

MEDIA LAW NOTES

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LAW AND POLICY DIVISION, AEJMC

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Head Notes

By Kathy Olson
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Globalization has changed the study of law by demanding perspectives that transcend borders and recognize the interdependence of the world's cultures and economies. The Association of American Law Schools ranked globalization No. 1 on its 2005 list of the 10 most important changes in legal education over the past 25 years – higher even than the digital revolution, which came in third.

AEJMC certainly recognizes the importance of a global outlook. One of the eight Strategic Directions approved by the membership in 2008 was to “engage globally and multiculturally” through teaching, research and service, including “champion[ing] global free expression and deep democracy.”

The law and policy division has already embraced this transformation. This year, Yong Tang of Western Illinois University



Kathy Olson

won the first-place research award for his paper tracing the development of freedom of information policy in China. A quick look at other research papers and panels from recent years shows members tackling a wide variety of international issues: Freedom of information as a universal human right, and as practiced in Latin America, South Korea and Kosovo. Defamation law and telecom policy in Great Britain. Legal restrictions on mental health reporting in Australia. IP law in France. Hate speech law in Germany. The list goes on.

Still, we can do more. I encourage everyone to think globally when proposing panels for the conference in Washington, D.C., and to take advantage of the resources in international law and policy available to us there. Another goal will be to extend our global reach by inviting international scholars to join and become active in the division. I'll be attending the ICA conference in May to evangelize on our behalf and will pursue other opportunities to spread the word about what we do. If you have any ideas or potential recruits, please let me know.

\$100 for 100 Years

AEJMC has begun a fundraising campaign as part of our centennial celebration to fund, among other projects, the James Tankard book prize and the Emerging Scholars Research Program. Division heads were challenged at the Council of Divisions meeting in Chicago to maximize participation by their members – in fact, the division or interest group that raises the most money for the campaign will win a prize. (I think the prize is a free conference registration. I sort of tuned out after it was explained that the contest would be based on overall donation amount, not per capita giving – congratulations, Mass Comm and Society!)

Surely you don't need extraneous rewards to do the right thing, though, so please consider donating to the cause. Pledge online at <http://www.aejmc100.org/campaign100/>, and I'll stop calling you Shirley.

Student Paper at Memphis Fights Censorship

By Carrie Brown
Assistant Professor
University of Memphis

Student press freedom was affirmed at the University of Memphis in recent weeks when funding was restored to our campus daily newspaper after an investigation uncovered evidence that a \$25,000 budget cut was motivated by the paper's content. But despite this important victory, journalism faculty, staff, students, and alumni are resolved to stay vigilant and continue our campaign to isolate future funding decisions from politics and to fundraise to ensure the paper's independence going forward.

As all journalism educators undoubtedly know, this is far from the first or the last time a student newspaper has butted heads with campus administration, although it was one of the more egregious cases I've seen. In April, the paper's student fee allocation was slashed by 33 percent by a committee made up of student government representatives and university administrators who had some choice words to say about the paper's content, including some stupefying accusations, such as outrage that coverage of an event that they had hoped to see promoted was pre-empted by breaking news of a campus rape. To take just one example, in a tape recorded conversation with the Daily Helmsman's



Carrie Brown

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Beyond the Classroom: Learning About Cyberbullying and Free Speech Limits

By Erin Coyle
Assistant Professor
Louisiana State University
Winner, Best Ideas in the Teaching of Communication Law and Policy 2012 Competition

As news stories have garnered college students' sympathy for legislative and school policies that sanction cyberbullying in 2012, undergraduate mass communication students at Louisiana State University have critically evaluated pros and cons for several governmental approaches for deterring harmful online expression. Students enrolled in my sections of Mass Media Law have gone beyond the college classroom to discuss Federal Trade Commission cyberbullying prevention resources with middle school students in Baton Rouge. Upon returning to the college classroom, the undergraduates have scrutinized limits of freedom of expression—as those limits are challenged by cyberbullying and defined by First Amendment jurisprudence.



Erin Coyle

During the spring and fall 2012 semesters, undergraduate Mass Media Law students have travelled to a local public middle school to meet with 11-15 year old students who use email, text messaging, and social media. During those sessions, students have read "Heads Up," a Federal Trade Commission booklet on how kids can protect themselves against harm from cyberbullying, sexting, and invasions of privacy online. The FTC community outreach materials for keeping kids safe online have guided students' discussions on what constitutes cyberbullying and sexting, helping college and middle school students recognize what types of information could be harmful to post online as well as what types of posted information should be reported to adults.

My Mass Media Law students have explored challenges to freedom of expression posed by cyberbullying in a middle school environment—an environment where *Tinker v. Des Moines Independent School District* allows substantially disruptive student speech to be sanctioned. To do so, the college students and I have entered a service-learning partnership with a public middle school in Baton Rouge. That partnership has fostered active learning by allowing college students to engage in an activity that meets the needs of a community partner and enriches college students' understanding of assigned course material.

The class structure of my section of Mass Media Law was designed to: 1. encourage college students to see that First Amendment protection for expression is not absolute; 2. explore how, when, and why society has identified a need to regulate

expression; and 3. prepare undergraduate students to evaluate and articulate when regulations of expression challenge First Amendment freedoms.

The course has required Mass Media Law students to reflect on their experiences with paper assignments that evaluate boundaries for protected expression. One assignment asks students to explore whether cyberbullying could be categorized as fighting words, true threats, or otherwise unprotected expression when the cyberbullying disrupts learning in a school setting. Other assignments ask students to evaluate whether school districts' policies on cyberbullying focus on harmful conduct or whether they may chill protected expression.

LSU Mass Media Law Students who have participated in the service-learning activities ultimately have engaged in nuanced discussions of points at which expression may become too harmful to be protected by the First Amendment. Those students have assessed examples of middle school students' experiences to determine whether the expression at issue would fall into categories of unprotected expression, such as true threats or child pornography. Some undergraduates also have argued that a chilling effect may result from government policies that sanction more speech than is necessary to protect middle school students from harm.

Participating middle school students also have benefited from learning about cyberbullying and harmful online expression. School administrators have reported that no middle school students participating in the service-learning partnership have been suspended for cyberbullying since the LSU Mass Media Law students started visiting their school.

For participating college students and middle school students alike, this partnership has provided an opportunity for education to improve their understanding of the limits of freedom of expression. Working with the FTC community outreach booklet also has demonstrated one way that government actors may use education rather than regulations to protect individuals from harmful speech.

Resources:

The FTC booklet, related videos, and other community outreach materials are available online at <http://onguardonline.gov/features/feature-0004-featured-net-cetera-toolkit>.

Law and Policy Division Speakers Bureau

Make yourself available for media interviews or speaking engagements in your area of expertise. Go to the division website at <http://www.aejmc.net/law> and click on "Speakers Bureau" to find out more information.

UNC Conference to Tackle *Hazelwood*

By Elizabeth Woolery
UNC-Chapel Hill Doctoral Student

The U.S. Supreme Court's decision in *Hazelwood School District v. Kuhlmeier* in 1988 gave public school administrators broad powers to regulate school-sponsored student speech. Twenty-five years later, the Student Press Law Center, the University of North Carolina at Chapel Hill's *First Amendment Law Review*, the North Carolina Scholastic Media Association, and the UNC Center for Media Law and Policy will host a conference to explore in depth the impact of the *Hazelwood* decision.

The conference, *One Generation Under Hazelwood: A 25-Year Retrospective on Student First Amendment Rights*, will be held Nov. 8 and 9 on the campus of the University of North Carolina at Chapel Hill. Program details and registration information can be found at <http://hazelwoodsymposium.unc.edu>.

The *Hazelwood* decision rolled back the broad First Amendment protection for student speech afforded by the Supreme Court's decision in *Tinker v. Des Moines Independent Community School District* almost two decades earlier. The Court's decision in *Hazelwood* came after the Hazelwood East High School-sponsored student newspaper, *Spectrum*, was prohibited by the principal from publishing two articles on teen pregnancy and divorce. Members of the *Spectrum* staff filed suit against the school district and school officials, alleging infringement of their First Amendment rights. Ultimately, the Court held that the First Amendment rights of students are not the same as those of adults, and the student newspaper was not a public forum. To date, the decision in *Hazelwood* remains the Court's only decision addressing the rights of public high school journalists.

An entire generation of student journalists now has worked under the *Hazelwood* standard, and the standard continues to provoke debate and litigation. For example, in a recent case, *Doe v. Silsbee Independent School District*, the U.S. Court of Appeals for the Fifth Circuit took *Hazelwood's* deference to perhaps its outermost limit, ruling that the Texas school committed no First Amendment violation when it disciplined a cheerleader for refusing to take part in a cheer that used the name of the basketball player who sexually assaulted her. Also, some courts have applied the *Hazelwood* standard to college students.

The UNC conference will pull together the country's leading thinkers and scholars on student free speech rights. The first day of the conference will be dedicated to the impact of the *Hazelwood* decision on student journalists and students' civic engagement. The second day, organized by the *First Amendment Law Review*, will feature a keynote address by Erwin Chemerinsky, dean of UC Irvine's School of Law, and further discussion of student speech rights by legal scholars and others. Following the conference, many of the panelists will publish articles in an upcoming issue of the *First Amendment Law Review* dedicated to student First Amendment rights.

Those with questions should email medialaw@unc.edu.

(*Memphis, continued from page 1*)

editor and advisor, Dean of Students Steve Peterson said, "I can't begin to tell you the examples that came up in that conversation about things that the paper did print that seem to have very little relevance or that seemed to touch very, very few students on campus."

The Helmsman primarily funds itself through advertising, and, in the digital age, this cut in student fee funding that is primarily used to print and distribute the paper free to students wouldn't have curtailed its ability to get news to readers. However, statements like the one made by Petersen above made it clear that the university community was in dire need of increased awareness of the First Amendment and the importance of a free and vibrant student press. Not to mention that the university's protests that the budget cuts were made out of financial necessity lacked credibility, given that the Student Government Association and Frosh Camp received a combined increase to their base budgets of \$133,000 over the last year.

To top it all off, the paper's top editor and three-time national-award winner Chelsea Boozer also experienced harassment by university officials; she was threatened with arrest and disciplinary action in her pursuit of a story.

Like any student paper, ours is not perfect. But we've been particularly proud of their investigative work, such as a story on how student fees fund full tuition for Student Government Association and Student Activities Council officers, and their month-long open records struggle



A graphic from the website FreeTheHelmsman.com.

with the university for a story about campus crime and safety.

While our efforts have received widespread local and even national attention and have resulted in the paper winning a recent College Press Freedom Award from the Student Press Law Center and the Associated College Press, we encourage all journalism educators to support our ongoing efforts to foster the paper's independence through statements of support or small donations. The website FreeTheHelmsman.com has much more detailed information about the case as well as the opportunity to support our efforts. We hope to change the university's funding formula and raise some money ourselves to preserve the paper's independence and circumvent potential future First Amendment violations.

Carrie Brown is an assistant professor of journalism at the University of Memphis, where she teaches and does research on changing newsrooms, social media, and digital and entrepreneurial journalism. She has worked in newspapers as a reporter and editor as well as three years at the Committee of Concerned Journalists.

Call for Panel Proposals for the 2013 Convention

The Law and Policy Division is now accepting panel proposals for the 2013 AEJMC Convention for (1) Teaching, (2) Professional Freedom and Responsibility, and (3) Research. All topics and ideas for panels are welcome. The convention will be held August 8-11 in Washington, D.C.

An AEJMC conference panel is generally composed of four speakers who contribute their thoughts, experience and research to the panel theme. The division will also entertain other format ideas that would provide solid content in a compelling, interactive manner. As in years past, the division is particularly interested in panels that can be co-sponsored by other divisions and interest groups. A co-sponsored panel means that we can have more law topics on the program that would be of interest to our members.

All panel proposals will be due to Derigan Silver, Vice Head/Program Chair, Law and Policy Division, via email (Derigan.Silver@du.edu) by Monday, Oct. 15. Please use "Law and Policy Panel Proposal" as the subject of your email. The proposal should be attached to the email in a Word document of one page in length and should include the following information (it's important that proposals follow this format and are explained fully, or else other divisions won't take them seriously when considering joint sessions):

- (1) Panel Title
- (2) Panel Type: Indicate whether the proposal is for a TEACHING, PF&R, or RESEARCH panel. (See below for more information on this.)
- (3) Panel Sponsorship (including possible co-sponsors): Indicate whether you are proposing a law-only panel or a possible co-sponsored panel. For co-sponsored panels, list other AEJMC divisions or interest groups for which this proposal might prove relevant (you can find a list on the AEJMC website). You don't need to get a commitment from another division or group, just suggest relevant possibilities. Panel co-sponsorship is agreed upon by the vice chairs at the Winter meeting. If proposing a co-sponsored panel, please be aware that the other division will want to have a say in panelists. Law-only panel proposals will be considered, but the majority of AEJMC panels tend to be co-sponsored across divisions and interest groups because that provides more opportunities for panel presentations.
- (4) Summary of Session: Provide a succinct description (no more than 200 words) in paragraph form of the key issues or subject matter to be addressed by the panelists. If you would like to propose a different format that might be innovative and convey information in an interactive and compelling way, explain that here.
- (5) Possible Panelists: Indicate individuals who would be appropriate participants for this panel. For those you list, indicate whether they have been contacted and have committed to participate. If you plan to recruit a Washington-area professional for the panel, indicate this as well. (It is not necessary to have a full slate of four participants at the proposal stage. However, listing some possible participants is desirable. As noted above, if proposing a co-sponsored panel it is best to have FEWER THAN four participants listed to give the other division the opportunity to include panelists.)
- (6) Moderator: This can be you or someone you nominate to moderate the panel.
- (7) Estimate of speaker costs, if any
- (8) Contact Person: Include your name, mailing address, email address and telephone number as the contact person for this panel proposal.

Types of Panels

As you develop the proposal, please consider specific details for the three types of panels described below.

Teaching Panels

Each teaching panel proposal should address one of the following general areas identified by the AEJMC Standing Committee on Teaching: curriculum, leadership, course content, teaching methods, and assessment. Teaching panels submitted to the division should attempt to link these general areas to specific pedagogical challenges within the journalism and/or mass communication curriculum or to opportunities related to teaching communication law and policy.

Professional Freedom and Responsibility (PF&R) Panels

All PF&R panel proposals within any of the five Professional Freedom and Responsibility subject areas are encouraged. The five areas are (1) Free Expression, (2) Ethics, (3) Media Criticism and Accountability, (4) Racial, Gender and Cultural Inclusiveness, and (5) Public Service.

Research Panels

Research panel proposals typically include several participants whose research inquiry and scholarship are linked by a common theme or methodology regarding communication law and policy. These research panels are not to be confused with the refereed research panels where scholars present their papers from the research competition.

Submissions

Email your proposals by Monday, Oct. 15, 2012 to Derigan Silver, Vice Head/Program Chair, Derigan.Silver@du.edu. If you have any questions, contact him at that email address.

Legal Annotated Bibliography

By David Wolfgang, J.D.
Doctoral Student
University of Missouri

FIRST AMENDMENT

Coenen, M. (2012). "Of Speech and Sanctions: Toward a Penalty-Sensitive Approach to the First Amendment." 112 *Columbia Law Review* 991.

While punishments lie at the core of real-life First Amendment disputes, they occupy only the peripheries of First Amendment analysis. In particular, the severity of the penalty imposed - though of central importance to the speaker who bears it - does not normally affect the merits of his free speech claim. Much free speech review follows this pattern, asking the question of whether, and not to what extent, the government may punish expressive conduct. Consequently, First Amendment litigation tends to proceed as a winner-take-all affair. Speech is either protected, in which case it may not be punished, or unprotected, in which case it may be punished to a very great degree.

This penalty-neutral approach to free speech adjudication is no doubt familiar to students of First Amendment law. Less familiar is its penalty-sensitive alternative, which treats the severity of a speaker's punishment as relevant to the merits of

his First Amendment claim. On a penalty-sensitive understanding of the free speech right, some forms of expression warrant neither total immunization against nor total exposure to the threat of government-sponsored sanction. Rather, for such expression, the First Amendment permits some forms of punishment but not others. Thus, to the penalty-sensitive analyst, it matters whether prison sentences are long or short, whether civil damage awards are large or small, whether public workplace dismissals are permanent or temporary, and so on.

Given penalty sensitivity's now limited - but still unmistakable - presence within First Amendment law, it is well worth asking whether this sort of analysis ought to be included. Should we regard existing examples of penalty-sensitive analysis as aberrant mistakes not to be repeated?

FCC

Frieden, R. (2012). "From Bad to Worse: Assessing the Long-Term Consequences of Four Controversial FCC Decisions." 77 *Brooklyn Law Review* 959.

Far too many major decisions of the Federal Communications Commission (FCC) rely on flawed assumptions about the current and future telecommunications marketplaces. When the FCC incorrectly overstates the current level of competition, it risks exacerbating its mistake going forward if actual competition proves unsustainable or lackluster. In many key decisions, the FCC cited robust competition in current and future markets as the basis for deregulatory decisions that relax restrictions on incumbents, abandon strate-

gies for promoting competition, or apply statutory definitions of services that trigger limited government oversight.

The FCC has exacerbated the trend toward concentration of ownership generated by technological convergence and the real (or perceived) need for incumbents to grow larger by acquiring competitors. Instead of making sure that this trend does not lead to oligopolistic behavior, which can harm consumers, the FCC has removed still-necessary regulatory safeguards designed to curb market power without robbing ventures of opportunities to operate efficiently.

This article concludes that flawed fact finding and market projections had adverse initial consequences but have even worse future impacts. In response to aggressive incumbent advocacy, impatient lawmakers keen on deregulation, and deferential judges willing to rely on the Commission's expertise, the FCC has contributed to the development of a telecommunications industry structure that is less competitive, innovative, available, affordable, and responsive than what exists in many other countries. The FCC's follies provide a clear warning to other national regulatory authorities: embracing political and economic doctrine at the expense of unbiased fact finding and empirical analysis generates bad decisions that trigger even worse long-term outcomes.

CAMPAIGN FINANCE

Hasen, R.L. (2012). "Chill Out: A Qualified Defense of Campaign Finance Disclosure Laws in the Internet Age." 27 *Journal of Law & Politics* 557.

Everywhere you look, campaign finance disclosure laws are under attack. The National Organization for Marriage ("NOM") has filed numerous lawsuits attacking state campaign finance disclosure laws on constitutional grounds. Congress failed to fill the gaping holes in the federal disclosure rules that followed the Supreme Court's *Citizens United* decision, freeing corporate and labor union money in the political process. The U.S. Chamber of Commerce strongly opposed attempts by the Obama administration to impose disclosure provisions on federal contractors through executive order, and almost comically raised the specter that major American

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Meet the Bibliographer



David Wolfgang

David Wolfgang is a doctoral student in journalism at the University of Missouri. He recently completed his master's degree in journalism and law degree at Missouri as well. He graduated from the University of South Dakota in 2008 with a degree in print journalism and has interned as a news reporter at the Rapid City Journal, Richmond Times-Dispatch, and The Oklahoman. His research interests include the First Amendment, anonymous speech, and online privacy.

*(Bibliography, continued
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businesses will suffer government harassment if compelled to disclose their campaign spending.

But attacks on disclosure have come not only from the right. Members of the academy, and not just the usual suspects who oppose virtually all campaign finance regulation, have criticized disclosure laws. Richard Briffault, a longtime supporter of reasonable campaign finance regulation, now believes disclosure is inadequate to deter corruption, and that the potential chill of disclosure in the Internet era warrants raising the threshold for disclosure of campaign contribution information. Bruce Cain believes that many reformers push disclosure to dissuade people from giving money to campaigns, and he has called for treating campaign finance disclosure information as we do sensitive individual level census data - disclosed to the government but not to the public.

This article offers a qualified defense of government-mandated disclosure, one that recognizes the concerns of these prominent academics but also sees much of the anti-disclosure rhetoric of the Chamber and others as overblown and unsupported - offered disingenuously with the intention to create a fully deregulated campaign finance system, in which large amounts of secret money flow in an attempt to curry favor with politicians, but avoid public scrutiny. To the contrary, disclosure laws remain one of the few remaining constitutional levers to further the public interest through campaign finance law.

ANONYMITY AND TRUE THREATS

Mason, C. (2012). "Framing Context, Anonymous Internet Speech and Intent: New Uncertainty About the Constitutional Test For True Threats." 41 Southwestern Law Review 43.

The state of the law on presidential threats was, until recently, relatively clear. A defendant violates 18 U.S.C. § 871 if he or she knowingly makes a statement, and the statement is such that a reasonable person would foresee that it would be interpreted in context by reasonable members of the audience as a serious expression of an intent to use violence against the President. There

is no requirement that the speaker intend to carry out the threat, and there is no requirement that the speaker specifically intend that the audience interpret the statement as a threat. That "reasonable-person" test has been uniformly treated by the courts as the constitutional floor for prohibition of threatening speech - uniformly, that is, until July 2011, when the Ninth Circuit held that application of the reasonable-person test violated the First Amendment.

In *Watts v. United States*, issued in 1969, the Supreme Court emphasized the contextual "framing," or "stage setting," that supplies the context necessary for interpretation. That framing would make it obvious to any reasonable audience that the defendant was using a potent political metaphor, in a highly charged political context, at a political rally.

The contemporary problem for construing § 871 is that almost all of that framing context, which made

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Southeast Colloquium Call for Papers

The Law and Policy Division of AEJMC invites scholars to submit original papers for the annual AEJMC Southeast Colloquium, which is scheduled to take place February 28 – March 2, 2013 at the University of South Florida in Tampa, Florida. Papers may focus on any topic related to communications law and/or policy, including defamation, privacy, freedom of information, commercial speech, Federal Communications Commission issues, copyright, obscenity and other issues regarding freedom of speech and press. A panel of judges will blind referee all submissions, and selection will be based strictly on merit. Authors need not be AEJMC or Law and Policy Division members, but they must attend the colloquium to present accepted papers.

Law and Policy Division papers must be no longer than 50 double-spaced pages (including appendices, tables, notes and bibliography). Although Bluebook citation format is preferred, authors may employ any recognized and uniform format for referencing authorities. There is no limit on the number of submissions authors may make to the Division. The top three faculty papers and top three student papers in the Law and Policy Division will be recognized. Student authors of single-authored papers should clearly indicate their student status to be considered for the student paper awards.

Authors should submit each paper as an email attachment (documents may be submitted in the following formats: Word, Pages, or PDF). In the body of the email, please provide the title of the paper, and the name, affiliation, address, office phone, home phone, fax and e-mail address for each author. This is where students and faculty should indicate their status for consideration of the faculty and student top paper awards. Do not include any author identifying information on any page of the attached paper submission. Authors also should redact identifying information from the document properties. On the cover page of the attached paper, only the title of the paper should appear. Following the cover page, include a 250-word abstract.

Submissions should be emailed to Dr. Courtney A. Barclay at aejsoutheast.law@gmail.com. The deadline for paper submissions is Monday, December 10, 2012, at 5 p.m. Eastern Standard Time.

If you have any questions about the submission process or the paper contest, please contact Courtney Barclay by phone at 315-443-3489 or via email at cobarcla@syr.edu.

Southeast Colloquium Call for Reviewers

The AEJMC Law and Policy Division has a proud tradition of hosting an engaging research paper competition at the Southeast Colloquium each year, and we anticipate that the 2012 competition will be no different. Last year, we had 36 paper submissions, with a good mix of faculty and student articles.

With our growing number of papers comes a need for an equally vigorous team of reviewers. For us to limit reviewers to reviewing three papers each, we'll need approximately 40 reviewers. If you are not submitting a paper to the colloquium this year, the division would like to invite you to help with the competition. For those who have served as reviewers in recent years, we thank you for your time and effort, and hope you will join us again this year.

Reviewers will receive a package of papers in mid-December, with a mid-January deadline for returning reviews.

For more information, please contact Courtney Barclay by phone at 315-443-3489 or via email at cobarcla@syr.edu.

Corrected List of Reviewers for the 2012 Convention

By Derigan Silver
Vice Head/Program Chair
University of Denver
Derigan.Silver@du.edu

The following is the corrected list of reviewers for the 2012 Annual Convention. None of the lists published by AEJMC in the program were correct. I apologize for this mistake.

S.L. Alexander	Loyola New Orleans
Courtney Barclay	Syracuse
Benjamin Bates	Tennessee
John Bekken	Albright College
Cheryl Ann Bishop	Quinnipiac
Michael Cavanaugh	Illinois at Springfield
T. Barton Carter	Boston
Erin Coyle	Louisiana State
Kalen Churcher	Niagara
Kenneth Creech	Butler
David Cuillier	Arizona
Charles Davis	Missouri
Louis Day	Louisiana State
Eric Easton	Baltimore School of Law
Aimee Edmondson	Ohio
Tori Ekstrand	Bowling Green State
Tony Fargo	Indiana
Mike Farrell	Kentucky
Kathy Forde	South Carolina
William Freivogel	Southern Illinois Carbondale
Barbara Friedman	North Carolina at Chapel Hill
Mark Goodman	Kent State
Karla Gower	Alabama
Roy Gutterman	Syracuse
Holly Hall	Arkansas State
Jennifer Henderson	Trinity
Cindie Jeter	Southeastern Missouri

Sue John	Washington
Macdonald Kale	California University of Pennsylvania
Patricia Kennedy	East Stroudsburg of Pennsylvania
Robert Kerr	Oklahoma
Minjeong Kim	Colorado State
Shelly Kimball	Florida
Jane Kirtley	Minnesota
Dan V. Kozlowski	Saint Louis
William Lee	Georgia
Grace Levin	Quinnipiac
Carmen Manning-Miller	Savannah State
Karen Markin	Rhode Island
Jason Martin	DePaul
Sheree Martin	Samford
Michael McCluskey	Ohio State
Joe Mirando	Southeastern Louisiana
Roy Moore	Middle Tennessee State
Barbara Morgenstern	Ithaca College
Michael Murray	Missouri-St. Louis
Greg Newton	Ohio
Pamela O'Brien	Bowie State
Kathy Olson	Lehigh
Kevin Qualls	Murray State
Jeannine Relly	Arizona
Melinda Rhodes	Ohio Wesleyan
Joseph Russomanno	Arizona State
Paul Siegel	Hartford
Guido Stempel	Ohio
Stanley Tickton	Norfolk State
Laurie Thomas Lee	Nebraska-Lincoln
Brian Thornton	North Florida
Lorna Veraldi	Florida International
Roxanne Watson	South Florida
John Williams	Principia College
Nancy Whitmore	Butler
Jason Zenor	SUNY-Oswego

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interpretation so easy for the *Watts* Court, evaporates when the speech in question is an anonymous Internet comment. Without any contextual information about the identities of the speaker or audience, or any shared facts informing reasonable contemporaneous interpretation of the utterance, how is the reasonable-person test to proceed?

FREE SPEECH

Papandrea, M. (2012). "Social Networks and the Law: Social Media, Public School Teachers, and the First Amendment." 90 North Carolina Law Review 1597.

Typically concerned that social media makes it easier for teachers to engage in inappropriate communications with their students, school officials have adopted guidelines that prohibit K-12 teachers from using social media to communicate with their students for noncurricular purposes. In addition, teachers are frequently punished for content they or others post on social media even when their students and the school community were not the intended audience. Current doctrine leaves unclear how much authority schools have to restrict their teachers' use of social media.

The Court's decision under *Garcetti v. Ceballos* to strip public employees of their First Amendment rights for speech made "as employees" pursuant to their official job duties should be construed narrowly so that it applies only when teachers communicate with their students for school-related purposes. Furthermore, teachers should not have to demonstrate that their speech involves a matter of public concern to be entitled to First Amendment protection. This article argues that in cases involving noncurricular speech that relates to the workplace, courts should apply a robust version of the *Pickering* balancing test that recognizes the value of teacher expression even when it does not involve a matter of public concern and that does not permit a hostile community reaction to figure into the calculus.

In cases involving non-school-related expression, this article contends that courts should abandon the balancing test and instead give the speech presumptive constitutional protection that can be overcome only if school officials can demonstrate a significant nexus between that speech and the teacher's fitness and ability to perform professional duties.

PRIVACY

Swire, P. (2012). "Social Networks and the Law: Social Networks, Privacy, and Freedom of Association: Data Protection and Data Empowerment." 90 North Carolina Law Review 1371.

At Internet conferences in the past few years, there have often been panels highlighting how social networks mobilize political change. Speakers on these panels often discussed the 2011 "Arab Spring," including the "Facebook Revolution" in Egypt that resulted in the overthrow of President Mubarak. In these panels, a key feature of social networks was their ability to foster political association at the grassroots level - sharing information among activists empowered them.

Meanwhile, speakers from another panel often spoke about

the privacy problems caused by social networks. In these discussions, sharing of information was a problem, and not a positive feature of political mobilization. In the period that social networks have grown to prominence, government agencies have issued a flurry of privacy policy initiatives, such as the Obama Administration's call for Internet privacy legislation, the Federal Trade Commission's report on online privacy, and the European Union's proposed revision to the Data Protection Directive.

Notably lacking from these conferences was an integrated understanding of when the sharing of personal information was good (Arab Spring) and when it was bad (privacy problems). This article tries to help with that integration. To do so, the analysis here highlights the profound connection between social networking and freedom of association. A basic tension exists between information sharing, which can promote the freedom of association, and limits on information sharing, notably for privacy protection. Although many writers have written about one or the other, my research has not found any analysis of how the two fit together - how freedom of association interacts with privacy protection.

COPYRIGHT

Balganesh, S. (2012). "The Obligatory Structure of Copyright Law: Unbundling the Wrong of Copying." 125 Harvard Law Review 1664.

Courts and scholars today understand and discuss the institution of copyright in wholly instrumental terms. This instrumental focus directs attention away from the reality that copyright is fundamentally a creation of the law and is thus endowed with a uniquely legal normativity that instrumental accounts find difficult to capture.

Taking copyright's legal architecture seriously reveals a matrix of core private law concepts and ideas that are in turn a rich and underappreciated source of normativity for the institution. In the process, this article makes three interrelated claims. First, copyright theories and analyses ought to pay greater attention to the analytical structure of copyright's entitlement framework and the ways in which this structure seeks to operate in the real world. Second, copyright can usefully be reconceptualized as revolving around the "wrong of copying." Third, focusing on copyright's internal logic need not come at the cost of its instrumentalism.

It bears emphasizing that in attempting to reorient our understanding of copyright law to focus on the duty that it imposes on actors (that is, potential copiers) and on the way in which that duty renders the institution's very structure of rights operational, this article's argument does not suggest that the idea of the "duty not to copy" needs to replace any and all discussion of "exclusive rights" in copyright law. The article intends instead to suggest that while the two always go together, the systematic neglect of copyright's "duties" in copyright jurisprudence and scholarship has over time skewed our understanding of copyright's basic structure as an area of law endowed with an obligatory dimension — that is, where compliance is required and not merely optional. In the process, copyright's very origins as a creation of the law, and as a branch of private law, have come to be neglected in discussions of the subject.

Minutes of the Law and Policy Division Annual Meeting

Aug. 11, 2012

Daxton "Chip" Stewart, division clerk
Texas Christian University

Division Head David Cuillier (DC) called the meeting to order 7:01 p.m.

DC introduced himself and welcomed all in attendance to the Law and Policy Division members meeting.

APPROVAL OF MINUTES

DC asked if there was a motion to approve the minutes from the 2011 members meeting, which were prepared by Derigan Silver (DS) and published in Media Law Notes.

Amy Kristin Sanders (AKS) moved to approve the minutes, Erin Coyle (EC) seconded the motion. The motion had no opposition and passed unanimously.

STATE OF THE DIVISION

DC talked about the state of the division:

"We're just rolling on, we have 259 members, 9 are graduate students, our budget has about \$5,000 in savings. On page 5 (of the meeting agenda and information handed out to attendees) you'll see after the minutes the basic accounting of the budget for the year. Our only expenditures are paying toward Communication Law & Policy, sending the vice head and head to the winter meeting for programming – last year it was in Louisville, the division paid \$400 to each of Kathy and I to help out travel, this happens every year. Then there are plaques for the awards, and that's really all our expenses. We're going to talk a little about that a little later, how we spend our money. We'll also talk about the chip auction at the winter meeting a little later. There's talk about ending that, so we may not have to spend on that."

DC continued:

"The folks at AEJMC, the higher ups want to celebrate 100 years of AEJMC, and Kyu is back there, so I'm going to be very respectful."

Kyu Ho Youm (Q, serving as president of AEJMC in 2012-13): "I'm here as a member of the law division."

DC said leadership was encouraging everyone in AEJMC to give \$100 dollars for 100 years of excellence. The division with the most donations gets an extra chip at the chip auction and gets to go first. He asked if anyone saw any issues with this.

Members responded that we would need more members to compete with larger divisions, and DC agreed. He concluded, "Do give to the organization, what we do is important."

DIVISION WEBSITE

DC talked about the website, which was under the supervision of webmaster EC this year. EC provided an update on the

website. She said we have a beautiful website and credited and thanked Kathy Olson (KO, Law & Policy Division vice head) with getting it in place. EC said she started adding annual reports to increase the transparency of the division. She added that she would be interested in creating a private Facebook page for the division if members wanted one, and she urged members to contact her if they were interested.

Jeremy Lipschultz (JL) opened discussion about promoting law and policy research to the larger community and asked if we should consider having a more public website or Facebook community to provide links to what we are doing. DC said this

was a good idea and would be up to the incoming division head.

DC said that the last issue of Media Law Notes included the results of a division survey he conducted. The survey had interesting results from the limited number of people who responded. He said the survey did not show much interest in a Facebook page and that people seemed to be happy with what we have. But it doesn't hurt to try anything, and he encouraged officers to try something else. "We do have to get with the 20th century."

Cathy Packer (CP) noted that our liaison to the research committee is division member Tori Ekstrand (TE), who could keep us posted on how the committee is working to promote research.

JL said he knows Q has done a great job on Twitter of pushing things out about media law news and research.

CP suggested looking back a year at Communication Law & Policy and writing up research published in it.

DC thanked EC for her service.

NEWSLETTER

Chip Stewart (CS), Law & Policy Division clerk and newsletter editor, talked about Media Law Notes. He said there were three issues in 2011-12 that included substantial contributions in columns from division leadership. He thanked Mike Martinez (MM) for compiling the media law bibliography included in each edition. CS added that online distribution of the newsletter via listserv seemed to be working fine.

CS said that if he were to do it again, he would create a section for member announcements such as new jobs, promotions, marriages, children, etc. Because many of us only see each other once a year, it may be nice to have a place to see what our members are up to throughout the year.

DC thanked CS for his service.

SOUTHEAST COLLOQUIUM

Justin Brown (JB) noted that the research chair for the division

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at the Southeast Colloquium, Courtney Barclay, was unable to be with us at the meeting. He said the colloquium research competition went very well, and he encouraged people to come to Tampa, Fla., for the 2013 colloquium, which will be Feb. 28 to March 2. He estimated temperatures would be in the 80s.

DS said he heard the SEC went well and noted that the report of research paper acceptances and topics had been published in Media Law Notes. CP said the conference was excellent. Wat Hopkins (WH), who organized the conference this year, said he heard good stuff about the Law and Policy Division and had fun.

ANNUAL CONFERENCE UPDATE

DC asked AKS and KO to talk about how things have been going at the Chicago conference so far.

AKS said thanks to those who attended the preconference, which she said had great attendance and is worth considering doing again next year. She said if you have any ideas, please let KO know. There was some talk about social media law & ethics as a preconference session. She also asked attendees to provide feedback if they liked the three-hour format with one-hour sessions, if they would be interested in having lunch, and if they would prefer free attendance or paying a little extra for lunch.

KO said she thought the panels have been really good in Chicago, with good turnout and good co-sponsorship with the Ethics and History divisions. There has been a really good mix of people, they have been really happy with the panels, and she's heard good feedback. She offered thanks to those who submitted panel proposals and said if it wasn't accepted, try again next year.

DC said KO is completely correct about that, that it is really weird how proposals are chosen. Much comes down to how the head and vice head can use chips for programming. So if you're idea is not chosen, submit it again.

KO said practically no panels aren't cosponsored. She suggested to the next program chair to make our panel proposal call say that. She said people often people line up four speakers, but the other division wants two spots, so it's great to suggest plenty of people but don't make any promises because you may have to give up those spots.

DS said the chip toss and programming is done much earlier, and that panels are due Nov. 1. He has already been approached by the Scholastic Journalism Division, which would like us to spend some chips on a panel with them. "It seems ridiculously early to me, but that's how we plan at AEJ. Submit early and often, just like Chicago voting."

JOURNAL UPDATE

DC asked WH, editor of Communication Law & Policy (the division's journal) to report on the status of the journal.

WH said it wasn't a good year for the journal. Submissions were down, pages published were down. There were 35 submissions last year, after 43 the year before. He said that at a meeting of division journal editors, he found out that we're not unique. A couple of others journals had declines, a couple were stable, more had an increase, but they don't know what the cause was. He offered a commercial for the journal: "This is a good time to submit to Communication Law & Policy."

WH suggested attendees look at the handout to see his annual report on the journal. There are currently five manuscripts in various degrees of consideration. Despite the fact that pages published were down, our rigor is still there. The acceptance rate last year was 20 percent, the previous year it was like 25 percent. We're still maintaining rigor. If you have any questions, WH is glad to answer them.

WH noted that the editorial board of the journal lost three members: "Ruth Walden retired from UNC, Millie Rivera Sanchez at Singapore reviewed a manuscript and said, by the way, her research interests were moving away from law. Todd Simon, who very rarely said no, from Kansas State died this year suddenly. We're going to miss the three of them. Division policy limits the board to 35 members, and two-thirds must be from the division. He said we have 22 board members who are division members, 9 who are not. Next year we will be soliciting new members. Whenever we have lost members like this, I look at what areas manuscripts are in. Ruth was a generalist, Todd was very good with media economics, Millie was primarily concerned with comm tech and broadcast. We need to get some people like Millie on the board. Several years ago, when I attempted to get the journal listed by ISI (Institute for Scientific Information), which if it doesn't accept you they don't tell you why, they just say no, but they did indicate a lack of international flavor. People like Q don't count; he's not international because he's in the U.S. I don't know if Ed Dennis counts because he's at Northwestern at Qatar. Last year we added a guy from London, so that will help us there."

WH said he got some bad news a couple of weeks ago from Taylor & Francis. For two years, he has been asking Taylor & Francis to assure him that when authors publish in Communication Law & Policy, they would also be allowed to post PDFs of accepted articles on SSRN. We have trouble recruiting scholarship from law professors and you probably know why. I don't publish in Communication Law & Policy, so I recognize that I can submit to five journals at once. A few years ago I asked if we should do this, and we said no. It would help us if we could publish on SSRN, but I was told by Taylor & Francis that we could not. I found out some background, it had to do with some agreements between those two. We're still working on it, trying to come to some contract, some arrangement, but I'm hopeful that might resurface.

Q thanked WH for his report. He said he wanted to mention his initiative as AEJMC president to focus on press freedom in the upcoming year.

WH concurred, saying that if you heard Q's acceptance speech at the AEJMC business meeting, Q as part of his efforts to incorporate press freedom in his term as president has planned a session in Washington in 2014 that will address the future of press freedom. As a prelude to that, Q and Tim Gleason and Ted Glasser have planned a summit in April at the University of Oregon. They asked me to help with this, many have been invited, including me. This is typically a law kind of thing, but as you know, freedom of the press is not limited to the law. A lot has to do with economy. People haven't been determined, and the topics haven't been determined. Some of you might be invited.

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One of the things they asked me to do was to begin with a list of the best and the brightest among First Amendment scholars, free speech and free press scholars. I will submit a list to Q, Ted and Tim, and we'll address those and add to it. Any of you who have suggestions as to who can participate and contribute in a big way, send ideas to any of us.

WH asked if there are any questions about this or the journal.

Eric Ugland (EU) asked what is the nature and extent of our contract with Taylor & Francis?

WH responded that we don't have a contract with Taylor & Francis. Our contract is with Lawrence Erlbaum, which got out of the journal business. He assumed Taylor & Francis got the deal as part of a sale, but he assumes the original contract is still binding. But if we decide we no longer want as them as our publisher, we should give notice, presumably 3 months, maybe 6. That's the only exit obligation we have.

WH concluded: "Send me your articles!"

DC thanked WH: "You do an excellent job, we're lucky to have you."

DC asked, by the way, when was the last time a Law & Policy Division member had been elected AEJMC president?

Q said there were zero. Attendees applauded.

WH said Ed Dennis was one of us but was also a member of several other divisions.

DC said it was just a phenomenal feat by Q. More applause ensued.

TEACHING AWARDS

DC asked teaching standards chair Cheryl Ann Bishop (CAB) to present the teaching standards awards.

CAB said this year's teaching ideas theme was experiential learning. From the submissions, we chose three winners, which are posted on our website, where you can also go to see the last four years.

CAB announced the winners. Third-place winner was Melinda Rhodes from Ohio Wesleyan University, who received a \$50 check and a certificate. Second-place winner was Kevin Qualls from Murray State, who was not present but will receive a \$75 check and a certificate. CP said she would take the check.

The first-place winner was Erin Coyle from LSU, who received a \$100 check and a certificate. CAB assured the audience that the competition was not rigged.

CAB offered congratulations to the winners. Attendees applauded.

CAB urged members to enter the competition next year. "You could possibly get 100 dollars, get paid for your teaching."

DC thanked CAB for her service.

RESEARCH CHAIR REPORT

DS (research chair of the Law & Policy Division) said he tied the report of the research competition to the presentation of awards.

DS said this year, the division's annual AEJMC conference paper competition had 71 papers submitted, 32 accepted, for a 45 percent acceptance rate. Last year, we had the lowest accept rate in AEJMC, and this year it was tied for second. There were 42

faculty paper submissions, 21 accepted; 29 student paper submissions, 11 accepted, for a 38 percent rate. For student authors in the audience, you should feel good, this was a very low acceptance rate. Last year, it was 30 of 71, in 2010 it was 32 of 83, which is the all-time high. That was a 38.5 percent acceptance rate, so this year our acceptance rate was a little bit up. The last two years were exceptionally low. In both 2008 and 2009, we had a 45 percent acceptance rate. That's something we take a great deal of pride in, though it may scare some people off, which we'll talk about later.

DS continued: This year, AEJMC made a huge push to chairs to seek quality. Our division didn't have to worry about it. AEJ was so happy they gave us an extra research presentation. I asked for two poster spots and they gave us an extra spot. "It was a one-time-only, Derigan's a really good whiner event."

The concern at AEJ is that it is viewed by individuals as not a quality research competition. AEJ as a whole is trying to do things to ramp up for people who aren't core members, for example trying to get people who submit to ICA to submit here. There's a feeling from non-members that writing style is more important than theoretical contribution. And there's a feeling that international scholars are getting rejected from AEJMC because of their writing, so there is a focus to push more on quality in the divisions.

I pushed AEJ and told them we are quality, we are the place a lot of the legal scholars go. Though I'd like to see increase of some kinds of work.

One of the problems in other divisions is scholars not showing up. I'm very happy to report, with still one panel left, we have had no no-shows. Every single person showed up. Just so you know, AEJ has a new policy, if your paper is accepted and you don't show up, we are to report you. AEJ will send a letter, and you can't put the paper on your vita. If you do this twice, there's talk that the letter will go to your provost and dean, and after that you would be banned from submitting to AEJMC.

DS also mentioned AEJMC's efforts to ramp up international scholarship and recruiting scholars at the international level.

AKS said there are certain divisions, she had heard of at least two, that are putting a ban on multiple submissions next year in their paper call. We will need to be very diligent in reading paper calls, need to be careful, some divisions are very serious about this.

DS said we'll talk about not reading paper calls in a second.

DS discussed the Best Poster award. He said we should recognize that being in a poster session is not a sign of quality, it's just a sign I couldn't fit your paper in a session. That's my hardest job. This year, one theme was that the topic of each paper started with C.

DS recognized the winner of this year's Best Poster award, master's student Matthew Haught from South Carolina. DS said it was very creative because he did a multimedia presentation with a poster, brought an iPad with him to show the ads he was talking about. I thought it was very creative and I love iPads. We have a certificate I'll be sending to him.

DS talked about the paper competition awards, how places were determined using z-scores to normalize tough judges with

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easier judges.

DS announced the student paper award winners: “I don’t remember this happening in my seven years in the division, but all three winners are from UNC-Chapel Hill.” The third-place paper was master’s student John Remensperger from UNC. Second-place was Ph.D. student Lisa Bernard, who is presenting tomorrow (Sunday). The first-place paper winner was Jeanne-Marie Distefano from UNC. The students received plaques and checks from the division. DS congratulated the student winners; the attendees applauded.

DS said the three faculty paper winners were representative of papers from across the division as a whole. It included the usual suspects but some new faces, people who have never submitted to the division before. Third place was one of the usual suspects, longtime member Ed Carter from BYU, who wrote about aspects of the new copyright decision and the public domain. In second place, it was very interesting, we had two similar papers and they were presented on the same panel together, both history papers. It was in the special call for history papers; one was submitted in the special call, one was not. The second place paper was one of these, UNC’s Dean Smith. And the first-place paper was by someone in the first time he submitted to the division. I’m really happy to see him submit, and the paper got a lot of great feedback. We’ve been trying to promote comparative legal research, this paper looked at Chinese transparency over 5,000 years, by Yong Tang from Western Illinois. DS congratulated the winners, and the audience applauded.

DS thanked the 64 judges who helped with the research paper competition. He noted that the AEJMC conference program did not correctly list the judges, and he apologized and said a corrected list of reviewers would run in *Media Law Notes*.

DS also thanked those who participated as moderators and discussants at the conference. He said some divisions had TBA listed on the program, and others had moderators or discussants not show up, but we did not have that problem.

DS commented on comments from paper judges: “As research chair, I’m still a bit concerned about feedback papers are getting. I’d like to draw people’s attention to this. Our paper call says that all methods and styles recognized in our division. Qualitative and quantitative research are different than traditional legal research. But we’re still getting reviews back that say if the paper is not in Bluebook style, it’s not appropriate for the division, if it’s not doctrinal style, if it’s not media law narrowly defined, it’s not appropriate for the division.” DS said he was encouraged that some papers using different methods or theoretical approaches, such as political science theory or legal history, received good reviews.

DS said the division is also still having trouble attracting scholars from other countries. He said he was very happy that we received submissions from China and Australia and recognized the authors of those papers, Yong Tang from Western Illinois and Mark Pearson (MP) from Bond University in Australia.

Q said he has known MP for more than 20 years and recognized him as a leading media law scholar in Australia, a former journalist who published the book “*Blogging and Tweeting Without Getting Sued*.” Q said MP’s presence was an extraordinary

opportunity for the division, one way to globalize our understanding of the law.

DS said as a final note and as a public service announcement, the division had a large number of papers disqualified for including author information. He said in some papers it was simply stated on the front page, but in others it was in the electronic properties of the digital file. He said it unfortunately included a large number of disqualified student papers. DS said even though it may seem like minutiae, AEJMC divisions had been treating issues differently; some reviewers who found author information were told by their research chair to review it anyways. There was concern from AEJMC that it was being criticized for not being rigorous because the papers were truly not blind, peer reviewed. He noted that the AEJMC instructions included some Word programs not in use in many years. In addition, he said he sent a separate email telling division members that if you want to make sure you have no author information on the file, you need to look at the PDF stored on All Academic. Once the paper is submitted, the chair has no ability to change that document. A lot of people read our paper call, read AEJMC’s call, but they didn’t read the separate email we sent out. They assumed we were being redundant. If you have a Word file, you go to electronic properties, clear it, and you upload it as a Word file, it will be clean. But All Academic doesn’t like that, it prefers PDF. If you convert from Word to PDF format, if you do “print as,” it’s clean, but if you do it as “save as,” it will not create a clean document. I went to the research committee and asked what to do, and they said integrity is suffering because we’re not disqualifying papers, please disqualify all papers without exception. For the last four years we’ve had zero tolerance for papers with author information. The problem is that while all divisions have zero tolerance, this is the first year AEJMC asked for disqualification of all papers, and many divisions were not doing this.

CS affirmed the seriousness of this, saying his paper was disqualified for including author information in the document properties, and he said DS was very gracious in handling the situation. But he noted that the division is serious about disqualifying papers.

DC thanked DS for his service as research chair.

NEW OFFICER ADVANCEMENTS AND ELECTIONS

DC noted that on the division’s leadership track, DS will automatically advance to vice head, CS will advance to research chair, and KO will advance to become division head. The audience applauded.

DC: “Every head says this, but the head job is the easiest because the others do the bulk of the work. They made my life easy. And I encourage you, if you’re interested in becoming an officer, please do.”

DC said KO will be appointing CB again to be the division’s Southeast Colloquium research chair.

DC said the other four positions are elected and that anyone can nominate themselves or others. He called for nominations for the Professional Freedom and Responsibility (PF&R) chair.

DS nominated AKS, KO seconded. DC asked for any other nominations. Hearing none, AKS left the room for discussion and

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voting. Attendees unanimously voted for AKS as PF&R Chair.

DC opened consideration of the teaching standards chair position.

KO nominated Mike Martinez (MM), DS seconded. DC called for any other nominations; there were none. MM said, "Please vote for me – I've spent the last few years doing the media law bibliography and I wanted to get more involved in the division, and this is a good next step." MM left the room for discussion and voting. Attendees unanimously voted to elect MM as teaching standards chair.

DC opened consideration of the webmaster position. CS nominated EC, DS seconded. There were no other nominations. DC noted that EC is really good at what she does, just look at the website. Attendees unanimously elected EC as webmaster.

DC said the next officer position is a committed position because it is the start of the four-year leadership ladder. He asked for nominations for clerk/newsletter editor.

AKS nominated Dan Kozlowski (DK), DS seconds. There were no other nominations. DK was unable to attend the meeting but had a prepared statement that DS read to the audience:

"I'm sorry I can't attend the meeting tonight. A family obligation required me to leave the conference this morning. For those who may not know me, I'm an assistant professor in the Communication Department at Saint Louis University. I'm going up for tenure this year, and I submit my tenure dossier in about two weeks. I have been actively involved in the division for several years. I served as Teaching Chair for the division a few years ago. In that role, among other things, I created and then ran a "best teaching ideas" competition, which the division still continues. I have also served as Professional Freedom & Responsibility Chair. All told, I have proposed, organized, and moderated five panels for the division at annual conferences, including one panel that featured a former U.S. solicitor general. I have published work in Communication Law and Policy, presented research to the division, spoken on conference panels, written several columns for Media Law Notes, and I have also served as a conference paper reviewer. In short, the division plays an important role in my professional life, and I would be honored to start the climb up the division leadership ladder by serving as newsletter editor/clerk next year."

DC called for a vote, and attendees unanimously elected DK as clerk/newsletter editor.

The audience applauded the new officers, and DC offered thanks.

PEACEFUL TRANSFER OF POWER

DC, in his final act as division head: "Now I hand the gavel, or the mechanical pencil, to your new head, Kathy Olson."

KO: "My first act of business is to recognize Dave's service to the division. We had a plaque made up that says 2011-12 Head of the Law & Policy Division. I want to thank you very much."

DS noted that when we had the leadership ladder shakeup a few years ago, it meant DC served an extra year as research chair, which we should recognize and appreciate.

DC said he learned everything from previous heads Ed Carter and Amy Gajda.

KO said we stand on shoulders of giants, and DC noted that EC is pretty tall.

NEW BUSINESS

KO: Our first order of business is to pick a site for the 2016 annual conference. Potential conference sites are in the handout. Next year, the conference is in Washington, D.C., followed by Montreal in 2014, and San Francisco in 2015. The 2016 conference sites are in Zone 4 through the middle of country: Indianapolis, Minneapolis, Austin, Nashville and New Orleans

The materials include hotel rates and wireless rates, and we're supposed to rank order these in preference.

AKS said that as a representative from Minneapolis, aside from the weather in August, one of the nice things is the cost of travel. She said there is great public transportation downtown and lots of equally inexpensive hotel options within walking distance, the weather is lovely, and there are lots of things to do.

EU said he hears the women are strong, the men are good looking, and the children are above average.

S.L. Alexander (SLA) recalled New Orleans hosting in 1999 and she recommended that New Orleans be ranked fifth because have you ever been to New Orleans in August?

CS said Austin is cool, not in terms of weather, but would be a great place to have a conference, even though it's expensive. CAB and KO also said positive things about Austin.

KO called for a show of hands for each city as announced. The results were:

Indianapolis – 1
Minneapolis – 15
Nashville – 3
New Orleans – 0
Austin – 2

KO noted that Minneapolis was the clear choice of our division and that she would report that to the Council of Divisions meeting the next day.

KO then informed attendees of discussions about the annual chip auction that determines times and places of sessions for the divisions at the annual conference. She said there was a move to end the chip auction, "where we sit around and throw poker chips into a spittoon on the floor" at the winter meeting. "It works to a T because it's been honed through years of practice, but in these days where fantasy football leagues can do drafts online, there's a thought that there's some solution by which we can save the expense and time of travel." The division reimburses the head and vice head for \$800 of expenses, and that's \$800 we could use for other things. On the other side, there is the in-person networking, and you get to know people through the haggling, so there's something to be said for that. That's the main reason some people want to keep it place.

KO said that during AEJMC voting, all but four divisions wanted to move away from the chip auction, though we're still not sure how to do it. The winter meeting will be in Dallas this year. One thought is that there will be a transition to spreadsheet and conference calls next year. We don't know if the plan is to go completely electronic or not. She asked for the thoughts of attendees.

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EC said that when he was head, he recalled there were training meetings that went on and some strategic meetings, and it was the one time of year officers go and do something together, so there was some advantage to it.

WH said when he did this back in the '90s, he didn't get reimbursed for travel. DS asked if he still had receipts. KO said we will reimburse him, but it will be in poker chips.

WH added that his sense was we shouldn't vote as a division about this, but that leadership should discuss it in the officers meeting and the head should decide.

KO said thank you.

KO moved on to the division's spending priorities. She said the budget is down from last year's. We had \$5,722 in our account according to the minutes from last year, but this year we have about \$4,500. DC note that some of that is because last year's numbers were before payments for awards and other items were made, and that the actual decrease was closer to \$500, which is still a bit down.

KO asked whether we want to continue with contributions to the Student Press Law Center (SPLC) and the Reporters Committee for Freedom of the Press (RCFP), which had increased from \$250 to \$500 in recent years. Because we save money on the newsletter through electronic distribution, we have extra money.

KO said DC's survey on this topic covered this, it was disappointing because of how many turned in the survey, but participants said continuing support of SPLC and RCFP received 94 percent support. We are just looking to members again for guidance.

DC recommended waiting a year until we know more about expenses for chip auction travel. He noted that we're gaining money on Media Law Notes so the savings had been going up a little bit, but now they are leveling out, so we're stabilized. Maybe next year \$800 could be spent on something such as student travel to conferences or making money available to bring in non-member speaker.

AKS said some divisions that are having concerns about recruiting new members are talking about maybe setting aside \$100 for the top debut paper, to award the best work by someone new who hasn't submitted something before to the division. For a small price, you get bang for your buck. The Broadcast Educators Association (BEA) does this, it doesn't take a lot of money, and it might help defray the cost of membership for someone new to AEJ.

KO said we have a fourth free registration to award, so we could add that.

AKS moved that we make an award for best debut paper, with a cash award of \$150, and if a student wins it, he or she receives free registration for the conference.

JL seconded the motion.

KO opened discussion on the motion. She asked about the Whitney & Shirley Mundt Award; DS said it was the top student paper award and receives a \$150 prize.

DS asked if the award would go to the first submission or the first presentation.

AKS said BEA awards it to first presentation, which is much easier to track.

KO said we can figure out the niceties of single submission, and papers with a co-author who has previously submitted would be ineligible.

AKS said we should not limit the award to the top student paper.

WH said if it's intended as a recruitment tool, we're trying to recruit faculty, not students.

DS said that in that case, perhaps it should be for a debut faculty paper.

WH asked to amend the first motion to make it the top debut faculty paper. The motion was so amended.

KO called for a vote. Attendees were unanimous in supporting creation of a Top Debut Faculty Paper award.

DC asked to reaffirm our \$500 contribution to SPLC. WH seconded the motion. The vote in favor was unanimous.

DS asked to reaffirm our \$500 contribution to RCFP. AKS seconded the motion. The vote in favor was unanimous.

KO said we should be working on our global reach, and she intends to write in Media Law Notes to that effect. She then asked for any more comments.

WH said that, regarding division officer elections, he would not be offended if there was a slate that said these are people who volunteered for positions, then offering to take nominations from the floor at the business meeting.

KO said this was discussed at the Council of Divisions meeting and that it would be helpful so the officers could get approval from division ahead of time so they know to go to training the next day.

WH said the division has a distinguished service award, and that the last time we gave this, it was to William Brennan when he was still on the Supreme Court. The conference was in Washington, D.C., and while Justice Brennan did not attend, he sent Tony House, the court's public information officer. We were very honored because Justice Brennan got many awards he didn't acknowledge, but he did acknowledge our award. WH noted that with the conference coming in D.C. next year, perhaps we should consider another distinguished service award.

Q again asked for help, not as a member of the law division but as president of AEJMC, to find worthy people to speak for the press freedom initiative, someone who has made a major impact on freedom of press abroad and mass communication law both at home and abroad. If you have people in mind, please make a recommendation to him.

EU said that a lot of divisions have offsite socials, and that while we mostly know each other, if we could find sponsors, we could perhaps engage in deeper conversations about research, get to know each other more, and have an opportunity for interchange instead of a wave across the room every 12 months.

KO suggested that we seek a law firm as a partner or sponsor for such an offsite social.

DS said he was speaking for Tony Fargo and noted that Indiana University had recently launched its Center for International Media Law and Policy Studies, something we should pay attention to.

KO called for a motion to adjourn. AKS made the motion, DS seconded. KO said that with her mechanical pencil as a gavel, she announced the meeting adjourned.

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