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## Letter from the Editor

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## LETTER FROM THE EDITOR

Dear Readers,

The Richmond Journal of Law and the Public Interest is proud to present the Spring Edition, and the third issue, of Volume XVIII. This issue includes articles discussing a wide range of relevant topics in today's legal world, including: First Amendment rights of the homeless and for those soliciting money and food; the effect of the tobacco companies' Master Settlement Agreement on federalism and the balance between the federal government, states and Indian tribes; warrantless DNA extraction; physician's apology laws; and "crimmigration."

Clay Calvert, Professor & Brechner Eminent Scholar in Mass Communication and Director of the Marion B. Brechner First Amendment Project at the University of Florida, Gainesville, examines current First Amendment jurisprudence and the distinction between content-based restrictions and those that are content neutral in *Content-Based Confusion and Panhandling: Muddling a Weathered First Amendment Doctrine Takes its Toll on Society's Less Fortunate*. Through the lens of four recent lower-court cases affecting the speech rights of the homeless and others who ask for money or food, Professor Calvert analyzes the current confusion courts face in determining whether a law is content based. He argues that a three-step approach, combining various aspects of recent case law, will enable a court to clarify the myriad of approaches in determining whether a law is content based.

In *Forfeiting Federalism: The Faustian Pact with Big Tobacco*, Ryan Dreveskracht discusses the Master Settlement Agreement between the largest tobacco manufacturers in the U.S. and the states and the resulting impact on federalism and the Indian tribes' relationships with both the federal and state governments. The article explains the settlement generally, as well as the intended effect on the tobacco market. He argues that there are lessons to be learned from the MSA, including how the tobacco companies have been able to manipulate the states' dire financial condition in order to stifle tribal sovereignty. Dreveskracht contends that there is a delicate balance of federalism between the federal government, the states and the Indian tribes, and the MSA disrupted it.

Ken Strutin, Director of Legal Information Services of the New York State Defenders Association, scrutinizes the dramatic ramifications to Fourth Amendment jurisprudence in the Supreme Court's decision *Maryland v. King*<sup>1</sup> in his article *DNA without Warrant: Decoding Privacy, Probable Cause and Personhood*. He explores the challenges to privacy, personhood and probable cause raised by DNA collection as identification. The article attempts to decipher the Supreme Court's employment of Fourth Amendment logic in denying privacy in DNA information, but embracing privacy concerns regarding cell phones in the recent case *Riley v. California*.<sup>2</sup>

In *Physician's Apology: An Argument Against Statutory Protection*, Nancy L. Zisk, Professor of Law at the Charleston School of Law, discusses the developments in informed consent and the doctor-patient relationship that have led to a more open dialogue regarding apologies and admissions of mistakes. She argues that physicians should disclose mistakes and admit responsibility without protection from being sued. She explains how, regardless of state statutes, there is an ethical duty to disclose information to a patient and the physician should follow that duty, even in the absence of statutory protection.

Harvey Gee, federal public defender, provides this issue with an thought-provoking review of three recent works highlighting the intimate connection between immigration and criminal law, a nexus often referred to as "crimmi-gration," in his book review, *Beyond Borders: Crime and Immigration*. His work explores the common themes of three books and uses them as a foundation for a broader discussion on the interplay between race, crime and immigration.

Volume XVIII's spring issue examines a variety of contexts in which, perhaps, the law is not getting it right. JOLPI's continued goal is to contribute to the conversation and allow scholars and practitioners a chance to voice their arguments. The editors and staff hope that these pieces enrich this dialogue. We are confident that you will enjoy this issue and we look forward to bringing you forthcoming publications.

Sincerely,

Katherine Lent

*Editor-in-Chief*

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<sup>1</sup> 133 S. Ct. 1958 (2013).

<sup>2</sup> 134 S. Ct. 2473 (2014).