

**SCHOOL OF JOURNALISM
USC ANNENBERG SCHOOL FOR COMMUNICATION**

**JOUR 371
CENSORSHIP AND THE LAW: FROM THE PRESS TO CYBERSPACE**

Spring 2008, 4 Units

Room: ASC 331
Class Day and Time: Thursday evenings, 6:30 – 9:50 p.m.
Instructor: Daniel M. Mayeda

COURSE DESCRIPTION

Although entitled “Censorship and the Law: From the Press to Cyberspace,” Journalism 371 will be devoted to a discussion of the tension between censorship and freedom, including the special responsibility that comes with First Amendment rights and a search for the limits on that freedom. Although the course requires an intensive review and understanding of the key case law, this is not a journalism or communications law class per se. Instead, through the examination of a series of case studies, including more than two dozen leading court decisions, the class will explore the historical, philosophical, religious, psychological, technological, etymological, economic, political, international, and constitutional framework in which speakers, the media, and the First Amendment operate.

Though only a single sentence, the First Amendment should be read and read again. It states in its entirety:

“Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or **abridging the freedom of speech, or of the press**; or of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Short as the First Amendment is, this course will focus almost exclusively on the meaning and implications of only a part of it: the fourteen words that are highlighted. But those words do not exist in a vacuum. As we shall see, issues of free speech, media law and censorship animate countless areas of our lives and society - from the campus to the courtroom to the press to the Internet, from the stage, movies, art, and music, to political campaigns, political demonstrations and international affairs. In the weeks ahead, we will try to bring all of those areas into the classroom - and to send you out to think about them and to deal with them on the campus and in the community, the press, and cyberspace.

COURSE OBJECTIVES

By the end of the semester, you should have learned the following matters, among others:

- (1) a general overview of the American legal system;
- (2) the historical foundation of the First Amendment;
- (3) the application of free speech and free press rights to wartime situations, fair trials, political demonstrations, reputational and privacy interests and various media; and
- (4) the responsibility that comes with what is sometimes called our first freedom.

What's more, it is my hope that you will have a greater ability to deal with all of those concepts in a wide variety of personal and professional (as well as academic) settings and situations.

REQUIRED READINGS AND ASSIGNMENTS

Publications Students are urged to read The Los Angeles Times or The New York Times (daily and weekend editions) as well as at least one major magazine. Those who have trouble paying for or finding hard copies of those publications can read them for free at the Annenberg Resource Center and on the web (www.nytimes.com and www.latimes.com). Students should also seek to expose themselves to as many sources of speech and press as they can (ranging from direct mail, to campus flyers, speeches and debates, to Weblogs and chat rooms, to books, music, movies, television, radio, theatrical productions and art exhibits) and to consume as many sources of news and opinion as possible on issues related to the class, including those available on the radio, television, the Internet, or on campus.

Texts Mayeda (editor), Censorship and the Law: From the Press to Cyberspace (Course Reader available at USC Bookstore)

Don Pember and Clay Calvert, Mass MediaLaw (2007/2008)

Handouts Additional readings will be distributed in class, pasted or linked on the "Blackboard.com" web site, and/or available on the Internet, the library, or in the Annenberg Resource Center.

Blackboard We will use Blackboard.com for a variety of purposes. *Some course assignments and readings will be posted on the site. You will be expected to check Blackboard.com often enough to be aware of any new readings or assignments.* Please let me know if you have any questions logging in to or otherwise using the Blackboard.com website.

Paper In order to assess your ability to spot and analyze the issues we are studying in class, students will be asked to write a Paper based on a hypothetical situation. Paper topics will be handed out in class. Tentative due date for the Paper is April 17.

Case Brief Early in the course, we will discuss the preparation and use of “briefs” to summarize court opinions. To ensure that students are comfortable with this analytical tool, I will ask that you turn in a case brief at the beginning of the third class session.

CLASS SESSIONS, PARTICIPATION AND ATTENDANCE

You are expected to attend and participate in every class. In addition, you are expected to do all of the reading for a particular week *before* you come to class that week (with the exception, of course, of the first week). Besides the reading assignments from the textbook and course reader, you will be provided additional materials from time to time.

Because this course involves free speech issues, it is fitting that a great deal of classroom time will be devoted to a *discussion between and among the students and the instructor* of the topics planned for each particular week. During any given class session, particular students may be called upon to play a special role in helping to describe the issues, explain the facts or legal arguments, and/or lead the discussion on the cases and the issues. Those students who participate in such discussions will enrich the learning experience for themselves and their classmates and will therefore be rewarded.

Accordingly, if at all possible, *please come to class each week prepared to discuss the assigned readings and the topics related to them.* You will also find it helpful in facilitating classroom discussion if you prepare case briefs for the major cases scheduled to be discussed at that class session. At a minimum, you will want to bring a marked-up copy of the assigned cases to the class session at which they are scheduled to be discussed. (The Course Reader’s pages are perforated to facilitate taking the book apart and putting the relevant cases (and your case briefs) in a loose-leaf binder.)

Unexcused absences will result in a significant reduction in the Class Participation portion of your grade. If you are unable to attend any class or discussion session, please email me in advance.

GRADING

The grade will be based on a mid-term and a final exam, as well as on class participation, a case brief and the Paper.

Class Participation	10 percent
Case Brief (due 2/7/08)	5 percent
Midterm (3/13/08)	25 percent
Paper (due 4/17/08)	30 percent
Final (5/8/08)	30 percent

The Midterm and Final will consist of a combination of objective and essay questions. The final will be comprehensive but will be weighted toward the second half of the course. The Midterm and Final will be closed book exams but, for the Final only, students will be permitted to bring one sheet of paper with notes.

SCHOOL OF JOURNALISM ACADEMIC INTEGRITY POLICY

Plagiarism is defined as taking ideas or writings from another and passing them off as one's own; in journalism, this includes appropriating the reporting of another without clear attribution.

The following is the School of Journalism's policy on academic integrity as published in the University Catalogue:

"Since its founding, the USC School of Journalism has maintained a commitment to the highest standards of ethical conduct and academic excellence. Any student found guilty of plagiarism, fabrication, cheating on examinations, or purchasing papers or other assignments will receive a failing grade in the course and will be dismissed as a major from the School of Journalism. There are no exceptions to the school's policy."

ACADEMIC ACCOMMODATIONS

Any students requesting academic accommodations based on a disability are required to register with Disability Services and Programs (DSP) each semester. A letter of verification for approved accommodations can be obtained from DSP when adequate documentation is filed. Please be sure the letter is delivered to the professor as early in the semester as possible. DSP is open Monday through Friday, 8:30 a.m.-5 p.m. The office is located in the Student Union room 301 and its phone number is 213/740-0776.

INTERNSHIPS

The value of professional internships as part of the overall educational experience of our students has long been recognized by the School of Journalism. Accordingly, while internships are not required for successful completion of this course, any student enrolled in this course who undertakes and completes an approved, non-paid internship during this semester can earn academic extra credit herein of an amount equal to one percent of the total available semester points for this course (if you let me know prior to the last week of the course).

COURSE OUTLINE AND READING SCHEDULE

Jan. 17 Class No. 1: Introduction to the American Legal System and Freedom of Communication; What is Censorship?

Readings: Pember, pp. 725-32 (Glossary)

Discuss: Jon Stewart, America (The Book)

View in Class: TV'S MOST CENSORED MOMENTS (Part 1)

Jan. 24 Class No. 2: Introduction to the Legal System and the First Amendment (continued); The Theory of Freedom of Expression; Freedom vs. Responsibility

Case Study: The Problem of Howard Stern

View in Class: THE MANAA STORY

Readings: Pember, pp. 1-33 and 35-51.

Jan. 31 **Class No. 3: Prior Restraint and Other Wartime Restrictions on the Press; Censorship vs. Public Protest**

Readings: *New York Times v. U.S.* (1971), pp. 1-22 (all cases with page numbers are references to the Course Reader)
Pember, pp. 74-85, 88-100, 140-43 and 39-41 (review)

Note: Be sure to think about this topic in light of national security issues in an era of terrorism and at time when our troops are engaged and often endangered in Iraq.

Discuss: Linda Ronstadt; Dixie Chicks; Michael Moore; Kobe Bryant

Feb. 7 **Class No. 4: [Case Brief of *Brandenburg v. Ohio* due at 6:30 p.m. today]**

Seditious Speech, Incitements and Threats

Readings: *Schenck v. U.S.* (1919), pp. 23-25
Brandenburg v. Ohio (1969), pp. 26-31
Pember, pp. 51-69 and 36-39 (review)

Discuss: Anti-abortion protest cases

Feb. 14 **Class No. 5: Fighting Words, Hate Speech and Maintaining the Public Peace**

Readings: *Chaplinsky v. New Hampshire* (1942), pp. 32-35
R.A.V. v. City of St. Paul (1992), pp. 36-54
Terminiello v. Chicago (1942), pp. 55-72
Pember, pp. 143-47 and 40 (review)

Feb. 21 **Class No. 6: Regulations on the Time, Place and Manner of Speech**

Readings: *Ward v. Rock Against Racism* (1989), pp. 131-47
Hill v. Colorado (2000), pp. 149-68
Pember, pp. 125-38

[Paper topics handed out]

Feb. 28 **Class No. 7: Symbolic Speech**

Readings: *U.S. v. O'Brien* (1968), pp. 169-81
Texas v. Johnson (1989), pp. 183-204
Cohen v. California (1971), pp. 205-12
Pember: I suggest you begin tackling next week's reading on fair trial issues

Mar. 6 **Class No. 8: Free Press vs. Fair Trial**

Readings: *Nebraska Press Association v. Stuart* (1976), pp. 73-88
Gentile v. State Bar of Nebraska (1991), pp. 89-104
Richmond Newspapers, Inc. v. Virginia (1980), pp. 105-21
Boutrous & Dore, “Celebrity Justice: A New Double Standard” (2004),
pp. 123-30
Pember, pp. 467-500 and 504-08

We will examine the applicability of past decisions to highly publicized current and recent cases such as the Phil Spector, Martha Stewart, Michael Jackson, Scott Peterson, Kobe Bryant and O.J. Simpson trials.

Mar. 13 **Class No. 9: MIDTERM**

Mar. 20 **SPRING BREAK**

Mar. 22 **Class No. 10: Introduction to Libel Law**

Readings: *New York Times v. Sullivan* (1964), pp. 213-34
Gertz v. Robert Welch (1974), pp. 235-74
Pember, pp. 157-234

[Review approach to writing short papers]

Apr. 3 **Class No. 11: Libel Defenses; Introduction to Privacy**

Readings: *The Florida Star v. B.J.F.* (1989), pp. 285-99
Pember, pp. 234-65, 275-92, 300-08, 315-42

Apr. 10 **Class No. 12: Libel and Privacy Compared and Contrasted**

Readings: *Shulman v. Group W* (1998), pp. 301-33
Cowan, “The Ethical and Legal Limitations to the Misrepresentation of
Fact: From Journalism to the Docudrama” (1998), pp. 275-84
Pember: review all libel and privacy reading

View in Class: excerpt from ON SCENE: EMERGENCY RESPONSE

Apr. 17 **Class No. 13: [Paper Due at 6:30 p.m. today]**

Regulation and Deregulation of Broadcasting and Other “New” Technologies

Readings: Pember, pp. 670-79, 683-709

A. Scarcity and Government Efforts to “Expand” Speech

1. The Fairness Doctrine

Readings: *Red Lion Broadcasting Co. v. FCC* (1969), pp. 335-52

2. Access By Politicians (and everyone else)

Readings: *CBS v. FCC* (1981), pp. 353-58 (headnotes and case syllabus)

B. Impact, Intrusiveness, and Governmental Efforts to “Abridge” Speech

1. On Radio and Television; Indecency

Readings: *FCC v. Pacifica Foundation* (1978), pp. 359-86
Complaints re: “Saving Private Ryan” (2005), pp. 387-95

Discuss: Janet Jackson’s “wardrobe malfunction”; SAVING PRIVATE RYAN

View in class: BLEEP: CENSORING HOLLYWOOD

Apr. 24

Class No. 14: “Sex and the City”

Readings: Pember, pp. 525-58, 715-17, 720-22

2. Obscenity and Pornography

Readings: *Miller v. California* (1973), pp. 403-19

3. On Cable

Readings: *U.S. v. Playboy Entertainment* (2000), pp. 421-31

View in Class: TV’S MOST CENSORED MOMENTS (Part 2)

4. On the Telephone and in Cyberspace

Readings: *Sable Communications v. FCC* (1989), pp. 433-43
Reno v. ACLU (1997), pp. 445-71
Ashcroft v. Free Speech Coalition (2002), pp. 473-75 (headnotes)
United States v. American Library Association (2003), pp. 477-79 (headnotes)

May 1

Class No. 15: Course Review as seen through some case studies

5. On Records, in Video Games and in Magazines

Readings: *McCullum v. CBS* (1988), pp. 481-98
Herceg v. Hustler Magazine (1987), pp. 499-512

6. On Films

Readings: *Olivia N. v. NBC* (1977), pp. 397-402
Burstyn v. Wilson (1952), pp. 513-25

Byers v. Edmondson (2002), pp. 527-35
Pember, pp. 62-66 (review), 544-45 (review) and 550-51
(review)

Course Review

Come prepared with questions about concepts or materials discussed throughout the course.

May 8 **FINAL EXAM** 7:00 – 9:00 p.m.