Journalism 400
Mass Communication Law and Ethics

Semester: Fall 2014
Catalog: #10113
Class Time: Tues/Thurs 9:30a-10:45a
Classroom: Manzanita Hall 101
Final Exam: Tues, Dec 16, 9-10a

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COURSE DESCRIPTION
Examination of the ethics and laws that protect the privileges and define the responsibility of the mass media. Topics include the First Amendment, legal access to information, plagiarism, news gathering, public access to the media, libel, right of privacy, fair trial/free press, obscenity and censorship.

PREREQUISITES AND RESTRICTIONS
Not available for students with credit in JOUR 390.

OVERVIEW
In this course, students learn to make professional decisions about media production, taking into consideration a variety of social, legal, and ethical factors. Presentations by the professor are combined with exercises and workshops that encourage student engagement. During workshops, students are expected to work collaboratively and practice making decisions about media controversies. Although this is a law course, during problem-solving exercises, students take the point of view of a media professional, not of a lawyer or judge. Even so, students are expected to develop a broad understanding of the dynamics of media law, looking across professions and institutions, from media to law, and from schools and neighborhoods to the global communications industry. Pertinent questions to ask include: What is the role of a journalist? The courts? Does the First Amendment require absolute freedom from state regulation? What is the relationship between the state and the media in a democratic setting? How is the freedom of expression maintained through the principled assertion of civil liberties and human rights? And finally, how do emerging technologies influence legal change? By asking these questions in the context of real-world cases, students gain a practical, but sophisticated, knowledge of law and ethics that prepares them for work as communication professionals.

REQUIRED TEXTS


2. Articles and handouts to be posted online.
RECOMMENDED RESOURCES


STUDENT LEARNING OUTCOMES
After completing this course, students will have gained competency in two areas:

Knowledge of Laws and Ethics
- Ability to state basic rules and principles of journalism law
- Ability to state basic rules and principles of journalism ethics, as articulated by professional associations within journalism
- Ability to explain the relationship between journalism law and ethics
- Ability to discuss relevant history of censorship and repression; and to relate that history to current controversies related to press freedoms and other freedoms and rights

Reporting and Editorial Skills
- Ability to solve problems of competing values, both news values and social values, when making writing and publishing decisions
- Ability to collect and analyze news, information and documents in a way that complies with law, but also maintains the boundaries of press freedom and responsibility

BEING PREPARED, STAYING INFORMED
Students are to read assigned readings before class. Students are required to bring paper, pens, and the textbook to every class. Laptops, tablets, phones and other devices are used during class for class purposes only. Chapter reading assignments are listed below in the class schedule. Additional readings may be assigned at various points during the semester. Students are to check email and the course website (Moodle) on a regular basis, to stay informed regarding course requirements and deadlines. Because of the number of handouts and interactive workshops in this course, students are encouraged to use a three-ring binder to organize course materials in chronological order.

OUTLINE OF TOPICS
This course is divided into three parts. The first part covers the structure of the U.S. legal system (Packard, chapter 1) It also covers history of censorship and the interpretation of the First Amendment to the U.S. Constitution, including the requirement of state action, the application of the amendment to the 50 states through incorporation, the basics of prior restraint and judicial review (chapter 2 through page 26). While the structure of the legal system is especially relevant to students interested in public affairs reporting and investigative journalism, understanding the legal system is also important for students interested in other types of media work. Nearly all types of communication are regulated by the government, despite the promises of the First Amendment that the government shall make “no law” abridging free speech.

The second part of the course examines three critical areas of journalism practice: information gathering and journalist’s privilege (chapter 6); intellectual property or copyrights (chapter 7 and part of chapter 8); and free press/fair trial. Individuals and small groups, working on the ground level, often have to resolve
matters in these practice areas without asking for legal advice. It is true that issues in these areas are litigated by mass media conglomerates represented by legal counsel—for example in the watershed U.S. Supreme court cases studied in this course. Yet individual media professionals still need to manage these areas of practice on their own steam, in legally and ethically defensible ways. To do so, communication professionals need a stable framework of legal understanding, regarding what to do and what not to do, as well as when to decide that a situation requires legal counsel. The good news is that although media law varies from jurisdiction to jurisdiction and over time, there are federal constitutional principles in place that provide a framework for understanding press freedom and responsibility.

In the third part and conclusion of the course, students examine a range of contemporary First Amendment issues, including prior restraint during wartime, the student press, hate speech, election campaigns (selected pages and handouts). Also covered are: defamation (chapter 9), privacy (chapter 10), obscenity and decency, as well as publishing issues related to sex and violence (chapter 11); and advertising and broadcast regulation (selections from chapter 12 and 3). These areas of media law are likely to be managed at the editorial or executive level with the advice of legal counsel, but are still critical areas for communication professionals to understand.

**PROGRAM LEARNING OBJECTIVES**

The Department of Journalism strives to prepare its students to become well-educated, principled citizens who are capable of initiating careers as skilled journalists, public relations practitioners and other related communication professionals.

1. **Students will be able to write for a diverse audience**, using proper grammar and punctuation, word usage and spelling, sentence and storytelling structures across multiple journalistic formats.

2. **Students will be able to gather and analyze information**, including basic numerical concepts, using journalistic storytelling techniques, such as interviewing, observation, and researching primary and secondary sources.

3. **Students will be able to think critically, creatively and independently.**

4. **Students will demonstrate an understanding of professional ethical principles and work ethically in pursuit of truth, accuracy, fairness, and diversity.**

5. **Students will apply tools and technologies appropriate for the news media professions in which they work to communicate for and with diverse audiences.**

6. **Students will be able to understand and apply the historical, theoretical, legal and societal contexts for producing news media for consumers, ranging from local to global.**
POINT SYSTEM

Exam on Part I: The Legal System (10%) - Sept. 4 20
Exam on Part II: Journalism Decisions (25%) - Oct. 16 50
Exam on Part III: Contemporary Issues (25%) - Nov. 20 50
Comprehensive Final Exam (40%) - Dec. 16 80

200

MAKE-UP EXAMS
Exams cannot be made up unless arrangements are made with the professor in advance, or unless there is a documented emergency. In either case, the professor retains the right to provide an alternative exam to those students who do not take the exam with the rest of the class.

EXTRA CREDIT
There will be no additional extra credit opportunities, except in the discretion of the professor. If any extra credit assignments are offered, they most likely will be offered to the entire class.

GRADING SCALE
Letter grades will be calculated by dividing the total points earned (out of a possible 200) by two and applying this grading scale:

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PLAGIARISM
Plagiarism and other forms of cheating will not be tolerated, and anyone caught cheating will be reported to the dean of students and will receive a failing grade in the course. For a further explanation of disciplinary procedures, consult pages 613-615 of the 2010-2012 CSUN catalog. Please also remember that U.S. copyright laws protect much of the information posted on the Internet. Passing off this information as original work is a violation of CSUN’s plagiarism policy, and carries the penalties outlined above.

CULTURAL DIVERSITY
Students in this course are strongly encouraged to broaden their journalistic experiences, with the instructor’s help, by including in their work and considerations people and subjects from a variety of ethnic, racial and religious backgrounds; the elderly, disabled and poor; gay men and lesbians; and other diverse groups. The intent is to ensure that student work reflects the diversity of the community.
**ACCOMMODATIONS**

If you have a disability and need accommodations, please register with the Disability Resources and Educational Services (DRES) office or the National Center on Deafness (NCOD). The DRES office is located in Bayramian Hall, room 110 and can be reached at (818) 677-2684. NCOD is located on Bertrand Street in Jeanne Chisholm Hall and can be reached at (818) 677-2054. If you would like to discuss your need for accommodations with me, please contact me to set up an appointment.

**ATTENDANCE**

Attendance will be taken by having students sign into class each day. The sign-in sheet will be picked up at the start of class. No latecomers will be allowed to sign in. Attendance is essential because class activities lead directly to achieving the learning objectives. More than three unexcused absences will result in a lower grade. Five points will be taken off for unexcused absences, starting with the fourth unexcused absence. Being late to class is considered an unexcused absence. Being late is defined as entering the classroom after the sign-in sheet is picked up. Students are expected to alert the professor in advance if they have to miss class sessions on either an excused or an unexcused basis. Each student is expected to maintain his or her own attendance record and track unexcused absences.

**Schedule of Classes and Readings**

**PART I: THE LEGAL SYSTEM**

**Week One:**

1. Tues Aug 26
   - **Introduction**
   - **Reading:** Syllabus, handout (PBS Newshour: transcript of Brooklyn Museum case)
   - **Key concepts:** frameworks for decision, stakeholders, competing interests, civil liberty, absolute or balancing, law, "law on books, law in action," watchdog role
   - **Class Exercise:** Diagram of the First Amendment

2. Thurs Aug 28
   - **Sources of Law, Structure of Court Systems**
   - **Reading:** Chapter 1, pp. 1-14 (skip text box on civil law, p. 9)
   - **Key concepts:** separation of powers, democracy, sovereign, supremacy clause, Bill of Rights, legal stability and change, jurisdiction, concurrent jurisdiction, precedent, binding precedent, stare decisis, remedies, common law, law of equity, torts, contracts

   *Monday, September 1: Labor Day*
Week Two:

3. Tues Sept 2
   Freedom of Expression
   Reading: Chapter 1, p. 18-20 (judicial review); and Chapter 2, pp. 21-26 (stop at “Types”)
   Key Concepts: state action, incorporation, speech/conduct distinction, prior restraint, summary judgment, judicial review
   Class Exercise: Practice exam

4. Thurs Sept 4
   Exam on Part I (45 minutes)
   Class Exercise: Review Exam on Part I; overview of journalism decisions (Part II)

PART II: JOURNALISM DECISIONS

Week Three:

5. Tues Sept 9
   Information Gathering 1: FOIA, Sunshine, Government Access
   Reading: Chapter 6, pp. 127-141
   Key Concepts: executive agencies, FOIA, agency record, right of access vs. free from regulation
   Critical Infrastructure Information Act, OPEN Government Act, presumptively open,
in camera review, contempt, Thomas, PACER, grand jury

6. Thurs Sept 11
   Information Gathering 2: Confidential Sources, Privileges and Shields
   Reading: Chapter 6, pp. 141 to end; California shield law (handout)
   Key Concepts: civil case vs. criminal case; remedies (money, injunction, prison), warrant vs. subpoena, confidentiality, privilege, shield, waiver, rights of the accused

Week Four:

7. Tue Sept 16
   Information Gathering 3: Investigations, Leaks and Whistleblowers
   Reading: Current news article about leaks or whistleblowers (to be provided)
   Key Concepts: context, Pentagon Papers case, Wikileaks, presumptively unconstitutional, compelling reason, least restrictive means, criminalization of sourcing

8. Thurs Sept 18
   Information Gathering 4: Frameworks for Decision, Case Studies
   Reading: Handout


**Week Five:**

9. Tue Sept 23
   **Intellectual Property 1: Copyrights**
   Reading: Chapter 7, pp. 161-178; Intellectual Property Chart (handout)
   Key Concepts: intellectual property, exclusive rights, bundle of sticks, source of rights, parts of a case, case in chief, burden of proof, elements of a claim, infringement, original work of authorship, tangible medium of expression, negating defense, affirmative defense, direct evidence, indirect evidence, substantial similarity, Easter Egg, first sale doctrine, idea/expression dichotomy, scenes a faire

10. Thurs Sept 25
    **Intellectual Property 2: More on Copyrights (and Overview of Other Intellectual Properties)**
    Reading: Chapter 8 (skim/skip discussion of patents on pp. 199-203)
    Key Concepts: patent, reading on claims, trademark, likelihood of confusion, license, assignment, duration

**Week Six:**

11. Tues Sept 30
    **Intellectual Property 3: Digital Millennium Copyright Act, Fair Use and “Information wants to be free.”**
    Reading: Chapter 7, pp. 179 to end; federal statute on fair use (handout)
    Key Concepts: fair use, transformative use

12. Thurs Oct 2
    **Intellectual Property 4: Frameworks for Decision, Case Studies**
    Reading: Handout

**Week Seven:**

13. Tues Oct 7
    **Information Gathering 5: Free Press, Fair Trial . . . or Newsgathering Redux The Constitutional Considerations**
    Reading: Chapter 1, pp. 14-20 (review of pp. 18-20 from Part I); Handout
    Key concepts: Crime reporting, open court, conflict between First and Sixth Amendments, traditional remedies, challenge for cause, peremptory challenge, closure standard (interest, harm, alternatives), exceptions to openness, trial, mistrial, evidence, public discourse, admissibility, restrictive orders, gag order, hearsay, character evidence, impartial jury, Star Chamber, voir dire, veniremen, venue, continuance, admonition, sequestration, juvenile hearings, summary jury trial, secret military tribunals, FISA, bench-bar-press guidelines

14. Thurs Oct 9
    **Information Gathering 6: Traditional Remedies for Saturated Media**
    Reading: Handout
Week Eight:

15. Tues Oct 14
   Review of Part II
   Reading: Review Sheet

16. Thurs Oct 16
   Exam on Part II

PART III: CONTEMPORARY ISSUES

Week Nine:

17. Tues Oct 21
   First Amendment in Context 1: Free Expression and Censorship in Wartime
   Reading: Handout
   Key Concepts: dichotomy, continuum, qualitative distinction, quantitative distinction
   Questions: does the First Amendment require absolute freedom from regulation?
   How does context matter? Should there be more liberty of expression when the government
goes to war? Or more security?

18. Thurs Oct 23
   First Amendment in Context 2: Content Regulations, Campaigns and Elections
   Reading: Chapter 2, pp. 26 to 33 (stop at “Time, place and manner restrictions”);
   Citizens United (handout)
   Key Concepts: legal fiction, strict scrutiny, content regulation, overbreadth, vagueness
   Question: Do corporations have First Amendment rights? Why? Why not?

Week Ten:

19. Tues Oct 28
   First Amendment in Context 3: The Public Sphere, the Public Forum, Street versus Internet
   Reading: Chapter 2, pp. 26 to 39
   Key Concept: public forum, protest permits, prior restraint, "time, place and manner,"
   Internet as place, speech/conduct distinction (revisited)
   Question: What are the legal and ethical considerations when reporting on protest? To what
   extent can cities and communities regulate speech by time and place? Internet service providers?
20. Thurs Oct 30
   **First Amendment in Context 4: Hate Speech, True Threats and Place Regulations**
   **Reading:** Chapter 11, p. 321-330; Handout
   **Key Concepts:** clear and present danger, imminent lawless action, harassment, true threat, cyberstalking, hate speech
   **Questions:** Should hate speech be regulated? How can it be defined? How does context matter? What is hate speech? What is a “true threat”? To what extent can schools and universities regulate speech – of students and the student press?

   **Week Eleven:**

21. Tues Nov 4
   **Libel 1: Making a Case**
   **Reading:** Chapter 9, pp. 227-235
   **Key Concepts:** Cause of action, element, liable, publication, of or concerning plaintiff, harmful to reputation, truth/falsity, reckless disregard for truth, tort, SLAPP, arbitration, retraction statute, general damages, libel, slander, defamatory, libel tourism, SPEECH Act, vendor/publisher, Communications Decency Act, libel per se, libel per quod

22. Thurs Nov 6
   **Libel 2: Defenses**
   **Reading:** Chapter 9, pp. 236-56; and excerpts from Sullivan and Gertz (handout)
   **Key Concept:** public figure doctrine

   **Week Twelve:**

   **Tuesday, November 11: Veteran's Day**

23. Thurs Nov 13
   **Libel 3: Reporting on Limited Information and the Problem of the False Impression**
   **Reading:** Review/finish Chapter 9; excerpts from Falwell and case study, Newton v. NBC (handouts)
   **Key Concepts:** parody, opinion, false impression, law/ethics, media hierarchy
   **Questions:** What is privileged? How far does truth extend?

   **Week Thirteen:**

24. Tues Nov 18
   **Privacy and Publicity**
   **Reading:** Chapter 10, pp. 257-296 (skim section on common law, pp. 259-271)
   **Questions:** How does privacy relate to other causes of action? Why does the law protect commercial identities? Information gathering, redux (intrusion and recording)
   **Class Exercise:** Review for Exam on Part III
25. Thurs Nov 20  
   Exam on Part III

**Week Fourteen:**

26. Tues Nov 26  
   Review of Exam on Part III

*Thursday, Nov. 27: Thanksgiving*

**Week Fifteen:**

27. Tues Dec 2  
   **Obscenity or Decency? Social Media and Special News Subjects**  
   Reading: Chapter 11, pp. 303-320; case study of Kentucky teens (handout)  
   Key Concept: decency, pornography, obscenity, *Miller* standard, involuntary public figure

28. Thurs Dec 4  
   **Advertising and Broadcast Regulation**  
   Reading: Chapter 12, pp. 333-342 (skim); Chapter 3, pp. 47-58 (stop at “censoring candidates”)  
   Key Concepts: commercial speech, core speech, deceptive ads

**Last Week:**

29. Tues Dec 9: LAST CLASS  
   Review for Final  
   Reading: None  
   Key Question: What types of speech does the First Amendment protect? Not protect?

**Final Exam:** Tues, Dec 16, 9a-10a (limited to one hour)  
*Please note that exam does not start at 8 a.m. **Be on time to start at 9 a.m.***

Grades posted online approximately one week after finals.