

Judge Poe

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A drunken driver is ordered to carry in his wallet pictures of the people he killed. A wife-beater must apologize to his victim from the courthouse steps, with cameras rolling. A shoplifter is forced to pace outside the market from which she pilfered, wearing a huge sign that brands her a convicted thief.

It is justice by sandwich board, tearful apology and posted placard, the modern versions of the stocks and scarlet letters of colonial times. A small but attention-getting group of judges across the United States, fed up with a revolving cast of drug buyers, drunk drivers, johns and shoplifters who never seem to get the message, has been sentencing criminals to shame. They hope public humiliation succeeds where jail habitually fails. "I think this type of sentencing is important," says Ted Pole, a Harris County, Texas, district judge who has become nationally known for what he calls "public punishments." "The people I see have too good a self-esteem," he says. "I want them to feel guilty about what they've done. I don't want 'em to leave the courthouse having warm fuzzies inside."

Daniel Alvin of Riceboro, Ga., didn't. He was convinced of theft for running a bogus fund-raising scheme in 1996. Rather than spend six months in jail, Alvin chose a judge's alternative, which requires him to walk through a square next to the Liberty County courthouse wearing a sandwich board that declared: "I AM A CONVICTED THIEF." It was a choice he may now regret. Alvin was so frustrated by the attention his sentence drew that he recently hung up on a reporter who called to ask about it.

"You don't know how many reporters have harassed me over this," Alvin said when called a second time. It's over. I just put it behind me."

Poe says of the 59 shaming sentences he's given out in the past three years, he knows of only two offenders who have been arrested again.

Poe's interest in humiliating criminals started when he sentenced a man who had beaten his wife. "It was obvious she was embarrassed by his conduct and he was not embarrassed by his conduct," says the judge. He forced the man both to serve jail time and to apologize to his wife in public.

"After he did that," says Poe, "he was humiliated, and he didn't like it at all."

After Poe ordered a shoplifter to advertise his crime outside the store from which he'd stolen, the judge got calls from the store manager saying theft had gone down. Mothers brought their children to see the pacing criminal as an example. And the offender himself, who has since moved to another state, wrote to the judge to say the shaming, in the long run, was the best thing that ever happened to him.

"In the right cases, it does work," Poe says.

In Texas, where judges have no sentencing guidelines, Poe's sentences have not been challenged. The Illinois Supreme Court, however, overturned a judge's requirement that a farmer convicted of battery post a sign on his property that said; "Warning! A violent felon lives here. Enter at your own risk!" The court found that the sign was "unreasonable" and "maybe counterproductive to the defendant's rehabilitative potential." Courts in Tennessee and New York have made similar rulings.

The feelings of the judges who like to shame offenders contrast markedly with those of some academicians, who find shaming irrelevant at best and repugnant at worst. R. Dean Wright, a Drake University sociology professor who has studied public perceptions of crime and punishment, says shaming tends to work only for the diminishing number of criminals who still care what their community thinks of them—older, middle-class shoplifters, for example.

Among young people in some urban communities, he says, the opposite is true: “One gains a lot of status for having been in prison.” “I just can’t see it making any real difference,” he says. “What you’d have to do is find those things that mean something to the kid, to see the world through their eyes.” Still, Wright admits to scanning the list of suspects arrested for drunken driving that are published weekly in his local newspaper. Yale Law School professor James Q. Whitman says there’s a different problem with shaming—not what it does to the offender, but what it may inspire in the rest of us. Historically, shaming punishments have included violence to the criminal—flogging, branding, and dunking, Whitman wrote in a recent essay for the Yale Law Journal. While today’s sanctions are much milder, without any express violence, they can provoke violent attitudes, the professor says. “I would call it a variety of lynch justice. As people used to say in the nineteenth century, it brutalizes the public,” he says. “I think it’s not right in a modern civilized state that you encourage people to act that way. We must in the long run ask ourselves why these things were so prominent in the world of Mao and the Nazis.”

Indeed, laws requiring sex offenders to notify authorities of their whereabouts – and allowing police departments to distribute fliers warning a neighborhood of a resident who had committed such crimes—have been passed in a number of states and have at times sparked violence.

In Washington, one of the first states to enact such a law, a sex offender’s home was set ablaze a few hours after a community meeting protesting his release from prison. In another neighborhood, eggs were thrown at the home of a grandmother of the ex-convict, and relatives received death threats.

Poe, the “shaming” judge, says his sentences have created no such problems, and opines that those who worry about the long-term effects of shaming don’t have much experience with the flood of offenders streaming through America’s court rooms. “I think those comments are spoken by someone who doesn’t deal in the criminal justice area,” Poe says.