

**The Indiscriminate Release of Public Records to the Public during the  
Information Age: How Mug Shots Are in Danger of Having Their Purpose  
Permanently Supplanted in the United States and Potentially Everywhere**

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**09 June 2010**

“In my opinion, it ought to be made a misdemeanor for the Police Department to photograph or measure a man merely *charged* with a crime.”

– *Alfred E. Ommen, 1905*

For many of us information is, more literally than figuratively, at our fingertips. If we want something we can now obtain it with such ease that we sometimes mistake our ability to access it with the right to use it. A prominent example of how American society can have, due to the recent radical change in our ability to effortlessly access information, an ethical lapse of judgment is the story of the mug shot.

### **Events Leading up to Now**

In order to understand how fundamentally malformed mug shots have become, it is important to reiterate why they began, and some of the events that led them to become what they are now. The primary audience and motivating factor behind the creation and use of mug shots is for identification purposes by law enforcement agencies and other appropriate parts of government (see Appendix A: Brief History of the Mug Shot). Even though the primary audience for mug shots is law enforcement, the public can be a secondary audience when there is a newsworthy need (see Appendix B: Mug Shots Transition to the Public Eye). When early newspapers accompanied crime stories with mug shots of infamous desperados, they saw a boost in circulation (Blume). The intended use of mug shots was already being distorted by turning it into another form of entertainment. Rather than serving only to help identify or warn the public, “the

outlaw became a popular hero. Whether it was from a sense of voyeurism or *schadenfreude*, the public found mug shots unequivocally entertaining to view, as many still do today.

Until recently, the actual use of mug shots remained relatively unchanged. Unless the arrestee was a celebrity or had been charged with a newsworthy crime, about the only time the public would likely see a mug shot would be if shown by police looking for a suspect. Meanwhile, there were advances in technology that led to the internet, World Wide Web, and organizations like Google and the ability to access information that repository of data from even your mobile phone. Before these technologies, a reporter would need to physically go down to the local courthouse or police department to obtain a mug shot for their story; now they only need to have the clerk send an email with the image attached. Not only was it convenient for the reporter, but the clerk and their organization felt the benefit as well, and perhaps wondered how else they could use these new technologies to their advantage.

### **Mug Shots in the Information Age**

Several distinct styles-of-use of the mug shot have emerged from the adaptation of these new technologies by different organizations for their own purposes, many of which now post mug shots online. In order to understand why these public records are being published and used more freely than ever before, it is important to understand the motivations and intent of these organizations.

*Is My Friend / Family Member/ Loved One in Jail? - Style of Use*

One way law enforcement agencies are using mug shots online is typified by the way the Denton Police Department in Denton, TX uses their City Jail Custody Report webpage. The page provides full name, date of birth, arrest date/time/charge, and of course mug shot (“City Jail Custody Report”). According to their disclaimer, “its intended use is to provide citizens the opportunity to identify current jail inmates, and determine their location, bail/bond status, visiting requirements, and associated booking information” (“Jail Custody Report Disclaimer”). While the idea behind this style of use is considerate, in that it aims to help those acquainted with the arrestee expedite the retrieval of information they might have had to wait for in-person or over the phone, it crosses a line overlooked by many today. As an example, I have a hard time believing they, and the many other agencies across the U.S. that also provide this ‘service’, would post this kind of information on billboards across town / state / world for the same reasons they provide them on their website. What seems to be overlooked is the reality that this is de facto what occurs when we put something online. Whereas before you had to actively ask or visit the station for information, passively putting the information on a public webpage makes it available to *anyone anywhere*.

*Public Shame, Deterrence and Punishment – Style of Use*

While some departments are simply trying to make their information more accessible, others are proactively trying to repurpose the mug shot as a tool

against crime. Some psychologists would argue public shame, which is the mode of punishment employed when you display mug shots on a 'virtual wall of shame', is actually counterproductive:

“In response to public humiliation or challenges to status and social reputation, people may resort to violence and even murder ... today in our research on homicidal ideation ... we find that the most frequent triggers of homicidal fantasies are status related.” (Buss 229)

While posting someone's mug shot may not cause such a drastic reaction, it may still “evoke feelings of rage and depression” (Buss 692), and potentially lead to unintended reactions. Another way of putting it might be, why do we no longer put people in pillories?

For the sake of argument, however, let us assume using mug shots as a deterrent worked in one hundred percent of all cases, not to mention the fact “punishment for a crime ... [ought to be] between a criminal and his or her prosecutor, even where public safety is involved” (Ahmad). It is important to realize “as soon as a law enforcement agency presents its online rogues' gallery as a form of deterrence, it transforms the pictures into a form of punishment as well” (Beato). The designers of this method of deterrence – of *punishment* – might ask themselves, “if there's a chance that the people on display there haven't committed a crime, why are they being punished” (Beato)? If that weren't bad enough, even if you only use convicted people's photographs, has not the public display of all mug shots been affected? Though it's not the intention of the design,

could not the mug shots on the Denton Police report page be considered a form of punishment as well? When discussing a recent decision by the Honolulu Police to post mug shots of DUI suspects online, attorney Pat McPherson said, “there may be a good intent here, but it doesn't necessarily make it a good thing” (Niesse). During the design process, for anything, one must weigh all the conceivable consequences of bringing a thing into creation.

*Entertainment / Commercial Gain – Style of Use*

Numerous newspapers and magazines have slipstreamed mug shots of local arrests into their publications: the St. Petersburg Times [the infamous [mugshots.tampabay.com](http://mugshots.tampabay.com)], The Palm Beach Post, and many others. Many times the images aren't associated with a story, so why are they publishing them? Simply put, “like television networks opting for cheaply produced reality shows, the newspaper sites believe they've found their cash cow” (Padgett). When the press first used mug shots, they saw a boost in circulation. Now, when many are struggling in the digital age, they have remembered that lesson and are using it to try and stay afloat:

“It's a huge traffic driver for us,” says Roger Simmons, digital-news manager for the Orlando Sentinel, where mug shots garner about 2.5 million page views a month, 6% of the site's total. The Palm Beach Post estimates its online police blotter, which streams its own ads, drew half of the site's 45 million page views in May. (Padgett)

Though both freedom of the press and the Freedom of Information Act are good things, many are exploiting them for their own commercial gain – not to mention the seemingly blatant disregard of the privacy protecting exceptions in the FOIA by the agencies releasing mug shots in the first place (see Appendix C: Exceptions to the Freedom of Information Act). In addition, as before, by publishing mug shots of the non-convicted, the potentially innocent are being punished – unless of course we no longer care about innocent until proven guilty.

### **The Indiscriminate Release of Public Records to the Public during the Information Age**

So what's the big deal with posting mug shots, or really anything, online? They can always put a disclaimer. It's only up for 24 hours. Sometimes it's only there for a few minutes. They can always take it down. The information on *their* site is under *their* control ... isn't it? The radical change most people haven't gotten used to yet is: when you put something online, *it goes out of your control and out in to the world forever*. No matter what length of time it's there or if you decide to take it down later, search engines and web crawlers could archive it and allow it to be found again indefinitely.

#### *Unintended Consequences*

Obviously releasing this kind of information can have consequences that far exceed the original intention. Unless we are also thinking about bringing back the practice of branding as punishment, what happens after a convicted person serves their sentence? An often cited court case says, "As in the cliché, a picture is

worth a thousand words. For that reason, a mug shot's stigmatizing effect can last well beyond the actual criminal proceedings" (Times Picayune). Even if the records are sealed or expunged, if the information was at one time online "a Google Image Search yielding one of these mug shots can cause potential employees, students, or public figures their positions" (Ahmad), going beyond the original intentions.

Perhaps the information age and its technologies, with all the conveniences they bring, have allowed us to become lazy and lax. The feeling of today seems to be: if you can simply publish all your information and avoid the time dealing with the proper paperwork, why not? Unfortunately, that has led many of us to confuse the ability to obtain something with the freedom to use it without restriction or ethical consideration. Whether or not the practice of indiscriminately releasing this kind of information stops, it is our moral obligation as business people / designers / human beings to consider the implications of our designs before choosing to release them upon the world.



“Where the photograph is taken of a prisoner who is subsequently discharged upon trial, the photograph and the records ought to be destroyed; because, if the man is innocent, there is no reason why his picture and measurements and pedigree and the crime with which he was charged should be open to the public gaze. The Rouges' Gallery is a public record. The man has committed no crime, for a jury of his peers have said so. In my opinion, it ought to be made a misdemeanor for the Police Department to photograph or measure a man merely *charged* with a crime. That ought to be done only after he is convicted, and should form part of the records in the Police Department of convicted criminals.”

– *Alfred E. Ommen, 1905*

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## **Appendix A**

### *A Brief History of the Origin of the Mug Shot*

With the advent of photography in the mid-19<sup>th</sup> century, experimentation began on how to use photography, along with other biometric data, for forensic identification. In 1879, Alphonse Bertillon, a police worker, put together a system of techniques for algorithmic identification that eventually evolved into our modern day crime-scene photography, identity photographs [e.g. driver license, passport], and of course the mug shot (Blume).

## **Appendix B**

### *Mug Shots Begin Their Transition to the Public's Eye*

If the principal intent behind mug shots is to identify, what led to their vast promulgation all around us today? Perhaps it started by supplanting artist sketches on wanted-posters of the day, which would logically follow considering the main purpose of the mug shot is to aid in identifying some person. This too would explain why mug shots are commonly companion to crime related news stories in the press.

### **Mug Shots as Entertainment**

Victorious Roman gladiators, kings and queens, and Lindsay Lohan to name just a few, one of the consistencies of human nature throughout recorded history would have to include our interest in celebrities. The near universal interest in celebrities makes them newsworthy, and hence their mug shots too. Unfortunately, this helps blur the line between newsworthy and entertainment.

## Appendix C

### *Why Are the Exceptions to the Freedom of Information Act being Ignored?*

The following are excerpts from the Department of Justice Guide to the Freedom of Information Act:

- Personal privacy interests are protected by two provisions of the Freedom of Information Act, Exemptions 6 and 7(C).<sup>1</sup> Under the FOIA, "privacy encompass[es] the individual's control of information concerning his or her person."<sup>2</sup> Exemption 6 protects information about individuals in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy."<sup>3</sup> Exemption 7(C), discussed below, is limited to information compiled for law enforcement purposes, and protects personal information when disclosure "could reasonably be expected to constitute an unwarranted invasion of personal privacy."<sup>4</sup> ("Department of Justice Guide to the Freedom of Information Act")
- (protecting the mug shot of a prominent individual despite wide publicity prior to his guilty plea, and observing that a "mug is more than just another photograph of a person") (Exemption 7(C)). ("Department of Justice Guide to the Freedom of Information Act")
- Exemption 7 of the Freedom of Information Act protects from disclosure "records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information

(A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual."<sup>1</sup> (“Department of Justice Guide to the Freedom of Information Act”)

## Appendix D

### *Visual Examples of Mug Shot (Mis)Use*

# The Palm Beach Post

Close



Back 4 / 256 Next

Dec. 9th, 8:51 p.m., William D  
Petronella - Charge(s): 322.34  
Nonmoving Traffic Viol-Drive  
While Lic Susp 1st Off

More information on these  
charges

Search our Florida Criminal  
Charges database

v2.0

Use by newspaper. <http://www.palmbeachpost.com>

Close



tampabay.com

# Mug Shots

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*Obama Asks Moms To Return to School*

**Financial Aid Available to Those Who Qualify**

Subject	Accounting	Construction	Cosmetology	Criminal Justice	Culinary Arts	Dental Assistant
Final	A+	B	A	A	A+	B-


Select Your State:

Alabama ▼

**GO** **GO**


**Meet 195 people** who were booked in the last 24 hours in Pinellas, Hillsborough, Manatee and Pasco counties.

3:50 p.m.




Nesser Nakleh

3:48 p.m.



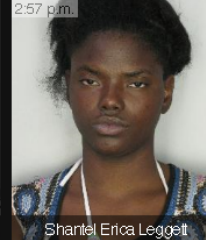
Antonio Huerta

3:04 p.m.



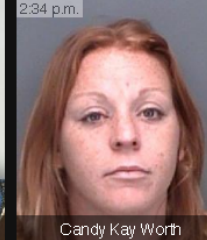
Shawn Harold Peck

2:57 p.m.



Shantel Erica Leggett

2:34 p.m.



Candy Kay Worth

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BOOKING COUNTY		HEIGHT	
Pinellas	6653	Under 5 feet	107
Hillsborough	6526	5-0	207
Pasco	1870	5-1	250
Manatee	1710	5-2	539
		5-3	596
		5-4	831
		5-5	954
		5-6	1338
		5-7	1469
		5-8	1517
		5-9	1475
		5-10	1483
		5-11	1357
		6-0	1419
		6-1	832
		6-2	664

GENDER	
Female	4147
Male	12612

AGE	
Under 20	1158
20-25	3716
26-30	2699
31-35	1865
36-40	1696
41-45	1502

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- Jordan Valdez: No jail time for Tampa teen (November 26)
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- Stiffer charges in hit-run (November 23)

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The information presented here as a public service is gathered from open county sheriffs' Web sites in the Tampa Bay area. The booking mug shots and related information are from arrest records in the order and at the time the data was collected. Those appearing here have not been convicted of the arrest.

Use by newspaper. <http://mugshots.tampabay.com>



## Denton Police Department City Jail Custody Report

If you have any questions please review the [FAQ](#) section.  
Click [here](#) to see the disclaimer.  
This listing is updated with each visit to this webpage.

Name	DOB	Arrest Date/Time Charge	Mug Shot Bond/Fine	Bond Amount
HARDAWAY, CHRISTOPHER	08/01/1987	12/10/2009 16:18:57		
		DPD/THEFT OVER 50 UNDER 500	To Be Determined	
KIRKLAND, JEREMY	11/16/1981	12/07/2009 11:51:01		
		DPD / DRIVING WHILE LICENSE INVALID	FINE	\$694.00
		DPD / FAIL TO MAINTAIN FINANCIAL RESPONSIBILITY	FINE	\$544.00
		DPD / SPEEDING 61/45 MPH ZONE	FINE	\$427.00
		DPD / DRIVING WHILE LICENSE INVALID	FINE	\$694.00
		DPD / FAIL TO MAINTAIN FINANCIAL RESPONSIBILITY	FINE	\$544.00
		DPD / SPEEDING 67/45 MPH ZONE	BOND	\$452.00
DPD / DRIVING WHILE LICENSE INVALID	BOND	\$719.00		

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*Use by Denton Police Department. <http://gisweb.cityofdenton.com/jailreport/>*

The screenshot shows a twitpic profile for 'DentonPolice'. The profile includes a header with the twitpic logo and navigation links (Home, Public Timeline, Upload photo, Settings, Logout). Below the header is a profile picture of a map of Texas and the name 'DentonPolice'. The main content area displays three mugshots with associated text:
 

- 12/10/2009 16:18:57 | 22 years old | THEFT OVER 50 UNDER 500
- 12/10/2009 14:29:50 | 21 years old | Bond: \$214 | ARLINGTON PD WARRANT / NO SEAT BELT - PERS OVER 15
- 12/10/2009 11:16:33 | 20 years old | Bond: \$377 | County Record: http://tinyurl.com/y96e1js | SPEEDING 84 IN A 60 MPHZ
- 12/10/2009 10:12:16 | 43 years old | ASSAULT CAUSES

 On the right side, there is an 'About' section with fields for Name (Unofficially Denton), Location (Denton, TX), Web (http://brianbaugh.com/fine-art/mugshots/), and Bio (The unofficial Denton arrests twitter for Denton, Texas. Programmed by a UNT art photography student, drawing attention to how much public info we put online.). Below this is a 'Stats' section and a 'Photos' section with links for Comments and Tags. At the bottom right, there is a vertical list titled 'I Want to Become a...' containing various professions such as Criminal Investigator, Police, Therapist, Graphic Designer, Social Worker, Teacher, Detective, Project Manager, Manager, Accountant/CPA, Forensic Scientist, Psychologist, Child Caretaker, Bounty Hunter, Paralegal, HR Officer, and Patient Advocate, each with a small icon and a checkmark.

*Example of the possible automatic reposting of information.*

<http://www.twitter.com/DentonPolice> and

<http://www.twitpic.com/photos/DentonPolice>