

# **Jour 618**

## **First Amendment and Society**

### **Winter 2018-19**

Online

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#### **Many Times Online:**

I've taught this course for 25+ years in the classroom and this is the umpteenth time I've taught this course online. The previous classes have gone very well – only a couple of technical issues and most students seemed to get engaged and do the work.

The course is “asynchronous.” That is, it is not in real time. All of the elements are “pre-recorded” and on Blackboard. That means once it's up you can go for it as quickly as you want. (Except the three tests – they will be at specified times, for security purposes).

Note that this course “officially” starts December 26 and ends January 25. You may start Friday, December 14, as all components of the course will be up on Blackboard that day except the three major tests. Those will be given at the scheduled times. The course will end January 25. There will be NO incompletes. **Please note the 3 test times and deadlines for the other components today!**

#### **The Course:**

This course is an examination of the history and philosophy of freedom of speech and press and limitations imposed upon those rights by statute, common law and court decisions. I hope you will bring careful analysis and critical thinking to the issues and cases we examine.

We live in a society diverse along many lines. I discuss legal issues from different points of view throughout the class.

#### **Time and Effort Expectations:**

I sent everyone a note earlier entitled “Welcome to Journalism 618 Online.” It's also located in the “Readings and Handouts” section on Blackboard, so you can refer to it again. Please take it seriously! You need to set aside

appropriate time for this course, and bring your mind to it. Simply stated, an online course puts more responsibility on you.

**Blackboard:**

This course is on Blackboard. All lectures, handouts, quizzes and grades are on Blackboard. The three tests will be on Blackboard at the assigned times. **Use Firefox to access Blackboard; do NOT use Chrome, Safari or any other Web browser, as Blackboard does not work well with them.** If you have issues with Blackboard or need assistance, go to [blackboardsupport@ku.edu](mailto:blackboardsupport@ku.edu) or call 864-2600. Please note it is your responsibility to have Firefox on your machine and an appropriate internet connection.

I strongly suggest you check Blackboard for announcements regularly.

Note that Blackboard is linked to **your KU e-mail address**. Blackboard will notify your KU e-mail address whenever I post an announcement.

**Office “Hours:”**

This course is offered over winter break. My schedule will vary during that time, as will yours. I will be travelling some over break, but will have internet available and expect to be online at least once a day most days. I will arrange to “meet” with you when necessary by e-mail. Do keep in mind that I am NOT available 24/7, and that there are 40 of you and one of me. Please plan ahead.

**Course Objectives:**

- An appreciation for the First Amendment and the freedoms it represents.
- An appreciation for the difficulties free expression brings to a diverse society.
- Critical thinking about expression of ideas.
- Understanding of the organization and function of the legal system.
- Understanding of basic First Amendment case law so you know when you or a coworker might be heading into potentially difficult situations.

**The Book:**

Tedford, Thomas, *Freedom of Speech in the United States*, **Seventh Edition**, Strata Publishing Company. Note this is an older edition of the book. It's cheaper for you, there are lots of them out there, and I can update the few areas with changes since 2010 in class. Note we will skip around in the book due to the differences in its organizational structure and my organizational structure.

**Please note that the KU Bookstore is unable to get the Seventh Edition of the book. You will have to go online to get it from Amazon, Ebay or wherever. I'd do that sooner rather than later.**

**The Movie (and other materials):**

Please watch *My Cousin Vinny* sometime early the course. We'll refer to it when talking about legal procedure. Hey – it's a funny movie.

Here are some other movies/TV shows you can watch. They more or less deal with the law, courts, and legal process and are more or less highly recommended by legal groups (like the American Bar Association, or ABA). The goal here is to get you some idea of how legal procedure works. Remember, all films and TV shows vary to a lesser or greater extent from reality.

*Law & Order* (the original series)

*Erin Brockovich* (she was a Lawrence HS grad, by the way)

*To Kill a Mockingbird*

*The Verdict*

*12 Angry Men*

*A Man for All Seasons* (historical, about Henry VIII and Thomas More, but England is the root of our legal system.)

*A Few Good Men* (if you can handle the truth!)

*The Firm*

*The Pelican Brief*

*Runaway Jury*

Older reruns of *The Peoples Court* (with Judge Wapner)

*Animal House* (This movie has nothing to do with the law, really, but everyone ought to see it. There is a great scene where the Delts are brought up before the student court.)

**Read the Newspaper!**

I strongly encourage you to read a newspaper (hard copy or online) every day (or regularly, at least), paying special attention to articles about law cases or the legal system. Feel free to send any you find interesting to me and I'll send them on to the class.

Many of you need to improve your writing generally, and writing news for print/online specifically. Reading newspaper articles about law cases will help you understand how to write your case news story, and help you with news style in general. Really.

There are a couple of "Writing Tune ups" in the "Readings and Handouts" section. These will help your writing tremendously, and they're the rubrics I use to grade your news stories on "style."

### **Course Organization:**

The heart of the course is found on Blackboard under the "Units" tab. Click on that tab, and the entire course shows up, broken down by Units. Click on each Unit and you'll see one or more Quizzes (keyed to book chapters), video lectures, and/or handouts/documents. Everything you need for the course is there.

Here's what I expect you to do:

First, read the chapter(s) indicated. Take notes. Second, using your notes and the book, take the Online Quiz. You will have one hour in which to finish, and you may take it three times in that hour. The object here is to get you to learn the material and get 100% on the Quizzes, so I would read the book first before starting the Quiz. Third, look at the lectures (using whatever handouts or other materials are in that Unit.) Take notes. Repeat the lectures (or parts of them) as necessary. If something still doesn't make sense, send me a note, and we'll "meet."

I've tried to build the course material for each Unit in that order: Book, Quizzes, Lectures. Obviously, you can do them in any order you want (I won't be standing there watching you), so do what works best for you. Take notes (especially on the Quizzes, because after the third time, you won't have access to a given Quiz any longer). Review the lectures as many times as you want. Stop them, back them up, look at parts again and again. Take notes. Remember, you can use your notes for the Tests.

### **The Graded Components:**

## **Quizzes:**

**All Quizzes must be completed by midnight, Monday, January 21.**

The Quizzes are open-book. You will have one hour to take the Quiz, and you may take it three times in that hour. I suggest you read the chapter first, take some notes, then take the Quiz with the book open. Then check your answers and re-take the Quiz if necessary.

You will note that the Quizzes are designed to get you to read the book – and also present more material and explanations following the correct answer. Also, I will include a few questions from the Quizzes on each of the three major Tests, so you might want to take some notes on the Quiz questions for later review.

We had very few technical problems with the quizzes on Blackboard. However, **if you're doing a Quiz and something goes wrong, please e-mail me immediately.** I may not respond immediately but I will have a record of when it happened and, if necessary, we can turn it over to the IT people. Again, folks, if you're doing this close to deadlines, we might not be able to work it out – you might lose points. So plan ahead on doing the work.

A quirk with the Quiz scores as reported in the Grade Center: Blackboard ignores each Quiz until a score is entered, either automatically or by hand. Blackboard automatically enters your score after you complete the Quiz. Until you do a Quiz (or if you don't do one at all) Blackboard does not add the 10 points possible into the total possible points. This is tough to explain, but, essentially, you have an artificially high score until you take all of the Quizzes (unless you get 100% on all of them). If you do not take a Quiz by the midnight deadline, I will go through and put a 0 in, and your score (and percentage) will then drop.

## **Tests:**

There are three online Tests, each containing 40 multiple choice and true/false questions. Each question is worth 3 points for 120 points total per Test. Each Test will have at least one question from the Quizzes contained in its material. Each Test is worth 20% of your grade. The Tests are not comprehensive. Please note today the time and date of all of the Tests. If you have a *serious, unavoidable* conflict with a scheduled test, notify me at least one week ahead of time.

The Tests are open-book/open note. You may NOT have any human help by any method during the test. You will have one hour from when you start to take each test. That is, if you start at 10:02 a.m., you will have until 11:02 a.m. to complete the Test. You will have one question to answer at a time. Most students complete these tests in about 40 minutes, BUT you will want to take your time.

Please do not panic if your computer crashes or your internet burps during a Test. I typically monitor the Tests during the “normal” test time. Send me a note immediately. I can usually see you’ve crashed as I’m monitoring. I’ll re-set the test and you can start again with another hour to take it. This hasn’t been a big problem (seven times out of 300+ students as I recall), so don’t panic. We’ll figure it out. **BUT – every technical issue I’ve seen (except just an old-fashioned computer crash) has been because the student was using Chrome or Safari as a web browser! You MUST use Firefox, okay??!!**

Please note I’m trying to put a premium on rote knowledge AND organization with the tests. You’re better off knowing the answer off the top of your head, but you will have a little time to check on some things – if you’re organized.

I’ve put three Test study guides under the “Readings and Handouts” tab on Blackboard.

#### **Law Case News Story:**

Each student also will do a news story based on a law case assigned at the end of this syllabus (and also in the “News Story” tab on Blackboard). You need to write the news story as it would appear in the *Journal-World* or on a local radio or television station - that is, for an average audience. See the assignment sheet at the end of the syllabus. **Please review the “Writing Tune-ups” for style tips. Proofreading and editing helps!** Most students lose points for poor grammar, typos, wrong words, run-on sentences and the like. Get the idea??!! They also lose points for the wrong outcome of the case, wrong court, no quotes, and the like, too!! Don’t wait until the last minute!!

#### **Assessment Survey:**

You will take an online survey of your general knowledge of the First Amendment before beginning the course. This does NOT affect your grade in any way as long as you complete it; I will not even know your score. We

need to assess our students' learning in broad areas for the J-School's assessment and accreditation and the University's assessment and accreditation. You will receive an incomplete in the course unless/until you take the online assessment. I will post the URL online and send you a note when it goes up. Note that you do have to put your name on the assessment (so we make sure everyone completes it), but it will not affect your grade as long as you complete it.

**Grading:**

Test 1	20% = 120 points
Test 2	20% = 120 points
Test 3	20% = 120 points
News Story	20% = 120 points
Quizzes	<u>20% = 120 points</u> (12 Quizzes; each worth 10 pts.)
Course Total:	100% = 600 points

Final grade percentages are: 0-59.99% = F; 60-61.99% = D-; 62-67.99% = D; 68-69.99% = D+; 70-71.99% = C-; 72-77.99% = C; 78-79.99% = C+; 80-81.99% = B-; 82-87.99% = B; 88-89.99% = B+; 90-91.99% = A-; 92-100% = A.

All grades will be posted on Blackboard. You can see where you stand by simply adding your points and dividing by the total possible at the time you're checking your grades. Note again that BB ignores Quizzes you have not taken until either you take the Quiz before the deadline, or I enter zeros after the deadline.

**Misconduct:**

Unfortunately, I need to remind you that you are bound by the university rules on academic misconduct, as found in the current edition of the timetable (online). If you have any questions about what constitutes cheating, please ask BEFORE your endeavor. Any instance will result in failing the course and a recommendation of expulsion from the School and University.

**Policy on Plagiarism and Fabrication/Falsification -- Adopted May 7, 2004:**

The William Allen White School of Journalism and Mass Communications does not tolerate plagiarism, fabrication of evidence and falsification of evidence.

Penalties for plagiarism, fabrication or falsification can include a failing grade for this course and expulsion from the School of Journalism and Mass Communications.

If you have any questions about what constitutes plagiarism, fabrication or falsification, please consult the professor(s) of this course.

*The following definitions are from Article II, Section 6, of the University Senate Rules and Regulations, revised FY98.*

### **Plagiarism**

Knowingly presenting the work of another as one's own (i.e., without proper acknowledgement of the source). The sole exception to the requirement of acknowledging sources is when the information or ideas are common knowledge.

### **Fabrication and Falsification**

Unauthorized alteration or invention of any information or citation in an academic exercise

### **Journalism School Policy on Classroom Attendance:**

"No student may add a journalism class after the 20th day of a semester.

"Students must attend their classes and laboratory periods. Instructors may take attendance into account in assessing a student's performance and may require a certain level of attendance for passing a course. Instructors may choose to drop students from a course, based on attendance, without consent.

"The School of Journalism reserves the right to cancel the enrollment of students who fail to attend the first class or laboratory meeting."

"The KU Office of Student Financial Aid is required by federal law to determine whether students who receive aid are attending each class in which they are enrolled. Instructors are required to report to that office absences of students who have stopped attending and names of those who have enrolled but never have attended. Students who do not attend classes may be required to repay federal and/or state financial aid.

"Students who receive any form of financial aid should learn all requirements including minimum hours of enrollment and grades to qualify for and retain that aid."

**Inclement Weather and Special Needs (Yeah – it's an online course, but....)** - In the event of inclement weather, the decision to cancel classes is made by KU officials. To determine whether snow or icy conditions have canceled classes, call 864-7669 (864-SNOW). The Office of Disability Resources (DR), 22 Strong Hall, 785-864-2620 (v/tty), coordinates accommodations and services for KU students with disabilities. If you have a disability for which you may request accommodation in KU classes and have not

contacted DR, please do so as soon as possible. Please also contact me.

*Revised 8/3/06*

**Copying or Recording** - Course materials prepared by the instructor, as well as content of all lectures presented by the instructor, are the instructor's property. Video and audio recording of lectures without instructor consent is prohibited. On request, the instructor usually will permit students to record lectures, on the condition that these recordings are only used as a study aid by the individual making the recording. Unless the instructor gives explicit permission, recordings of lectures may not be modified and must not be transferred or transmitted to any other person, whether or not that individual is enrolled in the course.

*August 17, 2009*

## Course Organization

### Philosophy and Theory:

Tedford Reading:

Unit 1:	Introduction to the Course (Lecture 1.22)	
Unit 2:	A Little History - History (Lectures 3.1, 3.2)	Chapters 1 & 2 (Quiz)
Unit 3:	Philosophers Old and New (Lectures 4.2, 4.3)	Chapter 15 (Quiz)
<b>Application:</b>		
Unit 4:	The Documents of Freedom - Declaration of Independence - The U.S. Articles of Confederation - The U.S. Constitution - The First Amendment (Lectures: 5.1, 5.2, 5.3, 5.4) (Study Guide on the Documents of Freedom)	Dec. of Ind., Art. Confed., Constitution First Amend.
Unit 5:	The U.S. Legal System and the Courts - The Courts (Lecture 6.1)	Appendices 1, 2, 3

### Practical Interpretation:

Unit 6:	Prior Restraint (Censorship) - Pr. Restraint - Sedition	Chapters 3, 7, 9, & 12 (pp.312-339)
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- Pr. Restraint – Media (Quiz)
- Pr. Restraint – Contract Law/  
Student Expression  
(Lectures 7.1, 7.2.1, 7.3.1)

Unit 7: Fighting Words and Hate Speech  
- Fighting Words/Hate Speech  
(Lecture 8.1)

Unit 8: Forums, TPM, Demonstrations Chapters 11 & 12  
- TPM Basics (Quiz)  
- TPM/Hostile Audience  
- Symbolic Speech  
(Lectures 9.1.1, 9.2, 9.3)  
(Handouts *Hill v Colorado*, *Phelps v Manchester*)

**First Test – Wednesday, January 9, 6-7 p.m., Central Time, on Blackboard**

Unit 9: Defamation/Libel Chapter 4  
- Common Law Libel (2 Quizzes)  
- Constitutional Libel  
- Resurgence of Common Law Libel/  
Criminal Libel  
- New Media Libel  
(Lectures 10.1, 10.2, 10.3, 10.4, 10.5)  
(Handout: *S.C. v Dirty World*)

Unit 10: Invasion of Privacy Chapter 5  
- Overview (Quiz)  
- Intrusion  
- False Light  
- Disclosure of Private Fact  
- Appropriation  
(Lectures 11.1, 11.2, 11.3)

**Deadline to talk about your case with me – Tuesday, January 15, Noon Central Time.**

Unit 11: Three “Special Problem” Areas Chapter 10 &

- Journalist's Privilege 14 I & II
- Judicial Access (Quiz)
- Access to Meetings & Information  
(Lectures 13.1, 14.1, 15.1)

**Second Test – Thursday, January 17, 6-7 p.m., Central Time, on Blackboard**

**News Story Due Monday, January 21, 11:59 p.m., Central Time by e-mail to my inbox**

**All Quizzes complete Monday, January 21, 11:59 p.m., Central Time.**

Unit 12: Commercial Speech Chapters 8 & 13  
 - Com'l Speech – First Amendment (3 Quizzes)  
 - Com'l Speech - Regulatory  
 - Copyright  
 - Trademark  
 (Lectures 16.1.2, 16.2.2, 16.3.2, 16.4)  
 (Handout: "Commercial Speech Evolution")

Unit 13: Administrative Law Chapters 14 III &  
 - Administrative & Electronic Media Law 8 I  
 (Lecture 17.1) (NO Quiz)

Unit 14: Obscenity and Indecency Chapter 6  
 - Obscenity (Quiz)  
 - Indecency  
 (Lectures 18.1.2, 18.2.2)

Unit 15 Some Final Thoughts  
 - The Collision Among Legal Spheres  
 (Lecture 19.1)

**Third Test – Friday, January 25, 6-7 p.m., Central Time, on Blackboard.**

**Deadline for Assessment Survey: Friday, January 25, 11:59 p.m., Central Time**

## Law Case News Story

You will find and read a law case I assign and write a print or broadcast news story of no more than two pages, double-spaced, for an average audience.

### Objectives:

- 1) To get you to find a law case.
- 2) To get you to read the law case.
- 3) To get you to understand the case.
- 4) To get you to interpret the case into plain, understandable English.
- 5) To get you to write a news story about the case for an average audience focusing on the important communications-related issues relevant to the audience.

Please note this is an independent study assignment. Many of you will have to do research or consult with someone to understand the facts, law and procedures of your case. You may do any research or talk with anyone about this case except current or former students who have the same case as you. You must write your own news story in your own words. Make sure you use the citation numbers listed below. There are several versions of these cases as they move through the system; if you get the wrong one you'll get the wrong result.

**Caution:** Lawyers, law students or those steeped in the law may tend to get “carried away” with all the legalities of the case and miss the main, communications-related issue. Part of being a reporter or stratcom practitioner is speaking with experts and focusing them on the issues as they directly relate to your audience and then interpreting those issues simply for that audience. I would strongly suggest you read several news stories in the *J-W* or other mainstream newspaper covering court cases. You may attach them when you send in your story if you want and I will use them as the reference for style. (That is, I'll compare your story to those for purposes of grading it as a news story.) Please note: some news stories that appear in real newspapers aren't written very well. Feel free to talk with me about your case or sample news story **before Tuesday, January 15 at noon, Central Time!!**

**Additional Caution:** Some of these cases now have commentary and/or news stories online about them, given the proliferation of online legal and newspaper sites. As with everything else in journalism, this story needs to be YOUR work, not plagiarized from somewhere else. You will fail the course if you plagiarize and I will refer the matter to the Dean's office. Please list any works/sites you use after your story. Any questions – please ask BEFORE the deadlines!

Although you need to understand what is going on in all aspects of the case, don't get too involved in the intricacies of monetary damages, procedural quirks and the like. Look at the big picture. What's the legal issue, in one, simple sentence? Who won? Why did the court find as it did? What's this mean to Joe and Jane Sixpack? Again, reading a few real stories dealing with court cases will probably help.

Grading: 50% on your understanding of the case; 50% on the story as a news story.

Some grading considerations on legal aspects of the case:

- Did you get the decision right? (who won?)
- Do you understand “where” this case is (federal or state; level of appeal)?
- Do you understand the communications-related issue the court explained?
- Do you understand why the court found as it did?
- Do you understand the disposition of the case? (End of the line, thrown back for retrial/rehearing on some issues, thrown out?)

Some grading considerations on the story as a news story:

- Would my 90-year-old mother or 18-year-old son understand your story?
- Have you **avoided** talking about “plaintiffs, respondents, petitioners, remands” and the like (that is, using indecipherable mumbo-jumbo legal jargon)?
- Do you have a simple, strong, meaningful, engaging lead? Good style? Misspellings or typos? Good grammar? Logical flow?
- Is the case name at the top left and your name at the top right?

Style: Two pages or less, double-spaced, no smaller than 12-point type, normal margins. You can lay it out like a print or broadcast news story if you want. **You can make up reasonable quotes from “participants.”** (Note: I am NOT talking about quotes from the judge’s opinion, but the plaintiff, defendant, or other interested parties. Quoting the judge is fine, but let’s hear from the “real people.” They are – or should be – far more interesting!) **In fact, to get an “A,” you will have to have quotes in the story!** You can start with a headline.

Please put the title of the case at the top left of your paper and your name at the top right, thus:

Girod v. Bendapudi (Case name)  
328 US 524 (1984)

Your Name

**Due: Monday, January 21, 11:59 p.m., Central Time.**

If you have questions, ask early!! **I will not discuss the assignment or your case AFTER Tuesday, January 15, Noon Central Time.** And remember, you may not consult with a current or former student with the same case.

**Case assignments are on the next page.**

<b>Last name begins with:</b>	<b>Case:</b>
A-B	Morganroth v. Whittall 411 N.W. 2D 859 (1987)
C-F	Anderson v. Fisher Broadcasting Co. 712 P.2d 803 (Ore. 1986)
G	Belo Broadcasting Corp. v. Clark 654 F.2d 423 (5th Cir., 1981)
H	Board of Airport Commissioners of Los Angeles v. Jews for Jesus, 482 U.S. 569 (1987)
I-M	Clark v. ABC 684 F.2d. 1208 (6th Cir. 1982)
N-P	Pruneyard Shopping Center v. Robins 447 U.S. 74 (1980)
Q-T	Arkansas Writer's Project, Inc. v. Ragland 481 U.S. 221 (1987)
U-Z	Michigan Citizens for an Independent Press, et. al., v. Richard Thornburgh, United States Attorney General, et. al. 868 F.2d. 1285 (D.C. Cir. 1989)