

The Ethics of Public Shaming

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Introduction

Imagine being a parent of a seven-year old girl who was raped and murdered by a neighbor. For some parents this is a reality. A device informing parents is necessary to help save children's lives. On the other hand, imagine waking up one day and finding your picture on the Internet for your most recent traffic violation next to a dangerous sex offender. The implications and consequences of this cost you your job and reputation. This paper will discuss the ethics and principles of what is and is not public shaming.

History of Public Shaming

The issue of public shaming is not new to society. In the history of the United States, the government has publicly punished criminals by stoning, public hangings, and witch trials. Centuries ago, women who committed adultery in puritan communities were forced to wear a red letter 'A' as a symbol of their infidelity. Similarly, during World War II, the Jews were forced to wear gold stars. These are historical examples of public shaming.

Thesis

A government-regulated database of sex offenders is an ethical practice; however, databases for other crimes, or publicly shaming similar offenders, is unethical.

Public Shaming

Dateline produces a television show *To Catch a Predator* where undercover police officers catch sexual predators in the act. As a result of the national television embarrassment, the sexual predator was so publicly embarrassed that he took his own life before authorities had the opportunity to arrest him.

In other examples, legal sentences given to sex offenders that are not ethical. In Texas, a 30 year old man who groped a 14 year old girl was required to post a sign on his front yard that

read “DANGER: REGISTERED SEX OFFENDER LIVES HERE,” after he completed his six-month jail sentence.¹ This is a form of public shaming and is not ethical because its only goal is to humiliate. The man deservedly must register on the Texas state database; however, the requirement to post a sign in his yard, claiming his mistake, is unethical. The mandatory registration of sex offenders by the government is an ethical way of notifying the public. In some instances these offenders do rehabilitate and should have the opportunity to overcome their mistake, but signs this public in nature will prevent them from moving on.

Counterargument

Some may argue that requiring a sex offender to post a sign in their yard is no different than requiring the offender to register on the database. In response to this claim, the two are different because only people who seek the information can find it on the database whereas any passerby was privy to this information.

Sex Offenses

Sex offenses are crimes of a sexual nature, which can vary in types and are classified as misdemeanors or felonies. The punishment depends on specific offenses and their severity. The requirements under United States law, demands that offenders who are convicted of specified felonies or misdemeanor sex crimes must register as sex offenders with their local law enforcers.¹ The primary goal for these actions is to enhance public safety by preventing more crimes through the management of sex offenders throughout a community.²

Monitoring Criminals

The criminal justice department monitors almost all offenders in one way or another. Mostly through imprisonment, community supervision, global positioning systems, or a specialized treatment determined after conviction.¹ Although many convicted sex offenders serve time, they are released immediately after, where their only regulation is through registry systems. Likewise some offenders only serve a probation sentence and are released. This brings up a concern for the public and demands a system to help prevent sexual violence that inflicts fear in prior victims and many communities. It is important to consider offenders who may commit repeat offenses and steps to prevent additional harm.

Policies for Handling Sex Offenders

When looking at solutions for managing sex offenders today, many policies and procedures are being developed. The creation of the Center for Sex Offender Management is one specific example. CSOM is a national project set up to help communities monitor and manage sex offenders within their areas through the support of state and local jurisdictions. This project includes leading experts in the field of sex offender management, treatment, and supervision.³ Their goals have been fulfilled through three primary activity areas:

“Provides those responsible for managing sex offenders ready access to the most current knowledge and effective practices by synthesizing and disseminating knowledge and practices to the field.

Captures the lessons learned from communities around the country who have demonstrated-through collaboration between criminal justice agencies and other stakeholders-that they can manage known sex offenders and increase public safety, and to disseminate those lessons so that others might benefit from them.

Provides the opportunity for other jurisdictions to draw upon these experiences, enhance their own practices, and create similar results in their communities, by offering a variety of training and technical assistance opportunities to agencies and jurisdictions.”⁴

Database Ethics

With the development of the Internet and information technology, the United States department of Justice requires that every state have some type of sexual offender registry. The amount and type of information disclosed in these databases is determined by each state. In contrast to the practice of public shaming; this type of public information is notification.

The Department of Justice created the Dru Sjodin Sex Offender Public Registry, a website hosting public sexual offender registries that allows users to search the database to find information about individuals including their name, zip code, county, city, or state.⁴ The intent of these databases is to inform the public about offenders convicted of a “criminal offense against a victim who is a minor” or a “sexually violent offense.” The Dru Sjodin Registry defines their goal as; “to give interested members of the public access to public information regarding the presence or location of offenders.”⁴ Punishment for misuse of the website including harassment or intimidation may be subject to criminal prosecution under federal law.⁴ This strengthens the argument that the database is ethical because if used improperly, the violator is punished.

Current Problems

Another example of an abuse of the Internet is that states and their corrections departments have the ability to post information on any criminal and their background. Florida has a website set up by the corrections office where anyone can search for criminals finding current pictures, offenses, time incarcerated, and a current address.⁵ The criminals on this type of a website have served their time and should be allowed back into to the population without exposure of their entire past. Meanwhile, steps can be taken to protect ones self from sex offenders who statistically repeat sex crimes at a much higher rate than others criminals.¹ Also, those who commit other crimes are statistically less likely to repeat a crime and almost never commit a sex crime.

National legislation is needed to prevent this and maintain the current site, which only contains sex offenders. States should not be allowed to post information on released criminals who have not committed a sexual offense. This is unethical and this information, when given to the public, shames those criminals who have served their time and are considered rehabbed. Furthermore, sites created by individuals containing information, video, or pictures of people without their consent should not be permitted. These popular sites such as YouTube, Break.com and other public posting sites should be monitored and permission should be required from the people posted on the websites.

Potential Issues with Databases

Internet technology and the number of people using is growing, presenting ethical problems with posting sites similar to the government database. Currently, most states only provide information about those convicted of sexual crime. In order to avoid the slippery slope only this type of information should be available on the Internet.

Argument

Slippery Slope

The only ethical use of information technology is to notify people to protect children and other victims of sexual abuse. Allowing people to post whatever they want on the Internet or posting pictures of people who committed other crimes is an unethical use of the technology. Continuation of these actions will cause people to eventually post pictures of individuals with traffic violations, an abuse of the Internet. When people who commit a minor violation are posted on the same web pages as those who have committed sex offenses, they will likely be

classified in the same category. People who have paid their fine or completed their punishment will experience unfair consequences because of the association from the web pages. Additionally, if the government or police release criminals from prison or probation, they are doing so because they are no longer thought to be dangerous and are rehabilitated. Assuming that this is the case, there is no reason that their picture should be plastered on the Internet. If the criminal is still a risk, they should still be in prison and the release system should be reevaluated.

Counterargument

On the contrary, some may argue there should be databases for murderers and other serious offenders. In response, most criminals who committed murder are sentenced to longer prison terms thus they are not a threat to society.

Support

When relating public shaming with sex offenders, several issues arise. Society developed a mindset that sex offenders must register through online sources in order to create a safer environment for its citizens. This must be done strictly for notification. In addition, it allows communities to know where registered offenders are living and also prevents offenders from living within a certain distance from schools, parks, and other areas where children may be. It is ethical to argue that sex offenders are much more dangerous to society than other criminals because of the number of sex crimes committed.

Sexual Abuse Statistics

Sexual abuse of children is something that happens often. Studies show that one in four girls and one in six boys will be sexually abused before they turn 16.⁶ Children, who are under the age of 18, make up more than two-thirds of all sex crimes. Ironically, children are not being abused by strangers; in 90% of the cases, they are abused by someone they know- a family member, neighbor, clergy, coach, or teacher. Because the abuser may be close to the children, parents are not likely to suspect any misbehavior. This creates a strong need for parents to be able to easily access information about their neighbors.

Megan's Law

Megan's Law established that states must have Internet sex offender databases to alert neighbors when a violent sex offender moves into the community.¹ The law, named after seven year old Megan Kanka, a rape and murder victim of a two-time sex offender who moved next door the family not knowing of his prior offenses. A sexual offender registry in the state of New Jersey would have allowed Megan's parents the opportunity to find this information and protect their daughter. Megan's mother says that the "rights of children should always take precedence over the rights of offenders."¹ As a result of the seriousness of their actions and the age of the victims, sexual offenders who abuse children lose some of their rights. They lose their implicit right to complete privacy because they cannot be trusted.

Argument

Repeat Offenders

Sexual offenders are considered to be more dangerous than other criminals because of the likelihood they will commit another crime.⁷ Child molesters have a 13% rate of re-conviction for another sexual offense and a 37% recidivism rate for a non-sexual crime over a period of five years.⁷ Rapists have a 19% recidivism rate and a 46% chance of a re-conviction of a crime not sexual in nature over a five-year period.⁸ Sexual offenders whose victim is male have a 35% recidivism rate versus a 19% rate of recidivism for female victims.³ Because of the nature of the crime, the age of the victim, and the tendency of the offender repeating, it is necessary that people have access to this information. Additionally, there were approximately 263,000 convicted sex offenders in 1997, which represents only 10% of people who commit sex crimes.³ These databases also provide information about how a sex offense is defined and could help decrease the number of un-reported sex crimes.

Repeat sexual offenders who have "been convicted of a sexually violent offenses against two or more victims and who have a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior"² are labeled sexually violent predators. Once a sex offender has committed more than one offense, they are deemed to be a Sexually Violent Predator or SVP. Offenders who meet the criteria are seen in front of the district attorney who determines whether the SVP will continue treatment in a mental hospital for up to two years. "As of June 2006, 456 sex offenders were being held in state hospitals with a commitment by the court as an SVP. In

addition, 188 sex offenders were being held in state mental hospitals, and 81 were in county custody pending the completion of commitment proceedings.”² Sex offenders who are convicted more than once of a sex crime or are near the end of their prison sentence, are sent to the mental health department. Here they are evaluated to determine whether they meet the specifications to be considered an SVP.

Children are the victims

One of the strongest reasons for Sex Offender databases is that children are often the victims of sexual abuse. Sexual abuse of children is prevalent in society and devastating to its victims. The advancement of the Internet makes it even easier for children to fall victim to a sexual predator. Children have no idea if the person on the other side of the computer is really who they say they are, and often times because of their young age, they don’t always make safe decisions. There is a strong societal desire to protect the children; therefore, sexual offender registries must be accessible to citizens to notify parents who their neighbors are.

Ethical Perspectives

Common Good

The Common Good standard of ethics is the idea that “respect and compassion” for all people, especially those who are vulnerable, is the basis of ethical reasoning.⁴ Also the Common Good approach discusses policies and regulations enacted to help the greatest number of people. Children are naturally vulnerable because of their age and trust they give to adults. Victims of sexual abuse are also vulnerable because they endured a horrible experience that has lasting psychological and emotional effects. It is for these reasons that sexual offender registries are an ethical practice. Databases are a tool used to protect people who are unable to protect themselves.

Social Justice and Fairness

Another important ethical perspective is Social Justice and Fairness. The second type of justice is retributive or corrective justice, which is ensuring that punishments are fair and just.² People should be punished based on the severity of their crime and not on other factors such as their religion or race. Prison sentences for sex offenders are not severe enough thus the databases provide a way to keep the public safe.

Public Notification

Abuse of the Internet is currently happening all over the world in different forms. In Ohio, Judge James Kimbler, is posting videos of sentencing hearings on the free website YouTube to shame criminals. His reasoning for this is to teach the children about the criminal justice system. The majority of YouTube videos are for entertainment purposes. Kids and teenagers are not using YouTube as tool to learn about the Judicial System, they use it for fun.

Laws on Video

States have laws regarding video-taping in the court room. In most states at a minimum, the judge is required to inform the participants of their right to refuse. States are classified into three tiers determined by their rules on video surveillance. Tier one includes those states that allow the most coverage. Tier two includes states that have restrictions prohibiting coverage of important types of cases or prohibiting the use of testimony from witnesses who object. Tier three states only allow coverage in the appellate courts or have such restricting rules that coverage is essentially not allowed. The state of Ohio is a Tier two state and requires the consent of the victim and witnesses in order for the trial to be video taped.⁶ With laws in place regarding video-taping in the court room, it is obvious that the government intends to protect victims and witnesses. This is not a government mandated website nor are all criminals being treated in the same way. If the government doesn't put a stop to abuses of the Internet, we are facing a slippery slope. The risk of a slippery slope is that eventually people will face a world without privacy and everything you have ever done could be found on the Internet.

Consequences of Internet Postings

Allowing Judge Kimbler to post his hearings on YouTube means not only are the privacy rights of victims and witnesses being threatened but also the rights of the criminal. One of the goals of punishment is rehabilitation or to restore a convicted offender to a constructive place in society. When a criminal is released from prison whose hearing was on YouTube, it will be even more difficult for them to integrate back into society because people will have heard the testimony and accusations. Posting videos of hearings does not align with the government's goal to bring convicted offenders back into society. An additional risk is that these offenders will

associate with other criminals because they are the only group of people who will accept them, and the released offenders will fall back into their criminal behavior.

Growing Ethical Concerns

Ethical issues concerning technology are only going to increase as technology and the Internet progress and become more advanced. Certainly, this would be an inappropriate and dangerous way to use technology, but the issue of using the Internet for public shaming is also a serious issue. It is because of the slippery slope that there must be regulations and guidelines for what can and cannot be on the Internet in relationship to criminals. There should be uniformity among jurisdictions within and among states in regards to video of court- room hearings on the Internet. Furthermore there should be uniformity among sexual offender databases to ensure that criminals are treated in an equal and fair way throughout the country.

Sex offender databases are important because children are often the victims of sex crimes and society has a strong desire to protect the children. Sex offender databases allow people who want to know their neighbors the chance to find it without doing so in a way that humiliates and embarrasses offenders.

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