



Law Library Lights

Freeing the Law

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The “free law” movement is a trendy topic in the legal community these days. In fact, just a few weeks ago, AALL and Boston University School of Law held the [National Conference on Copyright of State Legal Materials](#). The movement actually began more than 20 years ago with the creation of [Cornell’s Legal Information Institute \(LII\)](#). Since then, more than 50 similar information institutes have sprung up around the world, all focused on providing access to free primary and secondary legal resources.

The movement is based on the idea that unfettered access to the law promotes both the rule of law and access to justice. While the free law movement may be fairly new, the idea that the law should be freely available to the public is not. In 1886, a Massachusetts court stated:

The decisions and opinions of the justices are the authorized expositions and interpretations of the laws which are binding upon all the citizens. They declare the unwritten law, and construe and declare the meaning of the statutes. Every citizen is presumed to know the law thus declared, and it needs no argument to show that justice requires that all should have free access to the opinions, and that it is against sound public policy to prevent this, or to suppress and keep from the earliest knowledge of the public the statutes or the decisions and opinions of the justices.

The idea is really quite simple: How can you know about the law if you can’t locate or access it? Yet much of the law is hidden

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behind paywalls and subscriptions, out of reach of the average citizen. To successfully navigate the legal system, a litigant often must rely on primary sources that are codified, published, or disseminated in some “official” way. Many legal sources, including most state and municipal codes, are subject to copyright restrictions. Before the advent of the internet, publishers held a monopoly on publication of legal materials. The federal government has its own in-house printing press, GPO, but most states do not have an equivalent and many rely on various publishers to disseminate their codes.

The Bluebook requires citation to “official” codes that are often published by for-profit private entities, rather than the government or non-profit groups. Although there is express language prohibiting copyright protection of U.S. government materials,² there is no such stipulation for states. States have continued to assert their copyright interests either in the text of the law itself or its arrangement or compilation. As a result, there have been a number of lawsuits over the last three centuries and efforts to “legislate” this problem. Only a handful of states (California, Florida, Indiana, Louisiana, Massachusetts, Minnesota, New Jersey, New York, North Carolina, and South Carolina) have laws that make their codified and compiled laws part of the public domain.

“While the free law movement may be fairly new, the idea that the law should be freely available to the public is not. In 1886, a Massachusetts court stated: ‘ . . . it needs no argument to show that justice requires that all should have free access to the opinions, and that it is against sound public policy to prevent this’”

So who benefits from the free law movement? Essentially, everyone. The law makes up part of the culture and hegemony of society. There is no aspect of life that the law does not touch. The law governs our lives, from the way we elect our leaders and the amount of taxes we must pay, down to the width of the turnstile at the subway station and public school toilet paper contracts. There is very little that is not regulated, legislated, or litigated in modern society, thus making the law itself a cultural artifact.

Shouldn’t the law be free? Doesn’t it belong to all of us? This is an issue of history, cultural property, anthropology, sociology, and morality.

Libraries have always been the warehouse of information for any community. This information should include legal information as well. All libraries, public, academic, government, and private, should consider how their organization can contribute to this movement. As the role of the library continues to change from the warehouse of books to the public meeting house to a digital access point, it is imperative that librarians and libraries continue to be arbiters of information.

The use of finding aids and reference services can help with this mission. But partnerships with legal service providers and community leaders can also help this cause. There have been a number of different programs in this regard, from legal clinics offered in libraries, to embedded law librarians in public libraries. Other groups are starting to follow suit as well. Many law schools and academic law libraries are creating clinics, classes, and incubator programs that provide these services.

It is up to law librarians as arbiters, vettors, and disseminators of legal information to lead the charge. ■

Notes

¹ *Nash v. Lathrop*, 142 Mass. 29 (1886).

² See 17 USC 105.



From the Editor

YOU Get the Law! And YOU Get the Law! And YOU Get the Law!

Shannon Roddy

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Happy New Year! The theme of this issue is Access to Justice/Free Law Movement, both of which are hot topics in the legal and library communities. The [ABA](#) defines access to justice initiatives as “effort[s] to remove barriers to civil justice for low-income and disadvantaged people.” The [free law movement](#) seeks to make legal information (primary and secondary sources) publicly and freely available to everyone. In my mind, these two concepts are inextricably intertwined, and law librarians have a vital role to play in both. I think it’s important for all of us to think about how we can help ensure that everyone who needs it gets access to the law.

In this issue, Khelani Clay, Special Projects Librarian at American University Washington College of Law, provides an overview of the free law movement and encourages law librarians to get involved. Pamela Lipscomb, Director of Library & Research Services at Arent Fox LLP, writes a tribute to Rick McKinney, the leading author of LLSDC’s *Legislative Source Book*, a freely available guide for researching legislative history and administrative law. In his president’s column, Andrew Martin discusses the vital role librarians play in the fight against fake news and misinformation. Matt Zimmerman’s tech column focuses on the future of artificial intelligence (AI) in law libraries and whether it will provide lower-cost



Submission Information

If you would like to write for Law Library Lights, contact Shannon Roddy at roddy@wcl.american.edu. For information regarding submission deadlines and issue themes, visit the LLSDC website at www.llsdc.org.



From the Editor, Continued

access to legal information and services. Andy Lang reviews Bryan Stevenson's memoir, *Just Mercy*, about his experience founding the Equal Justice Initiative and representing clients on death row.

If you would like to learn more about access to justice issues, consider participating in LLSDC's [Access to Justice Committee](#). In December, the committee hosted the AALL Advocacy Update Meeting, where AALL Director of Government Relations Emily Feltren spoke about opportunities for law librarian advocacy in the new congress and new administration. Past projects of the committee include helping the DC Access to Justice Commission research how law schools can include access to justice topics in their curricula and hosting Dave Pantzer from the Maryland [People's Law Library](#). You may also want to check out AALL's 2014 report, [Law Libraries and Access to Justice](#), which details opportunities for law librarians to provide access to justice.

I hope you enjoy this issue. Please consider contributing to one of our next issues. The theme for the spring issue is The Law Library of the Future, and the summer theme is Year-End Round Up & AALL Conference Preview. We welcome articles on those subjects or on anything else you want to write about. ■



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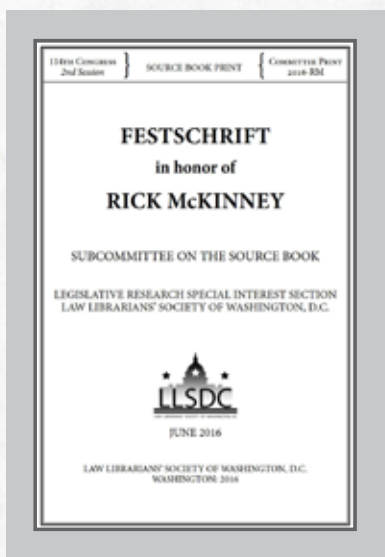
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Honoring Rick McKinney and LLSDC's *Legislative Source Book*

Pam Lipscomb

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At the Opening Reception on September 22, 2016, I was pleased to present Rick McKinney with an honorary lifetime membership in LLSDC. Rick is Assistant Law Librarian at the Federal Reserve Board and has been a member

of LLSDC for 32 years. He is the chief architect of our renowned *Legislative Source Book*. Rick's contributions to librarianship have been numerous.

Rick's love of libraries goes back many years to when he was a freshman in high school. At his mother's urging, he applied for a job at the Howell (Michigan) Carnegie Library and ended up working there for four years. His family moved to Maryland, and he graduated from the University of Maryland with a degree in psychology. He discovered that psychology wasn't something he wanted to pursue, so he, with his father's help, sought the advice of a career counselor who helped him realize that helping people with their information needs was his calling. He got his master's degree in library science from the University of Maryland and after a couple of library jobs with nonprofit organizations, he was hired in a legislative librarian position at the Federal Reserve Board Law Library in 1984 and joined LLSDC.

Since joining LLSDC, Rick has been a strong advocate for law libraries. He and the Legislative Research SIS *Source Book* Committee still actively update this valuable publication, and Rick makes sure that everyone knows when there is new content. The *Source Book* is a teaching tool for librarians across the country, and one of the things most mentioned when I meet someone who finds out I belong to LLSDC. While Rick is most known as a prominent member of the Legislative Research SIS, he has also been an active member of the Federal SIS, including being its president, and is integrally involved in "Agency Day," an event to gather librarians from federal agencies to discuss issues relevant to their specific clientele.

This past year, in conjunction with the honorary membership, Ellen Sweet and a crack group of authors, editors, and one fearless graphic designer created a *Festschrift* in honor of Rick's dedication to the profession and to teaching others how to find legislative history information. A "Festschrift" is a volume of writings by different authors presented as a tribute or memorial, especially to a scholar. The one presented to Rick McKinney was designed to look like a congressional committee print. This publication is now available on the LLSDC website, both on the Legislative Research SIS page and as a permanent part of the *Source Book* that Rick created.

Thank you Rick, for all that you have done to make LLSDC and librarianship what it is today. We look forward to continuing working with you in the years to come. ■

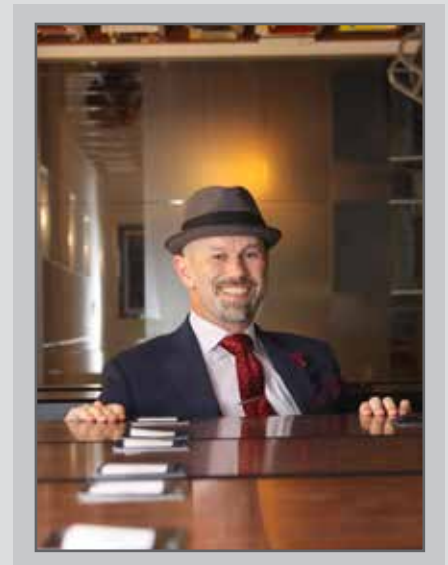


President's Column

The Warriors on the Walls: Librarians in the Post Factual World

Andrew Martin

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During the recent electoral cycle, urban legends, misinformation, and deliberately faked news ran amok. This is not a new phenomenon. In 1919, Mark Twain famously said that “a lie can get halfway around the world before the truth gets its shoes on.”¹

Certainly the history of ignorance and misinformation is the history of humanity itself. In recent years, however, social media has made it all too easy for any story that strikes us viscerally to be shared, going viral unencumbered by the least taint of scrutiny. If a fact feels true, and is memed over an appropriately salacious picture,² it's all too tempting to share it and bask in the emotional validation reflected back at us, rather than bothering with nuance and veracity.

This is a bipartisan problem. There is no point on the political spectrum immune to the temptation to create and share misinformation and fake news. Sites ranging from slanted commentary to clickbait to “satirical” traffickers in mendacity have arisen to cater to every political and social inclination.

We are the librarians, the gatekeepers of knowledge and the warriors on the walls defending against ignorance, misconception, and bad information.

We have a unique set of intellectual tools. It starts with radical skepticism, includes a desire to trace



President's Column, Continued

any assertion to the originating document, and concludes with an unparalleled knowledge of and access to primary sources. It is our duty to employ these tools in the battle against misinformation.

When we encounter questionable or poorly sourced assertions in the wild, we must investigate. We must question the questionable, and whenever possible provide links to verifiable and trustworthy sources and documents. This may not inoculate against ignorance or stop the spread of false news, but it can act as a firebreak.

It is especially important to employ this radical questioning and examination to assertions that fit our own preconceptions. Never should we be so suspicious as when presented with a fact that purports to confirm our own deeply cherished ideas.

We can also educate our patrons. We can show them how to find the primary sources of legislation for themselves, instead of relying on what a dodgy news source "says" the law will do. We can train them to spot spoofed news websites and teach them to look for markers of "satirical" vectors of fake news and information.

This is our duty and our awesome responsibility. ■

Notes

¹"Wait," you're saying. "Mark Twain died in 1910. He couldn't have said this." See? Though commonly attributed to Mark Twain, this saying is an aphorism that has been around at least since 1820. In 1787, Thomas Francklin wrote in his homily on vigilance that "Falsehood will fly, as it were, on the wings of the wind, and carry its tales to every corner of the earth; whilst truth lags behind; her steps, though sure, are slow and solemn, and she has neither vigour nor activity enough to pursue and overtake her enemy..." <http://quoteinvestigator.com/2014/07/13/truth/>

But you've already gone and shared the quote, haven't you?

²Or cute cat picture.



Member Spotlight

Andrew Lang

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Angela Jaffee

As of October 3rd, Angela Jaffee began working as a Law Library Program Administrator at the Administrative Office of the United States Courts.

Andrea Muto

In November, Andrea Muto was hired as a Research Services Librarian at the Georgetown University Law Center. In October, Andrea presented a TEDTalk at Cleveland State University that focused on a law library that she helped develop in Kabul, Afghanistan, between 2007 and 2008 while working as a consultant in international development on USAID justice sector projects. A recording of the talk is available at <http://bit.ly/2jjgYZ5>.

Member Question

What was the best book you read in 2016?

"The best book of 2016 for me was actor and comedian Aziz Ansari's *Modern Romance*. It's a mix of comedy and sociology, full of fun (and not-so-fun) facts and anecdotes about the modern dating world and how it compares to dating in previous generations. The book brings up some really intriguing perspectives about the online dating world and how it has transformed our conception of love. I highly recommend this book regardless of whether you are single, happily committed, or anywhere in-between!"

—Brittany Ham, Librarian, FCC Library

"I would recommend two books that have asked me to move from my comfort zone: *The Green Bicycle* by Haifaa al Mansour and *Hillbilly Elegy* by J.D. Vance."

—Charlotte Osborn-Bensaada, Competitive & Government Research Analyst, Thompson Coburn LLP



Tech Talk

Coming to Grips with Artificial Intelligence

Matt Zimmerman

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This year I've seen a lot of articles about artificial intelligence (AI) and its impact on legal services. [This piece](#) from the ABA Journal is a good example. It talks about how computers can help crunch vast quantities of digital information and suggests a future in which they may even help predict litigation outcomes. Other observers note that AI could help reduce the cost of legal services and improve access to justice. As librarians, we can also appreciate the potential for AI to facilitate certain research processes and tasks.

I find this all exciting. It's very sci-fi. But I feel frustrated because I am clueless about how to take advantage of emerging AI technologies. I don't have access to a Watson supercomputer. I can code well enough for what I do, but programming an intelligent, self-learning system is beyond my power. Must I then sit and wait for those Silicon Valley geniuses to figure out what I need and then sell it to my library in the form of a subscription to a cloud service?

Probably. In fact, that's already happening as vendors integrate AI techniques into legal research platforms and library systems (ROSS, Neota Logic, FastCase, etc.). But I had hoped when I started thinking about this column that I would find approaches to AI that a humble academic librarian like myself could directly implement, operate, and shape to suit the needs of our patrons. Alas, we're not there just yet.

Tech Talk, Continued

There are a growing number of frameworks for implementing machine learning. Popular open-source libraries include Theano, Torch, and Caffe. Tech companies are also providing or supporting AI frameworks, such as the Microsoft Cognitive Toolkit (CNTK) and Google's Tensorflow.

However, while machine learning frameworks are becoming more common and more accessible, they are still likely to be beyond the reach of all but the most passionate and technically adept of law librarians.

As a librarian who codes, I'd love to roll up my sleeves and build something awesome with AI. But until there are better tools, technology-oriented librarians are better off thinking about the big picture. Let's plan ahead to make sure that we can make the most of what's coming. For example, we can partner with the data scientists and programmers who do have the expertise to realize our visions for easy access to legal information.

I was encouraged by a session at CALI's 2016 annual meeting where staff from the Harvard

Library Innovation Lab who were working on digitizing Harvard's collection of state and federal court decisions brainstormed about what could be done with the material. Let's keep that ball rolling.

We also have an obligation to deploy AI in a way that is socially responsible. Algorithms, after all, are not neutral. Zeynep Tufekci [explains](#), "while we now know how to make machines learn, we don't really know what exact knowledge they have gained."

Algorithms may reinforce existing inequities or biases, or they may spread misinformation. Librarians will be responsible for the output of any AI systems we deploy so let's make sure we know what the computers are doing.

So what do you want the future of law libraries and AI to look like? What can we do to make sure it fulfills its promise of lower-cost access to legal information and services? Think about it, and maybe drop me a line via email (matt.zimmerman@georgetown.edu) or Twitter ([@mlzman](https://twitter.com/mlzman)). ■

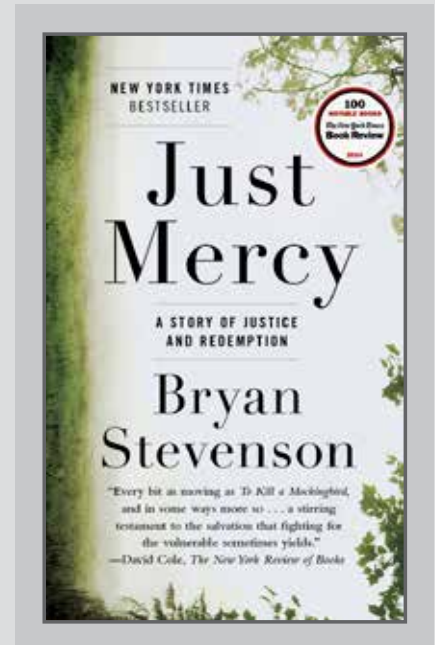


Book Review

Bryan Stevenson, *Just Mercy* (New York, NY: Spiegel & Grau, 2014)

Andrew W. Lang

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There is a quotation commonly attributed to Joseph Stalin that “one death is a tragedy; one million deaths is a statistic.” While I certainly don’t condone Stalin’s statement, something about this idea rings true, especially in the age of information overload. Within the past few years there has been an increasing awareness of the inequities of the criminal justice system and the issues surrounding mass incarceration. The numerical story is horrifying in many respects, but submerged in a flood of numbers and data, it’s easy to lose sight of the fact that each number represents an individual human being.

For this issue’s “Access to Justice” theme, I read Bryan Stevenson’s memoir *Just Mercy*, which details his experiences founding the Equal Justice Initiative and working on death row appeals for low-income clients. Stevenson’s narrative is humanizing in a way that many of our statistic-driven conversations about criminal justice reform aren’t. Though he weaves these important big-picture details throughout the book, he chooses to focus on his clients and tell their stories. By shifting the scale to a personal level, it’s much easier to see and feel the individual injustices that contribute to the systemic problems.

Bryan Stevenson is a public interest attorney; professor at New York University School of Law; and the founder and executive director of the Equal Justice Initiative (EJI), a nonprofit organization that provides legal representation to low-income clients in Montgomery, Alabama. Founded in 1989, EJI challenges the death penalty, illegal convictions, and excessive sentences, especially for children. Since its 2014 publication, *Just Mercy* has received wide acclaim, winning an Andrew Carnegie Medal for Excellence and the NAACP Image Award, and was featured on numerous lists for notable nonfiction books of 2014.



Book Review, Continued

Most of the book follows the appeal of Walter McMillian, a black man who was convicted with false testimony and sentenced to death for a murder he didn't commit. One of the many ironies of the McMillian case—one that is certainly not lost on Stevenson—is that the events took place in and around Monroeville, Alabama, the hometown of Harper Lee (p. 23). Throughout his work on this case, Stevenson faces enormous obstacles including witness intimidation (p. 114), obstruction of his investigation by local law enforcement (pp. 143-44), and even death and bomb threats (p. 203). It makes for compelling and deeply challenging reading, so I won't reveal more about the eventual outcome.

Race is an important part of the McMillian story, but is also central to Stevenson's personal story. In a striking chapter, Stevenson describes the fear and humiliation of being racially profiled by police in front of his own home. While sitting in his car enjoying the radio, Stevenson was approached by police and frisked at gunpoint while his vehicle was searched without probable cause and the neighbors gawked from nearby doors and windows (pp. 40-41). Although he was eventually released, he felt profoundly shaken by the ways the confrontation could have ended:

I was a twenty-eight-year-old lawyer who had worked on police misconduct cases. I had the judgment to speak calmly to the officer when he threatened to shoot

me. When I thought about what I would have done when I was sixteen years old or nineteen or even twenty-four, I was scared to realize that I might have run (pp.42-43).

Although the McMillian case is the central narrative, Stevenson also describes a number of his other cases, all relating to different issues within the justice system such as the gruesome details of botched executions, the prosecution of juveniles as adults, the criminalization of mental illness and poverty, and the collateral effects of incarceration. One example that Stevenson mentions is a woman who was serving a ten-year prison sentence for writing five bad checks, none for more than \$150, including three to Toys 'R' Us to purchase Christmas presents for her three young children (p. 236). Stevenson claims this case is representative of female offenders, as nearly two-thirds of all incarcerated women are "in prison for nonviolent, low-level drug crimes or property crimes" (p. 236).

These issues in the justice system often seem to be the result of good intentions gone awry. For example, Stevenson describes how efforts to reform mental health treatment in the 1960s and 1970s led to deinstitutionalization of state mental facilities, but insufficient support coupled with the spread of mass imprisonment policies meant that many mentally ill people ended up in prisons instead (p. 188). As a result, "over 50 percent of prison and jail inmates in the



Book Review, Continued

United States have a diagnosed mental illness, a rate nearly five times greater than that of the general adult population” (p. 188).

At the same time, mass incarceration has proven to be a very profitable enterprise. During a prison-building boom between 1990 and 2005,

millions of dollars were spent lobbying state legislators to keep expanding the use of incarceration to respond to just about any problem . . . health care problems like drug addiction, poverty that had led someone to write a bad check, child behavioral disorders, managing the mentally disabled poor, even immigration issues (p. 260).

Apart from the monetary gains to be made by the “prison industrial complex,” political pressure to appear “tough on crime” has made many in our nation view mass incarceration as a legitimate way to address some of these other societal problems. Stevenson provides the example of how Alabama’s competitive judicial elections rely heavily on “tough on crime” rhetoric that pushes judges to enact harsher punishments so as to avoid attack ads targeting their past performance (p. 70). In some instances, including cases that Stevenson worked on, this has led judges to override jury sentences, imposing harsher penalties to burnish their law-

and-order credentials for election season (pp. 70-71).

Ultimately, *Just Mercy* provides a very broad overview of many of the problems facing justice system reformers by replacing anonymous statistics with human names and stories. Because the book focuses more on individual cases and Stevenson’s own experience, readers looking for a deeper dive into criminal justice reform issues may need to look elsewhere, but *Just Mercy* provides a strong entry point for those looking to learn more about criminal justice reform.

Although the book covers Stevenson’s work as a criminal appeals attorney, he writes for a broad audience, making the text both approachable and compelling. *Just Mercy* is an easy book to read, but a difficult book to process. Yet, through all of the tragedies and miscarriages of justice that Stevenson witnesses, he retains an attitude of hope—a remarkable testament to his own resilience in the face of immense systemic injustice. The book itself acts as a memorial to these victims of injustice, as the author admits, “I felt the need to explain to people what Walter [McMillian] had taught me. Walter made me understand why we have to reform a system of criminal justice that continues to treat people better if they are rich and guilty than if they are poor and innocent” (p. 313). ■



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