



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

**Fall 2020 – Mondays – 4-5:40 p.m.**

**Section:** 21696D

**Location:** Online

**Instructor: Brendan Charney**

**Office Hours:** By Appointment

**Email:** [bcharney@usc.edu](mailto:bcharney@usc.edu)

**Phone:** (213) 633-6824

### **I. Course Description**

This course will cover the legal rights and restrictions that apply to journalists as they gather and convey news to the public.

The principal goal is to enable journalists to assert their rights and reduce the risk of legal claims.

The issues we will address are far from hypothetical.

Police may instruct you to leave areas where news is happening. Or they may demand your raw footage or notes. You may report on photographs or videos that the copyright owner won't give you permission to publish. A source may give you confidential or private newsworthy materials. The story you are reporting may involve information or data that is located in private, sensitive, or protected physical or digital areas. You may have to report, under deadline, with imperfect information, on allegations that threaten the reputations of powerful people. This course will help you understand how to analyze these issues — and when to seek further legal counsel.

In discussing the legal concepts that are most relevant to journalists, we also will seek to better understand the law as part of the subject matter of journalism. Whether you are covering politics, entertainment, business, science, technology, agriculture, or foreign affairs, legal developments are often part of the story.

This is not a lecture class. Come to class prepared to think critically and participate in discussion.

### **II. Overall Learning Objectives and Assessment**

Students will learn their legal rights and duties and how to write and speak clearly about legal issues.

Rights. Students will learn about their rights to gather information and communicate to the public. We will focus on fundamental rights under the First Amendment to the U.S. Constitution, and address other laws that protect the press and public. This includes obtaining access to public records and proceedings, protecting confidential sources and unpublished information, and using copyrighted works and trademarks for criticism and commentary without having to seek permission.

Restrictions. Students will learn how to manage the risks that attend publication and broadcast,

including claims for defamation, invasion of privacy, right of publicity, wiretapping, trespass (online and in the real world), and copyright infringement

Writing/Thinking Critically/Public Speaking. Students will learn how to address legal topics in written and oral communication. There will be opportunities to debate legal topics, and students will each draft an article about a legal topic to be selected by the student subject to the instructor's guidance.

### III. Description of Assignments

Written Article: Written feature news article about a current legal issue impacting journalists or First Amendment issue. Topic must be approved by instructor. Length: approximately 1200 words (list word count on top of first page). Articles are due on Blackboard and by email to [bcharney@usc.edu](mailto:bcharney@usc.edu) on or before class scheduled for **October 26**. Article will be the subject of workshop discussion and oral presentation during class. 400 points / 40% of grade.

Exam: One final exam. 300 points / 30% of grade.

Debate: During certain classes, students will participate in debates about the issues raised in the class. Topics will be assigned the week prior. Students will be evaluated on preparation, poise, and quality of analysis. Students will be paired into teams. Each team will have an opening statement and rebuttal. 200 points / 20% of grade.

Class Participation: Students are expected to attend each class and participate in class discussions. 100 points / 10% of grade.

Late Assignments. Any assignment turned in late will be subject to a penalty of one letter grade for each 24-hour period it is overdue. Extensions will be granted for good cause, and only if requested **before** the deadline.

### IV. Grading

#### a. Breakdown of Grade

Points for Assignments	Points	% of Grade
Written Article	400	40%
Final Exam	300	30%
Debate	200	20%
Class Participation	100	10%
<b>TOTAL</b>	<b>1000</b>	<b>100%</b>

## b. Grading Scale

95% to 100%: A	80% to 83%: B-	67% to 69%: D+
90% to 94%: A-	77% to 79%: C+	64% to 66%: D
87% to 89%: B+	74% to 76%: C	60% to 63%: D-
84% to 86%: B	70% to 73%: C-	0% to 59%: F

## c. Grading Standards

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+”, 420 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.

### *Journalism*

All assignments will be edited on a professional basis and you will be judged on the accuracy of your article, quality of analysis, clarity of writing, flow, organization, and the article’s ability to compel the reader’s attention.

“**A**” **articles** are accurate, clear, comprehensive, and well-written. They require only minor copyediting (i.e., they would be published).

“**B**” **articles** require more than minor editing and have a few style or spelling errors or one significant error of omission.

“**C**” **articles** need considerable editing or rewriting and/or have many spelling, style or omission errors.

“**D**” **articles** require excessive rewriting, have numerous errors and should not have been submitted.

“**F**” **articles** have failed to meet the major criteria of the assignment, are late, have numerous errors or both.

Your copy should not contain any errors in spelling, style, grammar and facts. Accuracy is the first law of journalism; factual errors will be seriously penalized. Fabricating a story, making up quotes or information, or plagiarizing will result in an automatic grade of “F” and may warrant potential USC/Annenberg disciplinary action

## V. Assignment Submission Policy

All assignments are due on the dates specified **posted to Blackboard** and with a backup copy **via email** to bcharney@usc.edu.

## VI. Required Readings and Supplementary Materials

- **Class text:** Ross, Reynolds and Trager, The Law of Journalism and Mass Communication, 7th Ed. (Sage)

- **Supplemental required reading** (news and law review articles, court opinions) posted weekly to Blackboard
- Optional materials (film, television, books) posted weekly to Blackboard

## **VII. 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.

## **X. Add/Drop Dates**

**Friday, September 4:** Last day to register and add classes for Session 001

**Friday, September 4:** Last day to change enrollment option to Pass/No Pass or Audit for Session 001

**Friday, September 4:** Last day to drop a class and receive a refund to avoid a mark of "W" on student record and STARS report

**Friday, September 4:** Last day to purchase or waive tuition refund insurance for fall

**Friday, October 2:** Last day to drop a course without a mark of "W" on the transcript only. Mark of "W" will still appear on student record and STARS report and tuition charges still apply. [Please drop any course by the end of week three for session 001 (or the 20 percent mark of the session in which the course is offered) to avoid tuition charges.]

**Friday, October 2:** Last day to change a Pass/No Pass course to letter grade

**Friday, November 6:** Last day to drop a class with a mark of "W" for Session 001

## **IX. Course Schedule: A Weekly Breakdown (subject to change)**

	Topics/Daily Activities	Readings and Homework	Deliverable/ Due Dates
<b>Week 1</b> Aug. 17	<b>Class Topic:</b> <i>Introduction and Overview</i> theories and history of free speech  <b>Class Activity:</b> Discuss reading	Read Text – Chap. 1	Start thinking of your article topic about media law
<b>Week 2</b> Aug. 24	<b>Class Topic:</b> <i>First Amendment Rights</i> government censorship, prior restraint, categories of protected and unprotected speech, scrutiny, public fora  <i>Near v. Minnesota, Pentagon Papers, Trump prior restraint cases, Bartnicki vs. Vopper, Knight First Amendment Institute v. Trump</i>  <b>Class Activity:</b> Discuss reading	Read Text – Chaps. 2-3	First set of debate topics assigned during class
<b>Week 3</b> Aug. 31	<b>Class Topic:</b> <i>First Amendment Rights (part 2)</i> Continued from last class  <b>Class activity:</b> Discuss reading; <b>debate</b>	Review prior week's reading; Supplemental materials posted on Blackboard	Send 2 proposed media law topics for article to instructor no later than <b>5:00 p.m. on August 30</b> (instructor will suggest 1 topic to address)
<b>Week 4</b> Sept. 7	<b>University Holiday – No Class</b>		Research and outline selected media law topic
<b>Week 5</b> Sept. 14	<b>Class Topic:</b> <i>Libel and Defenses</i> How to report without being held liable for defamation.  Protections of substantial truth, opinion, fair report of government documents. <i>New York Times v. Sullivan, Gertz v. Welch, Masson v. New Yorker, the Trump Dossier</i>  <b>Class Activity:</b> Discuss reading	Read Text – Chaps. 4-5; supplemental materials posted on Blackboard	Submit outline of selected media law topic for article no later than <b>5:00 p.m. on September 13</b>
<b>Week 6</b> Sept. 21	<b>Class Topic:</b> <i>Protecting newsgathering materials – Fourth Amendment and Reporter's Shield Law.</i>  Searches and seizures. <i>Katz. Kyllo. Hicks.</i>  Reporters' Shield <i>Branzburg and O'Grady</i>  <b>Class Activity:</b> Discuss reading; <b>workshop discussion of article topics</b>	Read supplemental materials posted on Blackboard	Second set of debate topics assigned during class
<b>Week 7</b> Sept. 28	<b>Class Topic:</b> <i>Newsgathering: privacy</i> The four torts of privacy. Limits on hidden cameras and secret taping. <i>Shulman, Gawker</i>  Right of publicity. <i>Zacchini, De Havilland</i>  <b>Class activity:</b> Discuss reading; <b>debate</b>	Read Text – Chap. 6; supplemental materials posted on Blackboard	Submit nut graf and lede for article no later than <b>5:00 p.m. on September 27</b>
<b>Week 8</b> Oct. 5	<b>Class Topic:</b> <i>Newsgathering: Public Records and Meetings (part 1)</i>	Read Text – Chap. 7; supplemental	

	FOIA, CPRA, and state open meeting laws.  <b>Class Activity:</b> Discuss reading; <b>workshop discussion of article topics</b>	materials posted on Blackboard	
<b>Week 9</b> Oct. 12	<b>Class Topic:</b> <i>Newsgathering: Public Records and Meetings (part 2)</i>  The constitutional right to attend trials and obtain court documents v. privacy rights and Sixth Amendment right to fair trial. <i>Richmond Newspapers, Press-Enterprise.</i>  <b>Class Activity:</b> Discuss reading; <b>workshop discussion of article topics</b>	Read Text – Chap. 8; supplemental materials posted on Blackboard	
<b>Week 10</b> Oct. 19	<b>Class Topic:</b> <i>Intellectual Property and Fair Use Rights (part 1)</i> How to use portions of copyrighted works and trademarks for commentary, news.  <i>Acuff-Rose, Swatch Group, Inc., Kane, Monge, Nunez</i>  <b>Class Activity:</b> Discuss reading.	Read Text – Chap. 11; supplemental materials posted on Blackboard	Third set of debate topics assigned during class
<b>Week 11</b> Oct. 26	<b>Class Topic:</b> <i>Intellectual Property and Fair Use Rights (part 2)</i>  Continued from last class. The Digital Millennium Copyright Act (digital locks, attribution, takedown notices)  Revisiting the right of publicity. <i>Comedy III Productions, Sarver, Electronic Arts</i>  <b>Class Activity:</b> Discuss reading; <b>debate</b>	Read supplemental materials posted on Blackboard	Submit final draft of article no later than <b>3:00 PM on October 26</b>
<b>Week 12</b> Nov. 2	<b>Class Topic:</b> <i>Electronic Media Regulation and Internet law</i>  FCC broadcast regulation, data scraping  <b>Class Activity:</b> Discuss reading; oral presentations of article (approximately 10 minutes each, including questions and feedback)	Read Text – Chap. 9; prepare oral presentation	
<b>Week 13</b> Nov. 9	<b>Class Topic:</b> <i>Advertising</i> FTC issues, sponsored content, “native” advertising  <b>Class Activity:</b> oral presentations of article (approximately 10 minutes each, including questions and feedback)	Read Text – Chap. 12; supplemental materials posted on Blackboard	
<b>FINAL EXAM</b> Nov. 23,	<b>Final exam</b>		

4:30-6:30 p.m.			
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## **X. Policies and Procedures**

### **Additional Policies**

Although this class will be conducted remotely, professional decorum is expected. Please dress appropriately and attend class in a place and manner that allows you to communicate effectively.

Class attendance is expected for every class. If you have a conflict, contact the instructor well before the class session to seek a solution.

Please feel free to email the instructor if you have any questions or concerns.

### **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 or public relations 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 Health Counseling Services - (213) 740-7711 – 24/7 on call*

[engemannshc.usc.edu/counseling](http://engemannshc.usc.edu/counseling)

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

*National Suicide Prevention Lifeline - 1 (800) 273-8255 – 24/7 on call*

[suicidepreventionlifeline.org](http://suicidepreventionlifeline.org)

Free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week.

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

[engemannshc.usc.edu/rsvp](http://engemannshc.usc.edu/rsvp)

Free and confidential therapy services, workshops, and training for situations related to gender-based harm.

*Office of Equity and Diversity (OED) | Title IX - (213) 740-5086*

[equity.usc.edu](http://equity.usc.edu), [titleix.usc.edu](http://titleix.usc.edu)

Information about how to get help or help a survivor of harassment or discrimination, rights of protected classes, reporting options, and additional resources for students, faculty, staff, visitors, and applicants. The university prohibits discrimination or harassment based on the following protected characteristics: race, color, national origin, ancestry, religion, sex, gender, gender identity, gender expression, sexual orientation, age, physical disability, medical condition, mental disability, marital status, pregnancy, veteran status, genetic information, and any other characteristic which may be specified in applicable laws and governmental regulations.

*Bias Assessment Response and Support - (213) 740-2421*

[studentaffairs.usc.edu/bias-assessment-response-support](http://studentaffairs.usc.edu/bias-assessment-response-support)

Avenue to report incidents of bias, hate crimes, and microaggressions for appropriate investigation and response.

*The Office of Disability Services and Programs - (213) 740-0776*

[dsp.usc.edu](http://dsp.usc.edu)

Support and accommodations for students with disabilities. Services include assistance in providing readers/notetakers/interpreters, special accommodations for test taking needs, assistance with architectural barriers, assistive technology, and support for individual needs.

*USC Support and Advocacy - (213) 821-4710*

[studentaffairs.usc.edu/ssa](http://studentaffairs.usc.edu/ssa)

Assists students and families in resolving complex personal, financial, and academic issues adversely affecting their success as a student.



*Diversity at USC - (213) 740-2101*

[diversity.usc.edu](https://diversity.usc.edu)

Information on events, programs and training, the Provost's Diversity and Inclusion Council, Diversity Liaisons for each academic school, chronology, participation, and various resources for students.

*USC Emergency - UPC: (213) 740-4321, HSC: (323) 442-1000 – 24/7 on call*

[dps.usc.edu](https://dps.usc.edu), [emergency.usc.edu](https://emergency.usc.edu)

Emergency assistance and avenue to report a crime. Latest updates regarding safety, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible.

*USC Department of Public Safety - UPC: (213) 740-6000, HSC: (323) 442-120 – 24/7 on call*

[dps.usc.edu](https://dps.usc.edu)

Non-emergency assistance or information.

*Annenberg Student Success Fund*

<https://annenberg.usc.edu/current-students/resources/additional-funding-resources>

The Annenberg Student Success Fund is a donor-funded financial aid account available to USC Annenberg undergraduate and graduate students for non-tuition expenses related to extra- and co-curricular programs and opportunities.

## **XI. About Your Instructor**

Brendan Charney is a media and entertainment attorney with the law firm of Davis Wright Tremaine in Los Angeles. He works with journalists and a wide variety of content creators to solve legal problems so that his clients can focus on newsgathering and storytelling. Brendan helps projects cross the finish line by providing pre-release legal review, obtaining access to public records and court proceedings, and negotiating and resolving disputes with potential claimants. His litigation practice principally involves defending copyright, defamation, and privacy claims against the media. Brendan devotes a significant amount of his practice to *pro bono* work to promote government transparency and protect those who exercise their right of free speech. He has two dogs, who will almost certainly introduce themselves at some point during the class.