Digital degradation Stigma management in the internet age

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Digital Degradation: Stigma management in the Internet Age

Sarah E Lageson, School of Criminal Justice, Rutgers University-Newark, USA

Shadd Maruna, Centre for Criminology and Criminal Justice, School of Law, University of Manchester, UK

Corresponding author: Sarah Lageson, School of Criminal Justice, Rutgers University-Newark, Center for Law & Justice #547, 123 Washington Street, Newark NJ 07102, USA.

Email: sarah.lageson@rutgers.edu

Abstract

The concept of stigma and labeling has been central to the sociology of punishment since at least the writings of Durkheim and Mead. However, the vast transformations brought on by the expansion of the internet over the past 20 years suggests the need for revisiting the dynamics of labeling. While the power to *apply* extralegal criminal labels is in now in the hands of many, stigma in the form of a digital footprint is arguably more difficult than ever to escape. This paper draws on two small studies to better understand these new dynamics of labeling: a discourse analysis of the motivations of online labelers and interviews with individuals struggling to cope with online labels. This evidence describes how the internet has become a fertile space for the expression of public anxieties about social problems and a digital prison that can discourage the labeled from engaging with the processes of reintegration.

Introduction

The concept of stigma is one of the key organizing concepts at the heart of the sociology of punishment, reflected in the two decades of scholarship in *Punishment & Society* (see e.g., Adams, Chen & Chapman, 2016; Jacobs & Larrauri, 2012; Moran, 2012). In particular, the labeling of deviance holds a central place in the study of persistent offending (Braithwaite, 1989; Tanenbaum, 1938) and desistance from crime (King, 2013; Maruna, 2011; Rowe, 2011; Steen, Lacock & McKinzey, 2012) as ex-prisoners seek to manage the sticky and discrediting label of "offender." Indeed, the relationship between punishment and stigmatization is rooted in some of the canonical texts of punishment and society, including the work of Durkheim, Mead, Becker, Kai Erikson, and Erving Goffman. In this analysis, we update and extend these theoretical debates into the new world of online criminal records, crime websites, and digital punishment, arguing that the major technological changes of recent decades makes the issue of stigma both more urgent and more intractable.

Unquestionably, the most substantial change in the social landscape of the past twenty years has been the increasing role that the internet plays in nearly every aspect of contemporary lives. Among other changes, this transformation has generated enormous labeling power for non-criminal justice actors in ways not seen previously. Before the advent of Google searches and online mug shots, the "criminal record" was limited to state-sponsored documents or police blotter write ups in the newspaper. Although these records were "public," they often remained in practical obscurity due to access limitations. After all, hardcopy newspapers were routinely tossed away when the next day's paper arrived, so searching for a record of someone's historical misdeeds would require hours of research trawling through microfiche or yellowed back-copies of newspaper warehoused at a local library. As a result, the potential for deniability for past

transgressions was high: the formerly convicted could adapt to criminal stigma by simply choosing not to disclose their record to those outside of their immediate social networks. Although people accused of crimes could reasonably worry about exposure via gossip and rumor, they could also make a "fresh start" by moving city or changing social networks (Ericson, 1977).

Today, criminal stigma constitutes an enduring attribute that is both easily discovered and "deeply discrediting" (E. Goffman, 1963:3) as individuals face dozens of extralegal records floating across the internet (Stacey, 2017). The internet also provides a new forum for the expressive role of punishment and shaming. Dynamic online outlets re-codify the "crime complex" of modern times (Garland, 2001) stretching even further the limits of where punishment begins and whether it ever ends in contemporary society. These technological shifts motivate a reconsideration of punishment and stigma that recognizes new dynamics for both the "labeled" and the "labelers" who harness the internet to expose individuals accused of crimes.

We aim to expand the sociology of punishment to consider internet-based processes and to extend labeling theory to incorporate online stigmatization. We open with an account of how labeling theory has evolved within the sociology of punishment over the past two decades, and offer a descriptive account of how criminal labels have evolved in recent years, drawing upon legal debates over privacy and technology. We then examine rhetorical patterns of "labelers" in the public fora, drawing upon a discourse analysis of hundreds of U.S. crime website posts and thousands of accompanying reader comments. We show how the digital drift of labels from the public sector to the private sphere is driven by and subsequently reinforces cultural stereotypes about criminality. The internet has become an expressive platform for people to use crime and

punishment to expound on broader social issues and to anonymously – and sometimes viciously – identify, label, and digitally archive people as scapegoats for these problems.

We also analyze the experiences of the "labeled," describing the normative/social and subjective/cognitive stigma experiences for those who appear on crime websites. We extend the literature on stigma management to now include the psychosocial experience of online labeling, drawing upon fieldwork and interviews with virtual stigma-bearers. We find that this public exposure of past crimes and misdemeanors carries a specific type of shaming and stigmatization that violates privacy and takes away control over one's identity, complicating desistance and reintegration processes. In our conclusion, we offer an alternative approach to this issue, drawing upon European Union policy that upholds a legal "right to be forgotten" (for European comparisons, see e.g., Herzog-Evans, 2011; Morgenstern, 2011; Padfield, 2011).

We situate our findings in a discussion of what these new developments suggest regarding the continuing relevance of labeling theory in criminology and sociology. Social scientists have long chronicled the role of the mass media – especially the advent of television news and mass market "tabloid" newspapers in the 20th Century – in fueling "moral panics" and creating mediated "folk devils" (Hall, 1978; Sparks, 1992). Although such outlets, now deemed "old media," continue to evolve and play a role in social stigmatization processes, they now compete in a radically transformed context with the advent of the internet and "new media" (Milivojevic & McGovern, 2014). We argue that the wide reach of online stigmatization calls for a reconceptualization of contemporary punishment theory, particularly in how increasingly "sticky" labels (Uggen and Blahnik, 2015) disrupt traditional models of shaming, reintegration, and desistance from crime.

Moreover, the production of extralegal online labels has emerged as a new form of the "collective experience" of crime and punishment (Garland, 2001), further extending the role of non-governmental actors actively involved in social control. Whereas police and prosecutors (representing the state) and journalists (representing the public interest) have historically been key gatekeepers of punishment practices, the internet has profoundly changed this model by offering users easy access to criminal justice information and platforms to actively engage in the stigmatization process by re-publishing, commenting, and critiquing criminal records. As such, even while citizen involvement in the justice system is in other ways declining – for instance, the "vanishing" of jury trials (e.g., Galanter, 2004) – the internet has created a space for a partial return to the sort of public engagement in the punishment process described by Durkheim. After all, online representations of criminality and "criminals" are rich contemporary examples of the symbolic rituals of punishment, producing stigma that is increasingly diffuse and permanent in a new technological landscape.

Stigma and society: A brief review of a big idea

At least since the work of Durkheim and Mead, scholars interested in the sociology of punishment have recognized that ceremonial rituals of condemnation do little by way of "correcting the culpable" (Durkheim, 1947: 108) and indeed have "failed utterly" (Mead, 1918: 588) as a means of rehabilitation or deterrence. Yet, whereas Durkheim posited that sacrificial punishment practices brought together the wider community of condemners as a collectivity united around a reinforced moral code, Mead argued that the punishment process had a more divisive quality, splitting the world into an "us" and "them" dichotomy. Kai Erikson (1966) built directly on these ideas in his analysis of the function of scapegoating accused 'witches' for

maintaining Puritan American social cohesion and social exclusion. In the tradition that became known as "labeling theory," Erikson and other theorists argued that such punishment rituals – Tannenbaum's (1938) 'dramatization of evil' or Garfinkel's (1956) 'status degradation ceremonies' – help to create and maintain a group of stigmatized outcasts, essentially creating the 'criminal' through a self-fulfilling loop. In the eyes of society, "the person with a stigma is not quite human" (E. Goffman, 1963), they wear a "badge of inferiority" that "relegates people for their entire lives, to second-class status" (Alexander, 2010: 92).

As Erikson (1966: 311) pointed out, a key feature of these degradation processes is that they "are almost irreversible." In the movement from primary to secondary deviance (Lemert, 1951), the individual undergoes a process of what Matza (1969: 156) calls "signification": "to lose the blissful identity of one who among other things happens to have committed a theft. It is a movement, however gradual, toward being a thief and representing theft." Ultimately, this spoiled reputation culminates in the individual accepting the new label and deciding they are indeed nothing more than an 'offender,' thus completing the self-fulfilling prophecy. As Rios (2006: 50) argues, this is often an act of defiance that ends up backfiring against the individual: "While the youth often internalize and naturalize their criminalization, they often do it as a form of resistance, as a strategy to defy the very same process of criminalization. They embrace the label of 'thug' or criminal in order to navigate their social world."

Despite facing rather unfair criticism in the 1980s (for reviews see Paternoster and Iovanni, 1989; Petrunik, 1980), labeling theory has seen a resurgence in recent years as a key element of important new theoretical developments (see e.g., Braithwaite, 1989; Bushway & Apel, 2012; Sampson & Laub, 1997), and its central premises have received substantial empirical support in recent research (e.g., Bales & Piquero, 2012; Bernburg et al., 2006; Fagan et

al., 2003; Farrington and Murray, 2013; McAra and McVie, 2011; Taxman and Piquero, 1998).

For instance, in a natural experiment involving 95,919 men and women who were either adjudicated or had adjudication withheld, Chiricos and colleagues (2007) found that those who were formally labeled were significantly more likely to recidivate within two years than those who were not.

At some level, this enduring power of criminal labeling might be seen as surprising. After all, with an estimated 40 to 70 million Americans having criminal records, one might imagine that the attached stigma would decrease (see e.g., Hirschfeld and Piquero, 2010). Moreover, the sheer volume of criminal processing has meant that the "degradation ceremonies" of the justice system have become, by necessity, far more routinized and un-dramatic, lasting only minutes and generally being settled in a plea bargaining process behind closed doors rather in dramatic jury trials (Bushway, Redlich & Norris, 2014).

On the other hand, research suggests that the obstacles facing those with criminal records have increased with both the de facto and de jure collateral consequences associated with punishment expanding in number scope and severity since the 1980s (Pinard, 2010). Alongside the development of the extralegal labels we focus on here, bricks-and-mortar punishment practices have also continued to dramatically expand the carceral state by confining, classifying and monitoring millions of people. In recent decades, the US Congress "took collateral consequences to a new level of irrationality, making a single criminal conviction grounds for automatic exclusion from a whole range of welfare benefits" at the Federal level (Love, 2003: 112). In what Western (2007) describes as a "diminution of citizenship," even a single conviction can lead to a person being denied voting rights, housing assistance, food stamps, education loans, and a huge variety of employment (see e.g., Allard, 2002). Pager (2007: 4) argues that the

"criminal credential" of a conviction record "constitutes a formal and enduring classification of social status, which can be used to regulate access and opportunity across numerous social, economic and political domains" and is therefore "an official and legitimate means of evaluating and classifying individuals." Pinard (2010: 463) argues that these policies are "extensions of historic and contemporary criminal justice policies that target racial minorities or that systematically ignore the disproportionate impact of these policies on racial minorities" in the United States.

Criminal labels in a digital world

By far the biggest change in the labeling dynamics of the past two decades, however, has been the remarkable proliferation of criminal records across easily searchable electronic databases (Jacobs, 2015). Indeed, criminal labels are now much more than official, state-sanctioned "criminal records." Criminal justice agencies have moved toward digital record-keeping, making widespread dissemination easier and cheaper across platforms as these data practices have eliminated the need to physically obtain criminal record information. In the U.S., Freedom of Information laws and First Amendment protections mean digital records are now acquired, bought, sold, posted, and re-posted across the internet with little or no regulation (Corda, 2016). As a result, multitudes of online sources disseminate jailhouse rosters, police records, and court documents. A simple Google search for someone's name might yield mug shots and arrests, archived on blogs, social media, and low-cost background check vendors. This digital trail documents any and all contact with the justice system (not only convictions),

spreading easily-found labels that are difficult to ever remove.[1] Supporters of data transparency and the open records movement in the United States have welcomed this acceleration of access, citing the public's right to know (Prince, 2011; Corda, 2016). Critics, on the other hand, warn against the devastating impact of online criminal records in increasingly broad aspects of life (Stelloh 2017; Lageson, 2017).

A recent U.S. appellate court decision about the release of booking photos illuminates debates around privacy and transparency, painting a vivid picture of the delicate legal and cultural balance between the utilitarian function to punish indefinitely (framed in arguments for transparency) and the need to limit and manage criminal labels (framed in arguments for privacy). The case, *Detroit Free Press, Inc. v. Department of Justice* (2016, 829 F.3d 478) reversed *Detroit Free Press, Inc. v. Department of Justice* (1996, 73 F.3d 93), where the court ruled that the Freedom of Information Act (FOIA) requires the release of booking photos because defendants lack any privacy interest in their photos. Twenty years later, the court overruled this decision, finding instead that individuals do enjoy a non-trivial privacy interest.

Technology played a key role in the majority's argument. Invoking Exemption 7(C) of FOIA (which exempts the release of information gathered for law enforcement purposes), the circuit court noted that:

> A disclosed booking photo casts a long, damaging shadow over the depicted individual. In 1996, when we decided *Free Press I,* booking photos appeared on television or in the newspaper and then, for all practical purposes, disappeared. Today, an idle internet search reveals the same booking photo that once would have required a trip to the local library's microfiche collection. In fact, mug-shot websites collect and display booking photos from decades-old arrests (p. 5).

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[1] There are also monetary benefits – some website publishers enjoy royalties from selling advertising space, while others charge people "take down" fees to have their information removed, though the information has almost undoubtedly already been re-sold or copied to other platforms (Segal 2013).

The majority opinion observed that potential employers and other acquaintances may easily access booking photos on these websites, "hampering the depicted individual's professional and personal prospects." In a concurring opinion, Chief Judge Cole considered that:

> Twenty years ago, we thought that the disclosure of booking photographs, in ongoing criminal proceedings, would do no harm. But time has taught us otherwise. The internet and social media have worked unpredictable changes in the way photographs are stored and shared. Photographs no longer have a shelf life, and they can be instantaneously disseminated for malevolent purposes. Mugshots now present an acute problem in the digital age: these images preserve the indignity of a deprivation of liberty, often at the (literal) expense of the most vulnerable among us. Look no further than the online mugshot-extortion business (p. 10).

The rapidly transformed landscape described by the justices presents important issues not just for the law, but also for social scientific understandings of stigma, with changes to both the nature of the labels, the labelers, and the digitally marked.

Researching labelers and the labeled

In the analysis below, we utilize empirical evidence from both online sources and interview data. In the first study, we analyze rhetoric from 820 web posts from 82 citizen-run crime webpages or social media sites and 3,719 corresponding reader comments to better understand the motivations behind contemporary labeling practices. We selected websites based on Google searches for the terms "crime updates" and "mug shots." We relied on Google's search return algorithm to select appropriate websites in the order of return. The most recent 10 posts on each site at the time of the data collection were selected for analysis and were left in their original format, including spelling and grammatical errors. We approached the data in an inductive fashion facilitated by NVivo software, applying open coding to the original posts and accompanying reader comments, and identifying the most prominent themes.

In the second study, we examine the process of being labeled through fieldwork

interviews conducted at expungement clinics. Interviews with 27 expungement-seekers and six

staff attorneys were conducted over a period of two years of fieldwork in Minneapolis-Saint

Paul, Minnesota and Newark, New Jersey. Interviews focused on motivations for expungement

and barriers faced due to criminal records (see also Ipsa-Landa and Loeffler, 2016; Lageson,

2016). In both small studies, we draw upon discourse analysis to report descriptive regularities in

our various data sources.[2] Our discursive analysis provides a framework for understanding how

contemporary labeling shapes and is shaped by dominant public conversation about crime and

criminals (see also Lynch, 2002).

The labelers in a digital age

Fundamental to the punishment and society approach is the idea that although criminal

punishments can appear to be instrumentally motivated on the surface, most serve more

expressive alternative purposes. We describe three dominant expressive themes in crime

websites: a rhetoric that typifies "criminals" by dimensions of race and class; an effort to identify

people by full names, addresses, photographs, or social media accounts, thereby cementing the

criminal label across many online platforms; and a strong sense that the public must symbolically

"take control" of the crime problem by participating in online punishment. The websites present

the ritualized re-affirmation of collective values and the reinforcement of group solidarity

described by Durkheim (Garland, 2012) – but with the added twist of taking place on the

internet.

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[2] We adopt the preliminary definition of 'discourse' as a "particular way of talking about and understanding the world" (Jorgensen and Phillips 2002, 1). Tied intimately to power relations, (Foucault 1980), discourses contribute centrally to producing the subjects we are and the objects we can know something about (Jorgensen and Phillips 2002).

The Typical Criminal. The sampled websites employ stereotypical depictions of criminals, such as those noted by Garland and Sparks (2000), that place blame on a dangerous and undeserving underclass: the "people who abused the new freedoms and made life impossible for the rest of us" (p. 16). Popular labels invoke images of gangsters, thugs, drug addicts, and welfare recipients (all examples are kept in their original format; spelling and grammar were not edited):

> One woman= 396 arrests. Getting arrested appears to be her full-time job. And judging by her smile, she enjoys her work.

> Two thugs walked into [name] Automotive looking to rob the place. Only one walked out. Welcome to Thunderdome scumbags. The survivor, [name], was arrested and is sitting in jail. The thugs were shot by an employee packing heat proving once again that you should own a gun.

> Thats all the[y] know. Crime.

Mug shots provide especially rich fodder for commentary. For example, Arrests.org[3] allows unregistered users to comment on booking photographs, which also contain individuals' full name, birthdate, height, weight, home address, and charging information. Website users are encouraged to "tag" photos into categories, with comments such as "scary," "tatted up," and "beat up." Consistent with other forms of shaming, mug shot websites make instrumental claims of crime prevention. Mugshots.com (2017) asserts that:

> Publishing official records and mug shots can be a deterrent to committing crimes--- if not entirely based on the person's change of heart about breaking the law, at the very least because of the potential embarrassment. Many publications and websites dedicated to publishing this type of information hope that you will

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[3] These websites also make careful disclaimers: "No claims to the accuracy of this information are made. The information and photos presented on this site have been collected from the websites of County Sheriff's Offices or Clerk of Courts. The people featured on this site may not have been convicted of the charges or crimes listed and are presumed innocent until proven guilty. Do not rely on this site to determine factual criminal records. Contact the respective county clerk of State Attorney's Office for more information. All comments and opinions are submitted by Internet users, and in no way reflect the views or opinions of this site's operators" (Arrests.org 2017).

see the people posted and not want to get arrested and earn eternal notoriety by
joining their ranks.

Transparency advocates also adopt this stance, arguing that websites encourage Crime Stoppers

tips, promote arrests, and put a face on area crime statistics (Prince 2011), thus justifying the cost

of applying the criminal label.

Digitally Archived Identities. Many websites display individual identifiers that are archived into

internet search results, reinforcing enduring punishment. Websites post full names, birthdates,

home addresses, or photographs of the accused. For example, one site posted a "blotter" style

post, prefaced with:

> I thought I would offer up something not seen before in the Baltimore crime blog;
> that is, a brief summary of all major or noteworthy arrests during a certain period.
> All cases can be searched in the Maryland Judiciary Case Search, and if readers
> are interested in the continuation, please make your voices heard.

This means, of course, that a Google search for a person who once appeared in the Maryland

courts will also display this blog post and accompanying comments.

Some bloggers have begun to analyze original criminal justice material obtained through

open data requests, indicative of how information production is now in the hands of non-elite

citizen journalists and researchers. For instance:

> I have continued to collect data and have been improving the method of
> interpreting the data. As you may have noticed, the data we were dealing with
> before was all aggregate (i.e the total amount of various crimes in various areas),
> which is fine as far as it goes (and when we only had six months of data). Now,
> however, I have two years of data and the time is here to start doing fun and
> informative things with time series.

Other examples include a mix of crowdsourcing and data collection:

> Not only should we have access to extensive information/photos about the
> people committing crimes in our neighborhood, we need more information
> about what crimes are actually being committed. After years of immersing

myself in this mission and doing research, I've come to realize that we are only being told about a minute fraction of the crimes being committed.

As long as the U.S. government makes criminal justice information readily available, anyone with basic internet skills can contribute to this new universe of "marked" individuals by obtaining and posting criminal records. When combined with the advent of reader comments, online spaces also become a place where group solidarity develops in social control efforts.

Shared Values: Taking Control of the Crime Problem. Crime websites are also spaces for people to deliver vengeance and express anger, frustration, or blame. This is actualized through calls to action, often supported by the view that criminal behavior is a rational choice and should face swift and certain punishment:

> WE CANNOT LET SOME THUGS MAKE US AFRAID!

> This defendant has shown NO remorse. She is vicious and she is devious. She planned this crime meticulously. She stalked him. She cornered him. She shot him. She stabbed him. She covered up her crime. She lied. And after all of the above, she was found GUILTY of murder in the first degree with heinous and cruel circumstances. This creature does not deserve to take another breath.

Many readers express fear of victimization, at least partly due to what they view as rising crime:

> [T]he world is such a scary place

> Keep an eye out folks! Watch out for your neighbors too! Remember, by not paying attention to crimes happening in your neighborhood you are sending messages that your neighborhood is an easy target.

> They are ruthless. They don't care about you or your sanity, safety or otherwise. They just want to steal your stuff so that they can sell it and get high. Really sux.

A closer reading shows how crime operates as proxy for broader community issues, such as immigration and race. For instance, commenters sometimes invoke crime as a way to process their distress about changing demographics:

> I would like to point out that the problem has gotten a lot worse since the rapid influx of foreigners buying up local convience[sic] stores. Not trying to be pregidice[sic] here, just stating the obvious.
>
> I wish the stereotype wouldn't actively perpetuate itself.

Commenters feel that their online activity helps broader efforts to fight criminals, taking matters into one's own hands or fighting crime without the aid of police. Calls to battle are common:

> Stop being such easy targets and victims!
>
> We have spent several thousand dollars for exterior visual surveillance, to view our property and portions of our neighbors. Along with a concealed permit. I figure if someone wants to attack our home, lifestyle etc. they will pay one way or the other.!!!
>
> We need armed citizen patrols, legally. Too many punk thugs walking around acting like punks.
>
> If we do not take a stand then they will win. If not we will and they can move on. Willing to use my 2nd amendment right and defend our home. They need to get out and get jobs and work for their stuff and stop stealing from us. It's wrong for them to get by with it.

Likewise, our analysis shows how crime websites allow for the public shaming of others from the relative privacy of being behind a computer screen. This is particularly true for reader comments, where users are often able to obscure their identity. While website administrators have some editorial responsibility, we find that readers who comment on stories are more likely to directly use stereotypes, racialized language, or overt condemnation of people accused of

crimes – especially powerful once websites archive searchable versions of people's names and photographs.

There are, of course, important counterexamples to the websites sampled in our analysis. Websites can also function as a dynamic platform for discussion and debate of criminal justice events (Lynch, 2002). For instance, websites like *Copwatch* have been instrumental to informing the public about egregious injustice. Even on the websites surveyed in this analysis, commenters sometimes engage with one another in spirited debate about the form and function of criminal punishment. For example, one commenter noted that her local website might inflate fear of crime:

> I think we are more aware of crime because of our Neighborhood Watch postings. It is a mixed bag, we need to be alerted, but it can make it seem that this is a thief's paradise to rob. In reality, it is not worse than any other neighborhood if you were to read their crime statistics. It is just not posted on Facebook for them to be aware of, and watch out for.

Other commenters pushed the discussion to think about other sources of criminal behavior:

> Don't get me wrong. I'm not suggesting that criminality in general, or recidivism in particular, are caused solely (or even primarily) by socio-economic factors. But I am wondering if the recidivism rate would be significantly lowered if convicts were able to get decent jobs upon their release from the joint. And, obviously, my wonder is a pipe dream in the current economic environment where even law-abiding persons can't get a decent job. So, I guess you are right after all: Keep the cons locked up as long as possible because once they are released they have no choice (if they want to survive) but to go back to what they know best – committing crimes. Sad state of revolving door Justice. With no real "solution" on the horizon.

While important to note, these types of thoughtful exchanges were distinctly less common in our sample than the types of rhetoric described above. Dominant patterns of discourse portray crime as a persistent social issue and reflect serious skepticism of the modern state to adequately control crime. In an effort to take control, website users assign blame to a

particular class of people and provide powerful commentary that entrenches stigma. Developing and posting crime commentary appears to constitute an expressive symbolic ritual that may help people work out their mixed views on impenetrable social issues.

The labeled in a digital age. Whatever the cathartic value of this sort of collective shaming, the experience is, undoubtedly, very different for the stigma-bearer. It's a troubling cognitive and social experience to encounter one's name and photograph on a website that profiles "criminals" (along with the sort of user commentary above), and is rapidly becoming a central component of contemporary punishment. When a person discovers their criminal record online, it can be surprising, confusing, or infuriating—and ultimately lead to a sense of hopelessness or an attempt to "fly under the radar" to avoid having others discover the same website (Lageson, 2017). Similar to other documented forms of institutional avoidance practiced by individuals "on the run" from their pasts (see e.g., A. Goffman, 2014; Brayne, 2014), the latter form of stigma management can lead to avoiding precisely the sorts of social engagements (most obviously applying for jobs) that are associated with desistance from crime (Sampson & Laub, 1993).

Wearing digital labels. The online criminal label is ambiguous and flexible. There is mysterious aura around exactly which criminal justice information goes online, and if so, where it will appear and whether it will disappear. Sally[4] had trouble recalling where her mug shot appeared online: "it was like some neighborhood newspaper. It was something about the arrest. It said my name, my birthday, and that I was arrested for possible drug offense or something like that." When asked if it were an actual newspaper or a website, Sally said someone had messaged her

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[4] pseudonyms

cell phone with a link to her ten-year-old booking photo. "It was just like a text that came up. Yeah, it's definitely not a newspaper thing."

This was especially ambiguous when respondents confronted online advertisements that baited them to click on a link to view their record. Sharon said, "If I Google myself it'll say I have a criminal history, but it won't say what it is unless I pay. So I never pay. But they do have some that come up and show your criminal history and it's not accurate, because if something is dismissed, it doesn't say it's dismissed." Trey recalled showing his hospital coworkers a website that contained local booking photos and arrests. "They were shocked," he said, particularly for his co-workers from outside the U.S. "I think it's extra surprising for people who didn't grow up in the United States. Because in the USA we are kind of used to things being in public now. Especially when it comes to criminal justice."

It's difficult work navigating a messy online space where one's name or photo might lurk on Facebook pages, Twitter feeds, and pay-walled background check vendors. Those who bear an online stigma are understandably disoriented and disturbed. There is little public sympathy for those accused of a crime; an especially noticeable omission to legal privacy under the U.S. Constitution is in criminal justice information. While arguments for the release of criminal records fall under the First Amendment and Freedom of Information law, there is also an underlying value judgment for which types of behavior should be private – which does not include criminality. This creates yet another form of criminal justice surveillance. Cindy noted that the:

> …online thing is very scary. It's just scary… This creates a permanent record and it does destroy people. And it goes everywhere. I mean put it this way, anything allowed in a court system nowadays with the internet, any of that is not personal. It will be shared with everyone. I have this horrible, horrible list like 2 or 3 pages long.

Other interviewees echoed this emotional response to the publication of criminal records. Jamal described a man who "posted pictures of people who got criminal records" in the local area:

> A lot of people are getting offended. I've never been on [his website] or anything like that, but people I know have been on there and they really, really is mad about it. He's out there exposing them and staying stuff he is not supposed to say. Hurtful stuff. He don't even really know if this was a conviction or what it may be. He's hurting all these people's feelings about stuff and he doesn't know the facts.

The astonishingly public display of one's legal entanglements takes away any sense of control over one's own identity. These processes play out internally, causing people to question their own personhood and autonomy as they recoil from what feels like a privacy violation. It is a humiliating experience to have an online criminal record, which is further compounded by uncertainty as to exactly what information the internet might reveal.

Shaming without reintegration. The unshakeabilty of digital criminal labels also has the potential to interfere with the necessary cognitive and personal transformations that can lead to desistance from crime. Desistance research has sought to explore whether there are ways of reversing or nullifying the effects of labeling processes by directly focusing research on the dynamics of credentialing, re-naming, ritualization, social exclusion/inclusion, and internalization in the spirit of de-labeling or un-labeling (Braithwaite, 1989; Maruna, 2011). Most prominently, research on crime in the life course suggests that the assumption of normative social roles associated with maturation – e.g., marriage and employment – can help to sustain the process of desistance from crime (e.g., Sampson & Laub, 1993). As individuals move through the life course, they have opportunities to "knife off" past entanglements (Laub & Sampson, 2003) and reconstruct new identities for themselves (Maruna and Roy, 2007), for instance, by settling down in a relationship

and assuming the identity of the "angry kid" that has become a "family man." Interviews with labeled individuals show how modern criminal stigma complicates these organic processes.

First, the criminal labels that appear online now might have originated decades previously, but can have "contemporary consequences" (Moffitt, 1993) when they are added to the digital archive. Martin, for instance, noted how his 10 year-old criminal records proliferated across the internet and were linked to other personal records. He found himself on website that collated booking photos with other public records: "Information where you live, family, who you're related to, last place you lived. Some stuff goes back 10 years." Online records haunt people by not fading away and multiplying as they are copied across websites.

Old criminal records also aren't a strong predictor for recidivism. A growing body of research (e.g., Blumstein & Nakamura, 2009) suggests that criminal events this far in a person's past have little or no relevance in terms of predicting the person's risk of re-offending. A person with a seven-year-old conviction is statistically no more likely to re-offend than a person who has never been convicted of a crime (Kurlychek, Brame and Bushway, 2006). This resonated for Sally, who found an old online mug shot from a drug arrest. Since then, she has successfully completed a rehabilitation program and has not been arrested again, but is still haunted by the booking photo.

If such records suddenly become known to employers, partners or other family members, the self-fulfilling process of stigmatization might disrupt otherwise positive outcomes (see Maruna, 2009; 2012). Labeling theory suggests that this sort of permanent stigma could artificially extend criminal involvements by leading the person to a sense of hopelessness or defiance (the so-called self-fulfilling prophecy). Jamal mused about these sorts of potential criminogenic effects:

It affects a lot of people who are on [the website], they are really getting mad about it. You never know what a person was thinking and if he had something really bad in his life. Now you just discouraged him more. And you never know how he might blow up.

There is also an important power differential at play in these dynamics whereby the purveyors of criminal labels clearly have the upper hand. Jamal notes:

I'm just like, maybe if I had a lot of money this wouldn't even occur to me. Because I don't have a lot of money, I'm not rich. This occurs to people like us that's not really rich. 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.

Second, the omnipresent threat of exposure could shape behavior in ways that have an indirect criminogenic effect. After all, one way to avoid having one's criminal record exposed in this way is to avoid interacting with institutions or initiating new roles or relationships that might warrant a basic internet search. This would mean, however, avoiding precisely the sorts of involvements (education, employment, military service, new relationships) that research suggests support desistance efforts (Laub & Sampson, 2003). Roger, for instance, noted how:

It seeps into everything. Because what people don't understand is once you make a mistake like this, 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 the word misdemeanor or felony, are very, very cautious.

Although spillover of sanctions from the official carceral state into other spheres of life has always been part of criminal punishment, the internet has rapidly increased the helplessness and powerlessness many people face after being publicly shamed, even if they are legally cleared. The contemporary digital label is both detailed (with names, addresses and photographs) and explicitly degrading (with labels like "thug" and "psychopath"), and forever attached to the online record.

Discussion and implications

Our analysis shows how rapid technological change has created profound shifts in the collective cultural experience of crime and punishment, particularly in creating new platforms for public involvement in the permanent stigmatization and labeling of others. This transformation, however, has made the nearly 100-year-old insights of labeling theory more, rather than less, relevant to the understanding of offending careers. After all, at something like the heyday for labeling theory in the mid-1970s, Richard V. Ericson (1977) argued that the theory's key premise was based on a rather shaky metaphor:

> One problem with [the labeling] approach is that many theorists are not specific about the persons and places involved in the social reaction. There is frequent reference to how 'the members of the community seem reluctant to accept the returning individual on an entirely equal footing' [Erikson, 1964, p. 16], but little attempt to specify who are the persons and groups stigmatizing the individual, in what circumstances this takes place, the methods used, and the place of the 'criminal' fact vis-à-vis other social facts about the individual.

Four decades hence, these abstract dynamics of labeling have become much more concrete, as demonstrated in this research. In the digital age, the "location" of a person's stigma has become much more obvious – it resides on the internet, accessible to anyone who does a search. As amorphous as that may be, it is much less abstract than "society" or "community". Indeed, just as the internet has rapidly developed into a dynamic space for contemporary criminal punishment, it is also becoming a prime target for those seeking to reduce the burdens on ex-prisoner reintegration. For instance, in an ingenuous argument in favor of the sealing off of criminal records from public view, Jefferson-Jones (2013) argues that a person's reputation is a form of valuable "private property" and that the online publication of criminal records therefore represents a form of theft.

Another approach is that of the European Union's "right to be forgotten" (see Jacobs and Larrauri, 2012; Stacey, 2017), codified in 2010, when a Spanish citizen filed a complaint against a Spanish newspaper, Google Spain and Google Inc. The complaint argued that 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. In a 2014 ruling, the court ruled that search engines must comply with European privacy law, including the right to be forgotten. This allows EU citizens to request search engines remove links to websites with personal information that is inaccurate, inadequate, irrelevant, or excessive for purposes of data processing. Ultimately, each request is assessed on a case-by-case basis to ensure that the loss of public access 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 criminals less criminal" (European Commission 2014).

In the days after the EU court 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). Five months after the ruling, Google reported 70,000 take-down requests for over 250,000 web pages (Drummond, 2014). Google does not charge a fee for this service, but it is limited to EU requesters, requires subjects to upload a document to verify their identity, and asks the requester to explain "why the content on this page is unlawful, inaccurate, or outdated" (Google, 2017). Once received, a panel of Google-appointed experts assesses requests on a case-by-case basis.

Of course, confronting internet super-giants and government bureaucracy is easiest for those who already carry significant symbolic and social capital (Bourdieu, 1977). To compound

systemic criminal justice inequalities already present, those most negatively impacted by the

diffusion of criminal records are also the least likely to seek remedy (Lageson, 2017). Given the

significant changes in stigma and labeling brought by technology, research should now progress

from the micro level of labelers and labelees (as in this research) to explore the macro dynamics

of efforts to regulate and protect individuals from collective online shaming without expiration.

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