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Parental Advisory, Explicit Content: Music Censorship and the American Culture Wars

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Acknowledgements

To my grandmother, Jennifer Roff, for 22 years, and counting, of love and support

Introduction

In December, 1984 Tipper Gore bought her 11 year old daughter, Karennia, Prince's *Purple Rain* album. Like many other young children, Karennia had heard Prince's music on the radio and wanted to hear more. Upon listening to the full album Karennia alerted her mother to the provocative nature of some of Prince's lyrics, such as the track "Darling Nikki," which contained the lyrics "I knew a girl named Nikki/Guess you could say she was a sex fiend/I met her in a hotel lobby/Masturbating with a magazine."¹ Tipper and Karennia Gore were embarrassed and ashamed that they were listening to such vulgar music, that they were doing so in their home. Deviance and profanity, something that one would expect to find in the street or back alleys had gotten into their home, albeit unwittingly. Tipper Gore soon realized that similar content was being broadcast into their home through other mediums, such as the new, wildly popular Music Television (MTV). After watching Van Halen's music video "Hot for Teacher" on MTV Tipper Gores other daughter, Kristin, who was eight years old, came to her asking "why the teacher [was] taking her clothes off," after witnessing the teacher's striptease in the video.² Like most parents, Gore was angry; the safe, respectable home environment that she was working to create was tarnished by a few wild musicians and the record companies that promoted them.

These two anecdotes about children being exposed to sexual content through music were taken from Tipper Gore's 1987 book, *Raising PG Kids in an X Rated Society*, which outlined the perceived moral threats coming into American homes through music and music videos,

¹ Tipper E. Gore, *Raising PG Kids in an X-Rated Society* (Nashville, TN: Parthenon Press, 1987), P. 17.

² Ibid. P. 18.

connecting exposure to obscene media with deviance, drug use and promiscuous behavior in youth. Tipper Gore credits these two shocking episodes as her motivation for creating the Parents Music Resource Center (PMRC) in 1985, which would fight for a rating system for music deemed obscene, violent and sacrilegious.³ As a mother, Gore wanted a way to police the media that her children were being exposed to, fearing that it would promote negative behavior. Tipper Gore created the PMRC and fought for a rating system as a maternal figure, seeking to control the moral education of her children by influencing the media that they were exposed to.

In 1985 Gore's PMRC held hearings about the state of popular music in front of the United States Senate, drawing vast amounts of media attention to issues of obscenity and violence in heavy metal and rock music. The hearings were considered "the hottest ticket in town" drawing both celebrities and legislators into one room to discuss the content of popular music.⁴ While the hearings were advertised as providing information about alarming new trends in music Gores critics saw the hearings as promoting censorship intended to enforce a moral code on the arts. The government was actively stepping into the private sphere to limit the way artists could express themselves. What the women of the PMRC saw as violent, misogynistic music was nothing more than, as musician Frank Zappa described, the "imagination of a bored housewife" who had misinterpreted their lyrics and their meanings and wanted to impose a moral dictation on the rest of the population.⁵

The division of opinions about the event was part of a culture war in America, where different moral outlooks surrounding issues of community health and free speech divided

³ Ibid. P. 17.

⁴ Ibid. P. 33.

⁵ Bartek Kaszuba, "Frank Zappa at PMRC Senate Hearing on Rock Lyrics," audio file, 33:14, Youtube, May 12, 2012, accessed April 11, 2016, <https://www.youtube.com/watch?v=hgAF8Vu8G0w>.

opinions about how to manage controversial themes in media. Contained in Tipper Gore's concerns is an underlying fear for the moral stability of the family and society. However, this opinion was contrasted by a view that the potential for harm is overstated and that music regulation is best left in the hands of the consumer, namely the parents, rather than a regulatory body like the PMRC.⁶ There was a sense that freedom of speech for musicians was of greater social importance than protecting children from potential harms. The debate the PMRC hearings started was divided by the importance each side put on values that were put into contrast with one another, freedom of speech versus a need to protect the family.

The lasting legacy of the PMRC is the "Parental Advisory: Explicit Content" stickers that are found on the covers of albums containing explicit lyrics and themes sold in the United States. While Tipper Gore introduced the discussion of regulating obscene music into the national spotlight, it was not until 1990 that any policy became relatively uniform. Prior to 1990 the RIAA (Recording Industry Association of America) provided no guidelines for applying warning stickers, resulting in a lax enforcement of the policy.⁷ In 1990 all record companies began to consistently implement PAL (Parental Advisory Label) stickers after the arrests of rap group 2 Live Crew and record storeowners who carried their records in Broward County, Florida.⁸

⁶ Ibid.

⁷ Tom Cole, "You Ask, We Answer: 'Parental Advisory' Labels — The Criteria And The History," NPR, last modified October 29, 2010, accessed April 11, 2016, <http://www.npr.org/sections/therecord/2010/10/29/130905176/you-ask-we-answer-parental-advisory---why-when-how>.

⁸ Ibid.

On February 2nd, 1990, Lee County Judge Isaac Anderson ruled that 2 Live Crew's album, *As Nasty as they Wanna Be*, was "probably obscene."⁹ This ruling emboldened anti-obscenity activist Jack Thompson and Broward County Sheriff Richard Navarro to orchestrate the arrest of several record store owners who carried the album under Florida anti-obscenity laws. In order to stop the arrests and protect the sale of their record 2 Live Crew brought the case to court, arguing that the album had redeeming artistic value, which would entitle it to First Amendment protection. US District Judge Jose Gonzalez however, declared that 2 Live Crew's work was legally obscene, leading to the group's arrest two days later after performing a show at a Broward County nightclub.

The members of 2 Live Crew became objects of national debate. Many different views arose, some people considered them to be "sadistic" and "misogynistic," while others viewed them as artists who faced unjust criticism from individuals who did not understand the hyperbole and satire present in their music.¹⁰ While the national debate raged 2 Live Crews album sales skyrocketed.¹¹ A record storeowner who continued to carry the record said the new publicity was the best thing to happen to the group saying "everyone and their mom wants a copy, and I'll sell it to their moms."¹² Economically, the publicity that 2 Live Crew received after their album was deemed obscene was better than any publicity campaign could ever do. However, the record

⁹ Anne L. Clark, "As Nasty as they Wanna Be: Popular Music on Trial," in . (n.p.: n.p., 1990), P. 1501, previously published in *NYU Law Review* 65, no. 6.

¹⁰ Jon Pareles, "Critic's Notebook; A Rap Group's Lyrics Venture Close to the Edge of Obscenity," *New York Times*, June 14, 1990, Opinion

¹¹ "Donahue - Indecency & Obscenity - feat. 2 Live Crew - circa 1990-Part 1 of 4," video file, 14:53, Youtube, posted May 16, 2011, accessed April 11, 2016, <https://www.youtube.com/watch?v=dXkzWkx-TUs>.

¹² David Browne, "The State of Obscenity in Rap," *Entertainment Weekly*, June 29, 1990

industry as a whole was frightened that legal action could take regulation out of it's hands, leading to the standardization of the guidelines and placement of PAL stickers.¹³

This paper will explore both the cultural and social debate around music in the 1980s and early 1990s and the censoring impact that political and cultural pressure had on the recording industry from information gathered through primary sources including newspaper articles, books, legal rulings and television broadcasts. My analysis is informed by books, journal articles and opinion pieces on the American culture wars and media regulation, which enabled me to situate the primary source information within the scope of a larger historical debate.

The social and political changes that occurred in the 1960s and 1970s and the debates that followed comprised a broader culture war about the state of American society. The culture wars in the 1980s and 1990s were about how American society should organize itself following the massive social and cultural changes surrounding the American family and social structure following women and gay liberation, civil rights and the sexual revolution emanating from the 1960s. While some culture war issues became heavily tied to party politics the debate around music and art, for the majority of Americans, can be described as “uneasiness,” where individuals were forced to weigh seemingly competing values of free speech and the developmental health of their children.¹⁴ Contained in the debate over music and art were differing notions of how American society should conduct itself around issues of sex and violence in media, originating from a moral unease with these subjects. While this unease is nothing new in American history the historical circumstances led the moral debate to be framed

¹³ Lewis Grossman, "Self-Censorship by Media Industries," in . *Columbia-VLA-Journal of Law and the Arts*, 1996., P.512

¹⁴ E.J. Dionne Jr., "Who's Winning the Culture Wars," *Washington Post*, July 15, 1990, Essays

issues of family cohesion, as well as sexual health. There was a concern that parents were unable to control their children, especially their access to media. Additionally, the rise of The Religious Right made the narrative of the family being under assault from a new, unorthodox society a powerful and recognizable political rallying point to express this “uneasiness.” Similarly, a concern for the sexual wellbeing of women, especially teens and preteens, was influenced by critiques of pornography from new feminist movements. Like previous moral threats to American society, there was backlash against the entities that were seen as responsible. However, how that backlash occurred in the form of censorship was highly dependent on the organization of the media industry. The music industry was a loosely associated group of record studios and retailers who were successful at resisting any overarching system of censorship. The debate over music, which lasted from 1985 to 1992, displayed the cultural conflict between competing notions of how American society should conduct its self towards sinful material and how this moral debate impacted the behavior of the music industry, eventually resulting in the implementation of the PAL sticker. In the end of this cultural conflict, despite some restrictions, the forces that fought for the music industry and free expression won, influencing the development of American media and culture towards a more pluralistic orientation.

The 1960s and 1970s brought about massive social changes, which impacted the organization of the American family. As a result a contest for the “national mythology” of the family occurred during the culture wars.¹⁵ Leaders of both sides of the debate presented differing notions of the role and current state of the American family in an attempt to control the family mythology. Intertwined with the family politics of the 1980s was a discussion of sex, which, like

¹⁵ Robert O. Self, *All in the Family: The Realignment of American Democracy since the 1960s* (New York City, NY: Hill and Wang, 2012), Page 4.

the family, was having its meaning fought over in order to establish where it stands in society. Sexual music, as well as art such as Robert Mapplethorpe's photographs, became objects of national debate about what should and should not be allowed in American communities. The issues of sex and family became intertwined in the debate, with sexual politics influencing the composition of American families and controversial representations of sex making parents fear what forces will influence the sexual development of their child. These issues, which were influenced by moral opinions, led to differing notions of the role of censorship in the debate.

Defining censorship was key to the arguments of both side of the conflict. However, the definitions used by the side supporting the artists devalued the moral concerns present in the debate. Tipper Gore was demonized as a "bitch" and Jack Thompson was regarded as a "crazy person" because of their concerns over music.^{16 17} It is undeniable that censorship occurred because of Tipper Gore and Jack Thompsons efforts. In order to tell the history of these events it is necessary to work with a definition of censorship that deals with regulation of content with the intent to prohibit and does not demonize the influences involved.

Censorship exists on a spectrum, where almost every musical piece produced is in some way impacted by censorship, such as alterations to musical tone, lyrics or band image for ascetic or marketing purposes. To consider all of these works censored would make the term lose its negative connotation that should be reserved for the grossest violations of an individual's artistic and intellectual freedom. There are many different ways that censorship impacts the creation of a piece of art such as a song or album, with varying degrees of restrictions, which are often

¹⁶ "Ice T-Freedom of Speech Lyrics," Metro Lyrics, accessed April 11, 2016, <http://www.metrolyrics.com/freedom-of-speech-lyrics-ice-t.html>.

¹⁷ "Donahue - Indecency &," video file.

unavoidable. The process of producing an artistic work comes with several restrictions to an artist's original ideas imposed by a manager, critic or editor. This relationship involves a give and take between the artists and editors, the process of creating movies or songs occurs in "collaboration between censors, authors, and critics rather than in terms of radical opposition between dumb censors and intelligent literary writers."¹⁸ Censorship, rather than being a contest between good and evil often takes place between contrasting social and artistic ideas. In order to produce a final product the original work created by the artist is altered, both by the artist themselves and by various individuals involved in the production process to create an item that serves the function of being aesthetically pleasing, marketable and operating within the genre norms of previous works of art it is attempting to add to. However, censorship also occurs to intentionally repress works because some theme is unpalatable or controversial.

Repressing a work by either restricting availability to the public or removing material is often done out of moral concern for their themes or ideas and, in a way, represent a social concern. These prohibitions, when enforced, can dramatically alter the content of art works produced and the material available to individuals. In the controversy over music in the late 1980s and early 1990s censorship is primarily carried out through private and governmental pressure on the music industry to restrict access to explicit material and to establish economic penalties for artists who have work containing explicit themes. Censorship was a weapon in the culture wars to enforce a vision of morally acceptable expression in American society and should be read as a social action, rather than only as a tyrannical one as it was often portrayed to be.

¹⁸ Robert Darnton, *Censors at Work: How States Shaped Literature* (n.p.: Norton, 2015), Page 185.

Censorship during the obscenity debates between 1985 and 1990 had varying impacts on artists. For some, like Jello Biafra of the Dead Kennedys the fight against obscenity had a detrimental effect on their livelihood and ability to express their ideas.¹⁹ However, for most artists the impact of the obscenity debate had a much more complex impact. For artists such as 2 Live Crew the obscenity arrests provided free publicity that enabled records sales to skyrocket despite having many major chains refuse to carry their albums.²⁰ Some retailers, most notably Wal-Mart, refused to carry their merchandise, making a conscious decision that some artists music did not belong in a store that prided its self on being family-friendly. Where there are a variety of media and media outlets censorship is rarely defined by a government dictate, but small parts of the community making moral decisions on the validity and acceptability of a piece of work. Censorship, as this paper will cover, is intimately associated with the cultural concerns of the time period.

¹⁹ "Jello Biafra obscenity trial 1987," video file, 9:38, Youtube, posted August 4, 2012, accessed April 11, 2016, <https://www.youtube.com/watch?v=bAkY4oS9-Y0>.

²⁰ Cole, "You Ask, We Answer," NPR.

Chapter 1: Censorship and Morality

During the 20th century American media has had a variety of censorship systems placed on it through a combination of governmental and social pressure and industry self-regulation in order to control themes of sex and violence. The histories of these episodes display how the influence of a system of censorship is heavily dependent on the organization of the media industry. This chapter will further cover the social and cultural concerns that led to calls for tighter regulation of the music industry in the late 1980s. While themes of sex and violence are always present in media, social concern over them ebbs and flows between anxiety and disinterest. The concern over popular music in the 1980s originated from the cultural concern over the moral health of the American family, which was in turmoil following the social and political changes of the previous decades. These topics are discussed in conjecture with one another to provide an understanding of the interests and concerns of both parties, the reasoning behind the music industries resistance to regulation and the basis for family concerns that dominated the discourse about the harms of violent and sexual music.

Movies provide an example of how social and governmental pressure, originating out of concerns about sex, violence and children's corruptibility, lead to the implementation of a system of self-regulation. Motion pictures first became a popular form of media in the 1890s and 1900s. At first progressive reformers viewed films as symbols of urban chaos with audiences primarily

consisting of poor immigrants attending films in high crime areas.²¹ Reformers, such as Jane Addams, attempted to steer audiences, particularly youth, away from the intoxicating glow of films and the criminal environments associated with them.²² However, as films became popular among middle class audiences reformers moved their efforts towards attempting to control the content of movies.²³

The introduction of film regulations began following the 1915 Supreme Court decision *Mutual Film Corp. v. Industrial Commission of Ohio*. The ruling declared that “the exhibition of moving pictures is a business, pure and simple, originated and conducted for profit ... not to be regarded, nor intended to be regarded by the Ohio Constitution, we think, as part of the press of the country, or as organs of public opinion.”²⁴ As a result films were denied First Amendment protections as artistic speech, opening up the possibility of local censorship boards prohibiting certain films from playing in their communities. This was a disaster for movie producers as movies could no longer be easily marketed nationally, what was acceptable in one locality may not be acceptable in another. In order to protect their business interests, especially following the 1922 death of Virginia Rappe, movie producers formed the MPPDA (Motion Picture Producers and Distributors of America), which would provide uniform regulations of film content to enable the continued national marketing of films.²⁶

²¹ Clayton Koppes, "Carmencita's Dance: Why the Movies Could not be Free" (unpublished manuscript, November 4, 2015), P. 3.

²² Jane Addams, *The Spirit of Youth and the City Streets* (n.p.: n.p., 1909)

²³ Koppes, "Carmencita's Dance: Why the Movies," P. 3.

²⁴ "MUTUAL FILM CORP. v. INDUSTRIAL COMMISSION OF OHIO," FindLaw, accessed April 13, 2016, <http://caselaw.findlaw.com/us-supreme-court/236/230.html>.

²⁵ *Mutual Film Corp. v. Industrial Commission of Ohio* was overturned in 1952 by *Jospeh Burtyn Inc. v. Wilson*.

²⁶ Koppes, "Carmencita's Dance: Why the Movies," P. 25.

Despite a lack of 1st Amendment protection films were hugely popular in the 1920s with elaborate movie palaces built to accommodate massive audiences. While the movies were popular they faced critiques for the prevalence of sex and crime as focal points for their content. To combat this the MPPDA instituted the Hays Code, named after MPPDA president William H. Hays, which outlined topics that contributed to a negative moral tone of a film.²⁷ The code included two broad sections known as the “don’ts,” which included any content that would be offensive, “irrespective of the manner in which they are treated,” which included “pointed profanity,” “any licentious or suggestive nudity” and “ridicule of the clergy,” and the “be carefuls” which stated that “special care be exercised in the manner in which the following subjects are treated, to the end that vulgarity and suggestiveness may be eliminated and that good taste may be emphasized” in topics such as “theft,” “murder” “sympathy for criminals” and “excessive and lustful kissing.”²⁸

While this code was in place until 1968, when it was replaced by the MPAA (Motion Picture Association of America) rating system,²⁹ many films circumnavigated these guidelines through the use of innuendo, intentional ambiguity and cutting scenes in a way that still transmitted provocative meanings.³⁰ Films produced during this time period such as *Blonde Venus*, produced in 1932, and *Anna Karenina*, produced in 1935, had prostitution and infidelity as central themes to the plot, the films were based around these amoral actions. To align with good taste, despite containing reprehensible themes, the films included a punishment of the

²⁷ Nora Gilbert, *Better Left Unsaid: Victorian Novels, Hays Code Films, and the Benefits of Censorship* (Palo Alto, CA: Stanford University Press, 2013), P. 17.

²⁸ "The Production Code of 1930," University of North Dakota, accessed April 13, 2016, <http://www.und.edu/instruct/cjacobs/ProductionCode.htm>.

²⁹ The MPDA was renamed the Motion Picture Association of America in 1945.

³⁰ Gilbert, *Better Left Unsaid*, P. 133

moral transgressors to make the movie carry a moral tone. In *Blonde Venus* Helena, played by Marlene Dietrich, became wealthy as a singer and dancer, but returned to her family out of her maternal obligation towards her son. Anna however, would commit suicide at the end of *Anna Karenina* as a punishment for leaving her marriage. The Hays Code major effect was controlling the narrative of films; moral transgressors were expected to receive punishment at the end of the film.³¹ By establishing a norm for the industry the Hays Code managed to restrict what a producer could put in their films, at least overtly. This system was able to remain in place due to the structure of the motion picture industry. Studios had direct control over the theatres and the movies that were shown. There was no way a studio that did not abide by the Hays Code could break into the market.³² This top down control gave clear and nonnegotiable expectations for the content of a film. For other media industries, such as the comic book industry, which allowed market forces to make moral decisions on products the implementation of self-regulation had differing impacts, in some cases almost shutting down entire companies.

One of the most dramatic examples of prohibiting a work from reaching an audience came in 1954 from the Comics Code Authority, an industry imposed regulatory agency that was created due to the widespread fear that comics were introducing sex, false idols and criminal behavior to children.³³ The Comics Code Authority carried similar themes to the Hays Code prohibiting “profanity, obscenity, smut and vulgarity” and other comic book staples such as vampires, werewolves and zombies.³⁴ The Comics Code Authority, however, was managed differently from the Hays Code. While the Hays Code was applied to films as they were being

³¹ Gilbert, *Better Left Unsaid* P. 145

³² Grossman, "Sel-Censorship by Media Industries," in ., P. 544.

³³ Grossman, "Sel-Censorship by Media Industries," in ., P. 525.

³⁴ David Hajdu, *The Ten-Cent Plague: The Great Comic-Book Scare and How It Changed America* (n.p.: Picador, 2009), P. 109.

created, in the writing and filming stages, the Comics Code Authority created a seal of approval which would be applied to all comic books on the market, saying that the comic had meet the established guidelines³⁵. If a comic did not carry a seal of approval it would be inferred that the comic contained unacceptable content, creating a market pressure to conform to the standards set up by the Comic Code Authority. As a result EC Comics, which specialized in horror and crime comics such as “Tales from the Crypt,” was shut down due to non-compliance with the Comics Code Authority.³⁶ The Code created a defined list of subject matter that could not be printed in comics that would be sold to major retailers, where comics were predominately sold, which resulted in smaller, more niche companies being eliminated from large sections of the market. The Comic Code Authority contains parallels to the PMRC rating system, which would explicitly mark references to drugs, sex and violence in albums, potentially creating a taboo against carrying explicit or controversial albums.

However, not all markings carried a negative connotation. The MPAA masterfully used film ratings as a marketing tool, especially PG-13, which was developed after public outcry in 1986 over children being exposed to violent content in *Indiana Jones and the Temple of Doom* and *Gremlins*, which were both marked G.³⁷ This outcry came from the same parental concern that influenced pressure against the music industry. MPAA film ratings are intended to classify the content of films to inform their viewers about the type of content they will be exposed to, but have been used to enhance films consumer appeals, regardless of the actual content of the film. Consumers and filmmakers alike understand that the ratings G and PG symbolize films intended

³⁵ Amy Kiste Nyberg, *Seal of Approval: The Origins and History of the Comics Code* (n.p.: University Press of Mississippi, 1998), P. 118.

³⁶ Ibid. P. 118

³⁷ "PG-13 at 20: How 'Gremlins' and 'Indiana Jones' remade Hollywood," TribLive, accessed May 15, 2015, http://triblive.com/x/pittsburghtrib/ae/movies/s_245158.html#axzz3ZNidPpYK.

for children, while NC-17 films, which replaced the X rating in 1990,³⁸ are only intended for adults.³⁹ In between those ratings are PG-13 and R, which comprise the majority of films produced since 1986.⁴⁰ Film producers aim for their films to carry those ratings because they carry the status of being non-controversial films with, as Steven Spielberg says, “a bit of hot sauce on them.”⁴¹ The producers of *Police Academy 3* actually put foul language into the film to make it carry a more mature rating so that it would not carry a rating perceived as childish.⁴² Similarly, *The Godfather* was slated to receive an X rating for the using the word “fuck” 175 times, but was pushed down to an R because that rating would dramatically decrease the market potential of the film.⁴³ The application of ratings to films created a system where content was labeled with the intent of restricting access to certain audiences, predominately children; film companies were seen as having a responsibility to prevent children from being exposed to violent or sexual subject matter. In addition to understanding the impact media self-censorship has had on the market and artists, the impulse to censor must be understood in its historical context.

In the 1980s there was a renewed emphasis on the family and making the family part of political action by groups ranging from conservative religious organizations, like Focus on the Family, to maternal organizations, like Mothers Against Drunk Driving, who viewed maintaining a stable, protected family as synonymous with the moral stability of America. In the previous decades of the 1960s and 1970s the counterculture, civil rights, feminism and gay rights challenged traditional social practices surrounding gender, sex, race and the perceived natural

³⁹ Bruce A. Austin, "G-PG-R-X: The Purpose, Promise and Performance of the Movie Rating System," *Journal of Arts Management and Law*, P. 62

⁴⁰ Barabra J. Wilson, "Applying social science research to film ratings: A shift from offensiveness to harmful effects," *Journal of Broadcasting & Electronic Media* 34, no.

⁴¹ "PG-13 at 20: How 'Gremlins,'" *TribLive*.

⁴² Stephan Vaughn, *Freedom and Entertainment: Rating the Movies in an Age of New Media* (New University Press, 2006), P. 196

⁴³ Vaughn, *Freedom and Entertainment: Rating*, P. 152

framework of the nuclear family. The culture wars were about how to maintain the moral compass of society in light of the social, economic and political changes that altered the narrative of “national purpose” in America.⁴⁴ The discussion of these issues premises the discussion of music; the same tensions that existed between varying constructions of the national moral fabric in the 1960s, 70s and 80s existed in the discussion of music.

In the 1960s and 1970s women began to take greater autonomy over their working lives and bodies through greater access to birth control methods and increased access to the workforce. Books like Friedan’s *The Feminine Mystic* challenged middle class housewives to break out of their “comfortable concentration camps,” which limited their opportunities to realize “their human abilities.”⁴⁵ As women fought to redefine their social roles they broke down institutional barriers to accessing the workforce. Title VII of the 1964 Civil Rights Act made it illegal to discriminate based on sex in the hiring process.⁴⁶ Following the passage of the Civil Rights Act a series of successful court cases built around Title VII led by the National Organization for Women (NOW) repealed various “protective” laws that limited women’s advancement in the workplace by limiting the number of hours worked and positions that women could hold.⁴⁷ Similarly, a series of Supreme Court cases, *Griswold v. Connecticut* in 1965 and *Roe v. Wade* in 1973, gave women greater control over their reproductive lives by allowing access to abortion and birth control. The institutionalization of these practices enabled women to play a larger economic role, but also increased their ability to leave traditional roles as mothers

⁴⁴ James Davidson Hunter, *Culture Wars: The Struggle to Define America* (New York, NY: Basic Books, 1991), P. 32

⁴⁵ Self, *All in the Family*, P. 104.

⁴⁶ *Ibid.* P. 112.

⁴⁷ *Ibid.* P.112.

and housekeepers, upsetting a perceived natural order that existed in the family. While these changes were not intended to be “anti-family” individuals who believed the family had irreplaceable social importance responded with intense criticism; John Schmitz, a member of the John Birch Society foresaw the “destruction of the basic family unit” arising out of these changes.⁴⁸ The process of women’s liberation was a point of cultural conflict between contrasting understandings of the importance of the American family, whether gender and family roles were “subject to sociological contextualization and relativism” or “cemented obligations between the individual and society.”⁴⁹

While heterosexual women threw off aspects of the traditional family the rise of gay liberation in the 1960s and 1970s allowed for homosexual men and women to make their own lifestyles more socially acceptable. Homosexuals in the 1960s and 1970s became a politically active group as they fought against the perception that their sexual tendencies were a mental disease as well as operating newspapers and magazines that created a visible gay culture. Again, the social changes that occurred were interpreted through their impact on the American family. In many cases there was outright disapproval of the relationship between homosexuality and the family. In 1971 Mary Jo Risher, a lesbian, was sued for custody of her children by her ex-husband, claiming that her lesbianism made her unfit to be a mother with the fathers lawyer claiming the children should not become “a guinea pig for someone else’s social experiment.”⁵⁰ The social changes around homosexuality and women’s liberation were interpreted through its

⁴⁸ Ibid. P. 276.

⁴⁹ Ibid P. 279.

⁵⁰ Ibid. P 232.

impact on the family. The view of the family became an important marker for cultural and political viewpoints, which would be demonstrated in the discussion over music regulation.

In reaction to the changes in society, pro-family movements began to gain public traction by placing familial values in opposition to the potentially morally bankrupt America that these massive social changes threatened to bring about. Pro-Family activists such as Phyllis Schlafly stated how support for the Equal Rights Amendment would result in a fundamental change in political and social structure with “government-financed abortions, government supported health care and lesbians teaching in our schools.”⁵¹ The rise of evangelical preachers, conservative organizations as well as individuals concerned for “traditional American values” formed a silent majority to fight back against the “activist element who would tell us that our values are lies.”⁵²

In the 1980 election Ronald Reagan was swept into power on a message of renewing Americas political and economic strength and moral values. Ronald Reagan talked about the family as something that had been victimized in the previous decades, that the presence of abortion, the fight over the Equal Rights Amendment and radical women’s liberation had brought chaos to traditional American society and that it was American’s job to restore order to an embattled institution.⁵³ The notion of victimhood being applied to the American family and American society by exterior forces, forces that do not meet the perceived traditional standards of America and American families, was a strong moral narrative in the 1980s. While this narrative was forged in debates about the role of family following massive social changes it transformed into the culture wars where conflicts over specific cultural institutions and practices

⁵¹ Ibid. P. 380.

⁵² Ibid. P. 256

⁵³ Ibid. P. 276.

in the media and arts, law and education became battlegrounds for the values that should shape American life, which plays out in the debate over violent and obscene music between 1985 and 1992.

While the culture wars have been interpreted to be a liberal versus conservative debate the distinction of each side of a cultural issue is not clear cut, often organizations and individuals with different political, religious and ideological outlooks form a coalition over a single issue. In the case of music there are many ideological and moral outlooks that combine under the umbrella of opposition to the current state of violent and sexual media. The discussion of music will incorporate moral concerns for the family, which are tied in with the changing fabric of American society. The PMRC and Jack Thompson presented critiques of music that touched on concerns of American families; proper childrearing, sexual abuse, drug use and suicide. The debate over censorship is both a discussion about free speech as it is about morality and how to shape American media in the correct way, an often-contested point.

Chapter 2: Rockin' and Rollin' with the PMRC

The PMRC hearings were the first major event in the American culture wars over art and entertainment, which spanned the mid 1980s to the late 1990s. The hearings brought together individuals with differing viewpoints on how to properly manage controversial material, varying from industry regulation, to allowing parents to be the moral watchdogs for their children, to avoid imposing a moral code on musicians and entertainers. The moral concerns of the PMRC were expressed in a narrative of a mother struggling to raise moral kids in a corruptive society, which garnered widespread support from American parents. The support for this narrative is best understood in its historical context, how changes in American media, society and family structure generated very sincere concerns for many parents and community leaders about the moral health of their children. This view was based off of a different understanding of how American society should be structured, around protecting the family more so than the rights to free speech that were argued for by the PMRCs opponents. The historiography of the culture wars frequently focus on a liberal/conservative-religious divide, however these sincere concerns, both for community health and free speech issues, brought together many different organizations with varying social and religious convictions into loose coalitions. The PMRC, frequently viewed as a conservative, religiously based organization was driven by a variety of influences ranging from the views of religious figures, as well as concerns for the developmental and sexual health of women and children.

Starting in the late 1970s social concerns over the perceived breakdown of the nuclear family, increased drug use and the visibility of cults and Satanism were partially attributed to controversial rock and heavy metal musicians. Christian groups argued that rock groups such as Black Sabbath, Dio and Alice Cooper were aiding in the erosion of familial and Christian values from American society. Different religious figures decried the purported negative effects of music, ranging from its satanic elements to its hastening of family disintegration. Jeff Goodwin, in his book, *Dancing with the Devil: The Music's Real Master* describes how musicians, like Led Zeppelin, draw their influences from satanic practices.⁵⁴ Goodwin compares rock's intense rhythm to the "druid demon worship of Celtic England" and the "voodoo ceremonies of Africa."⁵⁵ While Goodwin presents fantastical claims about certain musicians his message spoke to a developing idea that American society, especially children, were becoming corrupted by changing social dynamics, as well as new forms of media.

Other writers echoed concerns about corruption, connecting it to difficulties parents faced trying to raise their kids in a culture drenched in drugs and sex. Bob Larson, an evangelical preacher, wrote a self-help book in 1980 entitled *Rock: Practical Help for those listen to the Words and don't like what they Hear*, which affirmed fears that rock music was undermining family stability. Larson describes the youth culture around rock and roll as an unfortunate search for belonging that has come from the lack of religious guidance in society. Addressing parents Larson states "the irony is that your children most likely want to be nonconformist and yet end up conforming to the nonconformity of their culture," arguing that children are susceptible to this "non-conformist culture" because they lack exposure to Christian principles that would enable

⁵⁴ Jeff Goodwin, *Dancing with the Devil: The Musics Real Master* (n.p.: Chick Publications, 1988), P. 12.

⁵⁵ Ibid. 12.

them to discern between godly and ungodly behavior.⁵⁶ Larson claims that children's lack of moral guidance makes them susceptible to other social ills including drugs, homosexuality and cults.⁵⁷ These social problems are portrayed as emblematic of larger cultural shifts. The counterculture popularized drug use and the sexual revolution normalized promiscuity and homosexuality.⁵⁸ Musicians, mimicking social changes incorporate sex and drugs into their music, raising these "themes to the level of acceptance and familiarity."⁵⁹ Rock music and its social impact were tied to an uncertainty and disapproval of the changing aspects of American culture, especially around sex and drugs. Goodwin's writings present a prime example of the culture wars; smaller debates over music are intimately associated with broader social concerns about how society should function.

Many critiques of popular culture came from religious organizations. However, groups without a religious focus, like the PMRC, joined the fight. The PMRC was founded in 1985 by Tipper Gore, wife of Democratic Senator Al Gore, and Susan Baker, wife of United States Secretary of the Treasury James Baker, out of the concern that record companies were selling excessively sexual and violent messages to children. Tipper Gore dubbed this process the "sexploitation industry," which sold and marketed excessively sexual artists at the expense of the sexual health of pre-teens and teens.⁶⁰ The sexploitation industry was based on the "celebration of the most gruesome violence, coupled with the explicit message that sado-masochism is the

⁵⁶ Bob Larson, *Rock: Practical Help for those how Listen to the Words and don't like what they Hear* (n.p.: Tyndale House, 1980), P. 58

⁵⁷ Ibid. P. 26.

⁵⁸ Ibid. P. 49.

⁵⁹ Gore, *Raising PG Kids in an X-Rated*, [Page 13].

⁶⁰ Tipper Gore, "Curbing the Sexploitation Industry," *New York Times*, March 14, 1988, Opinion,

essence of sex.”⁶¹ Echoing feminist thinkers like Andrea Dworkin and Catherine MacKinnon, Tipper Gore argued that the entertainment industry sold products that devalued women, as well as family values, with little to no oversight.⁶² The portrayal of women as sex object led to the “derogation of the status of women,” a critique of pornography by MacKinnon, and according to Gore, cheapened loving relationships and conflated ideas of domination and violence with sex.⁶³ Tipper Gore describes a number of songs including Motley Crue’s “Ten Seconds to Love,” AC/DCs “Shoot to Thrill,” and Judas Priest’s “Eat Me Alive” as examples of the how “the tools of violence are increasingly used a metaphor for sex.”⁶⁴ The penis is conflated with a weapon, a gun or a knife and the vagina as a “cake to be cut, or butter to be sliced.”⁶⁵ This overwhelming influence in teenager’s and preteen’s lives conflated sensitive, adult subjects with the violence of action and horror movies, giving children a flawed and harmful impression of sex. Even though the PMRC and conservative Christian organizations approached these issues from different perspectives the two groups were intertwined, organizations like the Christian Broadcasting Network’s 700 Club and the Religious Booksellers convention distributed Tipper Gores book, *Raising PG Kids in an X-Rated Society*.⁶⁶ Additionally, non-religious organizations, the National Parent-Teacher Association and the American Academy of Pediatrics publicly supported the PMRC.⁶⁷ The historiography of the culture wars frequently displays the conflict between

⁶¹ Ibid.

⁶² Gore, *Raising PG Kids in an X-Rated*, P. 34.

⁶³ Donald Downs. *The New Politics of Pornography*. Chicago, IL: The University of Chicago Press, 1989. P. XVII

⁶⁴ Gore, *Raising PG Kids in an X-Rated*, P. 70

⁶⁵ Ibid. P. 88

⁶⁶ Claude Chastagner, "The Parents' Music Resource Center: From Information to Censorship," in *Popular Music*, 18, no. 2 (1999) P.181

⁶⁷ Ibid. P 191.

religious organizations and civil liberty organizations. However, the topics being discussed were controversial to many people for a variety of reasons, resulting in a plethora of organizations with differing religious and social conviction organizing into a broad coalition with the same focus.

Gore's critique of music was attached to broader social issues that made amorality more acceptable and made children more vulnerable. A major social influence for children was the systemic lack of parents being home consistently, which House of Representatives member Sala Burton referred to as "latch-key kids."⁶⁸ Millions of children arrived home from school every day to having both parents away at work, which left children alone to watch and listen to their favorite media, which, unbeknownst to them, was influencing their intellectual and moral development in a way that was detrimental to them. Tipper Gore and Sala Burton pointed out that the development of two-breadwinner households had reduced the amount of time parents could spend with their children, which was being replaced by media, some of which told children to "disconnect from society" and engage in harmful behavior.⁶⁹ The music industry was viewed as profiting from the exacerbation of social problems that were already occurring in society due to economic and social shifts.

As a way to inform parents of the potentially corruptive subject matter their children could be exposed to without their knowledge, the PMRC requested the music industry to implement a rating system for albums prior to the PMRC Senate hearings. The PMRC proposed that albums containing unsuitable content be marked with a corresponding letter. X for "profane or sexually explicit lyrics," V for violence, D/A for drug and alcohol references and an O for

⁶⁸ Gore, *Raising PG Kids in an X-Rated*, P. 44.

⁶⁹ *Ibid.* P. 44

references to the “occult.”⁷⁰ The system was based on the MPAA ratings system, which was designed to inform parents about the content of the films their children were watching. However, compared to the MPAA rating system, which was based on age and did not noticeably stigmatize movies, excluding the X rating, which was viewed as a denoting pornography, this proposed system was noticeably stigmatizing.⁷¹ Ratings explicitly citing controversial content would immediately stigmatize the album, which could impact its sale or display in stores or create pressure for labels to avoid signing controversial artists.⁷² The RIAA did not want to be forced into directly stating the explicit content of albums and said that implementing a ratings system would be impossible because of administrative difficulties. Stanley Gortikov, then president of the RIAA, cited the difficulty in applying a ratings process similar to films on albums. No board or agency would be able to administer ratings to every “tune” that came out in a single year.⁷³ Opponents of regulation viewed regulation as censorship and a moral dictation from the minority onto the majority, infringing a musician’s right to free speech.⁷⁴ It is important to note that the opposition to the ratings system had two influences, one being speech, the other being the potential loss of revenue for groups who produced explicit music may experience with a system of regulation that stigmatized their music.

The PMRC hearings were the first major event in the culture wars over music, laying out contrasting notions of free speech, the role of censorship in society and how to balance social good with social liberty. John Denver, Frank Zappa and Dee Snider gave testimonies about the

⁷⁰ Cole, "You Ask, We Answer," NPR.

⁷¹ The X-Rating also marked films with violent content but was often viewed as denoting pornography. This was the reason behind the change in 1990 to the NC-17 rating, which did not carry a pornographic association.

⁷² Grossman, "Self-Censorship by Media Industries," in ., P 475.

⁷³ Cole, "You Ask, We Answer," NPR.

⁷⁴ Kaszuba, "Frank Zappa at PMRC," audio file.

dangers of moral dictation to a free society and the importance of free speech. Similarly psychologists, pastors, senators and members of the PMRC gave testimonies about the issues present in popular music. The PMRC brought the issue of applying warning labels into the public consciousness, which gradually gained public support with only 21% of adults supporting stickering prior to the PMRC hearings, by 1991 support had risen above 50%.⁷⁵

On September 19th, 1985 the PMRC hearings were held before the United States Senate Committee on Science, Commerce and Transportation. Underlying the event was a debate over what the intention of the hearings were and how the hearings would impact music regulation in America. The PMRC stated that the intentions behind the hearings were “to educate and inform parents of this alarming new trend ... towards lyrics that are sexually explicit.”⁷⁶ The goal of the hearings were to educate, but the fact that the hearings took place in front of the United States Senate and included an organization of well connected politicians wives a system of government enforced censorship looked plausible. Artists saw the hearings as nothing short of a dictation by the PMRC about the content of their music. Gene Simmons, the front man of the band KISS, stated that the hearings were saying “a small group can dictate to the masses a moral tone” for media, which would lead to increased control in the name of morality, “records first, then books, [then] television,” speaking to an impression that the PMRC hearings were an attempt to enforce a conservative moral tone on American media.⁷⁷ The hearings were an elaborate way to put pressure on the music industry into “polic[ing] itself,” but sending the message, according to

⁷⁵ Chastagner, "The Parents' Music Resource," in *Popular Music*, P. 185.

⁷⁶ Gore, *Raising PG Kids in an X-Rated*, [Page 20].

⁷⁷ Roger Wolmuth, "Parents vs. Rock," *People*, September 16, 1985

PMRC member Sally Nevius, that “if they refuse we’re going to look for legal ways” to enforce music regulation.⁷⁸

The PMRC hearings served as a platform for groups to express their disapproval of recent music trends which pushed the limits of acceptable speech, and backed up their impressions that music was corruptive with evidence from both secular and religious authorities, who presented concerns about corruptive themes in music. Musicians were pushing their right to free speech beyond its acceptable bounds. Senators Hollings, Tribble and Gore started the hearings by expressing their concern about the content of rock music. Senator Tribble, in his statement, described music that contains “rape, incest, sexual violence and perversion” as “sand-paper on the soul” rubbing away one’s moral capacities to tell the difference between right and wrong.⁷⁹ Senator Tribble’s sentiments would be rehashed by two psychologists of music, Dr. Joe Stuessy and Dr. Paul King, who testified that music impacts behavior through constant repetition of a message.⁸⁰ The two psychologists remarked that the multi-media platforms, such as music videos, which have become a staple in music, intensify the negative impact of music by influencing the “conscious and subconscious.”⁸¹ Reverend Bonniwell, of the Faith Christian Fellowship Church, remarked that deviant music has the potential to “gouge out” the “moral eyesight of our youth.”⁸² The criticisms of certain rock and metal groups showed a fundamental

⁷⁸ Ibid.

⁷⁹ "First Session on Contents of Music and the Lyrics of Records," accessed April 15, 2016, <http://www.joesapt.net/superlink/shrg99-529/>.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Ibid.

distrust of the way musicians were allowed to express themselves through music, generating the need for tighter regulations.

However, musicians speaking at the hearings argued that the PMRC's intent was to censor music that they knew relatively little about, claiming that the majority of the perceived social harm of music was a gross misinterpretation by the "bored housewives" who made up the PMRC and that it was the responsibility of parents, not the government or PMRC to regulate their children.⁸³ Both John Denver and Twisted Sister vocalist Dee Snider cited songs that they had written and faced criticism for because of a "gross misinterpretation"⁸⁴. Snider cited his song "Under the Blade," which he had written about Twisted Sister's drummer, A.J. Pero's fear of surgery, a song Tipper Gore had misinterpreted to be about "bondage, sadomasochism, and rape."⁸⁵ John Denver cited his song "Rocky Mountain High," which was banned from numerous radio stations because of its suspected promotion of drug abuse despite Denver saying the song was about the "joy in living that one feels when he observes something as wondrous as the Perseid meteor shower."⁸⁶ These two examples speak to the artists fear that their music will be judged, and potentially banned, because of a flawed artistic interpretation by a "self-appointed watch dog" like the PMRC. Frank Zappa describes the PMRC's proposal, and any legislation, as "the equivalent of treating dandruff by decapitation."⁸⁷ The issue of regulating music is best handled by parents, in their view, to minimize the potential for stigmatizing artists and having a moral tone dictated to all members of society. The division between opinions on the management

⁸³ Kaszuba, "Frank Zappa at PMRC," audio file.

⁸⁴ "John Denver at PMRC Hearings," video file, 7:38, posted July 21, 2010, accessed April 15, 2016, <https://www.youtube.com/watch?v=VgSjjD6rRu4>.

⁸⁵ "Dee Snider's PMRC Senate Hearing Speech (Full)," video file, 30:28, accessed April 15, 2016, <https://www.youtube.com/watch?v=S0Vyr1TylTE>.

⁸⁶ "John Denver at PMRC," video file.

⁸⁷ Kaszuba, "Frank Zappa at PMRC," audio file.

of social morality is the division that drove the culture wars. These contrasting understandings of how to manage individual freedoms with the overall social good, and if that management was even necessary outside of parental rights, was the tension that existed in the PMRC hearings and plays out again and again in the discussion of music, art and free expression.

Prior to the hearings being held Stanley Gortikov met with the PMRC and agreed to an industry-implemented regulatory system. 22 of the 42 companies that were members of the RIAA, which accounted for approximately 80% of the records sold in the United States, agreed to affix warning labels to albums that contained explicit lyrics or themes, known as Parental Advisory Labels (PAL), soon dubbed “Tipper stickers.”⁸⁸ By implementing self-regulation the RIAA was able to avoid a harsher regulatory system, such as the rating system originally proposed by the PMRC, or any potential legislation, and appeared to be taking social responsibility for their content while keeping the actual control of the music in the industries hands.

Because the RIAA was a loosely associated group of record labels with various stores that operated relatively independently of one another the impact of the warning sticker was mixed, primarily impacting larger record labels. Each record label had the liberty of deciding if an album warranted an explicit content sticker, which, compared to the PMRC’s original demands were loosely applied. Between January 1986 and August 1989 only 49 albums had any form of explicit content warning; comparatively, the PMRC said that 121 albums produced during that time frame warranted a warning sticker.⁸⁹ These stickers were applied with little uniformity; many artists and record labels printed small labels, placed them on the back of the

⁸⁸ Grossman, "Self-Censorship by Media Industries," in ., P. 519.

⁸⁹ Chastagner, "The Parents' Music Resource," in *Popular Music*, P.184.

album, or even made the sticker appear like it was part of the art work of the album.⁹⁰ Larger companies including EMI, CBS and Columbia records applied the majority of the PAL stickers and attempted to sanitize raunchier artists like the Beastie Boys.⁹¹ Once the record got to market the presentation of the record was in the hands of the store. The PMRC wanted all records with a warning label to be placed under the counter or in the back, somewhere where a customer would have to ask for the record, reducing the chances of children buying the album and creating a barrier to anyone who would want to buy it.⁹² While some record stores did separate explicit albums many continued to place them on display with the rest of the merchandise.⁹³ The structure of the music industry, with loosely associated labels and independent stores, did not allow for the implementation of a strict censorship system without forced compliance.

The PMRC was ultimately unsuccessful in implementing its desired regulation of the music industry. However, it did publicize a debate over what kind of music is acceptable in American society, especially when dealing with children. Despite the PMRC's lack of success in implementing regulation Tipper Gore has become a cultural icon of the prudish, conservative mother who was a favorite target of musicians wanting to lash out against critiques of their music. In 1987 the punk band NOFX released an EP entitled "The PMRC Can Suck on This" with the album cover featuring televangelist Jim Bakker being pegged by his wife. By 1989 rapper Ice-T and heavy metal bands Megadeth and Danzig all released songs targeting Tipper Gore and the PMRC. In the culture wars over music the moral concerns of parents and activists were delegitimized through caricatures of them as blind, moral absolutists. Despite the

⁹⁰ Chastagner, "The Parents' Music Resource," in *Popular Music*, P.184.

⁹¹ Richard Harrington. "The Lyric Label: Will it Stick?" *The Washington Post*, May 9, 1990.

⁹² Clark, "As Nasty as they," in ., P.1501.

⁹³ Clark, "As Nasty as they," in ., P. 1501.

construction of Tipper Gore and the PMRC as conservative the divide between the culture wars into a conservative and liberal debate is not historically accurate as the following chapters will seek to explore.

Chapter 3: Killing the Dead Kennedys

The aftermath of the PMRC hearings left the record industry in a place where it appeared to be neglecting its social duty to consumers. The majority of PMRC requests were left out of the RIAA-PMRC agreement and record labels largely ignored the agreement to sticker albums. The themes of sex, violence and drug use still played a major role in many band's lyrics; those themes were still making it into American homes. Labels and bands that promoted those themes were viewed by the PMRC and their supporters as ignoring their social responsibility of either refraining from having controversial themes in their music or stickering their albums. Between 1985 and 1990 a series of suicides and murders created national debate about the impact of music on the moral and psychological health of children and young adults when combined with a breakdown in family structure. Heavy metal, including punk and hard rock, were depicted through a "corruption frame," both by the PMRC in 1985 and by the media when reporting on these events, where lyrics that glorify "suicide" "anti-authority attitudes" and "deviant sexual acts have a negative effect of children's attitudes."⁹⁴ Tipper Gore echoes many parents' frustrations when she laments how children get lost in the music they listen to. Children listening to rock and heavy metal, with its sexual and violent themes seem "addicted," and in a parents worst fear "about to overdose."⁹⁵ The moral fears of parents are intimately related with the drive

⁹⁴ Amy Binder, "Constructing Racial Rhetoric: Media Depictions of Harm in Heavy Metal and Rap Music," *American Sociological Review* 58, no. 6 (December 1993): P. 758.

⁹⁵ Gore, *Raising PG Kids in an X-Rated*, P. 48.

to censor the seemingly corruptive material which would play out in one of the most impactful censorship events in the 1980s with the punk rock group The Dead Kennedys.

In 1985 and 1986 reports circulated in the *New York Times* and California State Task Force on Youth Gang Violence that gangs made up of white male youths formed around a combination of “enthusiasm for certain rock music” and the “use or sale of drugs” had begun to emerge in the suburbs of Los Angeles.⁹⁶ The gangs began to earn a reputation for drug use and destruction of property, one member saying that their favorite thing to do is to “take drugs and get crazy.”⁹⁷ Rock music, alongside familial issues were cited for the emergence of these gangs. *The New York Times* describes how most, if not all of the boys come from homes where the “family dynamics are pretty screwed up...they only have one parent, they don’t supervise them properly.”⁹⁸ This instance appeared to confirm a two-pronged social phenomenon where the breakdown of traditional family structure coupled with corruptive media’s influences led children to participate in gang activity.

Around the same time that these youth gangs were being reported in *The New York Times*, a serial killer who was supposedly influenced by heavy metal was terrorizing Los Angeles. The killer was dubbed the “night stalker,” taken from an AC/DC song “Night Prowler,” which describes a character who attacks people in the night.⁹⁹ The connection between the serial killer and the band was made after police found an AC/DC hat at one of the murder scenes that

⁹⁶ Judith Cummings, "YOUTH GANGS RISE IN SUBURBS IN WEST," *New York Times*, January 12, 1986

⁹⁷ Doug Smith, "White Punks a New Puzzle in Gang Scene," *Los Angeles Times*, July 28, 1985

⁹⁸ Cummings, "YOUTH GANGS RISE IN SUBURBS,"

⁹⁹ Wolmuth, "Parents vs. Rock,"

was believed to have belonged to the killer.¹⁰⁰ The band and the genre of heavy metal came under scrutiny following the Night Stalker case, which appeared to confirm the worst fears about the genre and the influence it had on its listeners. Richard Ramirez, the Night Stalker, was rumored to have been a practicing Satanist, based on the evidence that he made several of his victims “swear to Satan” and many of his murders seemed to incorporate ritual torture or removal of parts of victims’ bodies, such as the eyes.¹⁰¹ Ramirez’s fondness for Satanism was supposedly influenced by AC/DC, a band that had released albums such as “Highway to Hell.” The media’s conflation of Ramirez with AC/DC solidified the narrative that music was corruptive and harmful, leading AC/DC to face public pressure from local governments.

After the arrest of Ramirez in August of 1985 AC/DC, which was on tour in America at the time, was met with resistance from local governments and music promoters because of their association with Ramirez. In Springfield, Illinois the City Council attempted to prohibit AC/DC from playing a show.¹⁰² Despite eventually being able to play their scheduled show the band played to a crowd approximately half the size of what they were expecting prior to the cities prohibition.¹⁰³ When advertising in Los Angeles, the same city the Night Stalker had operated in, the *Los Angeles Times* advertising department asked to see the advertisement poster prior to publishing any ads to ensure that it contained nothing “excessively violent.”¹⁰⁴ AC/DC’s manager considered the recent controversy that had sprung up as restricting their airplay,

¹⁰⁰ "AC\DC INTERVIEW NEWS NIGHT STALKER 1985," video file, 3:23, posted March 22, 2010, accessed April 15, 2016, <https://www.youtube.com/watch?v=0W4bxnpbw4>.

¹⁰¹ Ibid.

¹⁰² Dennis Hunt, "AC/DC's Young: Can't People take a Joke," *Los Angeles Times*, October 13, 1985

¹⁰³ Ibid.

¹⁰⁴ Ibid.

decreasing their ability to advertise to fans. “Stations play it safe in their programming. They don't want to play anything controversial. That means they don't play AC/DC.”¹⁰⁵ As a result tickets for their shows were “selling very slowly,” compared to initial expectations.¹⁰⁶ The Night Stalker episode showed how the association of criminality, or simple indecency, with music, or any media could create a social backlash, which led to support for tighter regulations which created marketing and advertisement difficulties.

During this time the desire to restrict cultural products deemed obscene or harmful was not just limited to music, the culture war played out of many fronts, seeking to determine what constituted permissible social expression and how cultural products should be regulated. These instances focused on changing the habits of private industry. Like the PMRC many of organizations focused on the issue of pornographic or violent material reaching children and becoming commonplace in society. Reverend Donald E. Wildmon, head of the American Family Association (AFA), threatened mass consumer boycotts of 8,100 supermarkets and 7/11s owned by the Southland Corporation if they did not pull Playboy and Penthouse magazines from their stores.¹⁰⁷ A sense of social responsibility galvanized groups such as the AFA, Focus on the Family and National Parent-Teacher Association (NPTA) to engage in the culture war to promote, what they viewed as, beneficial social norms to children and families.

While, the more collective side of the culture war organized itself the more individualistic side responded with social organization and philosophical responses to “misdirected” attempts to shape cultural values. In an article entitled “Teaching Values is Better than Policing our

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ Hunter, *Culture Wars: The Struggle*, P. 236.

Children's Lives" Oberlin, Ohio resident Deborah Myerson responds to Tipper Gore's attack on record industry practices calling for "concerned parents to teach ideals that consciously reject those values deemed degrading and harmful, most notably to women, by the media."¹⁰⁸

Myerson's response epitomizes the individualistic side of the 1980s culture wars, stating that individuals are best left alone to make reasonable decisions for their moral conduct rather than feel as if the moral tone of art and entertainment has to be dictated to them. Fighting for this outlook on how society should conduct itself Frank Zappa, who testified at the PMRC hearings, founded the Musical Majority alongside the ACLU to provide legal help to artists who began facing legal pressure for their works, later providing legal help to Jello Biafra and 2 Live Crew.

The information presented by the PMRC and media outlets about the harms of listening to certain heavy metal and rock artists was mostly correlative, no direct connection had been made between behavior and music. In 1988 the Court of Appeals of California heard *McCollum v. CBS*, a case where the plaintiffs claimed heavy metal icon Ozzy Osbourne's song "Suicide Solution" formed a "proximate cause of John [McCollum's] suicide."¹⁰⁹ John had reportedly been listening to the song when he shot himself on October 26th, 1984. Thomas Anderson, the lawyer for the McCollums, argued that Osbourne's personality and musical style made him able to "develop a special relationship of kinship" with his audience which made him able to "incite vulnerable listeners to respond to his music."¹¹⁰ Further, CBS knew the "specific target group of young males, which Ozzy Osbourne was marketed to, "were extremely susceptible to the

¹⁰⁸ Deborah Myerson, "Teaching Values in Better than Policing our Childrens Lives," *New York Times*, March 15, 1988, Opinion

¹⁰⁹ *Jack McCollum v. CBS, INC. Et. Al.*, 249 Cal. Rptr. 187 (Court of Appeals of California, Second District, Division Three 1988).

¹¹⁰ *Ibid.*

external influence and directions from a cult figure such as Osbourne” as many were trying to cope with “issues involving self-identity, alienation, spiritual confusion and even substance abuse.”¹¹¹ Anderson’s argument for Osbourne’s responsibility was incredibly damning towards the music industry, who were constructed as willfully selling and promoting, and even developing, a musician that appeals to an already vulnerable and confused demographic. The suicide and following trial spoke to the worst fears of parents, the possibility that their child could be corrupted, and even killed, by the music industry. The trial and implication of the plaintiff’s argument rested on a narrative of corruption that had hung around the many musicians publicly since the PMRC hearings. The social and cultural understandings of music that were being developed in the culture wars debate were becoming part of the legal discourse, the courts were becoming an area of cultural conflict for music.

The parts of the record industry that worked with controversial musicians recognized the social impact of the trial as well as the potential legal and marketing impact. CBS attorney William Vaughn recognized that “if CBS and Ozzy Osbourne are held civilly liable for what is on those records then all the rest of those works are in trouble.”¹¹² If the work was deemed responsible for McCollum’s suicide then other musicians who have lyrics referencing violence could be held liable, both restricting their speech and producing a legal nightmare for the record labels associated with those artists. However, CBS won the case by showing that their speech did not “incite or produce” Johns action, enabling the song to retain First Amendment protections as

¹¹¹ Ibid.

¹¹² Kim Murphy, "Suit Claiming Ozzy Osbourne Song Led to Suicide Dismissed," *Los Angeles Times*, December 20, 1986

it was not a “direct incitement to imminent violence.”¹¹³ By winning the case CBS was freed of liability and the procedural safeguards of the American constitution protected them from prosecution.

While CBS was successful in its legal defense the trial showed the power legal action had in censoring artists who had controversial lyrics. While the PMRC hearings were designed to educate individuals about the potential harm that certain metal and rock musicians had to the moral and social development of children legal action presented the potential to solidify opposition to those artists through law. CBS faced being liable for a suicide. Legal action formed a new weapon in the culture wars, just as economic boycott did. Even if legal action was not successful against artists, especially smaller ones, the legal fees and time away from producing music would act as a form of censorship.

In 1985 the Dead Kennedys released their third album *Frankenchrist* which featured a poster entitled “Landscape XX” better known as “Penis Landscape,” which showed a series of penises penetrating anuses. Mocking the recently implemented “Parental Advisory: Explicit Content” sticker, saying the uglier side of life shouldn’t be hidden, the Dead Kennedys affixed a label reading “some people may find this poster shocking, repulsive and offensive. Life can sometimes be that way.”¹¹⁴ To a mother in California the image was shocking and offensive, leading to the woman reporting it to the State Attorney’s Office as obscene material. On August 15th, 1986 Jello Biafra was arrested on charges of distributing obscenity to minors. Police raided

¹¹³ Jack McCollum v. CBS, INC. Et. Al., 249 Cal. Rptr. 187 (Court of Appeals of California, Second District, Division Three 1988).

¹¹⁴ “Jello Biafra obscenity trial,” video file.

his home and the recording studio where he and his band worked.¹¹⁵ In August, 1987 Biafra and Michael Bonanno, the manager of Alternative Tentacles, The Dead Kennedys record company, where brought to trial. The arrest and trial dealt with a constantly controversial topic in American life, sex. While Biafra claimed that the piece showed the issues with modern society, “how we are fucking each other in more ways than one,” the work dealt with sex in a way that offended and shocked many people, as it was intended to do, which ultimately brought on the desire to censor it.¹¹⁶

The Dead Kennedy’s trial showed that the state could take down an artist for transgressing into the realm of obscenity by applying legal force at a local level and threatening a group’s access to the market. In order to avoid the potential year in jail and the label of obscenity being placed on their music Biafra and Bonanno poured everything that they had into defeating the accusation.¹¹⁷ Biafra and Bonanno, as well as the ACLU of Southern California, which aided in their defense, did end up “winning,” the judge declared a mistrial and they were acquitted of all charges.¹¹⁸ Despite winning the trial Jello Biafra and Michael Bonanno lost the battle, effectively having their artistic production shut down and having their financial state devastated.¹¹⁹ Biafra personally tallied legal fees in excess of \$55,000 as well as lost potential revenue from being unable to tour and having his albums pulled from the shelves of major record store chains such as Wherehouse, which pulled not only the *Frankenchrist* album, but the entire

¹¹⁵ Clark, "As Nasty as they," in ., P. 1556.

¹¹⁶ "Jello Biafra obscenity trial 1987." Video file, 9:38. Youtube. Posted August 4, 2012. Accessed April 11, 2016. <https://www.youtube.com/watch?v=bAkY4oS9-Y0>.

¹¹⁷ Ibid.

¹¹⁸ Clark, "As Nasty as they," in ., P. 1534

¹¹⁹ "Jello Biafra obscenity trial 1987." Video file, 9:38. Youtube. Posted August 4, 2012. Accessed April 11, 2016. <https://www.youtube.com/watch?v=bAkY4oS9-Y0>.

Dead Kennedy discography.¹²⁰ Both Alternative Tentacles and Greenworld, the record distributor for Alternative Tentacles, were both forced to file for bankruptcy. Additionally, The Dead Kennedys broke up during this time period, citing legal difficulties as well as musical differences and personal reasons. The Dead Kennedy's, as a force in punk rock, were defeated. Speaking after the trial Biafra stated that it would be "at least a year" before he would be capable of producing any music.¹²¹ Michael Guarino, the prosecutor for the California State Attorneys Office was jubilant and regarded the trial as a "cost effective" way of sending the message out.¹²² Guarino showed that by placing a criminal label on an artists work record store chains would be unwilling to carry their albums out of fear of being prosecuted for carrying obscene material. The destruction of the Dead Kennedys showed the power that the legal prosecutions had against artists, shutting down not only the artists themselves, but also their access to consumers and some of their social credibility by putting a black mark of smut peddlers on their public image.

The Dead Kennedy prosecution was the first use of the court system as a weapon against obscene music in the "porn rock wars" started by Tipper Gore with the PMRC congressional hearings.¹²³ Organizations that opposed the current trends in music no longer had to rely on developing a cultural backlash against artists by arguing for their views through media and pointing to examples of corruption that confirm their predictions. They could now go directly to the source of production for explicit music and set up a system of censorship that restricts and artists ability to market and produce their work. The organization Focus on the Family and anti-obscenity activist Jack Thompson would carry out the most famous and impactful of these

¹²⁰ Clark, "As Nasty as they," in ., P. 1557.

¹²¹ "jello biafra and tipper gore on oprah 1986," video file, 9:13, Youtube, posted by Janie Jones, November 4, 2011, accessed April 19, 2016, <https://www.youtube.com/watch?v=ZpUeo6wR7M4>.

¹²² Ibid. P 1523

¹²³ Ibid. P1524

attacks with their prosecution of the controversial rap group 2 Live Crew which would lead to the record industry implementing stricter implementation of PAL notices.

Chapter 4: As Legally Nasty as they Wanna Be

During the late 1980s the American culture wars about art and entertainment were fought over the course of several legal and cultural debates focusing on controversial pieces of artwork. These events, the arrest of 2 Live Crew and the controversy over the National Endowment for the Arts, display how the debate over obscenity and socially acceptable expression was a explosive topic in the 1980s; Americans were juggling issues of cultural expression with religious values, feminist outlooks, and conceptions of common decency. While this chapter will focus on the issues surrounding 2 Live Crew's music being declared obscene, the National Endowment for the Arts episode demonstrates how far reaching the debate over artistic expression was during this time period. The division of support was not divided along party or religious affiliation or even among the interest groups actively involved in the debate. Rather, the division in the culture wars was along views of proper limits, or lack of limits, Americans were willing to place on speech out of concern for the family and community.

The debate over the NEA centered on whether or not offensive subject matter was valid artistic expression and if the US Federal Government should be spending taxes to pay for controversial works. The controversy began in 1989 when photographer Andres Serrano released his photograph entitled "Piss Christ," which was an image of a crucifix soaked in the artist's urine.¹²⁴ In the same year photographer Robert Mapplethorpe's exhibit, "The Perfect Moment," was criticized for its subject matter, which included nudes and portrayals of gay S&M culture.¹²⁵ Accompanying the controversy was a group of artists, dubbed the NEA 4, who had their request for funding denied by NEA Chairman John Frohnmayer in 1990. Public reactions to the controversy on either side of the debate were divisive. Republican Senator Alfonse D'Amato of New York tore up a reproduction of Serrano's photograph on the US Senate floor calling it a "deplorable, despicable piece of vulgarity."¹²⁶ Jesse Helms pushed for a bill to forbid the NEA from promoting "obscene or indecent" art, which was eventually passed.¹²⁷ On the other side of the cultural divide was painter Helen Frankenthaler who declared the need for free cultural expression to be as just important to a democracy as "protests and parades."¹²⁸

While conservatives and artists clashed, the many citizens straddled the line, having philosophical support for the artists and practical concerns for the direction of American culture. Albert Pyle, a Cincinnati reporter who covered the Mapplethorpe exhibit, described the mood in

¹²⁴ Grace Dobush, "25 years later: Cincinnati and the obscenity trial over Mapplethorpe art," *Washington Post*, October 24, 2015

¹²⁵ Ibid.

¹²⁶ Herbet Mitgang, "Books of The Times; The Great Arts Debate In the Debaters' Words," *New York Times*, September 16, 1992, Arts

¹²⁷ Hunter, *Culture Wars: The Struggle*, P. 231.

¹²⁸ Mitgang, "Books of The Times," Arts

the city as conflicted that “the city wasn’t more ashamed of itself” and also “embarrassed for the city to take a hit in the national press” for its opposition to the Mapplethorpe exhibit.¹²⁹ Pyle’s reports show that there were mixed feelings among the cities residents during the controversy. Many citizen’s real concern rested with how their community was impacted by being negatively portrayed and how to reconcile civic virtues such as freedom of speech with something they may have found shocking or obscene, at least something they didn’t want their children to see. The tension that existed in the discussion of art also existed over music. First Amendment Lawyer Floyd Abrams describes how “a significant minority, or maybe even a majority, is getting angrier and angrier at the forms of expression that routinely have become available in American life” and how many people, liberal or conservative have had to weigh those values they find offensive with freedom of speech.¹³⁰ This tension would play out in the cultural battle over 2 Live Crew and the extent to which sexual subject matter should be allowed.

Leading up the arrest of 2 Live Crew in 1990 there was state action aimed at enforcing a stricter regulatory regime for music since explicit music was still being marketed with very little oversight given to consumers. With only 50% of explicit records being properly marked there was an impression that the record industry was not conducting itself responsibly in its agreement with the PMRC. In December, 1989 a bill passed by the Pennsylvania House of Representatives and was introduced to the Senate, but was later rejected, which required warning labels on all albums with lyrics that “explicitly describe, advocate or encourage suicide, incest, bestiality,

¹²⁹ Dobush, "25 years later: Cincinnati"

¹³⁰ Allan Parachini and Denis McDougal, "Censorship and the Arts Reach Boiling Point : Politics: Some observers say the uproar over 2 Live Crew and the NEA controversy represent a much larger and more alarming trend," *Los Angeles Times*, June 18, 1990

sadomasochism, rape or involuntary deviate sexual intercourse.”¹³¹ The law would have required the application of a warning sticker on the album, with any retailer carrying albums without the sticker facing “fines of up to \$300 and a possible 90 days in jail.”¹³² Also in December, 1989 Florida State Representative Joseph Arnall, introduced a bill that would require mandatory labeling of any “offensive record” and prohibit their sale to anyone under 18¹³³. In the same month a bill was introduced to the Missouri state legislature that prohibited anyone under 18 from attending concerts promoted by artists “who sing about...offensive subjects.”¹³⁴ Despite none of these bills passing the message was clear, there was a willingness among legislatures to place regulations on the music industry, which had been reluctant to regulate itself.

Since the PMRC hearings in 1985, the music industry had repeatedly been associated with societal ills, causing public backlash towards musicians in the form of arrests, court cases and general demonization, which were accompanied by demands for tighter regulation. This speaks to one of the tensions within freedom of speech, how far the bounds of acceptability can be pushed before there is a backlash. The culture wars about music were centered on this tension, how far the speech could be pressed before there was community backlash and where the line for acceptable speech was. The debate over national values such as freedom of speech would play out in small communities and individual states with potentially far reaching implications for musicians and the music industry.

2 Live Crew and their music had faced legal troubles before their 1990 arrest in Broward County, Florida, but were not pressured into any artistic or marketing changes due to favorable

¹³¹ Skywalker Records Inc.; v. Nicholas Navarro, 739 F.Supp. 578 (United States District Court, S.D. Florida, Fort Lauderdale Division 1990).

¹³² Clark, "As Nasty as they," in ., P. 1547

¹³³ Ibid. P. 1547

¹³⁴ Ibid. P. 1547

outcomes for the controversial rap group. 2 Live Crew's first album, *2 Live Crew Is What We Are*, was released in 1986 and contained a series of dance mixes and rap songs with overtly sexually titles such as "Get it, Girl" and "We Want Some Pussy." This album was the group's first interaction with obscenity law when a Florida store clerk was charged with "corruption of a minor" after selling the album to a 14-year-old boy on April 30, 1987.¹³⁵ The arresting sheriff in Calloway, FL referred to the album as "hardcore pornography," which is illegal to distribute to minors.¹³⁶ The sheriff presented a belief that the work solely existed for sexual stimulation rather than artistic merit. The case however, was dropped by the state.

A similar instance occurred in Alexandria City, Alabama, with the group's second album, *Move Somethin*, after a mother reported to local police that her underage son had bought the album at a local record store. Unlike the previous case the age of the child was not the legal issue; the legal issue was whether the album constituted obscene material. When the clerk sold the explicit copy of the album, he was accused of violating local obscenity laws; opening up the question of whether or not the music had a redeeming artistic purpose or simply smut. Lawyers and the jury argued this in court. The prosecuting attorneys played both the rap album and a tape of "Raw" by the comedian Eddie Murphy, arguing that there was "entertainment value in the sometimes off-color material by Mr. Murphy" but not "in the rap tape."¹³⁷ The defendants brought in music critics and lyric experts to argue that the music does have lyrical and musical merit. Defining obscenity and musical merit are two difficult definitions to clearly define yet have massive ramifications for the protection of material under the First Amendment in a court of law. If a work lacks artistic merit and contains explicit content it loses its protection as speech

¹³⁵ Ibid. P. 1548

¹³⁶ Ibid. P. 1550

¹³⁷ Ibid. P. 1554

and is liable for prosecution under obscenity laws. The outcome of the case would find 2 Live Crews album not obscene, freeing the store clerk from conviction.¹³⁸

These two cases establish two concepts leading up to the arrests of 2 Live Crew in 1990. First, they demonstrate how anti-obscenity activism occurs in local government out of a desire to protect the community. Second, when anti-obscenity activism takes place media industries take steps to protect themselves through self-regulation. The definition of obscenity, constitutionally, is heavily dependent on community standards making the discussion of obscenity, legally and socially tied to the culture wars, which were seeking to define the acceptability of controversial works in American communities.

On February 11th, 1989 2 Live Crew released *As Nasty as They Wanna Be*, which they heralded as their nastiest album yet, which the band touted as a badge of honor. Their previous albums had relied on the shock and comedic value of their music to sell their album. On the cover is a photo of the band lying on the beach facing the viewer; standing over each member is a woman dressed in a revealing bikini that exposed the majority of her butt. In the upper right hand corner the band affixed its own warning label saying “play it, don’t say it.” The album contained 18 tracks including titles like “Me So Horny” “Dick Almighty” and “The Fuck Shop.”

2 Live Crew’s boasts presented an alarm to many people, including anti-obscenity activist Jack Thompson, a prominent communications and copyright lawyer, who like, 2 Live Crew called Miami, Florida home. After getting word of 2 Live Crew’s music on a mailing from the Focus on the Family Thompson was disgusted that members of his own community had produced this album and that these men were attempting to present themselves as “role models”

¹³⁸ Ibid. P. 1554

for children in Florida and nationwide.¹³⁹ Thompson described the album as perpetuating the sexual abuse of women by “portraying people who are sexually abused as enjoying that abuse.”¹⁴⁰ Although Thompsons was concerned with family and community stability and was allied with religious organizations he had secular and non-partisan concerns over the content of 2 Live Crew’s music. Thompson’s “crusade” against 2 Live Crew, like previous debates over music, has a combination of influences from across the political spectrum and created an unease in public opinion as individuals had to reconcile values of free speech along side their community values.

On February 1st, 1990 Jack Thompson sent a letter to the Lee County Sheriffs Department and Department of Justice containing the written lyrics to *As Nasty as they Wanna Be*. On February 9th, 1990 Lee County judge Issac Anderson declared that 2 Live Crew’s album was “probably obscene,” emboldening Thompson to expand his attack on the band by attempting to garner national support and carry out legal action against the group.¹⁴¹ Thompson sent letters containing the album’s lyrics and Judge Anderson’s ruling across the country, including to every state governor. By the end of the month four more counties in Florida and several counties in Ohio, Tennessee, Indiana, Texas and Alabama mimicked Judge Anderson’s ruling claiming that there was probable cause to consider the album obscene and that its content was likely harmful to minors.¹⁴² Following the rulings, many record stores across the US pulled 2 Live Crews album from their stores. For 2 Live Crew this was not an unusual occurrence; record store owners had

¹³⁹ "Donahue - Indecency &," video file.

¹⁴⁰ Chuck Philips, "The 'Batman' Who Took On Rap : Obscenity: Lawyer Jack Thompson put his practice on hold to concentrate on driving 2 Live Crew out of business. In Southern Florida, he is loved and loathed," *Los Angeles Times*, June 18, 1990,

¹⁴¹ Grossman, "Self-Censorship by Media Industries," in ., P. 467.

¹⁴² Chuck Phillips, "The Anatomy of a Crusade," *Los Angeles Times*, June 18, 1990

been arrested for selling their albums before and other stores had bowed to public pressure and removed the album from their stores or never stocked it at all. This event however, challenged national practices of the music industry, including their inconsistent application of stickers and the music that they allowed their artists to put out.

The impact of Judge Anderson's probable cause ruling impacted Miami in March, 1990, when several record store owners in Florida were arrested by Sheriff Richard Navarro for selling *As Nasty as they Wanna Be* to customers below the age of 18. Lawyers for 2 Live Crew fought back, looking to win a ruling that their album was definitively not obscene in order to prevent further arrests of record storeowners. The group took the case to Florida US District Judge Jose Gonzalez, who shocked the music community, after he declared 2 Live Crews album legally obscene.

Judge Gonzalez's ruling was a clear and decisive endorsement of the collective side of the culture wars, declaring 2 Live Crew's work obscene through the use of community standards. The ruling began by setting up the cultural view points that were in conflict in this case, what Gonzalez termed "the ancient enemies" of "anything goes," the side that endorsed unfettered artistic expression and "enough already," the side that sought to impose limits on indecent expression.¹⁴³ In order to determine whether the album was obscene Judge Gonzalez administered a three-part-test. Does the average community member find the work obscene? Does the album appeal to a prurient interest? Does the work contain redeeming artistic value? To define community standards Judge Gonzalez referenced his own knowledge of the Broward County community, where he has resided since 1958. Gonzalez described the Broward

¹⁴³ Skywalker Records Inc.; v. Nicholas Navarro, 739 F.Supp. 578 (United States District Court, S.D. Florida, Fort Lauderdale Division 1990).

community as “more tolerant” than other communities in the state and that the average adult in the Broward community, not “the most prudish,” would find the album obscene.¹⁴⁴ The second part of the tests rested on whether or not the album appealed to prurient interests, defined as “morbid, degrading and unhealthy interest in sex, as distinguished from a mere candid interest in sex.”¹⁴⁵ Gonzalez found that 2 Live Crew’s work appealed to an unhealthy interest in sex, outside of “mere candid interest” citing the numerous explicit references the group makes throughout their music.¹⁴⁶ The judge argued that the “material [has] a tendency to excite lustful thoughts” with repeated references to “female and male genitalia...fellatio, group sex, specific sexual positions...the turgid state of the male sexual organ, masturbation, cunnilingus, sexual intercourse, and the sounds of moaning.”¹⁴⁷ Such repeated references to explicit sexual acts suggested that the purpose of the album was to excite the sexual interests of the listener. Further, the success of *As Nasty as They Wanna Be* was ruled to be driven by the “leer of the sensationalist.”¹⁴⁸ At the time of the trial the explicit copy of the album had sold 1.7 million copies compared to just 250,000 for the “clean version”, *As Clean as They Wanna Be*, which replaced explicit lyrics with words with a similar homophonic sound, such as “The Funk Shop” rather than “The Fuck Shop.” Still, the album conveyed sexual overtones and some tracks such as “City of Boom” still contained explicit lyrics.¹⁴⁹ The final portion of the test was if the music

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ Ibid.

¹⁴⁹ "2 Live Crew -- City of Boom," audio file, 3:31, Youtube, October 13, 2009, accessed April 19, 2016, <https://www.youtube.com/watch?v=7Jox4ZRE7XI>.

on *As Nasty as They Wanna Be* had any redeeming artistic value. Judge Gonzalez ruled that the album did not, which led the album to officially be declared obscene under US law.

In making his assessment of the group's artistic value Judge Gonzalez relied on his view of Broward County community values and existing US obscenity law. The ruling of the case was a dictation of community values to the artist. While making legal decisions based on community values, Judge Gonzalez dismissed evidence from music critics John Leland and Jon Pareles. Leland argued that the explicit lyrics were part of the group's desire to express "humor" and "parody" even about "delicate subjects."¹⁵⁰ The lyrics were not intended to portray sex in an unhealthy manner, but were intended to be humorous for the sake of humor. Leland claimed the disparity between sales of the explicit and clean versions was because the "nasty lyrics" were part of the artistic merit that was not present on the clean album.¹⁵¹ Pareles claimed that the music of the album contained artistic value because of its "danceability" that came from its rhythm.¹⁵² Unfortunately for 2 Live Crew, both of these explanations were rejected by Judge Gonzalez as evidence of redeeming artistic value for the album. The rejection of expert testimony about 2 Live Crew's album speaks to a divide that existed in the culture wars between conceptions of what was obscene by the "average" citizen and what the art world considered to be legitimate works of artistic expression. While Judge Gonzalez prefaced much of his decisions based on existing Florida and US laws about obscenity his decision to declare that the album had a lack of redeeming artistic value, despite expert testimony to the contrary hits on one of the

¹⁵⁰ *Skywalker Records Inc.; v. Nicholas Navarro*, 739 F.Supp. 578 (United States District Court, S.D. Florida, Fort Lauderdale Division 1990).

¹⁵¹ *Ibid.*

¹⁵² *Ibid.*

major tensions of the culture wars over art and music, which is how a community decides on the artistic legitimacy of a work despite its offensive nature.

Ruling on the legal fate of 2 Live Crew's album was just one part of Judge Gonzalez's ruling; the other was determining the legality of sheriff Richard Navarro's actions of arresting record store clerks under Judge Anderson's probable cause ruling. Despite declaring the album obscene in the same ruling, Judge Gonzalez declared that carrying out an arrest on the basis of probable cause was "unconstitutional as an improper prior restraint of free speech in violation of the First and Fourteenth Amendments of the United States Constitution," removing any legal punishment the shop owners would have faced after their original arrests.¹⁵³ The record storeowners were at least temporarily freed from legal action. However, while reprimanding Navarro for his actions, Judge Gonzalez also declared that he was still expected to carry out his job of "vigorously enforcing the obscenity laws of the state of Florida" now that the album had been declared obscene.¹⁵⁴ Placed at the end of the ruling, Judge Gonzalez appeared to tell Navarro that he was legally able to arrest anyone selling or promoting 2 Live Crew's music. Two days later he did.

After performing at a nightclub in Broward County, Florida, 2 Live Crew members Luther Campbell, Chris Wongwon and Mark Ross were arrested on charges of producing and distributing obscenity.¹⁵⁵ The arrest sparked a nationwide conversation about obscenity and censorship and brought up fears of corruption through entertainment that dominated the discussion about heavy metal and punk. Gonzalez's ruling was frightening to the record industry;

¹⁵³ Ibid.

¹⁵⁴ Ibid.

¹⁵⁵ James LeMoyne, "Rap Singers Seized on Obscenity Charge," *New York Times*, June 11, 1990

this marked the first time an album had been declared obscene and had occurred in an environment where further political action seemed imminent after a controversial artist's work lost its free speech protection.

Judge Gonzalez's ruling on the obscenity of the 2 Live Crew album was viewed as a deathblow to artist's ability to practice unfettered speech in their work. By labeling the 2 Live Crew albums as obscene the ruling allowed for the album's sale to be prohibited within Florida and opened the door to arrests with the potential of a \$5,000 fine and 5 years in jail for selling obscenity to minors.¹⁵⁶ The ruling would create a massive cultural debate in the United States about the role of censorship and the appropriate way communities; families and individuals should deal with media that they may find harmful or destructive. Reconciling seemingly competing values of free expression and moral and ethical stability of communities was at the heart of this culture war where censorship that was occurring in the music industry following Judge Gonzalez's ruling.

Gonzalez's ruling made one of the record industries greatest fears come true; allowing for a prohibition on the sale of 2 Live Crews album in a state; which greatly impacted how music retailers and record companies managed themselves nationally. The RIAA did not know how to react and could not provide guidance within the loose hierarchy of its business structure. Record labels could not immediately change their review procedures for music, so the burden of immediate action fell on record retail companies who acted in varying fashions. Major record retail chains such as Musicland and Spec, declared that they would not restock the obscene

¹⁵⁶ LeMoyne, "Rap Singers Seized on Obscenity,"

album nationally and would only carry the clean version, *As Clean as They Wanna Be*.¹⁵⁷ Other record retailers were more defiant. Mitch Perliss, director of purchasing for Shadow Industries, a music retail conglomerate, stated that “Officially, our policy is that we're going to continue carrying the album. As long as our consumers want it, we will stock it.”¹⁵⁸ Reactions of defiance and complacency show that the record industry as a whole did not know exactly what to make of the ruling. Artists and consumers stood by 2 Live Crew, detesting the legal action against the artists while supporters of Judge Gonzalez’s ruling attempted to justify their opposition to the music and explain the role of censorship in society.

In the following public debate both sides presented competing narratives of the reasons for the arrest of 2 Live Crew, which were based on differing conceptions of the roles freedom of speech and community values should take when they interact with one another. For Thompson restrictions placed on music were a necessary act against individuals who abuse their freedom by producing socially harmful work. Thompson said “I submit the idea that there is a greater threat to freedom of expression from people who abuse it than those who assault it.”¹⁵⁹ Thompson sought to prevent social harm from those who put out corruptive influences so that the right to freedom of speech was not abused in order to make a profit. Interestingly, this quote hints at an ever-present issue that excessive speech, without the proper restraints, leads to stricter censorship. There is an interest in self-censoring to avoid community, social and event governmental backlash and heavier restrictions on speech; a tension which plays out throughout the rest of this chapter as the RIAA began its own process of self-regulation to avoid continuing attacks on artists. However, 2 Live Crew and other artists viewed the attack on music, especially

¹⁵⁷ Chuck Phillips, "Obscenity Ruling Rocks Industry," *Los Angeles Times*, June 9, 1990

¹⁵⁸ Ibid.

¹⁵⁹ Phillips, "The 'Batman' Who Took,"

through legal means, as a form of state censorship that was catering to conservative forces in the name of family values. In 1990 pop-icon Madonna also faced arrest in Toronto for simulating sex acts on stage, an event that led her to participate in the 1990 Rock the Vote campaign, appearing in a commercial proclaiming “freedom of speech is as good as sex.”¹⁶⁰ There was an impression that American culture was actively clamping down on music and artistic expression, especially conservative forces. These different understandings of events and their impacts stem from differing views of the relationship of media to the family and the individual and the importance of the family stability to society.

Based within each analysis of the situation was a view of society that placed different weight on the importance of family stability. This discussion was not a political or religious division but rather a calculation of the impact of music; the separation into different camps was not clearly ideological. In describing the reason for his opposition to obscenity in music, Jack Thompson describes how he had defended sexual abuse clients and argued that obscene music normalizes abuse and sexual violence against women from an early age. The music is seen as corrupting to youth in the same way that Tipper Gore describes heavy metal as being corrupting to youth by demonstrating violent and misogynistic behavior at an early age. Thompson’s analysis claims that the corruption of individual morals leads to an overall corruption of social morals by having individuals carry out heinous acts, such as sexual abuse. Thompson describes that his goal is to create “some kind of rational limits to what citizens are allowed to do to each other.”¹⁶¹ By creating this rational limit Thompson was attempting to restore order in society, especially by curtailing something that corrupts social stability. As Tipper Gore brought up

¹⁶⁰ Hunter Schwarz, "25 years ago, 2 Live Crew were arrested for obscenity. Here's the fascinating back story.," *Washington Post*, June 11, 2015

¹⁶¹ Philips, "The 'Batman' Who Took,"

previously, wanton sexuality, drug use and violent behavior pulled children away from their family and community because these behaviors led them to criminal behavior, which further ostracizes them from society. Despite his secular critiques of music Jack Thompson is portrayed as a religious conservative due to his conservative political beliefs and association with Focus on the Family. This view placed a large amount of weight on the importance of stable family units and placed greater weight on maintaining those values compared to the ability of musicians to create explicit music.

2 Live Crew and their supporters viewed Thompson's actions against obscene music as an infringement on their ability to express themselves despite the fact that, in their view, they were taking the proper precautions. 2 Live Crew's explicit shows, which feature dancing girls appearing to perform sex acts on the band members, were reserved for adults, "just like selling liquor."¹⁶² Adult entertainment was treated similar to how alcohol is sold, a prohibition on children. 2 Live Crew also released clean copies of their albums, such as *Clean as they Wanna Be* so that children could enjoy the beats and music without the explicit language.¹⁶³ 2 Live Crew believed they followed the proper precautions to ensure children were not exposed to inappropriate content. Supporters of 2 Live Crew and the group argued that the introduction of explicit material with the proper restrictions was socially acceptable and that it is parents job to guide children away from explicit media.¹⁶⁴ This argument downplayed the potential negative effects media has on children. Even if a negative effect was present, the importance of artistic

¹⁶² "Donahue - Indecency &," video file.

¹⁶³ Ibid.

¹⁶⁴ Ibid.

expression outweighs potential harm. To enforce anything past the existing guidelines that artists placed on themselves was viewed as venturing towards censorship.

The ruling did little to stem 2 Live Crew's publicity. The ruling enhanced their fame allowing for a creation of a bad boy image of the group, greatly increasing public standing and sympathy. The coverage of the group's arrest increased record sales from 1.7 million prior to the arrest to 2.5 million shortly following the group's arrest.¹⁶⁵ 2 Live Crew was able to gain access to television interviews where they were accompanied by other artists who were able to publicly disclose their own experiences with obscenity arrests and record companies that shied away from their albums and performances. Public support only went so far however. While the group was supported by music fans, that support did not lead to a protection of the music industry with the possibility of legal action coming down on them.

The 2 Live Crew event pushed the music industry towards self-regulation by standardizing the warning labels placed on albums across the industry. Prior to this point the stickering of albums was inconsistent across the industry, with most major labels applying warning stickers, but smaller companies often not doing so.¹⁶⁶ In light of the arrest of 2 Live Crew and other states seeking to create laws to control the dissemination of vulgar and violent music, either through prohibition or forced labeling, the RIAA began the process of self-regulation in order to avoid a regulatory regime that was outside of the industry's control and would involve varying rules and regulations across state and local markets.¹⁶⁷ To prevent this from occurring, the RIAA the implemented self-regulation, making all companies uniformly

¹⁶⁵ Chuck Phillips, "Appeals Court Voids Obscenity Ruling on 2 Live Crew Album," *Los Angeles Times*, May 8, 1992

¹⁶⁶ Grossman, "Self-Censorship by Media Industries," in ., P. 505

¹⁶⁷ David Browne, "As Prudish as they Wanna Be," *Entertainment Weekly*, March 22, 1992,

apply stickers reading “Parental Advisory: Explicit Lyrics” to the bottom right hand side of all albums that had vulgar lyrics and themes.¹⁶⁸ While the application of all stickers is voluntary for the artist, the RIAA did make a set of guidelines to assist record companies on whether or not an album should be stickered with a PAL notice.¹⁶⁹ This decision was made to reduce the public backlash against the music industry, which over the past years had done little to curb the tide of amorality in its music and had instead taken a laissez-faire approach, encouraging parental oversight more than self-regulation. The work of anti-obscenity activist such as Thompson and a plethora of state legislators pushed for this change by pursuing local controls over music, which forced the record industry to change its national policies.

As the music industry strengthened its labeling practices, the cultural wars over music and art carried on, eventually ending in a series of legal decisions that endorsed competing sides of the cultural divide. 2 Live Crews album, which had faced criticism from “church, feminist and law enforcement organizations,” had its obscenity status overturned by the 11th Circuit Court of Appeals in Atlanta on May 7th, 1992.¹⁷⁰ The Circuit Court of Appeals overturned Judge Gonzalez’s ruling based on his improper evaluation of evidence for the three-part Miller test Gonzalez used to rule the album obscene.¹⁷¹ Defendant Richard Navarro only submitted the tape of *As Nasty as they Wanna be* as evidence.¹⁷² According to the Circuit Court “the First Amendment requires that the burden of proof in the district court should have been by “clear and

¹⁶⁸ "Parental Advisory Label," Recording Industry Association of America, accessed April 20, 2016, <http://www.riaa.com/resources-learning/parental-advisory-label/>.

¹⁶⁹ Ibid.

¹⁷⁰ Chuck Phillips, "Appeals Court Voids Obscenity Ruling “

¹⁷¹ *Luke Records Inc. v. Nick Navarro*, 960 F.2d (11th Cir. 1992).

¹⁷² Ibid.

convincing evidence," rather than by "a preponderance of the evidence."¹⁷³ Judge Gonzalez's use of his own knowledge of community standards was considered by the Appeals Court to be improper evidence. Similarly, the Appeals Court cited improper evaluation of evidence as Judge Gonzalez neglected to consider the expert opinions of music critics John Leland and Jon Perles. The decision was heralded by free speech advocates as a victory for the music industry. More than that, though, the decision was a reversal of using an impression of community values to declare a work obscene. Defining community values and the impression of a work by the community now had a much stricter standard of proof, creating protections for music from being censored in the name of community values.

While musicians celebrated that loose constructions of community values could not be used to legally censor them, artists associated with the NEA were forced to reconcile with two contrasting ideas; how they desired to express themselves and how their art would be perceived by the community. In 1990, following the Serrano and Mapplethorpe controversies the United States Congress passed a law requiring "loyalty oaths" from artists that they would not produce "obscene" works with the money that they received from NEA grants.¹⁷⁴ The NEA debate, which was framed as an issue about the use of public funds for art that was offensive to the tax payers, ended with a regulation that dictated the importance of community values over unrestricted artistic expression with the Supreme Court ruling in *NEA v. Finley* that community values could be "taken into consideration" when evaluating grant applications.¹⁷⁵ These two episodes from the culture wars ended very differently, however, it is the differences in framing the issues that

¹⁷³ Ibid.

¹⁷⁴ *National Endowment for the Arts v. Finley*, 524 U.S. (1998).

¹⁷⁵ Ibid.

created these differences in outcomes. The NEA was framed as an expenditure of public funds for vulgar art, rather than private individuals producing works on their own, which allowed the discussion to focus on how taxpayers wanted their money spent rather than what private citizens are allowed to create. A similar unease with the development of American culture from all walks of American life allowed these issues to come up. Some people had strong active opinions and some were in the middle juggling seemingly competing values. The legal decisions for 2 Live Crew and the NEA did not end the culture wars, but it did serve as a symbolic example of what the US Government would and would not endorse.

The censorship that occurred surrounding the application of PAL notices on albums is part of the ongoing culture war with different music retailers making the decision to carry or not to carry explicit albums, a decision either to support explicit music or to shun it. To many people, especially youth, these stickers served as a guide for their musical purchases, allowing them to seek out the rebellious and bellicose artists they desired. Marc Weinstein, founder of Amobe Music, a record store in California, stated “more often than not, from what I saw, it actually became a sales tool — it made it easier for teenagers to identify the cool stuff.”¹⁷⁶ However, many large retailers, such as Wal-Mart, refused to carry albums that did not align with their family-friendly store image.¹⁷⁷ Economic decisions of business, either forced through boycott or decisions made to promote a family friendly image of the store, were battle grounds for cultural conflict in America. Pepsi, in 1989, pulled its sponsorship of Madonna after the American Family Association threatened to carry out boycotts of its products.¹⁷⁸ The PAL notice forced the

¹⁷⁶ Cole, "You Ask, We Answer," NPR.

¹⁷⁷ Neil Strauss, "Wal-Mart's CD Standards Are Changing Pop Music," *New York Times*, November 12, 1996

¹⁷⁸ Hunter, *Culture Wars: The Struggle*, P. 244.

sale of explicit albums into specialized stores rather than large, multinational retailers, limiting market access to explicit music. The decision to carry explicit albums became a cultural decision for music retailers about what they would and would not endorse as acceptable merchandise in their stores.

Censorship undoubtedly occurred during the American culture wars over media and art in the 1980s. Artists were restricted from producing their works, musicians were barred from performing, and consumers faced the prospect of having artists works banned from market. However, what defined censorship in the culture wars was the tension between “censuring” and “censoring;” whether or not the use of censorship was an act of necessity to prevent social corruption.¹⁷⁹ These competing conceptions of what restricting artists work meant was built on differing notions of the impact of music on childhood development and how to best combat the issues that are present in music.

¹⁷⁹ Ibid. P 246

Conclusion

The American discussion over music was driven by a concern over national morality that had developed during the previous decades. The attempts to shape society during the culture wars displayed the interrelatedness between private morality and public life in America; maintaining private morality is a way of regulating issues of public and social health. As American political scientist and author of the broken windows theory James Wilson stated about American moral fears in 1994, “we are terrified by the prospect of innocent people being gunned down at random, without warning, and almost without motive, by youngsters who afterwards show us the blank unremorseful face of seemingly feral, pre-social beings.”¹⁸⁰ While this quote is about urban crime, the concern about a lack of proper moral and social development creating criminal behavior was a narrative of concern throughout the discussion of music. Maintaining private morality at home is synonymous with maintaining public morality.

¹⁸⁰ James A. Morone, *Hellfire Nation: The Politics of Sin in American History* (n.p.: n.p., 2003), P. 443.

In the 1980s and 1990s episodes about music were discussed as concerns for the family. As the family changed and upset ideas of the stable, nuclear family the discussion over public morality became a discussion about the moral capacity of family structures. “Latch key kids” and unsupervised youth ran the risk of becoming the “feral, pre-social beings.” The family was an important marker in the private morality that informed public wellbeing.

Because private and public morality were so intertwined concerns over private morality began to impact public businesses, including the music industry. The concerns over businesses influencing private morality led to attempts to censor the music industry by increasing regulation of explicit and questionable material. The way this censorship occurred, and did not occur, was greatly influenced by the music industries organizational model of loosely associated companies, which allowed for resistance to outside interference. The music industry, as a conglomeration of the RIAA, record stores and concert promoters lacks a clear central authority, meaning most companies interact relatively autonomously of one another, making any single policy difficult to implement. Between 1980 and 1990 many record companies refused to comply with labeling and during 2 Live Crew’s case many stores refused to pull the album despite the risk of legal action. Because of this factor the PMRC’s national efforts to overhaul the industry was met with comparatively little success compared to the specific, local efforts faced by the Dead Kennedys and 2 Live Crew. The drive to censor can be seen as a result of the moral concerns of a given time period, but the impact of censorship is heavily dependent on the organization of the industry.

While the PAL debate has been settled, and potentially driven into obscurity by the digitization of most music purchases, music censorship still continues to occur, primarily through local law enforcement out of a concern for public order. Rock musicians and rappers who have

violent or sexual lyrics have been arrested for inciting public disorder and violating obscenity laws, but have remained isolated incidents, focusing on getting the potential menace offstage rather than getting their content out of the music world. While the narrative of corruptive music has existed into the 1990s and 2000s there has not been a similar attempt to impose a regulatory system.

The issues of private and public morality never go away. However, the way that the concerns are expressed are constantly changing and “being reconstructed in terms that are more compatible with the spirit of the times.”¹⁸¹ Concerns for family health and the development of youth are always present but evolve with how they are discussed and presented. American fears about the corruption of the nuclear family structure have subsided to where 70% of Americans say that gay relationships, child bearing outside of marriage and sex out of marriage are “morally acceptable.”¹⁸² While legal battles still rage to set out the specifics of these social changes the relative lack of concern for the a nuclear family structure speaks to a changing view on the subject. Non-traditional families have become more prevalent, reducing the constructed ideal family as a moral narrative. Still, changing social ideals will lead to conflict over other issues. A social issue about American culture will always have the potential to become a moral issue with legal cases, economic boycotts and media spectacles becoming battlegrounds.

¹⁸¹ Hunter, *Culture Wars: The Struggle*, P. 311.

¹⁸² Stanley B. Greenberg, "Why 2016 could be shattering for Republicans," *Washington Post*, November 13, 2015

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