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INTRODUCTION

Every school year, University of Rhode Island students overwhelm the sand-ridden neighborhoods of Narragansett, and their considerable presence does not go unnoticed.[1] The student residents typically stake their claim in the otherwise quiet neighborhoods until the end of May and the dissatisfaction of the year-round Narragansett residents is no secret.[2] Disgruntled town residents brought their concerns before the town council and, in response, the town enacted a municipal ordinance to control and ultimately ban the students' so-called "unruly gatherings."[3] The ordinance serves as a scarlet letter of sorts,[4] requiring that violators display an orange sticker on the face of their rental

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1. Sheree R. Curry, *Noisy Neighbors Get Noticed in Narragansett*, AOL REAL EST. (Jan. 11, 2011, 5:07 PM), http://web.archive.org/web/20150908115822/http://realestate.aol.com/blog/2011/01/11/noisy-neighbors-get-noticed-in-narragansett.

2. *See* URI Student Senate v. Town of Narragansett, 707 F. Supp. 2d 282, 288 (D.R.I. 2010) ("The Town Council blames student renters for throwing rowdy parties that encourage lawbreaking, such as underage drinking and fighting.").

3. *Id.* *See* NARRAGANSETT, R.I., CODE ORDINANCES ch. 46, art. 2, § 32 (2007) [hereinafter Ordinance], http://www.narragansettri.gov/DocumentCenter/Home/View/151.

4. The phrase "scarlet letter" is derived from Nathaniel Hawthorne's classic of American literature. *See* NATHANIEL HAWTHORNE, THE SCARLET LETTER (Thomas E. Connolly ed., Penguin Classics 2015) (1850).

property for the remainder of the year.[5]

Aggrieved student residents challenged the constitutionality of this ordinance in state court, seeking relief from the colorful repercussions that the ordinance imposes.[6] In *URI Student Senate v. Town of Narragansett*, the students asserted that the ordinance was unconstitutional on several grounds, including that it violated the notice and opportunity-to-be-heard requirements of procedural due process.[7] After removal to federal court, both the United States District Court for the District of Rhode Island and the United States Court of Appeals for the First Circuit held, seemingly reluctantly,[8] that the ordinance was indeed constitutional under the controlling standard for procedural due process—the "stigma-plus standard."[9] Developed by the Supreme Court of the United States, the stigma-plus standard provides that harm or injury to an individual's interest in reputation, even when inflicted by an officer of the state, "does not result in a deprivation of any 'liberty' or 'property' recognized by state or federal law" and, therefore, does not invoke the constitutional protection of the due process clause.[10] In short, under the stigma-plus standard, harm to reputation alone is insufficient to invoke due process protection.[11] To satisfy the "plus" of stigma-plus standard, the harm to reputation must be paired with proof that steps taken by "a government actor adversely impact[ed] a right or status previously enjoyed under state law."[12]

5. *URI Student Senate*, 707 F. Supp. 2d at 289. Notably, the District Court "agree[d] that receiving an orange sticker might be humiliating." *Id.* at 297.

6. *Id.* at 290–91.

7. *Id.* at 291.

8. *Id.* at 302 ("[T]he result sits uneasily with the Court"); URI Student Senate v. Town of Narragansett, 631 F.3d 1, 11–12 (1st Cir. 2011) ("Let us be perfectly clear. We, like the district court, are uneasy about the absence of a hearing.").

9. *URI Student Senate*, 631 F.3d at 11–12 ("[T]he appellants have failed to demonstrate . . . that any of the incremental harms to which they point in the hope of satisfying the requirements of the stigma plus standard inevitably results from the Ordinance's implementation."); *URI Student Senate*, 707 F. Supp. 2d at 303 ("The Court is at a loss for any way to put Plaintiffs' injuries into a legal box other than purely reputational harms.").

10. Paul v. Davis, 424 U.S. 693, 712 (1976).

11. *See id.*

12. Pendleton v. City of Haverhill, 156 F.3d 57, 63 (1st Cir. 1998) (citing *Paul*, 424 U.S. at 708-09).

Because the student plaintiffs were unable to meet their burden in satisfying the requisite "plus" requirement, their action failed in federal court.[13] Left without recourse, student residents and their landlords are forced to display orange stickers on their targeted rental properties until the end of the year, proclaiming their misbehavior to the community despite the absence of notice or a hearing prior to the sticker's imposition. Though the orange sticker's purported intent is to deter the feared "unruly gatherings," the practical effect of the punitive ordinance is to shame the violators.[14] To put it simply, the student parties continue and the only change is that the renters and landlords are stigmatized.

The Narragansett sticker ordinance illuminates a major gap in the protection that procedural due process is purported to afford: "before the government can deprive a person of a protected interest, it must provide [him or] her with notice and opportunity to be heard."[15] The stigma-plus standard left the student plaintiffs unprotected because they were provided with no notice and no hearing to defend their actions despite the sticker's stigmatizing effect. Due to this gap, the stigma-plus standard should be reconsidered in favor of affording broader protection to those suffering stigmatization from punishment imposed by the government, especially when the stigmatization is the result of official action required by law. While providing notice and a hearing would certainly bring the ordinance into closer alignment with the constitutional mandates of due process, even with these additional protections, the ordinance still is inappropriate. The orange sticker ordinance is simply an unfitting punishment because it employs the same shaming tactics as the ever-prevalent criminal shame punishments, which, though debatable in their own right, are typically reserved for more severe situations than

13. *URI Student Senate*, 631 F.3d at 12; *URI Student Senate*, 707 F. Supp. 2d at 298.

14. *See ACLU Sues Narragansett Over "Orange Sticker" Policy*, ACLU R.I. (May 23, 2008), http://riaclu.org/news/archive-post/aclu-sues-narragansett-over-orange-sticker-policy ("The URI Student Senate has condemned the 'orange sticker policy' as a discriminatory policy aimed at students to shame them, much like a 'scarlet letter.'").

15. RHONDA WASSERMAN, PROCEDURAL DUE PROCESS: A REFERENCE GUIDE TO THE UNITED STATES CONSTITUTION 1 (2004).

college parties.[16]

This comment seeks to elucidate the large gap that the stigma-plus standard creates in procedural due process protections, to demonstrate that the shaming effect of Narragansett's ordinance is inappropriate, and to provide a practical alternative that municipalities could employ to deter these so-called unruly gatherings. Part I of this comment will discuss the significant interest an individual has in preserving his or her reputation and the historical development in procedural due process. Part II will elaborate on the growing prevalence of colonial-style shame punishments in judicial sentencing and the potential harm of that stigmatization. Finally, Part III will discuss the aforementioned as applied to the Rhode Island municipal orange sticker ordinance and provide feasible and constitutionally sound alternatives to the ordinance that would alleviate said stigmatization.

I. THE HISTORICAL IMPORTANCE OF REPUTATION WITH PROCEDURAL DUE PROCESS

A. *Development of Procedural Due Process*

Due process is incorporated in the Fifth and the Fourteenth amendments of the United States Constitution, where the Constitution provides that neither the federal government nor state governments can deprive a person of life, liberty, or property without due process of law.[17] Due process has been interpreted as encompassing two different doctrines—substantive due process and procedural due process.[18] Substantive due process deals specifically with the adequacy of the government's reason for

16. *See* discussion *infra* Section II.B.
17. U.S. CONST. amends. V, XIV.
18. *Id.* In *United States v. Salerno*, the Court explained:

> [T]he Due Process Clause protects individuals against two types of government action. So-called "substantive due process" prevents the government from engaging in conduct that "shocks the conscience," or interferes with rights "implicit in the concept of ordered liberty." When government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner. This requirement has traditionally been referred to as "procedural" due process.

481 U.S. 739, 746 (1987) (citations omitted).

taking a person's life, liberty, or property.[19] Procedural due process, on the other hand, considers whether the government conducted such deprivation in a "fair manner."[20]

Interpretations of the exact rights afforded by due process, particularly procedural due process, have been extensive and the analysis of procedural due process protections afforded to those who have suffered harm to their reputation is no exception.[21] Reputation is defined broadly as "[t]he esteem in which a person is held by others."[22] It may appear that reputation, on its face, is not as important of a concern as other interests that traditionally have been associated with due process violations, like property for instance. Damage to one's reputation, however, is a significant legal interest because, unlike other traditional interests, injury to one's reputation cannot be easily remedied with monetary damages. Instead, a person injured by government stigmatization has intangible damages, which are virtually impossible to quantify because damages arising from stigmatization cannot be quantified in the same way as damages to one's property. This difficulty, perhaps, makes reputation an even more significant legal interest. The Supreme Court conclusions on the topic have varied and when analyzing whether the government can harm an individual's reputation without violating due process, the Court's rulings seem to be anything but uniform. Two benchmark cases exemplify the Court's variation: *Paul v. Davis*[23] and *Wisconsin v. Constantineau*.[24]

In *Constantineau*, a statute gave the chief of police the right to post notices in local businesses prohibiting the sale of goods to persons "who 'by excessive drinking' produce[d] described conditions or exhibit[ed] specified traits, such as exposing himself or family 'to want' or becoming 'dangerous to the peace' of the

19. *See id.*; Erwin Chemerinsky, *Procedural Due Process Claims*, 16 TOURO L. REV. 871, 871 (2000).

20. *Salerno*, 481 U.S. at 746.

21. *See generally* Eric J. Mitnick, *Procedural Due Process and Reputational Harm: Liberty as Self-Invention*, 43 U.C. DAVIS L. REV. 79 (2009).

22. *Reputation*, BLACK'S LAW DICTIONARY (3d pocket ed. 2006); OXFORD ADVANCED LEARNER'S DICTIONARY, http://www.oxfordlearnersdictionaries.com/us/definition/english/reputation.

23. 424 U.S. 693 (1976).

24. 400 U.S. 433 (1971).

community."[25] The plaintiff was denied the opportunity to contest the inclusion of her name on the prohibition list and that the state failed to provide her with notice that her name would be included on the list.[26] The Supreme Court held that, to some, the posting is a private interest and "such a stigma or badge of disgrace that procedural due process requires notice and an opportunity to be heard."[27] The Court was explicit that harm to an individual's reputation implicated procedural due process concerns, explaining that "[w]here a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him, notice and an opportunity to be heard are essential."[28]

The stigma standard developed in *Constantineau* triggered a procedural due process analysis for reputational harms and *Constantineau* remained the standard for due process violations caused by stigma for five years until the Court heightened the standard in *Paul*.[29] Rejecting the stigma standard bright-line rule in *Constantineau*, the Supreme Court narrowed the interpretation of procedural due process and created the "stigma-plus" standard of procedural due process in *Paul v. Davis*.[30]

Like the plaintiff in *Constantineau*, the plaintiff in *Paul* claimed that the government infringed on his due process rights by circulating a flyer implicating him of a criminal charge.[31] The state charged the plaintiff with shoplifting and the plaintiff pled not guilty.[32] Despite the fact that the plaintiff was still presumed innocent, the government nonetheless prepared and circulated a flyer that identified the plaintiff as an "active shoplifter."[33] As a result of the flyer, the plaintiff's supervisor informed the plaintiff

25. *Id.* at 434–35.
26. *Id.*; *see* Constantineau v. Grager, 302 F. Supp. 861, 862-63 (E.D. Wis. 1969).
27. *Constantineau*, 400 U.S. at 436.
28. *Id.* at 437.
29. *See* Paul v. Davis, 424 U.S. 693, 708–09 (1976). Notably, lower court decisions after *Constantineau*, but prior to *Paul*, appeared unwavering on the question of a reputational interest in due process protection. *See, e.g.*, Suarez v. Weaver, 484 F.2d 678, 680 (7th Cir. 1973) ("There is little doubt but that a person's interest in his reputation is sufficient to trigger procedural due process protection.").
30. *See Paul*, 424 U.S. at 708–09; Mitnick, *supra* note 21, at 91.
31. *See Paul*, 424 U.S. at 695–97.
32. *Id.* at 695.
33. *Id.*

that "he 'had best not find himself in a similar situation' in the future."[34] Shortly thereafter, the state dismissed the charges against the plaintiff and the plaintiff sought redress for a violation of his constitutional rights.[35]

The plaintiff argued that the circulation of the flyer impermissibly denied him constitutionally guaranteed due process of law. [36] However, the Court rejected plaintiff's arguments—although similar to those of the *Constantineau* plaintiff—and ultimately narrowed the Court's previous standard.[37] The court held that harm to reputation alone does not infringe on a constitutionally protected liberty interest, reasoning that while the state (in this case, Kentucky) allowed a plaintiff to file defamation actions to challenge reputational harm, "Kentucky law [did] not extend to respondent any legal guarantee of present enjoyment of reputation which has been altered as a result of petitioners' actions."[38] The Court noted that the weight of their decisions established no precedent that would convert every claim of defamation by a state official into a constitutional claim.[39] The Court applied the stigma-plus standard, explaining that while reputation interests are protected by state tort law, such interests are not protected by procedural due process.[40] Leaving no room for ambiguity, the Court stated that "any harm or injury to that [reputational] interest, even where as here inflicted by an officer of the State, does not result in a deprivation of any 'liberty' or 'property' recognized by state or federal law."[41] The Court justified its narrowing of *Constantineau* in *Paul* by characterizing *Constantineau* as having satisfied the stigma-plus standard; specifically, the *Paul* Court rationalized that the police chief's

34. *Id.* at 696.

35. *Id.*

36. *See id.* at 696–97; Davis v. Paul, 505 F.2d 1180, 1180 (6th Cir. 1974); *see also* U.S. CONST. amend. XIV (providing, in part, that a state shall not drive any person of life, liberty, or property without due process of law).

37. *See Paul*, 474 U.S. at 701–02. The Court did not expressly overrule *Constantineau*, but rather purported to interpret its "ambiguous[ly]" worded central holding. *Id.* at 708–09. This reinterpretation has been criticized as fallacious by several commentators. Mitnick, *supra* note 21, at 91–92; *see also infra* note 43 and accompanying text.

38. *Paul*, 424 U.S. at 711–12.

39. *Id.* at 702.

40. *See id.* at 711–12.

41. *Id.* at 712.

actions in *Constantineau* not only stigmatized that plaintiff, but also prevented her from purchasing alcohol, which satisfied as a "plus" in accordance with the stigma-plus standard.[42]

B. *Backlash of Changing the Reputational Standard*

Despite the Supreme Court's detailed reasoning, critics responded to the *Paul* decision with strong contention.[43] Much of that contention focused on the *Constantineau* Court's precise statement that "[t]he *only* issue present here is whether the label or characterization given a person by 'posting,' though a mark of serious illness to some, is to others such a stigma or badge of disgrace that procedural due process requires notice and an opportunity to be heard."[44] The *Constantineau* Court clearly did not apply the stigma-plus standard because it highlighted that the *only* concern was stigmatization, rather than stigmatization "plus" another interest.[45] The *Paul* majority, however, rationalized that the *Constantineau* Court did apply the stigma-plus standard.[46] The *Paul* Court's blatant "mischaracterization" of the *Constantineau* Court's rather explicit statement that stigma was the "only issue" before it did not sit well with academia.[47] Critics justifiably dubbed the Court's interpretation of *Constantineau* as "distressingly fast and loose" and "disingenuous."[48]

42. *Id.* at 708–09 ("The 'stigma' resulting from the defamatory character of the posting was doubtless an important factor in evaluating the extent of harm worked by that act, but we do not think that such defamation, standing alone, deprived Constantineau of any 'liberty' protected by the procedural guarantees of the Fourteenth Amendment.").

43. *See, e.g.*, Henry Paul Monaghan, *Of "Liberty" And "Property,"* 62 CORNELL L. REV. 405, 426 (1977) ("[I]n a 'Constitution for a free people,' it is an unsettling conception of 'liberty' that protects an individual against state interference with his access to liquor but not with his reputation in the community."); Barbara E. Armacost, *Race and Reputation: The Real Legacy of* Paul v. Davis, 85 VA. L. REV. 569, 571 (1999) ("Scholars have been relentlessly and uniformly negative in their reactions to the Supreme Court's opinion and holding in *Paul* . . . .").

44. Wisconsin v. Constantineau, 400 U.S. 433, 436 (1971) (emphasis added).

45. *See id.*

46. *See Paul*, 424 U.S. at 708–09.

47. Mitnick, *supra* note 21, at 91–92; Armacost, supra note 43, at 571; Rodney A. Smolla, *Displacement of Federal Due Process Claims by State Tort Remedies:* Parratt v. Taylor *and* Logan v. Zimmerman Brush Company, 1982 U. ILL. L. REV. 831, 840 (1982).

48. *See, e.g.*, Smolla, *supra* note 47, at 840.

The unrest following the *Paul* decision was extensive and immediate. The majority opinion in *Paul* stood before a strong dissent from Justice Brennan, which prophesied the very real consequences and implications that the *Paul* decision invited for later cases.[49] Justice Brennan's dissent remarked that "[t]he potential of today's decision is frightening for a free people."[50] He recognized the constitutional issues that the majority's decision stirred up, observing that the "police here have officially imposed on respondent the stigmatizing label 'criminal' without the salutary and constitutionally mandated safeguards of a criminal trial."[51] Continuing, Justice Brennan expressed his concern for the constitutional repercussions that the *Paul* decision would have on future reputation-based disputes, noting specifically:

> The logical and disturbing corollary of this holding is that no due process infirmities would inhere in a statute constituting a commission to conduct *ex parte* trials of individuals, so long as the only official judgment pronounced was limited to the public condemnation and branding of a person as a Communist, a traitor, an "active murderer," a homosexual, or any other mark that "merely" carries social opprobrium.[52]

Justice Brennan's stated concerns for the implications of the majority's decision foretold the backlash that the decision would face from those who felt that it was both arbitrary and unnecessary.[53]

II. RETURN OF SHAME PUNISHMENTS

Changing the due process standard applied to reputational injuries introduced a number of underlying, yet foreseeable, concerns.[54] By heightening the standard, the Supreme Court created a barrier to constitutional challenges of shame punishments, which has contributed to the increased use of

49. *See Paul*, 424 U.S. at 721 (Brennan, J., dissenting).
50. *Id.*
51. *Id.* at 718.
52. *Id.* at 721.
53. *See, e.g.*, Mitnick, *supra* note 21, at 93 ("This sacrifice is particularly unfortunate, since it was unnecessary.")
54. *See Paul*, 424 U.S. at 721 (Brennan, J., dissenting).

government-sponsored shaming tactics. While the examples of shame punishments discussed in this comment are typically the result of criminal convictions and *Paul v. Davis* is inapplicable to challenge a criminal sentence,[55] the shaming strategies used to impose both criminal and civil shame punishments are similar. To put it another way, while the challenges to criminal and civil shame punishments are based on different grounds, the shaming strategy is effectively the same in both contexts.[56] Nevertheless, even after a hearing, the orange sticker is still an inappropriate and ineffective punishment, which makes the failure to provide a hearing even more troubling.

A. *History of Shame Punishments*

Shame has been described as "the loss of face in the eyes of neighbors who have the village habit of condemning any kind of deviance and from whom one cannot escape."[57] The intent of shame punishments in both criminal and civil cases is just that – to stigmatize the offender.[58] Most modern shaming punishments allow the state to express its disapproval of the offender by publicly stigmatizing him or her without the physical pain that often accompanied earlier shaming laws.[59]

American shame punishments are rooted in colonial America, where corporal punishments "were meant to inflict both public

55. *Paul* did not involve a criminal sentence, but rather a posting that was released without any determination of plaintiff Davis's guilt or innocence. *Paul*, 424 U.S. at 695–96.

56. While challenges to the criminal sentences discussed herein would focus on whether the shaming serves a valid governmental interest, the civil orange sticker at issue here raises the question of whether the recipient has a right to a hearing to challenge the sticker.

57. James Q. Whitman, *What is Wrong with Inflicting Shame Sanctions?*. 107 YALE L.J. 1055, 1057 (1998). Whitman continued to recognize that there is no point of shaming individuals "who are likely . . . to move in an underworld population that is very far from condemning the deviant." *Id.* He further posited that "at its worst, shaming such characters may simply force them to renounce law-abiding society entirely, moving into the underworld for good." *Id.*

58. *See* Chad Flanders, *Shaming and the Meaning of Punishment*, 54 CLEV. ST. L. REV. 609, 610 & n.4 (2006).

59. *See id.* at 612; Kenneth C. Haas, *Public Shaming as Punishment*, *in* ENCYCLOPEDIA OF COMMUNITY CORRECTIONS 356, 357 (Shannon M. Barton-Bellessa ed., 2012) (describing the use of "painful corporal punishments" in colonial America)

humiliation and intense pain."[60] "The whipping post, the branding iron, and the pillory[61] were prominently displayed and frequently employed in the town-squares of 17th and 18th century America."[62] Branding was particularly popular in all of the American colonies.[63] The shame punishments of colonial America continued as the primary means of punishing criminals until the ratification of the Bill of Rights in 1791 and the introduction of the Eighth Amendment's prohibition against cruel and unusual punishment.[64]

The Bill of Rights bespoke an era of enlightenment in which the appropriateness and effectiveness of 16th- and 17th-century methods of shame-and-pain punishment.[65] Additionally, the age of enlightenment coincided with changing demographic patterns that contributed to the decline of shaming punishments for other reasons.[66] The population increased and residents of the small colonial towns began migrating to the cities, which "increased anonymity, a greater appreciation of the value of privacy, and a decreasing dependence on close community relationships."[67] The result of the changing demographic was a prominent decrease in shaming punishments because of their perceived inappropriateness in the changing American society.

60. Haas, *supra* note 59, at 357. These types of punishments were routinely given to "vagrants, beggars, petty thieves, Sabbath breakers, and other minor offenders." *Id.*

61. Haas further explains colonial use of the pillory:

> Political and religious leaders found the pillory (a set of wooden frames with holes for the head, hands, and sometimes the feet) to be an especially versatile device for inflicting a large dose of shame and a requisite measure of pain. The spectacle of a miscreant helpless in its grasp, his head protruding through its beams and his hands through two holes, was thought to educate the public as to the consequences of sinful behavior and to send a deterrent message to both the humiliated lawbreaker and others who might be tempted to stray from the strict tenets of colonial moral standards. Culprits could expect to be pelted with ridicule and insults as well as with sticks and stones. The more serious misdemeanants were sometimes nailed through their ears to the pillory, branded, and shaved bald.

Id.

62. *Id.*

63. *Id.*

64. *Id.* at 357–58.

65. *Id.*

66. *Id.* at 358.

67. *Id.*

B. *Shame Punishment in Modern Society*

However, as of late, shame punishments have become more prevalent, with increasing political support.[68] Some interpret the recurrence of shame punishments as a response to an increased desire for expressionism in law.[69] Others attribute the return of shame punishments in modern America not to a desire for expressionism, but rather to the judiciary's desire for media attention.[70] However, perhaps a more plausible argument for the return of shame punishments, especially in the criminal context, is the arguable ineffectiveness of existing punishment methods in the American judicial system.[71]

Public complaints about our judicial system are unrelenting and extensive.[72] The increase in the prevalence of shame punishments is perhaps attributable, therefore, to this common disdain for the criminal justice system.[73] Shame punishments may be viewed as a result of general dissatisfaction with the criminal justice system, as such punishments are arguably a valid alternative to imprisonment,[74] especially for minor infractions.

68. Courtney Guyton Persons, Note, *Sex in the Sunlight: The Effectiveness, Efficiency, Constitutionality, and Advisability of Publishing Names and Pictures of Prostitutes' Patrons*, 49 VAND. L. REV. 1525, 1534 (1996); Scott E. Sanders, Note, *Scarlet Letters, Bilboes and Cable TV: Are Shame Punishments Cruel and Outdated or Are They a Viable Option for American Jurisprudence?*, 37 WASHBURN L.J. 359, 367 (1998).

69. *See* Flanders, *supra* note 58, at 611–12 ("The law does not exist merely to allocate benefits and burdens; it also *says* things though its actions."). *See generally* Elizabeth S. Anderson & Richard H. Pildes, *Expressive Theories of Law: A General Restatement*, 148 U. PA. L. REV. 1503 (2000).

70. *See* Lynn Debruin, '*Shame*' *Punishments Like Ponytail Cutting Increase*, DESERET NEWS (June 25, 2012, 12:00 AM), http://www.deseretnews.com/article/765585887/Shame-punishments-like-ponytail-cutting-increase.html ("Such unconventional sentences that shame defendants are steadily increasing and turning state courts into circus shows.").

71. Toni M. Massaro, *Shame, Culture, and American Criminal Law*, 89 MICH. L. REV. 1880, 1884 (1991).

72. Hon. J. Harvie Wilkinson III, *In Defense of American Criminal Justice*, 67 VAND. L. REV. 1099, 1099 (2014) ("The American criminal justice system is on trial. A chorus of commenters—often but not exclusively in the legal academy—has leveled a sharp indictment of criminal process in our country.").

73. *See* Massaro, *supra* note 71, at 1884.

74. *See id.* at 1885 ("[D]issatisfaction with the primary punishment options [including prison] has led to experimental, creative sanctions and

Those who defend shame punishments consider them efficient in punishing offenders because shame punishments reflect the state's disapproval of the defendant without the heavy fiscal burden that comes with imprisonment.[75]

Shaming in criminal sentences comes in the form of ordering a defendant to wear a humiliating sign in public. For example, in March 2013, Cleveland, Ohio Municipal Court Judge Pinkey Carr ordered a defendant "to stand outside a police station for three hours a day for one week with a sign . . . stating 'I was being an idiot and it will never happen again'" after he threatened police officers.[76] In April 2014, Cleveland municipal Judge Gayle Williams-Byer ordered a defendant to stand on a street corner for five hours with a sign that stated, "I AM A BULLY! I pick on children that are disabled, and I am intolerant of those that are different from myself. My actions do not reflect an appreciation for the diverse South Euclid community that I live in."[77] Additionally, a Georgia judge sentenced a defendant in 2012 to wear a sign that said, "I made a fool out of myself on a Bibb County Public Schools bus" for one week.[78] In December 2013, Montana District Judge G. Todd Baugh sentenced a defendant to write "Boys do not hit girls" 5,000 times as part of his punishment for assaulting his girlfriend.[79] In Pennsylvania, a defendant was sentenced to stand in front of the courthouse holding a sign that read, "I stole from a 9-year-old on her birthday! Don't steal or this could happen to you."[80] In 2010, Harris County, Texas Judge Kevin Fine ordered two defendants to stand at a busy intersection every weekend for six years holding signs that said "I am a thief."[81]

Though the aforementioned examples of criminal shame

probation conditions, which include the 'shaming and shunning' practices.").

75. *See, e.g.*, Aaron S. Book, *Shame on You: An Analysis of Modern Shame Punishment as an Alternative to Incarceration*, 40 WM. & MARY L. REV. 653, 657 (1999).

76. *Id.*

77. *Id.*

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.* The defendants, apparently a married couple, were also "required to post a sign in front of their house that included their names and said they were convicted thieves." *Id.*

punishments appear somewhat childish, they reflect a growing trend of using shame as an alternative to incarceration. Furthermore, the colorfulness and the public nature of such punishments support the notion that the judges believed that shaming the individuals might deter them, and others, from similar missteps in the future.

In addition to the apparently constitutional shame punishments that have been imposed by judges in recent years, there have been multiple instances in which such criminal shaming tactics have been called illegal or unconstitutional by critics, if not higher courts.[82] For example, an Oklahoma judge ordered a defendant to attend church for ten years as punishment for a DUI manslaughter charge.[83] The Oklahoma ACLU had condemned the sentence as a "clear violation" of the defendant's First Amendment rights.[84] Moreover, in Cameron County, Texas, Justice of the Peace Gustavo Garza allowed parents to avoid paying a fine if they would instead spank their children in his courtroom.[85] The State Commission on Judicial Conduct determined that Judge Garza exceeded his judicial discretion by providing parents with a "safe haven" to impose corporal punishment.[86] Similarly, in August 2014, a Pennsylvania Superior Court struck down a shaming sentence imposed on disgraced former state Supreme Court Justice Joan Orie Melvin requiring her to send pictures of herself wearing handcuffs to judges across the state.[87] The Superior Court reasoned that the sentence was not "legitimately intended for her rehabilitation," but rather "solely intended to shame her" and, therefore, was not authorized by the state's sentencing code.[88]

82. *See id.*

83. *Id.*

84. *Id.*; Bryan Newell, *ACLU of Oklahoma Files Judicial Complaint Against Judge for Unconstitutionally Requiring Defendant to Attend Church*, ACLU OKLA. (Dec. 4, 2012), http://acluok.org/2012/12/aclu-of-oklahoma-files-judicial-complaint-against-judge-for-unconstitutionally-requiring-defendant-to-attend-church.

85. David M. Reutter, For Shame! Public Shaming Sentences on the Rise, PRISON LEGAL NEWS (Feb. 4, 2015), https://www.prisonlegalnews.org/news/2015/feb/4/shame-public-shaming-sentences-rise/.

86. *Id.*

87. *Id. Id.*; Commonwealth v. Melvin, 103 A.3d 1, 56 (Pa. Super. Ct. 2014). *Id.*

88. *Melvin*, 103 A.3d at 55-56.

The aforementioned criminal examples reflect that judges have been skirting the line between shaming punishments that further the notions of justice and those that exceed its boundaries. The difference between permissible and impermissible judicially sanctioned shaming appears to lie in the extremity of the shame associated with the punishment.

C. *Lasting Effect of Shame Punishments*

While the judiciary has weaved certain elements of shame into their sentencing, the resulting harm to one's reputation is not to be taken lightly.[89] Presumably, the reason for the arguable effectiveness of punitive shaming is the heightened importance that individuals place on reputation.[90] Public shaming is designed to "strip[] . . . the anonymity afforded by modern society."[91] "[S]haming penalties threaten not only to degrade the offender, but, by enlisting the public as a party to the punishment, threaten to bring out the worst in humanity by encouraging the public to vent its feelings of hatred and vindictiveness directly onto the offender."[92] It is true that criminal shaming punishments damage one's reputation in lieu of constraining one's physical liberty through imprisonment. "Shaming penalties manifest an objective disrespect for the offender by shaming him, *and* they incite subjective attitudes of disrespect by making individual citizens instruments of the offender's punishment."[93]

In reality, the lasting result of stigmatizing an individual is

89. Whitman, *supra* note 57, at 1057 ("Some commentators . . . argue that shame sanctions are inordinately cruel to the offender.") (citing Massaro, *supra* note 71, at 1942–43).

90. *See* Persons, *supra* note 68, at 1541–42 (explaining that "[p]rospective johns . . . tend to have the status and stake in the community that make shame punishments a particularly effective deterrent: loss of self-esteem and loss of face are apt to be especially unpleasant when a moral reputation holds high value."); *see also* Book, *supra* note 75, at 686 (providing that "[t]he psychology of shame shows that it is a powerful tool in shaping behavior throughout an individual's lifetime.").

91. Recent Legislation, *Washington State Community Protection Act Serves as Model for Other Initiatives by Lawmakers and Communities—1990 Wash. Laws ch. 3, §§ 101-1406 (Codified as Amended in Scattered Sections of Wash. Rev. Code)*, 108 HARV. L. REV. 787, 790 (1995).

92. Flanders, *supra* note 58, at 617.

93. *See id.* at 617–18.

much greater than the *Paul* decision suggested.[94] Historically, where colonists used public beatings to punish criminals, the physical punishment was married with psychological shaming that was considered to be the most painful element of the penalty.[95] In fact, "authorities often felt free to dispense with the punishment's physical component entirely: some offenders were required simply to stand in public with signs cataloging their crimes, a punishment that relied solely on mental anguish for its deterrent effect."[96] The colonial shaming methods are eerily similar to the shaming methods that courts have imposed recently; as aforementioned, judges have recently been imposing a number of criminal shaming punishments that employ the use of signage in public to effectively humiliate the defendant.[97] Shaming punishments, both civil and criminal, are public in a way that imprisonment is not because the penalty is effective only as far as it is viewed by the public.[98]

III. APPLICATION TO RHODE ISLAND ORDINANCES: "ORANGE STICKER"

The barrier that the *Paul* Court created to constitutional challenges of reputational-based punishment was exemplified in *URI Student Senate*.[99] The University of Rhode Island students, student government, and owners of rental property in the largely student-occupied town of Narragansett[100] brought a constitutional

94. *See generally* Paul v. Davis, 424 U.S. 693 (1976).

95. *See* Sanders, *supra* note 68, at 363 (citing Dan M. Kahan, *What do Alternative Sanctions Mean?*, 63 U. CHI. L. REV. 591, 611 (1996)).

96. ADAM J. HIRSCH, THE RISE OF THE PENITENTIARY: PRISONS AND PUNISHMENTS IN EARLY AMERICA 34 (1992).

97. *See supra* notes 80–87 and accompanying text.

98. *See* Flanders, *supra* note 58, at 622:

> Shaming does degrade the status of the offender, and it uses public humiliation as the mechanism of this degradation. But it does not follow from the fact that shaming works only in public and imprisonment does not that the latter type of punishment sends no message to the offender about his relative worth. Indeed, prison's expressive message may be just as powerful as shaming's expressive message.

Id.

99. *See* URI Student Senate v. Town of Narragansett, 707 F. Supp. 2d 282, 303 (D.R.I. 2010) ("The Court is at a loss for any way to put Plaintiffs' injuries into a legal box other than purely reputational harms.").

100. "Approximately twenty-two percent of the housing stock in the Town consists of seasonal or vacation rental units, attracting many students during

challenge in state court regarding the municipal ordinance that permitted orange stickers to be applied to the outside of the rental properties that students either occupied or rented.[101] The students' attempts, however, were fruitless; after the case was removed to federal court based on federal question, the attempts at justice were hindered by the stigma-plus standard announced in *Paul*.[102]

A. *The Development of the Orange Sticker Ordinance*

The municipal ordinance was enacted in 2005, and later amended in 2007, as a response to the yearly Narragansett residents' disdain for the seasonal residents' rowdy behavior.[103] The Narragansett residents had repeatedly complained of "quality-of-life issues resulting from high turnover and absentee landlords."[104] The residents' concerns included "overcrowding, property abuse, excessive traffic, noise, litter, public drunkenness, underage drinking, and fights."[105] The town intended the municipal ordinance to address the concerns of the yearly residents by banning what they called "unruly gatherings" and permitting the police to break up parties that they perceive are causing a "substantial disturbance of the quiet enjoyment of private or public property in a significant segment of a neighborhood."[106] The ordinance allows the police to act if the disturbance is the result of a "violation of law," and it provides a "nonexhaustive list of misdemeanors that authorize the police to intervene."[107] The listed misdemeanors appropriately address the concerns of the yearly residents such as excessive noise or traffic,

the school year." *Id.* at 288 (internal quotation marks omitted).

101. *Id.* at 290–91.

102. *See* URI Student Senate v. Town of Narragansett, 631 F.3d 1, 9 (1st Cir. 2011) (citing Paul v. Davis, 424 U.S. 693, 701 (1976)) ("The Supreme Court has made clear that a procedural due process claim cannot rest upon reputational harm alone."); *URI Student Senate*, 707 F. Supp. 2d at 297 ("The Court agrees that receiving an orange sticker might be humiliating. However, the Supreme Court has made clear that due process claims cannot rest on harm to 'reputation alone.'" (quoting *Paul*, 424 U.S. at 701)).

103. *See URI Student Senate*, 707 F. Supp. 2d at 288.

104. *Id.*

105. *Id.*

106. *Id.* at 288–89 (quoting Ordinance § 31(a)).

107. *Id.* at 289 (citing Ordinance § 31(a)).).

public drunkenness, and litter, to name a few.[108]

The requisite misdemeanor enables the police to act and subsequently disperse the gathering that they perceive to be a nuisance.[109] The police must then post a notice, which consists of a ten-by-fourteen inch orange sticker placed in the vicinity of the front entrance, prominently on the premises.[110] The stickers are not only prominently displayed and brightly-colored, but the presence of a sticker means that any similar violation in the future will require a fine.[111] The District Court explained that "[t]he sticker warns that any further police intervention for a nuisance violation at the same address during a designated time period will result in 'joint and several liability' for sponsors of a gathering, the residents and owners of the premises, and any guests who cause the nuisance."[112]

In addition to posting the orange sticker, the municipality compiles and maintains information relating to violations of the municipal ordinance.[113] Narragansett maintains "nuisance house lists" that display the addresses where the "unruly gatherings" that have required police intervention in both present and past seasons.[114] Narragansett also maintains a "URI Stats" chart to exclusively track data regarding infractions committed specifically by University of Rhode Island students that required police intervention and warranted an orange sticker to be posted.[115]

108. *Id.* (citing Ordinance § 31(a)).
109. *See id.*
110. *Id.* (citing Ordinance § 32(a)–(b)).
111. *See id.* at 289–90. "The first post-sticker police intervention at an unruly gathering during the posting period triggers a fine of $300; the second, $400; and the third, $500." *Id.* at 290 (citing Ordinance § 35(a)).
112. *Id.* at 289.
113. *Id.* at 290.
114. *Id.* at 290. The court provided that:

> The Town compiles information related to enforcing the Ordinance. "Nuisance house lists" display all addresses where police have dispersed an "unruly gathering," and show which houses have stickers during a given season. The Town also maintains a "URI Stats" chart to track data on infractions specifically committed by URI students.

Id.
115. *Id.*

B. *Fatal Flaws of the Orange Sticker Litigation*

The constitutional infringement claim in *URI Student Senate* fizzled in the District Court and on appeal due to a failure to satisfy the procedural due process stigma-plus standard; thus, "the interests cited [fell] shy of constitutional protection."[116] Specifically on the issue of procedural due process, the Plaintiff's argument was that "the absence of an opportunity for a hearing on whether there are legitimate grounds to place a sticker on a house—and thereby to malign the reputation of its owner and residents—offends due process."[117] The District Court agreed that receiving an orange sticker "might be humiliating," but under the stigma-plus standard the plaintiffs were required to identify a tangible interest that the government impaired in placing stickers on their houses.[118] The Court explained, moreover, that "a valid 'plus' factor requires the loss of 'government benefices denied as a result of governmental action.'"[119] Both courts held that the plaintiffs failed to identify a sufficient "plus" interest because all of the alleged interests "involve[d] third parties in some way."[120]

The students' and landlords' failure to identify a tangible interest that was deprived as a direct result of the orange sticker was fatal to their claim.[121] The result, however, did not sit lightly with Chief Judge William E. Smith, who explicitly noted:

> [T]he result sits uneasily with the Court. Experience teaches that law enforcement is not perfect. What happens if the police, though acting in good faith, put

116. *Id.* at 296.
117. *Id.* at 297.
118. *Id.* (citing Paul v. Davis, 424 U.S. 693, 701 (1976)).
119. *Id.* at 298 (quoting Pendleton v. City of Haverhill, 156 F.3d 57, 63 (1st Cir. 1998)).).
120. *Id.*; URI Student Senate v. Town of Narragansett, 631 F.3d 1, 9–10 (1st Cir. 2011). The District Court described some of the alleged harms that it found insufficient due to third party involvement:

> [A]s a result of the Town informing URI when student houses get stickers, some Plaintiffs have endured academic discipline, and one was suspended from the hockey team. Several have also been evicted from their apartments. As for the landlord Plaintiffs, some have been unable to rent apartments for some reason.

URI Student Senate, 707 F. Supp. 2d at 298.
121. *URI Student Senate*, 707 F. Supp. 2d at 298; *URI Student Senate*, 631 F.3d at 12.

> stickers on some homes where no "unruly gathering" actually occurred? Such errors appear to fall between the cracks and allow for no remedy. They are not constitutional violations, nor, in the majority of cases, the types of mistakes that would be fruitful to pursue in a defamation lawsuit.[122]

The District Court concluded by asking "whether wrongfully-applied stickers simply evade a meaningful remedy altogether."[123] The First Circuit expressed similar reservations in its decision upholding the orange sticker ordinance as constitutional.[124] Without any ambiguity, Judge Bruce M. Selya wrote "[l]et us be perfectly clear. We, like the district court, are uneasy about the absence of a hearing."[125]

In light of the reservations of both the district and appellate courts, it seems evident that the stigma-plus standard of procedural due process is inadequate to remedy the stigmatizing effect of the ordinance.

C. *Shame Implications of the Orange Sticker Ordinance*

Shaming appears to be the primary purpose of the orange sticker. Just as colonial towns required wrongdoers to hold signs in order to effectuate public shaming, URI students must live with a sign on their home making them targets of public and governmental scrutiny. Worse yet, the shame sanction is—literally—tacked on to the *residence*, rather than attaching to a particular "unruly" *resident* or *residents* convicted of the requisite misdemeanor.[126] The attachment to the dwelling creates a ripple effect of shame: the dwelling, the renters, any guests of the house, and the landlord all are branded by the orange sticker. Presumably, the ordinance seeks to protect against the downwind effect of the branding by permitting residents, owners, and sponsors to assert the defense that only "uninvited participants" engaged in the illegal conduct.[127] However, the ordinance's

122. *Id.* at 302.
123. *Id.*
124. *See URI Student Senate*, 631 F.3d at 11–12.
125. *Id.*
126. See Ordinance § 32(a).
127. *URI Student Senate*, 707 F. Supp. 2d at 290 (citing Ordinance § 34(a)(5)).

remedy is procedurally unsound since the participants are deemed liable prior to a hearing.

D. *Feasible Alternatives to the Orange Sticker Ordinance*

The stigma-plus standard of procedural due process invites shame punishments, as exemplified by the orange sticker ordinance challenged in *URI Student Senate*. Though the *Paul* decision was issued in 1976, that standard is now archaic and facilitates antiquated punishments that were barely suited for colonial times—if properly suited for any era at all. It is necessary for the Supreme Court to overturn the *Paul* decision to prevent outdated shame punishments from continuing without an adequate process for claimants to resist such punishments.

In *Paul*, Justice Brennan's dissent alluded to plausible alternatives to the confining stigma-plus standard and emphasized the need for a broader definition of liberty.[128] Specifically, Justice Brennan noted that liberty should include "the enjoyment of one's good name and reputation" as has "been recognized repeatedly in [Supreme Court] cases as being among the most cherished of rights enjoyed by a free people."[129] The willingness of the *Paul* majority to "dismiss the idea that standalone stigmatic harm could constitute deprivation of liberty without ever attempting to define, or even consider more deeply, the nature of liberty"[130] creates a doctrine that is too narrow to remedy stigmatization injuries. A broader interpretation of liberty so as to address stigmatization would be more appropriate, to which the majority in *Constantineau* alluded where it utilized a broad interpretation of liberty that incorporated reputational injuries.[131] The *Constantineau* Court said it best:

> Yet certainly where the State attaches "a badge of infamy" to the citizen, due process comes into play. "The right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardships of a criminal conviction, is a

128. *See* Paul v. Davis, 424 U.S. 693, 714–35 (1976) (Brennan, J., dissenting).

129. *Id.* at 722–23.

130. Mitnick, *supra* note 21, at 118.

131. *See* Wisconsin v. Constantineau, 400 U.S. 433, 437 (1971).

principle basic to our society."[132]

The orange sticker doubles as a scarlet letter, branding both the residents and the invitees as the sort that are unruly or at least associate with the unruly. If the Supreme Court is reluctant to modify the standard for reputational harm, then an adequate short-term solution may be achieved at the municipal level through modification of the ordinance. As both the district and the appellate court noted in their thorough opinions, the absence of a hearing is the most significant cause of concern surrounding the ordinance,[133] so requiring at least that much is a first vital step in enhancing the fairness of the ordinance's application.

E. *Ineffectiveness of the Orange Sticker Ordinance*

Moreover, the effectiveness of the orange sticker ordinance is largely unknown. It is an open question as to whether the ordinance has resulted in a decrease in the number of house parties and eased the concerns of the yearly residents.[134] Notably, in 2014, nine years after the town implemented the ordinance, the town council voted to raise the penalties for other nuisance-oriented ordinances after one particularly rowdy weekend.[135] The Narragansett Town Council increased the penalties after a town-described "riot": Narragansett town manager, Pamela Nolan, explained "[i]n 25 years of being a town manager, I've never seen anything as disruptive, volatile and violent as that riot on Saturday."[136] The "riot" induced town residents to again express their continued disdain for the student-renters, describing the

132. *Id.* at 437 (quoting Joint Anti-Fascist Refugee Comm. v. McGrath, 341 U.S. 123, 168 (1951) (Frankfurter, J., concurring)).

133. *See* URI Student Senate v. Town of Narragansett, 631 F.3d 1, 11–12 (1st Cir. 2011); URI Student Senate v. Town of Narragansett, 707 F. Supp. 2d 282, 302 (D.R.I. 2010).

134. *See* Daniel Luzer, *The Party Sticker*, WASH. MONTHLY (Jan. 7, 2011, 10:00 AM), http://www.washingtonmonthly.com/college_guide/blog/the_party_sticker.php ("[I]t remains unclear whether or not the orange sticker policy, which has been in place since 2005, has reduced the number of loud parties occurring in Narragansett.").

135. Donita Naylor, *Narragansett Takes First Steps to Increase Penalties for Drunken Behavior After Weekend Disturbance*, PROVIDENCE J. (May 18, 2014, 12:01 AM), http://www.providencejournal.com/article/20140508/NEWS/305089977.

136. *Id.*

neighborhood as "hell."[137] What can be inferred from the neighborhood's remarks at the town meeting is that the orange sticker ordinance has not solved the "unruly gathering" problem and begs the question of whether, then, other Rhode Island municipalities, such as Providence and Newport, should reconsider implementing comparable ordinances.[138] Conceivably, municipalities consider the ordinance to be a viable option because they are at a loss of what exactly will calm the "hell" in their neighborhoods. The towns' dilemmas, however, more likely stem from the disconnect between the towns and students who only pass through for four, sometimes five, years. The orange stickers do not deter the student renters because the students are in a unique position of being able to sidestep the stigmatization. More often than not, students pack up and leave as soon as they complete their required course-load, leaving their Narragansett stigmatization, along with their security deposits, in their dust.

As the constant link between the student renters and the towns, it is possible that landlords may be the key to solving the disruption between them. Landlords are the sole entity that can bridge the gap between the two and perhaps give the yearly-residents the peace they seek. The landlords, however, are themselves particularly disconnected from the town. One report noted that "[a]bout 50 percent of the rental properties are owned by absentee landlords who live out of state in New York, Massachusetts, New Jersey and Connecticut. Another chunk may live elsewhere in Rhode Island."[139] The District Court elucidated the absentee landlord problem as well, explaining that "[t]he Town has long complained of quality-of-life issues resulting from high turnover and absentee landlords."[140]

137. *Id*. ("One neighbor struggled to compose himself as he said he can't have his grandchildren over because of drunken behavior in the neighborhood. 'It's like being in hell in this town,' Joe Santos said. 'It's unbelievable.'").

138. *See* Olga Enger, *Nuisance Houses Targeted*, NEWPORT THIS WK. (Jan. 7, 2016), http://www.newportthisweek.com/news/2016-01-07/Front_Page/Nuisance_Houses_Targeted.html; Gregory Smith, *Providence Police Start Putting Orange Stickers on 'Party Houses'*, PROVIDENCE J. (Oct. 21, 2013, 10:01 PM), http://www.providencejournal.com/article/20131021/NEWS/310219989.

139. Curry, *supra* note 1.

140. URI Student Senate v. Town of Narragansett, 707 F. Supp. 2d 282,

Considering that the town's absentee landlords are seemingly at the heart of the issue, the town is ineffectively targeting the properties and student-renters with relatively minor fiscal penalties in comparison to the $350,000 to $500,000 landlord investment.[141] As noted, the students are elusive compared to the yearly residents and the landlords are not significantly affected by the relatively minor penalty. In fact, one Narragansett property owner commented that "once a home is branded with a sticker, it does deter students from wanting to rent the place," but that "most landlords will not evict their tenants due to the shortfall."[142]

The town would be more successful in deterring renters' bad behavior if they enacted an ordinance aimed directly at the out-of-state landlords rather than the landlords' properties and, accordingly, increased the fines to create an incentive for the landlords to better regulate their properties. The current ordinance does not incentivize landlords because, as mentioned, the landlords have a considerable, profitable investment in the seasonal housing and the current ordinance does nothing to harm that investment.[143] As such, rather than punishing the students and branding them in a town that they likely will flee in less than half a decade, the town might do better to punish the landlords because they have a greater connection to the town.

CONCLUSION

Despite the questionable effectiveness and constitutionality of the ordinance, other Rhode Island municipalities with similar demographics have welcomed analogous ordinances to deal with similar seasonal renter complaints from residents, including Providence and Newport. In Providence, a police official explained that the purpose of the orange stickers is "[t]o put people on notice that they are running afoul of the law and to call them out into the public eye for their misbehavior."[144]

The orange sticker ordinance's appeal is not surprising; it soothes the grumbles of the residents by—literally—displaying

288 (D.R.I. 2010).

141. *See* Curry, *supra* note 1.

142. *Id.*

143. *See id.*

144. Smith, *supra* note 146.

their disdain for the "unruly," while also giving police advanced notice of a dwelling likely to be hosting "unruly gatherings." The ordinance, however, is primarily successful—not in accomplishing its underlying rationale—but rather in marginalizing seasonal renters through shaming. It is undisputed that the municipal ordinance is favorable to the yearly residents of Narragansett. While yearly residents certainly have more leverage when it comes to demanding peace and quiet within Narragansett, shaming student renters is an archaic way to remedy the problem. This antiquated system ought to be cured through either a reconsideration of the stigma-plus standard, a modification of the Narragansett ordinance to target the proper audience, or both. Left unaltered, this ordinance will not only continue to add insult to injury for those currently being damaged by its stigmatic effects, but it may also lead other Rhode Island towns, in addition to those it has already, to adopt similarly problematic ordinances.