

NO LAUGHING MATTER: PHANTOM CLOWNS, MORAL PANIC, AND THE LAW

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In the summer and fall of 2016, people throughout the United States reported seeing clowns in unusual places. Standing silently along the side of a road, loitering on the outskirts of a playground, or wandering the center of town in the early hours of the morning, many of these clowns were described as menacing, often dressed in the style of the “evil clown” archetype. However—in the vast majority of cases—they did not give chase, attack, or commit any offense *malum in se*.

Despite this fact, the phenomenon was enough to induce a sense of terror in many people. An unlucky few bystanders and passersby directly observed this behavior. Many other people accessed trending photos and videos on social media sites, such as Facebook and Twitter. Consequently, police stations around the country received reports—most secondhand—of these terrifying sightings. While some people no doubt engage in this dress-up activity as a joke inspired by the social media frenzy, others may have

more sinister, albeit unknown, motives.

This Article begins with a discussion of the history of the clown and the contours of coulrophobia, the clinical fear of clowns. Next, this Article examines the possible criminal charges and civil actions that could be brought against these “evil clowns,” despite the absence of any overt criminal act or intent. Finally, this Article concludes by placing this phenomenon in the sociological context of “moral panic,” and warning against the temptation to use the powers of the state to punish these harlequin actors and others like them.