

UNIVERSITY OF CINCINNATI
Media, Law and Ethics (JOUR 2020)
Course Summary

Classroom: 53 McMicken Hall

Instructor: Associate Professor Leonard N. Penix, J.D., Esq.

Contact information: Phone 513-556-5978 or email leonard.penix@uc.edu.

Office: 22C McMicken Hall

TEXT:

The text to be used for the course is:

Pember, Don, and Clay Calvert. Mass Media Law. New York: McGraw Hill, 2018.

Please note: All handouts provided during the class and PDFs posted to Blackboard shall be treated as required readings.

COURSE DESCRIPTION:

This course is designed to assist journalists in understanding the legal system and the elements of law that directly affect journalists, and in analyzing how to proceed in a given situation. The class discusses various topics through an introspective look at case law and current events. Topics include the First Amendment to the Constitution, libel, copyright, electronic media, the courts and the media, obscenity and privacy. Each topic will also include discussion of ethical concerns and exercises to stretch students' perception of their journalistic responsibilities.

COURSE OBJECTIVES:

Upon successful completion of this course students will be able to demonstrate:

- A fundamental literacy in media law for print and online publications, including copyright, trademark, defamation and invasion of privacy;
- A general understanding of the legal rights of journalists in news gathering, including shield, public records and open meeting laws, the neutral reportage privilege, the Clery Act and related topics, and the impact of the Web on media law and newsgathering, including the legalities and ethics of using video, photo and text links, e-mail interviews and social networks such as Facebook;
- Knowledge of the legal and civil procedures routinely covered by news organizations and a general understanding of the law as it applies to the media, including obscenity, parody, and the First and 14th amendments to the U.S. Constitution;
- An ability to apply the law critically to stories written in print and online and to identify problems such as defamation and invasion of privacy when they appear in text.

EVALUATION:

Midterm and final examinations, and at least one additional exam, shall be administered, and each shall be weighed proportionately in computing the student's final grade.

WRITING FORMAT

Unless otherwise noted by the instructor, all assignments shall be produced at a computer and double-spaced with one-inch margins. No hand-written assignments shall be accepted, except for in-class exercises, tests and quizzes. Contact the instructor for out-of-class use of the journalism department's computer facilities. Please include your name on all returned writing assignments.

DEADLINES

Assignments are due on the assigned due date or as otherwise noted by the instructor.

ATTENDANCE

Students are expected to attend all classes. Attendance may be taken and two unexcused absences may result in an automatic withdrawal or a grade of "F" for the course. A record of each student's attendance at each class for this course shall be taken beginning on the first day of the second week of the course and, as described in the syllabus.

PLAGIARISM AND UC STUDENT CODE OF CONDUCT

Students shall abide by the UC Student Code of Conduct, are expected to exercise the highest ethical conduct, and plagiarism shall not be tolerated. Please visit this link for more information: http://www.uc.edu/conduct/Code_of_Conduct.html. Any student guilty of plagiarism is subject to receiving a failing grade for the course and faces possible expulsion from the University of Cincinnati. Plagiarism is defined as: submitting another's published or unpublished work, in whole or in part, or in paraphrase, as one's own without fully and properly crediting the author with attribution, footnotes, citations or bibliographical reference; submitting as one's original work, material obtained from an individual or agency without reference to the person or agency as the source of the material; submitting as one's original work, material that has been produced through unacknowledged collaboration with others without release in writing from collaborators. Under UC policy, instructors have the right to ask for a student's removal from the course for misconduct, or disruptive behavior. Classroom misconduct includes forgery of class attendance; obstruction or disruption of teaching, including late arrival or early departure from class; failure to turn off mobile phones and other devices prior to class; playing games or surfing the Internet on laptop computers unless instructed to do so; physical abuse or safety threats; theft; property damage.

AMERICANS WITH DISABILITIES ACT

The policy of the University of Cincinnati requires students with disabilities to self-identify and provide proper documentation to appropriate university officials. Students may contact the UC Disability Services office, located in 210 University Pavilion for information on appropriate policies and procedures (phone: 513-556-1383). Please present your accommodation form from UC Disability Services to the instructor as soon as possible.

WITHDRAWAL DATES

Standard University of Cincinnati policy shall be followed. A grade of "W" or "F" may be assigned to drops on the dates specified by the Registrar of the University of Cincinnati. Consult with the instructor before seeking a withdrawal. When students submit withdrawals, they will receive automatic notifications that withdrawals were submitted, followed by emails confirming this. The instructor reserves the right to change a "W" to an "F," if that reflects a more appropriate evaluation, when final grades are submitted.

CLASSROOM RECORDINGS

In accordance with applicable state and federal laws, no video or audio recordings are permitted in the classroom without the permission of the instructor and unanimous agreement of all students enrolled. Any student who, in the reasonable opinion of the instructor, has engaged in classroom recordings illegally will be reported to authorities and asked to withdraw from the course.

TENTATIVE CLASS SCHEDULE

The class schedule outlined below is tentative in nature and subject to amendments to fit the needs of the students and the class as a whole. The reading list may vary with the textbook edition. All Blackboard informational postings are considered required readings. Classes and office hours will be cancelled Jan. 21, 2019, for Martin Luther King Jr.'s Birthday and March 18-24, 2019, for Spring break.

Weeks I-II: Introduction to American jurisprudence; constitutional law, including the first, fourth, fifth, sixth and fourteenth amendments; common and statutory law and the Equity Doctrine; prior restraint; how the criminal court system works from initial charge to indictment to arraignment through trial and appeals, with a look at the secrecy of investigatory and grand jury proceedings. Readings: Chapters 1, 2, and 3.

Week III: Elements of defamation, including publication, identification, standards of liability and damages; *New York Times v. Sullivan*; *Gertz v. Welch*; defenses to libel, including truth, privilege, opinion or fair comment, consent, reply, statute of limitations and retraction; provocation and

mitigating circumstances; invasion of the constitutional right to privacy; emergence of revenge porn; appropriation; false light intrusion; defenses; three-week course review.
Readings: Chapters 4, 5, and 6.

The first examination is set for the end of the THIRD week of the course.

Weeks IV-V:

Introduction to Internet and copyright law; online legal responsibilities, duties and obligations of members of the media; Digital Millenium Copyright Act and Section 230 of the Communications Decency Act; common law copyright and registration; U.S. Copyright Act penalties, protections and proscribed criminal conduct; FTC policies and penalties.

Weeks VI-VII:

Net neutrality; "Twiebel"; social media law impacting defamation and privacy; propaganda, bots and trolls; New York Times Co. v. Tasini and aggregates; special case reviews, updates, examples and panel discussions about laws impacting YouTube, Facebook and additional social media sites; blogging and personal versus professional websites facing defamation and copyright infringement actions.

Readings: Chapters 7 and 8.

Week VIII:

Seven-week, midterm course review with Q&A and panel discussions. The second and midterm examination is set for the end of the EIGHTH week of the course.

Weeks IX-X:

Obscenity; ramifications of Section 230 and attempts at zoning regulation of sexually oriented businesses; review of the "Miller" test; local community standards and the two-prong procedure state courts must follow in prosecuting obscenity cases under U.S. Supreme Court rulings; Hamilton County vs. Larry Flynt; revenge porn and "cyberbullying."

Readings: Chapter 13.

Weeks XI-XII: Newsgathering and the law, including the Freedom of Information Act, the "Sunshine Law" and open meeting and public record statutes; confidentiality privileges or so-called "shield laws" for journalists; newsgathering pitfalls, including coercion and trespass.

Readings: Chapters 9 and 10.

Weeks XIII-XIV: Free press and public trials, balancing the needs of the defendant with the public's right to know; closed courtrooms; gag orders and other restrictive orders imposed against the press; interviewing jurors and sequestering.

Readings: Chapters 11 and 12.

Week XV:

Introduction to broadcast law; PICON; licensure, penalties and censorship; regulation of programming; obscenity, violence and indecency; broadcast defamation, copyright infringement and invasion of privacy; candidate access rule and Sections 312 and 315 of the Federal Communications Act; cable and satellite TV and radio regulation; defamation by tone; panel discussion of copyright, newsgathering and reporting issues for the airwaves.

Readings: Chapter 14.

Final examination: TBA

TRANSFERABLE SKILLS

1. **Critical Thinking:** Analyze complex issues and formulate insightful conclusions.

LEARNING OUTCOMES	SKILLS
1A. DEFINE THE PROBLEM	<ul style="list-style-type: none"> Identify a problem or question and its component parts Recognize and assess underlying assumptions
1B. INVESTIGATE	<ul style="list-style-type: none"> Identify, gather, and analyze the information/data necessary to address the problem or question Identify as appropriate, relevant principles, concepts, values, histories, and theories
1C. ANALYZE	<ul style="list-style-type: none"> Evaluate strengths and weaknesses of alternative explanations Assess information/data for credibility (e.g., bias, reliability, validity) and relevance Reflect on one's own biases and experiences and their possible impact on one's conclusions
1D. CONCLUDE	<ul style="list-style-type: none"> Arrive at logical conclusions and solutions that acknowledge varied perspectives and reflect an informed, well-reasoned line of thinking

2. **Written Expression:** Write clearly and effectively.

LEARNING OUTCOMES	SKILLS
2A. UNDERSTAND STRUCTURE	<ul style="list-style-type: none"> Develop proficiency in basic mechanics of writing (grammar, spelling, punctuation, organization) and be able to proofread for error-free writing
2B. UNDERSTAND LANGUAGE	<ul style="list-style-type: none"> Employ syntax, structure, and style appropriate to a particular community or audience
2C. SUBSTANTIATE	<ul style="list-style-type: none"> Write in a logical flow and incorporate appropriate evidence Make connections between ideas to reinforce meaning Incorporate source/reference material appropriately in support of a claim, using an appropriate formal documentation system
2D. CREATE	<ul style="list-style-type: none"> Explore ideas, emotions, and experiences through creative imagery and language

3. Research and Creative Process: Generate insightful research questions and come up with innovative project designs.

LEARNING OUTCOMES	SKILLS
3A. FORMULATE	<ul style="list-style-type: none"> Generate insightful and testable research questions and hypotheses, or identify a creative challenge
3B. SOLVE	<ul style="list-style-type: none"> Demonstrate creative thinking, curiosity, initiative, and originality in data gathering and problem-solving Focus creative practices rooted in disciplinary or interdisciplinary methods that address the problem or challenge Take risks, and demonstrate tolerance of uncertainty and ambiguity; exhibit flexibility and persistence in learning from mistakes
3C. DISSEMINATE	<ul style="list-style-type: none"> Share and defend results in appropriate ways for multiple audiences

4. Information and Technological Literacy: Locate, evaluate and effectively use information from a wide range of sources.

LEARNING OUTCOMES	SKILLS
4A. SEARCH	<ul style="list-style-type: none"> Clearly define the purpose of investigation and key areas of inquiry, and develop a search strategy Investigate a wide array of sources from varied media and formats Synthesize and summarize information. Continually improve information gathering as knowledge grows
4B. RECOGNIZE	<ul style="list-style-type: none"> Articulate criteria for evaluating sources and information Make a clear distinction between well-substantiated information and mere opinion Challenge the credibility of sources and information Interpret and communicate information appropriately to support assertions and lines of reasoning
4C. UTILIZE	<ul style="list-style-type: none"> Stay current with and employ technological tools to achieve academic, workplace, and personal goals Use electronic technology and social media to collaborate and do work securely, effectively, ethically, and legally Incorporate new information into one's knowledge base and use information to become an informed citizen and lifelong learner

5. Human Expression: Interpret, analyze and draw perceptive conclusions from texts and other media.

KNOWLEDGE COMPONENTS	LEARNING OUTCOMES
5A. HISTORICAL AND CULTURAL CONTEXT	<ul style="list-style-type: none"> Identify and explain the relationships between societal, cultural, and historical contexts of text and/or other forms of human expression
5B. ETHICAL EXCHANGE	<ul style="list-style-type: none"> Demonstrate knowledge of and empathy for the diversity of values, beliefs, ideas, and practices embodied in the human experience Respond intellectually to texts and other forms of human expression through respectful discussion and elaboration with others
5C. ANALYSIS	<ul style="list-style-type: none"> Use appropriate methods and tools to analyze, interpret, and critique the structure style and ideas covered in a text, film, work of art, or other form of human expression
5D. CULTURAL KNOWLEDGE	<ul style="list-style-type: none"> Make explicit connections/reference to works of literature or art, to ideas in philosophy or religion, or to historical events, sequences, or themes to enhance a discussion, interpretation, or analysis Identify culturally important references or symbols in readings, speeches, and objects

6. Society and Individual: Understand human behavior and institutions and how they impact important society-wide events and one's own personal beliefs.

KNOWLEDGE COMPONENTS	LEARNING OUTCOMES
6A. SOCIAL SYSTEMS	<ul style="list-style-type: none"> Describe connections among social, economic, geo-political, technological, environmental, and cultural systems, and articulate their impacts on communities and individuals
6B. INQUIRY	<ul style="list-style-type: none"> Develop, explain, and apply theories to social phenomena and human activity
6C. SOCIAL RESPONSIBILITY	<ul style="list-style-type: none"> Recognize the need for a world that honors human difference, evaluates issues of social justice, and takes action to advance equity and inclusion Identify sources of varying and/or conflicting identities and suggest possible explanations, pathways, or solutions to problems and issues facing individuals, families, communities, societies, and the world.