



Proceedings

A monthly newsletter from McGraw-Hill



May 2015 Volume 6, Issue 10

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Dear Professor,

The end of the spring semester draws near! Welcome to McGraw-Hill's May 2015 issue of Proceedings, a newsletter designed specifically with you, the Business Law educator, in mind. Volume 6, Issue 10 of Proceedings incorporates "hot topics" in business law, video suggestions, an ethical dilemma, teaching tips, and a "chapter key" cross-referencing the May 2015 newsletter topics with the various McGraw-Hill business law textbooks.

You will find a wide range of topics/issues in this publication, including:

1. Indiana's new "religious freedom" law and its potential impact on LGBTs living in the "Hoosier" state;
2. A new lawsuit addressing United States Drug Enforcement Administration telephone surveillance;
3. The longstanding history of federal government tracking of telephone calls;
4. Videos related to a) the shooting of Walter Scott by police officer Michael Slager in South Carolina and b) the toxic chemical poisoning of a Delaware family vacationing in the Virgin Islands;
5. An "ethical dilemma" related to whether capital (and capitalism) can be just; and
6. "Teaching tips" related to Article 1 ("Governor Mike Pence: Indiana 'Not Going to Change' Anti-LGBT Law") and Video 1 ("Video of Walter Scott Shooting Reignites Debate on Police Tactics") of the newsletter.

Enjoy the summer!

Jeffrey D. Penley, J.D.
Catawba Valley Community College
Hickory, North Carolina



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Of Special Interest

This section of the newsletter covers three (3) topics:

1) Indiana's new "religious freedom" law and its potential impact on LGBTs living in the "Hoosier" state;

2) A new lawsuit addressing United States Drug Enforcement Administration telephone surveillance; and

3) The longstanding history of federal government tracking of telephone calls.

Hot Topics in Business Law

Article 1: "Governor Mike Pence: Indiana 'Not Going to Change' Anti-LGBT Law"

<http://www.cnn.com/2015/03/29/politics/mike-pence-indiana-anti-lgbt-religious-freedom-law/>

Note: In addition to the article, please also see the accompanying video included at the above-referenced internet address.

According to the article, Indiana Governor Mike Pence says concerns that his state's new "religious freedom" law will allow businesses to turn away LGBT customers is the result of a "tremendous amount of misinformation and misunderstanding."

But he refused recently to answer at least six yes-or-no questions about whether the measure legalizes discrimination against gays and lesbians.

And he said he will not support legislation that would clean up the public relations mess by adding protections based on sexual orientation to Indiana's anti-discrimination laws.

"That's not on my agenda, and that's not been an objective of the people of the state of Indiana.

And it doesn't have anything to do with this law," Pence said.

"We are not going to change this law," he said.

Pence's decision last week to sign into law the Religious Freedom Restoration Act that allows Indiana businesses to cite their religious freedom as a legal defense has triggered an intense backlash against his state.

White House Press Secretary Josh Earnest blasted Pence, saying that the Indiana Republican "is in damage control mode this morning, and he's got damage to fix."

"It should be easy for leaders in this country to stand up and say that it is wrong to discriminate against people just because of who they love," Earnest said.



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Tech companies have also taken aim at Indiana. Apple chief executive Tim Cook tweeted that "Apple is open for everyone. We are deeply disappointed in Indiana's new law."

Salesforce.com head Marc Benioff said his company would stop its travel to Indiana and help its employees move out of the state.

The mayors of San Francisco and Seattle issued statements announcing bans on the spending of public funds for employees to travel to Indiana. San Francisco makes an exception for travel "essential to the public health and safety."

Seattle will also inspect city contracts to see if any are with businesses located in Indiana.

The mayor of Indiana's capital Indianapolis condemned the new law.

"I had hoped the Statehouse wouldn't move in this direction on RFRA, but it seems as if the bill was a fait accompli from the beginning," said Mayor Greg Ballard. "We are a diverse city, and I want everyone who visits and lives in Indy to feel comfortable here. RFRA sends the wrong signal."

The NCAA, which is headquartered in Indianapolis and set to host its men's basketball Final Four in the city, said the law could lead it to move events elsewhere in future years. The NBA, WNBA and NFL issued critical statements. And groups like the gamer convention GenCon and the Disciples of Christ, which holds a meeting in Indianapolis each year, have said they could move their events, too.

Even popular culture figures have weighed in. Miley Cyrus called Pence an "a--hole" on Instagram, while M.C. Hammer tweeted that Indiana's law is "barbaric and inhumane."

Pence said that it was "absolutely not" a mistake to sign the law -- and noted that President Bill Clinton signed a similar one nationally, and then-state Senator Barack Obama supported one in Illinois.

"I'm just determined to clarify this: This is about protecting the religious liberty of people of faith and families of faith," Pence said.

Illinois also had a state law barring discrimination based on sexual orientation -- which Indiana does not have.

The media asked Pence about the comments made by Eric Miller, the head of Advance America and a powerful lobbyist on socially conservative causes in Indiana who was in Pence's office for the private bill signing ceremony last week.

As examples of situations where the law "will help," Miller wrote on his website that "Christian bakers, florists and photographers should not be punished for refusing to participate in a homosexual



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marriage!" and "a Christian business should not be punished for refusing to allow a man to use the women's restroom!"

The Indianapolis Star reported that one of the bill's chief legislative sponsors, state Senator Scott Schneider, agreed that the law would protect those businesses.

ABC News's George Stephanopoulos asked Pence at least four times whether Miller's claims were accurate -- and each time, Pence deflected, refusing to grant the host's request for a "yes or no" answer.

"People are trying to make it about one particular issue, and now you're doing that as well," Pence said.

"Here, Indiana steps forward to protect the constitutional rights and privileges of freedom of religion for people of faith and families of faith for people in our state and this avalanche of intolerance has been poured upon the people of our state," he said.

In addition to the national outrage, local businesses have said they're canceling plans to grow there.

The chief executive of Angie's List -- who was also the campaign manager for Pence's Republican predecessor, former Gov. Mitch Daniels -- said his company is halting its plans for a major expansion in Indianapolis.

Pence said he's open to legislative efforts to clarify the "religious freedom" law -- though the state's Republican-dominated legislature already rejected Democrats' push to amend it to protect gays and lesbians from discrimination, and Pence said he doesn't support a new state law with those protections.

"This isn't about disputes between individuals, it's about government overreach," Pence said, "and I'm proud that Indiana stepped forward."

Discussion Questions

1. Describe the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution provides that "(n)o state shall...deny to any person within its jurisdiction the equal protection of the laws."

2. In your reasoned opinion, does Indiana's "religious freedom" law violate the Fourteenth Amendment to the United States Constitution? Why or why not?



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This is an opinion question, so student opinions may vary. However, if the effect of Indiana's "religious freedom" law is to deny LGBTs business service due to their sexual orientation, there is a strong legal argument to be made that the law does deny equal protection, and is therefore unconstitutional.

3. Does the Civil Rights Act of 1964 prohibit discrimination on the basis of sexual orientation? If not, should it?

Currently, the Civil Rights Act of 1964 does not prohibit discrimination on the basis of sexual orientation. Instead, it prohibits discrimination based on: a) gender; b) race; c) national origin; d) culture; and e) religion. Although some states have specifically outlawed discrimination on the basis of sexual orientation, Indiana has not. Opinions will likely vary in terms of whether federal law should be expanded to prohibit sexual orientation discrimination.

Article 2: "New Lawsuit Says DEA Phone Surveillance Was Illegal"

<http://www.usatoday.com/story/news/2015/04/08/eff-lawsuit-dea-telephone-surveillance/25461003/>

According to the article, the Justice Department violated the United States Constitution by secretly gathering logs of billions of calls from the United States to as many as 116 countries, Human Rights Watch alleged in a lawsuit filed against the government recently.

The lawsuit, filed in federal court in Los Angeles, asks a judge to declare that the now-halted surveillance operation was illegal and to permanently block the government from restarting it. "It's time to end the program, and bulk surveillance, once and for all," Nate Cardozo, an attorney with the Electronic Frontier Foundation, which is representing the group, wrote in a blog post.

The Justice Department acknowledged in January that the Drug Enforcement Administration had been secretly gathering logs of Americans' international phone calls. The program began nearly a decade before the 9/11 terrorist attacks, and provided a blueprint for the far broader National Security Agency surveillance program that followed. It included virtually all calls from the United States to Mexico, Canada and most of the countries in South and Central America.

The suit is the latest legal challenge to government data-gathering that EFF and other privacy advocates argue are unconstitutional. The group is also pressing a lawsuit challenging the NSA's surveillance program, which includes records of Americans' domestic phone calls.

In the suit, Human Rights Watch complained that its records had been "collected, retained, searched, and disseminated without any suspicion of wrongdoing and without any judicial authorization or oversight." The group said that such sweeping surveillance violated its First and Fourth Amendment rights, and that it should be able to make international calls without having the government keep a record of them.



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"Who we communicate with and when we communicate with them is often extraordinarily sensitive — and it's information that we would never turn over to the government lightly," Human Rights Watch General Counsel Dinah PoKempner said in a statement.

The Justice Department halted the data collection in September 2013 and later deleted its database of call records.

The DEA surveillance program, known within the agency as USTO, was the government's first known effort to collect electronic data about Americans in bulk, without regard to whether they were suspected of crimes.

Justice Department spokesman Patrick Rodenbush said in a statement recently that the DEA "is no longer collecting bulk telephony metadata from U.S. service providers."

Discussion Questions

1. What is the constitutional basis for challenging the federal government's secret gathering of logs of telephone calls from the United States to other countries?

The constitutional basis for challenging the federal government's secret gathering of logs of telephone calls from the United States to other countries is the Fourth Amendment to the United States Constitution, which states that "(t)he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

2. Suppose the government contends that gathering such data is necessary to make Americans safer, especially in a "post-9/11" world. In your reasoned opinion, does the objective of making Americans safer outweigh the constitutional concerns of government data-mining without a warrant? Why or why not?

This is an opinion question, so student responses will likely vary. For the purposes of discussion, students should be informed of the following famous quote attributed to Benjamin Franklin: "They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety."

3. Suppose the government uses information gathered from warrantless telephone call monitoring to establish probable cause against a suspected drug trafficker, resulting in the drug trafficker's arrest. Would the government's warrantless telephone monitoring of the defendant's telephone calls prohibit the successful conviction of the defendant? Why or why not?



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This is an interesting Fourth Amendment issue. If the government's warrantless telephone call monitoring constitutes a violation of the Fourth Amendment to the United States Constitution, then arguably, the government could not make a case for probable cause justifying the suspected drug trafficker's arrest, nor could it use such evidence to convict the suspect. The key question here is whether the government's warrantless telephone call monitoring constitutes a violation of the Fourth Amendment. If it does, then all evidence gained from it is "fruit of the poisonous tree," justifying neither arrest nor conviction.

Article 3: "U.S. Secretly Tracked Billions of Calls for Decades"

<http://www.usatoday.com/story/news/2015/04/07/dea-bulk-telephone-surveillance-operation/70808616/>

Note: The following article is a companion piece to Article 2 ("New LawsUIT Says DEA Phone Surveillance Was Illegal") of this newsletter.

Note: In addition to the article, please also see the accompanying video included at the above-referenced internet address.

According to the article, the United States government started keeping secret records of Americans' international telephone calls nearly a decade before the September 11 terrorist attacks, harvesting billions of calls in a program that provided a blueprint for the far broader National Security Agency surveillance that followed.

For more than two decades, the Justice Department and the Drug Enforcement Administration amassed logs of virtually all telephone calls from the USA to as many as 116 countries linked to drug trafficking, current and former officials involved with the operation said. The targeted countries changed over time but included Canada, Mexico and most of Central and South America.

Federal investigators used the call records to track drug cartels' distribution networks in the USA, allowing agents to detect previously unknown trafficking rings and money handlers. They also used the records to help rule out foreign ties to the bombing in 1995 of a federal building in Oklahoma City and to identify U.S. suspects in a wide range of other investigations.

The Justice Department revealed in January that the DEA had collected data about calls to "designated foreign countries." But the history and vast scale of that operation have not been disclosed until now.

The now-discontinued operation, carried out by the DEA's intelligence arm, was the government's first known effort to gather data on Americans in bulk, sweeping up records of telephone calls made by millions of U.S. citizens regardless of whether they were suspected of a crime. It was a model for the massive phone surveillance system the NSA launched to identify terrorists after the September 11 attacks. That dragnet drew sharp criticism that the government had intruded too deeply into



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Americans' privacy after former NSA contractor Edward Snowden leaked it to the news media two years ago.

More than a dozen current and former law enforcement and intelligence officials described the details of the Justice Department operation to USA TODAY. Most did so on the condition of anonymity because they were not authorized to publicly discuss the intelligence program, part of which remains classified.

The DEA program did not intercept the content of Americans' calls, but the records — which numbers were dialed and when — allowed agents to map suspects' communications and link them to troves of other police and intelligence data. At first, the drug agency did so with help from military computers and intelligence analysts.

That data collection was "one of the most important and effective Federal drug law enforcement initiatives," the Justice Department said in a 1998 letter to Sprint asking the telecom giant to turn over its call records. The previously undisclosed letter was signed by the head of the department's Narcotics and Dangerous Drugs Section, Mary Lee Warren, who wrote that the operation had "been approved at the highest levels of Federal law enforcement authority," including then-Attorney General Janet Reno and her deputy, Eric Holder.

The data collection began in 1992 during the administration of President George H.W. Bush, nine years before his son, President George W. Bush, authorized the NSA to gather its own logs of Americans' phone calls in 2001. It was approved by top Justice Department officials in four presidential administrations and detailed in occasional briefings to members of Congress but otherwise had little independent oversight, according to officials involved with running it.

The DEA used its data collection extensively and in ways that the NSA is now prohibited from doing. Agents gathered the records without court approval, searched them more often in a day than the spy agency does in a year and automatically linked the numbers the agency gathered to large electronic collections of investigative reports, domestic call records accumulated by its agents and intelligence data from overseas.

The result was "a treasure trove of very important information on trafficking," former DEA administrator Thomas Constantine said in an interview.

The extent of that surveillance alarmed privacy advocates, who questioned its legality. "This was aimed squarely at Americans," said Mark Rumold, an attorney with the Electronic Frontier Foundation. "That's very significant from a constitutional perspective."

Holder halted the data collection in September 2013 amid the fallout from Snowden's revelations about other surveillance programs. In its place, current and former officials said the drug agency sends telecom companies daily subpoenas for international calling records involving only phone



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numbers that agents suspect are linked to the drug trade or other crimes — sometimes a thousand or more numbers a day.

Recently, Justice Department spokesman Patrick Rodenbush said the DEA "is no longer collecting bulk telephony metadata from U.S. service providers." A DEA spokesman declined to comment.

The DEA began assembling a data-gathering program in the 1980s as the government searched for new ways to battle Colombian drug cartels. Neither informants nor undercover agents had been enough to crack the cartels' infrastructure. So the agency's intelligence arm turned its attention to the groups' communication networks.

Calling records – often called "toll records" – offered one way to do that. Toll records are comparable to what appears on a phone bill – the numbers a person dialed, the date and time of the call, its duration and how it was paid for. By then, DEA agents had decades of experience gathering toll records of people they suspected were linked to drug trafficking, albeit one person at a time. In the late 1980s and early 1990s, officials said the agency had little way to make sense of the data their agents accumulated and almost no ability to use them to ferret out new cartel connections. Some agents used legal pads.

"We were drowning in toll records," a former intelligence official said.

The DEA asked the Pentagon for help. The military responded with a pair of supercomputers and intelligence analysts who had experience tracking the communication patterns of Soviet military units. "What they discovered was that the incident of a communication was perhaps as important as the content of a communication," a former Justice Department official said.

The military installed the supercomputers on the fifth floor of the DEA's headquarters, across from a shopping mall in Arlington, Virginia.

The system they built ultimately allowed the drug agency to stitch together huge collections of data to map trafficking and money laundering networks both overseas and within the USA. It allowed agents to link the call records its agents gathered domestically with calling data the DEA and intelligence agencies had acquired outside the USA. (In some cases, officials said the DEA paid employees of foreign telecom firms for copies of call logs and subscriber lists.) And it eventually allowed agents to cross-reference all of that against investigative reports from the DEA, FBI and Customs Service.

The result "produced major international investigations that allowed us to take some big people," Constantine said, though he said he could not identify particular cases.

In 1989, President George H.W. Bush proposed in his first prime-time address using "sophisticated intelligence-gathering and Defense Department technology" to disrupt drug trafficking. Three years later, when violent crime rates were at record highs, the drug agency intensified its intelligence push,



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launching a "kingpin strategy" to attack drug cartels by going after their finances, leadership and communication.

In 1992, in the last months of Bush's administration, Attorney General William Barr and his chief criminal prosecutor, Robert Mueller, gave the DEA permission to collect a much larger set of phone data to feed into that intelligence operation.

Instead of simply asking phone companies for records about calls made by people suspected of drug crimes, the Justice Department began ordering telephone companies to turn over lists of all phone calls from the United States to countries where the government determined drug traffickers operated, current and former officials said.

Barr and Mueller declined to comment, as did Barr's deputy, George Terwilliger III, though Terwilliger said, "It has been apparent for a long time in both the law enforcement and intelligence worlds that there is a tremendous value and need to collect certain metadata to support legitimate investigations."

The data collection was known within the agency as USTO (a play on the fact that it tracked calls from the U.S. to other countries).

The DEA obtained those records using administrative subpoenas that allow the agency to collect records "relevant or material to" federal drug investigations. Officials acknowledged it was an expansive interpretation of that authority but one that was not likely to be challenged because unlike search warrants, DEA subpoenas do not require a judge's approval. "We knew we were stretching the definition," a former official involved in the process said.

Officials said a few telephone companies were reluctant to provide so much information, but none challenged the subpoenas in court. Those that hesitated received letters from the Justice Department urging them to comply.

After Sprint executives expressed reservations in 1998, for example, Warren, the head of the department's drug section, responded with a letter telling the company that "the initiative has been determined to be legally appropriate" and that turning over the call data was "appropriate and required by law." The letter said the data would be used by authorities "to focus scarce investigative resources by means of sophisticated pattern and link analysis."

The letter did not name other telecom firms providing records to the DEA but did tell executives that "the arrangement with Sprint being sought by the DEA is by no means unique to Sprint" and that "major service providers have been eager to support and assist law enforcement within appropriate bounds." Former officials said the operation included records from AT&T and other telecom companies.



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A spokesman for AT&T declined to comment. Sprint spokeswoman Stephanie Vinge Walsh said only that "we do comply with all state and federal laws regarding law enforcement subpoenas."

Agents said that when the data collection began, they sought to limit its use mainly to drug investigations and turned away requests for access from the FBI and the NSA. They allowed searches of the data in terrorism cases, including the bombing of a federal building in Oklahoma City that killed 168 people in 1995, helping to rule out theories linking the attack to foreign terrorists. They allowed even broader use after September 11, 2001. The DEA's public disclosure of its program in January came in the case of a man charged with violating U.S. export restrictions by trying to send electrical equipment to Iran.

At first, officials said the DEA gathered records only of calls to a handful of countries, focusing on Colombian drug cartels and their supply lines. Its reach grew quickly, and by the late 1990s, the DEA was logging "a massive number of calls," said a former intelligence official who supervised the program.

Former officials said they could not recall the complete list of countries included in USTO, and the coverage changed over time. The Justice Department and DEA added countries to the list if officials could establish that they were home to outfits that produced or trafficked drugs or were involved in money laundering or other drug-related crimes.

The Justice Department warned when it disclosed the program in January that the list of countries should remain secret "to protect against any disruption to prospective law enforcement cooperation."

At its peak, the operation gathered data on calls to 116 countries, an official involved in reviewing the list said. Two other officials said they did not recall the precise number of countries, but it was more than 100. That gave the collection a considerable sweep; the United States government recognizes a total of 195 countries.

At one time or another, officials said, the data collection covered most of the countries in Central and South America and the Caribbean, as well as others in western Africa, Europe and Asia. It included Afghanistan, Pakistan, Iran, Italy, Mexico and Canada.

The DEA often — though not always — notified foreign governments it was collecting call records, in part to make sure its agents would not be expelled if the program was discovered. In some cases, the DEA provided some of that information to foreign law enforcement agencies to help them build their own investigations, officials said.

The DEA did not have a real-time connection to phone companies' data; instead, the companies regularly provided copies of their call logs, first on computer disks and later over a private network. Agents who used the system said the numbers they saw were seldom more than a few days old.



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The database did not include callers' names or other identifying data. Officials said agents often were able to identify individuals associated with telephone numbers flagged by the analysis, either by cross-referencing them against other databases or by sending follow-up requests to the phone companies.

To keep the program secret, the DEA sought not to use the information as evidence in criminal prosecutions or in its justification for warrants or other searches. Instead, its Special Operations Division passed the data to field agents as tips to help them find new targets or focus existing investigations, a process approved by Justice Department lawyers. Many of those tips were classified because the DEA phone searches drew on other intelligence data.

That practice sparked a furor when the Reuters news agency reported in 2013 that the DEA trained agents to conceal the sources of those tips from judges and defense lawyers. Reuters said the tips were based on wiretaps, foreign intelligence and a DEA database of telephone calls gathered through routine subpoenas and search warrants.

As a result, "the government short-circuited any debate about the legality and wisdom of putting the call records of millions of innocent people in the hands of the DEA," American Civil Liberties Union lawyer Patrick Toomey said.

The NSA began collecting its own data on Americans' phone calls within months of September 11, 2001, as a way to identify potential terrorists within the United States. At first, it did so without court approval. In 2006, after *The New York Times* and USA TODAY began reporting on the surveillance program, President George W. Bush's administration brought it under the Foreign Intelligence Surveillance Act, which allows the government to use secret court orders to get access to records relevant to national security investigations. Unlike the DEA, the NSA also gathered logs of calls within the United States.

The similarities between the NSA program and the DEA operation established a decade earlier are striking – too much so to have been a coincidence, people familiar with the programs said. Former NSA general counsel Stewart Baker said, "It's very hard to see (the DEA operation) as anything other than the precursor" to the NSA's terrorist surveillance.

Both operations relied on an expansive interpretation of the word "relevant," for example — one that allowed the government to collect vast amounts of information on the premise that some tiny fraction of it would be useful to investigators. Both used similar internal safeguards, requiring analysts to certify that they had "reasonable articulable suspicion" – a comparatively low legal threshold – that a phone number was linked to a drug or intelligence case before they could query the records.

"The foundation of the NSA program was a mirror image of what we were doing," said a former Justice Department official who helped oversee the surveillance. That official said he and others briefed NSA lawyers several times on the particulars of their surveillance program. Two former DEA officials also said the NSA had been briefed on the operation. The NSA declined to comment.



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There were also significant differences.

For one thing, DEA analysts queried their data collection far more often. The NSA said analysts searched its telephone database only about 300 times in 2012; DEA analysts routinely performed that many searches in a day, former officials said. Beyond that, NSA analysts must have approval from a judge on the Foreign Intelligence Surveillance Court each time they want to search their own collection of phone metadata, and they do not automatically cross-reference it with other intelligence files.

Sen. Patrick Leahy, then the chairman of the Senate Judiciary Committee, complained last year to Holder that the DEA had been gathering phone data "in bulk" without judicial oversight. Officials said the DEA's database was disclosed to judges only occasionally, in classified hearings.

For two decades, it was never reviewed by the Justice Department's own inspector general, which told Congress it is now looking into the DEA's bulk data collections.

Holder pulled the plug on the phone data collection in September 2013.

That summer, Snowden leaked a remarkable series of classified documents detailing some of the government's most prized surveillance secrets, including the NSA's logging of domestic phone calls and Internet traffic. Reuters and *The New York Times* raised questions about the drug agency's own access to phone records.

Officials said the Justice Department told the DEA that it had determined it could not continue both surveillance programs, particularly because part of its justification for sweeping NSA surveillance was that it served national security interests, not ordinary policing. Eight months after USTO was halted, for example, department lawyers defended the spy agency's phone dragnet in court partly on the grounds that it "serves special governmental needs above and beyond normal law enforcement."

Three months after USTO was shut down, a review panel commissioned by President Obama urged Congress to bar the NSA from gathering telephone data on Americans in bulk. Not long after that, Obama instructed the NSA to get permission from the surveillance court before querying its phone data collection, a step the drug agency never was required to take.

The DEA stopped searching USTO in September 2013. Not long after that, it purged the database.

"It was made abundantly clear that they couldn't defend both programs," a former Justice Department official said. Others said Holder's message was more direct. "He said he didn't think we should have that information," a former DEA official said.



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By then, agents said USTO was suffering from diminishing returns. More criminals — especially the sophisticated cartel operatives the agency targeted — were communicating on Internet messaging systems that are harder for law enforcement to track.

Still, the shutdown took a toll, officials said. "It has had a major impact on investigations," one former DEA official said.

The DEA asked the Justice Department to restart the surveillance program in December 2013. It withdrew that request when agents came up with a new solution. Every day, the agency assembles a list of the telephone numbers its agents suspect may be tied to drug trafficking. Each day, it sends electronic subpoenas — sometimes listing more than a thousand numbers — to telephone companies seeking logs of international telephone calls linked to those numbers, two official familiar with the program said.

The data collection that results is more targeted but slower and more expensive. Agents said it takes a day or more to pull together communication profiles that used to take minutes.

The White House proposed a similar approach for the NSA's telephone surveillance program, which is set to expire June 1. That approach would halt the NSA's bulk data collection but would give the spy agency the power to force companies to turn over records linked to particular telephone numbers, subject to a court order.

Discussion Questions

1. As the article indicates, former United States Attorney General Eric Holder halted the warrantless telephone data collection in September 2013. In your reasoned opinion, does this constitute an admission by the federal government that such data collection was unconstitutional and illegal? Explain your response.

Although Attorney General Holder's decision to halt the federal government's warrantless telephone data collection is not a legal admission of a Fourth Amendment violation, his decision does give rise to serious questions regarding the constitutionality of the practice. Perhaps Attorney General Holder has delayed the practice pending a judicial determination. In your author's opinion, this is a classic case for review by the United States Supreme Court.

2. As the article indicates, the similarities between the National Security Agency (NSA) warrantless telephone call data program and the Drug Enforcement Agency (DEA) program established a decade earlier are striking, suggesting that the NSA patterned its program after the DEA's. In your reasoned opinion, is the NSA more justified in its warrantless surveillance of telephone calls than the DEA? Explain your response.

This is an opinion question, so student responses may vary. Arguably, the National Security Agency (NSA) is more justified in its warrantless surveillance of telephone calls than the Drug Enforcement



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Agency (DEA), since the NSA is charged with the responsibility of addressing terrorism, while the DEA “only” addresses the drug problem. Again, as mentioned in response to Article 2, Discussion Question 2 of the newsletter, remind students of the famous quote attributed to Benjamin Franklin: “They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety.”

3. Discuss the importance of judicial (court) oversight of the federal government’s surveillance of telephone calls.

The argument for judicial oversight is that it serves as a “second set of eyes” in determining whether governmental intrusions into privacy should be allowed. It should be noted that when the Foreign Intelligence Surveillance Act (FSIA) became law in 1978, a federal court of special jurisdiction (the “FISA court”) was created to oversee electronic surveillance by the government—specifically, to determine whether such surveillance was justified, including whether a warrant should be issued authorizing the government to engage in such practice. There is considerable evidence to indicate that post-9/11, during the Bush Administration, the National Security Agency (NSA) bypassed the FISA court, engaging in electronic surveillance without judicial approval, and without a warrant.



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Video Suggestions

Video 1: “Video of Walter Scott Shooting Reignites Debate on Police Tactics”

Note: The following video contains graphic footage. Viewer discretion is advised.

<http://www.nytimes.com/2015/04/09/us/video-of-fatal-shooting-of-walter-scott-reignites-debate-on-police-use-of-force.html? r=0>

Note: In addition to the above-referenced video, please also refer to the following article included at the same internet address:

“Video of Walter Scott Shooting Reignites Debate on Police Tactics”

<http://www.nytimes.com/2015/04/09/us/video-of-fatal-shooting-of-walter-scott-reignites-debate-on-police-use-of-force.html? r=0>

According to the article, nothing has done more to fuel the national debate over police tactics than the dramatic, sometimes grisly videos: A man gasping “I can’t breathe” through a police chokehold on Staten Island, a 12-year-old boy shot dead in a park in Cleveland. And now, perhaps the starkest video yet, showing a South Carolina police officer shooting a fleeing man in the back.

The videos have spurred calls from statehouses to the White House for more officers to attach cameras to their uniforms. While cameras frequently exonerate officers in shootings, the recent spate of videos has raised uncomfortable questions about how much the American criminal justice system can rely on the accounts of police officers when the cameras are not rolling.

“Everyone in this business knows that cops have been given the benefit of the doubt,” said Hugh F. Keefe, a Connecticut lawyer who has defended several police officers accused of misconduct. “They’re always assumed to be telling the truth, unless there’s tangible evidence otherwise.”

In the fatal shooting in South Carolina, the most compelling evidence, provided by a bystander with a camera phone, was shaky and at times unfocused. But the video clearly showed the officer, Michael T. Slager, firing eight times as Walter L. Scott, 50, tried to flee after a traffic stop. The officer



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had said that he fired amid a scuffle, when Mr. Scott seized his stun gun and the officer feared for his safety.

“Without the video, we wouldn’t know what we know,” said Matthew R. Rabon, a college student who joined a demonstration on Wednesday outside City Hall in North Charleston, S.C., where Officer Slager now faces a murder charge. “And what we know here is really significant: It’s the difference between an officer doing his job and an officer killing a man in cold blood.”

Many cities have installed cameras in their police cruisers for years, and some — an estimated 25 percent of departments that responded to a 2013 survey — require so-called body cameras. Those numbers are dwarfed by the millions of Americans who carry camera-equipped cellphones. As cameras become ubiquitous, the digital video is likely to become a go-to source of impartial evidence in much the same way that DNA did in the 1990s.

Video evidence is not new, of course; the tape of officers beating Rodney King in 1991 helped ignite the Los Angeles riots after the officers were acquitted. When departments began installing dashboard cameras in the 1990s, many officers opposed it. But they quickly concluded that the recordings often cleared them of wrongdoing after citizen complaints. “For the most part, unless you are behaving badly, those things are going to back you up,” said David Harris, a University of Pittsburgh law professor who studies police practices.

Many officers similarly opposed efforts to videotape confessions, but that resistance has been fading in recent years. Police organizations have endorsed the practice, and Attorney General Eric H. Holder Jr. recently required the F.B.I. to start taping interviews.

But cellphone videos taken by bystanders tend to make many police officers uncomfortable, because they have no control over the setting and often are not even aware they are being filmed until later. Though the courts have held that people have a constitutional right to record the police, those who do are frequently challenged by officers.

While investigating the Police Department in Ferguson, Missouri, after a deadly police shooting last summer, the Justice Department found that officers there were enraged to discover people taping them.

As an example, a Justice Department report cited a traffic stop in which a Ferguson officer told the driver’s 16-year-old son not to videotape him. The confrontation escalated, the officer wrestled the phone away from the teenager, and everyone in the car was arrested “under disputed circumstances that could have been clarified by a video recording,” the report said.

Cellphone videos have captured police officers pushing and slapping a homeless man in Florida and shooting a man who threw rocks at officers in Washington State. In February, two Pelham, New York, officers retired after a video contradicted their account of an arrest of a black man.



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“The ability to record has gotten so prevalent that police can no longer count on their account to be the truth,” Mr. Harris, the Pittsburgh professor, said.

The increase in cellphone cameras is one reason many police unions do not oppose requirements that officers carry body cameras, said Chuck Wexler, the head of the Police Executive Research Forum in Washington. “The big push for body cameras has been driven in part by the sense that citizens have their phones and can record, and it was only part of the whole story,” he said.

“We are very used to being videotaped,” said Lt. Mark Wood, the executive officer in the operations division of the Indianapolis Police Department, where the department is testing body cameras. “We are under the impression that we are always being videotaped, because we probably are.”

Data is still spotty, but an early study in Rialto, California suggests that when officers carry body cameras, they are less likely to use force. Similar studies in Mesa, Arizona, and in Britain showed that citizen complaints also decreased.

North Charleston, a city of about 100,000 people, has ordered about 100 body cameras, but its officers are not yet using them. Mayor R. Keith Summey said Wednesday that he had ordered 150 more “so that every officer that’s on the street in uniform will have a body camera.”

Marlon E. Kimpson, a South Carolina state senator who represents North Charleston and helped push for financing for the cameras, said he hoped they would help calm tensions between residents and officers. He said he believed a body camera would have prevented Saturday’s shooting. “I don’t believe the officer would have behaved the way he did had he been wearing a body camera,” he said. Even without the video, it is likely that other forensic evidence would have raised questions about Officer Slager’s account. The coroner found that Mr. Scott was shot several times in the back, and forensic examiners can typically tell whether someone was shot at close range in a scuffle or from a distance. Nevertheless, the dramatic video pushed the shooting into the national spotlight. Eddie Driggers, the North Charleston police chief, told reporters Wednesday that he was sickened by the video.

Chris Fialko, a criminal defense lawyer in Charlotte, North Carolina, said that while the ubiquity of video had changed the dynamic between the police and citizens, jurors still viewed police officers as credible, even when faced with incriminating video.

Mr. Fialko said he once represented an officer in a case where a dashboard camera had captured the officer slamming a man, who appeared to offer no resistance, to the ground. The officer testified in his own defense.

“Video can lie,” Mr. Fialko recalled saying in his closing argument. “The cop is the one out there, hearing what the guy is saying and smelling the guy and seeing his sweat, and he is acting based on years of experience.”



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The jury, Mr. Fialko said, acquitted the officer.

Discussion Questions

1. After viewing the video, what is your opinion regarding whether police officer Michael Slager used excessive force against Walter Scott? Explain your response.

Although student opinions may vary in terms of whether the video demonstrates that Officer Slager used excessive force against Mr. Scott, based on your author's review of the video, it is difficult to reach any conclusion other than excessive force. Based on the video, there is a strong argument to be made that Officer Slager murdered Mr. Scott. Murder is defined as the intentional, unlawful taking of the life of another human being. Obviously, the video is the essential evidence that led to the charge of murder against Officer Slager.

2. In your reasoned opinion, should police officers be required to use body cameras? Why or why not?

This is an opinion question, so student opinions may vary. The argument against a body camera is that it will interfere with the officer's performance of his/her duties. However, a similar argument was used against "dash cameras," and they are now commonly accepted and in widespread use. A body camera could be a "double-edged sword" for the officer—it could either prove that the officer properly performed her duties, or that the officer violated the suspect's legal rights.

3. The article includes the contention that "video can lie." Do you agree or disagree? Explain your response.

Depending on context, a video may not tell the "complete story." However, it is probative evidence, and if Officer Slager is tried for murder, the trial court judge will in all likelihood allow the jury to view the video. The video shows Officer Slager shooting an unarmed Mr. Scott several times in the back as Mr. Scott attempted to run away. This was after a routine traffic stop. An officer can use deadly force only 1) in self-defense; or 2) to protect the public from a person who represents an immediate, significant danger. It will be up to Officer Slager's legal counsel to "explain away" the video.

Video 2: "Toxic Chemical That Poisoned Delaware Family Was Previously Used at Resort, EPA Official Says"

<http://abcnews.go.com/US/toxic-chemical-poisoned-delaware-family-previously-resort/story?id=30153626>

Note: In addition to the video, please refer to the following article, also included at the same internet address:



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“Toxic Chemical That Poisoned Delaware Family Was Previously Used at Resort, EPA Official Says”

<http://abcnews.go.com/US/toxic-chemical-poisoned-delaware-family-previously-resort/story?id=30153626>

According to the article, the toxic chemical responsible for the hospitalization of three members of a vacationing Delaware family had been previously used at the Virgin Islands resort where the family was staying, federal officials said.

U.S. Environmental Protection Agency officials said the Esmond family of Wilmington, Delaware, was exposed to the pesticide methyl bromide, which is prohibited in residential settings. The family fell ill last week while staying at Sirenusa Condominium Resort in Cruz Bay, St. John.

“This was not the first time methyl bromide was used for an indoor residential application at this condo complex,” EPA Region 2 Administrator Judith Enck said

Authorities said the condo below the family’s was fumigated the day they arrived. By that night, Enck said, the entire family "started having adverse health effects."

The EPA is now contacting employees and former resort vacationers, to see if additional people were exposed to the pesticide.

Three members of the family remain hospitalized, two in critical condition.

The EPA banned the use of methyl bromide indoors in the United States and 1984 because of its acute toxicity. Terminix – the company that applied the pesticide – now faces a criminal investigation. Representatives for Terminix told the media that the company is investigating the situation and suspended fumigations in the Virgin Islands while they cooperate with authorities.

Discussion Questions

1. Define negligence.

Negligence is the failure to do what a reasonable person would do under the same or similar circumstances. In order to prevail in a negligence case, the plaintiff must prove, by the greater weight of the evidence, that: a) the defendant owed the plaintiff a duty of care; b) the defendant violated said duty of care; c) the defendant proximately caused the plaintiff’s harm; d) the plaintiff sustained economic and/or physical damages as a result.

2. Based on your review of the video and the accompanying article, was Terminix negligent in this case? Explain your response.



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In your author's opinion, the evidence against Terminix is substantial. If the company applied methyl bromide indoors in clear violation of the EPA ban, that is arguably negligence per se. As the article indicates, Terminix faces the prospect of both civil and criminal liability in this case.

3. As the article indicates, Terminix has now suspended fumigations in the Virgin Islands. Is this an admission of liability on the part of Terminix? Why or why not?

Although Terminix's suspension of fumigations in the Virgin Islands is not a legal admission of liability, many would view its decision with a "critical eye." Of course, Terminix's argument is that its suspension of fumigations in the Virgin Islands is evidence that the company is cooperating with authorities in good faith.



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Of Special Interest

This section of the newsletter addresses the ethical question of whether capital (and capitalism) can be just.

Ethical Dilemma

“Justice, Capitalism and Progress: Paul Tudor Jones II at TED2015”

<http://blog.ted.com/justice-capitalism-and-progress-paul-tudor-jones-ii-at-ted2015/>

Can capital be just? As a firm believer in capitalism and the free market, Paul Tudor Jones II believes that it can be. Tudor is the founder of the Tudor Investment Corporation and the Tudor Group, which trade in the fixed-income, equity, currency, and commodity markets. He thinks it is time to expand the “narrow definitions of capitalism” that threaten the underpinnings of our society and develop a new model for corporate profit that includes justness and responsibility.

It’s a good time for companies: in the United States, corporate revenues are at their highest point in 40 years. The problem, Tudor points out, is that as profit margins grow, so does income inequality. And income inequality is closely linked to lower life expectancy, literacy and math proficiency, infant mortality, homicides, imprisonment, teenage births, trust among ourselves, obesity, and, finally, social mobility. In these measures, the United States is off the charts.

“This gap between the 1 percent and the rest of America, and between the United States and the rest of the world, cannot and will not persist,” says the investor. “Historically, these kinds of gaps get closed in one of three ways: by revolution, higher taxes or wars. None are on my bucket list.”

Tudor proposes a fourth way: just corporate behavior. He formed Just Capital, a not-for-profit that aims to increase justness in companies. It all starts with defining “justness” — to do this, he is asking the public for input. As it stands, there is no universal standard monitoring company behavior. Tudor and his team will conduct annual national surveys in the United States, polling individuals on their top priorities, be it job creation, inventing healthy products or being eco-friendly. Just Capital will release these results annually — keep an eye out for the first survey results this September.

Ultimately, Tudor hopes, the free market will take hold and reward the companies that are the most just. “Capitalism has driven just about every great innovation that has made our world a more prosperous, comfortable and inspiring place to live. But capitalism has to be based on justice and



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morality...and never more so than today with economic divisions large and growing.”

This is not an argument against progress, Tudor emphasizes. “I want that electric car, or the jet packs that we all thought we’d have by now.” But he’s hoping that increased wealth will bring with it a stronger sense of corporate responsibility. “When we begin to put justness on par with profits, we get the most valuable thing in the world. We get back our humanity.”

Discussion Questions

1. According to noted economist Milton Friedman, the only social responsibility of a business is to generate a profit. Do you agree or disagree with Mr. Friedman? Explain your response.

This is an opinion question, so student responses will likely vary. Many students will likely contend that as a corporate “citizen,” a business owes a greater obligation to the community than merely generating a profit. Such social responsibility obligations would likely address societal ills that adversely affect our society, including poverty, homelessness, etc.

2. Is pronounced income inequality in the United States evidence of a lack of corporate ethics? Why or why not?

Some view income inequality in the United States as evidence of personal failings on the part of those who are at the “bottom of the ladder” in terms of income. According to this view, if those people would exhibit drive, determination and initiative, they too could realize the “American view.” Others may argue that “there but for the grace of God go all of us”—that all of us are only one significant poor decision or circumstance away from the “unfortunate end” of the income distribution spectrum.

3. In your reasoned opinion, what role should the United States government play in reducing income inequality?

This is an opinion question, so student responses will likely vary. The government could play an active role in reducing income inequality by reformulating tax policy (such as taxing high-income individuals at a significantly higher marginal tax rate and/or implementing a higher corporate tax rate) or collaborating with business, industry and other organizations to create higher-paying jobs in the United States. Some students may, however, prefer the “laissez faire” approach, believing that the “free market” should determine income distribution, rather than active government intervention. Regardless of student views, and regardless of the cause, income inequality in the United States is more pronounced now than it has been since the 1890s, the so-called “Gilded Age” that predated federal antitrust law.



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Of Special Interest

This section of the newsletter will assist you in addressing Article 1 ("Governor Mike Pence: Indiana 'Not Going to Change' Anti-LGBT Law") and Video 1 ("Video of Walter Scott Shooting Reignites Debate on Police Tactics") of the newsletter.

Teaching Tips

Teaching Tip 1 (Related to Article 1—"Governor Mike Pence: Indiana 'Not Going to Change' Anti-LGBT Law"):

"Hoosier Hostility: Not the American Way"

<http://www.huffingtonpost.com/leo-w-gerard/hoosier-hostility-not-the-b-7004324.html>

Note: This is an opinion editorial written by Leo Gerard, President of United Steelworkers.

After Indiana Republicans passed a license to discriminate law, a restaurant called Memories Pizza in the Hoosier town of Walkerton stepped up last week to make sure potential customers knew its religious rules: "No Shirt, No Shoes, No Certification of Heterosexuality, No Service."

Indiana GOP Governor Mike Pence provided official sanction for such acts of oppression when he signed a gay-bashing version of the Religious Freedom Restoration Act. It enabled individuals and businesses to legally claim their faith required hateful acts of intolerance. Pence got all huffy when human rights groups accused him of seeking to change the state's slogan from Hoosier Hospitality to Hoosier Hostility.

Marriage-equality-hating Indiana Republicans were joined by counterparts in Arkansas, North Carolina and Georgia in advancing government-sanctioned discrimination. This is not the way Americans treat each other. Well, not in 2015 anyway. America traveled down the path of intolerance for too many centuries. Now, Americans look back at all-white lunch counters with shame. Despite anxiety about ISIS, they disapprove of blaming terrorism on all Muslims. Americans aren't perfect inclusive egalitarians. But they're trying. On a deeply spiritual level, they hate institutionalization of minority hate.

And that's what was going on in Indiana, Arkansas, North Carolina and Georgia. Bans on marriage equality have failed. So these states tried to crash those ceremonies by denying the couples wedding flowers and cakes, then cloaking that vicious discrimination in a sheepskin of religiosity.

The federal Religious Freedom Restoration Act, passed in 1993, was intended to protect religious practices from unnecessary government intrusion. For example, it prevented a Louisiana school district from requiring that a



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Rastafari student cut his hair because a tenet of his religion is that men should grow long dreadlocks.

The new-fangled versions of this law pushed and passed by Republicans this year, however, added clauses to provide individuals and businesses that unlawfully discriminate with protection from lawsuits alleging unlawful discrimination. These laws would, for example, enable a pizza shop owner to assert that his religion requires him to deny service to long-haired Rastafarians or to same-sex couples holding hands while waiting in line.

Gay rights activists, human rights advocates and righteous Americans protested. They didn't want to face government-sanctioned discrimination. They didn't want their friends or family or even strangers to face government-sanctioned discrimination.

Governor Pence and the Republicans in the Arkansas, North Carolina and Georgia legislatures ignored these protests. And virtually every Republican seeking the party's presidential nomination – Jeb Bush, Ted Cruz, Bobby Jindal, Ben Carson and Rick Santorum – voiced support for the governors and their license to discriminate laws.

The Republican governors backpedaled only when they heard the giant sucking sound of business and convention dollars draining from their states. Similarly, former Arizona Governor Jan Brewer, also a Republican, rejected a license to discriminate law last year only after the National Football League and corporations threatened negative consequences she'd not anticipated.

Companies including Apple, Angie's List, NASCAR, Gap Inc., Levi Strauss & Co., Eli Lilly, Marriott, Subaru and Salesforce condemned Indiana's anti-gay law or threatened to cancel expansion planned for Indiana. The NCAA, headquartered in Indianapolis, expressed concern about government-sanctioned Hoosier Hostility to players, coaches and fans. In the countdown to the Final Four games in Indianapolis, basketball coaches, professional athletes and former Olympians censured Indiana, threatened to boycott the state and demanded repeal of the law. Cities and states from Connecticut to Washington that protect the rights of LGBT Americans forbid taxpayer-funded to travel to Indiana. Celebrities, bands and comedians canceled visits and concerts.

In Arkansas, Walmart, based in Bentonville, told Governor Asa Hutchinson the anti-gay bill "does not reflect the values we uphold." After the state's largest employers urged a veto, Hutchinson reversed his earlier promise to sign and sought removal of the discriminatory language. Pence, who'd arranged for three anti-gay activists – Micah Clark, Eric Miller, and Curt Smith – to stand behind him as he signed Indiana's bill, supported amendments to prevent the likes of Memories Pizza from demanding certification of heterosexuality before service.

This sudden change of heart – and the revisions to the Indiana and Arkansas legislation – created some awkward moments for the Republican presidential candidates who'd already supported the anti-gay laws. Bush flip-flopped just like the governors did. One day he was for discrimination, the next he wasn't.



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Apparently recognition of LGBT rights by the majority of Americans – and American businesses – occurred much too quickly for Republicans.

Admittedly, the labor movement hasn't always honored equal rights as quickly as it should have. But AFSCME was among those that pulled a convention out of Indiana in protest of the anti-gay law, and the labor movement has made a concerted effort in recent years to establish true solidarity among all its diverse members.

My own union has failed at times to meet standards to which it aspires. But last summer, at the USW convention, the membership voted to make it an offense under the union constitution to harass a member on the basis of sexual orientation or gender identity. The USW will not tolerate any form of discrimination against anyone in its ranks for any reason. It has no place in our union.

Like the USW, the United States is a union. It is a collection of diverse states and diverse people. Standing together, they are stronger.

Republicans who supported codifying intolerance need to experience a conversion. Such hostility has no place in the land of Hoosiers. It should find no home in the land of the free.

Teaching Tip 2 (Related to Video 1—“Video of Walter Scott Shooting Reignites Debate on Police Tactics”):

“Witness: S.C. Victim, Cop Struggled Before Killing”

<http://www.usatoday.com/story/news/nation/2015/04/08/sc-police-shooting-family-civil-suit/25450485/>

According to the article, the bystander whose video captured a white police officer fatally shooting Walter Scott in the back said recently the two had struggled beforehand and that the victim was "just trying to get away" from the officer's Taser.

"Before I started recording, they were down on the (ground). I remember the police (officer) had control of the situation," Feidin Santana said. "He had control of Scott. And Scott was trying just to get away from the Taser."

Santana said he started recording when he heard Officer Michael Slager's Taser discharge after a traffic stop. He sent his cellphone video to authorities and Scott's family.

Scores of angry protesters chanted "Black lives matter" and "All lives matter" in front of City Hall one day after Slager, 33, was charged with murder for killing the 50-year-old Scott.



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Mayor Keith Summey, at a news conference, said that Slager has been fired but that his wife, who is eight months pregnant, will continue to receive city health benefits. Summey also said the city has ordered 250 body cameras to equip the entire police force.

Police Chief Eddie Driggers said he has been praying for peace — for Scott's family and for the city. "I have watched the video and I was sickened by what I saw," he said.

The emergence of the dramatic video shocked this city of 100,000 with a population split almost evenly between blacks and whites, with a small number of other minorities. The tragedy follows months of national discourse about race and policing after law enforcement confrontations with unarmed, black citizens in Ferguson, Mo., New York City and elsewhere.

The video shows Slager dropping what appears to be a stun gun, drawing his gun and shooting at Scott as many as eight times as Scott runs away. Scott falls face-down to the ground. Slager walks up and puts handcuffs on Scott. Slager then picks up something and drops it near Scott's body. More than two minutes after the shooting, Slager appears to reach down and check Scott for a pulse.

An autopsy showed Scott "sustained multiple gunshot wounds to the back of his body," the Charleston County Coroner's Office said. The attorney for Scott's family said the coroner told him that Scott was shot five times, with two bullets being fatal.

According to radio transmissions, Slager told police dispatch that Scott suffered only two gunshot wounds.

"Gunshot wound to the left side, the, the back; one left side to the buttock. All responsive at the job. First aid," said Slager, who described Scott as a "black male, mid-20s to 30s."

The video does not show Slager performing CPR or other first aid. Driggers said that at the end of the video, "what I saw was believed to be a police officer removing the shirt of the individual and performing some type of life-saving (procedure), but I'm not sure what took place there."

"Not every officer is CPR-certified," the mayor added.

The State Law Enforcement Division, which is leading the investigation, said the incident began with a traffic stop involving a faulty brake light. Scott attempted to flee, and Slager told investigators that he and Scott struggled over his police-issued stun gun. Stage said he shot Scott because he feared for his life, authorities said.

"Shots fired! Subject is down. He's near my feet. He took my Taser," Slager said on the police radio. The video, which captures only part of the confrontation, does not show whether Scott ever had Slager's Taser. At least one prong appeared to be stuck in Scott's clothing as he ran.



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The state agents, after viewing the recording and examining other evidence, filed the murder charge. He is being held without bond in the Charleston County Jail. If convicted, Slager could face 30 years to life in prison or the death penalty.

Attorney Andy Savage announced that he would represent Slager. Attorney David Aylor, who issued a statement that Slager "followed all the proper procedures and policies," said recently that having seen the video, he no longer represented the officer.

The FBI, the U.S. Attorney in South Carolina and the Justice Department's civil rights division are also investigating Scott's killing.

"This is a time for us to come together," one protester told the crowd in front of City Hall on Wednesday. "This is not just about black lives. This is about all lives. ... And it's a bigger issue than just police."

Said another: "It's sad that my parents have to tell me how to act around a cop when I'm out of my home. Why should I have to be afraid of the guy that's supposed to protect me?"

Scott's family said they intend to file a civil lawsuit against Slager, a five-year veteran of the force who previously served in the Coast Guard. His father said that his son may have run because he owed child support and feared he would be jailed.

"The way he was shooting that gun, it looked like he was trying to kill a deer," Walter Scott Sr. said. "I don't know whether it was racial, or it was something wrong with his head."

Judy Scott said that the video of her son's death was "the most horrible thing I've ever seen. I almost couldn't look at it to see my son running defenselessly, being shot. It just tore my heart to pieces."

"I ask that everyone continue to pray for my family," said Anthony Scott, Walter Scott's brother, hours after Slager was booked Tuesday at the Charleston County Detention Center. "We can't get my brother back and my family is in deep mourning for that, but through the process, justice has been served."

Walter Scott spent two years in the Coast Guard, had four children, was recently engaged and was outgoing and loving, Anthony Scott said. "He was the most outgoing out of all of us," the brother said. "He was well known in the community."

"We've all seen the video," Anthony Scott said. "If there hadn't been a video, would we know the truth, or would we have just gone with what was reported earlier? But we do know the truth now." Chris Stewart, an attorney for Walter Scott's family, said the video depicting Scott's death should be a "turning pointing" for the nation and illustrates yet another example of an unarmed black man being unjustly killed by a police officer.



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Yet Stewart stressed that Scott's death goes far beyond racial issues and really shows that some lives — black, white or Hispanic — are not valued by some officers. He said the deaths of Scott and others are really about who holds the power during confrontations with police.

"I won't let this just be about his race," Stewart said. "This is about a human being being killed. ... It's more about the power and value that the officer deems you have. ... This is an example of another African American being abused by the justice system so to speak or police authorities. But that mindset stems from 'I think you're powerless.'"

Meanwhile, Stewart says the video doesn't guarantee justice will be served because the process is still playing out. But he said the video will have an impact as departments consider getting body cameras and as people around the country think about police misconduct.

"This can be the seminal example of what a body camera will show truly happening," he said. "No matter what the budget is, or what it costs, this is the example of how families can get justice and can support any politician who is wanting body cameras."



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Chapter Key for McGraw-Hill/Irwin Business Law Texts:

	Hot Topics	Video Suggestions	Ethical Dilemma	Teaching Tips
Kubasek et al., Dynamic Business Law	Chapter 5	Chapters 7 and 9	Chapter 2	Chapters 5 and 7
Kubasek et al., Dynamic Business Law: Summarized Cases	Chapter 5	Chapters 7 and 9	Chapter 2	Chapters 5 and 7
Kubasek et al., Dynamic Business Law: The Essentials	Chapter 4	Chapters 5 and 6	Chapter 1	Chapters 4 and 5
Mallor et al., Business Law: The Ethical, Global, and E-Commerce Environment	Chapter 3	Chapters 5 and 7	Chapter 4	Chapters 3 and 5
Barnes et al., Law for Business	Chapter 4	Chapters 5 and 7	Chapter 3	Chapters 4 and 5
Brown et al., Business Law with UCC Applications	Chapter 2	Chapters 5 and 6	Chapter 1	Chapters 2 and 5
Reed et al., The Legal and Regulatory Environment of Business	Chapter 6	Chapters 10 and 13	Chapter 2	Chapters 6 and 13
McAdams et al., Law, Business & Society	Chapter 5	Chapters 4 and 7	Chapter 2	Chapters 4 and 5
Melvin, The Legal Environment of Business: A Managerial Approach	Chapter 2	Chapters 10 and 23	Chapter 5	Chapters 2 and 23
Bennett-Alexander & Harrison, The Legal, Ethical, and Regulatory Environment of Business in a Diverse Society	Chapter 1	Chapters 6 and 8	Chapter 1	Chapters 1 and 8



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This Newsletter Supports the Following Business Law Texts:

- Barnes et al., Law for Business, 12th Edition 2015© (0078023815)
- Bennett-Alexander et al., The Legal Environment of Business in A Diverse Society, 1st Edition 2012© (0073524921)
- Brown et al., Business Law with UCC Applications Student Edition, 13th Edition 2013© (0073524956)
- Kubasek et al., Dynamic Business Law, 3rd Edition 2015© (0078023785)
- Kubasek et al., Dynamic Business Law: The Essentials, 2nd Edition 2013© (0073524972)
- Kubasek et al., Dynamic Business Law: Summarized Cases, 1st Edition 2013© (0078023777)
- Mallor et al., Business Law: The Ethical, Global, and E-Commerce Environment, 15th Edition 2013© (0073377643)
- Melvin, The Legal Environment of Business: A Managerial Approach, 2nd edition 2015© (0078023807)
- McAdams et al., Law, Business & Society, 10th Edition 2012© (0073525006)
- Reed et al., The Legal and Regulatory Environment of Business, 16th Edition 2013© (0073524999)

