

Digital Punishment: The Production and Consequences of Online Crime Reporting

A Dissertation  
SUBMITTED TO THE FACULTY OF  
UNIVERSITY OF MINNESOTA  
BY

Sarah Esther Lageson

IN PARTIAL FULFILLMENT OF THE REQUIREMENTS  
FOR THE DEGREE OF  
DOCTOR OF PHILOSOPHY

Chris Uggen, Advisor

July 2015

© Sarah Esther Lageson, 2015

## Acknowledgements

I am indebted to so many for their intellectual support, friendship, mentorship, good humor, and kindness. My advisor, Chris Uggen, makes the top of the list. He has shown me, through example, how to approach sociological work with ethics, public responsibility, and creativity. I am fortunate to have learned from someone who is not only a brilliant scholar, but also a good person.

My dissertation committee has been enormously helpful. Many thanks to Josh Page for his true interest and commitment to making this dissertation clear, concise, and convincing – and for showing me the best restaurants in town. I appreciate the diversity and curiosity he brings to his work. Many thanks to Gabrielle Ferrales for her kindness and support, and for pushing my work into new critical and theoretical spaces. Finally, thank you to Amy Kristin Sanders for inspiring me to take chances and work across disciplines. I feel incredibly fortunate to have you all on my side and have benefitted in innumerable ways from your time and advice.

I received generous support for this research from the Bilinski Educational Foundation and the University of Minnesota Doctoral Dissertation Fellowship. I also acknowledge the wonderful support I received from the Council on Crime and Justice and the Volunteer Lawyer's Network for their expertise and help.

There are many incredible people at Minnesota who enriched my experience, especially Doug Hartmann and The Society Pages editorial board. Thank you for fascinating conversation and a lot of really good times. Big thanks to Letta Page for keeping me on my toes and improving my writing. I am also fortunate to have worked alongside and learned from Erin Kelly, who continually impresses me with her focus and approach. I owe so much to Becky Drasin, Mary Drew, and Ann Miller. You make life and work better for everyone in our department.

My graduate colleagues made this entire experience worth it. Heartfelt thanks to Ebony Ruhland, Hilary Whitham, Kyle Green, Kia Heise, Suzy Maves McElrath, Hollie Nyseth Brehm, Sarah Shannon, Rob Stewart, Stephen Suh, and Mike Vuolo. You are smart, funny, interesting people and I have loved our time working together.

To my world outside academia: Evan, Harold, Jen, Jess, LJ, Nikki, Tim and Zach have provided unrelenting support, asked good questions, and kept me going. Thank you to the Minneapolis music and arts community for so many beautiful moments.

There are no words to express my gratitude for my parents and little brother throughout this journey. You are brilliant pragmatists who know more about the world than I ever will. Thank you. I feel very, very lucky.

## **Dedication**

This thesis is dedicated to my parents.

## Abstract

This dissertation is a mixed methods study of the production, dissemination and effects of digital crime reporting, such as mug shot websites, crime blogs, Facebook crime watch pages, and Twitter crime update accounts. These websites post arrest records and booking photos before individuals are charged or convicted, but they remain online indefinitely. This dissertation asks big questions about data privacy, criminal justice and punishment through three qualitative studies: 1) the murky world of citizen journalism within the specific context of crime news; 2) the sociolegal framework of case law in this area and how social actors interpret this law, and; 3) the empirical effects of these records for those who appear on the websites, speaking to broader social, civic, and psychological consequences.

At its core, this study argues that the internet has elevated crime and punishment to the center of daily life, routine activities, and American culture more than ever before. Within this framework, I make three concrete arguments: First, I argue that these websites operate as a new form of social control strategies by fostering a fear of crime and publicizing transgressions. Importantly, publishers are non-state actors who engage in a meaning-making process by focusing on crime and therefore feeling they have a direct impact on crime. Second, I argue that the ambiguity around the legality of these sites produces new forms of consciousness around our rights to public information and freedom of speech. Finally, I argue these sites constitute novel forms of punishment in the widespread nature of the reporting, in heightening the variety and levels of crimes publicly punishable, and by permanently archiving these punishment symbols in digital spaces.

Empirically, I find digital criminal histories are characterized by their scope, breadth, availability, and permanence. These websites post arrest records, full names, and booking photos before individuals are charged with or convicted of a crime, yet they remain online indefinitely. These websites are often produced by amateurs who use crime as a method to address broader social issues. These sites appeal to consumers by providing access to real-time crime information allowing them to feel they have an active role in crime prevention without directly interacting with the criminal justice system.

There are consequences to these practices, particularly in the spread of erroneous and dismissed records. While criminal history data changes rapidly at the jurisdictional level, there does not exist a system to ensure corresponding updates are made online. These crime websites thus constitute a new form of punishment: They culminate in a curated and searchable online history, which is often unknown to the website subject until they face consequences of these records. These records communicate powerful signals of guilt by attaching a criminal label to millions of arrestees, simultaneously introducing a host of social and psychological consequences.

**Table of Contents**

LIST OF FIGURES ..... v

CHAPTER 1: INTRODUCTION ..... 1

CHAPTER 2: THE FIELD OF DIGITAL CRIME REPORTING..... 25

CHAPTER 3: THE SOCIOLEGAL FRAMEWORK OF DIGITAL CRIME  
REPORTING ..... 65

CHAPTER 4: THE ENDURING EFFECTS OF DIGITAL PUNISHMENT ..... 92

CHAPTER 5: POLICY RECOMMENDATIONS & CONCLUSION ..... 132

REFERENCES ..... 149

APPENDICES ..... 161

**LIST OF FIGURES**

Figure 1: Two screenshots of typical crime websites ..... 37

Figure 2. Screenshot of a community crime watch Facebook page. .... 39

Figure 3. Screenshot of user comments on a Facebook crime watch update ..... 40

Figure 4: Screenshot of a blog post that posts PDF of a full criminal complaint ..... 42

Figure 5: Examples of legalese on crime blog photos ..... 81

Figure 6: Screen shot of mugshot removal service ..... 85

Figure 8: Screenshot of typical mugshot website ..... 99

Figure 9: Screenshot of Google search for name posted on mugshot website ..... 99

Figure 10: Screenshot of bi-weekly jail house roster on a blog..... 138

## **CHAPTER 1: INTRODUCTION**

Americans love crime stories (Katz 1987; Schlesinger and Tumber 1994; Tucher 1999; Greer 2010; Beckett and Sasson 2010; Gilliam and Iyengar 2000; Surette 2003; Dowler 2003; Eschholz, Chiricos and Gertz. 2003; Jewkes 2004; Shoemaker and Vos 2009; Best 2012). We watch the news and scour the internet to assess our own moral compass, take cues from other's digressions, and bear witness to justice and punishment (Durkheim 1893; Black 1984; Katz 1987). The criminal justice system is revered in popular culture and news media, and reporting on crime informs public opinion on one of the largest and most powerful institutions in the United States by producing knowledge, shaping culture, and influencing policy (Potter and Kappeler 2006; Greer 2010).

We typically learn about crime through agenda-setting media agencies that advance ideological solutions to crime and create social cohesion (and division) through depictions of how justice is delivered (Beckett and Sasson 2000). Yet, the internet has dramatically changed this landscape, shifting expert control into the hands of the many (Klinenberg 2005; Lewis 2012). While research and public discourse on crime and the internet has focused mostly on cybercrime (Wall 2007), online bullying (Bazelon 2013) and the control and tracking of sex offenders (Lynch 2002), this dissertation directs attention to new forms of online crime discourse that are citizen-generated and address all types of crime, but focuses particularly on livability and low-level crimes. New forms of crime reporting include crowd-sourced investigations on Reddit (Wade 2014), thousands of low-level records mined and sold by private background check companies, and social



media feeds dedicated to real-time neighborhood crime updates.<sup>1</sup> These websites have emerged amidst broad changes in technology and data sharing. Corporations pay governmental agencies for massive loads of publicly available data, which they scrape (automatically copy from other websites), replicate, and re-disseminate across the internet (Hochberg 2014; Ellis 2011). Facebook pages, Twitter feeds, blogs, and criminal history websites are increasingly available to a crime-data hungry public (Hochberg 2014).

Theoretically, this study argues that punishment has entered a new realm of daily practices: internet use. Crime and punishment, already ubiquitous across many cultural and political institutions, are now interwoven into routine activities of the digital age. Even without seeking it out, website sidebars advertise background check services, while Google searches reveal mug shots. Sex offenders are tracked by both the state and by private websites, and real estate listings are paired with crime incident maps. The prevalence of crime and punishment online demonstrates the simultaneous allure and increasing availability of crime information as symbols of punishment permeate our online activities.

## **EMPIRICAL APPROACH**

I utilize a broad and diverse range of social science methods to identify emerging patterns and report descriptive regularities in the rapidly changing world of digital crime reporting. I ask, how does technology change crime reporting? What are the mechanisms

---

<sup>1</sup> The number of these websites is unknown and constantly changing. For examples, see [www.mugshots.com](http://www.mugshots.com), [www.bustedmugshots.com](http://www.bustedmugshots.com) (booking photos), [www.newsball.com](http://www.newsball.com) (independent, investigative crime reports), [www.chicagocrimeblotter.blogspot.com](http://www.chicagocrimeblotter.blogspot.com) (crime update blog). I include a full list of sites in Appendix A.

that produce these online crime reports? What are the consequences of online crime reports? Overall, this dissertation asks big questions about data privacy, criminal justice and punishment through three qualitative studies that examine: 1) the murky world of citizen journalism within the specific context of crime news; 2) the sociolegal framework of case law in this area and how social actors interpret this law, and; 3) the empirical effects of these records for those who appear on the websites, speaking to broader social, civic, and psychological consequences.

Taken as a whole, I analyze the spectrum of digital crime reporting by focusing first on the production of websites, the sociolegal context for how these websites operate, and then the effects of these websites. In terms of level of inquiry, I focus on a specific type of crime website (American, independently-run), but situate the producers of these websites within broader social and political fields. I then examine the legal field, focusing on disputes between website operators and those profiled on the websites, taking a law and society perspective (Edelman 1992; Silbey 2005). Finally, I explain how these websites constitute a new form of cultural punishment (Garland 1990). To conclude, I synthesize the major points of the dissertation and extend theories of punishment and culture to the online context. I close with policy recommendations based on these findings.

### *Methods: The Production of Online Crime Reporting*

To study the production of crime news, I first built a database of 100 crime websites from which to draw a sample of interviewees. This database consisted of the top

Google search results for “crime blog” and “crime website” (see Appendix A). I did not include blogs managed by professional news organizations and “true crime” fiction-writing websites. Instead, this database contains the top 100 independently-run crime websites as returned by Google’s search return mid-year 2013. For inclusion in the broader sample, the site must have published a crime update of some sort (such as a sex offender notice, a story on a recent crime, or a mug shot) within the previous six months. For all 100 websites, the most recent ten posts and all corresponding comments were archived and added to an Atlas.Ti database for qualitative content analysis.

I next attempted to contact the administrator of each website. Thirty-two publishers did not offer contact information on the blog. I contacted the remaining 68 sites via email; 40 responded and provided information regarding their work (for an overall response rate of 59%). Of those 40, 32 participated in one to four in-depth interviews (see Appendix B).<sup>2</sup> Initial in-depth interviews followed an interview schedule (see Appendix C) and lasted between 40 minutes to over two hours. Over the course of data collection, most interviewees maintained contact and participated in additional interviews or in email correspondence. These interactions were primarily interviewee-led; interviewees contacted me after the initial interview(s) to provide updates me on crime issues we discussed, or they forwarded me examples of correspondence with readers and/or website subjects.<sup>3</sup> In total, qualitative data collection for this portion of the study is 46 in-depth interviews, 111 emails, 100 websites and 1,000 website entries (including

---

<sup>2</sup> The other eight interviewees participated in either brief Skype interviews (N=3) or requested online chat and/or email interview (N=5). I use pseudonyms for all interviewees.

<sup>3</sup> I utilize the email correspondence shared with me most for Chapter 3 to examine disputes between publishers and website subjects

thousands of attached reader comments)<sup>4</sup>. I use these data for empirical analyses presented in Chapters 2 and 3.

*Methods: The Effects of Online Crime Reporting*

To understand the effects of crime reports, I elected to move away from the online context and into a physical research site to interview those who are profiled on criminal history websites. While millions of people potentially face the consequences of an online criminal record, I limit my sample to those accused of low-level offenses who are actively seeking a criminal record expungement in the Twin Cities of Minneapolis and St. Paul, Minnesota. I conducted qualitative fieldwork over the course of 1.5 years. A full description of the site is presented in Chapter 4. Overall, these empirical data constitute field observations of twice-monthly expungement clinics, observation of public expungement hearings at Hennepin County court, in-depth interviews with expungement-seekers (N=27), repeated field interviews with five criminal defense attorneys (N=26)<sup>5</sup>, and review of expungement materials (documents provided to expungement-seekers at the clinic, documents provided on expungement websites, and proposed and existing expungement legislation developed by the attorneys and their colleagues). Pseudonyms and descriptives for each in-depth interviewee are provided in Appendix D.

I introduced expungement clinic clients to the study during the informational portion of the expungement clinic and then approached participants waiting for an

---

<sup>4</sup> Full results for the content analysis of 100 websites are not reported in this dissertation.

<sup>5</sup> I recorded and transcribed in full the in-depth interviews with expungement seekers. Field interviews with lawyers were conducted before and after clinics and were not recorded, but field notes were taken during interviews and summarized in memos immediately after the interview ended

attorney for an interview. The data presented here focus primarily on expungement-seekers' experiences with their criminal histories in digital formats, supplemented by attorney experiences with these types of records, interactions between clients and attorneys during the public portion of the clinic, and interactions between judges and expungement-seekers during expungement hearings. The interview schedule is supplied in Appendix E.

### *Analysis*

All in-depth interviews were transcribed in full to capture direct quotations. All names have been changed to maintain anonymity. Utilizing a grounded theory approach (Glaser and Strauss 1967), I initially coded data according to themes outlined in our interview guide.<sup>6</sup> After completing the first round of coding, I reviewed each transcript, looking for common themes and coding similar categories of data together. Using Atlas.ti, I placed conceptual labels on the events, experiences, and feelings reported in the interviews, which resulted in a set of axial codes. Coder-specific axial codes were combined thematically into a master list of major codes and sub-themes. I then read each transcript for a third time and labeled passages with names denoting the themes present within each.

---

<sup>6</sup> Major themes: Background and motivations for publishing a website; Strategies for research and writing; Reactions and interactions from mainstream press, readers, and subjects of posts; Opinions regarding First Amendment rights; Perceptions of open access to criminal data; Effects of blogging on those written about; Future predictions for crime reporting.

### *Limitations*

There are many limitations to the multi-faceted qualitative approach I undertake in this work, though there are also benefits to rich, contextually-based research. The first limitation is the matter of validity in qualitative interviews, or what Jerolmack and Khan (2014) refer to as the “attitudinal fallacy.” In their terms, “because meaning and action are collectively negotiated and context-dependent, we contend that self-reports of attitudes and behaviors are of limited value in explaining what people actually do because they are overly individualistic and abstracted from lived experience” (178). To address this valid point, I aim to triangulate first-person accounts (as captured in interviews) to field research (in the case of expungement clinics) and to the content interviewees actually produce (in the case of website publishers). In doing so, I aim to present their testimony in the context of their actions.

This study is also limited by the fast pace in which this field evolves. In the production of websites, technology shifts occur constantly which change, expand, or inhibit the productive activities of publishers. In the sociolegal context, lawsuits, legislation, and mass media coverage quickly change both public sentiment and jurisprudence around the legal environment of these websites. Expungement law, particularly in Minnesota, is also undergoing rapid change within the broader context of media reporting on erroneous records (Applebaum 2015), greater attention to websites like Mugshtots.com (Segal 2013), and proposed legislation to regulate these websites (Council on Crime and Justice 2015). While these rapid shifts point to the social importance of these issues, findings are inherently limited by the state of technology and

law during data collection. In the spirit of most sociological inquiry, these limitations simultaneously nuance my claims and open the door for continued investigation.

## **EMPIRICAL CONTRIBUTIONS**

This dissertation extends sociological research on crime and crime reporting into the digital age by presenting a mixed methods study of the production of crime websites by independent publishers and the effects of these online reports on those who are featured on websites. My analysis yields several unique insights regarding contemporary crime reporting that warrants investigation of these emerging phenomena:

*Widening Scope, Availability, and Permanence of Online Records:* Unlike traditional criminal records that report conviction histories, websites post arrest records and booking photos before individuals are charged with or convicted of a crime – yet, they remain online indefinitely. Online reports also offer new depth, posting photographs of suspects and victims, copies of full-length court documents, and arrestees’ home addresses. They remain online and may be found simply by searching for the accused person’s name.

*Production and Participation by Non-Criminal Justice Actors:* Amateur, unpaid citizen journalists develop these projects for ethical and moral reasons. Because of the indeterminacy of law in this area, publishers develop new understandings of First Amendment law to defend their websites. In their interviews, publishers demonstrate their vested interest in framing crime as a social problem. While these new forms of

crime reporting have a DIY-flair and are less glossy than traditional media institutions, they have a hyperlocal appeal as website readers access real-time crime updates about their neighborhoods, post their own comments, and track cases online – all from their smartphone. This engagement with crime reports allows publishers, bloggers, and readers to feel they take an active role in crime prevention without ever having to leave their homes.

*Erroneous Records, Arrests, and Dismissals:* A fundamental problem with criminal history data is how often it changes at the jurisdictional level, without corresponding updates online. When a person is arrested, their photograph and presence on the jail roster become part of a public database for bloggers, Tweeters, and their audiences. Charges may never be filed or are later dismissed, yet these original data remain online and are easily found by employers, landlords, friends, potential partners, and family. Interviews and fieldwork with those whose criminal histories remain online reveal a myriad of issues, many of which mirror the consequences of felony-level convictions.

*New Forms of Contemporary Punishment:* These records culminate in a curated and searchable online history of those who are accused, arrested, or convicted of crimes. This research highlights that many people are unaware that these dismissed charges or arrest records exist until they “pop up” online and prevent them from participating in labor, civic, or family duties. These records are shared over social media, passed between coworkers and friends, and are discovered online by decision-makers, such as potential



employers or landlords. They communicate powerful signals of guilt by attaching a criminal label to millions of arrestees. Overall, websites create a new form of digital punishment for those whose mug shots and rap sheets end up on Google servers indefinitely.

## **THEORETICAL APPROACH & BACKGROUND**

### ***Why Crime? Dominance and Forms of Crime Media***

There is a rich sociological and sociolegal history of studying the cultural allure of reporting on crime and how this relates to various forms of formal and informal criminal punishment (Tuchman 1978; Hall et al 1978; Garland 1990; Schlesinger and Tumber 1994; Tucher 1999; Gilliam and Iyengar 2000; Surrette 2003; Dowler 2003; Eschholz, Chiricos and Gertz. 2003; Jewkes 2004; Shoemaker and Vos 2009; Schudson 2011; Kort-Butler and Kelley Harshorn 2011; Best 2012; Huey, Nhan and Broll 2013; see reviews in Greer 2010; Potter and Kappeler 2006). Websites are the simply the newest outgrowth of crime media, emerging from rapidly changing technological fields and advances in how we collect and disseminate crime data.

Contemporary crime websites exist, in part, because audiences are attracted to them. Classic sociological theory offers several reasons why we are attracted to crime media. Crime, to Durkheim, functions to reinforce moral boundaries. A necessary part of society, crime and punishment force broader society to solidify judgments on acceptable moral behavior and achieve solidarity through criminal punishment. This creates social norms, as opposed to a state of anomie, or normlessness (Durkheim, 1893). Following

this logic, crime media is a public conduit for this process, where an even broader segment of society consumes and reacts to publicly labeled criminal acts and in return, builds social cohesion. Jack Katz (1987) expands on this idea by focusing his study of crime news on the news consumer, as opposed to the political, economic, or institutional context from which crime news is selected and produced. In his view, readers consume crime news because it gives them an avenue to work through social pressures they often find in their own lives. Crime news doesn't simply inform readers of the empirical details of crime; instead, it assists them in their modern public search for morality. Katz draws upon framing theory to explain how dominant forms of crime news feed into human moral needs. According to his 1987 analysis<sup>7</sup> of New York City newspapers, crime events becomes newsworthy when a story:

- 1) Includes provocative themes about personal moral competence and implies some sort of lesson about the state of modern society
- 2) Comments on the moral integrity of a community by identifying the innocence of the victim, highlighting crimes that infringe on sacred places (i.e. the collections dish at the church is robbed), or by critiquing popular conceptions of the "American good life"
- 3) Moralizes political conflicts by neglecting to explicate details of a criminal event, but instead uses the event to send symbolic messages about a political issue
- 4) Focuses on white-collar crime. For Katz, coverage of white collar crime is especially interesting to criminologists because coverage highlights the offender's social and economic power *in spite* of stealing money – which debunks the idea that criminals steal money because they do not have access to any.

---

<sup>7</sup> It should be noted, however, that this analysis occurred prior to the incarceration boom of the 1990's.

In his analysis, Katz points to these frames as the “social generation of the appetite for news” (p. 56). Instead of serving a strictly informative function, crime news serves a more complex version of Durkheimian social cohesion, where crime news “is a process through which adults in contemporary society work out individual perspectives on moral questions of quite general yet eminently personal relevance” (p. 67). For Katz, crime news causes us to question our own limits of criminality and our own limits of morality.

Knowledge-production, agenda-setting, and problem-definition are also central to the social function of crime news. Reporting on crime produces particular forms of knowledge that produce and legitimize broader crime control strategies. Foucault (1977) highlights the knowledge-producing project of journalism, media entertainment, and even the academic discipline of criminology by arguing that knowledge about crime and criminals is in the project of reforming offenders into conformity. Tied intimately to power, knowledge drives the technology that disciplines and normalizes individuals through surveillance, control – and eventually – self-control.

Crime reporting also defines social problems. There are three critical stages in this process: first, crime is selected from among many other social issues (education, employment, etc.) and elevated to the status of a problem that requires policy consideration. Second, this crime “problem” is narrowed into a more manageable definition – typically violent or street crime (as opposed to corporate crime, for instance). Third, particular types of crime are then redefined as a “criminal justice problem” in this constructed form. In this way, the media become gatekeepers and agenda-setters in how

they filter definitions of crime into popular and civic discourse (Best 1991; Welch, Fenwick and Roberts 2006).

Crime reports also tend to take specific form. Through in-depth ethnographic study of crime reporters in Britain, Chibnall (1977) developed eight news values – immediacy, dramatization, personalization, simplification, titillation, conventionalism, structured access, and novelty – that explain why crime is consistently deemed newsworthy. A criminal act can happen in seconds, but still produce a profound social impact. Victims and offenders are dramatized and personalized. Crime is titillating, perhaps best evidenced in a comparison to the dominance of crime in entertainment media. The news value of conventionalism particularly informs the consistent framing of crime news – as a crime reporter in Chibnall’s study explained, news stories are really “simple clichés set to music – you select the right cliché and you write it up to suit the particular circumstances” (Chibnall 1977:80). The reporter offers a context already familiar to readers, which normalizes non-typical crimes. In an update to Chibnall’s news values thirty years later, Jewkes (2004) finds many of his values to still exert influence over the production of crime news, but added six new values to the list: risk, sex, proximity, violence, spectacle and graphic imagery, and children. It’s difficult to parse out the causal order here, but Chibnall and Jewkes argue we can assume these news values, evidenced to persist over the past four decades, are a key motivating force behind the popularity and continued production of crime media.

There is also an individual motivation to produce crime media, as journalist and professor Andie Tucher explains in her *New York Law School Review* piece:

Every reporter worth the name wants to write just one deathless lead like that – the lead of the century, the lead old timers still reminisce about as they trade war stories over their beer in some seedy place with a bartender named Mac – a thing of perfect beauty. And there’s nothing like a crime story for giving you the raw materials for it (1999:906).

This motivation partially accounts for the dominance of crime news. One study of local news in fifty-six cities indicates that crime accounted for one-third of all broadcast news (Klite, Bardwell and Salzman 1997). In another study, Public Health Reports (1998) found that crime made up 20 percent of all local TV news stories, followed by weather at 11 percent and accidents and disasters at 9 percent. Several specific qualitative frames that characterize crime news are repeatedly identified in content analyses: an emphasis on (especially random) violent crime, an interest in individuals (both as offender and victim) (Gilliam and Iyengar 2005), and a preference for short-term intensive focus on “moral panics” (crack cocaine, juvenile violence, freeway shootings, etc. For a review, see Potter and Kappeler 2006). This dominance in mainstream media, however, also opens the door for critique.

### *Critiques of Crime Media*

Critics of these frames often compare the disparity between prevalent crime news frames and official crime statistics, noting that crime news frames highlight the least common offenses and the least likely victims: often random violence (in spite of evidence that shows the majority of crime to occur between acquaintances) directed towards white women and young children, despite the fact these groups have the lowest victimization rates (Potter and Kappeler 2006; Beckett and Sasson 2000). In addition, crime news has

continued to grow at an exponential rate, even as crime rates downturn: for instance, as the violent crime rate declined in the late 1990's, television and newspaper coverage of crime increased by 400% (Chiricos et al. 1997; Beckett and Sasson 2000).

Crimes that receive the most attention often follow a predictable pattern; as Kenneth Dowler describes, "if it 'bleeds it leads' is not entirely truthful, as "it really depends on who is bleeding" (Dowler 2004:94). While female-victim crime dominates media attention (Graber 1980; Humphries 1981; Mawby and Brown 1984; Chermak 1995; Weiss and Chermak 1998; Sorenson et al. 1998; Pritchard and Hughes 1997), the social status of the female victim is essential to the sympathy they receive in the press. As a result, there is a gap between those victims who are "innocent" and those who are "blame-worthy" that derives from patriarchal notions of femininity and gender (Dowler, Fleming and Muzzatti 2006; Dowler 2005).

Another critique of crime reporting is the disproportionate focus on nonwhite offenders, especially African-American and Hispanic men (Potter & Kappeler 2006; Dorfman & Schiraldi 2001; Lundman 2003, Beckett & Sasson 2000). Crime news that covers interracial violence (though most violent crime is intraracial and most victims are non-white) is also given more extensive coverage and is often accompanied by a photograph of the minority race offender (Lundman 2003; Chiricos & Eschholz 2002). Network news stories in which African Americans are accused of crimes are more likely to involve violence or drugs than news stories featuring white defendants (Beckett & Sasson 2000). Studies of local and national news also find that African Americans arrested for violent crimes are visually depicted differently than whites, for instance,

shown in the physical custody of police or in the act of being arrested (Beckett & Sasson 2000; Entman 2000). Young offenders are also given prominence in crime news, where in one study, 68 percent of all television news stories on violent crime highlighted youthful offenders and 55 percent of all stories on young people featured violence, although less than 4 percent of juvenile arrests are for violent crime and crimes committed by juveniles makes up less than 16 percent of all crime (Dorfman and Schiraldi 2001; Potter & Kappeler 2006). Thus, the framing of news creates a social reality of crime and violence that does not accurately portray the lived social world.

### *Impacts of Crime Media*

The impact of crime news is complex and difficult to empirically demonstrate (Potter and Kappeler 2006). Work in this area typically focuses on public opinion outcomes: fear of crime, support for punitive justice policies, and racial stereotyping. The notion that crime news has an impact on public opinion is quite intuitive; as the vast majority of people will never experience crime directly, they must seek out alternative information sources (Greer 2010, Beckett and Sasson 2000). However, major reviews of literature do not point to significant negative effects (Escholz 1997, Ditton et al. 2010). There are several possible reasons for this. First, there is some evidence that people truly do pay more attention to the true crime rate than to the level of media coverage (Stinchcombe 1980). In other words, we already know and expect the media to over-inflate incidence of crime. Second, many crime stories conclude that justice has been served by describing an arrest or closure of a case, taking on a “reassuring rather than

frightening frame” and leading to less fear of crime (Sparks 1992). Third, since media are distributed widely on a massive scale, it can be assumed that masses of people see the same images (Ditton 2010), which suggests that the treatment effect of exposure to crime news is so widespread it is nearly impossible to empirically tease out. Amidst these limitations, there still exist some empirical support for negative effects of consuming crime news:

*Fear of Crime:* The majority of this literature reflects the argument made by framing theories – that crime coverage does not accurately reflect actual crime rates. In this topical area, survey-level data shows many individuals fear crime at rates that don’t reflect local crime rates, and instead correlate to self-reported crime news consumption. In general, the public usually believes the crime rate is higher than it actually is; for instance, a 2002 Gallup poll found that 62 percent of the U.S. public thought crime was higher than the previous year, despite a steady ten year drop in crime rates (Maguire and Pastore 2004). After a highly publicized rape and murder in 1993, Americans ranking crime or violence as the nation’s foremost problem jumped from 9 percent to 49 percent between January 1993 and January 1994 (Chiricos, Eschholz and Gertz 1997).

These studies are often framed within cultivation theory. Cultivation theory posits that heavy exposure to media that includes stereotyped and distorted presentations of crime and violence will lead media consumers to take this representation as reality (Weimann 2000). Much cultivation research comes out of the work of Gerbner (1976a, 1976b), who claims that the prevalence of crime in both news and entertainment leads people to feel as if they are living in a “state of siege.” In his studies, Gerbner finds heavy



TV viewers overestimate the probability that they will be victims of violence, believe their neighborhood to be unsafe, rank fear of crime as one of their most compelling personal problems, assume crime rates are rising, support punitive anti-crime measures, and buy guns.

Other studies have confirmed these findings: Romer et al. (2003) found that across a wide spectrum of the population and independent of local crime rates, viewing local television news is related to increased fear of and concern about crime. Eschholz, Chiricos, & Gertz (2003) found that people who watch more television news and more television crime dramas report dramatically higher fear of crime than those who watch fewer broadcasts. Another study found that people who watch TV news four times per week were 40 percent more likely to be very worried about crime than those who do not watch the news (Bunch 1999). Eschholz et al. (2003) found that viewing national news and news magazine programs, which have lower levels of violence and proximal relevance, as well as muted realism, was unrelated to fear of crime. On the other hand, viewing local news, which has greater realism, proximate relevance, and a focus on serious crime, was related to fear. These correlations, of course, cannot prove causation. Perhaps those individuals with their own reasons to fear crime more frequently tune in to crime media to subconsciously confirm their worst fears. Yet, there are consequences for a public with a heightened fear of crime: support for stronger and stronger punishments (Beckett and Sasson 2000).

*Stereotyping:* Because Blacks are overrepresented as criminals in the media (especially in local news), the more viewers consumes these messages, the higher their

perception of Blacks as violent criminals (Dixon 2008a, 2008b). For instance, one study found that 60 percent of the people interviewed recalled an offender being shown in a television news story about crime when no offender images were included. Of those who saw the phantom offender, 70 percent were certain the offender was African American (Gilliam and Iyengar 2000). This exposure results in racialized beliefs about crime and an overall inflated fear of crime. Empirical analyses of race, crime, and media coverage often show an overrepresentation of minorities in relation to crime and/or population characteristics (Entman and Rojecki 2000; for a review of research see Chiricos and Eschholz 2002), and even when not quantitatively overrepresented, minorities are often qualitatively depicted as being more threatening (Chiricos and Eschholz 2002), thus contributing to the social construction of racialized threat.

*Support for Punitive Justice Policies:* Fearfulness is considered to be one mechanism by which the media shape public discourse about criminal justice policy (Kort-Butler and Harshorn 2011, Warr 2000; Cavender 2004, Beckett and Sasson 2000). Using data from the National Opinion Survey on Crime and Justice, Dowler (2003) noted that watching crime news is related to fear of crime, and that fear was related to both punitive attitudes and less confidence in police effectiveness. This relationship is especially strong when audience reception characteristics are included in models (Eschholz 2003). This is a complex relationship that is difficult to trace, as Beckett and Sasson (2000) note the irony in how “politicians frequently serve as news sources regarding crime, [then] end up responding to the very same sentiments and views they themselves have cultivated through the media” (p. 85). There is also some evidence of

“echo effects” of highly publicized cases, in which similar cases following the popularized case experience more severe justice outcomes (Surette 2003).

## **THEORETICAL CONTRIBUTIONS**

Crime reporting is central to American culture, orients us morally, and contributes to stereotypes and support for harsh punishment. As Potter and Kappeler (2006) explain:

[Crime] portrayals are not just attention-grabbing: they serve other purposes as well. They provide legitimacy to the criminal justice system and the police. They build support for more draconian laws and for more state intervention into people’s daily activities. They warn us about people who are different, outsiders, and the dangers of defying social conventions. In other words, they reinforce, they amplify, and they extend the current distribution of power.

Given this theoretical background, I draw upon novel data to argue crime websites, like traditional news, have a generative function by communicating meaning around crime as a social problem and providing notions for whom to blame for these ills. Yet, the online environment means many more people are labeled criminal and many, many more must encounter messages about crime and punishment every time they use the internet. In some ways, digital punishment is a hyperactive and interactive version of traditional crime reporting. This overload of crime information permeates routine activities, such as renting an apartment, researching a new city, or conducting an online search for someone’s name – be it a new friend, potential partner, a child’s schoolteacher, or a potential employee.

The sociological approach allows for a holistic examination of these new phenomena by placing these websites – and the social actors who produce and are

affected by them – within broader fields of law, culture, and punishment. I carve out three major areas of theoretical inquiry embedded in an overarching argument that the internet makes crime and punishment central to daily life more than ever before. First, I argue that these websites operate as a new form of crime control and social control strategies by fostering a fear of crime and publicizing transgressions. Second, I argue that the ambiguity around the legality of these sites produces new forms of consciousness around our rights to public information and freedom of speech. Finally, I argue these sites constitute novel forms of punishment in the widespread nature of the reporting, in heightening the variety and levels of crimes publicly punishable, and the permanently archiving these punishment symbols in digital spaces.

### **Crime Control and Social Control**

My analysis frames crime websites as a new iteration of crime control strategies. These websites publicize actions that violate the collective consciousness (Durkheim 1893) through sharing crime updates, posting jailhouse rosters, and producing various types of background checks, giving publishers a sense of agency in their fight against crime. This type of public punishment represents what Garland (1991) refers to as a *declaration* of punishment, as opposed to the *delivery* of punishment, where crime reports are “directed less at the individual offender than at the audience of impassioned onlookers whose cherished values and security had been momentarily undermined by the offender's actions” (Garland 1991:123). I argue that websites also direct our attention toward *who* to blame for crime. These repeated, public representations constitute a distinctive ‘type’ with identifiable moral, physical and social characteristics (Melossi

2008:151). These representations assist the public in orienting morality toward social crises, who causes it, and who is to blame. To tie this perspective back to Durkheim, “it is the *representation* of crime, much more than the *repression* of crime” (Melossi 2008:156) that plays a fundamental role in social control. These websites tell us “how to preserve order and community, where to look for social dangers, and how to feel about these matters” (Garland 1990:252).

In Chapter 2, I argue that crime website publishers are creating a new field of crime reporting that emphasizes individual control over a localized crime problem. In this way, publishers aim to redefine crime as a social problem. This amateur crime reporting emerged from a confluence of factors, including the deprofessionalization of journalism, the advent of online self-publishing, and the increasing availability of digital crime data. I use a Bourdieu-inspired field analysis to identify three points of struggle in this emerging field of online crime reporting: between different bloggers, between bloggers and traditional journalists, and between bloggers and criminal justice officials. I point to how these “new” players to crime reporting create meaning in their work and negotiate their identity and place in the field of criminal justice.

### **Legal Ambiguity as Generating Legal Consciousness**

In Chapter 3, I extend theories of how legal indeterminacy produces legal consciousness for the social actors caught within this ambiguity. Legal ambiguity around these websites provides fertile ground for publishers to reinterpret free speech law that better fits the online context, defend their work through a First Amendment lens, and

distance themselves from the damages website subjects claim. Taking the approach of law and society (e.g. Merry 1990; Silbey 2005), I first analyze case law to show the indeterminacy of law in this substantive area, then draw upon interviews with website publishers to show how this ambiguity produces legal consciousness around First Amendment interpretations. Ultimately, I argue that the convergence of technology and law has resulted in a new legal consciousness around free speech rights – specifically, an interpretation that allows publishers to distance themselves from individual accountability, based on moral defenses and claims to increase public safety.

### **The Effects of Crime Websites: The Sociology of Punishment**

Finally, in unpacking the effects of these websites (Chapter 4), I draw upon the sociology of punishment, arguing that digital technologies are reproducing and extending cultural forms of punishment. The online context is essential to this argument, as we move large parts of our daily life to the online space. Once online (as we often are all day) we are bombarded with crime information and the “rhetoric, symbols, figures, and images by means of which the penal process is represented to its various audiences” (Garland 1990:17). To update Garland’s argument, those profiled on websites and the vast audiences that view them are more diverse and more widespread when they are represented on and accessed through the internet.

Parts of this study reinforce arguments made in the past by scholars of punishment. Crime websites reproduce the cultural effects of traditional crime reporting through identifying stereotypical criminals, framing crime as a social problem, and

prescribing particular types of punishment that inherently call for social and spatial separations between race and class. Yet, this is a new form of punishment in the widespread nature of the reporting, the reporting of crime in new venues, the variety of crimes now encompassed by the criminal label, and the extent to which these transgressions are publicized and archived in digital spaces. In this way, punishment has become ever more sticky, stigmatizing, and permanent. In turn, these practices reinforce the Durkheimian function of creating social solidarity through publicly punishing these “others” who are wreaking havoc on the community. Taken as a whole, the following chapters aim to describe the cultural, social, and legal basis for the production and effects of online crime reports.

## **CHAPTER 2: THE FIELD OF DIGITAL CRIME REPORTING**

*“A blog devoted to reporting crime, particularly violent and lifestyle crimes, in Baltimore city neighborhoods and surrounding areas”*

*"This is an ongoing project to study crime in Chicago empirically. I collect raw line-item Chicago Police data and use an excessively complicated series of spreadsheets to process it into usable data."*

*“We are Neighbors Looking Out For Neighbors in the Creek Crossing Area of Mesquite, TX. Please Help Report and Prevent Crime Because Together We CAN Make a Difference in Our Neighborhood!”*

*“Greenville Dagnet is dedicated to covering crime news in Greenville County, South Carolina. The lackluster coverage of crime by much of the local media often serves to make it harder for Greenville residents, especially the many newcomers to the area, to put the crime stories in a perspective that allows them to live safer and happier lives. Greenville Dagnet seeks to rectify that by providing straightforward and reliable coverage and analysis of crime in Greenville County.”*

*- Published descriptions of crime websites*

Drawing on in-depth interviews with crime website publishers this chapter focuses on the production side of crime websites. I first lay out the contextual groundwork, describing how this new form of crime reporting both emerges from and represents three broad trends: first, the creation and availability of digital crime data; second, the ways in which crime reporting contributes to social control; and third, the advent of amateur participation in civic institutions, the meaning-making process associated with this, and the emergence of a new, DIY culture of control. I describe how and why amateur publishers take on crime reporting, relaying their goals, motivations, and strategies. In a Bourdieu-inspired field analysis, I describe three points of struggle in this emerging field of online crime reporting: between bloggers, between bloggers and traditional journalists, and between bloggers and criminal justice officials. I point to how these “new” players



create meaning in their work and negotiate their identity and place in the field of criminal justice reporting.

I find that the website publishers use crime as a proxy for broader social issues they face: neighborhood demographic changes, perceived or real victimization, or a sense that the media and law enforcement are becoming increasingly inefficient at reporting on and responding to crimes. Publishing crime news is a method for taking control and taking action over a perceived crime problem. There are contextual shifts that aid this project, such as the ease of obtaining criminal justice data, but broader political and cultural forces also shape the decision to sit down each day and produce a website, without pay or guaranteed readership. These mid-level field effects are important for understanding the social position of these amateur reporters, particularly as they negotiate their identity and sense of place amongst the traditional gatekeepers and producers of crime reports.

## **BACKGROUND**

### **The Functions of Crime Reporting**

We turn to media to understand the world. Consuming these media is an inherently social activity: mass communication has altered face-to-face interaction into more generalized, universalistic, and standardized forms of communication, creating a universe of shared meanings in society (Melossi 2008). C. Wright Mills argues that “most of the ‘pictures in our heads’ we have gained from these media – even to the point where we do not really believe what we see before us until we read about in the paper or hear

about it on the radio” (Mills 1956:311). This is especially salient for how we understand crime, punishment, and justice, where media has been the fundamental agenda-setter (Hall 1978; Ericson, Baranek, and Chan 1991; Iyengar 1991; Barak 1994; Schlesinger and Tumber 1994; Potter and Kappeler 2006; Surette 2006). Media is also agenda-setting by offering particular responses to social problems, thereby transforming from being mediators of social problems to managers of social problems (Melossi 2008; Mills 1956).

As technology evolved over the past few decades, so did crime reporting. The increasing availability of data about criminal justice, developed in part by the codification of criminology as academic discipline and the development of the “new science” of the criminal, legitimized crime reports with a seemingly empirical basis (Feeley and Simon 1992). This newly fueled production of knowledge changed how crime was understood in society, and helped push the development of stricter crime policies in the 1970’s by framing crime into a social problem. In contrast to the “old penology” that focused on an individual criminal’s intent, actions, and rehabilitation, this new field of criminology sought to regulate deviance through the management of particular, classified groups, relying on statistical prediction, technocratic rationalization, and systems theory (Feeley and Simon 1992).

Data-driven media reports also help build support for widespread technological and governmental tracking, reporting, and surveillance in this “time of insecurity” (Rose 2000; Monahan 2010). Widespread crime reporting thus has two important functions: First, it reifies crime as social problem and social fact, or what Garland (1996) refers to as the “crime complex” of late modernity, marked by everyday crime-avoidance, fear of

crime as a key political reference point, governmental emphasis on public safety, a high level of crime-consciousness embedded in everyday life, and crime institutionalized in the media, popular culture, and in the built environment. Second, it offers particular solutions to this problem. The shift toward data-driven reporting contributed to widespread support for “governing through crime” (Simon 2007) and ushered in a new era of insecurity and fear of crime with blame placed on a dangerous and undeserving underclass: “people who abused the new freedoms and made life impossible for the rest of us” (Garland and Sparks 2000:16). Governing through crime reifies a culture of fear, particularly for middle class Americans, where this fear also motivates other essential life decisions, such as where to educate children or where to live (Best 1991). Crime reporting also represents entire groups of the population as potential criminals (Feeley and Simon, 1992), creating a “culture of control” that posits crime management be built into the fabric of life (Garland, 2001; Page 2004). This approach legitimizes policies that promise crime prevention as inherently logical and is starkly apparent in metaphors for crime that permeate other civic institutions, including work, school, and family (i.e. Hirschfield 2008).

However, the studies cited here point toward elite institutions producing publicly consumable materials that indicate risk and offer governmental solutions. Today, this is changing. Information about perceived victimization, crime rates, and statistics about who commits crime are now produced by non-elites who have the benefit of digitization to buttress their own crime control efforts. These efforts are particularly aided by the unique qualities and availability of crime data in the United States.

## **The Unique Case of Digital Crime Data**

Crime data are unique because of their multi-jurisdictional control and the unregulated sale and distribution of massive datasets to private companies. Yet, crime data are valuable in their potential for improving law enforcement and investigative techniques (Sherman et al. 2002; Chen et al. 2004; Nash 2006; Lum, Koper and Telep 2011). The availability of crime data, though mandated to be public, is haphazard at best. These data are controlled by a multitude of local agencies, which vary state-by-state and jurisdiction-by-jurisdiction (Hoshberg 2014). These agencies vary in their delivery of data to the public; for instance, some agencies only release “hard” or paper copies of crime reports to the public, while others contract with private data management companies who in turn produce streamlined versions of data to consumers or managers of other websites, such as crime mapping sites (Hochberg 2014).

Because of these varying modes of collecting, maintaining, and producing crime data, it’s unclear who truly “owns” these data (Ellis 2011). For instance, a 2011 federal court case in Utah examined who owns jurisdiction to crime data when a private company that publishes crime statistics in partnership with law enforcement agencies sued another company for scraping and reporting the data they make available on their website (*Public Engines v. ReportSee* 2011). Settled out of court, this case raised (but didn’t ultimately answer) these proprietary questions. Proponents of open access to crime data warn against *any* propriety control over publicly accessible data, noting that this could limit access to a variety of “journalistic” endeavors. As Mark Caramanica of the

Reporters Committee for the Freedom of the Press said in an interview with Poyntner.org, this should include amateur and independent blogs, or “an online outfit that’s in the business of taking data and presenting it in an informative way” (Hochberg 2014).

Beyond the accessibility of this type of information, there is also strong public appetite for crime data. Spotcrime.com, a crime mapping website, claims to have a million views per month (Hochberg 2014). The owner of the website, Colin Drane, says most visitors seem to be curious about the “bedlam” in their towns and believes his website contributes to public safety by, for instance, encouraging residents to call in suspicious vehicles after they learn about a recent rash of burglaries in their neighborhood (cited in Hochberg 2014). The availability of crime data, loosely managed by local governments and increasingly simple to access from one’s own home has expanded the market for crime watch websites and armchair sleuthing.

### **Amateur Participation, Vigilantism and the New Culture of Control**

The decision to obtain and republish crime data is sometimes depicted as a vigilante effort, directed toward an imagined fight against crime that is drawn out in the explicitly public space of the internet and archived online (see, for example, media coverage of these websites, i.e. Levy 2013; Zadrozny 2014, Smee 2014; Warzel 2014 England 2015). In some ways, this online vigilantism does mirror other forms of democratic life that are increasingly taken to independent control – such as the Minutemen who patrol the border as a method to address their anxiety toward racial and

ethnic minorities (Cabrera and Glavac 2010; Ward 2013; Morgan 2014). The ease of communication via the internet makes this easier than ever – it is simple to find like-minded people, learn tips and tricks for any given activity, and feel as if one is taking matters into their own hands. In this sense, these activities serve an external function to address a social issue, but also shape the identity of those who engage in these activities, making their participation an exercise in meaning-making.

Cases of online vigilantism often appear as a response to real or perceived deviance (Johnston 1996). Some scholars describe the internet as the “wild west” of vigilantism, a “lawless territory” of “cyber settlers” taking crime and punishment into their own hands and exerting social control (Black 1984; McLure 2000;). In the context of crime, the internet opens a space for bloggers to “correct perceived societal wrongdoings and engage in social control of the people they feel need to be brought to justice” (Wehmhoener 2010). This vigilante activity pursues criminal deviants, rights a criminal wrong through unofficial means and warns others not to engage in these criminal acts (Johnson 1996).

The very notion of taking matters into one’s own hands in terms of crime reporting is relatively new. Traditional media and government-issued data summaries have historically been the fundamental distributors of crime information for the broader public. Indeed, this exclusive control over content is central to the “professional logic” of journalism and crime analysis (Lewis 2012). In his seminal work on professions, Abbott (1988) argues that professional identity is directly tied to having exclusive jurisdiction over a particular societal task. Journalism has traditionally held extraordinary powerful

jurisdictional claims to collecting and disseminating what the public sees as factual information (Abbott 1988; Lewis 2011). Historically, journalistic ideology has been built upon the assumption that society relies *only on them* to fulfill the functions of watch-dog publishing, truth-telling, independence, timeliness, and ethical adherence in the context of news and public affairs (Lewis 2012). Deprofessionalization and the advent of amateur blogging directly attacks this implicit bargain between journalists and the public, redefining whose role it should be to collect, filter, and distribute news.

It is also relatively simple for anyone to deem themselves a “journalist.” As compared to most professions, journalism is a bit of an outlier: there is no formalized process of training or certification and there is no codified manner to prevent amateurs from performing the same tasks. Though there exists a general code of ethics within the profession, there is no institutionalized enforcement (Lewis 2001), leaving journalism in a semi-professional category (Witschge and Nygren 2009).

There’s a critical bent to these projects. The amateur journalism movement claims to remedy the ills of professional journalism, such as profit-based motivations, allegiance to partisan politics, and professional-self interest (Rosen 1999; Lewis 2012; Sokoski 1989; Reese 1990; Allen 2006). Experts argue that amateurs’ motivation derives from a “righteous frustration” that they know content better than reporters (Allen 2006:75). The philosophy of blogging boasts of the possibilities it holds— to quote Dave Winer in *Wired*, “We’re returning to what I call amateur journalism: created for the love of writing, without expectation of financial compensation. This process is fed by the changing economics of the publishing industry.... the web has taught us to expect more

information, not less” (Allen 2006:77). The convergence culture of blogging, social media, and online comment boards allow users to feel in control of content, making ever more fluid the distinction between media creator and media consumer (Jenkins 2006). More than a technological innovation, blogs and independent news sites represents a cultural shift in what participatory democracy looks like in a digital world: a shift from professional, expert control over content to de-professionalized, open systems of communication – or a transfer of duties formerly controlled by democratic institutions to the self-elected tasks of individuals working alone. While bloggers report on innumerable topical areas, crime blogging represents a special case through having a topical advantage, knowing well there is a built-in readership for crime news.

Politically, the amateur movement shares some parallels with broader libertarian ideology. Iyer and colleagues (2012) study the moral and psychological characteristics of libertarians and argue:

“Libertarianism provides an ideological narrative whereby the opposition to high taxes and big government is not just an “economic” position: it is a moral position as well. This narrative provides the basis for principled opposition to a government seen as unfair (because it takes from the productive and gives to the unproductive), tyrannical (because it violates the negative liberty of some people to promote the positive liberty of others), and wasteful (because governments rarely achieve the efficiencies generated by the competition of private firms)” (2012:e42366)

The official Libertarian party provides a specific stance on crime and violence, writing on its website that “America suffers from an epidemic of violence and crime, victimizing one family out of four every year...despite decades of tough talk, the anti-crime policies of the Republicans and Democrats have clearly failed.” (LP.org 2015). The party offers a five-point plan for addressing this issue, including protecting victims rights,



ending drug prohibition, focusing on ‘real’ crime, protecting the right to self-defense, and addressing root causes to crime, including a reliance on government welfare and poor schools.

To summarize, amateur reporters have some advantages in their non-professional status, such as the chance to explore angles that traditional journalists don’t have the resources to address. Working online also removes the geographic boundaries that limit much of traditional crime reporting (Huey, Nhan, and Broll 2012). They can also easily access crime databases from various governmental agencies and private companies, comb social media accounts of victims and the accused, enjoy First Amendment protections, and opt to publish their work anonymously. Yet, these new social actors operate within a well-established field of crime reporting and must negotiate their identity and place amongst traditional reporters and criminal justice officials. Drawing attention to these professional, political and cultural fields allows for a richer understanding of how and why these website publishers do this work.

## **RESEARCH QUESTIONS & METHODOLOGY**

This qualitative project combines in-depth interviews and analyses of written content (website posts, reader comments, and correspondence shared by interviewees). The driving research question is, *how is crime reporting produced online?* I follow with subquestions: *what motivates website producers and how do they do their work?* And *how do website publishers interact with other social actors in similar fields?*

After presenting major themes that respond to the who, why, and how of crime blogging, I turn to a field analysis of the bloggers to understand how they work within broader contexts. For Bourdieu, a *field* is a set of social positions governed by informal rules (of for instance, a profession), which in turn is the site of force and struggle over some form of capital (for instance, information). As actors “play the game” their social reality adjusts to the abstract knowledge inherent within this subsystem. In turn, the knowledge produced by these specialized professionals creates a social reality for audiences and readers.

The field is also an empirical approach, where the “concept of field is a research tool, the main function of which is to enable the scientific construction of social objects” (Bourdieu 2005:30). This mode of theory requires a relational perspective, in which social reality is created vis-à-vis others, through the structuring structure of *habitus*. The crime reporting field, in turn, must be placed within larger systems of power, including institutions, economies, and classes. This perspective asks how the field of crime reporting produces a social and cultural understanding of crime, and how it fits within (or intersects with) larger fields of power, such as media institutions and the criminal justice system. Because online journalism is part of cultural production, it is a field concerned with producing “symbolic goods” (Bourdieu 1993:115), yet it is also a field of power because the discourse of the websites provides categories for a vision of the social world (Bourdieu 2005:37). Using this analytic approach, I explain first how bloggers construct their roles and “play the game” within the cultural, technological, and professional

contexts I described above. Then, I examine three sites of struggle for bloggers within this field.

## **FINDINGS**

### **Who Publishes? Why Publish?**

#### ***Labor, Livability, and Crowdsourcing***

Website publishers are dedicated, curious, tech-savvy, and clever online investigators who are willing to spend innumerable hours building their sites. They are keenly interested in measuring and reporting on crime because they view it as indicative of deeper, more entrenched social issues. Dan, an urban affairs blogger<sup>8</sup>, described his fellow publishers as: *“For people who have kept up blogging for a long time, there seems to be a lot of similarities in personalities. There’s like a profile. They’re really news junky. Voracious readers. Strong writers.”* Many of the interviewees are dedicated followers of vast networks of websites, news feeds, and social media accounts and work hard to keep up with emerging technologies for sharing and disseminating their work.

Bob, the publisher of a long-running urban crime blog in the Midwest, said,

*My blog is a struggle for the heart and soul of my neighborhood. It is [for] people who want to revitalize the neighborhood versus the forces of crime and chaos... the minute I put [my first post] online it created like this response, and right away I was captivated. I was realizing that something that was far more important than opinion was fact. And if I could accumulate facts, I could have impact and I could have leverage.*

---

<sup>8</sup> It’s difficult to place a label on these website publishers. Some managed traditional “blogs” and referred to themselves as “bloggers,” while others preferred “journalist” or “citizen journalist.” Others were uncomfortable with a formal label and simply saw themselves as a “administrator.” I use blogger and publisher interchangeably throughout.

Similarly, Mark discussed his ultimate goal: *“I want to change the world - and I don't mean the world as the whole world - but something within the world I want to be different because I blogged.”* Figure 1 shows two screenshots of typical, independent crime blogs, both of which claim to be straightforward accounts of local issues.



Figure 1: Two screenshots of typical crime websites

Their age profile is older than one might expect for an online community, with many interviewees over the age of 40. This may be because many are running entire independent websites, a platform quickly losing ground as social media platforms (Twitter, tumblr, Facebook) take over as more popular forms of sharing information. It is also difficult to ascertain the readership numbers and reach of their websites, and nearly all of the interviewees confessed it is difficult even for them to track (or were hesitant to share what data they did have). One blogger said he has over 200 RSS subscribers, while another said that some of his posts received over 2,500 hits. Other bloggers simply did not know, or gauged their reach only through the number of comments or emails they receive.

Mostly white and male, the website publishers express a disdain toward mainstream media coverage of their communities and often critique governmental responses to crime. The most-oft cited logic for starting a website is the notion that more information would lead to a more informed citizenry, that would in turn be more aware of and likely to report crimes (akin to traditional “neighborhood watch” groups). Benjamin, an urban neighborhood crime blogger, emphasizes this view on “everyday” crime as opposed to the major, but rare, cases that typically make the news:

*It was less about if it was a sensational story and more about just to shed a light on everyday crimes that happen. I've had to scour through maybe twenty, thirty sources, websites, newspapers to find information. I think [my site is] a helpful tool for people who didn't have the time in their days to search each website and the little story about someone committed armed robbery in their neighborhood. And so, my goal was just to put as much information out there, identify the alleged criminals, and keep people up to date on trials, sentencing, and appeals that happen in major cases. Some of it is used as a tool to help people find out information on*

*the area crime, cut the middleman – be the middleman for that sort of thing.*



Figure 2. Screenshot of a community crime watch Facebook page.

A rural crime watch publisher, Jasper, told me his website was designed to:

*Help locate wanted individuals and absconders. It is also here make citizens aware of the crimes going on and to ask for help to keep an eye out for these criminals... Our goal is to make the citizens aware of how bad the crime really is in our community and hope that they help us combat the crime and take a stand to take back our communities.... Citizens are the most valuable resource for the police in the war against crime.*

A crime watch Facebook page exemplifies the crowd-sourcing opportunities of crime websites (Figure 2). As soon as a post is created, other individuals can begin to share information or their own perceptions of this crime. As Figure 3 demonstrates, these responses can quickly escalate into opinionated remarks on race, ethnicity and neighborhood. Like the bloggers, the consumers of these websites point to crime as a salient example of broader social issues, cultural anxieties, and fears.

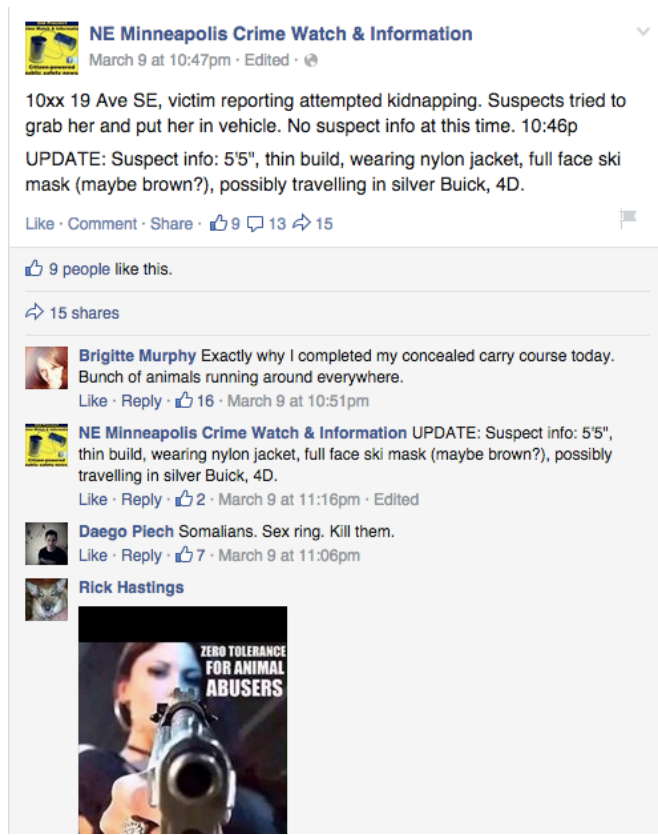


Figure 3. Screenshot of user comments on a Facebook crime watch update page

Nearly all of the interviewees admitted to having a personal, compelling interest in criminal justice, though nearly all of them did *not* have professional experience. Sally, an active cold case blogger, had her interest piqued in a college course in the late 1990's:

*I've always been – well, not involved – but I've always geared towards crime. I started reading crime books when I was like thirteen or fourteen. ... I took some criminal justice classes when I went to school.... I took a class called Crimes of the Century [and for the final project] I started going through every one of my books, through everything online that I could find and made a 40 page report of just lists of names [of victims]. From there I started getting really into doing that and I started keeping track of that. It was 1999, and blogging had really just started.*

This interest in criminal justice was often tied to a critique of the system as being too lenient. Sally described herself as “*very pro-death penalty*” and feels that the death

sentence is “*not used enough at all.*” She was even able to witness an actual execution in her state through requesting access as a “*digital journalist.*”

To do their work, these amateur investigators simply spend a vast amount of time online. Developing new and in-depth angles is a sustained motivating factor, as their work is largely unpaid<sup>9</sup>. In spite of this, many interviewees reported spending countless hours on their website and many specifically referred to their work as a “*labor of love.*” In writing a piece on an upcoming bridge infrastructure change in a high-crime area, Mark said he stayed up until 3:00 AM working on a piece relevant to only one part of his community:

*I'm slogging through county highway planning documents, trying to understand it myself and write about it in a way that is accessible to the average person - not to say I'm above average in any way. You can just paste these planning documents [to the blog, but] they are dry and boring and who wants to read it? So you have to take these things and relate it in a way that is interesting.*

The publishers are also aware that they constantly needed to publish new content in order to maintain a readership. Bob says he “*Consider[s] my blog like a shark. A shark has to keep swimming in the water and keep water moving over its gills, or its gonna sink down to the bottom and die. I have to get new content out there all the time, all the time, boom boom boom.*” Mark, who blogs about crime and housing issues in his urban neighborhood, said: “*If the content is out there, somewhere else and I can't offer a different or fresh or more detailed perspective, then I'm just not gonna bother wasting my time, because someone else is already doing it.*” He also described his angle in reporting on crime as:

---

<sup>9</sup> Some publishers collect monthly or quarterly checks for providing paid advertising space on their website, though the highest amount reported in interviews was less than one hundred dollars.



*If I read [in the mainstream press] that a certain person was sentenced for mortgage fraud, I go, 'yeah well they went to jail for six years, but does anyone really know what properties were affected by this?' So then I'll email the county attorney - I have a contact in his office - and I'll say, 'hey can I get the criminal complaint?' And I'll post that. Then I'll drive around to the different properties and take pictures of the properties and do a little research on what's happened, just to emphasize - like in this case - here are the real world effects of this crime.*

Friday, November 14, 2014

### Criminal Complaint From "Torture Robbery" At North Minneapolis Unbank, Which Charges Henry Lee Devon Moore...



Figure 4: Screenshot of a blog post that posts PDF of a full criminal complaint

Bloggers also noted how much they appreciated the permanence of their blog as it lived online in archive, as do the official, full-length criminal justice documents they re-post online (See Figure 4). Clayton said that when he first started writing, he really liked that

*The writings were going on live... and the reach something had, the permanence of online writing - maybe its a false kind of permanence - but the searchability, the accessibility, the way you can connect with people that are looking for a particular term or particular information."*

Another interviewee, Luke, agreed:

*I feel like my blog is not just a news source. In a sense it's an archive of information. We use it that way. I feel like it's a good thing to do that. I mean what if the guy's future girlfriend...[trails off].*

Finally, the publishers do mirror some of the Libertarian ideology presented earlier in this chapter, yet do not fit neatly into political categories and instead saw themselves as advocating mostly for “better” government, which often meant transparent government. In essence, they are political only in that they want (and are working for), more efficient and effective criminal justice. For instance, Sam feels his blogging activities would eventually lead to a better system of governance:

*I think that the bigger problem is not so much that the information is there. In spite of [policing] being a very conservative profession, I tend to be liberal and or libertarian in the idea of transparency. You know I think more information is good.... Get some basic information about the crime. That kind of transparency is good in building this community partnership.*

Another blogger writes primarily about court cases and requested full anonymity (and publishes their website under pseudonym). They said of their blog:

*It's liberal. Wait. Does that even work anymore? Progressive? Hippie? Libertarian? I don't know. I'm in favor of strengthening Constitutional protections and individual rights and against statism and the desire to convict and to treat all people as "criminals" and all "criminals" as the same. Smart on crime, I suppose?*

While certainly in agreement with notions of “minimum government and maximum freedom,” the publishers’ mistrust of government also extends into the private sector – in this case, media institutions. The interviewees tend to lump media *in* with big government, and consider them to fail along similar fronts when it comes to crime control. In this way, they believe their sites are best left to individual, independent control

and contribute to crime control in ways that are superior to media and local law enforcement.

## **Controlling Crime**

### ***Better than the Media***

It takes a fair amount of work to maintain an active website. The required motivation often came from the sense that publishing is a method of having control over what many bloggers viewed as an out-of-control crime problem. The publishers believe their approach as superior to that of traditional media outlets and that their efforts to inform the public of what is “really going on” is more effective than law enforcement strategies for crime prevention. For instance, Jasper said:

*I wanted to start this page because I was finding out that there was always "more to the story" as far as the crime in our area, I felt like the citizens were being led to believe that my county was such a wonderful place, when indeed we were heading in a downhill slope. The citizens only knew about what was published in the local paper, which is only about one percent of the crime that was really happening.*

The perilous financial state of traditional media outlets was not lost on the interviewees, and in fact, functioned as a motivation to continue their unpaid work as a method to fill the void left by what they view as poor reporting. Paula (who tried her hand as a professional journalist but was unable to secure work) said she noticed how less resources meant less reporting because “newsrooms are shrinking staffs working on day to day stuff. They may not have people who are committed to those more in-depth projects, or things that are a little more time consuming.” Diego had a similar experience:

*The newspaper business kind of was having a very serious downturn back in 2004, and it continued, as we know now. But I saw the writing on the wall. So, I said, I need to get out this newspaper business, because I didn't see a real future in newspaper, and all the old-timers were saying, 'get out while you can.'*

Bloggers felt the mainstream media routinely ignored crime in their community and that local law enforcement wasn't able to handle the issue. As TJ described it, "*One of the reasons I started this blog is I had a feeling - a perception, a belief - that my neighborhood doesn't get its fair share of media.*" Jim said he sees his website as "*A public service to the neighborhood, if it's about getting media for my neighborhood.*"

Mark described his stance:

*[Mainstream papers] do good in some respects, but they have limitations that create the need for a blog like mine, because they are driven by profits and their own political and financial motivations. They write a story and it'll just be a blurb because its all the have space for. And I'm glad that they covered it, but what they have available for them to take on for really local issues [is limited] – that's why my blogging can offer: a different or more detailed perspective than they can.*

James, who runs a website on criminal cases with a particular emphasis on criminal law and justice, is similarly unimpressed with the state of the mainstream media:

*Journalism to me is not particularly good in this country anymore, particularly investigative journalism. A lot of crime reporters are young reporters and they don't have any background whatsoever and criminal law or how the criminal justice system works, they use the wrong terminology they make all kinds of terrible mistakes - they don't know the differences between burglary and robbery for example.*

This sentiment was echoed in assessments of local law enforcement strategies. The publishers felt that, like major newspapers, there simply wasn't enough attention or resources devoted to the crime problem and that technology could potentially aid crime prevention efforts.

### ***Better than the Cops***

Again, critiques of systems led to frustration and eventually, for this group, action through publishing. Sophia, who runs a Facebook crime watch page for her somewhat affluent neighborhood said her motivation came from being victimized and feeling as if law enforcement was not appropriately responding to her concerns:

*I started this six years ago. And the reason that I started the crime watch group was because we had our cars were broken into three times and I just really got fed up and said enough was enough. And I didn't know what to do but I know I had to do something, you know, to put a stop to it.*

Sheila, who runs a website devoted to tracking sex offenders when the are arrested (not convicted) was staunch in her opinion that, “*when it comes to sex offenders, rapists, pedophiles and child molesters, it's better to assume their guilt until they are proven innocent.*” Her “*inspiration*” for starting the site is her stepdaughter:

*In February 2012, she came forward about her being molested by her stepfather since she was six years old. She had a small step niece that she was afraid for so she stepped forward to protect her. Since that time, her stepfather played the justice system – getting continuance after continuance. All the while, we were forced to sit with our hands tied. We were forced to keep our mouths shut in fear that he would fight for change of venue too. His arrest appeared in one small newspaper, so many people in our immediate area had no idea what a monster he was. In that two years, he kept working as a heating and cooling technician – It made me sick to think of the people who were opening their doors and letting him in around their kids, every day, and they had no idea. Because of what we went through – and because the National Registry only lists those who have been convicted and served their time, I felt there was an obvious need to create an alert system that filled the gap between arrest and conviction.*

There was also a sense that local law enforcement did not have the tools, time, or technological expertise to properly investigate individuals accused of crimes. Mindy, a

prolific blogger and independent investigative journalist uses social media to learn more about those arrested and reports this information online, noting that she only disseminates identifying information and photographs the suspects have themselves already provided online. She notes that police in her area seem un-savvy in this area and said:

*I think about social media and just how many people use Facebook and Twitter and Instagram every single day. I mean I don't think that a lot of law enforcement completely realize the importance of using that information in their investigation. You can harvest a lot of information from social media.... Social media is a new arena, and it takes some tenacity and time to find things, and a lot of these police departments don't have the manpower to do that.*

Diego echoed this statement in his interview:

*You know, cops they're out there in the street and a lot of them are not really involved in the social media. They don't really care about the internet, you know, they'd rather just do their job and go home, watch the game, or hang out with their families or whatever. They haven't caught on and if you think about journalism the journalists it took awhile for them to catch on and they're in the business of communication and it took awhile for them to accept this whole new movement of citizen journalism.*

Thus, bloggers often felt their neighborhood and the issues directly impacting it were not receiving the attention or dialogue necessary to create change, which serves as the motivation for this unpaid “labor of love.” In addition, bloggers’ hard work is preserved online and is fully searchable, which also aids in their motivation to continue producing content as public service.

### **Editorial Politics of Identity and Privacy**

Without editors, bloggers are not held to a set of external technical or editorial standards, and instead must rely on self-imposed systems of determining when to reveal

the identities of those involved in criminal incidents as source, suspect, or victim. Yet, this was not a difficult decision for most of the bloggers. In essence, the sentiment is that more information is often good information. As Marcus describes it, *“Yeah, I usually do [print their full name] if they’re involved in some kind of heinous crimes.... I’ll get tips on who did it and their slang names, and their real names and I’ll usually just publish it cause it helps police track these fools down.”* Timothy, a blogger who began running his website of police scanner updates when he was still in high school, doesn’t worry about revealing the identity of suspects:

*I mean mostly criminals I report about are young men in [city] who could care less if their information is put up there. But really I look at the case, I look if it’s still active, I look at, ‘is this persons dangerous to the community?’ I look to see if this person has their information in a large number of other places. If my taking it down isn’t going to cause a scratch in the search history of them, then that’s not my main prerogative, especially if they have been convicted of something. It’s for the right of other people to know. It’s public information anyways.*

Bob, out-spoken in his stance that criminals “get off too easy,” positioned his views on this practice vis-à-vis the treatment of murder victims in the mainstream press:

*One thing I do, that is sort of different than what a lot of journalists do, is I dig into the background of murder victims. A lot - not a little. The mainstream media will be like, ‘so and so died, blah blah blah, he was a great guy, he was always making people laugh, he was just starting to turn his life around.’ I dig a lot more deeply into the background of murder victims. I dig up more than a two-sentence summary of their criminal record, like the mainstream media will do. I dig as deep as I can, and I dig up their address, and I find out what slumlord is running that address. Because what you tend to find about eighty to ninety percent of the time - certainly not all the time, but most of the time - what you find is that on a different day, the only difference between someone who was a murderer and somebody who was murdered, was who got the drop on who. That’s it.*

When probed for his motivations for doing this, he returned to his stated goals for running the blog in the first place:

*The reason I do that, in the context of the struggle for my neighborhood, [is that] people are afraid to move here on the perception that they will be a crime victim. But what's actually happening is there's a criminal class that's preying on each other, and homesteaders - people that come there, buy cheap homes, want to turn them around and fix them up - homesteaders are not the victim of crime, except perhaps burglaries, when tend to happen when they're not home, when they're outta town for Thanksgiving. That's another thing the mainstream media does. They seem to think that if someone's dead, you have to tread lightly around them. But I live where bullets are flying, and I don't tread lightly all around them because we are sick of it, and part of it is this lionization of the victim. He's in a better place, God called him home. Why? Because God needed another drug dealer? I don't think so.*

There is an irony in the juxtaposition between publishers' positive views on posting photographs, names, and addresses of suspects as compared to revealing their own identity as the website producer. Some remained anonymous, while those who publicly ran their website under their real name often faced a vast array of personal consequences.

With some fatigue, Mindy told me,

*There have been times when I'm like I should have picked some stupid name and used blogspot. I'm not a public person, I mean at times the public awareness has been a bit overwhelming but it is what it is. I have always been an advocate and an activist and sometimes you get tossed into the public pool. I don't have any regrets, it's not always been a comfortable journey, but that happens too. Sometimes when you stand up and think that you're doing the right thing, there's a price to pay for it.*

Sophia was initially nervous to tie her Facebook page to her actual identity:

*You know when I first started doing this I was really scared to let people know because I was scared of retaliation, you know, from the bad people. ... I was scared to put my phone number on anything; I was scared to put my email on anything or my name. And I talked to the police officer about it and he was like, 'Let the bad people know what you are doing. Let them*



*know we are watching,' and you know he was like, 'If anything happens we are obviously on your side and we will back you up.'*

Jasper decided to stick with anonymity:

*I remain anonymous - I am the only one that administers the page - The reason I stay anonymous is because I have a lot of threats from the "Wanted" individuals as you can imagine. They do not like their picture posted and their name broadcasted. However, again... it is public record.*

In discussing another blogger's work, Dan mused about privacy concerns as they relate to personal safety: *"If they're reporting on a lot of crime, they could be pissing off gangs, they could be pissing of people who want to hurt them. I mean, sometimes there is a safety concern with things like that."* Marcus, who produces an urban affairs website, told me he receives "casual threats" about every two weeks, with more infrequent "formal threats," which he defined as being tied to legal action (real or threatened). Meghan, who sometimes critiques police in her city said, *"I worried a bit about being targeted because my name is out there,"* and said she had been approached by police and government officials when taking photos for her blog and was told she was trespassing. Meghan describes a "balance" in the new field of crime reporting that now includes amateur reporters:

*Crime and police reporting is a balance. Everyone is trying to hide stuff. The police are being cautious about what they post. The blogs are paranoid about what they post. There always seems to be this sort of paranoid level. It might just go with the territory. Some people are cautious if they are being critical of the police, and some people are cautious because they are afraid of gang members targeting them, and other people are cautious because the police and every government agency has certain privacy regulations so they have to be cautious as well, and be sure they aren't giving too much information.*

These publishers are truly dedicated to their work, even amidst the challenges they face. Yet, they do occupy a somewhat bizarre position in the context of traditional crime reporting, which is a paid, prestigious profession that relies heavily on sources within the criminal justice system. Lacking these credentials and access, the bloggers learn to navigate public databases, social media, and online outlets to do their research. In doing so, they create new identities for themselves, imagining their role in society as having a crime-control function. Though they are non-criminal justice actors, they have real influence in creating permanent criminal records.

However, they must also face other social actors within this broader field of crime reporting. In these moments of interactions, the bloggers attempt to cement their identity as the new wave of crime reporters, though are sometimes treated as ancillary to “real” criminal justice, or even met with resistance. The next section details these interactions in the field – those between publishers, between publishers and criminal justice officials, and between publishers and professional journalists.

### **Sites of Struggle in the Field of Crime Blogging**

The producers’ motivations and strategies for running their websites demonstrate how their work provides meaning and an identity, as well as a method for affecting broader social issues. As their blogs grow in readership, they too – as bloggers – develop stronger identities and move more aggressively toward recognition and status in the field of crime reporting. Connectivities, relationships, and relative positions are important to highlight as website publishers interact with traditional reporters and criminal justice

officials. The public nature of publishing online, the ease in which stories are posted and shared, and the searchability of online content all aid in strengthening these relationships. In addition, the immediate feedback from readers reinforces connections between blog posts and other media outlets' online content.

Importantly, these social actors work within a field, embedded within and interacting with broader social, economic, and technological fields. The website producers described here have staked out their positions, which exist in relation to one another. This focus on positionality within the field illuminates how these amateurs navigate power and status as they learn the rules of the game. This perspective also takes us beyond the individual histories of publishers to examine broader themes. Simply put, the identity and activists of bloggers develop in concert with the identities and activities of other bloggers, criminal justice officials, and journalists.

### ***Publishers & Publishers***

The first point of struggle is between and among publishers themselves. While nearly all of the bloggers in this study are aware of one another's work, many described shifting relationships – at times they act as allies for the greater purpose of blogging, but at other times position themselves in opposition to one another. The arguments typically come via accusations that one website is too “soft” on crime or too sympathetic toward police and prosecutors. Megan, whose blog focused on tracking police misconduct and privacy violations, was careful to position herself from the punishment-focused blogs that delved into deep research concerning suspects and violent criminal incidents. While she

described her blog that critiques criminal justice as “activism,” she felt other blogs took a “pro-everything-the-cops-do” stance. She recounted a story at a city council meeting where Bob (who lives in the same city as Meghan) came to “*support the police chief*” and subsequently wrote a negative post about her activist community who came to the meeting in opposition of the chief. As she summarized it: “*There’s lots of us who have problems with him. Even if there wasn’t blogs – just different personalities and different philosophies. If he doesn’t like somebody, he just goes after them. I don’t think he’s really part of any activist community. He’s just on his own.*”

There to engage in volatile interactions with other web personalities, precisely because your opponent is equipped with the same tools, strategies, and data collection practices. As Ed puts it,

*There were disagreements before blogging but people didn't try to take it to a bigger stage like they did when blogging began. I deal with it by almost making myself more transparent. I try to make it so that what I am comfortable saying about myself is already out there, so that he couldn't say I was hiding secrets. I tried to take that away from [other bloggers]. My take was to make myself more transparent so that it became harder for that type of misinformation to have any credibility.*

Paula has felt attacked by her fellow bloggers:

*If somebody Googles me, they can find some really long blog posts about how horrible I am, where someone is smearing my name and writing hateful blogposts. This one person put my name on a tombstone as a visual to go along with the post. Another said, she’s made her bed and now she has to lie in it, with a picture of me in bed, and then making things up about who I am in bed with, figuratively speaking, and claiming I’m like sleeping with these people or really super close to them, which was not true at all. I don’t even know what would make them think I was even in conversation with certain people. Very strange. I think this blogger was someone in jail in Texas. Just hateful speech, making stuff up. And that’s something that’s always going to be around, like if anyone comes across it, they would be like, what on earth? It might make them worried. Even though its clear its*

*hate speech, and its clear there's not something quite right with who authored it, it would still make you think, like, ok what did this person get themselves into?*

Mark recounted an intense ordeal with another blogger who took issue with his coverage of neighborhood issues:

*For a long time I didn't know who this person was, and I still don't have 100% confirmation of this, but I have heard through various channels that it was a slumlord that I went after on my blog...they went after friends and associates - he was trying to make people afraid of associating with me because their own stuff would end up on my blog. Especially when I didn't know who it was, it was extremely stressful, and it was stressful for some of my friends too. But I am a true believer, and dammit I am going to outlast this person. I'm gonna find out who they are...And that's basically how it panned out. It was really stressful for a while. They took pictures of my house and put them up there [online]...that was really disconcerting. I would say it went on for at least 8 months, maybe a year, when he was going after not just me, but other friends and associates. He was trying to get it that no one would associate with me. And to a degree, for a while, he was successful.*

These sometimes aggressive disagreements within the blogging community showcases the diversity amongst what might appear to be a cohesive movement, and highlight how identity politics and identity formation inhibit, interfere with, and complicate the self-professed goal of creating a website for the public good. What the producers have in common, and what ultimately links all of them, is their amateur status. This status is constantly renegotiated as website publishers develop their identity through their claims to do work “better” than the officials, while simultaneously recognizing that these officials continue to be the gatekeepers and purveyors of criminal justice knowledge.

## ***Publishers & Criminal Justice Officials***

The interviewees revealed what might be considered as a bit of eye rolling on behalf of criminal justice officials and professional journalists in response to their work. Tim, who runs a crime website in a small, Southern town, was eventually shut out by officials after months of daily visits to the police station to look through police reports. He responded with the common refrain amongst interviewees that crime websites are not only here to stay, but is likely to grow in scope and popularity:

*It's like I told the police. I told them, if you read the stuff that I put up there, it's very basic. I don't editorialize or whatever you want to call it. I said, I'm not adversarial to you, and you shutting me out... it's only a matter of time 'til other people are gonna do what I'm doing. They're not gonna be friendly. They could be a nonprofit, they could be an advocacy group. I don't know. These things spring up all the time. 'Police watch,' local-whatever-you-want to call it. They're all over the country. I said you're not willing to cooperate with me, who WILL you cooperate with? There might be a day somebody's coming in there with a Freedom of Information Act. They're gonna hit you with all kind of stuff and really get into your business, and I'm not doing that, and you're saying what I'm doing is unacceptable. So I don't understand that at all. I'm warning them, one day somebody's gonna come along and not be as friendly as I am.*

Tim reminded the police of his right to the data they collect through warning them that his coverage is more benign than that of advocacy or critical groups who may use these same data to critique the police. When they are shut out like this, the publishers are sometimes assertive. Diego, who has actually been arrested for taking photographs at a crime scene for his blog, thinks his watchdog function will lead to better policing down the road:

*We have the right to observe. We have the right to document and we are gonna assert that right. We're not gonna back down through intimidation tactics. Yeah, we might get arrested once and a while but we will beat that*

*arrest in court and we might turn around and sue you guys. An individual officer, he doesn't really care because he's not the one that's gonna pay the settlement, but maybe over a generation or two I'm thinking this'll change like the kids that are growing up now that YouTube generation when they join the police academy they might be a little smarter.*

Many others also felt their relative position in the field was a bridge between the officials and the public because they were helping to demystify what the criminal justice system “really” does. Henry, who blogs mainly about criminal law, said:

*Overall having a more vast electronic media does help even the playing field in a way and hopefully overall more accurate information comes out to the public as compared to otherwise if everyone didn't have the ability to have their own say. My hope is that overall that accuracy and justice is served in the long run.*

Mark too saw his work as not only government watchdog, but as an essential link between criminal justice and the broader public, which operates as a helpful reconceptualization of his role in the field of crime reporting, which by design, carries less power than that of prosecutors and police. He summarized it as:

*Policy suggestions get made on the blog all the time. Sometimes they aren't in the post, but in the comments section. I may not be the one making suggestions, but people get on there and they make policy suggestions. For all issues, even beyond crime: housing issues - all kinds of issues. It's a great forum for that, a great forum for public policy suggestions. It's sort of freewheeling. I definitely like it. I'm totally crazy addicted to it. It's a great thing when you see some issue you've been hammering for so long and documenting, and all of a sudden you see it being taken up at a higher level. You see it coming from mouths of politicians. You see it in resolutions. You see it in stories in the media that are bigger than your blog, that are in a higher level on the food chain. It's really satisfying to see that and feel like you're making progress and getting somewhere. And I feel like the blogosphere, when used skillfully, is very well suited to that kind of thing.*

Without systematically and directly interviewing criminal justice officials, it is impossible to ascertain their take on the work of these amateur crime website producers<sup>10</sup>. Fields are sites of struggle over capital, knowledge, and power (Bourdieu 1993). The website publishers have developed skills to access and publish information produced by criminal justice officials, but must negotiate their identity and status in relation to these officials. This is an important aspect to their role in the field as they rely on alternative investigative strategies that are marked by limited access to information. To address this power differential, bloggers use their web platform as a link between the system and the public, which simultaneously legitimates their activities as essential to an informed citizenry while maintaining a less truly influential position in the field. This also marks their position in the field as quite different than that of professional journalists who have historic access to sources and resources within the criminal justice system. The next section contrasts the relative positions of publishers and journalists, which has important parallels to that of publishers and criminal justice officials.

### ***Bloggers & Journalists***

A third point of struggle is between publishers and professional journalists. The bloggers in this community tend to sway back and forth in describing their relationship with journalists, moving between allies and opposition. At some points, bloggers

---

<sup>10</sup> I conducted exploratory fieldwork with police and police department Public Information Officers prior to this dissertation research. The sentiment from this small N is that the work of the bloggers is mostly harmless and without interference into the work of criminal justice professionals. One PIO simply said that if their work aided in crime prevention efforts, he welcomed the help, but for the most part treated the bloggers as just another citizen. This sentiment was also echoed by several interviews with professional crime journalists used to supplement this study. While they halfheartedly acknowledged the work of crime bloggers, the journalists did not feel the websites hindered or interfered with their own work. In both cases, however, the bloggers felt quite the opposite.



described themselves as “*fellow members of the press,*” and nearly half of the interviewees were quick to point out they had at least some previous paid journalism experience or told stories of journalists contacting them for leads or contacts on stories based on their website. Yet, they also critiqued professional journalists as profit driven, controlled by their editors, and out of touch with local communities. In this way, they felt they maintained a superior position by being drawn to the work because of moral and ethical concerns. Bob critiques their methods as such:

*It's not a matter of - you know 'I get dispatched by the [major newspaper], I go to somebody's house I've never met before - [mockingly], 'how do you do? I'm with the local paper! We are doing a story on neighborhood burglaries today!' No. This is a woman who has me over for lemonade on a hot summers day. This is somebody I know personally.*

Meghan felt the dedication of amateur journalists led to conflict and struggle in the field. She highlights moments of struggle over information in the field by pointing directly to the blurring line between professional and nonprofessional journalism:

*There's sometimes a turf war going on over information, even between bloggers and the mainstream media. Nowadays, more people know how to do some of the basics of reporting, such as data requests, emailing the city for information. So bloggers can do some of the background research for free, and I don't think the paid journalists always like that, because suddenly you're doing some of this work that they wanna do, or that they don't want people to break the story before them.*

Bob had a complex metaphor to describe how his blog existed vis-à-vis the mainstream local press. His metaphorical description of the field also demonstrates this simultaneous struggle and cooperation between professionals and amateurs:

*I've actually used the term media ecosystem - and I feel strongly I am credited with using that term first - that we compete but we also cooperate. That it's like an ecosystem. Ok, like an internet ecosystem. I am a very strong small and highly aggressive fish. So, sometimes there's a*

*story and its like you got the mainstream media who are big sharks who go up to a big story and they just gouge a big piece out of it and they just tear into it and there's a lot of blood in the water. But then, there's these little scraps that are falling around that I'm going after because there's more information out there and they only care about the big story... so the big shark goes after the big story and I go after all the scraps. Other times it's just the opposite. I see a story before anyone else does and I'm like the little pilot fish who goes after it and then these big media entities are like, 'oh look at what the pilot fish found,' and they come in after me and they grab my lunch.*

Amateur publishers also felt the ultra-personal approach they take to their work makes their role distinct from journalists who are tied to their parent company. Following his media ecosystem metaphor, Bob said:

*Normally journalists, they are journalists, they just write stories. But with blogosphere, there's not even a pretense you are not involved in the story. That's how I see it. I think that's why I named [my blog after me]. The first couple weeks it was a personal blog, now I see it as a news source. But it's a new form of journalism - a blogospherian form of journalism.*

Journalists interviewed during exploratory fieldwork were cautious in assigning amateurs the same level of journalistic license as their professional colleagues. Most notably, they critiqued the “witch-hunt” aspect of some of the community bloggers, as well as the increasingly common practice to reveal full names, addresses, and extensive criminal histories of victims and suspects on crime websites, citing ethical concerns. Yet, the professional journalists occupy a unique space in this field that is also quite distinct from criminal justice officials, who are officially credentialed and maintain special access to criminal justice data. Journalists, as social actors that exist within technological, professional, and economic fields, will be forced to re-conceptualize their

relative position as the amateurs continue their reporting and grow audiences, motivated not by money or prestige, but by individual wherewithal.

## **DISCUSSION**

### ***The Field of Digital Crime Reporting***

This qualitative explication of producing crime websites is designed to highlight the individual social actors who produce websites and shed light on their social relations and the contextual fields they work within. Sociological inquiry is well suited to understanding these sites in a holistic way, as websites are not created automatically, nor are they created in a vacuum. They are curated, written, and edited by social actors who operate within various contexts. Thus, a field perspective helps illuminate how their blogging identities develop vis-à-vis one another.

It's clear from interviews that the bloggers' work is a project of contrasts. They define their mission and goals in contrast to existing crime reporting systems and give specific examples of struggles in the field over information, audience, and influence as they build their identity and learn the rules of the game. Specific instances of contact between publishers, criminal justice officials, and journalists provide evidence of this project of contrasts. For instance, through finding one another's work online, bloggers learn from, befriend, and battle other bloggers with similar agendas. As they do their research, they necessarily interact with criminal justice officials, and while they must be deferential to the gatekeeping power of these officials, they also make claims to being better investigators of crimes and solidify their uncertain position by providing a public

platform for policy critique and suggestion. In the most blurred set of contrasts, web producers juxtapose their work to that of professional journalists by dismissing major newspapers' financial situation, corporate control, and political motives, yet, they paradoxically refer to themselves as members of the press as well. These sites of struggle are essential in understanding how social roles and professional identities will continue to change amidst broader economic and technological shifts in the field of crime reporting.

### *Social Control, Vigilantism & The 'New' vs. The 'Old'*

The topical focus of these sites is also of importance. On these websites, incidents of crime represent more than just criminal incidents and criminals themselves. Crime speaks to the character and vitality of communities. Blogging, then, functions as a method for community members to forcefully and directly exercise social control over the deeply personal and deeply entrenched issues facing their neighborhoods. Housing policies, local laws, and police practices are often out of reach for a citizen to directly impact. Producing a website is a public way to address and potentially shape these issues, and operates in stark contrast to slow-moving bureaucracy and profit-driven media elite. Plus, these websites appear to be gaining in popularity, even amidst a current drop in crime and growing public interest in de-carceration policies.

It is intuitive to think these new website publishers are engaging in direct online vigilantism – the “taking of matters into one’s own hands.” Indeed, interviews with website publishers point to the ways that their project functions a clear example of individual Americans taking control over aspects of life historically left to democratic

institutions. While many interviewees do ascribe to some libertarian ideals, they also feel their work is a direct attempt to aid in crime prevention efforts in a method technologically superior to traditional local law enforcement efforts. Many bloggers also have a sense of being ignored, in both specific cases of victimization and at a broader community levels. This leaves them with a sense of urgency as they embark on building their websites, often affectionately referred to as a “labor of love” – perhaps a somewhat ironic name for publications focused on crime, violence, and justice.

There are also important contextual shifts that make this type of work possible. The recent availability of online crime and law data, paired with an ever-increasing ability to create one’s own website, create an ideal environment for these sites. As the publishers attest, there also appears to be a strong audience, which, given the dominance of crime in popular American culture, comes as no surprise. This study also begs the question of whether or not these blogs should be considered “news.” Because news is produced in a new way and from a variety of emerging “newsmakers,” the very core of what constitutes “news” is contested. A folk definition of news historically points to the production of content by a media institution with editors, paid journalists, and paying readers. Yet, I argue that, indeed, crime blogging should be considered a form of news. These websites produce knowledge, are shaped by culture (especially in a hyper-local context), and in turn, shape local culture and create social cohesion and division.

In some ways, crime blogging is very new – particularly in the digitization and archival components of websites. Yet, in other ways, these websites are “old” and function as an extension of the crime reporting that accompanied late modernity and mass

incarceration. Broad shifts in government and crime policy over the past several decades have ushered in an era of “governing through crime,” which was aided, in part, by reporting on crime that often focused on stereotypical images of criminals. In this sense, crime websites perpetuate patterns identified by previous scholars (Simon 2007; Garland 2001) in how media functions as an agent of problem definition and social control.

On the other hand, these sites are “new” in who controls the content. These social media feeds, blogs, and independent websites are a DIY reinvention of the archetypal crime reporting that dominated American discourse on crime throughout the 1980’s and 1990’s, and which grew alongside increasingly punitive punishment policies. This new type of online crime reporting literally drives these messages home in new ways, however, as consumers of these websites can access real-time, hyper local crime updates from the comfort of their smartphone or living room. This intimate, amateur delivery style might mean the messages of these media are even more resonant than the Willie-Horton television of the former decades.

### ***Power, Access and Rights***

There are other essential layers to this crime website production. In particular, there is a clear race-based power component to those who run the websites, and to a lesser extent, gender. Most of the interviewees are white, male, and work from home needing only a laptop and internet connection. They are comfortable in digital environments and unafraid to interact with local governmental agencies in order to obtain information. They view themselves as on the “right” side of defending crime, often in

moralistic terms, and believe they are aiding a fight to take back communities and combat crime. Theoretically, these websites force us to consider who is served by this informal punishment. Do these websites make us safer or do they engender more harm? If the website publishers are exercising their freedom of expression, who does the First Amendment truly serve? How might these sites reproduce and extend existing inequalities? These questions are addressed in the following chapters.

Finally, the production of these websites points toward the complex relationship between technology and crime. Similar to the explosion of online criminal records a few years ago, blogging about the accused and the victimized is an unregulated enterprise, differentiating it from the mainstream press, even in online form. The archive left by bloggers recounts addresses and full names of those victimized and/or accused, then found not guilty. There is a clear tension between the right to free speech for bloggers, versus the need for the accused (and acquitted or not guilty) to manage their electronic trail. While unresolved, this study points to this broader tension as journalism continues to operate in flux in a new digital world. The next chapter introduces the legal field of crime blogging, demonstrating how website publishers use and interpret law as they do their work, and introduces the perspective of website subjects as they find their own photographs, names, and addresses posted online.

### **CHAPTER 3: THE SOCIOLEGAL FRAMEWORK OF DIGITAL CRIME REPORTING**

*Hi.*

*I was the victim of police misconduct/brutality and false arrest. As a disabled person with complex post-traumatic stress disorder, this has and is still causing me intense grief. Years later I find this in a search: my name, birthdate, address...personal confidential information available to the public and I am listed as a criminal. What was your actual motivation to publish this, please?*

*One other thing: I was a victim of false arrest. I am working (and it is work) to have my criminal record expunged. However, anyone can do a search of my name and find that I was incarcerated. They will find my name, exact date of birth, and address - where I live in my home.*

*So regardless of my efforts, I can be (easily) found out to have a criminal history of incarceration because of your blog.*

*How do you think I feel? How should I handle this?*

*- Email sent to blogger*

---

*Forwarding this to you. But my intention is to NOT RESPOND and also I will point out this person isn't even using their real name in contacting me, so my bullshit detector is beeping so loud I might have to yank out the battery. These email conversations never go well and usually end with somebody threatening legal action and me telling them to take their best shot on the way to jumping off a dock.*

*- Email correspondence to author, referencing above email*

This chapter examines the sociolegal framework of online crime reports. As Chapter 2 demonstrates, amateur crime reporters are on rise, aided by the ease in publishing websites and the increasingly availability of digitized governmental data (Jacobs 2015; Hochberg 2014). The public availability of criminal justice data in digital formats makes producing these websites easier than ever. Crime data falls under the umbrella of public government data, though these data are managed under local jurisdictions to varying degrees of accuracy and completeness (Jacobs 2015). As the online marketplace for these data has increased, many public agencies contract with



private vendors to outsource their recordkeeping (Hochberg 2014). Once made public, these data (such as jail rosters, arrest records, and booking photos) are scraped and reposted to innumerable other sites, including those run by independent website publishers, as in this study. These sites constitute novel forms of punishment in the widespread nature of the reporting, in heightening the variety and levels of crimes publicly punishable, and by permanently archiving these punishment symbols in digital spaces.

Unlike traditional criminal records that reflect conviction histories, much of these websites consist of arrest records and booking photos before individuals are charged with a crime, and long before a potential conviction. This expanse of digital crime reporting derives from the ease of obtaining – and then reposting – official criminal justice data. Criminal complaints, booking photos, and jailhouse rosters are simply a mouse-click away. However, the websites that reproduce these data for broader audiences are not automatically created in a vacuum – they are curated and produced by social actors who must negotiate legal and technological landscapes to conduct their (often unpaid) work.

The emergence of these websites introduces a host of previously unanswered questions. Are these websites legal? What recourse exists for those who appear on these websites, and do they ever disappear? Drawing upon empirical qualitative data, I find that this legal ambiguity provides fertile ground for website publishers for interpretations of free speech law that fit this new online context. Taking the analytical approach of law and society (e.g. Merry 1990; Silbey 2005), I first analyze case law to show the indeterminacy of law in this substantive area, then draw upon interviews with website

publishers to show how this ambiguity helps to develop legal consciousness around their interpretation of the First Amendment (i.e. Edelman, Uggen and Erlander 1999).

For subjects of websites, facing their public criminal history can be shocking (see, for example, Myrick 2013). These subjects typically request their information be taken down using three frames: a *practical* appeal (for instance, describing how the online report is interfering with employment prospects), an *emotional* appeal (such as asking an address be removed for personal safety reasons), and sometimes, *legal* threat (typically defamation). In response, website publishers use three specific lines of defense: the *public nature* of crime data, the *utilitarian function* of websites to repost and publicize these data, and third, their interpretation of the First Amendment through a moral argument that their sites contribute to *public safety and the greater good*.

By focusing my analysis specifically on disputes between website publishers and those who appear on the websites, I show how social actors on both sides of this issue rely on their conceptions of ambiguous law. While both parties make assumptions about their rights and the law, ultimately the claims made by the website producers tend to prevail, while website subjects tend to retreat, leaving their digital footprint intact. These “transformations of disputes” (Felstiner, Abel and Sarat 1980) reveal how law operates in a digital context, and how previous jurisprudence has yet to catch up, especially in how the lines of defense invoked by website publishers have a chilling effect on the use of formal law by website subjects. Yet, there are substantial consequences to these online criminal histories, even for non-conviction and low-level offenses (see, for example, Uggen et al 2014).

I first present an analysis of case law to describe the “law on the books,” then move into a sociological examination of the “law in action” (Merry 1985; Sarat 1986; Nielsen 2004; see review in Silbey 2005). This law and society approach considers law as a mode of knowledge (represented through cultural conventions, logics, rituals, symbols, practices and processes), as opposed to a set of discrete rules (McCann and March 1996:210). This lens allows us to study how law is intertwined with the lives of ordinary citizens through theories of legal consciousness, which explain how social actors understand and use law in their daily lives (Silbey 2005; Merry 1985). Overall, this study points to how the internet is drastically changing our uses (and potential abuses) of governmental data, the complicated nature of online speech rights, and the enduring consequences of widely available criminal histories.

## **BACKGROUND**

### **Crime Data Jurisprudence & FOIA**

Digitization has ushered in a “criminal record revolution” (Watstein 2009; Lageson, Vuolo & Uggen 2014) that allows regular citizens easy, online access to criminal histories that previously required a trip to a courthouse or extensive paperwork. As a result, proliferations of online mediums have emerged to spread the news about criminal activity, instantly disseminating mug shots, jailhouse rosters, and court documents. This simple searchability of individual criminal history data online is difficult to legislate or regulate, and often contains erroneous records or the inclusion of

dismissed offenses (National Consumer Law Center 2012). Yet, these records remain openly available.

For the most part, laws on governmental data were originally created to ensure the public's right to know if institutions are doing their job well. The Freedom of Information Act was enacted in 1966 as the first American law to guarantee all citizens the right to access information from their government. There are two exceptions to this general rule of disclosure (Exceptions 6 and 7(C)), which relate to individuals' right to privacy. In essence, these exceptions establish that if disclosure of information by a government agency would cause an unwarranted invasion of personal privacy, the agency need not release that information (see, for instance, Bobet 2014:640). Exemption 6 applies to personnel and medical files, and 7(C) refers to records or information compiled for law enforcement agencies. When challenged, courts employ a 3-part "central purpose" test to determine if the public's interest in getting data will shed light on an agency's performance of its statutory duties. Thus, Exemption 7(C) protects information about a private individual that does not relate to the agency's conduct.

The reach of Exemption 7(C) was significantly expanded in *US Department of Justice v. Reporter's Committee for Freedom of the Press* (1989) to protect individual-level crime data. In this case, the FBI refused to release rap sheets to reporters. Justice Stevens rejected the reporters' argument that arrestees' privacy interest vanished because the information amassed on a single rap sheet was publicly available elsewhere as individual pieces. The court ruled:

"There is a vast difference between the public records that might be found after a diligent search of courthouse files, county archives, and local police

stations throughout the country and a computerized summary located in a single clearinghouse of information...while a rap sheet might be of some public interest in that it is relevant for 'writing a news story,' that 'is not the kind of public interest for which Congress enacted the FOIA'" (*Reporters Comm*, 489 U.S, 1989:762).

This ruling, which made sense in the 1989 single rap sheet context, is complicated by the online context in how simple it is to now collect, collate and share crime data. A simple online search reveals innumerable websites who offer just this service – an easily accessed, organized repository of crime data.

#### *FOIA & First Amendment in Context: Federal Arrestee Mug Shots*

Given the complexities of this issue, a substantive example from the federal level is a helpful lens. The release of federal arrestees' mug shots from the United States Marshall Service (USMS) demonstrates the complicated balance between First Amendment rights and crime data where courts and governmental agencies have yet to find middle ground. In practice, the USMS does not release mug shots unless it serves a "law enforcement function," typically to aid in the capture of a fugitive. This was challenged in *Detroit Free Press v. Department of Justice* (1996), when the sixth circuit court found that an arrestee has no privacy interest in his mug shot so long as criminal proceedings are ongoing. Consequently, the federal government cannot deny a request for a mug shot. The courts also found mug shots to be significantly different than rap sheets because they were a single piece of information in an ongoing investigation, and the mere possibility of 'ridicule' or 'embarrassment' resulting from the disclosure does not

implicate a privacy interest. The court did not rule on the release of a mug shot in situations of dismissed charges, acquittals, or completed criminal proceedings.

After this ruling, the agency had to fulfill FOIA requests that originated in the Sixth Circuit, regardless of where the arrest occurred. But, every subsequent court to consider the issue has rejected this decision. The agency has followed suit: In December 2012, the Department of Justice released a memo that it would not release federal mug shots regardless of if the FOIA request originated within the Sixth Circuit, thus putting the agency in the “murky territory of agency noncompliance” (Bobet 2014:646). The sixth circuit remains an outlier: every other court to consider the federal mug shot issue has also disagreed with the sixth circuit.

### *Free Speech & Governmental Data*

Beyond the issue of federal mug shots, criminal history websites are legally protected when they simply republish photos and information already available in public records (Rostron 2013:1326). Courts have ruled that the First Amendment protects *re*-publication of information about crimes obtained from publically accessible sources, for instance, in ruling that if courts want to keep rape victims names out of newspapers, they must also keep them out of official court records (i.e. *Cox Broadcasting Corp v. Cohn* 1975). In other words, at the local level, arrest records and booking photos are fair game to publish online if a criminal justice agency makes them public.

There is precedent to protect mug shots. In *Times Picayune Publishing Group v. US Department of Justice* (1999), the court argued that an arrestee has a cognizable

privacy interest in his mug shot, particularly because the connotation to criminal behavior and context of being in custody. According to the court, ‘a picture is worth a thousand words’ as mug shots convey a ‘visual association of the person with criminal activity’ that is both humiliating and stigmatizing, the effects of which ‘last well beyond the actual criminal proceedings’ (at 37 F.Supp.2d 477). Similarly, in *World Publishing Co. v. U.S. Department of Justice* (2012) and *Karantsalis v. US Department of Justice* (2011), justices argued that mug shots ‘capture the subject in the vulnerable and embarrassing moments immediately after being accused, taken into custody, and deprived of most liberties’ [and are] ‘often equated with guilt.’ Thus, the 10<sup>th</sup> and 11<sup>th</sup> circuit courts held that an arrestee does have a privacy interest in his mug shot and that countervailing public interest is not sufficient to justify the compelled disclosure of that mug shot. Yet, websites continue to publish them unabashedly and without legal consequence through obtaining them at the local level (often county sheriff’s offices).

There may seem to be room to file personal grievances against these releases of booking photo and addresses of arrestees. Yet, tort law is similarly complex – the Supreme Court has held that even the most “vile” of personal attacks are under Constitutional protection when they relate to matters of public concern (such as in *Snyder v. Phelps 2011*, protecting protests at soldier’s funerals). Crime website publishers also contend that crimes and arrests are matters of great public concern (Rostron 2013). Finally, arguments against publishers using a profit-based approach have also been defeated in court, as mainstream (for profit) news outlets, such as CNN, also seek to

profit financially when publishing publically-accessible data, like booking photos (Rostron 2013)<sup>11</sup>.

This summary of case law illustrates the complicated world of public criminal data. Though issues of privacy vs. freedom of speech are nothing new in American jurisprudence, the fact that these records are now archived online indefinitely – and extremely easy to search for – pushes these rulings into an uncomfortable new light. A sociolegal and criminological lens is needed in order to understand this complex issue with high stakes for those whose records are reproduced online.

### **Legal Indeterminacy in Crime Data**

Sociological inquiry offers an explanatory account of law by studying law in the context of the entire social environment (Silbey and Sarat 1987; Sutton 2001). Scholarship in this area highlights the role of law in how people construct their understanding of a given situation, and whether or not they take any resulting action. In their seminal work, Felstiner, Abel and Sarat (1980) explicitly focus on the process in which a personal trouble becomes a legal issue through the steps of naming (perceiving an injurious experience), blaming (transforming an injurious experience into a grievance), and claiming (transforming a grievance into a legal dispute).

This approach also elucidates how particular social groups elect *not* to name, blame, or claim legal disputes. In this way, not using law reifies inequities. For example, in her study of offensive public speech, Nielsen (2004) argues that while we celebrate

---

<sup>11</sup> Class action lawsuits filed in 2013 and 2014 in Ohio, Florida, Illinois and Pennsylvania have challenged the practice of charging website subjects money for photo removal. The Ohio case was recently settled out of court.



free speech as a cornerstone of democracy, in protecting offensive public speech, the law protects a social practice that reinforces and actualizes hierarchies of race and gender. Traditionally disadvantaged groups – white women and people of color – are “well aware of the reality of the relationship between law and power” and “know not to look to the law for help” (pp. 12, 27). Much like how Nielsen demonstrates that legally protected speech functions to reinforce racial and gender hierarchies, it’s becoming clear that legally protected online speech, such as mug shot and crime watch website, reinforce racial stereotypes and popular conceptions of what we deem “criminal” in society (Lageson 2014a).

These interpretive accounts of law illuminate the indeterminacy of law, especially in how legal consciousness develops as a response to vague doctrine (Silbey 2005). For instance, Larson’s (2004) study of security exchanges show how the inherent indeterminacy of the law in action is then resolved by different forms of legal consciousness. By positioning legal consciousness as a response to indeterminacy, sociolegal studies show how institutionalized practices are undertaken to demonstrate compliance with ambiguous law (Edelman 1992; Edelman, Uggen and Elanger 1999). I position my research questions within this framework of sociolegal inquiry by asking how crime website publishers conceptualize ambiguous law, especially in moments of dispute.

## RESEARCH DESIGN

To understand how crime websites function in a sociolegal context, I ask, *how do crime website publishers interpret and assert their legal rights to fit their publishing goals?* I focus primarily on a set of interviews and email correspondence with website publishers and email correspondence. Detailed methodology is provided in Chapters One and Two.

## FINDINGS

Website publishers and website subjects both use understandings of their legal rights to make opposing claims for public access and privacy. Nearly all of the publishers have experienced a removal request from an individual whom they featured on the website. These requests often came within one of three strategic frames: *a practical appeal, an emotional appeal*, and as a last resort, *a legal threat*. To defend their work, website publishers draw upon three rationales that rely first on the *public nature* of crime data; second, the *utilitarian function* of websites to repost government data; and third, a reconceptualization of their First Amendment to publish that is couched in a moral argument for *public safety and the greater good*.

### **Requests for Removals: Practical, Emotional, and Legal**

Nearly all of the website publishers in the sample experienced requests from those featured on their websites to remove their information. These requests place website publishers in a place of tension between their self-proclaimed goals of promoting public

safety and the negative effects on website subjects, such as difficulty gaining employment or feeling safe (see Chapter 4 for full discussion). Nearly all interviewees reported receiving these types of requests directly (via email) or indirectly (posted in reader comments). As described by the publisher interviews, evidenced by emails shared during data collection, and in public comments posted on the websites, these requests for removal often came in one of three frames: a practical appeal, an emotional appeal, and then finally, a legal appeal.

### *Practical Appeals*

*Practical appeals* often discussed employment or housing barriers caused by an online post:

*The reason I'm emailing you is because my name has been published on your blog and is currently showing up in Google searches for my name. I respect what you're trying to do to improve your neighborhood. And I also understand it is completely within your right to publish items of public record. You're also a pretty savvy guy when it comes to law, and I'm sure you're aware that if what I've told you is true I can (and plan to) have the arrest expunged from the record. In the meantime, I wonder if I might talk you into editing my name out from your post? I've recently been applying for jobs, had a promising lead and it quickly fizzled out. I suspect it may be at least partially as a result of your blog and a few other 'mug shot' type sites.*

*– email correspondence to publisher, shared with author*

*Could you please delete this above information? Trying to find employment after being laid off with young kids to feed is hard enough. I wasn't aware that my mug shot and arrest info was even online until a potential employer told me he couldn't hire me because of what he has found on your blog and a mug shot web site. Your blog is the last of anything regarding my arrest.*

*– email correspondence to publisher, shared with author*

These removal requests demonstrate how practical parts of life are impacted by a crime website, particularly in terms of employment. Employment is often pointed to as a core collateral consequence of a criminal history (i.e. Pager 2007) and similarly, appears here as a practical rationale for why a publisher might remove the post and thus remove the harm to the accused individual. Yet, these website subjects do *not* pursue legal recourse (nor is there existing legal remedy to pursue), and instead work to appeal to the publishers' sympathies toward their housing or employment search.

### *Emotional Appeals*

The second category of removal requests focus specifically on the harms done by the websites, but with a directed *emotional appeal* to the publisher. Notions of personal safety and the need for privacy are paramount in these appeals. For example:

*I understand what you're doing, and it's probably a great thing for people like child molesters to be exposed, etc. But, could you please delete my name off of your blog? I was never convicted of anything - my record is clear besides speeding tickets - and am trying to apply for different jobs and this is deterring me from finding employment. I also do not feel comfortable with my exact home address on your blog, which is kind of creepy. I have young children that I wish to protect from an abusive ex-husband.*

*– email correspondence to publisher, shared with author*

*My case was thrown out and there is a pending suit against an officer from that evening. For the sake of decency, and for the sake that you have your own children that could end up in a vehicle some night that gets stopped because of the vehicle driver.*

*– email correspondence to publisher, shared with author*

These emotional appeals often asked website publishers to “put themselves in the shoes” of the website subject and to empathize with their situation. Yet, they do not engage with

legal questions of privacy and public dissemination of records on independent websites in these instances.

### *Legal Appeals*

In contrast, the third and final category of appeals came in a *legal form*:

*I have not received a response from you regarding the removal of my name, date of birth, and personal home address from you. I find this extremely creepy and it makes me extremely uncomfortable that my personal information is on your blog. I have requested that my information be taken off from other sites, and they have been taken off other sites immediately. I have not been convicted or charged with anything and I do have a right for that kind of information not to be searchable. If people want to find that information, they can go to the county and get it. If there is no response, I am going to have to get a lawyer involved and file a lawsuit regarding my personal information on your blog.*

*– email correspondence to publisher, shared with author*

### **Lines of Defenses: Public Data, Utilitarian Function, and Legal**

When questioned about their strategies in these contestations over privacy, website publishers draw upon three sets of legal defenses: those that rely first on the *public nature* of crime data; second, the *utilitarian function* of their website to curate and translate government data that benefits the public; and third, a *moralistic reconceptualization* of their First Amendment to publish in the name of public safety and the greater good.

### *The Public Nature of Crime Data*

Crime website reporters' first rationale is to invoke the "public" nature of crime data, especially in a digital context, often using their own forms of legalese. To do their research, publishers make in-person trips to the courthouse, submit Freedom of Information Act requests, and cull jailhouse rosters and sheets of booking photos made available online each day. They share tips and do research on what they are legally allowed to obtain. Thus, their sense of being on the "right" side of the law is palpable, which contributes to their sense of being legally protected. Their argument, overall, is that the information is "already out there" – they are just aiming to make it more accessible, available, and digestible. As Sally, a cold case blogger, describes it: *"Most of those are usually when they're in prison already and almost all sites have an inmate locator that is available online and I just copied from there 'cause that's all public information."* Jasper uses the language of government itself:

*We obey policies set out by law enforcement/general statutes etc. everything that we share on our page is public record. We don't have an "inside" person giving us any information - all wanted individuals and arrests are all public information and can be found via the internet.*

Henry, who writes mostly about criminal law-related issues, says: *"Anything that is in the public file is fair game. Otherwise I usually will not disclose it."*

The motivations for building a website devoted to crime news are partially motivated by a broader American appetite for crime media (see, for instance, Katz 1987), but when asked, website publishers often describe their sites as a remedy or response to an overlooked and under-policed crime problem. This work often involves searching for, finding, and reporting the names, photographs, and addresses of the accused in an easily searchable online domain.

Exerting some control over a perceived crime problem motivated the majority of interviewees. Jasper described his decision to start a rural crime watch blog as:

*We have to help law enforcement and probation get these individuals off the streets and in court to answer to their crimes...Our goal is to make the citizens aware of how bad the crime really is in our community and hope that they help us combat the crime and take a stand to take back our communities.*

Sheila, who maintains a website of accused and recently arrested (but not yet convicted) sex offenders, says:

*[My site] is probably hated, or will be hated by civil liberties supporters, but I would much rather support a world that exposes sex offenders than to sit on my hands waiting on the justice system to convict before our children are safe. And, by the way, I am a registered liberal, always have been. Crime is the one area where I believe our country is lacking and actually support systems like the one created by Sheriff Joe Arpaio in Arizona.*

This defense of public data is often buttressed by using legal-sounding language. Figure 5 shows two screenshots from a blogs that claims legal protection in reposting a booking photo. Because of the ambiguous legal status of booking photos – technically publicly accessible, but questionable to re-post – website publishers develop their own set of legalese to defend their practice. This is a common response: Popular criminal history websites often post elaborate statements to address their own legality in order to deter potential grievances. For instance, Mugshots.com defends its business practices through various forms of legal compliance, claiming protection under the First and Sixth Amendments, copyright laws, and FOIA (Wolfe 2013).



Figure 5: Examples of legalese on crime blog photos

Beyond the public nature of crime data, publishers also used the threat of “making things public” through their website platform. Marcus, who produces an urban affairs website, described a story of receiving a complaint about information from a woman in his community and his subsequent response:

*I ended up calling her up and saying, ‘Hey, we’re just going to have to go to court with this? I’m not taking any information down off my site.’ And later, I get a letter that’s, ‘Hmm, ok well never mind.’ Because if it would have went to court, I would have done it pro se, subpoenaed all these people and put them on the stand to prove my point, and they didn’t want that. I gave them a list of people I would have subpoena to scare the hell out of them.*

Using the language of FOIA and mimicking legal-sounding language, the website publishers assure themselves of the legality behind their websites. This operates as a convenient and official sounding line of defense when confronted by website subjects. Beyond that, publishers also point to how helpful their websites are for helping them to understand and interpret otherwise unintelligible crime data. This frame takes the form of a utilitarian line of defense for their work.



### *Utilitarian Function of Websites*

Given that these data are already available, interviewees view their website as providing a function to the public – specifically, bridging the gap between public criminal justice data and the public's access to it. Bob, who publishes a weekly jailhouse roster on his blog, makes the claim that:

*The fact our society knows who has been jailed--that citizens are not jailed secretly by the government--is an aspect of democratic transparency. There is, however, a gap between transparency as it exists theoretically and legally, versus transparency as it exists actually and in reality. For example, if the record of who was in jail is hard and inconvenient to obtain, do we really have transparency? So it is this blog stands in the gap between theoretical and actual transparency. This is where public records rubber meets the road of actual data access. This is free speech, this is freedom of information, and in a copy and paste dissemination kind of way, this is grassroots journalism.*

Andy is of the most tech-savvy interviewees and developed his own crime mapping mobile app, which he offers for free. As he describes it, his efforts to translate governmental data were often made more difficult by local law enforcement agencies – for instance, when the police decided to export their files available for download on their website from excel data files into PDF files (and thus not exportable as data to Andy's mobile app). Overall, he is frustrated by the inability of laws to keep up with digital accessibility, including FOIA and the 1976 'Government in the Sunshine Act', which aimed to create greater transparency in government. In his words:

*People don't understand that open data is about digital accessibility. The bigger picture is that the Data Practices Act and our laws about public access to data have no sense of the internet.... the internet has become such an important part of our culture, especially in the sense of data, but I feel like a lot of open data policies that have been made are not changing the law. FOIA and 'Sunshine Laws' don't encompass what is in our lives now.*

Paula, the former professional journalist who now writes independently, echoed Andy's frustration with governmental claims to access and the reality of obtaining data:

*I think there's just more interest in [transparency], there are more eyes on the street in that way. I don't think the government has gotten any better about providing information. I mean, even with Obama, before he was elected, one of the things he said was that he wanted to be transparent and increase transparency, but he's done some of the worst stuff transparency-wise. So, it's so interesting that on the one hand, you have this 'village' online and things should be more available. But they're not.*

Like the debates garnered by Wikileaks and crowdsourcing on Reddit, broader social movements for increased transparency and easier access to governmental records are gaining momentum. Crime data is but one specific example of this, however, the crime website publishers frame access to data as a fundamental right to citizens with a moral bent, given the sometimes emotional and powerful focus of crime and victimization. The use of the First Amendment is a clear example of this legal-moral framework by offering two benefits: a claim to increasing public safety, and a strategy for publishers to distance themselves from their websites.

#### *First Amendment Protection vs. First Amendment Rights*

Interviewees often invoked the First Amendment as a third line of defense for the websites they produce – yet, they do not speak of individual speech rights in the traditional sense of the First Amendment. Instead, they frame it as a necessary protection against the threats and sacrifices they make in running these sites, such as the disputes brought by subjects, negative commentary from readers, and their own loss of privacy as

they write in the public sphere. But, using law as a defense also allows publishers to avoid personal culpability for their work. In this way, they rely on an interpretation of the First Amendment not for individual free speech, but for the greater good – in this case, public safety.

This was partly because some publishers felt attacked for their work. For instance, a website publisher who broke a crime story that gained national attention was sued for defamation. Ironically, her conceptualization of freedom of speech involved protecting her own privacy (especially the names of her sources) while simultaneously under accusation of violating the privacy of someone she wrote about on her blog. She invokes both the tensions of privacy online and the moralistic undertone of her work:

*They were actively trying to subpoena ISPs to get subscriber information to identify my John Does. And I was hell bent on protecting their identities because free speech protection is not about unicorns and birthday cakes. It's the ugly stuff that needs to be protected. Nobody files a lawsuit because somebody says, 'you have great hair.'*

This is evident in how these publishers differentiate their work from profit-seeking websites that operate under First Amendment protections (such as mug shot websites that charge a fee for removal services, as depicted in Figure 6). The publishers also see themselves as distinct from those who use the First Amendment for personal or professional gain.

Provide us with your email address. \*

Please provide your best contact phone number \*

Status of case- Choose from the drop down box below: \*

Which service would you like to purchase? \*

- 1 arrest including mugshot(s) - \$399.00
- 2 arrests including mugshots - \$798.00
- 3 arrests including mugshots - \$1197.00
- 4 arrests including mugshots - \$1479.00
- 5 arrests including mugshots - \$1799.00

Payment Required for Submission \*

Unpublisharrest.com offers an unsolicited paid submission service. This application CAN NOT be submitted with out receipt of payment.

We'll contact you using this email address. Typically we don't distribute this info to outside parties.

Knowing the status of a case helps us to better serve you. Some cases may not qualify for unpublishing or require additional documentation.

Figure 6: Screen shot of mug shot removal service

Diego, in particular, was adamant to separate his publicly oriented work from that of websites who publish crime data in order to make a profit:<sup>12</sup>

*Sometimes the laws have not caught up with the internet... I don't think people should [make a profit]. They're screwing it up for the rest of us. They're screwing it up for people like me who are trying to do honest journalism. I'm just trying to do stuff that is credible and legit, but eventually the law will have to determine, okay, where's the difference? Where to draw the line? I don't know. I have no answer for that.*

Instead, these publishers interpret their First Amendment protection through the lens of their broader agenda to get information into the hands of the public, and can thus avoid individual responsibility for any negative repercussions. James was adamant about how he “removes” himself from all content he produces:

*Oh no, I just tell the story. I'm not advocating one way or another... I'm telling you what happened and I'm not telling you – now, now I may for example say I believe O.J. Simpson, while he was acquitted for the double*

<sup>12</sup> Only one interviewee admitted to taking money in exchange for removing content from his website. He charged \$200, paid through PayPal, to remove the full name and address of an arrestee. No other interviewees admitted using this tactic.

*murder, actually killed his ex-wife and the waiter. Now, he could sue me but he would have a hard time.*

This was a reflective process for some. Andy, who produced the crime mapping application, described how he felt that most people should “let go” of privacy concerns:

*It's really tough. My personal view of privacy is to let it go. But that comes from privilege. Essentially, I'm an affluent white male. I don't know what it's like to go to court or go to jail. And I also work on the Internet. So I essentially...it accumulates for me to say I don't care, I have nothing to hide.*

Benjamin, who uses a police scanner to provide live crime updates for a major Eastern city, noted his social position vis-à-vis those he profiles on his crime watch website, but maintains that it is for the broader “right of other people to know”:

*I've had people in the past request that things be taken off, sometimes I will, sometimes I won't depending on the situation. The most negative feedback is from people who think it sheds a poor light on the city.... I mean mostly criminals I report about are young men who could care less if their information is put up there. It's for the right of other people to know, its public information anyways.*

When directly confronted by the accused, publishers sometimes removed content, but again, often described this within a moralistic framework of crime prevention and protecting the public. Sheila describes this as:

*I realize there will be some who are wrongfully and falsely accused. In those cases, we will, upon submission of proof of innocence, provide a public rebuttal and apology and will update every post that contains the name of the person 'Wrongfully Accused,' with a big notice so everyone who sees those posts will know that person is innocent and has been wrongfully accused, according to the courts. All images of that person will be promptly removed as well. I believe wholeheartedly in the concept of Act Now, Apologize Later. I would much rather be on the side of Prevention and Protection than to sit back and do nothing.*

Yet, this is an entirely discretionary process. Website operators, not bound by a legal framework around posting non-conviction and arrest records, are at liberty to use public data. One person, a blogger who requested strict anonymity, described this discretionary process as:

*Sometimes people ask me to remove it because they're trying to move on from something or because they're ashamed of something they did. How I react to it depends on the post and the reason for the requested removal. I'm not blogging to harm anyone's livelihood or lives, so if it's an innocuous post and they want it taken down, I'll consider it. If they were a complete toolbag and want the post removed just because, it ain't happening.*

This reliance on a public data/public safety argument was also a method for publishers to dodge their own culpability in publishing the names and photographs of the accused. By “sticking to the facts” and “public record,” website operators could distance themselves from the decision to remove content. As Sam described it,

*There was a guy charged with molestation or something. Sexual abuse. He started emailing me. Anything that has to do with a domestic, instantly people are like, ‘that’s not what happened.’ And I have to say, that’s what we know as the facts right now. You are charged with a crime, its public record, I’m sorry.*

It’s clear that these independent website publishers see themselves as the press, thus taking on the persona of an institution, rather than an individual. The specific ways in which they invoke the First Amendment reflect this sentiment of being an objective reporter, as opposed to an amateur who is producing reports that may have otherwise laid dormant in a government database. Paradoxically, their descriptions of their work also take a highly subjective moral framing. The glue that links these conflicting objective-subjective elements, however, is that they are all methods for the publishers to distance

themselves from the real-life consequences of the media they produce, of which they are uncomfortably aware.

## **DISCUSSION**

### **First Amendment Law & Crime Data**

First Amendment jurisprudence has demonstrated throughout history that freedom of speech is a core value in American history. Criminal histories have fallen into the realm of publicly available information, with booking photos and prior records regularly appearing in print and television news. The online context has amplified this dramatically. In pre-internet society, courts warned of the potential harm of clearinghouses of individual-level crime data and have since sent mixed signals regarding the release of these types of data as the information age began, as the example of releasing federal mug shots demonstrates with clarity (Wolfe 2013; Bobet 2014). Technology, paired with the Freedom of Information Act, has rapidly surpassed jurisprudence, leaving millions of booking photos, criminal histories, and arrest records publicly available and easily disseminated. It should come as no surprise that, in a society captivated by crime media, website publishers believe they have stumbled upon a legally protected niche that comes with a built-in audience.

The laws on the books have not kept up with digital accessibility – or rather, laws governing public access to criminal justice data have not adopted how the internet has changed the production, scraping, and reproduction of data. While public access to data was restricted to paper copies of files obtained in person at courthouses, it is now widely

available. Though the courts have warned of the dangers of repositories of criminal histories and booking photos, the collusion of digitization, data mining, and transparency in government have coalesced into the current situation. There's room for debate for whether this is a public benefit or a breach of privacy, given the simplicity in Googling a person's name and finding a booking photo. The next chapter more deeply explores the repercussions of the digital expansion of online criminal histories through interviews with those who appear on websites.

### **Legal Ambiguity and Uses of Law**

Criminal justice data are available online (and will likely remain so), but historically might remain mostly hidden, accessed only through an in-person visit to a courthouse. Thus, organizing, editorializing, and publishing crime data online is a social choice. The sociolegal approach taken here helps illuminate how legal consciousness evolves as a response to ambiguous law. While the First Amendment was originally created to protect individual speech from the tyranny of the state, these interviews show how contemporary crime website publishers conceptualize free speech laws as a shield to for their moral duty to draw attention to crime, inform the public, increase public safety, and call attention to deficiencies in punishment practices. These conceptions of free speech allow publishers to simultaneously define, construct, and offer remedy for crime as social problem. Publishers draw from their knowledge of law and use it as their shield, even when they do not fully understand the legal landscape they work within. In this sense, legal ambiguity produces legal consciousness.



Disputes with those profiled on the sites offer a unique glimpse into how law is used – and not used – in this context. While website subjects are apt to lean first on emotional and practical appeals in their requests content is taken down, publishers often went straight to defending their constitutional rights by explicitly pointing out the public nature of all levels of crime data. This public nature of easily accessible crime information removes individual-level culpability, a helpful defense when those who are profiled on their websites claim an injurious act has occurred against them and directly confront publishers with removal requests.

Crime websites also point toward the complex relationship between technology and crime. Similar to the explosion of online criminal records a few years ago, publishing websites about the accused and the victimized is an unregulated enterprise, differentiating it from the mainstream press, even in online form. The archive left by these websites recounts addresses and full names of those victimized and/or accused, then found not guilty. There is a clear tension between the right to free speech for publishers, versus the need for the accused (and acquitted or not guilty) to manage their electronic trail. While unresolved, this study points to this broader tension as crime data continues to be utilized in a new digital world.

The jurisprudence presented here codifies the complicated nature of how to balance the public's right to data vs. individual's right to privacy. Yet, jurisprudence should not be considered within a philosophical vacuum, and instead should be considered as reflecting culturally specific values and attitudes about crime. As the excerpts from email correspondence between website operators and subjects indicate,

removing information that is already online is essentially impossible. These findings pair well with current research regarding the stickiness of criminal histories and the realm of collateral consequences not immediately associated with having a record (Stewart 2014) and will be further explicated in the following chapter. Ultimately, the diffusion of punishment in all realms of life, even for minor offenses, diminishes the ability to move on from one's past – especially once it is online, easily searchable, and publicly archived indefinitely.

## CHAPTER 4: THE ENDURING EFFECTS OF DIGITAL PUNISHMENT

*Hello,*

*I have a very large favor to ask you of. My name appears on one of your posts from 2013 and when you Google my name and city it is a top hit. I am aware that this is public information and thus you have the right to post it, but because of my job, I try to keep this secret. Is there anyway you would delete my name from the post? I know you simply copy and paste the roster, but I work with middle school students who love to Google search my name and I would be forever thankful if you could delete it. If there is anything I could do to make this happen, please let me know. The name from this email isn't my real name, so please let me know if you are willing to do this and I will give you my information.*

*- Email sent to website publisher*

*“Our County prosecutor’s office started a Facebook page probably eight months ago. The front secretary literally goes through the booking photos every morning looking for the worst looking people. Like they have a discussion like, ‘oh my gosh, look at that.’ And half the time – and I’m not telling you anything that isn’t true – half the time they’ve been beat up by cops because they’re threatening the cops in a drunken stupor, and so they look horrible. And they post them on the Facebook page with their address and what they’ve been arrested for. And they haven’t even been charged with anything. They’ve only been arrested. And it may not ever result in a case. And now forever afterwards on Facebook, their address, what they were arrested for, and this horrifying mug shot are out there.”*

*- Criminal Defense Attorney*

*“I don’t know if you’ve ever had to deal with clients who are trying to get a job, but the whole background check nightmare, its like a lot of the yay-hoos who are doing background checks do not know how to read a criminal record to save their life. So you get people coming in all the time who are like, ‘my case had been dismissed but they won’t hire me because I was arrested for possession of marijuana.’ And all you can do is try to reach out to the employer and say, this isn’t – they didn’t get convicted of anything. The more you put on the internet with these booking photos, I just think the worse its gonna get.”*

*- Criminal Defense Attorney*

While the previous chapters focused on the legal and cultural fields of producing crime reports online, I now turn to the effects of these websites for those whose photographs, names, and addresses appear online. I focus primarily on the lowest-level offenders by conducting fieldwork at criminal expungement clinics and interviewing those with misdemeanor or non-violent felony arrests and convictions. These interviewees self-

select into a pool of arrestees who are actively trying to seal their criminal history but must also face online versions of their records. Through confronting their criminal record through this process (Myrick 2014), expungement-seekers quickly learn that the internet catalogs all brushes with the law, including dismissed offenses, a night in jail, or stays of adjudication that should disappear after a period of law-abiding behavior. Yet, once these data are made public by governments, they are sold or mined by private companies and individuals, then reposted in various venues (Hochberg 2014).

These newly created records remain online in myriad forms: a Facebook page that lists recent arrestees, jailhouse rosters re-posted on blogs, booking photos on a Google image search return. Decision-makers, such as employers, landlords, and school administrators, have access to untold amounts of information. While states vary in how decision-makers may use these data (Callanan 2012; Lageson, Uggen and Vuolo 2015), the extent to which unofficial or off-the-record searches impact their decisions is unknown. These records also document arrests or charges (not only convictions) effectively skipping over the Constitutional right to innocent until proven guilty: when online searches reveal court records or booking photos, employers or landlords may reasonably, though mistakenly, assume the applicant has a criminal record, though charges were dismissed (Conley and Datta 2012).

Criminal expungement clinics provide a glimpse into the broad population affected by low-level records that appear in online criminal history databases. Expungement is a process by which a judge seals or destroys a criminal history, as allowed by the state, so that the subject of the record is no longer required to disclose this

information and the record should no longer appear in routine background checks. Yet, the privatization of criminal histories means many records remain available even after this legal remedy. Fieldwork and interviews with expungement-seekers and attorneys demonstrate how the online marketplace for criminal histories complicates and undermines legislative, policy, and legal attempts to seal these records. I find many clients are unaware these dismissed or arrest records exist until they “pop up” online and prevent them from participating in labor, civic, or family duties. Yet, many clinic attendees - though deeply impacted by criminal histories sold online by private companies – report that they are not actively attempting to remedy or remove their online criminal histories. Instead, most attendees must instead prioritize the administrative maze of expungement through official channels, amidst other practical challenges. Ultimately, I argue these websites significantly add to the stickiness of criminal histories and broadens the realm of what we should consider “collateral consequences,” precisely because these records affect a broad swath of the population who have limited or singular contact with the criminal justice system. The millions of Americans who are arrested each year, but never charged nor convicted of a crime, are now facing the serious consequences we typically associate with felony-level convictions (i.e. Holzer, Raphael and Stoll, 2007; Pager 2007; Uggen et al. 2014; Carey 2004; Hirsch et al. 2002; Thatcher 2008).

## **BACKGROUND**

### **Online Background Checks**

Searching online for another individual has become so commonplace it is nearly ubiquitous. In 2012, the National Consumer Law Center (NCLC) reported that 93% of employers check at least some applicants, while 73% check every single applicant.

Historically, criminal background checks involved a material process of obtaining a paper record from the state or county, but now most employers rely on a computerized private industry to obtain criminal histories: nearly 80 percent of employers in one survey were outsourcing record checks to a security establishment (Raphael 2011). Apart from longstanding distrust of those with criminal records, the forces driving this trend appear to be the availability of records via technological advances, the increasing openness of state criminal history repositories, fears of liability, concerns for employee safety, and a desire to comply with state laws that may require checks for particular positions (Bushway et al. 2007a, 2007b; Finlay 2008; Raphael 2011; SHRM 2012).

Yet, these records are often incorrect (Bushway et al. 2007b; NCLC 2012; NELP 2013). The most common issues involve mismatching identities, divulging expunged or sealed records, and omitting case dispositions, or come as a result of employer error in interpreting the seriousness or details of criminal justice information (NCLC 2012). These mistakes most frequently occur when private companies purchase bulk records, then fail to check for false positives, use unsophisticated matching criteria, or routinely update or check the accuracy of records, and thus innumerable false criminal histories flood the market and remain online, available via quick Google search (Bushway et al.

2007; NCLC 2012). Beyond the issues with private companies, even official state repositories are likely to obtain inconsistent information, including which less serious crimes are included and the length of time between the offense and its inclusion in the database (SEARCH Group 2001). Even the “official” source for these records contain error: According to a 2013 National Employment Law Project report, roughly 50 percent of the FBI’s criminal history records are incomplete and fail to include information on the final disposition of an arrest. Overall, the accuracy and completeness of records is consistently identified as the most serious problem in such databases (Harris and Keller 2005).

There is considerable breadth to informal background checks. Searching online for an individual’s criminal history reveals information well beyond felony convictions to include misdemeanor convictions and arrests that never led to conviction. Millions of people face the chance that pieces of their criminal history are available online: while slightly more than 1.5 million persons were held in U.S. prisons in 2013, there were more than 7 times that number of arrests in that year – about 11.3 million (U.S. Department of Justice 2014a, 2014b). Other methods point to the commonality of arrest in the United States. Using self-reported arrest data from a national survey, Brame and colleagues (2012) estimate that a full 30 percent of U.S. youth are arrested by age 23, unevenly distributed by race and sex, with about 49 percent of African American males, 44 percent of Hispanic males and 38 percent of White males arrested by 23 (Brame et al., 2014). Overall, the arrest rate in 2013 was 3,690.5 arrests per 100,000 inhabitants (U.S. Department of Justice 2014b).

Most arrests are for low-level and non-violent crimes. Of the 11.3 million arrests in 2013, only 480,360, or 4.3 percent, were for violent crimes (U.S Department of Justice 2014b). The highest number of arrests was for drug abuse violations (approximately 1.5 million), larceny/theft (1.2 million), and driving under the influence (1.2 million). These typical encounters with criminal justice constitute the bulk of penal operations and result in non-carceral sanctions, such as probation, parole, alternative programs or sentences, fines, or community service (Kohler-Hausmann 2013). Another increasingly common practice is to suspend conviction under after a period of time set by a judge, such as in a stay of adjudication, when a case is dismissed after probation conditions are met, and the official record is cleared (Bjerk 2005; Natapoff 2012).

Many arrests for non-felonious crimes – as much as half, in some localities – are dismissed (Kohler-Hausmann 2013.) Clearance rates also shed some, albeit imperfect, light on how many arrests lead to conviction, though clearance rates differ conceptually from arrest rates in that the numerator represents offenses cleared and the denominator represents offenses known. The clearance rate for 2013 was 48.1 percent for violent crimes and 19.7 percent of property crimes (U.S. Department of Justice 2014c), which implies many arrests are not linked to reported crimes and are later dismissed. Finally, studies show that criminal histories also lose power to predict future offending rather quickly. Kurlycheck, Brame and Bushway (2006) estimate that after six or seven years, the risk of new offenses begins to approximate (but not match) the risk of new offenses among persons with no criminal record. Thus, though widely available and broadly utilized, the predictive ability of criminal histories is also questionable.



Regardless of case disposition, an electronic record is created at the time of arrest, accompanied often by a digital booking photo. As a case works its way through the justice system, new data points are created and shared outside of official reporting agencies. For instance, an arrestee faces a digital trail of arrest, booking photo, charges file, and disposition. If a judge employs an innovative sentence (as is increasingly common), the final outcome of the case may not be reflected in the digital trail (i.e. a stay of adjudication results in a dismissal after two years of law-abiding, but shows up as a guilty plea in records that are sold to a private background check company). As legal scholar Jenny Roberts summarizes:

A common misperception is that misdemeanor charges might lead to a night in jail and the punishment of going through the process - often requiring a number of court appearances - culminating in dismissal, deferred adjudication, or a quick guilty plea with community service, a fine, or perhaps some small amount of jail time. Yet the consequences of even the most “minor” misdemeanor conviction can be far reaching, and include deportation, sex offender registration, and loss of public housing and student loans. In addition, criminal records are now widely available electronically and employers, landlords, and others log on to check them. These “collateral consequences” of a misdemeanor conviction are often more dire than any direct criminal penalty (2011:277).

In sum, millions of people each year face a very real chance their full name, birthdate, address, booking photo and newly created arrest record will appear online in various forms. Figure 8 exemplifies the initial effects of an arrest in depicting a typical mugshot website where booking photos are automatically captured from county jail websites and reposted. These photos represent individuals arrested, not charged nor convicted, of a crime and constitute a new social experience in criminal justice processing, creating a highly visible and voyeuristic method of labeling deviants and

criminals long before a criminal conviction. These photographs are publicly available and simple to find, as Figure 9 plainly shows: A Google search of an arrestee who is featured in Figure 8 returns numerous websites that re-post this record.

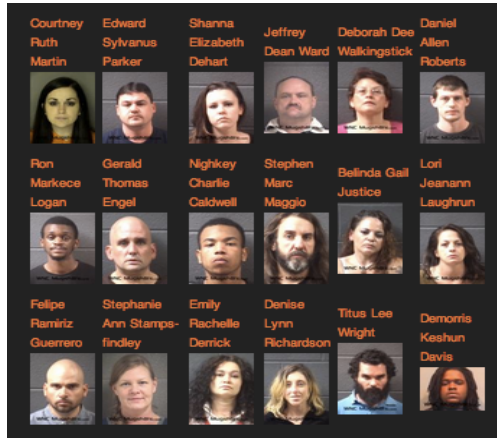


Figure 8: Screenshot of typical mugs hot website

[Asheville Citizen-Times Crime Watch - Facebook](https://www.facebook.com/.../posts/541064042652904)  
<https://www.facebook.com/.../posts/541064042652904>  
 Gary Alan Berdeski, 20, Nighkey Charlie Caldwell, 19, and Ron Markece Logan, 21, all of Rock Hill Road, each was charged today with three counts of breaking ...

[Local | The Asheville Citizen-Times | citizen-times.com](http://archive.citizen-times.com/.../3-Asheville-men-charged-vehicle-break-ins)  
[archive.citizen-times.com/.../3-Asheville-men-charged-vehicle-break-ins](http://archive.citizen-times.com/.../3-Asheville-men-charged-vehicle-break-ins)  
 Nov 4, 2013 - Gary Alan Berdeski, 20, Nighkey Charlie Caldwell, 19, and Ron Markece Logan, 21, all of Rock Hill Road, each was charged today with three ...

[Ron Logan Mugshot | 08/29/14 North Carolina Arrest](http://northcarolina.arrests.org/Arrests/Ron_Logan_18390684/?d=1)  
[northcarolina.arrests.org/Arrests/Ron\\_Logan\\_18390684/?d=1](http://northcarolina.arrests.org/Arrests/Ron_Logan_18390684/?d=1)  
 Full Name: Ron Markece Logan. Date: 08/29/2014. Total Bond: \$25000. Personal Information. Arrest Age:22. Gender: Male. Tag this Mug Shot. Beat Up ...

[Ron Logan Mugshot | 11/03/13 North Carolina Arrest](http://northcarolina.arrests.org/Arrests/Ron_Logan_14353076/?d=1)  
[northcarolina.arrests.org/Arrests/Ron\\_Logan\\_14353076/?d=1](http://northcarolina.arrests.org/Arrests/Ron_Logan_14353076/?d=1)  
 Full Name: Ron Markece Logan. Date: 11/03/2013. Total Bond: \$5000. Personal Information. Arrest Age:21. Current Age: 22. Gender: Male. Tag this Mug Shot.

[Court Records found in Zip Code 28803 at Courtclick.com](http://www.courtclick.com/courtnames/NC/28803)  
[www.courtclick.com/courtnames/NC/28803](http://www.courtclick.com/courtnames/NC/28803)  
 RON MARKECE LOGAN · GELALIO DEHA CRUZ · CORIE NICHOLAS HAZEL · ZACHARY TYLER PRESTWOOD · THOMAS ROLSTON STOER · STEPHEN ...

[Ron Markece Logan's Arrest Report \(Buncombe County, NC ...](https://www.usinquirer.com/records/26632337)  
<https://www.usinquirer.com/records/26632337>  
 Aug 29, 2014 - View the official arrest report and mugshot from Ron Markece Logan's 2014-08-29 booking in Buncombe County, NC for free on ...

Figure 9: Screenshot of Google search for name posted on mugs hot website

While employers have mandates on how to use official criminal history reports in hiring decision (EEOC 2012), there exists no way to prevent employers from conducting

clandestine informal searches that might reveal something like this. In a timesaving strategy, these records provide quick evidence of the criminality of an individual featured on their site.

### **Labeling, Stigma and Stratification**

For the website “subject,” these websites operate as a public declaration of being marked or labeled a criminal, regardless of case outcome. Classic labeling theory posits that once a negative label is applied, the subject of this label may psychologically and socially take on the ascribed characteristics (Becker 1963). The more powerful and public the label, the greater the likelihood this label will become part of the individual’s identity, or what Lemert (1967) refers to as “secondary deviance.”

Over the decades, labeling theory has taken various conceptual avenues, such as those that examine re-offending as the dependent variable of interest. This includes Braithwaite’s (1989) theory of reintegrative shaming, which posits that offenders will cease criminal behavior if shamed publicly while simultaneously being reintegrated back into communities, and Sherman’s (1993) defiance theory, which argues sanctions are ineffective and produce defiance if they are perceived as unfairly stigmatizing, and lacking social bonds, the offender denies the shame associated with the sanction. Though the focus is on future offending, these approaches also point to the internal mechanisms by which the labeled person processes and psychologically responds. These approaches also provide a conceptual link between labeling and emotion by paying explicit attention to the labeled persons’ sense of shame and pride (Bouffard and Piquero 2010).

Labeling theory also informs theories of desistance. In their call to focus on agentic forces in their theory of cognitive transformation, Giordano, Cernkovich, and Rudolph (2002) argue that shameful labels play a key role in an individual's choice to desist from crime. Maruna (2012) points to the power of signals in one's journey toward desistance, arguing that former offender's dilemma involves trying to prove to employers and others in their social world that "I am not now who I was then" (Toch 2010). Desistance in this perspective is about finding some means of overcoming or working with the stigma of a criminal conviction (Goffman 1963; LeBel 2008).

Finally, labeling also plays a strong role in structuring both opportunity and disadvantage. Structural location, such as race or social class, provides individuals with differential means to resist deviant labeling (Bernburg and Krohn 2003). In one study of expungement-seekers who must confront their criminal label, Myrick (2013) describes how individuals re-negotiate how they appear in text and experience this effect of their criminal record long after involvement with the criminal justice system, extending one's sense of being "discredited" by the existence of the records for years after the arrest or conviction (Goffman 1963).

This link between labeling and stratification has been confirmed by several studies, as criminal records become a simple mechanism for organizing people into normal and deviant types (Foucault 1978, 1995). These extensive criminal histories extend notions of punishment beyond the criminal justice system (Deflem 2008; Ericson & Haggerty 2006; Jenness, Smith, & Stepan-Norris 2007; Lyon 2007), supported by mounting evidence that even minor brushes with the law are accompanied by a host of

noncriminal outcomes—particularly educational attainment, employment opportunities, and financial well-being (Sampson & Laub, 1993, 1997; Bernburg & Krohn, 2003; Lageson and Uggen 2013). Yet, the emotive-stigmatizing effects of labels are especially hard to measure, especially if they discourage people from participating in prosocial activities, such as volunteering or voting, as a stigma management strategy (Winnick and Bodkin 2008). Overall, these anxieties of being a watched person might lead to nonparticipation in stable forms of family, employment, and use of public institutions (Goffman 2014).

Managing the stigma of the criminal label, wedded with the fear that anyone, anywhere, can easily access it, is a complex process for the millions whose internet search history contains these marks. By virtue of sheer numbers alone, many of these are members of the population who are also caregivers and core contributors to families and communities (Wildeman and Wakefield 2013). In this way, widespread online criminal histories negatively impact those who are connected to mainstream institutions and have great stake in conformity and deliver informal sanctions to those law abiders. Yet, they live with the reality that decision-makers, family, and friends have direct access to their brushes with the justice system.

## **METHODOLOGY**

### ***Research Sites***

To understand the effects of online crime reports, I elected to move away from the online context and into a physical field. While those potentially impacted by their

criminal histories constitutes millions of people, I limit my sample to those accused of low-level offenses who are actively seeking a criminal record expungement in the Twin Cities of Minneapolis and St. Paul, Minnesota. Qualitative fieldwork was conducted over the course of 1.5 years. Overall, these empirical data constitute field observations of twice-monthly expungement clinics, court observation of public expungement hearings in Hennepin County, in-depth interviews with expungement-seekers (N=27), repeated field interviews with five criminal defense attorneys (N=26)<sup>13</sup>, and review of materials provided to expungement-seekers at the clinic, documents provided on expungement websites, and proposed and existing expungement legislation developed by the attorneys and their colleagues. Pseudonyms and descriptive information for each in-depth interviewee are provided in Appendix D.

All clients were introduced to the study during the informational portion of the expungement clinic and participants waiting for an attorney were approached for an interview. The data presented here focuses primarily on expungement-seekers experiences with their criminal histories in digital formats, supplemented by attorney experiences with these types of records, interactions between clients and attorneys during the public portion of the clinic, and interactions between judges and expungement-seekers during expungement hearings. The interview schedule is supplied in Appendix E. Taken together, these multiple data sources demonstrate common experiences and descriptive regularities of encountering one's own criminal record and the myriad effects that result from its existence online.

---

<sup>13</sup> In-depth interviews were required and transcribed in full, field interviews were conducted before and after clinics, were not recorded, but field notes were taken during interviews and summarized in memos immediately after the interview ended

### ***The Language of Expungement: Lawyers and Judges***

Expungement clinics offer a unique research site because attendees are only eligible for judicial sealing of their records if they have a specific low-level offense or dismissal on their record. In Minnesota, these records include all juvenile records, cases resolved in the defendant's favor (acquittals and dismissals), cases resulting in diversion or stay of adjudication (one year after completion of sentence if crime free), a misdemeanor conviction (two years after completion of sentence if crime free for petty misdemeanors and misdemeanors, four years for gross misdemeanor), or a low-level, non-violent felony conviction five years after sentence, if crime free (Minn. Stat. § 609A.01). To receive free legal services, clients must fit all state-mandated expungement criteria, have an income less than 125% of the federal poverty guideline, and be off probation and parole. The expungement clinics where I conducted fieldwork offered a 50-minute information session to the public and one-on-one consultations with attorneys, where lawyers could refer clients to a free legal program if eligible, make referrals to other attorneys, or lead pro se defendants to written resources.

Some background to the logic and language of expungement is helpful to illuminate the landscape expungement-seekers face. Attorneys use the informational portion of the clinic to coach clients on how to successfully defend their case to the judge. For example, they advise clients to prove their record is holding them back from employment by "*proving to the judge that even entry-level jobs aren't calling you back – jobs that anyone can get.*" Expungement-seekers must prove that it is the "*record*

*holding you back and nothing else.”* The attorneys recommend clients keep a journal or log of each job or apartment they apply for, and to keep records of denials. As the attorneys explain it to clients, *“the burden of proof is on the expungee to show the burden of their record is stopping their livability.”* Expungement-seekers must show the judge they are *“rehabilitated and that there is a greater public benefit of sealing the record over the public’s loss of access to it.”* The lawyers are very careful to make this point clear at each expungement clinic. They tell the participants,

*Our government has high value for public information. So judges see it as an extraordinary thing to get an expungement and hide it from public view. You have to show the judge you are rehabilitated and that you’ve taken steps to move on. That the judge can sleep at night knowing landlords and employers don’t have access to this information. That this record is a different person than was in court that day.*

Most clients represent themselves in court at the official expungement hearing, though an attorney or caseworker accompanies some. The judge, the arresting police department, and the prosecution has already received the petition for expungement by the time of the court appearance. All victims are notified before the hearing and can make a statement to the District Attorney or file their own opposition to the expungement. Hearings are held weekly and are a semiformal affair. Each client is called and the judge simply asks, *“tell me about yourself and why it is you’d like relief.”* Most defendants appear pro se and make their case to the judge as their file is reviewed. Representatives for the prosecution are also allowed to make a statement to oppose the expungement. Judicial review happens after the hearing and an expungee is notified via mail if their record has been sealed.



Attorneys tell clients at the clinic that a record sealed by the judge means they no longer need to voluntarily disclose their record and that records kept by the state will be sealed. The online context tempers the success of these measures. Attorneys are compelled to warn clients that private companies will likely keep reporting an erroneous or sealed record, even if the expungee notifies the reporting agency. John, a young white volunteer attorney told a large group: *“A lot of those private companies don’t follow the law, and some aren’t even subject to U.S. laws. It’s kind of hard to erase every piece of a record these days.”* Another day, a different attorney told the session, *“Expungement isn’t that silver bullet that can fix everything, but it will impact the information on those reputable websites that follow the law.”* From their first introduction to the process, expungement-seekers are warned their records exist online and will likely remain online, even after the lengthy process of having a record sealed after a dismissal or after years of law-abiding behavior following probation. While the official record may be sealed, expungees quickly learn their digital footprint refuses to disappear.

## **EXPUNGEMENT CLINIC FINDINGS**

### **Surprise, Networked, and Incorrect Online Reports**

It was overwhelmingly common for interviewees to be unaware their record existed online until it was revealed to them in a surprising fashion – nearly a third of respondents used the phrase “popped up.” For instance, Daryl, an African American man in his 40’s, said, *“I have looked myself up out of curiosity – my name anyway – and try to see what pops up. And it’s not a pretty sight.”* Donna, an African American woman in her

50's told me, "When it pops up like that it gives people the impression that you have this criminal record and they don't know even what its about, and when they go on there it doesn't tell them the whole truth." Lyonel, an African American man in his 50's said he got as far as a pay wall after searching for his name online: "It's been terrible. They say where you live and your birthdate and they hit you with a fee, you have to pay for it to see it, like three to nineteen dollars. I haven't done it or seen the reports." Tammy, a white woman in her fifties who was openly anxious about her online records summed it up as: "That's what I am scared of. If this was twenty years ago, I wouldn't probably care, but this creates a permanent record and it does destroy people."

The variety of websites that reveal this information is vast: interviewees reported their booking photos, arrests, and nights in jail showing up on Facebook, Twitter, neighborhood newspapers, blogs, city and county governmental websites, national booking photo online clearinghouses, and major local newspaper websites. Donna, an African American woman in her 60's repeatedly stumbled upon her record (a welfare fraud case from the early 1990's) when doing routine internet searches of her name. Donna was also targeted online by companies who advertise for criminal history checks in sidebars of other websites: after entering her name in a basic internet search, a new search opened that links to background check companies. In her words:

*I put my name in and it [my criminal history] came up instead. It just popped up.... Even for Publishers Clearinghouse. I put my name in and it went to a criminal search. It was just ridiculous because I said you can't just go on the internet, do what you're trying to do, and instead it's taking you everywhere else... It just came up. Like on Publishers Clearinghouse, it said to search for my name in the Winner's Circle. And instead of going to the Winner's Circle it took me to my criminal history. It's like trickery. I don't know. Its trickery. And you sign into the website and it gives them*

*credit or whatever, instead of helping you for what you really went for, to win a prize or something.*

Online accounts are also difficult to decipher. Marcus, an African American man in his 40's said he was able to access online all of the documents for a case and appeal in which he was the defendant. While the court documents ultimately side with Marcus and his case was overturned, he realizes not many casual seekers will ascertain that in through the legalese:

*Yeah. I mean when I put my name, then I see my name and click on that link and you can print out a whole portion.... So you are surprised to see it. And its like, I'm like, 'ok fine.' Somebody wants to Google my name, then hopefully they will read the whole thing and they get the whole picture – but usually they probably won't. They will just say, 'oh, gross misdemeanor, watch out for him.'*

Though these records are available to the broader public, they also “pop up” in the search results of family members, co-workers and friends of website subjects. These close social contacts were a common source for being “tipped off” about one's own record, which adds to the psychological consequences of the criminal label.

### ***Socially Networked Records***

There is a socially networked element to searching and finding the records of coworkers, friends, and oneself. Sandra, a white woman in her 40's, said she was first tipped off by a friend, and then Googled her name and birthdate to find many iterations of her arrest history: “*A friend told me that it was on there. 'I've seen your mugs hot.'* And I was like, *what? Actually they took a picture and sent it to me and I was like 'are you kidding me?' The mug shots were all mine, and that's not great.*” Sandra then paused and

asked, “*Even if I get an expungement, do the mug shots, like, people take that down too?*” Our interview triggered this question, and unfortunately, there is not much legal recourse Sandra can take to get mug shots removed, unless she has a successful expungement hearing and subsequently serves her legal documentation to each website that posts her photograph. If they do not comply, she has likely reached a practical dead end.

Jaci, a young Native American woman, was blindsided by social media after a recent arrest:

*Yeah they seen me on this thing called Mug shots. And I actually seen myself and it's pretty embarrassing. I got probably like five Facebook messages, and they're like, dude, you're on mug shots. I went and looked it up and seen myself. I was really pretty sure it has to do with like, online access, people exposing other people. Criminals. [Interviewer: “How did it feel?”] Pretty embarrassing. Like everybody will now know my criminal history, I guess it's the public's right to know, but still, I don't know, it was pretty embarrassing.*

Some participants were searching for other's criminal histories and stumbled upon their own. Maddy, a mixed race woman in her 30's had this experience: “*I was looking for a friend somebody said was in jail, and then I put in my own name, and that's when I see what was on my name. I was like wow... I also searched a couple of friends and I was like wow, I never knew they have that kind of record.*” While they learned about their own record, they also uncovered previously unknown criminal histories of others in their own social circles. This diffusion of searching across social groups is common. Tom, a self-identified “*middle class*” white man in his fifties had a similar experience, but at his workplace. Several other interviewees reported this same instance – bored at work, a group of coworkers Google search one another, with unfortunate results for those who

have records. As Tom reports:

*It was like, I don't know, nine years ago when we were doing it. That was a different job and we just Googled around everybody's names, for fun. You know, what's like everybody's story at work? People were Googling themselves. We were killing time. I Googled my name and found some crap, and it wasn't cool...there was a photo and says the crime above it.*

Trent, a young African American male who works at a hospital was the source of this practice in his work group. I asked if his coworkers expected booking photos to appear online, as Trent clearly was aware of: *"No, they were shocked. A lot of foreigners run with me, Somalian. I work at the hospital. I think it's extra surprising for people who didn't grew up in the United States. Because in the USA, we kind of used to things being in public now. Especially when it comes to criminal justice."* I asked if they were upset by the revelation: *"No, embarrassed more. Shocked. Conversation and all muted. Everyone got back to his work."*

Jamieson, a young black man, also had an experience at work where fellow employees were searching for one another online. He boasted to his coworkers that his record had been expunged, but a quick search revealed that it was still online. He said the experience was devastating:

*I did see some stuff that was on my record that got expunged or dismissed and it was still on the Google thing. It was like, I got expungement in 2012! ... It looked official. It still came up. It felt horrible. I was like, it shouldn't be like that. I felt embarrassed because I was talking to them like, 'I don't have nothing on my record,' and it popped up and they were like, 'its right here!' And I was like, 'oh no.' And now I felt embarrassed, and I was like, this shouldn't be here, I got court orders that say this shouldn't be here... I had gotten it expunged, executively, from all agencies. And it still popped up on the Google.*

This networked element to online criminal records makes them all the more prevalent in

expungement-seeker's lives. While these records are often reported in error (Bushway et al. 2007b), their presence online makes them appear "real."

### ***Error and Anxiety***

The prevalence of incorrect criminal histories is an overwhelmingly common experience. These errors typically fall into three categories: an incorrect identification, an incorrect crime or disposition, or the reporting of an offense that was later dismissed. William has had a clean record for 32 years, but a routine check through the Minnesota Court Information System reveals a long list of crimes someone with the exact same name, though a different birthdate, committed during this time period in Minneapolis. William, an African American man in his late 50's, was fidgety and impatient as he waited for his turn with an attorney. He pointed to the first charge on his criminal history printout, a conviction in 1982 for which he is still serving a lengthy probation sentence: *"This is what I have done. I haven't done nothing since there. They got me for doing time, now this here, look at the years on this [flipping pages] 2004, '89, all this, '89, '83."* He reported the error to his Probation Officer, who recommended he visit the expungement clinic to remedy this criminal history (that did not belong to him) that was directly impacting his ability to get an apartment. William said he gets *"frustrated and angry because this is too hard to comprehend about something that I didn't do. I say somebody is using my name, they got to be. Look at the years, these are the times when my kids were born."*

Marcus has a son who also has a record. They, along with another relative with

the same name, often have their records mixed up:

*My son - I have a junior too, and just even coming here today, the guy that referred me here, he pulled out my record before he sent me here and he kept saying 'Well you got like 6 charges here.' I kept looking at that and said, 'No, I don't.' Then we looked at the birthday I said, 'No that's my son, in some driving speed or whatever.' I said, 'so there are three Marcus Johnsons.' When you Google that, at least three people come up with the same exact name, and we all happen to be relatives.*

There is a palpable air of suspicion at the expungement clinic regarding the systems in place to report criminal histories. One expungement-seeker showed me a criminal history that reported an offense as taking place in the year 1901. In his words, “*I mean seriously, you see it? 1901. I would take this as a joke, but it's a true fact when you're looking at it. That's insane.*” Trent, a young black man in his 30's, says his record is riddled with errors and appears alongside a long and difficult to interpret arrest history – the vast majority of which never led to charges or convictions: “*I don't know if someone used my name. But I think I've been maliciously targeted and that's what I believe.*” This mistrust is particularly salient in situations where a judge has ordered a stay of adjudication and assured the defendant the charge would not appear on their record on their conviction. Daryl was dejected when describing how his dismissed offenses refuse to disappear: “*So even though that case is supposedly not there, you were found not guilty of it, it wasn't. So why is it still there? And that kind of hurts. It makes an ugly picture even uglier.*” Michael, a 55-year-old African American man, was seeking expungement to clear a charge he was told would disappear if he had no subsequent offenses. He kept a clean record, but is unable to find employment because of this offense: “*Judge said, hey we are good, stay clean, no traffic tickets. I didn't catch one for*

*two years. It sucks. Its like, you lied to me. I did my part, hold up your part.”* These sentiments built up over time, until some expungees reframed their own definitions of guilty and justice. Some began to accept the false records, knowing that even though they are in error, the consequences remain the same.

Tammy doubted her own innocence in the wake of a dismissed case that can be accessed online. She realized that even though the case was dismissed, readers may not attribute that to her being not guilty, and instead may interpret it as a technical issue with the case: *“If people read the documents, its horrible things that I have not been able to refute... It’s dismissed, but in lot of people minds, there just wasn’t enough evidence or something. Doesn’t mean I am innocent. I AM innocent. But...[trails off].”*

For interviewees, anxiety around the uncertainty as to what will appear in an informal background search is compounded by the realization that many records are in error but are still publicly available. Learning of these records – often in a surprising context – leads many to simply disengage from their online identities. Yet, this disengagement seeps deeper into other realms of life, affecting practical matters of housing and employment, and broader and more diffuse matters of identity and relationships. The next section explicates these effects.

### **Material Consequences and Stratification**

These informal records introduce a host of collateral consequences related to housing and employment, two sectors where background checks have become the norm. Yet, these types of records are different from felony records by the virtue of their



uncertainty – arrestees are never certain their record will appear and are often not mandated to report these offenses, but still suffer the consequences of their existence in background check reports and informal online searches. This uncertainty means many will still apply for housing and employment without the certainty of rejection faced by those with felony convictions. The housing and employment effects of informal criminal histories thus affect a broader swath of the population, including those who have deep stake in conformity and external commitments. Many have never been convicted nor served prison time, and the surprising stickiness of these low-level arrest records reinforces stratification to particular employment sectors and types of housing and neighborhoods. Daryl echoes this common sentiment: *“So, it tells me that as long as I don’t try for high level jobs, that I should be ok. I should fly under the radar.”*

Sandra was able to obtain housing with her low-level record, *“But it’s not in a great neighborhood, not great landlord.”* Sandra works an entry-level position at a drug rehabilitation facility and is finishing a community college program to become a licensed drug counselor. However, she is required to complete an internship for her graduation. She has been putting off this final step to complete her degree out of fear of passing a background check, and is trying to have her record expunged before she reaches that stage.

Roger, a white man in his 60’s who has a professional background in IT says his record:

*Seeps into everything. Because what people don’t understand is once you make a mistake like this, depending on what kind of insurance you need, your insurance rates could go up. It’s harder to find a house. Landlord may not want you on the lease. Employers, if they see there is a word*

*misdemeanor or felony, are very, very cautious. I kind of want to say 'Oh, hey you never made a mistake in your life?' I have been able to find low-end employment, which is very discouraging. I just got recently tested by the workforce group, my English is college level, my mathematics is college level, my ability to work through problems and process and strategize is at the college level.*

Roger became increasingly frustrated and agitated as he described his difficulties finding employment given his skill set, and finally said, *"You may want to say this in a quote. It's akin to Michelangelo packing boxes. What a waste of energy and aptitude."*

Tom (the interviewee who found his mug shot at work) recently began a new job as head of a nursing home maintenance department, a sizeable promotion from his previous employment. He received his first paycheck and a Thanksgiving bonus, then two weeks into his position was called into Human Resources and *"got told to go home. For a bad decision in my life, nineteen years ago."* Though Tom was offered the job and passed a preliminary background check, a second check revealed a gross misdemeanor from nearly two decades ago for which he completed probation. Because the offense was a 5<sup>th</sup> Degree Criminal Sexual Conduct offense and the nursing home is licensed by the State Department of Human Services, Tom was immediately fired. As he describes it, *"this is the first time I have lost a job due to a background check deal.... I was fired right before Christmas... Now, I was applying for bigger positions working my way up, left something, took something and then got smashed in the face."*

Marcus is in a similar pattern of obtaining better employment, but then having offers rescinded once his record is revealed. His most recent interaction with an employer was initially positive, until he preemptively told the employer he was in the process of

having a dismissal expunged from his record, in the event a background check erroneously reported it:

*I applied for a job, and he gave me a job offer, he was impressed with me, had an interview, a tour of the building, only to have it rescinded. During our phone conversation I kind of mentioned that I am thinking about having some stuff expunged or I could have shut-up. He said, 'Expunged? What, you have something expunged?' I said, 'no not as of yet.' And [he said], 'In our process we have to see the police records.' I am like, 'why?' I said, 'are you trying to retry me for this case in '08?' But that's what they want to hang their head on, the police records... But nonetheless the job said we have to rescind the offer.*

Samuel has a low-level drug conviction he seeks to expunge after a potential employer in an interview asked if anything would show up on a criminal records check. Samuel, a young black man, said the “*interview had started to become more casual and then they asked me like details, and asked what kind of drug it was and all that.*” I asked if it surprised him that they asked those kinds of questions: “*It did but I thought I was like – I felt like I am an open book. Maybe they would take that as a consideration.*” Samuel was not offered the job. Instead he has maintained his same job and is instead seeking a “*lane change*” within the same company so that he can avoid a background check.

Tammy has actively not searched for employment because she fears a potential employer will contact a private background check company that will in turn obtain materials related to her dismissed charges. Once these reports become property of one private background check company, they will be easily resold to other online enterprises. As she describes it,

*I applied for two jobs over Christmas and then they said they were gonna do a criminal background check and that means they hire a company to look up your record. Then they find it and then it's permanently in databases even if you get it expunged later.... It will go around the*

*internet. It could do anywhere. I even talked to a lawyer, an expert in expungement, about it. She said, 'yes. If you really don't want it out there it's best not to have any background checks done until its expunged.'*

Upon this advice, Tammy withdrew both applications before any background checks were conducted and remained unemployed at the time of our interview. As the interviews attest, the fear of background checks keeps expungement-seekers locked into their current housing and employment. Beyond these effects, however, interviewees pointed to a broader set of consequences that stem from the highly public and voyeuristic nature of contemporary criminal histories.

### **Civic, Familial and Psychological Consequences**

The uncertainty and humiliation of one's social network discovering their criminal record encourages non-participation in the institutions of family and civic life, including public service, church service, and volunteer service. This was especially prevalent given the nature of the research site and the self-selection of expungement-seekers – often clients were attempting to participate in a prosocial activity, but were barred due to someone uncovering a criminal history. Not surprisingly, there was a devastating psychological effect when expungement-seekers were denied participation in areas of life they felt were in the service of their family and community.

### ***Civic Participation***

The criminal histories in question consisted mostly of low-level arrests or dismissals, which added to clients' surprise and dismay that the record was found at all,

and then operated as a barrier to participation. Nearly a dozen interviewees were attempting to work in human and health services and were unable to find a job after completing their educational requirements. Several others were told they could not lead church services after a member of the congregation discovered their offense history. Even more were unable to volunteer at their children's school. Similar to the stratification effect on housing and employment, these easily obtainable public records strain those individuals who are the least likelihood to reoffend.

Jaiden, an American-born Indian man, has a somewhat lengthy arrest records for very minor crimes, which he attributes to growing up in a predominately white suburb. This well-funded police department creates and makes public a separate report for each stop by police, even if it did not lead to an arrest – though when these data are sold to private background check companies, they appear as arrests. His offenses include not wearing a life preserver in a watercraft in 1999, not wearing sunglasses while operating a motorcycle in 1997, jogging at night with his high school basketball team, and being in possession of cigarettes at age 17. Jaiden is trained as an EMT and has worked as a paramedic. He was able to pass the background check required for his current position, but was not able to clear the final steps of joining the Navy:

*Five years ago, I went to school to be a paramedic. Obviously in my background I need to have clearance to be in contact with vulnerable people. So [my arrest record] doesn't pop up. But I was going into the Navy and then it popped up because they went to the police department. And here came the 66-page report [of my alleged arrests]. So that actually kept me out of the Navy. That's why I am here to try to figure out how to resolve it. I even went under a law, its called 299C, one of the expungement laws, saying that nothing was ever been prosecuted. I'm 36 now, and this is 4 years ago.... I wanted to do something else. Thought it would be a great opportunity. I wanted to do something, not that I'm not a*

*war type of guy, but they do a lot of aid to Africa, that would be amazing. That's what I wanted. And just when they pulled the record it popped up, I went in and I swore in, but then every single time, FBI background checks, TSA background checks, finger printing, everything, security clearance, these things kept coming up. And I have to write a waiver for every single incidence. The Navy is not going to let you write away stuff. So this has been like a roller coaster.*

Jaiden gave up on the Navy and is now pursuing employment with a local fire department. He has passed the initial written and physical tests, but is now facing the required background check. He has been working closely with the fire department to demystify this arrest history lest it prevent his employment and is pursuing the expungement as a back up strategy. Yet, he remains cautiously optimistic about this new opportunity: *“Just things that I want to do, like the Navy, and now that this is coming up. Like, I have this great opportunity. It has been thirteen years of my life I've been training for the fire department, I don't want anything to end the process.”*

Being unsure of what appears in one's record left some participants with the sense that it is best to “fly under the radar” to avoid being found out. Just one day before our interview, Tammy was interviewed by a local reporter following a protest in Minneapolis she witnessed. Tammy was distressed during our interview that the reporter would search for her online, discover her dismissed court case, and in turn dismiss her comments about the protest in her interview. In particular, she was afraid *“to speak out publicly and create a public record of the real person I am. But then I am thinking, I have to give my real name to these reporters and even to one of the protesters I gave her my card because we started talking after and I thought, if they are going to courthouse, anything I say will not count anymore.”*

This public ritual of being labeled and discredited seeps into other parts of civic and community life as well. For instance, Gladys had a “devastating” experience with her church group as they attempted to plan a missionary trip to Canada. The “mother” of her church was turned away at the border, which led to widespread background checks of other members of the church. The offenses were minor, but became public within this local community:

*A lot was clicking in because we had stuff on our records.... so she came back and did some digging. In Canada, their jurisdiction, across the border, certain things are unforgiven. I guess they just wont let you in.... Six of the people couldn't get in because of the stuff that was on their record that happened year ago. They looked it up – some of them they didn't have the classification for what it fell under, but they just made the decision. It was like, wow..How scary. I was so nervous, I was praying, I was praying.*

The shame and humiliation reported by respondents often led them to self-select out of behaviors that are typically not associated within categories of collateral consequences. This too is true for family-related participation, particularly as younger generations grow up in a world much more plugged-in than that of their parents.

### ***Family Participation***

Many interviewees worried about the lasting impact of their online records for their children, and opted out of direct contact with schools in order to avoid being “found out” by the fellow parent and school administration. Jaci was seeking expungement so she could do work at her daughter’s school. She chooses to keep her distance from other parents and from coworkers to protect herself:

*I would like to volunteer at my daughter's school but I am not allowed to because of the background check. And its kinda hard telling that to your daughter, 'I cant volunteer today.' She knows I'm working a lot so I just let her think that's why. I haven't talked to other parents. I kinda keep my background to myself, because I don't want people to know or to get into a conversation like, oh, what happened? Just because of the position I'm in. I work at a clinic right now. And you know, if I tell everybody, I'm afraid a lot of people wouldn't want me working there. I don't want those conversations about me at work.*

Others worry about their teenage children who are often more technologically adept than their parents. Tom worried they would search for him online and learn about his offense from nearly twenty years ago. He was concerned about “*how easy it is just to be public, you know. What I am scared for is my thirteen and fourteen year olds.*” He went on to share his anxieties about his daughter's upcoming hockey tournament in Winnipeg: “*How do I know if this is going to hinder me from going to that? Maybe I just send mom to this one? I just probably won't go.*” Family impact operated in a variety of ways. Marcus says his ex-wife routinely searches for him online and reports to their extended family when he is arrested or spends a night in jail: “*My ex-wife she knows, she told different people about this, she may exaggerate what has happened or she doesn't even know what happened anyway, and so she sees something here and make it worst than what it was. So I'm sure she has tried to drag my name.*”

These records, many of which are low-level and occurred far in the past, suddenly resurface for many expungement-seekers and become information not only to decision-makers, but to co-workers, family and friends. Beyond the forms of non-participation in family, civic, and community activities documented here, these records also exert strong psychological effects on website subjects.



### ***Psychological Consequences***

The stigma of these records carries an emotional burden. Melinda was recently denied employment, and shared with me her criminal background report that included a section on “social media” and “online search” results that included a booking photo: “*Oh My God! When I got denied there I was crying. I cried. My feelings were so over. Because I wanted to be lunch lady. So my feelings were crushed. There are only two things [offenses] that I have. And I want them off. I really do want to get them off. I am nervous.*” William, who is expunging an incorrectly identified criminal history, did not hide his frustration:

*It's too much... You know, you ain't do nothing in thirty-something years and then all of a sudden you want to get an apartment and you cant. You're just stuck the way you are at. That's just terrible. It's a bad feeling. It like I've been on a stand still. But I still keep going, because I got to set an example for my kids and my grandkids.*

Donna, who was shocked to find her criminal history through an ad on Publishers Clearinghouse, is well aware of the stigma her long-ago record carries:

*When it pops up like that it gives people the impression that you have this criminal record and they don't know even what it's about, and when they go on there [the internet], it doesn't tell them the whole truth. And it stops you from getting apartments, it stops you from getting jobs. It stops you from being able to do a lot of things... I don't see why. I can understand if you're going around killing people or you're just this real big criminal.... The world is taking things to a whole 'nother level when it comes from criminal histories and its stopping people from being able to succeed and move forward.*

Michael, whose dismissed record from the early 2000's still appears regularly in online background checks, has a similar perspective:

*I think when people find out, or you work with people and it comes out, friends, coworkers, and they want to know why you didn't get a job. And all of a sudden they're looking at you like [bugs eyes out]. And I'm like, don't judge. You don't know what happened. It makes you feel like crap. That's the hardest part.*

Michael points to the “hardest” part of his dismissed record as “feeling like crap.”

This is a difficult to measure construct for social scientists and also difficult for many interviewees to articulate. Individuals with low-level convictions, arrests, and dismissed offenses are on the fringes of what we consider “criminal.” They encounter a complex set of barriers that are similar to those of former prisoners, but operate within the psychologically taxing environment of uncertainty around what will appear on a record, where these records are made available, and who has access to these records. This also leaves expungement-seekers in a frustrated sense of flux regarding how to get private websites to take down their booking photos, dismissals, and arrests. For the vast majority of interviewees, they simply do not try.

### **The Decision Not to Seek Remedy**

Roger, the expungement seeker having difficulty pursuing his former career in IT, is the only interviewee to directly attempt contact with private background companies that incorrectly reported his record. He said he had a “*mix of results*” in response to his repeated phone calls, letters, and emails. He says,

*Several of them will give you blank of letters stating, 'we grabbed data from a public source and we are not responsible for data that we grabbed' [Laughs]. Yeah. We are not responsible for the data we grabbed.' So if you are grabbing the rotten data and then you are sharing with other people, then yes you are responsible for passing on the wrong data. Someone's got to take responsibility for it. Also like he [the attorney who*

*gave the presentation] stated, some companies are here, some are overseas and laws between states vary as well as laws between countries. There is no legal recourse.*

Jaimeson was candid about how his own socioeconomic position meant having less resources to address and remedy his incorrect criminal record. He was attempting to first fix the incorrect records kept by the Minnesota Court Information System and the Minnesota Bureau of Criminal Apprehension, then hoped private companies would file suit:

*I'm just trying to follow the court things and see what I can do about it, but it feels like things are out of my hands... It's really frustrating. I am lost. I don't know where to go now, I don't know who to turn to. I don't know if I should get legal help. Everything is about money in this state. So now I'm just like, maybe if I had a lot of money this wouldn't even occur to me. But because I don't have a lot of money, I'm not rich, it occurs to people like us. I'm just still doing what I got to do, I am still taking care of my family, going to school, staying law abiding, and hoping for the best. But when stuff like this occurs and you're looking for jobs and they can bring up stuff like that that isn't supposed to be there, it really discourages a person and makes you feel like, what is Minnesota doing? What are the people that are behind all of this, what are they doing? Is they following procedure right? What type of procedure are you following? Because to me, the procedure is not correct. It should not be like this. You should not make people feel this way. I'm just trying to get to the bottom of it. I hope people like me can figure out solutions on how they can get to the bottom of it.... But now I have a loss of words. I don't know where to turn...It's exhausting.*

The notion that extensive online databases exist that reproduce all forms of contact with the criminal justice system is simply too complicated to handle. The expungement process alone is complex, with no guarantee of success until judicial review. Most interviewees wanted to focus their attention first on fixing or sealing their “official” criminal histories before attempting to address online records. The reaction to the complex web of digital records is often to turn away. For instance, when Maddy first

discovered her booking photo online, she said she was shocked. I asked her if the offense information was correct and she shook her head: *“I’m not sure. I just seen [the photo] and was like, ‘ugh’ and just shut it off and took off.”* Coping with background check companies was simply another undertaking many expunge-seekers could not add to their list of legal tasks, as well as practical needs such as housing, employment, and family. Trent is simply ignoring the private companies: *“I’ve got my kids and I’m just working. I work in the evening, two-thirty to eleven-thirty. So it’s hard for me to take this on. I have a baby, so all morning I am babysitting. I don’t have a whole lot of time. So time just goes on. I heard about this clinic, so I said, let me just start here.”*

Jason, a white man in his 30’s who works as a nurse said his sole purpose for attending the clinic was for employment-related background checks: *“Do I Google myself? Well I don’t really care. I didn’t even think about it until [the attorney] brought up the whole Googling thing and like what’s out there online with false information. I didn’t even think about it until today.”* Dante, a young black man, said he has found his mug shot online in various places, but doesn’t feel his low-level record warrants concern: *“I don’t really worry. Like, in my life I’ve been to jail three or four times. For things like driving with a suspended license. I haven’t been in many times, like, I’ve never committed a huge crime, so I don’t need to make it my focus. I would make it my last thing to worry about. It’s just not a big concern to me.”*

Dealing with the labor-intensive process of expungement was a confusing burden for many expungement-seekers to take on. Many simply did not seek remedy for their online records, especially in the absence of any formalized grievance process to clear

these records. Yet, many expungement-seekers had strong recommendations for how these records should and should not be used in the public sphere.

### **Privacy and Policy**

Given the issues that exist for expungement-seekers, their distrust of governmental and private reporting agencies, and the palpable effects of these records, one may expect clients to demand full privacy. This was not the case. Clients did not want their criminal histories destroyed. Instead, they advocate for accuracy and clarity, clearly defined time limits, and a method for consent.

As the previous sections demonstrate, coping with incorrect records is central to the challenges expungement-seekers face. Interviewees also noted the stark nature of their records read in isolation and expressed their desire for accurate and clear records that better reflected the incident as it occurred. Marcus recommended reporting sites be *“limited in what is all out there”* and to offer *“a disclaimer or some kind of statement – I will have to think about the verbiage, but it should state things that were said in court.”* He described how readers of his record might zero in on the words “felony” or “misdemeanor” without understanding the charges were dismissed. Records from decades ago also made clients uncomfortable. Randy, a middle-aged white man who is also a technology professional recently had a job offer rescinded. He noted that his driving offense was unrelated to the employment and also expressed dismay that the company went *“back to day zero”* in their private criminal background check, as opposed to the seven years stated on the application.

It's essential to note that in discussions of privacy, no interviewees advocated for sealing their records from criminal justice agencies – only the broader public. Tom said he has “*no desire to seal anything I have ever done from law enforcement, FBI, CIA. I could care less. I mean you make a mistake, you make a mistake.*” Others, like Jamieson, thought different offenses might carry different weight in terms of the public's interest:

*I think if you have a criminal history maybe like a violent criminal history, that most definitely should be to the public. Sex offenders, to the public. Stuff like that to the public. But if you have something like petty misdemeanors, gross misdemeanors, don't even include that to the public because that's not their business. If it's the courts business that's fine, but not the public. Violent things. Domestic violence. That should be to the public. Theft. That should be to the public. Many people might say theft shouldn't be on there, but people want to know who is stealin, you might have someone next door who is stealing. But certain things should be on there, but misdemeanors shouldn't be.*

Michael, who is in his 50's and is working to get a dismissal to stop returning on background checks advocated for more control over who sees his records: “*I think it kind goes back to what the law says. There should be consent. I should have some kind of control over who I want to see these records. I don't think it should just be anyone.*”

Gladys captured the sentiment across all these themes. She wondered about the function of making these records public:

*It shouldn't be to a point where a random person just searching should be able to pull up anything about me. I think after 10 years if a person has not has a record, it should automatically close. Employers should not be able to view what has happened to a person. It depends on the sensitivity of the job, but for instance for a job who doesn't need security clearance, I think in 10 years it should be wiped clean and go automatically into expungement, because that person has changed or is no longer what they used to be doing. So I think – its like we do our time, but the society forgives you and always holds you accountable, so what they are saying is that you can never change, and that's not true. Because a person needs to move on. And those that don't, then they always have a new criminal*

*record. That's the only thing I have issues with, that you can go back for years and see your history, and that's not who I am.... I think laws should keep up with the times. It should change.*

Indeed, the social and technological context has sped past the legal and ethical considerations of low-level criminal histories, dismissed records, and booking photos. While a single arrest is a blip in the emerging history of digitization and public record, it has profound consequences for those who are seeking work, housing, and connections in their community today. I close with a discussion of these findings in light of labeling and desistance theories.

## **DISCUSSION**

### **Minor Offenses and Digital Trails**

During fieldwork, expungement-seekers shared dozens of personal experiences with their online criminal histories that point to the inconsistencies and errors in these widely available reports. These unofficial histories have tangible effects for housing and employment, but also enter the realm of personal relationships, social networks, family commitments, and civic engagement. Often reporting minor and dismissed offenses, these records create lasting consequences that reach far beyond contact with the criminal justice system and impact those members of the population who are working to develop strong social bonds.

Sentencing innovation for low-level crimes is also an important backdrop to the murkiness of online criminal histories. Policing strategies around livability crimes and drug-related offenses means courts are faced with millions of low-level offenders – some

estimates are of over ten million misdemeanors per year (Roberts, 2011; Natapoff 2012). To cope with the deluge, judges have available to them an ever widening net of sanctions, including the option to eventually dismiss a charge once probation or treatment is complete. While these charges may be removed from the official records (though, this is not always the case), copies of the original charge and disposition remain online and are not updated to reflect dismissals. These versions of reports are easy to obtain and decipher by decision-makers, but often don't reflect what the courts or the defendant expect to see.

This uncertainty around what these records contain is the core of what makes them so daunting. Most interviewees simply did not pursue remedy for records contained in private databases, even after they receive legal relief from a judge who grants an expungement. The notion of the records "popping up" unexpectedly or being passed through social media outlets cause interviewees to avoid contact with other social actors who inhabit those spaces where they have the most at stake: the schools their children attend, the churches they belong to, the workplace that employs them. This might inhibit participation in the very activities that contribute to law-abiding. The fear of being "found out" now includes offenses that never led to charges nor convictions and the haunting effect of criminal histories now expands to include arrests and stops.

### **Labeling and Desistance**

Websites also offer a profoundly public and visual depiction of the criminal label, which complicates efforts to understand the internal and external mechanisms behind the



decision to desist from future offenses (Giordano et al. 2002; Maruna 2001, 2012). Research demonstrates that many former offenders work to signal their desistance (McNeill 2006; Bushway and Apel 2012), but the sheer existence of these websites undermines individual, agentic efforts to move on from a criminal history. Paradoxically, this sticky criminal label is applied even to those offenses that the justice system dismissed.

Thus, in the online context, the label “criminal” takes on the entire universe of criminal justice contact, as opposed to referring only to those who have been convicted of a crime. In addition, this digital label also takes on all types of crimes and levels of offense into a single, sweeping category. While research around labeling and desistance may have helped inform re-entry programming and employment services for ex-offenders, the millions who face online arrest records are stuck with a similar set of consequences for committing (or not committing) a very different act.

### **Stratification and the Normalization of Surveillance**

By virtue of the research site, interviewees could only seek expungement for minor offenses. This unique sampling strategy highlights similarities between the stratifying effects of serious criminal histories and this rapidly expanding category of low-level offenses. Interviewees report that their decision to “fly under the radar” to avoid the confrontations associated with an online criminal record in turn keeps them in less than desirable employment and housing situations. Constitutionally, many

interviewees were never found guilty of a crime, but the existence of never-updated, online records operates as a stratifying punishment.

Interviewees have a sense that these rapidly reproducing websites that mine and sell their governmental data have an uncontrollable quality. The choice to ignore these sites and to focus on the legal expungement demonstrates an increasing acceptance of the normality of surveillance in contemporary society. While many interviewees report being surprised at the initial sight of their record online in a non-governmental web setting, this quickly transitioned into a taken for granted assumption. The distant nature of those who control the websites leaves subjects of the websites with nowhere to turn, and instead, they continue to rely on legal expungement, even though it's clear that the expungement will not automatically update across the web.

Given the state of things, what should be done? Reform should happen at the level of reporting. Criminal justice agencies elect to make their data public, and some even sell these data to private companies. There does not exist a strategy to update this information in light of updates to an individual's case disposition. Unlike other forms of individual-level data, such as credit reporting and health information, crime exists outside the realm of the protections afforded to consumers as they interact with reporting agencies. Until there is an avenue for remedying these myriad online accounts, decision-makers may continue to conduct internet searches and arrest records will continue to proliferate, all in an unregulated and vast virtual space.

## **CHAPTER 5: CONCLUSION & RECOMMENDATIONS**

This dissertation examines the production and effects of online criminal histories and addresses broader questions of when and how individuals are marked with a criminal label even before they are charged or convicted of a crime. I conclude the dissertation with a comparative policy analysis of European and American internet privacy to motivate specific policy recommendations. Finally, I close with a broader discussion of this dissertation's sociological contribution and directions for further inquiry.

### **POLICY SHIFTS**

There are some rumblings in the public sphere about the uses and distribution of criminal histories and crime websites in the United States. For instance, a February 2015 *New York Times* piece examined broader questions about privacy and data in the context of criminal histories and employment. Binyamin Applebaum writes:

In 2008, for example, the government began to check the backgrounds of 1.2 million workers at the nation's ports. A law passed after the 9/11 terrorist attacks mandated the exclusion of anyone with a conviction in the last seven years, and 59,000 workers were excluded as a result. But 30,000 of those workers filed appeals arguing their records were inaccurate, and in 25,000 of those cases, a more careful examination found no evidence of a conviction, according to a subsequent review by the Government Accountability Office. That's worth repeating: When the background check system identified a felon, it was wrong at least 42 percent of the time.

There's a delicate balance between the right to free speech, the public's right to information, and an individual's right to privacy about their arrest history. Yet, the prevalence of error, like that reported by the *Times*, pokes holes in the supremacy of

information in today's digital age. What good is information if it's not *good* information? It's difficult to ascertain what truly helpful information records of arrests and dismissed charges yield decision-makers. Instead, these websites undermine the foundational function of the justice system to protect the accused and prosecute the guilty. Without putting too much emphasis on the "true" ability of the criminal justice system to effectively deliver justice, the Constitution promises innocence until proven guilty, a central tenant to United States law that is undermined by the proliferation of criminal data websites.

Criminological research point to other reasons why these websites are not serving the public good function website publishers identified in interviews. First, there is consensus in life course criminology that an age-crime curve exists. The age-crime curve thesis generally states that, over the life course, criminal behavior peaks in the late adolescence and decreases over time. In other words, the older a person is, the less likely that person is to commit another crime (Hirschi and Gottfredson 1989; Sampson and Laub 1993; Uggen 2000). According to this evidence, a booking photo taken in one's youth that remains online into adulthood is not a helpful determinant for adult-age offending. Second, studies show that criminal histories also lose power to predict future offending rather quickly. Kurlycheck, Brame and Bushway (2006) estimate that after six or seven years, the risk of new offenses begins to approximate (but not match) the risk of new offenses among persons with no criminal record. Thus, though widely available and broadly utilized, the predictive ability of criminal histories that remain online indefinitely is questionable.

These websites are also in puzzling opposition to other trends in criminal record policy, such as Ban the Box and criminal record expungement. Support for “banning the box” on job applications originated from a philosophy of providing candidates with an arrest or conviction the chance to be evaluated on their skills and experience, instead of their criminal history (National Employment Law Project 2014). In the early 2000s, organizers in San Francisco and Boston began the lobbying process to remove criminal history questions from employment applications, and in only a decade, 13 states and more than 70 cities or counties have adopted the policy (NELP 2014). The effectiveness of these policies is clearly undermined by the trove of information available through clandestine internet searches. Legislative efforts to improve and expand criminal record expungement law, such as in the state of Minnesota, are similarly undermined by online records that aren’t updated to reflect sealed or expunged records.

To respond to these questions, I turn to existing European policy, which provides a helpful framework for how the United States might legislate digital criminal history trails. I conclude with several specific policy recommendations that blend the practical considerations of the EU with the philosophical underpinnings of the U.S. Constitution.

### **‘The Right to Be Forgotten’ in the European Union**

In 2010, a Spanish citizen filed a complaint with the national Data Protection Agency against a Spanish newspaper, Google Spain and Google Inc. The complaint described how an auction notice of the citizen’s repossessed home on Google search results infringed on his privacy rights, since the issue had been resolved several years

prior. He had two requests: the newspaper alter or delete the existing stories and that Google be required to remove links to the page, so that it no longer appeared in search results. The Spanish court referred the case to the EU Court of Justice, asking:

- 1) Whether the EU's 1995 Data Protection Directive applied to search engines
- 2) Whether the Directive applied to Google Spain, given that the company's servers are in the United States
- 3) Whether an individual has a "right to be forgotten" through requesting their personal data be removed from search results

In a May 13, 2014 ruling, the EU court ruled that privacy laws apply to search engine companies with U.S. servers if they have a branch or subsidiary in an EU member state that promotes or sells advertising space offered by the search engine and that because search engines are controllers of personal data, companies like Google must comply with EU privacy law, including the right to be forgotten. This final clause, that individuals have a right to be forgotten, allows EU citizens to request search engines remove links with personal information about them. This applies when the information is *inaccurate, inadequate, irrelevant, or excessive* for purposes of data processing. The Court clarified that the right to be forgotten is *not* absolute, but will always need to be balanced against under fundamental rights, such as freedom of expression.

Ultimately, each request must be assessed on a case-by-case basis to ensure the loss of the public's access to the information is balanced fairly against the requester's right to private life. In the words of the court, "the right to be forgotten is certainly not about making prominent people less prominent or making criminal less criminal" (EU

Commission 2014). In the days after the ruling, Google received thousands of requests, with approximately half relating to criminal convictions (Hakim 2014). Within 24 hours of Google's offering of a digital removal request form, the company received more than 12,000 requests for removal (Gibbs 2014). Within five months of the ruling, Google reported 70,000 take-down requests for over 250,000 web pages (Drummond 2014).

There's a cultural basis to this European law. Rights of personality and rights to be forgotten appear regularly throughout European legislative history (Whitman 2004; Maruna 2012; Hendel 2012) – for example, the Rehabilitation of Offenders Act in the United Kingdom in 1974 (which automatically seals criminal convictions after a rehabilitation period) and the 2010 French charter of “de droit d’oubli” or the “right to oblivion,” which led to the development of a claims office where citizens can make requests for social media to be taken down, requires some search engines to comply with these removals, and places expiration dates on search engine indexes and internet cookies. A Metropolitan Police committee in the United Kingdom recently made a recommendation that the media should be banned from naming suspects, unless and until they are charged with an offense. This right to anonymity in the U.K. already protects victims of alleged sexual offences, including rape. In comparison, the United States is a global outlier when it comes to criminal punishment and support for individual liberty and free speech, which is reflected in the websites I investigate here.

Returning to the original EU case at hand, the Spanish citizen was able to clear his Google search history, however, the newspaper was allowed to keep intact their original archive. The courts feel this strikes a balance, as the individual's data is still “accessible

but is no longer ubiquitous” (EU Commission 2014.). Google openly disagreed with the court’s decision that search engines don’t qualify for journalistic expectations, stating in a *Guardian* op-ed that forcing the search engine to remove links “means that the *Guardian* could have an article on its website about an individual that's perfectly legal, but we might not legally be able to show links to it in our results when you search for that person's name. It's a bit like saying the book can stay in the library but cannot be included in the library's card catalogue.” This distinction, however, might be precisely what will operate most effectively in the context of the United States – drawing a clear and distinct line between reproducing criminal justice data en masse and curating data in a journalistic sense.

## **POLICY RECOMMENDATIONS**

### **First Amendment Online: Differentiating the Source**

One important consideration for any future legislation in this arena concerns whether or not a website should be considered journalism, The simple replication of criminal justice data – for instance, the copy and paste of the nightly jailhouse roster on this local blog (Figure 10), takes no curatorial effort and instead creates a text-based archive that will return on a Google search for an individual’s name.

Similar to how Google, as a search engine, does not fall under journalistic exceptions, these types of websites do not edit nor write their copy, and instead simply re-post it – and thus should not be considered a journalistic entity nor be afforded those First Amendment protections. Even though there exist potential loopholes for bloggers to



simply alter some of this text and claim editorial effort, taking away journalistic exceptions for these types of sites could operate as a solid first step.

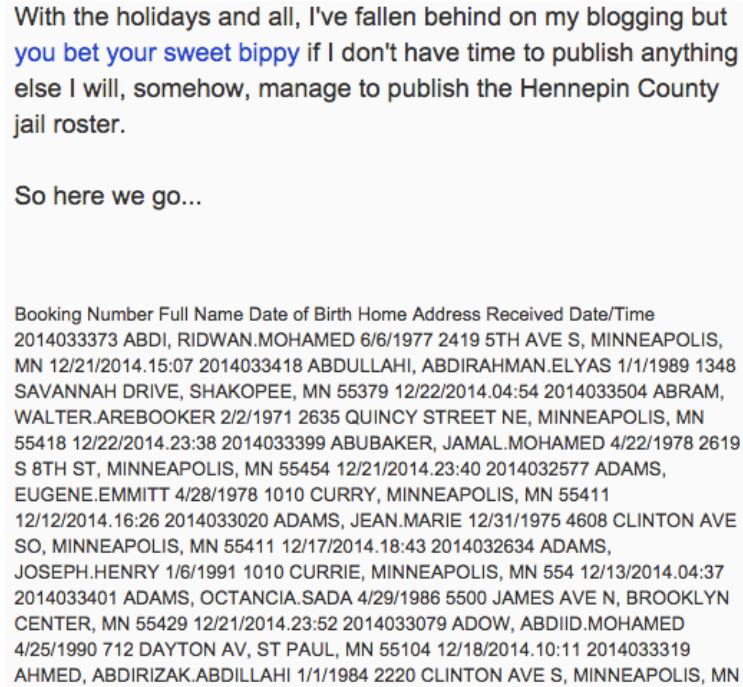


Figure 10: Screenshot of bi-weekly jail house roster on a Minneapolis-area blog

### First Amendment Online: Differentiating the Response

Another actionable policy would bar websites from charging a “takedown fee” for those whose criminal histories and mug shots appear online, as is common practice in the United States. A class-action lawsuit filed in Ohio (ultimately settled out of court), pursued this reasoning, arguing that even when those profiled on the sites pay the fee, data scrapers have already re-posted the information on numerous other web sites, some of whom work in direct partnership with the originating site. When the *New York Times* reported on this issue to widespread shock amongst readers (Segal 2013), action by

online companies was swift: PayPal blocked payments to mug shot companies and Google quickly reworked their search algorithm so that leading mug shot websites did not return on the first page of results for an individual's name, effectively burying booking photo search results. This immediate effect was short-lived, however, and innumerable replacement sites quickly regained their status on search engine indexes.

### **Central Clearinghouse for Criminal Justice Data with Digital Removal Requests**

In light of the EU ruling in 2014, Google has been forced to create systems to address removal requests. This system could be replicated for criminal justice data in the United States, though the multi-jurisdictional nature of criminal justice and the diffusion of multiple data practices between agencies means this effort is certain to be administrative nightmare. This is not a valid reason to not pursue these technological remedies. Lessons learned through the implementation of HIPPA, protecting health data, and FERPA, protecting student data, can be instrumental in the architecture and logic behind these systems.

In addition, efforts to clean and systematize criminal justice data across jurisdictions could be conducted by private enterprises that compete for federal and state level grants, shifting the burden of software development to the private sector and away from government. Finally, these efforts to clean and systematize data could result in a more-accurate private database for criminal justice officials and a public database that could be funded by subscriptions from background check companies and reflect only true

criminal convictions – relying on the assumption that the criminal justice system properly and truly prosecuted an accused person.

### **FCRA-style Oversight**

The Federal Credit Reporting Act of 1970 requires banks to maintain particular records, to keep records updated, and to uniformly report particular transactions. The Act was passed partly to protect consumers and decision-makers from relying on incorrect or outdated information (Jacobs 2015). This federal oversight could be utilized in criminal history reports as well, mandating uniform reporting across jurisdictions and requiring reporting agencies to maintain updated and valid records.

### **Re-Considering Non-Conviction Records**

In Europe, discussion around criminal records online focus primarily on conviction records and the right to have these records sealed, expunged, or forgiven after a rehabilitative period. In the United States, a tempered version of this would be to limit the re-publication of charges that do not lead to arrest or charges that are dismissed after successful a probation period, such as in the increasingly common stays of adjudication for low-level offenses (Roberts 2011; Natapoff 2012; Kohler-Hausmann 2013). This would impact three types of web sources differently:

For curated, journalistic endeavors, this would required removing an individual's name, address and photo from a crime news story after they charges are dismissed or never brought against an accused person. The burden of proof would be on the publisher

to not only update their piece, but to notify Google so that the change is also reflected in search histories. Second, for data mining and data scraping re-publications on websites, such as a mugs hot repository, the burden would be on the website to remove photos that did not lead to conviction. This added burden lies in the non-curatorial aspect of their sites. To reiterate, they should not be considered journalists and offered the same First Amendment right as citizen journalists who report on crime. It may be the case that this requirement will slow the production and re-posting of booking photos altogether, if the site is unable or unwilling to produce the labor needed to differentiate between arrestees and those convicted of crimes. Finally, private background check companies would be mandated and legally required to expunge these types of records and update their own databases at regular intervals to account for a charges that were dismissed or never filed, or stays of adjudication that were successfully completed. Certainly, this is will add a heavy workload to these websites, but as the evidence I present attests, the consequences of these records as they proliferate across the internet are wide-reaching.

Several states, such as Colorado, have proposed model legislation in this area. Several non-partisan criminal justice lobbying agencies in Minnesota have also recommended this model legislation to committee in 2015. A sample of this legislation is included in Appendix F. Essentially, the laws call for a two-part strategy to reduce the dissemination of arrest and booking information on private mugs hot websites: to prohibit exploitive practices (such as a removal fee) and to mandate individual sheriff's offices create practical barriers to accessing booking information in bulk, which would reduce

the financial incentive for companies to republish already public government information.

### **Implementing Policy**

Why should these policies be pursued? First, freedom of expression – even when reconceptualized through the lens of crime reporting and the internet – is a core tenant in American culture, and it should be protected, as these suggested policies aim to do. Yet, we should aim for Constitutional balance between the First Amendment and Constitutional protections for those accused of crimes. In this context, we are favoring the first and ignoring the latter, perhaps partly because it is simply so easy to produce media in this digital environment. Finally, I document the harms to those who appear on these websites in terms of their own livability, relationships, and ability to contribute to their families and broader society. There is an essential public interest in crime reporting. Yet, there might be a better way to do it.

In a June 2014 opinion piece in Forbes, columnist Joseph Steinberg noted, "many privacy protections that Americans believe that they enjoy – even some guaranteed by law – have, in fact, been eroded or even obliterated by technological advances" (Steinberg 2014). I echo this sentiment by arguing that the simple availability of widely available, individual-level crime data does not precipitate the widespread use of these data. Similar to the language used by the EU Court of Justice, we must as a society ask if these crime reports are indeed *inaccurate, inadequate, irrelevant, or excessive* and should thus be curtailed. Simply put, a balance can be struck between freedom of expression and

modest privacy protections. Websites should be allowed to update community members on unsafe and potentially harmful crimes in their neighborhood, but privacy limits should be set on the use of names and photographs when charges are dropped or a not guilty disposition is reached. Digital media are malleable. We have the power to change these patterns – and perhaps we should.

### **DIRECTIONS FOR SOCIOLOGY, LAW and CRIMINOLOGY**

In this dissertation, I am to bridge disciplinary and methodological perspectives from sociology, criminology, and law. I make four central arguments in this dissertation that motivate additional questions, and I close with discussion of how this contribution should shape current and developing streams of sociological inquiry. Specifically, I find that:

1) Digital criminal histories are characterized by their **scope, breadth, availability, and permanence**. These websites post arrest records and booking photos before individuals are charged with or convicted of a crime, yet, they remain online indefinitely. These online reports also offer new depth, posting photographs of suspects and victims, copies of full-length court documents, and arrestees' home addresses. They come with a sense of archived permanence as they remain online and are found simply by searching for the accused person's name.

2) These websites are often **produced by non-criminal justice actors and by non-professional journalists**. Publishers focus on crime as a method for addressing broader

social problem, and despite the indeterminacy of law in this area, use their understanding of First Amendment law to defend their work. These sites appeal to consumers by giving them access to real-time crime updates about their neighborhoods, the chance to post their own comments, and track cases online. This allows publishers, bloggers, and readers to feel they take an active role in crime prevention without directly interacting with the criminal justice system.

3) A major issue with online records (including those sold by private data companies) is the reporting of **erroneous records, arrests, and dismissals**. While criminal history data changes rapidly at the jurisdictional level, there does not exist a system to ensure corresponding updates are made online. Charges may never be filed or later dismissed, yet these original data points remain online and are easily found by employers, landlords, friends, potential partners, and family.

4) Finally, these crime websites constitute a **new form of punishment**. They culminate in a curated and searchable online history, which is often unknown to the website subject until they face consequences of these records. These records communicate powerful signals of guilt by attaching a criminal label to millions of arrestees, simultaneously introducing a host of social and psychological consequences for website subjects.

These observations are limited to the specific case of criminal records. Yet, this case is illustrative of much broader social changes in surveillance, information technology, and

inequality. I detail new and developing research in each of these areas and describe how my work might shape the direction of these studies.

### **Mass Incarceration to Mass Surveillance**

Mass incarceration has been central to sociological criminology over the past fifteen years (Garland 2001; Simon 2007). Much of this research agenda has focused on the formal sanctions associated with imprisonment, particularly the compounding effect on racial minorities and barriers to employment, housing, and voting (Western 2007; Pager 2007; Bushway, Stoll and Weiman 2007a; Manza and Uggen 2008).

With modest downward shifts in the incarcerated population (Sentencing Project 2013), several lines of research have begun to explore broader categories of collateral consequences (Comfort 2007; Harris, Evans and Beckett 2010). Today, burgeoning research in this area has begun to focus on three important shifts in American criminal justice: an overwhelming volume of low-level offenses (Kohler-Hausmann 2013), the proliferation of informal and “low-level” sanctions, such as probation (Phelps 2013; Stewart 2014), and a resulting expansion of surveillance over massive populations of “wanted” individuals for minor or non-conviction offenses (Goffman 2014; Brayne 2014). Similar to the claims I make, this important new research shows how the scope of criminal justice has expanded to include many more categories of crime, accompanied by an ever-expanding set of consequences that are aided by technological advances. While we have excellent insight to the economic, political, and social background of mass incarceration and strong empirical evidence for the negative effects of imprisonment, it is



time to expand our definition of what types of contact with the justice system will now result in life-long consequences, and what those consequences look like today.

### **Technology, Stratification and Inequality**

Sociological inquiry has also begun to examine how information technology is shaping inequality, social stratification and institutions. For instance, landlords now have access to eviction databases, the use of which restrict residential mobility for those who have a mark on their housing history (Desmond and Kimbro 2015; Desmond 2016), and credit reports are increasingly used to weed out applicants for jobs and housing (Gallagher 2006; Harris, Evans and Beckett 2010). It is becoming clear to scholars that agents of stratification should now include the somewhat invisible force of individual-level data, widely available online or in massive repositories, but often poorly maintained. We must ask how information technology shapes institutions like poverty governance, welfare, and law, as well as human relationships, educational approaches, and health.

These new forms of data-intensive surveillance easily place people in specific categories that are difficult to escape from, especially given the “empirical” basis for these categorizations. The researchers of a 2010 Pew Internet and American Life study note that while Americans are increasingly aware that online reputation matters, the full scope of its influence across their lives is difficult to assess (Madden and Smith 2010). It is imperative the sociologists join this conversation and begin to disentangle these effects.

## **Labeling and Identity**

Sociologists have long-understood the power of labeling and stigma in the “presentation of self” (Goffman 1959; 1963). The process of establishing social identity, or to use Goffman’s terms, the “front,” involves a process of “impression management” that communicates this identity to others. Yet, the new existence of online identity brings this notion of one’s “collective representation” to new heights. For the first time, our presentation of self involves the building and maintenance of a virtual identity as well as our in-person identity. Negative representations not only send a message to those who search and find a person online, they might also become part of the profiled person’s identity-building process. Sociologists should extend theories of identity to the online context, asking how those who are placed into "discredited" or "discreditable" groups (Goffman 1963, 42) are stigmatized and how, if at all, stigma management works on the internet.

Managing one’s online reputation is also a class-based strategy. We don’t yet know enough about the types of people who self-select into managing their digital trail, though Pew has done some survey research this area, finding that those with higher income and education levels are much more engaged than those in lower socioeconomic groups when it comes to monitoring their own digital footprints. In a 2010 survey, 70% of internet users with a college degree had conducted a search for their name, compared with just 43% of those with a high school degree or less. Similar patterns hold for those who search for others: 35% of internet users living in households earning \$75,000 or more per year search for other people in their lives, compared with just 19% of those with

a household income of \$30,000 or less (Madden and Smith 2010). In this way, sociological inquiry should also pursue research that demonstrates how, even amidst the possibility for broad democratization, the internet also reproduces inequality.

## **CONCLUSION**

We live in the midst of a big data revolution (Boyd and Crawford 2012; Mayer-Schönberger and Cukier 2013). Criminal histories are simply one angle for which to understand sweeping cultural change in how we present ourselves, perceive others, and negotiate our place within social institutions. This dissertation uses the case of digital crime reporting to begin to answer big questions about data, privacy, culture, and punishment, but there are many substantive areas that might also benefit from these types of questions and methodologies. The phenomena I present are difficult to study because they evolve at a rapid pace. Technology, data analysis, and information sharing change more quickly than the laws that govern their use and the scientists who study their effects. This should not detract, however, from our efforts to understand the fundamental social changes new technologies will bring.

## REFERENCES

- Abbott, Andrew D. 1988. *The System of Professions: An Essay on the Division of Expert Labor*. Chicago: University of Chicago Press.
- Allen, Stuart. 2006. *Online News*. New York: Open University Press.
- Applebaum, Binyamin. 2015. "Out of Trouble, But Criminal Records Keep Men Out of Work." *New York Times*, 28 February. Accessed 1 March 2015 at <http://www.nytimes.com/2015/03/01/business/out-of-trouble-but-criminal-records-keep-men-out-of-work.html?ref=topics&r=0>.
- Barak, Gregg. 1994. *Media, Process, and the Social Construction of Crime: Studies in Newsmaking Criminology*. New York: Garland.
- Bazelon, Emily. 2013. *Sticks and Stones: Defeating the Culture of Bullying and Rediscovering the Power of Character and Empathy*. New York: Random House.
- Becker, Howard. 1963. *Outsiders: Studies in the Act of Deviance*. London: Free Press.
- Beckett, Katherine, and Steve Herbert. 2010. "Penal boundaries: Banishment and the Expansion of Punishment." *Law & Social Inquiry* 35(1):1-38.
- Beckett, Katherine and Theodore Sasson. 2000. *The Politics of Injustice: Crime and Punishment in America*. Thousand Oaks, CA: Sage.
- Bernburg, Jon and Marvin Krohn. 2003. "Labeling, Life Chances, and Adult Crime: The Direct and Indirect Effects of Official Intervention in Adolescence on Crime in Early Adulthood." *Criminology* 41:1287-1317.
- Best, Joel. 1991. "'Road Warriors' on 'Hair-Trigger Highways': Cultural Resources and the Media's Construction of the 1987 Freeway Shootings Problem." *Sociological Inquiry* 67:327-345.
- Best, Joel. 2012. *Social Problems*. 2nd ed. New York: W.W. Norton.
- Bjerk, David. 2005. "Role of Prosecutorial Discretion Under Mandatory Minimum Sentencing." *Journal of Law and Economics* 48(2):591-625.
- Black, Donald. 1984. *Toward a General Theory of Social Control. Volume 1: Fundamentals*. Orlando: Academic Press.
- Bobet, Jane E. 2014. "Mug Shots and the FOIA: Weighing the Public's Interest in Disclosure Against the Individual's Right to Privacy." *Cornell Law Review* 99:633-658.
- Bouffard, Leana Allen and Nicole Leeper Piquero. 2010. "Defiance Theory and Life Course Explanations of Persistent Offending." *Crime & Delinquency* 56:227-252.
- Bourdieu, Pierre. 1993. *The Field of Cultural Production. Essays on Art and Literature*. Cambridge: Polity Press.
- Bourdieu, Pierre. 2005. "The Political Field, the Social Science Field, and the Journalistic Field." Pp. 29-47 in *Bourdieu and the Journalistic Field*, edited by R. Benson and E. Neveu. Cambridge: Polity Press.
- Boyd, Danah and Kate Crawford. 2012. "Critical Questions for Big Data: Provocations for a Cultural, Technological, and Scholarly Phenomenon." *Information, Communication & Society* 15(5):662-679.
- Braithwaite, John. 1989. *Crime, Shame, and Reintegration*. Cambridge, UK: Cambridge University Press.

- Brame, Robert, Michael G. Turner, Raymond Paternoster, and Shawn D. Bushway. 2012. "Cumulative Prevalence of Arrest from Ages 8 to 23 in a National Sample." *Pediatrics* 129:21-27.
- Brame, Robert, Shawn D. Bushway, Ray Paternoster, and Michael G. Turner. 2014. "Demographic Patterns of Cumulative Arrest Prevalence by Ages 18 and 23." *Crime & Delinquency* 60(3):471-486.
- Brayne, Sarah. 2014. "Surveillance and System Avoidance: Criminal Justice Contact and Institutional Attachment." *American Sociological Review* 79(3):367-391.
- Branscomb, Anne Wells. 1995. "Anonymity, Autonomy, and Accountability: Challenges to the First Amendment in Cyberspaces." *The Yale Law Journal* 104(7):1639-1679.
- Bushway, Shawn, Michael Stoll, and David Weiman. 2007a. *Barriers to Reentry? The Labor Market for Released Prisoners in Post-Industrial America*. New York: Russell Sage Foundation.
- Bushway, Shawn, Shauna Briggs, Faye Taxman, Meredith Tanner, and Mischelle Van Brakle. 2007b. Private Providers of Criminal History Records: Do You Get What You Pay For? Pp. 174-200 in *Barriers to Reentry?: The Labor Market for Released Prisoners in Post-Industrial America*, edited by S. Bushway, M. Stoll, and D. Weiman,. New York: Russell Sage Foundation.
- Bushway, Shawn D. and Robert Apel. 2012. "A Signaling Perspective on Employment-Based Reentry Programming: Training Completion as a Desistance Signal." *Criminology & Public Policy* 11(1):21-50.
- Cabrera, Luis and Sonya Glavac. 2010. "Minutemen and Desert Samaritans: Mapping the Attitudes of Activists on the United States' Immigration Front Lines." *Journal of Ethnic and Migration Studies* 36(4):673-695.
- Callanan, Matthew D. 2012. "Protecting the Unconvicted: Limiting Iowa's Rights to Public Access in Search of Greater Protection for Criminal Defendants Whose Charges Do Not End in Convictions." *Iowa Law Review* 98:1275.
- Carey, Corinne A. 2004. "No Second Chance: People with Criminal Records Denied Access to Public Housing." *University of Toronto Law Review* 36:545-594.
- Chen, Hsinchun, Wingyan Chung, Jennifer Jie Xu, Gang Wang, Yi Qin, and Michael Chau. 2004. "Crime Data Mining: A General Framework and Some Examples." *Computer* 37(4):50-56.
- Comfort, Megan. 2007. "Punishment Beyond the Legal Offender." *Annual Review of Law and Social Science* 3:271-296.
- Conley, Amanda and Anupam Datta. 2012. "Sustaining Privacy and Open Justice in the Transition to Online Court Records: A Multidisciplinary Inquiry." *Maryland Law Review* 71(3):772-847.
- Council on Crime and Justice. 2015. "2105 Legislative Agenda." Minneapolis, MN: Council on Crime and Justice.
- Deflem, Mathieu. 2008. *Surveillance and Governance: Crime Control and Beyond*. Bingley, UK: Emerald/JAI Press.
- Desmond, Matthew, and Rachel Tolbert Kimbro. Forthcoming 2015. "Eviction's Fallout: Housing, Hardship, and Health." *Social Forces*.

- Desmond, Matthew. Forthcoming 2016. *Evicted: Poverty and Profit in the America City*. New York: Crown.
- Dowler, Ken. 2003. "Media Consumption and Public Attitudes toward Crime and Justice: The Relationship Between Fear of Crime, Punitive Attitudes, and Perceived Police Effectiveness." *Journal of Criminal Justice and Popular Culture* 10(2):109-126.
- Drummond, David. 2014. "We Need to Talk About the Right to Be Forgotten." *The Guardian*, 10 July. Accessed 10 March 2015 at <http://www.theguardian.com/commentisfree/2014/jul/10/right-to-be-forgotten-european-ruling-google-debate>.
- Durkheim, Emile. 1893. *The Division of Labor in Society*. New York: Free Press.
- Edelman, Lauren B. 1992. "Legal Ambiguity and Symbolic Structures: Organizational Mediation of Law." *American Journal of Sociology* 97:1531-76.
- Edelman, Lauren B., Christopher Uggen, & Howard S. Erlanger. 1999. "The Endogeneity of Legal Regulation: Grievance Procedures as Rational Myth." *American Journal of Sociology* 105:406-54.
- Ellis, Justin. 2011. "How Public is Public Data? With Public Engines v. ReportSee, New Access Standards Could Emerge." *NiemanLab* 17 February. Accessed 26 January 2015 at <http://www.niemanlab.org/2011/02/how-public-is-public-data-with-public-engines-v-reportsee-new-access-standards-could-emerge/>
- England, Deborah. 2015. "Cyber Avengers: White Knights or Vigilantes?" *Criminal Defense Lawyer, Nolo.com*. Accessed 10 March 2015 at <http://www.criminaldefenselawyer.com/resources/cyber-avengers-white-knights-or-vigilantes.htm>.
- Ericson, Richard Victor, Patricia M. Baranek, and Janet B. L. Chan. 1991. *Representing Order: Crime, Law and Justice in the News Media*. Toronto: University of Toronto Press.
- Ericson, Richard Victor and Kevin D. Haggerty. 2006. *The New Politics of Surveillance and Visibility*. Toronto, ON: University of Toronto Press.
- Eschholz, Sarah, Ted Chiricos and Marc Gertz. 2003. "Television and Fear of Crime: Program Types, Audience Traits, and the Mediating Effect of Perceived Neighborhood Racial Composition." *Social Problems* 50(3):395-415.
- European Commission. 2014. "Factsheet on the Right to be Forgotten" Ruling (C-131/12). Accessed 10 March 2015 at [http://ec.europa.eu/justice/data-protection/files/factsheets/factsheet\\_data\\_protection\\_en.pdf](http://ec.europa.eu/justice/data-protection/files/factsheets/factsheet_data_protection_en.pdf)
- Feeley, Malcolm M. and Jonathan Simon. 1992. "The New Penology: Notes on the Emerging Strategy of Corrections and its Implications." *Criminology* 30(4):449-474.
- Felstiner, William L.F., Richard L. Abel and Austin Sarat. 1980. "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming..." *Law and Society Review* 15(3/4):631-654.
- Finlay, Keith. 2008. "Effect of Employer Access to Criminal History Data on the Labor Market Outcomes of Ex-Offenders and Non-Offenders." *NBER Working Papers 13935*, National Bureau of Economic Research.

- Foucault, Michel. 1978. *The History of Sexuality*. New York: Pantheon Books.
- Foucault, Michel. 1995. *Discipline and Punish: The Birth of the Prison*. New York: Vintage Books.
- Gallagher, Kelly. 2006. "Rethinking the Fair Credit Reporting Act: When Requesting Credit Reports for Employment Purposes Goes Too Far." *Iowa Law Review* 91:1593-1620.
- Garland, David. 1990. *Punishment and Modern Society: A Study in Social Theory*. Oxford: Oxford University Press.
- Garland, David. 1991. "Sociological Perspectives on Punishment." *Crime and Justice* 14:115-165.
- Garland, David. 2000. "The Culture of High Crime Societies." *British Journal of Criminology* 40(3):347-375.
- Garland, David. 2001. *The Culture of Control*. Chicago: University of Chicago Press.
- Garland, David. 2008. "On the Concept of Moral Panic." *Crime, Media, Culture* 4(1):8-30.
- Garland, David and Richard F. Sparks. 2000. "Criminology, Social Theory, and the Challenge of Our Times." Pp. 1-22 in *Criminology and Social Theory*, edited by D. Garland and R. Sparks. Oxford: Oxford University Press.
- Gibbs, Samuel. 2014. "Google Hauled in by Europe Over 'Right to be Forgotten' Reaction." *The Guardian*, 24 July. Accessed 10 March, 2015 at <http://www.theguardian.com/technology/2014/jul/24/google-hauled-in-by-europe-over-right-to-be-forgotten-reaction>
- Gilliam, Franklin D. Jr. and Iyengar, Shanto. 2000. "Prime suspects: The Influence of Local Television News on the Viewing Public." *American Journal of Political Science* 44:560-573.
- Giordano, Peggy C. Stephen A. Cernkovich, and Jennifer L. Rudolph. 2002. "Gender, Crime and Desistance: Toward a Theory of Cognitive Transformation." *American Journal of Sociology* 107(4):990-1064.
- Glaser, Barney G., and Anselm L. Strauss. 1967. *The Discovery of Grounded Theory: Strategies for Qualitative Research*. Piscataway, NJ: Transaction.
- Goffman, Erving. 1959. *The Presentation of Self in Everyday Life*. New York: Anchor.
- Goffman, Erving. 1963. *Stigma: Notes on the Management of Spoiled Identity*. Englewood Cliffs, NJ: Prentice Hall.
- Goffman, Alice. 2014. *On The Run: Fugitive Life in an American City*. Chicago: University of Chicago Press.
- Greer, Chris, ed. 2010. *Crime and Media: A Reader*. New York: Routledge.
- Hakim, Danny. 2014. "Right to Be Forgotten? Not That Easy." *New York Times*, 30 May. Accessed 10 March 2015 at [http://www.nytimes.com/2014/05/30/business/international/on-the-internet-the-right-to-forget-vs-the-right-to-know.html?\\_r=1](http://www.nytimes.com/2014/05/30/business/international/on-the-internet-the-right-to-forget-vs-the-right-to-know.html?_r=1).
- Hall, Stuart. 1978. *Policing the Crisis: Mugging, the State, and Law and Order*. London: Macmillan.

- Hall, Stuart, Chas Critcher, Tony Jefferson, John N. Clarke, and Brian Roberts. 1978. "The Social Production of News." Pp. 442-460 in *Crime and Media: A Reader* (2010), edited by C. Greer. New York: Routledge.
- Harris, Alexes, Heather Evans, and Katherine Beckett. 2010. "Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary U.S." *American Journal of Sociology* 115(6):1755-99.
- Harris, Patricia M., and Kimberly S. Keller. 2005. "Ex-offenders Need Not Apply: The Criminal Background Check in Hiring Decisions." *Journal of Contemporary Criminal Justice* 21:6-30.
- Hendel, John. 2012. "Why Journalists Shouldn't Fear Europe's Right to Be Forgotten." *The Atlantic*, 25 January. Accessed 10 March 2015 at <http://www.theatlantic.com/technology/archive/2012/01/why-journalists-shouldnt-fear-europes-right-to-be-forgotten/251955/>.
- Hirsch, Amy E., Sharon M. Dietrich, Rue Landau, Peter D. Schneider, Irv Ackelsberg, Judith Bernstein-Baker, and Joseph Hohenstein. 2002. *Every Door Closed: Barriers Facing Parents with Criminal Records*. Washington, DC: Center for Law and Social Policy.
- Hirschfield, Paul J. 2008. "Preparing for Prison? The Criminalization of School Discipline in the USA." *Theoretical Criminology* 12(1):79-101.
- Hirschi, Travis and Michael Gottfredson 1983. "Age and the Explanation of Crime." *American Journal of Sociology* 89:552-584.
- Hochberg, Adam. 2014. "Disputes Over Crime Maps Highlight Challenge of Outsourcing Public Data." *Poynter*, 24 November. Accessed 26 January 2015 at <http://www.poynter.org/news/mediawire/213443/disputes-over-crime-maps-highlight-challenge-of-outsourcing-public-data/>.
- Holland, Martin A. 2012. "Identity, Privacy and Crime: Privacy and Public Records in Florida." *University of Florida Journal of Law and Public Policy* 23:235-256.
- Holzer, Harry J., Stephen Raphael, and Michael Stoll. 2007. "The Effect of an Applicant's Criminal History on Employer Hiring Decisions and Screening Practices: Evidence from Los Angeles." In *Barriers to reentry? The Labor Market for Released Prisoners in Post-Industrial America*, S. Bushway, M. Stoll, & D. Weiman, editors. New York: Russell Sage.
- Huey, Laura, Johnny Nhan, and Ryan Broll. 2013. "'Uppity Civilians' and 'Cyber-Vigilantes': The Role of the General Public in Policing Cyber-Crime." *Criminology and Criminal Justice* 13(1):81-97.
- Iyengar, Shanto. 1991. *Is Anyone Responsible? How Television Frames Political Issues*. Chicago: University of Chicago Press.
- Iyer, Ravi, Spassena Koleva, Jesse Graham, Peter Ditto and Jonathan Haidt. 2012. "Understanding Libertarian Morality: The Psychological Dispositions of Self-Identified Libertarians." *PloS one* 7(8):e42366.
- Jacobs, James B. 2015. *The Eternal Criminal Record*. Cambridge, MA: Harvard University Press.
- Jenkins, Henry. 2006. *Convergence Culture: Where Old and New Media Collide*. New York: New York University Press.



- Jenness, Valerie, David A. Smith, & Judith Stepan-Norris. 2007. "Taking a Look at Surveillance Studies." *Contemporary Sociology* 36(2):vii–viii.
- Jerolmack, Colin and Shamus Khan. 2014. "Talk is Cheap: Ethnography and the Attitudinal Fallacy." *Sociological Methods & Research* 43(2): 178-209.
- Jewkes, Yvonne. 2004. *Media and Crime: A Critical Introduction*. Thousand Oaks, CA: Sage Publications.
- Johnston, Les. 1996. "What is Vigilantism?" *British Journal of Criminology* 36:220-236.
- Katsch, M. Ethan. 1995. "Rights, Camera, Action: Cyberspatial Settings and the First Amendment." *The Yale Law Journal* 104(7):1681-1717.
- Katz, Jack. 1987. "What Makes Crime 'News?'" *Media, Culture & Society* 9:47-75.
- Klinenberg, Eric. 2005. "Convergence: News Production in a Digital Age." *The ANNALS of the American Academy of Political and Social Science* 597:48-64.
- Kohler-Hausmann, Issa. 2013. "Misdemeanor Justice: Control Without Conviction." *American Journal of Sociology* 119(2):351-393.
- Kort-Butler, Lisa and Kelley Sittner Harshorn. 2011. "Watching the Detectives: Crime Programming, Fear of Crime, and Attitudes about the Justice System." *The Sociological Quarterly* 52, 36-55.
- Kurlychek, Megan C., Robert Brame, and Shawn Bushway. 2006. "Scarlet Letters and Recidivism: Does an Old Criminal Record Predict Future Offending?" *Criminology and Public Policy* 5(3):483-504.
- Lageson, Sarah Esther. 2014a. "The Construction of Crime through Online News and Blogging." Presented at American Society of Criminology Annual Meeting, Atlanta, GA.
- Lageson, Sarah Esther. 2014b. "The Enduring Effects of Online Mug Shots." *The Society Pages*, 19 May. Accessed 1 December 2014 at <http://thesocietypages.org/roundtables/mugshots/>.
- Lageson, Sarah Esther and Christopher Uggen. 2013. "Crime, Punishment and Employment Over the Life Course." Pp. 201-212 in *Handbook of Life Course Criminology*, edited by M. Krohn and C. Gibson. New York: Springer.
- Lageson, Sarah Esther, Mike Vuolo and Christopher Uggen. 2015. "Legal Ambiguity in Managerial Assessments of Criminal Records." *Law and Social Inquiry*, early view online.
- LeBel, Thomas P. 2008. "Perceptions of and Responses to Stigma." *Sociology Compass* 2:409–432.
- Lemert, Edwin. 1967. *Human Deviance, Social Problems and Social Control*. Englewood Cliffs, NJ: Prentice-Hall.
- Lewis, Seth C. 2011. "The Sociology of Professions, Boundary Work, and Participation in Journalism: A Review of the Literature." Presented at the International Communication Association Annual Meeting, May 26-30, Boston, MA.
- Lewis, Seth C. 2012. "The Tension Between Professional Control and Open Participation: Journalism and its Boundaries." *Information, Communication & Society* 15(6): 836-866.
- Levy, Ariel. 2013. "Trial by Twitter." *The New Yorker*, 5 August. Accessed 1 July 2014 at <http://www.newyorker.com/magazine/2013/08/05/trial-by-twitter>

- Libertarian Party. 2015. "The Party of Principle. Minimum Government, Maximum Freedom: Issues – Crime and Violence." Accessed January 20, 2015 at <http://www.lp.org/issues/crime-and-violence>.
- Lowrey, Wilson. 2011. "Institutionalism, News Organizations and Innovation." *Journalism Studies* 12(1):64–79.
- Lum, Cynthia, Chris Koper and Cody W. Telep. 2011. "The Evidence-Based Policing Matrix." *Journal of Experimental Criminology* 7:3-26.
- Lynch, Mona. 2002. "Pedophiles and Cyber-Predators as Contaminating Forces: The Language of Disgust, Pollution, and Boundary Invasions in Federal Debates on Sex Offender Legislation." *Law & Social Inquiry* 27(3):529-566.
- Lyon, David. 2007. *Surveillance Studies: An Overview*. Cambridge; Malden, MA: Polity.
- Madden, Mary and Aaron Smith. 2010. "Reputation Management and Social Media." Washington, DC: Pew Internet & American Life Project. Accessed 1 March 2015 at <http://ictlogy.net/bibliography/reports/projects.php?idp=1650>.
- Manza, Jeff and Chris Uggen. 2008. *Locked Out: Felon Disenfranchisement in American Democracy*. Oxford: Oxford University Press.
- Maruna, Shadd. 2001. *Making Good: How Ex-Convicts Reform and Rebuild Their Lives*. Washington, DC: American Psychological Association.
- Maruna, Shadd. 2012. "Elements of Successful Desistance Signaling." *Criminology & Public Policy* 11:73-83.
- Mayer-Schönberger, Viktor and Kenneth Cukier. 2013. *Big Data: A Revolution that Will Transform How We Live, Work, and Think*. New York: Houghton
- McCann, Michael W. and Tracey March. 1996. "Law and Everyday Forms of Resistance: A Socio-Political Assessment." *Studies in Law, Politics, and Society* 15:207-236.
- McLure, Helen. 2000. "The Wild, Wild Web: The Mythic American West and the Electronic Frontier." *The Western Historical Quarterly* 31:457-476.
- McNeill, Fergus. 2006. "A Desistance Paradigm for Offender Management." *Criminology & Criminal Justice* 6:39–62.
- Melossi, Dario. 2008. *Controlling Crime, Controlling Society*. Cambridge: Polity.
- Merry, Sally Engle. 1985. "Concepts of Law and Justice Among Working Class Americans." *Legal Studies Forum* 9:59-69.
- Merry, Sally Engle. 1990. *Getting Justice and Getting Even: Legal Consciousness Among Working Class Americans*. Chicago: University of Chicago Press.
- Mills, C. Wright. 1956. *The Power Elite*. Oxford: Oxford University Press.
- Monahan, Torin. 2010. *Surveillance in a Time of Insecurity*. Piscataway, NJ: Rutgers University Press.
- Morgan, Charlie. 2014. "The Utah Minuteman Project and Symbolic Boundaries: Legal Status, Nationalism, Culture, and Race." Paper presented at the International Sociology Association Annual Meeting: Yokohama, Japan.
- Myrick, Amy. 2013. "Facing Your Criminal Record: Expungement and the Collateral Problem of Wrongfully Represented Self." *Law and Society Review* 47:73-104.
- Nash, Shyam Varan. 2006. "Crime Pattern Detection Using Data Mining." Paper presented at Web Intelligence and Intelligent Agent Technology Workshops: Hong Kong.

- Natapoff, Alexandra. 2012. "Misdemeanors." *Southern California Law Review* 85(5):1313-1376.
- National Consumer Law Center. 2012. "Broken Records: How Errors by Criminal Background Checking Companies Harm Workers and Businesses." Boston: National Consumer Law Center.
- National Employment Law Project. 2013. "Wanted: Accurate FBI Background Checks or Employment. Reward: Good Jobs." Accessed 2 March 2015 at <http://www.nelp.org/page/-/SCLP/2013/Report-Wanted-Accurate-FBI-Background-Checks-Employment.pdf?nocdn=1>.
- National Employment Law Project. 2014. "Ban the Box: A Fair Chance for a Stronger Economy." Accessed 18 December 2014 from <http://www.nelp.org/page/content/banthebox/>.
- Page, Joshua. 2004. "Eliminating the Enemy: The Impact of Denying Prisoners Access to Higher Education in Clinton's America." *Punishment & Society* 6:357-378.
- Pager, Devah. 2007. *Marked: Race, Crime, and Finding Work in an Era of Mass Incarceration*. Chicago, IL: University of Chicago Press.
- Phelps, Michelle S. "The Paradox of Probation: Community Supervision in the Age of Mass Incarceration." *Law & Policy* 35(1-2):51-80.
- Potter, Gary W. and Victor E. Kappeler, eds. 2006. *Constructing Crime: Perspectives on Making News and Social Problems*, 2nd ed. Long Grove, IL: Waveland Press, Inc.
- Public Engines, Inc. 2011. "News Release: Public Engines, Inc. Announces Permanent Injunction in Settlement with ReportSee, Inc., Operator of SpotCrime.com and MyLocalCrime.com." 11 January. Accessed 26 January 2015 at <http://www.prnewswire.com/news-releases/public-engines-inc-announces-permanent-injunction-in-settlement-with-reportsee-inc-operator-of-spotcrimecom-and-mylocalcrimecom-113268634.html>.
- Raphael, Steven. 2011. "Improving Employment Prospects for Former Prison Inmates: Challenges and Policy." Pp. 521-565 in *Controlling Crime: Strategies and Tradeoffs*, P. Cook, J. Ludwig, and J. McCrary, editors. Chicago: University of Chicago Press.
- Reese, Stephen. 1990. "The News Paradigm and the Ideology of Objectivity: a Socialist at the Wall Street Journal." *Critical Studies in Mass Communication* 7:390-409.
- Roberts, Jenny. 2011. "Why Misdemeanors Matter: Defining Effective Advocacy in the Lower Criminal Courts." *UC-Davis Law Review* 45:277-372.
- Romer, Daniel, Kathleen Jamieson, and Sean Aday. 2003. "Television News and the Cultivation of Fear of Crime." *Journal of Communication* 53(1):88-104.
- Rose, Nikolas. 2000. "Government and Control." *The British Journal of Criminology* 40(2):321-339.
- Rosen, Jay. 1999. *What are Journalists For?* New Haven: Yale University Press.
- Rosenberg, Scott. 2002. "Much Ado About Blogging." *Salon.com*, 10 May. Retrieved 6 March 2014 at [http://www.salon.com/2002/05/10/blogs\\_2/](http://www.salon.com/2002/05/10/blogs_2/).

- Rostron, Allen. 2013. "The Mugshot Industry: Freedom of Speech, Rights of Publicity, and the Controversy Sparked by an Unusual New Type of Business." *Washington University Law Review* 90:1321-1334.
- Sampson, Robert. J., and Laub, John H. 1993. *Crime in the Making: Pathways and Turning Points Through Life*. Cambridge, MA: Harvard University Press.
- Sampson, Robert. J., and Laub, John H. 1997. "A Life-course Theory of Cumulative Disadvantage and the Stability of Delinquency." Pp. 133-162 in *Developmental Theories of Crime and Delinquency*, T. P. Thornberry, editor. New Brunswick, NJ: Transaction.
- Sarat, Austin. 1985. "Legal Effectiveness and Social Studies of Law." *Legal Studies Forum* 9:23-32.
- Schlesinger, Philip and Howard Tumber 1994. *Reporting Crime: The Media Politics of Criminal Justice*. New York: Oxford.
- Schudson, Michael. 2011. *The Sociology of News*. 2nd ed. New York: W.W. Norton.
- SEARCH Group. 2001. *Use and Management of Criminal History Record Information: A Comprehensive Report, 2001*. Washington DC: Bureau of Justice Statistics.
- Segal, David. 2013. "Mugged by a Mugshot Online." *The New York Times*, 5 October. Accessed 15 March 2015 at [http://www.nytimes.com/2013/10/06/business/mugged-by-a-mug-shot-online.html?\\_r=0](http://www.nytimes.com/2013/10/06/business/mugged-by-a-mug-shot-online.html?_r=0).
- Sentencing Project. 2013. "U.S. Prison Population Declines for Third Consecutive Year." Press Release, 19 December 2013. Accessed 1 March 2015 at [http://www.sentencingproject.org/detail/news.cfm?news\\_id=1720](http://www.sentencingproject.org/detail/news.cfm?news_id=1720).
- Sherman, Lawrence W. 1993. "Defiance, Deterrence, and Irrelevance: A Theory of the Criminal Sanction." *Journal of Research in Crime and Delinquency* 30:445-473.
- Sherman, Lawrence W., David P. Farrington, Brandon C. Welsh, and Doris L. MacKenzie. 2002. *Evidence-Based Crime Prevention*. New York: Routledge.
- Shoemaker, Pamela J. and Tim P. Vos. 2009. *Gatekeeping Theory*. Routledge, New York.
- Silbey, Susan and Austin Sarat. 1987. "Critical Traditions in Law and Society Research." *Law and Society Review* 21:165-74.
- Silbey, Susan. 2005. "After Legal Consciousness." *Annual Review of Law and Society* 1:323-368.
- Simon, Jonathan. 2007. *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear*. Oxford: Oxford University Press.
- Smee, Ben. 2014. "Darwin and Palmerston Vigilantes Take Up War on Suburban Crime Epidemic." *NT News*, 27 December. Accessed 1 March 2015 at <http://www.ntnews.com.au/news/northern-territory/darwin-and-palmerston-vigilantes-take-up-war-on-suburban-crime-epidemic/story-fnk0b1zt-1227167969376>.
- Society for Human Resources Management. 2012. "Background Checking – The Use of Criminal Background Checks in Hiring Decisions." Accessed 28 February 2013 at

- <http://www.shrm.org/Research/SurveyFindings/Articles/Pages/CriminalBackgroundCheck.aspx>.
- Steinberg, Joseph. 2013. "Your Privacy Is Now At Risk From Search Engines -- Even If The Law Says Otherwise." *Forbes*, 02 June. Accessed 1 March 2015 at <http://www.forbes.com/sites/josephsteinberg/2014/06/02/your-privacy-is-now-at-risk-from-search-engines-even-if-the-law-says-otherwise/>.
- Stewart, Robert. 2014. "Legislative Engagement and the Piling On Effect of a Criminal Record." Paper presented at the 2014 Annual Meetings of the American Society of Criminology, November 21, San Francisco, CA.
- Surette, Ray. 2003. "The Media, the Public, and Criminal Justice Policy." *Journal of the Institution of Justice and International Studies* 2:39–52.
- Surette, Ray. 2006. *Media, Crime and Criminal Justice: Images, Realities and Policies*. Belmont, CA: Wadsworth.
- Sutton, John R. 2001. *Law/Society: Origins, Interactions, and Change*. Thousand Oaks, CA: Pine Forge Press.
- Thatcher, David. 2008. "The Rise of Criminal Background Screening in Rental Housing." *Law and Social Inquiry* 33(1):5-30.
- Toch, Hans. 2010. "I am Not Now who I Used to be Then': Risk assessment and the Maturation of Long-term Prison Inmates." *The Prison Journal* 90:4–11.
- Tucher, Andie. 1999. "Framing the Criminal: Trade Secrets of the Crime Reporter." *New York Law School Law Review* 43:905-913.
- Tuchmann, Gaye. 1978. *Making News: A Study in the Construction of Reality*. New York: Free Press.
- Uggen, Christopher. 2000. "Work as a Turning Point in the Lives of Criminals: A Duration Model of Age, Employment, and Recidivism." *American Sociological Review* 65(4):529–546.
- Uggen, Christopher, Mike Vuolo, Sarah Lageson, Ebony Ruhland, and Hilary Whitham. 2014. "The Edge of Stigma: An Experimental Audit of the Effects of Low-Level Criminal Records on Employment." *Criminology* 52(4):627-54.
- United States Department of Justice. 2014a. "Prisoners in 2013." Washington DC: Bureau of Justice Statistics.
- United States Department of Justice. 2014b. "Crime in the United States 2013." Washington DC: Bureau of Justice Statistics.
- United States Department of Justice. 2014c. "Offenses Cleared 2013." Washington DC: Bureau of Justice Statistics.
- United States Equal Employment Opportunities Commission. 2012a. "Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964." Accessed 30 October 2014 at [http://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm).
- Wade, Chris. 2014. "The Reddit Reckoning." *Slate.com*, 15 April. Accessed 10 March 2015 at [http://www.slate.com/articles/technology/technology/2014/04/reddit\\_and\\_the\\_boston\\_marathon\\_bombings\\_how\\_the\\_site\\_reckoned\\_with\\_its\\_own.html](http://www.slate.com/articles/technology/technology/2014/04/reddit_and_the_boston_marathon_bombings_how_the_site_reckoned_with_its_own.html)



- Wall, David S. 2003. *Cybercrime: The Transformation of Crime in the Information Age*. Cambridge: Polity.
- Ward, Matthew. 2013. *Battling to Secure America's Borders: Understanding Micromobilization in the Contemporary U.S. Anti-Immigration Movement*. PhD Dissertation, Department of Sociology, University of Arizona. Retrieved from <http://arizona.openrepository.com/arizona/handle/10150/293485>.
- Warzel, Charlie. 2014. "Behind The Alarming Rise Of The Online Vigilante Detective." *Buzzfeed Tech*, 9 December. Accessed 15 March 2015 at <http://www.buzzfeed.com/charliewarzel/behind-the-alarming-rise-of-the-online-vigilante-detective#.ukZEebzEo>.
- Watstein, Ryan D. 2009. "Out of Jail and Out of Luck: The Effect of Negligent Hiring Liability and the Criminal Record Revolution on an Ex-Offender's Employment Prospects." *Florida Law Review* 61:581-610.
- Wehmhoener, Karl Allan. 2010. "Social Norm or Social Harm: An Exploratory Study of Internet Vigilantism." Graduate Theses and Dissertations, Department of Journalism and Mass Communication, Iowa State University, Paper 11572.
- Western, Bruce. 2007. *Punishment and Inequality in America*. New York: Russell Sage.
- Whitman, James Q. 2004. "The Two Western Cultures of Privacy: Dignity Versus Liberty." *Yale Law School Faculty Scholarship Series* Paper 649.
- Wildeman, Chris and Sara Wakefield. 2013. *Children of the Prison Boom: Mass Incarceration and the Future of American Inequality*. Oxford: Oxford University Press.
- Winnick, Terri A. and Mark Bodkin. 2008. "Anticipated Stigma and Stigma Management Among Those to be Labeled 'Ex-con.'" *Deviant Behavior* 29:295-333.
- Witschge, Tamara and Gunnar Nygren. 2009. "Journalism: A Profession Under Pressure?" *Journal of Media Business Studies* 6(1):7-36.
- Wolfe, Gregory Nathaniel. 2013. "Smile for the Camera, The World is Going to See That Mug: The Dilemma of Privacy Interests in Mug Shots." *Columbia Law Review* 113:2227-2273.
- Zadrozny, Brandy. 2014. "He Bullies Kids and Calls it News." *The Daily Beast*, 26 June. Accessed 1 July 2014 at <http://www.thedailybeast.com/articles/2014/06/26/he-bullies-kids-and-calls-it-news.html>

#### **CASES CITED**

- The Freedom of Information Act (FOIA), 5 U.S.C. § 552 (1966)
- United States Department of Justice v. Reporters Committee for Freedom of the Press, 489 U.S. 749 (1989)
- Detroit Free Press, Inc. v. Department of Justice, 73 F.3d 93 (6th Cir. 1996)
- Times-Picayune Publishing Co. v. United States, 37 F.Supp.2d 472 (1999)
- World Publishing Company v. United States Department of Justice, 672 F.3d 825 (10th Cir. 2012)
- Karantsalis v. US Dept. of Justice, 635 F.3d 497 (11th Cir. 2011)
- Cox Broadcasting Corp. v. Cohn, 420 U.S. 469 (1975)

National Archives & Records Administration v. Favish, 124 S. Ct. 1570 (2004)  
Snyder v. Phelps, 562 U.S. \_\_\_\_ (2011)  
Saltsman v. Goddard, 12-CV-00544 (2012)  
Google Spain SL, Google Inc. v Agencia Española de Protección de Datos, Mario  
Costeja González (2014). C-131/12. ECLI = ECLI:EU:C:2014:317  
Lashaway et al v. D'Antonio, III et al. Ohio Northern District Court, Case No. 3:13-cv-  
01733

**STATUTES CITED**

Minn. Stat. § 609A.01 EXPUNGEMENT OF CRIMINAL RECORDS.

## **APPENDICES**

APPENDIX A: DATABASE OF CRIME WEBSITES

APPENDIX B: TABLE OF PUBLISHER INTERVIEWEES

APPENDIX C: INTERVIEW SCHEDULE – PUBLISHERS

APPENDIX D: TABLE OF EXPUNGEMENT INTERVIEWEES

APPENDIX E: INTERVIEW SCHEDULE – EXPUNGEMENT SEEKERS

APPENDIX F: SAMPLE LEGISLATION



**APPENDIX A: DATABASE OF CRIME WEBSITES**

<i>Name of Site</i>	<i>Geographic Focus</i>	<i>Topical Focus</i>	<i>Self-published Description</i>
805 Crime Blog	Ventura County	Crime Updates	A twitter page that provides crime updates occurring in Ventura County.
A Public Defender	Connecticut	Criminal Law	The blogger is employed by the public defender's office. This blog reflects his own personal opinions of various crimes.
All Things Crime	United States	True Crime, investigations, culture, fiction, violent crime, major cases	In an uncertain world there is one stark certainty. Crime. It is the reality we cannot escape, the salt of life that both fascinates and terrifies. Here in America we have had criminals at the highest levels of our government and our corporations, not to mention the predatory criminals that ravage our mean urban streets. Our police departments are inundated with crime and corruption and our more than 2 million prisoners, state, local and Federal, wile away their weary hours by augmenting and refining their criminal techniques. This is the setting for All Things Crime, spearheaded by Los Angeles Private Investigator and crime writer Patrick H. Moore.
At the Scene of the Crime	Crime books from all over the world (Russia, France, Poland)	Fictional Crimes	"This is a site for mysteries, which are fictional - it is not the same as a blog dealing with crime."
Avondale and Logan Square Crime Blotter	Logan Square, Chicago	Petty Crimes, Neighborhoods, Police Scanner	This website, or blog, is about the crime in the Avondale/Logan Square neighborhoods on Chicago's Northwest side.
Bad Breeders	World Wide	Bad Parenting	Blog focuses on bad parenting as a crime.
Baltimore Crime	Baltimore	General Crimes, Neighborhoods, Crime Commentary	a blog devoted to reporting crime, particularly violent and lifestyle crimes, in Baltimore city neighborhoods and surrounding areas. Please use "comment" to submit stories.
Blink on crime	international	Disapperances, missing children, missing persons	None
Blog del Narco	Mexico	Drug crime	Information on drug trafficking in Mexico
Breaking Crime News	World Wide	Hate Crimes	None
California Crime Blog	California	General Crimes	The author of this blog focuses on crime and constitutional rights.
Captain Obvious' Crime Blog	Temple, GA	Sick crimes	Facebook page providing different news articles on sick crimes.
Chicago Crime Blog	Chicago	Statistics	"This is an ongoing project to study crime in Chicago empirically. I collect raw line-item Chicago Police data and use an excessively complicated series of spreadsheets to process it into usable data."

Chicago Crime Blotter (same guy as Avondale crime blog)	Chicago	Crime Updates	
CLEWS your home for historic true crime	United states	book review, historical crime review	Welcome to my study of historic true crime, a literacy blog where the cairs rest at the intersection of history, journalism, law, and murder, and the shelves are filled with the finest true crime literature. STEAL FROM THIS LIBRARY AND IT'S PISTOLS AT DAWN
Creek Crossing Crime Watch	Mesquite, Texas	Crime Updates	We are Neighbors Looking Out For Neighbors in the Creek Crossing Area of Mesquite, TX. Please Help Report and Prevent Crime Because Together We CAN Make a Difference in Our Neighborhood!
Crime and Consequence	United States	Crime and Criminal Justice	This is a sponsored blog that focuses on: 1) criminal and crime-related civil cases, 2) significant decisions in the field by other courts, 3) studies with public policy implications related to crime and criminal justice, and 4) links to and discussion of news items and blogs related to criminal law.
Crime and Corruption in Connecticut	Connecticut	Criminals and corruption	Blogs about criminals and corruption in the legal system.
Crime Blog X	United states	Crime Prevention, Crime Updates,	none
Crime in Charlotte	Charlotte	General Crimes, Crime Updates, Statistics	Crime In Charlotte (.com) was created in 2006 after a local woman was the victim of a crime. Her mission to be informed and to keep safe was shared with Metro Charlotte residents via this website. Today, Crime in Charlotte (.com) continues her tradition in a new and vivid way.
Crime in Charlotte	Charlotte, NC	Crime Updates	Crime In Charlotte (.com) was created in 2006 after a local woman was a victim of a crime. Her mission to be informed and to keep safe was shared with Metro Charlotte residents via this website. Today, Crime in Charlotte (.com) will continue her tradition in a new and vivid way. Our re-designed website provides residents of metro Charlotte with crime statistics, local police updates and news on Crime taking place daily in the area.
Crime in Wrigleyville & Boystown	Wrigleyville/Boystow Chicago	General crime, neighborhoods, police statistics	Crime in Wrigleyville and Boystown (CWB) reports on the growing violent crime problem in Chicago's iconic baseball and LGBT neighborhoods.
Crime Scene KC	Kansas City and some national crime data	Crime news, crime prevention, and crime analysis	This Kansas City Star blog is a place to receive comprehensive crime news information, crime prevention tips and crime analysis about the Kansas City area. It will present both local and national crime data to report crime trends affecting us all. The Star encourages community engagement and discussion of these issues of crime and criminal justice.

Crime Time	North Texas	Crime Updates/Case Updates	Keeping track of law and disorder in North Texas and beyond from @startelegram staff & social media editor Maricar Estrella @maricare
Crime Time	Texas (including some other U.S. crime news)	Law and Crime disorder	None
Crime Watch 24/7	Gold Coast Community	Crimes in General	A facebook page created to inform people of crimes in general that are occurring in their community.
Crime, Guns and Videotape	World Wide	Crimes in General	This blog contains a variety of issues such as gun control, free speech, and role of the government in crimes.
Crimescene Blog	World Wide	Crimes	This blog includes update about different crimes going on.
Criminal Conduct	united states	Criminal Psychosis information, Crime New, look at old cases	none
Defending People: The Tao of Criminal-Defense Trial Lawyering	World Wide	Trial Lawyers / Crimes	Houston criminal defense lawyer who's blogging about trial lawyers and crimes in general.
Drug Warrant	United States	Drug Policy Reform	This blog tackles different drug-related issues and their effect on society.
East Side Saint Paul Crime Watchers	St. Paul, MN	Crimes in General	A facebook group aimed to inform other residents of East Side St. Paul about the crimes going around.
Environmental Crimes Blog	United States	Environmental Law	This blog focuses on different environmental crimes/issues that had occurred in the U.S.
Fawcett Plan Task Force	Mckeesport, Pa	Crime Updates	None
Fighting Crime and Cleaning Up Rocky Mount NC	Rocky Mount, NC	Crime Updates	This page is to help locate Wanted individuals and Absconders in the Rocky Mount and surrounding areas - it is also here make citizens aware of the crimes going on and to ask for your help to keep an eye out for these criminals! You can also submit your tips regarding drug activity or concerns in the neighborhood !ALL tips are anonymous and given to the RMPD/NCSO/DPS/Police Department in which the person is residing - Citizens are the most valuable resource for the police in the war against crime!
Georgetown, KY Crime Blog	Georgetown, Kentucky	General Crimes, Neighborhoods	Following trends in crime throughout The Bluegrass of Scott County. Georgetown, Kentucky's only crime blog.
Governing Through crime	united states	Movie review, Statesman Critique	none

Greenville Dragnet	Greenville, SC	Crimes in General	Greenville Dragnet is dedicated to covering crime news in Greenville County, South Carolina. The lackluster coverage of crime by much of the local media often serves to make it harder for Greenville residents, especially the many newcomers to the area, to put the crime stories in a perspective that allows them to live safer and happier lives. Greenville Dragnet seeks to rectify that by providing straightforward and reliable coverage and analysis of crime in Greenville County.
Grits for Breakfast			
Grits for Breakfast	Texas	Criminal Justice System	Blog focuses on the problems facing the criminal justice system.
Guns, Rap, Crime	North America	Policy Critique, Opinions,	Sociological thoughts about guns, rap, and crime
HeyJackass!	Chicago	Crime Statistical Breakdown, Crime Commentary	82 years later, not much has changed. HeyJackass! will be here to not only illustrate the "barbaric crime" but also illustrate the "filth, corruption, obscenity, idiocy" and especially the "moronic buffoonery" that is present day Chicago.
How Appealing	united states	Government News, Policy news, courtroom news	The Web's first blog devoted to appellate litigation
Independent Business News Network 2.0	Minneapolis	Race and crime, politics	The Independent Business News Network was established in July of 2008. The goal of IBNN is to provide a different view of the local, national and global news and events that happen in the Black communities around the world. IBNN's expectations are to provide a level of coverage and investigative reporting not seen on local mainstream media, while covering Politics, Education, Money, Business, and Community events. IBNN is an affiliate of Black Politics in Minneapolis, Radical Black USA and other African American news sources. Comments, concerns and questions can be emailed to <a href="mailto:ibnnnews@gmail.com">ibnnnews@gmail.com</a>
Indiana Juvenile Justice Blog	Indiana	Juvenile Crimes	This blog provides information about juvenile delinquency law in Indiana and across the nation.
Jim Fisher True Crime	United states	Crime, criminal investigation, policing, law, writing, and forensic science	A place for people interest in crime, criminal investigation, policing, law, writing, and forensic science
John Lott's Website	Virginia	Crime Prevention	None
Justice Building Blog	Florida	Actors involved in Criminal Law (Lawyers, Judges, etc.)	"This blog is dedicated to justice building rumor, humor, and a discussion about and between the judges and lawyers who labor in the world of miami's criminal justice."

Juvenile Justice Blog	North Carolina	Juvenile Justice	"The purpose of this blog is to provide a central source for the latest news, information, scholarship, and commentary on issues related to juvenile justice in the United States."
Kansas City Crime	Kansas	Crimes in general	(only open to invited readers; must subscribe)
Kenneth Rijock's Financial Crime Blog	United States	Financial Crime Blog	Banking lawyer turned-career money launderer (10 years), turned-compliance officer specialising in Enhanced Due Diligence, and Financial Crime Consultant.
Lawyers, Guns and Money	World wide	Crimes in general	This blog provides updated crime news.
Legal Schnauzer	Alabama	Injustice	Blogging in the pursuit of truth and justice. (Side note: blogger is currently detained for a blog post he wrote about)
Life Sentences Blog	Wisconsin	Crime, Policing, and Punishment	The blog was created as a way to organize his opinions on crime, policing, and punishment.
Likelihood of Confusion	New York	trademark, copyright, internet law and free speech	This blog is written by a trademark attorney who provides information on trademark, copyright, internet law and free speech issues in New York/around the world.
Mad Molesters	World Wide	Child Molesters	Blog focuses on crimes committed by child molesters with an emphasis on under-sentenced female sexual predators.
Marion Crime Chronicles	Marion, Ohio	Crime Updates	Disclaimer; Information shared or collected by this page is completely public information. Any legal information shared is with the understanding we are not attorneys, police or any other law enforcement agency. We reserve the right to stop,suspend and or delete any information not relevant to our page..or if we feel it is harassing or threatening. Please take a moment to read about offenders, most wanted person's ect. This is what the page is designed to do, be information for the public. This page is for all public, focusing on Marion but will occasionally post info for surrounding area's. Keep it clean and remember what the page is for. We at Crime Chronicles are not responsible for other member's views, post's,opinions ect. however we do try to monitor everything posted on our page. If you see something that may be offensive, threatening ect please feel free to send us a private message and we will address any issue we find.
MugWatch			

			This blog is crime related, mostly concerning violent crime, especially murder or sex crimes. My focus is mostly on the victim and on justice. The victim needs to be always the center and focus of justice. REMEMBER THE VICTIMS. Too often the victim is overlooked or forgotten throughout the justice process and afterwards. The accused and convicted seem to get more rights and are thought about, even remembered more than the victim. This is wrong and it should not be this way.
My Life of Crime	United States	Violent Crimes, Criminal Culture	
Mystery Crime Blog	United States	Mystery crimes	This blog examines mystery crimes.
NE Minneapolis Crime Watch & Information	Northeast Minneapolis	Crime Updates	Holding the criminal justice system accountable. Holding media accountable to report truth. And occasionally posting about the absurdity and folly of our government that makes worrying about local crime kinda pointless. Citizen-powered safety and livability concerns, crime alerts.
Newsball			
No Nonsense Self-Defense	United States	Self-Defense and awareness	This blog aims at informing people about personal safety and self-defense when a crime occurs. It also aims to address questions to help people avoid such situations and his personal thought on crime itself.
North Minneapolis Crime Watch & Information	North Minneapolis	Crime Updates	Reporting crime and crime trends in north Minneapolis. Also sharing of information that would be of interest to residents. Mission Band together as neighbors to fight crime and have a safe place to live. Description Crime is on the rise in the north. There have been more shootings in 2011, and many innocent people have been injured and killed as a result of it. Many of us don't even know our good neighbors, let's stand together to protect ourselves and our families.
Northern Dakota County Crime Blog	Northern Dakota County (MN)	Local crimes that occur in Northern Dakota County	This blog seeks Northern Dakota county residents' help in identifying possible criminals for the local police departments.
Oriental Crime Blog	Eastern Countries	Far Eastern Criminal Organizations	Blogger has a facebook and blog page aimed to inform people about the existence of criminal organizations.
Pedophiles - The Rape of Innocence	World Wide	Pedophiles	Blog is centered on informing the public about pedophiles.
Photography Is Not A Crime	United States	photography is not a crime	The blog was launched after a multimedia journalist Carlos Miller was arrested for taking photos of 5 Miami police office while working on an article for a local news site in 2007. The blog is aimed to document stories of other photographers who were also arrested for taking photos to reveal the epidemic crackdown against citizens with cameras.

Prinniefied	Ohio	Rape Cases	Her blog aims to inform people about rape cases going on in Ohio and to educate the harm surrounding social media.
Rick's Blog	Florida	Crime in general	"Since 2005, this blog has become an integral part of the political fabric of the greater Pensacola area. It's how I connect with my readers on a daily basis and share the bits and pieces of what I heard behind the scenes."
San Francisco Crime	San Francisco, CA	Crime in San Francisco, CA	This blog focuses on various crimes committed in San Francisco, CA from 2007-2009.
Shadowscope's Sick Crimes	United States	Crimes in General	Blogging about crime because he is seriously interested in it.
Simple Justice: A criminal blog defense	USA	Criminal Defense	Nothing in this blog constitutes legal advice. This is free. Legal advice you have to pay for.
Sisters In Crime	World Wide	Support women who write mysteries	The focus of this blog is to support women who write mysteries. It appears to be more of a book review blog than an actual crime blog.
Slabtown Chronicle	Portland, Oregon	Crimes in General	A blog about crime in Portland, Oregon.
South Milwaukee Crime Blog	Milwaukee	Crimes in General	Blogger is an alderman--and blogs to keep people in the 4th district informed about crimes/other things occurring in his community.
South Minneapolis Crime Watch & Information 1st Precinct	1st Precinct Minneapolis	Crime Updates	A page for citizen-powered crime, public safety and livability news.
South Minneapolis Crime Watch & Information 3rd Precinct	3rd Precinct Minneapolis	Crime Updates	A page for citizen-powered crime, public safety and livability news.
Southern District of Florida Blog	Florida	FL Court System	"The SDFLA Blog is dedicated to providing news and notes regarding federal practice in the Southern District of Florida."
The Adventures of Johnny Northside	North Minneapolis	General crime, housing, neighborhoods, criminal records	Being the amazing, true-to-life adventures and (very likely) misadventures of an Afghan war vet who seeks to take his education, activism and seemingly boundless energy to North Minneapolis, (NoMi) to help with a process of turning a rapidly revitalizing neighborhood into something approaching Urban Utopia. I am here to be near my child. The journalism on this blog is dedicated to my son Alex, age 16, and his dream of studying math and robotics at MIT. Email me at hoffjohnw@gmail.com

The Crime Analyst's Blog	United States	Crime, law enforcement and related topics	I'm a crime analyst in central Texas. It is my belief that law enforcement works best when modern policing techniques such as data driven policing, problem oriented policing or intelligence led policing are used to make agencies more efficient in serving their communities. You'll often see these ideas in the articles I write.
The Crime Scene	Southwest Missouri	Violent Crimes, Crime Commentary, Criminal Records, Case Updates	THIS BLOG WILL MAINLY FOCUS ON CRIME IN AND AROUND SOUTHWEST MISSOURI...WINNER OF SPRINGFIELD BLOGGER'S ASSOCIATION: ROOKIE BLOG OF THE YEAR 2009--WINNER NEWS OR CURRENT EVENTS BLOG OF THE YEAR 2010
The General Blog Of Crime	United States	Crimes in general	This blog highlights various crimes in the U.S. and discusses the validity of the policies, rights of the victims, and critique of the system.
The State Crime Bureau Journal	Oklahoma	State Crimes	Blog focuses on role of Oklahoma State Bureau of Investigation (OSBI).
The Trial Warrior Blog	World Wide	Various topics on law and justice	This blog critiques the law and justice system.
Thought Crime	CA/FL	Crimes in General	A blog aimed to towards "knowing better than to trust cops or politicians."
Trench Reynolds: Poking Society In The Eye With A Sharp Pointy Stick	United States	Issues on crime, politics, entertainment and other subjects	This blog delivers awareness to the crimes that are being committed (particularly craigslist & rape crimes).
True Crime Report	United States	Crime Updates	None
True/Slant	United States	Crimes in general	He started blogging on his own 5 years ago and then started blogging for TruTV, Radar Magazine, ASSME and Village Voice Media.
Venice Florida Crime Watch	Florida	Venice/Nokomis/S. Venice, FL	A facebook page created to inform people of crime, fraud, or anything else going aroundn Venice/Nokomis/S. Venice, FL.
Voices 4 Justice	USA	Holding the system and the media accountable.	This is a personal blog and is not a news source. It is a forum that features the opinion of the blog owner and the people who post here and is protected by the first amendmant. The viewpoints shared here are sometimes humorous and sometimes serious. Profanity is used. This blog is here to discuss current trials, crime stories in the news and to monitor the media and the system during live trials. It is a blgo for like-minded people
Wesleyan Crime Blog	World Wide	Crimes in general	"Professor at Texas Wesleyan University Special Interests: Crime and Punishment, Domestic and International Gangs, Women and Crime, Crime Theory, Historical Crime, Research Methods, and Statistics"



Wh8te News Archives of White Crimes	World Wide	Crimes committed by White people	The blog aims to inform the public about various crimes committed by white people. Some of the blogs highlight how easily white people get away with their crimes (get off on bail easily, lesser punishment, etc.).
What about clients/Paris?	New York	Crime Updates	A blog page containing ideas and news on servicing business clients.
White Collar Crime Prof Blog	United states	Courtroom news, history of white collar crime, white collar crime	none
Who shall guard the guards?	Victoria	Criminal practice in Victoria	"..This blog presents a balanced view of the issues. Generally, we blog about things we think relebant to criminal practice in Victoria, especially in courts of summary jurisdiction"
Wisconsin Criminal Law	Wisconsin	Crime in general	"Attorney Chris Van Wagner devotes his professional time and energy to defending people accused (or convicted) of a criminal or drunk driving offense."
Woman Condemned	United States	inmates/prison reform (particularlyly women)	"..this blog often has comments and statements directly from the women on death row. Statements of grief, statements of innocence, statements of regret and sorrow."
Women in Crime Ink	United States	Crime and media issues	Looking for a fresh take on crime and media issues? bookmare this page. Women in Crime Ink brings you a lineup of best-selling true-crime authors, awaward winning print and boradcast journalists, crime novelists, a CNN anchor, television personalitiels, and criminal justice professionals - including a forensice artist, a criminal profiler, nationally renowned prosecutors, a high-profile criminal defent attorney, and a private investigator. From the Weast Coast to the Eastern Seabord we've got crime covered.
YDR 911	York County (PA)	Local Crimes	A page put together by the veteran cops and courts reporters of the York Daily Record to provide information on why sirens are going off in York County.

## APPENDIX B: TABLE OF PUBLISHER INTERVIEWEES

<b>Pseudonym</b>	<b>Type of Site</b>	<b>Gender</b>	<b>Approx Age</b>	<b>Years</b>	<b>Race</b>	<b>Scope</b>
Mindy	Crime Update Blog	Female	40	12	White	Nationwide
Andy	Crime Update Blog	Male	30	10	White	Urban
Paula	Crime Update Blog	Female	40	20	White	Urban
Jasper	Crime Update Blog	Anon				Suburban
Sally	Crime Update Blog	Female	40	16	White	Nationwide
Diego	Crime Issues Blog	Male	45	5	Hispanic	Nationwide
Todd	Crime News Site	Male	40	13	White	Urban
Marcus	Crime News Site	Male	50	20	African American	Urban
Dan	Crime Update Blog	Male	40	8	White	Urban
Sheila	Crime Update Blog	Female	40	15	White	Nationwide
Anonymous 2	Crime Issues Blog	Anon				Urban
Henry	Crime Issues Blog	Male	40	11	White	Nationwide
Benjamin	Crime Issues Blog	Anon	50	6	White	Urban
Mark	Crime Update Blog	Male	50	8	White	Urban
James	Crime News Site	Male	50	3	White	Urban
Luke	Crime Update Blog	Male	50	20	White	Urban
Bob	Crime Update Blog	Male	50	15	White	Urban
Kang Joo	Crime Issues Blog	Male	30	2	Asian	Urban
Carin	Crime Issues Blog	Female	40	5	White	Urban
Tom	Crime News Site	Male	40	20	White	Urban
Meghan	Crime Issues Blog	Female	35	2	White	Urban
Marian	Crime Issues Blog	Female	45	3	White	Nationwide
Joey	Crime News Site	Male	70	50	White	Urban
Sam	Crime Update Blog	Male	40	22	White	Rural
Don	Crime Update Blog	Male	40	15	Mixed Race	Urban
Sophia	Crime Social Media	Female	30	6	White	Suburban
Benjamin	Crime Update Blog	Male	20	6	White	Urban
Tim	Crime Update Blog	Male	30	1	White	Rural
TJ	Crime Update Blog	Male	30	20	White	Nationwide
Clayton	Crime Issues Blog	Male	40	6	White	Nationwide
Jim	Crime Update Blog	Male	50	5	White	Rural
Kari	Crime Issues Blog	Female	40	6	White	Nationwide

## APPENDIX C: INTERVIEW SCHEDULE – PUBLISHERS

### Background & Motivations

- How did you get started on blogging? What inspired you?
- How do YOU describe your blog in terms of its content and major goal
- What is crime like in your city?
- How long ago was this?
- What were your first posts about?
- How did you disseminate your blog, or market it? What sorts of results did you see right away?
- What is your opinion on where your blog sits politically, in terms of criminal justice/city policy - how would you characterize it?

### Strategies

- What is your approach to a blog post? Do you get tips, or do stories develop on their own?
- How do you gather information and do your research?
- How do you develop “sources?” (follow: Does this seem to be similar to a traditional journalists’ approach?)
- What is a post you’ve been especially proud of?

### Field: Reactions and Interactions

- Have you had interactions with the mainstream press? Any reactions from them?
- What about other official sources within the criminal justice system? Any reactions there?
- How about the readers – do you have any sense of what your readership is?
- Do you allow reader comments? What are they like?
- Do you moderate reader comments?

### First Amendment & Legal Consciousness

- Do you worry about lawsuits?
- Protecting identities - how do you make decisions about revealing the identity of a perpetrator, a source, and a victim? what’s your policy?
- Have you heard from someone you have written ABOUT?
- Have you been asked to take information down? What did you do? (if not, give a hypothetical)
- How do you think about your First Amendment or other legal rights in these situations?
- Do you think you would have more protection if you were at a mainstream newspaper?

### Open Source Access

- Do you ever repost or publish data or official reports, such as criminal complaints or mugshots? (If so, What motivates this for you?)
- What is your stance on disseminating public information related to crimes?  
How do you reflect on the digital trail blogs leave?

### Big Picture & Future

- Do you find the CJ system too lenient? or too tough? Does it seem like the local papers are doing a good job?
- What broader, community level effects, has your work had? What sort of niche are you filling?
- What do you see the future of blogging to be? Are there too many bloggers? Should there be more?
- What is the direction you see traditional journalism going, in terms of courts/police/city hall beats?
- What remains your core motivation? What keeps you going?

**APPENDIX D: TABLE OF EXPUNGEMENT INTERVIEWEES**

<b>Pseudonym</b>	<b>Race/Ethnicity</b>	<b>Gender</b>	<b>Approx. Age</b>
Matt	White	Male	20s
Daryl	African American	Male	40s
Donna	African American	Female	50s
Jaimeson	African American	Male	20s
Gladys	African American	Female	60s
Jaci	Native	Female	30s
Michael	African American	Male	50s
Dante	African American	Male	20s
Lyonel	African American	Male	50's
Mark	African American	Male	50s
Melinda	African American	Female	40s
William	African American	Male	50s
Marcus	African American	Male	40s
Trent	African American	Male	30s
Jason	White	Male	30s
Polly	White	Female	60s
Jaiden	Indian	Male	30s
Maddy	Mixed Race	Female	30s
Sandra	White	Female	40s
Rachel	White	Female	50s
Roger	White	Male	60s
Randy	White	Male	40s
Tom	White	Male	50s
Theodore	African American	Male	20s
Jenny	White	Female	20s
Samuel	African American	Male	30s
Tammy	White	Female	50s

## APPENDIX E: INTERVIEW SCHEDULE – EXPUNGEMENT SEEKERS

Have you had any experiences with your arrest record, criminal record, or booking photos appearing online?

What was the specific instance?

Where was it posted? Do you remember the specific website?

What types of specific information was posted online?

How did you find out this information was available on the internet?

What was your initial reaction?

*Follow-up: What emotions did you experience?*

What was the first thing you did when you encountered this record online?

Did you make any attempts to have it removed?

*Follow-up: If so, what types of strategies did you employ? Were you successful?*

Why or why not?

Do you think you've encountered any consequences from the fact that this is online?

*Follow-up: Specifically, what have those been?*

I am curious as to how this might have affected your relationships with coworkers, family or friends. Has it?

What do you worry about most, moving forward, about the availability of criminal records online?

What policies do you think should be in place regarding online criminal histories?

## APPENDIX F: SAMPLE LEGISLATION

### CONCERNING RESTRICTIONS ON THE PUBLISHING OF BASIC IDENTIFICATION INFORMATION ON COMMERCIAL WEBSITES

SECTION 1. Access to records – denial by custodian – use of records to obtain information for solicitation – definitions.

(1) Records of official actions and criminal justice records and the names, addresses, telephone numbers, and other information in such records shall not be used by any person for the purpose of soliciting business for pecuniary gain. The official custodian shall deny any person access to records of official actions and criminal justice records unless such person signs a statement which affirms that such records shall not be used for the direct solicitation of business for pecuniary gain.

(2) (a) It is unlawful for a person to obtain a copy of a booking photograph in any format knowing:

(I) The booking photograph will be placed in a publication or posted to a website; and  
(II) Removal of the booking photograph from the publication or website requires the payment of a fee or other exchange for pecuniary gain.

(b) A person who requests a copy of a booking photograph from an official custodian shall, at the time of making the request, submit the statement required by subsection (1) of this section. By signing the statement, the person is affirming that the booking photograph will not be placed in a publication or posted to a website that requires the payment of a fee or other exchange for pecuniary gain in order to remove or delete the booking photograph from the publication or website.

(c) Notwithstanding the provisions of section \_\_\_\_, a person who violates a provision of paragraph (a) of this subsection (2) or who submits a false statement pursuant to paragraph (b) of this subsection (2) shall be subject to a fine of up to one thousand dollars.

(d) As used in this subsection (2), unless the context otherwise requires, “booking photograph” means a photograph or other image of a person taken by a criminal justice agency at the time that a person is arrested or detained by a criminal justice agency and prior conviction.

SECTION 2. Deletion of expunged records.

(1) For the purpose of this section, the term “subject individual” refers to a person who was arrested and whose arrest and booking information has been expunged pursuant to Minn. Stat. 609A or returned pursuant to Minn. Stat. 299C.11.

(2) Any person who is engaged in any activity involving or using a computer or computer network who publishes on such person's publicly available website a subject individual's arrest booking photograph for purposes of commerce shall be deemed to be transacting business in this state. Within 30 days of the sending of a written request by a subject individual, including his or her name, date of birth, date of arrest, and the name of the arresting law enforcement agency, such person shall, without fee or compensation, remove from such person's website the subject individual's arrest booking photograph. Such written request shall be transmitted via certified mail, return receipt requested, or statutory overnight delivery, to the registered agent, principal place of business, or primary residence of the person who published the website. Failure to comply with this paragraph shall be unlawful.

*Source: Council on Crime and Justice, Minneapolis, MN*