Journalism 400
Mass Communication Law and Ethics

Semester: Spring 2015
Catalog: #10558
Class Time: Mon/Wed 9:30a-10:45a
Classroom: Manzanita Hall 101
Final Exam: Wed, May 13, 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 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 workshops, 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? By asking these questions in the context of real-world cases, students gain a practical, but sophisticated, knowledge of media 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. Assigned readings include selected pages from the textbook and handouts prepared by the professor. Students are required to bring paper, pens, and the textbook to every class. 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. If there are questions about deadlines, students are to consult this syllabus on the website. Student emails asking questions of the professor, when the questions are already answered by the syllabus, will not be answered by the professor. If there is a discrepancy between the syllabus and the website, the syllabus is the controlling source of information.

Because of the number of handouts and interactive workshops in the course, students are encouraged to use a three-ring binder to organize course materials. Participation points will be given for students who use a binder (see below).

ELECTRONIC DEVICES
Laptops, tablets, phones and other devices are used during class for class purposes only. Students must obtain permission in advance of using a device during class. Students using devices for other reasons will be denied the privilege of using devices for the remainder of the semester, unless there are countervailing considerations. Chapter reading assignments are listed below in the class schedule.
OUTLINE OF TOPICS
This course is divided into three parts.

1. Government Sphere, Civil Sphere

2. Journalism Decision Making

3. First Amendment in Context

**Government Sphere, Civil Sphere.** The first part of this course covers the U.S. legal system (chapter 1) and newsgathering as a practice of the civil sphere (chapter 6). This part also includes the history of censorship and the interpretation of the First Amendment to the U.S. Constitution, including state action, 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 relationship of the legal sphere and the civil sphere is important for students interested in other types of media work—such as broadcast and public relations. Nearly all types of communication are regulated by the government, despite the promise of the First Amendment that the government shall make “no law” abridging free speech. That said, the First Amendment states an ideal that the power of the government has limits: the freedom of speech and the press in the civil sphere is not to be abridged.

**Journalism Decision Making.** The second part of the course asks students to make decisions by using frameworks of decision making in key areas of media law. First, students learn the basic laws that govern newsgathering (a primary activity of journalists), including generally applicable laws and the rules of access to documents, places and people within the government sphere and other spheres of social life. Next, students are introduced to the concept of a cause of action (a claim of harm recognized at law and for which the law provides a remedy). Two basic causes of action (murder and negligence) are discussed, so students come to understand the use of elements, states of mind, burdens of proof, and types of defenses (negating and affirmative) within the context of a cause of action. Next, students learn the elements of a copyright claim as brought by a plaintiff and some defenses to copyright infringement. During interactive exercises, students apply the elements and defenses to case studies on copyright infringement—the legal claim students are most likely to encounter in their professional lives.

Students also consider an overview of intellectual property: comparing copyrights, trademarks and patents (chapter 7 and part of chapter 8). Also in this part of the course, students examine the issue of free press/fair trial, as a more developed example of problem solving in the area of newsgathering.

*Individuals and small groups, working on the ground level, often have to resolve matters in these practice areas (intellectual property and criminal justice reporting) without asking for legal advice. It is true that issues in these areas are litigated by media conglomerates represented by legal counsel—for example, in the watershed U.S. Supreme court cases studied in the 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, federal constitutional principles provide a framework for understanding press freedom and responsibility. Thus entry-level media professionals can be equipped to work through issues of copyright and free press/fair trial.
**First Amendment in Context.** In the third part and conclusion of the course, students examine a range of contemporary First Amendment issues in social context, including prior restraint during wartime, hate speech on campus, and election campaign communications. Students also learn another cause of action of libel or defamation, and its related defense the public figure doctrine (chapter 9). Libel cases are examined in various configurations, including public and private defendants and in the emerging world of social media. This work leads the students into the last few class sessions, in which students are introduced to issues of privacy (chapter 10), obscenity and decency, as well as publishing issues related to sex and violence (chapter 11). In the final few class sessions, students examine issues of advertising and broadcast regulation (chapters 12 and 3). The areas of media law in the third part of the course are likely to be managed at the executive level with the advice of legal counsel, rather than by journalists working on their own, but nevertheless are critical areas for communication professionals to understand.

**POINT SYSTEM**

**Responsibility Points:** Organized binder, Leadership days (5%) 10  
**Exam on Part I:** Government Sphere, Civil Sphere (20%) - Feb 16 40  
**Exam on Part II:** Journalism Decisions (25%) - Mar 16 50  
**Exam on Part III:** First Amendment in Context (25%) - Apr 22 50  
**Comprehensive Final Exam** (25%) - May 13 50

\[
\text{Total Points} = 200 \quad \text{*minus unexcused absences}\]

**RESPONSIBILITY POINTS  (Up to 10 Points)**

As stated, students are encouraged to use a three-ring binder to organize the materials in the course in chronological order. Students who have an organized three-ring binder in class on the day scheduled for checking binders may earn up to 5 points for being organized and ready for class. Being organized is not only an aspect of participation, but also of being responsible for learning—your own learning and the learning of your fellow students. Another form of responsibility is taking leadership during class discussion by exercising voice: providing explanations and understanding to other students. Leadership informs both the listeners and the leaders. Students will be organized into groups of students each. Leadership opportunities will be rotated within the group (each student being assigned a different day to speak in class). The five leadership days are listed in Schedule. NOTE: Leadership opportunities ask students to be engaged and to explaining the case studies, lending their individual perspectives and understanding to the shared problem solving. Students earn up to 5 points for their accomplishments during a leadership day.

**GRADING SCALE**

Letter grades will be calculated by adding up total points earned, subtracting for unexcused absences (over dividing the total points earned (out of a possible 200) by two and applying this grading scale:

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<th>C</th>
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<tr>
<td>100-94 = A</td>
<td>89-87 = B+</td>
<td>79-77 = C+</td>
<td>69-67 = D+</td>
<td>59 or &lt; = F</td>
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<tr>
<td>93-90 = A-</td>
<td>86-83 = B</td>
<td>76-73 = C</td>
<td>66-63 = D</td>
<td>62-60 = D-</td>
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<td>82-80 = B-</td>
<td>72-70 = C-</td>
<td>62-60 = D-</td>
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EXTRA CREDIT
There will be no 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.

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.

GRADUATE STUDENTS
Graduate students in this course will be required to complete a five-page research paper on a particular topic of newsgathering and/or free press/fair trial. Topics to be suggested in writing by the graduate student and approved in writing by the professor. The paper is worth up to 10 points (taking the place of the participation and responsibility points). Graduate students are expected to participate, be organized and take a leadership role in the course, even though points are not earned or tracked for graduate students for those activities. Graduate students will present the findings of their research to the class.

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 of 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
Five points will be taken off for each unexcused absence starting with the fourth unexcused absence. In other words: More than three unexcused absences will result in a lower grade. Do not ignore this policy and then complain to me about its consequences at the end of the semester. Attendance is essential because class activities lead directly to achieving learning objectives, including taking responsibility for learning. Multiple unexcused absences are a sign that the student has not taken responsibility for learning and has not enriched the learning of others through classroom leadership. 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. Latecomers will not be allowed to sign in. Being late is treated as an unexcused absence.
BEING LATE
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. Being late to class is disruptive and tends to reveal the opposite of taking responsibility and assuming leadership. 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. Even so, the sign-in sheet is the official record of attendance. The sign-in sheet will be used to count unexcused absences and lower grades.

Schedule of Classes and Readings

PART I: GOVERNMENT SPHERE, CIVIL SPHERE

Week One:

Monday, January 19: Martin Luther King, Jr. Day

1. Wed Jan 21
   Frameworks for Decision Making
   Reading: Syllabus, handout (PBS Newshour: transcript of Brooklyn Museum case)
   Key Concepts: frameworks for decision making, law, "law on books, law in action," stakeholders, competing interests, civil liberty, absolute or balancing, watchdog role
   Class Exercise: Diagram of the First Amendment - Government Sphere and Civil Sphere

Week Two:

2. Mon Jan 26
   Sources of Law, Structure of U.S. Courts
   Reading: Chapter 1, pp. 1-14 (skip text box on civil law, p. 9)
   Key Concepts: democracy, sovereignty, legal stability and change, political branches, supremacy clause, police power, common law, law of equity, injunction, jurisdiction, concurrent jurisdiction, precedent, binding precedent, stare decisis
   Class Exercise: Complete diagram of First Amendment - Government branches, constitutional documents

3. Wed Jan 28
   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: Defining concepts, applying concepts
Week Three:

4. Mon Feb 2
   NEWS GATHERING 1: FOIA, Sunshine, Government Access
   Reading: Chapter 6, pp. 127-141
   Key Concepts: right of access vs. freedom from regulation, liberties versus rights, generally applicable laws (free speech is no defense), FOIA, agency record, Critical Infrastructure Information Act, OPEN Government Act, presumptively open, in camera review, contempt, Thomas, PACER, grand jury

5. Wed Feb 4
   * Common Book: Read Dragnet Nation, Chap. 1, "Hacked"
   NEWS 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), Common law versus equity, warrant vs. subpoena, confidentiality, privilege, shield, waiver, rights of the accused

Week Four:

6. Mon Feb 9
   * Common Book: Read Dragnet Nation, Chap. 2, "A Short History of Tracking"
   NEWS 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

7. Wed Feb 11
   NEWS GATHERING 4: Applying Concepts, Analyzing Case Studies on Government, Civil Spheres
   * LEADERSHIP 1: Students from each group to present and analyze case studies in front of class. *
   Additional Class Exercise: Checking for organized binder (up to 5 points for taking responsibility)

Week Five:

8. Mon Feb 16
   EXAM ON PART I (45 minutes)
   Class Exercise: Review Exam on Part I (30 minutes); overview of next part of course: journalism decision making (Part II) (15 minutes)
Week Five: Cont'd

PART II: JOURNALISM DECISION MAKING


INTELLECTUAL PROPERTY 1: Causes of Action and Copyrights
Reading: Chapter 7, pp. 161-178; handout "Parts of a Case"
Key Concepts: cause of action (claim), elements, case in chief, burden of proof, state of mind, direct evidence, indirect evidence (circumstantial evidence, inference), negating defense, affirmative defense, intellectual property, exclusive rights, bundle of sticks, source of rights, infringement, original work of authorship fixed in a tangible medium of expression, idea/expression dichotomy, scenes a faire, copying, first sale doctrine, substantial similarity, striking similarity, Easter Egg

Week Six:

10. Mon Feb 23  * Common Book: Read Dragnet Nation, Chap. 4, "Freedom of Association"

INTELLECTUAL PROPERTY 2: Copyrights and Other Intellectual Properties
Reading: Chapter 8 (skip patents, pp. 199-203); Handout (Intellectual Property Chart)
Key Concepts: patent, sources of law (Patent and Copyright Clause), novel, useful, reading on claims, trademark, likelihood of confusion, license, assignment, duration

11. Wed Feb 25

INTELLECTUAL PROPERTY 3: Fair Use Defense and “Information wants to be free.”
Reading: Chapter 7, pp. 179 to end; federal statute on fair use (posted online)
Key Concepts: fair use, transformative use, commerce versus creativity

Week Seven:


INTELLECTUAL PROPERTY 4: Applying Concepts, Case Studies on Intellectual Property
* LEADERSHIP 2: Students from each group to present and analyze case studies in front of class. *

13. Wed Mar 4  * Common Book: Read Dragnet Nation, Chap. 6, "The Audit" (Last of required)

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

14. Mon Mar 9  
   **Free Press, Fair Trial 2: Traditional Remedies for Saturated Media**  
   **Reading:** Handout on Free Press/Fair Trial

15. Wed Mar 11  
   **Review of Part II - Journalism Decisions**  
   * LEADERSHIP 3: Students from each group to present and analyze case studies in front of class. *

**Week Nine:**

16. Mon Mar 16  
   **EXAM on PART II**

**PART III: FIRST AMENDMENT IN CONTEXT**

17. Wed Mar 18  
   **First Amendment During Wartime**  
   **Reading:** Current news article on war (to be provided)  
   **Key Concepts:** dichotomy, continuum, qualitative distinction, quantitative distinction  
   **Questions:** Should there be more liberty of expression when the government goes to war? Or more security?

**Week Ten:**

18. Mon Mar 23  
   **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?

19. Wed Mar 25  
   **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,"  
   **Question:** What are the legal and ethical considerations when reporting on protest? To what Extent on cities and communities regulate speech by time and place?
**Week Eleven:**

20. Mon Mar 30  
**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?

21. Wed Apr 1  
**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

**SPRING BREAK**

**Week Twelve**

22. Mon Apr 13  
**Libel 2: Defenses**  
*Reading:* Chapter 9, pp. 236-56; and excerpts from *Sullivan* and *Gertz* (handout)  
*Key Concept:* public figure doctrine

23. Wed Apr 15  
**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?  
* LEADERSHIP 4: Students from each group to present and analyze case studies in front of class. *

**Week Thirteen**

24. Mon Apr 20  
**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. Wed Apr 22  
**EXAM ON PART III**
**Week Fourteen:**

26. Mon Apr 27  
   **Review of Exam on Part III**

27. Wed Apr 29  
   **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  
   * LEADERSHIP 5: Students from each group to present and analyze case studies in front of class. *

**Last Week:**

28. Mon May 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

29. Wed May 8: LAST CLASS  
   **Review for Final**  
   **Reading:** None  
   **Key Question:** *What types of speech does the First Amendment protect? Not protect?*

**Final Exam:** Wed May 13, 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.
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.