

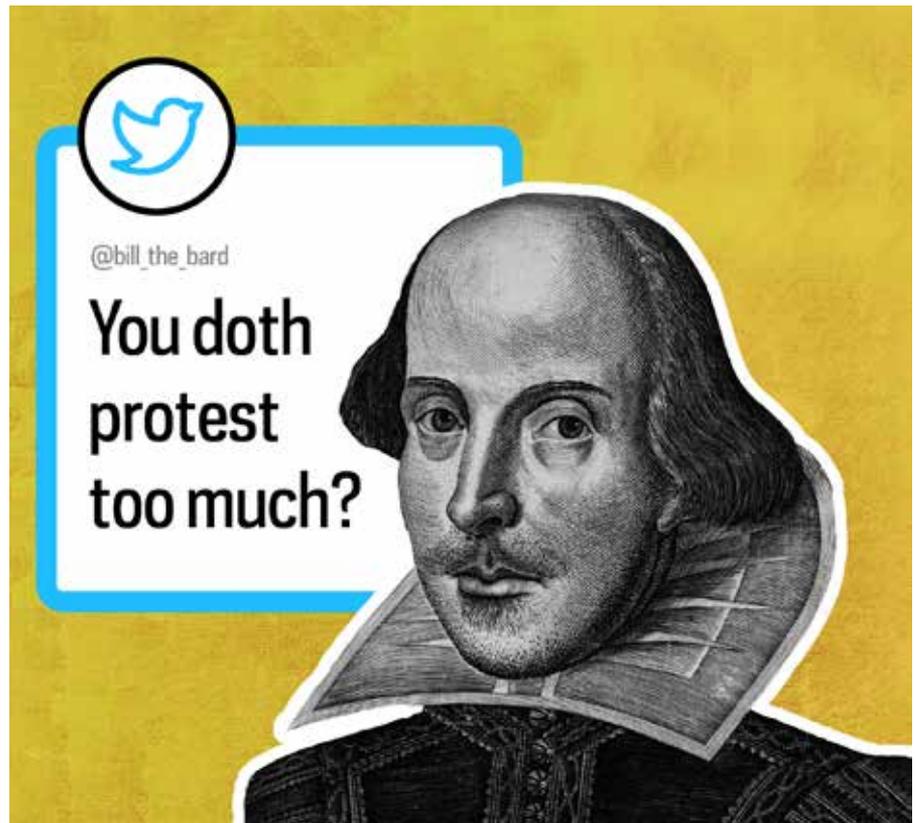
By Robert Reiser and Daniel Pollack



Social Advocacy and Law: Twitter or Shakespeare?

Given the urgency of the events fueled by racial injustice in America in 1963, Martin Luther King, Jr. penned his “Letter from a Birmingham Jail,” a nearly 6,000-word call to act, out of which was synthesized a six-step advocacy process for social change. Included was a call for information gathering, education, personal commitment, discussion/negotiation, direct action, and, finally, reconciliation. While hardly tweetable, it became a foundational guide in the ultimately successful social advocacy movement that helped provide the moral suasion necessary to pass the landmark civil rights legislation of the 1960s, including the Voting Rights Act of 1964 and the Fair Housing Act of 1965. By today’s standards, and more specifically by today’s news cycle, King’s response would be considered glacial. Would King’s introspection and methodical approach to social advocacy find any ears at all in response to today’s news cycle?

A series of imponderable mass shootings culminating in the one in Parkland, Florida is followed by a former Supreme Court Justice’s call for revocation of the Second Amendment, ignoring the near impossibility of finding the 38 state legislatures necessary for ratification. There are calls to ban the manufacture of assault rifles with little thought expressed about what to do with the estimated 300 million firearms in circulation according to a 2012 Congressional Research Service report—a number that has doubled since 1968. A recent *Washington Post* article puts the number at 370 million. Isn’t it as simple



as employing the often advocated Australian buy-back program? Lost in the tweets is the fact that the government collected only 57,000 illegal firearms during the three-month amnesty last year.

A drumbeat of stories about crimes committed by undocumented immigrants fuels a call for the immediate expulsion of 12 million people from this country. How to facilitate 12 million deportation hearings is left up to the imagination.

Reports of a growing “rape culture” on college campuses triggered a “Dear Colleague” letter from the U.S.

Department of Education, encouraging the imposition and enforcement of stricter consent procedures. To maintain compliance, many campuses scurried to adopt what many Title IX experts characterize as affirmative consent policies that in no way reflect the manner in which people enter into sexual relationships.

The scourge of opioid overdoses fills the airwaves. Social advocates implore and states begin implementing policies and laws to curtail their prescription, leaving doctors with the Hobson’s

See *Social Advocacy* on page 31

SOCIAL ADVOCACY continued from page 24

choice of underprescribing for chronic pain patients or risk coming under government scrutiny. The immediacy has reached such a swift crescendo that a local news story purporting that casual skin contact with Fentanyl can be life threatening was picked up by major news carriers and taken national. Massachusetts became the first state to ban the presentation of the drug as evidence in the courtroom for fear that it could endanger those proximate to it.

James Madison argued 230 years ago in the *Federalist Papers* that the only way to control factions is either to curtail liberty or design a system of counterweights to reflexive action in the face of popular passions. Thus was formed one of the guiding principles of the U.S. Constitution and our republican form of government. Its inefficiencies and resistance to radical changes are intentional. Amendments are not meant to be adopted or modified in a sudden, reactive manner.

From day one, reform was always meant to go slower than the speed of temporal opinion or news cycles. Why? To ensure stability and because such change is less prone to design flaws, lasts longer, and is a more accurate reflection of the will of the people. Which puts social advocacy in a terrible difficulty. In this age of hyperkinetic news cycles, is it possible to act in a timely and thoughtful manner? Or is the pressure of losing attention to the next big story too great to ignore?

According to a Nielsen Company audience report, in the first quarter of 2016, Americans consumed an average of 10 hours and 39 minutes of media per day. A growing portion of that screen time was spent on social media sites. Not surprisingly, news cycles, propelled by the speed of the Internet, are shorter, congested, and increasingly shallow. The notion of *Washington Post* editor Ben Bradlee anguishing Hamlet-like over having sufficient verification to break the

Watergate story seems as antiquated as, well, Hamlet.

“Move fast and break things” may be fine as Facebook’s motto, but given the exponentially increasing speed of events and the media that report them, there is compelling evidence to suggest that social advocacy—long-term, sensible social advocacy—cannot keep pace with the news cycle. And, given the high probability of miscues in the rush to solutions, there is equally compelling evidence that suggests we should not be trying to. As Shakespeare said, “Wisely, and slow. They stumble that run fast.” 📖

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BACKGROUND CHECKS continued from page 25

check through the FBI, a search of the state criminal registry and sex offender registry, the National Crime Information Center’s National Sex Offender Registry, and the state’s child abuse and neglect registry. Many states require checking these registries for only a set number of years in the past. Increasing the look-back period indefinitely is one improvement that has been suggested by many attorneys and child care advocates. Another change, perhaps surprising to some, is that minor household members between age 10 and 17 may be required to submit to a background check if day care is provided in their home.

Lashonda Council Rogers, a Georgia day care abuse attorney, advises that states implement mandatory drug screenings for day care workers and those who regularly volunteer in child care facilities. “For the past few

years, I have noticed an increased number of day care injuries due to day care workers being under the influence of drugs while working with children. With the rise of the opioid epidemic, the “face” of drug abuse has changed and children are unintentionally being left in harm’s way. For instance, statistics show that one in four people who receives prescription opioids long-term for pain struggles with addiction. Since some opioids are legally prescribed by a physician, it is not uncommon in my practice to encounter a day care employee with an opioid addiction who does not have a criminal record. Therefore, a standard background check is not sufficient to ward against this problem. Unfortunately, even with the implementation of mandatory drug screenings for day care workers, some opioid use may still be undetectable.”

A cursory background check of prospective employees and volunteers may appease the licensor or provide a veneer of diligence should something go wrong. In contrast, a rigorous background check will return real value for a child care facility. Not only will it benefit the children, it will also help reduce employee turnover and absenteeism, reduce theft and fraud, and help to avoid unnecessary legal costs. 📖

Reference Notes

1. <http://usa.childcareaware.org/advocacy-public-policy/resources/research/costofcare/>
2. <https://childcareta.acf.hhs.gov/licensing>

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