A (Nude) Picture is Worth a Thousand Words?But How Many Dollars?: Using Copyright as a Metric for Harm in ?Revenge Porn? Cases

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 So-called ?Revenge Porn??pornography published without the subject's permission?is a growing issue. While much discussion exists about how best to outlaw the practice, less has been said about precisely how to measure the harm done. This paper is grounded in an in-depth analysis of the particular way that the Federal Sentencing Guidelines prioritize financial harms and non-financial harms, specifically looking at how many dollars of harm it takes to buy each additional sentencing point. I graph the enforcement priorities for financial and non-financial harm using the numbers federal agencies use for the value of a statistical life. Leveraging that analysis, I argue that the dollar sums in statutory damages under the Copyright Act provide a better mode of measuring than abstract dignitary and reputational harms more conventionally associated with ?revenge porn.? I also argue that, because of the structure of the Federal Sentencing Guidelines (and likely many state analogs), using economic harm to describe harm is likely to result in those harms becoming higher on the list of agency enforcement priorities.

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