



**JOUR 560 Seminar in Mass Communication
Law
2 Units**

Summer 2018 – Tuesdays – 1-4:40 p.m.

Section: 21035

Location: ASC 331

Instructor: Jonathan Kotler

Office: ASC 202A

Office Hours: Tuesdays & Wednesdays, 9 a.m. to 12:40 p.m.
and by appointment

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I. Course Description

The touchstone of all mass communications law in this country is the First Amendment to the Constitution of the United States, a “living document” now entering its third century of existence. It is virtually impossible to have any rational understanding of the law governing the press without at least a working knowledge of the First Amendment and how it is related to the other laws and legal theories with which the media must deal on an ongoing basis.

Furthermore, in recent years, partly as a result of increased press conduct and partly as a result of increased government secrecy (mixed liberally, especially in the past few years with pathological doses of paranoia and partisan politics), there have been spawned numerous judicial decisions, as well as legislative reaction to media (especially the new digital and broadcast media) which seem as intent on making the news as reporting it.

The focus of this semester, therefore, will be to examine various aspects of the conflict (to the extent there is one) between the First Amendment, on the one hand, and other competing societal interests, on the other. Our road map for this examination will be court decisions that have spoken on the issue of these competing interests. The format for this examination will be a series of lectures based on discrete areas of the law that affect the way in which journalists seek to do their work, concurrent with the preparation of term project topics, based on major First Amendment cases of the past and present. At the conclusion of the semester, seminar participants will be asked to argue for and predict the outcome of a hypothetical United States Supreme Court case based on today’s realities, but taking into consideration key legal precedents of the past.

II. Overall Learning Objectives and Assessment

There are two.

First, to enable each of you to understand what your rights are as journalists (and as Americans) under our system of laws, and especially under the First Amendment to the Constitution of the United States, while recognizing that to the rest of the world, these things are no more than local ordinances, if that.

Secondly, to keep you out of trouble; that is, to recognize the limits of your legal rights and to recognize, as well, the many ethical dilemmas presented to members of the media when they seek to exercise their legal rights. Unfortunately, there is oftentimes a conflict between what is legally possible and what is ethically permissible.

III. Description of Assignments

This is a seminar organized along traditional graduate school seminar lines, but in a truncated time frame. Hence, there will be no in-class examinations. Instead, there will be one comprehensive take home examination that will cover the material discussed during the course lectures, and, an in-class oral presentation followed by a short, pre-assigned research paper. In other words, your course grade will be based in part on the fruits of your research and, in part, on your ability to communicate to your classmates and to your instructor what you have learned.

More specifically, your oral presentation on will be worth 100 points or 20% of your grade and will take place on the last scheduled class day (August 14).

The take home examination, which is worth 200 points or 40% of your grade, will be assigned late in the semester and will be due either in hard copy or by email to: kotler@usc.edu on or before your scheduled class on August 7.

And, finally, your written research paper will be worth an additional 200 points or 40% of your semester grade. Please note that these will be due by hard copy at the beginning of your class session on July 31.

Warning: Any assignment turned in late will be subject to a penalty of one grade for each day or portion thereof late beyond the due date and time.

IV. Grading

a. Breakdown of Grade

Assignment	Points	% of Grade
Oral presentation	100	20
Research paper	200	40
Take home exam	200	40
TOTAL	500	100%

b. Grading Scale and Standards

This is a seminar organized along traditional graduate school seminar lines, but in a truncated time frame. Hence, there will be no in-class examinations. Rather, your course grade will be based on the fruits of your research and your ability to communicate to your classmates and to your instructor what you have learned. More specifically, your oral presentation on your semester research topic (see above) will be worth 100 points or 20% of your grade and your written presentation of same an additional 200 points or 40% of your semester grade. Furthermore, there will be a single take home examination, worth 200 points or 40% of your course grade.

Total number of points available: 500.

To earn a grade of “A” in this course, you will have to amass a total of 450 points (90% of the 500 points available); an “A-”, 440 points; a “B+”, 425 points; a “B”, 400 points; a “B-”, 390 points; a “C+”, 375 points; a “C”, 350 points; a “C-”, 340 points. Anything less than 340 points = a grade of “F” for the course.

Please note that any assignment turned in late will be subject to a penalty of one grade for each day or portion thereof late beyond the due date and time.

V. Required Readings and Supplementary Materials

The Law of Journalism and Mass Communication, by Trager, Ross and Reynolds, Sage Pub. Co. 6th Edition

VI. Laptop Policy

All undergraduate and graduate Annenberg majors and minors are required to have a PC or Apple laptop that can be used in Annenberg classes. Please refer to the [Annenberg Digital Lounge](#) for more information. To connect to USC’s Secure Wireless network, please visit USC’s [Information Technology Services](#) website.

VII. Add/Drop Dates for Session 773 (7 weeks: 7/2/18 – 8/17/18)

Tuesday, July 10: Last day to register and add classes for Session 773

Tuesday, July 10: Last day to drop a class without a mark of “W” and receive a refund for Session 773

Friday, July 20: Last day to drop a course without a mark of “W” on the transcript for Session 773. [Please drop any course by the end of week three (or the 20 percent mark of the session) to avoid tuition charges.]

Friday, July 20: Last day to change pass/no pass to letter grade for Session 773. [All JOUR program courses must be taken for a letter grade.]

Wednesday, August 8: Last day to drop a class with a mark of “W” for Session 773

VIII. Course Schedule: A Weekly Breakdown

(Note that all “Chapter” references below are to your course text. It is expected that students will have familiarized themselves with the referenced course text material in advance of each week’s discussion of same.)

Tentatively (and recognizing that schedules are always subject to change due to unforeseen circumstances), the semester should proceed as follows:

	Topics/Daily Activities	Readings and Homework	Deliverable/Due Dates
Week 1 7/3	The American court system, federal and state; differences and similarities. The First Amendment.	Chapter 1	
Week 2 7/10	Us and them: The law of prior restraints on publication, in the United States and abroad. The	Chapters 2-3	Research project assigned.

	Minnesota Rag and the Pentagon Papers. Introduction to Defamation.		
Week 3 7/17	Defamation (continued). It's different in the USA: The lasting legacy of New York Times v. Sullivan and Gertz v. Welch.	Chapters 4-5	
Week 4 7/24	Privacy. The four types of civil actions. 911 and the end of privacy. Orwell's 1984: Are we there yet? Civil liberty v. national security. The USA Patriot Act. FISA and secret courts, secret wiretaps, and warrantless searches. Facebook and their Silicon Valley ilk.	Chapter 6	
Week 5 7/31	Practical Problems: Free Press v. Fair Trial (the 1st Amendment vs. the 6th Amendment?); Bruno Richard Hauptmann, Dr. Sam and O.J.: What did they have in common? The protection of sources and work product ("Shield Laws") The Branzburg trilogy: Wishing doesn't make it so.	Chapters 9-10	Research papers due at the beginning of class. Take Home Examination assigned. Due either by hard copy or email to kotler@usc.edu, by start of your class on August 7.
Week 6 8/7	Practical Problems: Access to Government (FOIA, state and federal public records and open meetings laws); The regulation of electronic media. The Communications Act of 1934 and The Telecommunications	Chapters 8, 11, 12	Take Home Examination due at start of class.

	Act of 1996. It's a whole new ballgame. Who is a "journalist" and what is the "press"? The protection of intellectual property in a digital age.		
Week 7 8/14	Oral presentations		

IX. Policies and Procedures

Additional Policies

A few words about class attendance and cell phone and in-class computer use:

It is never acceptable to miss class because you have a conflict with an assignment or obligation in another class (or with a student activity). As soon as such a conflict becomes apparent, it is incumbent upon the student to inform the professor, instructor or advisor in the course or activity who/that has created the conflict that you have an academic obligation elsewhere. Thereafter, it is the professional responsibility of the said professor/instructor/advisor to respect your prior obligation and to take whatever steps are necessary to ameliorate the conflict which his/her course or activity assignment created. These conflicts, created by others, are not your problem. Do not make it one by remaining silent, attempting to be two places at once, or worse, cutting class. These are bad, unprofessional work habits, and surely will catch up with you in the future. (In the unlikely event that you are unable to resolve the time conflict, as aforesaid, immediately notify the professor in THIS class so that you are not caught in the middle of a situation for which you are not responsible.)

If, however, you ARE going to miss class (for some reason other than an academic/activity conflict, as aforesaid), prior notification (that is, prior to the start of class you intend to miss) is both the courteous thing to do, and is expected.

And finally, this class is a "phubbing" free zone.

The use of cell phones during class (including consulting same to receive messages or sending text messages) is strictly prohibited. When class begins your cell phones should be turned off and should remain that way (except during the official class break, if you so choose). Serial violators of this rule will be asked to leave class for the duration of the session during which they are in violation of this rule. As for computer usage, of course you may use them to take notes during class. However, using them to send or receive personal messages or to surf the Web is likewise forbidden.

David Carr, the late New York Times journalist and part-time journalism instructor, used to include the following in his course syllabi: "If you text or email during class, I will ignore you as you ignore me. It won't go well."

Consider his words as if they were mine.

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 that undertakes and completes an approved, non-paid internship during this semester shall earn academic extra credit herein of an amount equal to 1 percent of the total available semester points for this course. To receive instructor approval, a student must request an internship letter from the Annenberg Career Development Office and bring it to the instructor to sign by the end of the third week of classes. The student must submit the signed letter to the media organization, along with the evaluation form provided by the Career Development Office. The form should be filled out by the intern supervisor and returned to the instructor at the end of the semester. No credit will be given if an evaluation form is not turned into the instructor by the last day of class. Note: The internship must be unpaid and can only be applied to one journalism class.

Statement on Academic Conduct and Support Systems

a. Academic Conduct

Plagiarism

Presenting someone else's ideas as your own, either verbatim or recast in your own words - is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in *SCampus* in Section 11, *Behavior Violating University Standards* (<https://policy.usc.edu/scampus-part-b/>). Other forms of academic dishonesty are equally unacceptable. See additional information in *SCampus* and university policies on scientific misconduct (<http://policy.usc.edu/scientific-misconduct/>).

USC School of Journalism Policy on Academic Integrity

The following is the USC Annenberg School of Journalism's policy on academic integrity and repeated in the syllabus for every course in the school:

"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 plagiarizing, fabricating, cheating on examinations, and/or purchasing papers or other assignments faces sanctions ranging from an 'F' on the assignment to dismissal from the School of Journalism. All academic integrity violations will be reported to the office of Student Judicial Affairs & Community Standards (SJACS), as per university policy, as well as journalism school administrators."

In addition, it is assumed that the work you submit for this course is work you have produced entirely by yourself, and has not been previously produced by you for submission in another course or Learning Lab, without approval of the instructor.

b. Support Systems

Student Counseling Services (SCS) – (213) 740-7711 – 24/7 on call

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention. engemannshc.usc.edu/counseling

National Suicide Prevention Lifeline – 1 (800) 273-8255

Provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week. www.suicidepreventionlifeline.org

Relationship and Sexual Violence Prevention Services (RSVP) – (213) 740-4900 – 24/7 on call

Free and confidential therapy services, workshops, and training for situations related to gender-based harm. engemannshc.usc.edu/rsvp

Sexual Assault Resource Center

For more information about how to get help or help a survivor, rights, reporting options, and additional resources, visit the website: sarc.usc.edu

Office of Equity and Diversity (OED)/Title IX Compliance – (213) 740-5086

Works with faculty, staff, visitors, applicants, and students around issues of protected class. equity.usc.edu

Bias Assessment Response and Support

Incidents of bias, hate crimes and microaggressions need to be reported allowing for appropriate investigation and response. studentaffairs.usc.edu/bias-assessment-response-support

The Office of Disability Services and Programs

Provides certification for students with disabilities and helps arrange relevant accommodations. dsp.usc.edu

Student Support and Advocacy – (213) 821-4710

Assists students and families in resolving complex issues adversely affecting their success as a student
EX: personal, financial, and academic. studentaffairs.usc.edu/ssa

Diversity at USC

Information on events, programs and training, the Diversity Task Force (including representatives for each school), chronology, participation, and various resources for students. diversity.usc.edu

USC Emergency Information

Provides safety and other updates, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible. emergency.usc.edu

USC Department of Public Safety – UPC: (213) 740-4321 – HSC: (323) 442-1000 – 24-hour emergency or to report a crime. Provides overall safety to USC community. dps.usc.edu

X. About Your Instructor

An attorney by profession, **Jonathan Kotler** has been on the faculty of the USC School of Journalism (from which he graduated in 1967) since 1983, where he has taught courses on media law, media history, media ethics and international journalism, among others, in addition to supervising the school's summer graduate internship program in London for six years. In addition to graduate degrees from USC in British History and Liberal Arts, Kotler is also a graduate of the UCLA School of Law, and has represented clients at every level of the American judicial system, including before both the United States Supreme Court and the California Supreme Court. For a period of ten years, Kotler was at the USC Graduate School, where he served as Associate Dean, Dean, and finally, as the Director of Graduate and Professional Programs in the Office of the Provost. He has lectured frequently on the law of higher education throughout the United States and Canada, both for the Council of Graduate Schools (CGS) and the Western Association of Graduate Schools (WAGS), of which organization of was elected President for the academic year 2000-2001. He also was elected to and served on the board of the Association of Graduate Schools of the Association of American Universities (AAU). Kotler has two sons and four

grandsons. His oldest son, Ryan, is a graduate of Oberlin College and the Eastman Conservatory of Music and currently works for Google, Inc. His youngest son, Brendan, was a four year member of the USC baseball team and, like his father, is a graduate of both the Annenberg School and the UCLA School of Law. He currently works as a development associate for the Westfield Corporation.