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NYC, February 15, 2019.

***Right2Remove* Applauds New York and New Mexico's Individual Proposals for Forms of Right to Be Forgotten in the United States**

**A Response to the Critics of New York and New Mexico's Limited RTBF Provisions**

New York and New Mexico's proposed pieces of legislation, addressing, respectively, the dissemination of mugshots and booking information and the erasure of incidences of harassment and cyberbullying online, encourage the press to adapt to the future of ethical journalism. The U.S. needs legislation like Europe's Right to Be Forgotten to dam the flow of online criminal records produced by mass incarceration and a dysfunctional criminal justice system. Additionally, we need to protect our citizens from the stigmatizing humiliation and fear that cyberbullies, stalkers, and trolls feed on.

The following misinformed editorials may serve as examples of unreasonable attacks against the *Right to Be Forgotten* in a time of pervasive abuse by monopolist Internet platforms.

**New York editorials:**

<https://syracuse.com/opinion/2019/02/ny-mug-shot-ban-undermines-your-right-to-know-editorial.html>

<https://timesunion.com/opinion/article/Editorial-Kill-this-secret-arrest-bill-13550612.php>

<https://dailygazette.com/article/2019/01/22/editorial-public-has-right-to-view-suspect-info>

**New Mexico editorials:**

<https://www.abqjournal.com/1276241/several-bills-in-roundhouse-threaten-keepingnm-government-open-and-the-public-informed.html>

[http://www.santafenewmexican.com/opinion/editorials/right-to-be-forgotten-forget-it/article\\_ddb52de4-ea1a-5001-baa0-5ca1c1444c50.html](http://www.santafenewmexican.com/opinion/editorials/right-to-be-forgotten-forget-it/article_ddb52de4-ea1a-5001-baa0-5ca1c1444c50.html)

We would like to respond to these critics by inviting them to better understand the present and future of media, the Internet, and journalism.

Laws, such as those proposed by New York and New Mexico, may be specifically tailored to preserve our right to critique and expose the wrongdoings of political figures, persons of influence, and powerful corporations. Apropos of nothing, this recent deluge of editorials has turned accountability on its head, making a concern for dignity into "secrecy" and a call for social justice into "censorship." We invite these critics to look closely at how the *Right to Be Forgotten* actually works. It does not remove information at the source, but only from Internet platforms, such as Google, that expose stigmatizing information without context and accountability. And nevertheless, such right does not apply to public figures and information of public interest; instead, its application does little more than promote accurate reporting and ensure fairness once information has gone stale. This is how other countries have successfully implemented the *Right to Be Forgotten* without losing any of the essential freedoms enjoyed by the free press.

In response to this spate of editorials that attack New York and New Mexico's legislative proposals, we would like to point out that there are already several local newspapers in the United States that have adapted the principles of the *Right to Be Forgotten*. The Sun Herald, Cleveland.com, and LebTown may serve as examples of ethical journalism in practice. We invite media outlets and associations of the press to learn more about the future of journalism by examining the policies of the aforementioned sources and studying the processes that underlie their decision making. For further insight, please see the Harvard university Nieman Journalism Lab's discussion with the editors of Cleveland.com regarding their journey toward ethical

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journalism and their eventual embrace of the *Right to Be Forgotten*:

<http://www.niemanlab.org/2018/10/fewer-mugshots-less-naming-and-shaming-how-editors-in-cleveland-are-trying-to-build-a-more-compassionate-newsroom>

*Right2Remove* advocates for a form of *Right to Be Forgotten* in the United States, which is a basic human right already available in most democratic countries around the world.

*Right2Remove* aims to improve free speech by introducing privacy policies in a time of increasing technological profiling and surveillance. Free speech must also be considered the right of everyday people to remove discriminatory, stigmatizing, and misleading information from today's unaccountable and authoritarian Internet platforms. Google's political lobby and influence over the press has misled the public about the nature of the *Right to Be Forgotten*, leading to a vast misunderstanding of this basic human right.

### **Lockdown or Takedown: An Argument for Accountability**

As a society, we should hold ourselves accountable for the information about our citizens that we allow media sources and search engines to distribute online. Private data brokers, Google, and extortionist mugshots sites should be regulated so that they cannot be used as background-checking tools, nor as sources for inaccurate reporting. Our citizens and the professional press deserve safe and accurate platforms to ensure an equitable balance between free speech and our concern for dignity is maintained.

Although public safety and holding powerful entities accountable is of paramount importance in any functioning democracy, exploiting the public records of average citizens undermines due process, harms vulnerable populations, and moves us ever-closer to the dystopian societies depicted by authors such as Orwell, Bradbury, and Huxley. Nevertheless, securing such data discourages recidivism, promotes restorative justice, and enhances openness and free speech.

### **Discourage recidivism or undermine reform?**

It is our choice. Either we can pave the road to recidivism or the road to reform, but we cannot do both. The indelible scarlet letter left by an arrest or conviction may permanently scar a person's reputation, making our society's collective push toward criminal justice reform tenuous at best. Further, it undermines individuals' efforts to reform and align their character with society's mandates. Often struggling against insurmountable odds, former offenders can be compelled to recidivate because we've failed to safeguard their persons against such unnecessary intrusions.

***“Expungement, ban-the-box, prisoner reentry programs, they all become meaningless gestures when we attach a lifelong stigma to former offenders and deny them the opportunity for redemption,” Scott Philotoff, director, Right2Remove.***

### **Harm vulnerable populations or promote restorative justice?**

Vulnerable populations can be irrevocably harmed as consumers in important sectors across the economy and suffer disproportionate social stigmatization for minor or victimless crimes. At-risk populations shouldn't face additional hurdles to securing employment, housing, schooling, or credit, nor should they suffer undue reputational harm and trauma as a collateral consequence of petty crime. It fosters healing and communal strength when we shepherd our strays back into the herd. Restorative practices give our citizens the requisite slack to adjust after an infraction and at the same time promote engagement between the community and former offenders to assuage the pain and injustice an infraction might have caused.

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***“Unlimited distribution of criminal justice data reinforces America’s social inequalities and sustains hierarchies of race and social class. The legal system and society should adopt a mindset toward rehabilitation that allows former offenders the opportunity to reincorporate into their communities. Cuomo’s mugshot proposal is a good step. Those concerned with access to public records should recognize police, courts, and corrections rarely give public access to the data that matters—transparent data about their actual operations. Mugshots don’t tell us the whole story. These kinds of restorative practices could ameliorate some of the disparities in treatment that vulnerable populations suffer as a result of interaction with the criminal justice system,” Sarah Lageson, Assistant Professor, Rutgers University-Newark School of Criminal Justice.***

### **Toward a social credit system like China’s or enhance openness and free speech?**

Not all arrests or convictions are created equal; however, our society equivocates minor brushes with the law and abject criminality. Our neighbors may not fully understand how to interpret arrest or conviction data or be provided with the requisite context for determining the degree of an infraction. As a result, they may miscalculate risk and err toward caution when evaluating a former offender’s trustworthiness. Our neighbors may leverage this information against us without ever telling us why we are being treated so harshly or giving us an opportunity to contest negative information. It is a recipe for disaster to allow records to be taken out of context, decision-making to be cloaked in secrecy, and evaluations of character to be passed without presenting an opportunity for them to be challenged.

***“This the silence and contextual rewriting of history spoken of by Orwell, Bradbury, and Huxley. Laws that benefit the free press are already robust in the United States. Media outlets can keep us safe and hold powerful state and corporate actors accountable while adhering to an ethical framework that provides regular citizens arrested or convicted of menial or victimless crimes with a buffer against these intrusions, which carry with them such dire collateral consequences. Both Internet platforms and traditional media outlets should balance free speech and our concern for dignity so that we do not continue down the slippery slope toward a social credit system similar to China’s.” Paolo Cirio, international Right to Be Forgotten activist and founder of Right2Remove.***

**Press Releases signed by the Right2Remove team:**

<https://Right2Remove.us/who/>

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**Youtube for the Right to Remove:**

[https://youtube.com/watch?list=PLJHWosFmMRqofm03UvU8\\_0tLKopTXKOra&v=yFQV9H93mJ4](https://youtube.com/watch?list=PLJHWosFmMRqofm03UvU8_0tLKopTXKOra&v=yFQV9H93mJ4)

**Petition for the Right to Remove:**

<https://change.org/p/introducing-the-right-to-remove-personal-information-from-search-engines-in-the-us>

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