

CRIME AND PUBLIC POLICY

Class activities*

Class 1 Sep. 11: Introduction

- What is overcriminalization?
- What is the problem of broad and vague statutes in Criminal Law?
- What does “three felonies a day” mean?
- What other measures are used by governments to overcriminalize conducts?
- What is selective prosecution? Look for examples online.

Classes 2 Sep Criminal Justice Models

Dirty Harry

- Which Criminal Justice model predominates in the prosecutors (D.A.) and in the judge's arguments?
- Which Criminal Justice model predominates in the police officer's arguments and actions?
- What due process rights has the police officer violated?
- Do you agree with the use of the exclusion of evidence here? Why or why not?

Curb Your Enthusiasm

- Which Criminal Justice model predominates in the judge's sentence?
- Which Criminal Justice model predominates in the accused's arguments?

Find a short clip online dealing with an aspect of the criminal justice process.

- a. Show the clip.
- b. Analyze the predominant criminal justice models.

Class 3 Sep. 25 School shootings

Discussion questions

- Why do young people shoot at schools in the US?
- Are school shootings a problem in Canada?
- Do you agree with zero tolerance policy to prevent school shootings?
- Do you agree with the process and outcome of the Michael Carneal's trial?
- Is there a connection between being bullied and killing? Who should be responsible for the school shootings?
- What is the role of media in school shootings?
- How can school shootings be prevented?
- Do a search of other school shootings and discuss them.
- Read about the 8-year-old boy at Scottsdale, Arizona's Country Day School who was threatened with expulsion after drawing a picture of soldier with a gun as an idea for a Halloween costume. What happened? Do you agree with the expulsion? Why or why not? Do an online search of similar incidents.

Read the following articles and analyze them

Muslim teen Ahmed Mohamed creates clock, shows teachers, gets arrested

When Ahmed Mohamed went to his high school in Irving, Texas, Monday, he was so excited. A teenager with dreams of becoming an engineer, he wanted to show his teacher the digital clock he'd made from a pencil case.

The 14-year-old's day ended not with praise, but punishment, after the school called police and he was arrested.

"I built a clock to impress my teacher but when I showed it to her, she thought it was a threat to her," Ahmed told reporters Wednesday. "It was really sad that she took the wrong impression of it."

Ahmed talked to the media gathered on his front yard and appeared to wear the same NASA T-shirt he had on in a picture taken as he was being arrested. In the image, he looks confused and upset as he's being led out of school in handcuffs.

"They arrested me and they told me that I committed the crime of a hoax bomb, a fake bomb," the freshman later explained to [WFAA](#) after authorities released him.

[#IStandWithAhmed](#) When a white kid builds nuclear fusion reactor it's cool but when a Muslim builds a clock it's not pic.twitter.com/TFwfg1Uf4

— wiss. ✨ (@BUCKVBVRNES) [September 16, 2015](#)

Irving Police spokesman Officer James McLellan told the station, "We attempted to question the juvenile about what it was and he would simply only tell us that it was a clock."

The teenager did that because, well, it was a clock, he said.

On Wednesday, police announced the teen will not be charged.

Chief Larry Boyd said Ahmed should have been "forthcoming" by going beyond the description that what he made was a clock. But Boyd said authorities determined that the teenager did not intend to alarm anyone and the device, which the chief called "a homemade experiment," was innocuous.

Ahmed, who aspires to go to MIT, said he was pleased the charges were dropped and not bothered that police didn't apologize for arresting him. After he said he was interrogated by police without an attorney present, his lawyer, Linda Moreno, told reporters they wouldn't answer any more questions about the legal process.

Ahmed is suspended until Thursday, he said, but is thinking about transferring to another high school. (CNN)

For writing about shooting a dinosaur, S.C. high school student gets arrested

A South Carolina student and his mom are steamed at school officials who called the cops after the high schooler wrote a story about killing his neighbor's pet dinosaur.

"I could understand if they made him rewrite it because he did have 'gun' in it," said mother Karen Gray. "I mean first of all we don't have dinosaurs anymore. Second of all, he's not even old enough to buy a gun."

Alex Stone, 16, has been suspended for the rest of the week from Summerville High School over the incident. He says he doesn't want to go back to the campus and would rather be home-schooled, [WCSC-TV](#) reported.

"I regret it because they put it on my record, but I don't see the harm in it," Stone said. "I think there might have been a better way of putting it, but I think me writing like that, it shouldn't matter unless I put it out towards a person."

Stone said he and his classmates were given an assignment to write a few sentences about themselves, and to list a "status" as if they were completing a Facebook post.

The teen wrote "I killed my neighbor's pet dinosaur." In the status section, Stone said, he wrote "I bought the gun to take care of the business."

His mom said she was angry that school administrators did not call her before contacting police, who arrested her son and charged him with disorderly conduct after he argued with officers.

SUMMERVILLE, SC (WCSC) -

A Summerville High School student who says he was arrested and suspended after writing about killing a dinosaur using a gun in a class assignment has hired a lawyer.

Attorney David Aylor, who is representing 16-year-old Alex Stone, said his client's arrest over a creative writing assignment on Tuesday was "completely absurd," and is seeking to appeal the suspension and "proceed with the legal issues of [Stone's] arrest."

"This is a perfect example of 'political correctness' that has exceeded the boundaries of common sense," Aylor said in a statement released on Thursday. "Students were asked to write about themselves and a creative Facebook status update – just days into the new school year – and my client was arrested and suspended after a school assignment."

The Summerville Police Department who arrested Stone on Tuesday on a charge of disorderly conduct is disputing Stone's account of his arrest.

"The information that is being reported is grossly incorrect in reference to what led to the juvenile being charged," said Capt. Jon Rogers in a Summerville police statement released on Thursday. "The charges do not stem from anything involving a dinosaur or writing assignment, but the student's conduct."

Stone said he and his classmates were told in class to write a few sentences about themselves, and a "status" as if it was a Facebook page. Stone said in his "status" he wrote a fictional story that involved the words "gun" and "take care of business."

"I killed my neighbor's pet dinosaur, and, then, in the next status I said I bought the gun to take care of the business," Stone said.

Stone says his statements were taken completely out of context.

"I could understand if they made him re-write it because he did have "gun" in it. But a pet dinosaur?" said Alex's mother Karen Gray. "I mean first of all, we don't have dinosaurs anymore. Second of all, he's not even old enough to buy a gun."

Investigators say the teacher contacted school officials after seeing the message containing the words "gun" and "take care of business," and police were then notified on Tuesday.

Summerville police officials say Stone's book bag and locker were searched on Tuesday, and a gun was not found. According to police, when Stone was asked by school officials about the comment written on the assignment, he became "very irate" and said it was a joke.

A Summerville Police Department report states that Stone continued to be disruptive and was placed in handcuffs, and was told that he was being detained for disturbing schools.

According to Gray, Stone was suspended for the rest of the week. Gray says she is furious that the school did not contact her before her son was arrested.

She says her son followed directions and completed an assignment.

"If the school would have called me and told me about the paper and asked me to come down and discussed everything and, at least, get his point-of-view on the way he meant it. I never heard from the school, never. They never called me," said Gray.

Stone and his mother say they understand the sensitive nature of what he wrote, but they say it was a rash reaction to an innocent situation.

"I regret it because they put it on my record, but I don't see the harm in it," Stone said. "I think there might have been a better way of putting it, but I think me writing like that, it shouldn't matter unless I put it out towards a person."

Discussion questions

Silence U

- What is the main idea of the documentary?
- What is privilege?
- Is the phenomenon described in the documentary limited to Ivy League schools in the US? Or is it a widespread phenomenon?
- Is speech limited here? Do you agree with the argument that “some things cannot be said and that some ideas cannot be spoken?”
- Who is Milo Yiannopoulos? What happened to him?
- What argument or phrase resonated the most with you? Why?
- Is learning the antithesis of comfort? Why or why not? Think of examples that can support your view.
- Are there any signs of speech censorship here? If so, what are those signs?
- What can be done to protect freedom of speech?
- Are there any circumstances in which speech should be criminalized?

Sessions’ address on free speech

- Is freedom of speech under attack in American universities? If so, should we worry that free speech is under attack? Why or why not?
- What are free zones? Do you agree with free zones? Why or why not? Are free zones constitutional in the US? What about Canada?
- Is there a right to offensive speech?
- What did the US Supreme Court hold in *Tinker v Des Moines*, 393 US 503 (1969)?

Read the following article and discuss these questions

The DOJ’s escalating criminalization of speech

Muslims continue to be targeted for prosecution for expressing political views the government dislikes

GLENN GREENWALD

Over the past several years, the Justice Department has increasingly attempted to criminalize what is clearly protected political speech by prosecuting numerous individuals (Muslims, needless to say) for disseminating political views the government dislikes or considers threatening. The latest episode emerged on Friday, when the FBI [announced](#) the arrest and indictment of Jubair Ahmad, a 24-year-old Pakistani legal resident living in Virginia, charged with “providing material support” to a designated Terrorist organization (Lashkar-e-Tayyiba (LeT)).

What is the “material support” he allegedly gave? He produced and uploaded a 5-minute video to YouTube featuring photographs of U.S. abuses in Abu Ghraib, video of armored trucks exploding after being hit by IEDs, prayer messages about “jihad” from LeT’s leader, and — according [to the FBI’s Affidavit](#) — “a number of terrorist logos.” That, in turn, led the FBI agent who signed the affidavit to assert that “based on [his] training and experience, it is evident that the video . . . is designed as propaganda to develop support for LeT and to recruit jihadists to LeT.” The FBI also claims Ahmad spoke with the son of an LeT leader about the contents of the video and had attended an LeT camp when he was a teenager in Pakistan. For the act of uploading that single YouTube video (and for denying that he did so when asked by the FBI agents who came to his home to interrogate him), he faces 23 years in prison.

Let’s be very clear about the key point: the Constitution — specifically the Free Speech clause of the First Amendment — prohibits the U.S. Government from punishing someone for the political views they express, **even if those views include the advocacy of violence against the U.S. and its leaders**. One can dislike this legal fact. One can wish it were different. But it is the clear and unambiguous law, and has been since the Supreme Court’s unanimous 1969 decision in *Brandenburg v. Ohio*, which overturned the criminal conviction of a Ku Klux Klan leader who had publicly threatened violence against political officials in a speech.

In doing so, the *Brandenburg* Court struck down as unconstitutional an Ohio statute (under which the KKK leader was prosecuted) that made it a crime to “advocate . . . the duty, necessity, or propriety of crime, sabotage, violence, or **unlawful methods of terrorism as a means of accomplishing industrial or political reform**.” Such advocacy — please read the part in bold — cannot be a crime because it is protected by the First Amendment. The crux of the Court’s holding: “the constitutional guarantees of free speech and free press **do not permit a State to forbid or proscribe advocacy of the use of force**”. To put this less abstractly, and as I’ve noted before, a person has — and should and must have — the absolute free speech right to advocate ideas such as this:

For decades, the U.S. Government has been engaging in violence and otherwise interfering in the Muslim world. Hundreds of thousands of innocent Muslim men, women and children have died as a result. There is no end in sight to this American assault on the Muslim world and those of its client states. Therefore, it is not only the right, but the duty, of Muslims to engage in violence against Americans as a means of self-defense and to deter further violence against Muslims. That is the only available means for fighting back against the world’s greatest

military superpower. The only alternative is continuing passive submission to this onslaught of violence aimed at Muslims.

One may find that idea objectionable or even repellent, but does anyone believe that someone should be prosecuted for writing that paragraph? Anyone who would favor prosecution for that doesn't understand or believe in the Constitution, as those ideas are pure political speech protected by the First Amendment, every bit as much as: *the climate crisis now justifies violent attacks on polluting corporations*; or *capitalism is so destructive that the use of force in service of a Communist Revolution is compelled*; or "if our President, our Congress, our Supreme Court, continues to suppress the white, Caucasian race, it's possible that there might have to be some revengeance taken" (*Brandenberg*); or *such is the tyranny of the Crown that taking up arms against it is not merely a right but the duty of all American patriots* (The American Revolution). *The Jerusalem Post* just [fired one of its columnists](#), a Jewish leftist who wrote that Palestinian violence against Israel is "justified" because they have the "right to resist" the occupation; is he guilty of a crime of materially supporting Terrorism? Should Ward Churchill, widely accused of having justified the 9/11 attack (or Pat Robertson and Jerry Falwell, [who did the same](#)) have been indicted?

Judging from the description of Ahmad's video in the FBI Affidavit (Ahmad's [YouTube account](#) has been removed), the video in question does not go nearly as far as the clearly protected views referenced in the prior paragraph, as it does not explicitly advocate violence at all; indeed, it appears not to advocate that anyone do anything. Rather, the FBI believes it is **evocative** of such advocacy ("designed as propaganda to develop support for LeT"), which makes this prosecution even more troubling. Apparently, if you string together video and photographs (or words) in a certain way as to make the DOJ think that you're implicitly trying to "develop support" for a Terrorist group — based on the political ideas you're expressing — you risk decades of imprisonment. Is it possible to render the ostensible right of "free speech" more illusory than this?

- 1) What is the main idea of the article?
- 2) What is your opinion?
- 3) Read and discuss the *Brandenberg v. Ohio* case (395 US 444 (1969)).
- 4) Find other examples of criminalization of speech in the US and Canada.
- 5) Do an online search about British TV star Katie Hopkins and discuss her tweet incident.

Do you find that her tweets can be considered criminally offensive?

Read the following article and discuss it

Colleges Have No Right to Limit Students' Free Speech

Cliff Maloney, Jr.

Oct 13, 2016

In grade school, I learned that debate is defined as "a discussion between people in which they express different opinions about something." Such open discourse was historically encouraged on our college campuses. Universities exemplified intellectual discussion and debate in America. No one voiced their opinions louder than students, professors and administrators. They pushed society's limits by admitting women and people of color, and by encouraging diversity of thought amongst the college community. Historically, young people flocked to universities to learn more about the world around them, to encounter people from different backgrounds, to expand their minds and to form their own opinions. Unfortunately, things have changed. Recently on college campuses, our open discourse has been threatened, particularly when discussing politics. While the current presidential election represents polarizing wings of both the Democratic and Republican parties, we should be able to openly debate their policies and the direction in which they plan to take our country if elected. We should be able to discuss the abuse of power within our government and the consistent violations of our Bill of Rights. We should be able to participate in the free market of ideas. But our students are being silenced.

University campuses are now home to a plethora of speech restrictions. From sidewalk-sized "free-speech zones" to the criminalization of microaggressions, America's college campuses look and feel a lot more like an authoritarian dictatorship than they do the academic hubs of the modern free world. When rolling an inflated free-speech ball around campus, students at the University of Delaware were halted by campus police for their activities. A Young Americans for Liberty leader at Fairmont State University in West Virginia was confronted by security when he was attempting to speak with other students about the ideas he believes in. A man at Clemson University was barred from praying on campus because he was outside of the free-speech zone. And a student at Blinn College in Texas abolished her campus' free-speech zone in a lawsuit after administrators demanded she seek special permission to advocate for self-defense.

How have we let this happen in America, the land of the free?

It's because of what our universities have taught a generation of Americans: If you don't agree with someone, are uncomfortable with an idea, or don't find a joke funny, then their speech must be suppressed. Especially if they don't politically agree with you. Instead of actually debating ideas that span topics from the conventional to the taboo, a generation of American students don't engage, they just get enraged. In doing so, many students believe that they have a right to literally shut other people up. This is not only a threat to the First Amendment, but also to American democracy.

In their manifestation, safe spaces and free-speech zones at public universities enable prejudice against unfavorable ideologies. Guised as progressive measures to ensure inclusion, these often unconstitutional policies exclude new and competing ideas, and are antithetical to a free academia. In excluding different ideologies, supposedly progressive campus speech codes do one thing: prevent the progression of ideas. Restrictive campus speech codes are, in fact, regressive.

With over 750 chapters nationwide at Young Americans for Liberty, we are fighting against public universities that stifle free speech. We've launched the national Fight for Free Speech campaign to reform unconstitutional speech codes and abolish these so-called free-speech

zones on college campuses. By hosting events such as large free speech balls, YAL chapters across the country are petitioning their campuses to adopt the [University of Chicago's principles on freedom of expression](#)—the hallmark of campus speech policies. Our members have geared up with First Amendment organizations to ensure that their free speech rights on campus are protected.

America is a land rooted in the ideas of a free society: the freedom to be who you are, to speak your mind and to innovate. By silencing our students and young people, we have started down a slippery slope. It is up to us to fight back to ensure that our First Amendment rights remain protected—not just on college campuses, but everywhere in America.

Compare and discuss CAUT (Canadian Association of University Teachers)'s policy statement on academic freedom and Chicago University's letter to incoming students

Academic Freedom

1. Post-secondary educational institutions serve the common good of society through searching for, and disseminating, knowledge and understanding and through fostering independent thinking and expression in academic staff and students. Robust democracies require no less. These ends cannot be achieved without academic freedom.
2. Academic freedom includes the right, without restriction by prescribed doctrine, to freedom to teach and discuss; freedom to carry out research and disseminate and publish the results thereof; freedom to produce and perform creative works; freedom to engage in service to the institution and the community; freedom to express one's opinion about the institution, its administration, and the system in which one works; freedom to acquire, preserve, and provide access to documentary material in all formats; and freedom to participate in professional and representative academic bodies. Academic freedom always entails freedom from institutional censorship.
3. Academic freedom does not require neutrality on the part of the individual. Academic freedom makes intellectual discourse, critique, and commitment possible. All academic staff must have the right to fulfil their functions without reprisal or repression by the institution, the state, or any other source. Contracts which are silent on the matter of academic freedom do not entitle the employer to breach or threaten in any way the academic freedom of academic staff employed under such collective agreements or other employment contracts.
4. All academic staff have the right to freedom of thought, conscience, religion, expression, assembly, and association and the right to liberty and security of the person and freedom of movement. Academic staff must not be hindered or impeded in exercising their civil rights as individuals including the right to contribute to social change through free expression of opinion on matters of public interest. Academic staff must not suffer any institutional penalties because of the exercise of such rights.

5. Academic freedom requires that academic staff play a major role in the governance of the institution. Academic staff members shall constitute at least a majority on committees or collegial governing bodies responsible for academic matters including but not limited to curriculum, assessment procedures and standards, appointment, tenure and promotion.
6. Academic freedom must not be confused with institutional autonomy. Post-secondary institutions are autonomous to the extent that they can set policies independent of outside influence. That very autonomy can protect academic freedom from a hostile external environment, but it can also facilitate an internal assault on academic freedom. Academic freedom is a right of members of the academic staff, not of the institution. The employer shall not abridge academic freedom on any grounds, including claims of institutional autonomy.

Dear Class of 2020 Student:

Welcome and congratulations on your acceptance to the College at the University of Chicago. Earning a place in our community of scholars is no small achievement and we are delighted that you selected Chicago to continue your intellectual journey.

Once here you will discover that one of the University of Chicago's defining characteristics is our commitment to freedom of inquiry and expression. This is captured in the University's faculty report on freedom of expression. Members of our community are encouraged to speak, write, listen, challenge and learn, without fear of censorship. Civility and mutual respect are vital to all of us, and freedom of expression does not mean the freedom to harass or threaten others. You will find that we expect members of our community to be engaged in rigorous debate, discussion, and even disagreement. At times this may challenge you and even cause discomfort.

Our commitment to academic freedom means that we do not support so-called "trigger warnings," we do not cancel invited speakers because their topics might prove controversial, and we do not condone the creation of intellectual "safe spaces" where individuals can retreat from ideas and perspectives at odds with their own.

Fostering the free exchange of ideas reinforces a related University priority—building a campus that welcomes people of all backgrounds. Diversity of opinion and background is a fundamental strength of our community. The members of our community must have the freedom to espouse and explore a wide range of ideas.

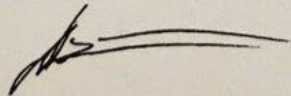
I am enclosing a short monograph by Dean John W. Boyer, the Martin A. Ryerson Distinguished Service Professor in History and Dean of the College, which provides a helpful primer. This monograph, entitled *Academic Freedom and the Modern University: The Experience of the University of Chicago*, recounts the history of debate, and even scandal, resulting from our commitment to academic freedom.

If you are interested in some of the source material mentioned in Dean Boyer's book, you can find links to the important reports (e.g. the Kalven report, the Stone report, etc.), at the website maintained by our University Provost at <http://freeexpression.uchicago.edu/>.

Again, welcome to the University of Chicago. See you in September!

Sincerely,

Jay



John (Jay) Ellison, PhD
Dean of Students in The College



Classes 5 & 7 Oct. 16 & 30

Restorative Justice

Two kids from the community harass an older couple (Mr. & Mrs. Polinski) over a long period of time. The couple is afraid to tell the police because they are older and do not speak English very well. On Halloween evening the two boys (Barry & John) go to the Polinskis' house to trick or treat, but the older couple (being from Poland and unfamiliar with the custom) did not come to the door. The boys got angry at the couple for not answering the door and threw rocks at the house to get their attention. Barry's rock went on the roof but John's went through the window. The boys admitted to their act. For the most part, the boys are good kids and liked in the community, but are unfamiliar with the history of the elderly couple and believe they are just mean. The Polinskis want to know why they are being targeted? They are afraid and upset about the smashed window. Mrs. Polinski is a diabetic and Mr. Polinski suffers from a heart condition. They do not want to call the police but are convinced by their daughter and a friend to call. Barry's sister (Tamara) is not happy with his brother Barry and his friend. Their parents don't care and don't want to be involved. Tamara is Barry's disciplinarian. She believes they should be punished for their disrespectful behavior.

Questions

1. You are hired to give opinion on what to do with this case.
2. Would you advise that the kids be formally charged or referred to Restorative Justice? Other? Why?
3. Suppose your opinion is to refer to RJ. You have to help the mediator prepare for mediation. What are the main issues that Barry and John can raise and argue? What are their reasons for their behavior?
4. What are the main issues that the Polinskis may raise? What are their feelings?
5. Can you outline the content of a possible reparation plan?

Discussion questions

- What crimes should be susceptible of being addressed through restorative justice?
- Would you include sexual assault offenses?
- Who should refer a case to RJ? For what offenses?

- What social actors should be present in the restorative justice processes?
- Do you think the state should set standards for the RJ process or do you think that the community, offenders, and victims should decide in each case?
- What should be the requirements for referrals to RJ?
- One of the main problems in the RJ program is discrimination. What specific measures can you think of to deal with this problem?

Halloween

1. Would you advise that the girls be formally charged or referred to Restorative Justice? Other?
2. What is the conflict? What can the essence of the conflict be?
3. Suppose your opinion is to refer to RJ. You have to help the mediator prepare for mediation. What is the outline of the mediation? What are the main steps? Who should attend? Why?
4. What are the main issues that the girls can raise? What can they argue? What are their reasons for the behavior?
5. What are the main issues that Larry may raise? How does he feel? What is his wife's position?
6. Can you outline the content of a possible reparation plan?

Class 6 Oct. 23 Test



Class 8 Nov. 6 Hazing and school violence

Discussion questions

- Do you agree with the statement that what happens in the locker room stays in the locker room? Why or why not?
- Why are hazing and intimidation such taboo subjects?
- What acts are actually considered hazing?
- What crimes are usually committed during hazing?
- Why is hazing so frequent among young people?
- How can you tell if someone is being intimidated?
- Should Canada adopt specific criminal offenses for hazing?
- Should hazing not resulting in assault be penalized?

Read the following articles and discuss them

Pocono Pines, Pa., is a two-hour drive from New York City. After you exit the Interstate, the route into town winds past short trees and abandoned gas stations with rust-edged signs showing gas prices from years before. The town, on the shore of Lake Naomi, once serviced the traffic to Mount Airy Lodge, a nearby resort that featured honeymoon suites with heart-shaped tubs in the bathrooms that closed in 2001 after years of neglect; in 2007 the Mount Airy Casino opened on the same site. The local courthouse is on the second floor of a rundown building, above Elite Nails and Spa. There are no government markings out front, no scales of justice, nothing to distinguish it from the generic commercial properties that line Pennsylvania Route 940. The directions given out by the Monroe County courts tell you to look for an ice-cream stand with a sign shaped like a cone. The courthouse is across the street.

On an overcast, chilly day in October 2015, Sheldon Wong, Charles Lai, Kenny Kwan, Raymond Lam and Daniel Li were arraigned in the Pocono Pines courthouse. All five belonged to Pi Delta Psi, an Asian-American college fraternity. All five were young men from Chinese families who grew up in Queens. When I arrived at the courthouse that morning, one of the TV cameramen who had gathered in the parking lot began following me. “I’m not on trial,” I said. He chuckled and tilted his head at his colleagues, who had perked up and slung their rigs up to their shoulders. “Well, you’re going to get more of the same when those guys see you,” he said. He was right: The cameras swarmed. And I suppose, given the surroundings, that I couldn’t much blame them. By choosing these gray hills for an initiation ceremony, the fraternity brothers had unintentionally made it possible that their fates could be

decided by a jury made up of locals who wondered just what these Asian men had been doing here.

Four of the five students soon arrived, each one fresh from the barber. In their fitted suits, dark sunglasses and pointy shoes, Wong, Lai, Kwan and Lam looked more like characters from Hong Kong's golden age of cinema than frat bros facing trial for murder. (Li would be arraigned at a separate hearing later in the day.) In the damp, narrow hallway outside the courtroom, Kwan, who was 26 at the time and the oldest of the fraternity brothers, broke down sobbing. He was consoled by Lai, who put an arm around him and stared glumly at the reporters scribbling in their notebooks. The next morning, [The New York Daily News reported](#) that "a frat rat" had "bawled like a baby before his arraignment Thursday."

Friends and families of the defendants sat in the back of the courtroom, staring stolidly into space. When the proceedings started, the younger relatives of the defendants quietly translated, for their elders in the gallery, the greetings between Judge Richard S. Claypool and the small army of defense lawyers and the lengthy reading of charges, which included hazing, hindering the investigation, assault, conspiracy and murder in the third degree.

Claypool, a tall, bald man who looked as if he had rolled out of bed in his magisterial robes, appeared to be unmoved by the defense lawyers' attempts to reduce the \$500,000 bail or to characterize their clients, none of whom had a criminal record, as law-abiding citizens. "I know that what I'm supposed to be seeing in front of me are some nicely dressed, cooperative kids," Claypool said in a flat drawl. "What we're seeing here is different from what happened that night. Reading the affidavit shows a lot of poor judgment from the kids." Claypool's mild manner then veered into something closer to exasperation: "Reviewing the charges, I am surprised that the D.A.'s office came in as low as they did. The \$500,000 bail stands."

Now came the business of sorting out who could pay bail and who would be headed to jail. The lawyers whispered instructions to their clients, who tried to put on a brave face for their visibly shocked parents. Lam and Wong left with their lawyers. Kwan and Lai, who could not come up with bail at the time, were escorted to a side room and handcuffed. (Kwan would eventually make bail, as would Li, for a lesser amount, \$150,000.)

Outside, as the press waited for Kwan and Lai to be led to a waiting police car, I spoke to an Asian television-news producer who had also made the trip from New York. "I'm just imagining what my parents would think about all this," she said. We had one of those talks common among people of any marginalized group, in which it's possible to unload your neuroses without having to explain everything. I told her, absurdly, that if I had been charged with murder, I would have faked my death so my parents wouldn't know.

The families of the defendants straggled out the front door of the courthouse, some holding up their forearms to shield their faces from the cameras.

“What are they thinking?” the producer asked under her breath.

Chun Hsien (Michael) Deng, like the Pi Delta Psi brothers charged with his murder, was a Chinese-American student from the outer boroughs. His father, a businessman in China, secured one of the visas allotted by the Immigration Act of 1990 for highly skilled workers and moved with his wife to Long Beach, a waterfront Long Island town near the southern end of Kennedy Airport. She found the transition more difficult than she had imagined. “I was pregnant and had food cravings — American food was so bland to me — and I always felt hungry,” Ms. Deng told me in a mix of English and Chinese. (She requested that her first name be withheld because the Dengs want to maintain as much of their privacy as possible.) Long Beach did not have any semblance of an Asian community or any acceptable Chinese restaurants, so the expecting couple moved to Flushing, a neighborhood in northern Queens full of immigrants.

When Chun Hsien was born in 1995, his mother realized that he would need an American name. She found a ranking of the most popular names for American boys and chose “Michael” when she saw it at the top. While Michael’s father flew to and from China for work, young Michael and his mother trudged through the mundane adjustments and small humiliations of life in America — new grocery stores, new bus systems, a Balkanized gathering of fellow immigrants who may look like you but who are not like you in the ways that matter.

Michael quickly became ensconced within the Asian bubble of Queens. In 1990, Asians made up 22.1 percent of Flushing’s population. By 2010, that figure topped 70 percent. The population began to creep out into nearby middle-class neighborhoods like Bayside, where the schools were better and the relatively spacious houses sat on quiet streets with tidy, uniformly rectilinear front lawns. By the time Michael entered Middle School 74, in Bayside, the school’s population was majority Asian.

Michael’s mother left her job and studied up on the subjects Michael was taking in school. “Math and science, of course I could help him with that,” she said. “But English and history — those things — I could only encourage him and try to keep up.” In his free time, Michael roamed the handball courts in Bayside and became a formidable player. In eighth grade, he took the city’s Specialized High School Admissions Test and placed into Bronx Science, which is in New York’s top tier of selective public schools, with Stuyvesant and Brooklyn Tech.

Like Middle School 74, Bronx Science’s student body is majority Asian. There are all-Asian cliques from Flushing, all-Asian cliques from Manhattan, all-Asian cliques from Sunset Park in Brooklyn. These groups might be created by immigration patterns, school districts and real estate developments, but they are reinforced

through long hours in standardized-test tutoring, weekends spent at Chinese- or Korean-language classes and long subway trips up to the Bronx.

It was on one of those long rides that Michael got to know William Yuan. They recognized each other from art class and decided to skip school to play handball. The boys became fast friends.

Hazing: An outdated ritual that has no place on today's campuses

The Greenville News

One of the social rituals of college is pledging fraternities and sororities. Many colleges hold Rush Week at the start of the school year. During this courtship, prospective members attend open houses and parties to determine which group they are most interested in joining. More importantly, current members decide who they want to be a part of their social organizations. The practice can sometimes feel like a popularity contest on steroids.

But an oft unspoken aspect of fraternity and sorority life is hazing — a process by which prospective members, known as pledges, are subjected to mental and physical abuse. Despite several highly publicized incidents that have involved serious injuries or death, this practice continues in some organizations and sometimes extends to bands and other groups with initiation rituals.

Nearly all colleges and universities and national fraternities and sororities have anti-hazing policies. The practice is against the law in most states, including South Carolina, where students can be expelled from state universities for participating in hazing. But that doesn't stop some group members from operating outside the lines, using peer pressure to force pledges to take part in activities that are strictly prohibited. The presence of alcohol often fuels the decision to participate in the behavior.

Clemson University's [hazing policy](#) is specific about what constitutes hazing. The university prohibits paddling, physical or psychological shocks, forced consumption of food, water, alcohol or drugs, kidnapping or abandonment, lineups and berating, morally degrading behavior and personal servitude, among other acts.

Recently, the family of Clemson student Tucker Hipps reached a settlement with Clemson University, Sigma Phi Epsilon fraternity and several of its members in Hipps' September 2014 death. Though no one was ever charged in Hipps' death, his parents, Cindy and Gary Hipps, believe hazing played a role in their son's death.

The 19-year-old sophomore from Piedmont died from injuries sustained in a fall near the State 93 bridge on Lake Hartwell. Earlier that morning, Hipps, who was president

of his pledge class, had participated in a run with other pledges and fraternity members.

The family's lawsuit alleged that before the 5:30 a.m. run, Hipps was asked to bring 30 biscuits and two gallons of chocolate milk to the fraternity members, according to a story by Nikie Mayo in the *Independent Mail*. When he didn't bring the breakfast items, there was a confrontation on or near the bridge, the lawsuit alleged.

Despite noticing that Hipps was absent at breakfast, fraternity members waited several hours before calling 911. The fraternity member who called police at 1:45 p.m. said twice that he did not want to file a police or missing persons report.

It's troubling that no one seems willing to admit knowing how Hipps wound up falling off a bridge.

In 2015, the Clemson chapter of Sigma Phi Epsilon was suspended for five years; but Clemson officials did not cite Hipps' death as the reason for the suspension.

The staff of Clemson's Office of Fraternity and Sorority Life educates new students and parents regarding the university hazing policy during orientation, said Philip Sikes, a spokesman for the school's police department. They also provide education via recruitment, campus meetings and new member education programs, he said.

This school year, Rush Week at Pennsylvania State University has been pushed back to spring semester in the wake of a criminal proceeding involving 18 members of Beta Theta Pi fraternity. Fraternity pledge Tim Piazza died in February after sustaining injuries from several drunken falls at a party. The case is shining a spotlight on the culture of fraternity life, which sometimes involves heavy drinking, underage drinking and unsupervised parties.

Two days after the party, Piazza died of a head injury, a ruptured spleen and a collapsed lung. But attorneys for the defendants say there is no evidence harm was intended. Some fraternity members face involuntary manslaughter and aggravated assault charges. Others have been charged with hazing, reckless endangering another person and furnishing alcohol to minors, according to the *Philadelphia Inquirer*.

Despite criminal charges, expulsions and suspensions of fraternity chapters, hazing still occurs. And sadly, the practice will continue as long as group members hold on to the ridiculous and outdated notion that because they had to endure such rituals to prove themselves worthy, future members should, too.

It's up to current fraternity and sorority members to stand up and say enough is enough. Being a part of a social group should not include humiliation and physical and emotional abuse. Leaders of fraternities and sororities must be willing to say to their peers, "hazing is not who we are."

Former Mizzou freshman sues fraternity for alcohol hazing

By Blythe Bernhard St. Louis Post-Dispatch

Jul 28, 2017

A former University of Missouri-Columbia freshman who was hospitalized last September with alcohol poisoning has sued Kappa Alpha fraternity and three of its members for negligence surrounding a hazing ritual.

Brandon Zingale was an 18-year-old pledge at Kappa Alpha when he was “coerced by active members of (the fraternity) to drink so much vodka that he nearly died” at the fraternity house in Columbia the night of Sept. 27, 2016, the lawsuit alleges.

After Zingale passed out, fraternity members left the freshman alone after putting him to bed and attaching a backpack in an effort to keep him from rolling over and suffocating. The next morning, Zingale was found unconscious and foaming at the mouth when paramedics arrived.

His blood-alcohol content at almost 10 hours after he stopped drinking was 0.41 percent, more than five times the legal limit for driving in Missouri (0.08 percent). Zingale experienced acute respiratory failure, nerve compression and metabolic dysfunction, according to the lawsuit filed Thursday in Boone County Circuit Court.

Defendants in the suit include the fraternity’s national organization Kappa Alpha Order and its Alpha Kappa chapter at Mizzou. The fraternity knew of the risk of hazing traditions involving heavy drinking and did not do enough to prevent its members’ dangerous activities, according to the suit.

Jacob Lee, president of the fraternity chapter at the time, Max McGrath and Ryan Heuermann, fraternity members, are also named in the suit, which alleges that the three students participated in the hazing of Zingale and did not get him emergency medical care fast enough.

One month after the incident, the [University of Missouri kicked](#) the Kappa Alpha fraternity off campus for five years. At the time, the fraternity released a statement that read “misuse of

alcohol, and hazing, are each contrary to our values and are strictly and expressly prohibited by Kappa Alpha Order.”

The national organization’s own investigation concluded that the incident involving Zingale did not constitute hazing but did find other examples of hazing and alcohol misuse among the Mizzou chapter’s members. Executives at the fraternity based in Lexington, Va., could not be reached for comment Thursday.

In a statement, Zingale’s parents, Lynn and Michael Zingale, said, “We are hopeful that Brandon’s lawsuit will bring attention to the danger of alcohol hazing at fraternities and universities across the country.”

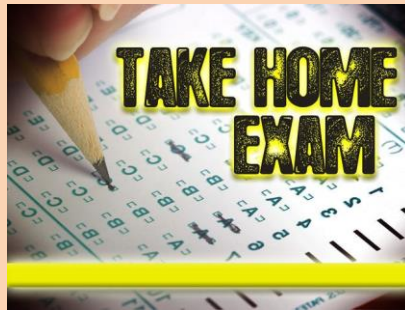
The fraternity’s national convention starts Aug. 3 at the Hyatt Regency in downtown St. Louis.

Class 9 Nov. 13 Drugs and criminal policy

Discussion questions

- Which criminal justice model predominates in the Canadian drug criminal policy regime?
- Do you agree with the current Canadian criminal policy dealing with drugs? Why? Why not? What would you change?
- Is drug use a crime, a health problem or a social problem? Is it all these? What can we do to prevent it?
- Does drug use cause crime? Is there some intrinsic property associated with certain drugs that leads the user to engage in criminal behavior?
- Do drugs (drug use) cause violence?
- Do drugs (drug use) destroy the human community?
- Does crime or criminal behavior, perhaps, lead people into drug use?

Class 10 Nov. 20 Youth Criminal Justice Act and distribution of final take-home



Class 11 Nov. 27 Gangs

- What is a gang?
- Are there street gangs in Sault Ste. Marie?
- Who joins gangs? Why?
- What do young people look for in a gang?
- Why do gangs fight each other?
- Why do gang members commit so many crimes?
- Is the criminal justice system the best response to gang crimes committed by young people?



Class 12: Review and feedback



*** TRIGGER WARNINGS**



Some materials in this course may be sensitive. Course materials, including lectures, class activities, hypotheticals, scenarios, examples, court cases, and films shown in class, may have mature content, including violent, sexual, and strong language content. Except for newspaper articles and court cases, all class activities are hypothetical and fictitious. Any resemblance to actual persons, institutions, or events is purely coincidental. The views and opinions expressed in the articles assigned for reading in this course are those of the authors and do not necessarily reflect the position of the course professor. Questions, follow-up questions, examples, and comments made within the context of class activities do not purport to reflect the opinions or views of the course professor. All such articles, comments, questions, examples, and activities are meant solely to facilitate the discussion and study of Law. They are not meant to advocate or promote any crime

or unlawful action. Neither are they meant to advance any ideological perspective. Discretion advised before signing up for this course.