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Fall 2014

Media Law Notes

AEJMC Law & Policy Division

Events like Ferguson offer real-time practical lessons in media law



Head Notes

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During the ongoing protests in Ferguson, Missouri, that began in August, 22 journalists have been arrested, according to the Freedom of the Press Foundation. These include Wesley Lowery of the Washington Post and Ryan J. Reilly of the Huffington Post, both detained after a run-in with police who asked them to leave a McDonald's restaurant, to citizen journalist Antonio French, who was swept up during the protests.

The protests, which began just as the fall semester was starting for many of us,

are a challenge and an opportunity for us as teachers of mass media law and policy.

We traditionally teach about the theory and practice of the First Amendment through a series of cases and history, but we also have history in the making, with journalists and dissenters being intimidated and arrested for scrutinizing government conduct -- the sort of thing we would more often associate with the World War I era, or Cold War Soviet Union, or even China or Russia today -- but instead here and now in the United States. Our own Dan Kozlowski, vice head of the Law & Policy Division and a media law professor at St. Louis University, used the Ferguson protests and arrests in his Freedom of Expression course, was quoted in an article by Poynter in saying that "You could teach a whole course on

Ferguson."

The episode got me thinking about what it is I teach, and what it is we impart to students in our media law courses. I know that when I took a media law course 20ish years ago, we mostly focused on First Amendment matters, student speech and libel. My law school experience was largely the same, with more focus on theory and caselaw and less on the practicalities of having a working knowledge of the law in a way that would be meaningful for young journalists. That was the sort of thing to be learned in a newsroom, not in a classroom.

But along the way, we can impart some very practical lessons to students. One

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Free speech and the specter of Snowden

The revelations sprung on the world by Edward Snowden continue to resonate and raise questions about everything from government surveillance of communications to free flow of information to the protection of whistleblowers and the intersection of leak investigations and the journalistic process.

Often compared to Daniel Ellsberg, who leaked the documents leading to the Pentagon Papers case, a staple in Com Law classes since 1971, the long-term legal effects of Snowden's leaks are far from determined. However, his revelations and their effects on news-gathering and journalism itself have not been muted.

Snowden's role in fueling an international debate was a centerpiece in this year's Tully Center of Free Speech Award at Syracuse University's Newhouse



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School. The award honors a journalist who has faced significant turmoil in the previous year. In the past, the center has rewarded journalists from far-off parts of the world who have been jailed, kidnapped, beaten, tortured and exiled. This year's honoree, Alan Rusbridger, editor-in-chief of The Guardian, dealt with different kinds of problems than our previous six winners.

The British editor faced and still faces possible criminal sanctions following his publication of stories based on the

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I had neglected until the Ferguson protests was to work with students on answering the question, "What should I do if I get arrested?" In the smartphone era, students are used to having all phone numbers programmed in their contacts list. That doesn't do them much good when a police officer seizes the phone and waits around while the reporter tries to figure out whom to call.

On Twitter, I asked Wesley Lowery what his advice would be to student journalists, and he responded, "Know the number for your newsroom/lawyer. No access to your cell phone contacts."

My teaching point -- memorize a couple of important numbers. Start with the Reporters Committee for Freedom of the Press 24-hour legal hotline. It's 1-800-336-4243, and I put it on my first exam of the semester, and for any enterprising students who happen to read this, it will also be on the second exam, and the final exam.

The media law course is often thought of as more of a theory course than a skills course, at least for accreditation and curriculum development purposes, but I think our courses can train young journalists and professional communicators with very valuable skills.

A couple of years ago, I began requiring students to read the Terms and Conditions for an online service to which they subscribe -- those things we typically scroll past and click "I agree" to without ever giving a second thought.

But they are full of important legal issues that communicators should be aware when they're using these tools for their jobs -- account suspension and termination, intellectual property matters, data retention policies, dispute resolution (including waivers of rights to sue in court), privacy protection and more are included in these agreements.

Students get a sense of what they're giving up, and what they're receiving in exchange, for using tools such as Dropbox, Snapchat, Facebook, Twitter, Instagram, Spotify, YouTube, and even Google.

Other skills we can help develop in our students could include:

- * Reading court dockets and legal filings (Toni Locy's book "Covering

America's Courts" is an excellent guide)

- * How to file a Freedom of Information Act request and negotiate for access (I've used "The Art of Access" by David Cuillier and Charles Davis for this in multiple classes)

- * How to approach a judge during a court hearing or trial

- * What to do when you get a subpoena

- * Setting up and using encrypted email services. The Freedom of the Press Foundation has a good guide here:

<https://freedom.press/encryption-works>

- * How to register a copyright or trademark

- * How to respond to a DMCA takedown notice. For instance, the Electronic Frontier Foundation guide is here: <https://www.eff.org/issues/intellectual-property/guide-to-youtube-removals>

We're in an incredible position as professors not only to inspire our students with righteous freedom of speech and press principles, but also to enable them to put these principles to work in a meaningful way.

It means a lot of continuing education and self-teaching on our side -- things I hope we can help you with in teaching and preconference sessions at the 2015 AEJMC conference in San Francisco. But it's worth it, to send our students off into the world armed with the know-how to be more than just good journalists and communicators, but also good citizens and participants in our democracy.

I'll close with a brief reflection on what a privilege it is to serve as head of the Law and Policy Division this year. We've got a terrific leadership team: Dan Kozlowski as vice head, who is doing a great job programming for the San Francisco conference; Courtney Barclay as research chair, running our research paper competition for the conference; Jason Martin as clerk and editor of these Media Law Notes that you'll be reading throughout the year; Jasmine McNealy as PF&R chair; Jonathan Peters as teaching chair; Matthew Telleen as webmaster; and Mike Martinez returning as research chair for the Southeast Colloquium, which will be hosted by his home school the University of Tennessee in March. Thank you for this opportunity, and I look forward to another great year.

Snowden leaks. He is the editor who ultimately hired Glenn Greenwald and reported to the world the NSA secrets, and in turn fueled an international discussion and debate.

Rusbridger has had to face a parliamentary panel and fielded inquiries from British intelligence and law enforcement. They have challenged his patriotism and threatened prosecution. Perhaps the most dramatic element to Rusbridger's tale was when the British government oversaw the forced destruction of several Guardian computers that held some classified documents. This, Rusbridger wryly noted at our event in October, is "not an easy thing to do."

Without any equivalent to our First Amendment, Rusbridger remains on edge because he may still be prosecuted under Britain's terrorism or official secrets laws. As he toured Newhouse, he marveled at the First Amendment, all 45 words are etched into our building.

During our award presentation, Rusbridger walked through his paper's coverage and his personal decision that risked not only his freedom but potentially the viability of his newspaper. He described the safeguards he took to ensure that the stories got out -- vetting the source and sources, writing and editing the stories in safe locations, partnering with other publications and standing up to the pressures he faced upon publication. He also talked about Julian Assange, Greenwald and Snowden, who Rusbridger had recently met for the first time.

Despite all the turmoil, Rusbridger said he would not hesitate to do it all again, describing the multiple "public interests" explored and exposed by the stories and how journalism is "essential" to a society, especially a free society. Even so, he added that because of the nature of the stories and the public outcry, the potential line of witnesses and a vague connection to proving any harm, he would be "staggered" if the government prosecuted him or his staff.

"The public interest side of what we have done seems to me incontestable," he said.

Social media, academic freedom collide



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The Law and Policy Division hosted a successful pre-conference panel discussion on the now mature conflict between academic freedom and social media. The two panels, focusing on both the legal and ethical issues related to university social media policies, and the rights and responsibilities of academics using new media, consisted of scholars and practitioners from the U.S. and Canada.

The first panel, focused on legal issues, discussed university policies related to social media use by faculty and staff, as well as the legal challenges to such regulations.

The second panel discussed the ethics of using social media as an academic, i.e. issues of “friending” students, commenting/writing about work conditions and administration, engaging in what could be considered inflammatory public debates and conversations, etc.

The timeliness of this preconference session cannot be underestimated. While we were having our discussion of these important issues, the academic news pipeline was only starting to learn the details of the Salaita case at the University of Illinois. Steven Salaita was offered, and accepted, a position

in American Indian Studies at UI. The UI Chancellor rescinded the offer of employment after Salaita made controversial tweets about Israel and settlers in Gaza.

Whatever your views on Salaita’s politics, the larger issue is whether academic freedom protects the social media posts of academic staff thought by some to be offensive, controversial, or uncivil. A further complication is the question of whether posts on personal social media accounts should be used as a barometer of fitness for the classroom. Panelists presented both divergent and complimentary views on the complex issues.

Certainly Salaita’s case is no real anomaly. Not too long ago, a tenured journalism professor at the University of Kansas was placed on leave for a controversial tweet directed at the NRA, and a tenured professor at the University of New Mexico faced public backlash and a university investigation following his tweet about obese graduate students. With the ubiquity of social media, I suspect there will be more of these situations in the near future. As such, discussions like those had at this preconference are, and will remain, important.

Of course, social media and academic freedom is just one of the topics important to division members. Expect more timely discussions at the 2015 AEJMC Conference to be held in San Francisco.

40th Annual AEJMC Southeast Colloquium Call for Papers

The Law and Policy Division invites original papers for the annual AEJMC Southeast Colloquium, March 26-28, 2015 at the University of Tennessee in Knoxville. Papers may focus on any topic related to communications law and/or policy. 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.

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.

Top three faculty and student papers 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 as Word or PDF files. 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.

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.

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.

Students and faculty should indicate their status for consideration of the top paper awards in the email.

Submissions should be emailed to mtmartinez@utk.edu. Deadline is Monday, Dec. 8, 2014, midnight EST.

If you have questions, please contact Dr. Michael T. Martinez by phone at (865) 687-2564 or via e-mail at mtmartinez@utk.edu.

Southeast Colloquium: Call for Reviewers

The Law and Policy Division has a proud tradition of hosting an engaging research paper competition at the Colloquium each year, and we anticipate that 2015 will be no different. 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 invites you to help with the competition. Reviewers will receive a package of papers in mid-December, with a mid-January deadline for returning reviews.

For more information, please contact Dr. Michael T. Martinez by phone at (865) 687-2564 or via e-mail at mtmartinez@utk.edu.

**40th Annual AEJMC Southeast
Colloquium website:**

<https://jem.cci.utk.edu/colloquium15>

Legal Annotated Bibliography



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SOCIAL NETWORKS

Hitz, J. (2014). "Removing Disfavored Faces from Facebook: The freedom of speech implications of banning sex offenders from social media." 89 *Indiana Law Journal & Supplement* 1327.

States frequently impose restrictions on the activities of sex offenders who are no longer in custody or under any form of supervised release, and some states have recently passed statutes that ban certain classes of sex offenders from using social media websites and Internet utilities. These statutes are meant to serve the purpose of protecting children from exploitation by sexual predators.

This article scrutinizes the development of social media bans and takes a detailed look at the social media bans initially passed by Indiana, Louisiana, and Nebraska. The author then examines the constitutionality of social media bans by analyzing the extent of the First Amendment's protection for sex offenders who are no longer on probation, parole, or supervised release and wish to use social media; analyzing the proper First Amendment doctrine to apply to social media bans; and analyzing the cases that examine the constitutionality of the social media bans initially passed by Indiana, Louisiana, and Nebraska. Finally, the author argues that there is constitutional breathing room for a state or the federal government to craft a statute that properly balances the government interest in protecting children with the First Amendment rights of sex offenders who are no longer on probation, parole, or supervised release.

To target only individuals who present an "acute risk" of recidivism, an ideal social media ban could be crafted that would only become effective against a particular individual if the state demonstrated by clear and convincing evidence that a given sex offender would be likely to reoffend if permitted to access

social media. The ideal social media ban would also include a mechanism for sex offenders banned from social media to seek review of the determination that they are likely to reoffend if permitted to access social media.

FREE PRESS

Weisenhaus, D. (2014). *Hong Kong Media Law: A guide for journalists and media professionals* (2nd ed.). Hong Kong: Hong Kong University Press.

This expanded second edition aims to help anyone who publishes safely navigate the shifting terrain of media law. With its in-depth research and analyses of key developments in local and international contexts – in areas such as defamation, privacy, contempt of court and others – it also is an authoritative resource for lawyers, judges, regulators and scholars.

It builds on the first edition, published in 2007 with the addition of global developments and new cases and regulations. The trends show that Hong Kong's failure to modernize media laws it inherited from a colonial past hinders journalists and harms the public interest.

The author also examines the increasingly volatile reporting climate in mainland China, the government's tightening restrictions on Hong Kong and foreign reporters and its attempts to influence the legal and journalistic environments in Hong Kong. The book also includes useful resources on hearings for civil proceedings, excerpts from key statutes and regulations, a guide on how to search for public records, and a valuable legal glossary.

PRIVACY

Tsesis, A. (2014). "The Right to Erasure: Privacy, data brokers, and the indefinite retention of data." 49 *Wake Forest Law Review* 433.

Under current U.S. law, online businesses can track private users without their being aware of the extent to which websites monitor conduct, aggregate it with other personal details, create marketing profiles, and sell the cumulative character sketches to third parties. The concept of

informed consent is often misleading on websites with policies that are written for lawyers and difficult to understand by ordinary Internet users. Even when web-based shoppers permit corporate use of their information, they have a very limited ability to ascertain how the businesses will trade, manipulate, and bundle personal data.

This article scrutinizes invasive cyber business practices and advocates passage of the proposed European Union right to erasure. The proposed regulation would prevent the indefinite storage and trade in electronic data, placing limits on the duration and purpose for which businesses could retain it.

Part one of this article describes the many forms of data mining that organizations engage in to track online and offline behaviors. The practices are particularly pervasive on social media, which present themselves as platforms for interpersonal communications but also market and trade personal profiles to third parties. Subjects currently have few options, even if they rethink the decision to make information public.

Part two evaluates how Internet architecture leaves personal data vulnerable to snooping and surveillance.

Part three elaborates on European data regulations and compares them to current U.S. self-help controls. The article further argues for adoption of the EU's right to erasure initiative and discusses the likelihood of its enforcement in the United States.

COPYRIGHT

Haber, E. (2014). "Copyrighted Crimes: The copyrightability of illegal works." 16 *Yale Journal of Law and Technology* 455.

Copyright law does not explicitly impose content-based restrictions on the copyrightability of works. As long as a work is original and fixed in a tangible medium of expression, it is entitled to copyright protection and eligible for registration, regardless of its content. Thus, child pornography, snuff films or any other original works of authorship that involve criminal activities are

Continued on 5.

copyrightable.

Such work can be highly profitable for its makers even though society does not necessarily benefit from, and might even be harmed by, the work. Along with revenue from sales, the author of an illegal work may also be able to collect damages for infringement. This scheme does not benefit society and should be revised.

After examining how the current copyright regime deals with works involving illegal activity, this article suggests a new framework. First, the author reviews the elements of copyright and considers existing content-based restrictions in copyright, trademark, and patent law.

After evaluating whether copyright law should impose content-based restrictions on illegal works, and whether such impositions would be constitutional, the author concludes that creators should not benefit from works that are linked to harmful criminal activities.

This research proposes a new framework for the copyright of such works that de-incentivizes their creation by eliminating profits from the works themselves and reducing profits from the felon's other works due to his or her notoriety, while also compensating victims.

FREEDOM OF INFORMATION

Newell, B. C. (2014). "Local Law Enforcement on the Big Data Bandwagon: Automated license plate recognition systems, information privacy, and access to government information." 66 *Maine Law Review* 397.

As government agencies and law enforcement departments increasingly adopt big-data surveillance technologies as part of their routine investigatory practice, personal information privacy concerns are becoming progressively more palpable. Significant tensions exist between protecting citizen privacy and promoting open access to government surveillance information as a form of liberty-preserving citizen oversight. These tensions are analyzed through the case study of automated license plate recognition systems.

This paper analyzes recent social and legal developments in the United States related to ALPR use by local law enforcement. The author presents an overview of Fourth Amendment privacy and the concept of privacy in public and questions the proper role of ALPR systems in police practice against the requirements of the Fourth Amendment to the United States' Constitution. The

paper also includes initial findings from an exploratory empirical analysis of two databases of ALPR data received under state FOI law from the Seattle Police Department amounting to approximately over 1.7 million ALPR scans over a roughly three-month period (the "SPD Databases").

The author examines the efficacy of FOI laws that provide public access to these databases that contain a great deal of personally identifiable information, and the proper role of public access in establishing a form of reciprocal surveillance intended to promote responsible citizen oversight and preserve individual freedom.

Finally, the paper provides a normative argument for the right of privacy in personal information in public spaces, balanced against the important societal interest in government transparency and open access to government information.

This normative theory attempts to account for and differentiate between the different roles of citizens and public officials carrying out their official duties, and their respective rights to privacy in public spaces. This normative argument provides a prescription for ALPR data privacy practices while still ensuring a certain level of public access to government information.

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Teaching contest winners feature games, music, creative case studies



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The Law and Policy Division Teaching Ideas competition returned in 2014 after a one-year hiatus with a mixture of innovative ideas that showcased a range of creative approaches for teaching aspects of media law and policy.

A record number of 14 entries were submitted, and a double-blind review process produced a close finish at the top. Entrants responded to a broad call for innovative approaches to teaching media law and policy, and submissions were open in scope ranging from assignments to case studies to learning modules to class design and syllabi.

Ultimately, the three top winners were rewarded for their ideas of incorporating a free speech-related video game, a YouTube introduction to key concepts in media law, and a novel approach to teaching international law that incorporated comparative aspects of American and Native American tribal law.

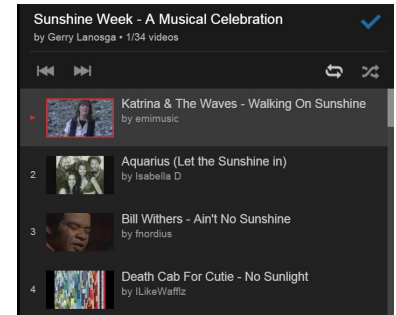
Chip Stewart of Texas Christian University won first place for his entry, "Soviet-Style State Media, Gatekeeping, and the Chilling Effect: Using a video game to explore media ethics and free press issues."

"Early in the media law and ethics course I teach, I like to introduce core free speech and free press concepts such as the chilling effect and the marketplace of ideas before setting up the role of the First Amendment in helping to protect these values in the United States," Stewart wrote in his entry. "I also note how different things are, and have been, elsewhere around the world.

"To help students understand living in a society where the government or other outside political forces control the press, I have them play a free video game called 'Republia Times.' The game, available at <http://dukope.com/play.php?g=trt>, is set in a 1980's-era Soviet-style republic, and the player is the editor of the state newspaper. The player's performance in publishing items favorable to the state to show one's loyalty while also interesting enough to build audience help ensure the kind treatment of



Screenshots from winning entries by Chip Stewart (left) and Gerry Lanosga show the range and creativity of this year's entries.



the editor's spouse and children. Publishing news bad for the state or leading to declining readership results in negative consequences for the family and the player."

Stewart's game assignment gives his students a challenging but engaging viewpoint on understanding the pressures of a gatekeeper in a media system constrained by government power and audience fickleness.

"Students must tackle concepts such as self-censorship and self-preservation," he wrote. "And a twist at the end of the game makes the futility of official state-run media apparent.

Second-place finisher Gerry Lanosga of Indiana University called his entry "Media Law: The Playlist (A Musical Introduction to Key Concepts)." An abbreviated version of the playlist is available at <http://goo.gl/zNTL6k>.

He invented his assignment when reflecting on the challenges of relating critical aspects of newsgathering and freedom of information to students who may approach media law courses' conceptual nature apprehensively.

"Listening to my iPod one day, it occurred to me that the song lyrics I was hearing were right on point with what I was teaching in my media law class," Lanosga wrote in his entry. "I can't recall which song it was – it might have been Public Enemy's 'Fight the Power' or Van Morrison's 'What's Wrong with this Picture?' or 'Accuracy' by the Cure. Regardless, an idea was born. Why not use music to capture students' attention?"

Development of Lanosga's playlist involved adapting an existing introductory media law lecture which covered topics such as First Amendment theory, defamation, privacy, reporter's privilege, prior restraint, freedom of information and copyright.

"Once I had the idea of using music to

underscore these concepts, I simply searched my library of MP3s for songs that had names or lyrics that could be connected to media law in some way," he wrote. "My mix of music ranges across just about every genre, and in the end, so did my playlist."

In all, he listed 89 songs on slides and created an iPod playlist to use during the lecture. The playlist was adaptable within the framework of the lecture. He adjusts the playlist as needed for pacing and keeps the music at a low volume in the background as the class discusses details of each concept.

Third place went to SUNY Oswego's Jason Zenor for his entry, "The Other Americans: Tribal Nations and Free Speech." His idea incorporates media law cases derived from tribal nations to push learning beyond memorization and repetition and into application and synthesis.

"I have tried to develop a way to incorporate the ideas of policy, diversity and thinking beyond U.S. law, but at the same time I want it to be accessible," he wrote in his entry. "Then I had an epiphany, as I realized that we have a 'foreign' nations right in our backyards ... These are nations whose legal structure has been heavily influenced by American political, social and cultural beliefs. These nations of course are the 566 federally recognized American Indian Tribes."

After reading applicable cases and discussing how they compare to American media law, students are able to analyze how political, social, and cultural differences play a significant role in how legal principles are defined and applied.

Winners received certificates and monetary awards (\$100, \$75, and \$50) at the annual meeting in Montreal. Be sure to look for the 2015 Teaching Ideas Competition details in the Winter 2015 edition of Media Law Notes.

Minutes of the Law and Policy Division Annual Meeting

Law and Policy Division Business Meeting Minutes
Aug. 8, 2014

Courtney Barclay
Clerk/Newsletter Editor
Jacksonville University

Division Head Derigan Silver (DS) called the meeting to order 6:46 p.m.

DS welcomed all in attendance to the Law and Policy Division Business Meeting.

Approval of Minutes

The first agenda item was to approve the minutes from the 2013 business meeting, which were prepared by Dan Kozlowski (DK) and published in Media Law Notes. A motion was made and seconded. The motion was passed unanimously.

State of the Division

DS began his report by commenting on the major initiatives for 2013-2014. The first of those initiatives was the focus on the anniversary of New York Times v. Sullivan. DS thanked those who helped make the Sullivan panels such a success, especially Joe Russomano, Wat Hopkins (WH) and Kyu Ho Youm (KY). DS also mentioned that some division money was spent to bring in non-AEJMC speakers, which was "quite successful."

The second major initiative was the special call in Communication Law and Policy on the future of Communication Technology Law and Policy. Six papers were accepted to the journal; five were presented in preconference programming. DS reported that this was an "embarrassment of riches." These six papers filled more than one issue of the journal, so one article will be published in the following issue. DS thanked WH for his work on this special call and the journal.

DS also thanked everyone for their work on panels and Chip Stewart (CS), vice head, for his work in putting those together.

DS then moved to the overall state of the division, reporting that the division is in "pretty good shape." Membership is at 253 members this year, down from 258 last year. The previous year, the division lost two members, so there is a trend. The numbers do not indicate that it is time to panic, but it's enough to keep an eye on. At the officers' meeting the idea of a membership chair was discussed to investigate why people leave the division.

The cash on hand for the division is \$6,254. Last year the cash on hand was \$6,800. Generally the division doesn't have a lot of expenses. The division pays for awards, including checks and plaques. And the division spends money on bringing in speakers. Bringing in more non-AEJMC speakers was a goal of DS for his time as division head.

The division did find ways to save money by programming one of

our speakers with a co-sponsored panel. This allowed DS to apply to Paula Poindexter, the president of AEJMC for money and that speaker's travel was funded 100 percent. In addition, one speaker's travel expenses were shared with the Ethics division.

DS thanked the president of AEJMC because we have received money for outside speakers for two years in a row. DS said he hopes that is a trend that continues.

DS also reported, "I found \$33,337 in a checking account we didn't know existed." This news was met by laughter and applause. DS explained that this was a journals royalties account and clarified that Kathy Bailey, the new financial director for AEJMC, identified the account as she was working to "clean up the books." Bailey let the division know that this account was out there.

DS consulted with Kathy on whether she can track down the history of this account. DS was able to find out that this year, there was about \$14,000 coming into this account and \$12,000 in expenses. So, the account gained around \$2,500 this year. What the division needs to know is if that's just this year, or if that is the norm. If this is regular revenue, the division can use it for something.

DS suggested to WH that a good use of this money would be to hire a graduate assistant to help with Communications Law and Policy. This would be open to all division graduate students, not necessarily one of Wat's students. Wat suggested that someone with Bluebook experience would be helpful.

For the \$33,000, the division is exploring some ideas, including a pre-conference panel to celebrate the 20th anniversary of the journal. Perhaps a competition for the most impactful article in Comm Law & Policy.

WH offered thoughts on why this was discovered. He received an email from the business manager about an account. WH called DS and said this was the first email he had ever received like this. WH was on the committee who hired Bob Trager as the first editor of CL&P. Bob's requirement was that he only worked on editing, not the finances. And, so that started a history of the separation of these duties and might explain why we have not learned of this account before now.

DS clarified that Law & Policy is not the only division this has happened to. Other divisions, including Mass Communication and Society, have been contacted about this kind of account.

DS mentioned that last year the membership discussed what to do with the money in our account. And one suggestion was to investigate membership dues, particularly as it relates to graduate students. Currently, division dues are \$30 for members and \$7 for graduate students. Graduate students do not get a copy of the journal with this fee.

AEJMC doesn't provide a list of members from AEJMC that separates out graduate students, so that's something the leadership needs to continue to investigate.

Continued on 8.

Minutes, continued from 7.

As far as what other divisions do, \$30 puts the Law & Policy division in the middle of the pack. There are only two divisions that do not have dues for graduate students. And \$7 is right in the normal range. DS did not have a motion ready for this issue yet and suggested the leadership continue to investigate.

CS said he may raise this in Headnotes this year so that the membership could discuss it more next year.

Council of Divisions

DS reported on the meeting he and CS attended with the Division of Council for the five-year assessment. Almost every head for the last five years has said that a goal is to increase membership and membership diversity. None of us have done that. Diversity is something AEJMC is struggling with at the organizational level.

The Council of Divisions suggested that Law & Policy make more of an effort in mentorship and encourage first time authors to join the division long-term.

One thing that the division was criticized on was the lack of teaching panels. They commended the strength of research and lower acceptance rates, as well as the PF&R focus.

So, next year, the division will work on getting more teaching panels on the schedule. DS encouraged members to submit teaching panel ideas to Dan Kozlowski (DK) who will be the 2015 vice head.

The Council of Divisions did commend the division for the number of non-AEJMC speakers. Many divisions only have division members speak.

Mid-Winter Conference

The chair of the mid-winter conference contacted the law division to suggest the creation of a law division for that conference. The officers in email exchange discussed this. The pros were 1) it is abstract only, so this could let papers in the early stages find an outlet, particularly important for grad students; and 2) geographically, the mid-winter conference is closer to the west coast - although someone brought up the fact that a plane ticket from California may not be cheaper to Oklahoma than to Florida. The cons were 1) it might diminish the strong presence at Southeast Colloquium and 2) it would require more service - another member would have to serve as an additional chair.

The officers concluded that at this time, they did not think that we should start a new division at mid-winter. But we also thought we should present this to the division. DS opened this for discussion.

Tori Eckstrand (TE) motioned that we support the recommendation of the leadership to not create a division at mid-winter at this time. Amy Sanders (AS) seconded the motion. The motion passed.

Communication Law & Policy Editor

This year was the end of Wat Hopkin's most recent term of the journal. A call was published in the journal and through the division's various communication methods. One application was submitted and that was from WH.

The publication committee met and voted. The publication

committee is made up of the executive officers and two at-large members, Susan Keith and Jason Shepard. The at-large members serve staggered, two-year terms. This year Jason Shepard is rotating off; Jason Zenor will step on for next year.

WH addressed the membership. "I've been editor of the journal ... 2 or 3 terms...I keep doing it primarily because it's fun. It's very rewarding to deal with scholars."

One of WH's goal is to get more senior scholars and faculty, but he enjoys working with the junior faculty. WH explained that he does not treat the position as that of clerk; he treats the reviewers as advisors. He's never overturned a unanimous recommendation, but he does make some decision about acceptance. And he finds that very rewarding.

DS made the motion to reappoint WH as editor of Communications Law and Policy. He asked for comments.

DS commented that WH has to compete with journals that have multiple submissions and short review process. And he's doing a "really great job" at turning around the reviews as quickly as possible. DS also noted that we should appreciate the pressure WH is under competing with law reviews.

Clay Calvert asked about the graduate student suggestion. DS explained that could be done at the executive level once all the facts about the account and the rate for graduate students.

DS called for the vote. The motion passed.

DS informed WH that he was reappointed by the membership as editor of the journal. The membership applauded WH.

[Agenda item for service award tabled until the recipient could arrive.]

Reports from Officers

Erin Coyle, Web Editor

DS reported on Erin Coyle's behalf as she was not in attendance. Erin has served as web editor for a number of years. She started our Facebook page as well. But she will be stepping down. The division appreciates her years of service.

Courtney Barclay, Newsletter Editor/Clerk

CB thanked everyone who contributed to MLN this year. The officers reach out to members for articles, and try to include the publication of scholarly articles in MLN. She offered a special thank you to David Wolfgang for continuing to do a wonderful job with the bibliography.

In the last issue, the Division included a pull out box to announce recently published or forthcoming books. Traditionally, the bibliography has focused on research articles, but CB had a couple of people email her about notable books. The books didn't quite fit in the bibliography because of how it has been formatted in the past. So this announcement section is new and CB hopes that will continue next year. She encouraged anyone with books to announce, to contact the newsletter editor.

Continued on 9.

Minutes, continued from 8

Michael Martinez, Southeast Chair

University of Florida hosted the 39th Annual Southeast Colloquium. The division received 22 submissions: 16 student submissions, 6 faculty submissions. The division hosted three panels with four authors each. That was pretty equal among the divisions. There were a total of 22 judges, which allowed the division to provide three reviews for each paper.

MM noted that Clay Calvert was on every one of the panels.

Next year, University of Tennessee will be hosting. The dates are March 26 – 28, 2015. The submission deadline is December 8. The division will try to notify authors in late January.

Jasmine McNealy, PF&R Chair

JMc reported that last year she said she wanted to have an international perspective, particularly in light of the Montreal location. Half of the speakers on the two panels the division ran were from Canada, either practicing law or teaching in the universities here.

One of those panels was on social media and academic freedom. This was a really current and important panel. These were really good participants and the panels were all really well attended. JMc reported that she think the division achieved the goal of a strong international contingent. Hopefully, next year that success can be repeated.

Jason Martin, Teaching Chair

This year JM resuscitated the teaching competition. The division had a record number of entries. All 15 submissions were of really high quality.

JM presented the awards to the winners:

Third place: Jason Zenor, SUNY-Oswego for "The Other Americans: Tribal Nations and Free Speech"

Second place: Gerry Lanosga, Indiana University for "Media Law: The Playlist (A Musical Introduction to Key Concepts)"

First place: Chip Stewart, Texas Christian University for "Soviet-Style State Media, Gatekeeping, and the Chilling Effect: Using a Video Game to Explore Media Ethics and Free Press Issues"

JM said he is happy that the division could revitalize this and hopes to build on this for the future.

Chip Stewart, Vice Head/Programming Chair

CS thanked all who participated, attended, and pitched panels. They were well-attended and high energy. This was an unusual year because it was the first year without the winter meeting to make deals with other groups. The division had to get sessions together by Nov. 1, which is very early in the process. It will be even quicker this year.

The division hosted had five sessions and worked with several divisions: Ethics, History and News and Online, as well as a new partner this year, the Commission on the Status of Women. There was also a great session with the Participatory Journalist group.

For next year, CS encouraged the membership to submit their terrific ideas again. He said it's really helpful with the new system if you can suggest partners and work with other divisions to make proposals.

DS added that while it's helpful if you have an idea of who we can partner with, it's only DK who can actually commit to other divisions.

Dan Kozlowski, Research Chair

Dan reported that the division had a "good, competitive research competition again this year." Fifty-six papers were submitted and 24 were accepted for a 42.8 percent acceptance rate, which is consistent with recent years. There were 39 faculty submissions; 14 were accepted. Eleven of the faculty submissions were submitted to the new faculty debut competition, of which four were accepted. That's "fantastic, its good to see new faces presenting their work." The division had 17 students submissions; ten of those were accepted.

There were 71 judges in total. DK said he's so grateful for their work and thanked the judges for being responsive and getting reviews in on time.

Two papers were disqualified – one for length (70 pages) and the other because the author put his or her name on the cover page. DK transferred one paper to another division because the topic was just outside the scope of our division, so another division was able to review it.

The night of the deadline, DK stayed up until the deadline checking submissions. And by doing that, he was able to save seven papers. Five of them had identifying information in the properties. Those authors were able to resubmit very quickly. Two papers were incomplete submissions. They were able to resubmit and all was well.

The division had five traditional research sessions with four papers each, and four papers slotted for scholar-to-scholar poster session.

DK presented the paper awards:

Faculty Paper Awards

Third Place: Rap Music and the True Threats Quagmire: When Does One Man's Lyric Become Another's Crime?, Clay Calvert, Papadelias Sarah, Emma Morehart, University of Florida

Second Place: Cause and Effect: The Free Speech Transformation as Scientific Revolution, Joseph Russomanno, Arizona State

First Place: Private Status, Public Ties: University Foundations and Freedom of Information Laws. Alexa Capeloto, John Jay College of Criminal Justice/CUNY

Alexa Capeloto also won the top faculty debut paper award.

Student Paper Awards

Third Place: Broadband Penetration: A Qualitative Comparative Analysis (QCA) Approach. Hsin-yi Tsai, Michigan State

Second Place: Does Access to Environmental Information have a Critical Problem?: Interpretation of FOIA's Exemption 4 after the Critical Mass III Decision, Kylah Hedding, University of North

Continued on 10.

Carolina at Chapel Hill

First Place: Video Games and NCAA Athletes: Resolving a Modern Threat to the First Amendment, Alexander Vlisides, University of Minnesota

Top Poster in the Scholar-to-Scholar: Antitrust Exemptions, Football, and an (anti)Competitive Marketplace: An Analysis of the Future of the Relationship Between NFL Sunday Ticket and DirecTV, Lauren Anderson, Florida State University and Erin Looney, Florida State University

Wat Hopkins, Communication Law and Policy

WH passed around a reviewer volunteer sheet, as well as the table of contents and abstract for the future issue, which is the special technology issue.

The journal had 36 submissions this year; 11 were published. Acceptance 30.5 percent. That is down from last year 34%. The cumulative acceptance rate over 19 volumes is 28.1 percent.

This year WH was surprised that of the 20 authors published, only two were women. The journal usually has more men than women, but this is really low. WH doesn't know how these numbers track with the submission rates for women, but encouraged the women scholars to submit.

Another surprising thing was that eleven submissions were rejected without review. Some of those were from law professors who submitted the article for simultaneous review. Some were not legal issues.

The journal published a hundred more pages this year than last year. A big part of one of the issues was not peer reviewed. That was the report from the summit on the future of a free press. That report was published along with a response from KY. Those authors are not counted in author statistics, but the pages are counted.

The journal also had two special issues. For the Sullivan issue, all the authors were invited. And in October the Technology issue will be published.

Taylor & Francis in the past has not allowed authors in the journal to post those articles on other websites, such as SSRN. They now say that authors can post a draft of the published article, you just may not publish the "article of record," which is the final article published in the journal. On that posting T&F said authors can include the URL to the T&F website for the official version.

WH also mentioned to T&F that this is an issue in the division. Law journals are allowing authors to post articles online. T&F interpreted Wat's inquiry as looking at other publishers. T&F wants to send the journal a report of everything it does for the journal.

Distinguished Service Award

DS reminded the division of the distinguished service award which was awarded to Justice William Brennan.

DS introduced the recipient, Kyu Ho Youm:

"Kyu is a friend of the division. A friend to AEJMC. But also personally a friend of graduate students and junior faculty members. He goes out of his way to introduce himself to everybody. He takes a real interest in junior faculty's work. He encourages you, he promotes you. He encourages you to promote yourself. He is just one of those people who gives and gives and gives. And, so this is an extreme pleasure to do this."

(long applause)

KY accepted the honor: "This is something I will remember forever. This is an honor and a humbling experience for me." KY noted particular members of the law division and colleagues who have been influential, including Harry Stonecipher, Don Gilmore, Bill Chamberlin, Wat Hopkins, Steve Halle, and Dwight Teeter.

New Officers and Transfer of Power

DS notes the importance of mentorship in the division.

DS also thanks WH for his service and the officers this year. The officers in this division are committed to making this a great division. For example, this year as research chair, DK told people if their paper had been accepted 48 hours before he said he would.

DS said that working with the officers who have come before him and the officers who are coming up after him has been a real pleasure.

DS announced the automatic ascensions: CB will become research chair, DK will advance to vice head, and CS will become division head.

CS is installed as head of the division and thanked DS for his leadership this year. CS recognized DS excellent service to the division with a plaque.

Elections

CS explained that four leadership positions are elected.

Newsletter Chair/Clerk

JM self-nominated. He said he has been a part of the division since graduate school. He has been a reviewer and panelist. This year he served as teaching chair and really enjoyed working with "this group of people" and being more involved with the division. He looks forward to the opportunity to join the division leadership.

CS opened for discussion and offered his own support, praising JM for his job as teaching chair.

Amy Sanders moved for a vote by acclamation. DS seconded. The membership voted unanimously to elect JM as newsletter chair/clerk.

PF&R Chair

AS nominates Jasmine McNealy.

Continued on 11.

Minutes, continued from 10.

JMc said she hopes to continue putting on panels that reflect the high quality of our connections and the region of the conference. She also would like to continue the tradition of strong mix of professionals and academics.

CS opened discussion. CB moved for a vote and DK seconded. The membership voted unanimously to elect JMc as PF&R chair.

Teaching Chair

Jonathan Peters self nominated. He said he has been a member of the division for a couple of years and would like to build on the revived strength of the teaching competition.

CS opened discussion. TE noted that Jonathan will be a great addition to the division leadership.

TE moved for a vote. DS seconded the motion. The membership voted unanimously to elect JP as teaching chair.

Webmaster

Matthew Telleen self nominated. He said he is excited to get involved and looks forward to helping in any way he can.

CS opened for discussion. AS moved for a vote. DK seconded. The membership voted unanimously to elect MT as webmaster.

Southeast Chair

CS explained that this is an appointed position. CS thanked Mike Martinez for his service last year and reappointed MM to the position for 2015. MM accepted.

CS noted that MM will also serve as co-chair for the Southeast Colloquium.

New Business

CS announced a new award: the Harry Stonecipher Award for Outstanding Research. The division will be working on a call and details.

But thanks to gracious gifts from Kyu Ho Youm, Doug Anderson and others, there has been a fund created for this award. The details still need to be worked out, but the general form will be a recognition of top legal research in article or book form from the last year, by members and non-members.

The division hopes to award this for the first time next year and will be getting out a call and forming a committee for this.

Future locations

Do not have to take a vote on future locations because they are predetermined: San Francisco, Minneapolis, Chicago, and Washington, D.C. Next year in San Francisco presents some great opportunities for panels, including international themes and participants.

Additional Items and Announcements

AEJMC will be hosting an International Regional Conference in Santiago Chile in 2015. It will be in three languages, English, Spanish and Portuguese. The conference will be Oct. 15 – 17, 2015. The deadline is May 1, 2015. CS encouraged membership participation.

A formal call will be coming out.

DS noted that this will be only an open competition, and that although it is an international conference, it is not a call for international research.

CS noted that AEJMC is promoting National News Engagement Day on Tuesday, October 7, 2014. AEJMC is looking for ideas to engage students with the news media. CS encourages membership to participate.

CS said he will be looking at the issue of membership decline and whether the division should add a Membership Director. A related recommendation is also a Graduate Student Chair. CS plans to report on that next year.

CS then opened up for issues from the floor.

Donations to Organizations

WH asked about the donations the division traditionally makes to Reporter's Committee for Freedom of the Press and the Student Press Law Center.

DS reported that in past years, the division donated \$250 to each organization. However, last year due to increased funds, the division gave \$500 to each organization.

WH moved that the division make a \$500 donation to SPLC. The motion was seconded and passed.

AS moved that the division make a \$500 donation to RCFP. The motion was seconded and passed.

Harry Stonecipher Award

KY asks to make clarification about the Harry Stonecipher Award; it is an AEJMC award, but the law division has been tasked with and given the privilege of being the committee that considers and gives this award.

DS noted that KY is too modest, but this award is made possible by a \$20,000 gift from Doug Anderson and KY. This endowment needs to build up, but we should be able to give a \$500 award.

Video Podcasts

Shannon Martin invited membership to participate in the creation of video podcasts for inclusion in her law class. There was more information in MLN.

Meeting Adjourned

Clay Calvert moved for adjournment. The motion passed unanimously and the meeting ended at 8:25 p.m.

Do You Have News for the Division?

If you have any news to share with the division or would like to contribute to the newsletter, please contact Clerk/
Media Law Notes Editor Jason Martin by email,
jmart181@depaul.edu