

## *What's All This Fuss About Risk Management?©*

- If one understands the logic behind the rules, one will be more likely to follow them.
- Risk management means understanding both the rules and the logic behind them.
- The reality in this world is that one person will be sacrificed to save the masses
- Although Alpha Rho Chi is a professional fraternity, we are still a *fraternity*, and carry all of the connotations and public perceptions that go with it.
- Colorado Insurance Commissioner finds Fraternities and Sororities 6<sup>th</sup> riskiest organization to insure (As reported by *Denver Post*).

### I. Civil Law

- Fraternities have won two alcohol related civil suits in the history of fraternities.
- Parties present on the defense side of a fraternity related civil suit:
  - o Chapter president
  - o National Fraternity
  - o Fraternity's insurance company
  - o Owner of the chapter house
- "What becomes court precedent for fraternity anywhere becomes court precedent for fraternities *everywhere*"
- Law suits operate based on what the defendant is *going* to be worth, not his/her current value.
  - o For college students: if you are sued, a portion of your paycheck will go to the winner of the lawsuit.

*Negligence:* The doing or that thing which a reasonably prudent person would not have done, or the failure to do that thing which a reasonably prudent person would have done in like or similar circumstances; it is the failure to exercise that degree of care and prudence that reasonably prudent persons would have exercised in like or similar circumstances.

- Elements of Negligence:
  - o Duty – Responsibility for the welfare of all members and guests of a private organization or establishment.
    - See pledge manual: obligations of a brother.
  - o Breach of Duty – Was that responsibility of duty violated?
    - Did you violate one of the obligations of a brother?
  - o Proximate Cause – Who was the direct cause of the incident?
  - o Foreseeability – Should this group have been able to foresee the incident?
    - If the incident could have been foreseen, it could have been prevented.
    - If measures weren't taken to prevent the foreseeable incident, the result is negligence.
- Foreseeability: Always plan for the **worst case scenario**

*Liability:*

- o Tort – physical incident leading to negligence.
  - Most typical type of liability.
- o Contract – any agreement taking place between two people over the age of 18.
  - Membership in an organization is a contract.
  - If one of the members entering in a contract is not 18, he/she needs a guardian to enter into that contract for him/her.

- Fiduciary – responsibility of a person as written in his/her job description (constitution)
  - Responsibility of the president is to enforce the rules of the organization, as written in the constitution.
    - Also written in the constitution: all members of the organization must follow the law.

## II. Criminal Law

- Group liability considerations
  - Groups Plan Activities – social events
    - Social chair is responsible for all social planning activities: it would be prudent to assign this to the most responsible person in the organization
    - Most often, social chair is a position assigned to the “most fun” person in the organization: this can be considered criminal negligence, especially if social chair is underage.
    - By appointing an irresponsible person to social chair, those responsible for electing that person are also considered negligent.
    - Those who vote “yes” to host a social event are responsible for that event.
    - Liability still ultimately falls on the president because he/she called the vote.
      - A roll call vote (reading the names of each member and requesting an up or down vote) is the safest way to call a vote in a risky situation.
  - Groups Practice Traditions
    - Not actually discussed; “we’ve always done it this way.”
    - How do traditions correspond to foreseeability? Are they dangerous?
  - Accessories – all members of an organization can be considered accessories to any organization sponsored event.

## III. Alcohol Issues

- Women’s fraternities: “if we don’t allow alcohol in our facility, we lower our risk, and we keep the facility nicer; if you don’t spend money on alcohol, you have more money to spend on the facility”
- Men’s: fraternities: “We know you don’t spend money on alcohol, so we’ll pay for everything and invite you to our house to drink and party”
- Number one (monetary) claim on college campuses is alcohol related
- Two rules:
  - 21 Year Age Limit: federally mandated state law.
    - 70% of all college students are under 21.
    - A majority of the 30% who are 21 *don’t* drink as much as they did before their 21<sup>st</sup> birthday, and don’t attend functions where those under 21 are drinking.
  - Public Intoxication: it is illegal to be drunk outside of a private establishment.
    - A police officer is required by law to arrest anyone who appears to be drunk in public.
- If everyone drinks responsibly, there would be no need for 1<sup>st</sup> rule, and 2<sup>nd</sup> rule would be an obsolete point.

## IV. Hazing

- Hazing is not necessarily more prevalent than ever, society as a whole is just more aware.
- 97% of all Hazing cases involve alcohol

## V. Sexual Assault

- 70% of all acquaintance rapes involve alcohol
- 90% of all acquaintance rapes on campus involve alcohol
  - o 90% of those occur in fraternity houses.
- Legal intoxication never equals legal consent to sex
  - o Any woman who is legally intoxicated cannot legally consent to sex.

## VI. So, how do we *manage* our risks?

- *Bad answer:* Best way to avoid risk is to get rid of the organization.
- *Bad answer:* Assume the risk; prepare to accept the responsibility for your actions.
- *Bad answer:* Transfer the liability; check IDs.
- *Best answer:* Reduce liability
  - o Create policy that accounts for all risk.
    - No underage consumption
    - Safe transportation
    - Licensed vendor
    - Alternative beverages
    - Food
    - Foreseeability

## VII. Etc.

- Any event that comprises fraternity members and is announced during a fraternity event, can be considered a fraternity event.
  - o Reduce responsibility of fraternity at “independent” functions by not having any record of announcing them through official fraternity lines.
    - Don’t announce at chapter.
    - Don’t use chapter list serves.
    - Invite brothers as friends, not as a fraternity.
- Fraternity Insurance Purchasing Group – Prewritten risk management policy, available from any Greek Life Advisor.
- Alumni Associations who on their chapter houses are most liable.
- The worst rule you can have is the rule you’re not willing to enforce; if you don’t adopt policy because you’re not willing to enforce it, you assume the rest of the risk.
- The privileges have to outweigh the burdens; otherwise there is no point to having an organization.

***Rick Barnes***

***817-788-5019***

***[barnes@campuspeak.com](mailto:barnes@campuspeak.com)***

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