Michael Baldwin & Tim Rearden, *Families of Victims Outraged Over Site Claiming to Sell T.J. Lane 'Murderabilia'*, WEWS News, Oct. 9, 2014 at , <http://www.newsnet5.com/news/local-news/oh-geauga/site-claiming-to-sell-tj-lane-murderabilia>.

<sup>9</sup> As a part of our research, the authors reached out to a number of serial killers to ascertain their feelings on the murderabilia industry. More than one responded that they are opposed to the sale items associated with them, one even asking us to inform him if any of his artwork is found for sale on the Internet. Andy Kahan is leading victims rights advocate employed by the City of Houston, TX. He has closely monitored the true-crime memorabilia industry for years and is one of the most prominent figures in the campaign to prevent the sale of “murderabilia”.

The Catholic Church has long had a penchant for collecting holy relics.<sup>10</sup> While these relics may vary in form, it is common for bones, particularly the skulls of saints and martyrs to be highly coveted, and viewed with reverence.<sup>11</sup> Similarly, items owned by, or used by a saint, are held in high regard amongst adherents to the faith.<sup>12</sup> The Catholic Church is not alone in seeking corporal relics or ascribing mystical powers to these relics. As noted by Muensterberger, “many tribes do not restrict their belief to the skulls and bones of their ancestors; hair, nails, teeth, genitalia, and even former belongings may also be *mana*-laden.”<sup>13</sup>

Collecting gruesome artifacts is not limited to the realm of the spiritual. There is a long history of individuals who have had collections based on their morbid curiosities for their own personal enjoyment or for profit. For example, shortly after gangster John Dillinger was gunned down outside of the Biograph Theater in Chicago in 1934, souvenir-hunters used handkerchiefs to absorb his blood from the crime scene.<sup>14</sup> Multiple death masks were also made of Dillinger, with FBI Director J. Edgar Hoover proudly displaying one outside of his office.<sup>15</sup> Items associated with notorious outlaws Bonnie (Parker) and Clyde (Barrow), including the bullet-riddled car they were driving when they met their fate and the actual shirt Clyde was wearing at the time of his death serve as attractions for Whiskey Pete’s Resort and Casino in Primm, Nevada.<sup>16</sup> In 1958, a carnival promoter purchased notorious murderer Ed Gein’s<sup>17</sup> sedan, and later charged people to view the vehicle at the county fair.<sup>18</sup>

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<sup>10</sup> Rev. William Saunders, *Church Teaching on Relics*, Arlington Catholic Herald (2003) (the Catholic Church defines three distinct classes of sacred relics. First class relics are actual pieces of the body of a saint, second class relics are articles of clothing or something used by the saint, and third class relics are objects that have been touched to a first class relic.) available at <http://www.catholiceducation.org/en/culture/catholic-contributions/church-teaching-on-relics.html>.

<sup>11</sup> See Werner Muensterberger, *Collecting: An Unruly Passion*. 55 (Princeton Univ. Press 1994).

<sup>12</sup> See Saunders.

<sup>13</sup> See Muensterberger at 55-57. (Mana is a term used by many Pacific Islanders to describe the “life-force” of a person or object).

<sup>14</sup> Evan Andrews, 10 Things You May Not Know About John Dillinger (History 2014), <http://www.history.com/news/history-lists/10-things-you-may-not-know-about-john-dillinger>.

<sup>15</sup> See *Id.*

<sup>16</sup> See *Bonnie and Clyde Getaway Car*, Vegas.com Attractions, <http://www.vegas.com/attractions/near-las-vegas/bonnie-clyde-car/>

<sup>17</sup> See Michael Newton, *The Encyclopedia of Serial Killers*. 93 (Checkmark Books 2006). (Ed Gein, also known as “The Plainfield Ghoul”, was the inspiration for the movies *Psycho*, *The Texas Chainsaw Massacre*, and for the “Buffalo Bill” character in *The Silence of the Lambs*).

<sup>18</sup> Thomas Vinciguerra, *The “Murderabilia” Market*, The New York Times, June 4, 2011 at, [http://www.nytimes.com/2011/06/05/weekinreview/05murderabilia.html?\\_r=0](http://www.nytimes.com/2011/06/05/weekinreview/05murderabilia.html?_r=0).

While carnival exhibits and casinos displays may not necessarily point to main stream acceptance of murderabilia, it should be noted that Scotland Yard recently agreed to make over 500 pieces of true-crime memorabilia available for a public exhibition at the Museum of London, which was scheduled for October 2015.<sup>19</sup> These items were part of the Black Museum, a private true-crime museum operated by Scotland Yard, founded in 1874 and previously only accessible by active-duty officers and select guests.<sup>20</sup> Among the items scheduled for viewing are execution ropes used to hang the condemned, the 1856 death mask of Robert Marley<sup>21</sup>, and items relating to “The Acid Bath Murderer”, John Haigh.<sup>22</sup>

Scotland Yard is not alone when it comes to government involvement in this controversial industry. In 2010, the U.S. federal government became an unexpected source of items for the murderabilia industry when U.S. District Judge Garland Burrell, of the Eastern District of California, ordered the sale of personal items belonging to Ted Kaczynski, also known as the “Unabomber”.<sup>23</sup> In total, the auction raised \$232,246 from the sale of items such as a typewriter, hand tools, worn shoes, handwritten notes, and the iconic sweatshirt and glasses that are depicted in the infamous Unabomber wanted poster.<sup>24</sup> While the proceeds were used to compensate victims, this does not change the fact that the U.S. Marshals facilitated the transfer of pieces of murderabilia into private hands, and potentially into the stream of commerce.

### **Efforts to Stop the Sale of Murderabilia**

The concept of preventing criminals from benefiting from their illicit activities and subsequent notoriety first gained traction in the late 1970’s, when rumors began to swirl about lucrative book deals being offered to David Berkowitz, also known as “The Son of Sam”. Fearing that Berkowitz could potentially reap great financial reward from

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<sup>19</sup> Nick Clark, *Secrets of the Met Police’s ‘Black Museum’ Now Open to Public*, The Independent (March 19, 2015), <http://www.independent.co.uk/news/uk/home-news/the-black-museum-after-150-years-public-can-visit-polices-grisly-crime-museum-9944994.html>

<sup>20</sup> Id.

<sup>21</sup> Robert Bailey was charged and convicted of murdering Richard Cope. *See November 1856, trial of ROBERT MARLEY*, Oldbaileyonline.org, <http://www.oldbaileyonline.org/browse.jsp?div=t18561124-63>.

<sup>22</sup> See Clark..

<sup>23</sup> U.S. Marshals Serv., U.S. Marshals to Auction Unabomber’s Personal Effects (U.S. Dep’t of Justice 2010), <http://www.usmarshals.gov/news/chron/2011/051211.htm>.

<sup>24</sup> For more detailed information on items auctioned, *See* U.S. Marshals Serv., <https://www.flickr.com/photos/usmarshals/sets/72157626579208135/>

his notoriety as a murderer, the New York state legislature passed §632-a, which was designed to prevent criminals from profiting by the selling the rights to their story.<sup>25</sup> In short, the law would divert any funds owed to the convicted felon for the rights to their story to the New York State Crime Victims Board, who would then hold the money in escrow for payment of any civil suits brought by the victims or their families.<sup>26</sup> Many states soon enacted their own versions of the “Son of Sam” law, as did the federal government.<sup>27</sup>

In 1991, publishers Simon & Schuster sought to challenge the validity of New York’s Son of Sam law. The publishers had contracted with former mafia associate Henry Hill to publish a book, entitled *Wiseguy*, detailing his exploits as a gangster. The book was a commercial success, and in accordance with the existing Son of Sam law, the New York Crime Victims Board sought the money owed to Hill.<sup>28</sup> The publishers challenged the ruling of the board, and the case eventually made it all the way to the Supreme Court of the United States. The Court eventually ruled that the New York statute, as written, violated the First Amendment. Although the New York law was invalidated as a result of the ruling, the Supreme Court did not completely close the door on future attempts to craft “Son of Sam” inspired legislation, and as Wagner noted, the Court, “offered a blueprint for curing the constitutional defects.”<sup>29</sup>

In the wake of the *Simon & Schuster* decision, many states sought to modify their Son of Sam statutes as to remedy the constitutional defects noted by the Court. Some states were successful in crafting legislation that was in line with the decision, while other states, struggled to do so.<sup>30</sup>

It is worth noting that Son of Sam-style laws are designed to prohibit the offender from receiving a windfall from his or her criminal activity and as such are ideally suited to prohibiting convicted felons from signing book or movie deals. For instance, when New York revised their Son of Sam law in 2001, it required the New York Crime Victims Board must be notified if an inmate receives a payment, or aggregate payments,

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<sup>25</sup> Matthew Wagner, Comment, *Beyond the Son of Sam: Assessing Government's First Tentative Steps Towards Regulation of the Third-Party Murderabilia Marketplace*, 80 U. Cin. L. Rev. 979.

<sup>26</sup> See Id.

<sup>27</sup> 18 USC § 3681 (2006).

<sup>28</sup> See Wagner at 979-980.

<sup>29</sup> Id. at 980.

<sup>30</sup> See Id. at 981-982

in excess of \$10,000.<sup>31</sup> While these types of laws may be effective in limiting lucrative media deals, they would likely have little, if any, impact on the murderabilia market.

Many of the items offered for sale on the secondary market are items that were acquired free of charge, or for relatively nominal sums. For example, one of the more common items that are listed for sale, are letters written by well-known inmates. As most states allow inmates to receive unsolicited mail, it is not uncommon for those seeking mementos to ascertain the location of the inmate through the appropriate Department of Corrections website and to then simply mail the inmate a letter. If the inmate responds, the collector has a genuine piece of murderabilia, acquired for nothing more than the cost of postage. Sometimes, collectors and inmates strike up friendships and continue corresponding. Often, collectors will solicit works of art, poems, or other more desirable items. In return, collectors may make small deposits to the inmate's trust account.<sup>32</sup> On rare occasions, the collector may actually visit the inmate in prison, and personally collect photographs, artwork, or other personal effects. The relatively personal nature of these interactions, coupled with the fact that very little cash is actually exchanged, would seem to negate the effectiveness of Son of Sam type laws in preventing items of murderabilia from entering the stream of commerce.

In addition to Son of Sam laws, there has been a repeated effort to enact legislation aimed at preventing personal items obtained from violent criminals from being sold on the secondary market. The most recent example of such legislation was a bill introduced by Senator John Cornyn referred to as the "Stop the Sale of Murderabilia Act of 2013".<sup>33</sup> This bill would have effectively prohibited inmates convicted of violent crimes from supplying materials for sale in the secondary market. The bill states, in part, "an inmate of a prison convicted of a crime of violence who knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, any property, article, or object, with intent that the property, article, or object be placed in interstate or foreign

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<sup>31</sup> See N.Y. EXC. LAW §632-a

<sup>32</sup> One inmate informed us that he received approximately \$100 per month from various sources. This money is deposited into a trust account for the inmate via third party providers like JPay, Access Corrections, or Telmate. While \$100 may be enough to offset the cost of correspondence, and allow the inmate to purchase some basic items from the commissary, the actual amounts received would be far below the reporting requirements in states that utilize Son of Sam laws similar to that of New York. For more information on depositing funds to inmate trust accounts, See Inmate Services at <https://www.jpays.com/>

<sup>33</sup> Stop the Sale of Murderabilia Act of 2013, S. 1549, 113th Cong. 1-7 (2013).

commerce, shall be fined under this title and imprisoned not less than 6 months and not more than 10 years.”<sup>34</sup>

This bill certainly would have seemed to restrict the source of many of the items that drive the murderabilia market. However, it would likely have faced constitutional challenges, and proved difficult to enforce, even if enacted. Furthermore, the punishments attached do not seem to be much of a deterrent, as most of the more notorious inmates are already serving lengthy sentences that make the likelihood of them ever being released from custody highly unlikely. Not surprisingly, this bill has met the same fate as its earlier incarnations, the Stop the Sale of Murderabilia to Protect the Dignity of Crime Victims Act of 2007, and the Murderabilia to Protect the Dignity of Crime Victims Act of 2010.<sup>35</sup>

As attempts to legislate the murderabilia marketplace have been largely unsuccessful, e-commerce providers like eBay have also attempted to prohibit the sale of “offensive material”. The Offensive Material Policy regulates the sale of goods relating to: disasters and human tragedies, terrorist organizations and hate groups, items related to violent felons, Nazi and Nazi-related, offensive or violent material, and racially or ethnically offensive language, historical items, reproductions, and works of art and media.<sup>36</sup> Murderabilia items would largely fall under the “items related to violent felons” category, and per eBay policy, the following are prohibited: “Personal belongings of anyone convicted of a violent felony or any work, such as a book, from which they might profit; Letters or artwork created by serial killers of violent felons; Novelty items related to or glorifying violent felons; Items from notorious crime scenes; items promoting violence against an individual, including convicted criminals.”<sup>37</sup>

Even though eBay has been fairly successful at prohibiting the sale of items that are directly connected to violent felons, they seem to fall short when it comes to regulating the sale of “novelty items related to or glorifying violent felons”. A cursory search revealed a number of items readily available that would seem to violate the spirit

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<sup>34</sup> Id. at 2.

<sup>35</sup> See Stop the Sale of Murderabilia to Protect the Dignity of Crime Victims Act of 2007, S. 1528, 110th Cong. 1-7 (2007). ; Stop the Sale of Murderabilia to Protect the Dignity of Crime Victims Act of 2010, S. 3468, 111th Cong. 1-7 (2010).

<sup>36</sup> See eBay Offensive Material Policy, available at: <http://pages.ebay.com/help/policies/offensive.html>

<sup>37</sup> Id.



and intent of this policy. One listing offers a “John Wayne Gacy” silicone mask which is styled after the infamous clown make-up worn by John Wayne Gacy when portraying the character of Pogo the Clown.<sup>38</sup> Not only does the listing directly reference Gacy, but it provides further details about his criminal history in the item description. Another item offered for sale was the Serial Killer Trivia Game. This game depicted Gacy on the front cover of the box, dressed as his alter ego, Pogo the Clown, holding a bunch of balloons and a large knife, while standing behind two unsuspecting young children.<sup>39</sup> The item description reads, “Have you ever wanted to kill someone? Now you can and be a winner! From Seattle, the motherland of serial killers, Culture Heroes Inc. brings you a fun & educational board game. Break into houses around the board and draw scenario cards to reveal your murderous intent. Invoke Aileen Wuornos, Ted Bundy, Albert Fish, David Ramirez [sic], or Ed Gein as you answer trivia questions and claim enough victims before the other serial killers in town beat you to the guts (and glory)!”<sup>40</sup> Other items listed for sale that would seem to violate this policy would include: “Notorious Serial Killers” card game<sup>41</sup>, a Richard Ramirez trading card<sup>42</sup>, and an Ed Gein vinyl decal<sup>43</sup>. While this list is far from comprehensive, it does show that a number of items are readily available for purchase on eBay that would seem to violate the self-imposed prohibition on “novelty items related to or glorifying violent felons”.

E-commerce giant Amazon also has an “Offensive Products” policy, which states, “Listings for items that Amazon deems offensive are prohibited on Amazon.com. Amazon reserves the right to determine the appropriateness of listings on its site, and remove any listing at any time.”<sup>44</sup> It goes on to provide examples of prohibited listings, which include: “Products that promote or glorify hatred, violence, racial, sexual or religious intolerance or promote organizations with such views; crime scene photographs;

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<sup>38</sup> Ebay listing: [http://www.ebay.com/itm/John-Wayne-Gacy-serial-killer-Silicone-Mask-Bald-Made-to-order-/191537416137?pt=LH\\_DefaultDomain\\_0&hash=item2c988507c9](http://www.ebay.com/itm/John-Wayne-Gacy-serial-killer-Silicone-Mask-Bald-Made-to-order-/191537416137?pt=LH_DefaultDomain_0&hash=item2c988507c9)

<sup>39</sup> Ebay listing: [http://www.ebay.com/itm/The-Serial-Killer-Trivia-Game-Culture-Heroes-Inc-/301464268069?pt=LH\\_DefaultDomain\\_0&hash=item4630abad25](http://www.ebay.com/itm/The-Serial-Killer-Trivia-Game-Culture-Heroes-Inc-/301464268069?pt=LH_DefaultDomain_0&hash=item4630abad25)

<sup>40</sup> Id. “Description”

<sup>41</sup> Ebay listing: [http://www.ebay.com/itm/Notorious-Serial-Killers-New-/311062260308?pt=LH\\_DefaultDomain\\_0&hash=item486cc16a54](http://www.ebay.com/itm/Notorious-Serial-Killers-New-/311062260308?pt=LH_DefaultDomain_0&hash=item486cc16a54)

<sup>42</sup> Ebay listing: <http://www.ebay.com/itm/1992-TRUE-CRIME-TRADING-CARD-61-NM-MT-NON-SPORTS-/351567908406?hash=item51db148e36:g:IEAAAOSw5VFWM6SE>

<sup>43</sup> Ebay listing: [http://www.ebay.com/itm/Ed-Gein-vinyl-decal-sticker-Serial-Killer-Norman-Bates-Plainfield-Wisconsin-/321629824703?pt=LH\\_DefaultDomain\\_0&var=&hash=item4ae2a1a6bf](http://www.ebay.com/itm/Ed-Gein-vinyl-decal-sticker-Serial-Killer-Norman-Bates-Plainfield-Wisconsin-/321629824703?pt=LH_DefaultDomain_0&var=&hash=item4ae2a1a6bf)

<sup>44</sup> Amazon Offensive Products Policy, available: <http://www.amazon.com/gp/help/customer/display.html/?nodeId=200277420>

Morgue or autopsy photographs; human body parts; products retrieved from a disaster or tragedy site; and videos, sound or other recordings taken without the subject's permission".<sup>45</sup> Again, this policy would seem to be rather ineffective, as there is no shortage of items available on Amazon that would appear to, at the very least, glorify violence.<sup>46</sup> It is understandable that e-commerce sites that offer millions of items for sale may fail to notice specific listings that may violate company policy; nevertheless, it does illustrate the relative ineffectiveness of even the most well-intentioned policies.

In response to restrictive policies imposed by Amazon and eBay, many murderabilia dealers have simply created their own e-commerce websites. Supernight.com, SerialKillersInk.net, and MurderAuction.com all offer collectors the option to shop from a wide variety of items, including personalized, manufactured, and miscellaneous items, from the comfort and anonymity of home. In addition, some other dealers specialize in specific types of murderabilia. SerialKillerCalendar.com, for example, focuses exclusively on manufactured items and while it does offer items like *Serial Killer Magazine*<sup>47</sup>, DVD's containing footage of rare interviews with various killers, and serial killer action figures, it does not offer any personalized items for sale.

### **The Future of Murderabilia**

Given the fact there seems to be no shortage of individuals calling for the prohibition of the murderabilia industry, a critical issue to be discussed is whether these efforts will ever come to fruition. Can the murderabilia industry be stopped? In short, no. Efforts to regulate or prohibit the murderabilia industry will fail for a number of reasons, most notably, because prohibition simply does not work. Governments the world over have attempted to prohibit the sale of goods for a variety of reasons, and while they may have made the items harder to purchase, or driven up the cost of purchasing these goods,

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<sup>45</sup> Id. "Examples of Prohibited Listings"

<sup>46</sup> Examples include: The Serial Killer Trading Cards: [http://www.amazon.com/Serial-Killer-Trading-Cards/dp/0979296536/ref=sr\\_1\\_1?ie=UTF8&qid=1426528970&sr=8-1&keywords=serial+killer+cards](http://www.amazon.com/Serial-Killer-Trading-Cards/dp/0979296536/ref=sr_1_1?ie=UTF8&qid=1426528970&sr=8-1&keywords=serial+killer+cards); Charles Manson Autographed 6x4" Photo Matted: [http://www.amazon.com/Charles-Manson-Autographed-Photo-Matted/dp/B0011L2TW2/ref=sr\\_1\\_1?s=collectibles&ie=UTF8&qid=1426529156&sr=1-1&keywords=charles+manson](http://www.amazon.com/Charles-Manson-Autographed-Photo-Matted/dp/B0011L2TW2/ref=sr_1_1?s=collectibles&ie=UTF8&qid=1426529156&sr=1-1&keywords=charles+manson); Notorious Serial Killers: [http://www.amazon.com/Kulturmeister-K-003-Notorious-Serial-Killers/dp/B007OCAVLK/ref=sr\\_1\\_1?s=toys-and-games&ie=UTF8&qid=1426529580&sr=1-1&keywords=jeffrey+dahmer](http://www.amazon.com/Kulturmeister-K-003-Notorious-Serial-Killers/dp/B007OCAVLK/ref=sr_1_1?s=toys-and-games&ie=UTF8&qid=1426529580&sr=1-1&keywords=jeffrey+dahmer)

<sup>47</sup> *Serial Killer Magazine* is a periodical produced by SerialKillerCalendar.com. It contains articles written by staff, along with contributions from guest authors and artists. The magazine contains a variety of material, including interviews, copies of death certificates, original artwork, and even crossword puzzles.

all have failed miserably. The United States' "War on Drugs" is a prime example of the inefficiency of this doctrine. The campaign began during the Nixon Administration, and despite millions of arrests, countless custodial sentences, and billions of dollars being invested in this endeavor, drugs are as easily accessible now as they were when this campaign started<sup>48</sup>. At the same time, efforts to prohibit child pornography, limit access to firearms, and even prevent people from illegally downloading music or movies from the internet have been equally ineffective.

Another issue that would make it practically impossible to stop the murderabilia industry is the widespread availability of the Internet. As technology becomes less expensive, and easier to use, collectors will simply turn to the web to fuel their collecting needs. We have already seen websites like Silk Road designed to allow users to purchase drugs, amongst other things, quickly and anonymously via the web. Similarly, online torrent sites like The Pirate Bay or Kick Ass Torrents have provided a forum for users to share files, frequently facilitating the exchange of copyrighted materials, and in some instances illegal materials like child pornography. The resilience of these types of sites is the stuff of legends and these same technologies could easily be adapted to serve the murderabilia market if the need arose.

Yet another hurdle to stopping, or limiting this industry is the widespread appeal of the subject matter. While many would stop short of purchasing a painting by John Wayne Gacy, or a lock of Charles Manson's hair, there does not seem to be any shortage of interest in serial killers, mass murderers, or other nefarious criminals. While the murderabilia industry is often demonized for catering to the needs of collectors, the main stream media often manages to avoid criticism, even though most collectors of the macabre were first introduced to the subject matter via traditional print or film media.

Magazines frequently plaster the faces of notorious criminals on the cover<sup>49</sup>, and some even go as far as to dedicate entire issues to the subject matter.<sup>50</sup> In the documentary film *Serial Killer Culture*, noted murderabilia collector Rick Staton

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<sup>48</sup> Katie Hunt. *Report: Cheaper, Purer Illegal Substances Suggest Global War on Drugs is Failing*, CNN. October 1, 2013. At <http://www.cnn.com/2013/10/01/world/war-on-drugs-failing/>

<sup>49</sup> See Fox & Levin at 4. The authors note that not only did Jeffrey Dahmer appear on the cover of *People* magazine, but he was chosen as one of the "100 Most Intriguing People of the 20<sup>th</sup> Century"

<sup>50</sup> See: Time Life, *The Most Notorious Serial Killers: Ruthless, Twisted Murderers Whose Crimes Chilled the Nation*, 2015.

basically lays the blame for our cultures fascination with violent offenders on the mainstream media. Referring to Life magazine, he states, “They got me interested in it. They got you interested in it. And they got all of the world interested in the grisly, macabre actions of these weirdos.”<sup>51</sup>

In addition to print media, television and film have been eager to cash in on the popularity of true-crime stories. Whole networks, like *Investigation Discovery*, and *Crime & Investigation*, are dedicated to providing viewers with nonstop access to programming based on criminal activity.<sup>52</sup> True-crime offerings like *Killer Kids*, *Born to Kill*, *Snapped: Killer Couples*, *Nightmare Next Door*, and *Deadly Affairs* are available, as well as a slew of fictional crime-drama shows, such as *CSI: Crime Scene Investigation*, *Criminal Minds*, and *NCIS*. Clearly the mainstream media has a vested interest in displaying grisly crime stories to an eager audience.

Interestingly, the efforts to vilify those who collect, and to eliminate the murderabilia market may ultimately be what draws more collectors into the fold. Similar public outrage catapulted the rap group “2 Live Crew” from relative obscurity to the national spotlight in the 1990’s. Despite concerted efforts by groups like the American Family Association (AFA) to censor or limit the availability of their music, the 2 Live Crew reaped tremendous financial rewards for their efforts, and likely reached an audience that would never have even contemplated buying a 2 Live Crew tape or CD were it not for the negative publicity. With each news conference or talk show appearance, those who advocate for the prohibition of the murderabilia market may actually be increasing the demand for the very items they so vehemently oppose.

In conclusion, it would appear as though the murderabilia industry is here to stay. Humans have seemingly always had a fascination with death and to some degree, criminal exploits. If the world of popular media entertainment is any indicator of our societal interests and values, it would appear that, collectively, we are becoming more enamored with the exploits of deviant criminals, which will in turn fuel an interest in the murderabilia market. Past attempts to legislate morality have been ineffective at best. Prohibition does not eliminate the market for the prohibited goods or services, it merely

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<sup>51</sup> *Serial Killer Culture*. Dir. John Borowski. Waterfront Productions, 2014.

<sup>52</sup> Investigation Discovery, [www.investigationdiscovery.com](http://www.investigationdiscovery.com); Crime & Investigation, [www.crimeandinvestigation.co.uk](http://www.crimeandinvestigation.co.uk)

pushes the market into backrooms and dark alleys. Due to technological advances, any attempt to prohibit the sale of such items would likely only see the purveyors of these macabre collectibles move their virtual storefronts elsewhere on the web. In short, if there is a market for these items, some opportunistic entrepreneur will be willing to step in and meet the demand.

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