

2-1-2016

January Issue of *Boston College Law Review* Now Available

Boston College Law School

Follow this and additional works at: http://lawdigitalcommons.bc.edu/law_school_publications



Part of the [Legal Education Commons](#)

Digital Commons Citation

Boston College Law School, "January Issue of *Boston College Law Review* Now Available" (2016). *Law School Publications*. 789.
http://lawdigitalcommons.bc.edu/law_school_publications/789

This Article is brought to you for free and open access by the Law School Archive at Digital Commons @ Boston College Law School. It has been accepted for inclusion in Law School Publications by an authorized administrator of Digital Commons @ Boston College Law School. For more information, please contact nick.szydowski@bc.edu.



LAW SCHOOL HOME

- [Students Home](#)
- [About BC Law](#)
- [Admission & Financial Aid](#)
- [Center for Experiential Learning](#)
- [The Rappaport Center](#)
- [Faculty & Administration](#)
- [News, Events & Calendars](#)

2016 News Archive

[2011 Rappaport Fellow Named to Top 40 Young Lawyers](#)

[Rappaport-Center-Blog](#)

- [2015-News Archive](#)
- [2014-News Archive](#)
- [2013-News Archive](#)
- [2012-News Archive](#)
- [2011-News Archive](#)
- [2010-News Archive](#)
- [2009-News Archive](#)
- [2008-News Archive](#)
- [2007-News Archive](#)
- [2006-News Archive](#)
- [2005-News Archive](#)
- [2004-News Archive](#)
- [2003-News Archive](#)
- [2002-News Archive](#)
- [2001-News Archive](#)
- [2000-News Archive](#)

- [Events](#)
- [Services & Departments](#)
- [Law Reviews](#)
- [Alumni and Friends](#)

- [Contact Us](#)
- [Law Library](#)

[bc home](#) > [schools](#) > [law school home](#) > [news-events](#) > [2016-archive](#) >

January Issue of *Boston College Law Review* Now Available

2016 NEWS ARCHIVE

02/01/16

The January issue of *Boston College Law Review* is now available. This is the third of five issues of the *Review* to be published in the 2015-2016 academic year. The January issue features four articles by outside authors, as well as four student notes. Summaries of the eight pieces are included below. The full articles are available at the BCLR [website](#).

Abstracts

1. Nicole Huberfeld & Jessica L. Roberts, *Health Care and the Myth of Self-Reliance*

In their article *Health Care and the Myth of Self-Reliance*, Professor Nicole Huberfeld of the University of Kentucky College of Law and College of Medicine and Professor Jessica L. Roberts of the University of Houston Law Center argue that the current offering of multiple programs to approach universal health care coverage, including highly-visible direct funding programs such as Medicaid and through largely-hidden tax subsidies such as those created with the Affordable Care Act, leads to stigmas and inefficiencies which hinder the goal of universal coverage. Professor Huberfeld and Professor Roberts look at how the current system of both hidden tax subsidies and visible direct funding arose. Professor Huberfeld and Professor Roberts examine the American myth of self-reliance and how it causes stigma to attach to direct support but not to hidden support. Professor Huberfeld and Professor Roberts conclude that combining health care for the poor into a single government program, either subsidies or direct coverage, would be more economically and administratively efficient than the current bifurcated approach.

2. Tom Lininger, *Green Ethics for Lawyers*

In his article *Green Ethics for Lawyers*, Professor Tom Lininger of the University of Oregon School of Law argues that the ethical rules for lawyers, which encourage zealous advocacy on behalf of clients, should also incentivize lawyers to take steps that could minimize harm to the environment. Professor Lininger proposes a comprehensive set of amendments to the ABA Model Rules of Professional Conduct—including a liberalization of the confidentiality rules, expansion of lawyers' counseling duties, a reconceptualization of third-party harm, an enlarged scope of supervisory responsibility, and a redefinition of pro bono service—to establish opportunities and obligations for lawyers to promote environmental health.

3. Stephen Rushin, *Using Data to Reduce Police Violence*

In his article *Using Data to Reduce Police Violence*, Professor Stephen Rushin of the University of Alabama School of Law confronts the controversial topic of police killings. Professor Rushin proposes that the Department of Justice could use data collected under the authority of the Deaths in Custody Reporting Act, as well as new data to be collected by the Federal Bureau of Investigations and the Bureau of Justice Statistics, to obtain equitable relief against police departments engaged in unconstitutional practices. Under 42 U.S.C. § 14141, the Attorney General has the authority to spearhead police reform by bringing § 14141 lawsuits against such police departments. Professor Rushin opines that the current lack of national statistics documenting police killings has led to a paucity of § 14141 actions, however. Thus, he proposes that these new data sources could better inform the DOJ and Attorney General and

consequently lead to more targeted and successful legal actions and meaningful reform.

4. Stacey A. Tovino, *The Grapes of Wrath: On the Health of Immigration Detainees*

In her article *The Grapes of Wrath: On the Health of Immigration Detainees*, Professor Stacey Tovino of the William S. Boyd School of Law at the University of Nevada challenges the lack of health care provided to individuals in United States Immigration and Customs Enforcement (ICE) custody. Many of these individuals are physically and emotionally vulnerable at the time of initial confinement, and many have died while in ICE custody. Professor Tovino proposes using state and federal health law as a model for change. Professor Tovino uses involuntary commitment laws, long-term care facility laws, and behavioral health laws to provide a lens through which the lack of access to health care in detention might be assessed and through which the unenforceable standards governing detention centers might be improved.

5. Matthew Feuerman, Note, *Court-Side Seats? The Communications Decency Act and the Potential Threat to StubHub and Peer-to Peer Marketplaces*

In 2008, in *Fair Housing Council of San Fernando Valley v. Roommates.com, LLC*, the Ninth Circuit Court of Appeals announced that under the Communications Decency Act, websites will not be immune from liability for its users' content when it "materially contributes to its alleged unlawfulness." While this test has largely been applied in favor of broad immunity, there have been diverging opinions as it relates to StubHub. In his note *Court-Side Seats? The Communication Decency Act and The Potential Threat to StubHub and Peer-to-Peer Marketplaces*, Matthew Feuerman argues that rogue decisions denying immunity are a product of ambiguity in the *Roommates.com* opinion. In order to protect the growth of peer-to-peer marketplaces like StubHub, Feuerman argues that a new test is needed to eliminate ambiguity and promote congressional intent in passing the Communications Decency Act.

6. James Lobo, Note, *Vindicating the Vaccine: Injecting Strength into Mandatory School Vaccination Requirements to Safeguard the Public Health*

In his note *Vindicating the Vaccine: Injecting Strength into Mandatory Vaccination Requirements to Safeguard the Public Health*, James Lobo discusses how a measles outbreak in California in early 2015 triggered a nationwide discussion about childhood vaccination requirements and the growing "anti-vaccination" movement. Although courts have consistently upheld states' rights to impose mandatory vaccination requirements, most states provide for religious and some, philosophical, exemptions that allow parents to send their children to school vaccine-free. Lobo argues that states should fortify their vaccination requirements by limiting religious exemptions to only "genuine and sincere" religious beliefs that oppose vaccination, and do away with philosophical exemptions entirely.

7. Robert Rossi, Note, *Jurisdictional Haze: Indiana and Washington's Unconstitutional Extensions of the Postmortem Right of Publicity*

In his note *Jurisdictional Haze: Indiana and Washington's Unconstitutional Extensions of the Postmortem Right of Publicity*, Robert Rossi argues that state statutes that confer a postmortem right of publicity onto individuals domiciled outside of those respective states at death are unconstitutional. Rossi examines how these types of statutes, specifically those governing in Indiana and Washington, violate the Due Process Clause, the Full Faith and Credit Clause, and the dormant Commerce Clause. Rossi argues that states should respect and observe the traditional rule used by courts, namely that the postmortem right of publicity is governed by the law of the jurisdiction in which an individual is domiciled at the time of death. Rossi concludes that universal adherence to this rule will resolve the practical and constitutional issues created by the passage of statutes like Indiana and Washington's.

8. Chris Skall, Note, *Journey Out of Neverland: CORI Reform, Commonwealth v. Peter Pon, and Massachusetts's Emergence as a National Exemplar for Criminal Record Sealing*

In his note *Journey Out of Neverland: CORI Reform, Commonwealth v. Peter Pon, and Massachusetts's Emergence as a National Exemplar for Criminal Record Sealing*, Chris Skall discusses how the Massachusetts legislature and judiciary have made considerable changes to the way that criminal records are managed, disseminated, and sealed in the state. In recent years, numerous states have reformed or enacted statutes for criminal record sealing or

expungement in an effort to combat recidivism and facilitate reintegration. Skall argues that Massachusetts has established a thorough and balanced approach to criminal record sealing that, with certain modifications, can serve as a model for reform for other states and the federal government.

More: <http://bclawreview.org>

Updated: February 19, 2016

Maintained by: Boston College Law School

[Accessibility](#) | [Contact](#) | [Feedback](#)

© 2016 The Trustees of Boston College. [Legal](#)