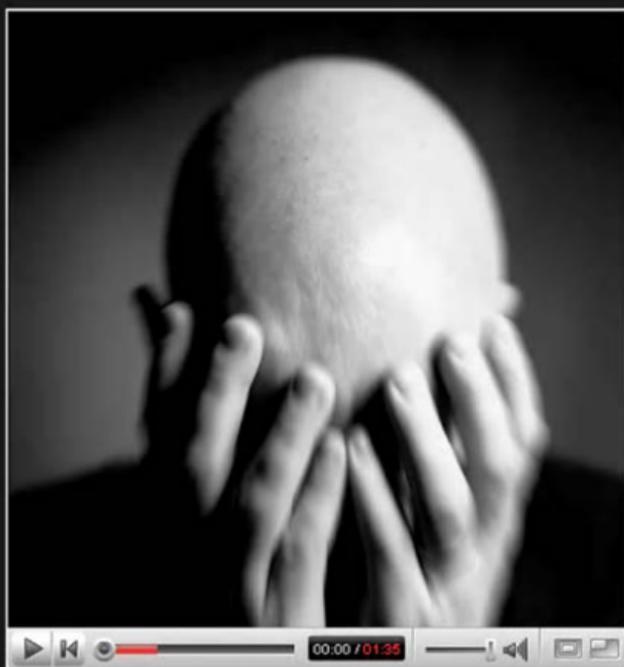


# the future of **reputation**

gossip, rumor, and  
privacy on the internet



**Daniel J. Solove**

# The Future of Reputation

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Gossip, Rumor, and  
Privacy on the Internet

**Daniel J. Solove**

Yale University Press  
New Haven and London

## *To Papa Nat*

A Caravan book. For more information, visit [www.caravanbooks.org](http://www.caravanbooks.org)

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## Preface

The idea for this book came to me soon after I began blogging in May 2005. I found blogging to be enthralling and invigorating. I was fascinated by the thrill of expressing my thoughts to a broad audience yet acutely aware of how people could be hurt by gossip and rumors spreading over the Internet.

In an earlier book, *The Digital Person: Technology and Privacy in the Information Age*, I explored how businesses and the government were threatening privacy by collecting massive digital dossiers of information about people. In that book, it was easy to take sides. I argued that information collection and use were threatening people's freedom and well-being, and that greater protection of privacy was necessary. When it comes to gossip and rumor on the Internet, however, the culprit is ourselves. We're invading each other's privacy, and we're also even invading our own privacy by exposures of information we later come to regret. Individual rights are implicated on both sides of the equation. Protecting privacy can come into tension with safeguarding free speech, and I cherish both values. It is this conflict that animates this book.

Although I advance my own positions, my aim isn't to hold them out as end-all solutions. The purpose of the book is to explore in depth a set of fascinating yet very difficult questions and to propose some moderate compromises in the clash between privacy and free speech. There are no easy answers, but the issues are important, and I believe that it is essential that we wrestle with them.

Many people helped shape the ideas in this book through conversations and helpful comments on the manuscript: danah boyd, Bruce Boyden, Deven Desai, Tom Dienes, Howard Erichson, Henry Farrell, Bill Frucht, Eric Goldman, Marcia Hofmann, Chris Hoofnagle, Orin Kerr, Ray Ku, David Lat, Jennie Meade, Frank Pasquale, Neil Richards, Paul Schwartz, Michael Sullivan, Bob Tuttle, Christopher Wolf, and David Wolitz. My research assistants, James Murphy and Erica Ruddy, provided helpful research and proofreading. A few passages in this book were adapted from my article "The Virtues of Knowing Less: Justifying Privacy Protections Against Disclosure," 53 *Duke Law Journal* 967 (2003). My agent, Susan Schulman, believed in this book from the start and helped tremendously in bringing it to fruition. I would also like to thank Michael O'Malley at Yale University Press, who also believed in this project and gave me the opportunity to bring it to life, and Dan Heaton, for his thoughtful editing of the manuscript.

When quoting from blog posts, I have occasionally corrected obvious typos and spelling errors.

## Chapter 4 Shaming and the Digital Scarlet Letter

Laura had to write a five-page college paper on Hinduism in a hurry. She had little to work with and knew nothing about the topic. So she decided to cheat. She sent an instant message to Nate Kushner, who listed Hinduism in his online profile with AOL. She offered him money if he would write her paper for her on short notice. Nate was appalled by what Laura was trying to do, so he hatched a plan. He would agree to write her paper but would fill it with silly errors and copied passages that could readily be found by searching on the Internet. Kushner also had a blog, and he dashed off a post about his plan with the title: “Laura [lastname] is a Plagiarist.”<sup>1</sup> Kushner referred to the student by her real name, and he also mentioned the college she attended. According to his plan, once she turned the paper in, he would email her as well as her college dean with a link to his blog post.

What he didn’t expect was that his blog post began to attract significant attention. Other bloggers began linking to Kushner’s blog post. Hundreds of people wrote comments to it. Some criticized Kushner as being too harsh on Laura. Others approved of Kushner’s

plan. “I can’t wait to see this chick get her comeuppance,” one commentator gleefully declared. “You do the crime, you do the time,” another wrote, “She is absolutely getting everything she deserves.”

The biology professor PZ Myers of the blog Pharyngula observed: “Here’s a fine object lesson: a student solicited a term paper via instant messenger, and got more than she expected. Like her name up in lights on a web page and the information forwarded to the president of her university. I like it. It’s a great little poison pill to make students more reluctant to attempt this sort of thing.”<sup>2</sup>

In a follow-up post, Kushner wrote:

God, I honestly had no idea this would become an internet-wide thing. My imagination had told me that this could be a funny story kept between me, her school, and a couple dozen friends of mine who visit this site.

People began calling Laura’s school and her home. In a subsequent post, titled “The Saga Is Over,” Kushner wrote:

First of all, everybody, this is a cease and desist order to stop calling Laura and stop calling her university. Everybody knows now.

In a post the following day, Kushner wrote:

Alright, here’s how it ends, people. Brace yourselves for disappointment, because you’re going to find out where I failed to show you blood when you wanted it.

Also, let’s reiterate. Nobody call Laura or her school anymore. Everybody knows now. . . .

I do want this to be over. . . .

I had thought I could make her sweat (as had been my plan practically since the paper solicitation fell into my lap) by sending her the link to the original story sometime on Wednesday, after she’d handed the paper in. . . .

So it became Monday, and instead of finishing off my nice prank I was going to share with two or three dozen real-life friends, I was faced with all of you people looking for blood. I didn’t want blood. What I wanted was irony.

Laura called Kushner and begged him to take down the post. Laura’s mother got involved, pleading with him to take Laura’s name off the Internet. Kushner wrote about the conversation in his post: “I explained another three times that I couldn’t erase her from the whole internet, and that everybody knows.” Kushner agreed, however, to edit his posts to substitute a fictitious last name for Laura.

Is the story true or just a hoax? One difficulty with the information on the

Internet is that it is hard to know how true it really is. If CNN ran the story, we'd trust that the facts were checked and verified; we'd believe that CNN would not deliberately fabricate the story. We'd be assured that if CNN's story were wrong in any way, CNN would suffer reputational harm. Reporters might get fired. Retractions and corrections would be made. But Kushner is an amateur. He's not a professional journalist. He doesn't have fact checkers. He doesn't have much of a journalistic reputation at stake. He might be concocting this entire scenario for amusement. Or he might be telling the truth. We just don't know for sure.

Whether true or false, this incident demonstrates how fast information can speed across the Internet. Kushner's blog posts attracted a large audience within a matter of hours. Numerous bloggers linked to it, and the Internet's bright spotlight moved over to Kushner's blog for a short while. Kushner appeared to be quite surprised by the sudden interest. He thought he was writing for the amusement of a few of his friends. And once the story broke out around the Internet, Kushner was unable to stuff it back into the bottle. His posts indicate how quickly it spiraled out of his control. When one puts information on the Internet, it can easily become like Frankenstein's monster, escaping the dominion of its master.

This incident also demonstrates the growing phenomenon of shaming people via the Internet. Shaming is nothing new—we've been doing it for centuries. But Internet shaming creates a permanent record of a person's transgressions. And it is done by amateur self-appointed investigative reporters, often without affording the target a chance at self-defense. Numerous others then join in to help shame the victim, creating the cyberspace equivalent to mob justice. Recall the dog poop girl incident, a classic example of the Internet's profound power to shame an individual. What are the virtues and vices of using the Internet to shame others? What, if anything, should be done about Internet shaming?

## CYBERCOPS

Peoria is a city of slightly more than one hundred thousand people in Illinois. It is frequently used as a symbol of mainstream America. The question "How will it play in Peoria?" has become a formula for assessing the reaction of the average American citizen. So perhaps Peoria's entrance into the shame game is especially significant. The local government began shaming campaigns for property owners who owned blighted properties. Soon residents got into the

shaming business. The anonymous creators of one new website, Peoria Crack House, attempt to publicly shame people suspected of owning drug dens.<sup>3</sup> A sample post contains the address of the property, the name of its owner, and a picture of the owner's relative who was an ex-convict. The post is written in the form of a letter to the owner:

Dear Angela [last name]:

I'm not bothering to introduce myself, but that is only fair, considering you did not bother with introductions when you moved into the neighborhood and began to re-introduce it to young thugs dressed in getto [*sic*] attire, conducting their drug activity. . . .

It's ironic that someone who was smart enough to qualify for a \$61,000.00 loan from GSF Mortgage Corp . . . is too stupid to realize that in a neighborhood where most homes are at least twice the value of yours your neighbors are not going to put up with the sort of illegal, property devaluing crap with which the inhabitants of your property think they can engage.

And here is what we already know about you, Angela [last name]:

1. You used to live on the East Bluff, in a house subsidized by a PHA affiliated Not for Profit Corporation . . . where you apparently liked to threaten and intimidate your neighbors by letting your Rottweiler run loose;
2. You also had a child at that address, Jamar [last name], that like [*sic*] to run around loose at night after curfew.
3. Last year you moved into [address], and then you got married to a Christopher [last name] when he was paroled from the Illinois Department of Corrections in January of 2005.

The post continues with more personal details about Angela.<sup>4</sup> In a follow-up post later that day, the blogger wrote:

Parole was contacted and advised of the information on this blog. Promptly, Parole agents swarmed the house, arrested and tested Mr. [last name], who was found to be positive for illegal drugs. Upon questioning, Mr. [last name] admitted that he had been smoking crack in the shed behind the house. He claimed he had not smoked it in the house, because he did not want to dis his woman.

But now there are three young thugs . . . that are hanging off of the porch.

Wanna bet that Angela is going to lose her house before the year is out!

Peoria Crack House fashions itself as a citizen's way to eliminate neighborhood crime and blight. At least from the blog's description of the events, it played a role in bringing the information to the attention of the authorities. But how did the blogger obtain all the information? What if it weren't cor-



“He’s now famous in Germany too,” one person wrote, “cause a well known German board posted the link and the stor[y].”<sup>10</sup>

Kevin Poulsen, a reporter for the magazine *Wired*, wrote a story about the incident. He contacted Danny and learned that he was a sixteen-year-old. Because of Danny’s young age, Poulsen “elected not to report his name.”<sup>11</sup>

When John found out that Danny was a minor, he regretted posting the pictures and his name on the Internet. Now, commentators were reposting Danny’s name and photo across the Internet. John removed what he had posted and wrote:

THE PICTURES HAVE BEEN REMOVED TO PROTECT THE PRIVACY OF MINORS. WHEN I FIRST POSTED THIS STORY I DID NOT REALIZE THE PERSONS IN QUESTION ARE MINORS. I ENCOURAGE ALL OTHERS WITH PHOTOS OF THESE PEOPLE TO DELETE THEM FROM THEIR WEBSITES AS WELL.<sup>12</sup>

Others, however, didn’t remove the photos. In fact, many plastered the photos in the comments to John’s post. Some morphed the picture into a wanted poster with Danny’s name.

Responses grew much nastier. Others posted pictures of Danny’s face superimposed on various images, including pornographic photos. Comments on various electronic bulletin boards devolved into bigoted slurs and insults lodged against Danny.<sup>13</sup>

Back at the electronic bulletin board where John originally wrote about Danny, comments continued to pour in. One commentator said:

And I encourage everybody that has the pictures to keep on spreading them so this little thieving idiot will be infamous, and if you live in his neighborhood to make a poster and warn EVERYBODY of this little rotten bastard. I hope he rots in prison, but most probably he will get a slap on the wrist, the spoiled brat.<sup>14</sup>

Another asked: “WHO THE HELL CARES IF THEY ARE MINORS OR NOT????” John wrote in reply:

Because minors do really stupid things without even thinking of the consequences and how other people will be affected.

When I was kid I did absurdly stupid things. . . . Now by no means is that statement I just typed meant to be a pardon to Danny. This has been reported to the police and I WILL be following through to make sure this punk learns that there are consequences for stealing another person’s property.

What has gone on here is just as wrong. In another time this would be described as a lynching and you people would be called a lynch mob. Yes, I know I’m the one who

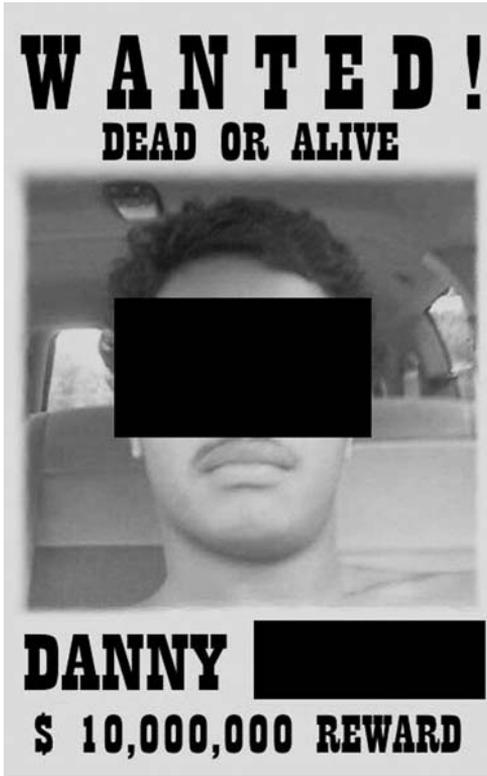


Photo of the cell phone culprit morphed into a wanted poster (last name and face obscured)

started this, it was bad judgment on my part. People who . . . had nothing to do with this have been dragged in just due to the fact that they keep extremely bad company. Does anyone realize that they could be creating another victim of this crime?<sup>15</sup>

Incensed by John's change of heart, commentators began posting John's personal information on the comment board. One commentator wrote:

Now you've had some moral dilemma and want to recant, well I have some bad news for you. You may not find Danny's persecution funny, but we sure do. . . . [We] have no pity on thieving punks like Danny and I bet he's learned quite a lesson.

Consider our work a community service. Danny could have gone from boosting phones to jacking cars, thug life and all. I would venture to guess that he'll keep his hands to himself. . . .

Behold the power of the internets!!!!!!<sup>16</sup>

This incident raises several difficult questions. A stolen cell phone is probably not high on the priority list of the NYPD. Perhaps the Internet is a great new tool to aid in law enforcement. It can enable people to help enforce laws that police aren't sufficiently enforcing.

On the other hand, in Danny's case, the photos posted included not only himself but his teenage girlfriend and family. These other people were not engaged in any crime, but their pictures were plastered across the Internet. Danny was just a juvenile, too. John regretted his decision to post Danny's pictures and information on the Web, but the situation spiraled out of John's control. Although the illegal conduct of the subway flasher is scarcely open to question, perhaps Danny wasn't the thief. Perhaps he just found the phone or perhaps somebody gave it to him. What happens when people think that they have found the culprit but are mistaken?

### **Self-Deputized Police on the Internet**

The Peoria Crack House website and the pillorying of the subway flasher and the cell phone thief are just a few examples of how the Internet is being used by people to shame others. In these cases, people frustrated that others were getting away with crime attempted to take the law into their own hands and expose the wrongful conduct. In some instances, they got salutary results—the wrongdoers were caught and punished. Can the Internet serve to enhance people's ability to help the cops catch criminals? Is this a good thing?

### **NORMS AND SHAMING**

In a San Francisco Apple computer retail store, customers noticed a vaguely androgynous person spending a lot of time there with a computer. The Apple store had free wireless Internet service, and the person apparently was taking advantage of it by frequently hanging out at the store. Some people became annoyed at the person, and they blogged and posted pictures online. One blogger noted:

The photo, taken on July 7, appears to show the same person: same hair, same earbuds. And it appears that he is a she.

Her tenure at the store is now approaching at least one month. Given that the average monthly rent for an apartment in San Francisco is currently about \$1700 (not including wireless Internet access), I'd say she's getting a pretty good deal.<sup>17</sup>

Another blogger wrote:

[Other bloggers] have been razzing the so-called Apple Store Squatter—a PC-toting woman who allegedly spends hours, if not days away at the San Francisco Apple Store slurping up the free wifi. Just a reminder to y'all that no one's privacy is safe from the blogosphere—especially if you spend any time in public!<sup>18</sup>

Was the Apple Store Lady breaking the law? Perhaps she was loitering, but the store employees apparently didn't seem to care. Why were others so concerned about such a trivial thing as one woman who overused free wifi in a store?

### Norms

Although not breaking the law, the Apple Store Lady was violating a norm. She was using a free service “too much,” which is to say beyond the amount of time that some people thought reasonable. To understand shaming, it is essential to understand norms. Every society has an elaborate lattice of norms. A norm is a rule of conduct, one less official than a law, but sometimes as improper to transgress. If you break a law, you can be punished by the government or be sued by another person. Norms generally are not enforced in this manner. Nor are they written down in a book of legal code. Nonetheless, norms are widely known and widely observed rules of social conduct.<sup>19</sup>

Norms and law overlap to some extent; many crimes are violations of social norms that we have agreed through legislation and adjudication to enforce through formal punishments. But norms cover a wider range of conduct. For example, there is no law against picking one's nose in public or against being rude, but both are norm violations. Norms encompass a litany of rules involving manners and etiquette that law doesn't cover. A poem from the seventeenth century humorously illustrates the rules of etiquette:

Let not thy privy members be  
 layd upon to be view'd  
 it is most shameful and abhord,  
 detestable and rude.

Retaine not urine nor the winde  
 which doth thy body vex  
 so it be done with secresie  
 let that not thee perplex.<sup>20</sup>

Norms develop and change over time. Consider, for example, the norms of cell phone use. In the United States, the number of people using cell phones grew by more than 350 percent from 1993 to 2003, from 34 million users to 159 million.<sup>21</sup> Worldwide, there are more than a billion cell phone users.<sup>22</sup>

Bystanders are especially irked by the disruptiveness of cell phones. According to one poll, 59 percent said that they would rather go to the dentist than sit beside a cell phone user.<sup>23</sup> In a popular commercial shown in movie theaters, an obnoxious man uses his cell phone in a myriad of outrageous ways. A jingle plays in the background with lyrics that begin: “It’s inconsiderate cell phone man.” At the end of the ad, he boasts to another person over the phone: “I’ve got a million minutes.”<sup>24</sup>

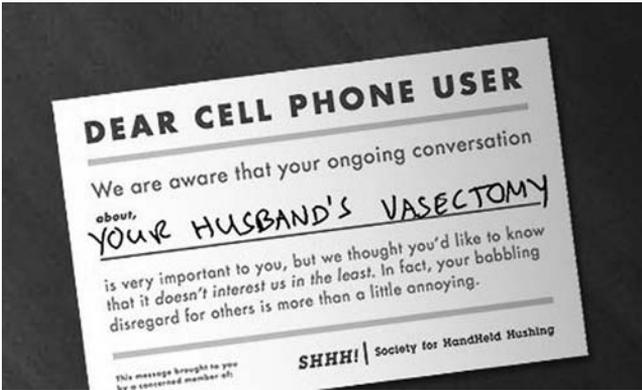
Generally accepted rules of etiquette for cell phones have quickly developed. Turn them off at the theater. Don’t speak in a loud voice on the phone when in public. If you get a call during dinner at a restaurant, excuse yourself from the table if you need to take it. Few people would argue with these norms. Within a relatively short time following the wide acceptance of this new technology, there appears to be considerable consensus about cell phone norms. The extent of compliance with these norms, however, still lags.

Norms are often good things. As Henry David Thoreau observed, “We live thick and are in each other’s way, and stumble over one another.” Thus we “have had to agree on a certain set of rules, called etiquette and politeness, to make this frequent meeting tolerable and that we need not come to open war.”<sup>25</sup> Norms enable us to get along smoothly and to resolve many situations that could lead to disputes.

But norms can be bad things, too. For instance, they can be riddled with double standards. Throughout much of Western history, for example, adultery by women was viewed as vastly more culpable than that by men.<sup>26</sup> Additionally, some activities are common but hidden, such as certain sexual practices. As Anita Allen notes, society can be quite hypocritical about sex. Society’s attitudes toward sex are a complex stew of “conflicting physical, emotional, and social imperatives.”<sup>27</sup> There are also many norms we now recognize as unjust.

### **Norm Enforcement**

When somebody violates a norm, a few others might try to confront that norm violator. I call these people the “norm police.” Just as we need police to enforce the law, we need norm police to enforce norms. If a norm never gets enforced, then it will gradually cease to be a norm.



Sample SHHH card. Designed by Aaron James Draplin, <http://www.draplin.com>, based on an idea by Jim Coudal's wife, Heidi, <http://www.coudal.com>

Regarding cell phones, the designers Jim Coudal and Aaron Draplin, inspired by an idea from Jim's wife, Heidi, created free cards that people could download from the Internet and hand out to obnoxious cell phone users.<sup>28</sup>

According to the website,

After reading a story in the NYT, Jim's wife Heidi came up with a method to fight back against the obnoxious cell phone users that we all have to deal with in stores, restaurants, trains and pretty much everywhere else. Can design ride to the rescue? Jim and the incomparable Aaron Draplin think it can. So, as a public service, we introduce the reasonably polite SHHH, the Society for HandHeld Hushing.

In many cases, norm police help us maintain an orderly society. We want to keep cell phone users from becoming too obnoxious. We want norms to develop and for them to be enforced. Shame makes us self-aware in an often painful and uneasy way.<sup>29</sup> It can serve as both an external and an internal check on behavior. The tough issue, however, is just how much norm enforcement we want.

The Internet is quickly becoming a powerful norm-enforcement tool. A plethora of websites now serve as forums for people to shame others. For example, a website called Rude People allows users to post reports of their encounters with impolite individuals.<sup>30</sup> On the website PlateWire, people post information about bad drivers, identified by their license plate numbers. The site declares: "Report and flag bad drivers, award good drivers, and even flirt with cute drivers. PlateWire was born out of frustration from years of

driving alongside drivers who seem to have no concern with anyone's safety, including their own."<sup>31</sup> And on the website Flickr, where people post photos, there are countless snapshots of individuals accused of talking too loudly on their cell phones.<sup>32</sup> Some post pictures of "the annoying guy behind us," the "rude man," "obnoxious people," or anybody else who acts in an uncivil manner.<sup>33</sup>

This new norm policing technology raises all sorts of difficult questions. To explore these questions, let's look at an example of how the Internet can be used to enforce norms of tipping.

### **Bitter Waitress**

For quite a long time, sociologists, psychologists, and economists have been fascinated by tipping. Scores of scholarly papers have examined the practice.<sup>34</sup> The practice is less common in Europe and in many other countries than in the United States, where people tip for a variety of services. We tip servers in restaurants, doorpeople at hotels, concierges, cab drivers, and more. The general rule of thumb is that one tips between 15 and 20 percent. Tipping in the United States generates \$27 billion per year in income.<sup>35</sup>

One reason why scholars find tipping so fascinating is that people often tip servers whom they will never encounter again. Of course, if we will see a server again, it makes good sense to tip that person well. After all, if we tip poorly, the server might treat us badly next time. But in many cases, we'll never see a particular waiter or waitress again. Why bother tipping? Why not just keep the cash? We could save a lot of money this way, and there would be few consequences to us. After all, who would find out?

Certain traditional economic theories of human behavior have a difficult time explaining tipping. If there's no external sanction for not tipping well, and there's no continuing relationship between the tipper and server, then the rational self-interested person shouldn't bother tipping. Yet the majority of us tip anyway.

For those who don't, there's little that can be done to punish them for it. By the time the server finds out about the measly (or nonexistent) tip, the diner has left the restaurant. Nobody else might find out either—it's something known by the server and the tipper and anyone the server happens to complain to.

But now something can be done about lousy tippers. A website called BitterWaitress allows servers to enter information to a "Shitty Tipper Data-

base.”<sup>36</sup> It contains the names and locations of bad tipplers, the tip, the percentage, as well as a description of the tippler. The website declares:

Welcome to the Shitty Tippler Database (beta). OK, so here’s how the fun works. Very simply, you click *submit to the STD* and enter the name, total check, and tip of somebody who left you a shitty tip.

The database looks like this:

Shitty tippler	Location	# in party	Total bill / tip amount	Percentage	
[full name]	Minneapolis, MN	5	\$58.73 / \$8.00	13%	<i>Read details</i>
[full name]	Orlando	4	\$125.00 / \$0.00	< 1% you cheap fuck	<i>Read details</i>
[full name]	Los Angeles	1	\$19.00 / 0.50	2%	<i>Read details</i>

The database goes on and on. People can search the database for specific names. According to the website’s author, “A shitty tip is, by my definition, any gratuity under 17% for service which one’s peers would judge as adequate or better (e.g. Orders are correct, on time, special requests are honored, etc.)” Offenders are also offered a rare online opportunity: “If you see your name here and would like to apologize, click *submit an apology*.”

When you click “read details” in the database, you get a short narrative about each bad tippler. Here’s an example:

Tippler’s Name: [full name]

Where it happened: Virginia

Total bill / Tip amount / Percentage: \$40.93 / \$0.00 / 0%

What happened: If you get this girl, watch out! She is the type to use the excuse that you are rude to not leave a tip. I was working cocktail (by myself) the night she came in, and had just got sat with a party of 10 that wanted 10 separate checks. I brought their food out, and was particularly nice to them, and thanked them for coming in etc. In the tip space of the credit card slip, she wrote “Don’t be rude.” . . . Is this your pathetic excuse not to tip me because you are a ghetto piece of shit?? Fuck you then . . . be careful next time that there is not a big pile of spit in your stupid well done steak.<sup>37</sup>

The author of a comment about another patron gripes: “Cheap dirt buckets! Maybe they should spend a little less money on their grody tattoos and a

little more money tipping for exceptional service. Cheap, unattractive, ignorant jerks.”<sup>38</sup>

Malcolm Gladwell, author of the best-sellers *The Tipping Point* and *Blink*, found himself in the website’s database for leaving only a 10 percent tip. Gladwell denied that he is a bad tipper: “I could have sworn I was reliably in the 15-to-20 percent range.”<sup>39</sup> There is no attempt to verify the information on the website, and any server can submit a name and an entry. The website has a disclaimer that states: “Please note that all submissions are printed with minimal or no editing. We are not responsible for submissions to the [database]. Uh-uh, no way, not in the least.”

### Bad Boys Getting Their Due

Some of the new shaming websites allow women to publicly shame men who engage in bad behavior. One of these sites is a blog called Holla Back NYC, to which people submit cell phone pictures of men who make crude remarks to them.<sup>40</sup> At the top of the website are pictures of women confidently holding cell phone cameras like loaded pistols pointed at the viewer. The site declares:

HOLLA BACK NYC EMPOWERS NEW YORKERS TO HOLLA BACK AT STREET HARASSERS. WHETHER YOU’RE COMMUTING, LUNCHING, PARTYING, DANCING, WALKING, CHILLING, DRINKING, OR SUNNING, YOU HAVE THE RIGHT TO FEEL SAFE, CONFIDENT, AND SEXY, WITHOUT BEING THE OBJECT OF SOME TURD’S FANTASY. SO STOP WALKIN’ ON AND HOLLA BACK: SEND US PICS OF STREET HARASSERS!

Incidents described range from coarse pickup lines to gawking to flashing to reading porn in public.

Another website, Don’t Date Him Girl, provides a forum for women to denounce men who cheat on them. The website’s motto is “investigate before you date.”<sup>41</sup> Don’t Date Him Girl describes itself as “an online community of powerful women from around the world who choose to exercise their rights to free speech on the Internet by boldly sharing their bad dating experiences with other women.”<sup>42</sup>

The website’s mission statement offers a utopian vision:

Wouldn’t it be great if your next paramour came with a list—Secrets I’m Keeping From You? Or, how fabulous would it be if you could get all your new boyfriend’s exes in a room and cross-examine them, Gloria Allred-style? You could really learn how your new man operates. You’d have information you could use to discern whether you’re making the right choice in love. Of course, you can do a criminal

background check, but no one's invented a way to do a personality check. Is he or she attentive, caring and ambitious? Or does he cheat and lie? Is he controlling or is he a mama's boy? A criminal background check cannot answer these questions.<sup>43</sup>

The website has a database with profiles under the name of each errant man. The profiles describe the man's detestable behavior, often in great detail. Several of the profiles include pictures. The misbehavior chronicled at Don't Date Him Girl ranges from the mild to severe. For example, one entry reads:

His name is Cliff. He's a charmer. A doctor, musician, athlete, good looking guy! He is on (or has been on) Match.com, Yahoo!, AmericanSingles, JDate, eHarmony. . . .

Basically, he cannot remain loyal to one woman. During our brief dating time he gave me the impression we were exclusive. A friend of mine spotted him online and after some browsing I found him on several sites. When I confronted him he lied. He's not a bad guy but just cannot respect women. . . .

I just want to warn others not to be taken in by his initial charm as I was. Just ask him about his background with woman and about his relationship with his mother and you'll have the full picture. And lastly, he seems to be growing! Last year he was 5'11" in his profile. . . . this year he's 6'0"!

Another profile asserts:

This man should be avoided AT ALL COSTS! He lures women into his web of deceit and lies through Cupid dot com, and other online dating sites. He has a violent criminal past which includes beating up his ex wife and sending her to the hospital!

### Is There a Problem?

Should we see websites like BitterWaitress and Don't Date Him Girl as a positive revolution in norm enforcement? Perhaps the Internet enables more effective norm enforcement than people can achieve in realspace. The Internet can enable norm violators to be shamed in many instances where it would be difficult or impossible to do otherwise. Without BitterWaitress, bad tippers could continue with impunity, undetected and unpunished. Now, on the Internet, their stingy souls can be bared for everyone to see. Is this a good thing?

### THE DEATH AND REBIRTH OF SHAMING PUNISHMENTS

From Salem, Massachusetts, in the year 1674, comes this account of how one transgressor was punished:

Hannah Gray, according to one of her neighbors, was a “lying little devil.” Another neighbor said she had seen Hannah in the company of Andrew Davis, acting in a lascivious manner. A seventeen-year-old girl testified that her brother had told her how Hannah used to entice “the scoller boys” (from Harvard, presumably) and use “bawdly language.” The court ordered her to stand at the meetinghouse at Salem and later at Beverly with a paper on her head on which was written in capital letters; “I STAND HEERE FOR MY LACIVIOUS & WANTON CARIAGES”<sup>44</sup>

In the past, shaming punishments were common. The ancient Romans would brand a letter signifying the crime onto the wrongdoer’s forehead—the Latin equivalent of M for murder, V for vagrancy, and F for fighting.<sup>45</sup> Branding was also performed in colonial America. Burglars were branded on the face with the letter B, and someone who stole another’s hog was branded with an H.<sup>46</sup> Bodily mutilation was also common. As the legal historian Lawrence Friedman observes about the American colonies, “Dozens of detached ears . . . litter the record books.”<sup>47</sup>

Another popular punishment was the pillory. A transgressor was forced to stand in public with head and hands locked between two wooden boards. The device was used for dishonest merchants, libelers, adulterers, drunkards, thieves, and many others.<sup>48</sup> Women were subjected to the “ducking chair” for “scolding”: tied to a chair, the woman was dunked into a river.<sup>49</sup> Other punishments included being whipped in public, being paraded around with a sign proclaiming one’s offenses, or being forced to do humiliating labor.<sup>50</sup>

Nathaniel Hawthorne’s 1850 novel *The Scarlet Letter* provides a powerful illustration of a colonial shaming punishment. During the seventeenth century, in a small Puritan community, Hester Prynne is forced to wear the letter A stitched to her clothing as a punishment for her adulterous affair. This symbol serves as a form of public identification, “fantastically embroidered and illuminated upon her bosom,” that links her to her breach of community norms. It serves as an inescapable reminder of her past misdeeds: “It had the effect of a spell, taking her out of the ordinary relations with humanity, and inclosing her in a sphere by herself.”<sup>51</sup>

Over time, these colorful punishments disappeared. Why? One reason is that shame lost some of its power as the population expanded, as towns turned into cities, and as people more frequently moved from one place to another. In colonial times, shaming was a severe punishment. People were not very mobile in seventeenth-century America. Communities were close-knit; most people in town knew one another.<sup>52</sup> Public humiliation could be devastating in such tight communities: “Colonists both dreaded this humiliating exposure and

were repelled by the threat of enduring the judgmental, jeering eyes of community peers.”<sup>53</sup>

Urbanization and mobility changed the nature of communities. Today, in large urban areas, people are surrounded by strangers; they go about their days in relative anonymity. They can readily move to different cities and become part of new communities. These facets of modern life make it easier to escape the sting of shame.

Another reason that shaming subsided was the rise of prisons. Since there were few prisons during colonial times, other forms of punishment had to be used. The more serious crimes were punishable by execution, but for the less serious ones, shame was enough of a sanction. Incarceration provided an alternative means for punishing people.<sup>54</sup> No longer exposed to public scorn, criminals were locked away in institutions that the public rarely saw. Punishment used to be a public spectacle; now it is hidden from public view.<sup>55</sup>

Today, however, shaming punishments have returned—with a vengeance. Localities are publicizing photographs of men who solicit prostitutes. In 1997 Kansas City began broadcasting on television the names, photos, and addresses of people arrested for soliciting prostitutes. It was called *John TV*. Oakland is placing images on large billboards of people caught soliciting prostitutes.<sup>56</sup> Judges are requiring thieves to wear T-shirts referring to their crimes. Other judges have forced people to wear “brightly colored bracelets that read ‘DUI Convict,’ ‘I Write Bad Checks,’ and the like.”<sup>57</sup> In 2004 two states—Massachusetts and Rhode Island—began posting the names of delinquent taxpayers on a website.<sup>58</sup>

## THE VIRTUES OF INTERNET SHAMING

The shaming sanctions I have described are being undertaken by the government to enforce the law. Internet shaming, in contrast, is often done to punish not just violations of law but also transgressions of norms. Moreover, the Internet allows shaming not only by the government but also by everyday citizens.

Internet shaming has many benefits. Without shaming, people like the dog poop girl, the subway flasher, and the creep who harasses women in the street would often go unpunished. In a world of increasingly rude and uncivil behavior, shaming helps society maintain its norms of civility and etiquette.

Online shaming also gives people a chance to fight back, to voice their disapproval of inappropriate behavior and even of poor customer service. A

growing segment of online shaming is devoted to corporations that mistreat their customers. For example, the law professor Eugene Volokh of the popular blog *The Volokh Conspiracy* complained about the customer service he received from Dell for his laptop computer:

Dell gets the dubious honor of having given me what's likely the most ridiculously bad customer service experience I've had in years. I have a simple problem: The hard drive for my Dell notebook crashed after my computer was out of warranty. I bought a new hard drive, but now I need a boot disk for the Microsoft XP Professional operating system that I originally bought loaded onto my computer. I suspect this happens very often; there ought to be a standard procedure for it.

I've now spent over an hour trying to get this straightened out—almost all of it navigating through the voice-mail menus, waiting on hold, or being transferred to some other department. I got cut off during the transfer process twice. I've probably talked to eight different people. I was transferred to spare parts, who told me I had to talk to customer support, who then tried to transfer me back to spare parts, except at that point the call was cut off.<sup>59</sup>

The Volokh Conspiracy receives thirty thousand or more visits each day, so it would be wise for Dell to take notice. Ordinarily, if a company treats a customer badly, it takes a while for word to work its way around. But the blogosphere makes it much easier to give customer complaints some sting.

In another incident, a blogger sparked a public relations nightmare for Sony BMG after the company put hidden antipiracy software on Sony CDs that would be installed on the hard drives of users who played the disks in their computers.<sup>60</sup> Sony had been using the software for about eight months until Mark Russinovich, a computer expert and blogger, discovered it and blogged about it in October 2005.<sup>61</sup> Mark explained that the software made affected computers less secure, and his post ignited an uproar across the blogosphere. The mainstream media soon picked up the story, and Sony quickly responded by releasing a patch to remove the software.

Across the Internet, people are shaming companies into providing them better service, into fulfilling the promises of their glitzy ads that tout prompt and reliable assistance for their products. This kind of shaming allows the little guy to fight back against the big corporation rather than go through the typical channels of writing a complaint letter and getting a formulaic “we appreciate your concerns and we’ll do better next time” reply. As a spokesperson for Consumer Action declared: “To get back at people who are out to steal or swindle, shaming may be a reasonable response. . . . Anything that produces

more information, anything that penetrates this slickly manicured image, is useful information.”<sup>62</sup>

Like companies, individuals can have “slickly manicured” reputations, and shaming might expose these reputations as a façade. People might find it useful to know about the dog poop girl, for they might not want to associate with her. Shaming can thus provide valuable information to help us assess each other’s reputations.

Moreover, without the Internet shaming, people would easily be able to get away with rude and wrongful behavior. Internet shaming makes it harder for people to escape their transgressions. And people like the dog poop girl, the cell phone thief, and the subway flasher deserve to be punished. The law professor Lior Strahilevitz points out the virtues of marshaling the public to report on the infractions of others. Programs such as “How’s My Driving?” which encourage people to call a toll free number to register complaints about bad driving by truck drivers, have reduced driving accidents significantly.<sup>63</sup> Strahilevitz recommends expanding such programs to all drivers and even to other contexts.<sup>64</sup> If “How’s My Driving?” programs work well in the offline world, perhaps we should celebrate the development of similar programs online. Shaming can empower people to enforce laws and social norms that increasingly go unenforced because our vast and impersonal society allows transgressors to remain obscure and anonymous, unaccountable for their vile conduct.

## THE VICES OF INTERNET SHAMING

Although Internet shaming can have many benefits, it unfortunately also can raise some very severe problems. The primary trouble is that Internet shaming is hard to keep under control, and this fault can be particularly pernicious.

### Permanent Alienation

One of the chief drawbacks of Internet shaming is the permanence of its effects. Internet shaming creates an indelible blemish on a person’s identity. Being shamed in cyberspace is akin to being marked for life. It’s similar to being forced to wear a digital scarlet letter or being branded or tattooed. People acquire permanent digital baggage. They are unable to escape their past, which is forever etched into Google’s memory. For the philosopher Martha Nussbaum, shame is more than simply an expression of displeasure at particular acts; rather, it is an enduring reduction in social status to a lesser kind of person:

“Shame punishments, historically, are ways of marking a person, often for life, with a degraded identity. . . . Guilt punishments make the statement, ‘You committed a bad act.’ Shame punishments make the statement, ‘You are a defective type of person.’” Nussbaum contends: “Tattoos, brands, signs—these mark a person as having a deviant identity, and their role historically has been to announce that spoiled identity to the world.” For Nussbaum, shaming is too degrading to a person’s dignity for a respectable society to encourage it.<sup>65</sup>

Certain forms of temporary shaming, in which a person is humiliated for a short period of time and then reintegrated into the community, are much less problematic than everlasting shaming. Shame has a way of alienating people, inhibiting their ability to rehabilitate and reintegrate themselves into the community.<sup>66</sup> Shame creates an impulse to cover up and hide.<sup>67</sup> Perhaps the best-known image of shame is that of Adam and Eve covering themselves as they are expelled from the Garden of Eden. Shame is about hiding; it is about exile; it is about withdrawal. Shame’s tendency to lead to withdrawal and alienation makes it troubling. Without allowing a wrongdoer to reenter community life, shame becomes quite destructive. Wrongdoers are not educated or simply taught a lesson. Their reputation is wounded, and they are left without a chance to become part of the community again. People alienated from society often have little to lose and a lot of bitterness—a recipe for their continuing to engage in wrongdoing.

### **Lack of Proportionality in Punishment**

Generally, we believe that punishment should be proportionate to the crime. The problem with Internet norm enforcement is that it often spirals out of control. Offenses that deserve a mild scolding are punished with digital equivalent to branding. When someone makes a grievous mistake, he or she ought to be punished. But disproportionate punishment risks creation of an oppressive society. Even desirable norms can be enforced to an excessive degree.<sup>68</sup> Internet shaming has a tendency to become overzealous. Often the punishments don’t fit the crime, and people’s lives can be ruined for relatively minor transgressions.

Unlike the shaming of businesses, the shaming of individuals is often more difficult to ameliorate. Companies can readily reinvent themselves, and they routinely do so after their reputation suffers damage. Institutions can change their management, their personnel, and their business philosophy. We often more readily accept change in institutions than in individuals. Before online shaming, individuals could also reinvent themselves, but a tarnished reputa-

tion on the Internet is hard to escape from. Often, the information fragments about a person that appear in a search will not include the person's redemption. When shaming occurs online, it ceases to be a temporary mark of disgrace and becomes a lasting inscription of stigma. Permanent shame can be unproductive. It punishes people for longer than necessary and it prevents them from building new lives.

### **Lack of Due Process**

In medieval towns and villages, long before the dawn of police, justice would be carried out by posses. Victims would raise the hue and cry, and posses would hunt down the suspected offender and carry out punishment on the spot (typically execution). We've come a long way from those days. But Internet shaming resurrects dimensions of the posse.

Internet shaming falls outside the control of the legal system. Indeed, as Nussbaum argues, shaming involves a sanction that the state cannot entirely control:

In shaming, the state does not simply mete out punishment through its own established institutions. It invites the public to punish the offender. This is not only an unreliable way to punish, but one that is intrinsically problematic, for it invites the "mob" to tyrannize over whoever they happen not to like. Justice by the mob is not the impartial, deliberative, neutral justice that a liberal-democratic society typically prizes.<sup>69</sup>

Internet shaming is farther removed from the state's control than government-sponsored shaming punishments. In the ordinary criminal justice process, a person is innocent until proven guilty. The world of shaming works differently, as people are punished without a hearing. In one incident, the University of Colorado used a website to post surveillance photos of students and other individuals it wanted to identify for smoking marijuana on Farrand Field. It was long a tradition at the university for students to smoke pot on Farrand Field each year on April 20—a party called "420 Day." The university wanted to stamp out this tradition, so it created a website on which it posted pictures of 150 students captured in the act of smoking pot.<sup>70</sup> According to the website:

The University is offering a reward for the identification of any of the individuals pictured below. After reviewing the photos (click on a photo for a larger image), you may claim the reward by following the directions below:

1. Contact the UCPD Operations section at (303) 492-8168

2. Provide the photo number and as much information as you have about the individual.
3. Provide your name and contact information.
4. If the identity is verified to be correct, you will be paid a \$50 reward for every person identified.
5. The reward will be paid to the first caller who identifies a person below, multiple rewards will not be paid for individuals listed below.<sup>71</sup>

The website consisted of a grid of thumbnail photos that people could click on to get larger, high-resolution images. Pictures of students who were identified were stamped with the word IDENTIFIED in large capital letters.

The Farrand Field website purported to investigate “trespassers” on the field. But it really appeared to be an attempt to use shaming to try to snuff out the embers of 420 Day. Soon after the website was created, it was taken down. The reason why is unknown.

The Farrand Field website exposed students engaging in a minor infraction to being forever memorialized as drug users, and it did so even before students were convicted of any wrongdoing. Some of the students might have been smoking cigarettes; some might have just been there with friends. But their inclusion on the website implicated them.

Norm enforcers can be mistaken. There are no rules and procedures to ensure that the Internet norm police are accurate in their assessments of who should be deemed blameworthy. An example by the mainstream media illustrates the problems with mistaken attempts to shame. In one incident in 2005, a Fox News commentator gave out the home address of a man believed to have ties to the London subway bombing. The man wasn’t charged with any crime and hadn’t been officially identified as a suspect. But in any case the harm wasn’t suffered by the suspected terrorist. He had vacated the house three years before. Instead, a couple with three children currently occupied the home. After the broadcast, the Internet shaming brigade sprung into action. People posted satellite photos of the home online. They provided directions to the home. For several weeks after the broadcast, the couple was harassed and threatened. Their home was spray-painted with the word *Terrist* [*sic*]. The couple attempted in vain to contact Fox News to complain about the error. Eventually, Fox News issued an apology. A Fox spokesperson stated that the commentator was “reprimanded for his careless error.” The commentator explained that “mistakes happen” and that he had used “the best information we had at the time.”<sup>72</sup>

It is tempting to shame, especially when we are convinced that we have seen

something blameworthy. But what if we're wrong? What if we don't know the whole story? We have developed procedures in the law to protect against such errors. No such procedures exist in the world of shaming.

### Vengeance and Bullying

Some people are shamed even when they did nothing wrong. Recall what happened to the Star Wars Kid. He didn't do anything improper, yet that didn't absolve him from being shamed. Sometimes people are just mean, and a joke can get out of hand.

One person's shaming is another's personal revenge or yet another's bullying. For example, a website called Revenge World provides a forum for spurned lovers to take vengeance by writing about their exes and posting nude pictures of them.<sup>73</sup> According to the website's introduction:

RevengeWorld.com is an online community which allows its users to vent and post pictures and stories on the world wide web, viewable by the RevengeWorld.com community. This site is FREE, and will remain that way always.<sup>74</sup>

Some, but not all, of the people chronicled on Revenge World allegedly cheated during relationships. Many pictures posted are just the result of a bad breakup. Is this kind of revenge ever justified, no matter how unfaithful a person might have been? And even if you think it is justified in some cases, who determines when it is and isn't? One problem with shaming is that we can't always agree on who deserves to be shamed and to what degree. While we all agree on some norms, we don't agree on many others. Who controls what norms are being enforced?

Moreover, some forms of shaming can deter legitimate activities. Websites are emerging to create blacklists of individuals who file medical malpractice claims. One site started in 2004, Doctors Know Us, listed the names of malpractice plaintiffs.<sup>75</sup> After a *New York Times* article chronicled the plight of a man who was blacklisted at the site and had trouble finding physicians, the site was taken offline.

### How Much Shaming Do We Need?

Although Internet shaming can help enforce norms, norms can often take care of themselves without the help of external enforcement. The law professor Robert Cooter observes that norms often work through a process called "internalization"—people follow norms not because they fear external shaming by others but because they would feel ashamed of themselves if they vio-

lated a norm.<sup>76</sup> Returning to tipping, one explanation why most people tip even when there will be no penalties if they don't is that they feel as if it's the right thing to do. As the economist Ofer Azar explains, "People tip because it is the social norm; if they deviate from it they feel unfair and embarrassed."<sup>77</sup> Tipping norms work internally, and this internal pressure often suffices. Of course, for some norms, we may desire the added benefit of external norm enforcement, but for many norms internal self-enforcement works quite nicely on its own. As the law professor Lawrence Mitchell puts it, people "not only want to avoid blame, but blameworthiness."<sup>78</sup> Even if we're never caught, we can never escape from ourselves, and our internal judges are often our most stringent.

#### FROM SHAMING TO VIGILANTISM

Beyond the problems I have discussed, Internet shaming can devolve into vigilantism and violence. In 2004 two commuters in San Jose, California, became fed up with single drivers who were using carpool lanes. One morning, a driver kept tailgating them in the carpool lane trying to pass. They let him pass only to discover that he had no passengers and shouldn't have been in the lane.

At that moment, the idea was born. One of the commuters explained: "We looked at each other and said, 'Somebody ought to have a Web site and post these clowns' pictures.' Then we realized, we're a couple of Web heads. We can just do it ourselves."<sup>79</sup>

That's how Carpool Cheats came into being:

This website is dedicated to all those who abide by the rules and brave the traffic on our freeways everyday. Many of us who commute everyday aren't able to avail ourselves of the carpool (HOV) lanes for one reason or another. When I don't have passengers, I stay out of the HOV lanes and slog along at a snail's pace to get to work or home.

I've talked with hundreds of other commuters that are annoyed by those individuals that think they're above the law or better than the rest of us, or privileged . . . or something . . . and can consequently drive solo in the HOV lane.

Using a high-quality digital camera, the two commuters posted photos of carpool cheats. The photos included pictures of license plates and the faces of the scurrilous motorists.

But Carpool Cheats didn't last very long. The website's content was soon removed and replaced with this notice:

NOTICE TO OUR FAITHFUL READERS

CarpoolCheats.org website is temporarily out of service.

This is due to several threatening communications from an individual or individuals presently (but not for long) unknown to us.

We are investigating this situation with the aid of our legal advisors and the California State Bar Association, and law enforcement officials.

We wish to thank our loyal supporters and fellow commuters who continue to use the commuter lanes in the intended manner.<sup>80</sup>

On the surface, Carpool Cheats sounds like sweet justice to the people who brazenly take advantage of carpool lanes. But it involves private citizens engaging in their own form of vigilante justice. What if they're wrong about a driver and there really is another passenger—perhaps a child that they can't see? And because private citizens are taking matters into their own hands, it can incite people subjected to the shaming to retaliate in return. That's what happened with Carpool Cheats. It's what can happen any time people try to take justice into their own hands.

### The Nuremberg Files

Carpool Cheats involved enforcing norms that people generally agree with. But the Internet can also be used to facilitate vigilantism by fringe groups seeking to enforce their own norms. One of the earliest attempts at Internet vigilantism was the website known as the Nuremberg Files.<sup>81</sup> Created in 1997 by Neal Horsley, the website listed the names and personal information of abortion doctors and their families. This was part of a campaign by a group known as the American Coalition of Life Activists (ACLA) to terrorize abortion doctors. The website included data on more than two hundred individuals, including names, addresses, photographs, driver's license numbers, and information about family members, such as the schools their children attended.<sup>82</sup> The name of the site alluded to the Nuremberg trials of Nazi officials following World War II. The site listed doctors who had been wounded by antiabortion activists in grey and those killed with a line through them. Another part of the website listed the names of clinic owners and workers, and spouses of abortion doctors.

After Horsley created the website in January 1997, two abortion doctors were shot at their homes that year. In 1998 an abortion clinic in Alabama was

bombed and another doctor was killed by sniper fire at his home in New York. Shortly afterward, a strikethrough was placed through his name on the Nuremberg Files website.

Planned Parenthood and a group of doctors sued, contending that the website caused them to live in fear, to require police protection, and to wear bulletproof vests. The case went to trial in 1999. One doctor stated that he switched his driving route to work and rode in a separate car from the rest of his family.<sup>83</sup> “Every time I get a package, it makes me nervous,” a doctor declared. “It’s a creepy thing to have to live with, thinking every time, ‘Is this something I ordered or is it a bomb?’”<sup>84</sup> One doctor began to wear wigs to conceal herself in public.<sup>85</sup> A jury awarded the doctors more than one hundred million dollars in damages. The case was appealed, with Horsley and the ACLU contending that the verdict violated their right to free speech. The court of appeals affirmed, concluding that the website involved threats of violence with the intent to intimidate rather than articulating a position to debate.<sup>86</sup>

### SPIRALING OUT OF CONTROL

Shaming is an important tool for social control, yet it can be dangerous if unchecked. When people can report on the misdeeds of others, they eliminate the anonymity that often facilitates the transgressions of norms. “How’s My Driving?” programs, for example, have led to improvements in road safety. But such programs work best when under tight controls. In the “How’s My Driving?” program, complaints about drivers are investigated and drivers are given feedback, training, and instruction.<sup>87</sup>

Much Internet shaming, in contrast, occurs without any formal procedures, investigation, or direct feedback to the accused offender. As a result, Internet shaming can readily get out of hand. Because the Internet allows thousands to communicate quickly, it makes it easier to form the digital equivalent to a mob. Gustave Le Bon, in his famous 1896 work *The Crowd*, observed that crowds have a different psychology than individuals do: “A crowd is as easily heroic as criminal.”<sup>88</sup> Crowds can be impulsive and excitable. Psychologists describe a related phenomenon known as “group polarizing effect.” As groups converge on particular issues, they tend to polarize in their opinions, resulting in more extreme points of view.<sup>89</sup>

People on the Internet often move quickly, like a swarm of killer bees. They often behave in moblike fashion. In China, for example, a person used an on-

line bulletin board to shame a college student who he believed was having an affair with his wife. Readers of the bulletin board quickly exacted punishment on the student. One reader wrote: "Let's use our keyboard and mouse in our hands as weapons to chop off the heads of these adulterers." Thousands of people joined in the attack, causing the target to leave school and making his family hide away in their home. In a similar case in China, a man caught a college student having an affair with his wife. He posted the student's name online and described the affair. People quickly rallied to support the husband, providing more information about the student, including his address and phone number. The student denied the affair, even posting a short testimonial video. But the attacks didn't stop. Some people even began seeking out the student at his school and home. The husband was so surprised by the quick and vigorous reaction that he came to the defense of the student and urged a halt to the vigilantism. One of the shamers proclaimed: "What we Internet users are doing is fulfilling our social obligations. We cannot let our society fall into such a low state."<sup>90</sup>

The shamer's explanation for attacking another person, somebody he probably didn't even know, stems from a belief that shame is necessary to ensure social order. Without the threat of shame, people would transgress norms, making society less orderly and civil. But as some of these incidents demonstrate, although shaming is done to further social order, it paradoxically can have the opposite result. Instead of enhancing social control and order, Internet shaming often careens out of control. It targets people without careful consideration of all the facts and punishes them for their supposed infractions without proportionality. Shaming becomes uncivil, moblike, and potentially subversive of the very social order that it tries to protect.

## Notes

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