TITLE

Pursuing Justice Online: Citizen participation in justice via social media.

ABSTRACT

Rapid developments in information and communications technologies have transformed the capacity of communities to engage with local crime events and justice responses. Significantly, user-generated material shared via social media has the capacity both to assist and disrupt law enforcement efforts and other justice responses in relation to these crime events. Yet, despite an established and growing field of research within criminology that focuses on technology-enabled *crime*, there is a dearth of scholarly work that considers the *justice* implications of communications technologies. This paper explores the nature and implications of citizen participation in both formal and informal justice responses via social media, and proposes directions for future research.

INTRODUCTION

Rapid developments in information and communications technologies (ICTs) have transformed the capacity of communities to engage with local crime events and justice responses. Participatory online networks, such as social media sites, and platforms designed for sharing user-generated content enable citizens to: record and post their own witness

accounts of criminal activity; to share information about crime events, alleged offenders, and/or police operations within peer groups and online communities; and to mobilise community action to seek both formal and 'informal', or non-State sanctioned, justice in response to alleged crimes. Significantly, such material shared via social media has the capacity both to assist and disrupt law enforcement efforts and other justice responses in relation to these crime events. Yet, despite an established and growing field of research within criminology that focuses on technology-enabled *crime,* there is a dearth of scholarly work that considers the *justice* implications of communications technologies.

In this paper, I briefly set out a rationale and research proposal for exploring the nature and implications of citizen participation in both formal and informal justice responses via social media. This paper draws on early work towards a larger project, which seeks to investigate the ways in which citizens' are using social media technologies to respond to crime events and seek justice, as well as the legal, ethical and justice dilemmas that are raised by such citizen participation.

BACKGROUND

To better understand the justice implications of recent transformations in ICTs, it is useful to briefly consider the ways that social media in particular may enable *citizen-led* and *participatory justice* online. Social and 'new media' are typified by the publication of user-generated content, whether text or imagery, and vary in form across longer blog formats (such as Tumblr, WordPress or Blogger), social networking profiles (such as Facebook or Google+), video and image-sharing platforms (such as YouTube, Instagram, or Flickr), and

micro-blogging networks (such as Twitter). The new media is equally typified by its 'many-to-many' and 'two-way' networks of interaction as opposed to the 'few-to-many' and one-way or hierarchical generation of content that defines traditional or 'old media' (Yar 2012a; see also Miller 2011). Media and legal scholars, political scientists and sociologists have variously studied these changes in the nature of communications with the advent of user-generated and, in particular, social media. Such user-generated and participatory media has described as either promoting or threatening democratic citizen participation in public life (e.g. Loader & Mercea 2011; Morozov 2011); exposing state crime such as in cases of police brutality or military misuse of force (Reilly 2013); facilitating revolutionary action against autocratic government regimes (Christensen 2011); supporting police investigations and evidence gathering (Williams et al 2013; Trottier 2012); monitoring communications of suspected terrorist networks by the State (Oh et al 2011); and aiding crisis responses during natural disasters (Bruns et al 2012). These analyses traverse disciplinary boundaries including politics, law, criminology, sociology, computer sciences, media and cultural studies.

At the same time, social scientists have discussed both the impact that our increased participation and *visibility* online has on our *vulnerability* to victimisation (Yar 2012a); and the emergence of new cultures of *crime representation,* which include representing ones' own engagement in criminal behaviours (Carrabine 2013; Yar 2012b; Young 2012; Hayward 2010) and managing representations of State responses to crime (e.g. Lee and McGovern 2012). Indeed, 'cyber' or 'e-crime' are increasingly important areas of interest and study. They refer broadly to criminality that is facilitated or enabled by Information and Communication Technologies (ICTs). Many scholars have engaged in both applied and

theoretical considerations of the ways in which changing technologies have driven

transformations in patterns of online offending and victimization (e.g. Wall 2007; Jewkes

and Yar 2010; Yar 2012a). The focus of such research covers a wide range of criminal activity

including; fraud and identity-based offences, theft and financially-based offences, online

black markets for illegal goods and services, computer system access and surveillance

offences, sex-trafficking, child exploitation material, and violence against women.

CONCEPTUAL FRAMEWORK: **TECHNOLOGY MEDIATED JUSTICE**

Information and communications technologies are of course not merely tools that may be

applied for different strategic purposes, such as in technology-enabled crime. As Majid Yar

(2012a; 2012b) and Levmore and Nussbaum (2010) have noted, such technologies also

facilitate new cultures and social practices:

> If we understand the Internet not as a technology per se, but as a shifting set of
>
> *technologically enabled social practices,* we begin to grasp how changes to the online
>
> environment (how it works and how people habitually use it to engage with others)
>
> can reshape patterns of crime and victimisation (Yar 2012a:207, emphasis added).

Building on this research, social media users can be viewed as active participants in what I

refer to as a context or society of increasingly 'technology mediated justice'. In using this

term I seek to capture the myriad of ways in which social and 'new media' communications

have the potential both to facilitate and disrupt justice processes and responses.

Indeed, while there is a burgeoning of scholarly work on the implications of ICTs for cyber *crime*, few studies have considered the potential *justice* implications of citizen online participation in justice processes and responses through social media and networking platforms. Indeed, with the exception of several ongoing studies examining jurors' use of social media during criminal trials in Australia and internationally (Bartels and Lee, 2013; Johnson et al, 2013; Krawitz, 2012), to date few studies have explored the ways in which social media has enabled new online modes of citizen participation in justice processes and responses online, nor the implications of these emerging practices for State agencies.

Citizen participation in justice, as it is used here, refers not only to citizens' interaction with formal criminal justice processes by police and through the courts, but also informal justice sought in public and counter-public online spaces and communities via social media. For example, citizens' may participate in justice processes by posting video or photographic footage and bystander accounts of a crime event that may, in turn, prove useful to police investigations (Reilly 2013; Trottier 2012). Citizens may share and re-post information about a crime event, both as it unfolds and in the aftermath, through extensive online networks and communities. Such information sharing has the potential both to assist and disrupt police investigations and operations, as sensitive information such as police locations, or identities of suspects as well as misinformation, may be widely circulated. Citizens' online communications can also extend to vigilante behaviours such as the naming and/or shaming of alleged offenders during police investigations or leading up to a trial (such as in the high profile 'roastbusters' case in New Zealand, and the murder of Melbourne woman Jill Meagher), as well as calls to mobilise community and political action (such as in the 'one-punch' death of Thomas Kelly in 2012, or the alleged police brutality during the 2013 Mardi

Gras in Sydney). Such informal justice responses can in turn threaten the rights of accused

persons and lead to justice concerns at a subsequent trial, as well as contributing in varying

ways to political and legal responses to these crime events.

In short it is in this technology mediated justice context that social or new media may be

variously employed as: tools to assist *conventional justice responses* (such as in police

investigations and as evidence in court); mechanisms that facilitate citizen-led, non-State

sanctioned, or *informal justice responses;* and social practices that, whether intentionally or

incidentally, *disrupt formal justice processes* and threaten the rights and/or due process

protections of accused persons.

Technologically mediated justice environments also present challenges, both practical and

conceptual, that are relevant to studies in criminology and sociology, as well as to Australian

society more broadly. For instance, cross-jurisdictional issues present a practical barrier to

the enforcement of legislation, such as for violating a court suppression order, or

defamation of an accused for example, where social media commentators reside in a

different jurisdiction to the target of their posts. Furthermore, the sheer volume of

potentially damaging or libelous content posted and re-posted via social media makes

enforcement against every violation impractical.

Conceptually, however, citizen participatory justice via social media also raises broader

concerns about the rights of individuals to their private views and opinions at a time when

these are now routinely expressed in online 'public' or 'quasi-public' spaces; and indeed,

dilemmas over the role of State regulation of social media content in a context where the

distinction between 'private' and 'public' speech is increasingly blurred (e.g. Van Dijck 2013). At the same time, and of particular interest within criminology and sociology, the capacity for monitoring of individuals' social media data by agencies of the State raises broader social concerns regarding the expansion of State surveillance in societies. Meanwhile, social media communications also increase the potential for peer-to-peer monitoring or 'lateral surveillance' (e.g. Reeves 2012), which may constitute new modes of *governmentality* (or the practices through which citizens/subjects are governed, e.g. Rose et al 2006).

DIRECTIONS FOR FUTURE RESEARCH

There is at present a clear gap in scholarly work that considers the nature and implications of citizen participation in both formal and informal justice responses via social media. This paper has presented the background to development of a larger project that seeks to investigate: in what ways citizens' are using social media technologies to respond to crime events and seek justice, and what legal, ethical and justice dilemmas are raised by such citizen participation?

In order to examine the circumstances and nature of citizen participation in crime events via social media, a content analysis is proposed of material shared via two popular social networking platforms: Twitter and Facebook. Social media content analysis is an emerging technique within social research (e.g. Bruns & Stieglitz 2013; Proctor et al 2013; Margetts & Sutcliffe 2013). Yet, the sheer volume of content on social media makes broad searches, sampling and analysis impractical; according to Twitter, on an average day there are over

5000 tweets per second (TPS) and more than 500 million tweets in a day (Krikorian 2013). This component of the project will focus sampling and analysis on three past crime events, taking place in Australia in the period 2012 to 2014, which have drawn significant local social media attention. Namely, the rape and murder of Melbourne woman Jill Meagher in 2012, the 'one-punch' death of Thomas Kelly in 2012, and the alleged police brutality against Jamie Jackson during Mardi Gras in Sydney in 2013. The sample will also include up to two further Australian crime events that take place during the study period itself.

A second study component will consultations and a survey of social media users about their engagement with crime events. Using a Twitter and Facebook account set-up for the purposes of the study, I will invite social media users to provide short, qualitative descriptions crime events they have posted about and why. This is a method which has been used in other discipline areas to gauge the motivations and perceptions of social media users (e.g. Marwick 2011; Sweetser & Kelleher 2011). Preliminary analysis of these responses will assist in the development of a subsequent online survey, which will aim to capture the motivations and perceptions of social media users across key themes including: what crime-related issues or topics they've posted about; what their motivations were; what they perceive to be the impact of their contributions (if any); their attitudes towards the online community's role in justice; and what their understanding is of potential legal consequences of social media communications about ongoing criminal matters. Social media users will be recruited to participate in the online survey through promotion via the project social media accounts. The survey sample will provide key insights into the motivations and perceptions of those who have engaged in social media communications in relation to crime events. Follow-up phone and/or face-to-face consultations with key

'influencers' (high volume and impact twitterers) identified during the social media data analysis will provide further depth of qualitative data to this study component.

Finally, a review of relevant legislation and key stakeholder consultations will further inform analysis of the implications of citizen participation in crime events via social media. The stakeholder interviews will not focus on the crime events identified above per se, but rather will be designed to identify the broader challenges and concerns of police, state prosecutors, defence counsel and legal advocacy groups.

CONCLUSION

While the capacity for citizens to participate in formal and informal justice responses is not new, the nature and impact of these practices is significantly changed in the context of communications and new media technologies. Further research, such as that proposed here, is needed to extend our understanding and respond to the emerging policy challenges in this technology mediated justice society.

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