INVICTUS
Hazing and the Future of
Black Greek-letter Organizations

Gregory S. Parks
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section I</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>The History &amp; Evolution of Rites of Passage,</td>
<td></td>
</tr>
<tr>
<td>Pledging and Hazing</td>
<td></td>
</tr>
<tr>
<td>1. Of Rites and Rituals:</td>
<td>1</td>
</tr>
<tr>
<td>The History of Hazing and Pledging</td>
<td></td>
</tr>
<tr>
<td>2. Hazing, Pledging, and BGLO Culture: 1920s – 1980s</td>
<td>16</td>
</tr>
<tr>
<td>3. The Beat Goes On:</td>
<td>27</td>
</tr>
<tr>
<td>Hazing and BGLOs, The 1990s</td>
<td></td>
</tr>
<tr>
<td>4. Bring the Beat Back:</td>
<td>48</td>
</tr>
<tr>
<td>Hazing and BGLOs, The 2000s</td>
<td></td>
</tr>
<tr>
<td>5. And The Beat Continues:</td>
<td>75</td>
</tr>
<tr>
<td>Hazing and BGLOs, 2010 – 2014</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section II</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Implications and Strategies</td>
<td></td>
</tr>
<tr>
<td>6. Hazing Litigation:</td>
<td>101</td>
</tr>
<tr>
<td>Criminal and Civil Sanctions</td>
<td></td>
</tr>
<tr>
<td>7. Arbitration as a Response</td>
<td>118</td>
</tr>
<tr>
<td>to the Litigation Dilemma</td>
<td></td>
</tr>
</tbody>
</table>
## Section III
### Understanding the Hazer:
#### Legal and Social Scientific Perspectives

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.</td>
<td>Organizational Deviance:</td>
<td>137</td>
</tr>
<tr>
<td></td>
<td>The Role and Validity of Beliefs</td>
<td></td>
</tr>
<tr>
<td>9.</td>
<td>Criminal Deviance:</td>
<td>167</td>
</tr>
<tr>
<td></td>
<td>Personality, Drives, and Risk Awareness</td>
<td></td>
</tr>
<tr>
<td>10.</td>
<td>Making Sense of the Violence:</td>
<td>194</td>
</tr>
<tr>
<td></td>
<td>The Intersection of Race and Gender</td>
<td></td>
</tr>
<tr>
<td>11.</td>
<td>Hazing and Organizational Culture</td>
<td>231</td>
</tr>
</tbody>
</table>

## Section IV
### Understanding the Hazing “Victim”:
#### Legal and Social Scientific Perspectives

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>12.</td>
<td>Hazing Victimization:</td>
<td>288</td>
</tr>
<tr>
<td></td>
<td>A Question of Personality Factors</td>
<td></td>
</tr>
<tr>
<td>13.</td>
<td>Hazing Victim Consent?:</td>
<td>299</td>
</tr>
<tr>
<td></td>
<td>A Psycho-legal Analysis</td>
<td></td>
</tr>
<tr>
<td>14.</td>
<td>Hazing Victim Consent:</td>
<td>338</td>
</tr>
<tr>
<td></td>
<td>An Evidentiary Basis</td>
<td></td>
</tr>
</tbody>
</table>

**Conclusion: Is the End Near?**  390

**Appendix**  395
Introduction

In March of 2014, two things occurred that rocked the world of collegiate fraternities. First, *The Atlantic* magazine published a cover story titled “The Dark Power of Fraternities,” a year-long study, and ultimately a critique, of these organizations. The article sparked a broader dialogue about the state of college fraternities—e.g., in popular culture and with regard to their tensions with host institutions. This dialogue reverberated across a host of media, including television, radio, and print. Second, Sigma Alpha Epsilon Fraternity (SAE), one of the nation’s largest and most storied college fraternities, eliminated pledging. This was in part due to a *Bloomberg* report that found SAE to be the deadliest fraternity to join, at least in recent years. It was also in part because JPMorgan Chase & Co. stopped managing SAE’s charitable foundation given the bank’s concern about SAE’s bad publicity.

This public dialogue reflects a long-standing debate held on campuses, at conferences, in chat-rooms, and in Facebook groups, usually amongst a small community of individuals. For years, members of historically African American fraternities and sororities—also known as black Greek-letter organizations (BGLOs)—have grappled with a particularly violent brand of hazing and questions about its utility, necessity, and potential for being the root of these organizations’ demise.

Black Greek-letter organizations are old and storied institutions, the first—Alpha Phi Alpha Fraternity—being founded in 1906 on the campus of Cornell University. A confluence of organizational, institutional, and contextual factors gave rise to Alpha Phi Alpha and helped spawn and perpetuate seven other organizations between 1908 and 1922—Alpha Kappa Alpha Sorority (Howard University, 1908), Kappa Alpha Psi Fraternity (University of Indiana, 1911), Omega Psi Phi Fraternity (Howard University, 1911), Delta Sigma Theta Sorority (Howard University, 1913), Phi Beta Sigma Fraternity (Howard University, 1914), Zeta Phi Beta Sorority (Howard University, 1920), and Sigma Gamma Rho Sorority (Butler University, 1922). In 1930, the bulk of this collective founded the National Pan-Hellenic Council (NPHC) as an umbrella
organization. A little over thirty-three years later, Iota Phi Theta Fraternity would be founded at Morgan State University; it would join the NPHC in 1996.

Despite their longevity, outside of a budding scholarship just a decade old, there has been little, critical public attention paid to these organizations. This is particularly the case vis-à-vis the most pressing issue that confronts them—i.e., hazing. In fact, much of what the public could understand about BGLO hazing has come through the lens of another type of organization—historically black college and university (HBCU) marching bands. Arguably, the nature of HBCU marching band hazing is similar in nature and outcome to BGLO hazing.

Take, for example, Robert Champion’s 2011 death as a member of the Florida A&M University’s (FAMU) “Marching 100” band, which received wide media coverage. On November 19, 2011, Robert Champion, a twenty-six year-old clarinet player and drum major in the “Marching 100” band, collapsed on a charter bus parked outside an Orlando hotel, following a band performance at a football game. The Georgia native had become anxious, complaining of shortness of breath and failed eyesight, and had apparently been vomiting before ultimately losing consciousness. Champion was nonresponsive when authorities arrived at approximately 9:45 p.m. and was later pronounced dead at a nearby hospital. An initial emergency caller told the dispatcher that Champion had been vomiting and that his eyes were open but he was not responding. A second caller told the dispatcher that Champion was “cold.”

By Tuesday, November 22, rumors had already circulated on the FAMU campus and social media that hazing had played a part in Champion’s death. Law enforcement officials also believed some form of hazing to have occurred before the 911 emergency call was placed. Ultimately, suspicions that hazing played a role in Champion’s death were confirmed when the State Medical Examiner’s Office in Orlando ruled Champion’s death ruled a homicide. The Medical Examiner’s Office found that Champion’s death resulted from blunt-force trauma suffered during a hazing incident involving some members of FAMU’s Marching 100. Champion endured such severe blows during the incident that he bled out into his soft tissue,
particularly in his back, chest, shoulders, and arms. The autopsy further revealed that Champion had been vomiting profusely and died within an hour from the time he suffered the injuries. Toxicology tests revealed no traces of drugs or alcohol in Champion’s system.

Immediately following Champion’s death, FAMU President James Ammons suspended all of the Marching 100’s appearances and performances, and the band’s immediate future became unclear. Four days after Champion’s death, Ammons fired band director Julian White who was later reinstated and placed on administrative leave after the Florida Department of Law Enforcement requested that the university put a hold on any disciplinary actions during its investigation into Champion’s beating death. White argued that he had repeatedly tried to take measures against hazing within the FAMU Marching 100 and had not been backed by the university’s administration. Ultimately, White retired when it was discovered that many of the Marching 100’s members (three of whom were allegedly involved in Champion’s hazing death) were not students at FAMU and were not enrolled in any band classes. Several weeks later, Ammons suspended all of the Marching 100’s appearances and performances and addressed some 2,000 FAMU students, reaffirming FAMU’s commitment to ending the “conspiracy of silence” that surrounds hazing practices at the school. Petitions pledging to end hazing were circulated throughout the audience.

Hazing within the FAMU Marching 100 is said to have begun as early as the 1950s and has generally been associated with entry into subgroups within the band rather than entry into the band itself. In 1998, clarinet player Ivery Luckey was hospitalized after being hit approximately 300 times with a wooden paddle. Luckey’s beating occurred during initiation to a band clique known as “The Clones.” Twenty or so band members were suspended, and Luckey sued the state Board of Regents, ultimately settling out of court. Three years later, Marcus Parker was hospitalized after suffering kidney damage resultant from being beaten with a wooden paddle.

Just weeks before the hazing incident that resulted in Champion’s death (October 31, 2011 and November 1, 2011), Bria Shante Hunter was beaten so severely during her initiation into the
“Red Dawg Order,” a band clique for Georgia natives, that she could barely walk. According to authorities, Hunter’s pain became so unbearable that she went to the hospital where she was told she had a broken thighbone and blood clots in her legs. Hunter was a freshman clarinet player and, like Champion, a leader in the FAMU band and graduate from Southwest DeKalb High School in Georgia. She was beaten in two separate incidents. The first, she said, occurred when leaders of the “Red Dawg Order” suspected that she was trying to get out of a group meeting. The second incident occurred when she was unable to accurately answer questions regarding the history of the clique. Both times, Hunter was struck across the legs with fists, metal rulers, and notebook binders.

Asked about why band members took part in hazing rituals, Hunter answered, “[s]o we can be accepted . . . [i]f you don’t do anything, then, it’s like you’re lame.” After Champion’s death, three band members were arrested and charged for Hunter’s beating, which occurred off-campus at the apartment of James Harris who claimed to have, at one point, stopped the other two men from beating Hunter. Harris was charged with hazing. The other two men, nineteen year-old Aaron Golson and twenty-three year-old Sean Hobson were charged with hazing and battery. All three men initially pled not guilty and were released on bail.

The lawsuit against thirteen members of the Marching 100 described two kinds of hazing that took place on the bus. First, in the ritual known as “Crossing Bus C,” students ran down the aisle from the front of the bus to the back while other students stood on the sides beating, slapping, and kicking them. Students who fell were kicked and stomped and then dragged back to the front of the bus to start over. According to one witness, large band members positioned themselves at the back of the bus to make the victim’s final steps the most difficult. The other ritual called “the hot seat” involved a pillowcase being placed over the victim’s nose and mouth while he was forced to answer questions. Correct answers garnered a moment of relief; incorrect answers meant another question with no chance to breathe in between.

According to Champion’s friends and family, he was a strong opponent to hazing within the Marching 100. His high school
classmate and mentee, Bria Hunter, said Champion told her not to let anyone touch her. However, interviews with band members suggested that Champion had volunteered to go through the hazing rituals. Champion sought to be the leader of the Marching 100, leading others who had already “Cross[ed] Bus C,” and some band members felt that meant Champion had to go through with the beating. According to band member Caleb Jackson, “If you go to that bus that’s saying that you wanted to do it.”

Although band members sign a pledge vowing not to participate in hazing, Champion and two other band members went through the ritual on the night of his death. According to band member Jonathan Boyce, Champion said he intended to go through with it. Ryan Dean, a drummer who regularly rode Bus C, said that Champion told him earlier in the week he would “see [them] on the bus.” According to Boyce, Champion was in the back getting kicked and punched by the time he arrived, and Boyce and band member Shawn Turner tried to shield Champion from the blows and get him to the back to end the ritual quickly.

Ultimately, when Champion’s parents brought a lawsuit against FAMU, the university, in its defense, insisted that it was Champion, not the school, who bore the ultimate responsibility for his hazing death because he consented to the hazing activities. Arguing that the judge should dismiss the lawsuit, the university argued that “[n]o public university or college has a legal duty to protect an adult student from the result of their own decision to participate in a dangerous activity while off-campus and after retiring from university-sponsored events.” After an unsuccessful mediation between FAMU and the Champion family, FAMU offered to pay $300,000 dollars to the family during the first week of November 2012 as settlement.

Not only did civil litigation ensue from Champion’s death. In connection with the hazing investigation, two FAMU faculty members resigned, as did the university president. Fifteen band members were charged with manslaughter and hazing. Seven accepted plea deals, including combinations of community service and probation for what prosecutors said were minor roles. Twenty-two year-old Jessie Baskin pleaded no contest and was sentenced to a
year in the county jail, though he had faced nine years in state prison. In March of 2014, Baskin became the first band member to receive jail time for his role. Twenty-five year-old Caleb Jackson was sentenced to four years in prison, after his arrest in Champion’s death violated the probation he had received in a previous, unrelated battery case. Defendants Benjamin McNamee, Aaron Golson, Dante Martin, Darryl Cearnel and Jarrod Deas went to trial in June of 2014.

While the Robert Champion hazing death is in the context of collegiate band initiation rites, it provides a recent example of the broader context within which BGLO hazing often takes place. The hazing has a long organizational history defined by secrecy, student pressure to perpetuate it and participate in it, and an intense violence. There is a legitimate question as to whether the alleged victims have consented or even have the ability to consent. Often enough, the hazing is known about and/or supported by older members of the organization and potentially faculty and/or staff at the university. There are undoubtedly organizational and institutional failures that allow for the perpetuation of this brand of hazing. Serious injuries are likely to result from the hazing, and deaths are not infrequent. In the end, aside from institutional sanctions, the law is engaged—civilly or criminally or both. And the questions persist: “Why does the hazing continue?” and “What can be done to end it?”
Although they have existed for more than 100 years, research on black Greek-letter organizations (BGLOs) is still new. Publicly accessible scholarship on these groups is only about a decade old. Ironically, unlike most scholarship, this work is largely consumed by lay individuals—well-educated BGLO members, largely. The inherent tension there is that among individuals who are deeply, emotionally committed to their respective organizations, how should they receive critical analysis of their fraternity or sorority? In my experience, many members do not receive it well. I suspect that writing about the issue that underscores the true vulnerabilities of these groups, members will be even less enthusiastic about this book. There is no doubt that there will be echoes of: What is his motive? What is his agenda? Is he out to destroy BGLOs?

I have been active in Alpha Phi Alpha Fraternity for 18 years. I am deeply committed to the long-term viability of BGLOs and have used my talents and professional skill to analyze and critique BGLOs in many ways, all in an effort to prod them forward and to make them more useful to the communities they serve. This book reflects yet another iteration of that effort. I acknowledge that this is a work that BGLOs could and should have done long-ago, and in their absence in this regard and around this issue, I have sought to fill the breach. While I do not necessarily lay out proscriptive measures directly, I have remained true to my goal; that is to more clearly delineate the nature and scope of hazing within BGLOs so that better prophylactic measures can be developed.

Ultimately, I chose the title, “Invictus,” for two reasons: First and foremost, it is a William Ernest Henley poem that many BGLO members learn during their pledge processes. Elsewhere, including in this book, I have written extensively about the role of poems within BGLOs, especially “Invictus.” Second, the poem first appeared in A Book of Verses (1888) and was republished in Poems in 1898. The title “Invictus” was literally drawn from Latin, meaning “the unconquerable.” The question this book raises in style and scope is what will be unconquerable—BGLOs or the hazing that they must confront? While I am not optimistic about BGLOs’ ability to
effectively reduce hazing within their ranks and the associated consequences that flow therefrom, I remain hopeful. It is up to the reader, given the facts as I present them, to determine which will prevail—BGLOs or hazing.

Over the past several years, numerous research assistants have aided me in my work on this project. As such, thank Joshua Adams, Atolani Akinkuotu, Danielle Barsky, Samantha Berner, Jonathan Cox, Matthew Cumper, LaRita Dingle, Jordan Dongell, Jalil Dozier, Zachary Dunn, Steven Franklin, Ashlee Johnson, Bianca Gonzalez-Sobrino, Devon Goss, Michael Klotz, Wendy Laybourn, Dawn Lee, Claire Little, Caroline Massagee, Cherish Morrison (née Forsman), Joseph Motto, Bahati Mutisya, Hannah Nicholes, Michael Norsworthy, Nikolas Ortega, Justin Philbeck, Davis Phillips, Jasmine Pitt, Mario Ramsey, Eboni Robinson, Jennifer Skinner, Kimberly Sokolich, Fred Speight, John Toth, and Zachary Underwood. Thank you to Professor Sally Irving for her consistent help in tracking down BGLO hazing court documents.

This book consists of a number of reprints of redacted law journal articles, and I am grateful to various journals for their permission to reprint those articles. They consist of: Gregory S. Parks, ‘Midnight within the Moral Order”: Organizational Culture, Unethical Leaders, and Members’ Deviance, 40 THURGOOD MARSHALL LAW REVIEW __ (forthcoming); Gregory S. Parks et al., Haz ing as Crime: An Empirical Analysis of Criminological Antecedents, 39 LAW & PSYCHOLOGY REVIEW __ (forthcoming); Gregory S. Parks et al., White Boys Drink, Black Girls Yell: A Racialized and Gendered Analysis of Violent Hazing and the Law, 18 JOURNAL OF GENDER, RACE, & JUSTICE 97 (2015); Gregory S. Parks et al., Complicit in their Own Demise? 39 LAW & SOCIAL INQUIRY 938 (2014) (Critical Race Theory & Empiricism Symposium); Gregory S. Parks et al., Menacing Monikers: Language as Evidence, 49 WAKE FOREST LAW REVIEW 799 (2014) (Law as Violence: An Interdisciplinary Conversation symposium); Gregory S. Parks, Shayne E. Jones, & Matthew W. Hughey, Belief, Truth, and Pro-social Organizational Deviance, 56 HOWARD LAW JOURNAL 399 (2013); Gregory S. Parks & Rashawn Ray, Poetry as Evidence, 3 UNIVERSITY OF CALIFORNIA AT IRVINE LAW REVIEW 101 (2013) (Critical Race Theory & Empiricism symposium); Gregory S. Parks &

Herein, in Chapter 1, I highlight that secret and private organizations, like those of Black Greek-Letter Organizations (BGLOs) hold a romanticized place in the Western world that transcends political and ideological standpoints and worldviews. Moreover, when one considers the secrecy and danger associated with hazing, the topic becomes both unsettling and seductive. Previous examinations of BGLO hazing rituals are both scant and hyperbolic. Few rigorous studies that meet the criteria of scholarship exist and many others fail to rise above reactionary hallucinations that BGLO hazing practices are little more than demonic rituals or psychoanalytic displays of African American “self-hate.” A new era of research is now underway where BGLO activities—especially hazing—are examined for the nuance and complex situations and relationships in which they are embroiled. This chapter begins to unravel that snarled web of hazing as it relates both to the past of social exclusion and discrimination, activist organizing, and the paradoxical role of BGLO secrecy toward supposedly open and democratic ends, in relation to the future of these organizations’ financial stability, cultural relevance, and legal standing, as well as the health and happiness of its members and those that would dare attempt to join them. Specifically, this chapter addresses two points: (1) the role of ritual and rites of passage in society and (2) the evolution of hazing from European institutions of higher learning, centuries ago, to American colleges and universities through the early 1900s.

In Chapter 2, I explore the rich and ever-evolving pledging/hazing culture within BGLOs as they emerged from
student culture generally, especially at historically black colleges and universities. The chapter then traces that history through the creation of pledge clubs among BGLOs, the limited scholarly glimpses that have been taken of hazing at HBCUs in the mid-20th Century, and the broader public pledge rituals of these organizations. The chapter then turns to the major, publicly-reported (i.e., news accounts and court documents) hazing incidents that bedeviled BGLOs from the late 1960s-1989, including several hazing deaths.

In 1989, Joel Harris, a student at Morehouse College in Atlanta, Georgia died during a hazing ritual performed by the members of Alpha Phi Alpha on that campus. It was one of a string of hazing deaths for BGLOs, and it was the straw that broke the proverbial camel’s back. The National Pan-Hellenic Council, umbrella organization for the nine, major BGLOs had their “never again” moment—ultimately banning pledging and instituting a new Membership Intake Process in 1990. Chapter 3 highlights how great of a failure this process was through the 1990s and as a prelude for what would come in the decades after. As the 1990s would demonstrate, BGLO hazing would not only remain entrenched but become more secretive and violent. The injuries and deaths would continue, and litigation would seem to grow.

Chapter 4 picks-up where the last chapter left-off—demonstrating that BGLO hazing went unabated. While BGLO fraternity hazing had been the sin qua non of hazing for BGLOs, in the 2000s one of the sororities had two deaths occur as a result of a hazing activity with one chapter. A $100,000,000 lawsuit was settled out of court, and one would think that such would substantially curb BGLO hazing. Hazing, however, continued within BGLOs.

In the current decade, BGLO hazing has persisted with more law suits, deaths, and injuries. Graduate advisors have been sued for their involvement in undergraduate chapter hazing. Chapter 5 underscores the continuing narrative—i.e., BGLO hazing is going nowhere without meaningful intervention, and BGLOs’ effort thus far have not been meaningful.

Up through the 1970, and probably most of the 1980s, BGLO hazing resulted in little but the hazers being sanctioned by their home institutions and BGLO of membership. While there may
have boon some media coverage, that was usually local and if national found solely in African American media outlets. In time, such approaches to grappling with hazing changed. Chapter 6 demonstrates that the new frontier to grappling with hazing would be found in the courts. To date, forty-four states have anti-hazing statutes, and many of these have been employed in leveling felonies and misdemeanors against hazers. Even more, there has been an evolving and broadening civil litigation landscape whereby university presidents, university, fraternities/sororities, collegiate chapters, and individual members have been sued to be held civilly liable for the hazing injuries and deaths of victims. Chapter 7 extends this analysis, highlighting what may be a more effective strategy for resolving hazing disputes—i.e., arbitration.

Chapter 8 extends the research on organizational behavior, organizational deviance, and more specifically, positive organizational deviance to non-corporate entities—i.e., BGLOs. I explore the issue of hazing within the framework of positive organizational deviance—positive intentional deviations from the behavior of a referent group at the organizational level—with two overarching questions in mind: (1) what are the beliefs among BGLO members that undergird violent hazing within these groups, despite the constraint that the law seeks to place on such behaviors and (2) to what extent are these beliefs well-founded? In essence, many BGLO members claim to haze because they believe the practice holds utility for the organizations. Does it hold utility, and if so, what kind of conundrum does this place BGLOs in where the law and broader social constraints must then be balanced against organizational needs?

Despite the criminalization of hazing, the practice persists and arguably persists widely among BGLO undergraduates. For decades, criminologists have put forth numerous theories about why crime persists. Chapter 98 explores the extent to which personality, impulsivity, and awareness of sanctions augments hazing. I find that awareness of sanctions is the most robust predictor of hazing among BGLO members—i.e., those more aware of potential sanctions are less likely to engage in the practice. This raises critical questions about intervention strategies that these groups could and should use.
In Chapter 10, I theorize that legal phenomena are influenced by race and gender. Specifically, I contend that hazing, as a legal issue, manifests itself quite differently within BGLOs than within their white counterpart organizations; this is especially so within black fraternities, given prevailing and yet constrained notions of black masculinity in the United States. Even more specifically, I contend that hazing in black fraternities is likely to be more violent, and such violence manifests itself in how some black fraternity members describe their chapter affiliations. In turn, these descriptions—namely, BGLO fraternity chapters’ use of chapter monikers like “bloody,” “deadly,” and “killer”—have evidentiary implications in court.

In the past decade, several BGLOs have grappled with their national presidents embezzling organization funds. Chapter 11 explores the role of leadership ethics and how a lack of ethics and accountability within BGLOs among those who lead the organizations may redound down to rank-and-file members, especially undergraduates. An analysis of the major embezzlement situations these organizations have faced highlights a broader culture within these groups. Specifically, at the top and bottom of these organizations—in the contexts of embezzlement and hazing, respectively—failure to abide by the law, intra-organizational secrecy, individuals in positions of power failing to hold violators accountable, and whistle blowers being demonized and sanctioned are recurring organization cultural themes.

In recent years, scholars have carved-out an area of criminology called victimology—the study of victimization. Chapter 12 investigates how personality (evaluated on the Big Five Inventory) may predict the extent to which BGLO pledges allow themselves to be hazing victims. The findings suggest that while personality is a predictor, it is not particularly robust. As such, other driving factors need to be explored.

Picking up from Chapter 12, Chapter 13 addresses what is likely to be a major factor behind why BGLO pledges persist through hazing. For years, the law has grappled with the extent to which an individual can consent to harmful physical contact. This has never been more evident than in the area of hazing. This chapter examines
the extent to which courts have fallen on both sides of this divide, often enough speculating about the mental state of the alleged hazing victim. The question is often whether the individual had the psychological wherewithal to resist situational or contextual demands placed on him or her. This chapter provides clarity to how the law has thought about this issue and how it should think about it in light of a range of psychological theories and empirical research.

Following from Chapter 13, in instances where BGLO pledges could and have consented to their hazing, what indicia would underscore such consent, and what would it mean? Chapter 14 investigates how and what hazing victims know about their hazing experiences and when they know it. Additionally, the chapter examines how victims’ knowledge of hazing may hold serious implications for tort defense doctrines like assumption of risk and comparative fault. Specifically, the authors conduct several studies to find that not only are BGLO pledges aware that their pledge experiences are likely to involve mental and physical hazing, but that they believe such experiences will likely continue throughout the entirety of their induction process. Moreover, appreciation for hazing experiences is often captured in the fraternal chants, greetings, and songs they learn or create, which together reflects some understanding of danger and risk.
Hazing in higher education has evolved over many centuries, drawing its roots from rites of passage processes found within cultures dating back to antiquity. As such, this section explores hazing’s roots over the past several centuries.

Rites of Passage and the Anthropological Foundations of Hazing

Rituals seep into the nooks and crannies of life and remain alive and well in transitions as rites of passage. Societies have used rites of passage to mark physiological transitions such as birth, puberty, conception, and death. But the participants are not simply passing from one state to another, but between two social groups. Thus the child does not simply become an adult, but by performance of a ritual, passes from the group of children to the group of adults. Importantly, these transitions are not entirely marked by biology or other external signs, but by the performance of a socially determined ritual. Rites of passage in this way reflect the social structures by which society is organized, and into which participants must fit.

Rites of passage exist in a three-part structure—separation, margin, and aggregation. During separation, the participant leaves behind the prior social group in order to prepare for joining the new group. These two groups are oppositional—one cannot join a new group without leaving behind something old—much like the concept of high does not exist without the competing concept of low. Severing ties with a social group may involve physical distance, abandoning possessions, or the renunciation of ties with that group. Severance from the old group is the first step toward admission into the new group.

The second part of the three-part rite of passage is the margin or limen, which is Latin for threshold. Having been separated from
the old group, a participant in the rite of passage exists, for a time, without participation or membership in either group—new or old. In this state, he or she symbolically and ritually has nothing; no “status, property . . . or . . . position.” Without the cover of either social group, he or she has no place to belong in society.

The final part of the three-part rite of passage is aggregation. Here participants are released from the margin and invited to join the new group. New members may be full participants, but that does not preclude the existence of an internal hierarchy, which they enter at the lowest rung. This process sets the definition for the new group—one is not an adult until one has performed the rites of passage associated with adulthood. The social requirement for adulthood can be surprising and unrelated to a physical requirement such as puberty. At its core, a rite of passage defines concepts like man, woman, or adult in a way that feels “nonarbitrary and grounded in reality.”

Taken together, the entire rite of passage ritual accomplishes several important purposes from a social structure perspective. The first important purpose is to fit individuals into the predetermined social groups that comprise society. Emile Durkheim, cited in Catherine Bell’s work, noted the solidarity formed in these social groups springs from the contrast between in and out groups. Individuals are given a place in a group, and these groups are placed in contrast with one another to form a functioning society. Not only does the ritual help provide structure to society, it also impresses a worldview upon the participants of the rite of passage participants—i.e., it reinforces in their minds a hierarchy and structure supported by the new group. For example, the Pledge of Allegiance, a ritual designed for immigrant children in the early 1900’s, bestows common principals upon new members of the United States. In this way ritual impacts both the structure of society in general and the individual’s perception in particular.

However, rites of passage are not only rituals to ease the transition between existing social groups. These rites also create and justify power relationships between participants in the ritual. According to Pierre Bourdieu, the rite of passage is a mechanism for normalizing a particular power structure by setting the framework of reality, or “habitus.” This framework becomes the unquestioned basis
of acceptable behavior. The rite of passage is therefore a mechanism that validates and excuses the excessive power wielded by one party. In this way, ritual is not just the mask that hides a social force, but an actual type of power itself.

Such rites of passage are also observed within the collegiate fraternity and sorority context. When pledges seek membership in the fraternity or sorority, they must undergo a rite of passage, beginning with the separation phase. This phase severs the participant from a previous community, thus, destroying the authority and power of that social group. The critical inquiry here is to discover what types of power relationships and social structures are being discarded in favor of the new fraternal organization. During the margin phase, participants, without allegiance are hazed to reinforce their powerlessness. A ritual of forced powerlessness justifies an immense and often inappropriate amount of power within the officiants. Finally the aggregation phase of a rite of passage brings the new participants into the fraternity or sorority. By elevating the participant from powerlessness to inclusion in the organization, the rite of passage validates to the participant the power and authority of the fraternity or sorority. The cycle then repeats, as the process of hazing a new participant, and the power that comes from that experience, affirms the whole process to a new officiant.

The phases of separation, margin, and aggregation also have unintended consequences that can encourage corruption and lawless behavior in a fraternity or sorority. Specifically, the separation phase can remove the participant from systems of moral authority (e.g., religion, governmental legal structures) and undermine those valuable relationships. This is especially so in cases where the organization is set in opposition to those moral authorities, participants are encouraged to replace that moral authority with the hierarchy of the fraternity or sorority. The rites of passage rituals vest authority and power in the fraternity and create a structure which makes the power easy to abuse.

In the context of BGLOs, African rites of passage are highlighted in the pre-1990 pledge process. According to Asa Hilliard’s work on ancient African mystic systems, the components of BGLOs’ now-illegal pledge process mirror the categories, and
possibly the purposes, of the “Mystery Schools” of ancient Kemet—commonly known as Egypt—as well as the rites of passage systems of West Africa. Hilliard quotes George G. M. James in enumerating ten virtues that were sought by students in the ancient Egyptian Mystery System:

1. Control of thought
2. Control of action
3. Devotion of purpose
4. Faith in the master’s ability to teach the truth
5. Faith in one’s ability to assimilate the truth
6. Faith in oneself to wield the truth
7. Freedom from resentment under persecution
8. Freedom from resentment under wrong
9. Ability to distinguish right from wrong
10. Ability to distinguish the real from the unreal

Hilliard indicates that these educational tenets reinforced the loyalty, discipline, values, and tenacity that BGLOs wanted to instill in their potential members. While the values being instilled during the BGLO pledge process were consistent with a Kemetic model, the actual process was more akin to the initiation systems of West Africa. Hilliard notes that the following elements were commonly included in West African initiations (italicized text), and James Brunson draws parallels with the BGLO pledge process (plain text):

1. The initiates were physically segregated from the regular activity of daily life. In the BGLO pledge process, the pledge line is formed. Pledges are required to interact, learn as much about one another as possible, work together, and depend on one another, with as little assistance as possible from outside sources, except, of course, their deans (master teachers).

2. They retreated from their familiar environment to an environment that enabled them to get more directly in touch with nature. This symbolized a move from the infantile situation to a situation that allowed for more maturity. BGLO pledges are put into pressured situations that require them to get in touch with the
psychological inner self and intellect, utilize their individual and group creativity, and use their resourcefulness to achieve goals and self-actualization.

3. The initiates joined with other initiates of the same age and shared their lives in common, since the common living experience was also a common learning experience. BGLO pledges are at times required to eat, sleep, live, and study together; visit their big brothers and big sisters; review required learning materials together; and attend pledge meetings with big brothers and big sisters. The aim is that they get to know one another as one would know blood brothers or sisters.

4. The initiates were separated from their parents in addition to being separated from the larger community. BGLO pledges may be put into situations known as social probation, wherein they are denied social interaction with anyone outside the classroom or pledge line. They are not allowed to talk, socially interact with others, or engage in any behavior that calls into question the dynamic of ostracization.

5. The initiates had to renounce all that recalled their past existence. BGLO pledges state an allegiance to the tenets of the organization into which they are being initiated. They are given specific expectations that also demand a fuller respect for humanity.

6. The initiates were taught by the old men and old women of the village or town. BGLO pledges are taught the philosophic and pragmatic aspects of the organization, as well as the ideologies inherent to Greek-lettered organizations. They learn fraternity or sorority and chapter history, poems, information regarding other chapters, myths of the organization, and the Greek alphabet, among other things.

7. The initiates frequently went nude or wore clothes made of grass to symbolize the clothes of the first men and women. BGLO pledges are expected to wear uniforms or outfits signifying their status as initiates, as outlined by the specific organization. Mandatory attire may include dresses (worn every day or on a specific day), shirts and ties, army jackets and boots, beanie caps or
hats, and the like; in addition, shaving one’s head or facial hair may be required.

8. The initiates underwent purification baths. BGLO initiates often undergo a series of trials designed to bring them from darkness to light.

9. During the course of initiation, a number of tests of audacity, courage, fasting, flogging, hazing, mutation, and scarification were conducted. (The purpose was to give the initiate the opportunity to demonstrate a refusal to take life as it is given, as a way of opening the mind to beauty, joy, and ecstasy.) BGLO initiates are sent through a variety of trials during a week-long ordeal referred to as “ship,” “hell week,” “probation,” or “crossing the sand,” which are designed to test their desire to be members of the organization.

10. Initiates learned a new and secret language. Newly initiated BGLO members are given the passwords, grips (handshakes), signs, and secret signals for that specific organization.

11. Initiates were given new names. During hell week, BGLO candidates are given preliminary names, such as “dog” or “probate,” and line and number names that are subsequently transformed after initiation.

12. The initiation processes symbolize a rebirth. After crossing the burning sands, initiated BGLO members become neophytes (new in the light) of their organization.

13. The initiation process included a number of exercises and things to be learned, including physical and military training, songs, dances, and how to handle sacred things such as math and tools. BGLO pledges learn rituals, songs, poems, history, and Greek literature; these things are perceived as being relevant to the organization’s continuing existence. These ideas are passed from one pledge class or line to another.

The History and Evolution of Hazing in Higher Education

Hazing as part of a rite of passage process dates back to the beginning of mankind when the very first human societies were in
their infancy. The archetype of a youth attempting difficult, unpleasant tasks or rituals permeates human history and culture. However, the first documented instances of organized hazing come from ancient Greece, where prospective soldiers were made to demonstrate their loyalty to their military by enduring various painful and uncomfortable experiences. However, hazing was not unique to Greece, as hazing incidents were also reported in the ancient learning centers of Berytus and Carthage.

Other early forms of hazing were manifested as “practical jokes played by unruly young men that injured the hazed and citizens who got in the way.” One of the first groups documented to employ organized hazing was the “[E]versores,” translated as the “Overturners,” who originated in 4th Century Carthage. Subsequently, during the 6th Century, the Byzantine emperor, Justinian, became so outraged by the hazing actions of first-year law students that he issued a decree outlawing hazing. Despite these sporadic, recorded instances of hazing, it was not until the 12th Century that hazing became a commonly recorded phenomenon.

Hazing ultimately spread to European universities in the Middle Ages, where “new students . . . toiled as servants for upperclassmen.” The University of Bologna, founded in the year 1000 CE, is an example of one of the first true European universities, and one of the birthplaces of modern hazing. The first European universities were run by guilds of students desiring to practice or learn a specific trade. These early organizations of students, in some respects, “were like early examples of fraternities.” According to Hank Nuwer, author of *Wrongs of Passage*, these guilds began competing against one another for prestige and influence in the university, and over time, their methods of competition became ritualized into a form recognizable as hazing by modern standards. Boys seeking to attend these early European universities accepted that they “would have to submit to brutal hazing by older students, just as they had to pay for university fees and to buy books.” Over the thirteenth and fourteenth centuries, these “ritualized” practices ossified into accepted cultural norms in European institutions of higher learning.
Notably, students were not the only people hazed in the thirteenth and fourteenth centuries. Aspiring teachers at medieval universities were subjected to harsh hazing practices as well. In order to prevent imposters, charlatans, and people generally unqualified to teach, “universities imitated some guild practices, demanding evidence of scholarship from a prospective teacher before deeming him qualified to teach.” Prospective teachers had to pass a series of trials before they were inducted as professors. These trials included demonstrating a proficiency in Latin, memorizing lengthy book passages, and passing a variety of examinations. Typically, the aspiring teachers faced such challenges over a period of several years. However, over the course of history such practices and rituals shifted until they were faced almost exclusively by students.

The purported objective of medieval hazing was “to teach newcomers precedence.” Among the variety of ways older students taught freshmen “precedence” was the practice of paddling. The origins of paddling hail back to the university in Avignon where first-year students were beaten with wooden objects. “Newcomers at the University of Aix were paddled with a book or frying pan up to three times each . . . .” The paddlers believed that the newcomers should be forced to show their seniors “animal-like” submission. According to medievalist Hank Nuwer, “[i]nitiating newcomers satisfied three desires in older students. ‘It gratified alike the bullying instinct, the social instinct, and the desire to find at once the excuse and the means for a carouse[.]’”

Eventually, participation in these rituals and traditions began to define the status of newcomers to the universities. Between the 1400s and the 1700s, hazing evolved once more, and the process of “pennalism” emerged. This process was founded on the idea that freshman, not having been exposed to the principles and experiences of higher education, were “untutored” and “uncivilized.” During the process of pennalism, “freshmen were subject to having to don weird articles of clothing, physical abuse, coarse jokes, and extortion of money or dinners.” Fortunately, for early European freshmen, “[p]ennalism was more of a one-time event that lasted only a short period.”
In Great Britain around the year 1770, the practice of pennalism grew into what was called “fagging.” Personal servitude, and “drudgery” comprised this iteration of hazing and distinguished fagging from pennalism. Fagging provided each upperclassman with a personal “fag” subject to his commands. Like pennalism, fagging was presumed to teach humility and appropriate behavior to “uncivilized” freshmen. Perhaps well into the 19th Century, incoming students endured fagging for the duration of their freshmen year. Pennalism and its younger, British cousin, fagging, are predecessors to organized hazing in American universities.

Physical violence has never been hazing’s only form. Hazers often employ psychological tactics against their victims, including making them wear certain unique items of clothing. The occurrences of psychological hazing, in this form, date back to 1481 at the university in Heidelberg. At Heidelberg, upperclassmen forced their juniors to wear absurd looking hats with yellow bills. This developed into a common theme throughout Europe, and first-years became to be known as bejauni or “yellow bills.”

In addition to being subjected to physical violence and forced to don ridiculous articles of clothing, first-year students in medieval times were often financially extorted by senior students. The older students used the extorted money to buy fancy, expensive clothing, among other things. A particularly expensive event for the hazed was the “mock trial,” where before being welcomed into the academy as an actual student, the hazed was forced to pay for the food and drink of everyone present during the event. If the hazed came from wealth, the amount demanded of him would have been significantly larger than someone of more ordinary means.

Almost from the time hazing was recognized as an institutional problem in medieval universities, school administrations have tried to combat it. Several such institutions had official prohibitions against “ritualized mistreatment.” For example, the University of Paris came down strongly on hazing. In 1340 CE, “they enacted an ordinance that prohibited [hazing] under possible pain of expulsion.” However, most measures taken against hazing were largely ineffective, and hazing continued in plain view. Eventually administrators realized the ineffectiveness of their attempts to
eradicate hazing. “The fact that hazing persisted even in the face of potentially dire consequences for those who participated in it is indicative of its appeal.” Futile steps taken by early universities against hazing included: stripping hazers of honors they had received from the institution, urging the hazed to report hazing instances aloud at church meetings, obligating land lords to report hazing violations, enumerating specific acts as hazing, and expelling or suspending hazers. Ultimately, many institutions finally accepted hazing’s resilience and, instead of trying to banish its practice from their campuses, attempted to regulate it.

**Hazing in New World Universities**

Early hazing practices that developed over centuries in Europe persisted as social norms for early Americans, emigrating with them across the Atlantic Ocean. Hazing quickly became entrenched in the United States military, evolving into forms more violent than its European predecessors. By 1874, hazing in American military units had become so counterproductive that Congress abolished all military hazing “harmful or not.”

Historians postulate that the earliest Harvard students, who were from abroad, brought traditional European hazing to New World universities. Hazing incidents at Harvard, involving personal servitude, similar to fagging in Europe, are reported as early as 1657 CE. A Harvard historian noted that “[b]ecause seventeenth-century Harvard authorities only occasionally recorded accounts of misbehavior by students, sadistic pranks and fagging ‘may have been matters of frequent occurrence[].’” In 1684 CE, Joseph Webb became the first Harvard student to be punished for hazing. The president of the university expelled Webb for physically assaulting first-year students and forcing them “to perform acts of servitude.” However, after repenting for what he had done, Webb was allowed to return to the university and graduate with his class. During Harvard’s early years, typically “[a] public confession in front of the student body and a formal petition to return” to the university were enough to absolve a hazing conviction. Harvard was not the only institution with documented instances of hazing during this period, as
Hazing in American institutions of higher education first gained notoriety in the middle of the 19th Century. During this era, hazing emphasized coercing underclassmen to perform “crude pranks rather than the personal servitude.” These crude pranks occasionally included underclassmen “being tarred and feathered in the town square and forcing underclassman to combat sophomores in “freshman-sophomore rushes, or class battle royals.” These violent, compulsory events caused deaths at several universities.

**Hazing in American Fraternities and Sororities**

Fraternity and sorority historians offer several theories as to how hazing became interwoven into the Greek system; however, the true answer is probably that it is a mixture of these theories. Further, the entrance of hazing into the Greek system happened gradually, so there is no exact date to cite as the commencement of this relationship. There are three prominent theories of how Greek organizations adopted the practice of hazing. The first theory is that hazing entered fraternities at Ivy League institutions, where classes and societies routinely engaged in hazing. In short, the class and society practices bled over into fraternities. The second theory is that “dropouts from West Point and other service academies brought” military hazing to the civilian colleges they subsequently attended and, thus, into Greek organizations. Finally, some historians believe that hazing occurs spontaneously and organically whenever people form an exclusive club that enforces standards of admittance. In any case, over the years hazing has transitioned from being a university-wide practice to a practice concentrated in some Greek organizations, athletic teams, and various other exclusive organizations.

Fraternities and sororities are a direct offshoot of the American university system; as such organizations were created to serve the needs of students. In the 1920s, when freshman students began to successfully rebel against upperclassmen hazing, there was no equivalent drive to eliminate pledging in fraternities and sororities. The effects and styles of hazing were strikingly similar between White
universities and historically Black colleges and universities (HBCUs). However, lynchings and other racially motivated crimes in the South against African Americans served as a catalyst to the process of eradicating freshman hazing. Students at HBCUs were able to significantly curb freshman hazing by the 1930s and largely eliminate it by the 1970s.

The 1920s marked the turning point where the practice of upperclassman hazing of freshman began to whither. Images designed to create mystery around Black fraternities and sororities and to instill fear and curiosity in prospective members, began to be published in Howard University’s yearbook and other publications. “At Howard, freshman hazing was specifically ‘tabooed’ by 1924. At the same time, the idea of pledging had emerged.” Within ten years of the end of freshman hazing and the inception of pledging at Black Greek-letter organizations, hazing had become a predominant aspect of the pledge process.

In 1925, the Howard University newspaper began reporting on “Hell Week,” a particularly trying period for a pledge. One of the public displays at Howard involved pledges marching around campus while singing and wearing odd attire. The question arose whether hazing was the best vehicle “to indoctrinate and socialize [students] and to find ways, preferably dramatic, to symbolize their transition to full membership status.” “Due to sheer exhaustion, [pledges] often fell asleep in class[,]” and as such it is likely that their academic performance suffered.

Towards the end of the 1940s the pledge process began to develop a sophistication that had not been seen before. Pledges, particularly at HBCUs, began dressing in elaborate costumes and matching formal wear. Fraternities also create symbols for pledges to carry with them to indicate their status as an aspiring member. These symbols include objects varying from paddles to lamps, often bearing the symbols of the fraternity or sorority to which the pledge was attempting to join. Essentially, pledging had grown into its modern form. The transition from freshman hazing originating from Europe during the Middle Ages to a staple of the fraternity pledge process was complete by the 1940s.
After the lull in the growth of Greek organizations caused by the Great Depression and World Wars I and II, “the ‘fraternity movement’ swept the nation’s colleges and universities.” During this period, pledging popularity reached fad status, which caused a dramatic increase in hazing, both in terms of physical violence and psychological torture. The influx of World War II veterans into United States colleges and universities brought with them a “boot camp mentality”—e.g., “sleep deprivation and strenuous physical activity.”

Hazing by Greek-letter organizations sparked interest in fraternity outsiders for as long as they have existed. “Hell Week” garnered particularly significant amounts of attention from people in the communities surrounding fraternity houses, and even the general public. Attention drawing hazing activities such as “[m]arching around the college in odd attire while singing the praises of their respective groups,” increased hazing’s visibility at HBCUs and caused it to be a subject of popular debate. At Lincoln, fraternity hazing was particularly violent and brutal. After seeing pledges “beaten until portions of their bodies were as raw as fresh beefsteak,” a fraternity member pushed to eradicate violent, physical hazing from his fraternity.

**Hazing Opposition**

HBCU opposition to hazing began to develop during this time. At Howard, a group of former pledges formed an anti-hazing fraternity in 1934. The founders created the fraternity as a response to brutal hell week practices that they had refused to participate in at their former fraternities. They named the organization Gamma Tau Fraternity. The leaders of Gamma Tau Fraternity eliminated hell week altogether and replaced it with a week of lectures, informal discussions, and information sessions. During the 1940s, three national fraternities forbade “all forms of brutality” towards pledges. These fraternities included Omega Psi Phi, Alpha Phi Alpha, and Kappa Alpha Psi. These fraternity anti-hazing policies enacted on a national scale did not accomplish their goal, as hazing violations continued. Three of Lincoln’s four fraternities were fined and put on
probation for hazing, which a university faculty member described as “‘barbaristic [sic], sadistic, and masochistic.’” The 1950s saw even greater efforts by fraternities’ national officers attempting to ameliorate hazing. Instead of “hell week,” several fraternities instituted “‘Help Week[,]’” which centered on providing constructive advice to the pledges regarding their scholastic careers and performing community service.

After 1970, hazing deaths and injuries spiked so dramatically, that anti-hazing groups across the nation began mobilizing like never before. However, for decades, there had already been growing consternation about and opposition to hazing, especially at HBCUs. For example, administrators at Fisk far surpassed their colleagues at Lincoln in the harshness of their hazing sanctions. In 1948, Fisk’s Executive Committee of the Faculty enacted a moratorium for hazing and other “initiation” related activities. The committee convened in response to the “rampant brutality and insensitivity inflicted upon pledges, [and] the group also expressed concern over the physical and mental fatigue of students that continued after the [hazing] period had ended.” The committee ultimately “recommended that [fraternities] justify their existence [through] worthwhile contributions to the student body and the university.”

This hazing opposition was not uniform, however, as hazing has always had proponents. After hazing was eliminated at Lincoln University, one student claimed that the absence of hazing caused “the demise of school spirit among the men” at the institution. The Lincoln freshmen, however, responded with applause for the administrator’s hardline decision to eradicate all forms of hazing rather than allowing upperclassmen to haze with moderation. It is within this climate that hazing was relegated from university wide existence at HBCUs to its more limited manifestation as a Greek-letter organization practice.

Proponents of fraternity hazing at HBCUs had justifications for the hazing process. Fraternity members believed hazing instilled “brotherhood and love” for the fraternity. They also believed that the harder pledges were hazed the more they would appreciate the fraternity. However, this view was not universally adopted by fraternity members as “[m]any questioned the rationale touted by the
organizations and refuted the logic of beating ‘brotherhood’ into a man.” Protests against hazing activities would occur nearly every semester at HBCUs and fraternities would occasionally respond by passing resolutions making initiations less severe. Despite all the efforts of national fraternal organizations, hazing still exists today, with severe criminal and civil implications.
CHAPTER 2

Hazing, Pledging, and the Black “Greek” Culture: 1920s – 1980s

In the 20th Century hazing became synonymous with pledging. It also became more organized and included not just mental and physical hazing but forms of knowledge production related to race consciousness and racial uplift activism. This was particularly prevalent as the Civil Rights Era commenced. Unfortunately, while the mid-20th Century resulted in large-scale legal and structural progress related to racial equality, BGLO hazing was simultaneously becoming unhinged on college campuses. Below I provide overviews of major hazing cases from 1920s-1980s.

The 1920-50s:
The Linking of Pledging and Hazing

Fraternities and sororities are a direct offshoot of the American university system, and they were created to serve the needs of students who were surrounded by the university culture of upperclassmen hazing underclassmen. In the 1920s, when students began to successfully rebel against upperclassmen hazing, there was no equivalent drive to eliminate the practice in fraternities and sororities. The effects and styles of hazing were strikingly similar between White universities and historically Black colleges and universities (HBCUs). However, lynchings and other racially motivated crimes in the South against African Americans served as a catalyst to the process of eradicating freshman hazing.

While the 1920s mark the turning point where the practice of freshman hazing began to whither, it also marks the point when hazing and pledging in Greek letter organizations began to resemble each other to the point they were almost indistinguishable. Images designed to create mystery around Black fraternities and sororities and to instill fear in prospective members, began to be published in Howard University’s yearbook and other publications. “At Howard,
freshman hazing was specifically ‘tabooed’ by 1924. At the same time, the idea of pledging had emerged.” Within ten years of the end of freshman hazing and the inception of pledging in BGLOs, hazing had become a predominant aspect of the pledge process.

In 1925, the Howard University newspaper began reporting on “Hell Week,” a particularly trying period for a pledge. One of the public displays at Howard involved pledges marching around campus while singing and wearing odd attire. By 1934, hazing in fraternities and sororities was being challenged for being violent and abusive. Students, professors, and university administrators began questioning whether hazing was the best vehicle “to indoctrinate and socialize [students] and to find ways, preferably dramatic, to symbolize their transition to full membership status.”

McKenzie provides a detailed description of hazing practices pledges endured between 1920 and 1960. Like their medieval predecessors, administrators at HBCUs struggled with hazing issues. Before the 1920s, administrators had taken an indifferent approach towards hazing. During the 1920s students at Howard galvanized an anti-hazing movement. Students at Fisk also adopted the anti-hazing movement. They cited Jim Crow era violence and particularly the lynching of African Americans as reasons why the practice of freshman hazing needed to end. It seems hazing practices at Lincoln were particularly onerous. During their first semester, Lincoln Freshmen were paddled on a nightly basis, called “dogs,” forced to roll pencils with their noses, perform acts of personal servitude, and write insulting letters to their girlfriends. Eventually hazing became such a problem that Lincoln administrators outlawed all forms of hazing, but not everyone agreed that the elimination of hazing was the best course of action for the university.

Between the 1930s and 1950s, fraternities and sororities began their first efforts to combat condemnations of the Greek system and hazing that had begun to spread around the nation. Fraternity hazing had become arguably more violent and demanding than freshman hazing. “Due to sheer exhaustion, [pledges] often fell asleep in class.” Mediocre academic performance was a common theme among fraternity pledges. Towards the end of the 1940s the pledge process began to develop a sophistication that had not been
seen before. Pledges, particularly at HBCUs began dressing in elaborate costumes and matching formal wear. Fraternities also created symbols for pledges to carry with them to indicate their status as an aspiring member. These symbols—including objects varying from paddles to lamps—often bore the symbols of the fraternity or sorority to which the pledge was attempting to join. Essentially, pledging had grown into its modern form. The transition from freshman hazing originating from Europe during the Middle Ages to a staple of the fraternity pledge process was complete.

After the lull in the growth of Greek-letter organizations caused by the Great Depression and World Wars I and II, “the ‘fraternity movement’ swept the nation’s colleges and universities.” During this period, pledging popularity reached fad status. With the increased popularity of pledging came a dramatic increase in hazing, both in terms of physical violence and psychological torture. As Dara Govan has noted:

Hazing started after World War II with the influx of veterans. They brought a boot camp mentality to the experience. . . . The Greek ideals of tradition and rite, . . . soon were used to rationalize hazing and abuse. Sleep deprivation and strenuous activity became the tradition in the 1970s.

After 1970, hazing deaths and injuries spiked so dramatically, that anti-hazing groups across the nation began mobilizing like never before.

Hazing has always had proponents. After hazing was eliminated at Lincoln, one student claimed that the absence of hazing caused the demise of school spirit among the men at the institution. The Lincoln freshman, however, responded with applause for the administrator’s hardline decision to eradicate all forms of hazing rather than allowing upperclassmen to haze with moderation. It is within this climate that hazing was relegated from university wide existence at HBCUs to its more limited manifestation as a Greek-letter organization practice.

Hazing by Greek-letter organizations has sparked interest in fraternity outsiders for as long as they have existed. “Hell Week” has
garnered particularly significant amounts of attention from university administrators, people in the communities surrounding fraternity houses, and even the general public. Attention drawing hazing activities such as “[m]arching around the college in odd attire while singing the praises of their respective groups,” increased hazing’s visibility at HBCUs and caused it to be a subject of popular debate. At Lincoln, fraternity hazing was particularly violent and brutal. After seeing pledges “beaten until portions of their bodies were as raw as fresh beefsteak” a fraternity member pushed to eradicate violent, physical hazing from his fraternity.

Proponents of fraternity hazing at HBCUs had justifications for the hazing process. Fraternity members believed hazing instilled “brotherhood and love” for the fraternity. They also believed that the harder pledges were hazed the more they would appreciate the fraternity. However, this view was not universally adopted by fraternity members as “many questioned the rationale touted by the organizations and refuted the logic of beating ‘brotherhood’ into a man.” Protests against hazing activities would occur nearly every semester at HBCUs and fraternities would occasionally respond by passing resolutions making initiations less severe. At Howard, a group of former pledges formed an anti-hazing fraternity in 1934. The founders created the fraternity as a response to brutal hell week practices that they had refused to participate in at their former fraternities. They named the organization Gamma Tau Fraternity. The leaders of Gamma Tau Fraternity eliminated hell week altogether and replaced it with a week of lectures, informal discussions, and smokers.

While Howard fraternities took steps to reduce violent hazing, fraternity members at Lincoln continued enthusiastically and violently hazing their pledges. The hazing was so brutal that “many of the students were observed walking with limps from the physical abuse inflicted upon them.” Pledges were expected to complete daily assignments that included cleaning tasks, washing clothes, and running various errands. At Lincoln hazing had a visible effect on pledges’ academics. One pledge at Lincoln even wrote, “[pledging] has been an evil monster devouring mid-semester grades as the main course and finals as dessert . . . it has caused the use of many drop
cards and ultimately dropping from school.” Eventually, in 1942, Lincoln administrators create a “no hitting law” to combat hazing brutality. Rather than attempting to eliminate hazing, Lincoln administrators met with fraternity representatives to regulate hazing and they established rules and guidelines for future hazing periods.

Administrators at Fisk far surpassed their colleagues at Lincoln in the harshness of their hazing sanctions. In 1948, the university’s Executive Committee of the Faculty enacted a moratorium for hazing and other “initiation” related activities. The committee convened in response to the “rampant brutality and insensitivity inflicted on pledges, the group also expressed concern over the physical and mental fatigue of students that continued after the [hazing] period had ended.” The committee ultimately recommended that fraternities justify their existence through “worthwhile contributions to the student body and the university.”

During the 1940s, three national fraternities forbade all forms of “brutality” towards pledges. These fraternities included Omega Psi Phi, Alpha Phi Alpha, and Kappa Alpha Psi. The fraternity anti-hazing policies enacted on a national scale did not accomplish their goal as hazing violations continued. After fining and putting on probation three of the four fraternities at Lincoln, a university faculty member described the hazing as “barbaristic [sic], sadistic, and masochistic.”

The 1950s saw even greater efforts by fraternities’ national officers attempting to ameliorate hazing. Instead of “hell week,” several fraternities now had “help week.” Help week centered on providing constructive advice to the pledges regarding their scholastic careers and performing community service. Despite all the efforts of national fraternal organizations, hazing persisted.

**The 1960s-80s: Deaths, Injuries, and the Beginnings of Litigation**

The 1960s, 1970s, and 1980s saw a continuous ramping up of hazing in BGLOs. However, the outcomes of and responses to hazing became more public and detrimental. In 1962, ten pledges reported physical abuse during their pledging to the Alpha Kappa Alpha
Sorority, and as a result the chapter was suspended from Howard University. During the 1970s, a Bradley University Alpha Phi Alpha pledge was beaten with fists and paddles, then treated for acute kidney failure. Twelve Alpha Phi Alpha members pled guilty to hazing charges. During the 1970s, eighteen University of Florida, Omega Psi Phi pledges were violently hazed, with some of the pledges indicating that they were forced to consume large amounts of alcohol and marijuana. One pledge indicated that he needed to spend the night in a psychiatric ward due to a mental break. The mental break was attributed to excessive paddling, beating, interrogations, and drinking during his initiation.

Following this incident, in 1978, Florida enacted a law prohibiting hazing at state universities beginning in 1981. The law defined hazing as “any action or situation which recklessly or intentionally endangers the mental or physical health or safety of a student” for the purposes of joining “any organization operating under the sanction of a university.” Hazing also included any activity that would subject a person to extreme mental stress, result in extreme embarrassment, or adversely affect the mental health or dignity of an individual. The statute specifically targeted whipping, beating, branding, forced calisthenics, exposure to the elements, and consumption of any food, liquor, drugs, or other substance. Universities were mandated to adopt the policies and penalties for violation as approved by the state Board of Regents. Students found guilty faced penalties ranging from a reprimand to expulsion from the university. The maximum penalty for organizations was expulsion from campus.

In the late 1970s and early 1980s hazing continued to proliferate throughout the nation. In 1977, Robert Brazile, 19, sought to join the Omega Psi Phi chapter at the University of Pennsylvania. Brazile, a sophomore pre-med student who wanted to practice in his native Haiti one day, made it through the first seven weeks of pledging despite getting only a few hours of sleep most nights. However, during “Hell Week” in April 1977, Brazile went to one last initiation where pledges were beaten and forced to do strenuous running. Brazile collapsed in the fraternity house meeting room and died a few hours later at the campus hospital center. Brazile’s death
was later linked to a previously undetected heart ailment, but Penn officials still withdrew all recognition from the Omega Psi Phi campus chapter.

In February 1978, a 20 year-old Omega Psi Phi pledge named Nathanial Swinson died at North Carolina Central University during an off-campus initiation. His death occurred after he was forced to run several miles and complete a battery of grueling exercises. The autopsy revealed Swinson had sickle cell anemia and died from excessive physical stress. While the North Carolina Central chapter was not officially recognized by the national body of Omega Psi Phi, members had appropriated the name during the pledge process at issue. No charges were filed in this incident.

In 1983, Van Watts died from alcohol poisoning following an Omega Psi Phi party given as an initiation ceremony at the Tennessee State University Campus. His blood-alcohol level was 0.52, five times the legal limit. Watts, a junior from Birmingham, Alabama, had been coerced into drinking the alcohol and carried bruises on his dead body. The party goers awoke in the morning to find Watts dead. That morning, other initiates were seen leaving the home staggering and supporting each other, most likely due to the same punishment Watts received the night before. Tennessee State University suspended the Omega Psi Phi chapter for five years as a result of the incident.

On March 27, 1986, Steven Jones, 20, faced ten charges, including two felony counts of assault with a deadly weapon, for hazing eight Omega Psi Phi pledges at North Carolina A&T University at an off-campus location. Jones struck seven pledges with a 2x4 on their heads, arms, and shoulders, and lit another pledge’s beard on fire. One pledge suffered a large wound on his head which would not close with stitches, and another pledge required seven stitches for a wound on his head.

The following year at Lamar University in Texas Harold Thomas died of heart failure as a result of a six-mile run while aiming to become a member of Omega Psi Phi. His mother brought suit against the school, the fraternity, and David Smith, who had allegedly directed the hazing. The trial court had entered summary judgment in favor of Lamar and the fraternity, but the court held on appeal in 1992 that entry of summary judgment in favor of the fraternity was
inappropriate and remanded the case for trial on the merits. Entry of summary judgment for the university was affirmed. In finding summary judgment inappropriate in favor the Omega Psi Phi, the court found that there was a genuine issue of material fact regarding one or more essential elements of Thomas’s cause of action. The existence of evidence that Thomas was pursuing membership in the group, that David Smith was acting for the organization, and that members had knowledge of Smith’s activities and held him out as an authority figure to pledges (despite Omega’s claim that Smith is not an official member) creates an issue that should be determined by a jury.

On the evening of April 5, 1988 at an elementary school near Norfolk State University, Chris Peace of Portsmouth was sluged in the face twice by Michael Wood of Chesapeake, a brother of Omega Psi Phi at Norfolk State. Wood was charged with a hazing misdemeanor with up to 12 months in jail and fines up to $1,000. There were eight other Omega Psi Phi brothers suspected to be involved, and all eight brothers and Wood were suspended for one year. The fraternity’s chapter was also banned from campus for 8 months.

In October 1989, Trent J. Washington, 23, of Clinton, Maryland, filed a lawsuit seeking unspecified compensatory and punitive damages from the Phi Beta Sigma chapter at Morehouse College in Atlanta, Georgia for a concussion he suffered from while pledging as a senior undergraduate student several years earlier. The hazing incident occurred on October 18, 1987, from approximately 11pm-2am. Washington described being “Struck in the head with unknown objects and while being forced to crawl on hands and knees up a hill against the force of fraternity members.” Washington suffered from a concussion following the ritual and was admitted to the Morehouse infirmary for 24 hours and treated at local emergency rooms and a neurologist office for continued symptoms. Washington was blackballed from the fraternity because he had missed a pledge meeting while he was in the infirmary. Phi Beta Sigma’s chapter at Morehouse College was placed on a year’s probation after being found guilty of similar hazing activities at a November 1987 judicial council meeting.
On February 22, 1989, SUNY at Stonybrook student Heath Byron Thomas, age 23, was beaten 40 times with a wooden cane and with fits until he lost consciousness for at least a minute. He was then taken to the woods when he regained consciousness and beaten again on the buttocks with a cane until the cane broke, on the hands and forearms with a paddle, and pounded in the chest with fists. The beating occurred over several hours and Banks was left alone in the woods, in pain and barely able to walk. The offenders were Ernesto Giraldez, 22, of the Bronx, Thomas Dunbar, 21, of Brooklyn, and Alvin Knight, 22, of Queens, who had started an underground chapter of Kappa Alpha Psi at SUNY at Stonybrook without national permission. All three had been initiated into Kappa Alpha Psi at SUNY Old Westbury. There was a fourth suspect as well, but he was cleared of all charges. Giraldez, Dubar, and Knight were all charged with 3rd degree assault and hazing and were released without bail. All three pleaded not guilty and were due back in court on August 2nd. Knight pleaded guilty to larceny of stealing $48 from the victim. The three students also faced college sanctions and were placed on suspension for a year, placed on disciplinary probation, and banned from the dorms. Two were not allowed to graduate and the other had to reapply for admission.

In the fall of 1989, Earl McKenzie and five other Kappa Alpha Psi pledges at Fort Valley State College were beaten with canes and paddles as part of a “pledge line.” McKenzie received blows to his chest, kidneys and back over a period of five hours and was hospitalized as a result, requiring three units of blood due to internal bleeding. The hazing began in earnest on November 6 to punish McKenzie and other pledges for failing to memorize fraternity history and rap songs praising the active members. The pledges had their shirts ripped off, were slammed to the ground, punched, and forced to eat raw eggs. The beatings continued on November 14. When one of the active members said that he was going to “put somebody in the hospital tonight”, the pledges fled to McKenzie’s parents’ house. This decision, however, led to an even worse punishment the following evening when the pledges were locked inside the fraternity house and pummeled with canes, kicks and fists. McKenzie felt dizzy and sick from the abuse, but the active members
thought he was faking and continued striking him. As a result, McKenzie and another pledge, Brian Beeler, were hospitalized at Peach County Hospital. McKenzie’s kidneys were on the verge of failure and Beeler was treated for a sprained back, bruised buttocks and sore kidneys. Six members of Kappa Alpha Psi were charged with battery.

The Hazing Game-Changer?

All of the incidents and cases described above led up to the Joel Harris incident and the events that ensued for BGLOs. On October 17, 1989, Harris, an eighteen year-old sophomore at Morehouse College, collapsed during a fraternity ritual at an apartment complex and later died at the hospital. Harris, who was pledging Alpha Phi Alpha Fraternity, collapsed during a ritual involving slaps, blows, and punches. The ritual lasted between three and five hours, and the post-mortem examination revealed two abrasions on Harris’s chest that looked like fingernail marks and may have come from a beating, although members denied striking Harris. Harris died of an abnormal heart rhythm linked to congenital heart disease.

The evening of October 17 had begun with the pledges reciting historical events of the fraternity. Errors, however, were punished with an array of physical abuse. One option was “Thunder and Lightning”, which involved getting hit in the chest and slapped in the face. Another method, called “Free Fall”, involved elbows, slaps, and punches to the chest.

Joel Harris’ mother, Adrienne C. Harris, vowed to begin a crusade to end hazing in response to her son’s death. The response to the incident by BGLOs was swift. The National Pan-Hellenic Council (NPHC), which, at the time, represented eight traditionally black fraternities and sororities, banned pledging at a special summit in February 1990. At the meeting, which took place just four months after Joel Harris’ death, NPHC unanimously voted to eliminate pledging and related activities—e.g., dressing alike, head shaving, and walking in straight lines. The name of the initiation process was changed from “pledging” to “Membership Intake Process” (MIP), and involved merely making an application for membership and
being accepted without enduring the rigors of hazing and pledging. The MIP involved three phases: (1) a pre-induction/orientation period; (2) a final induction ceremony; and (3) an in-depth education program. Each affiliate organization then had the opportunity to implement the guidelines and details of its own MIP. Unfortunately, however, the adoption of the MIP only led chapters to begin hazing underground.

**Conclusion**

The 20th Century resulted in the solidification of a systematic and organized pledge process, the merging of pledging with hazing, and a form of masculine bravado that resulted in the death of college students aiming to be accepted as members of high-status collegiate organizations. Joel Harris’ death was the incident that triggered NPHC to make the large-scale change from pledging to MIP, which continues to this day. However, the question lingers: has the prohibition of pledging, like prohibition in many other contexts, created a more perverse underground culture than what would otherwise be?
The number of hazing-related incidents seemed to escalate in the 1980s, culminating in the 1989 hazing death of Joel Harris at Morehouse College. The Harris hazing case was widely publicized, and in response, the National Pan Hellenic Council instituted a ban on hazing in 1990. Fast forward to 1994, when Kappa Alpha Psi Fraternity, pledgee—Michael Davis—died from head trauma from a hazing incident. His death resulted in Kappa Alpha Psi settling the suit for $1.4 million and led many to consider the MIP a failure.

The death also prompted a large turnout for the first annual Urban Leadership Retreat for Greek Advisors and Undergraduate Chapter Advisors of Historically Black Sororities and Fraternities held at the University of Illinois in Chicago. Fifty attendees from around the country convened to participate in workshops to find a solution to the hazing problems. The attendees of the event said they came away with useful strategies that would allow them to advise University faculty on how to deal with hazing issues.

Dr. Ted Smith, Kappa Alpha Psi’s Executive Director, worried that the creation of the MIP also made younger generations stray away from the official fraternity intake process. Dr. Smith expressed concern that some younger members felt a greater loyalty to their chapter than the fraternity. Dr. Jason DeSousa stated, “We just didn’t get enough students to buy into the new process at the chapter level. As a result hazing had been driven underground, where it has become even more dangerous.” Dr. John A. Williams, founder and director of the Center for the Study of Pan-Hellenic Issues, believed that pledgees of undergraduate chapters wanted a process with a rite of passage.

In 1998, a group of psychologists attempted to link young African American men’s willingness to participate and engage in hazing to acts of slavery and sadomasochism. They theorized that hazing allows students to act like slave masters to pledgees. Next, they hypothesized that there is a chilling resemblance between hazing
and the dominance and submission found in sexual acts of sadomasochism. Hazing involves such homoerotic activities such as line walking, which involves getting close to one another in back to belly formation, and also involves getting emotionally close to other men.

That same year, Ruffins and his colleagues put forth the idea of punishing pledgees as well as students instituting the pledging. They believed placing some responsibility on the pledgees would help to diminish participation in hazing activities. Omega Psi Phi was one of the first organizations to countersue pledges who sued the organization. Ruffins and his colleagues included a list of other suggestions for BGLOs, including: negotiating a nonviolent hazing process with young pledges, creating a website or 800 number that is open to the public where national offices control who is listed as a real member, offering rewards for reporting hazing, and hiring detectives to infiltrate rogue chapters and testify at criminal trials for those charged with hazing.

The incidents that follow highlight how entrenched hazing had become within BGLOs and that it was not going anywhere easily or soon. Because of the abundance of cases, I give a chronology of incidents for each fraternity and then for sororities as a whole.

**Hazing in Alpha Phi Alpha Fraternity**

Sylvester Lloyd, Jr., transferred to Cornell in fall 1994 and pledged Alpha Phi Alpha. Lloyd participated in initiation activities from January 14, 1995 through March 12, 1995, which involved various forms of physical beatings and abuse, psychological coercion, and embarrassment. In August, 1997, a default judgment was ordered against Michael D. Scott, one of the defendants. In 1998, Scott brought a motion to set aside the default entry for insufficient service of process. The federal Magistrate Judge in his report and recommendation found that Scott was not properly served with process and set aside the default judgment. The federal District Court Judge found that although Scott was not properly served, Lloyd had a reasonable belief that the process server had correctly served process. While Scott argued he would be unfairly prejudiced if the court
granted an extension, the Court ruled that Lloyd would be deprived of his right to pursue the cause of action if the extension was not granted, since the statute of limitations had passed. The court granted Lloyd an extra 30 days to properly serve Scott, and denied Scott’s motion to dismiss due to insufficient service of process.

Lloyd filed suit against the fraternity and Cornell University, alleging (1) negligent supervision and control; (2) premises liability; and (3) a breach of implied contract. On the negligent supervision issue, the court held that there was no special relationship between Lloyd and the university, nor was the university’s involvement with the fraternity sufficient to give rise to a level of monitoring that would create a duty to warn and protect Lloyd. On the premises liability issue, the court held that Cornell did not have sufficient notice of regular hazing in detail to create a landowner duty. Additionally, Cornell’s requirement that the fraternity maintain a chapter advisor did not give rise to a landlord/agent relationship through which the university could be held liable. Finally, the court held there was no breach of implied contract because there are no parts in the Campus Code of Conduct that make specific promises that could be deemed part of an implied contract. The court granted Cornell’s motion to dismiss it as a party to the action.

In March 1999, Eugene Sanders, 19, suffered serious internal injuries following a hazing ritual in a remote field as a part of the pledge process to join the Lincoln University chapter of Alpha Phi Alpha. The university suspended seven students until spring 2001 in response to the incident, required that they apologize to Sanders, that they perform 100 hours of community service, and that they get counseling. The Alpha Phi Alpha members appealed the suspension. The Vice-President for Enrollment Planning and Student Life at Lincoln University, Dr. Arnold Hence, himself an Alpha Phi Alpha alumnus, was accused of participating in the hazing. Following an investigation by the university, interim university president James Donaldson announced that there was “insufficient evidence” to charge Hence with wrongdoing. That response was disputed by Jeff Woodard, the lawyer representing the seven students suspended, who stated that Hence was directly involved in the hazing and that he had been judged by those with a “vested interest” in his being exonerated.
On March 21, 1999, Parent’s Day at Lincoln University, students distributed photocopied pictures of Hence with fraternity members that were emblazoned with the words “Can You Say Cover-up?” The photographs were stills taken from a videotape showing Hence watching pledges wearing cloaks carrying a load of bricks, and in another picture watching seven bald students dressed in identical white buttoned shirts and pants, and standing with interlocked arms. According to Lincoln University spokesperson Joan Logue-Kinder, Hence was present at some initiation rituals to “make sure they did not get out of hand,” but did not participate in them.

**Hazing in Omega Psi Phi Fraternity**

Omega Psi Phi chapters across the country were no less susceptible to hazing. On November 17, 1991 at Clark Atlanta University and a few blocks from Morehouse College, three members of Omega Psi Phi took eleven pledges to a high school football field and beat them with paddles. James Bush, Jr., a 20 year-old sophomore, was hospitalized after being hit with a wooden paddle on the buttocks and in the kidney area. Bush suffered kidney damage, bruised kidneys, and “raw” buttocks as a result of the incident. The pain was so bad that Bush was “trembling and biting into the ground” while he crawled on his stomach under bleachers of the baseball field and took blows to his back and legs delivered by hands, fists, rubber tires and paddles. Three fraternity members ultimately pleaded guilty to misdemeanor battery and hazing charges. The members were sentenced to three months community service and ordered to pay Bush’s medical expenses, which totaled $5,500.

It is pretty clear that up to this point the courts generally viewed fault to be with individuals rather than organizations. In this regard, courts seemed to view these incidents to be local rather than systemic. However, the tide began to change against BGLOs. For example, over a period of four weeks in 1993, Joseph Snell, 26, was beaten by members of the University of Maryland chapter of Omega Psi Phi with a hammer, horsehair whip, broken chair leg, and a brush. These beatings allegedly took place because the fraternity members stated that he was “not ‘Black’ enough” to join the fraternity. The
beatings sometimes took place in a fraternity member’s apartment, other times behind a local school at night. Pledges were made to eat vomit and received concussions and broken ribs. Six pledges suffered serious injuries ranging from a ruptured spleen to a fractured ankle. In addition to the beatings, the members once put a space heater next to Snell’s face to darken his skin because he was “not Black enough.”

As a result of the abuse, Snell was emotionally traumatized; he called a suicide hotline and was hospitalized for a week. Snell alleged he was assaulted and battered by the fraternity’s members, and they intentionally and/or negligently inflicted emotional distress. The defendants argued the abuse did not occur, but if it did they did not authorize the beatings, and that Snell consented to the abuse by continuing to return to the fraternity house.

In July 1997, a Prince George’s County jury awarded Snell a $375,000 verdict against Omega Psi Phi, with $300,000 of the award in the form of punitive damages and $75,000 for physical and emotional injuries. Twenty three members of the fraternity were charged with beating new members, but they avoided trial by agreeing to apologize to Snell, pay his medical bills, and perform anywhere from one hundred to one hundred fifty hours of community service. The fraternity was also required to make an open-ended offer to Snell for membership. In response to the incident, the University of Maryland suspended the fraternity from its campus for five years.

On October 26, 1994, Ric Ross, a pledge to the Omega Psi Phi chapter at Paine College, and an amateur boxer with Olympic aspirations, suffered partial paralysis as a result of severe beating on his back and upper neck by fraternity members Abdul Sabir, Rodney Brown, and Bryon Hatney. At the time of the incident, according to President of Paine College, Dr. Shirley Lewis, Ross was not a student of the school (although he had been previously). As a result of this incident Sabir, Brown, and Hatney pleaded no contest to criminal charges and were sentenced to 14 days in jail and 11 months probation.

Three years later, fifteen members of Omega Psi Phi at the University of Louisville were involved in the off campus hazing of Shawn Blackston on April 2, 1997. Blackston, a 23 year-old
freshman, was repeatedly beaten with a large wooden paddle and forced to eat dog food. As a result of the beatings, Blackston sustained significant cuts to his body and kidney failure. Fortunately, dialysis was used to treat his life-threatening condition and physically he fully recovered. In his lawsuit, Blackston sued the national organization in the amount of $500,000 in punitive damages alleging they knew or should have known that hazing was taking place at the local chapter. There was evidence that the regional trainer for Omega Psi Phi knew of the hazing rituals but did nothing about them.

During the summations, the attorney for the fraternity apologized but put the blame on Blackston for voluntarily participating in this conduct and keeping it silent. Furthermore, the defense attorney argued that the fraternity should not be responsible for the actions of a few renegades, and that there were no damages since Blackston completely healed. Omega PsiPhi filed countersuits against the participants in this hazing, claiming that they misrepresented the hazing as a requirement of joining the fraternity and “fraudulently used [the fraternity’s] name to commit illegal acts.” The jury was not persuaded and found that the fraternity was negligent in the membership intake process and pledge process, but apportioned a 5% comparative fault to Blackston. The verdict totaled $190,977, minus Blackston’s 5% fault, for suffering, medical bills, and lost wages. The jury also awarded Blackston $750,000 for punitive damages.

Blackston attempted to collect the judgment and had a title search performed in Georgia where the fraternity’s headquarters were located. The search revealed that during the lawsuit, the fraternity had transferred the headquarters property to Friendship Foundation, an Omega Psi Phi non-profit organization formed by the fraternity’s trial attorney Emerson Carey. Blackston sued Friendship Foundation and Carey alleging they had transferred the property with intent to defraud him. Defendants argued they had no intent to defraud Blackston and the property transfer was done in good faith for legitimate tax purposes. Carey was granted a defense verdict, and Friendship Foundation had to pay Blackston $5,783 for the cost of a title search and $44,111 in attorney fees.
As a result of this incident, the school banished Omega Psi Phi from its campus for at least ten years. The fraternity also revoked the charters at twenty-two other universities—University of Akron, University of Maryland, Clemson University, Fayetteville State University, Western Illinois University, Chicago State University, Indiana University Northwest, University of Texas, West Virginia University, West Chester State College, University of Buffalo, University of Illinois, Winthrop College, University of Cincinnati, Ohio University, Western Carolina University, East Carolina University, Michigan Tech University, Indiana University, and the University of Louisville—as a result of hazing incidents which “threaten the future of our fraternity” and “damage the goodwill that the had has built over the years.” Further, the fraternity expelled or suspended more than fifty members of Omega Psi Phi, and Dr. Dorsey Miller, Omega’s Grand Basileus (International President), announced an indefinite moratorium on the admission of new members.

Ten members of Omega Psi Phi at Albany State University were charged as accomplices in an April 8, 1998 hazing incident. Pedges had hot sauce was allegedly poured on the pledges as part of initiation activities that took place at a vacant church building. An empty hot sauce bottle and a paddle were found at the scene, and the pledges were wearing T-shirts stained with hot sauce. The jury acquitted the fraternity members of the hazing charges, because while they thought that something did happen, they believed that the activities did not endanger the physical health of the students. The Omega Psi Phi chapter at Albany State was suspended by its parent organization as a result of the incident.

A year later, in 1999, a pledge was beaten with a heavy wooden paddle as a part of the pledge process to Omega Psi Phi at Mississippi State University, and was subsequently treated by the campus health center for injuries. As a result of this incident the fraternity was suspended from operation at the school for “at least a year or two,” the two fraternity members responsible for the beating were subject to disciplinary action by the school, and the other students who witnessed the beating were treated as accessories to the incident.
Hazing in Kappa Alpha Psi Fraternity

Kappa Alpha Psi chapters were similarly plagued by incidents of hazing. In 1991, Wardell Pride pledged Kappa Alpha Psi at Tennessee State University when he was hazed in ritualized “heat sessions.” At these sessions, pledges were subjected to physical abuse in various forms, including “the cut,” and “bringing the knowledge.” “The cut” involved the pledges bending over, covering their genitals with one hand, and taking a beating with a wooden cane. “Bringing the knowledge” featured a member jumping down and slamming a heavy book on top of a pledge’s bowed head. Pledges were also reportedly punched in the chest with a knuckle and had sums of money extorted from them to pay for members’ rent and car repairs. Pride alleges that he was pummeled, poked with needles, branded on his arms and chest, and beaten with a cane so hard that it snapped. Pride survived the hazing and became chapter president of Kappa Alpha Psi, but filed a lawsuit against the fraternity in October 1994.

In February 1994, the Southeast Missouri State chapter of Kappa Alpha Psi took on five pledges for initiation, one of whom was Michael Davis. Between February 7 to 14, Keith Allen and other fraternity members subjected the pledges to repeated physical abuse. The young men were slapped on their necks and backs, caned on their buttocks and feet, and beaten with heavy books and cookie sheets. The pledges were also kicked, punched, and body slammed by the active members. After two of the five pledges had dropped out, the remaining three were put through a seven-station circle of physical abuse on February 14. At some point during this activity, Michael Davis passed out. His fellow fraternity brothers thought he was playing a joke, so they decided to carry him to his dorm. Once at his dorm, the fraternity brothers stripped Davis of his bloodied clothes and left him on his bed. He would never regain consciousness, dying the following day. The autopsy revealed that Davis had suffered broken ribs, a lacerated kidney, a lacerated liver, and multiple bruises. A pathologist stated that the cause of death was a subdural hematoma of the brain.

Keith Allen was charged with five counts of hazing, which is a misdemeanor offense in Missouri. A jury found Allen guilty on all
five counts, and he appealed, claiming that the Missouri hazing statute violates the First Amendment right to association and the Fifth and Fourteenth Amendment rights to equal protection and due process. The Missouri Supreme Court held that the statute is valid and affirmed the conviction, finding that Allen’s appeal was “little more than a casserole of constitutional catch phrases, unadorned by legal analysis.” Allen’s claim that the statute was vague failed because the statute adequately defined hazing as to give him clear definition to the acts prohibited in the statute. The overbreadth argument failed because there is nothing in the statute limiting the right of Kappa Alpha Psi members to associate, nor is the statute attempting to regulate constitutionally protected activities. The Fourteenth Amendment challenge failed on both fronts: (1) while Allen alleges a breach of equal protection, he offers absolutely no elaboration on this argument in the remainder of his complaint; and (2) his underinclusiveness argument fails because “there is no equal protection requirement that regulation must reach every class to which it might be applied.”

Besides for Keith Allen, 12 other members of Kappa were also arrested. Eric Keys, Terrence Rodgers, Ronald Johnson, Tyrone D. Davis, Karl E. Jefferson, Larry H. Blue, Eric A. Massey, and Issac Sims III were all arrested, but all either plead out or were released. The other 5 members, however, did end up serving jail time. Vincent L. King received the longest sentence, 5 years for involuntary manslaughter. Michael Q. Williams reached a deal with prosecutors and agreed to 5 years probation and 90 days. Mikel Giles, Cedric Murphy, Carlos Turner all received 30 days in jails and 5 years probation for their involvement. Kappa Alpha Psi was banned from the University as a result.

In another incident, Kendrick Morrison, a freshman at Louisiana Tech University, applied for membership in the Kappa Alpha Psi in 1994. Morrison was physically beaten by Jessie Magee, the chapter president, in Magee’s dorm room and was subsequently treated for head and neck injuries at the local hospital. Morrison suffered a drop in grades following the incident and claimed that this drop in performance would prevent him from realizing his dream of being admitted to physical therapy school. Magee and the local
chapter were suspended by both the university and the national fraternity following an investigation of the incident.

Morrison and his parents filed suit against Kappa Alpha Psi, its insurer, Jessie Magee, and Louisiana. A jury found all parties liable, apportioning the fault for the $300,000 award of general damages as follows: 33% to Kappa Alpha Psi, 33% to the state, and 34% to Magee. Additionally, the jury found that the fraternity was responsible for Magee’s portion through vicarious liability. The appellate court found that there should have been no vicarious liability for Kappa and reduced the damages to $40,000.

In affirming the liability on behalf of the state, the court found that Louisiana breached a duty owed to Morrison, and is breach was both cause-in-fact and legal cause of his injuries. The court found that a duty existed because (1) the school had knowledge of prior hazing of incoming freshmen in Kappa; (2) the school was aware that at least one student had hid his involvement with Kappa in the past, presumably from fear or a desire to become a full member of the organization; and (3) the pledging process is not an activity which an incoming pledge would regard as dangerous. These findings create a special relationship between the pledge and the university, and this relationship in turn creates a duty.

In affirming breach by the school, the court found that “there was ample evidence from which the jury could have concluded that the university’s response to and investigation of reports of Kappa hazing in 1993, the year prior to the incident involving [Morrison], were inadequate.”

Regarding the cause in fact element, the court found the jury’s conclusion that the school’s substandard conduct was a substantial factor in Morrison’s injuries. On the legal cause element, the court found that the injuries were within the contemplation of the duty that is, that a student might be injured as a result of hazing is within the scope of protection contemplated by imposing the above duty.

Regarding Kappa Alpha Psi’s liability, the court found that “Kappa National undertook a duty to regulate, protect against and prevent hazing by its collegiate chapters and thereafter failed to act reasonably to fulfill this duty.” The fact that Kappa was aware of
prior abuse in this particular chapter served to differentiate it from prior Louisiana cases where the fraternity had been found to owe no duty to the victim.

Two years after the Morrison incident, Santana Kenner sought initiation in the Beta Epsilon chapter of the Kappa Alpha Psi at the University of Pittsburgh in February 1996. During two chapter meetings that month, members of the fraternity engaged in psychological and physical hazing of Kenner and other initiates. Then, on March 29, Kenner was told to attend another chapter meeting at a member’s apartment. Kenner was greeted by four chapter members who proceeded to beat him more than two hundred times on the buttocks with paddles. After the beating, Kenner noticed his buttocks were numb and his genitals were swollen. He checked into the hospital the next day with blood in his urine and genital swelling. As a result of the beating, Kenner suffered renal failure, seizures, and hypertension requiring three weeks of hospitalization and kidney dialysis.

Kenner filed a lawsuit for negligence against the defendants, both individually and in their official capacity with the fraternity. The trial court had granted summary judgment for the defendants, holding that there was no duty owed to Kenner. On appeal, the court held that Kappa Alpha Psi and the individuals did in fact owe a duty to Kenner. Renal failure and the possibility of death were both found to be foreseeable harms of the initiation process, and the court found that Kappa Alpha Psi’s relationship with Kenner (including the application for membership, which the court viewed as establishing a contractual relationship) was substantial enough to give rise to a duty to protect against this harm. Additionally, weighing in favor of establishing a duty was the public interest of assuring safety during intake procedures. However, Kenner had failed to establish a prima facie case of negligence for the fraternity through the breach element because there was no evidence to back his assertion that a two year moratorium on hazing was merely symbolic in nature, and the summary judgment in favor of the organization was affirmed.

Kenner had, however, established a prima facie case against one of the individual defendants, and the summary judgment for that defendant was reversed and remanded for trial. The prima facie case
against the individual was established by setting forth facts alleging that the defendant knew there was a moratorium on hazing; he failed to adequately address the issue at interest meetings for prospective members; he did not understand the new intake process; and he did not take steps to find out what activity had occurred after an informational meeting he had conducted. Had he been more engaged in the intake process, according to the allegation, Kenner would not have sustained his injuries, and this was sufficient to survive the defendant’s summary judgment motion.

In 1996, Donald Edwards, a junior, attempted to join the Northern Illinois University chapter of Kappa Alpha Psi. He was given the option of going through the “process” of joining or merely going through the established, legal membership intake process (through a written paperwork process known as “being paper.”) Edwards chose to go through the process along with five other initiates. On July 15, 1996, Edwards was called and told that he and the other initiates needed to bring pizza, movies, and drugs to a member’s apartment. That evening the members poured candle wax onto Edwards’s arms and slapped his head.

On July 18, 1996, the initiates were coerced into each giving a member $50. Two pledges dropped out on July 19 when they discovered that not going through the written intake process might bar them from membership, but Edwards and the others continued. Over the next month, Edwards was paddled on the face and buttocks, and a cigarette was put out on him. On about August 21, 1996, Edwards went to the hospital with a small contusion on his skull, and he returned the following day with blood in his urine. Following the beatings, Edwards was left with a bruised kidney, concussion, and cigarette burns.

Edwards filed a lawsuit against the national organization of Kappa Alpha Psi, alleging that the organization extorted money from pledges and encouraged members to haze and demean pledges. Edwards sought $150,000 in damages from the fraternity. He alleged that Kappa is liable for battery because its members were agents of the organization. Additionally, Edwards alleged negligence by Kappa Alpha Psi for permitting an aura of violence. The court refused summary judgment for the defendant on both counts. The court
denied summary judgment on the agency issue because Kappa Alpha Psi may have possessed some control of its members and their residences. The court also denied summary judgment on the negligence issue because the facts in the claim were disputed.

Two years after the Edwards incident, at an unofficial meeting of pledges on February 8, 1998, leaders of the Kappa Alpha Psi at the University of Maryland Eastern Shore told Marquez Polk and Dwayne Motley that they would be beaten as part of their initiation. If the men did not submit to the hazing, they were told, they would not enjoy the benefit of full membership privileges. Over the next two months, Polk and Motley were caned, beaten, spanked and paddled “enumerable” times so savagely that the canes and paddles often broke during the beatings. As a result of this abuse, Polk and Motley were hospitalized with subcutaneous bleeding in the buttocks and gangrene of the buttocks. Surgery was performed which involved large amounts of tissue extraction and skin grafts to remedy conditions which, if neglected, could have potentially been fatal to the young men.

Jon-Mikael McKenzie and Vaughn Green were active members of the fraternity, and both men were charged with second degree assault, hazing, and reckless endangerment against the victims. McKenzie was convicted at trial on the hazing charges and sentenced to ninety days, a fine, and eighteen months’ probation. McKenzie challenged the constitutionality of the Maryland hazing statute on grounds of overbreadth; vagueness; violation of the First Amendment freedom of speech; and violation of the First Amendment freedom of association and assembly. The court held on appeal that the statute was constitutional.

The facial challenge for overbreadth failed because the defendant failed to show that (1) every application of the hazing statute creates an impermissible risk of suppression of ideas; and (2) the defendant failed to show how the statute inhibits the constitutionally protected speech of the larger public. The vagueness challenge failed because the term “haze”, as set forth in the statute, (1) provides adequate notice for ordinary people to understand the conduct it prohibits; and (2) it does not authorize or encourage
arbitrary or discriminatory enforcement because the statute enumerates specifically prohibited activities which constitute hazing.

The challenge that the statute violated the First Amendment, freedom of speech clause, failed because the hazing statute operated like a hate crime statute, in that it acted to deter conduct that was prohibited, regardless of motive—not restrict constitutionally protected acts. The final challenge, claiming that the statute subjects those associated with fraternities to penalties for mere affiliation, also failed. The language of the statute required an offender to “haze a student as to cause serious bodily injury”, rendering the challenge baseless regarding persecution on grounds of affiliation.

In 1998, Earnest L. Harris Jr., 23, sought to join to Beta Psi Chapter of Kappa Alpha Psi at Kansas State University. The Manhattan, MO, police stated that Harris suffered injuries to his kidneys as well as welts and bruises as a result of a beating with a paddleboard on April 17 by as many as six persons. Harris also had pepper put in his mouth, and he was made to drink a vile concoction. Harris’ fiancé, Jaimee Denby, stated that Harris told her there were between 10 and 20 people at the initiation event, which took place at an off campus apartment, and that Harris was one of five people being initiated.

According to the Riley County Police Department investigation, Harris was the “main pledge there going through it,” and several fraternity members, including two from out of town, were there. Harris reportedly earned two “trophies” at the initiation, which were broken paddles that had been broken as a result of his beating. The chapter had four active members attending KSU, but only one of those members was present at the initiation. According to Harris’ father, Earnest L. Harris, Sr., his son was also beaten with closed fists across his back and kidney areas causing welts all across that area. Harris’ fiancée stated that the incident got out of hand because some of those in attendance were drunk.

Harris needed intensive care treatment and underwent dialysis as a result of the injuries he sustained. The police investigated the incident, no one was charged as a result. The Beta Psi chapter was suspended indefinitely by the university as a result of hazing. A spokesman for the university stated that Kappa Alpha Psi “ceased to
exist” after the incident, and that if the fraternity attempted an appeal of the suspension, the university would initiate expulsion proceedings against them. Harris’ father stated that this was the second time Harris pledged the fraternity, first pledging as an undergraduate at the university but dropped out of the pledge class because he was injured. Harris’s father declined to give details on that incident, but said that his son was convinced by several associates of the fraternity to pledge again, and he did. Harris was reportedly interested in the community work, social interaction, and networking opportunities that the fraternity had to offer. The university stated that Harris had graduated in December of 1997 with a degree in business administration. Harris was being initiated into the alumni chapter based in Topeka after going to college with some of the members of the fraternity over the past four years, and wanted to cross with them. Despite the hazing he was subjected to, Harris stated he still felt that Kappa Alpha Psi was an outstanding organization.

In 1999, at Grambling State University, Jonathan Williams and a dozen other pledges of Kappa Alpha Psi were hit with canes and paddles over a two day period at a house in Ruston, Louisiana. Williams was subsequently treated for bruises and swelling. As a result of the incident, criminal charges were filed against Kevin C. Davenport, 24, of Blytheville, Arkansas; Carlton P. Smith, 27, of Lake City, Florida; and Derek Hampton, of New Orleans, Louisiana.

**Hazing in Phi Beta Sigma Fraternity**

The same type of violence that was occurring at Kappa Alpha Psi was also occurring at Phi Beta Sigma chapters. In March 1991, a few blocks from the university Joel Harris was attending when he died from a hazing incident, Roderick Green was a student at Clark Atlanta University and pledging Phi Beta Sigma. Seven fraternity members blindfolded Green, transported him to an undisclosed location and struck him with paddles during a ritual. The members forced Green to crawl up a hill while he was struck over 100 times, suffering knee and kidney damage. The fraternity contended it did not condone hazing or mental or physical abuse. A default judgment was entered against the national organization after it failed to release
files documenting past incidents of hazing by chapters around the country. A judgment of $300,000 in compensatory damages and $250,000 in punitive damages was entered for Green.

In 1992, Duronne K. Walker sought membership into the Phi Beta Sigma at Southern University. Similar to the preceding incidents, Walker claimed he was beaten and abused during his initiation activities, and the resultant injuries were allegedly severe. Walker and his parents filed suit against Phi Beta Sigma, the university board, and several members of the fraternity. The appellate court affirmed that the fraternity did not owe a duty to prevent Walker’s injuries and affirmed the trial court’s summary judgment in favor of the defendants.

Phi Beta Sigma had a detailed guide and policies regarding hazing prevention, and all members of the organization were sent a copy of the guide. The national organization had no knowledge of the hazing at the Southern University chapter, and no national member of the national organization was present at any of the incidents. Further, it was stated that any hazing was purposely hidden from the national organizing body of the fraternity and that Phi Beta Sigma was not in a position to control the action of its chapters on a day-to-day basis. The court considered the totality of these factors in determining that there was no duty owed by the group to the defendant.

In 1996, three Phi Beta Sigma members at the University of Georgia pleaded guilty to hazing and battery charges in the paddling of football player Roderick Perrymond. Perrymond was hospitalized after receiving at least seventy blows. The Phi Beta Sigma members had a chapter advisor present to urge moderation. That very advisor, however, was a participant in the illegal hazing lineup. Perrymond filed a personal injury lawsuit seeking damages for pain and suffering, mental and emotional anxiety and distress, punitive damages, and payment of his medical bills.

Perrymond claimed that the fraternity adviser verbally threatened to kill him before the paddling began, and he was also told he would be hit in the head with bricks and the paddle if he offered any resistance. In criminal proceedings, three members of the fraternity pleaded guilty to charges of battery and hazing and were
sentenced to twenty four months’ probation, $1,200 fines, and one hundred fifty hours of community service. The three students were originally suspended by the university until 1999, but this was later reduced to the winter of 1998.

**Hazing in Black Greek-Letter Sororities**

While most of the hazing incidents mentioned focus on black fraternities, black sororities also engaged in these violent practices. Sherdene Brown was a twenty six year-old black woman who was a graduate student at Kent State. Brown had agreed to assist in pledging a new line of candidates for the Alpha Kappa Alpha Sorority. In 1991, Brown inflicted or assisted in the abuse of pledges, the bulk of which took place during the final stage of initiation known as “Goddess week.” The pledges were slapped on the face and hands, punched, pushed, and paddled (known as “taking wood). The paddling involved anywhere from a dozen to more than a hundred blows from “the enforcer,” a special paddle wrapped in silver duct tape. Past and present pledges testified to the severity of the abuse by Brown. Girls suffered black eyes, nosebleeds after coerced headstands, and passed out after being struck on the temple. Some pledges suffered bruised and bleeding buttocks from the paddling, and two of the girls received permanent scars, which cannot be surgically repaired.

Brown testified that she did not want to hurt anyone. Rather, she claimed that she was told this process was the only way a black woman could gain respect in her community. Brown was convicted at trial on one count of complicity to hazing and one count of complicity to assault, both misdemeanors. The court affirmed the conviction on appeal, rejecting all nine of Brown’s contentions. Brown’s claims on appeal had asserted that (1) the trial court erred in failing to require Ohio to provide a bill of particulars; (2) the trial court abused its discretion and to the prejudice of appellant in granting the state’s motion to amend the indictment during trial; (3) the indictment for hazing fails to state an offense and must be dismissed; (4) the trial court erred and to the prejudice of appellant in granting the state’s motion to amend the indictment during trial; (5)
the trial court erred and to the prejudice of appellant in receiving evidence which exceeded its jurisdiction; (6) the trial court erred and to the prejudice of defendant in find appellant guilty because the conviction is not supported by the evidence (7) the trial court erred and to the prejudice of the appellant in admitting certain photographic evidence; (8) The trial court erred and to the prejudice of appellant in refusing to admit the medical records of state witnesses; and (9) the trial court erred and to the prejudice of the appellant in excluding relevant evidence describing the rituals and traditions of sorority pledge activities on other college campuses. Further, the court held that consent by the pledges served as no defense to the crime charged and that the crime is one of strict liability. Regarding Brown’s sixth contention, the court found that there was credible and ample evidence to support the jury’s guilty verdict.

In 1995, Latoya Jones, Paula Thomas, and Tracy Barker were active members in the Delta Sigma Theta Sorority at Northern Illinois University. On about January 22 the sorority members sponsored an informational meeting for prospective members and scheduled interviews with attendees to become more familiar with them. One of the participants, Rodgers, alleged that Jones, Thomas, and Barker hazed her by verbally and physically abusing her. Additionally, Rodgers claimed that the members directed her to purchase merchandise for their benefit. A university hearing board found the women guilty and expelled them from the school, placing a two year hold on use of their transcripts.

Jones, Thomas, and Barker filed a §1983 suit against Northern Illinois, the state of Illinois, and individuals alleging they were denied a liberty and property interest without due process of law. In consideration of the motion to dismiss, the court focused on due process as the dispositive issue. First, the court held that failure by the school to follow the student judicial code in the plaintiffs’ hearings did not constitute a denial of due process. Second, the court followed the Seventh Circuit by holding that due process does not require counsel’s presence during a disciplinary hearing of a student. Third, the court held that there was no evidence of bias or prejudice of the board members against the plaintiffs at the hearing. Finally, the
court determined that the student disciplinary proceeding’s procedures did not deprive the plaintiffs of due process. As a result, the court granted the defendants’ motion to dismiss the suit.

In 1996, several pledges reported being spat on, hit, kept from sleeping, and verbally insulted as a part of the pledging process to the chapter of Alpha Kappa Alpha at Temple University. As a result of these allegations, the university suspended three students: Tara Pinkens, Stacey Manual, and Ashamalanda Johnson. Over a dozen Temple university students held a rally in front of Vice President James White's office to protest the suspension.

The next year, Kimberly Kelly, 21, was a junior at Georgia State University and was seeking to join the Alpha Kappa Alpha Sorority. Kelly alleged that on April 21, 1997, she was kicked, punched, choked, and stomped by five fellow pledges when she refused to participate in a recruitment activity. According to GSU’s vice president for student life James Scott, Kelly begged off from attending a sorority recruitment activity during Freaknik, the annual black college spring break, because she had guests. This allegedly angered her fellow pledges, who violently attacker her when she was at a friend’s apartment in midtown Atlanta.

There were no authorized Alpha Kappa Alpha activities scheduled for Freaknik weekend. Kelly identified four GSU students, Nikeitra Benton, Chada Hardiman, Crystal Williams, and Dalana Johnson, and one non-student, Mary Schapelle Nadal, as her attackers. Kelly was treated for her injuries and was released from Crawford Long Hospital. Scott stated that the students who were accused had been issued summonses to appear in court. The police would not comment on the issuance of the summonses, but it is presumed that a summons was issued for the non-student as well.

In 1998, several pledges to Delta Sigma Theta at the University of Kentucky reported physical and mental abuse during the pledge process in the sorority. The Dean of Sororities launched an investigation after receiving an anonymous phone call from a Delta Sigma Theta alumna. The claims were summarized in a May 22 letter from the Dean of Students Office to Chy Rita Banks, the sorority president, and to the sorority’s regional office in Flint, Michigan. The investigation culminated in a May 22, 1998 letter,
which stated that the sorority members reportedly met with pledges in the first week of March to initiate them, which was weeks before they were supposed to and before the national headquarters of the sorority gave permission to do so. The type of physical and mental abuse that reportedly occurred, however, was not elaborated on. Sorority officials denied the hazing charges, and believed that the administration was out of line by asking about sorority practices, elaborating that black fraternities and sororities are very private institutions. The university suspended the sorority from 1998 until 2001 despite Banks’ claims that the allegations were groundless and without specifying the harm that occurred.

Also in 1998, Takiyah Starks and Keita White were members of the Zeta Xi chapter of the Alpha Kappa Alpha at Bennett College, located in Greensboro, North Carolina. There were complaints from three new members of the sorority that Starks and White subjected the pledges to harsh treatment, including snapping fingers against pledges’ heads, throwing a pillow at pledges, and using abusive language. The allegations’ full extent was never made public. A five member judiciary board at Bennett College found Starks and White guilty of hazing, and “willful and negligent actions endangering the health and safety of others.” One of the girls admitted to talking harshly, but denied threatening anyone.

The college informed the women on May 11, 1998, that Starks, who was allegedly the harsher of the two, would have her diploma withheld one year, and that they both would be barred from taking part in commencement ceremonies. The college also tried to strip Starks of her student elected role model title of “Ms. Bennett College,” and she was not allowed to attend the ceremonial graduates breakfast, where she was scheduled to speak. Starks and White both filed suit against the college, alleging that they would suffer “irreparable injury” and “public embarrassment” if they were prevented from marching with their class. A Guilford County Superior Court judge agreed, and handed the college a restraining order preventing them from not allowing Starks and White from participating in the ceremonies. The college disbanded the 15 member Zeta Chapter until 2002.
Conclusion

Collectively, the summary of these incidents and court cases show the gravity and severity of hazing in BGLOs. Despite the legal and social consequences of hazing as well as an organizational change in initiating members in 1990, pledging and hazing continued throughout the 1990s. In spite of hazing clearly being a systemic issue throughout college and universities across the United States, courts continued to more or less evaluate hazing incidents on a case by case basis. Little precedence was established and little empirical studies and scholarly theories assisted with how the judicial system should evaluate and place blame. As a result, most defendants received little, if any jail time. Most were mandated to pay court costs and medical bills of plaintiffs who were severely injured while pledging these organizations. Besides a few exceptions, national organizations and universities avoided blame. It seems that while hazing is systemic and many individuals at various levels (whether that be alumni members or presidents of universities) are aware of the pervasiveness of hazing, the blame mostly falls on young men and women ultimately doing what was done to them.
CHAPTER 4

Bring the Beat Back: Hazing and BGLOs, The 2000s

Hazing in the 2000s continued where the 1990s left off. There was a plethora of hazing incidents and court filings during the first decade of the 21st Century. Pledges were trying to obtain the same level of respect from pledging as their organizational predecessors who were legally allowed to pledge “above ground” on college campuses by dressing similarly in public and lining up. Many members in the 2000s aimed to show their allegiances to their BGLO by engaging in a series of acts and rituals that resulted in injuries and, in some cases, death. The incidents that follow highlight the continuing problem of hazing within BGLOs. In order to convey the pervasiveness of this problem, I give a chronology of incidents for each fraternity and then for sororities as a whole.

Hazing in Alpha Phi Alpha Fraternity

Anonymous pledges at the Alpha Phi Alpha chapter at Ohio State University suffered physical injuries as a part of the pledge process, which later triggered an investigation by the school and the fraternity. One student’s injuries required several thousand dollars’ worth of dental work, and another student was admitted to the hospital with contusions to his stomach. The injuries were inflicted by current members of the fraternity as well as one or more alumni. The university became aware of these incidents in mid-November 2000 when a pledge, who seemed overly tired and whose academic performance had markedly declined, confessed to his academic adviser that he had been subjected to hazing.

On November 15, 2003, as a result of a “water night” initiation to the Alpha Phi Alpha at Southern Methodist University in which pledges were forced to consume hot sauce and salsa and to drink gallons of water as punishment for missing answers to fraternity trivia questions, Braylon Curry was admitted to Dallas
Presbyterian Hospital. During the incident Curry became incoherent, yet fraternity members urged him to continue to drink water or be beaten if he stopped. Curry reported that he felt light-headed while drinking the water, but continued drinking until he began vomiting. Lying in a pool of his vomit, Curry nearly drowned. Following his collapse, fraternity members frantically searched “over hydration” on the internet to learn about the effects of overconsuming water. An ambulance was called for Curry at 8am, with a report that he had been “dazed and incoherent” since 5am. Curry spent a week recovering from a pulmonary edema and hyponatremia caused by the intake of a large amount of water into his lungs. Curry’s doctor, Dr. Kenney Weinmeister, estimates that he drank 3 or 4 gallons of water during the incident, lowering his sodium level to the point that his cells could not function properly. Following his hospitalization, Curry was unable to return to school to complete his junior year, and spent the remainder of the year recovering with his family before transferring to Howard University to complete his undergraduate degree in finance.

The eight fraternity members responsible for the “water night” initiation, Cornelius Smith Jr., Brandon Perry, Filmon Berhe, Uchi Kalu, Onyekachi Ibeke, Eric Bowie, Jason Harkey, and Raymond Lee were prosecuted for aggravated assault with a deadly weapon (water). The court held on appeal that the defendants could be prosecuted under felony aggravated assault instead of misdemeanor hazing charges for knowingly, intentionally, or recklessly causing serious bodily injury. Lee, a 28 year-old fitness trainer who prosecutors say was the ringleader of the hazing, was convicted on June 23, 2006 and sentenced to 180 days in jail, 10 years probation, and a $10,000 fine. Lee was on probation at the time of the incident for stealing another pledge brother’s identity and writing bad checks, and was previously punished as an undergraduate at the University of Texas at Dallas for hazing pledges to the Alpha Phi Alpha chapter at that school.

In response to this incident Southern Methodist University suspended Alpha Phi Alpha from campus. This chapter of Alpha Phi Alpha at Southern Methodist University had been previously suspended for three years for hazing, and had been reinstated in the
Spring of 2003. The day before this hazing occurred, SMU had held an anti-hazing event on campus and published a half-page advertisement in the school newspaper that defined hazing and described its consequences. The Alpha Phi Alpha national organization subsequently announced plans to revoke the charter of the Southern Methodist University chapter.

In 2004, pledges to the Alpha Phi Alpha chapter at the University of North Texas were slapped in the thighs and chest, required to do calisthenics and to conduct interviews in blacklight, deprived of sleep, and blindfolded as a part of their pledging to the fraternity. The university and the fraternity began independent investigations into these activities after a recruit had a car accident and cited sleep deprivation as the reason for the crash. The University of North Texas suspended the fraternity until February 13.

On October 12, 2005, E. Martyn Griffen, at the time a 20 year-old history major at the University of Pennsylvania, was slapped across his bare back, snapped with a rubber band on his bicep, and repeatedly hit in the thighs until he could no longer stand as a part of the pledge process to Alpha Phi Alpha. The attacks were carried out as punishment for the actions of another pledge, who had revealed fraternity secrets to a non-member. Griffen suffered physical injuries, including a one and a half inch by three inch scar on his harm and X-ray evidence indicating excess bone growth on his femur as a result of the injuries to his thighs. When he was treated Griffen initially claimed that his injuries were a result of athletic activity.

Griffen filed a ten count complaint against Alpha Phi Alpha and two individuals alleging he was assaulted and battered during hazing. Alpha Phi Alpha filed a motion to stay the litigation pending arbitration, which centers on the validity of an arbitration clause in the membership application initiated by Griffen when he applied to join the fraternity. The court found that there was neither substantive nor procedural unconscionability in the membership contract which would invalidate the arbitration clause. As a result, the arbitration clause is enforceable and the court stayed the litigation pending arbitration.

Two fraternity brothers, Kelechi Okenerke, 21, a senior pre-med student, and Lionel Anderson-Perez, 24, a graduate student,
were acquitted of criminal conspiracy but convicted of simple assault and harassment and sentenced to nine months’ probation. Okenkerke, who had vouched for Griffen to join the fraternity, said that he was “stunned” to be served with a criminal complaint following the Thanksgiving holiday, given that since the time of the incident Griffen had become a full-fledged fraternity member, and socialized and danced at several events. Griffen stated that he had delayed filing a criminal complaint because he was depressed and in pain, and “conflicted” about accusing friends and fraternity brothers.

According to Griffen, he continued to consult a therapist and to feel emotional pain from the incident: “There was never a day that went by since the incident that I have not thought about why it happened. Never a day.” Griffen’s father, Appellate Judge Wendell L. Griffen, a candidate to become the first black chief justice of the Arkansas Supreme Court, expressed his sorrow over the experience: “As a father, but especially as an African-American man, this is disturbing because the kind of abuse that my son experienced is the kind of abuse that was associated with slavery.” In response to this incident, the national Alpha Phi Alpha organization suspended the membership of both Obereke and Anderson-Perez. Griffen filed a civil suit in federal court against Anderson-Perez and Okereke, the University of Pennsylvania chapter of Alpha Phi Alpha, and the national Alpha Phi Alpha organization.

Between January 23 and February 11, 2007, an unnamed 20 year-old pledge from Tulsa, Oklahoma was beaten with paddles, forced to do calisthenics, and subjected to other unspecified hazing as a part of the pledge process for the Alpha Phi Alpha chapter at Oklahoma State University, Stillwater. The pledge reported that the injuries were a result of “set” meetings, held five or six nights a week, where pledges received “punishment” for failure to recall information about the fraternity; during these meetings the pledge accepted the “punishment” for another pledge who had an unspecified medical condition.

The unnamed victim’s injuries included abrasions to both elbows, contusions to the chest and back, and the loss of all skin layers in an approximately two inch diameter area on the buttocks. Before seeking medical treatment, the pledge was told by fraternity
members to “lie to the doctors about how he got the injury.” At the hospital the pledge was treated with special antibiotics to combat flesh-eating bacteria in a wound on his buttocks, an injury that doctors initially thought would require plastic surgery and that has left a permanent scar. Other pledges, who were not injured as severely, but who were paddled, slapped, and punched for failing to recall information about the fraternity for several hours a day, six days a week, over a period of three weeks, had a different perspective on what had occurred. According to police, “[t]he pledges really didn’t want to talk. Many felt nothing really happened.” Nonetheless, these pledges had visible injuries including marks indicating the “outline of the paddles on their skin, mostly on their buttocks.” Authorities collected nine paddles from the fraternity, eight of which were 2 feet long and a half an inch wide, and the final one, which fraternity members asserted was not used on pledges, which was made from a three-foot section of a two-by-four. One of the paddles had the words “The Motivator” printed on it. Six defendants, Corrion “Cory” Quentrelle Cox, 23; Joshua David Goree, 24; Mitchel Anthony McCowan, 22; Michael Dexter Combs, 22; Jason Taylor; and Lyall Cobb Storandt, 23, were all convicted of misdemeanor hazing. Goree, McCowan, Combs, and Taylor were ordered to write 1,250-word papers on hazing, to pay a total of $3,755 in restitution, and to perform community service. Cox was ordered to write a five-page essay about hazing, to perform 20 hours of community service, and to contribute a proportional share to the $3,755 of restitution. Storandt pleaded no contest and was ordered to write a five-page essay about hazing, to perform 50 hours of community service, to pay $625 in restitution, $100 to a victim’s compensation fund, and a fine of $200.

Ronald “Skip” Kelly, the attorney for Corrion Quentrelle Cox, and an alumnus of Alpha Phi Alpha, described the effect that the incident had on his client and others charged: “They can’t go to the Student Union to get a sandwich. They can’t be on campus for any purpose other than to go to class or the library...[m]y client goes to church at Bennett Chapel—which is forbidden since it’s on campus. He has a job on campus—he can no longer work on campus.” By contrast, Dwain Shaw, the attorney for the anonymous
pledge, stated that his client was withdrawing from the university and dismissed OSU’s action against the accused as a “slap on the wrist.” The pledge hurt during the hazing later withdrew from Oklahoma State University. Alpha Phi Alpha was banned from the Oklahoma State University, Stillwater campus for fifteen years; the national Alpha Phi Alpha organization suspended this chapter for five years.

Darryl R. Matthews, Alpha Phi Alpha’s General President, released a statement praising the anonymous pledge who had reported the incident: “We applaud the young man who exposed the hazing at Oklahoma State University...[t]his is the type of young man who has the intestinal fortitude that makes a true Alpha man.” According to reports, however, it was in fact the father of the severely injured victim who went to police after picking up his son at the hospital and observing the severity of the wound.

In 2009, Brian Tukes, 19, was hospitalized as a result of injuries suffered in an Alpha Phi Alpha hazing incident. Tukes was reportedly beaten by fellow fraternity members who used their “hands, fists, or other body parts” while assaulting him at the Alpha Phi Alpha house as part of an alleged hazing ritual. Tukes sent a text to his mother on November 30, that he’d been vomiting. He later called her and asked her to meet him at the emergency room. Tukes suffered acute renal failure after being assaulted with hands, fists and other body parts from September 10 to December 1. As a result of the incident, Alpha Phi Alpha’s general president suspended future intake processes for new member indefinitely at the national level.

**Hazing in Omega Psi Phi Fraternity**

The incidence of hazing in Omega Psi Phi chapters paralleled the brutality in Alpha Phi Alpha. At 5:30 AM on January 29, 2001 Joseph T. Green collapsed while jogging on the Whites Creek High School track, in an initiation ritual for Omega Psi Phi at Tennessee State University. Green, a daily runner, was in good health with no history of asthma. He was rushed to the hospital in cardiopulmonary distress with a temperature of 103.7 degrees. Green died of environmentally induced hyperthermia and an acute asthma attack as a result of the initiation-related exercise. Rajual Brown and Tyrone Rogers were the
fraternity members in charge of the initiation activities, which began at 3am or 4am. Green’s parents filed a $15 million lawsuit against Omega Psi Phi, alleging that fraternity members ordered Green and seven other pledges to commit illegal hazing activities. The suit also named two individual members as defendants, Rajual Brown and Tyrone Rogers. The suit alleged that these two were in charge of the hazing activities. No criminal charges were ever filed, but TSU suspended the chapter for five years.

In 2003, Gerald McCarthy campaigned to become Tenth District representative of Omega Psi Phi in the April 11 election, but lost to the incumbent, Dwight Pointer. During the election, Pointer disseminated information that pointed to McCarthy’s involvement in illegal hazing activities during January 2001. Pointer referenced incidents in which McCarthy’s name was mentioned in the investigations, but of which he was cleared of any wrongdoing. In those incidents, however, some fraternity members were sanctioned. On March 29, 2003, Pointer received a videotape from a fraternity member documenting the hazing incident. McCarthy appeared in the video, and a memorandum attached to the tape alleged that McCarthy was involved in unsanctioned intake of new fraternity members.

Pointer contacted the national office after receiving the tape, and on April 1, Pointer suspended McCarthy and eleven other members pending an investigation of the intake process. Notice of the investigation and suspension was sent to all fraternity officials, however, it was leaked to a fraternity publication. Investigation of the tape revealed that it was a mix of two separate events and was of extremely poor quality. McCarthy’s suspension was lifted, and on July 9, 2003 McCarthy filed suit for slander, libel, and defamation against the creators of the tape. McCarthy then amended his complaint to add Pointer and additional defendants. After motions for summary judgment, McCarthy amended his complaint to add Omega Psi Phi as a defendant, alleging that the fraternity had encouraged Pointer to suspend McCarthy. The court found Pointer and Omega Psi Phi liable for damages and awarded $5,800 in actual damages and $148,132.22 in punitive damages. On appeal, the court found that the
amended complaints adding Omega Psi Phi did not relate back to the original complaint, and reversed the judgment for McCarthy.

In 2009, Lee West III, a graduating University of Houston senior, is suing Omega Psi Phi and seven members individually for injuries allegedly suffered from hazing in February 2009. West claims he was beaten with paddles, a broomstick, and baseball bat so severely that he had trouble walking, couldn’t put on his own pants, and suffered a hematoma. West and two others were subjected to three particularly brutal hazing sessions where they were beaten with wooden boards covered with duct tape, bats, and a broomstick which broke during the pummeling. West, an accounting student, was hospitalized due to his injuries. Additionally, the young men were also made to buy food for the members. West is seeking damages for pain and suffering, as well as attorney’s fees.

**Hazing in Kappa Alpha Psi Fraternity**

At the same time that this violence was occurring at Omega Psi Phi, Kappa Alpha Psi was dealing with a similar problem. Consider the story of Brandon Sylve. Mr. Sylve and his mother filed suit against Louisiana State University and Kappa Alpha Psi for hazing activities which allegedly took place in the spring semester 2001. Sylve was paddled, beaten, and caned three times per week during off-campus events early in the semester according to the complaint. As a result of his injuries, Sylve missed several weeks of school to undergo two surgeries for damaged skin on his buttocks. The surgery was necessary to fight infection and remove dead tissue from the area, as well as a skin graft to close an open wound. Sylve is seeking damages for his medical treatments, surgeries, and hospitalization.

On March 21, 2001 an 18 year-old freshman pledge to Kappa Alpha Psi at Old Dominion University, who suffered from asthma, was hospitalized after he stopped breathing, as a result of injuries inflicted on Friday, March 16. The 18 year-old had chosen to enter the fraternity through the “pledge” process rather than the “paper” process, a choice that gave a fraternity member greater respect. During the initiation process the pledge was forced to eat onions, perform push-ups, receive slaps on the back, and was hit in the shin
area and on the buttocks with a cane. On the night of March 16th the pledge, who along with other pledges was dressed in a uniform consisting of a white t-shirt, dark blue jeans, white shoelaces as a belt, and white Converse sneakers, was kneed several times in the chest. The pledge initially told fraternity members he was okay, then dropped to his knees and started vomiting, and then stopped breathing. A member of the fraternity performed CPR and an ambulance was called, which transported him to Sentara Norfolk General Hospital. At the hospital emergency room workers noticed injuries on his hands and buttocks, which the student said occurred when he fell out of bed and down the stairs. The university subsequently began an investigation into the incident, and announced that nine unnamed fraternity brothers could be expelled for their role in the incident. Further, according to ODU police Sgt. Kimberly S. Worthman, criminal charges would be brought by the Commonwealth Attorney against the responsible individuals.

Also in 2001, a 20 year-old sophomore pledge to the Kappa Alpha Psi chapter at Louisiana State University suffered injuries as a result of repeated paddlins and canings over a six week period in 2001, and the fraternity “acknowledged responsibility” for this harm to the university’s dean of students. When the student returned home in March 2001 his mother, Cybil Thomas, noticed blood seeping through his jeans, and a trip to the doctor revealed a gash 3 inches around on his buttocks that grew to 7 inches in diameter after doctors had cleaned away dead and damaged skin. Thomas’s son subsequently underwent two surgeries, including a skin graft, to repair the damage. As a result of this incident, Kappa Alpha Psi was suspended at LSU for the next five years.

In 2003, a pledge alleged he was beaten and suffered bruises to the upper body following incidents on February 2 and February 9, that were a part of the pledge process to the Kappa Alpha Psi chapter at Northwestern State University. Derrick Addison, 22, president of NSU’s Kappa Alpha Psi chapter, Traymain Madison, 24, Brian Williams, 23, Reginald Harrold, 22, Terence Vinson, 24, Felton Beaner, 22, Brent Nailey, 21, Davey Davis, 22, Carlos Hartwell, 18, Devon Lockett, 22, James Duplessis, 21, and Albert Jones Jr., 21,
were arrested and charged with simple battery, aggravated battery, and hazing.

In September 2004, Akeem Alexander, 19, participated in an underground pledge program for Kappa Alpha Psi at Fisk University. Every night, Alexander would be subjected to hazing sessions for up to three and a half hours involving beatings with a cane and paddling. Additionally, Alexander was ordered to purchase food and alcohol for the active members. On September 13, 2004, one particularly violent session left a deep laceration on Alexander’s right buttocks and caused a number of other injuries. The following day, he threw up three times and complained to the members that he was sick that evening. Alexander was beaten with a cane that evening despite his protests, and he continued throwing up the following day. He had a friend take him to the emergency room, where he was diagnosed with dehydration and severe lacerations.

Alexander spent a total of five days in the hospital as a result of the injuries. Members of Kappa Alpha Psi phoned his room during his stay to warn him against revealing the source of his injuries. Alexander’s GPA dropped from 3.5 to 3.3 as a result of his injuries, he was forced to drop the seventeen hours he was enrolled in, and he lost his full scholarship.

In a negligence suit against Kappa Alpha Psi, the fraternity moved for summary judgment on the grounds that they owed no duty to prevent the hazing injuries, that comparative negligence should bar Alexander from recovery, and that punitive damages are inappropriate. On the duty issue, the court held that there was a genuine issue of material fact as to whether the Kappa headquarters knew about the hazing at the Fisk chapter, and for this reason, there could exist a duty to prevent the injuries and it may have been breached by a failure to properly investigate. On the comparative fault issue, Tennessee law prevents recovery if the plaintiff’s fault is equal to or greater than the combined fault of the tortfeasors. The court held that a reasonable jury could have labeled Alexander’s fault in submitting to the hazing at less than fifty percent, thus denying summary judgment on this motion as well. On the punitive damages issue, however, the court held that there was no evidence to support a jury finding that the fraternity acted recklessly,
and punitive damages were therefore inappropriate. Summary judgment was therefore granted on the punitive damages issue.

In 2005, several pledges to the Kappa Alpha Psi chapter at the University of South Alabama were hit in their chests and buttocks with fists, open hands, canes, and paddles, as a part of the pledge process in September 2005. At least one, identified as Paul Jones, was hospitalized as a result of the injuries. He stated in September 2006, that he was still taking medicine, including blood thinners, as a result of the incident, and that after reporting what had occurred he received “dirty looks and threatening phones calls until his graduation in the spring of 2006.”

Five fraternity brothers were charged by police in response to this hazing: Derrick Greaves, 21; Antwuan Lervoi Calhoun, 24; Bryant Bradley, 25; Jamion Burney; and Ricky Patrick. Bradley and Greaves were each sentenced to six months’ probation and ordered to pay restitution. Calhoun, convicted of third-degree assault, was given a year’s suspended sentence with two years’ probation, and required to pay restitution and court costs.

Also in 2005, during the eleven days between January 9 and 20, Keith Allmond, 20, of Bedford Heights, Ohio, was beaten, paddled, and physically assaulted as a part of the pledge process to the Beta Xi chapter of Kappa Alpha Psi at the University of Toledo. The cost of his medical treatment was $19,000, and Allmond’s injuries included a chronic wound to his buttocks that required surgery and hospitalization. Allmond was forced to withdraw from classes following this incident, and he filed a civil suit against the national fraternity, the University of Toledo chapter, and the six fraternity members allegedly responsible—Lance Johnson, Michael Thompson, Marcus Payne, Albert Miller, Sterling Goodrun, and Anthony Rice. The lawsuit sought $25,000 in compensatory and punitive damages. According to Lori Edgeworth, the University of Toledo’s director of student judicial affairs and Greek life, the incident with Allmond was not investigated because Allmond did not report it to school officials.

Again in 2005, during initiation rites into the Alpha Xi chapter of Kappa Alpha Psi at Florida A&M University in the month of February, Michael Morton, Jason Harris, Brian Bowman, Cory
Gray, and Marcus Hughes hazed sophomore Marcus Jones by striking him with wooden canes on his buttocks and on his head, and hitting him with bare fists and boxing gloves. While Morton, Bowman, Gray, and Hughes inflicted injuries on Jones and other pledges, Harris’s role was to revive them when they passed out by pouring water on their faces and encouraging them to continue. The injuries first occurred at a house, where pledges including Jones were asked to sit on the floor, and then occasionally pulled up to participate in the “cut,” during which time they had to bend down, protect their testicles, and point while they were caned. The pledges were later blindfolded with maxi pads and stockings, and brought to an abandoned warehouse. There the pledges were hit so hard that the solid wooden canes began to break, and the fraternity members taped them together to make them “as thick if not thicker than a bat.”

Following the hazing, the pledges were given water, vitamins, and bananas, and then punished if they ate more than a certain amount of the banana; they were advised to consume salads and multi-vitamins, and to put epsom salts on their buttocks to help them recover. Jones estimated that he was hit more than 90 times, and when he expressed concern about the amount of blood that he had lost he was told not to seek medical treatment. Instead, he drove 273 miles to his home in Decatur, Georgia, where his parents rushed him to the hospital. Jones had lost a half-pint of blood, and spent two days in the hospital. A doctor operated on Jones’s buttocks to “remove a hematoma about the size of a can of Coca-Cola,” and to treat him for a broken ear drum.

Even after this, Jones was reluctant to report this incident, but his father, U.S. Army Master Sgt Mark Jones Sr., himself a former member of Kappa Alpha Psi, made the incident public: “He really didn’t want to come forward and let the guys down. He didn’t blow the whistle; I did.”

Jones testified at his trial, as did Winston Drayton and Yusef Davis, two other pledges to Kappa Alpha Psi. According to the other pledges, the fraternity members threatened that if they fainted from pain “[w]e will just hit you when you are passed out.” Drayton testified that he suffered rectal bleeding as a result of his injuries. Further, Drayton testified that he had been instructed by his line
brothers to lie about what had happened when speaking to a representative from the national Kappa Alpha Psi organization. During his testimony in court Jones sat on a small pillow, and he stated that he still experiences pain when sits for prolonged periods of time. According to Jones, he never dared to look at the fraternity members in the eyes when he was being attacked: “If they caught us looking at them in the eyes, they would punch us in the face.” As a result, another Kappa Alpha Psi pledge, Melvin Hitchens, could not identify the accused as being present during the hazing since he avoided making eye contact as instructed.

One of the issues at trial was whether the five defendants were taking the blame for the incident to protect the chapter of Kappa Alpha Psi at Florida A&M. Torey Alston, the president of the fraternity at the time of the incident, testified about a letter he wrote to Linnes Finney Jr., a lifetime Kappa Alpha Psi member who investigated the incident on behalf of the national organization, in which he named the defendants specifically, yet claimed that the “names were brought to [him].” Alston also provided contrary evidence regarding the Jones family’s expectation that hazing would occur. Alston testified that Mark Jones, Marcus Jones’s father, had told him prior to this incident that he wanted his son brought into the fraternity the “old school way,” which Alston described as including drinking, slapping, caning, or push-ups.

The first trial ended in a mistrial, with the jury unable to agree on a verdict against the five defendants. Conflicting evidence was presented at trial regarding the severity of Jones’s injuries, with Dr. Kenneth Lee, an internist from Palm Beach County, stating that the bruising was “the type of thing I see in my office all the time” and that surgery was unnecessary, and Dr. David Fern, the surgeon who operated on Jones, stating that Jones’s injuries were as serious as anything he had seen from victims of a car accident. The defense emphasized that Jones had no broken bones or muscular injuries, and that his eardrum has fully healed since the incident.

Chuck Hobbs, an attorney representing Bowman, Gray, Hughes, and Morton, argued that Jones’s injury had completely healed: “It healed very nicely...[h]e has not lost the use of his buttocks in any way.” Before concluding that they could not reach a
verdict, the six-member jury sent a note to Judge Kathleen Dekker asking for a definition of the term “serious bodily injury” specified in the law, and Dekker replied that she could give no further instruction on the term. Bowman, Gray, and Hughes later pleaded no contest to misdemeanor hazing charges in 2007, and were placed on probation, and required to spend 30 days in the Leon County sheriff’s work camp or a similar program. Morton and Harris were retried and convicted, each sentenced to two years in prison and three years probation as the first defendants prosecuted under a new Florida felony hazing statute. The hazing statute, which was passed in 2005 in response to the death of Chad Meredith, a University of Miami freshman who drowned while trying to swim across a lake with members of the Kappa Sigma fraternity, makes it a felony to commit hazing that results in “serious bodily injury.”

Beverly Pohl, an attorney for Jason Harris, argued on appeal that her client’s conviction should be thrown out on the grounds that the statute did not define the meaning of “serious bodily injury.” Michael Kennett, an attorney representing the state of Florida, claimed that the language of the statute placed “a person of ordinary intelligence on notice” that hitting someone “at least 150 times across the buttocks over the course of several days, resulting in injuries that require surgery under general anesthesia” would constitute a violation of the statute. On appeal the court ruled that the statute was constitutional despite the wording, but reversed the conviction of Morton and Harris on the grounds that the jury instructions given by Circuit Judge Kathleen Dekker during the retrial, which stated that the jurors could acquit the defendants if the victim’s injuries were “slight,” were in error. Harris and Morton subsequently pled no contest to felony hazing and were sentenced to time served of 614 days. Florida A&M suspended the five accused students indefinitely, and suspended the Alpha Xi chapter of Kappa Alpha Psi for seven years.

Morton and Harris’s attorney, Richard Keith Alan II, of West Palm Beach, Florida, was found guilty on May 7, 2008 of criminal contempt of court for his conduct during their lower court trial, and on June 9, 2008 was sentenced to nearly six months in Leon County Jail. The basis for the charge was Alan’s inappropriate contact with a
juror during the trial, whom he embarrassed and insulted regarding her level of education. Serving as his own attorney during his trial for criminal contempt of court, Alan compared himself to Martin Luther King Jr. and Jesus Christ as a part of his unsuccessful defense.

As a result of his hazing the victim, Marcus Jones, who was an environmental science major at Florida A&M, moved back to his home in Decatur, Georgia, and took an indefinite leave of absence to recover and determine whether to transfer universities. As a consequence of not completing his courses in the spring semester, he lost his partial-tuition academic scholarship. Because of his injuries he has lost some of his hearing and cannot sit comfortably in some situations, such as on baseball bleachers.

Morton, who is married and has a young daughter, spoke of his intention to become an anti-hazing spokesperson as a result of his experience: “Look at me...I was Student Senate president and a straight-A student, and I wound up in prison for two years for a stupid tradition.” A civil suit by Jones was filed against Morton, Harris, and the other three fraternity brothers (Brian Bowman, Marcus Hughes, and Cory Gray) to recover the cost of medical bills and additional damages.

In 2008, Brent Whiteside, a pledge to Kappa Alpha Psi at Eastern Kentucky University, suffered physical injuries as a consequence of being hit with a paddle, a cane, and open hands as a part of the pledge process. Whiteside stated that he was beaten on the back, buttocks, and chest, and at one point he was hit so hard that the cane broke. Whiteside feared what would happen if he did not participate in the rituals: “I wasn’t given much of a choice. I did not know what was going to happen if I didn’t show up.” In March 2008, Whiteside noticed blood in his urine, and he felt lightheaded and was unable to hold down food. He was treated for his injuries and for kidney failure at Central Baptist Hospital.

Fraternity members Thomas Barnes and Gabriel M. McLaren, and alumnus Alonzo C. McGill were charged with fourth-degree assault in connection with the beating. The three members pleaded guilty to fourth degree assault charges from the incidents in January 2009, and they were sentenced thirty days home incarceration. As a result of a university investigation which
concluded that hazing did occur, Kappa Alpha Psi was suspended at Eastern Kentucky University for eight years. Whiteside ultimately filed a lawsuit against Kappa Alpha Psi seeking an undetermined amount of punitive damages for an alleged disregard of his health, safety, and welfare while he sought membership with the group.

In 2009, twelve pledges of Kappa Alpha Psi at the University of North Texas were repeatedly slapped on their chest and back, and also paddled on their buttocks with wooden paddles in hazing activities. Six members of the fraternity were arrested for the abuse. The hazing, which took place in October 2009, resulted in visible welts, scratches, and bruises on one victim’s chest from an October 10 beating. The pledges were made to “take wood” and were repeatedly beaten with wooden paddles at the ceremonies. The fraternity was temporarily suspended pending the results of the investigation.

**Hazing in Phi Beta Sigma Fraternity**

Phi Beta Sigma chapters were experiencing brutal hazing during the same period of time. On April 30, 2000, Cedrick Smith, a twenty year-old sophomore at the University of Arkansas at Monticello (UAM), was beaten in an off-campus hazing incident by Phi Beta Sigma members. Smith suffered broken ribs, internal bleeding, and lost consciousness for thirty minutes. He received dialysis treatments in the hospital’s intensive care unit, necessitated by a blood vessel burst caused by the paddling. Smith and another pledge had been taken off campus to the Monticello Social Club, where they were paddled in an initiation called “crossing over.” After the paddling, Smith was taken to a member’s home where he kept going in and out of consciousness before emergency workers were called. Six UAM students pleaded guilty to third degree battery charges from Smith’s hazing, and they were ordered to pay forty thousand dollars in medical bills.

On September 21, 2000, Michlen Robinson claims in a lawsuit to have been a hazing victim of the Phi Beta Sigma chapter at Norfolk State University. Robinson was allegedly swatted with paddles on the buttocks and punched with double fists at the
incident. About a dozen pledges were lined up, assaulted, and berated for hours that evening. Some suffered “thunderclaps,” which are two-fisted punches to the chest. Robinson claims that these punches caused him a punctured lung, which forced him to stay in a hospital for two weeks. Robinson also alleges in the suit that pledges were paddled, kicked, punched, denied sleep, and forced to run errands at all hours for the members. Robinson left the school soon after the assault, and criminal charges were never filed. The lawsuit sought $500,000 in damages from the fraternity.

Prentice Motley was beaten with a wooden paddle throughout March and April 2001. During one hazing session, Motley was beaten with paddles and forced to stand in the rain for several hours in April 2001 as a part of the pledge process to the Southern Illinois University at Edwardsville (SIU) chapter of Phi Beta Sigma. Motley subsequently collapsed at a wedding he was attending, and was allegedly treated for a ruptured kidney. Motley, who entered the hospital complaining of fever and severe pain, stayed three days in the hospital. Initial reports that his kidney was ruptured proved to be false. He filed a civil suit against the fraternity for $50,000, citing severe and permanent injuries from the paddling.

Five members of the six-man chapter of Phi Beta Sigma at SIU Edwardsville faced felony hazing charges for abusing Motley: Deanthony A. Moore, 22; Richard Harris, 19; Frederick James Spencer, 19; Malike A. Perkins, 22; and Doue Carter, 21. The final member, Christopher L. Conner, was charged with perjury and misdemeanor hazing for paddling two other pledges, Jacob Jenkins and Adedamola Oshin, who were not seriously hurt. Frederick James Spencer pleaded guilty to hazing leading to bodily harm, a felony, and was sentenced to one year’s probation and 200 hours of community service. SIU Edwardsville suspended the university chapter of Phi Beta Sigma indefinitely, pending the outcome of the case. Three fraternity members received a year’s probation for the incident, and a fourth member was allowed to plead guilty to misdemeanor disorderly conduct. The civil suit against Phi Beta Sigma was ultimately settled out of court.

Every night for a month during the summer of 2003, Phi Beta Sigma members at St. John’s University took pledge Brian
Chambers to Kissena Park. The members would pound Chambers with a two pound paddle in the chest, back, and buttocks so severely that Chambers felt like his back was being tightened “in a vise” after the beatings. One on occasion, Chambers was smacked one hundred times with a foot long wooden paddle so hard that he had to take a step backward to avoid toppling over after each blow. When he wasn’t being struck with the paddle, he was subjected to “thunder and lightning”—open hand slaps to the chest and stomach. Chambers was eventually hospitalized for fourteen days, suffering bruises, acute renal failure, seizures, and temporary blindness in both eyes. He had woken up that night and noticed he was urinating blood, and Chambers had “Crayola box purple” bruises from his lower back to his upper thighs upon checking into Brooklyn’s Victory Memorial Hospital. Three members of Phi Beta Sigma were charged with second-degree assault. All three men were acquitted by a court in Queens after two days of deliberation following a five week trial. The jurors stated that it came down to Chambers’ word against that of the three defendants, with one juror stating he just “couldn’t put a paddle in any of their hands.”

In 2006, Terry Lyvotte Hall, Jr., 20, a pledge to the Phi Beta Sigma chapter at the University of South Carolina, filed a civil suit against the fraternity contending that he was injured with “baseball bats, belts, shoes, paddles, fists, hands, pots, pans” during his initiation to the fraternity. Hall reported to authorities that he was “choked with [his] own T-shirt, blindfolded, slapped, punched, and hit with paddles,” and that the assault did not stop until he was “gasping for air and [his] nose was bleeding.” Following the incident, Hall was unable to drive, and a fraternity member drove him home; at approximately 1:00 a.m., Hall contacted his uncle, and received a ride to Richland Memorial Hospital, where he was treated and released. At home the pain continued, and he returned to the emergency room where he received further treatment, and then filed a police report describing the incident and taking pictures of his injuries.

Seven fraternity members were charged with hazing Hall, and the University of South Carolina announced they would face disciplinary action. The fraternity members, Brandon Jerraud Barnes,
21; Brandon Jamal Bomar, 23; Brandon Elijah Bradley, 22; Peter Christopher Gaskins, 22; William Levern Henryhand, 21; Travis Reuben Sheffield, 24; and Larry Bernard Singleton Jr., 22 reportedly used their fists, a metal bat, and a wooden paddle to beat Hall, who was taken to a Columbia, SC hospital with bruises on his upper arms, chest, feet, back, and buttocks. The university subsequently suspended Phi Beta Sigma and seven members were arrested and charged with hazing, a misdemeanor punishable by a maximum of one year in prison and $500 fine.

In the fall of 2009, Donnie Wade was a twenty-year-old Phi Beta Sigma pledge at Prairie View A & M University. He had transferred from Stephen F. Austin State University to major in biology and hopefully study medicine. On September 29, 2009, Wade and thirteen other Prairie View A & M University students attended an initial interest meeting for the Delta Theta Chapter of Phi Beta Sigma. On October 9, the same group of students attended a Membership Intake Process (MIP) meeting; they received interviews on October 14, and after paying an initial intake fee of $900, they became members of the fraternity.

Documented evidence revealed that hazing began on September 29, 2009 and increased systematically through October 20, 2009. The hazing included (a) adherence to a strict water and bread diet during the initial stages of his pledge process; (2) Phi Beta Sigma members required pledges to do chores, purchase alcohol, pick up and pay for the members’ food, as well as other personal items for the older members, including use of pledges’ student ID cards to wash clothing; and (c) being beaten with paddles.

At 4:00 a.m., on October 20, Wade and his fellow pledges were instructed to meet at Hempstead High School in Hampstead, Texas, near Prairie View, for an exercise routine with Marvin Jackson, MIP Chairman, directed the exercise, with other members of the fraternity present, and instructed the students to perform “Indian runs.” These runs required the students to line up, with whoever was in the back sprinting to the front as the students ran around the high school track. Following this exercise, the students were instructed to run up and down the bleachers in a “snake” run.
This involved running up one bleacher, over and then down the next bleacher, and then up the next bleacher.

Following the “snake” run, the students were instructed to do push-ups and jumping jacks and perform “six-inchers,” in which they laid on their backs and held their legs six inches off the ground for a certain amount of time. After performing the “six-inchers,” Wade collapsed as he tried to stand up and told Jackson and the 13 pledges that he was not feeling well. Jackson, nevertheless, told the group that “Donnie was alright and that he was just tired,” and Jackson then splashed water on Wade’s face. Wade eventually passed out, yet Jackson and the other members of the fraternity denied any assistance and advised against a bystander getting medical help. Jackson, the other members of fraternity, and the thirteen pledges then placed Wade in a car and drove him to his home where two pledges and/or fraternity members volunteered to take Wade to the hospital.

Upon arrival at the hospital, CPR was performed and Wade was pronounced dead. The Assistant Harris County Medical Examiner ruled that Wade’s death was caused by the combination of an inherited sickle cell trait and a rare medical syndrome, acute exertional rhabdomyolysis, which can be triggered by strenuous exertion. Following the incident, the fraternity was ordered to suspend all operations through 2013 and was later disbanded after a university review board determined that members violated hazing rules and plotted a cover-up after Wade’s death. The fraternity was also sanctioned with a suspension lasting through December 2014 and a probation ending in May 2015.

Wade’s parents, Katrina and Donnie Wade Sr., filed a suit against Phi Beta Sigma, Marvin Jackson, and several other members of the fraternity, alleging claims of vicarious liability, negligence (of varying degrees), res ipsa loquitur, wrongful death, and survival. Most unique about the plaintiff’s complaint is that it was the first time that a victim’s family focused on a BGLO chapter’s moniker. Throughout the amended petition, the plaintiffs underscored that their son had been killed by the “Dangerous Delta Theta Chapter.” The Wades sought ninety-seven million dollars in damages but later elected to settle their lawsuit. A final judgment was signed September 1, 2010,
by a District Court Judge in Beaumont. On January 21, 2011, a tape surfaced revealing that Marvin Jackson, who had not been indicted by the Grand Jury for the death despite the University’s sanctions against the fraternity, had admitted to the police that he was responsible for Wade’s death only two days after the incident had occurred.

On February 10, 2009, an unnamed junior at Virginia State University was hospitalized with “extreme bruising” suffered as the result of a Phi Beta Sigma hazing ceremony. The victim was later found to have MRSA, an antibiotic resistant bacterial infection which doctors believe was transmitted from another pledge who had received blows with the same paddle. The incident was not an official fraternity function. Eight men were charged with violating Virginia’s anti-hazing statute. The defendants agreed to prepare and present informational presentations for students in exchange for the ultimate dismissal of the charges.

**Hazing in Black Greek-Letter Sororities**

As we have seen, while most of the hazing incidents are more prevalent in black fraternities, black sororities have not been spared the trauma of these violent practices. Kimberly Daniels, a Virginia Union University student and pledge to the school’s Zeta Phi Beta chapter, alleges that she was paddled on the buttocks and badly bruised during a sorority hazing event on February 23, 2003. Daniels was taken to the emergency room by her mother after she was struck approximately 35 times with a paddle. Daniels filed a $500,000 lawsuit against the Zeta Phi Beta Sorority and fourteen sorority members allegedly involved in the incident. Four of those members, Rikita Deans, Angela Mitchell, Shyron Bryant, and Tamika Murrell were criminally charged with misdemeanor hazing and each was fined $250. Six others members faced similar misdemeanor charges, while another four members received a $1,000 fine each and two years of probation. As a result of this incident, VUU and the national Zeta Phi Beta organization suspended the campus chapter.

On September 9, 2003, Kristin High, 22, and Kenitha Saafir, 24, pledges to the Sigma chapter of Alpha Kappa Alpha, drowned
when they were overcome by high tides during a hazing incident at Dockweiler State Beach in Playa Del Rey, California. At the time of the incident, the Sigma chapter was affiliated with several colleges and universities in southern California and not directly with California State University, Los Angeles, where High and Saafir were students. According to Alpha Kappa Alpha, at the time of the incident this chapter was suspended from the national organization, and thus the national organization had no involvement in the activities.

At Dockweiler State Beach, High, Saafir, and two other pledges—Jennifer Sinigal and Wykida Casey—were dressed in black running shoes, black sweat-shirts, and black jogging pants. They were blindfolded, forced to do calisthenics, and instructed to walk toward the shoreline, where the surf included riptides and waves as high as ten feet. The Los Angeles Police Department concluded that they could not determine conclusively how the women got into the water. According to one account, a large wave crashed on the shore and pulled Saafir into the water; High rushed in after her, because High knew that she could not swim. What is clear is that a 911 call was made at 11:22 p.m. from the beach reporting a loud commotion, and a minute later another 911 call reported a woman screaming for help. When police officers Robert Espinoza and Charles Rodriguez arrived at 11:26 p.m., they saw two bodies about 50 yards from the shore, and they dove into the water and attempted to save them. Despite their efforts, both High and Saafir were past the point of aid and could not be revived.

Two pledges survived the hazing incident and were tight-lipped and not willing to go into details about what happened. When High’s car was discovered, all Alpha Kappa Alpha paraphernalia and her mandatory pledge journal were missing. Her family says there is evidence she was a “slave” having to perform duties such as paint fingernails, buy and cook food, chauffeur, run errands, and braid hair for the big sisters. High’s mother described her daughter as having lost “close to 30 pounds” by the time of her death. No criminal charges were filed in the matter. The LAPD has officially closed the case and maintains that High and Saafir drowned accidentally.
Patricia Strong-Fargas, the mother of Kristin High, subsequently established Mothers Against Hazing (MAH), a non-profit group dedicated to eliminating hazing and other life-endangering aspects of the Greek system. The group proposed a new law, termed “Kristin’s Law,” which would make it a felony to participate in harmful hazing activities. In November 2002 the High family (Kristin’s parents, and her fiancee, Holman Arthurs, on behalf of himself and their son Skyler) filed a $100 million wrongful-death lawsuit against the Alpha Kappa Alpha organization, alleging that the organization was aware of the hazing that occurred at this particular school, and against the seven sorority sisters responsible for the pledging and hazing activities, and the two other pledges. The High family also filed a notice of claim with the Los Angeles Police Department and the Department of Parks and Recreation, claiming that a police officer saw the women from the sorority on the beach and did not ask them to leave. Karim Saafir, Kenitha Saafir’s husband, hired O.J. Simpson’s former attorney Carl Douglas and filed a wrongful death and reckless conduct lawsuit against Alpha Kappa Alpha and the Sigma chapter.

In the lawsuit filed by the High family, they alleged that prior to the fatal incident Kristin High had been a “slave” for her sorority sisters, forced to paint fingernails, buy and cook food, run errands, chauffer, and braid hair for sorority members. During prior hazing incidents she was covered with green paint and had her face and hair smeared with mayonnaise, and she rapidly lost 30 pounds and was severely sleep deprived. High’s mother described the toll that the sorority rituals took on her daughter: “They had been keeping her out at all hours of the night. She was always drained and her weight loss was extremely noticeable. She wasn’t the daughter I was used to seeing.” Following the fatal incident, the sorority sisters returned High’s car to her family (which had been used to drive to the beach), however all her Alpha Kappa Alpha paraphernalia and her mandatory pledge journal had been removed from her car, and phone numbers of Alpha Kappa Alpha members that had been programmed into her cell phone and two-way pager had been deleted.

The sorority sisters claimed that the deaths of High and Saafir were accidental and unrelated to any pledge activity by the sorority, a
claim that was rejected by High’s fiancee, Holman Arthurs: “Their story wasn’t viable...black people don’t go swimming at midnight in the ocean.” According to Patricia Strong-Fargas, her daughter's sorority sisters—who she had previously had at her home as guests—were now refusing to talk. “I’m not angry at them...I’m just disappointed. They’re hiding behind this code of silence, and they’re victims too.” Survivors told the Los Angeles Police Department that the women were at the beach to exercise. However, veterans of black fraternities and sororities state that forced calisthenics and the practice of sending pledges blindfolded into the ocean is a common occurrence during the hazing of West Coast Greek organizations.

Joie Jolevare and Salome Tinker were sorority members and graduate advisors of Alpha Kappa Alpha Sorority at Howard University. On March 22, 2005, the women supervised a member rehearsal for a campus “introduction show” in a Maryland parking lot. The rehearsal, which took place after midnight in temperatures below forty degrees Farenheit, was terminated upon the arrival of the chapter president and others. After reviewing the incident, Alpha Kappa Alpha determined that it violated the organizations anti-hazing policy and suspended Jolevare and Tinker on September 3, 2005.

On October 6, 2005, Jolevare and Tinker filed a complaint alleging violation of the District of Columbia Human Rights Act (DCHRA), breach of contract, and negligence against Alpha Kappa Alpha. The DCHRA claim asserted that Alpha Kappa Alpha committed age discrimination by suspending the graduated advisors, but not the undergraduate participants in the rehearsal. The court, however, held that that claim failed because the plaintiffs failed to establish their relationship with Alpha Kappa Alpha as an employee-employer relationship within the meaning of the DCHRA. Additionally, plaintiffs asserted that defendant had breached its contract by not following its own policies before suspending the plaintiffs. The court, however, held that that the plaintiffs were granted ample procedural fairness in the proceedings and rejected the breach of contract claim.

Plaintiffs further asserted that defendant had made defamatory statements about them when the sorority published
statements on its website that the ladies had been suspended for hazing. The court held that plaintiffs failed to present sufficient evidence regarding the falsity of Alpha Kappa Alpha’s statement, as required in a defamation claim. Finally, the plaintiffs also asserted that Alpha Kappa Alpha was negligent when it suspended them because it had a duty to abide by its own policies and procedures regarding the investigation. However, the record clearly showed that the sorority had abided by its policies within its Anti-Hazing Handbook, and the court rejected plaintiffs’ argument. Defendant’s cross-motion for summary judgment was granted.

Courtney Howard was struck 14 times with a paddle while pledging the Rho Zeta chapter of the Sigma Gamma Rho Sorority at San Jose State University. On September 13, 2006, Howard was injured to the point that she sought medical treatment. On September 18, 2006, a pledge was knocked unconscious during the hazing. This incident was the breaking point that followed a series of incidents that occurred during “set meetings” between September 9-29, 2006, and which left Howard with black and blue bruises. During these meetings pledges were typically paddled seven times, one for each of the seven founders of the sorority. However, on the night in question Howard had missed the previous set meeting and so was subjected to twice as many paddlings. Howard reported the incidents to university officials, and filed a police report in January 2009 which led to four sorority members being convicted of illegal hazing on February 10, 2010.

In late August 2010, Howard filed a civil suit against Sigma Gamma Rho, the Rho Zeta chapter of Sigma Gamma Rho, San Jose State University, and the women who participated in the hazing. The lawsuit claimed that in addition to paddling Howard was slapped, slammed into walls, hit with wooden spoons, and punched in retaliation for reporting the earlier attack. Further, the suit alleged that school officials never completed a full investigation, and as a result of continued harassment and retaliation from sorority members Howard was forced to withdraw from the university, where she was enrolled as a Spanish language education major. Howard is now studying at the University of Southern California, a more expensive
private university, and many of her credits from San Jose State have not transferred.

In 2007, an anonymous pledge to the Zeta Phi Beta sorority at Southeast Missouri State University was forced to eat garbage, beaten, and sprayed with something in her face as part of the pledge process. The victim in question did not come forward, but the campus police at Southeast Missouri State University were notified of the incident by the national Zeta Phi Beta organization. As a result of this incident, three sorority members were charged with third-degree assault and hazing. This chapter of Zeta Phi Beta was consequently suspended by the national organization.

In 2008, Ariel Ellis, a pledge of the Alpha Kappa Alpha Sorority at Southeastern Louisiana University, accused eight sorority sisters of locking her in a room on January 7, 2008, forcing her to take off her clothes, beating her with a belt and paddle, asking questions about her sex life, and forcing her to simulate sex acts with fruit. Three of the unnamed sorority members were suspended for one year, two were suspended for a semester, and the remaining three were given disciplinary probation. Ellis later recanted these allegations, stating that she “made it all up out of anger” after one of the sorority members, Cassandra Boyd, told her she could not attend a party. However, Ellis then withdrew her recantation and reaffirmed the allegations a short time later.

Jasmine Johnson and her mother filed a police report on April 10, 2009, alleging that five members of the Delta Sigma Theta Sorority at the University of Tennessee Chattanooga assaulted Johnson in three hazing incidents. Johnson claimed to have been punched in the head, chest, and stomach, kicked in the stomach, sprayed in the face with vinegar, and had syrup poured all over her hair and body. The stomach punches were so violent that they led to irregular vaginal bleeding. As a result of injuries suffered during one of the hazing incidents, Johnson sought treatment for a concussion, bruising, and contusions.

In 2009, several pledges to the Omicron Omicron chapter of the Zeta Phi Beta sorority at Colorado State University were deprived of sleep or food for days at a time, forced to eat cat food and raw onions, and made to perform strenuous physical activity, including
running, pushups, wall-sits, and calisthenics. Pledges were forced to wear black jump suits while performing the physical tasks which included “Zeta TV,” an exercise where participants were forced to horizontally support themselves with only one arm and their toes while they counted to 1,920, the year of the sorority’s founding. Pledges were threatened that if they put their feet down, complained, or did not count they would have to start all over, which they were forced to do numerous times. As a result the pledges suffered swollen shoulder blades, wrists, and arms. When these activities led one pledge to throw up, they were threatened that if anyone else threw up they would all be forced to lick it up, and as a result several pledges threw up inside of their jump suits.

Although the majority of the alleged hazing was physical, one pledge was forced to write academic papers for Adesuwa Elaiho, the sorority president. This violation of the university honor code subjected both parties to potential disciplinary action including expulsion. The four members accused of hazing are Adesuwa Elaiho, 22; Anoinette Hill, 24; Erika Green, 21; and Ysaye Zamore, 22. Each of these members admitted to the hazing incidents, yet denied that they physically harmed the pledges, and were subsequently punished with disciplinary action by Colorado State University. The local district attorney, Larry Abrahamson, reviewed a 54-page police incident report detailing the alleged hazing incidents, but declined to file charges. Colorado State University deprived the sorority of its charter on April 10, 2009 and officially disaffiliated from the sorority on August 5, 2009.

**Conclusion**

As can be seen from the plethora of incidents, violent hazing persisted within BGLOs, even sororities, during the 2000s. In most incidents, hazing continued with little ruckus on the national level. While individuals were incarcerated for hazing and university chapters suspended as well as some individuals unfortunately losing their lives, BGLOs continued on as if they did not have this “problem.”
The changes instituted by BGLOs in 1990 to end hazing within their ranks demonstrated no appreciable impact during that decade. The new millennium also saw little to no impact of the Membership Intake Process (MIP). In fact, as previously stated, MIP may have created a perverse incentive for BGLO members to, not only concoct new and more brutal ways to haze but also to take their activities underground. Halfway through this decade, BGLOs still seem to be fumbling in finding a workable solution for this dilemma.

**Hazing in Alpha Phi Alpha Fraternity**

In 2011, Alpha Phi Alpha was suspended from the Mercer University campus due to their treatment of pledges. The fraternity was banned for three academic years and was barred from meeting or participating in school events. The fraternity was investigated for allegations including sleep deprivation, paddling, and dietary restrictions, making pledges eat only healthy food. Moreover, one of the fraternity’s pledges, Ronald Quashie, was found dead in his dorm room in mid-November 2011, but there was no evidence that this death was related to hazing.

During one of “the worst hazing cases the school has seen,” eleven members of the Jacksonville State University chapter of Alpha Phi Alpha – Jeremiah Antwon Bradford (28), Antonio Davis (28), Benjamin Puckett (23), Brandon Marquell Bush (23), Fidel M. Corfah (23), Daniel Dwayne Covington (23), Juston Patrick Daniel (23), Quintin Deandrac Day (27), Jacolby Quantel Parks (24), Carl Robinson (22), and Rhyman Anthony Swanso (24) – were initially charged with first degree assault and two misdemeanor counts of hazing, but pleaded guilty to reckless endangerment as the result of a lawsuit filed by Jason Horton. Reportedly, Horton and other pledges were “… made to consume large quantities of alcohol, were struck
with eggs and other flying objects, and beaten for long periods of time with fists and paddles.” Horton alleges that this particular hazing incident lasted for four hours, and the next day, he “bled internally, vomited blood, and his urine was black.” The pledges were allegedly discouraged from seeking medical treatment. Beginning in December, an increasing number of the members have been indicted and charged—a total of thirteen members by December 22, 2013. Twenty people were involved in the initial investigation of the incident, but some names could not be disclosed due to the age of those charged.

The Calhoun County District Attorney’s Office resolved all criminal charges concerning the hazing incident, and the parties agreed to settle through mediation. Initially sentenced to 365 days in jail, the members had a probation hearing May 21, 2014. In the meantime, the charged members had to comply with several requirements in order to be absolved of the jail sentence in lieu of probation: “having no contact with the victim or his immediate family, performing community service, paying court costs and fines, providing a statement regarding the parties and crimes involved in these cases, and cooperating with her office” for any potential related hazing charges in the future. The chapter has been dismissed from campus.

In 2012, nine Alpha Phi Alpha members at Winthrop University faced misdemeanor charges for hazing after receiving “Chapter of the Month” from the Office of Fraternity and Sorority Affairs just one year earlier. The members reportedly hit pledges with paddles in 2012. The Winthrop chapter of Alpha Phi Alpha was suspended “until further notice.” So also, nine members (Safo Agyemang, Metkel Beiene, Chad Billington II, Brandon Daniel, Gregory Davis, Jason Dubery, Dominique Martin, Christopher Jenkins, and Gary Terrell) of Alpha Phi Alpha at the University of Florida faced misdemeanor assault and hazing charges in the abuse of five pledges between January 22 and February 1, 2012. The incidences involved “thunderslaps” in which members hit the pledges in the chest. Additionally, the pledges were paddled with a flat piece of wood for incorrectly reciting information and answering questions about the fraternity. One pledge suffered severe scabbing on his
buttocks and was unable to sleep on his back for several nights. The hazing events allegedly occurred at a Northwest Gainesville home where several members lived.

Prosecutors dropped charges against one member for insufficient evidence, but the rest of the members face first-degree misdemeanor charges. Alpha Phi Alpha ordered the UF chapter to cease-and-desist all activities, and UF issued an interim suspension. In the end, the University suspended the chapter for three years and considered taking further measures to discourage hazing.

The year 2013 witnessed an Alpha Phi Alpha hazing incident at Virginia State University. Brandon Randleman and three other members of the Virginia State University chapter of Alpha Phi Alpha were arrested April 5 and 7, 2014 on a misdemeanor hazing count for “non-life threatening” events that allegedly happened between August 23 and November 5, 2013. Randleman originally pleaded no contest to the hazing charge in exchange for the charge being dropped in thirty days if the men remained on good behavior. Randleman later moved to set aside his original plea, claiming Petersburg Commonwealth’s Attorney, Cassandra Conover, pressured him into pleading no contest by threatening that he would not graduate if he contested the charge.

Randleman served as president of the Student Association at Virginia State and as student representative on the board of visitors. His attorney, who stated Randleman has had an “outstanding college career,” filed an affidavit with the court containing a signature and a statement of Shakeel Weeks – the 21 year-old victim of hazing – stating, "I want to make it abundantly clear that at no time, ever, has Brandon Randleman ever hazed me in any way, shape or form." As a result, the prosecutor dropped Randleman’s charges, and the others’ charges were dropped in May.

In 2014, the University of Tennessee chapter of Alpha Phi Alpha was “shut down” until August 2016, after members reportedly hazed aspiring members by covering their genitals with hot sauce, even after the chapter had already denied all prospective member applications. The University began its investigation into the chapter after three allegations arose. First, a parent of one of the victims called concerned about her son’s safety. Second, a man called the
school concerned about “changes to his nephew’s personality” since beginning the process of becoming a member of Alpha Phi Alpha. Third, an anonymous folder was delivered to the Dean of Students containing “historical facts, a handwritten letter, and men’s underwear stained with hot sauce.”

When the Dean of Students contacted the chapter, the chapter’s president and advisor informed her that the chapter was not taking any new members at the time. Thus, the new members were suffering from these hazing practices with no chance of becoming members. The school proceeded to contact the fraternity’s district director, who issued a cease-and-desist letter to the chapter president. At the time, the chapter had fewer than ten members and twelve pledges, and the University’s administration ordered new members and current members to avoid one another. One month after the allegations, the University issued formal charges against the chapter.

This hazing incident was one of eleven incidents and twenty-three violations at the University of Tennessee. Alpha Phi Alpha is the fourth fraternity to be shut down in five semesters and the first Black fraternity with a reported hazing incident since the university began closely monitoring its fraternities’ activities. As a result of increased concern with hazing, the University of Tennessee, as well as many other colleges, is attempting to implement the most effective monitoring system for fraternal organizations. The choices are to use either increased police patrol for the fraternity housing on the weekends – the University of Tennessee’s current system – or to implement a live-in housing advisor. The university is considering whether the police patrol system is really working since it has had to shut down two fraternities – including Alpha Phi Alpha – since its implementation 15 months earlier.

University of Akron police issued warrants for six members of the Alpha Tau Chapter of Alpha Phi Alpha in February of 2014, for allegedly hazing at least one of five prospective members over three weeks. The members – Steven Miles Pitts, Chauncey Gilliam, Traevon D. Leak, Rinaldo Darius Allen Jr., Clive Ennin, and Jlani D. Pryce – were charged with misdemeanor assault and hazing after a 22 year-old pledge informed police that he had endured ‘multiple nights of beatings or ‘taking wood’ - paddling - at numerous off-campus
locations over three weeks in January during the fraternity's pledge process.” As a result of the hazing, the pledge bled through his pants and was taken to Elyria Memorial Hospital after suffering “bloody injuries to his backside,” which, in fear of police involvement, he claimed were injuries from sledding. The six members were charged and pleaded not guilty in Municipal Court on Friday, March 7. They claimed that these were simply rumors, started by a rival fraternity. Although the University shut down the Alpha Tau chapter, the national organization of Alpha Phi Alpha is cooperating with the University to “… bring justice to anyone who may have violated the law.”

**Hazing in Kappa Alpha Psi Fraternity**

In 2010, Eric Walker, a 22 year-old pre-medical student, sought to join the chapter of Kappa Alpha Psi at Wayne State University. Walker was hazed so brutally for thirty-two straight days in the Spring of 2010, that he was hospitalized for nearly two weeks. Walker claimed that he, along with other pledges, was required to go to an off campus house in west Detroit for thirty-two consecutive days, where he was administered beatings as part of his initiation into the fraternity. At times, these beatings would last for several hours. Walker stated that he would recite information he had learned about the fraternity, and the brothers would see how he responded under pressure by hitting him with thick paddles and slamming his body with their hands.

The most severe beating occurred on March 1, 2010, when dozens of fraternity members from across Michigan assaulted him and forced him to eat dog food. When he went home, he was horrified to find blood in his urine, and was hospitalized and treated for kidney failure. Walker said he put up with the hazing because he felt obligated to his fellow pledges, who had put up the nonrefundable $900 fee to become a pledge. He is suing Kappa Alpha Psi for medical expenses expected to exceed tens of thousands of dollars. The WSU chapter of the fraternity, which only had 10 members, was suspended when it was determined that the allegations had merit, and the fraternity could have faced possible revocation of
their charter. The students involved also faced suspension from the university.

By 2011, Brent McClanahan Jr., 25, along with three other pledges, ages 19, 19, and 25, sought to join the local chapter of the Kappa Alpha Psi at California State University at Bakersfield. At the time, the fraternity had between five and ten members, and was trying to reestablish itself on the CSBU campus as a non-sanctioned, unofficial chapter of the fraternity. Between March 28, 2011, and April 25, 2011, McClanahan and the other students were assaulted on numerous occasions. Details of the hazing were revealed in 115 pages of police records filed with Kern County Superior Court. The pledges were hazed on twenty-three separate occasions, and were beaten with canes, whips, and paddles, including one named “big brother Thor” that was four inches thick, were punched in the ribs, slapped for smiling (called “smile swipes), shot at close range with a BB and pellet gun, drenched in chocolate and flour, beat on their backsides with paddles, and slapped on the sides of their stomach (called “hot wing punches).

During most of the hazing rituals, the pledges were blindfolded and escorted into a garage. The pledges were asked to recite the history of the fraternity while being struck, and if they made a mistake, they were punished even more. Prior to initiation, pledges were asked to provide fraternity leaders with information of any preexisting medical conditions so the hazers could stay away from that area of their body. McClanahan told the fraternity leaders that he had back problems. Nevertheless, on April 9, 2011, he was hit directly on the back, causing him to pass out, fall and experience “excruciating pain.” In the days following this particular beating, he was unable to stand, so the fraternity members allowed him to sit while being beaten. On April 12, 2011, fraternity brother Keith Moon visited an initiation and gave McClanahan Vicodin and muscle relaxers to deal with the pain. On April 14, 2011, a member pointed a black BB gun at the pledges, and shot McClanahan in the back. All of the hazing rituals were reported to have occurred off campus. Finally, on April 26, 2011, McClanahan’s legs gave out, and he was rushed to the hospital.
In total, five men - Ryan Nichols, 22; Deandre Horn, 22; Darlington Agu, 24; Rickey Joy Jr., 21; and Philemon Norris, 22 - were arrested on suspicion of torture, conspiracy, assault with a deadly weapon, and hazing. Horn was known as the “dean” of Kappa Alpha Psi, Nichols was “assistant dean,” and Norris was a “neo,” or undergraduate brother. Using search warrants, police confiscated canes, cameras, laptops, thumb drives, a BB gun, and a Kappa etiquette guide from the suspects’ home. Only three of the men - Nichols, Horn, and Norris - were charged with a single count of misdemeanor hazing each, which carries a maximum of one year in jail. Additionally, only Nichols, Agu, and Joy were suspended from the university.

On September 4, 2012, Nichols and Norris plead no contest to a misdemeanor charge and judgment was deferred for 18 months. If the two stay out of trouble and pay the restitution, the charges were to be dismissed. The third charged defendant, Horn, plead no contest to misdemeanor battery and was sentenced to three years probation and time served. Commenting on the plea deal, defense attorney Michael Lukehart, who represented Nichols, stated that he felt prosecutors “actually exercised its gatekeeper function appropriately in this case.” Richard Snow, an official with the national fraternity, declined to comment directly about the CSBU case, but stated broadly that the group “does not condone hazing in any shape, form or fashion.”

In April, 2013, McClanahan filed a lawsuit against Kappa Alpha Psi, Inc. in Los Angeles Superior Court. The complaint alleges that McClanahan suffered from nerve damage, foot and leg drop, back pain, inability to walk without assistive devices, inability to control his bladder, and inability to engage in sexual activity following the beatings.

At the University of Florida in 2011, thirteen members of the Kappa Alpha Psi were charged with hazing after allegedly beating pledges so hard with wooden canes that the canes broke or left marks. Complaints filed against the fraternity members allege that five pledges were hit between 30 and 150 times a day on multiple occasions between April 2010 and January 2011. The pledges were hit so hard on some occasions that canes were broken across their
buttocks and the paddling left marks in the shape of the hook of the canes. The incidents allegedly occurred in fraternity members’ apartments in the Cottage Grove and Campus Lodge complexes in Gainesville. The complaints gave the troubling details of the hazing event; one pledge stated that injuries from being struck by the canes forced him to sleep on his stomach and soak his buttocks in Epsom salts before the injuries hardened and he “shed skin.” Another pledge claimed that he had “substantial bruising, but no permanent injuries or scars.”

Those charged in the incident were: Adam P. Dawson, 24; Steven F. Duncan, 26; Osborne B. Hall, 24; Corey I. Henderson, 23; Justin D. Kelly, 21; Jebari L. Miller, 24; Douglas J. Morgan Jr., 23; Al’ikens Plancher, 21; Jon L. Rentrope, 24; Jeffery A. Rugon Jr., 22; Paul D. Taylor, 24; Bernard C. Williams, 27; and Dwight K. Wimfield Jr., 23. Three of those accrued were students at the University and were issued trespass warnings, and the remainder were former students.

The investigation was completed by the UF police department, with the Florida State Attorney's Office handling the prosecutions. A fraternity official, Linnes Finney Jr. stated that an investigation by a group member found that hazing happened during a “secret” pledging process between April 2010 and January 2011. The allegations against Kappa Alpha Psi came to light during an investigation into alleged hazing activities by another on campus fraternity, Alpha Phi Alpha.

In Florida, hazing is a first-degree misdemeanor if it generates substantial risk of injury or death and a third-degree felony if it causes serious injury or death. Those charged with the first-degree misdemeanor are punishable with a fine of up to $1000 and one year in jail. State attorney’s spokesperson, Spencer Mann, stated that the office will “see how [the defendants] all decide to plea,” and that while there is a fine and jail time, “a lot is going to depend on whether any of them have criminal histories.”

On April 21, 2012, at Arkansas Technical University, DeShawn Scoggins, then 23, was taken to a Kappa Alpha Psi meeting and beaten with a wooden cane and paddle so severely that he had to be admitted to the intensive care unit. Scoggins’ kidneys ceased to
function, he had fluid in his lungs, and doctors were forced to place him in a medically induced coma where he remained hospitalized for three weeks.

The assailants – Klyantel Summons, 22; Deonte Bradley, 22; Stephen Bender, 24; and Calvin Williams, 26 – were arrested on April 24, and charged with second degree battery, a charge that carries up to six years in prison and a $10,000 fine. According to court documents, Bradley drove Scoggins to the residence where the beating took place, while the other three attacked him with wooden canes and paddles. The case is complicated significantly by the fact that Bradley and Scoggins are cousins and close friends; a defense attorney contended that most of the injuries that Scoggins sustained were not due to a hazing ritual but rather due to a hard hit at a football practice. Bradley, who was the only person charged who still attended ATU, was later expelled from the University.

Following the incident, Arkansas Tech announced that Kappa Alpha Psi was permanently banned from all school related functions. The four men later plead guilty to a lesser charge as part of a plea agreement and received 90 days probation. Under Arkansas law, hazing is a class B misdemeanor which can range from “the play of abusive or truculent tricks” to any act “by one student alone or acting with others in striking, beating, bruising or maiming” another student. Scoggins, when asked by the judge at the sentencing hearing, stated he had no objection to the plea deal. The prosecuting attorney, David Gibbons, stated that mitigating factors lead to a lenient sentence: “there was no evidence that these men meant him harm… we couldn’t identify the other people there, so that was taken into consideration as well, that these men owned up to what they did.”

Nine members of the Youngstown State University chapter of Kappa Alpha Psi – Michael Charles, 28; Jason Anderson, 27; Jairus Ford, 32; Jerome Justice, 28; Lavell Sharp, 25; Trey McCune, 21; Wade Hampton, 24; Edward Roberton, 28; and Raheem Satterhwaite, 22 – were indicted with two counts of felonious assault after being accused by two YSU students, Breylon Stubbs, 22, and Resean Yancey, 20, of beating them with fists, a paddle, and a wire clothes hanger, leaving both hospitalized. One had to seek medical attention twice, and the other was on a respirator for a period of
time. The defendants, most of them former YSU students, were all released on $50,000 bond after being charged. Three of the men remained “at large” for a period of time. Attorneys for some of the defendants claimed that they were charged only because of their association with the fraternity.

Resulting from the incident, Youngstown State suspended the fraternity from campus for 15 years, and imposed a 10-year probation period after the suspension. Jack Fahey, Vice President for Student Affairs at YSU, stated that this move shows that “YSU will not tolerate such behavior and will work to ensure that any student organization . . . is removed from the university.” A fraternity representative attended the board hearing and entered a “not responsible” response to the hazing allegation. The campus code of conduct defines hazing broadly to include any action “which endangers the mental or physical health or safety of a student.” Stubbs and Yancey sued the national fraternity, the YSU chapter, and more than a dozen individual members of the fraternity, including the nine who were indicted.

A student at University of Central Florida was severely beaten with canes during a Kappa Alpha Psi hazing ritual. After returning home severely beaten, his mother contacted the University to alert them of the situation. Subsequently, the University shut down the Fraternity, and Kappa Alpha Psi issued a cease-and-desist to the chapter for their illegal and unlawful activity. The incident is currently under investigation.

Xavier Christopher Foster was a freshman at Jarvis Christian College in Hawkins, Texas in 2009. He was encouraged by friends and coaches to pledge Kappa Alpha Psi and he elected to do so. In the Spring of his freshman year, he attended an on campus intake meeting where representatives of the fraternity and college stated that the requirements for membership were a minimum GPA, approval by members, and successful completion of a written exam about the fraternity. Furthermore, it was expressly represented, by both the college and fraternity, that it did not sanction or condone hazing of any kind. Xavier paid his dues, passed the written exam, and was instructed to report to the residence of CJ Cole (defendant) for further initiation. It was here that he was struck repeatedly with
blows from a heavy paddle and rod. He went to another house where he was beaten more, and after about five hours of relentless beatings, he was welcomed into the fraternity. Foster succumbed to his wounds and was admitted into the hospital. He had to undergo various treatments, including dialysis and surgery, to try and repair the scarring. His legs and buttocks are permanently disfigured. Foster has filed suit against the fraternity and college for negligence, negligence per se, gross negligence, and assault and battery. He has requested damages for medical expenses, pain and suffering, and mental anguish.

In 2010, Georgia State University permanently suspended its chapter of Kappa Alpha Psi after a pledge was “slapped in the face three times and punched in the stomach, an area of his body that had a surgical scar from a previous injury.” Due to the previous injury and the new force, the pledge fell to the ground and began coughing up blood. An anonymous letter to the administration described the caning, kicking, punching, and hitting that all the pledges endured. The new members were also required to drink an alcoholic beverage referred to as ‘Nupe Juice,’ eat a compilation of food referred to as ‘Kappa Konocotion,’ and complete various tasks given by members. Finally, the Kappa Theta president and alumni advisor provided false and misleading information to the GSU administration.

On April 11, 2011, Orlando Johnson was invited to an interest meeting for the Omicron Lambda Chapter of Kappa Alpha Psi at Auburn University in Montgomery. Johnson was expressly told by Mychael Robinson (and other unnamed parties) that hazing was not permitted or tolerated, and that the only requirements for membership were GPA, approval by members, and a written exam on history. Johnson ultimately joined the pledge line. During the pledge process, Kappa Alpha Psi members distributed written materials that, again, represented the membership requirements solely as GPA, approval, and a written exam. Johnson continued to seek membership. Ultimately, the parties in this litigation settled.

On July 5, about three months after the original interest meeting, Johnson traveled with defendants to Indiana where he paid his fees and passed the written exam. Johnson was then physically and psychologically abused by Omicron Lambda chapter members.
upon his return home to Montgomery. Robinson oversaw the verbal abuse and physical beatings. Johnson was paddled and beaten while blindfolded. He was forced to drink an unknown liquid. He vomited, experienced nausea, and had difficulty urinating. When he did urinate, it was dark and bloody. He suffered swelling and bruising of his “bottom and his legs.” On August 10, Johnson sought medical treatment for headaches, nausea, vomiting, and urinary problems. He was diagnosed with acute renal failure and was hospitalized until August 18. Upon release from the hospital, Johnson experienced another round of physical and psychological trauma, again overseen by Robinson. Johnson was again hospitalized on April 30, 2012, with acute renal failure. He needed 2 weeks of dialysis and was required to wear support stockings to treat his bruises.

Johnson ultimately sued Kappa Alpha Psi, Omicron Lambda chapter, individual members of the chapter, and the chapter advisor, Walter Bush. A few important factual and tactical issues seemed to emerge from this case. The first was the implicit tie between the chapter and its members to the organization via the chapter advisor. Johnson’s expert witness seemed to make the argument that given chapter advisors actual or constructive knowledge of undergraduate hazing, that should be enough to tie the chapter’s activities to the national organization. This would, arguably, be so because chapter advisors either do, or should, receive training from the national organization about advising undergraduate chapters, including around hazing issues. Additionally, the case highlighted the role of expert witnesses. Johnson’s expert was a researcher on BGLO hazing. Kappa Alpha Psi’s expert’s, pursuant to his deposition, knowledge of BGLOs was limited to his readings of Johnson’s expert’s research. In essence, he could not find a research-based argument for why he disagreed with any of Johnson’s expert’s statements, save one. And that one disagreement stemmed from Kappa Alpha Psi’s expert’s lack of access to a forthcoming study by Johnson’s expert. Lastly, the case highlighted the utility of electronic communications as potential evidence.

In an October 7, 2013 letter, Kent State University suspended the Gamma Tau chapter of the Kappa Alpha Psi, citing hazing — or “misconduct related to membership intake” — activity. The associate
dean of students at KSU, Timeka L. Thomas Rashid, reviewed the unidentified allegation of hazing activity along with six years of the fraternities files before agreeing to suspend the organization from campus. KSU spokesman Eric Mansfield declined to comment on what led to the suspension, although an official university report indicated that there was “circumstantial evidence’ that Kappa Alpha Psi engaged in physical violence and mental anguish.” The fraternity, Kent State, and Ohio law all forbid hazing, which is defined as ritualistic abuse or embarrassment. The chapter is eligible for reinstatement in May 2016.

Carmelo Gonzalez was hazed during an initiation ritual into the Kappa Alpha Psi at Calumet College of St. Joseph. Gonzalez claims to have sustained severe head injuries, and accused two former fraternity members—Thomas E. Beck III and Dominique Howard—of hitting him over the head during a party on February 24, 2013, with a paddle as part of a hazing ritual, which left him in the hospital and bleeding from the brain.

Following an investigation, the fraternity expelled the two members accused of hitting Gonzalez and found that they were not acting within the “scope of their duties on behalf of Kappa” when hazing Gonzalez. A third man, who was not a Kappa Alpha Psi member, was placed on the “barred from KAPPA list” according to the fraternity.

Beck and Howard were subsequently charged with battery and criminal mischief, and a jury trial was scheduled for October of 2013. Gonzalez also filed suit against three members of the fraternity, the fraternity itself, and Calumet College for negligence. Additionally, the fraternity’s insurance company, Admiralty Insurance Co, filed suit in U.S. District Court seeking to protect itself from having to pay damages resulting from Gonzalez’ suit against the fraternity.

On February 7, 2014, all but one of the eleven members of the Zeta Iota chapter of the Kappa Alpha Psi at the University of Georgia charged in connection with an alleged hazing incident turned themselves into authorities at the Clarke County Jail. The investigation was initially prompted by information provided by the University’s Student Affairs department, which tipped authorities off that someone may have been injured at a fraternity pledging event.
The incident, which allegedly took place on January 27, at the home of a fraternity member, was a part of an initiation event at which some pledges were beaten with fists. There were some resulting injuries, but none that required medical treatment. The fraternity members that were arrested were Rictavious Jerome Bowens, Robert Lee Ellis, Fakari Jalen Gresham, Julian Deandre Hoyle, Austin Sinclair Johnson, Kourtland Wills Jones, Jason Rahsaan Moffitt, Acarre Dejon Patton, Nicholas Brandon Pope, Raheem Joel Thompson and John Allen Wood. Most were released after being booked on $2,500 bond. All defendants were charged with hazing, which under Georgia law is a misdemeanor punishable by up to 12 months in jail and a $5,000 fine. The Zeta Iota chapter was suspended pending the investigation.

**Hazing in Omega Psi Phi Fraternity**

In May 2010, Purdue University suspended two fraternities, including Omega Psi Phi, after internal investigations revealed that the fraternities were taking part in hazing and providing alcohol to minors. The University concluded that Omega Psi Phi conducted hazing activities that included multiple late night sessions and physical abuse such as paddling and calisthenics. Purdue regulations define hazing broadly to include any activity that interferes with scholastic activities, create a substantial risk of physical harm, or degrades any person. OPP was eligible to petition for reinstatement at the end of the imposed suspension, which concluded on May 2, 2011.

An investigation began into incidents of hazing by Omega Psi Phi at the University of South Florida when a student walked into a Tampa police station alleging he had been beaten as part of a hazing ritual. The investigation was then referred to the Hillsborough State Attorney's Office. According to documents released by the State Attorney's Office, the student had a large bruise on his upper right arm and severe bruising on his buttocks and chest. The pledges were ordered into an empty strip mall, where they were punched, slapped, and smacked with a 2-by-4 board for approximately twenty minutes. The pledges were then told to sit on nearby railroad tracks and
bounce their bruised behinds on the metal rails. Then, they were ordered to leave and return with Popeye’s chicken and beer; when the offering was unsatisfactory, the men crushed the food and resumed beating the pledges. None of the pledges received medical treatment as a result of the incident.

Of the eight alleged victims, only one was fully compliant. The others gave the police various opposing and conflicting stories. Additionally, seven of the eight men accused of delivering the blows were former USF students. Unfortunately, none of the men were charged or punished due to a paperwork error. The fraternity was recognized by USF and had participated in new membership recruiting activities in previous years, but failed to fill out required paperwork to recruit in 2010 (the year of the incident). Furthermore, because the activities occurred off campus at 2112 W. Busch Blvd. – a business that serves as the storefront office of J&G Tax – they were outside of both the University’s sanctioning powers and Florida’s anti-hazing statute. The incidents could not be classified as criminal battery, either, because the events were voluntary – and in the case of the railroad tracks, self-inflicted. Nonetheless, the University enforced its suspension of the chapter.

Roughly 76% of fraternity members, sorority members, and student athletes, researchers say, reported experiencing hazing at least once, and the practice is thought to be “just part of the campus and woven into it and accepted as the norm.” This is evidenced by this incident: the unnamed student who was beaten and reported the incident to police was reportedly encouraged to “soldier on;” text messages from fellow pledges exclaimed that the hazing “felt weird at first but we got through it” and that “Pain. Pain is temporary. Omega Psi Phi is forever.”

After hearing of the incident, USF officials sent an email to the campus reminding students that hazing is illegal, against University policy, and “totally unacceptable at USF.” Following the incident, USF suspended the fraternity from campus and it is unclear whether the fraternity was reinstated after prosecutors declined to file charges. Casting the accused as outsiders, then-USF President Judy Grenshaft portrayed the incident as isolated and not representative of USF or its student groups on the whole, saying that the fraternity
“held a secret off-campus meeting and violated the standards and policies of not only our university, but the rights of our students.”

Confusingly, a regional Omega Psi Phi representative told police that a USF chapter has never been officially approved, despite being officially recognized by the University. When asked about the hazing incident, an attorney for the local alumni chapter stated that “whatever occurred to the young men was underground activity, not sanctioned, not condoned” by the fraternity.

In an incident that took place from April 4 to April 5, 2012, three Pennsylvania State University students – Bianca Jeanty, 22, of Maplewood, New Jersey; Falicia Ragsdale, 23, of Pittsburgh, Pennsylvania; and Hanif Johnson, 23, of Harrisburg, Pennsylvania – took part in a hazing ritual in which they slapped, punched and kicked then Penn State freshman Aysa Trowell over a period of several days until she was bloodied and injured. During this incident, Trowell was told that this violence would “connect her to her slave ancestors.”

After being alerted to the incident, police requested medical records from Trowell which Trowell’s attorney, Scott Cooper, was confident would corroborate her hazing claims against the other students. Trowell, of Owings Mills, Maryland, described the hazing: “It got to a point where my face was looking so bad, the male dean [later identified as Johnson] told the two others they couldn’t hit (me) in the face anymore.” Trowell reported that two other students were also hazed, but she believed that they proceeded with the activities to earn membership in the group. Jeanty was identified by police and prosecutors as the primary aggressor.

This ritual, prosecutors contended, was planned as a part of the pledging process for Omega Essence, a “little sisters” group affiliated with Omega Psi Phi, but not officially recognized on the Penn State Campus. At the time of pledging, Trowell believed that the sorority was one of the “Divine Nine” and was part of the National Pan-Hellenic Council; however, Penn State’s website listed only eight member groups of the council, with Omega Psi Phi not among them. The national chapter of the fraternity had reportedly prohibited “little sister,” also called “auxiliary,” organizations. Following the incident, Trowell sought medical attention, stopped
pledging Omega Psi Phi, and transferred from Penn State. Penn State was cooperative with Trowell, assisting her in retrieving belongings, transferring to a new school and finishing her finals. Trowell reportedly had “severe internal bruising” requiring bed rest following the beating.

Prosecutors charged Jeanty, Ragsdale, and Johnson, with simple assault, conspiracy to commit simple assault, and summary harassment. The criminal complaint against the three students asserted that Jeanty admitted to officers that she, Ragsdale, and Johnson assaulted Trowell on separate occasions over a two day period. Johnson, who was a former Penn State track student athlete, was identified as the “ring leader;” she purportedly referred to himself as the “dean” and encouraged and directed the hazing. Jeanty and Ragsdale were primarily responsible for the actual physical hazing. Johnson was tried first and acquitted of the simple assault and conspiracy to commit simple assault in a one day jury trial, but was convicted of the third, less serious charge. Johnson’s attorney, Philip Masorti, contended that the jury made the right call because Johnson never beat Trowell, but emphasized that he and his client were sympathetic towards the victim: “an 18 year-old freshman girl didn’t deserve to be beaten that way by Penn State upper-class females… we cannot tolerate hazing that includes any form of physical abuse.” Jeanty and Ragsdale later plead guilty to summary harassment during a scheduled pretrial conference, and were sentenced to serve probation for their role in the attack.

University officials commented on the incident, saying that hazing “simply will not be tolerated,” and that the University would “vigorously protect the rights and interests” of the victims.” A university investigation found that the students violated sections of the student code of conduct that deal with hazing, abuse, endangerment and harassment. As a result, all three students were indefinitely expelled by Penn State and were not allowed to graduate in 2012, but could apply for reinstatement in one year from the date of expulsion. Another student, Claude Mayo, reportedly drove Trowell and another student to and from the off campus home where the hazing took place. Thinking back on the hazing incident,
Jeanty told the sentencing judge that it was “poor judgment on [her] call.”

Following a tip from an anonymous informant, University of Virginia (UVA) police began an investigation probing possible incidents of hazing that occurred over the summer by members of Omega Psi Phi. The alleged hazing reportedly left one pledge with fractured ribs according the search warrant filed in Charlottesville Circuit Court to search the Omega Psi Phi fraternity house.

The informant told police that there would be a fraternity meeting at 1am on July 18, 2012, where hazing would be taking place. Police observed four shirtless males, one fully clothed male and two females; one of the shirtless men was being hit on either side of his torso. The hazing lasted for approximately thirty seconds. The informant told police that the pledges had visible bruises and that one of the members may have fractured ribs.

The Office of Fraternity and Sorority Life website for UVA listed the fraternity as inactive, and it was unclear of when the chapter became inactive. University of Virginia officials, Omega Psi Phi national headquarters, and Omega Psi Phi district headquarters all declined to comment on the investigation.

On April 10, 2013, the Bloomington Campus of Indiana University suspended the Zeta Epsilon Chapter – but not the Nu Alpha Alpha chapter which also exists at IU – for allegedly providing an unsafe environment and for unspecified incidents of hazing activities. The chapter was prohibited from hosting, attending, participating, and sponsoring any organization activities during the pendency of the suspension. At the time of the suspension, the Zeta Epsilon chapter had shrunk to just three active members and three pledges.

In April 2013, the University of Central Florida reinstated 41 fraternity and sorority chapters, after they had been suspended following concerns about a spike in hazing and alcohol abuse. However two chapters – Alpha Kappa Alpha and Omega Psi Phi – were not reinstated because they asked for more time to develop plans to change Greek culture as it relates to underage drinking and hazing.
The 2014 investigation into the Saginaw Valley State University chapter of Omega Psi Phi began after a 22 year-old new member sustained serious injuries allegedly connected to hazing and another 22 year-old pledge suffered minor injuries. The injuries were sustained off campus in Carrollton Township where two members, Tevon L. Conrad and Trevor D. Hoskins, were living. Police charged four members, Conrad, Hoskins, Laurence D. Dunn, and Maurice D. Polk Jr., with two felony assaults, “intent to commit great bodily harm less than murder and conspiring to commit that crime,” and misdemeanor counts of hazing involving “physical injury and conspiring to commit that crime” for the sustained injuries. The four members face a maximum penalty of ten years. Saginaw Valley State University suspended the Omega Psi Phi chapter until further notice.

Hazing in Phi Beta Sigma Fraternity

Nine men, three current Francis Marion University students and six alumni, were arrested and charged with a hazing incident on October 23, 2011 at a Florence County, South Carolina apartment. The student, pledging Phi Beta Sigma, was paddled so badly his buttocks was bleeding and he suffered kidney damage which sent him to the hospital for two days. One of the six alumni charged with hazing was Marcus Lavon Robinson, a 34 year-old teacher at South Florence High School. The initiation took place at his apartment and he was placed on administrative leave. Another suspect, Nicholas Alexander Washington, was a unit director with a local Boys and Girls Club and was also suspended. The three current students at FMU were Phi Beta Sigma’s only members, and the three man pledge class that was initiated would have doubled the membership.

Francis Marion University fraternity and sorority leaders are briefed each year on the school’s anti hazing policy, and the president of the school plans to meet with the leaders in the future to “see what lessons can be learned.” While more significant charges could have been pursued like aggravated assault, the university was worried there would be problems because it appears the victim consented to the assault. The South Carolina hazing code specifically states “the implied or expressed consent of a person to acts (of hazing) does not
constitute a defense” so the victims consent would not be an issue. The punishment for hazing is a fine up to $500 and/or imprisonment up to one year.

The three current students were suspended from the school for one year and banned from the FMU campus. Also, the school suspended the fraternity from the campus and the national organization suspended the Florence chapter. Phi Bet Sigma’s website has a strong anti-hazing policy which specifically prohibits paddling in any form. The suspects appeared before a judge and were released on $5,000 personal recognizance bonds.

In November of 2014, North Carolina State suspended the six member of Xi Zeta Chapter of Phi Beta Sigma for four years after an investigation into hazing allegations.

Also in 2014, the University of Minnesota chapter of Phi Beta Sigma hosted an educational event concerning the perils of toxic masculinity and its consequences for students. The event discussed issues such as sexual assault and hazing incidents. Additionally, following several hazing-related incidents, Phi Beta Sigma’s National Headquarters instituted an anti-Hazing Campaign. The organization published training pamphlets to its chapters and other interested organizations concerning anti-hazing sensitivity.

**Hazing in Black Greek-Letter Sororities**

During the period from February 11, 2009 until approximately March 8, 2009, Delta Sigma Theta Sorority Sigma Zeta chapter pledges, at Northern Kentucky University, were subjected to a series of increasingly harsh “hazing” rituals. The alleged hazing included such acts as having water thrown on the pledges; eating raw eggs; cleaning up water using the pledges’ clean clothes; and multiple instances of paddling. On March 8, three of the pledges refused to be paddled further and were ordered by sisters of the sorority to turn in their pledge clothing. In the days following the paddling, the three pledges sought medical attention for multiple bruises, blisters, and scars. The following February, three pledges—Krystal Ellison, Ashlee Ranford, and Dominique Williams—filed a lawsuit in Campbell County, Kentucky Circuit Court. In their complaint, the plaintiffs alleged
negligence, assault and battery, false imprisonment, and intentional infliction of emotional distress. Each plaintiff sought compensatory and punitive damages.

The plaintiffs contended that Delta Sigma Theta should have been held vicariously liable for the actions of its Sigma Zeta chapter, because the sorority knew or reasonably should have known of the dangers of the pledging process, especially as it pertained to initiation (the “Hell Week” was when the paddling escalated). The plaintiffs argued that the sorority should have warned or protected them from the hazing incidents and that the sorority’s failure to do so was a cause of the plaintiffs’ injuries. Expert testimony for the plaintiffs sought to provide insight into why pledges submit to hazing and why the current anti-hazing process was ineffective. On August 15, 2011, the jury returned a verdict in favor of the plaintiffs. The damages, however, were minimal—the jury awarded a lump sum of $3,000 as a compensatory pain and suffering award, far below the tens of thousands of dollars sought in the complaint.

In November of 2010, the Delta Sigma Theta chapter at East Carolina University in North Carolina culminated “Hell Week” with the death of two pledges. Seventeen pledges were required to live in a two-bedroom, two-bathroom apartment together. During their pledge sessions, they were made to perform the “Delta Chair,” where they stood on one leg and held bricks over their heads and the “Delta TV” by holding a push up position. Additionally, they maintained wall sits for lengthy periods of time. The pledges wore “Delta lipstick” by rubbing hot sauce on their lips. The pledges were made to eat cottage cheese, drink buttermilk, and eat a large raw onion that the members called a “Delta Apple.” While performing these tasks, the members ridiculed and humiliated the pledges. In addition to participating in strenuous exercise routines and consuming unusual foods, the members also demanded that the pledges wear their hair and clothing in a particular way.

On the night before their scheduled probate, the pledges were made to practice the death march until they perfected it. The sorority members arranged hair appointments for them at 6:30 that next morning. Because the pledges were required to practice the march for their probate until they performed it perfectly, they were
unable to sleep before driving to the hair appointment. The sorority members had previously designated a pledge to drive the other pledges to practice, and that same pledge was required to drive them to their early morning hair appointment. On the way to that appointment, the designated pledge fell asleep at the wheel and crashed. As a result, two of the pledges died and the pledge driving the car was criminally charged. Two years later the victim’s mother filed a wrongful death suit against the sorority for her daughter’s death.

Three University of Tampa students, identified only as M.B., S.C., and L.P, were sisters in the Delta Sigma Theta Sorority, and were suspended from the university after allegations that they hazed pledges surfaced. The allegations included that the pledges were “yelled at, made to run, do pushups, squats, eat garlic wrapped in Big Red gum, drink hot sauce, hold a match between their fingers while reciting a pledge, had rocks and grass thrown at them, and were paddled. The women, who had no history of trouble, admitted that the running, squats, and pushups took place, but denied the other allegations. The allegations were never proven and no pledge named the individual students who were suspended. No legal action was taken against the alleged offenders, and there was no legal or university action taken against the sorority as an organization.

Nonetheless, the three women were informed they were suspended on April 5, 2010, and it was to continue until August 2011. This meant that the students were not allowed on campus, could not meet with professors, and could not take final exams, resulting in failing grades in those classes. Two of the three women were scheduled to graduate in May 2010. The students claimed to have a witness that would prove the major violations never took place, but the university did not allow this person to testify in administrative proceedings. In May 2010, the three sued the university and asked a judge for an emergency hearing to lift the suspension and allow the students to graduate on time. The suit alleged that white students accused of similar actions at the school received less-severe sanctions, and that the woman’s race may have influenced their punishment. The judge declared the case to be too
complex to be decided in a couple of hours, denied the request, and
gave the parties time to prepare and present their information.

Like the pledges at the University of Tampa, pledges at
Florida A&M University were required to memorize information
about sorority members and perform exercise squats in 2013.
Authorities began an investigation after the Tampa police department
received a medical emergency call from the residence where the
alleged pledge session took place. The pledge lost consciousness
around 5:35 am and was taken by ambulance to the hospital. The
pledge did not allege that she was hazed. Instead, she reported that a
heart murmur caused her to faint. According to the pledge, she faints
sometimes without reason. The twenty-two witnesses that were
interviewed also denied that any hazing took place. Ultimately, no
charges were filed.

Gerri Barker sought to join the local chapter of Sigma
Gamma Rho at Rutgers University in 2010. Between January 18 and
25, 2010, Barker alleged that she and several other pledges were
struck on the buttocks with paddles. She stated that she personally
was struck over 300 times in a neighboring county, and was struck
seven times in New Brunswick County at Rockoff Hall on Rutgers
campus. Barker said that the pledges were told to bow after every hit,
but that she forgot to do it once or twice due to the pain. She
identified Shawna Ebanks as the woman who administered the
blows. Ebanks stated that there were other parts to the initiation
rituals, such as the pledges having their rooms trashed, being forced
to remain in squatting positions, and other difficult stances that
caused pain. Further investigations revealed that pledges were also
restricted from eating over a period of several days, and another
pledge had been paddled 201 times during a single week.

On January 26, 2010, Barker went to the hospital with her
mother for treatment of the injuries caused by the alleged beatings,
and then reported the incident to university officials. Six sorority
members — Shawna Ebanks, Vanessa Adegbite, Kesha Cheron, Ilana
Warner, Joana Bernard, and Marie Charles — were charged in the
hazing incident. They were initially charged with aggravated hazing in
January 2010, but those charges were downgraded to hazing, a
disorderly person offense. With these lower charges, evidence could
only be introduced about the seven blows that were alleged to have occurred in New Brunswick County, and the hundreds of other ones occurred outside the jurisdiction. All six of the women charged in the criminal proceedings were exonerated of separate university disciplinary charges. The sorority was suspended when the incident arose, and remained suspended pending the completion of an investigation.

Also in 2010, a Sigma Gamma Rho chapter at San Jose State University in California was charged with hazing, and as a result, was suspended until 2016. A former student reported that in 2008 she sustained violent hazing from chapter members. Allegedly, she and other pledges were paddled, hit with wooden spoons, shoved, and informed that “snitches get stitches.” One active member explained to a pledge that the hazing process was supposed to mirror the suffering of slavery, so that the members could better relate to their ancestors. Pledges were also required to wear identical outfits as other pledges, and learn poems and history. Four Sigma Gamma Rho members subsequently pleaded guilty to misdemeanor hazing charges and served 90 days, two years of probation, and expulsion from the sorority. The same chapter was also suspended in 2003 for hazing activities.

Lavisha McClarin, a 2010 pledge at the University of Maryland chapter of Zeta Phi Beta Sorority, was beaten with an oak paddle during a hazing incident, which lead to “severe bruising on the arms and chest.” As a result of this incident, which also involved McClarin being choked and shoved into a wall, seven members of the sorority were charged in March 2011, with assault and hazing. The accused were Amber Bijou, 22; Bridget Blount, 24; Montressa Hammond, 24; Tymesha Pendleton, 26; Zakiya Shivers, 26; Monika Young, 23; and Kandyce Jackson, 32. The incidents took place in October 2010, at an apartment complex in Adelphi, Maryland and at the home of Kandyce Jackson in Bladensburg, Maryland. Pendleton is identified as one of the people who wielded an oak paddle and choked McClarin, however, her attorney claims that she was not responsible for the hazing, and objects that this charge has the potential to ruin her career (she had been admitted into several Ph.D. programs). The University of Maryland suspended Zeta Phi Beta
Sorority indefinitely in November 2010, as a result of this incident, and McClarin has withdrawn from the sorority.

Several hazing incidents occurred during the spring semester of 2010 in connection to the Zeta Phi Beta Sorority at Coastal Carolina University resulting in the suspension of the sorority from the University for 5 years. The University would not release specifics as to whether charges had been filed, what activities were involved, or which students were involved. The University did say that it would not tolerate hazing which “endangers the lives of individuals, whether psychologically, whether physically. . . .”

Britteny Starling was a student at University of California Berkley, and during the fall semester of 2010, she decided to pledge Zeta Phi Beta. Shortly after beginning the process, they were forced to state that if they stopped the process then they would be “eternals;” eternally nothing. One of the Big Sisters beat Ms. Starling while another pledge recited the sorority’s history. The only way the beating would stop was if the other pledge completed the sorority’s history. Ms. Starling was deemed a trash can by one of the Big Sisters, and after the sister was done eating an apple, she put the core in Ms. Starlings pocket. One Big Sister slammed Ms. Starling’s head against the wall making her lip bleed. The blood soaked through a paper towel and washcloth; she was forced to stay awake the rest of the night. Another Big Sister struck Ms. Starling with a book on her ankle causing severe injury. She also urinated herself out of fear.

After the treatment of Ms. Starling and other pledges, many members of the line decided not to pledge Zeta. The current members of the sorority tried to convince them (including Ms. Starling) to stay. Ms. Starling did not return and did not report the incidents out of fear of retaliation and lack of guidance. She was forced to take medical leave in order to physically and mentally recover from her treatment. Ms. Starling filed suit against the sorority for assault and battery, intentional infliction of emotional distress, and negligence per se.
Conclusion

As witnessed from the above accounts and alleged events, violent hazing shows no signs of ebbing, and it could be argued that it is expanding into the domain of both dangerously creative forms of abuse beyond the conventional use of paddling (e.g. abuse of genitals, hazing of “little sister” pledges by fraternity men, and BB and pellet gun usage) as well as an escalation of physical abuse by sororities. Despite these realities, BGLOs show no signs of realistically addressing this epidemic. Accordingly, the next sections of the book focus on the legal implications and social psychological underpinnings of hazing.
CHAPTER 6

Hazing Litigation:
Criminal and Civil Sanctions

The law intersects with hazing in both the criminal and civil domains. Individual hazers may be arrested, criminally indicted, and convicted for his or her conduct. A host of individuals and entities—including fraternity and sorority national organizations, individual chapters, host institutions, and potentially university presidents—may be civilly sanctioned for hazing.

Criminal Sanctions

Hazing, as a crime, is regulated by state statute. To date, forty-four states have anti-hazing statutes that criminalize hazing, making hazing punishable as a misdemeanor, and in some instances a felony when a specific mens rea is associated with the act. In order to address concerns about the potential lack of reporting due to pledge loyalty to the pledged organization, some states criminalize the failure to report hazing incidents. Anti-hazing statutes with criminal penalties, arguably, serve to deter future incidents of hazing. In addition, such statutes apply in situations beyond criminal prosecution. For example, multiple states have recognized that violations of criminal hazing statutes, which are designed to protect human life, are prima facie evidence of negligence.

Anti-hazing statutes aside, prosecutors also have other alternatives under which hazing may be prosecuted. For example, states have charged hazing participants with involuntary manslaughter, assault and battery, criminal sexual assault, and unlawful restraint. While these charges can be effective means of prosecuting and punishing perpetrators, some hazing activities can fall through the cracks.

With that said, in recent years, there have been a number of Black Greek Letter Organization (BGLO) hazing incidents that resulted in criminal implications for members. In 2011, four
members of a group claiming to be affiliated with Kappa Alpha Psi assaulted and shot four Cal State Bakersfield students with a BB gun. The assaults included beatings with paddles, canes, and horsewhips over the course of a month in hazing rituals. The four suspects, including three CSB students, were arrested and released.

Similarly, thirteen Alpha Phi Alpha members were indicted for a hazing incident at Jacksonville State University in 2011. The suspects hazed the victim, striking him with fists and paddles, pelting him with eggs, and forcing him to drink large quantities of alcohol. He went to the hospital the following morning with internal bleeding, an enlarged liver, and damaged kidneys, requiring twenty-four days of hospitalization. The individuals responsible eventually plead guilty to reckless endangerment. As a result of this incident, Alpha Phi Alpha was dismissed from Jacksonville State's campus.

In November of 2011, three students and six Phi Beta Sigma alumni associated with Francis Marion University were arrested on hazing charges. The following April in Arkansas, another student was hazed, being beaten with a wooden cane and paddle with such violence that he was hospitalized for nearly a month. His injuries included kidney damage, fluid in the lungs, which required a medically induced coma. Doctors suggest that his peak physical conditioning as a star athlete allowed him to survive injuries that would have likely killed another student. Similar to Jacksonville State, Arkansas Tech permanently removed a chapter of Kappa Alpha Psi from campus when members were arrested for second-degree battery. According to the fraternity’s own internal investigation, sixteen people were present, including five Tech students, even though only one Tech student was charged. This incident mirrors other Kappa Alpha Psi incidents as recently as 2012, when investigations over canings occurred at University of Florida, Youngstown State University, Jarvis Christian College, and Florida A&M.

In 2013, Virginia State University students, and members of the Alpha Phi Alpha, were charged with misdemeanors for an off-campus hazing incident. In Virginia, hazing is a class one misdemeanor, punishable by a fine of up to $2500, or a jail term of up to twelve months. Additionally, all pledges at VSU attend
mandatory anti-hazing education classes. Similarly, in 2014, six Alpha Phi Alpha members at the University of Akron were charged with assault and hazing for their actions against a twenty-one year-old pledge. All individuals are active in the fraternity and are accused of administering repeated paddling over the course of three weeks, creating a lingering sore on the unidentified victim, which required medical treatment. The University suspended all Alpha Phi Alpha activities including new member intake on January 31, 2014.

**Individual Liability**

In some instances, individual actors are civilly liable for hazing. For example, in 1996, Santana Kenner sought initiation into the Beta Epsilon chapter of the Kappa Alpha Psi Fraternity at the University of Pittsburgh. During two chapter meetings that month, members of the fraternity “engaged in psychological and physical hazing of Kenner and other initiates.” A few months later, Kenner was told to attend a chapter meeting at a member’s apartment. When he arrived, Kenner was greeted by four chapter members who beat him more than two hundred times on the buttocks with paddles. After he was beaten, Kenner noticed his buttocks were numb and his genitals were swollen. He checked into the hospital the next day for blood in his urine and swelling in his genital. “As a result of the beating, Kenner suffered renal failure, seizures, and hypertension requiring three weeks of hospitalization and kidney dialysis.”

“Kenner filed a lawsuit [for] negligence against the defendants, both individually and in their official capacity with the fraternity.” The trial court granted summary judgment for the defendants, holding that there was no duty owed to Kenner. On appeal, the court held that the individuals did, in fact, owe a duty to Kenner. “Renal failure and the possibility of death” were both found to be foreseeable harms of the initiation process. Additionally, weighing in favor of establishing a duty was the public interest of assuring safety during intake procedures. Kenner established a prima facie case against one of the individual defendants, and the summary judgment for that defendant was reversed and remanded for trial. He established this prima facie case by setting forth facts alleging that the
defendant knew there was a moratorium on hazing; he failed to adequately address this issue at interest meetings for prospective members; he “did not understand the new . . . intake process[,] and he “did not take steps to find out what [hazing] activity had occurred after an informational meeting he had conducted.” Had he “been more engaged in the [intake] process,” “Kenner would not have sustained his injuries. The court found that these factors were sufficient to survive the defendant’s summary judgment motion.

Organizational Liability

A. Findings of Liability

Fraternities and sororities may be sued under various theories, particularly agency theory. In *NAACP v. Claiborne Hardware Co.*, the United States Supreme Court articulated the standard for holding a national organization liable for the acts of one of its chapters. This case originated after a boycott of white merchants in Claiborne County, Mississippi in 1966, at a meeting of a local branch of the National Association for the Advancement of Colored People (NAACP) attended by several hundred black persons. In 1969, respondent white merchants filed suit in Mississippi Chancery Court for injunctive relief and damages against petitioners (the NAACP, the Mississippi Action for Progress, and a number of individuals who had participated in the boycott, including Charles Evers, the field secretary of the NAACP in Mississippi and a principal organizer of the boycott).

Unlike the lower court’s decision, the Supreme Court found that a national organization like the NAACP could not be liable for the actions of a branch in the absence of any proof that the national organization authorized or ratified the misconduct in question. The Court noted, “[t]o impose liability without a finding that the NAACP authorized--either actually or apparently--or ratified unlawful conduct would impermissibly burden the rights of political association that are protected by the First Amendment.” The Court found no connection or evidence to support the liability of the national organization. And the Court noted a lack of evidence to show “that Charles Evers or
any other NAACP member had either actual or apparent authority to commit acts of violence or to threaten violent conduct.” The Court finally ended its analysis by quoting from *NAACP v. Overstreet*:

To equate the liability of the national organization with that of the Branch in the absence of any proof that the national authorized or ratified the misconduct in question could ultimately destroy it . . . . Thus we have held that forced disclosure of one's political associations is, at least in the absence of a compelling state interest, inconsistent with the First Amendment's guaranty of associational privacy.

In analyzing whether to extend liability from a local chapter to the national organization through agency theory, courts determine whether a special relationship existed, and thereby a duty flowed between the national fraternity and the local chapter. Once this agency relationship has been established, courts determine whether the actions committed by the local chapter were within the scope of their relationship with the national fraternity. If so, courts consider local chapters to be acting as agents of the national fraternity.

The Court of Appeals of South Carolina, in 1986, held that a national fraternity was liable for the acts of its local chapters under agency theory. The court first imposed liability on the local chapter of the fraternity based on its precedent that placed a duty on organizations to not harm initiates in the initiation process. Here, participation in “hell night” was a requirement of the initiation process, and it led to injuries. Further, a jury might conclude that the existing members’ abandonment of the pledge, while intoxicated, worsened his condition. The court then used agency principles to evaluate the local chapter’s “hell night,” in relation to the national fraternity. The national fraternity’s constitution states that one could only become a member through a local chapter, and local chapters conducted their own new member initiation, which could supplemented the initiation process laid out in the national fraternity’s constitution. Therefore, the court concluded that the activities of “hell night” were within the scope of the local chapter’s
agency relationship with the national fraternity, therefore liability could be imposed on the national fraternity.

In 1999, a potential member of Kappa Alpha Psi sued the fraternity for hazing in a local Illinois chapter. The Plaintiff first sued based on his claim that those who hazed him “acted for and on behalf of Kappa[,]” and additionally sued based on his claim that the national fraternity allowed “an aura of violence to exist . . . and that as a result of this negligence,” he was hazed. In addition to examining whether the hazing activities were within the scope of authority of individual chapters, the Northern District of Illinois examined whether the national fraternity had control over its individual members and chapters, stating “[a]n association is not liable for the torts of its members when it has no control over the members’ acts.” Here, the court determined that the national fraternity had control as it set the method for new member intake and monitored each chapter’s compliance. The Court looked at Kappa Alpha Psi’s control over its individual chapters and circumstantial evidence surrounding the scope of the individual chapter’s activities, and concluded that an agency relationship may have existed, and denied the national fraternities motion for summary judgment.

The same year as the Illinois Kappa Alpha Psi case, the Court of Appeals of Louisiana held that Kappa Alpha Psi’s national organization was not vicariously liable for the intentional hazing actions of local chapter members. Here, the court examined whether the national fraternity had control over the local chapter, and since it did not find any such control, it failed to impose vicarious liability. In contrast, the Court of Appeals of Louisiana held that Kappa Alpha Psi’s national was directly liable for the acts of its local chapters because it “undertook a duty to regulate, protect against and prevent hazing . . . [but] failed to act reasonably to fulfill this duty.” The court also relied on testimony from Kappa National’s field deputy who detailed the control Kappa National had over the local chapters, and its history with dealing with prior incidents of hazing in the local chapters. Kappa National maintained the power to control, expel, and suspend members for hazing. Based on this testimony, the court found that monitoring and preventing fell within the scope of Kappa National’s duty and that Kappa National’s failure to fulfill its duty
directly led to the plaintiff’s injury. Therefore, the court determined that Kappa National could be directly liable for injuries resulting from hazing.

B. Lack of Organizational Liability

The main rationale of courts in refraining to impose liability on national fraternities for the actions of local chapters is the lack of control the national fraternities have over the day-to-day operations of the local chapters. The Supreme Court of Delaware, in 1991, refused to impose liability on Sigma Phi Epsilon Fraternity’s national body based on the fact that the national fraternity did not exercise control over the day-to-day activities of the local chapter, and believed its anti-hazing policies were being enforced. The court stated that notice of hazing alone was not sufficient to impose liability. Almost a decade later, the Supreme Court of Iowa held that no duty of care existed between the national fraternity of Lambda Chi Alpha Fraternity and the pledges of local chapters. The court distinguished this case from others where liability was imposed for excessive drinking, based on the fact that the drinking here was completely voluntary. Therefore, no special relationship existed as the fraternity members did not coerce the Plaintiff into consuming large quantities of alcohol, and thereby did not implicitly create a special relationship based on “dependence or mutual dependence.” The court explained that the fact that the alcohol was not paid for with fraternity money further distanced the fraternity and its national fraternity from implicit coercion and a “special relationship.”

In 2002, the Supreme Court of Kansas held the national chapter of Pi Kappa Alpha Fraternity not liable for hazing potential members, where excessive alcohol consumption required several pledges to be hospitalized. The court stated that since Kansas law did not hold suppliers of alcohol liable for injuries suffered by minors, the national fraternity could not be held liable for the same offense. The court held, that the national fraternity did not control or monitor the day-to-day activities of each individual chapter, but rather served as a resource and support organization.
In 2014, the Indiana Supreme Court in *Yost v. Wabash College*, held that the national fraternity could not be held liable under a vicarious liability theory. The court rejected the pledge’s arguments that the national fraternity should be liable both under a traditional duty analysis, and under agency theory. The court noted that the national fraternity did not have “direct oversight and control” of its local chapter members, did not maintain a staff or employee presence within the fraternity house, and the operational management of the local chapter was handled directly by the local chapter. The court concluded that because the national fraternity’s relationship was so “remote and tenuous,” the national fraternity did not have a duty toward the pledge. The court also rejected the pledge’s agency argument, noting there was “no evidence that the actual management . . . is a responsibility consensually exercised by the local fraternity as the agent and at the direction of and on behalf of the national fraternity.”

C. Collecting on “Hidden” Assets

In hazing litigation, the primary means for Plaintiff recovery is via insurance payouts from the fraternity or sorority insurance carrier. Under certain circumstances, fraternity or sorority assets may be used to satisfy a judgment. In the context of a fraternity like Omega Psi Phi, their assets as of 2012 were $2,624,479. One of the challenges of collecting a judgment from a black Greek-letter organization is that it may shift much of its assets to a nonprofit entity affiliated with the organization. For example, fifteen members of Omega Psi Phi at the University of Louisville were involved in the off campus hazing of Shawn Blackston on April 2, 1997. Blackston, a twenty-three year-old freshman, was repeatedly beaten with a large wooden paddle and forced to eat dog food. As a result of the beatings, Blackston sustained significant cuts to his body and kidney failure. Fortunately, dialysis was used to treat his life-threatening condition and he fully recovered physically. In his lawsuit, Blackston sued the national organization in the amount of $500,000 in suffering damages, plus punitive damages, alleging they knew or should have known that hazing was taking place at the local chapter. There was evidence that
the regional trainer for Omega Psi Phi knew of the hazing rituals but did nothing about them.

During the summations, the attorney for the fraternity apologized, but put the blame on Blackston for volitionally participating in this conduct and keeping silent. Furthermore, the defense attorney argued that the fraternity should not be responsible for the actions of a few renegades, and that there were no damages since Blackston completely healed. The jury was not persuaded and found that the fraternity was negligent in the intake and pledge process, but apportioned a 5% comparative fault to Blackston. The verdict totaled $190,977, minus Blackston’s 5% fault, for suffering, medical bills, and lost wages. The jury also awarded Blackston $750,000 for punitive damages.

Blackston attempted to collect the judgment and had a title search performed in Georgia where the fraternity’s world headquarters are located. This search revealed that during the lawsuit, the fraternity had transferred the world headquarters property to Friendship Foundation, an Omega nonprofit organization formed by the fraternity’s trial attorney, Emerson Carey. Blackston sued Friendship Foundation and Carey alleging they had transferred the property with intent to defraud him. Defendants argued they had no intent to defraud Blackston and the property transfer was done in good faith for legitimate tax purposes. Carey was granted a defense verdict, and Friendship Foundation had to pay Blackston $5,783 for the cost of a title search and $44,111 in attorney fees.

Such a scenario raises the question of whether an organization like Omega Psi Phi is a legally distinct entity from its affiliated nonprofit. The general rule is that legally distinct organizations are treated as separate defendants for the purpose of tort liability. Each organization is typically insulated from tort liability based upon any wrongs committed by another organization, even if they are related enterprises. In the fraternity context, separately incorporated entities will generally not be held liable for wrongs committed by members of another organization. However, if the corporate form has been disregarded or abused courts may find tort liability for a separately incorporated entity, and will allow the plaintiff to pierce the corporate veil which would otherwise shield the
separate organization from liability, if an organization is held to be a mere alter ego of another organization or entity. When the corporate veil is pierced as a result of this alter ego structure, the assets of both organizations can potentially be reached by a tort plaintiff.

**Chapter Liability**

Few cases explore civil liability vis-à-vis a fraternity chapter, as opposed to national organizational liability. One that is instructive is *Quinn v. Sigma Rho Chapter of Beta Theta Pi Fraternity*. In *Quinn*, the Illinois Court of Appeals found that a local fraternity owed a duty of care to a pledge who suffered neurological damage from excessive consumption of alcohol during an initiation ceremony. During the ceremony, each pledge had to drink forty ounces of beer from a pitcher, eight ounces of whiskey, and additional liquor purchased by the fraternity members. After the plaintiff lost consciousness from extreme intoxication, fraternity members brought him back to the fraternity house and left him on a hardwood floor. After sleeping for approximately fourteen hours, the plaintiff awoke, found that he “could not properly use his hands or arms,” and was taken to a hospital. The plaintiff alleged in his complaint that he “suffered neurological damage to his arms and hands necessitating the attention of a hospital, doctor, and physical therapist and causing partial disability.” The court of appeals determined that the local fraternity created a legal duty when it required the plaintiff to drink excessive amounts of alcohol in order to become a member, because it was foreseeable that injuries would occur. The court stated:

> A fraternal organization, held in high esteem, is to be liable for injuries sustained when requiring those seeking membership to engage in illegal and very dangerous activities . . . . The social pressure that exists once a college or university student has pledged into a fraternal organization is so great that compliance with initiation requirements places him or her in a position of acting in a coerced manner.
In *Nisbet v. Bucher*, parents filed suit against several campus organizations for the wrongful death of their son. The freshman was invited to serve on a fraternity board that organized St. Patrick’s Day activities on campus. Initiation was a prerequisite for invitation on the board, and took place at fraternity-owned buildings on the university campus. Plaintiffs alleged that the deceased was forced to drink a heated mix of grain alcohol and green peas. They further alleged that pledges were forced to drink using tactics of “pushing, restraint, assault . . . verbal taunting, ridicule and challenge.” The Appellate Court determined that the social host doctrine did not shield liability, because it was not alleged that the hosts merely supplied alcohol to the student—the court noted that the drinking involved with initiation was so intertwined with the membership requirements that “his will to drink or not drink may have been overborne by the requirements to achieve membership on the St. Pat’s Board and by the pressure” by defendants. Ultimately, the court concluded that “[i]f great social pressure was applied to [a student] to comply with the membership ‘qualifications’ of [a campus organization, the student] may have been blinded to the danger he was facing.”

In *Yost*, a pledge sued his campus fraternity for injuries sustained during an alleged fraternity ceremonial ritual, where the pledge was forcibly picked up and put into the shower. The Indiana Supreme Court allowed the pledge’s claim of negligence against the local fraternity chapter to proceed past summary judgment. The pledge stated that not only did he live at the local fraternity’s house, but he was “subject to the mentorship” of the local fraternity’s hierarchy, participated in the pledge program and fraternity traditions, and was “at least partially under the control and direction of the local fraternity.” Additionally, the court noted that it was possible that a fact finder could determine that the local fraternity, through providing supervision to its members, undertook a duty to “reduce the risk of harm” to pledges, and thus failed to exercise reasonable care resulting in harm to the pledge. Although the pledge’s claims against the college and national fraternity were ultimately dismissed as a matter of law, the Court allowed the pledge to seek relief against the local chapter.
Courts remain inconsistent as to whether hazing is coercive. However, a strong argument can be made, given the psychological literature, that hazing is a coercive situation, impairing a victim's ability to consent to hazing activities.

**University Liability**

Unlike the 1960s, where universities were considered in loco parentis, college and university institutions generally do not assume a duty to protect students from their own decisions made as adults. This includes the duty to protect students against intoxication and the duty to regulate student conduct on university property. Thus, it has become much more difficult for plaintiffs to recover from universities in hazing actions. Plaintiffs have attempted to assert a duty against educational institutions via: (1) landowner liability, (2) custodial liability, (3) assumption of a duty, and (4) vicarious liability. Generally, courts decline to apply custodial liability to universities in hazing cases unless the plaintiff can establish that the university had a special relationship with the student. A special relationship must be more than simple authority to create the campus rules; it must involve a level of control. In *Bradshaw v. Rawlings*, the court declined to find a custodial relationship between the institution and its students even though it had policies against certain activities. Something more is required to establish a special relationship to create custodial liability. Case in point, in *Morrison v. Kappa Alpha Psi*, a local fraternity president beat a potential pledge in the president's dorm room. The student sued the fraternity and the university, and the university argued that "a university has no duty to shield a student from his own activities which may result in harm to himself." However, the court noted that the fraternity was a "student organization" falling under the university's Division of Student Affairs and Office of Student Life, and subject to the university's disciplinary boards. Additionally, the university had received numerous complaints about alleged hazing incidents perpetrated by the fraternity, with both anonymous and named potential victims. The trial court concluded that:

112
the pledging process to join a fraternal organization is not an activity which an adult college student would regard as hazardous. Furthermore, the administration assigned to oversee the student organizations had knowledge of prior hazing and that incoming freshman (sic) participating in the Kappa organization may also be victim to that same conduct. . . The Court finds that because of the prior knowledge and serious nature of hazing, social policy justifies a special relationship between the University and its students in this particular instance . . . a university with known and documented history of hazing by a fraternal organization does in fact obligate the university to monitor such further behavior by the fraternity.

Ultimately, the court of appeals agreed with the trial court that a jury could find that Louisiana Tech breached a duty of reasonable care. Closely tied with custodial liability is the assumption of a duty. While rejecting custodial liability, courts have found liability when the university has assumed the duty of care by becoming involved in actively preventing hazing acts. For example, in *Furek v. University of Delaware*, the court held that the university assumed the duty of care when it repeatedly communicated with fraternities to emphasize rules and discipline for hazing infractions. This was a step further than the simple act of rulemaking, and actually established the university’s knowledge and efforts to prevent the hazing activities. Similarly, in *Coghlan v. Beta Theta Pi Fraternity*, the court found that by sending two of its employees to supervise one of the fraternity parties, the university voluntarily accepted the duty of care.

In *Yost*, the injured pledge claimed that the college was negligent because it assumed a duty to protect the pledge from hazing, through the colleges “strict” policies against hazing, awareness and prevention campaigns, and encouraging students to conduct themselves as gentlemen at all times. The court noted that to be liable for assuming a duty, the college would have to have undertaken “affirmative, deliberate conduct” that would make it “apparent that the actor . . . specifically [undertook] to perform the task that he is charged with having performed negligently[.]” In other
words, the college could only be liable under this theory if it failed to
exercise reasonable care through its protective actions. The pledge
argued that because the university adopted an anti-hazing policy
along with guidelines and procedures for dealing with hazing, the
college undertook an affirmative duty to protect students from
hazing. The court disagreed, determining that the college’s anti-
hazing efforts “evince[d] no more than a general intent to elicit good
behavior from” students. The court noted that although the college
monitored student organizations like fraternities, the college did not
“directly oversee” the fraternity’s daily operations or events, and thus
did not engage in undertaking the duty. The court recognized that a
contrary result would essentially discourage colleges from taking
proactive steps to address hazing problems—if prevention campaigns
and developing policies and procedures translated into duty by
undertaking, then colleges have little financial incentive to address the
hazing problem.

Additionally, the pledge claimed that the college’s disciplinary
control over the fraternity for hazing incidents produced an agency
relationship, where the college should be liable because the fraternity
acted as an agent of the college. However, the court rejected this
argument, noting that the “essential element of [an] agency
relationship” is that the agent’s actions are “on the principal’s
behalf.” The court determined that “consent to governance does not
equate to agency[.]” and thus simply because the college had some
oversight into the fraternity’s actions did not mean that an agency
relationship was created.

Vicarious liability, or respondeat superior, is another method
to assert a negligence claim against an institution. However, this is
one of the more difficult duty theories because the plaintiff must
establish that the third party hazing student acted within the scope of
any employment relationship with the college.

However, while difficult, some plaintiffs have succeeded in negligent
actions against universities on the theory of vicarious liability. For
example, in *Brueckner v. Norwich University*, the court held that a
university could be held responsible through the theory of
respondent superior. In Brueckner, the Plaintiff was subject to
extreme hazing, beatings, and harassment by the ROTC cadre who
were instructed by the institution to “indoctrinate and orient the 
rooks.” The Brueckner court found that even though the university 
had specific rules against hazing, the hazing acts by the cadre fell 
within the scope of their employment because they had specifically 
been instructed to indoctrinate the rookies; thus the university could 
be held liable.

University Leadership Liability

Few cases explore civil liability vis-à-vis university leadership, 
especially in the context of hazing. The closest example is Mullins v. 
Pine Manor College. The plaintiff sued the college and its Vice President 
for Operations, alleging that they breached their duty to protect her 
against the criminal acts of third parties. At trial in the Superior Court 
of Massachusetts, “the jury returned verdicts against the college and 
[the vice president] in the amount of $175,000.” Both the college and 
vice president moved for judgment notwithstanding the verdicts. The 
trial court denied both motions and both defendants appealed.

On appeal, the college relied on Section 314 of the 
Restatement of Torts for the “general proposition that there is no 
duty to protect others from the criminal . . . act[s] of third [parties].” 
The Mullins court, however, rejected the college’s argument as having 
no application to the facts of the case. The court determined that 
because of the steps that Pine Manor College took to provide 
adequate security for its students, “the college community itself has 
recognized its obligation to protect resident students from the 
criminal acts of third parties. This recognition indicates that . . . a 
duty of care is firmly embedded in a community consensus.” The 
court recognized the unique nature of the university-student 
relationship and the fact that the in loco parentis relationship was in 
decline. The court stated, “[t]he fact that a college need not police the 
morals of its resident students, however, does not entitle it to 
abandon any effort to ensure their physical safety.” The court went 
on to say, “[t]he concentration of young people . . . on a college 
campus, creates favorable opportunities for criminal behavior.”
In Mullins, the court explicitly recognized a duty arising from the “existing social values and customs.” Restatement (Second) of Torts, Section 323 states:

One who undertakes, gratuitously or for consideration, to render services to another which he should recognize as necessary for the protection of the other's person or things, is subject to liability to the other for physical harm resulting from his failure to exercise reasonable care to perform his undertaking, if (a) his failure to exercise such care increases the risk of such harm, or (b) the harm is suffered because of the other's reliance upon the undertaking.

Arguably, depending on what types of policies a university has instituted, the university president may have had a duty. What is peculiar is that, at least from published opinions, university presidents are rarely sued. Accordingly, this may be the weakest liability argument.

Conclusion

Both criminal and civil law may be brought to bear on hazing incidents. Criminal procedures may be prosecuted under either statute or case law and both ostensibly serve the purpose of either deterring future incidents or toward prosecuting those who have engaged in the act. Importantly, many states are now passing statutes that bring hazing out of sphere of criminal prosecution into the arena of civil law. Here, “negligence” has become important in that some states now argue that a violation of a hazing statute—since it is designed to protect human life—is a negligent action. Prosecution of this ilk seeks to assign liability to at least five actors: the individual person who commits the hazing act, the organization affiliated with the hazing activity, the chapter of the organization, the university at which the chapter is located, and the university president who supposedly oversees all activities at the institution. While these civil and criminal laws have facilitated the amount of litigation and opened the door to an increased number of responsible agents, the social
problem of hazing endures. The next chapter thus examines the impact of social-psychological belief systems as they relate to “organizational deviance”—how and why members and pledges believe that engaging in the deviant acts of hazing will improve both themselves and their organization.
Arbitration as a Response to the Litigation Dilemma

The sustainability of fraternities and sororities is continually threatened by the cost of potentially devastating litigation. They must identify a solution if they intend to have a sustainable future. Therefore, this chapter argues that these organizations should use arbitration agreements as a means of protecting their future viability. In addition, this chapter addresses the potential vulnerabilities the arbitration process creates for new members and urges fraternities and sororities to incorporate equitable provisions to protect them.

Current Fraternity and Sorority Responses to Hazing

The onslaught of hazing cases has led fraternities and sororities to cultivate a multi-faceted approach to combat hazing. The most standard response to hazing litigation has been liability insurance. Today, most fraternities and sororities purchase a general policy on the national level that covers the local chapters and all those connected with the fraternity in an official capacity. However, many of these general insurance policies do not cover hazing or assault, which are the very reasons most fraternities need them. Insurance carriers often try to escape honoring the policy in states where hazing is a criminal offense. Many policies are written to cover accidents and define hazing as intentional conduct. Unfortunately, fraternities and sororities that purchase liability insurance have found themselves more susceptible to lawsuits. Oftentimes, fraternities and sororities are viewed in the similar way that many plaintiffs view corporate defendants—as a deep-pocketed source from which their injuries can be redressed.

Obtaining liability insurance has been the response of many Greek organizations, but this response has proven inadequate in addressing the complex needs of fraternities and sororities. In a letter dated April 19, 2010, the Executive Director of Pi Kappa Phi Fraternity, Mark E. Timmes, issued a statement to its current
fraternity members regarding the organization’s general liability insurance program. In his letter, Timmes explained that the national fraternity purchased a general comprehensive insurance plan in which all undergraduate members were required to participate. The letter further stated that all local and national volunteers, universities, and housing corporations were included at no additional cost. On the last page of the letter, in large bold typeface, the memo contained the following provision:

Please note that the insurance does not cover certain types of activities under certain prescribed exclusions and endorsements, including but not limited to drivers of vehicles, as well as illegal activities such as violation of risk management policies, hazing and alcohol laws. ALTHOUGH THE CARRIER ULTIMATELY DETERMINES COVERAGE YOU MAY HAVE NO INSURANCE COVERAGE IF YOUR CHAPTER ENGAGES IN ILLEGAL ACTIVITIES, SUCH AS HAZING OR PROVIDING ALCOHOL TO MINORS.

Clearly, not all policies provide full coverage.

While fraternities frequently struggle with the costs of hazing, the perceived risk of hazing in sororities is significantly lower. According to MJ Insurance, the insurer of twenty-two of the twenty-six national sororities, the average cost of insurance for sorority members is $25 to $35 per year. The cost for fraternities is significantly higher, where the average member will pay between $145 and $280 per year. Sororities’ insurance costs are lower because they tend to distance themselves from liability problems often associated with fraternities. Sororities usually ban alcohol and parties at sorority houses and are not allowed to provide alcohol at fraternity-sponsored parties. This gives sororities an extra barrier of protection against most issues that continually plague fraternities in litigation, such as alcohol and physical abuse-related deaths.

Finally, the proliferation of litigation has led some parents to take out personal liability insurance policies to protect their children because fraternity liability insurance has occasionally been insufficient.
to protect undergraduate fraternity officers from the potential exposure they face. In short, liability insurance alone has proven to be an inadequate answer for the complex problems that fraternities and sororities face.

In 1987, in response to the increasing difficulty of locating suitable liability insurance, fraternity and sorority officials created the Fraternity Information and Programming Group (FIPG). The FIPG is a coalition of fraternities and sororities that seek to educate and train Greek members in risk management and improve the image and reputation of these organizations. The purpose of the FIPG is to “adopt a risk management plan that would help reduce exposure to risk [and] use the group buying power as leverage to obtain more extensive coverage at lower premiums.” Despite its lofty goals, many members of the FIPG felt they could garner better premiums individually. Thus, the FIPG never provided insurance to any of its members. Instead, the FIPG provides a set of risk management policies and procedures that many of its member organizations implement. Currently, the FIPG consists of over forty fraternities and sororities, which represents over half of all national fraternities and sororities. According to the FIPG, the National Association of Insurance Commissioners ranks fraternities as the sixth highest liability risk, directly behind waste disposal companies and asbestos contracts.

In the mid-1980s, one dollar twenty-six cents was paid out for every dollar that was paid in premiums by fraternities. In response, the FIPG initiated numerous policies to reduce the risks that were prevalent among fraternities and sororities. The FIPG prohibits the consumption, sale, or use of alcoholic beverage by anyone on fraternity grounds. Second, the FIPG bans any form of hazing or sexual abuse on fraternity grounds or by any member of the fraternity. If a chapter is found to be in violation of the FIPG guidelines, the FIPG member organizations agree to respond promptly to any issue that arises, conduct an investigation, and report findings to the FIPG.

Other responses that fraternities and sororities have used to combat hazing are dry rush and banning alcohol in fraternity houses. The Fraternity Executive Association, a group of fraternity and
sorority executive directors, has requested that its member organizations adopt dry rush as their official policy. The Association says that dry rush will accomplish a number of things: attract higher quality rushees, enhance fraternity image on campus and in the community, diminish the risk of liability to fraternity property or rushees, and save substantial sums of money. In addition, some fraternities are also starting to ban alcohol from chapter houses. At least nine of the National Interfraternity Council members have agreed to ban alcohol from fraternity houses. Since the bans have been in place, these fraternities have reported that recruitment, scholarship, and community service have all increased.

Although alcohol is a primary source of hazing litigation for traditionally Caucasian fraternities and sororities, BGLOs have suffered from the ills of hazing problems just as frequently as their Caucasian counterparts. However, BGLOs have turned to a Membership Intake Process (MIP) as the primary method of initiation to reduce the costly effects of hazing. In 1990, all black fraternities and sororities effectively ended pledging as the primary method of initiation into each of its respective organizations. Prospective members are no longer allowed to perform traditional symbolic measures, such as walking in lines with their pledge class, wearing identical clothing, or greeting current members as “big brother” or “big sister.” Instead, these traditional methods of African-American fraternal life have been replaced by an intensified education period that lasts a few days.

This abrupt change in the way that new members are initiated has not been well received by current members. Current members argue that MIP does not give ample opportunity for new members to learn history, causes new members to feel uncomfortable around “real” brothers, and results in a lack of respect and understanding of tradition. Some are so fundamentally opposed to the changes that there has been an increase in reported hazing incidents since the inception of MIP. Yet, despite the overall rejection by its current membership, BLGO’s leadership cites MIP as the only current solution to combat the high cost of litigation and negative publicity that surrounds hazing incidents. No matter what solutions fraternities and sororities employ, none have proven to be successful thus far.
Arbitration Overview

A. What is Arbitration?

Over the past two decades, litigants have turned to arbitration to combat the high cost, delays, and uncertainties of litigation. Arbitration is defined as “a process of dispute resolution in which a neutral third party (arbitrator) renders a decision after a hearing at which both parties have an opportunity to be heard.” In 1925, Congress passed the Federal Arbitration Act (FAA) to make all arbitration agreements that involved interstate commerce valid and enforceable. The FAA provides that a written agreement submitted to arbitration “shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract.” Congress used the farthest reach of its commerce and preemption powers to achieve its goal. Unless expressly provided for in the agreement, the FAA applies in federal and state court to any arbitration agreement that involves interstate commerce, regardless of whether the parties intended the contract to have an interstate component.

To enforce an arbitration agreement, three essential elements are required. There “must be an agreement,” “a conflict before the arbitration starts,” and each party must be given a chance to present their case at a hearing. In some respects, arbitration hearings possess qualities similar to that of litigation. Each party is allowed to present documents, exhibits, and any other evidence that it may have. However, parties are not required to follow any rules of evidence or any procedural rules that govern in a courtroom. Finally, an arbitrator makes a final, binding decision on the merits that is usually not appealable.

The basis of arbitration is that it adheres to basic contract theories. “[A] party cannot be required to submit to arbitration any dispute to which [it] has not agreed”; however, a party usually cannot “avoid arbitration if it has agreed to [it].” After the determination of whether a party has validly agreed to arbitrate, the court usually decides whether the arbitration agreement is broad or narrow. A
broad arbitration clause leaves the issues to be arbitrated virtually unrestricted and gives significant power to the arbitrator in the matter. Conversely, a narrow arbitration agreement limits the type of disputes that are arbitral in some manner. When determining whether a party is compelled to arbitrate a dispute, courts only look at whether there was a valid agreement to arbitrate and whether the dispute is within the scope of that agreement. Any agreement to submit to arbitration must provide that “the decision rendered be final, binding and without any qualification or condition as to the finality of an award whether or not agreed to by parties. The decision may only be questioned pursuant to the procedure set forth in [statute].”

The only method to invalidate an arbitration agreement is the use of traditional state contract law defenses. Even though other defenses are available, the most commonly asserted defenses to mandatory arbitration are procedural and substantive unconscionability. “Unconscionability is determined by reference to the relative benefit of the bargain to the parties at the time of its making, the nature of the methods employed in negotiating it, and the relative bargaining power of the parties.” An unconscionable agreement is one that “no reasonable person would make and no fair and honest person would accept.” A claim for unconscionability does not attack a particular clause, but instead questions the formation of the agreement. As long as the formation and scheme are valid, then a mandatory arbitration agreement will be valid. Courts will traditionally only strike down an arbitration contract as unconscionable when it is “permeated” with unconscionability or where the court would have to alter the entire agreement to make it conscionable. A court must evaluate an arbitration agreement in the context of its procedural and substantive unconscionability. Most courts require that elements of both procedural and substantive unconscionability be present to invalidate a contract.

A procedurally unconscionable contract usually gives one party no choice about whether to accept a given provision. This typically occurs when an unyielding party renders an agreement on a take-it-or-leave-it basis, without the possibility for negotiation. These types of contracts are usually referred to as contracts of adhesion,
and the weaker party must show that there was some unfairness or oppression involved when the agreement was made. Alternatively, substantive unconscionability hinges on whether a contract is both unreasonably beneficial to one party over another and the absence of meaningful choice for one party. Frequently, courts will invalidate agreements where there is a lack of equality between the parties. For example, if one party is required to submit all of its claims to binding arbitration, but the other party can bring claims in court, then the agreement is likely to be unconscionable. Other actions that have been held to be procedurally unconscionable include the selection of an arbitrator who is biased in favor of the drafter or clauses that force the plaintiff to pay substantial fees. The FAA has played an important role in shaping the arbitration landscape. However, the decisions of the United States Supreme Court have also played a significant role in defining the reach of arbitration.

B. The Supreme Court’s Gradual Endorsement of Arbitration

Over the past forty years, the United States Supreme Court (Supreme Court) has significantly expanded the function of arbitration in deciding legal matters. A series of Supreme Court cases has expanded the FAA to include a wide variety of legal issues, favoring a national policy towards arbitration. In 1967, the Supreme Court laid the groundwork for a national policy towards arbitration in *Prima Paint Corp. v. Flood & Conklin Manufacturing Co.* Prima Paint agreed to purchase Flood & Conklin (F&C), a paint business, and F&C was to stay on in a consulting capacity for six years. In return, F&C would be compensated for its services. The parties signed an arbitration agreement that stated that any dispute arising out of the terms of the agreement would be settled by arbitration according to the rules of the American Arbitration Association. Problems arose when F&C filed for bankruptcy and Prima Paint refused to pay the agreed consulting amount due to misrepresentations by F&C. Despite the presence of a binding arbitration agreement, Prima Paint filed suit seeking to have the entire contract rescinded due to alleged fraud.165
F&C countered that whether fraud was present in the agreement was a question to be decided by the arbitrator in the matter.

Affirming the decision of the lower courts and ushering in the modern era of arbitration, the Supreme Court held that, even though this was a matter of New York contract law, the FAA applied because the contract involved instruments of interstate commerce. The Court held that the arbitration clause is separate from the body of the contract and that the validity of the agreement was to be resolved by the arbitrator. Critics continue to disagree with the reasoning developed by the majority Justices in Prima Paint. They argue that it is a conflict of interest for arbitrators to determine whether the validity of an arbitration agreement is separate from the body of the contract. Despite the widespread criticism, the Supreme Court would continue to give more power to the arbitration process.

Sixteen years later, the Supreme Court took up the issue of the FAA again. In Moses H. Cone Memorial Hospital v. Mercury Construction Corp., the petitioner hospital sought to invalidate an arbitration agreement because it wanted to affix any remaining arbitrable matters to the claims it had against the respondent in state court. Mercury Construction filed for a stay in district court seeking to compel arbitration. However, the district court stayed the action pending resolution of the matter in state court. The Supreme Court reversed, holding that the contract was governed by the FAA and that the hospital could not avoid arbitration of the claims. Even though this case was not primarily about the FAA or arbitration, it further validated the Supreme Court’s support of arbitration and foreshadowed how the Court would treat the FAA in reference to state court actions.

The next year, the Supreme Court handed down a decision that applied the FAA to contracts executed under state law. In Southland Corp. v. Keating, the Supreme Court held that contracts to arbitrate are not to be ignored by resorting to the courts. They reasoned that this method leads to prolonged litigation, which is exactly what the parties were seeking to eliminate in the contract. The Supreme Court opined that the FAA applies to all maritime contracts and contracts that involve interstate commerce. There are no
additional state requirements that a contract must meet for the FAA to apply. Finally, the Supreme Court held that Congress did not intend for the FAA to be limited to only matters arising in federal court. To do so would undermine the national policy towards arbitration. As long as the underlying contract evidences interstate commerce, the FAA applies.

The Supreme Court then turned its attention to the equality of bargaining power between parties in an arbitration agreement. In *Gilmer v. Interstate/Johnson Lane Corp.*, the Supreme Court held that inequality in bargaining power is an insufficient reason to invalidate an arbitration agreement under the FAA. The Supreme Court reasoned that Congress contemplated treating arbitration agreements as parallel to other contracts. Therefore, outside of normal grounds existing in law and equity for the revocation of a contract, an arbitration agreement cannot be terminated.

Finally, in *Allied-Bruce Terminix Cos. v. Dobson*, the Supreme Court completed its fifty-year expansion of arbitration agreements under the FAA. In Allied-Bruce, the Supreme Court held that when determining if the FAA applies, the “commerce in fact” test is the appropriate standard. The “commerce in fact” test specifies that as long as two parties enter an agreement that involves interstate commerce, the FAA applies. The FAA is even utilized when the parties did not contemplate an interstate connection with the transaction. This test substantially increased the scope of the FAA and made determinations between interstate and intrastate commerce obsolete. As a result, almost any arbitration agreement, no matter where formed, has the potential to fall within the scope of the FAA.

**Membership Organization’s Arbitration Agreements**

**A. Benefits of Arbitration to Membership Organizations**

Membership and non-profit organizations have begun to embrace arbitration as an alternative to litigation. Many see arbitration as an “escape hatch” from the strife of courtroom litigation. Arbitration offers more privacy, a more efficient process, a neutral decision-maker with expertise in the field, and most importantly, it is
inexpensive. The retreat to arbitration by companies was centered around the rising costs of litigation. Parties were concerned with the cost of judgments, the expense of settlements, and the unpredictable nature of jury verdicts. Companies perceive arbitration as a cost-saving tool that allows disputes to be resolved in private, and it is less adversarial than a classic trial. Courts have an interest in resolving some disputes through arbitration. The Supreme Court of Washington has said that “the primary goal of mandatory arbitration is to reduce congestion in the courts and delays in hearing cases.”

Organizations praise the access and confidentiality that arbitration provides over litigation. One of the unique benefits of arbitration is that matters are set to the schedule of the parties and not at the mercy of the court’s calendar. This access for all parties allows for a decisive resolution fairly quickly. Furthermore, disputes between litigants are cloaked in confidentiality. The assurance that matters will not leak out to the public allows the free flow of information between parties that may be used to reach settlement agreements. Protecting confidentiality encourages the federal policy promoting arbitration and ensures that parties will receive the confidentiality to which they contracted. However, those who use arbitration agreements must be forewarned that arbitration is not always completely intimate. In order to ensure confidentiality, parties must put confidentiality provisions in their agreements, make sure the arbitrator demands confidentiality during proceedings, and consult any relevant statutes governing the contract. If these requirements for confidentiality are present, courts will usually uphold the arbitration agreement without judicial interference.

Arbitration provides relief from the inflexibility and lack of understanding of judges and juries. Organizations prefer arbitration to litigation because it takes decisions out of the hands of juries and judges who may be ignorant of their inner workings, which is often very important. Arbitrators, on the other hand, are allowed to draft more workable decisions for both parties. “Arbitrators can mold their decision to fit the needs of the particular business problem” and make decisions that traditional courts are unwilling to make. Also, courts have recognized the capability of arbitrators to shape decisions that are just and fair. Furthermore, arbitration seeks to circumvent
the winner-takes-all approach that is characteristic of courtroom litigation. Arbitrators are reluctant to give full judgments to either party and instead prefer a resolution where neither side is completely satisfied.

Today, most arbitration agreements contain a timeframe for resolution that is designed to ensure swift resolution. This time constraint is designed to give parties the opportunity to negotiate and reach a settlement agreement quickly. Participants understand that this accelerated period allows for quicker resolution of issues that otherwise would be contentious in a litigation environment.

B. How Organizations Are Applying Arbitration

Because contracts are a matter of state law, state courts have upheld the freedom of membership organizations to place whatever provisions in agreements they deem necessary to further the goals of their organizations, provided the provisions are not unlawful or immoral. Voluntary organizations have the ability to decide how they will treat their membership, and any agreement between the organization and its members becomes binding when a member knowingly assents. If an organization places an agreement to arbitrate in its by-laws, courts recognize this as a binding agreement on the membership.

How Fraternities and Sororities Can Use Arbitration to Further Protect Their Viability

Fraternities and sororities have tried a multitude of strategies to combat the increasing hazards of litigation with varied results. Thus far, no option has provided the panacea that fraternities and sororities seek. Implemented correctly, arbitration will aid organizations in protecting their future viability. This section will provide the framework for how fraternities and sororities can incorporate arbitration into their organizational fabric.
A. Lower Cost

Arbitration can reduce expenditures for the organization and its members. A prototypical courtroom trial can last for years before it reaches any resolution. During that time, lawyers amass large fees in representing the organizations that hired them. There are pre-trial briefs that must be filed, interrogatories and depositions that must be taken, motions that must be filed, and the potential increase in cost from appeals. Comparatively, arbitration provides an increasingly streamlined process. On average, arbitration proceedings take slightly over a year to complete. There are minimal depositions, motions, or appeals filed in connection with arbitration proceedings. Additionally, arbitration proceedings are designed for parties to reach a settlement as early in the process as possible.

B. Confidentiality

Second, the confidentiality of arbitration proceedings provides fraternities and sororities with the opportunity to settle disputes without media scrutiny or the potential stigma generated by negative public perceptions. On college campuses across the country, the public perception of Greek life has suffered due to repeated hazing incidents. Many are examining whether Greek life is still relevant given the proliferation of other campus organizations. Plus, rising tuition costs have made some college students hesitant to spend money on joining social groups. Arbitration provides fraternities and sororities the opportunity to escape the public eye and media attention. The media finds diminutive news value in the life of college fraternities and sororities unless the behavior is negative in nature. “Much of the research on the college fraternity is conducted by people who are not members of the organizations.” Arbitration will divert some of the adverse spotlight that accompanies hazing cases.

C. Freedom of Contract

Additionally, fraternities and sororities can decide the course of its membership. It has long been held that fraternal organizations have
the power to determine the path of their membership at will, without judicial interference. Fraternities and sororities, even though incorporated, share similar characteristics to unincorporated associations, and similar standards apply to both. Therefore, courts recognize membership in these organizations as a privilege and not as a right that can be judicially granted. Consequently, they can include arbitration agreements into their organizational fabric without suffering consequences from courts.

Fraternities and sororities can incorporate arbitration provisions into internal documents to apply to new and current members. First, organizations that place arbitration agreements in their by-laws, constitution, or rules and regulations, bind the current membership to the agreement. Even without specific provisions in the organization’s governing documents, some states will automatically enforce arbitration agreements between organizations and their members. Most importantly, if fraternities and sororities include the phrase, “‘contract evidencing a transaction involving commerce[.]’” the agreement will be governed by the FAA. However, the most effective method is to place arbitration provisions in internal organizational documents that put members on notice of agreement to arbitrate. Those documents can include articles of incorporation, by-laws, new member applications, certificates of membership, and the rules and regulations of the organization. A model arbitration clause that could be asserted in membership applications could read as follows:

Any dispute arising out of or relating to this [Application for Membership], or the breach thereof shall be finally resolved by arbitration administered by the American Arbitration Association [or any other Federal Arbitration Company] under its Commercial Arbitration Rules, and judgment upon award rendered by the arbitrators may be entered in any court having jurisdiction. The arbitration will be conducted in the English language in the city of the alleged incident or (insert city of home office), in accordance with the United States Arbitration Act. There shall be three arbitrators, named in accordance with such rules.

D. Arbitration Process
It may be necessary to include a neutral third party to uncover all relevant facts pertinent to the matter. If a neutral fact finder is used, the process begins by “establishing a schedule, rules of procedure and length for the interview.” Next, the fact-finder will be given access to all relevant materials and documents needed to conduct a thorough investigation and will conduct meetings to ask relevant questions. Any information disclosed to the fact-finder stays confidential and is not subject to divulgence in court. The fact-finder will then turn over the fact-finding report to the arbitration provider, such as the AAA, within the specified time frame, and the arbitration provider distributes the report to the parties.

E. Ensuring Fairness to Each Party

Arbitration agreements for fraternities and sororities can raise issues of individual rights and bargaining power when it comes to dealing with college students. However, arbitration can be a viable solution without sacrificing student rights when fraternities and sororities use it properly. To begin with, organizations should protect new members by having an arbitration bill of rights. The National Arbitration Forum has outlined a set of principles that help to ensure a fair and equitable resolution of civil disputes. First, organizations should ensure that each party is entitled to fundamental fairness. Fundamental fairness is determined “by the standards of the process and examined by its results.” If the process involves an independent decision maker and meets universal arbitration standards for reaching a decision, the process can be considered fundamentally fair. Second, decisions should be “reviewable and reversible by the court” if legal errors are present. Finally, organizations should ensure that members have the right to a hearing. An arbitration hearing needs to include most of the same mechanisms available through the court systems—direct and cross examination, introduction of exhibits, written briefs submitted to arbitrator, opening and closing statements, and final judgments. Comparatively, parties who litigate claims in the court system rarely reach the trial phase.

Also, every participant should be informed about what the arbitration process entails. Every participant to an arbitration
proceeding should be made aware of the advantages and the disadvantages of arbitration. Parties to arbitration should be cognizant that they are waiving their right to a jury trial, losing some discovery rights, and limiting their right to appeal. In some cases, it may be necessary to provide an opt-out clause that gives members time to reconsider whether they want to continue to seek membership within a reasonable time after agreeing to the terms. Fraternities and sororities should use pamphlets and brochures and hire speakers to educate new and potential members about the arbitration process. The more information available to members at the outset, the less the chance there is of an arbitration agreement being dismissed by a court as unconscionable.

Next, every arbitration proceeding must employ a competent and impartial arbitrator. Fraternities and sororities must continuously certify that they are using the most qualified professionals to fairly arbitrate any matter. Arbitrators should be a licensed attorney or former judge who has gone through the proper training to become a certified arbitrator. The arbitrator should have experience in dealing with fraternities and sororities and have some understanding of their culture and customs. Furthermore, plaintiffs must be assured that the arbitrators are neutral, and there must be a method for removal of arbitrators for cause.

As a rule, arbitration agreements should be equally applicable to both parties. This means that one party is not permitted to opt-out of the arbitration agreement, while the other party must continue to abide by the agreement. Arbitration agreements that allow only one party to shun the agreement have been held unconscionable by many courts. Also, arbitration agreements must comply with the terms of the FAA because the majority of fraternities and sororities are national organizations with chapters all across the country.

Additionally, every plaintiff must be entitled to a reasonable cost and reasonable time limit for resolution. One of the advantages to arbitration is the relatively low cost compared to litigation. In one arbitration study on employment issues, researchers found that arbitration provided those who made under $60,000 a realistic alternative to litigation. Some arbitration services do not require indigent plaintiffs who meet certain criteria to pay arbitration fees.260
Instead, in such cases, the fraternity or sorority should bear the cost if the plaintiff is indigent. Disputes between fraternities and sororities and their members should be handled in a judicious manner. The contract between the organization and the member should include requirements for when certain actions are required. For example, a contract needs to include how long each party has to respond to a claim and how long hearings are supposed to last.

Finally, all parties must have the right to representation during arbitration proceedings. If a claim does not produce a potentially sufficient reward, many top lawyers will not invest the time or money to take the case. However, the arbitration process tends to be less expensive and less time consuming, which allows lawyers to take cases without devoting substantial resources. Additionally, arbitration is a more manageable process for those who want to represent themselves pro se.

F. Additional Safeguards for Potential Fraternity Members

In addition to having a member bill of rights, fraternities and sororities should allow appeals of arbitration awards based on traditional contract principles. The most common ground for appeal of arbitration awards is unconscionability. Courts have traditionally looked to a number of factors to determine whether a contract is unconscionable:

(1) the entire atmosphere in which the agreement was made; (2) the alternatives, if any, available to the parties at the time the contract was made; (3) the “nonbargaining” ability of one party; (4) whether the contract was illegal or against public policy; and (5) whether the contract was oppressive or unreasonable.

A court does not have to render the entire contract void, but can strike the parts that make it unconscionable. Furthermore, if a member brings a charge of unconscionability, a hearing should take
place where parties present evidence on what they understand the contract to mean and what they are disputing.

Another method for disputing an otherwise valid arbitration agreement is showing inducement by fraud or duress. Courts generally look at fraud by “reviewing the conduct of the parties in relation to their legal and equitable duties to one another.” Just because a contract presents its terms on a take-it-or-leave-it basis does not mean that the contract contains elements of fraud and duress. Instead, courts look to see if the advantage obtained by one party is used in a wrongful manner to force the disadvantaged party into the agreement. It is crucial for fraternities and sororities to make sure members understand the consequences of signing arbitration clauses to prevent claims of unconscionability, fraud, or duress.

Lastly, agreements between fraternities and sororities and members cannot violate any tenets of public policy. Courts tend to recognize that parties of age have the freedom to contract, even if the deal seems to favor one party over another. However, courts will void agreements, or parts of agreements, if they find that a particular provision runs afoul of public policy. Courts will consider the impact of the type of arrangement on society as a whole. Fortunately for fraternities and sororities, courts have ruled that if the activity is not essential or necessary, public policy is not violated by participation in that event.

The final safeguard that fraternities and sororities should adopt to protect the rights of students is to allow parents to sign agreements for those members under the age of twenty-one. Currently, most case law regarding parents signing contracts for their children involves children under the age of eighteen. However, in Griffen v. Alpha Phi Alpha, Inc., the arbitration agreement contained a clause requiring parents to sign for individuals seeking membership who were under the age of twenty-one. The court held that the law recognizes the right to contract for anyone over the age of majority; by requiring a parent to sign, the agreement was not unconscionable, nor was there a showing of duress. Parents are allowed to enter
arbitration agreements for their children. If parents have the authority to bring an action on behalf of their child, they can choose arbitration as the forum of choice. However, fraternities and sororities should incorporate the under twenty-one year-old provision to ensure fairness and prevent claims of unconscionability.

Conclusion

Fraternities and sororities are almost as old as our country. They play an integral role in developing the social and leadership skills of college-aged men and women everywhere. Over the last thirty years, fraternities and sororities have experienced a significant increase in membership. As a result, organizations have faced increased difficulty maintaining proper oversight and control of local collegiate chapters. Repeated incidents of alcohol abuse, underground hazing, and disregard for organizational rules have caused fraternities and sororities to develop a multitude of responses to combat the legal challenges they face. However, due to the rising cost of hazing litigation, some of these organizations remain one lawsuit away from ceasing operation forever. With the continued support of arbitration by Congress and the Supreme Court, it makes financial and political sense that these historic, national organizations look to arbitration as a method to curtail some of litigation’s devastating reach.

Arbitration will provide fraternal organizations with a cost-effective and private contractual arrangement to settle disputes. It will offer a more streamlined process that revolves around the schedule of the parties, not the courts. Also, arbitration keeps matters outside the purview of the public eye. Other membership organizations and non-profits have begun to use arbitration effectively. Therefore, it would behoove fraternities and sororities to adopt the best practices from these similar organizations.

Arbitration agreements need to bind both potential and current members. Evidence of the agreements needs to be outlined in any document that applies to the membership, including the application for membership, the constitution and by-laws, and local and regional documents. Arbitration will reduce the organization’s legal costs, which will have a direct effect of the organization’s
bottom line. It will help to remove the stigma that hazing cases have caused by removing the cases from constant media scrutiny. It will also allow for a better utilization of member resources. However, if used inappropriately, arbitration can lead to serious questions regarding the rights of potential claimants. To shield against the infringement of any rights claimants normally have in traditional litigation, fraternities and sororities should include a member bill of rights. The member bill of rights should clearly articulate the rights a claimant has against the fraternity or sorority in an arbitration dispute. It will also ease the minds of prospective members and parents that they will not be giving up significant rights by going through arbitration. By adopting these provisions, fraternities and sororities will greatly reduce the chance of one lawsuit crippling the stability and future of their organization or local chapter.
CHAPTER 8

Organizational Deviance:
The Role and Validity of Beliefs

Pledging has become synonymous with hazing. And, given the high level of violence detailed since the outlawing of pledging in BGLOs, it is assumed that there are some strong organizational, social, and cultural factors that influence potential members to pledge. It is also assumed that the level of violence ensued by members is ubiquity negative. Although an outsider observer may strongly agree on both fronts, members of BGLOs who have pledged may actually see some psychological, and even physical, benefits to pledging and being hazed. This chapter explores the social psychological dimensions of pledging and hazing focusing on social control, cognitive dissonance, organizational deviance, and group cohesion.

Social Control and Organizational Deviance

Social control has been defined as “a process by which individuals are socialized and oriented towards norms.” Noted sociologist Donald Black built upon this proposition, arguing that the law itself is a form of social control. One way that the law serves as a means of social control is by punishment. “The infliction of punishment is a deliberate act intended to chastise or deter.” Accordingly, there are three ways in which punishment acts as a means for social control: (1) to deter the deviant by threatening the values he holds dear; (2) to act as a learning device and force the deviant to internalize the values of the law; and (3) to serve, through the publicity of punishment, as a reinforcement of the values of non-deviants.

However, there are many conditions where the law as punishment might be ineffective. One is where the punishments established by the law cannot reach basic values of the deviant. Also, where society has conflicting values, both the innocent and the guilty may suffer by punishment. If there is a deviant group rather than a deviant individual, punishment could lead to a martyr effect and
cause further deviation. Certain value systems also have principles in place which lead to the refusal of the innocent party through collusion and perjury to press punishment. Law as punishment may also fail if the simple learning theory implied is not sufficient to bring about changes in values of the deviant. Lastly, the law as a deterrent may not be effective if the deviant feels there is little chance of getting caught no matter how efficient the law may be.

Focusing on tort law, one study in particular examined the rate of likelihood that first-year law students would engage in a potentially tortious behavior after being presented with a series of vignettes. The researchers hypothesized that the threat of tort liability serves only as a moderate deterrent, one that is weaker than criminal sanctions but stronger than a system with no social control at all. The researchers concluded that the threat of criminal fines significantly reduced the respondents’ willingness to engage in tortious behavior. This was particularly surprising due to the fact that previous research has shown that criminal sanctions have a moderate deterrence effect. While the researchers did not reach a sweeping conclusion that tort law does not deter, their findings were consistent with the view.

Adding layer and nuance to the application of social norms, other scholars have explored the juncture at which social control and organizations meet. Organizational behavior research suggests that societal norms are not necessarily penultimate in affecting organizational deviance. Rather, dynamics and values internal to organizations may also have significant cache amongst organization members. As such, where law may serve as a norm-orienting factor in the lives of individuals, it may play a less significant role in shaping organization members’ behavior—given organizational beliefs, culture, and needs.

While the juncture at which law and organizations meet has been fertile ground for scholarly inquiry, little legal scholarship focuses on the organizational behavior construct of “organizational deviance.” Organizational deviance occurs when an “organization’s customs, policies, or internal regulations are violated by an individual or a group that may jeopardize the well-being of the organization or its citizens.” Organizational deviance can have a significant effect on
an organization, including legal. It appears that at the individual level, deviant behavior within organizations distills to a combination of social psychological variables and organizational factors.

While considerable scholarly attention has been paid to organizational deviance, organizational behavior research pays scant attention to how deviance may be defined by positive sets of behavior in addition to negative ones. While Sagarin’s research found over forty different definitions of deviance with only two being nonnegative, Dodge broadened the study of organizational deviance to include “positive deviance.” In short, positive deviance is defined as “intentional behaviors that depart from the norms of a referent group in honorable ways.” In essence, positive deviant behaviors entail actions with honorable intentions, irrespective of the outcomes. Positive deviant behaviors may consist of behaviors that organizations do not authorize, yet help the organization reach its overall goals.

The growing interest in the study of positive organizational behavior derives, at least in part, from the increasing acknowledgment of positive organizational scholarship. As Cameron and colleagues describe, positive organizational scholarship focuses on the “dynamics that lead to developing human strength, producing resilience and restoration, fostering vitality, and cultivating extraordinary individuals, units and organizations.” While most positive organizational scholarship focuses on corporate entities, some organizational behavior scholars have turned their attention to other types of organizations. Case in point: Roberts and Wooten analyzed BGLOs through a positive organizational scholarship lens.

**Beliefs, BGLOs, and Hazing**

Over the past twenty years, a handful of studies have helped explain why the law fails to constrain violent hazing within BGLOs. For example, in 1992, John Williams conducted a study which documented the perceptions of undergraduate members of BGLOs on the no-pledge policy for new member intake. The following themes emerged from the study: Many of the activities designated as hazing by the National Pan-Hellenic Council—e.g., “walking in line,
practicing steps, history sessions, dressing alike, and speaking in unison”—should not be considered as hazing. The reduced period for membership intake did not provide initiates with sufficient time to learn the history and traditions of the organizations. The no-pledge process would not improve the quality of members because it did not adequately screen applicants who were not committed to the organization’s members and ideals. Members initiated under the no-pledge process would not have strong bonds with one another. The no-pledge policy fosters disunity between pledged and non-pledged members; some non-pledged members feel left out because they do not share the experience of having pledged into the organization. The need for respect is so great that undergraduate students are willing to participate in an underground pledge process.

Walter Kimbrough’s 1999 replication study found BGLO undergraduates more optimistic about the membership intake process than the undergraduates in Williams’s 1992 study. The study focused on four variables: chapter members’ participation in new member selection; the ability of post-initiation education to instill new members with history and tradition; whether the no-pledge policy reduces lifelong commitment of new members; and whether current members could screen out uncommitted applicants. Nearly 70% of respondents in the Williams-1992 study felt that the pledging policy provided undergraduates with less of a voice in the selection of new members; seven years later, in the Kimbrough-1999 study, this percentage decreased to 60%. Likewise, nearly 34% of the Williams-1992 sample felt that post-initiation education could instill new members with a sense of history and tradition, while 55% of Kimbrough’s 1999 sample believed that post-initiation education was effective. In the Williams-1992 sample, more than two-thirds of respondents believed that the no-pledge policy would reduce lifelong commitment, whereas the sample from Kimbrough-1999 study showed a significant reduction to 56% who believed the no-pledge policy would reduce lifelong commitment. The smallest amount of change between the 1992 and 1999 samples occurred with respect to the ability of the no-pledge policy to screen out uncommitted applicants. In 1992, 85% of respondents believed that members were
not able to screen uncommitted aspirants under the new policy; 80% of the 1999 sample believed the same.

In sum, Kimbrough’s study demonstrates that although undergraduates had a more favorable attitude toward the no-pledge policy, the basic assumptions about the benefits of pledging remain consistent among members of BGLOs. As Kimbrough notes, many of the study’s respondents participated in a pledge process, demonstrating that more favorable attitudes toward the no-pledge policy have not translated into a reduction in hazing incidents.

Dewayne Scott’s 2006 qualitative study investigated why black Greek-letter fraternities (BGLF) members impose acts of hazing upon prospective members during membership intake activities and why prospective members endure acts of mental and physical abuse in order to gain membership in the organization. Scott’s research revealed that BGLF members distinguish between pledging and hazing based on the purpose of the activity. Participants characterized abusive activity as pledging when the “acts could be tied to the organization’s goals and objectives.” The same abusive activity was characterized as hazing when it was employed for a superficial purpose. Paddling an aspirant for failing to correctly execute an assignment or recite organizational history was considered pledging because the act was employed to make the aspirant more productive and accountable for his actions. However, paddling an aspirant for failing to acknowledge a member’s girlfriend was considered hazing because it did not directly or meaningfully relate to the fraternity.

Black Greek-letter fraternity members also cite tradition as a justification for hazing. According to participants, many hazing acts are chapter-specific and have been passed down, in some cases, for decades. Members therefore expect aspirants to “consent to, and actively participate in, certain hazing traditions.” Alumni members also contribute to the persistence of hazing at the undergraduate level. Participants explained that alumni often provide conflicting positions on hazing. In formal settings, alumni denounce hazing. In backstage social settings, however, alumni members express that the current membership process is unacceptable because it departs from tradition, is too short in duration, and does not provide meaningful
interaction among all involved in the process. Moreover, alumni members often tell stories about their pledge experiences and describe the current membership process as “easy” in comparison to their own initiation processes. Undergraduates interpret such statements from alumni as pressure to continue hazing.

Scott found that aspirants know hazing is not a formal condition of membership and are well-aware of the dangers of engaging in such activities. He discovered, however, that aspirants willingly submit to hazing rituals in order to feel accepted by their peers. This finding is consistent with the research of Kimbrough and Sutton, who concluded that fraternities exert more peer influence than non-fraternal organizations and thus aspirants are more likely to submit to hazing rituals to gain acceptance within the organization.

The bonding experience generated during membership intake is another factor contributing to hazing among BGLFs. BGLF members believe that the difficulties associated with hazing forces aspirants to build meaningful relationships with one another and with chapter members. These relationships, participants explained, are similar to those between biological family members.

Scott also found that aspirants endure hazing processes in order to gain respect from chapter members. Participants explained that the level of respect a brother receives from his chapter members remain inextricably linked to the type of initiation process he experienced. “Paper brothers”—those who do not experience hazing—receive much less respect than brothers who endure abusive hazing processes. Participants noted, however, that “paper brothers” might gain more respect if they perform top-quality work on behalf of the organization.

BGLF members also believe that hazing solidifies important intrinsic values. According to participants, hazing is an important means of socializing pledges to adopt the fundamental values of the organization. Moreover, participants believed that enduring the hazing process builds character, allows pledges to better analyze and understand their strengths and weaknesses, and provides pledges with the discipline necessary to be successful.

To summarize, both members and aspirants believe that hazing has an appropriate place in the membership intake process.
Hazing, according to members, provides a unique opportunity for bonding among all involved in the pledge process, inculcates important organizational values in aspirants, and is consistent with tradition and alumni desires. Aspirants believe that enduring hazing is necessary in order to gain acceptance and respect from fraternity members. The majority of participants in Scott’s study “believed hazing will persist as long as collegiate chapters exist.”

Support for the Reasoning behind BGLO Hazing

A number of theories support the contention that challenging experiences commit individuals to others who share in that experience concurrently as well as to organizations to which they seek membership. In subsection A, I explore the relevant research on hazing and undergraduate organizations. In subsection B, I explore how external threat and self-sacrifice come to bear on group cohesion. In subsection C, I explore the research on how the severity of initiation to an organization predicts attraction for said organization. In subsection D, I explore research on the Stockholm Syndrome—the extent to which bonding to one’s captors in a hostage situation exists. In the final subsection, subsection E, I explore the research on how investment in social relationships facilitates commitment in those relationships.

A. Hazing Research and Undergraduate Organizations

Keating and colleagues [hereinafter “Keating”] proposed that “threatening initiation practices such as hazing rituals function to support and maintain groups in at least three ways: by promoting group-relevant skills and attitudes; by reinforcing the group's status hierarchy, and by stimulating cognitive, behavioral, and affective forms of social dependency in group members.” The following sections explain the rationale and results for each of these propositions.
1. Conceptual Overview and Hypotheses

As Keating explained, hazing, ranging from mild to severe, is typically a complex event and can have fun, embarrassing, disgusting, painful, and challenging facets. The initial stages of an initiation may require "simple efforts that are only mildly arousing, such as turning out in particular attire for an occasion, spending time engaged in prescribed, social exchanges with group members, or waiting for extended periods of time before being interviewed by representatives of the group." Adopting a functional perspective, Keating posited that pursuance of particular goals orchestrates specific initiation processes. While initiates' experiences will vary based on the mission of the group, Keating and colleagues found that initial compliance of early forms of hazing makes subsequent compliance (even with costly and violent consequences) more likely.

The initiation rituals of Greek-letter organizations (GLOs), athletic teams, and military units often activate feelings of threat. Contrived threats, including hazing activities (e.g., physical challenges and social deviance), help create group identity and inspire obedience and devotion among group members. Ostensibly, initiations that incorporate physical challenges or pain prepare initiates to withstand physical duress, while initiations that require social deviance carve out distinctions between in-group and normative groups in the minds and emotions of initiates.

The first proposition, that initiations cultivate group-relevant skills and attitudes, was tested by "unpacking" the initiation practices of college athletic teams and GLOs (both fraternities and sororities). Keating and colleagues reasoned that because athletic team success depends on physical endurance, physical challenges would predominate induction practices. On the other hand, they reasoned that since GLOs are dedicated to creating exclusive social networks, activities highlighting social deviance (and thus social distinctiveness), would typify the initiations of these groups. Hence, they predicted that: (1) athletes would report relatively greater degrees of physical duress in their initiations than members of GLOs, and (2) members of GLOs would report initiation activities entailing more social deviance than members of athletic groups.
Keating posited that the second function of member initiation is to create and maintain the group’s hierarchical authority and power structure. Preserving group hierarchy requires initiation rituals that tune initiates’ deferential responses to themselves. The specific prediction made was that “members of groups with more structured hierarchies, operationally defined by greater role diversity and power differences between leaders and few members, would report more severe initiation practices and more frequent engagement in initiation activities than groups with less hierarchy.”

Keating argued that initiations provide a third function: promotion of the cognitive, behavioral, and affective forms of social dependency. While earlier research confirmed this claim, Keating posited a new explanation. She observed that dissonance theory is the standard explanation for why “initiation experiences that induce threat, duress, or discomfort rally rather than discourage the loyalties of those who endure them.” She noted, however, that replication studies failed to support the basic notion that severe initiations foster greater liking for the group, and that subsequent field studies failed to find evidence of dissonance effects. She concluded that “the formal evidence on hazing effects on social emotional bonds is quite mixed.”

Alternatively, Keating proposed that “attachment theory” explained individual attachments to social groups. The attachment theory, as developed by Bowlby, proposes that humans are motivated to seek proximity to significant others in times of danger, stress, or novelty. Keating proposed that “a unique aspect of the attachment system, maltreatment effects, applies to human connections with groups” and can help explain how group initiations function to promote behavioral, cognitive, and emotional forms of social dependency.

Keating described “maltreatment effects” as the “phenomenon whereby harsh conditions trigger goal-directed responses in organisms seeking refuge from duress.” When an individual feels threatened, one instinctively seeks out safety within a selected social network. Moreover, the social dependency fueled by maltreatment could aim toward the very agent of the threat. This research is grounded in earlier studies on maltreatment effects in parent-child dyads, and in a variety of non-human subjects. The
researchers also point to the psychology literature on Stockholm Syndrome as anecdotal evidence that severe treatment can stimulate social bonds in humans.

To summarize, Keating et al. explored what they call a social dependency interpretation of maltreatment effects. This interpretation suggests, “When maltreatment is connected to involvement with a defined group, the social dependency that it fuels will be manifested cognitively, emotionally, and behaviorally.” At the cognitive and emotional levels, the need to defend the sense of self against threat and uncertainty can be remedied by transforming the personal concept of the self into a group identity. At the behavioral level, dependency generated by maltreatment is likely displayed through compliance with group norms and attraction to group members.

2. Findings

Keating discovered that initiations create social dependency. The study measured group identity in two ways: importance of the group to the individual and importance of the individual to the group. Predictions were based on initiation experiences, taking into consideration the extent to which the initiation was perceived as fun or harsh. The regression analysis for the first measure revealed, as predicted, that harsh initiations were associated with enhanced perceptions of importance to the individual. The data on social deviance, however, failed to disclose a relationship with this measure of identity. The second measure revealed that perceived fun during initiations was associated with increased perceptions of individuated importance to the group. In sum, the level of importance these individuals ascribed to the group they identified with most was predicted by both perceptions of fun and perceptions of initiation difficulty. Accordingly, the researchers concluded that “social identity is a social-cognitive consequences of social dependency.”

Keating’s additional studies tested whether relatively severe inductions spawned conformity and attraction to group members as manifestations of social dependency. On measures of conformity, the results showed that participants who experienced severe initiations
conformed most by yielding to the pressure from the group. Moreover, the participants who experienced a severe initiation showed signs of what the researchers construed as maltreatment effects: they maintained close proximity to confederates and had a more negative mood when confederates left them alone. The results also revealed that affective reactions (the desire to be in close proximity) were the stronger predictor of the participants’ tendency to conform to the group opinion. With regards to social-emotional bonding, results revealed that those who experienced severe initiations perceived the confederates as more powerful than did those inducted via innocuous procedures. Participants in the severe condition also tended to report having more fun than those who received innocuous inductions. Perceptions of power, rather than aspects of compliance, were the more powerful predictor of compliance. Taken together, these results confirmed the dependence interpretation.

Keating addressed the third proposition in full after having reviewed the data on each independent measure of social dependency. The results from the identity and conformity measures were compatible with a dependency explanation of maltreatment effects in that whether an individual identified with the group was based on his/her perception of the initiation experience. Measurements of more traditional attachment behaviors revealed that participants who experienced harsh treatment maintained close proximity to confederates and experienced negative affect after confederates left.

In summary, Keating et al. contend that the overarching function of an initiation is to enhance dependency on the group. The dependency elicited from the maltreatment is expressed cognitively, behaviorally, and emotionally. These needs can be met by transforming individuated identity into group identity, conforming to group norms, and remaining in close proximity to group members.

In a later hazing study (via data from the Group Environment Questionnaire [GEQ], Team Initiation Questionnaire [TIQ], and Social Desirability Questionnaire [SED]), researchers sought to determine whether hazing is associated with enhanced team cohesion. The study found that hazing was negatively correlated with
task attraction and integration, and unrelated to social attraction and integration. These results indicate that “the more hazing activities the participants did or saw, the less they were attracted to the group’s task and the less bonding and closeness they felt about the group’s task.” Appropriate team building activity was positively correlated with social attraction and group integration. Accordingly, these results (in addition to subsequent studies), confirm that hazing is negatively related to task cohesiveness and unrelated to social cohesiveness. In general, “the less hazing and the more team building that the athletes experienced, the higher the levels of their overall attraction and integration.”

B. External Threat, Self-Sacrifice, and Group Cohesion

Cohesion refers to the factors that cause a group member to remain a member of the group. Research on the development of cohesion suggests that several factors may be important. First, simply assembling people into a group may be sufficient to produce some cohesion, and the more time people spend together the stronger the cohesion becomes. Second, cohesion is stronger in groups whose members like one another. Third, groups that are more rewarding to their members are more cohesive. Fourth, external threats to a group can increase the group’s cohesiveness, but only when everybody in the group is affected and people believe that they can cope with such threats more effectively by working together rather than alone. Fifth, groups are more cohesive when leaders encourage feelings of warmth among followers.

Cohesion can have several effects on a group and its members. One positive effect is that the group is easier to maintain. Studies also reveal a positive relationship between group cohesion and performance. Another generalization supported by research is that the presence of cohesion is associated with member behavior. Harry Prapavessis and Albert Carron examined the interrelationships among sacrifice behavior, team cohesion, and conformity to group norms in sports teams. They found that sacrifice behavior—individual behavior that involves giving up prerogative or privilege for the sake of another person or persons without regard to
reciprocity—was positively associated with task and group cohesion. Moreover, the researchers found that individual sacrifice behavior leads to increased social sacrifice, which in turn contributed to increased conformity to group norms. This result confirmed earlier findings.

C. Severity of Initiation on Organizational Liking

Researchers have concluded that severe initiations facilitate greater liking for a group. There are a number of psychological perspectives that help explain this phenomenon. The research summarized in this section is based upon three theoretical perspectives: (1) cognitive dissonance theory; (2) affiliation theory; and (3) dependence theory.

1. Cognitive Dissonance Theory

Cognitive dissonance theory holds that under the proper conditions, inconsistency among cognitions causes an uncomfortable psychological tension. A person experiencing dissonance seeks to reduce the tension, often by altering one or more cognitions to bring about a greater degree of consonance. Elliott Aronson and Judson Mills were the first to deploy cognitive dissonance theory to explain the effects of severe initiations on liking for a group:

No matter how attractive a group is to a person it is rarely completely positive, i.e., usually there are some aspects of the group that the individual does not like. If he has undergone an unpleasant initiation to gain admission to the group, his cognition that he has gone through an unpleasant experience for the sake of membership is dissonant with his cognition that there are things about the group that he does not like.

Dissonance can be reduced either by denying the severity of the initiation or overvaluing the attractiveness of the group. Aronson and Mills posited a “severity-attraction hypothesis,” which predicted that individuals who undergo severe initiations find the group more attractive than those who undergo mild or no initiation. The findings of the experiment supported the severity-attraction hypothesis; that is, the subjects in the severe initiation condition evaluated the
discussion more favorably than did the mild or control subjects. And in a subsequent study, Harold Gerard and Grover Mathewson controlled for the possible effects of heightened sexual arousal induced by the embarrassment test in the severe initiation condition. The results of this study were similar to those reported by Aronson and Mills and confirmed the severity-attraction hypothesis. Thus severe initiations facilitate greater liking for a group because they arouse dissonance in the initiates. Dissonance can then be reduced either by denying the severity of the initiation or overvaluing the attractiveness of the group. The more severe the initiation, the more difficult it will be for the individual to believe that the initiation was not very bad, and the more likely it is that he/she will reduce his/her dissonance by overvaluing the attractiveness of the group.

2. Criticisms of the Dissonance Findings

A study by Jacob Hautaluoma and Helene Spungin examined the contention that a severe initiation leads to greater liking for a group. In particular, they noted a potential bias in previous studies—they were based on samples composed mostly of women. Hautaluoma and Spungin therefore attempted to replicate the phenomenon with both men and women samples. Results indicated a gender by initiation condition interaction. Specifically, men in the mild initiation condition evaluated the boring group most positively, a finding that suggests gender differences in the severe initiation phenomenon. However, the finding could result from several other factors.

First, the analysis of the initial interest measure showed that men began the experiment much less interested in joining the group than women, which might have affected the subsequent reactions of men to the initiation procedure. Second, subjects “who were most interested in joining before the initiation saw the initiation as more severe than did subjects who were little interested in joining.” Thus, the evaluations of the group could be a result of the differing perceptions of the initiation procedures. If the creation of dissonance is interpreted as dependent upon perceived severity of initiation, then men may have been less susceptible to the dissonance manipulation as a result of their lower initial interest level. In sum, Hautaluoma and
Spungin's results somewhat support earlier conclusions about the effects of severe initiations on liking for a group; women liked the group most after a severe initiation, while men like the group most after a mild initiation. Accordingly, gender and interest in joining the group are both potent variables that deserve further examination.

A later study by Ward Finer, Jacob Hautaluoma and Larry Bloom also criticized the severity-attraction hypothesis. The researchers compared the effects of severe, mild, and pleasant initiations on attraction to an interesting group. This study was unique in that prior studies examined only the effects of severe and mild initiations on attraction to an uninteresting group. Results of this study showed no main effect for initiation condition and liking for the interesting group. Their only significant finding was that all of the subjects liked the discussion and members of the interesting group more than those of the boring group. This data seems to suggest that dissonance is not created when individuals go through severe initiations in order to join an interesting group and, therefore, “attitude formation about initiation may be more complex than originally conceptualized.”

3. Alternative Interpretations of the Dissonance Findings

Other interpretations have been offered for the results of the Aronson and Mills experiment. For example, Schopler and Bateson contend that the results could be explained in terms of Thibaut and Kelley's interpersonal dependence theory. According to Thibaut and Kelley, all interpersonal relationships involve some degree of dependence and power. Dependence can be defined as the degree to which an individual relies on a given partner or relationship for the fulfillment of important needs, or the degree to which an individual “needs” a relationship. An individual’s level of dependence is based upon the degree to which that individual’s actions are influenced by the partner’s actions. When an individual’s outcomes in a given interaction are determined by his own actions, he will experience low levels of dependence on his partner. By contrast, when partner
control or joint control determines an individual’s outcomes, the individual will experience high dependence on the partner.

Schopler and Bateson found, as Aronson and Mills had before, that subjects who undergo severe initiations for membership in a group are more likely to conform to an experimenter’s expectation that they should like or dislike the group. The Schopler and Bateson experiment also revealed results that are inconsistent with the dissonance explanation of the severity-attraction relationship. According to dissonance theory, subjects in the severe initiation condition who felt most embarrassed by the initiation should have rated the discussion group most favorably. Contrary to this hypothesis, the opposite relationship was observed. Subjects in the severe condition who felt most embarrassed rated the group less favorably than those who felt less embarrassed. This finding suggests that subjects in the Aronson and Mills experiment gave a high rating of the discussion group not to reduce dissonance, but to satisfy the experimenter’s implicit expectation that they should like the group. More generally, it suggests that the subject-experimenter interaction is critical in determining how subjects will rate the group.

Lodwijkx and Syroit offered a different interpretation of the severity-attraction relationship. They argued that the severity-attraction relationship could best be explained by Schachter’s work on affiliation under threat. According to affiliation theory, individuals who go through stressful or threatening situations will seek the company and comfort of others who have gone through similar situations and who share the same emotional experience. The need for affiliation arises when people do not know how to react or label their emotions in a given situation. In other words, people facing threat or danger affiliate in order to compare the appropriateness of their emotional reactions with the reactions of other people.

Lodwijkx and Syroit’s study showed a negative relationship between severity of initiation and attractiveness of the group. The results also revealed that severe initiations induce feelings of loneliness, depression and frustration, and that these negative moods lead to lower attractiveness ratings of the group. Lodewijkx and Syroit contend these results are consistent with the earlier findings of Schopler and Bateson (a negative relationship between strong
embarrassment and group attraction in their severe initiation condition). The results of both studies contradict the dissonance hypothesis of the effects of a severe initiation and indicate that loneliness, depression, frustration, and embarrassment are all important variables in the severity-attraction relationship because these negative moods lead to less favorable cognitions about the group. It should be noted, however, that low attractiveness of the group does not necessarily mean that newcomers are willing to leave the group. There are other factors that might weigh equally in the decision to leave or to join. For example, the newcomers might also consider the “[t]he possibility of future friendship bonds with a few individual members and the likelihood of amelioration after the initiation is over” in determining whether they will remain in the group.

D. Stockholm Syndrome

Stockholm Syndrome is a paradoxical psychological phenomenon wherein affectional bonds develop between hostages and their captors. Most individuals working in the field of crisis negotiation agree that “Stockholm Syndrome is an automatic, often unconscious, emotional response to the trauma of victimization.” The condition is not a result from a hostage’s rational choice that the most advantageous and safe form of behavior is to befriend his captor.

Stockholm Syndrome usually consists of three components that may occur separately or in combination with one another: “(1) negative feelings on the part of the hostage toward authorities; (2) positive feelings on the part of the hostage toward the hostage-taker; and (3) positive feelings reciprocated by the hostage-taker toward the hostage.” These characteristics fall along a continuum, such that an individual may show different degrees of each. A 2005 study by Paul Wong suggests that individuals with any combination of the following characteristics are most vulnerable:

[L]acking a clear set of core values that define one’s identity; lacking a core sense of meaning and purpose for one’s life; lacking a track record of overcoming difficulties; lacking a strong personal faith;
feeling that one's life is controlled by powerful others; feeling unhappy with one's life circumstances; having a strong need for approval by authority figures; and wishing to be somebody else. Accordingly, researchers seeking a better understanding of Stockholm Syndrome should consider both the contextual variables and personality characteristics associated with its development.

A recent study by de Fabrique et al. examines the factors associated with the development of Stockholm Syndrome. First, previous research speculated that a key factor influencing the development of Stockholm Syndrome is the duration of the captivity. The primary difficulty with this variable is determining what constitutes temporal significance. Second, the researchers also cast doubt on the notion that hostage-takers must refrain from physically abusing or verbally threatening the hostage. Third, interpersonal communication and physical proximity are believed to influence the development of Stockholm Syndrome. Importantly, de Fabrique and his colleagues’ review found that having multiple hostages co-present may have a positive relationship on the appearance of the syndrome. Accordingly, de Fabrique and colleagues suggest that future studies include “[a]n assessment of the personality characteristics of hostages involved in the same incidents where different outcomes occurred[,]” and “of those who have apparently resisted [the syndrome].”

E. Investment Model

The investment model is a process-oriented theory, based on the constructs of traditional exchange theory and extends the basic principles of interdependence theory. Interdependence theory holds that satisfaction with and attraction to an association is a function of the discrepancy between the outcome value of the at-issue relationship and the individual’s expectations concerning the quality of relationships in general. The goal of the investment model is to predict an individual’s degree of satisfaction with, and commitment to, a particular social relationship. Rusbult and Farrell applied the investment model to examine satisfaction, commitment and turnover in employment relationships and found four variables to influence
satisfaction, commitment and turnover in the workplace: job rewards, job costs, alternative quality, and investment size.

Satisfaction can be defined as the degree of positive affect associated with a relationship. Commitment, however, is a more complex phenomenon. Rusbult and Farrell’s investment model posits that satisfaction, quality of alternatives, and investment size work together to produce job commitment. Rusbult and Farrell define commitment as the “likelihood that an individual will stick with a job, and feel psychologically attached to it, whether it is satisfying or not.” Investment size concerns the amount of resources put into a relationship and can be classified as either intrinsic or extrinsic. Intrinsic investments are resources put directly into the employment relationship (e.g., years of service, non-portable training, non-vested portions of retirement programs), whereas extrinsic investments are resources or benefits developed over time as a result of employment relationships (e.g., housing arrangements that facilitate travel to and from work, friends at work, extraneous benefits uniquely associated with a particular job).

Rusbult and Farrell’s study confirmed the general proposition that employees experience greater job satisfaction when rewards exceed costs, while high rewards, low costs, greater investment of resources, and poor alternative quality induce greater job commitment. The study also revealed that the process of change—declines in job rewards, increases in job costs, divestiture and poor alternative quality—is what distinguishes employees, who stay from those who leave. The results suggested that declines over time in job commitment mediates turnover. Subsequent studies should find that decreases in rewards, increases in costs, divestiture, and improvements in alternative quality result in decreases in job commitment, and in turn, job turnover.

F. Making Sense of It All

While these findings underscore the fact that challenging initiatory experiences may serve to commit and bond fraternity and sorority members to each other and to their respective, organizations, what about BGLOs? A casual observation of BGLO membership—given
their unique structure (i.e., alumni membership and demand for lifelong commitment and bonds across geographic space and time)—may suggest that challenging initiatory experiences do not help the organizations meet their membership objectives. But that is an empirical question, and no matter what the answer is, that answer has serious legal implications. If challenging initiatory experiences fail to bring BGLO membership needs into fruition, then the organizations should communicate this fact to their members in concert with the legal risks that hazing poses for the organizations and members. On the other hand, if these experiences bring BGLO membership needs into fruition, then the organizations should develop methods in which to better balance member recruitment with compliance of organizational legal constraints.

Empirical Study

There appears to be empirical evidence supporting the beliefs of those BGLO members who assert that “pledging” or violent hazing commits aspiring members to organizational ideals, the organizations, and each other. However, two issues remain. First, and this is mere speculation, it is doubtful that most BGLO members even apprise themselves of the literature reviewed in section III. Second, if they have, none of this research has been focused on BGLOs, so it is unknown whether and to what extent this scholarship bears on these groups.

At least in theory, what propels this belief-system is anecdotal experience—a personal (or awareness of others who have a) commitment to their respective BGLO’s ideals, members, and the organization itself. What may also support this system of belief is, quite simply, a need for it. In short, BGLO members may hold a biased belief that violent hazing has some utility. Social cognition research notes the ways in which “hot” or “emotional” concepts have motivational influences on cognition. Motivated cognition is self-deceptive. For example, challenges to one’s preexisting beliefs trigger negative effects, which in turn, results in an increase in the intensity of cognitive processing. That added processing potentially results in new evidence that is
more fitting with one's already-held beliefs. When that new information is affirming of the already-held belief, the urgency dissipates, and the decision-making process ends. In addition, motivated cognition may lead people to gather evidence that is consistent with the beliefs they already hold. Furthermore, the motivated manner in which people may engage in both of these processes (cognitive processing and seeking-out evidence) may lie outside of conscious awareness. In this section, we provide empirical methods in an attempt to provide answers about the effects of hazing on membership commitment within BGLOs.

A. Methods

1. Sample

The sample (n=1,357) was comprised by a female majority (62.1% female) and an overwhelming majority of African-Americans (90.9%), followed by Caribbean (2.8%), African (1.8%), Caucasian (1.1%), and self-identified “others” (3.4%). The mean age was 40.41 (standard deviation = 12.9). 96.5% self-identified as heterosexual. 87.1% indicated they were Christian, followed by spiritual, but not religious (7.5%), with others indicating Islam, Bahá’í, Judaism, none, or other.

2. Measures

Attitudes toward Membership Intake Process (MIP). There were eleven items (α=.91) used to assess attitudes toward membership intake process as a form of initiation. Items included “MIP has effectively eliminated hazing within my fraternity/sorority,” and “Generally, MIP is sufficient for the needs of my fraternity/sorority.” Items were scored from 1 (strongly disagree) to 7 (strongly agree), with higher values indicating more positive evaluations of MIP.

Membership Process: Participants were asked to describe the process by which they joined the fraternity or sorority. Choices were (1) pledging, (2) membership intake process (MIP), and (3) a combination of pledging and MIP. The modal category was a
combination process (43.8%), followed by pledging (32.8%), and MIP only (23.4%).

Current Membership Type: The overwhelming majority (91.5%) of the respondents were alumni, while the remaining (8.5%) were college members.

Chapter Initiation Type: Most (74.1%) of participants indicated they were initiated through a college chapter, with the remaining (25.9%) initiated through an alumni chapter.

Ghost Membership: Members who pledged and crossed into a chapter, but were never initiated into the national organization are referred to as “ghost members.” Only 1.6% fell into this category.

Year of Initiation: There was a wide range of when participants were initiated, from 1945 to 2010. (mean=2002; median=1998).

Fraternity/Sorority: Paralleling gender, the majority of respondents were members of a sorority (60.5%).

Region: Participants were asked to indicate the state in which they were initiated. States were combined to represent major geographic regions in the United States and abroad. Nearly half (47.3%) indicated they were initiated in the southeast. The Midwest was the second most common region (21.0%), followed by the northeast and Washington D. C. (19.3%), southwest (5.0%), west (4.2%), and international (0.8%).

Type of College/University: Most participants (60.5%) attended Historically Black Colleges and Universities (HBCUs), followed by Predominantly White Institutions (PWIs) (38.3%).

Organizational Commitment: Organizational commitment was assessed by a modified version of an organizational commitment scale, developed by John P. Meyer and Natalie J. Allen. The items were adapted to apply to general organizational commitment, as opposed to workplace commitment specifically (which was the original intent of the measure). Three subscales comprise this measure. Affective commitment refers to being emotionally attached, content, and connected to one’s organization (7 items; \( \alpha = .85 \)). Continuance commitment (6 items; \( \alpha = .80 \)) describes the fear, difficulty, or having a lack of other options that prevents one from leaving their organization. Lastly, normative commitment (revised)
indicates the extent to which an individual feels a sense of obligation, guilt, and loyalty to one’s organization (6 items; $\alpha=.88$).

Financially Active Members and Peers: Participants were asked to indicate whether they were currently financially active with their organization, as well as whether the peers with whom they crossed were financially active. These items were strongly correlated ($r=.78$), and thus summed to form a composite measure.

Grade Point Average: Respondents were asked to indicate their grade point average (on a four-point scale) at the end of their membership intake process. The mean GPA listed was 3.05 (standard deviation=.54).

Communication: Participants were asked to indicate how many of the individuals with whom they pledged and crossed have communicated in the last three months. The response categories included none (1), a few (2), some (3), most (4), and all (5). The mean score was 3.03, indicating that the average respondent remains in contact with most of the brothers/sisters with whom they crossed.

Organizational Participation: This construct was assessed with two items: (1) “In the past year, how many of your fraternity/sorority’s national programs have you participated in?”; and (2) “In the past four years, how many of your fraternity/sorority’s state, regional, or national conferences/conventions have you registered for and attended?” These items were strongly correlated ($r=.68$), and thus summed to form a composite measure.

Hazing Experiences: Participants were asked whether or not they were subjected to hazing as part of their initiation process. They were presented with a total of 27 different acts, ranging from relatively mild and positive (e.g., pledges required to perform community service) to severe and dangerous (e.g., pledges being hit with hands/feet, paddles, or other objects) forms of hazing. The mean number of different acts participants reported was 16.29 (standard deviation=7.44; range 0 to 27), indicating many participants were subjected to a wide variety of hazing behaviors.
3. Procedure

In order to reach as many individuals as possible, we sent emails to several listservs. In 2003, one of the authors began compiling an email list of BGLO members and chapters. From that time until the time of this study, the author selected email addresses from organizational directories and Yahoo! Groups as well as chapter, district, provincial and regional websites for Alpha Phi Alpha, Alpha Kappa Alpha, Kappa Alpha Psi, Omega Psi Phi, Delta Sigma Theta, Phi Beta Sigma, Zeta Phi Beta, Sigma Gamma Rho, and Iota Phi Theta. At the time of this study, the email list contained approximately 30,000 contacts. In the emails and listserv announcements, individuals were provided some basic information that indicated one of the study’s authors was conducting a study about experiences and opinions of Historically Black Colleges and Universities. Recipients were provided a hyperlink to the study.

Once a recipient clicked on the hyperlink, they were redirected to an online survey (using Qualtrics). The survey began with an explanation of the purposes and goals of the study, followed by a question inquiring as to whether or not they were interested in participating. If the recipient checked “yes,” they were redirected to an informed consent page (approved by an institutional review board). Recipients agreed to participate by clicking an acceptance to participate radio button. At that point, recipients became study participants and were asked a series of questions. As detailed above (under Measures), questions were descriptive (e.g., age, race, type of college attended), attitudinal (e.g., organizational commitment), and behavioral (e.g., experiences with hazing). Participants were provided with the opportunity to withdraw at any time. Anonymity was guaranteed. Specifically, only one author of the study retained the data, which was de-identified by the Qualtrics computer system. Additionally, IP addresses were not collected – rendering submitted responses completely anonymous.
B. Results

1. Beliefs

The mean score on attitudes toward MIP was 40.64 (standard deviation=16.60; range of 12 to 84). This score indicates that many participants endorsed moderate levels of acceptance of MIP, with relatively few either not endorsing it or strongly endorsing it.

The core issues examined in this section are how different aspects of membership, organizational commitment and participation, and demographics are related to attitudes toward MIP. Analyses indicated that the process by which the participant joined the fraternity/sorority was significantly related to the endorsement of MIP (F (2, 1378) = 47.03, p < .001). Post hoc tests indicate that those who went through MIP had significantly higher evaluations of MIP than those who only pledged or did a combined pledge and MIP. College inductees (t (503.997) = -6.61, p < .001) were significantly less likely to hold positive attitudes toward MIP. There were no significant differences in MIP attitudes among current college (as opposed to alumni) members, nor among those who were ghost members (compared to those who were initiated into the national chapter). Those who were initiated more recently (r (1307) = .06, p = .02) and had a shorter pledge process (r (1309) = .10, p < .001) were more likely to endorse MIP, although these relationships were weak. Lastly, sorority members were significantly more likely to endorse MIP than fraternity members (t (1205.383) = 2.72, p = .007). Additionally, evidence demonstrated that there was strong correlation between geographic location of their BGLO chapter and their attitudes about the initiation process. There was significant variation in the endorsement of MIP across geographic regions (F (5, 1372) = 9.37, p < .001). Post hoc analyses indicate that respondents initiated in the northeast were significantly less likely to hold positive views of MIP compared to those initiated in the southeast, midwest, and southwest. There was no difference between those in the northeast and west. International inductees were more likely than all other regions to positively evaluate MIP. Moreover, the type of educational institution was significantly related to the endorsement of the
continuation of hazing practices ($F (2, 1377) = 6.54, p < .001$). Post hoc tests reveal that those attending historically black colleges are significantly less likely to endorse MIP than those who attend predominantly white institutions. “Other” institutions were not significantly different from historically black colleges or predominantly white colleges.

Organization commitment and participation were largely unrelated to attitudes about MIP. For instance, those who held positive attitudes toward MIP scored higher on continuance commitment ($r (1366) = .05, p = .046$), but lower on normative commitment ($r (1370) = -.06, p = .032$). There was no relationship between MIP attitudes and affective commitment, organizational participation, or being (currently) financially active in the fraternity/sorority.

A variety of demographic factors were also examined. Race, sexual orientation, and religious affiliation were unrelated to views on MIP. Participants who were female ($t (1109.44) = 2.61, p = .009$) and older ($r (1291) = .25, p < .001$) were significantly more likely to endorse the continued use of hazing in the future.

Given that the handful of empirical studies on BGLO members’ attitudes about the means by which members were brought into the organizations found that beliefs about the utility of MIP in facilitating commitment to other members, the organizations, and their ideals, we explored those variables as well. We analyzed what percentage of members either agreed or disagreed with the following three questions that were part of the 11-item Attitudes toward MIP measure: (1) MIP is sufficient to build brotherhood/sisterhood among initiates to my fraternity/sorority (Agree, 30.6%; Disagree, 59.8%); (2) MIP is sufficient to help aspirants develop commitment to my fraternity/sorority (Agree, 34.1%; Disagree, 55.6%); and (3) Generally, MIP is sufficient for the needs of my fraternity/sorority (Agree, 27.0%; Disagree, 59.8%).

**2. Truth**

Several analyses were performed to assess whether the type of initiation was related to important and desired outcomes. Type of
initiation was related to GPA (F (2, 1440) = 52.68, p < .001). Post hoc tests indicate that those who went through MIP had higher
GPAs than those who pledged only and those who had a combined pledge and MIP experience. Those with the combined pledge and MIP had significantly higher GPAs than those who pledged only.

Type of initiation was also related to financial participation of the study participants (F (2, 1593) = 4.50, p = .011) as well as the peers who crossed at the same time they did (F (2, 1619) = 5.37, p = .005). Specifically, those who went through MIP were less financially active than those who went through the combined pledge and MIP. Conversely, the financial activity of one’s peers (who crossed at the same time) was higher among those who went through MIP compared to those who did the combined pledge and MIP.

Continued communication with individuals with whom one crossed was significantly related to type of initiation (F (2, 1579) = 25.73, p < .001). Post hoc analyses indicate that those who went through the combined pledge and MIP were significantly more likely to remain in touch with those with whom they crossed compared to both those who pledged only or those who went through MIP only.

For the most part, organizational participation and commitment were unrelated to the type of initiation. For instance, type of initiation was unrelated to organizational participation, continuance commitment, and normative commitment. The only significant relation was with affective commitment (F (2, 1527) = 6.19, p = .002). Those who went through MIP had lower ratings of affective commitment than those who pledged only or those who went through the combined (pledge and MIP) process.

A second set of analyses focused on whether being hazed was related to specific desired outcomes. Participants were asked whether or not they were subjected to hazing as part of their initiation process. They were presented with a total of 27 different acts, ranging from relatively mild and positive (e.g., pledges required to perform community service) to severe and dangerous (e.g., pledges being hit with hands/feet, paddles, or other objects) forms of hazing. The mean number of different acts participants reported was 16.29 (standard deviation = 7.44; range 0 to 27). These results indicate that
many participants were subjected to a wide variety of hazing behaviors.

The next series of analyses focused on what factors related to being hazed. Those who experienced more types of hazing behavior were significantly, but weakly, more likely to be financially active with their organization, \( r (1324) = .07, p = .013 \), and have higher ratings on affective \( r (1343) = .13, p < .001 \) and normative \( r (1335) = .14, p < .001 \) commitment. Yet, being hazed was unrelated to continuance commitment. A slightly stronger positive relationship was observed between higher levels of hazing and staying in communication with those who initiated at the same time as the participant \( r (1328) = .26, p < .001 \). However, being hazed was negatively related to the financial activity of those with whom the participant was initiated \( r (1345) = -.17, p < .001 \). Lastly, one's level of hazing was unrelated to past year participation in national programs, as well as participation in state, regional, and national conference/conventions attended within the past four years.

**Conclusion**

Black Greek-letter organizations are unique entities with both a particular identity and set of needs. Scholars have argued that the BGLO identity is defined as personal excellence (largely defined in terms of high academic achievement), the development and sustaining of fictive-kinship ties (i.e., brotherhood and sisterhood), and dedication to uplifting African American communities. Accordingly, these organizations need members who are not only committed to these ideals but also committed, in practical ways, to the organizations themselves via dues payment, meeting attendance, and the like. These organizations require that such commitment be long-term if they are to measure-up to their identity-ideal. Their organizational needs, the beliefs among members about how these needs can best be actualized, the factual basis of these beliefs, and the growing constraints of the civil and criminal law, have created a conundrum for BGLOs.

The process by which BGLO members come into their organizations is a complicated matter. Ultimately, it appears that
“pledging” has a negative relationship with academic performance among newly initiated BGLO members. Those who define the process by which they were brought into their organization as consisting of both MIP and pledging are more connected to those with whom they were initiated than those who simply pledged or went through MIP. Those who define the process by which they were brought into their organization as having some element of pledging are more financially active with their organization. The opposite must be said for those initiated with respondents. Having some “pledge” experience was also related to greater affective commitment to one’s BGLO than having, simply, gone through MIP. When focusing more specifically on what experiences individuals were subjected to in their pursuit of BGLO members—as opposed to, simply, what they labeled their “process”—those who experienced more hazing were slightly more likely to be financially active as well as be more affectively and normatively committed. Those who experienced more hazing were slightly more likely to stay in contact with those whom they were initiated. Being hazed, however, made those initiated with respondents less likely to be financially active. Importantly, being hazed had no relationship to recent participation in the community uplift activities that BGLOs are known for or to being engaged in the decision-making processes of the organizations. Finally, over fifty percent of BGLO members do not believe that the very process implemented by BGLOs to supplant hazing actualizes the needs of BGLOs, generally, and does not facilitate commitment to the organization or to other members.

In short, these findings contradict the arguments of “pledging” proponents—i.e., that it is a panacea for BGLO ills and necessary to actualize BGLOs’ ultimate identity. These findings also eschew the arguments that MIP advocates embrace—i.e., that “pledging” is an evil that, in total, must be abolished in order to preserve BGLOs. The reality, from this data, is that the story is much more complex. In order to realize BGLO founders’ intentions related to personal excellence, fictive-kinship ties, and African American uplift, some elements of the old process are needed to identify, attract, select, and train new members. But they are insufficient to address a wider range of needs that BGLOs have. For example, if
BGLOs wish to amplify their role in the areas of civil rights and public policy, they will need several things from their members: intelligence to identify and devise novel solutions to the problems facing African Americans as those problems evolve from decade to decade; dedication to each other that is meaningful and supports systematic cooperation toward problem-solving; a true desire to engage in uplifting activities; and a commitment to ensuring the longevity of the organization(s) that make all of this possible.

The crux of the challenge to BGLOs is that the law places constraints on the ways in which organizations like BGLOs initiate new members. Beliefs can be powerful motivating factors, shaping and driving people’s behavior, even in regard to violating the law. This is particularly so when, within organizational contexts, people believe their behavior serves the highest ideals of the organization. An understandable response to such behavior is for an organization to internalize law and seek to regulate such behavior, often quite harshly. However, such an approach may be highly ineffective for BGLOs. What may prove a more effective tactic is a focus on what BGLO members claim to hold dear—i.e., their respective organizations. The passing reference, at an organization’s national convention, about vague lawsuits pending against the organization does not suffice to curtail hazing within these groups. Rather, a deep education about both civil and criminal law governing these organizations, how they initiate members, and the impact of violations on the organizations, may prove more effective. This is particularly so if facts about the limits of “pledging” are articulated to BGLO members. This deep education, however, necessitates that BGLOs honestly embrace the hard facts as they pertain to what activities help shape the types of members they need. To the extent that these activities violate the law, the organizations must abolish them and find a cogent way to articulate this need for abolishment to its members. But they must also be creative in developing processes that are mindful of both the ceiling that the law (and other factors) place on what types of process they can craft as well as the interstices that are pregnant with possibilities between that ceiling and the conceptual floor.
Criminal Deviance: Personality, Drives, and Risk Awareness

Criminology is the scientific study of the correlates and causes of criminal behavior, and the societal response to such behavior. Criminology is an interdisciplinary field in that it draws from the fields of biology, psychology, and sociology. Consistent with this interdisciplinary focus, a variety of theories have been proffered to explain why individuals engage in behavior that is in violation of the criminal law. Those rationales include endogenous characteristics such as personality, impulsivity, as well as awareness of and beliefs about sanctions.

Personality

Personality refers to the manner in which individuals think, feel, and behave. Personality has a biological basis, and is influenced by one’s social environment as well. It is relatively stable across the life course, meaning that individuals tend to maintain their rank order over time. As Miller and Lynam have argued, the study of how personality is related to criminal behavior is important because it can provide insights into why some individuals engage in a large amount of criminal behavior, others a moderate amount, while still others rarely commit criminal acts. Moreover, personality also helps explain other known facts dealing with criminal behavior, such as the stability of criminal (and related antisocial) behavior over the life course and the versatility of criminal behaviors committed by offenders. In addition, the effect of personality on criminal behavior is robust: this relationship has been found to exist across methods (self-reports and other reports of personality; official versus self-reports of offending), countries, sex, and race.

Han Eysenck published findings in 1977 supporting the idea that there were three biological dimensions of human personality that explained individual differences in human behavior. He proposed
that the interaction of the traits he defined as (1) psychoticism, (2) extraversion, and (3) neuroticism (PEN) contributed to the formation of antisocial behavior. Eysenck's studies, backed by those of his successors, suggested that people with antisocial behavior were more likely to commit future crimes than those who did not possess antisocial behavior. Eysenck’s research suggested that high levels of all three traits were indicative of criminal behavior and tendencies. Psychoticism, however, tended to be the most significant predictor while extraversion was the least significant. Other models followed Eysenck’s three trait model of personality by expanding it to include five broad dimensions, often referred to as the Big Five: (1) conscientiousness, (2) agreeableness, (3) neuroticism, (4) openness to experience, and (5) extraversion. It is interesting to note that Mills and colleagues found that the presence of antisocial behavior was highly suggestive of criminal behavior and tendencies, but the absence of antisocial behavior was not necessarily suggestive of the absence of criminal behavior and tendencies. This has led to future studies that seek to examine the impact that environment and social factors have on trait interaction.

Boduszek and colleagues used the trait approach of the Big Five to determine what percentage of individual variance in criminal behavior and thinking was explained by the Big Five. Boduszek first provided previous results on Eysenck’s PEN Model. The researchers cited previous studies that found that those exhibiting criminal behavior tended to score high on psychoticism, as the trait was strongly related to being “cold, hostile, aggressive, and insensitive to the needs of others.” Secondly, they provided that extraversion was often in question as to its effectiveness in predicting criminal behavior. This paralleled Eysenck’s previous finding that extraversion was the least significant predictor of criminal behavior. Lastly, Boduszek noted that neuroticism was a weaker predictor of criminal behavior but a stronger prediction of recidivism.

Several conflicting theories regarding extraversion have been produced, perhaps explaining the variances in results about the strength of extraversion as a predictor of criminal behavior. Eysenck proposed that the confinement of incarcerated persons, who were generally used for criminal behavior studies, led to skewed results on
the extraversion portion of the test. This has subsequently been referred to as the “prisonization” of criminal identity, where criminals who live together interact more and increase their levels of extraversion as a result. In contrast, Boduszek and colleagues noted the limitations of relying on self-reported trait levels; the interactions between criminals incarcerated together may not be reflective of their interactions in the outside world.

In Boduszek and colleagues’ work, they administered two self-report questionnaires to violent-recidivist and nonviolent-recidivist males between the ages of twenty and sixty-six. The Measure of Criminal Attitudes and Associates (MCAA) measured criminal thinking style and association with criminal friends; the other questionnaire, the Measure of Criminal Social Identity, measured criminals’ self-reported levels of criminal social identity. Using a post-matching multiple regression analysis, the researchers found that five factors significantly explained 49% of the variance in individuals with criminal thinking style and criminal behavior. These five factors were (1) psychoticism, (2) extraversion, (3) neuroticism, (4) criminal social identity, and (5) association with criminal friends. Of these five factors, psychoticism was the strongest predictor of criminal thinking style and behavior, consistent with the results from Eysenck’s PEN model and other studies of the Big Five Personality traits.

Boduszek and colleagues also found association with criminal friends and criminal social identity to be significant predictors of criminal thinking and behavior. Association with criminal friends can be linked to extraversion, paralleling Eysenck’s findings that high levels of extraversion are indicative of criminal behavior. Consistent with prior findings on the weakness of the relationship between extraversion and criminal behavior, association with criminal friends was also found to be a weak predictor of criminal behavior.

Wallinlus found that high rates of psychopathy, a mental disorder characterized by antisocial behavior and a lack of remorse and empathy, was related to criminal behavior. Wallinlus also found that besides being predictive of criminal behavior, antisocial behavior was also predictive of recidivism. This provides further support for the link between antisocial behavior and criminal behavior, but goes further than prior studies in suggesting that those who possess
antisocial personality traits are more likely to be repeat criminal offenders than those who do not.

While the majority of research on the relationship between personality and criminal behavior has been retrospective, some prospective studies have found support for the relationship. In one study, researchers administered two tests longitudinally to around 2,000 boys in an attempt to examine the development and progression of antisocial behavior and to see if it led to criminal behavior. Two tests, one measuring cognitive ability and the other the Five-Factor Inventory to measure the levels of the Big Five, were administered to sixth, eighth, tenth, and twelfth grade boys biannually for six years. At the end of the six years, univariate and multivariate analyses were performed to see whether cognitive ability, determined by grade point average, and any personality traits significantly contributed to the development of antisocial and criminal behavior.

Researchers separated misdemeanors, defined here as breaches of public order and minor traffic offenses, and criminal offenses that involved a serious fine or imprisonment, in attempts to examine the effect of personality on criminal behavior. Using univariate analysis, researchers found that criminal offenses were positively and significantly related to neuroticism and were negatively rated to agreeableness, conscientiousness, and cognitive ability. When GPA was added, cognitive ability and conscientiousness lost their significant values. Researchers also found that antisocial behavior itself was not significantly indicative of criminal behavior. To explain GPA’s lack of a significant effect on criminal behavior, researchers theorized that GPA may be a separate result of personality; it may be affected by personality but not lead to criminal behavior. This theory is supported by other research analyzing the effects of comorbid symptoms and different effects of personality on behavior other than criminal behavior. The researchers noted that their findings paralleled that of other studies in that low agreeableness and conscientiousness combined with high neuroticism was indicative of criminal behavior. This parallels Eysenck’s PEN theory, as conscientiousness and agreeableness are often combined into the one trait of psychoticism when the PEN theory is used. Therefore, the researchers
prospectively found that high neuroticism and high psychoticism are predictive of future criminal behavior.

Recent studies have added nuance to our understanding of personality’s factor structure. For example, a 2011 study investigated inmates to compare the Five-Factor Model of Personality to Eysenck’s original PEN model to determine whether one test was a stronger predictor of criminal behavior than the other. Researchers cited Eysenck for his groundbreaking theory on antisocial behavior and the genetic and biological factors that predisposed one to criminal behavior. Researchers stressed the importance of genetics, and not social and environmental factors, in the development of criminal behavior.

Researchers used two groups of prisoners; one was administered the International Personality Item Pool Big Five-Factor Markers, and one was administered Eysenck’s original PEN test. Results were compared using a multiple regression analysis. Very inconsistent results were found amongst the two samples and compared to previous studies.

The lack of significant results lead researchers to change their model to a 7-Factor Model to try to explain the results found in the samples and to create a test that was a stronger indicator of criminal behavior than either of the two primarily used tests. Using the data collected from sample group one, researchers tried to explain the results using seven factors: (1) understanding/empathy, (2) emotional stability, (3) extraversion, (4) general agreeableness, (5) intellect/openness, (6) organization/positive behavior, and (7) organization/calmness.

Using the seven-factor test that researchers developed from the results in sample group one, researchers then used the test to examine the relationship between personality traits and criminal behavior in sample group two. This seven-factor test, however, turned out to be a poor fit, with several of the factors often overlapping with each other in the questions they applied to and the behaviors they described. Researchers then tried to improve fit by using regression weights and found that five main (core) traits explained the majority of the variance in individual levels of criminal behavior with significantly less overlap. These five traits closely
mirrored the Big Five and were defined as (1) extraversion, (2) neuroticism, (3) openness to new experience, (4) agreeableness (defined as empathy/understanding), and (5) calmness. Researchers then tested this “new” test on sample one and found an acceptable fit between the test administered and the variance between individual behaviors.

While results of the “new” test closely paralleled that of other Big-Five studies in some aspects, researchers found distinctions in other areas. First, they found that agreeableness was the most commonly reported trait and that it changed across ages and time spent in prison. Several explanations have been offered for this finding. Researchers here proposed that increased interaction with other prisoners in prison strengthened this trait and contributed to increased “prisonization of criminal identity.” Similarly, researchers found that agreeableness increased with age but decreased with time spent in prison; this as well was thought to be explained by the “prisonization of criminal identity.” Researchers also referenced other studies that found emotional stability to be lower amongst the younger prisoners, paralleling prior studies that found younger populations to be less emotionally stable, and higher in neuroticism, in general.

While this study challenged the validity of Eysenck’s PEN model and the Five-Factor Model of Personality, it did support the theory that certain personality traits are indicative of the development of criminal behavior. Secondly, while this study challenged the explanatory validity of the traits historically used, and proposed a seven-trait model, the five core traits found closely paralleled those used under the Five-Factor Model. While this Five-Factor Model may not be perfect in explaining all of the individual variances in criminal behavior, this study provides support for the model. It also provides support for the fact that the five traits most commonly used are the strongest indicators of individual variances in the development of criminal behavior.

Moving away from individual experiments, scholars have employed meta-analyses to quantify the overall effect size of multiple studies aggregated together. Two meta-analyses are worth mentioning. The first was by Miller and Lynam, and included forty-
five previous studies. They explored several structural models of personality, including: Costa and McCrae’s Five-Factor Model, Eysenck’s PEN model, Tellegen’s Three-Factor model, and Cloninger’s Seven-Factor Model. They summarized their findings within models. From the Five-Factor Model, Agreeableness and Conscientiousness were negatively related to criminal behavior. From the PEN model, psychoticism was positively related to criminal behavior. For the Three-Factor Model, negative emotionality was positively related to criminal behavior, while Constraint was negatively related. The trait of Novelty Seeking from the Seven-Factor Model was positively related to criminal behavior, while the traits of Self-Directedness and Cooperativeness were negatively related. The patterns of results provided a personality profile of the typical offender: someone who is antagonistic, argumentative, aggressive, impulsive, and sensation seeking.

A second meta-analysis performed by Jones, Miller, and Lynam included fifty-three previous studies. It focused exclusively on the Five-Factor Model. Furthermore, they examined traits at the facet-level, which provided a more nuanced profile of an offender’s personality. They found that individuals who engage in criminal behavior scored higher on the traits of Angry Hostility, Impulsiveness, and Excitement Seeking. Such individuals scored lower on numerous traits, including Warmth, Trust, Straightforwardness, Altruism, Compliance, Modesty, Competence, Dutifulness, and Deliberation. Collectively, both meta-analyses support the use of the Five-Factor Model of personality as a good means of assessing the relationship between personality and criminal behavior.

It is important to note that, as Davison proposed, personality disorders and antisocial behavior do not completely explain the criminal behaviors, but that there are often comorbid symptoms as well. These symptoms can include drug use, social environments, and context. In other words, genetic levels of the Big Five may predispose one towards criminal behavior, but other factors and conditions may make the difference in some exhibiting criminal behavior while others do not. Impulsivity and how one views and evaluates their environment are such possible factors.
Impulsivity

Impulsivity, or impulsive behavior, has slightly varying definitions; however, it is widely defined as “a predisposition toward rapid, unplanned reactions to internal or external stimuli without regard to the negative consequences of these reactions to the impulsive individual or to others.” Criminal behavior and impulsivity research has ranged from focusing on delinquents, incarcerated criminals, gender differences, mental disorders, brain functioning, and sociological factors.

Delinquency has been an important factor in studying the relationship between criminal behavior and impulsivity because researchers are interested in predisposing factors that may contribute to criminal behavior; studying delinquents gives the researcher the opportunity to track the criminal activity of the subject to see if there are commonalities that are correlated with delinquency and subsequent criminal behavior. Delinquency has generally been defined as the behavior of minors that violates the law and leads to direct court action, although not necessarily incarceration. Specifically, delinquent youths have been a targeted group to study because children under the age of fifteen account for about 30% percent of all juvenile arrests in the United States, according to a 2008 study. In addition, delinquent youths “are two to three times more likely to become serious, violent[,] and chronic offenders than adolescents whose delinquent behavior begins in their teens,” encouraging research in this area of individuals.

Studies have found an established relationship between delinquent criminal behavior and impulsivity by finding a positive correlation between the two. One study focusing on male delinquency and school dropout behavior found that deviants are, in fact, more impulsive than non-deviants. Another study concluded that impulsivity and low self-control are consistent predictors of delinquency. Further, “adolescents who exhibit high levels of impulsivity are also likely to demonstrate high levels of delinquency.” Because of the significant and established relationship between delinquent criminal behavior and impulsivity, criminologists believe
that research on impulsivity warrants the most attention in studying juvenile delinquency and crime.

The relationship between criminal behavior and impulsivity of incarcerated criminals is often linked to the study of aggression amongst the incarcerated. Aggressive inmates have been found to have higher levels of both anger and impulsivity. Specifically, in male offenders, “impulsivity has been shown to be a strong predictor of institutional aggression [and] violence,” behavior which is often considered criminal. In a study of incarcerated female offenders, researchers found a correlation between higher levels of impulsivity and aggressive behavior. However, there did not seem to be a significant relationship between women incarcerated for violent crimes and impulsivity, as women incarcerated for violent crimes did not demonstrate higher levels of impulsivity compared to nonviolent female offenders. Researchers explain that the “substantially lower levels of violent offending among women may in part be associated with their lower levels of impulsive behavior.” Additionally, “[t]he relationship between impulsivity and violence among incarcerated women seems to be complicated by the characteristics of female violent offending, which disproportionately involves domestic matters and interpersonal conflict.”

Studies have also revealed other differences between men and women as related to impulsivity. Men have been found to participate in more impulsive and risky behavior, and are responsible for about “76% of all criminal arrests in the United States, committing 89% of homicides and 82% of all violent crime.” In a study looking at the relationship between gender and impulsivity, the results suggest that the differences may be related to “punishment and reward sensitivity.” Specifically, “women’s greater sensitivity to and anxiety about the punishing consequences of risky action that deters them from the same level” of impulsive and criminal behavior as men. This lower level of impulsivity among women likely relates to the greater prevalence of males in criminal behavior, as higher levels of impulsivity have been directly correlated with criminal behavior.

Sexual aggression in men and women has also been studied and, again, impulsivity has been found to play a role. One study found that the differences in impulsivity between males and females
mediate] the relationship between sex and social representation of aggression.” One study concluded that “a substantial proportion of assaultive behavior is a result of impulsive . . . retaliatory aggression.” Because males tend to have higher levels of impulsivity, it follows that they would also have higher measures of violent behavior, violence rating, assault convictions, and reported fights.

Gender differences have also been found in relation to different mental disorders and psychopathologies as related to criminal behavior and impulsivity, namely, that men are more likely than women to suffer from certain mental disorders that affect impulsivity. Studies have concluded that in comparing the criminal behavior of men and women, “impulsivity has been invoked as an explanatory variable.”

As previously noted, studies have also found a link between mental disorders/psychopathy and impulsivity as related to criminal behavior. The DSM-IV-TR has listed impulsivity as a “behavioral component of several disorders, including attention-deficit/hyperactivity disorder [ADHD], borderline personality disorder, and antisocial personality disorder.” Specifically, children with ADHD tend to be “more susceptible to deviant peer groups” and drug use, which are also related to criminal behavior. Conduct Disorder (CD), a “persistent pattern of behavior in which the basic rights of others or major age-appropriate societal norms or rules are violated,” has also been linked to criminal behavior and impulsivity. One study focused on the presence of CD in children and adolescents, finding that “[a]dolescents with [CD] are more impulsive than healthy adolescents.” Research has also found “higher levels of impulsivity among patients with conduct disorder, personality disorders, and substance-abuse disorders.”

Other studies conclude that “[i]mpulsivity is a key component of psychopathy, a form of personality disorder with a specific pattern of interpersonal, affective, and behavioral symptoms characterized by a grandiose, arrogant, callous, superficial, and manipulative interpersonal style.” Studies have supported this assertion by finding that there is a correlation between psychopathy and impulsivity, observing “heightened levels of both impulsive and instrumental aggression” in individuals with psychopathy. As previously
mentioned, because impulsivity and criminal behavior have been found to be correlated, it follows that mental disorders that affect impulsivity affect criminal behavior as well.

Studies have also revealed a connection between impulsivity and brain functioning. Researchers have found a correlation between specific regions of the brain and their effect on impulsivity and, thus, criminal behavior. A study on the relationship between premotor functional connectivity and impulsivity resulted in a finding that more-impulsive incarcerated juveniles tended to have functional connectivity that correlated with areas of the brain “associated with spontaneous, unconstrained, self-referential cognition,” those areas linked with impulsivity, as compared to less-impulsive juveniles.

Another study focusing on the link between aggression and impulsivity observed “strong evidence that structural or functional pre-frontal impairments are associated with a heightened risk of impulsive aggression.” Data further supported a correlation between impulsivity and specific areas of the brain, including: the “lateral [orbitofrontal cortex], the dorsal [anterior cingulate cortex], and the amygdala.”

Researchers have also observed a connection between certain neurotransmitter levels and impulsivity. Low levels of serotonin have “long been associated with increased impulsivity.” Additionally, the relationship between decreased levels of serotonin and impulsivity was stronger in men as compared to women, suggesting different serotonergic functioning in each of the sexes. Cortisol has also been linked to impulsivity, finding that it may “moderate the relationship between impulsive aggression and testosterone in delinquent male adolescents.” As previously mentioned, because of the established correlation between impulsivity and criminal behavior, it follows that if certain areas of the brain affect levels of impulsivity and aggression, these changes likely affect criminal behavior as well.

Several different sociological factors have also been studied in relation to impulsivity and criminal behavior. More specifically, race has been found to be moderately related to impulsivity, with researchers finding that minorities tend to exhibit higher levels of impulsivity, in a study of delinquent youths. Intelligence (IQ level) and impulsivity are also correlated with criminal behavior, with
researchers finding that male adolescents with low intelligence and high impulsivity tend to have high rates of criminal offense.

Family and social relationships have been associated with impulsivity and criminal behavior, with researchers observing that “impulsivity is more weakly related to offending when parental support is high.” In addition, those with strong pro-social ties in the areas of employment, school, and peers exhibited fewer self-control issues. In another study, researchers found that “social bond and impulsivity correlates were the only two significant re-offending risk factors for juvenile violent probationers.” As such, negative experiences in childhood, such as violence or abuse, are also associated with increased levels of impulsivity. Other factors such as neglect, rejecting/hostile mothers, a chaotic childhood family, and parental reinforcement of immediate gratification have also been correlated with impulsive behavior. These negative experiences often “teach that delayed responses are not rewarded,” which in turn supports impulsive, and often criminal, behavior since there appears to be no advantage or reward in waiting. A relationship between anti-social behavior and impulsivity has also been observed in incarcerated individuals, re-enforcing the idea that those with social ties tend to have lower levels of impulsivity.

Studies have also found a correlation between socioeconomic status as it relates to impulsivity and delinquent criminal behavior, finding that impulsivity has a stronger effect on the delinquency of male adolescent boys from homes with low socioeconomic status. Poor housing has also been considered a predictor of adolescent aggression and teenage violence, and large family size (five or more children) has been used to predict teenage violence and convictions for violence. This study found that the most important predictor of aggression and violence included several elements of impulsivity. Further, elements of impulsivity (thrill and adventure seeking, lack of considering of consequences before action, etc.) were “more strongly related to offending among young adults who perceived their neighborhoods as lacking in informal social control.”

Drug use, often considered criminal behavior in itself, has also been associated with impulsivity. In a study focusing on different elements of impulsivity, including urgency, lack of premeditation,
lack of perseverance, and sensation seeking, drug use or abuse was found to be a correlate. Lack of premeditation was strongly related to indications of “early substance use and later substance abuse.” Sensation seeking was also related to later alcohol abuse, but not to the same extent as lack of premeditation. Urgency was associated with early marijuana use among men. Overall, the lack of premeditation and sensation seeking elements of impulsivity bore the strongest relationship to criminal behavior. Another study found a positive correlation between hard drug use, the frequency of alcohol and marijuana use, elements of impulsivity, and sexual aggression and harassment. In addition, higher levels of impulsivity have been found amongst those with substance-abuse disorders. In each of the various levels of drug use and abuse studied, some form of impulsivity was found to be linked to the criminal behavior.

Sanction Awareness

Despite the axiom that “ignorance of the law is no excuse,” to be convicted of a crime in our justice system, one must have knowledge that his or her behavior was criminal, in most circumstances. This concept is consistent with the utilitarian theory of punishment, which holds that “the purpose of punishment is to deter others from committing crimes.” The utilitarian theory rests on the assumption that a negative correlation exists between legal consciousness and criminal behavior. Several studies have analyzed whether knowledge of the law is a true deterrent to breaking the law. A few studies conclude that there is no correlation because our actions are determined by impulse due to our biological make up. However, a greater number of studies conclude that there exists a relationship which is affected by both the type of legal consciousness held by the individual and the type of law applied.

Under a broad definition, legal consciousness is “the way[] people understand and use the law” and the “participation in the process of constructing legality.” The effect that legal knowledge has on deviant behavior depends on an individual’s perception of the law, which is created by his or her life experiences. Erik Fritsvold describes four categories of legal consciousness: Before the Law,
With the Law, Against the Law, and Under the Law. He added Under the Law to the first three categories, originally articulated by Patricia Ewick and Susan Silbey. In his work, Fritsvold describes how people within each category react to legal sanctions differently.

As Fritsvold described, individuals with Before the Law Consciousness view the law as “an abstract entity, removed from the everyday experiences of life.” They perceive it as an unbiased, static system that uses rational methods to run society, and views all individuals as equals “Before the Law.” Believing that the system is hierarchical, trustworthy, and operating appropriately beyond their control, these individuals are “unlikely to engage in acts of resistance of any sort against the legal system.” A study by Laura Beth Nielsen concluded that most white males fit this description. Her study explored the reasons why different social groups opposed the legal regulation of verbal harassment. The white males in her study disfavored the regulation because they sought to uphold the traditional First Amendment values. Thus, holding a Before the Law Consciousness, these white males continued to “privilege[] law above even their own life experiences.”

Another study by Stephen McG. Bundy and Einer Elhauge described a similar group as the “law abiding” citizens who will likely comply with “what they understand to be their legal obligations” regardless of the sanctions. Scott Shapiro also described this type of consciousness when he explained in the context of his “autonomy assumption” theory. He states that people have a choice to comply with the law and choose to obey “each time they deem the rules applicable.” This theory assumes that “rational” law abiding citizens will choose to obey the law because they feel obligated to do so. However, they will also “never act against the balance of reasons.” Thus, as rational thinkers, they may disobey the law but only when doing so would yield improper or illogical results.

Those who have a With the Law Consciousness break down the superior ideals held by Before the Law Consciousness, and consider the law to be a game that is meant to be strategically won. These individuals attempt to advance their legal proficiency in order to maximize their advantage in the game, but are unlikely to engage in resistance. Women in the Nielsen study, who are more often the
victims of verbal harassment, fell into this category because they strategically reasoned that regulating verbal harassment “may present them as victims and further undermine their social status,” and thus opposed the regulation.

Bundy and Elhauge’s study described this group as “sanction optimizers” who will base its decision to engage in deviant behavior on “the actual level of expected legal sanctions and [will] give[] no independent weight to the fact that the conduct is legally prohibited.” Bundy and Elhauge further concluded that there are individuals who become more deviant as their knowledge of the law increases. For example, if an attorney gives his client information about the ins and outs of the tax system, “[s]uch advice might, for example, teach clients how to exploit tax loopholes.” This resembles a more deviant version of a With the Law thinker, who uses his or her knowledge to cheat the game instead of playing the game fairly. Another example of this occurs when individuals know there is a small likelihood that they will be caught or punished for their crime, resulting in a greater incentive to commit such acts.

Those in the Against the Law Consciousness category are more likely to engage in resistance to the law because they view the legal system as a “commodity of power” to which they do not have equal access. Nielsen’s study placed African-American males in this group who disfavored the regulation of verbal harassment “because of a distrust of authority and a cynicism about law generally.” Nielsen’s study further supported the conclusion that Against the Law thinkers find the legal system to be inefficient in areas such as welfare, social security, and criminal law, because legal figures ignore the needs of certain groups of people. Thus, Nielsen added the important finding that “being a member of a traditionally disadvantaged group has a significant effect on an individual's orientation to the law.”

Unlike Before the Law Consciousness, this group believes the law is “unable to effectively resolve disputes, recognize truth, or respond to injustice.” Unlike With the Law Consciousness, these individuals do not feel they have an equal opportunity to participate in the legal game, which is dominated by people who use “ruses, tricks, and subterfuges … to appropriate part of the law's power.”
Thus, “[u]nwill[ing] to stand before the law and unable to play with the law, [these] people [retaliate] against the law” with the hopes of costing their untrustworthy oppressors a great deal of money. Such retaliation includes mild forms of resistance such as “foot-dragging, omissions, ploys, small deceits, humor[,] and making scenes.”

Under the Law Consciousness has a similar attitude to that of Against the Law Consciousness, but chooses more radical methods of retaliation. Under the Law thinkers make their point by openly and purposefully challenging the social order. Fritsvold created this category after conducting a study of environmental radicals who fought against environmental injustice through criminal behavior. These four categories of legal consciousness have unique effects on individuals’ choice of deviant behavior. Such behavior is also dependent upon the type of law under which an individual is forming his or her perception.

The question remains as to whether knowledge of different legal forums effects individual’s analysis and behavior. One perspective is the rules versus standards approach; another is the economic analysis versus behavioral analysis approach. According to Larry Alexander, laws come in the form of rules and standards, which are implemented differently and thus have a different effect on behavior. He explains that “standards” are considered to be legal norms that “enjoin us to ‘do the right thing,’” and require each actor to follow rational behavior. However, it is not always clear to citizens what behavior is acceptable under a standard because the line between right and wrong is drawn on a case by case basis. For example, under “[a] law requiring drivers to travel ‘no faster than is reasonable,’” one may not know if they are driving at a reasonable speed because a reasonable speed will differ depending on the situation.

Rules, on the other hand, are permanent lines drawn in the sand that clearly state what is right or wrong in every scenario. However, because rules do not change based on facts, in some scenarios, they yield unfavorable outcomes that go against fairness or logic. Shapiro explored this dilemma and came to the conclusion that although rules don’t always bring an immediate optimal outcome, the
long-term effects have greater benefits, making it a desirable legal form.

Lawmakers must consider the effect rules and standards have on behavior to determine which legal form is more appropriate for the area of law at hand. To do so, lawmakers must understand the analysis a citizen conducts when deciding when and how he or she will abide by the law. The economic analysis and the behavioral analysis are two methods lawmakers use to predict how citizens will behave under certain laws based on their knowledge of the law.

Russell Korobkin found that the economic analysis sometimes predicts a different type of behavior under rules and standards than the behavioral analysis. Both analyses conclude that depending on the scenario, one legal forum may be more preferable than the other. However, which legal forum is preferable will depend on the type of analysis used. Korobkin explains that the economic analysis narrowly focuses on an individual’s process of weighing the cost and benefits associated with following the law. Under this analysis, lawmakers also weigh their own cost and benefits of adjudicating and enforcing the law. Citizens must weigh the cost of spending time or money to understand the law. For example, there is low cost involved with learning the black-letter law of a clear and uncomplicated rule because it can easily be researched and understood. Thus, it will likely be followed more often. However, it will cost an individual more to research and understand, or to pay someone to explain, standards and complex rules containing many exceptions. As a result, they may choose to remain ignorant about the complicated laws and unknowingly disobey them.

Once the law is understood, individuals weigh the costs and benefits of complying with the law to avoid sanctions. This concept echoes Shapiro’s theory that individuals have a choice to comply with the law and that “rule-guided behavior is intentional.” Korobkin also states that the economic analysis warns adjudicators that they must take care to properly communicate laws. Failing to do so causes people to unknowingly disobey the law or to be overly cautious, both of which lead to greater social costs.

Ideally, bright line rules are implemented with ease, given that they are communicated clearly, applied correctly, and yield the
desired results. However, that is not always the case. At times the flaws of rules can “have the perverse result of discouraging desirable behavior or failing to discourage undesirable behavior.” Consider Korobkin’s example of a nuisance law that prohibits noise greater than 100 decibels in residential neighborhoods after 10 pm. A “self-interested” reveler, who thinks similarly to a sanction optimizer, will unnecessarily play music at 99 decibels knowing that they are still in compliance with the law, but making it impossible for a neighbor to sleep. This law is underinclusive because it fails to regulate certain related undesirable behavior. It becomes a greater problem if knowledge of the underinclusiveness encourages rebels to engage in this undesirable behavior.

On the other hand, overinclusive laws negatively affect desirable behavior that is better left unregulated. For example, a law requiring manufacturers to install certain safety devices is overinclusive if certain manufacturers must bear the installation cost when their products are not a safety risk. Thus, it requires “undesirable actions to achieve compliance with the law.” It is important to note that some overinclusiveness is harmless when the cost is minor. For example, under a law prohibiting littering in a park, trash that is biodegradable posing no risk of harm to the environment makes the law overinclusive. Nonetheless, a clean park is a greater benefit than the cost of someone throwing away environmentally harmless trash. Thus, lawmakers must decide whether it is more beneficial to ban all activity in a category even though some of that activity may not be harmful. Where the cost of doing so is low, a bright line rule, or “pure rule” is suitable. However, where the cost is greater, a complex rule that contains exceptions may be more appropriate. Consequently, the more complex a rule becomes, the more it resembles a standard and requires citizens to undergo a costly, rational analysis to comply.

Bundy and Elhauge’s study came to the same conclusion about the dilemma of over and underinclusive rules and deduced that this flaw can encourage some criminal behavior. They examined crimes requiring a higher burden of proof for a conviction. This requirement resulted in some undesired behavior going unpunished because of forgetful or dishonest witnesses that made it difficult to
meet such a burden. Criminals who knew about the imperfection of
such sanctions took advantage of it knowing they were less likely to
be convicted. The same concept was applied to gang violence as
discussed in Ron Levi’s research. Levi explains that the rise of gang
control over Chicago neighborhoods was a result of the
government’s lack of ability to disperse gang members when they
gathered in neighborhoods to intimidate citizens. This limitation
protected citizens’ rights by not allotting arbitrary authority to police
officers. Consequently, it failed to protect citizens from the power of
gangs. Knowing this, the gang members took advantage of the gap in
the law.

The economic analysis focuses on the individual’s cost
benefit analysis, and indicates that an individual’s predicted behavior
depends on the sanction applied. Similarly, behavioral analysis,
discussed below, does not definitively favor one legal forum over
another. However, behavioral analysis is a more complex analysis that
“yield[s] richer and more nuanced predictions . . . about how citizens
are likely to react to law.”

Behavioral analysis indicates that individuals follow a Rational
Choice Theory (RCT), which states that they “act so as to maximize
their expected utility subject to external constraints, have fixed and
stable preferences that are independent of law, and act in their self-
interest.” Korobkin focuses on three subcategories of RCT. The first,
“bounded rationality,” states that a number of factors unrelated to
the law cause individuals to act in a way that does not maximize their
utility. The second, “preference endogeneity,” attributes rational
choice making to one’s knowledge of the law. The third, “norm
compliance,” attributes the desire to comply with social standards to
the decision to comply with the law.

According to Korobkin, bounded rationality suggests that
cognitive biases cause people to act irrationally, which has an effect
on their compliance with the law. For example, a “self-serving bias”
theory states that “individuals are likely to interpret ambiguous
information in ways that resound to their benefit.” Thus, under a
standards regime, instead of doing a cost-benefit analysis, “self
servers” simply assume their conduct will comply with the law. This
highlights the importance of effectively communicating the law, but
also predicts a greater increase in undesirable behavior under standards than the economic analysis does.

Under the Preference Endogeneity analysis, knowledge of rules increases the extent to which citizens feel “endowed” with a legal entitlement. Studies show that “individuals place a higher value on entitlements they have than on entitlements they do not have, but would like to have.” For example, people will place a higher value on clean air if told they have a right to it than if they are told that a manufacturer has a right to pollute the air. Consequently, in private lawmaking, applying this analysis to a pure rule would hinder bargaining between parties because individuals place the value of their rights too high to be negotiable. However, with a standard requiring “reasonable behavior,” it is not clear who has the right to what level of behavior, which encourages negotiation.

Another conclusion drawn from several studies states that rules based on community norms require less work on the part of law abiding citizens because they naturally seek to adhere to what is socially accepted by the community. A study by Kirk Williams, Co-Director of the Robert Presley Center for Crime and Justice Studies, and author Richard Hawkins described these community norms as “extra-legal sanctions,” which, if not followed, result in “loss of interpersonal or community respect and social disapproval.” Korobkin called this concept “norm compliance theory,” which suggests that individuals will sometimes put the customs of society above their own personal desires. This theory centers on the assumption that individuals’ behavior is driven by two major components: “(1) the direct utility that they expect to enjoy from competing behavioral choices and (2) the indirect utility that they expect to enjoy from conforming to community norms.” At times, the benefits of complying with community norms will outweigh the benefits of advancing personal goals. Thus, those with “norm compliance” ideology will have an added incentive to obey the law if it is rooted in community norms. Regarding rules and standards, bright line rules are more likely to encourage desirable behavior because it is clear what behavior is being valued by the community. On the other hand, standards requiring “reasonable” behavior are not as clear on what type of behavior the community values.
While most of these approaches have been theoretical, social scientists have provided experimental and meta-analytic support for the relationship between risk appraisal and risk behavior. The available research generally supports the assumption that as a person’s “risk perception” rises, his willingness to engage in risky behavior decreases. Risk perception or “risk appraisal” is a person’s belief about his vulnerability to a negative outcome. In one study, researchers examined risk perception in the context of sensation seeking. The study determined that high sensation seekers generally do not view their environment as threatening and leading to negative consequences. Thus, certain individuals might be predisposed to engage in risky actions because they do not appraise situations as threatening, risky, or dangerous in the same way as others do.

In another study, researchers focused in part on the relationship between risk appraisal and criminal behavior. There, the researchers hypothesized that risk appraisal would be negatively related to risky criminal behavior. To test the hypothesis, the researchers examined the relationship between risk appraisal and risky behavior in a variety of situations, such as the crime risk associated with a particular behavior. The results indicated that “[h]igh personal risk appraisal was associated with low levels of risky behavior in the area[]of crime.” The researchers found that the more risky an activity was judged to be, the less likely a person was to engage in the activity, particularly if the negative outcome is clearly defined (such as with criminal penalties).

Other studies indicate the relationship between knowledge and risky behavior might vary amongst individuals. For example, researchers hypothesized, in another study, that “[r]eward bias—the tendency to rate a risky activity as more of a ‘good idea’—increased with age across adolescence before declining in early adulthood.” In their study, the researchers found that this “reward bias was higher in adolescence than in either adulthood or preadolescence,” and that “the relation between reward bias and law-breaking behavior was significantly stronger in middle adolescence than for younger and older age ranges.”

These individual studies fit within the overarching narrative of research in this area. For example, researchers conducted a meta-
analysis, a quantitative study using individual studies of how heightening risk appraisal affects individuals’ subsequent behavior in finance, crime, and health as data points. They found that as risk perception increased, there was a reliable impact on behavioral outcomes across the scientific studies. The meta-analysis concluded that risk appraisal plays a causal role in changing behavior; more knowledge of risk decreases the likelihood an individual will perform an action.

Study

Beliefs have been shown to play a significant role in the hazing behavior of BGLO members. Accordingly, while low agreeableness, high extraversion and impulsivity may lead to greater hazing among BGLO members, these variables are likely to be less significant predictors than sanction awareness. This is because awareness of the hazing’s implications are likely to influence BGLO members’ beliefs about hazing’s overall utility as a mechanism for screening potential members and inculcating them with organizational values.

A. Methods

1. Sample

The sample was comprised of 1,357 individuals. The majority were female (62%) and African-American (90.9%; followed by Caribbean, 2.8%; African, 1.8%; Caucasian, 1.1%; and “other,” 3.4%), and the greatest percentage were initiated in chapters in the southeast (47.3%; Midwest, 21.0%; Northeast and Washington D.C., 19.3%; Southwest, 5.0%; West, 4.2%; and International, 0.8%). The mean age was 40.04 (standard deviation = 12.87).

2. Measures

Hazing. A total of twenty-seven different forms of hazing were examined for this analysis. Participants reported whether any of these
twenty-seven acts were required of pledges. Some forms of hazing were relatively mild (e.g., performing calisthenics) while others were more severe (e.g., being paddled). The mean number of acts reported was 14.16 (standard deviation = 8.26).

Big Five Inventory (BFI). The BFI is a forty-four-item measure of general personality designed to assess the Big Five personality traits. Neuroticism assesses the degree of emotional stability and adjustment. The eight-item scale was reliable (α = 0.81), and had a mean of 17.61 (standard deviation = 5.59). Extraversion gauges positive emotional adjustment and sociability. The eight-item scale was reliable (α = 0.83), and had a mean of 28.74 (standard deviation = 5.72). Openness refers to an interest in culture and new experiences. The 10-item scale was reliable (α = 0.75), and had a mean of 38.88 (standard deviation = 5.28). Agreeableness assesses how one approaches interpersonal relationships and interactions. The nine-item scale was reliable (α = 0.75), and had a mean of 37.00 (standard deviation = 4.68). Conscientiousness refers to the extent to which an individual plans, is organized, and can inhibit impulses. The nine-item scale was reliable (α = 0.82), and had a mean of 37.76 (standard deviation = 5.00).

Impulsivity. To measure this, the Impulse Control subscale from the Weinberger Adjustment Inventory was used. More precisely, it was reverse coded so that higher scores are indicative of impulse dyscontrol, or higher levels of impulsivity. This was performed by standardizing the variable, and multiplying that by 1.00. Thus, the mean of this standardized variable was 0.00 with a standard deviation of 1.00. The scale was reliable (α = .72).

Knowledge of Rules and Laws. Participants were asked to indicate the extent of their knowledge about university rules prohibiting hazing, as well as state laws proscribing such behavior. Choices ranged from 1 (I had no knowledge or awareness of rules/state laws prohibiting hazing) to 4 (I had a lot of knowledge or awareness of rules/state laws prohibiting hazing). These two variables were strongly correlated (r = 0.70), and were combined to form a single measure. The mean was 5.83 (standard deviation = 2.00; range 2-8), suggesting some degree of awareness that there are rules and law that proscribe hazing.
Demographics. Two demographic variables—sex and age—were used in the analysis as statistical controls.

3. Procedure

In order to maximize the number of participants, emails were sent to a variety of listservs. The email list was compiled by one of the authors (beginning in 2003). Organizational directories, Yahoo! Groups, and chapter, district, provincial, and regional websites for Alpha Phi Alpha, Alpha Kappa Alpha, Kappa Alpha Psi, Omega Psi Phi, Delta Sigma Theta, Phi Beta Sigma, Sigma Gamma Rho, and Iota Phi Theta were used to create the email lists. This resulted in a sampling frame of approximately 30,000. The email provided basic information about the study, which indicated that researchers were seeking to learn about the experiences and opinions of historically black colleges and universities. Potential participants were provided with a hyperlink that directed them to the survey.

The survey was created using Qualtrics. Participants were given detailed information about the study and were required to consent before given access to the survey. Participants were allowed to withdraw from the study at any time and without penalty. All responses were anonymous; no names or identifiable information were collected (including IP addresses).

B. Results

The analyses were conducted in several stages. The first stage included only the BFI domains and demographic controls. The model was significant ($F(7, 1125) = 29.96, p < 0.001$; Adjusted $R^2 = 0.153$). The only trait to emerge as significant was Extraversion ($b = 0.11, se_b = 0.04; p = 0.01$), which demonstrated a modest effect size ($\beta = 0.08$). Those who were more extraverted were more likely to engage in hazing. Agreeableness was close to being significant ($b = -0.11; se_b = 0.06; p = 0.06$), but it too was modest in effect size ($\beta = -0.06$). In addition, older participants were less likely to report hazing was required ($b = -0.12; se_b = 0.02; p < 0.001$), while males indicated
more hazing (b = 5.83; seb = 0.48; p < 0.001). Being older and male exerted moderate effect sizes (βs of -0.19 and 0.35, respectively).
The next set of analyses included impulsivity and the demographics. The model was significant (F (3, 1115) = 67.37; p < 0.001; Adjusted R2 = 0.152). Impulsivity exerted a significant, but modest effect (b = 0.52; seb = 0.47; p = 0.03; β = 0.06). Higher scores on impulsivity were related to more hazing activities. Age and sex continued to exert significant (and similar) effects in this model.
The next model included knowledge of rules and the laws. The model was significant (F (3, 1121) = 71.77; p < 0.001; Adjusted R2 = 0.159). Knowledge of rules and laws was significant (b = -0.52; seb = 0.13; p < 0.001), and demonstrated a modest effect size (β = -0.13). Greater knowledge of rules and laws against hazing led to less hazing behavior. Age and sex continued to exert significant (and similar) effects in this model.
The final set of analyses included all of the predictors, and was assessed in a stepwise regression model. This model locates the strongest correlate, and then the second strongest correlate, etc., until there are no more significant correlates that contribute to the model. This strategy allows for an examination of which variables are the most statistically important. All model fit indices are significant when using this approach, and therefore will not be reported other than the range in adjusted R2. The strongest correlate of hazing was being male (β = 0.33). The second model added age (β = -0.20); the third added knowledge of rules and law (β = -0.13); the fourth added impulsivity (β = 0.07); the fifth added Extraversion (β = 0.06); the sixth added Agreeableness (β = -0.06). In the sixth model, once Agreeableness was added, the effect of impulsivity was no longer significant. The amount of variance accounted for (adjusted R2) ranged from 0.11 to 0.17 across the models.

Conclusion

Black Greek-letter organizations are old and storied American institutions. Their history of hazing is not a new one. What is new, however, is the tension these organizations and their members face with regard to hazing vis-à-vis the legal system. This is particularly the
case where members are adjudged criminally responsible for hazing. Even where hazing results in civil liability for members, chapters, universities, and BGLOs, at the heart of the conduct is often criminal behavior.

Criminologists have long-investigated the antecedents of antisocial and criminal behavior. As highlighted in this chapter, personality, impulsivity, and awareness of sanctions are three variables that scholars have found to be predictive of antisocial and criminal behavior. Herein, we sought to determine the extent to which such variables are predictive of hazing within BGLOs. We found that aside from maleness and youth, low Agreeableness and high Extraversion were predictors of hazing, but were weakly correlated with our outcome measure.

Lack of knowledge of rules and laws and awareness of sanctions was a reasonably good predictor of BGLO hazing. This finding is consistent with a number of theories and empirical scholarship. Heightened risk appraisal is a deterrent to risky behavior in many domains, including criminal behavior. Consistent with Fritsvold’s concept of “With the Law Consciousness” as well as Bundy and Elhauge’s “sanction optimizers,” such BGLO members would haze if they did not expect legal sanctions. Consistent with Fritsvold’s concept of “Against the Law Consciousness,” such actors may simply be rebelling against the law because they do not believe that it adequately recognizes the needs that BGLOs have of their members—e.g., an abiding commitment born of sacrifice via hazing.

Under the rule versus standard analysis, arguably, many BGLO members are ignorant of the legal rules that provide a ceiling on the type of behavior that can be engaged in to bring new members into BGLOs. Even where there are legal rules—e.g., anti-hazing statutes—sometimes those rules are easily converted to mere standards, because the language of the rules is not clear. This is even the case with respect to jurors’ understanding of those statutory provisions in litigation.

Then there is the economic analysis approach versus behavioral analysis approach. Under the economic analysis approach, a BGLO member must weigh the cost and benefit of hazing. Arguably, to many BGLO members, there is a significant benefit to
hazing—e.g., a direct benefit to the organization in terms of new members’ organizational commitment and commitment to other members. There is some empirical support for this belief. Where BGLO members have a paucity of knowledge about the costs associated with hazing—direct costs to them in terms of criminal sanctions, for example—it seems more probable that they will haze. Under the behavioral analysis approach, factors outside the law, for example, influence judgment and decision-making. So, a BGLO member may pay more attention to organizational norms and sanctions than legal sanctions, whether they are fully-aware of the legal sanctions or not. Here, BGLO members who believe that hazing is embraced by members of their own organization may haze, especially where organizational sanctions are not likely to be that robust.

As a practical matter, what are BGLOs to do to stem the tide of hazing and concomitant bad press, civil litigation, and rising insurance rates? This chapter suggests that the major misstep that they have made, and are likely still making, is that they fail to robustly educate their members about the sanctions that may befall members who haze. The authors dare to say that most BGLO members have little knowledge of the numerous BGLO hazing deaths, injuries, incidents, and resulting litigation, both criminal and civil. And BGLOs have done little to augment and enhance their members’ knowledge around these issues. Neither a passing mention about recent hazing incidents at one of these organizations conventions nor a brief workshop will suffice. Black Greek-letter organizations must walk their members and aspiring members through the decades-long tragedy that is hazing within their ranks. Only then can they make meaningful inroads toward stemming the tide of hazing within their ranks.
CHAPTER 10

Making Sense of the Violence:
The Intersection of Race and Gender

Over the past several decades, scholars have investigated hazing within collegiate culture, especially vis-à-vis fraternities and sororities. Implicit in much of this research has been the notion that all college fraternities and sororities are the same or at least similar. Over the past decade, a handful of scholars have focused their attention on black fraternities and sororities to examine whether the hazing experiences of black fraternal members is distinct or similar to their white counterparts. Laws are influenced by race and gender. Specifically, hazing, as a legal issue, manifests itself quite differently within BGLOs than within their white counterpart organizations; this is especially so within black fraternities, given prevailing and yet constrained notions of black masculinity in the United States. As I have shown in the first half of the book, hazing in black fraternities is likely to be more violent, and such violence manifests itself in how some black fraternity members describe their chapter affiliations and view the historical linkages between race, suffrage, slavery, and rites of passage rituals. Below, I provide empirical evidence that all types of Greek organizations haze. However, there are important differences at the intersection of race and gender that categorize the types of hazing that individuals encounter.

The Intersection of Race, Gender, and Hazing

Many students who participate in hazing activities, either as the one whom being hazed or the one doing the hazing, possess a narrow definition and view of what they consider “hazing” activity. For example, one study found that around 36% of Greek students admitted to participating in hazing activities, but only around 7% of the students admitted to hazing pledges and just 12% of the students admitted to suffering from hazing.
A. Studies of White Fraternities and Sororities

Hazing exists in white fraternities and sororities for a variety of reasons. The most common rationales are that it increases group cohesiveness, fulfills the psychological and sociological needs of rites of passage for the students, and fosters a group solidarity that makes the organization more likely to attract group membership. Many within white fraternities and sororities see these activities as a way of teaching and preserving the traditions of the organization rather than as abuse. In this light, hazing is perpetuated when the pledge becomes an official, active member of the organization and begins to haze the next incoming class of pledges.

White fraternities are careful not to define activities as hazing, but instead choose to use words like “discipline,” “tradition,” “loyalty” and “commitment” to refer to such activities. Additionally, pledges enter fraternities and usually stay throughout the pledge and initiation process. Some research indicates that pledges wish to belong to a fraternity and view hazing as what will it take to make them into “fraternity men.” Moreover, research indicates that many hazing acts are not done to the pledges by others, but are taken on or performed by the pledges themselves. Thus, the belief that hazing occurs due to a specific fraternity brother’s personality or lack of intellect, is not wholly accurate.

Hazing scholar Stephen Sweet argues that “hazing is [a] result of group-interaction processes that are linked with students’ need for belonging, their isolation from other social relations on campus, and subcultural definitions that legitimate hazing events as a necessary component of fraternity initiation rites.” Sweet employs a “Symbolic Interactionist Theory” to help explain why young people, in particular young men, willingly enter into these periods of hazing and how the fraternities reinforce their sense of self. Pursuant to the theory, Sweet posits that the self is divided into the material self and the social self. The material self is composed of tangible items like the clothes that one wears, the car one drives, or the music to which one listens. White fraternities and sororities give pledges new “identity kits”—that is, the fraternity gives the pledge fraternity paraphernalia
like a pledge pin or t-shirt that helps to erect a new type of identity for the pledge.

Social interactions and relationships with other people create the social self. According to Sweet, white fraternities are “greedy organizations” that seek to limit the social relationships that pledges have to just the fraternity. Fraternities try to break all ties pledges might have with other social organizations so the pledge is more isolated. This increases the “exit cost” for a pledge to leave a fraternity during pledging because his only existing social network is the fraternity.

Sweet also employs the “Looking-Glass” Theory (first introduced by sociologist Charles Cooley in 1922) to understand the social-psychology of the pledge period that white fraternities use to their advantage. The Looking Glass theory proposes that a pledge perceives his self-concept through social reflections—through the feedback the fraternity gives him. After the pledge accepts his bid into the fraternity, the brothers are extremely nice to him and compliment him, causing his ego to boost. Once his other social connections are severed, however, the older brothers begin to give the pledge tasks and are mean to him, giving him the sense that he is lesser than the active members. Finally, the pledge is broken down and rebuilt through the initiation process.

Two other methods used in examining hazing are the “Severity-Attraction Hypothesis” and the “Severity-Affiliation-Attraction Hypothesis.” The former posits that the more effort a person puts toward reaching a goal, in this case initiation, the more the individual will rationalize the goal of being worthy of all the effort. In other words, the more hazing a pledge endures during pledging makes him more likely to rationalize initiation into the fraternity as worthy of all of the hazing. The second theory states that hazing brings together the pledges and forms a stronger bond, and that this bond increases group attractiveness.

Due to the secrecy of most fraternity and sorority members, acts of hazing are often hard to identify by universities and Greek national organizations. However, hazing in white fraternities can be divided broadly into two types: physical and psychological. For example, physical hazing includes: paddling, forced runs or
calisthenics, forced eating, forced viewing of pornography, blindfolding, sleep deprivation, forced alcohol consumption, forced vomiting, administration of electric shocks, and forced destruction of property. More specifically, pledges have been documented as having been pelted with snowballs while naked, stuffed in trunks or coffins for extended periods of time, forced to dig through trash with just their heads, forced to wear a sanitary pad, and chained to posts or fountains naked. Additionally, some examples of psychological hazing includes: sleep deprivation, constantly being yelled at or subjected to name-calling, stripping, intrusive questioning about sexuality and sex acts, and blind-folding. Recently, the use of alcohol in hazing activities has increased, making for an even more dangerous environment. Pledges and fraternities use the consumption of alcohol as a test where whoever can drink the most is praised, while the person who can drink the least is insulted and criticized.

Hazing activities in white fraternities may be observed in terms of masculinity. For example, pledges often attempt to drink the most to impress the other men and to be considered the most masculine. Overt displays of masculinity within hazing can also be seen through the destructive acts committed by fraternity members and pledges. Such acts are usually targeted toward other rival fraternities at the same school, such as vandalizing a specific fraternity’s bench in a Greek area. These destructive acts have gone so far as to require immediate intervention from collegiate administrators where fraternities refused to back down in order to display their masculinity over even the administration.

Moreover, many hazing activities are centered on humiliating the pledge in front of women through a sexual escapade while simultaneously exerting masculine power over them. The famous “panty raids” of the 1950s demonstrate this idea; pledges were required to break into the female dorms and steal women’s undergarments. Another example is when pledges at Dartmouth in the 1950s were forced to stand outside a female dorm in just their underwear and recite Alfred Kinsey’s Sexual Behavior in the Human Male.

However, when the notion of sexuality became more liberalized in the mid-20th Century, so did the hazing practices of
white fraternities. Previously, hazing acts could have had “potentially homoerotic connotations.” For instance, hazing rituals involved naked pledges and focused on male genitalia. Hazing activities changed to encourage a more aggressive heterosexual nature since the dichotomy between homosexuality and heterosexuality formed and strengthened during this period. However, white fraternities still used homoerotic hazing rituals to emasculate the pledges and to humiliate them even further. This in turn made the active members in the fraternity appear more masculine and heterosexual. Hazing then emerged as a test of manhood and discipline to the freshmen, whom the fraternity thought needed guidance into manhood.

An interesting link between masculinity and hazing exists between pledges, fraternity brothers, and women. Perhaps due to the growing negative stigma of homosexuality combined with the greater number of women on college campuses, pledges and fraternity brothers feel the need to brag and boast about their sexual exploitations. Sex accordingly became a new marker used to display masculinity in the group setting. A consequence of this new found sexuality was the increase in the number of reported gang rapes committed by fraternity members. These acts reflect the way many white fraternities define women and their relationship as the more powerful and dominant.

Much less information is known about hazing within white sororities as compared to white fraternities. Nevertheless, similar to fraternities, hazing activity within sororities falls within the same broad physical and psychological categories. These activities usually include high-risk drinking or forced participation in humiliating acts—activities that degrade women in front of men.

Hazing persists in today’s white Greek organizations primarily because people continue to enter the hazing cycle. Young men and women enter into these agreements with fraternities and sororities where they agree to undergo a pledge period, where many know hazing occurs, with the promise of receiving formal entry into the Greek organization at the end of the period. Then, once an active member of that Greek organization, those young men and women, who were once hazed, begin to haze a new class of pledges. It is extremely important to note that pledges enter into the pledge period
on their own accord and perform these acts themselves. However, there is a disconnect between what most college-aged men and women consider hazing and what actually constitutes hazing.

White fraternities and sororities purposefully use hazing during the pledge process in order to break down the pledges, remove their existing identities and social connections, and rebuild them in the image of the Greek organization with a new social identity. This new identity that the pledge receives in the shape of official group membership is the ultimate goal for the pledge. During this identity transformation, pledges that experience hazing undergo harsh and extreme conditions that usually include the aforementioned.

B. Black Sororities

While there may be classic challenges faced by historically white fraternities and sororities, the question remains as to whether hazing manifests itself differently within BGLOs. Hazing in black sororities is any conduct that falls outside of the authorized Membership Intake Process (MIP). Such unauthorized conduct includes the use of emotional, mental, and physical discomfort as a means of teaching the prospective sorority members about the sorority history and background information about current members. Although hazing can cause severe injuries, sorority members may continue to participate in hazing before and after their organizations’ official initiation processes to preserve the identity of their respective organizations and to maintain their own personal reputations.

Hazing in black sororities is characterized by a secretive “underground” culture, where women in line for a black Greek lettered sorority undergo an unofficial process to gain membership into the sorority. This hazing initiation is in addition to the official process approved by the national organization. Some sorority chapters have decided to continue the traditional—old school—pledge process, now synonymous with hazing, irrespective of the National Pan-Hellenic Council’s (NPHC) ban on pledging in black sororities.
Arguably, the ban on pledging created the secretive, underground nature of hazing within black sororities. Hazing incidents have increased in frequency and severity in black sororities since the ban has taken effect. Pledging is a part of the historically black sorority experience and hazing is seen as a way to continue that tradition. Interestingly, although hazing is a tradition within black sororities generally, actual hazing activities are arguably more chapter-related than sorority-related. Hazing is “a means to an end” in gaining credibility and admission in sorority chapters. Women who choose to go through the MIP—the new, non-hazing process—often retain a lower status among their own sorority members, and sometimes among other BGLO members, as opposed to those who choose to be hazed.

Ironically, all prospects are not presented with the choice to be hazed or not to be hazed in some chapters. Traditionally, the default rule was that everyone on line—a participant in the old school hazing process—pledged together as a unit, and hazing activities, such as carrying specific objects (like an egg or an ivy), occurred openly where other people who were not BGLO members could see. Now, it is more common that certain women are selected by sorority members to be pre-hazed secretly apart from their other line sisters. This is due to the large number of women that now are initiated through the official MIP. The current members make their pledgee selections based on potential pledges who are least likely to be trouble—i.e., allow themselves to be hazed— and those who they like most.

In her work, Eugena Lee-Olukoya contends that hazing in black sororities is less common and less severe than hazing in black fraternities; further, hazing in black sororities is more emotional and psychological than it is physical. For example, hazing within black sororities involves intimidation of the prospective members by sorority members, which ranges from activities that cause emotional discomfort to those that cause severe physical injuries. After reflecting on her experience being hazed, one woman in Lee-Olukoya’s study characterized hazing as involving a lot of “verbal type abuse” and suggested that sorority members were trying to make the pledges suffer. Another individual recalled members of the
sorority asking her why she was pledging, and talked openly about how ugly she was. She felt degraded and depressed while she was pledging. Additionally, hazing activities allegedly gave one participant a mental breakdown that caused her to leave school.

Further, intense question and answer periods between the sorority members and the girls on line are a staple characteristic of hazing within black sororities. During these question and answer sessions, the sorority members put pressure on the girls to know sorority and chapter history among other information. It is typical for sorority members to scold the girls on line if they do not answer questions correctly, and the use of profanity is quite common. In addition to sorority and chapter history, girls on line may be responsible for learning social justice crusades and civil rights issues that the sorority participated in, as well as background information about those sorority members who pledged them—i.e., big sisters.

Although some information and tasks are meaningful, pledges are also given arbitrary responsibilities and random assignments unrelated to the sorority itself. Some of these include cooking, washing cars, and running errands for current members. In some chapters, pledges are paired with a sorority member as that pledge’s “special” big sister. One sorority member recalled always having to bring something specific (e.g., a treat or a gift) to pledge sessions for their special big sister. Potential members may be required to greet sorority members whenever they enter a room, as this is a way for sorority members to teach incoming members the expected method of demonstrating respect. Further psychological abuse is evident in one study, where pledges were told to kick down a wall, or to act as if they were having sex with a wall. Pledges were expected to be creative, and not literal. For example, in kicking down the wall they might start by kicking the uppermost part of the wall, by standing on a chair, and work their way down, kicking the wall. Another survey participant revealed that another form of hazing might involve a sorority member who would “kidnap” one of the pledges, and her line sisters would be responsible for finding and bringing her back to the starting location.

Most of the women who completed these tasks characterized the activities as “mind game[s],” the goal of which was to encourage
the girls on line to outsmart the current members. Additional examples of hazing involve requiring pledges to compose a song or poem to get out of doing a task. One sorority member recalls having to spontaneously perform a rendition of a television commercial. These assignments that are unrelated to the sorority itself also extend to the pledges having to consume undesirable foods and unusual food mixtures (e.g., whole raw onion, hot peppers, raw eggs, vinegar, hot sauce).

Hazing in black sororities also involves manipulating the appearance of the prospective members so that they conform to a uniform image. Prospective members are required to wear the same, typically all black clothes to the pledge sessions. Until the prospective members become sorority members, they are expected to wear inconspicuous hairstyles, and are not permitted to wear make-up. Girls on line are not supposed to stand out more than any of their line sisters. In one case, sorority sisters forced a pledge to cut her hair because she had natural hair, while the majority of the line had chemically treated hair. These rules are purportedly in place to reinforce unity, prevent jealousy, and promote bonding among the girls on line.

Physical hazing also happens often within black sororities, and can be violent. Pledges are made to do strenuous exercises, some of which sorority members require routinely. For example, one woman told campus police that sorority members forced her to do sit-ups until the skin on her and her line sisters’ buttocks cracked. While being hazed, Alpha Kappa Alpha Sorority members made two women do a rigorous set of calisthenics while wearing heavy jogging clothes, bogged in sandy beach waters. Pledges are slapped in the face by the members who pledged them, or the most recent pledge class to become members. In a hazing incident with Sigma Gamma Rho Sorority, a pledge testified that she was slapped with a wooden spoon. In 2009, a student alleged she was sprayed in the face with vinegar, among other allegations of physical abuse.

Participants are also pinched, pushed, punched, kicked, and stomped by their line sisters and members of the sorority. One participant said she was beat-up when she was on line, and another recalled an experience where members pulled her and her line sisters’
hair. Another had soda poured in her hair, while yet another had her hairpiece pulled from her head and stuffed into her mouth. Another pledge was hit in the head with the sorority’s history book after not being able to recite the sorority history correctly.

Although it is commonly viewed as being a masculine characteristic of hazing in fraternities, paddling also occurs in sororities. For example, in court proceedings, members of Alpha Kappa Alpha testified to participating in wood paddling. During this process, sorority sisters beat the pledges with a duct tape wrapped wooden paddle known as “the enforcer.” Members of Delta Sigma Theta were also suspended for injuries resulting from a paddling session. In 2010, members of Sigma Gamma Rho Sorority faced hazing charges for striking a pledge with a paddle over two hundred times before she went to the hospital. During the same year, another student filed a lawsuit against Sigma Gamma Rho after being paddled and suffering other forms of physical abuse for over a month. Members of Zeta Phi Beta paddled pledges for a month before hazing was reported.

Hazing in black sororities has caused serious emotional, physical, and sometimes fatal injuries. Many hazing incidents are discovered because participants had to seek medical care for the injuries resulting from hazing. For example, participants have had their eyes blackened from being hit in the face, and have suffered permanent scarring and bruising from being paddled. Some women have been knocked unconscious as a result of bleeding and receiving blows to the head. Some women paid the ultimate sacrifice and died while undergoing hazing.

Sorority members commonly justify hazing in the following ways. Hazing ensures that the incoming women will be disciplined by the time they cross over into the sorority because it “correct[s] unwanted behavior.” These physical hazing practices are social mechanisms to keep neophytes “in their places” so that they comply with the process. It supposedly weeds out the “good from the bad.” It is the way the neophyte gains respect.

Due to the increasingly dangerous environment and the lawsuits resulting from hazing incidents in black sororities, colleges and the national organizations have expanded the scope of behavior
that can result in punishment for hazing participants. The stricter risk management policies now define hazing so broadly that it also encompasses activities that occur before the MIP begins and after the MIP ends. Sorority members overall do not agree on a uniform definition of hazing. Whereas the national organizations define all of these behaviors as hazing, the women who participate in them view it as pledging. Sorority members on the chapter level have not accepted the new MIP, and to an extent, sorority members believe “that hazing is necessary to maintain . . . order . . . [in] the organization.”

The negative aspects of hazing, however, must be considered in light of the benefits that hazing confers on members of black sororities. After pledging, many women report a greater sense of self-determination and believing themselves more capable of completing goals. Women report feeling pride and honor about belonging to the sorority. Women also acknowledge feeling that hazing instills a sense of fictive-kinship and communal bonding as sisters in the organization. Therefore, they experience joy and excitement in meeting other members of the same sorority over their lifetimes.

Members of black sororities and women interested in membership in black sororities participate in hazing activities to protect two interests. On the one hand, sorority members are concerned about the betterment of the sorority. Members contend that hazing has organizational utility; it preserves organizational commitment and ensures that the organizations’ mission will be carried out. Members of black sororities think that the amount of time for MIP needs to be expanded, since the MIP does not allow the line sisters to become well acquainted with each other. Also, members are concerned with creating bonds between the old members and the new members within the sorority. Furthermore, sorority members are also concerned about maintaining the exclusivity and integrity of the organization. Sorority women articulated that hazing is “critical to the continuation of the values and mission of their organizations.” These arguments support the theory that hazing in black sororities is done to preserve the organizations’ identification.

On the other hand, participants are also concerned about their individual image and the reputations of those who will belong to
the organization. Members do not want to be disrespected or be given line names that insinuate that they did not have to work or earn admission into the sorority. Women who do not pledge are called derogatory terms like “paper,” “skater,” and “slider.” Sorority members haze the incoming women because they want them to have the reputation that they were “made right.” “[H]azing is a form of discipline . . . to shape those whom [the sorority members] care for or wish to succeed.”

Hazing is a prevalent underground tradition within black sororities just as it is in fraternities. Hazing is emotional, mental, and physical in nature and usually involves intimidation of the women undergoing the process by those administering the process. The purpose of hazing is to shape the individual being hazed into a desired person. It is also done to ensure that the sorority’s identity is preserved, as well as to maintain the reputation of the women undergoing the process. Ultimately, although there are incidents of injuries involved in hazing, women experience positive emotions after the hazing process is over.

C. Black Fraternities

While Black Greek Letter Fraternities (BGLFs) once served as a safe haven for its members, hazing incidents seem to be on the rise, and researchers believe that physical hazing among BGLFs is much worse than among white Greek fraternities. In 1990, the nine members of the NPHC suggested a ban on pledging (in addition to hazing) largely due to hazing deaths associated with black fraternities. However, it is arguable that this act actually served as a driving force for the increase in severity and frequency of hazing. Fraternity members who desired to continue the pledge process were forced to carry out pledge activities “underground,” without the supervision of organization leaders and school officials.

In a study by Jerry Briggs, men who became members of BGLFs after the 1990 NPHC ban reported “much more . . . dangerous and . . . life-threatening incidents” than those who became members prior to the ban. While members may believe that participating in these activities links them to members who joined the
organization prior to 1990, the original purpose of the pledge process seems to have been forgotten; there is no continuity in the processes for there to be optimal linkage.

Most fraternity members point to upholding the traditions of BGLFs as a reason for engaging in hazing activities—often noting that they engaging in hazing as retaliation for the hazing that they endured. They also argue that hazing allows them to separate those who are interested in furthering the organization’s goals from those who are simply interested in joining the organization for popularity. They argue that it protects the core of the organization by separating masculine men from feminine men. And lastly, they argue that it helps to identify those men who will stay the course and endure the pain to become a member of their organization.

Although pledging and hazing are used interchangeably, research has shown that BGLF members attribute different meanings to them. “Pledging is a process in which a person actively seeks membership in a Greek-lettered organization.” While hazing can be a part of this process, it is seen as an activity where a higher-ranking member orders a lower-ranking member or a prospective member, to perform a potentially harmful act that has no connection to the goals of the organization.

According to some research, BGLF members believe that pledging serves several purposes. First, the process plays an important role in establishing and communicating the values of the organization to its prospective and new members. As Dwayne J. Scott noted, the processes “test how much a prospective member [is] willing to endure in order to gain membership in the organization.” Another driving force behind hazing activities is a desire for BGLFs to provide a rite of passage through which its prospective and new members are broken down and rebuilt. Hazing activities affirm the manhood of individual members. It involves a symbolic remaking of self for the prospective member, and it is during this process that hazing activities are more likely to occur. This process is believed to be required in order “to make the new member humble himself to the goals of the organization,” and provide a life long bond between new members. Similar to the process that military recruits experience
during basic training, this process is believed to make the new members more confident and turn them into stronger men.

T. Elon Dancy identifies four dimensions of masculinity that Black men in BGLFs are pressured to adapt: “(1) ‘cool’ (postures or gestures of calmness and detachedness particularly in anxious moments), (2) ‘hard’ (hypermasculine and aloof), (3) ‘down’ (defending issues, realities, and concerns across African American communities), and (4) ‘real’ (culturally authentic to a social construction that is ‘black’ and ‘man’).” Accordingly, hazing also serves as a way for BGLFs to identify any potential members who they perceive too effeminate to be a member of their organization. For example, homosexuality is one of the most common stigmas among BGLFs.

According to Alan DeSantis and Marcus Coleman, BGLF members believe that because of the “intimate physical relationship” experienced during the pledge process, the presence of an openly gay member would interfere with the bonding of prospective members. A prospective BGLF member who is openly gay “stands almost no chance” of becoming a member of an undergraduate chapter. Although some BGLFs investigate to see if a prospective member is homosexual, at least one BGLF member in DeSantis and Coleman’s research admits that it is difficult to identify which prospective members may be homosexual or bisexual. Still, prospective members who are openly, or suspected of being, homosexual may be physically beaten until they quit. This is due to the fear of BGLF members, that the inclusion of openly gay members will result in ridicule of the organization, or an inference that heterosexual members or the organization are homosexual.

Scholars have found that, although unsanctioned, many potential members accept hazing as normative. As such, it is not surprising that it persists. A 2000 study conducted by Walter Kimbrough discovered that although nearly all participants had joined BGLFs after pledging was banned, more than half reported having gone through the pledge process. As one participant in Dwayne Scott’s 2011 research noted, no one can be forced into being hazed; a prospective member can walk away from the pledging process if he so desires. However, Scott found that members who
participated in hazing never perceived hazing activities as a personal attack.

In fact, members of BGLFs have reported several benefits from joining a BGLF, and undergoing the hazing process. Jenkins notes that BGLFs help their members by providing social networks that support achievement in college, and increasing their likelihood of obtaining a college degree. In his 2006 study, Scott identified many benefits that those who were pledged attributed to hazing. According to Scott’s research:

(1) hazing allowed participants to prove their willingness and love for the fraternity, which translated into greater levels of respect and closeness among all involved in the process; (2) hazing experiences helped with the development into a stronger and more self-disciplined individual who possessed a positive outlook on life during times of difficulty; (3) through experiencing various trials and tribulations during membership intake, participants developed greater appreciation, pride, and respect for their organization and were more encouraged to stand up for what they believed in regarding future endeavors; (4) by completing the membership intake process, participants felt more self-confident and better prepared for their various roles within the community and organization; (5) the membership intake process aided in becoming focused and involved in group oriented activities.

In Scott’s research, participants reported that “the only way to obtain respect was through the pledge process[,]” and that earning respect from BGLF members was a “top priority.” According to Tresa Mitchell Saxton, “[r]espect is a core value in the description of Black male masculinity[.]” As a result, many BGLF members engage in the pledge process in order to earn respect. “Respectability and reputation are two practices of masculinity that are used to shape identities. These practices are especially important for black men whose pathway to dominant and normative paradigms of masculinity is often stymied by various manifestations of racism.” Hazing “is
meant to secure respect, credibility, and status for the individuals who participate in these activities[,]” and through this process, “fraternity members seek [to prove themselves and] bolster their individual status and reputations” by enduring the hazing process.

Members of BGLFs are afforded varying levels of respect based on whether or not they participated in hazing activities as part of their MIP. Members who become part of a BGLF through an MIP that does not include hazing activities are referred to as “paper” members. Some research has shown that “paper” members are afforded less respect than those who have undergone the process of hazing. However, ultimately, in his 2006 study, Scott found that most participants reported that “paper” members were not treated any differently than other members, and that “the work of the fraternity and those who did it was more important than whether or not a person was hazed” during membership intake.

With so much emphasis on notions of authentic masculinity within BGLFs, a lingering speculation has been about the extent to which BGLF hazing is more violent than hazing within other types of Greek-letter organizations. To date, scholars have not empirically explored this question.

**Violent Hazing, Race, and Sex: An Empirical Analysis**

In order to determine the extent to which race and sex intersect in the context of Greek life, particularly in the context of hazing, the authors conducted two studies. The first study is archival—a review of court cases and media accounts, while the second study is a nationwide survey of BGLO member hazing experiences.

**A. Archival Study**

**1. Methods and Sample**

In order to get a sense of the differences in the nature of hazing between black and white fraternities and sororities, we analyzed (1) published and unpublished state and federal court cases on Westlaw and (2) media accounts on Ethnic NewsWatch, Newsbank, and
Newspaper Source Plus between 1980 and 2009. Our search terms were “hazing” and each fraternity and sorority in the NPHC, each fraternity in the North-American Interfraternity Conference, except those also in the National Association of Latino Fraternal Organizations, and each sorority in the National PanHellenic Conference. The search yielded 354 cases specifically involving either a Black or white fraternity or sorority. Of these 354 cases, about one-third involved reported acts of violent hazing.

2. Results

The results from this empirical study suggest that overall, violent hazing is more prevalent within BGLOs than it is within predominately white Greek organizations. As Table 1 indicates, the number of violent hazing incidents for Black and white fraternities is relatively similar, 58 and 48 respectively. Black sororities (9) are more likely than White sororities (3) to have violent hazing incidents. These statistics also imply an expected trend—fraternities in general are much more likely to engage in physically violent hazing practices than sororities. When examining the total number of cases in the study, the percentage of physical hazing cases for Black (49%) and white fraternities (41%), on one hand, and Black (8%) and White sororities (3%), on the other hand, are similar.

<table>
<thead>
<tr>
<th></th>
<th>Fraternities</th>
<th>Sororities</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Black</td>
<td>White</td>
</tr>
<tr>
<td>Physical Hazing - V</td>
<td>58</td>
<td>48</td>
</tr>
<tr>
<td>% of Physical Hazing Cases</td>
<td>49%</td>
<td>41%</td>
</tr>
<tr>
<td>% of Total Cases (354)</td>
<td>16%</td>
<td>14%</td>
</tr>
<tr>
<td>% Proportionate to Total Cases (per subgroup)</td>
<td>68%</td>
<td>16%</td>
</tr>
</tbody>
</table>
Racial differences surface when comparing the proportionate number of incidents for each group by race and gender. For White sororities, physically violent hazing makes up only 6% of the total, reported cases for White sororities, which is the lowest of any group. For Black sororities, however, violent hazing makes up over one-third of their total cases, a stark difference from White sororities. Fraternities show a similar racial gap. While physical hazing represents only sixteen percent of the total cases for White fraternities, physical hazing represent 68% of the total number of reported hazing incidents for Black fraternities. Collectively, these results support the narrative that physical hazing is much more prevalent within BGLOs. Nonetheless, the total number of reported cases, generally, for Whites and Blacks is very different; as likely expected, representation via cases is overwhelmingly White. Looking at the totals illustrated in Table 2, white fraternities have more than three times the number of reported cases as Black fraternities, and white sororities represent double that of Black sororities. This is expected considering the overwhelming number of White organizations (n=94) compared to Black organizations (n=9). However, as it relates to mental, alcohol, prank, and sexual hazing, White fraternities (210), compared to Black fraternities (16) are overwhelmingly represented. The gap is also wide for this type of hazing incidents for sororities; 48 for White sororities and 13 for Black sororities.

Table 2. Hazing Incidents by Race and Gender

<table>
<thead>
<tr>
<th></th>
<th>Fraternities</th>
<th>Sororities</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Black</td>
<td>White</td>
</tr>
<tr>
<td>Physical Hazing</td>
<td>58</td>
<td>48</td>
</tr>
<tr>
<td>(Violent)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Physical Hazing</td>
<td>11</td>
<td>42</td>
</tr>
<tr>
<td>(Calisthenics)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mental Hazing</td>
<td>11</td>
<td>52</td>
</tr>
<tr>
<td>Prank Hazing</td>
<td>0</td>
<td>68</td>
</tr>
<tr>
<td>Alcohol Hazing</td>
<td>5</td>
<td>84</td>
</tr>
<tr>
<td>Sexual Hazing</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>85</strong></td>
<td><strong>300</strong></td>
</tr>
</tbody>
</table>
Some sociologists contend it is possible that BGLOs are not more violent in their hazing practices than their White counterparts, but may be policed more on and near college campuses. As a result, similar to the disparities in drug arrests and convictions between blacks and whites, we may see a similar trend in hazing incidents. Based on this current study, however, it appears as though BGLOs do have higher incidence of physically violent hazing. In addition to the reasons suggested here, more studies will have to be conducted in order to illuminate the specific causes for this disparity.

B. Survey

1. Methods

An email list was compiled by one of the authors (beginning in 2003), and included organizational directories, Yahoo Groups, and chapter, district, provincial, and regional websites for the nine, major BGLOs: Alpha Phi Alpha, Alpha Kappa Alpha, Kappa Alpha Psi, Omega Psi Phi, Delta Sigma Theta, Phi Beta Sigma, Sigma Gamma Rho, and Iota Phi Theta. This resulted in a sampling frame of approximately 30,000. The email provided basic information about the study, which indicated that researchers were seeking to learn about the experiences and opinions of Historically Black Colleges and Universities. Potential participants were provided with a hyperlink that directed them to the survey.

The survey was created using Qualtrics. Participants were given detailed information about the study and were required to consent before given access to the survey. Participants were allowed to withdraw from the study at any time and without penalty. All responses were anonymous; no names or identifiable information were collected (including IP addresses).

2. Sample

The sample was comprised of 1357 individuals, of which 62% were female, and the majority were African-American (90.9%). The average age of participants was 40.04 (standard deviation=12.87),
with a range of 18–83. The typical participant was initiated into her/his sorority/fraternity in 1996, although the years ranged from 1950–2010. In terms of type of university attended, most (59.2%) were from predominantly White institutions, and 38.3% were from historically Black colleges or universities. Geographically, participants attended colleges in quite diverse regions, including: the southeast (48.2%), midwest (20.7%), northeast and Washington, D.C. (19.1%), southwest (7.4%), west (4.0%), and international (0.4%).

3. Measures

Hazing. A total of 27 different forms of hazing were examined for this analysis. Participants reported whether any of these 27 acts were required of pledges. The mean number of acts reported was 14.16 (standard deviation=8.26). We also examined a variety of different forms of hazing. One set of items dealt with general hazing, and focused on relatively milder forms of hazing (e.g., pledges were required to dress alike, learn information about sisters/brothers, referred to by line numbers, etc.). This 10-item scale was reliable (α=.90). The second variant focused on physical punishment (e.g., pledges were paddled), and this 5-item scale was reliable (α=.90). The third was a 6-item scale (α=.84), and dealt with controlling pledges (e.g., required to be celibate, maintain a restrictive diet). Another scale focused on socialization (e.g., requiring pledges to learn rules of etiquette, Black history, etc.). This 4-item scale was modestly reliable (α=.67). The last specific type of hazing examined extreme forms of hazing (e.g., left in unfamiliar locations, required to consume alcohol or drugs). This 4-item scale was also modestly reliable (α=.65).

Demographics. Several demographic variables were used in the current analysis, including, sex, age, year initiated, region of country, and type of college attended. (Descriptive statistics for these variables are noted above, under Sample.)

4. Results

The first set of analyses focused on whether there were differences between women and men in terms of different hazing behaviors (see
Table 3). The overall measure (that included all 27 acts) demonstrated a significant effect ($t=11.27$, $p<.001$). The mean number of acts reported by men (23.68) was significantly higher than that of women (17.53). In terms of effect size, this mean-level difference was strong ($d=.67$). This trend held for each specific manifestation of hazing assessed, including: general hazing ($t=8.98$, $p<.001$, $d=.51$), physical hazing ($t=16.27$, $p<.001$, $d=.99$), socialization hazing ($t=4.18$, $p<.001$, $d=.26$), control hazing ($t=7.22$, $p<.001$, $d=.44$), and extreme hazing ($t=7.68$, $p<.001$, $d=.49$).

Table 3: Mean Levels of Hazing for Females and Males.

<table>
<thead>
<tr>
<th>Hazing type</th>
<th>Females</th>
<th>Males</th>
<th>t-statistic</th>
<th>Effect size (Cohen’s $d$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>17.53</td>
<td>23.68</td>
<td>11.27*</td>
<td>.67</td>
</tr>
<tr>
<td>General</td>
<td>7.07</td>
<td>8.54</td>
<td>8.98*</td>
<td>.51</td>
</tr>
<tr>
<td>Physical</td>
<td>1.33</td>
<td>3.17</td>
<td>16.27*</td>
<td>.99</td>
</tr>
<tr>
<td>Socialization</td>
<td>1.99</td>
<td>2.34</td>
<td>4.18*</td>
<td>.26</td>
</tr>
<tr>
<td>Control</td>
<td>2.23</td>
<td>3.15</td>
<td>7.22*</td>
<td>.44</td>
</tr>
<tr>
<td>Extreme</td>
<td>.31</td>
<td>.73</td>
<td>7.68*</td>
<td>.49</td>
</tr>
</tbody>
</table>

*p<.05

We next examined whether there were any differences across other factors, independently for women and men. Among women, there were some effects of age, although nearly all of them were modest (see Table 4). The older the female participant was, the less likely they were to have engaged in hazing overall ($r=-.16$, $p<.001$), general hazing ($r=-.10$, $p<.01$), physical hazing ($r=-.21$, $p<.001$), socialization hazing ($r=-.12$, $p<.001$), control hazing ($r=-.18$, $p<.001$), and extreme hazing ($r=-.13$, $p<.001$). Only half of the hazing scales demonstrated a significant relationship with year initiated, but even these were small effects: physical hazing ($r=.09$, $p<.05$), socialization hazing ($r=.08$, $p<.05$), and extreme hazing ($r=.09$, $p<.05$). Among women, geographic region where the student went to college had a limited effect on some of the outcomes. For overall and general hazing, the northeast and District of Columbia (D.C.) region was significantly higher than the southeast. For physical and control hazing, pledges attending international institutions had lower means than all other
regions (none of which significantly differed from one another). In addition, international pledges had lower means on extreme hazing than the northeast/D.C., southeast, and midwest. These findings should be viewed with a fair degree of skepticism because there were only three females in the sample who indicated they were initiated at an international institution. Thus, these effects are not reliable. There were no significant mean-level differences for socialization hazing across regions.

Table 4: Correlations by Age, Year Initiated, and Type of Hazing, Separated by Females and Males

<table>
<thead>
<tr>
<th></th>
<th>Age</th>
<th>Year Initiated</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Females</td>
<td>Males</td>
</tr>
<tr>
<td>Total</td>
<td>-.16*</td>
<td>-.30*</td>
</tr>
<tr>
<td>General</td>
<td>-.10*</td>
<td>-.20*</td>
</tr>
<tr>
<td>Physical</td>
<td>-.21*</td>
<td>-.28*</td>
</tr>
<tr>
<td>Socialization</td>
<td>-.12*</td>
<td>-.12*</td>
</tr>
<tr>
<td>Control</td>
<td>-.18*</td>
<td>-.34*</td>
</tr>
<tr>
<td>Extreme</td>
<td>-.13*</td>
<td>-.07</td>
</tr>
<tr>
<td></td>
<td>.04</td>
<td>.08</td>
</tr>
<tr>
<td></td>
<td>.09*</td>
<td>.09</td>
</tr>
<tr>
<td></td>
<td>.08*</td>
<td>.05</td>
</tr>
<tr>
<td></td>
<td>.02</td>
<td>.15*</td>
</tr>
<tr>
<td></td>
<td>.09*</td>
<td>-.01</td>
</tr>
</tbody>
</table>

*p<.05

The last analysis among women explored whether there were differences by type of college attended (see Table 5). Because 97.5% of the sample attended predominantly White or historically Black colleges and universities, only those were examined. Women who attended predominantly white institutions were significantly more likely to engage in overall hazing (t=3.86, p<.001, d=.30), general hazing (t=3.70, p<.001, d=.30), physical hazing (t=2.32, p<.05, d=.18), and control hazing (t=3.98, p<.001, d=.30). With the exception of physical hazing (which demonstrated a small effect size), the other differences were moderate in magnitude.
Table 5: Mean Levels of Hazing among Females across Type of Institution.

<table>
<thead>
<tr>
<th>Type of Hazing</th>
<th>Historically black colleges and universities</th>
<th>Predominantly white institutions</th>
<th>t-statistic</th>
<th>Effect size (Cohen’s d)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>15.82</td>
<td>18.60</td>
<td>3.86*</td>
<td>.30</td>
</tr>
<tr>
<td>General</td>
<td>6.51</td>
<td>7.43</td>
<td>3.70*</td>
<td>.30</td>
</tr>
<tr>
<td>Physical</td>
<td>1.12</td>
<td>1.43</td>
<td>2.32*</td>
<td>.18</td>
</tr>
<tr>
<td>Control</td>
<td>1.85</td>
<td>2.47</td>
<td>3.98*</td>
<td>.30</td>
</tr>
</tbody>
</table>

*p<.05

We performed the same set of analyses for men only. Among men, the effects of age were stronger than that noted above for women (see Table 6). The older the male participant was, the less likely they were to have engaged in hazing overall (r=-.30, p<.001), general hazing (r=-.20, p<.001), physical hazing (r=-.28, p<.001), socialization hazing (r=-.12, p<.01), and control hazing (r=-.34, p<.001). With the exception of socialization hazing (which demonstrated a small effect), the other relationships are moderate in magnitude. Involvement in extreme hazing among men was not related to age (r=-.07, p=.12). There was very little relationship between the hazing scales and year initiated among men, and these effects were small. Year initiated was significantly and positively related to overall hazing (r=.11, p<.05) and control hazing (r=.15, p<.01).

Among men, geographic region where the student went to college had a limited effect on a few of the outcomes. Importantly, no international pledges were included in these analyses. The only reliable effect was found for control hazing, whereby there were higher levels of this in the northeast/DC region compared to the southeast. While there was some evidence of significant differences in overall hazing and extreme hazing, post hoc analyses failed to find differences between any specific regions.

The last analysis among men explored whether there were differences by type of college attended (see Table 6). Because 97.5%
of the sample attended predominantly White or historically Black colleges and universities, only those were examined. Men who attended predominantly White institutions were significantly more likely to engage in overall hazing \((t=2.65, p<.01, d=.27)\), general hazing \((t=3.035, p<.01, d=.30)\), physical hazing \((t=2.25, p<.05, d=.23)\), and control hazing \((t=2.93, p<.01, d=.29)\). With the exception of general hazing (which demonstrated a moderate effect size), the other differences were small in magnitude.

Table 6: Mean Levels of Hazing among Males across Type of Institution.

<table>
<thead>
<tr>
<th>Type of Hazing</th>
<th>Historically black colleges and universities</th>
<th>Predominantly white institutions</th>
<th>t-statistic</th>
<th>Effect size (Cohen’s d)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>22.24</td>
<td>24.59</td>
<td>2.65*</td>
<td>.27</td>
</tr>
<tr>
<td>General</td>
<td>8.10</td>
<td>8.83</td>
<td>3.03*</td>
<td>.30</td>
</tr>
<tr>
<td>Physical</td>
<td>2.91</td>
<td>3.35</td>
<td>2.25*</td>
<td>.23</td>
</tr>
<tr>
<td>Control</td>
<td>2.77</td>
<td>3.38</td>
<td>2.93*</td>
<td>.29</td>
</tr>
</tbody>
</table>

*p<.05

C. Analysis of Results

Among the many things that could be drawn from these results, one of the chief findings is that race and gender intersect in a peculiar way—underscoring the violence associate with BGLF hazing. Accordingly, questions about the relationship between black masculinity and violence, even among college-educated men, are reasonable to ask. The concept of rites of passage is not unique to one culture. Most cultures in the world have indigenous traditions of initiating youth from childhood to adulthood including African cultures. These rites of passage traditions are based on the values expected of the youth by the adults in the community, and values of each unique ethnic group. Before undergoing imposed changes by western hegemony driven processes, all African ethnic groups took young people (both men and women) on a journey into adulthood, which symbolized a new way of living with responsibility and pride.

217
Analogously, rites of passage traditions in BGLOs may have resulted in bonding a group of people to enforce the values of that group.

Like indigenous rituals that were altered by colonialism, BGLO traditions have been heavily influenced by American cultural norms. Specifically, the American cultural definition of masculinity has arguably changed initiation practices in fraternal organizations to be increasingly violent and dangerous over time. African American fraternities and sororities, which emerged in early 19th Century, aimed at restoring the same sense of initiation that affirmed their own culture.

Hegemonic masculinity theory claims that the American definition of masculinity praises characteristics of “heteronormativity, aggression, activity, sports-obsession, competitiveness, stoicism, and not being female or feminine.” However, such characteristics are often not naturally found in the majority of men, causing an identity crisis in many males that influences their interactions with other males. Minorities have been affected differently compared to white males given our nation’s history. Along with colonialism in America came the dehumanization of black males, which continues today. Contrary to the assigned demonization of the past, “black males, no longer challenge this dehumanizing stereotype, instead they claim it as a mark of distinction, as the edge that they have over white males.” Similar to the original purpose of African rites of passage rituals, older generations of African Americans define “real men” as being able to “provide for their families, protect the people they care about, and remain active in their communities.” Yet today’s generation has defined black masculinity as “physical, sexual, hard, and street or urban smart[,]” which “[stands] in binary opposition to anything chaste, sensitive, studious, and refined.” Black males have explained the adoption of this identity as “a surrender to realities they cannot change,” and thus, they “often derive a sense of satisfaction from being able to create fear in others[,]” Ironically, the white patriarchal society assigned to black males the very violent characteristic that they embodied. As a result, like the United States and other cultures of domination, male groups such as fraternities have developed the
“principle that violence is necessary for the maintenance of the status quo.”

Researchers claim that individually, men do not feel powerful, as they constantly strive to mimic a picture of masculinity they cannot achieve while constantly attempting to prove their masculinity. Thus, black males, who have adopted the hegemonic masculine identity, believe they must prove their manhood by resembling predators with violent behavior. Sociologists have identified this phenomenon, generally, vis-à-vis the “Masculine Overcompensation Thesis.” Specifically, the way in which men respond to threats to their masculinity is by demonstrating extreme variants of masculinity. In a series of studies, researchers found confirmation of this thesis. In the first study, participants (both men and women) were randomly given feedback that suggested that they were either masculine or feminine. Women were unaffected “when told they were masculine[,]” When it was suggested to men that they were feminine, they became more hyper-masculine—expressing more support for masculine concepts (e.g., war, homophobic attitudes, and interest in purchasing masculine vehicles, such as Sport Utility Vehicles). In the second study, researchers found that men who had their masculine identities threatened, “expressed greater support for, and desire to advance in, dominance hierarchies.” The third study found, “that men who reported that social changes threatened the status of men also reported more homophobic and predominance attitudes, support for war, and belief in male superiority.” In the fourth and final study, researchers found that the higher men’s testosterone levels the more intense reactions masculinity threats.

Nigerian feminist author Chimamanda Ngozi Adichie addressed the resulting wounds left on men from such definitions of masculinity. She explained that “masculinity becomes this hard, small cage and we put boys inside that cage . . . . We teach them to mask their true selves because they have to be, in Nigeria speak: ‘Hard Man.’” By forcing men to prove their masculinity in such hard ways, “the worst thing we do to males . . . is that we leave them with very fragile egos.” Indeed research shows that the socially constructed concept of masculinity “reinforce[s] emotional limitations that play out lifelong in a lack of empathy and difficulties with intimate
relationships including both friendships and partnerships,” which can have a negative effect on brotherhoods.

Colonialism and racial hegemony have had a direct negative effect on the rights of passage traditions established in BGLOs, which are heavily rooted in the warped concept of masculinity. Formed in response to the continued mistreatment of blacks in universities, BLGOs served as brotherhoods and sisterhoods that promoted a sense of community and racial uplift. However, the symbolic initiation traditions have been misconstrued and misinterpreted as BGLOs have assumed practices that are inhumane and based on the internalized oppression passed down through socialized violence.

The focus during an initiation processes has become the concept of physicality and masculinity viewed through the lens of assigned patriarchal characteristics. In DeSantis and Coleman’s research, a male participant explained that “[o]ur bodies have always been important; it is the only thing that they [white society] can’t take. . . . It is why the black male is a symbol of strength, physical strength.” The appropriation of white patriarchy is also evidence in BGLO traditions through the use of their poems that carry great meaning to each fraternal organization. The poems “If—” and “Invictus” are popular among black Greek organizations as a study showed that over half of the Greek sample had to learn both poems during their initiation. Although both sororities and fraternities learn them, fraternities are more likely to learn them than sororities, given that the message further promotes the American definition of manhood. “If—” has been described as a poem of wisdom similar to the book of Proverbs. In those lessons of wisdom are themes of perseverance, self-mastery, and the notion that keeping composed “in the midst of chaos,” brings one “closer to becoming the ‘Man’ at the end of the poem.” This notion turns into a test of pain endurance as “[t]he leader imagined in this poem can take a beating and maintain his dignified manhood through a stoic disposition paired with a strong will to persevere.” “Invictus” promotes the same message as the last two lines of the second stanza, “‘bludgeonings’ resulting in a ‘bloody’ head,” also provide the image of an enduring violence.
For African Americans these poems took on a unique meaning given our history of enduring slavery and abuse during our fight for civil rights. Although the concepts of masculinity have been adopted from western patriarchy, BGLOs have made them their own, “in the spirit of reappropriation that underwrites the story of African adjustment to the Western culture.” Unfortunately, the concept of endurance and overcoming pain from the poetry has been manifested in the initiation processes through brutal physical beatings. Indeed, “violence [has become] a natural, if not necessary, extension” of the masculinity in the initiation process. Just as men of all classes of society believe, fraternities believe that at some point you have to show violence to prove your masculinity. As one interviewee commented, “[t]he physical part is what tests you, tests to see if you’re a man, your manhood.” This is consistent with the notion that men also are in competition with each other and their physical violence is used to impress one another.

It seems that although BGLO’s have re-appropriated the meaning of the poems; the meanings have manifested into rituals that do more harm than good with regard to personal well-being and brotherhood. Some initiated members do not feel a sense of brotherhood following their brutal processes and do not find it to be worth abuse. As a result, BGLOs are simply imposing the same violence and mistreatment on each other in the name of masculinity that their ancestors endured at the hands of white oppressors.

Hegemonic masculinity teaches that to be masculine is to not be feminine and to not be homosexual. Hypermasculinity, another result of the hegemonic patriarchy, occurs when a man does not fit the norm of masculinity and thus becomes hypermasculine to compensate. By belittling or harassing weaker men, women, and homosexuals, the hypermasculine male claims his position in the patriarchal hierarchy. As black males have adopted the hegemonic masculine identity, they too adopt the hypermasculine identity that denounces homosexuality. One of the themes of BGLO initiation is physical strength and domination, which is tested by a great deal of physical contact. Because physical contact is known to be a hallmark of brotherhood, it becomes tainted if the brotherly contact becomes sexual contact. Some BGLO members worry that “the dynamics of
brotherhood would change with gay pledges[,]” as the rituals included situations “where they might be nude, they might be half-exposed, [and] they are closely lined up, sometimes pressed chest to back. It is highly intolerable that someone be homosexual within that mix.”

African American male violence is not unique. It was adopted from white male violence and has manifested to harm the black community further. While examining all secret societies, Lionel Tiger suggests that the secrecy of the organizations largely limits the available information on such groups. Importantly however, Tiger observed that secret organizations “ha[ve] the capacity to stimulate aggression” because they are often formed in hostility or opposition to some type of authority. However, only to the nonmembers of the group would such behavior seem out of the ordinary as the secrecy in any organized group is not pertained to the members in the group but to the outsiders. This concept applied to BGLOs, the adoption of the violent characteristics into secret BGLO rituals normalizes the behavior such that members see nothing out of the ordinary with the behavior and view it as the status quo.

Any organized group develops its own rules that define its bonding process. Thus, another explanation for such violent hazing is the fact that when youth are left to guide one another without supervision they tend to push some acts to the extreme because they have no understanding of the reality. As individuals attempt to mimic some unrealistic concept of masculinity, such activity becomes the norm within their organization and is passed down to generations that follow.

**Violent Hazing, Black Fraternities, and Evidentiary Implications**

The manifestation of circumscribed notions of black masculinity, even among educated elites like college students and graduates, has produced a predictable outcome—i.e., organizations where violence is not only accepted but also desired, seen as a crucial ingredient in organizational survival. Consequently, such violence manifests itself not only in the act of hazing but also, arguably, within the broader culture that surrounds undergards and amplifies hazing. It is within
this culture that broader legal implications are observed, specifically with regard to how black fraternity members use language to give meaning to fraternal subunits—i.e., chapters. The classic example, as discussed in Chapter 4, is the court case involving the death of Phi Beta Sigma pledge, Donnie Wade, II.

A. An Empirical Analysis

BGLOs are organizations with a unique hazing culture. For example, research has shown the way these organizations use language underscores how hazing is interpreted by their members. In one study, researchers found that BGLO members learn and internalize poems like William Ernest Henley’s “Invictus” and Rudyard Kipling’s “If” during their hazing experience. Even more, they interpret these poems as referent to their experience of persevering through their violent hazing experience. In another study, similar findings were made in the context of hazing victims’ creation or learning of chants, songs, and greetings to big brothers and big sisters.

To date, scholars have paid little attention to what monikers/nicknames signify or their effect. The limited existing research on the topic suggests that monikers/nicknames can alter others’ evaluative judgments of the moniker/nickname-holder. These findings underscore the fact that monikers/nicknames are rarely benign and thus may have an impact on litigation, especially before a jury. Accordingly, we conducted two studies.

1. Study I

In the first study, we sought to ascertain the public accessibility of BGLO monikers and the extent to which some of those monikers may be perceived as “menacing.” In the fall of 2011, we emailed the National Pan-Hellenic Council’s Yahoo! Group and asked members what monikers they commonly found employed by BGLO chapters. Members responded with sixty-eight unique monikers. Similar monikers, such as “deadly” and “death” or “money-making” and “money,” were conflated into one general moniker. An email was sent to 823 student affairs professionals, who were asked to label
each of the sixty-eight words as either “positive” or “negative.” Eighty-three individuals responded. With a cut-off of 75% labeling the words as “negative,” twenty-six words remained. The student affairs professionals were also asked to label each of those twenty-six words as being “associated with violence” or “not associated with violence.” With a cut-off of 50% labeling the word as “associated with violence,” sixteen words remained. Using these words, Facebook, Google, and YouTube searches were conducted, employing black fraternity names—i.e., Alpha Phi Alpha (Alpha), Kappa Alpha Psi (Kappa), Omega Psi Phi (Omega), Phi Beta Sigma (Sigma), and Iota Phi Theta (Iota)—with each of the sixteen monikers. In essence, these searches provided a crude way to discern which black fraternity chapters market themselves with such monikers. The results are indicated in Table 7.

<table>
<thead>
<tr>
<th>Monikers</th>
<th>Alpha</th>
<th>Kappa</th>
<th>Omega</th>
<th>Sigma</th>
<th>Iota</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bloody</td>
<td>15</td>
<td>5</td>
<td>17</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Death/Deadly</td>
<td>10</td>
<td>0</td>
<td>3</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Evil</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Gangsta/Gangster</td>
<td>2</td>
<td>4</td>
<td>2</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Killa/Killer</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Monster/Monstrous</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Murder</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Vicious</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

While these hits should not be construed as adequately representing how frequently violent-themed monikers are used by black fraternities, those monikers discovered on the Internet are particularly problematic, because they highlight the publicly accessible nature of monikers that may suggest a violent hazing culture within black fraternities.
2. Study II

In order to further assess the impact of BGLO monikers, an online survey of 1,822 BGLO members was conducted. This survey investigated the relationships between undergraduate chapter monikers and various outcomes, including any suspensions, allegations of hazing, and chapter awards. Respondents were also asked about the meaning of their chapter monikers to explore any differences between internal and external perceptions.

The main component of the survey asked respondents to identify their chapter moniker, if they had one, which was then classified as either menacing or nonmenacing based on the previously discussed Yahoo! Group study. In addition to questions regarding organizational outcomes, the survey included membership identifiers (fraternity or sorority, current membership status, etc.); time period and path to membership (e.g., pledge process as undergraduate student); as well as general demographic information. This study was limited to only those who became members of their organizations as undergraduate students (N=1,262), because the majority of graduate chapters do not employ monikers in the same manner as their undergraduate counterparts. Of the 1,262 respondents, 56% reported that their chapters had monikers, and 39% reported monikers classified as menacing.

Findings suggest that chapter monikers are linked to both the behavior of chapter members and the meaning of these behaviors, and influence the formation of a social or organizational identity as well. For example, when asked about the ways in which chapters engage in activities and behaviors that reinforce their monikers, many members gave responses that were intuitive and aligned with reasonable interpretations one might associate with the given moniker (e.g., members of a “death/deadly” chapter indicating that they “kill the competition” in step shows).

As seen in the following tables, the main finding of this study is that having a chapter moniker of any kind leads to a higher likelihood of being suspended, at the university and organizational levels. Those with chapter monikers were 64% more likely to be suspended than those without monikers (Table 9).
In addition, chapter monikers lead to increased probability that the organization will receive a cease-and-desist order, chapters with monikers being 78% more likely to receive these orders.

This pattern holds especially true for groups at Historically Black Colleges and Universities (HBCUs) and sororities. Interestingly, results also suggest that having a chapter moniker leads to members being more active, as well as an increase in awards received, with chapters using monikers being 94% more likely to win organizational awards.

Delineating between menacing and nonmenacing monikers, findings indicate that menacing monikers have no moderating or mediating effect on having a chapter moniker overall. In fact, the only instance in which a menacing moniker is significant is related to hazing allegations at the university level. Put another way, the presence of a menacing moniker leads to more accusations of hazing activity, but not necessarily to more suspensions. This suggests that menacing monikers may be a stigma that influences external perception, but may not lead to any real consequences for organizations that employ them. This pattern also exists for groups that change the color of chapter letters (for example to red, indicative of a “bloody” moniker).

These findings further support the idea that monikers hold significant meaning in the context of black fraternities. While this study suggests that having a menacing moniker largely has no differing effect than having any moniker overall, it does suggest that menacing monikers do have a significant effect in regards to external perceptions of a particular chapter held by university administration, even if these perceptions do not lead to actionable consequences. In short, having a menacing moniker causes these groups to be seen as more likely to be involved in illegal hazing activities; the resulting allegations could be viewed as consequence enough for some.
B. A Legal Analysis

Given the violence associated with BGLO hazing, these organizations have been likened to gangs and gang subculture. As such, the ways in which gang members employ nicknames may be particularly instructive with regard to how black fraternity chapter monikers might be analyzed. In gang culture, nicknames are used “to reflect . . . gang-related deeds [and] . . . to confer special status or identity for those named.” Even more, by providing an identity and acting as a status sign, negative nicknames among criminals could perpetuate criminal activity. For example, if an individual is subconsciously drawn to the outcomes in which he sees his name reflected, then a nickname of “Homicide” or “Killer” could draw the individual to commit, or continue to commit, such acts.

This begs the question, however, as to whether such monikers could make their way into court as an evidentiary matter. The Federal Rules of Evidence have codified the use of aliases in cases, admitting them for an indictment and as evidence if necessary to connect the defendant with the act charged. Courts, however, have been mindful of what aliases, monikers, and nicknames suggest about people. As such, courts generally disapprove of their use. Admitting an alias as evidence is widely recognized to have the prejudicial effect of implying that the defendant is a member of a criminal underclass. For example, in *Petrilli v. United States*, the Eighth Circuit stated that “[t]he preliminary reading of the aliases in an indictment is not a practice which should be encouraged in an ordinary criminal prosecution, but rather one which should be curbed.”

While the use of alternative names is generally disapproved by courts, their inclusion may be allowed if they are relevant to identifying the defendant in relation to the acts charged in the indictment. In *United States v. Clark*, for example, the Fourth Circuit established that if the prosecution “intends to introduce evidence of an alias and the use of that alias is necessary to identify the defendant in connection with the acts charged in the indictment, the inclusion of the alias in the indictment is relevant and permissible.” If, however, the prosecution fails to provide proof relating to the alias or
the alias has no relationship to the acts charged, the alias may be stricken and an appropriate instruction given to the jury.

Even where disapproved, the admission of a defendant’s alias will not always be stricken or reversed on appeal. For example, in United States v. Esposito, defendants moved to strike references to aliases in the indictment. The government, however, argued that the defendants were repeatedly referred to by these aliases in wiretapped conversations. The court denied the motion and found that the “inclusion of the alias[es] in the indictment is proper and, indeed, may well serve to obviate jury confusion.” Even in instances in which proof is not sufficiently present regarding the aliases, the court may still find that prejudicial effect does not warrant dismissal. In United States v. Wilkerson, the government failed to provide proof of the defendants’ aliases. Additionally, the court stated that it even appeared that the government’s principal use of the aliases was to indicate to the jury that people who use aliases were inherently suspect. However, because of the strength of the evidence against the defendants, the court found that the prejudicial effect created by the government’s use of aliases still did not warrant a reversal.

The Esposito opinion marks a step in the right direction, at least in the context of BGLO hazing. A further step forward, however, should be taken. It is not likely prejudicial to admit chapter monikers for more than identification, because the monikers mean something and are tied to a certain type of conduct. Also, such an interpretation is consistent with the Federal Rules of Evidence. Even more, to the extent that legal sanctions and knowledge of such sanctions, militates against unlawful behavior, including hazing, then such evidence should be admitted. Doing so may preserve lives.

**Commentary**

BGLOs have significant hazing issues. The hazing manifested in these organizations has a unique and robust culture that litigators and stake-holders need to consider. Part of that culture is the use of chapter monikers—often enough, menacing in nature. Whether a chapter with the moniker “Bloody,” or “Deadly,” or “Ruthless” is any more inclined to haze than a chapter with a benign or positive or
no moniker is beyond the scope of this chapter. It seems accurate to say, however, that black fraternity chapters do not select these monikers at random; they mean something to the chapter members and are intended to signal something to others. While courts have resisted admitting aliases into evidence, admitting them may have the effect of reducing violence against aspiring members of these auspicious groups.

**Conclusion**

Hazing has been a persistent legal problem for universities, fraternities and sororities, their respective chapters, and their members. Even more, hazing has been, in too many instances, a life and death issues for individuals and their families, not to mention a cause of physical and psychological harm to many college students. Consequently, they or their families—or the government—often seek some form of legal recourse. The looming question, however, is: how can we bring hazing to an end? The first meaningful step toward such a solution is accepting that all organizations may not have the same historical or cultural framework and thus a uniformity in how hazing is manifested across those organizations.

This chapter underscores that legal phenomena do not always manifest themselves in the same fashion across communities. Hazing has been a persistent legal problem that has bedeviled those who have sought to curb, if not eradicate, it. A proper remedy to a problem demands an accurate assessment of the problem, and to say that hazing is simply the fault of naïve and errant young people, fails to capture the full essence of the issue; it does not allow for appropriate remedies either. As such, to say that hazing will stop when the hazers stop hazing fails to appreciate the motivations—psychological, sociological, and the like—that undergird collegiate fraternity hazing. It would be like saying robbery, or drug dealing, or murder will stop when those individuals committing such crimes just stop committing them. Such is true but provides no remedy in that it is simplistic and provincial in its assessment.

With regard to hazing, our work has found that hazing within BGLOs is more violent than hazing within white fraternities and
sororities. Even more, hazing within black fraternities is more physically violent than any comparison group. Such violence—the enduring of it and meting it out—is one of the hallmarks of the black fraternity experience. The fact that hazing has become increasingly violent within black fraternities, at least since the 1950s, suggests something beyond these organizations. It highlights that black fraternities and their members are not immune from the narrow conceptions of black masculinity that are pervasive in U.S. society. To be the servant leaders is no longer enough for black fraternity members. To be “hard” and masculine and far from what society, or maybe just the black community, considers effeminate is a must. It is this quest to be this narrow definition of a “man” that is part and parcel of black fraternities’ organizational, and ultimately legal, problems. Indeed, the quest for a narrow conception of masculinity leads too many members of these organizations to break the law and to put themselves, institutions, and organizations at legal risk. Even more, it is their inability to engage in any reasonable level of soul searching that is at the heart of this issue.

In the end, violent hazing within BGLOs, generally, and black fraternities, specifically, has resulted in an abundance of civil and criminal litigation. Ironically, BGLO members tell on themselves in a sense given that they provide information on the Internet that underscores the violent nature of their hazing. This information, in the form of chapter monikers, highlights the “bloody” and “deadly” nature of black fraternity hazing. It is this very information that may seem benign to BGLOs that could likely be admissible in litigation to the detriment of these organizations.
CHAPTER 11

Hazing and Organizational Culture

In 2009, Herman “Skip” Mason, national president of the oldest intercollegiate fraternity founded by African American men, issued a press release. In it and in light of recent alleged hazing incidents involving Alpha Phi Alpha members, he underscored that the fraternity would not and did not condone hazing. He “assure[d] every ‘good standing’ brother of Alpha, that the leadership [was] moving swiftly to identify, charge and prosecute any person who ha[d] violated [the organization’s] standing orders or [its] Constitution or brought harm to the fraternity or any of our members.” Mason went on to state:

We will take every legal means at our disposal, both civil and criminal, to charge and bring to justice any person who commits a crime and tarnishes our good name in the process. Internally, any chapter or fraternity member that participates in any activity that violates our rules and regulations can expect to face stiff penalties, including suspension and/or expulsion. Further, as a matter of our process for membership intake, any man who suspects, or witnesses any suspicious activity [is] obligated and encouraged to let the fraternity know. We applaud any young man who exposes hazing at any college or university.

In time, Mason would be found to have, arguably, engaged in conduct that would result in his removal as General President. How ironic.

Leaders who have qualities that are admired by others—e.g., charisma, confidence, drive—are sometimes able to produce exceptional results for the organizations they lead; however, under the wrong set of circumstances, leaders can be the cause of their organization’s downfall. Authentic leaders “engage in self-transcending behaviors because they are intrinsically motivated to be
consistent with high-end, other-regarding values that are shaped and developed through the leader’s life experiences.” Their behavior and decisions are guided “not by situational imperatives but by reference to an examined template.” A leader’s template may be based on the ideals of religion, philosophy, legislation, rule of law, or organizational values. No matter the basis, the template allows the leader to lead while staying true to his or her deeply held values, moral compass, and belief in organizational values.

A leader must be able to “convey the importance of the organization’s ethical values to members, thereby influencing expectations and shared perceptions.” He or she can do so via many means—e.g., values-based leadership, setting an example, establishing clear expectations of ethical conduct, providing feedback, coaching and supporting ethical behavior, and recognizing and rewarding behaviors that support organizational values. Consistency, however, is the key to establishing and portraying a leader’s and an organization’s ethical standards.

Unethical leadership presents a serious challenge for a well-functioning organization. An unethical leader may compromise standards based on the situation—e.g., top performers and executives held to different standards. He may use his own interests as the metric for appropriate conduct instead of the interests of the organization. He may be unwilling to address ethical issues unless they are safe or uncomplicated. He may avoid making ethics an issue, ignore ethical issues, or address them covertly. He may avoid taking action on ethical issues for expediency sake or take action only when forced to do so. He may downplay ethics by treating them as something “nice” to do, but not as a required endeavor. He may minimize his personal responsibility for supervision of ethical issues and conduct.

Unethical leaders may be influenced by “the culture of competition, ends-biased [thinking], missionary zeal, legitimizing myth [as defined by image management and ‘just cause’ conviction], and the corporate cocoon [which encourages an ‘us against the world’ frame of mind].” Although public knowledge of unethical behavior within organizations focuses on the unethical behavior of top-ranking leaders, unethical conduct often “pervade[s] all levels of organization...
life.” According to one study, 76% of employees reported observing illegal or unethical conduct at work; 49% of study participants reported observing serious misconduct. Small and large ethical failures “may be more frequent” in organizations and “can easily grow into larger problems.”

Organization leaders can take actions to significantly impact ethical behavior within their organization. By managing not only what subordinates produce, but also how subordinates achieve their outcomes, leaders can encourage ethical decision-making at all levels. Leaders can encourage ethical behavior by creating a positive organizational culture, utilizing effective reward systems, and addressing the causes of unethical behavior. Organizations depend on leaders to oversee subordinate contributors to the organization. In a sense, without ethical leaders, organizations falter. “Failure by top leaders to identify key organizational values, to convey those values by personal example, and to reinforce them by establishing appropriate organizational policies demonstrates a lack of ethical leadership,” which in turn “fosters an unethical organizational culture.”

Leaders are the face of the organization; “the image of the business leader will affect how others choose to deal with the company and will have long-term effects as managers and employees look to the highest level for their cues as to what is acceptable.” Research suggests that employees will respond to difficult situations unethically if “an organization’s leadership furthers an immature, unclear, or negative ethical climate.” When an organization’s culture does not have clear boundaries for what is acceptable behavior and what is not, the culture “predisposes its members to behave unethically[,]” even if members are otherwise ethical individuals.

In crafting the organization’s culture, leaders must take steps to guide the ethical behavior within their organization or risk that ethical employees will engage in unethical actions. The way a leader deals with crises is especially powerful in forming employees’ perception of the organization’s values. For example, if a leader attempts to cover-up illegal or unethical behavior in his or her organization, employees may perceive that the leader accepts such behavior and be motivated to commit unethical acts. On the other
hand, if a leader rewards those who act ethically and punishes those who act unethically, then the leader reinforces the positive values that support the organization.

This chapter explores the role of leadership ethics and its possible impact on rank-and-file membership behavior in the non-corporate setting. Specifically, it investigates a type of quasi-secret organization: black fraternal networks. In sum, this chapter contends that there is a parallel approach and culture in how financial crimes are handled when the national heads of BGLOs commit such acts and how hazing is resolved by hazers within these groups. Specifically, the parallel structure includes the use of intra-organizational secrecy, sanctions against whistleblowers, and lack of opposition to the criminal behavior by those in roughly similar positions of power. Legal scholarship and research in the area of business, especially good organizational governance, on these three issues outside of BGLOs helps shed light on the ways in which these concepts may be brought to bear on the organizational culture of BGLOs.

Secrecy

A century ago, United States Supreme Court Justice Louis Brandeis noted that “[p]ublicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman.” Justice Brandeis’ ideas on the virtues of publicity originated over twenty years prior to his perspicacious statement, when he expressed an interest in writing a companion piece to his article, The Right to Privacy. This time, however, he wanted to focus on the duty of publicity. He thought “about the wickedness of people shielding wrongdoers & passing them off (or at least allowing them to pass themselves off) as honest men.” His proposed prophylactic approach was that, “[i]f the broad light of day could be let in upon men’s actions, it would purify them as the sun disinfects.” Jeremy Bentham, noted legal philosopher, underscored these sentiments:
Without publicity, all other checks are insufficient: in comparison of publicity, all other checks are of small account. Recordation, appeal, whatever other institutions might present themselves in the character of checks, would be found to operate rather as cloaks than checks; as cloaks in reality, as checks only in appearance.

Indeed, contemporary jurists, such as the United States Court of Appeals for the Sixth Circuit’s Judge Damon Keith, have emphatically articulated these concerns—“Democracies die behind closed doors.”

In the area of campaign finance, courts have held that the government has a substantial interest in making political candidates disclose the sources of their campaign contributions. Doing so deters and avoids the appearance of corruption; even more, it informs voters about the interest to which politicians may likely be responsive. “[F]inancial disclosure effectively combats fraud and provides valuable information to the public.” “[I]t discourage[s] those who are subject to them from engaging in improper conduct, and … ‘[a] public armed with information … is better able to detect’ wrongdoing.” Indeed, an “informed public opinion is the most potent of all restraints upon misgovernment.”

In *Esperanza Peace and Justice Center v. City of San Antonio*, a non-profit organization brought a section 1983 action alleging that the city of San Antonio’s decision to discontinue funding the organization, inter alia, violated the Texas Open Meetings Act. The federal district court found that the open city council meeting merely ratified the decision of a prior closed deliberation. Accordingly, the council violated that letter of the Act by deliberating and voting on the non-profit organization’s budget not convened in an open and transparent manner in accordance with the Act. The court underscored that “[t]o hold otherwise would … allow evisceration of the Act's worthy goals of ensuring the public's right to know what decisions government officials make and to have those officials articulate fully the basis on which they act.”

In *Society of Professional Journalists v. Secretary of Labor*, the United States’ Mine Safety and Health Administration (MSHA) planned to
conduct closed formal hearings to investigate a Utah mine fire. A number of news organizations sued to enjoin the MSHA from conducting those closed hearings. On the Secretary of Labor’s motion for summary judgment, the District Court held that the press and public had a constitutional right to open hearings. The court extolled the virtues of contemporaneous, as opposed to retrospective, transparency:

Although Congress can conduct oversight hearings, they occur too long after the MSHA hearings to accomplish the purposes gained by openness. Congressional oversight hearings can prevent future mistakes, but they can do little to correct past ones. In contrast, openness at the hearings can allow mistakes to be cured at once.

The court noted that governmental officials naturally tend to conduct their meetings in secret so they can avoid criticism and proceed “informally and less carefully.” However, it is public awareness and opportunity to criticize that is the foundation of democratic institutions. Indeed, “[s]ecrecy breeds mistrust and abuse.”

In the context of Freedom of Information Act requests, courts have echoed and underscored the points about secrecy that other courts have made. First, “secret government activity creates fertile ground for fraud and corruption, especially in the area of public expenditures where, without transparency, the public can be kept unaware of misappropriations and conflicts of interest.” Second, “regardless of whether governmental activity conducted in secrecy actually is nefarious or corrupt, the public cannot be expected to possess a high level of trust in that which is hidden from its view.”

**Whistleblower Sanctions**

A whistleblower is often an employee who reports unethical or illegal actions within an organization in the effort to expose and end the wrongdoing. In essence, whistleblowing is the “the disclosure by an organization’s member or former member of illegal or illegitimate practices under the control of their employers to persons or
organizations that might be able to effect action.” Such a decision involves significant personal, practical, ethical, and legal ramifications. Whistleblowing has been rare due to the repercussions suffered by those who choose to speak out against their employer to expose illegal conduct. In fact, in 2011, whistleblower retaliation cases were the single highest type of Equal Employment Opportunity Commission (EEOC) case. Retaliation—“the negative actions taken towards whistle blowers by members of the organization, in response to the reporting of wrong doing”—can be a means for an organization to control whistleblowers. Retaliation comes in many forms. Formal retaliation is characterized as retaliation by way of the official rules of the organization and behavior governed by those rules. This form is usually used by higher officials and is often more expensive and time consuming than informal retaliation due to the paperwork involved. Informal retaliation includes those actions that do not require approval from superiors, and can be implemented without the initiation of paperwork. This form is usually carried out socially by co-workers and varies depending on the values and patterns of that environment. When the whistle is blown, organizations must choose between accommodating and resisting the proposed change. This choice depends on a number of factors, including the power of the whistle blower, the severity of the wrong doing, and the amount of persistence on the part of the whistle blower.

Although most whistleblowers do not suffer retaliation; however, when there is retaliation, the level of severity may vary. Even if the employee is not fired, the whistleblower is often subjected to ongoing harassment in the workplace. However, relatively powerful whistleblowers are less likely to suffer retaliation, because they are less dependent on the organization due to more education and employment alternatives. In the past, as an at will employee, a whistleblower who dared speak out against an employer risked not only losing a job, but forever being blacklisted in their industry. In May 2002, the Senate Judiciary Committee conducted a study, which yielded evidence of “a corporate culture that ultimately discouraged and prevented employees from acting honestly in the workplace. Little sense of urgency to report wrongdoing existed,
mainly out of fear of losing one's job or suffering retaliation. The decision to report externally versus internally can also provide the whistle blower with power and protection as the public or an entity unbiased to the organization is now aware of the action. Without accountability or discipline, this culture would continue to prevail.”

Lack of Opposition

It has been noted that “power tends to corrupt, and absolute power corrupts absolutely.” Institutions, however, have sought ways to curb such inevitabilities. Indeed, the creation of the United States government—with its three branches and the specified checks and balances that lie therein—is a prime example. The law vis-à-vis organizations, especially corporate entities, have, at least in theory, followed suit. Within the public corporation, for example, there is a separation of ownership (investors) from control (the board of directors and chief executive officer (CEO)). The responsibility for corporate performance rests with the board of directors. It is the board’s responsibility to monitor and control the CEO and other top-officials’ actions.

There is a natural tension within a corporation’s governance and management relationship. However, some contend that today’s questionable corporate activities result from corporate leadership not acting in the best interest of the corporations’ shareholders. To some extent, what underlies this phenomenon is corporate leadership’s allowance or endorsement of unethical or illegal practices. A typical reason for “corporate scandals and skyrocketing executive compensation has been, arguendo, weaknesses in board oversight;” it is a system of corporate checks and balances gone awry. Given that an inordinate amount of power is concentrated in the CEO, many boards may acquiesce to the CEO’s wishes and demands. Moreover, a possible threat to board independence is the dual role of the CEO as chairperson—i.e., the corporation’s top managerial officer also serving as chairperson of the group that must also monitor and evaluate his or her performance. Also, board members may not know the business and market sufficiently to perform their roles. In fact,
they may not be given sufficiently accurate and timely information to
determine when or if they are being manipulated.

The ultimate intervention that a board can make when a
CEO is engaged in unethical and possibly illegal behavior is to fire
and replace that CEO. However, many boards may be quite reluctant
to do so. A classic example of this issue and its tension with board
checks and balances is the Securities Exchange Commission (SEC)
case against WorldCom. In that case, WorldCom personnel
committed one of the largest accounting frauds in history. The
governance practices during the tenure of WorldCom CEO, Bernard
J. Ebbers (Ebbers), consisted of, inter alia, the board consistently
ceding power over WorldCom’s direction to Ebbers.

WorldCom’s practices allowed lavish compensation for
Ebbers beyond the value added by senior executives, Ebbers
included. This included more than $400,000,000 in “loans” from
shareholders to Ebbers, signed-off on by two directors, both Ebbers’
longtime associates. As the United States District Court for the
Southern District of New York noted, the loans were not only
unlikely to be repaid, but also represented actions by a board that
“spent much of its time devising ways to enrich Ebbers.” Other
compensation practices were also seen as an abuse of shareholder
interests such as granting Ebbers and other WorldCom leadership
massive volumes of stock options, representing hundreds of millions
of dollars in value. Ebbers was also allowed to pay $238,000,000 in
“retention” grants to various executives and employees at his
discretion. The court noted that “[t]he retention program was in
effect a giant compensation slush fund.”

Ultimately, the court concluded that while “having the right people in
place” is necessary for good corporate governance, something more
is required. WorldCom complied with corporate formalities, but no
board member would say “no” to Ebbers. In fact, the court
underscored that “[o]ne cannot say that the checks and balances
against excessive power within the old WorldCom didn't work
adequately. Rather, the sad fact is that there were no checks and
balances.”
Leading by Example

A confluence of cultural, historical, and institutional factors gave rise to Black Greek-letter organizations. In a span of sixteen years, from 1906 to 1922, eight such organizations were founded across four universities. A ninth emerged at the height of the Civil Rights Movement. Each of these organizations went on to found, not only collegiate chapters but alumni chapters as well. These alumni chapters allowed undergraduate initiates to maintain lifelong engagement with their fraternity or sorority and aspiring members to become affiliated post-undergraduate. Only within the past decade have scholars begun to explore the monumental challenge that BGLOs have with hazing. And only within the past couple of years have scholars explored this issue via a legal lens. Just as significant, within the past few years BGLOs have confronted the law on another front—litigation around financial malfeasance of their national leadership. This section explores this latter dynamic.

A. Zeta Phi Beta Sorority, Incorporated

In 2007, Natasha Stark’s brought a lawsuit against Zeta Phi Beta Sorority for breach of contract, negligence, and defamation. Stark was a member of Zeta Phi Beta as an undergraduate at Georgia State University. Remaining involved in her sorority after graduation, she held a number of leadership positions; in 2005, she was inducted into Zeta Phi Beta’s Hall of Fame. She eventually discovered that Zeta Phi Beta’s International Grand Basileus (International President), Barbara Moore, was stealing funds from the sorority, using Zeta Phi Beta’s credit card to purchase items such as pantyhose, wigs, designer clothing, fine jewelry, sportswear, shoes, and men’s clothing. The charges totaled more than $300,000. Stark, unhappy with Zeta Phi Beta’s decision to allow Moore to repay the money over a five-year period instead of removing her from office, informed the media and other Zeta Phi Beta sisters about the situation, first using her husband’s email account and then her own work email account after Zeta Phi Beta demanded that her husband desist. Stark contacted various media outlets including the South
Carolina Black News, ABC, NBC, and CBS. Despite Zeta Phi Beta accusing her of libel and demanding that she desist, Stark appeared on two news broadcasts, disguised to conceal her identity, to discuss Moore’s unauthorized spending habits.

Although Stark maintained in her complaint that, in addition to informing the media, she informed an Assistant U.S. Attorney about Moore’s embezzlement of Zeta Phi Beta funds, she later admitted in a deposition that she did not in fact inform the U.S. Attorney. However, after learning of Moore’s actions, the U.S. Attorney requested records from Zeta Phi Beta and commenced a grand jury investigation. Stark complied with a subpoena to provide documents and testify before the grand jury. In February of 2006, the U.S. Attorney sent a letter requesting that Zeta Phi Beta waive certain privileges to allow the U.S. Attorney’s Office and the FBI to investigate whether Zeta Phi Beta had been the victim of a crime given Moore’s use of Zeta Phi Beta’s credit card from 2002-2005. The letter further informed Zeta Phi Beta that failure to provide the waiver would force the U.S. Attorney to close the investigation. The U.S. Attorney closed the case with no indictment because Zeta Phi Beta never provided the waiver, claiming attorney-client and work product privileges.

In September of 2006, members of Zeta Phi Beta’s Epsilon Zeta Chapter complained to Zeta Phi Beta’s Georgia State Director that Stark was trying to “tear down” as opposed to “build up” Zeta Phi Beta. The Director, after purportedly conducting an investigation of Zeta Phi Beta’s allegations against Stark, suspended Stark and recommended her expulsion from the sorority because she “was perceived to be airing Zeta’s financial dirty laundry.” Stark responded via her lawyer that she wished to contest the charges because the suspension violated Zeta Phi Beta’s policies and procedures and because Stark never had the opportunity to rebut the charges with testimony or documentation as required by Zeta Phi Beta’s own policies and procedures. Moore recused herself in February of 2007 and designated Zeta Phi Beta’s National Executive Board Chair, Sheryl Underwood, to act on the charges against Stark. Underwood sent Stark a letter stating that “Zeta Phi Beta was expelling her from the sorority effective immediately” and informing Stark that an
appeals hearing would be held a month later. The next week, a press release published by Edda Pittman stated that Stark was responsible for distributing the documents that served as the source for the news stories.

The day before the appeals hearing, Stark requested and was denied the opportunity to attend the appeals hearing via teleconference, and Stark made another appearance on TV, this time revealing that she was the one who had “outed the story of the Grand Basileus’s spending habits.” After Stark’s expulsion was upheld, she stated on a news program: “The question that members need to ask themselves is who’s next.” About a week later, Sheryl Underwood, the chair of Zeta Phi Beta’s National Executive Board, circulated a letter (Underwood Letter) telling Zeta Phi Beta’s side of the story regarding Stark’s expulsion. Underwood sent the letter, which served as the underlying basis for Stark’s defamation claim, to the entire sorority, denying Stark’s allegations and intimating that Stark’s statements ignored the truth.

In Count I, Stark alleged that Zeta Phi Beta’s Constitution, policies, and procedures are enforceable contracts between Stark and Zeta Phi Beta. She contended that Zeta Phi Beta breached those contracts by failing to abide by their terms and that as a result, she suffered mental anguish and the loss of enjoyment of Zeta Phi Beta’s goods, services, facilities, privileges, advantages, and accommodations. In Count II, Stark claimed defamation, alleging that the knowingly false three statements from the Underwood Letter, as noted supra, contained untrue defamatory statements about her and that these statements injured Stark’s reputation in the community. In Count III, she alleged that she suffered the same damages due to Zeta Phi Beta’s negligent breach of its duty to abide by its Constitution, policies, and procedures. In addition to the same damages from Counts I and III, Stark claimed she “suffered damage to her character, reputation, and standing in her community.” Zeta Phi Beta moved for summary judgment, and Judge Robertson dismissed Counts I and III at a status conference after hearing oral arguments on Zeta Phi Beta’s motion. The case thus turned on whether or not Stark could prove her allegations regarding the
defamatory nature of the Underwood Letter. According to the court, her defamation claim could not survive summary judgment.

Stark alleged that Zeta Phi Beta’s Constitution and policies were contracts between herself and Zeta Phi Beta and that Zeta Phi Beta breached those contracts because Stark did have an opportunity to rebut the charges, and that prior to her expulsion, Stark was not aware of the charges and that a formal hearing did not take place. In its brief supporting its motion for summary judgment, Zeta Phi Beta first contended that judicial intervention is inappropriate because the crux of this case is Stark’s dissatisfaction with the handling of an internal sorority matter. According to Zeta Phi Beta, proceedings are subject to Robert’s Rules of Order, which provides that Zeta Phi Beta can “require that its members refrain from conduct injurious to the organization or its purposes.” If a member of Zeta Phi Beta does not abide by this standard, Robert’s Rules provide that she is “subject to disciplinary action, whether the bylaws make mention of it or not.” Zeta Phi Beta contended that Stark was properly suspended and later expelled for misconduct and rules violations because she “took matters into her own hands by attacking Moore and the sorority in the media and disclosing the sorority’s sensitive financial information to individuals outside of the sorority.” Zeta Phi Beta analogized to similar cases involving sororities where courts were reluctant to get involved in the internal affairs of a voluntary association. Zeta Phi Beta contended that Stark’s unhappiness with her expulsion and the outcome of Zeta Phi Beta’s disciplinary investigation does not entitle her to the court’s review of “what amounts to nothing more than a dispute between the sorority and one of its members.”

Second, Zeta Phi Beta contended summary judgment is appropriate because Zeta Phi Beta complied with all internal policies and procedures. In response to Stark’s allegation that she was not given the opportunity to be heard prior to her suspension, Zeta Phi Beta argued that nowhere in Zeta Phi Beta’s Constitution, Handbook, or Bylaws is there a requirement that Stark be given the right to be heard prior to the imposition of her suspension. Zeta Phi Beta pointed out that the Handbook only requires that an investigation of the process be conducted at each step to determine if governing rules, policies, or laws have been violated, and that the
final Appellate Hearing is the only opportunity to be heard. In response to Stark’s allegation that she was denied the opportunity to attend the final hearing via teleconference, Zeta Phi Beta contended that would have been inappropriate given the sensitivity of the hearing and because Stark did not make this request until the day before the hearing. Because the Handbook authorized suspension and expulsion, because Zeta Phi Beta followed all procedures, and because Stark refused to participate in the appeals process, Zeta Phi Beta contended that Stark “cannot now claim that her rights to be heard and to defend herself have been violated.”

Third, Zeta Phi Beta contended that summary judgment is appropriate even if Stark demonstrates that Zeta Phi Beta did not strictly adhere to its own procedures because the procedures followed were fundamentally fair. This argument closely tracks Zeta Phi Beta’s above argument and is not easily distinguishable. Analogizing to three similar cases, Zeta Phi Beta argues that the process leading up to Stark’s expulsion was fundamentally fair because: (1) Zeta Phi Beta complied with its the policies and disciplinary procedures at every level; (2) Zeta Phi Beta provided Stark with written notice of her alleged violations and misconduct; (3) Stark gave a written response to the charges with the advice of counsel; and (4) although Stark had the opportunity to appeal, she chose not to participate in the appellate process. Thus, according to Zeta Phi Beta, the process was “not in conflict with designated procedures and free from the taint of fraud, bad faith or arbitrary action.”

Stark’s memorandum opposing summary judgment did not address the breach of contract claim. The district court apparently agreed with Zeta Phi Beta that there were no genuine disputes as to any material fact regarding breach of contract because it held that Zeta Phi Beta was entitled to judgment as a matter of law on the contract claim after hearing oral arguments at a status conference.

Stark alleged that Zeta Phi Beta was negligent because it breached its duty to abide by its constitution, policies, and procedures. In its motion for summary judgment, Zeta Phi Beta contended that an essential element of a negligence claim is absent because the organization owed no duty to Stark. Zeta Phi Beta argued that Stark did not allege a duty nor cite to authority that
establishes a standard of care. In the alternative, Zeta Phi Beta contended that Stark cannot establish a breach of duty because Zeta Phi Beta complied with all policies and procedures and followed a fundamentally fair disciplinary process. Stark’s memorandum opposing summary judgment did not address the negligence claim. Apparently, the court agreed with Zeta Phi Beta, as it held that Zeta Phi Beta was entitled to judgment as a matter of law on the negligence claim after hearing oral arguments at a status conference.

In her complaint, Stark alleged that the “Underwood Letter” contained untrue defamatory statements about her that Zeta Phi Beta knew to be false. Three statements from the letter, which was distributed to all Zeta Phi Beta members, serve as the substantive basis for Stark’s defamation claim: (1) “the recommendation to expel [] Stark was properly made by members of the Epsilon Zeta Chapter;” (2) Stark “made statements with disregard for the truth;” and (3) Stark “was not a whistle-blower because a whistle blower is a person who provides truthful information to a law enforcement officer in relation to the commission or possible commission of a federal offense.”

To prevail on her defamation claim, Stark had to demonstrate: (1) that the Underwood Letter contained false and defamatory statements concerning Stark; (2) that Zeta Phi Beta published the letter without privilege to a third party; (3) that Zeta Phi Beta’s fault in publishing the letter amounted to at least negligence; and (4) either the statements were actionable as a matter of law irrespective of special harm, or that their publication caused Stark special harm. The statements are defamatory if they tend to injure Stark in her profession or community standing. Moreover, truth is a complete defense to defamation. In its Rule 56 motion, Zeta Phi Beta contended summary judgment is proper because (1) the statements in the Underwood Letter are protected by the “defense” privilege and “common interest” privilege; and (2) Stark cannot show that the statements were false or published by Zeta Phi Beta with actual malice. In its brief, Zeta Phi Beta actually breaks the second argument into two separate arguments; however, its arguments for truthfulness and the absence of malice are largely the same and the court’s analysis treats them as such.
Turning first to truthfulness and actual malice, Zeta Phi Beta contended, and the court ultimately held, that because Stark thrust herself into the public sphere by appearing undisguised on two broadcasts and by sending the information out in the first place, she is a limited purpose public figure. As a limited purpose public figure, Stark thus had to prove that Zeta Phi Beta published the statements with actual malice, under the United States Supreme Court 1964 opinion *New York Times Co. v. Sullivan*, in order to prevail on her defamation claim. The court defined actual malice as “publication with knowledge that a statement was false or with reckless disregard as to whether it was false.” Stark did not dispute Zeta Phi Beta’s contention that she is a public figure, but instead she attempts to demonstrate actual malice by arguing that Zeta Phi Beta published the Underwood Letter with the knowledge that the statements from the Underwood Letter were false. Although Zeta Phi Beta contended that “the correspondence in which the statements at issue arise, when taken as a whole, is substantially true,” Stark actually alleged that each individual statement is false.

First, Stark alleged that Zeta Phi Beta knew the first statement (the recommendation to expel Stark was properly made by members of Epsilon Zeta Chapter) to be false because other members of Epsilon Zeta Chapter sent a letter disavowing the recommendation of Stark’s suspension. Stark further alleged that Zeta Phi Beta knew the recommendation was not properly made because the bylaws only allow for Regional and State Directors to request the suspension of members. Zeta Phi Beta responded that the recommendation was properly made because the Handbook permits one member of Zeta Phi Beta to file a grievance against another member; that under Robert’s Rules, one should not remain a member if her conduct is injurious to the sorority; and that members of the Ad Committee of the Epsilon Zeta Chapter filed a formal grievance, in accordance with the Zeta Phi Beta Handbook, against Stark to the Georgia State Director. Zeta Phi Beta thus concluded that because the recommendation was properly made, the statement was not published with actual malice. The court agreed with Zeta Phi Beta because “Stark has made no effort to rebut [Zeta Phi Beta’s
citation to the Handbook] or explain why Zeta Phi Beta should not have relied on it.”

Next, Stark claimed that the second allegedly defamatory statement from the Underwood letter (that Stark’s quotes in the press release “disregard the truth) was motivated by actual malice because the quotes were in fact true. Stark’s quotes from the press release include:

The bottom line here is that folks’ hard earned money has been stolen and the law has been broken. . . . Expelling me from the sorority for fulfilling my fiduciary duty to the members of Zeta . . . will not change the fact that money has been stolen and the law has been broken. . . . If I’ve got to choose between being a member of Zeta Phi Beta Sorority, and doing time in a federal prison for aiding and abetting the commission of a felony, that’s pretty much a no-brainer.

Zeta Phi Beta argues that because no one was indicted for any crime, because Stark did not in fact have a fiduciary duty towards Zeta Phi Beta, and because Stark did not qualify any of her accusations with words to the effect of “it is my belief that,” Stark’s quotes do in fact disregard the truth; thus, the second allegedly defamatory statement was not actuated by malice. “These points [were] well taken” by the court.

Lastly, Stark alleged that Zeta Phi Beta knew that the third allegedly defamatory statement from the Underwood Letter (the “whistleblower” comment) was false because Zeta Phi Beta emailed Stark about the grand jury investigation and asked her to gather information for the grand jury to review. Zeta Phi Beta responded that Stark admitted to making various untrue statements and that under Stark’s own definition of whistleblower—“one who provides law enforcement with truthful information relating to the commission of a federal offense”—Stark cannot be a whistleblower because although she disclosed Moore’s embezzlement of funds to the media and others outside the sorority, she did not contact law enforcement regarding Moore or Zeta Phi Beta. Moreover, Zeta Phi Beta contended that when considered in the proper context, the
alleged defamatory statements from the Underwood Letter are not actuated by malice because they are merely attempts by Zeta Phi Beta to respond to Stark’s attacks upon its reputation.

Turning next to Zeta Phi Beta’s assertion of the defense privilege, this privilege applied (assuming the absence of actual malice) if the Underwood Letter was published to protect Zeta Phi Beta’s interests, there was a reasonable belief that Stark’s statements to the media affected a sufficiently important interest of Zeta Phi Beta, and Stark’s knowledge of the defamatory matter would have been useful to protect Zeta Phi Beta’s interest. To overcome the defense privilege, Stark must prove actual malice by extrinsic evidence unless the statements in the Underwood Letter were “so excessive, intemperate, unreasonable, and abusive as to forbid any other reasonable conclusion than that the defendant was actuated by express malice.” Zeta Phi Beta analogized to situations in which courts applied the defense privilege where a defendant was attacked in letters to Congress and articles in the press. Zeta Phi Beta contended that Stark could not overcome the privilege because the Underwood Letter was written as a direct response to Stark’s public allegations against Zeta Phi Beta and her disclosure of damaging material to media outlets. The court agreed, concluding that when Stark said, “folks’ hard earned money has been stolen and the law has been broken,” Zeta Phi Beta’s public denial and response that her “quoted statements disregard the truth” is privileged.

Turning finally to Zeta Phi Beta’s assertion of the common interest privilege, this privilege protects the statements from the Underwood Letter, even if they are otherwise defamatory, if they were made: (1) in good faith, (2) on a subject in which Zeta Phi Beta has an interest or a duty to a person having a corresponding interest or duty, and (3) to a person who has such a corresponding interest. Zeta Phi Beta argues that it published the Underwood Letter in order to address and clarify the misrepresentations surrounding the disciplinary action taken against Stark with the good faith belief that the letter was necessary to protect the interests of Zeta Phi Beta from false and damaging attacks on its reputation. Zeta Phi Beta further contended that its primary motive in publishing the letter was to protect the interests of the sorority and that it used the Underwood
Letter to fulfill its duty to its members to give a thorough explanation and response to defend against Stark’s allegations. The court agreed while reasoning that Stark presents neither facts nor argument that Zeta Phi Beta’s duty to inform its members was insincere, that there was no shared interest between Zeta Phi Beta members in Stark’s public expulsion, or that Zeta Phi Beta excessively published.

In her opposition to Zeta Phi Beta’s motion for summary judgment, Stark did not address Zeta Phi Beta’s assertion of the defense and common interest privileges. The opposition brief contained little argument, most of which attempts to establish actual malice. In fact, curiously, the opposition brief consisted largely of what appears to be copy and pasted allegations from the complaint.

The two primary factors behind the government’s failure to prosecute the alleged embezzlement appear to be Zeta Phi Beta’s refusal to provide the waiver to the attorney general and the fact that Stark broke the story to the media, but never contacted law enforcement. However, it seems fair to assume that at least one law enforcement agency would learn of Stark’s allegations against Moore and Zeta Phi Beta given that they were broadcast by four news stations and the attorney general was attempting to investigate Zeta Phi Beta. Although Zeta Phi Beta contended that Stark admitted in her deposition that she never contacted the U.S. Attorney’s Office or any other law enforcement official regarding Moore or Zeta Phi Beta, Stark did disclose the alleged embezzlement to the media, and the U.S. Attorney did attempt to investigate the matter.

Moreover, Stark complied with every request from the U.S. Attorney’s Office pertaining to the grand jury investigation. In contrast, Zeta Phi Beta repeatedly refused to provide any information that would assist in the investigation of Moore’s alleged embezzlement of Zeta Phi Beta funds. In their continued attempts to investigate, both the U.S. Attorney’s Office and the FBI sent Zeta Phi Beta a letter on April 20, 2006, requesting a limited waiver of the attorney-client privilege to allow Zeta Phi Beta’s former National Legal Counsel to speak with the U.S. Attorney’s Office and the FBI. Waiting more than two months to respond, Zeta Phi Beta wrote back that it could not provide certain documents because of the attorney-client privilege and the work product doctrine. With regard to the
government’s failure/inability to continue its investigation and ultimately prosecute, the following response from the Assistant U.S. Attorney, expressing his frustration about Zeta Phi Beta’s unwillingness to cooperate, is especially telling:

Our office and the FBI frequently investigate cases of this type involving public and tax-exempt organizations. Rarely have we encountered the kind of resistance shown by Zeta Phi Beta to disclosing what has occurred. To the contrary, our investigations usually proceed rapidly because the victim organizations make their files and employees, including attorneys, available to us immediately and without reservation.

From the above quoted language, it seems reasonable to infer that Zeta Phi Beta may have attempted to keep the alleged embezzlement a secret and purposely prevented the government from discovering any documents or witnesses that would lead to a prosecution. Zeta Phi Beta’s failure to cooperate with the investigation in any manner begs the question of whether Zeta Phi Beta was merely seeking to protect its former International President (Moore), or whether it was trying to cover up part of a larger, systemic pattern of behavior by Zeta Phi Beta leadership. Not only did Zeta Phi Beta refuse to cooperate with investigators, but Moore and other members of Zeta Phi Beta’s National Executive Board withheld from Zeta Phi Beta’s general body the details pertaining to the federal investigation, presumably to keep the investigation a secret. For example, the nature of some of the items that Moore purchased with embezzled funds support the inference that she may not have been acting alone and was possibly purchasing some of the items for other people. Purchased items included: “pantyhose, wigs, Wilson’s Leather, women’s designer clothing, fine jewelry, sportswear, ladies shoes, daywear, lingerie, and men’s and boy’s clothing.”

Perhaps even more telling of the secrecy of the conduct is the fact that, as of February of 2007, members of the sorority reported that they had not received anything of substance from Zeta Phi
Beta’s National Executive Board for three years. According to the members, they could not even obtain “something as simple and basic as a bank balance” at the 2006 National Convention.

In this case, it appears that Zeta Phi Beta sanctioned the whistleblower (Stark) in order to facilitate the secrecy of the conduct. Almost immediately after Stark uncovered Moore’s embezzlement of sorority funds, Zeta Phi Beta attempted to silence her—first by suspending her and ultimately by expelling her from Zeta Phi Beta. Although Moore eventually admitted that she used Zeta Phi Beta funds for her personal gain, Zeta Phi Beta’s National Executive Board declined to remove her from office despite being required to do so under Zeta Phi Beta’s internal fiscal management procedures. It seems fair to infer then, that rather than dealing with Moore’s actions, Zeta Phi Beta preferred to sanction the whistleblower to keep the embezzlement under wraps. Zeta Phi Beta leadership took action to swiftly impose the most severe sanctions on Stark, despite opposition from members of Stark’s Zeta Phi Beta chapter. Thus, it appears that Zeta Phi Beta leaders were the only ones who found Stark’s conduct to have an “injurious effect” on the sorority to warrant her expulsion from Zeta Phi Beta.

In this case, it appears that Zeta Phi Beta leadership never wanted to prosecute or sanction Moore for stealing the money. Zeta Phi Beta leadership’s abuse of power and turning a blind eye to the embezzlement seemed to be kept secret from rank-and-file membership. It is unlikely that Zeta Phi Beta members, who were members at the time Moore was using Zeta Phi Beta’s credit card for personal use, would have been unaware that such a large amount of money was withdrawn from the sorority’s account and used for items that were clearly for someone’s personal use.

Moreover, because Zeta Phi Beta is a 501(c)(7) tax-exempt organization, one would imagine that the International President’s use of tax-exempt funds for personal gain would attract attention from many Zeta Phi Beta’s leaders. However, on second glance, perhaps Zeta Phi Beta’s tax exempt status is the very reason they chose to turn a blind eye to the embezzlement in the first place and attempted to deal with the situation in-house after Moore promise to pay the money back. Perhaps the leaders felt that cooperation with
government investigators might jeopardize Zeta Phi Beta’s tax-exempt status.

The letter from members of Zeta Phi Beta’s Epsilon Chapter at Georgia State also sheds light on Zeta Phi Beta leadership’s possible abuse of power. These Zeta Phi Beta sisters wrote that they would “neither support nor endorse any disciplinary actions taken against Soror Stark that are not in accordance with the rules and regulations of Zeta Phi Beta Sorority, Incorporated, and that do not afford all parties involved their rights to due process.” The fact that Zeta Phi Beta sisters believed that Zeta Phi Beta leadership took inappropriate actions that contradicted Zeta Phi Beta’s own procedures raises questions as to whether Zeta Phi Beta leadership abused its power when it sanctioned Stark and concealed information surrounding the Moore investigation from its members.

Stark’s email to the South Carolina Black News provides additional support for the inference that Zeta Phi Beta leadership abused their power when they turned a blind eye to the embezzlement. Regarding Moore’s embezzlement of funds, Stark wrote that “17 members of the national executive board, under the leadership of comedienne Sheryl Underwood, who serves as chair of the board, are conspiring to assist Barbara Moore with covering up this outrage so that she can remain national president (and avoid going to jail).” Lastly, leadership’s desire to avoid any further investigation and deal with the matter in-house may have been motivated by the fact that after Stark told the media of the embezzlement, Zeta Phi Beta learned that some donors had decided “not to make any new financial grants and awards or further cash disbursements on existing grants.”

B. Alpha Kappa Alpha Sorority, Incorporated

Between 2006 and 2013, Alpha Kappa Alpha Sorority was embroiled in a half dozen lawsuits around the financial improprieties of its former Supreme Basileus (national president) Barbara McKinzie.
1. McKinzie v. Alpha Kappa Alpha

On March 13, 2006, Barbara McKinzie filed a lawsuit in Illinois state court against Alpha Kappa Alpha Sorority, Inc. Her complaint contended that from March 2, 2006, through March 5, 2006, the Alpha Kappa Alpha Board of Directors met for a regularly scheduled meeting in Detroit, Michigan, and McKinzie participated in the meetings on March 2, 3, and 4. On the evening of March 4, McKinzie was notified of an emergency that required her to leave the meeting and travel to Louisiana. When told that McKinzie would have to leave the meeting early, Linda White, Alpha Kappa Alpha’s Supreme Basileu, informed McKinzie she would be presenting information the next day about a complaint from a vendor alleging financial misconduct during McKinzie’s term as treasurer in 2002.

The complaint came from a travel consultant, David Carpenter, and stemmed from an incident between him and McKinzie. Carpenter alleged that McKinzie told him she needed to audit trips his company had provided in order to ensure that Carpenter did not overcharge travelers. Carpenter alleged she also told him if he did not agree to the audit, she had the authority to not sign the checks payable to him, and he would no longer be a consultant for Alpha Kappa Alpha’s trips. Carpenter stated he knew McKinzie had no right to ask for commissions and that she used him to extort money from the sorority. Carpenter was ultimately audited by the IRS for refusing to pay taxes on the $20,114 McKinzie extorted.

When the Board convened on March 5, 2006, only 16 of the 18 members were present. The President informed the Board about Carpenter’s written complaint, which he reported in December 2005. Prior to the Board meeting, President White conducted an investigation into the complaint by meeting with Carpenter, and arranged for Alpha Kappa Alpha’s attorney to examine the company’s financial records. McKinzie claims she was never made aware of the complaint, never put on notice that an investigation was being conducted, and never given an opportunity to defend herself. The Board conducted a vote after listening to the allegations, and
voted 9-6 in favor of suspending McKinzie’s privileges pending the outcome of the investigation.

On March 8, 2006, McKinzie received a letter from the President that indicated her suspension. McKinzie alleged that the organization’s Rules of Order and parliamentary authority do not permit the removal of an officer during an investigation. Moreover, she alleged that the requisite number of affirmative votes required to remove her from office were not gathered. According to McKinzie’s complaint, Alpha Kappa Alpha’s bylaws require 2/3 of the Board’s vote to remove someone from office, which means there are at least 10 affirmative votes required and only 9 voted affirmatively for McKinzie’s removal. McKinzie argued in her complaint that the withdrawal of her privileges was punitive and negligently denied her due process rights. Nine members contacted the President requesting a special meeting after realizing that an improper vote may have taken place, but no such meeting was called.

McKinzie’s complaint asked the court to declare the Board’s action for her withdrawal to be null and void, to dismiss the committee appointed to investigate the allegation, to cease-and-desist all actions taken subsequent to the March 5, 2005 vote, and to seal the record of the proceeding and expunge the minutes relative to the deliberation and vote taken.

After conducting numerous searches in an attempt to determine how this complaint was resolved, I was unable to find any information about the lawsuit at all, except from an outside website. A search of all complaints filed in Cook County Circuit Court on the court’s official website for the date stamped on the Complaint in this case, 13 March 2006, suggested that no such complaint was filed.

Since Barbara McKinzie was a part of the organization long after 2006, presumably McKinzie was successful in her suit or was voluntarily reinstated by Alpha Kappa Alpha, and the suit was dropped. As the following incident underscores, the past is indeed prologue.
2. Redden v. Alpha Kappa Alpha

On March 28, 2009, Pamela Redden filed a complaint and jury demand against Alpha Kappa Alpha, Barbara McKinzie, and various other directors, in U.S. District Court for the Northern District of Ohio. As a life member of Alpha Kappa Alpha, Redden has been part of the organization for over 30 years and is a former local chapter president, former International Committee Chairman, former Regional Director and a candidate for First Vice President in 2006. Redden’s complaint alleges the following:

During her 2006 campaign for First Vice President (known within the sorority as “First Supreme Anti-Basileus), rumors circulated regarding financial matters, including payouts of Sorority funds and issues of self-dealing and conflicts of interest by McKinzie, who formerly served as Treasurer. Redden was concerned with these unusual financial allegations and responded to these concerns during her campaign for national office. McKinzie and others viewed the discussion of these issues as personal attacks on their integrity.

Around April 20, 2007, Defendant Schylbea Hopkins, Great Lakes Regional Director, initiated an investigation in operational matters concerning the Alpha Omega Chapter of Alpha Kappa Alpha, of which Redden was a member. According to Hopkins, the Great Lakes Heritage Committee issued a report concluding that Redden committed acts in violation of the Anti-Hazing Handbook. As a result of these violations, her membership privileges were withdrawn, and Hopkins recommended that she be suspended from the sorority.

Redden alleged the charges brought against her by Hopkins were arbitrary, capricious, and without merit. Furthermore, she argued that they were carried out as an act of retribution, which served as evidence to sustain false charges that would lead to a suspension and effectively bar her from running for the highest elected office. At the time of the investigation, Redden was aware that an investigation was taking place, but was never advised that she was a target of the investigation.

Around September 4, 2007, Redden was contacted by the Alpha Omega chapter president to appear for an interview to take
place on September 8. However, she had a prior speaking engagement on that date, and notified the chapter president that she could not attend the interview. She was never given an opportunity to reschedule the interview, nor was she made aware of the serious charges against her. On October 14, 2007, she learned about the results of the investigation at a chapter meeting. Hopkins publicly announced at the meeting that Redden’s membership privileges were withdrawn pending a recommendation for a one-year suspension based on charges of financial hazing.

Before leaving the October 14th meeting, Redden received a letter stating her privileges were withdrawn “pending the approval from the Directorate.” On or about October 25, 2007, Redden submitted a request for reconsideration and provided documents to refute the allegations. Instead of responding to this request, Hopkins sent Redden a letter dated November 5, which stated the Directorate voted to suspend her for one year and required her to pay $9,500 to obtain reinstatement. This letter stated nothing about Anti-Hazing Manual violations, but mentioned a first time violation of the “So Now You Want to Run for Office” document.

Around December 5, 2007, Redden again initiated an appeal for reconsideration in accordance with the instructions in Hopkins’ November 5th letter. Hopkins declined the appeal in a letter dated December 29, 2007, and, pursuant to Alpha Kappa Alpha’s bylaws, Redden initiated another further appeal. This appeal had to be sent to McKinzie; however, the complaint alleged that there was no evidence that Hopkins sent the complete investigatory file to McKinzie. Having never received a response from McKinzie, Redden’s efforts to further appeal “should have resulted in a hearing” for her at the “next regularly scheduled meeting of the Directorate.” Redden alleged they deprived her of due process by not offering her a hearing or considering her appeal.

Redden’s complaint contains seven separate counts. Count one was for a declaratory judgment requiring a hearing with respect to the charges, as well as the appeal being provided to the Supreme Basileus. Count two was for injunctive relief. Count three was for breach of contract for being suspended in violation of Alpha Kappa Alpha’s own policies, rules, and regulations. Count four was for
defamation arising from the public announcement that Redden was suspended. Count five was for breach of fiduciary duty by the officers and directors of Alpha Kappa Alpha. Count six was for negligence because the defendants did not assure Redden’s appeal of her suspension to the Directorate. Lastly, count seven was for conspiracy, alleging Hopkins and McKinzie acted in concert with others to silence Redden and deprive her of her reputation.

On March 28, 2009, the trial court dismissed all claims in their entirety against all of the individually named defendants, holding that, under Ohio law, the personally named defendants could not be held liable in the action. The court also dismissed the breach of fiduciary duty claim, conspiracy claim, and defamation claim. After these dismissals, Plaintiff filed a motion for preliminary injunction, seeking, inter alia, to enjoin enforcement of her suspension from the sorority. The court denied Redden’s motion because she failed to articulate facts that clearly and convincingly demonstrate that she would suffer immediate and irreparable injury, loss or damage without the injunction. Ultimately, the parties resolved the conflict on their own. The parties agreed to dismiss the complaint, with prejudice, on June 17, 2011.

3. Shackelford v. Alpha Kappa Alpha

On June 24, 2009, Kenitra Shackelford sent, through her attorney Ruth Major, a letter to the Alpha Kappa Alpha Sorority, Inc. Board of Directors detailing her allegations (later laid out nearly verbatim in her complaint) against Barbara McKinzie and Alpha Kappa Alpha. In the letter, Major provided a narrative of Shackelford’s history with Alpha Kappa Alpha and the events giving rise to the litigation, and asked that the Board to address Shackelford’s damages, ensure that McKinzie’s conduct would be investigated by a reliable outside party, and that Alpha Kappa Alpha’s assets are thoroughly protected. Shackelford’s Verified Complaint at Law was filed on September 3, 2009, and was amended on June 23, 2011.

According to the Verified Second Amended Complaint at Law, Shackelford was employed by Alpha Kappa Alpha as the Director of Meetings/Conferences. She started in December 2008 as
a Contractor, and became a permanent employee in March 2008. In her role as the Director of Meetings/Conferences, Shackelford oversaw Alpha Kappa Alpha’s conference expenditures, including hotel, travel, and meal arrangements. It was during this time that she learned of McKinzie’s spending.

The process of arranging for airfare, hotel rooms, and catering for Alpha Kappa Alpha’s meetings lacked modern methods and technology. Alpha Kappa Alpha did not use computer programs to monitor meeting/conference costs and expenses and revenues, which is unusual for organizations with Alpha Kappa Alpha’s size and prominence. Shackelford alleged in her complaint that this lack of technology was not due to poor planning, but rather was an intentional plan to obfuscate costs and expenditures.

Shackelford alleged, inter alia, that McKenzie would overcharge the sorority and retain the extra money and benefits. For example, Alpha Kappa Alpha would purchase a block of hotel rooms for a conference/meeting at a set (lower than retail) price. This obliged Alpha Kappa Alpha to pay for the rooms, regardless if they were filled or not. As a result Alpha Kappa Alpha charged members more for the rooms in order to make up for the cost of those rooms going unfilled. Alpha Kappa Alpha’s event planning system did not monitor profits and only recorded the total revenues received, which allowed McKinzie to have “VIP and “Gratis” lists for the events, meaning that certain individuals (namely McKinzie’s friends) were given numerous benefits, including rooms and suites at no charge.

After noticing such transactions, Shackelford put a program in place to identify expenditures. She noticed many American Express invoices were not linked to legitimate sorority transactions, including $30,000 on jewelry and various Limousine and restaurant charges that had no connection to Alpha Kappa Alpha meetings/events. The Director of Finance, Eric Salstrand, attempted to have Shackelford categorize these expenditures as meeting/travel expenses so that they would appear as legitimate purchases. On various occasions, Shackelford heard McKinzie tell Salstrand to move charges around and to change accounting methods to hide costs.

According to the complaint, McKinzie also engaged in “shaking down” vendors. Various vendors complained that as
treasurer, McKinzie required them to provide personal payments in order to do business with Alpha Kappa Alpha. One travel agent stated McKinzie forced him to pay $21,000 to do business with Alpha Kappa Alpha. In May 2009, Shackelford received a phone call from a different vendor stating he could no longer participate in an event because of a monetary demand by McKinzie. She told her assistant about this phone call, and the assistant informed her that these types of calls were common.

Shackelford put other Alpha Kappa Alpha directors on notice about McKinzie’s behavior numerous times, but they did nothing. Every time she mentioned the problems with balancing the budget, she was told to ignore the charges and just balance the budget. Shackelford brought forth numerous charges, such as $60,000 in airfare and $25,000 from an Alaska trip that could not be explained. Shackelford also discovered that McKinzie was diverting all of Alpha Kappa Alpha’s hotel reward points to her personal account.

After bringing forward these unexplained charges and expenses, McKinzie started to treat Shackelford differently, including verbally abusing her for any perceived problems with Alpha Kappa Alpha conference/meeting planning. In one instance, after a high attrition from the 2009 biannual leadership conference in Alaska, McKinzie told Shackelford to relocate some of the attendees and move their credit card deposits to other hotels. Shackelford informed McKinzie that it would be illegal, both to “move conference attendees to other hotels without their notification and consent, as well as “retain the deposits and shift them to other hotels without” an agreement between the hotel and credit card companies. McKinzie became very angry and told Shackelford to keep the deposits because it was “her money” and she did not need the sorority’s consent since they would do whatever she told them.

Shackelford contacted Alpha Kappa Alpha’s outside counsel about this issue, who emailed McKinzie explaining the correct legal way to handle the issue and deposits. After the email was sent, McKinzie became even more hostile to Shackelford. Tired of being intimidated by McKinzie, Shackelford approached Executive Director Dr. Betty James and told her about the hostilities. Dr. James informed Shackelford that there was nothing she could do about
McKinzie. She explained that this is why people in her position were forced to quit or became ill and part of the reason why there had been five people in the position under McKinzie in recent years. The bullying tactics became even worse in June 2009. During a meeting, McKinzie became very angry because Shackelford did not listen to her about room relocations. McKinzie started to scream, curse, pound the table, and growl through her teeth, and eventually became so unbearable that Shackelford left the meeting to prevent further attacks. The day after this incident, Shackelford received written and verbal notice that she was being suspended for a week without pay due to her alleged work abandonment. Shackelford alleged this was a pretext to retaliation.

On June 17, 2009, the day Shackelford received notice of her suspension, she reported her concerns about McKinzie to the Illinois Attorney General. After Shackelford returned from her weeklong suspension, she found her belongings packed up and her desk space was occupied by another person. When she left to retrieve her briefcase, she was stopped by the Human Resource Manager and told she was no longer an employee of Alpha Kappa Alpha and was not allowed back into the building.

During this period, Alpha Kappa Alpha allegedly started a smear campaign against Shackelford; they claimed she was hired based on a falsified employment application and challenged her application for unemployment benefits. She amended her complaint for the first time on February 19, 2010. In her Second Amended Complaint, filed on June 23, 2011, Shackelford alleged she was damaged by the loss of significant wages, humiliation, damage to her reputation, pain and suffering, and lost sleep. The first two counts of her complaint were against Alpha Kappa Alpha: the first for violation of the Whistleblower Act, and the second for common law retaliatory discharge. The third count was against McKinzie for tortuous interference with a prospective economic advantage. Finally, the fourth count was against the Human Resource Manager, Michelle Williams, for tortuous interference with a prospective economic advantage.

Shackelford’s Verified Complaint at Law was filed on September 3, 2009, and was amended on June 23, 2011.
4. Daley et al v. Alpha Kappa Alpha

Joy Daley, Kezirah Vaughters, Carol Ray, Elizabeth Holmes, Catherine Georges, Marie Cameron, Brenda Georges, and Frances Tynes filed suit on July 13, 2009, against Alpha Kappa Alpha Sorority, Inc., twenty four members of the Alpha Kappa Alpha Directorate, and the Alpha Kappa Alpha Education Advancement Foundation alleging claims of breach of fiduciary duties, breach of contract, fraud, unjust enrichment, corporate waste, and ultra vires. Their complaint tended to show the following:

The plaintiffs were all members of Alpha Kappa Alpha for a combined total of more than 265 years. They held numerous voluntary leadership positions at both the local and national level. Prior to filing a lawsuit, the women voiced their concerns at chapter meetings and within the organization. They sought to receive answers to their concerns from Alpha Kappa Alpha leadership; when their inquiries were rebuffed, they asked to inspect Alpha Kappa Alpha’s records to alleviate their concerns. After exhausting more amiable options, they initiated a lawsuit against Alpha Kappa Alpha and its officers and directors on June 20, 2009. Thereafter, their membership privileges were suspended for their actions.

The First Amended Complaint pleaded claims of waste, fraud, unjust enrichment, breach of fiduciary duty, and wrongful discipline. The complaint centered on a dispute that followed the decision to compensate defendant, Barbara McKinzie, in her position as Supreme Basilius a historically uncompensated position. In 2006, the Directorate (a body limited to making day-to-day decisions that cannot be handled by Alpha Kappa Alpha’s corporate staff or postponed until the next Boule meeting) decided to pay McKinzie a lump sum of $250,000 for past services and approved a recurring
$4,000 per month salary. Plaintiff Daley was suspended from the sorority and warned not to attend the 2008 Boule after speaking concerns about McKinzie’s additional compensation, in excess of one million dollars, for her position as Supreme Basilius. At the 2008 Boule meeting, there was no mention of payments to McKinzie in the meeting agenda or financial reports, despite obvious controversy acknowledged by McKinzie herself. Attempts to discuss the issue were denied. In response to the complaint, defendants filed a motion to dismiss. Plaintiffs countered with a motion requesting discovery. Following a motions hearing, the trial court granted defendants’ motion to dismiss with prejudice and denied plaintiffs’ motion as moot. Plaintiffs appealed. On appeal, the District of Columbia Court of Appeals affirmed in part, reversed in part, and remanded.

Plaintiffs argued in their brief to the Court of Appeals that the Superior Court erred in holding it lacked jurisdiction over the individual defendants and the Foundation. Specifically, they argued that by their appearance and actions at the 2008 Boule, the defendants had “transacted business” within the District such as to bring them within the reach of the District of Columbia long-arm statute. The appellants also argued that the Superior Court erred in finding they lacked proper standing to bring their claims. They argued that the court wrongly concluded that only Daley had standing to assert her claims based on the factual error that she alone was disciplined. This being the case, all plaintiffs had standing, plaintiffs argued, to bring their claims directly rather than derivatively. Finally, the appellants argued that the Superior Court erred in dismissing the corporate waste, ultra vires, and breach of contract claims under Rule 12(b)(6). Specifically, they argued that the Superior Court had applied the wrong standard to corporate waste claim by dismissing it as “unlikely” rather than determining that the plaintiffs could prove no set of facts to support the claim. Plaintiffs argued that the court erred in dismissing the ultra vires claim because these types of claims are not limited to legislative acts, as the trial court ruled, but rather include violations of company bylaws. They argued that the error in dismissing the breach of contract claim was based on the fact that multiple sufficient allegations of defendants violating Alpha Kappa Alpha’s governing documents had been pleaded.
The defendant-appellees, in their brief, argued that the Superior Court correctly found that it did not have jurisdiction over the individual defendants or the Foundation. The defendants argued that even if individual defendants transacting business were enough to bring them under the District of Columbia long-arm statute, the plaintiffs would still need to show a “substantial connection” between the defendants’ contact with the forum and the plaintiffs’ claim for relief, which did not exist. A similar argument was made concerning the Superior Court’s finding that there was a lack of jurisdiction over the Foundation. Defendants argued that the Foundation’s website accessibility to D.C. residents did not establish personal jurisdiction, and even if the website’s accessibility constituted “transacting business,” the plaintiffs’ claims would need to arise from that business for jurisdiction to be proper. Appellees also argued that all claims against the Foundation had been properly dismissed as no claim for relief was actually articulated against the Foundation.

The Court of Appeals found that the plaintiffs lacked standing to bring suit for two reasons. First, plaintiffs’ claims were based on injury to Alpha Kappa Alpha as a corporation, not the plaintiffs. As such, relief could only be sought by its directors, not individual members. Second, plaintiffs (aside from Daley) alleged they were disciplined in retaliation by McKinzie and other unidentified directors; however, personal jurisdiction could not be exercised over the out-of-state defendants.

Appellees argued that the trial court properly dismissed the breach of contract, ultra vires, and corporate waste claims. The breach of contract claim, as originally pleaded, showed only derivative claims which Alpha Kappa Alpha could assert. Furthermore, even if the plaintiffs stated individual claims, they had not abided by their own contractual obligations by violating Alpha Kappa Alpha by-laws. The appellees argued the ultra vires claim was properly dismissed because there were no allegations that the financial decisions made were outside the powers granted by the Alpha Kappa Alpha charter. Additionally, the appellees noted that there was no statute or by-law that appellees alleged was violated. Finally, appellees argued that all plaintiffs, Daley included, lacked
standing for a corporate waste claim because it was a classic derivative claim unrelated to plaintiffs’ individual membership status or discipline.

In holding that the trial court erred in dismissing the action for lack of jurisdiction over individual appellees, the Court of Appeals reasoned that, given the circumstances (the named appellees voluntarily participating in the Boule sessions held in D.C. over the course of a full week, during which they dealt with the management of a D.C. corporation), the appellees reasonably expected to defend actions in D.C. Courts without offending traditional notions of fair play and substantial justice. The Court of Appeals held that the trial court correctly ruled that it had no jurisdiction over the Foundation. Furthermore, in a situation where members of a non-profit supply substantial revenue by paying recurring annual dues, individuals have standing to complain when it is alleged that the non-profit and its management acted outside of the requirements of the constitution and by-laws of that organization in spending those funds. The guidelines the court gave for determining if an individual has standing were that a party must show (1) a concrete injury, (2) that the injury is traceable to the defendant’s action, (3) that the injury can be redressed.

The Court found that relief from improper discipline, breach of contract, and ultra vires claims could all be brought directly. Using the reasoning that it could not be shown that the directorate “irrationally squandered” corporate assets,” the Court of Appeals found that the trial court properly dismissed the claim for corporate waste. Under their analysis, if a rational person would find that the corporation’s decision made sense, the judicial inquiry ends. However, the Court of Appeals found that the trial court had erred in dismissing the ultra vires claim when it determined plaintiffs could not show any “statute or law” had been violated. The Court of Appeals stated the correct standard for ultra vires claims as corporate actions “expressly prohibited by statute or by-law.” Finally, the Court of Appeals found that the trial court erred in dismissing the breach of contract claims as the complaint alleged various violations of Alpha Kappa Alpha’s governing documents.
Following this ruling by the D.C. Court of Appeals, the defendants filed a petition in Cook County, Illinois Circuit Court on January 23, 2013, asking it to file a subpoena for Ruth Major for purposes of discovery in the District of Columbia Action. This was in addition to defendants’ first petition on December 14, 2012 to depose corporate representatives for Ragland & Associates, Endow, Inc, and Brooks, Faucet & Robertson, LLP. Searches did not reveal any proceedings in the D.C. Superior Court subsequent to the D.C. Court of Appeals ruling on August 18, 2011. Presumably, the suit has not yet been resolved and is ongoing.

This lawsuit was the only one to receive substantial attention from the media. The first news article related to any of the lawsuits involving Barbara McKinzie and Alpha Kappa Alpha was published in July 2009, and noted that Barbara McKinzie had recently come under fire for a “long list of financial misdeeds.” The story further stated that eight members of the sorority, which was founded at Howard University in 1908 and now boasts 950 chapters and 200,000 members, filed a suit in D.C. Superior Court on June 20, 2009 seeking “to restore their beloved sorority to its former high standards of governance, corporate transparency, and active membership.” The position that McKinzie held, the story reported, was usually an unpaid one, but McKinzie was paid “a $375,000 lump sum payment,” as well as $4,000 per month stipend.

Another story covering the lawsuit stated that the complaint alleges that McKinzie “misappropriated funds . . . [in order to] commission[] a $900,000.00 wax figure of herself.” In addition to outlining the other allegations in detail, the story noted that “the dispute [wa]s being played out on open-access Websites and blogs, [which is] a rarity among the . . . [BGLOs, which tend to] handle[ ] internal discord [much] more discreetly.” “In the suit filed in Washington, D.C., the Alpha Kappa Alpha [sorority] members . . . alleged that [while] international president . . . [of the sorority,] McKinzie [also] bought designer clothing, jewelry, . . . lingerie,” gym equipment, and a big screen television, all with Alpha Kappa Alpha money. According to another story, the lawsuit also alleged that McKinzie had invested millions of the sorority’s money in stocks and bonds, which subsequently lost huge amounts. McKinzie

265
characterized the lawsuits as nothing more than “malicious allegations, based on mischaracterizations and fabrications.”

McKinzie explained to a news outlet that only $45,000 of the $900,000 actually went to wax figures, and two were bought: one of herself, and a second of another sorority official. The statues were supposed to be displayed in the National Great Blacks in Wax Museum in Baltimore, Maryland. The museum itself acknowledged that it created the statues and that “the sorority paid $22,500 apiece for . . . [them, which was] a discount from the standard cost of $25,000.” The museum curator, Joanne Martin, stated that the statues were not a ludicrous expense, but that officials from Alpha Kappa Alpha’s Chicago office approached her about commissioning the statues. One statue was of the first president of the sorority, and the other, of McKinzie, was the president at the time the sorority turned 100. McKinzie agreed, and argued that “the expenses were ‘consistent with furthering Alpha Kappa Alpha’s mission,’ and did not violate any of the group’s bylaws.” The lawsuit against McKinzie even drew international attention.

5. Purnell et al. v. Alpha Kappa Alpha

On June 4, 2010, Julia Purnell filed an amended petition for writ of mandamus for examination of books and records against defendant Alpha Kappa Alpha. Purnell’s petition contended that she is “a life member of Alpha Kappa Alpha and . . . [f]ormer Supreme Basileus.” “She played . . . significant role[s] in [securing grants for Alpha Kappa Alpha and in] the effort for civil rights.” As a former Supreme Basileus, she is a voting member of the Boule, Alpha Kappa Alpha’s policy-making body.

McKinzie and Purnell first met in 1985 when McKinzie was the Executive Director of Alpha Kappa Alpha. At the time, Purnell thought McKinzie was financially mismanaging “[Alpha Kappa Alpha] and was not surprised . . . [that] . . . McKinzie was terminated by then Supreme Basileus Janet Ballard.” When McKinzie ran for treasurer of Alpha Kappa Alpha in 1998 and First Supreme Anti-Basileus in 2002, Purnell did not vote for her because of her concerns for McKinzie as a leader.
In 2006, Purnell was appointed to a committee investigating claims that McKinzie forced vendors to pay her a fee to do business with the sorority. Purnell witnessed firsthand McKinzie’s demand that a vendor give $20,000 “to ‘audit’ his books.” The Committee recommended, “the sorority adopt a ‘Conflict of Interest’ policy . . . to prevent similar problems from [occurring] in the future.” “None of the recommendations . . . were implemented by the Directorate or presented for a vote at the Boule.” Various members contacted Purnell to “express[] their concern . . . [about] the current leadership’s behavior.”

“The position of Supreme Basileus has traditionally been a volunteer position that” is uncompensated except for reimbursement of expenses. From 2007-2009, when she was Supreme Basileus, “McKinzie received payments of at least $1,182,827.” In addition to these payments, there were various other inappropriate expenditures that solely benefited Alpha Kappa Alpha leadership. In her petition, Purnell cited Shackelford’s complaint, which alleged the many improprieties by Alpha Kappa Alpha leadership. “In 2009, [Alpha Kappa Alpha] purchased . . . a wax statute of . . . McKinzie and Nellie Quander, [Alpha Kappa Alpha]’s first Supreme Basileus.” The Directorate allocated $900,000 for this project, and there are rumors “the statues cost substantially less than” this amount.

When Purnell filed her motion to inspect the books and records in 2010, she wanted to have this information before Alpha Kappa Alpha was to vote on new leadership at the Boule. Specific documents Purnell sought to access include “copies of cancelled checks, copies of bank statements, copies of [general ledger detail, . . . copies of invoices received and paid by [Alpha Kappa Alpha], copies of . . . credit card statements and transaction receipts, copies of electronic funds transfers and supporting documents, . . . and copies of tax accountant and audit reports.”

Purnell formally demanded the opportunity to examine certain corporate records. Alpha Kappa Alpha responded to Purnell’s inquiry by stating that her demand is “superfluous to the information already provided” in annual audit reports. The letter from Deborah Dangerfield also described Purnell’s requests as more burdensome than an earlier request made by Purnell to McKinzie on August 21,
2009. In that letter, Purnell expressed her displeasure with Alpha Kappa Alpha leadership to McKinzie, and asked to receive and inspect the Alpha Kappa Alpha and Educational Advancement Foundation books, records, and financial documents. McKinzie responded that she has not been involved in the misappropriation of funds and that she could not make available the books and records. Furthermore, McKinzie accused other members of taking advantage of Purnell, as she is the oldest living Past Supreme Basileus and is a “voting member.”

This complaint has been resolved. On July 1, 2010, the Cooke County Circuit Court entered an order granting Purnell’s motion for a preliminary injunction, holding and enjoining Alpha Kappa Alpha from interfering with plaintiff’s review of the documents she requested. Alpha Kappa Alpha then sought to overturn the injunction by appealing the order to the Appellate Court of Illinois, First Judicial District, First Division. However, this case was resolved without the appellate court ruling on the case. The litigation was concluded on the parties’ agreement to do so; the preliminary injunction was dissolved and the Petition for Writ of Mandamus for Examination of Books and Records was dismissed with prejudice.

6. Alpha Kappa Alpha v. McKinzie

On June 21, 2013, Alpha Kappa Alpha filed suit against Barbara McKinzie (Defendant), alleging breach of fiduciary duties, conversion, and unjust enrichment. The complaint alleges the following: Defendant caused Alpha Kappa Alpha to pay her in excess of $1,000,000 by soliciting members of the sorority’s board, known as the Directorate, to pay her. Defendant was knowledgeable in accounting practices, and used this knowledge to create a second set of the sororities accounting records, which in turn circumvented Alpha Kappa Alpha’s internal accounting policies and procedures. “The Directorate . . . approved [Alpha Kappa Alpha] taking out a life insurance policy on Defendant for which it was the beneficiary.” Defendant incurred expenses for which she sought reimbursement from Alpha Kappa Alpha, all while not documenting these expenses.
“Defendant was reimbursed approximately $99,000 pursuant to Alpha Kappa Alpha quarterly reimbursement policy.”

Count one of the complaint was for breach of fiduciary duty. Alpha Kappa Alpha claimed that Defendant was the Supreme Basileus from July 2006 until July 2010, and in that position, she owed Alpha Kappa Alpha a fiduciary duty not to improperly profit from her position. Allegedly, defendant breached her duty by: (1) using her leadership position to “embezzl[e]” Alpha Kappa Alpha money; (2) failing to inform the Directorate about such activity; (3) directing Alpha Kappa Alpha staff to create financial records accessible only by restricted personnel; and (4) failing to inform the Directorate about the correct amount her stipend should have been.

As to the conversion count, Alpha Kappa Alpha alleged that it “was at all times the rightful owner of the . . . accounts,” Defendant wrongfully and without authorization usurped monies from Alpha Kappa Alpha, and failed to return the money. Finally, as to the unjust enrichment claim, Alpha Kappa Alpha alleged that but for the misleading and deceptive conduct by Defendant, Alpha Kappa Alpha would not have allowed her to receive excess compensation. “Defendant’s retention of excess compensation is unconscionable, and deprives Alpha Kappa Alpha of the benefit of their money.” The complaint asked that “Alpha Kappa Alpha be awarded restitution of not less than $1,300,000.”

7. Commentary

During the seven years that cases pertaining to Barbara McKinzie’s conduct were before various courts, Alpha Kappa Alpha demonstrated patterns of intra-organizational secrecy, including sanctioning of whistleblowers, and at least tacit support for unethical actions within the organization.

In the Daley case, at the sorority’s 2008 centennial meeting, there was no mention of payments to McKinzie in the meeting agenda or financial reports. In fact, attempts to discuss the issue were denied. The irony of the Purnell case is that not only was Purnell a former national president of Alpha Kappa Alpha, but she was also appointed to a committee charged with investigating claims that
McKinzie forced vendors to pay her a fee to do business with the sorority. The Committee recommended the sorority adopt a “Conflict of Interest” policy to prevent similar problems from reoccurring. Not only were none of the recommendations implemented by the Board, none of them were even presented to the national convention for a vote. In fact, the secrecy was so replete that even Purnell—a committee member investigating this issue—had to sue the sorority in an effort to ascertain the full facts. Rank-and-file sorority members were largely denied the opportunity to know what was transpiring in their sorority by those in power.

Not only were the facts of what transpired hidden from the average member, but also those who spoke out were demonized and sanctioned. In the Redden case, it is no surprise that Redden was punished in 2007. Indeed, BGLO members may often be sanctioned for hazing violations, and this may well have been such a situation. However, it would be consistent with the theory of this chapter that when BGLO members challenge the unethical conduct of national leadership, repercussions follow. Here, according to Redden, she expressed concern about the allegations of financial misfeasance on the part of McKinzie during her 2006 campaign for First Vice President. As such, McKinzie and others—presumably in national leadership—viewed the discussion of these issues as personal attacks.

In the Shackleford case, when Shackleford brought forward the unexplained charges and expenses, McKinzie verbally abused her for any perceived problems with Alpha Kappa Alpha conference/meeting planning. Even more, McKenzie became increasingly hostile toward Shackleford after she contacted outside legal counsel. As time went on, Shackelford received written and verbal notice that she was being suspended for a week without pay due to her alleged work abandonment. Once Shackelford reported the financial irregularities to the Illinois Attorney General and returned from her weeklong suspension, she found that she was no longer an employee of Alpha Kappa Alpha. During this period, the sorority’s leadership allegedly started a smear campaign against Shackelford. In the Daley case, the plaintiff was suspended from the sorority and warned not to attend the sorority’s 2008 centennial
convention for speaking out on the financial irregularities vis-à-vis McKinzie in her position as Supreme Basileus.

Moreover, those in power seemed to at least tacitly support or provide cover for McKinzie’s conduct. In McKinzie’s case against Alpha Kappa Alpha, it is no surprise that McKinzie’s privileges were suspended in 2006, because while she was in national leadership, she was not the national president. In the Shackelford case, she put other Alpha Kappa Alpha directors on notice about McKinzie’s behavior numerous times, but they did nothing. Every time she mentioned the problems with balancing the budget, she was told to ignore the charges and just balance the budget—thus showing at least tacit support for McKenzie. In the Purnell case, not only did McKinzie stonewall Purnell’s demanded the opportunity to examine certain corporate records of the sorority. The sorority itself stonewalled Purnell via Deborah Dangerfield, the sorority’s acting Executive Director.

It is important to underscore that Alpha Kappa Alpha finally took action against Barbara McKinzie. However, it occurred some seven years after she became Supreme Basileus, after numerous whistleblowers looking out for the sorority’s best interest were sanctioned, and only after the sorority was audited by the IRS.

**C. Alpha Phi Alpha Fraternity, Incorporated**

On July 19, 2012, Herman “Skip” Mason (Mason), the recently ousted President of Alpha Phi Alpha, “filed a Petition for Temporary Restraining Order and Preliminary Injunction against Alpha Phi Alpha in a Georgia . . . [superior] court.” Mason filed his action against the fraternity and individual members of the Board of Directors. Mason alleges that each named member collectively and tortuously committed acts against him, and caused him to file this petition.

Mason was first elected General President of the Alpha Phi Alpha at the Fraternity’s 102nd Annual Convention, which was held July 17-22, 2008, in Kansas City, Missouri. Mason was the 33rd General President of Alpha Phi Alpha. For the first two years of Mason’s presidency, all Fraternity functions proceeded as usual.
Mason regularly attended all Fraternity events and contributed his efforts to raise over one million dollars for the Fraternity during that time period.

After the 2010 fiscal year, an independent audit was conducted of the Fraternity’s recording and accounting. The Fraternity had been experiencing some financial short-comings and was seeking to reign in spending, in order to produce a more balance budget. The audit firm produced an Internal Management Letter, which detailed the findings of the audit. According to Mason, someone on the Board of Directors purposefully leaked this letter, which contained numerous alleged errors, to the entire Fraternity membership prior to the correction of those errors. Although the letter indicated the fraternity was in sound fiscal condition, it caused a strong uproar of disapproval for President Mason, because the letter contained a list of “unauthorized” personal purchases that Mason made with Fraternity funds. Amongst the unauthorized purchases were payments for dependent care and school tuition for Mason’s children, a purchase of Fraternity books from his wife’s publishing company to be used for resale, and evidence of negligent adherence to Fraternity accounting policies. Arguably, Mason’s removal from office was expedited by rank-and-file fraternity members who “employed ‘uncensored’ and ‘unsanctioned’ social media sites’ to disseminate information and organize around and against Mason’s conduct.”

According to Mason, he was allowed, under Fraternity bylaws, to use the Fraternity’s credit card. Mason contended he was provided an allotment of credit each year, and there were no express restrictions and/or limitations in which he could use that allotment. Additionally, the Chief Financial Officer of the Fraternity approved each financial transaction.

During this controversy, however, Fraternity business continued as usual. On April 22, 2012, the Western Regional convention for Alpha Phi Alpha was held in Las Vegas, Nevada. Upon conclusion of the regional convention, the Board of Directors met; Mason assumed his role as Chair and began the meeting as customary. After roll call, numerous members of the Board repeatedly asked Mason to step down as President. Mason
continually refused to step down, but Mason did attempt to start a
discussion on the matter to defend himself. Despite this attempt,
most members present continued to ask Mason to step down,
refusing to conduct business until he did so. Frustrated, Mason left
the meeting well before it ended.

After Mason left the meeting, an Immediate Past Western
Assistant Regional Vice President took over the meeting and
continued Fraternity business. Mason contended that although this
person was not “legally” allowed to assume control of the meeting,
according to Fraternity by-laws, that person did in fact gain control
over the meeting. With this unauthorized person now in control of
the meeting, the group initiated a vote to suspend Mason. The
motion to suspend was greeted with strong support, and Mason was
subsequently suspended. Since a suspended member of the Fraternity
cannot hold office, the vote effectively removed Mason from office.

In July 2012, with the controversy continuing to gather steam,
the Board of Directors asked Keith A. Bishop, general counsel to the
Fraternity, to generate a legal memorandum outlining “whether
Brother Herman ‘Skip’ Mason has been lawfully suspended in his
individual capacity and rendered disabled from performing his duties
as 33rd General President of Alpha Phi Alpha Fraternity.” Bishop
concluded that the Board of Directors had acted in violation of the
Fraternity Constitution and By-laws, as well as in violation of their
fiduciary duty as corporate officers. As a result of Bishop’s report, the
Fraternity took action to remove him from office and to remove
Mason from office. In addition, Mason was prohibited from using
any Fraternity funds; he was required to reimburse the Fraternity for
$24,322.79, and to terminate his promotion or association with the
Fraternity. As such, Mason filed this petition to enjoin the Fraternity
from taking such action.

First, Mason argued that he was likely to succeed on the
merits. Mason argued that the report, which led to his ouster, lacked
foundation on several grounds. First, Mason claimed the external
auditors, which conducted the review, were not familiar with the
process and customs of the Fraternity, thereby they lacked general
knowledge on how the Fraternity president’s general allotment was
typically used. Second, no Fraternity by-laws or regulations stipulated
how general allotments were to be used; therefore, its uses could not be considered improper. Additionally, the Chief Financial Officer must approve all of the President's purchases, and she did, thereby further proving Mason committed no wrong doing. Moreover, the Fraternity has experienced great economic prosperity and success during Mason's time as President, further making his removal on financial grounds questionable.

Aside from the argument that Mason was allowed to use his general allotment as he did, Mason also argues the actions of the Board of Directors violated Article V § 1, Article IV §§ 3 and 4, and Article II §§ 1 and 2 of the Fraternity's Constitution. Mason argued: (1) the Board was not properly constituted at the time of the action and therefore unauthorized to perform any official duties and responsibilities; (2) the suspension of Petitioner was unlawful because the Board of Directors was not properly constituted at the time of the action; (3) a later properly constituted Board could NOT lawfully adopt and ratify the actions previously taken by an unlawfully constituted Board; and (4) the unlawful Board action of installing an 'Acting General President' is void.

Mason contended that much like the targeted union member in Holmes, he was deprived of his due process rights. According to him, Mason was not served with notice, he was not given the opportunity to defend himself, and no hearing was provided to him.

Second, Mason argued that he would suffer irreparable harm absent the grant of injunctive relief sought. Mason stated he was a respected author, educator, Minister, and historian, and that his financial and professional success was entirely premised upon his public image. Mason claimed that if he were ousted from his position as President of Alpha Phi Alpha, he would suffer irreparable harm in the form of “(1) loss of livelihood from his Ministry (2) financial ruin from the loss of millions of dollars in book sales and (3) loss of membership in and leadership and influence within his beloved Fraternity of which [he] has been a member for 30 years and a leader for many years.” Additionally, no monetary award at trial would be able to make Mason whole if he were to sue for damages. Finally, Mason argued he was removed from his position in violation of the Fraternity's constitution, much like the plaintiff in Holmes. It is upon
these grounds that Mason contended he suffers irreparable harm, and Mason argued he deserves injunctive relief against the fraternity, much as the plaintiff in Holmes received in his case.

Third, Mason argued that the balance of equities tip in his favor. Mason only has six months remaining in his term, and Mason agreed to reimburse the Fraternity a mutually agreed upon amount of restitution. Thus, the harm to the Fraternity was far less than the harm to Mason if the injunction is denied.

Fourth, and finally, Mason argued that allowing the Fraternity to oust him sets a bad precedent for other corporations and open the floodgates for litigation challenging improper removal from office. Thus, granting the Petition was within the public interest.

It is upon these grounds Mason believed his Petition requesting a temporary restraining order and preliminary injunction should be granted. Mason concluded his petition with a request to grant an immediate and temporary restraining order and/or preliminary injunction that would preclude the Fraternity from removing Mason from his office of President and from removing any other person from their office. Mason also asked that the preliminary injunction and/or temporary restraining order preclude the Fraternity from taking any official action in the interim. Finally, Mason asked for a hearing in which he more soundly argue his case.

The Fraternity’s argument addressed the same criteria outlined by Mason, namely, that in order to obtain a temporary restraining order (TRO), three criteria must be proven: (1) the plaintiff has no adequate remedy at law, (2) the plaintiff can show irreparable harm, and (3) in the balancing of equities, the court finds that equity demands an injunction. If one of these factors was not met, the injunction must be denied.

First, the Fraternity argued that Mason will not suffer irreparable harm, because his term of Presidency was due to expire at the end of the year. Furthermore, the Fraternity argued the doctrine of laches bars the claim. Under Georgia law, those who wait too long before filing their case lose the opportunity to seek injunctive relief. Mason was suspended for almost three months prior to filing his TRO. He accepted his punishment and mounted no fight until that much later filing. Mason chose to bring this claim later because the
next National Convention of Alpha Phi Alpha was the weekend after his filing. Mason sought to stop this meeting in an effort to avoid the inevitable appointment of his successor. Mason waited so long to seek this injunctive relief that the doctrine of laches barred his TRO.

The Fraternity next argued that Mason has failed to show that there is not another adequate remedy of law available. However, Mason had six other legal remedies available to him, by the Fraternity’s count, and additional remedies available to him through the Fraternity itself. Furthermore, under Georgia law, members of the Fraternity acting on a volunteer basis are immune to civil suits if their actions were not willful or through wanton misconduct. The Fraternity alleged that Mason failed to prove that any of the Fraternity members acted willfully or wantonly towards him in this situation.

Finally, the Fraternity argued that Mason failed to demonstrate his case is “clear and urgent.” The only injury Mason alleged was injury to his reputation and the possibility of a loss in book sales. Regardless of the validity of these blanket assertions, any negative repercussions Mason faced were the result of his own actions, and Mason must live with his actions.

On July 27, 2012, Judge Matthew Robins denied Mason’s request for an emergency TRO. During the proceedings, Judge Robins noted that, “the court should not become involved in a nonprofit’s right to determine its own members,” because “... it is not for the court to resolve internal strife.” Although Judge Robins ruled that the court possessed jurisdiction over the Fraternity, he dismissed “the fourteen individual board members and an officer” of the Fraternity who had been named as co-defendants. Whether Mason continued seeking legal remedies against Alpha Phi Alpha is unclear. Judge Robins’ ruling did not prevent the actual merits of the suit from continuing through the courts.

The Mason case highlights two important points. First, while information was transmitted from Board members to rank-and-file fraternity members, it appears to have been done in a surreptitious manner. Arguably, revealing financial improprieties of the fraternity’s national head to the membership was not condoned by the fraternity’s Board. Accordingly, one or more members felt the need
to without the others knowing. Even more, the information was not transmitted liberally to the fraternity’s membership. Only after fraternity members took to social media sites, arguably, did the membership more broadly come to know of Mason’s conduct.

Second, there may have been high-ranking leaders within the fraternity who provided cover for Herman Mason; however, it is without a doubt that the General Counsel, Keith Bishop, provided cover for Mason, at least concerning his removal from office. This is reflective of Bruce Ackerman’s articulation of lawyers’ roles in the U.S. Presidents use the Office of Legal Counsel and the White House Counsel to justify whatever the president chooses to do. This is also so within BGLOs, to the extent that the national presidents are allowed to handpick their organization’s General Counsel.

D. Phi Beta Sigma Fraternity, Incorporated

The incident that arose with Phi Beta Sigma Fraternity presents a case that is a clear outlier—an incident not involving a BGLO national president, but one where the national officer was immediately outing and ultimately sanctioned. Phi Beta Sigma is a fraternity founded in 1914 at Howard University that has more than 120,000 members. Phi Beta Sigma consists of chapters at various universities in addition to alumni chapters located around the world. Phi Beta Sigma elected Terry Davis as its national treasurer in July of 1999 at the national conclave and reelected him to a second two-year term in 2001. Davis, a member of Phi Beta Sigma since 1985, served in that role until June of 2003. As national treasurer, he was “responsible for the management of all funds entrusted to” Phi Beta Sigma. Phi Beta Sigma receives “funds from annual dues paid by . . . [its] members.” After receipt at Phi Beta Sigma’s headquarters in Washington, D.C., these funds “are deposited into . . . [Phi Beta Sigma’s] ‘general fund’ bank account,” and the treasurer is entrusted to use them to pay operating expenses.

Phi Beta Sigma had two anti-fraud mechanisms to prevent embezzlement of funds and unauthorized expenditures. “First, all expenses were to be approved by” Phi Beta Sigma’s executive director, national president, and treasurer, with each individually
signing a voucher to document and authorize the payment. Second, the president and treasurer were supposed to co-sign every fraternity check to pay Phi Beta Sigma’s debts. Although the executive director is a full-time employee with an office at Phi Beta Sigma headquarters, neither the president, nor the treasurer has an office. Accordingly, compliance with Phi Beta Sigma policy would require every voucher and check be mailed from one officer to the other until all signatures were obtained.

Notwithstanding these policies, Phi Beta Sigma’s executive director, Donald Jemison, admitted that there were times when the policies were not followed. “For instance, if an important bill payment was due immediately, such as for insurance, the president would mail out the signed check to the insurance company, and return the voucher to [Phi Beta Sigma] headquarters with a copy of the check he had mailed.” At various times throughout his tenure as treasurer, Davis failed to comply with the voucher and check policies. For example, he wrote some checks without obtaining the appropriate approval voucher, and he wrote many checks that contained only his signature. In other cases, Davis signed or stamped the president’s name.

According to Peter Adams, president of Phi Beta Sigma from 1997 to July 2001, Davis was cooperative during the beginning of his tenure, but became increasingly obstinate about making himself available and about keeping reports of any kind. By the fall of 2000, Adams informed Davis that he would be required to create monthly reports and to provide information to Adams or the executive director. Moreover, in the fall of 2000, executive director Jemison became concerned about Davis’s performance as treasurer. Specifically, Jemison noticed that Phi Beta Sigma’s bank account balance “did not add up.” As a result, he asked Davis for copies of checks, but Davis refused to provide the checks.

Jemison addressed his concerns again during the February 2001, February 2002, and September 2002 board meetings. Despite his observation that Davis’s financial reports were incongruous with Phi Beta Sigma’s payroll account, Davis accused Jemison of “showboating” and told the Phi Beta Sigma board of directors that Jemison “didn’t know what he was talking about.”
Thus, the Phi Beta Sigma Board resorted to more drastic measures to exert control over Davis by requiring him to submit monthly statements to Phi Beta Sigma’s executive director and president, which listed the checks written in the previous month, including related vouchers and itemizations of withdrawals or transfers from Phi Beta Sigma accounts. Furthermore, the Board requested that Davis provide all “future bank statements, a check register, and cancelled checks for . . . [Phi Beta Sigma’s] general fund account.” Because Davis did not comply, Phi Beta Sigma’s auditor obtained the requested information. Jemison noticed that some checks were made payable to cash and that some of the president’s purported signatures had been forged. Furthermore, Jemison identified ten checks that formed the basis for ten counts of bank fraud.

In the spring of 2003, Phi Beta Sigma investigated the financial irregularities and discovered that Davis had written checks to cash and deposited Phi Beta Sigma funds into his own account. The evidence also tended to establish that during his tenure as national treasurer, Davis wrote some checks without an approved voucher and wrote other checks containing only his signature. Phi Beta Sigma suspended Davis in light of these violations in June 2003; Jimmy Hammock assumed Davis’s duties as national treasurer in July of 2003.

To explain why he had written Phi Beta Sigma checks payable to cash, Davis told Hammock that he had “transferred the funds to . . . [Phi Beta Sigma’s] payroll account.” Hammock then informed Davis that Phi Beta Sigma found checks totaling $29,000 written payable to cash that were not deposited into Phi Beta Sigma's account. Davis then asked if it was possible to "just split this $29,000 and make this situation just go away," to which Hammock replied that the total amount made out to cash was much more. After Davis said he did not have that much money, Hammock advised Davis to talk with Phi Beta Sigma's legal counsel or international president if he wanted to negotiate a settlement. This conversation between Davis and Hammock would become the dispositive issue on appeal, with the D.C. Circuit Court vacating Davis's convictions based on the district court's error in admitting this conversation into evidence.
At trial, Davis decided to take the stand because the district court excluded testimony from his wife that could have explained actions Davis took to pay fraternity bills. He testified that when he began serving as Phi Beta Sigma’s national treasurer, “he received no training as to how fraternity bills were paid.” According to Davis, Phi Beta Sigma board members were entitled to reimbursement for fraternity-related travel, even if those costs exceeded Phi Beta Sigma’s budget. Davis stated that he sent checks directly to vendors because the vouchers he received had already been signed by the executive director and president, so he saw no reason to send the checks to the president for a second signature. Furthermore, Davis explained that he had authorization from the Phi Beta Sigma president to sign the president’s name for Phi Beta Sigma expenses and that he used Phi Beta Sigma funds to reimburse himself for situations where he used his own funds to cover fraternity expenses. Davis also prepared summaries of the expenses, but conceded “each check did not always reconcile with the exact dollar amount in question.”

Moreover, Davis maintained that he had proper authority for each signature that he executed and that his personal bank account was “merely a way station that allowed funds to remit more quickly to vendors and banks” that preferred not to deal directly with Phi Beta Sigma due to Phi Beta Sigma’s poor financial history. Davis stated that “he would write a . . . [Phi Beta Sigma] check to cash, deposit the check into his personal account, and . . . [then] write a personal check” or purchase a money order in order to transfer funds more quickly. He then sent “the check or money order to a vendor or separate . . . [Phi Beta Sigma] bank account,” or to a Phi Beta Sigma officer for reimbursement. The jury appeared to not credit Davis’ explanations, as they ultimately convicted him of ten of the twelve charges.

To summarize the evidence established that between January 2001 and June 2003, Davis wrote unauthorized checks to cash using Phi Beta Sigma’s operating account, “which he then deposited into his personal bank account” to spend as if the funds were his own. Davis succeeded in embezzling funds by either forging the required second signature of Phi Beta Sigma’s national president or negotiating checks with only one signature. “In order to disguise the
fraud,” Davis often wrote in the memo line of the check that the funds were for a payroll transfer.

After a board meeting in June 2003, “the [Phi Beta Sigma] board voted to suspend . . . [Davis] from his position as . . . treasurer and . . . referred the matter to law enforcement.” The FBI reviewed multiple personal bank accounts held by Davis, including a joint checking account he held with his wife Rhonda Davis. The FBI discovered “that checks made payable to cash from the . . . [Phi Beta Sigma] account” and were deposited into an account held by Davis and his wife and that none of the funds were returned to Phi Beta Sigma accounts. In fact, the FBI’s investigation revealed that Davis and his wife used the funds for personal expenses such as “entertainment, gasoline, . . . [food,] travel, and credit card payments.”

The FBI established that the checks that formed the basis for “the ten bank fraud counts w[ere] deposited” into one of Davis’s personal accounts. As a result of their investigation, the FBI proved that Davis wrote 126 checks, totaling $242,128.28, to cash from Phi Beta Sigma’s general fund account. In fact, Davis admitted that he wrote and signed each of these checks and that some of the proceeds were deposited into his personal bank account. Although not all checks were deposited into Davis’s personal bank account, the government demonstrated that “none of the funds from those checks” were deposited back into Phi Beta Sigma accounts. Furthermore, the government’s evidence established that Davis had forged signature cards for Phi Beta Sigma’s general fund account and that he had signed a signature card at the bank reducing the required number of signatures.

On November 30, 2010, after the case was remanded to the district court, Davis pled guilty. The following excerpt from an article about the disposition of the case published on the FBI’s website provides a helpful summary of what Davis admitted as part of his guilty plea:

Davis admitted that between January 2001 and June 2003, while he was the elected, National Treasurer of Phi Beta Sigma, he stole money from the fraternity’s bank accounts by
writing checks to cash, which he would then negotiate by means of his personal bank account. In order to circumvent the requirement of a second signature of another fraternity officer on the checks, Davis presented checks containing the forged signature of the fraternity’s National President or simply negotiated the checks without the required second signature.

As part of the scheme to defraud, Davis admitted that he falsely represented on the memo line of some of the checks and to responsible officials at the fraternity that the checks to cash were written to fund legitimate fraternity activities, whereas, as Davis well knew, the checks were used for his own personal benefit. Davis admitted that he used at least $50,000 of the proceeds obtained through the scheme for his personal benefit.

The arguments in this case centered on a conversation between Davis and Jimmy Hammock, who replaced Davis as treasurer in June of 2003, and on testimony of Rhonda Davis that she saw her husband make payments for Phi Beta Sigma expenses. Davis’s principal defense was that “although he had written checks made payable to cash and deposited those checks into his personal banking account, he had used funds derived from those checks to pay fraternity bills and to reimburse himself for fraternity debts he had paid using personal funds.”

Davis argued that the district court’s exclusion of his wife’s testimony offended his due process right to present a complete defense. According to Davis, the district court effectively excluded the only evidence, other than his own testimony, that would demonstrate that he received Phi Beta Sigma bills and took steps consistent with paying those bills via personal checks and money orders. The government objected to this testimony because Davis’s only personal knowledge of Davis’s fraternity payments originated from hearsay, and moreover that her non-hearsay testimony was that she saw Davis receive bills, write checks, and purchase money orders. According to the government, this limited testimony was properly excluded because it was speculative and prejudicial.
Davis argued that his wife’s testimony was not hearsay because the checks and money orders were not factual assertions offered for the truth of the matter, but were instead an instruction for the bank to pay a payee. Similarly, Davis contended that the fraternity bills were not hearsay because they did not assert the truth of anything but rather instructed Phi Beta Sigma to pay a debt. The government countered that his wife’s proposed testimony would assert the truth of the documents because she would testify that she saw the checks, money orders, and bills, and that she saw Davis pay the bills with personal checks or money orders. The court noted that while perhaps the district court should have allowed testimony about the checks and money orders, excluding this testimony did not prejudice the defense. The court held that the district court properly excluded testimony regarding the fraternity bills because these documents “did contain assertions, in the form of sender and recipient labels” and “unlike written words on money order, the labels asserted facts that can be characterized as true or false.”

On appeal, the dispositive issue became whether or not the district court properly allowed Hammock to testify about the conversation he had with Davis in which he mentioned settlement negotiations. Over Davis’s Rule 408 objection, the district court admitted the following testimony of Hammock, who replaced Davis as national treasurer:

Terry asked: “Can we just split this $29,000 and make this situation just go away?” . . . . I told him that the amount was in excess of a hundred thousand dollars. Terry’s statement to me at that point was, “I can’t afford to pay that amount,” and then I told him— I said, “Terry, if you want to do some- negotiate some kind of settlement, you need to talk to our legal counsel or our international president”.

Davis argued that his conversation with Hammock was inadmissible pursuant to Rule 408 because this rule prohibits the introduction of offers to compromise or to settle a disputed claim. He contended that because the statements involved him “offering to furnish valuable consideration in compromising or attempting to compromise a claim by asking to split the disputed claim of $29,000,” admitting this testimony of Hammock contradicted the plain
language of Rule 408. The court agreed with Davis, reasoning that he "did not confess to taking [Phi Beta Sigma's] money; he said that he had deposited the case checks into [Phi Beta Sigma's] payroll account; and Hammock rejected Davis’s explanation.” Ultimately, the court held that "the government intended to introduce Davis’s settlement in order to prove Davis’s guilt, or in the words of Rule 408(a), his 'liability.'”

The government argued that Davis did not offer valuable consideration as required by Rule 408 because Davis actually owed much more than $14,500. The court rejected this argument because such an interpretation would lead to bizarre results and run contrary to the rule’s purpose of fostering settlements. Indeed, under this interpretation, “only a settlement . . . exceeding the full amount of the disputed claim . . . [would constitute] valuable consideration.”

Next, the government contended that the testimony was properly admitted into evidence under Rule 408 because it was offered to prove that Davis obstructed a criminal investigation or prosecution and to show that Davis attempted to “buy off” Hammock. The court rejected this argument because “Davis was . . . [never] charged with obstructing a criminal investigation or attempting to do so.” Furthermore, the court noted that Davis’s settlement offer was a proposal to pay the money to Phi Beta Sigma and not an excessive offer intended to bribe Hammock, which is precisely “why Hammock rejected it out of hand.” Perhaps more telling for the court was the fact that at oral argument, counsel for the United States “candidly admitted” that the government’s purpose was not to prove an effort to obstruct a criminal investigation. Therefore, the court held that the district court abused its discretion by allowing Hammock to testify about Davis’s settlement offer. Accordingly, the court vacated Davis’s convictions and remanded the case back to the district court.

Lastly, Davis argued that “[t]he [d]istrict [c]ourt [c]onstructively [a]mended the [i]ndictment in [v]iolation of . . . [the] Fifth Amendment.” In support of this argument, Davis contended that the jury instructions for counts 11 and 12 “expanded the availability of potential victims” to include anyone other than Davis by including the language “obtain property of another.” According to
Davis, this language “plainly and erroneously” amended the indictment because the superseding indictment required evidence that Davis obtained the property of Phi Beta Sigma in order to convict him. However, the D.C. Circuit Court did not reach this argument. Although the D.C. Circuit Court vacated and remanded the case back to the district court based on the improper admission of the Hammock-Davis settlement conversation, Davis ultimately entered into a plea agreement and pled guilty to one count of bank fraud.

In this case, it is not clear how widely Davis’s conduct was reported by leadership within Phi Beta Sigma. While other Phi Beta Sigma leaders may be guilty of failing to diligently monitor the actions of their treasurer, their culpability ends there. Indeed, the evidence in this case supports the inference that Phi Beta Sigma leaders acted to rectify the situation right away and that as soon as leaders had sufficient evidence to support their allegations they notified law enforcement officials. There does not appear to be any abuse of power. Further, it does not appear that a whistleblower was involved in this case. Rather, multiple Phi Beta Sigma officers took initiative to investigate the financial irregularities, and thereafter, the fraternity as a whole decided to investigate the circumstances surrounding Davis’s conduct. Upon learning that Davis wrote checks for his own personal use, in violation of fraternity policy, Phi Beta Sigma promptly suspended Davis from his role as national treasurer and alerted the authorities.

Conclusion

One of the great challenges that BGLOs face is, arguendo, their failure to incorporate law more formally and substantively into their rulemaking and enforcement. “Law does not penetrate organizations solely through the agency of outside enforcers coming in to inspect, compel, and cajole.” Simply because the IRS, prosecutors, or plaintiffs’ attorneys are not knocking at the door of BGLOs or members’ doors, does not mean that these entities and individuals cannot and should not be more embracing of, and more forward thinking with regard to, the law. As scholars have noted, law is involved in the formation and maintenance of organizations in a
variety of ways. As a normative point, law should influence institutionalization of societal norms, because they are part of societal culture and central to the environment within which organizations operate. Also, organizations should utilize the categories of legal rationality in an effort to construct their own institutionalized rules. Over the past several decades, however, organizations have “increasingly 'internalized' important elements of the legal system,” including legal rules, structure, personnel, and activities. Toward this end, law “incorporated into organizations mimic[s] public legal institutions,” but is synthesized with organizational values.

Within BGLOs, the problem may be, on one hand, that the organizations and their members flout the law. At the undergraduate level, members know that hazing is illegal in many states and that there are civil sanctions for doing harm to aspiring members. Among the “upper” echelon of the organizations, leaders know that the United States tax code places certain restraints on how money can be used by 501(c)(7) entities. They also know that, as a general principle, embezzlement/conversion of organizational fund/theft are unlawful and the technical definition of such concepts. Even more, they know what is expected of good organizational governance. Despite this knowledge, members and leaders simply decide to travel a different path, an unethical and unlawful one, and it is a decision that is pervasive throughout the organizations. In essence, the thinking is that it matters little what the law says; what matters most is what leaders and members believe is best for the organization or what has been common practice within the organization.

A counter-narrative, which I think is slightly more accurate, is that the BGLO members and organizations have not taken the time to discern what broader societal rules exist regarding hazing and financial malfeasance nor have they used such knowledge as guiding principles for organizational functioning. There is little effort within these organizations to educate membership about anti-hazing law. As such, the organizations’ leaders simply do not know enough about the legal implications of leadership conduct to adjudge whether it is unlawful. In the end, you get arguments about hazing like: “the alleged victim consented,” as if that were to or should always carry the day. You also get arguments about financial malfeasance like: “the
national president simply borrowed the money,” “his/her taking of
the money was not ‘malicious’,” or “well, other national presidents
have done the same things, so why pick on this one.” These
arguments are often made in a manner that is unmoored from the
relevant legal doctrine.

Accordingly, law is not a prevailing and substantive orienting
point for BGLOs. As such, the national presidents have been allowed
to engage in behavior that is unethical and illegal with little impunity.
It is the same culture that provides a backdrop for understanding, to
some extent, why hazing persists among BGLO undergraduates. Too
often, the expectation within BGLOs is that teenagers should be held
to a higher standard than 40, 50, and 60 year-old men and women.
However, in an organization where a lack of ethics and conforming
to the rule of law is condoned at the top, it cannot be reasonably
expected that rank-and-file members would act substantially different
from what they see amongst leadership. As a practical matter, in
hazing litigation against one of these BGLOs, it seems plausible that
an argument can be made is that BGLOs have a culture of unethical
and illegal behavior, so it is no surprise that undergraduates haze.
CHAPTER 12

Hazing Victimization: A Question of Personality Factors

Why do individuals allow themselves to be hazed? After all, who would subject themselves to being talked to like an animal and beaten? This is the impetus of this chapter. Performing a victimization and personality analysis of members of BGLOs who have been pledged and hazed, this chapter will provide insights into the social psychological underpinnings of pledges and pledgers, as many of the pledges have since pledged and hazed others.

Victimology, Personality, and Hazing

The study of victimization, or victimology, is defined in various ways; in fact, the scope of the subject matter of victimology is quite “blurred” and the subject of much unresolved debate. Despite this debate, victimology has been defined in the following ways: as an examination of the ways in which crime victims may have led to or contributed to their victimization; as the “scientific study of the nature and causes of victimization and social reactions to crime victims”; and as spanning “the plight of individuals and collectives of people who suffer deprivation, disadvantage, loss or injury due to any cause.”

In its earliest iteration, victimology was an attempt to understand the victim-perpetrator relationship. The “rise of ‘the victim,’” or rather, the first efforts made in order to understand a victim’s relationship to the crime and the criminal justice system did not come about until after the Second World War. Benjamin Mendelsohn first proposed this new science that would be the “reverse” of criminology and would study the “victimual” as opposed to the criminal. These early attempts to understand and prevent victimization led most often to occasions of “blaming the victim.” Put another way, the original emphasis of study, advocated by Mendelsohn and his contemporary von Hentig, focused on
understanding the victim's culpability or role in the commission of a crime. However, modern victimology has largely done away with the inclination towards victim blaming and has moved on to greater attempts at understanding and preventing victimization. A more modern definition highlights the discipline's current state:

[V]ictimology has not yet developed into a science with many ramifications, all aimed at putting the victim at the centre . . . Putting the victim at the centre of both scientific and applied victimology is unifying and useful . . . Victims’ needs, as well as the causes of criminal victimisation and the effects of crime, have been the objects of empirical research and analysis, yet victimological knowledge is limited. Victimology is not about the criminal justice system, nor is it about the helping system. Rather, it is about the victim; therefore, the victim must be the foci of the concepts, the theories and so on.

What does seem apparent, despite victimology’s fledgling, contentious standing as a social science, is that victimology is starting to emerge beyond its status as a mere subset of criminology into its very own discipline.

Hazing is most commonly associated with fraternities and sororities, or Greek-letter organizations (GLOs), in an undergraduate campus setting. However, hazing is also present in athletics, school bands, and the military. Often referred to as a “rite of passage,” most definitions of hazing include language comparable to the following:

Hazing is a process based on tradition that is used by groups to maintain a hierarchy (a “pecking order”) or discipline within the group. Regardless of consent, the rituals require individuals to engage in activities that are physically and psychologically stressful. These activities can be exhausting, humiliating, degrading, demeaning and intimidating. They can result in significant physical and emotional discomfort.
Despite the prevalence of hazing in our culture, especially within GLOs in university environments, there is a surprising dearth of research in the area of personality and how it specifically relates to or predicts involvement and victimization within the context of hazing activities. However, there is research that speaks to personality types that are more or less likely to become involved in hazing activities, as well as research regarding the risk factors associated with, and predictive of, victimization in general. Before an investigation can be made into what personality traits predict victimization, specifically within a hazing context, it is important to examine the factors that make one more or less likely to become involved in hazing in general, whether as the “hazer” or “hazee.”

Hazing is largely a creature of tradition. Originally, hazing consisted of “rough and tumble antics such as swats with a paddle,” which eventually mutated into more creatively humiliating and/or dangerous tasks for the fraternity or sorority hazee to perform - including everything from forcing hazees blindfolded and drunk into the Pacific Ocean to dousing pledges with lye-based oven cleaner.

The study of hazing begs the question: “why would bright young people subject themselves to dangerous humiliation?” Alcohol certainly plays a role. Hazing has become such a real and serious problem, in many cases leading to student deaths, and researchers have just recently begun to delve into what personality traits might predict participation in hazing activities. Researchers have already investigated and found relationships that exist between certain personality traits and behaviors, such as alcohol use/abuse and bullying. Because alcohol use and bullying are foreseeably associated with or akin to hazing activities, it follows that a relationship between certain personality traits and susceptibility to hazing could be identified.

Personality traits may also lead students to self-select themselves into the Greek system in the first place. Evidence of this “personality-based environment selection” is present in many aspects of human behaviors and relationships. Mostly, individuals tend to seek out and choose environments for themselves that are compatible with their own personalities. Certain personality traits might then be relevant to understanding why some students choose
to join GLOs and others do not. Impulsivity, extraversion, and neuroticism are traits that have been associated with those who seek Greek affiliation.

Certain discrete factors have been identified as increasing the likelihood of hazing participation: “being male, a Greek member, and believing your friends approve of hazing,” as well as believing that hazing helps build cohesion within the group. Because researchers have found that behavior is often linked with certain personality traits, it follows that certain personality traits might predict hazing activity and even victimization within the context of hazing. Two personality traits that have been examined as possible predictors of hazing participation are sociotropy and autonomy.

Sociotropy is defined as “dependence on others for gratification and support . . . concern about disapproval, concern over separation, and pleasing others.” Autonomy is defined as “an individual who has a high need for independence and achievement . . . freedom from control, and preference for solitude.” Sociotropy was found to reliably predict a person’s susceptibility to hazing in that those with higher levels of this trait tend to view their relationships with others as indicative of their self-worth. It makes sense then that those with higher levels of sociotropy would be “more likely to find group membership attractive,” and would therefore be more willing to participate in hazing activities in order to gain approval and membership within the group.

Additionally, sociotropy may indicate the extent to which a person is willing to endure certain acts of hazing and for how long. Because sociotropy is “identified with being concerned with separation and connectedness,” many victims of hazing will say that they “just took it to get it over with.” In other words, the “hazees” knew that those who refused to participate were refused membership in the group or were treated even more harshly.

Interestingly, autonomy was also a reliable predictor of a person’s susceptibility to being subjected to hazing in general, even though the opposite was predicted. This is perhaps attributed to an “overemphasis on goal attainment” whereby these individuals will be willing to endure hazing in order to achieve a goal - earning membership in the fraternity or sorority. Some autonomous
individuals will even become more inclined towards participating in hazing activities when faced with the possibility of not achieving their goal. Some research provides another perspective: some individuals may develop autonomous traits, such as the need for independence or a preference for solitude, as a way of “avoid[ing] aversive interactions with others,” (i.e. hazing).

An individual’s autonomy, or a sufficient level of the trait autonomy, is central to an individual’s ability to maintain a healthy ego. When an individual is attacked, that individual’s autonomy is violated, as it is arguably violated in most, if not all, hazing situations. The individual’s “right of self-control is taken from them. Their sense of autonomy, necessary for a healthy ego, is shattered.” This might explain why some victims of hazing might have low self-control as a personality characteristic to begin with.

While the research regarding victims of violent crimes will differ from the research regarding victims of hazing, the consumption of alcohol is relevant to both:

Given that . . . alcohol myopia is likely to make individuals more susceptible to victimisation, it is anticipated that a positive relationship exists between alcohol intoxication and victimisation risk. Furthermore, as alcohol intoxication impairs physical coordination and communication skills (useful in deescalating potentially violent situations), it is possible that intoxication is further associated with harm from victimisation such as injury and need for medical treatment.

It is almost indisputable that alcohol is central to fraternity and sorority life. And when alcohol leads to intoxication, a lack of self-control follows. Before alcohol consumption is even introduced into the equation as to how it affects self-control, one study has identified six elements that are associated with individuals with low self-control: (1) lack of future orientation; (2) self-centeredness; (3) low frustration tolerance; (4) lack of persistence and tenacity; (5) preference for physical activity (compared to mental activity) and; (6) preference for thrill-seeking activities. Self-control has largely been studied in
terms of the self-control of the offender, however, recent studies have shifted to focus on the level of self-control of the victim and how this trait may or may not predict future victimization. These studies have revealed what appears to be a link between low self-control and victimization. Generally, one argument posits that low self-control, which has been associated with risky behaviors, in turn leads to vulnerability to victimization. For instance, low self-control leads to more associations with antisocial individuals, more delinquency, and riskier lifestyles. One study (conducted by Averdijk and Loeber) was not conclusive in terms of linking low self-control to repeated violent victimization, however, their study did indicate that this link was only indirectly tested and further investigation would be necessary. Two personality traits sharing conceptual overlap with self-control - Agreeableness and Conscientiousness - increase associations with antisocial individuals and access to illicit goods, which in turn increase victimization.

Despite Averdijk and Lober’s study’s relative inconclusiveness, two of the six elements listed above associated with individuals with low self-control appear relevant to hazing situations: the lack of future orientation and the preference for thrill-seeking activities. The lack of future orientation seems relevant because individuals prepared to put themselves into hazing situations are generally “not interested in or aware of the possibilities to take precautions against victimization,” in this case hazing. The preference for thrill-seeking activities might lead to an increased risk of victimization in hazing situations because these individuals would be more likely to seek these activities out in the first place and place themselves in proximity to the offenders, or hazers, leading to a higher risk of victimization. While these two elements are associated with individuals with low self-control, and low self-control has been linked to victimization, these studies have thus far remained limited to criminal victimization (i.e. theft, homicide) as opposed to hazing victimization.

It is likely that one’s personality or specific personality traits are, or could be, predictive of victimization within the context of hazing in fraternities and sororities. While most research has focused on personality characteristics that predict criminal victimization, it
seems likely that some of these same characteristics - low self-control, alcohol use/abuse - would be analogous to hazing victimization. Similarly, victimology has focused mostly on the study of the victims of crimes, not the victims of hazing.

Perhaps victims of crimes and victims of hazing have so far been treated differently because of the perception or assumption that a fraternity/sorority pledge is engaging in the hazing activity voluntarily and that the pledge understands the potential dangers associated with the hazing activities. Although this might be true to a certain extent, pledges may not always understand or appreciate how dangerous some initiation acts might be. In fact, part of the definition of hazing includes the phrase “regardless of consent,” which would indicate that victims of hazing might share certain personality traits with victims of crimes, despite hazing victims’ belief that they are participating voluntarily.

Researchers have only just begun to delve into which personality traits predict involvement in hazing activities. As for which personality traits specifically predict becoming a victim, as opposed to a perpetrator, of hazing activities, it is likely that many of the traits that predict general or criminal victimization will also predict hazing victimization within fraternities and sororities. In this section, I highlight some of the major, BGLO hazing incidents from the 1970s and 1980s as well as the 1990s to show and underscore that hazing and hazing victimization existed and persisted in the shadow of a major hazing death and subsequent reforms.

**Hazing and Victimization in BGLOs: An Empirical Study of Personality**

In an effort to survey as many individuals as possible, emails were sent via listservs. An email list was generated by one of the authors (beginning in 2003). Organizational directories, Yahoo! Groups, and chapter, district, provincial, and regional websites for Alpha Phi Alpha, Alpha Kappa Alpha, Kappa Alpha Psi, Omega Psi Phi, Delta Sigma Theta, Phi Beta Sigma, Sigma Gamma Rho, and Iota Phi Theta were used to create the email lists. This resulted in approximately 30,000 contacts. In the email, potential participants were given basic
information about the study, which indicated we were conducting research on the experiences and opinions of Historically Black Colleges and Universities. Those who were interested in taking part in the research clicked on a hyperlink that directed them to the survey.

The survey was created using Qualtrics. Participants were given detailed information about the study and were required to consent before being exposed to any of the survey questions. Participants were allowed to withdraw from the study at any time and without penalty. No names or identifiable information was collected (including IP addresses), making all anonymous.

The majority of the sample (n=1,357) was female (62.1%) and African-American (90.9%; followed by Caribbean, 2.8%, African, 1.8%, Caucasian, 1.1%, and “other,” 3.4%). The mean age was 40.41 (standard deviation=12.9). The majority of the respondents were initiated in chapters in the southeast (47.3%), followed by the Midwest (21.0%), northeast and Washington D.C. (19.3%), southwest (5.0%), west (4.2%), and international (0.8%).

A. Measures

Hazing victimization. This scale included 27 items asking respondents whether or not they were required to engage in specific hazing activities (e.g., hit with paddle, memorize chapter information an history). The scale was reliable (α=.94), with a mean of 16.29 (standard deviation=7.45; range: 0-27), indicating that the average number of hazing activities a person participated in was about 16. There was evidence of modest negative skew. To correct for this, a square root transformation was performed, and scores were reflected to ensure higher values were indicative of more hazing victimization.

Personality. Big Five Inventory (BFI). The BFI is a 44-item measure of general personality.22 It was designed to measure the domains of Neuroticism, Extraversion, Openness, Agreeableness, and Conscientiousness. Neuroticism assesses the extent to which a person is emotionally well-adjusted and stable. The eight-item scale was reliable (α=.81), and had a mean of 17.61 (standard deviation=5.59). Extraversion refers to one’s positive emotional
adjustment and sociability. The eight-item scale was reliable (α=. 83), and had a mean of 28.74 (standard deviation=5.72). Openness taps into one's interest in culture and new experiences. The 10-item scale was reliable (α=.75), and had a mean of 38.88 (standard deviation=5.28). Agreeableness assesses an individual’s interpersonal relationships and approaches. The nine-item scale was reliable (α=.75), and had a mean of 37.00 (standard deviation=4.68). Conscientiousness refers to how well one plans, is organized, and can inhibit impulses. The nine-item scale was reliable (α=.82), and had a mean of 37.76 (standard deviation=5.00).

Weinberger Adjustment Inventory (WAI). The WAI is a measure of an individual’s socio-emotional adjustment. It has two domains: Distress and Restraint. Distress captures an individual’s tendency to experience negative affect, and have a poor self-image. Restraint assesses how well a person can control impulses and aggression, and is considerate of others and rules. Each domain contains four facets. The Distress domain includes anxiety (eight items; mean=19.70; standard deviation=6.73; α=.77), depression (seven items; mean=11.59; standard deviation=5.44; α=.84), low self-esteem (seven items; mean=9.82; standard deviation=3.29; α=.70), and low well-being (seven items; mean=11.47; standard deviation=4.09; α=.80). Restraint is comprised of impulse control (eight items; mean=33.93; standard deviation=4.81; α=.72), suppression of aggression (seven items; mean=29.73; standard deviation=5.00; α=.79), consideration of others (seven items; mean=29.59; standard deviation=4.13; α=.69), and responsibility (eight items; mean=37.29; standard deviation=3.37; α=.69).

Alcohol Intake During Initiation. Each respondent was asked whether or not they were required to consume alcohol during the initiation process. A small percentage (10.9%) indicated this was required of them during initiation.

B. Results

In order to understand how personality was related to hazing victimization, the analyses were conducted in several stages. The first set of models included the BFI scales, and the second set used the
WAI scales. Within each set analyses, the personality scales were entered into the model first (Model 1), followed by the inclusion of sex and age (Model 2). In Model 3, alcohol intake during initiation was included. The final model (Model 4) assessed whether any of the personality traits interacted with sex, age, and/or alcohol intake. Each interaction term was assessed separately from the other interaction terms to reduce multicollinearity. That is, only one interaction term was assessed at a time.

All five of the BFI domains were significantly related to hazing victimization. Those higher in Neuroticism, Agreeableness, and Conscientiousness experienced less hazing. Conversely, individuals who scored higher on Extraversion and Openness were hazed more. After age and sex were entered (Model 2), only Extraversion remained significant (and positive). In addition, men and younger participants were hazed more. In Model 3, Extraversion, men, being younger, and alcohol used during initiation were significantly and positively related to being hazed more. None of the BFI domains significantly interacted with sex, age, or alcohol use during initiation.

The next series of analyses focused on the WAI. Impulse control and responsibility were positively and significantly related to more hazing victimization. These effects remained after including sex, age, and alcohol use during initiation. Like the previous analyses, men, younger participants, and alcohol use during initiation were significantly and positively related to hazing victimization. While sex and age did not interact with any of the WAI subscales, impulse control, suppression of aggression, and responsibility significantly interacted with alcohol use during initiation. Specifically, the protective effects of impulse control, suppression of aggression, and responsibility on hazing victimization were weakened when alcohol was use during initiation.

**Conclusion**

Victimization has long-been an understudied area of criminology. This chapter seeks to add to the growing understanding of what leads individuals to be victimized. This is particularly so in regard to an
area of victimization that has received increasing media attention in recent years--hazing. Even more, this work focuses on BGLO hazing--an area where there has been a small but growing body of legal scholarship. In the end, this work should help BGLO stakeholders fashion better remedies to thwart, if not end, hazing.

The findings herein reveal several important conclusions. First, some personality traits are related to hazing victimization, at least in BGLOs. However, the effect sizes are quite modest, indicating that BGLO members’ personality plays a small role in being hazed. This finding underscores other work that indicates that contextual, social psychological, and belief structures may more robustly undergird BGLO hazing. Second, the effect of being male was consistently and strongly related to being hazed. This is not surprising, given the scholarship on hazing within black fraternities and the complex dynamics in black fraternities around masculinity. Third, younger participants were much more likely to report hazing. This is no surprise given that youth may be more likely to take risks. Fourth, although relatively few participants reported being compelled to use alcohol during initiation, when this did occur it had an impact on being hazed in other ways. Lastly, and perhaps most interesting, those with higher levels of impulse control, suppression of aggression, and responsibility experienced less hazing. However, the protective effects of these traits were notably reduced in the presence of alcohol use during initiation. These findings underscore the research that suggests that black fraternity men tend to indulge in less substance use and abuse than their white counterparts, but when alcohol plays a role in hazing it can be quite problematic.
CHAPTER 13

Hazing Victim Consent?:
A Psycho-legal Analysis

For years, the law has grappled with the extent to which an individual can consent to harmful physical contact. This has never been more evident than in the area of hazing. Courts have fallen on both sides of this divide, often enough speculating about the mental state of the alleged hazing victim. The question is often whether the individual had the psychological wherewithal to resist situational or contextual demands placed on him or her. Here, I provide clarity as to how the law has thought about this issue and how it should think about it in light of a range of psychological theories and empirical research.

The Law of Consent

Criminal law largely rejects consent as a defense in most cases, except in those areas of activity deemed appropriate by courts. Civil law permits consent as a defense, particularly where the victim assumed the risk of the activity in which they were harmed, or the injury was a foreseeable risk of participating in the activity. Hazing statutes often bar use of the victims’ consent as a defense by making it irrelevant. Others explicitly bar the defense or apply a presumption against consent or that hazing activity is per se forced.

A. Consent in Criminal Law: A General Approach

Consent in criminal law has undergone a shift in its approach to rights and interests of the victim. Prior to the 17th Century, common law reflected the Roman law principle “volenti non fit injuria” (‘to a willing person, no injury is done’) that allowed “individuals to consent to harming acts,” making consent a complete bar to prosecution. During the 1600s, criminal systems shifted from interests in the victims and their rights to a centralized judicial structure focused on the public good. “[A]cts that had been
considered violations of a particular victim’s interests came to be viewed as . . . a ‘disturbance of the society,’” a view still echoed in today’s case law. This shift resulted in the state becoming the “ultimate victim and the sole prosecutor of [the] criminal act” and the removal of the actual victim from the criminal process. As such, “an individual lost the power to consent to what the state regarded as harm to itself.”

Much of the literature on consent in criminal law centers on cases involving contact sports, sexual assault and rape, and sadomasochism. Today, criminal law commonly rejects consent as a defense to most criminal assaults. However, the Model Penal Code (MPC) and other case law make exceptions “for assaults resulting in little or no injury, sports, medical treatment, and body modification.” Even with these exceptions, criminal law favors a public policy in which “a person cannot avoid criminal responsibility for an assault that causes injury or carries a risk of serious harm, even if the victim asked for or consented to the act.” Courts have often found that consent is not a valid defense when criminal assaults are injurious to a person and constitute breach of public peace.

In \textit{Taylor v. State}, the court divided criminal assault into the two classes: one which breaches the public peace generally and the other “which is not accompanied by the threat of serious hurt or breach of the public peace,” and “is treated as a crime against the person.” There, the court found that there is no defense of consent when the criminal assault “tends to bring about a breach of the public peace” because the crime is treated as crime against the general public. However, where a criminal assault “is not accompanied by the threat of serious hurt or breach of the public peace . . . the consent of the person assaulted is held to be a good defense, since the absence of consent is an essential element of the offense.”

The court, in \textit{Wright v. Starr}, similarly noted that the law punishes for criminal assault “even if consent is given . . . because consent to a battery is illegal as against the state, on account of the breach of public peace involved.” Likewise, a New Mexico court favored the public’s “stronger and overriding interest in preventing and prohibiting” violent acts over victims of crimes who “have so little regard for their own safety as to request injury.”

300
The MPC’s view on consent serves as the basis for the law in the majority of states. “The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense if such consent negatives an element of the offense or precludes the infliction of the harm or evil sought to be prevented by the law defining the offense.” For offenses that involve bodily harm, consent is not a defense even if it negatives an element of the offense. Instead, consent is a defense to conduct which “causes or threatens bodily injury,” or “the infliction of such injury” under the MPC in specific instances: (1) when “the bodily injury consented to or threatened by the conduct consented to is not serious;” (2) “the conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport or other concerted activity not forbidden by law;” (3) the consent establishes a justification such as protection of property and self-protection; and (4) when bodily harm is inflicted for “a recognized form of treatment” to improve a patient’s mental or physical health. Assent does not constitute consent if: (1) the assenter is “legally incompetent to authorize the conduct charged to constitute the offense;” (2) the assenter is “unable to make a reasonable judgment as to the nature or harmfulness of the conduct;” (3) it is induced by force, duress or deception of [the] kind” the law is trying to prevent; or (4) “it is given by a person whose improvident consent” the law is trying to prevent.

Consent as a defense is viewed by some legal scholars as more permissible in certain contexts than in others, often based on the definition and interpretation of a “serious” injury. Bodily injury is “serious” according to the MPC and similarly worded statutes if it “creates a substantial risk of death or . . . causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.” Bergelson posits that “courts habitually exaggerate the seriousness of injury or pain and the risk of death in order to condemn an unwanted activity.” Courts seem more lenient in cases of religious flagellation and serious injuries resulting from contact sports because of the perceived social utility associated with such activities.

Commentary to MPC acknowledges that assessment of seriousness is impacted by “moral judgments about the iniquity of
the conduct involved.” Courts also suggest “that there is a variance in the way that [offenses] are viewed within and [outside] the context of sport,” possibly resulting in “a higher threshold that must be reached before liability is imposed for [behavior] on the sports field.” In essence, if a harmful act is not athletic or medical, it may be criminal unless the injury is not serious. Thus, determining seriousness of an injury, as well as the court’s perception of the social utility of the activity in question, influences the outcomes of cases involving consensual harm.

B. Consent in Civil Law: A General Approach

The First Restatement of Torts defines the tort of battery as an act with intent to bring about “a harmful or offensive contact,” without consent or privilege. However, it was unclear from the First Restatement whether lack of consent was an element of a prima facie case for battery, and the corollary, whether consent was an affirmative defense to the claim. The Second Restatement worked to resolve this ambiguity by stating that when the defendant has a reasonable belief that the plaintiff has consented to the act, the defendant has apparent consent and is therefore entitled to a complete affirmative defense and is absolved of liability.

The Second Restatement clearly establishes that one who consents to an act “cannot recover . . . for the conduct or for harm resulting from it”; furthermore, any consent only applies to the conduct it is specifically related to, and any conduct beyond that covered by the consent can be the basis for tort recovery. The evolution of the defense of consent in battery torts has altered the role of consent as a successful defense, but ambiguities still exist in the policy and contractual nature of provided consent, which case law better illuminates.

The issue of consent is especially common in battery torts arising from medical treatment. While additional issues of informed consent and intent arise in these circumstances, the basic principles of consent are still applicable in medical battery. The court, in *Bradford v. Winter*, analyzed consent broadly, noting that consent can be express or implied. In Bradford, a patient signed a form giving
express consent to a doctor to complete a bronchoscopy, and additionally, to allow the doctor to perform “any other procedure that his or their judgment may dictate.” The patient brought suit for battery after learning that the doctor removed a specimen for biopsy during the bronchoscopy. The district court found that this was a normal procedure incident to the bronchoscopy and was within the bounds of the express consent given by the patient, and the appeals court affirmed. The broad consent given by the patient applied to a whole host of possible discretionary actions by the doctor and was therefore a complete bar to recovery by the patient.

In sports, participation is often conditioned on the player giving consent and waiving any claims for injury. Agreements may cover injuries arising under normal circumstances in the sport, or a whole host of anticipated or unanticipated occurrences. Often these agreements, termed “releases,” are meant to eliminate any duty an organizer of an event has to the participant. However, they often do not speak of a duty owed by fellow participants. In Levine v. Gross, a karate student granted consent to release the karate studio from “some risk of personal injury” which covered “all liability in said course of instruction.” The student asserted that “some risk” did not cover the detached retinas he suffered that required surgery on both eyes. The court determined that the release was broad enough to cover those injuries and dismissed the action. The court noted that the contract must be “clear, unequivocal, and unambiguous,” and that it must cover all incurred injuries that are claimed in the tort suit. The court made note of two important factors in its decision: first, that the participant was aware of the potential risks that could result from participating in karate because he had previously suffered, among other injuries, dislocated fingers, a knee injury that required surgery, and corneal abrasion; second, that reckless misconduct by a fellow participant may be a basis for a tort action. The plaintiff’s general knowledge of the potential for injury inherent in karate had eliminated any ambiguity in the assumption of risk in the release. The court noted that “the standard of care rises as the inherent danger of the sport falls,” when examining the duty owed by participants to each other. In this case, the dangers inherent in karate were
apparently so high as to warrant a limited duty of care by the participants.

The question naturally arises whether an act committed, which the injured party did not expressly consent to, can be the basis for a battery tort claim. In such circumstances, the impact of intent in the battery claim is of utmost importance. Some scholars have advocated for battery to require single intent, to cause unwanted or offensive contact. Others have argued that there must be a dual intent element to battery: (1) the intent to cause the unwanted touch, and (2) the intent to cause harm or pain. This additional intent requirement could filter out cases where there was no consent, but the act that caused injury was not intended to produce such a result. In these circumstances, were an injury to occur outside of the normal playing time in a sport without intent to actually cause harm, no action could lie.

Many courts have sidestepped this issue and focused on the consent of the injured party. Instead of searching for express consent, they find actual or implied consent, or assumption of risk. However, while these two doctrines are separate and distinct in tort jurisprudence, courts often ambiguously use both terms and hold the injurer not liable for the injury. In Thompson v. Park River Corp., a child taking swimming lessons was injured when he was pushed into the swimming pool by another child who was also taking lessons. The court found that even though the child had acted outside of the rules of the swimming lessons, he was not liable for two reasons. First, the act was not done recklessly or intentionally, and was therefore lacking the requisite intent to injure for the battery claim to be sustained. Second, the injured child had assumed the risk of being injured because children’s swimming lessons often involve an inherent amount of “rambunctious behavior.”

The final circumstance that must be examined is in activities with rules that are intentionally broken in order to cause harm. The court, in Avila v. Citrus Community College District, analyzed a sports injury battery claim. There, a baseball pitcher threw an inside pitch and hit the batter in the head, apparently in retaliation for his team’s batter being struck in a previous inning. The court recognized that the rules of the game, which all participants had consented to, as
well as the inherent risks in baseball, include the risk of being intentionally struck. The court cited precedent in acknowledging that intentional or reckless acts “totally outside the range of the ordinary activity involved in the sport” are not covered by assumption of the risk or implied consent. However, the court held that even if the pitch was intentional, the act did not fall completely outside of the purview of normal activity in the sport to warrant liability. The court reasoned that it is up to the umpires to enforce the rules of the sport, and any judicial remedy for acts within the sport would have a chilling effect on the conduct of the game. On the issue of consent, the court equated the injury arising from the intentional striking of the batter with a pitch to a boxer accepting the risk of his opponent’s jabs.

C. Consent in Hazing Law

The act of “hazing” can be traced as far back as ancient Greece, where soldiers were forced to endure pain and punishment as a sign of their loyalty to the military. These hazing activities have since made their way into the United States and have become prevalent in military barracks, colleges, and high schools. Unfortunately, state legislatures have struggled to define criminal “hazing” because “[h]azing means many different things to different people.” However, the term has been broadly defined as “the act of putting another in a ridiculous, humiliating, or disconcerting position as part of an initiation process,” or as “any humiliating or dangerous activity expected . . . to join a group, regardless of . . . willingness to participate.” Nevertheless, in 1901, Illinois became the first state to pass an anti-hazing law when it enacted a statute criminalizing conduct “whereby any one sustains an injury to his [or her] person therefrom.” As of today, all but six states have followed suit and enacted criminal or civil statutes that prohibit and punish hazing. Despite this move by states’ legislatures, scholars have found that there are several obstacles that impede the effectiveness of state anti-hazing statutes, and, in turn, these obstacles have spurred changes in legislation to overcome such barriers.
To remove the need for subjective inquiry into the facts of hazing cases, the legislatures of sixteen states have added provisions in anti-hazing statutes that bar the victim-consent defense. Some states take the approach of applying a presumption against consent or a presumption that hazing activity is per se forced activity. For example, Pennsylvania law applies a presumption against consent by providing that any activity that fits within the statutory definition of hazing is “presumed to be ‘forced’ activity, the willingness of an individual to participate in such activity notwithstanding.” Oklahoma’s anti-hazing statute states that all hazing activities are “presumed to be a forced activity, even if the student willingly participates in such activity.” Utah’s anti-hazing statute also has a similar prohibition against the victim-consent defense by assuming that victims under the age of twenty-one are more vulnerable to peer pressure, thus prohibiting any consent to hazing by such persons.

Several states include in their anti-hazing statute a provision that makes the victim’s consent irrelevant. For example, Iowa’s anti-hazing statute defines “forced activity” as “any activity which is a condition of initiation or admission into, or affiliation with, an organization, regardless of a student’s willingness to participate in the activity.” Georgia’s anti-hazing statute also contains a provision that forced activity is prohibited “regardless of a student’s willingness to participate in such activity.” Wisconsin’s anti-hazing statute similarly states that “forced activity” is prohibited “regardless of a student’s willingness to participate in the activity.”

Perhaps an even stronger mechanism employed by a number of states is an explicit prohibition against the victim-consent defense in hazing cases. Nevada’s anti-hazing statute provides that “[c]onsent of a victim of hazing is not a valid defense to a prosecution conducted [under the anti-hazing statute].” Missouri has a similar provision, which states that “[c]onsent is not a defense to hazing.” Vermont’s anti-hazing statute states that “[i]t is not a defense . . . that the person against whom the hazing was directed consented to or acquiesced in the hazing activity.” Maryland’s anti-hazing provision also explicitly states that “[t]he implied or express consent of a student to hazing is not a defense.”
Indiana provides the most explicit bar against the victim-consent defense by stating that hazing involves the act of “forcing or requiring another person . . . with or without the consent of the other person.” West Virginia’s statute also provides a strong bar against the victim-consent defense in any manner, stating that “the implied or expressed consent or willingness of a person or persons to hazing shall not be a defense under this section.”

By including these various provisions in their anti-hazing statutes, these sixteen states have removed the subjective inquiry of consent from consideration, thus presumably allowing courts to effectively and properly adjudicate hazing cases. Courts, however, have addressed the issue of consent in a limited number of instances. For example, a mere handful of courts have found that fraternity pledges did not necessarily have their psychological will overpowered and were thus able to consent to the hazing they experienced.

In *Jones v. Kappa Alpha Order, Inc.* (Ex parte Barran), Jason Jones was an Auburn University student who chose to pledge the fraternity of Kappa Alpha. Jones claimed he was subjected to numerous hazing incidents, such as jumping into ditches filled with water, urine, and feces; withstanding physical abuse; and appearing nightly at the fraternity house for two a.m. meetings to be hazed in a variety of ways. When Jones was suspended from school for poor academic performance, he brought suit against the fraternity for negligence, assault and battery, and the tort of outrage. The fraternity asserted the defense of assumption of risk, alleging Jones voluntarily engaged in the hazing activities. Jones claimed his participation was “not necessarily voluntary.”

The Supreme Court of Alabama sided with the fraternity and remanded the case with instruction for the trial court to grant their motion for summary judgment on the negligence claim. The supreme court found significant the facts that Jones (1) knew “between 20% and 40%” of his class had withdrawn from pledging, (2) knew of the hazing practices yet continued to show up for hazing events, and (3) covered up the hazing incidents to school officials and his doctors even though he knew the hazing would continue to occur. The court did not find persuasive Jones’s argument that “a coercive
environment hampered his free will to the extent that he could not voluntarily choose to leave the fraternity.”

More recently, in *Yost v. Wabash College*, freshman Brian Yost suffered physical and mental injuries and was forced to drop out of school due to an incident that occurred in connection with the Phi Psi fraternity. Yost, a Phi Psi pledge, decided to throw an upperclassman into a creek to celebrate his birthday. The friendly horseplay escalated until an upperclassman put Yost in a chokehold, at which time Yost lost consciousness.

Yost filed a personal injury action against the fraternity, the college, and the upperclassman. However, the court determined that since the incident was instigated by Yost, he was not coerced into any action, and, thus, the incident was not hazing. As such, the defendants breached no duty to Yost as a matter of law.

*Jones* and *Yost* are outliers, however, when compared to other states’ case law. For example, the issue of consent was addressed by a New York court in the case of *People v. Lenti* (*Lenti I*). In *Lenti I*, the defendants were charged under the New York criminal hazing statute for “[willfully], wrongfully and knowingly” assaulting victims by “striking them about the body and face with clenched fists, open hands, forearms and feet.” The defendants asserted the victim-consent defense, but the court dismissed such a defense and noted that in order for consent to be a successful defense, there must have been an affirmative act by the alleged victim which was not induced through either fraud or deceit and “that the act performed should not exceed the extent of the terms of consent.” The *Lenti I* court went on to note that even if the victim consented, “consent is not a carte blanche license to commit an unabridged assault.”

In *People v. Lenti* (*Lenti II*), the court expounded on the victim-consent defense, explaining that “[c]onsent of the pledges certainly should not be a bar to prosecution” and that the victim-consent defense was not applicable in cases where “the public conscience and morals are shocked.” In addressing this issue of victims’ consent, the court in Lenti II proposed that the New York legislation amend the criminal hazing statute to include explicit language barring such defenses in hazing cases in the state of New York. Several other courts have followed the reasoning laid out by the court in Lenti I
and Lenti II and have refused to allow consent to serve as a defense in hazing cases, yet in cases where there is no explicit statutory language barring the use of consent as a defense, hazing cases usually turn on the facts of the case and whether a jury decides that the victim-pledge voluntarily participated in the hazing activities.

In *Quinn v. Sigma Rho Chapter of Beta Theta Pi Fraternity*, William Quinn brought a negligence suit against Beta Theta Pi Fraternity after he suffered neurological damage to his hands and arms following a night of drinking. Quinn alleged that, as an eighteen year-old freshman pledge, he was directed to drink a forty-ounce pitcher of beer without removing it from his lips, was brought to a tavern and instructed to drink from an eight-ounce whiskey bottle, and was placed on a hardwood floor to sleep after becoming unconscious. Quinn asserted that he was left asleep for fourteen hours before he awoke, went to a hospital, and registered a .25 blood-alcohol content (BAC). He was informed that, at its peak, his BAC was likely at near fatal levels.

In his complaint, Quinn alleged that the fraternity did more than simply furnish him with alcohol, but rather required him to drink past the point of intoxication to be initiated into the fraternity. The court agreed and held that the “plaintiff was coerced into being his own executioner.” The court continued:

> It is true that [Quinn] could have avoided the situation by walking away from the fraternity. In that respect, [Quinn’s] actions in participating in the ceremony were voluntary. Yet, as the complaint alleges, membership in the defendant fraternity was a “much valued status.” It can be assumed that great social pressure was applied to [Quinn] to comply . . . perhaps to the extent of blinding [Quinn] to any dangers he might face. To the extent that [Quinn] acted willingly, liability can be transferred to him under principles of comparative negligence.

In finding that Quinn had a cause of action against the fraternity, the court noted that “the social pressure that exists” when a student pledges a fraternity “is so great that compliance with initiation
requirements places him or her in a position of acting in a coerced manner.”

In *State v. Brown*, Sherdene Brown was found guilty of complicity to hazing under Ohio’s hazing statute. Brown was a member of Alpha Kappa Alpha at Kent State University when she “physically disciplined” pledges by forcing them to stand on their heads, beating them with paddles, and smacking and striking pledges in the face and head. Brown was subsequently indicted by a grand jury for complicity to hazing. Brown appealed the indictment.

Brown argued that the pledges knew the pledging process involved physical discipline. Brown attempted to draw an analogy between the pledge process and “ordinary physical conduct incident to high contact sports,” where physical interaction is permitted due to consent of the participants. The court rejected this argument on two grounds: (1) the pledges did not consent to the degree of physical discipline used, and (2) the state of Ohio’s hazing statute did not include consent as a valid defense.

In *Nisbet v. Bucher*, Michael Nisbet died after consuming alcohol as part of the initiation process for the St. Pat’s Board, a campus organization at the University of Missouri at Rolla. His parents’ wrongful death action was dismissed by the trial court for failure to state a cause of action, but they appealed alleging that to gain membership on the St. Pat’s Board their son was coerced into chugging excessive amounts of alcohol and was denied medical assistance once he became unconscious.

The Missouri Court of Appeals agreed with the Illinois Court of Appeals’ reasoning in *Quinn*. The court stated that Nisbet was pressured into drinking alcohol “for the specific purpose of inducing intoxication,” and such consumption was a requirement of his induction into the St. Pat’s Board. The court also recognized that even though Nisbet could have walked away, he was “blinded to the danger he was facing” by the great social pressure applied by the St. Pat’s Board. The court concluded that “[i]t is a question for the trier of fact as to what degree [he] was coerced by defendants to consume excessive quantities of alcohol and as to what extent his will to make a conscious decision about his alcohol consumption was overcome.”
In *Carpetta v. Pi Kappa Alpha Fraternity*, Charles Carpetta was a University of Toledo student pledging the Pi Kappa Alpha fraternity when fraternity members ridiculed him by yelling and swearing at him; requiring him to go on a scavenger hunt to an adult bookstore, a gay bar, and a brothel; forcing him to sit alone in a dark room for extended periods of time; and forcing him to kneel in rats’ blood. When Carpetta quit the pledge process and dropped out of school, he brought suit against the fraternity under Ohio’s hazing statute. The defendant fraternity filed a motion for summary judgment alleging that the statute’s term “acts of coercion” was unconstitutionally vague. The court found that the term was not unconstitutionally vague because “coercing” simply meant any act that caused another person to engage in any act of initiation. The court ultimately held that Carpetta could recover for any physical harm inflicted by the acts of initiation, but not for any mental or emotional harm.

In *Meredith v. Montgomery*, Chad Meredith was a freshman at the University of Miami and was pledging the Epsilon Beta Chapter of the Kappa Sigma fraternity when he drowned while swimming across Lake Osceola. On the night of his death, he attended a party with the fraternity’s grand master of ceremonies and the fraternity’s president. The two fraternity officers decided they were going to swim in the lake and asked Meredith if he was going to as well. Meredith skeptically asked if they were serious, but attempted the crossing and subsequently drowned.

Meredith’s family brought suit, and the two defendants sought summary judgment, arguing “[t]here is no duty to protect another adult from the consequences of his own voluntary acts.” The plaintiffs argued Meredith’s acts were not truly voluntary, citing a deposition by Joel Epstein (founder of the U.S. Department of Education’s Higher Education Center for Alcohol & Other Drug Prevention) in which Epstein admitted pledging causes the “pledges to do things that they would otherwise be unwilling to do.” “The exercise of peer pressure, whether direct and confrontational or subtle and more disguised is particularly effective when it comes from the fraternity president . . . .” Presumably relying on Epstein’s deposition, the jury found in favor of Meredith and awarded his
parents nearly seven million dollars each for their pain and suffering. The jury found that the defendants were each forty-five percent at fault, and Meredith was ten percent at fault.

As noted, most criminal law cases tend to reject consent as a defense, except where the activity is deemed appropriate by courts. The civil law, on the other hand, permits consent as a defense, especially when the victim assumed the risk of the activity in which they were harmed or where injury was a foreseeable risk of participating in the activity. Of the forty-four state anti-hazing statutes, about one-third of them bar the use of the victim-consent defense by explicitly barring the defense, applying a presumption against consent or that hazing activity is per se forced.

Hazing Consent: A Psychological Perspective

Few courts, if any, reference psychological theories related to why hazing victims may persist to participate in hazing activities. Thus, courts fail to fully evaluate (1) the degree to which victims consented and (2) the extent to which victims’ psychological will was truly overcome during the hazing experience. This Part explores the psychological theories that may explain why hazing victims consent to the range of hazing activities.

A. Escalation of Commitment

The phenomenon of escalation of commitment refers to situations where decision-makers commit additional resources to a failing course of action. An escalation of commitment situation is characterized by three essential features: costs of continuing the same course of action, opportunities for withdrawal, and uncertainty about the consequences of persistence and withdrawal. Researchers have found that escalation effects persist in group as well as individual decision processes. A variety of theories have been advanced to explain escalation of commitment. A synopsis of some theories is below.

For example, self-justification theory, which is based on Festinger’s theory of cognitive dissonance, is the most prominent
explanation for escalation behavior. Self-justification theory posits that decision makers are reluctant to admit that their earlier decisions were incorrect and thus invest additional resources in an attempt to demonstrate the correctness of those decisions. According to Staw and Ross, escalation tendencies are greatest when the decision maker is personally responsible for the failed course of action.

The effect of personal responsibility has since been investigated under a variety of situations, with the results generally supportive of Staw and Ross’s proposition. For example, Whyte’s 1993 study hypothesized, inter alia, that “[e]scalating commitment to a failing project will occur in individual and group decision making regardless of personal responsibility” for sunk costs. Whyte found that although personal responsibility was not strictly necessary, it did significantly increase escalation.

The 1994 study by Bobocel and Meyer offered greater empirical insight on the impact of personal responsibility (operationalized as choice) and justification on escalation of commitment. Bobocel and Meyer noted that most previous research confounded personal responsibility and public justification. The purpose of their study was to separate the effects of choice, private justification, and public justification on the decision of whether or not to persist in a failed course of action. Results showed that choice exerts no significant effect on escalating commitment but that both private and public justification significantly increases escalation of commitment to the same extent. At first blush, it would seem that the desire to appear consistent—either to others or oneself—is a powerful motive for escalation behaviors. However, because escalation of commitment occurred even when individuals did not justify their behavior to anyone else, Bobocel and Meyer concluded that “public justification is not necessary for escalating commitment and that private justification is sufficient.”

Escalation tendencies may also be partly explained by expectancy theory, which asserts that decision makers assess the subjective expected utility of allocating additional resources based on estimates of the value of goal attainment (i.e., rewards minus costs) and the probability that additional resources will help attain that goal. Accordingly, “if the reasons for the negative feedback [are perceived
to be] unstable rather than stable,” then the decision maker would consider the probability of goal attainment to be more favorable and would therefore be more likely to commit additional resources.

Prospect theory has been proposed as an alternative explanation to self-justification for the behavior associated with escalation of commitment in individual and group settings. Prospect theory describes how people actually behave when confronted with loss situations. According to this theory, individuals are risk seeking when choosing between two losing options but risk averse when choosing between two winning options. Thus, the action one takes may depend upon how the problem is framed. If the decision is perceived to be in the positive direction (i.e., it will generate gains), then individuals typically react in a risk averse manner. Thus, in this paradigm, a decision maker would prefer “a sure win of $50 over a 50 percent chance to win $100 and a 50 percent chance to win $0.” By contrast, if the decision is perceived to be in the negative direction (i.e., it will generate losses), then individuals will react in a risk-seeking manner. Thus, decision makers in this paradigm would prefer “to take a 50 percent chance on losing $100 and a 50 percent chance of losing $0 than to accept a sure loss of $50.”

In his 1993 study, Whyte contends that prospect theory provides a more compelling justification for escalation behaviors than does self-justification theory. Whyte’s contention is premised on the assumption that individuals facing an escalation dilemma are loss averse. Thus, according to Whyte, individuals facing escalation situations prefer to allocate additional resources and increase the probability of a larger loss, rather than to accept the sure loss if they declined to allocate additional resources.

Professor Bowen’s decision dilemma theory has also been offered to explain escalation behaviors. Bowen suggested that in previous escalation research, including Staw’s seminal study in 1976, decision makers received equivocal, rather than negative, feedback about their initial resource allocation. Accordingly, decision dilemma theory posits that people escalate not in response to negative feedback, but in response to feedback that can be interpreted in multiple ways. As such, escalation behavior is more of a response to a dilemma than it is an act of error because investing additional
resources may allow additional opportunities for a strategy to work, or allow the collection of more information and the passage of time, which may lead to greater understanding of the situation.

Self-presentation theory is yet another explanation for escalating commitment. Self-presentation theory focuses on the effects of an on-looking audience on escalation. Proponents of this theory contend that decision-makers escalate commitment to failed courses of action because they want to be perceived as able to reach suitable choices. Thus, they respond to escalation dilemmas by allocating additional resources because departing from a previous pursuit may compromise credibility.

Proponents of self-presentation theory also maintain that organizational culture influences escalating commitment. Studies on employees and organizational culture have found that employees typically act in a manner that is consistent with the organizational values, which is in part a reflection of a self-presentation motive. Thus, escalation is more likely to occur in organizations that have a culture that makes people unwilling to admit failure or that values consistency in behavior. However, escalation is less likely in organizations where people are free to admit errors or that values experimentation.

### B. Groupthink

Street and Anthony posit a theoretical relationship between groupthink and escalation of commitment models. Groupthink is a deficient group decision-making process that has a high probability of producing poor decisions with disastrous consequences. Groupthink occurs when “concurrence-seeking becomes so dominant in a cohesive [in-group] that it tends to override realistic appraisal of alternative courses of action.” There are three antecedent conditions to groupthink behavior: (1) group cohesiveness; (2) a provocative situational context; and (3) structural faults of the organization. The first, and most important, antecedent condition of groupthink is cohesiveness—i.e., de-individuation. A moderate to high level of group cohesion is necessary, though insufficient by itself, for the development of groupthink.
The second antecedent condition, a provocative situational context, arises when the group has low group self-esteem and is required to make consequential decisions under high stress. Low group self-esteem is induced by the group’s previous failing decisions that raise questions about the group’s competence and moral standards. High stress results from external threats, with little chance of the group developing better decisions than the ones that led to previous failures. External threats, such as navigating a crisis situation, are said “to increase the likelihood of concurrence-seeking behavior[].”

The third antecedent condition for the development of groupthink concerns structural faults of the organization. These structural faults involve: (1) insulation from critical evaluation and analysis by other significant group members; (2) inadequate decision-making procedures, to include the absence of procedures for searching for information, investigating consequences, and proposing alternative actions; (3) a lack of impartial leadership; and (4) a lack of diversity in backgrounds or ideologies.

Street and Anthony put forward four assumptions that underlie the alleged theoretical link between groupthink and escalation of commitment. First, they redefine the concept of group cohesion. Previous researchers have maintained that cohesion is comprised of three dimensions: interpersonal attraction, pride in or desire for group membership, and task cohesion. The definition put forth by Street and Anthony consists of only the first two dimensions (interpersonal attraction and pride in group membership).

Second, they assume that the group is cohesive in the way defined above and simultaneously “suffers from one of the other two sets of antecedent conditions in the groupthink model before [being] exposed to an escalation situation.” Third, citing the 1993 study by Glenn Whyte, they assume that escalation behaviors can and do occur at the group level. Fourth, they assume that group cohesion, as defined in the first assumption, increases the tendency to escalate commitment to failing courses of action.

Next, Street and Anthony put forth three propositions, each of which combines variables from the groupthink model with a corresponding set of escalation variables. Each proposition assumes
that the group is cohesive as defined by the first assumption, above. The first proposition concerns a group with moderate to high levels of cohesion that is “suffering from conditions consistent with the provocative situational context . . . before it is exposed to an escalation situation.” Thus, the cohesive group is suffering from “stress from external events, low levels of self-esteem, and pressures for concurrence-seeking actions among members prior to being exposed to an escalation situation.” According to Street and Anthony, the escalation situation increases stress levels, exacerbating the group’s low self-esteem, and thereby increases the group’s concurrence-seeking tendencies. Relying on the self-justification and facesaving theories of escalating commitment, Street and Anthony posit that the group will respond to this precarious situation by escalating commitment to their failing course of action. Street and Anthony explain, in essence, that the group’s behavior is a defense mechanism for coping with decisional stress. For those reasons, Street and Anthony’s first proposition contends that cohesive groups suffering from high stress or low self-esteem are more likely to escalate commitment to failed actions than are cohesive groups not suffering from those conditions.

The second proposition concerns a highly cohesive group that is subject to various elements of the structural faults group of antecedent conditions in the groupthink model before being exposed to an escalation situation. The presence of any one of the four structural faults is said to reduce the probability of the group engaging in a rational assessment of its alternatives before making a decision. Street and Anthony contend that this phenomenon is greater when a group faces an escalation situation. They explain that while the lack of structural constraints within the organization alone retards rational assessment, the additional presence of the psychological and social determinants that urge escalation behaviors further increases the probability that the group will arrive at a decision based upon irrational considerations (i.e., considering sunk costs). This interaction between the structural faults, “the self-justification, information-processing distortion, and face-saving” variables ultimately increases commitment to previous bad decisions. Street and Anthony’s second proposition asserts that cohesive groups
operating with structural faults are more likely to escalate commitment to failed decisions than groups not operating with structural faults.

To summarize briefly, the first proposition concerned the interactive effects of group cohesion and a provocative situational context, while the second proposition focused on the interactive effects of group cohesion and structural faults. According to Street and Anthony, those two propositions demonstrated the relationship between the two sets of antecedent variables and the concomitant social and psychological determinants in the escalation model. They ultimately contended that groups characterized by those antecedent conditions are more likely to escalate commitment to failed courses of action than groups not characterized by those antecedent conditions.

Street and Anthony’s third proposition was simply a combination of the previous two. It asserts that cohesive groups characterized by the presence of all of the antecedent conditions of groupthink are more likely to escalate commitment to failed actions than are cohesive groups who are not characterized by all of the antecedent conditions of groupthink.

C. Evolutionary Psychology

Spoor and Kelly’s 2004 article situates the phenomenon of group members developing shared moods and emotions (collectively referred to under the umbrella term of “affect” or “group affect) in the context of evolutionary history. Spoor and Kelly suggest that affect in groups has primarily served as a coordination function. This coordination function can take one of two forms. “First, group members’ various affective reactions can quickly provide information about the environment, group structure, and group goals to other group members . . . .” In other words, shared affect coordinates group members through a communication function. Second, shared affect can mobilize efforts toward group goals through fostering group bonds and group loyalty. “These two functions of group [affect] are closely related and mutually reinforcing.”
Spoor and Kelly contend that the development of mechanisms such as emotional contagion and interaction synchrony have been advantageous for group survival throughout evolutionary history. Emotional contagion refers to the automatic processes through which individuals mimic and synchronize their facial expressions, vocalizations, posture, and movements with those of other individuals in the group. One consequence of such mimicry is the “convergence [of] mood and emotions across group members,” resulting in a homogenous emotional state throughout the group.

Spoor and Kelly also use an evolutionary perspective to explain the differing adaptive benefits of positive and negative affective states. Communication of positive affective states had the effect of promoting cooperation within groups, while communicating negative affective states had the effect of promoting collective action in response to negative aspects in the environment. Thus, because negative emotional states typically “conveyed critical survival information about the environment, group members may be particularly aware of the presence of negative emotions within the group.”

Spoor and Kelly also contend that group members profited from the development of affect regulation and control mechanisms that maintain the level of affect that is appropriate for a desired outcome. Such explicit affect regulation strategies can function to communicate the group’s status hierarchies, as well as its larger group goals. This aspect of the communicative function highlights the importance of both homogenous and heterogeneous levels of affect within the group. Homogenous levels of affect in a group might be important for the pursuit of specific group goals. By contrast, affect regulation to communicate status differences stresses the importance of heterogeneous levels of affect within groups.

Spoor and Kelly propose that the second primary function of shared affect in groups is to coordinate group action through facilitating the development of group member bonds and group loyalty. In explaining group affect, Spoor and Kelly focus on two constructs: group cohesion and group rapport. Group cohesion is a “multidimensional construct that includes positive interpersonal interaction, task commitment, and group pride.” Ultimately, “the
development of group cohesion serves to create bonds between group members, loyalty to the groups, and positive feelings toward tasks that the group completes together.”

Group rapport is similar to group cohesion and has three components: “mutual attention and involvement, coordination among participants in the interaction, and positive affect.” Spoor and Kelly contend that developing group rapport is beneficial to group survival for several reasons. First, experiencing group rapport makes members “more attentive and easily influenced by each other,” suggesting that the development of group rapport influences group members’ susceptibility to emotional contagion. Second, the coordination component of group rapport is identical to interaction synchronization, suggesting that “group rapport can be indexed by regulation of the interaction that coordinates the behavior of participants and provides predictable patterns of behavior.” Third, “[t]he final component of group rapport, positive affect, is closely tied to group cohesiveness” and affects group stability. Taken together, the group cohesion and rapport determine the strength of the social bonds within a group and in turn the group’s ability or inability to effectively coordinate the pursuit of group goals.

The 2007 study by Peters and Kashima provides further insight on the communication function of shared affect by examining the role of emotional sharing (i.e., the social sharing of emotional social talk). Results of their study revealed that emotional sharing can perform a function (affecting what they call the “social triad) by creating links between people, informing them about their shared position in the environment, and coordinating social action. In other words, the simple act of sharing an emotional experience can create unique bonds between the audience and the narrator, and in turn foster a shared understanding of the world. This shared understanding of the world can be used to unite previously separate groups in coordinated social action.

D. In-groupOut-group Dynamics

Bosson and colleagues conducted an empirical test on the folk belief that shared positive feelings—as opposed to shared negative
feelings—facilitate stronger bonds between two people. Contrary to folk wisdom, they proposed that two people sharing a dislike of a target person would promote closeness more readily than sharing a liking for that target. The power of shared negativity in friendship formation was tested by measuring and manipulating the extent to which people shared specific negative and positive attitudes about others. Study 1 and Study 2 required participants to list the positive and negative attitudes that they shared with their closest friends. Results revealed that people tend to recall a larger proportion of shared negative than positive attitudes about others.

Study 3 examined the causal link between the discovery of shared negatives about others and interpersonal attraction. Participants first indicated both a positive and a negative attitude toward a fictitious target person and then learned that they shared either their positive or their negative attitude about the target with another participant whom they believed they would soon meet. Participants then rated their feelings of closeness to the other participant.

Results showed that discovering a shared negative attitude about a target person predicted liking for a stranger more strongly than discovering a shared positive attitude, but only when attitudes were weak. In other words, when people discovered that they shared a strong attitude about the stranger, they felt close to the stranger regardless of whether the attitude was positive or negative.

Taken together, these results suggest that a strong negative attitude about a target can be a powerful bonding agent during friendship formation. Bosson and colleagues posited that their findings suggest that one of the functions of negative attitudes is the establishment of in-groups and out-groups. In the context of their study, this means that the discovery of a shared dislike for another person fosters a sense of in-group solidarity that meets people’s fundamental need for connectedness and belonging.

Dion’s 1973 study presented the question of what is responsible for in-group bias. Dion hypothesized that “in-group cohesion would increase discrimination toward an out-group” and, extending past prior researchers, proposed that this relationship may
be explained in terms of the intergroup relations theories propounded by Sherif and Tajafel.

Sherif’s theory posits that competition between groups leads to intragroup cohesion and intergroup hostility. Further, subsequent research on Sherif’s theory suggested that competition produced out-group hostility because highly cohesive groups became more frustrated by competition than groups with low cohesion. Tajafel’s theory contends that discrimination toward the out-group was a product of a “generic” group norm that one ought to favor the in-group over the out-group.

Results failed to support Dion’s hypothesis that increasing group cohesiveness would increase exploitation and devaluation of the out-group. Dion conceded that the results of his study do not necessarily contradict Sherif’s theory; rather, he suggested that the inconsistent result was due to the fact that the inferences he drew from Sherif’s theory and subsequent empirical studies were inapplicable to his experimental design. He explained that if intergroup bias were a product on a “generic” in-group-out-group norm, then it would necessarily follow that increasing cohesion would lead to greater conformity to the “generic” norm and, in turn, greater exploitation and devaluation of the out-group.

Dion’s study also investigated “whether persons in highly cohesive groups exhibit greater cooperativeness and admiration toward their [group members] than do those in less cohesive groups,” as well as “whether the differential bias toward in-group versus out-group [members] is more accentuated in highly cohesive groups than in less cohesive ones.” The results showed that members of high-cohesive groups exhibit differential biases toward in-group and out-group in that high levels of cohesion produced significantly greater cooperation toward the in-group than toward the out-group. Moreover, members of high-cohesive groups evaluated their fellow members more positively than they did members of an out-group. Members of low-cohesive groups did not as strongly exhibit either of these biases toward in-group favoritism.

Dion interpreted the results as supporting a cognitive differentiation hypothesis. That is, “high cohesiveness leads group members to cognitively differentiate their in-group from the out-
group,” while low-cohesion group members fail to perceive themselves and their fellow members as comprising an in-group.

Karawasa hypothesized that cohesion facilitates social comparison, which in turn increases in-group favoritism. Results largely supported this hypothesis. Inferiority significantly decreased in-group favoritism in groups with low cohesion, whereas inferiority increased in-group favoritism in groups with high cohesion. Thus, the effect of feelings of inferiority on intergroup behavior is dependent upon the level of cohesion in the group.

In groups with low cohesion, members respond to knowledge of in-group inferiority by cognitively denying their membership and ultimately derogating and departing from the in-group. According to Karasawa, this low in-group enhancement motivation (i.e., the lack of a desire to rate the in-group positively in response to an identity threat) is experienced because members do not strongly identify with the group. By contrast, groups with high cohesion respond to knowledge that their in-group is inferior on a certain dimension by enhancing their in-group evaluations on a different dimension. It is important to note that these effects are only observed when the out-group is a relevant comparator for the in-group.

Karasawa interpreted the results as suggesting that cohesiveness of the in-group can “buffer” the impact of threats (e.g., knowledge of in-group inferiority) on in-group evaluations. That is, facilitating identification with the group can protect low-status group members from in-group devaluation and promote their in-group enhancement motivations.

A recent study by Castano and colleagues merges insights from Terror Management Theory (TMT) and social identity theory to argue that in-group members identify more with in-group when they were reminded of the inevitability of their own death. Results yielded support for this proposition. The results also “showed that in-group bias was associated both with in-group identification and in-group entitativity,” confirming previous studies that examined these relationships more directly.

Castano and colleagues interpreted this finding as providing evidence for the hypothesis that entitativity and identification are
distinct though related concepts. Identification with the group is said to provide psychological protection against the fear engendered by knowledge of personal mortality. Perceived entitativity allegedly allows one to transcend notions of personal mortality by shifting from a personal to a social identity, because, in contrast to personal identity, social identity is not subject to mortal fate.

Ellemers, Spears, and Doosje investigated how in-group identification affects fidelity to the group. Social identity and self-categorization perspectives suggest that fidelity to one's group is determined by the group's status, the need for esteem, and the objective availability of alternatives. Ellemers, Spears, and Doosje proposed, however, that fidelity to one's group was a function of psychological commitment stemming from the importance of that particular group to the member's identity. This perspective differed from previous research on individual mobility because it proposed that in-group identification is a cause, rather a consequence, of one's inclination to engage in individual or intergroup behaviors.

Ellemers, Spears, and Doosje conducted two experiments designed to test the effects of in-group identification on perceived intragroup homogeneity, group commitment, and the desire for individual mobility. In the first experiment, the participants were members of a low-status in-group, with either permeable (i.e., flexible group memberships) or impermeable boundaries (i.e., fixed group memberships). Low identifiers perceived the group as less homogenous, were less committed to the group, and had more of a desire for individual mobility to the status group. The exact opposite result was observed for high identifiers.

The second study investigated the minimal conditions that are needed for the emergence of in-group identification effects. Thus, in this condition, the relative status of the group was unknown to the participants. Results revealed that even in the absence of an identity threat, low identifiers were less likely to see the group as homogenous, had less commitment to the group, and had a stronger desire for individual mobility than high identifiers. These results added further support to the claim that the psychological factors, as opposed to the objective structural features, determine commitment to one's group.
These results suggest that identification with the in-group is a powerful determinant of the desire for individual social mobility, irrespective of threats to one’s social identity. High identifiers see the group as a homogenous unit and remain committed even when it would be personally profitable to abandon the group. Low identifiers, by contrast, emphasize the differences of individual group members and, at best, exhibit indifference to continued group membership under both threatening and more neutral (i.e., uncertain status) conditions.

In a 1999 article, Ellemers and colleagues analyzed and distinguished the components of social identity. Social identity, as defined by Tajfel, is “that part of an individual’s self-concept which derives from his knowledge of his membership of a social group (or groups) together with the value and emotional significance attached to that membership.” According to Ellemers and colleagues, this definition suggests that three separate components contribute to one’s social identity: “a cognitive component (a cognitive awareness of one’s membership in a social group—self-categorization), an evaluative component (a positive or negative value connotation attached to this group membership—group self-esteem), and an emotional component (a sense of emotional involvement with the group—affective commitment).”

Next, Ellemers and colleagues argued that each aspect of social identity is differentially affected by specific group characteristics or the social context, namely relative group size, relative group status, and whether membership in the group was assigned as opposed to achieved or self-selected. To test this assumption, they manipulated assignment criteria (self-selected v. assigned), membership status (high v. low), and the relative size (majority v. minority) of artificially created groups.

Results confirmed that the evaluative component of social identity, group self-esteem, is only affected by the relative status of the in-group. Self-categorization, the cognitive dimension of social identity, is solely dependent upon the relative size of the in-group. Members of minority groups report both strong self-categorization as group members and strong personal identification. Ellemers and colleagues explained that the fact that strong group identity can be
observed even when the group purportedly has low value connotation suggests that self-categorization and group self-esteem are relatively independent and that group self-esteem does not necessarily lead people to avoid self-categorization. Finally, the data on affective commitment, “the emotional aspect of social identification,” showed that group commitment “depend[s] both on the way groups have been formed and on the relative status of these groups.” Commitment to the group was “enhanced when people have self-selected their group membership, or when the group [had] relatively high status.” According to Ellemers and colleagues, this result implies that people may display strong commitment to a group with low status if membership is self-selected or achieved, rather than imposed externally.

Finally, Ellemers and colleagues argued that the three dimensions of social identity play different roles as mediators of group level behaviors. As predicted, the data showed that the group commitment aspect of social identity was the only predictor of in-group favoritism.

Milne and Duckitt “investigated the dimensionality of organizational identification . . . and attitudinal commitment, their interrelationship, and their relationships with hypothesized causes and consequences.” On the basis of previous empirical findings, Milne and Duckitt posited that organizational identification and commitment are concepts that overlap but are also separate and empirically distinguishable. Accordingly, their research was designed to determine the specific dimensions that these concepts have in common and on which they may be distinct.

Results revealed six primary dimensions of organizational identification and commitment: in-group affect, commitment, in-group ties, perception of oneness, centrality, and personalization. The commitment factor is predominately related to the construct of organizational commitment. The in-group affect factor is a product of both organizational commitment and organizational identification. The remaining four factors—in-group ties, centrality, personalization, and perception of oneness—are products of organizational identification. These findings support the assumption that the primary difference between organizational identification and
commitment is that in organizational identification individuals perceive “themselves in terms of their organizational membership, while in commitment they do not.”

In the context of hazing, in-group-out-group dynamics may leave fraternity and sorority pledges feeling allied with each other and against big brothers and big sister. With such feelings may come a sense of betrayal for or against the pledge who abandons the pledge group even as the hazing becomes increasingly risky for the pledges.

E. Need for Esteem

Pyszczynski and colleagues provided an exhaustive theoretical and empirical review of research on why people need self-esteem and what psychological function it serves. Pyszczynski and colleagues found widespread empirical support for the assumption that self-esteem serves an anxiety-buffering function, thus supporting the tenets of Terror Management Theory (TMT) and its explanations of why people need self-esteem. TMT posits, inter alia, that a person’s cultural worldview and self-esteem both serve as an anxiety-buffering function in the human predicament of existential terror. TMT defines self-esteem as a sense of personal value that is obtained by believing in one’s worldview and living up to the standards of value prescribed by one’s worldview. TMT predicts that people try to defend their cultural worldview when they are threatened by mortality concerns, particularly if their self-esteem is low. Moreover, although much research has used reminders of mortality (i.e., mortality salience hypothesis) to document the terror management function of self-esteem, such reminders need not be present for people to pursue the protective functions of self-esteem.

Fuller and colleagues conducted an empirical analysis on why construed external image is related to organizational identification. “Organizational identification is ‘a perceived oneness with an organization and the experience of the organization’s successes and failures as one’s own.’” “[O]rganizational identification occurs when an individual’s self-concept is tied to his or her organizational membership.” Several antecedents of organizational identification have been identified, one of which is construed external image.
Construed external image, also known as perceived external prestige (PEP), “refers to a member’s beliefs about outsiders’ perceptions of the organization” and “summarizes a member’s beliefs about how people outside the organization are likely to view the member through his or her organizational affiliation.”

Fuller and colleagues investigated the theoretical explanation of the positive relationship between construed external image and organizational identification, and examined the extent to which the need for self-esteem accounts for this relationship. Results confirmed the hypotheses (1) that an organizational member’s construed external image would be positively related to the member’s organizational identification and (2) that this relationship would be moderated by the member’s need for self-esteem. Specifically, the data showed “no significant relationship between construed external image and organizational identification for individuals with low need for self-esteem,” whereas “for individuals with a high need for self-esteem, the relationship [was] strongly positive.” These results are consistent with Fuller and colleagues’ hypothesis that “outsiders’ opinion of the organization is likely to strongly influence” the self-concept of individuals with high need for self-esteem “because their feelings of self-worth are strongly dependent on the attention and positive evaluations of other people,” whereas individuals with a low need for self-esteem “are not strongly motivated by the need for others to view them positively.” Fuller and colleagues explained that their results “challenge the assumption in Social Identity Theory that all people share a similar need for self-esteem” and will accordingly seek to establish the positive distinctiveness of their groups in order to meet their own needs for positive self-esteem.

F. Obedience to Authority

In his 1963 study, Milgram found that sixty-five percent of participants were willing to obey authority and administer an electric shock to a co-participant (hereinafter the “learner) who failed to learn word pairs, despite protests from the learner and indications that such shocks were dangerous. Milgram’s findings have gained widespread acceptance within academia, so much so that some
researchers contend that Milgram’s findings can help explain the behaviors of others who commit atrocities. Darley “violently object[s],” claiming that there are important distinctions between the behaviors of subjects in the Milgram situation and those who commit atrocities, such as the “Nazi doctors, concentration camp executioners, or Serbian snipers who assassinate children.” He explains that, unlike the former, the latter commit such acts “without supervision of authorities, without external pressure, and they use their intelligence to independently determine how they will do so.” He further contends that the participants in the Milgram situation who continued to administer shocks in accordance with the experimenter’s orders were not, phenomenologically, deciding to harm another person. Instead, they found themselves torn between two incompatible perspectives as to the meaning of continuing with the experiment. Critical to this analysis is the construction of the participant’s meaning of the experimenter’s behavior. Darley posits a taxonomy of situations to categorize the behaviors of a person in authority, the principal, and those of a subordinate, the agent, who acts on that authority. Relying on the law of agency, Darley concludes that the responsibility for any harm done in the Milgram situation rests entirely with the experimenter as the principal.

Next, Darley conducted a Milgram-type study involving participants who believed they were in a setting in which they would have to punish someone, although no punishment actually took place. Participants were presented with information they believed the experimenter did not have and in this circumstance chose what Darley calls “constructive obedience,” in contrast to the destructive obedience of the Milgram studies. Participants modified their proposed behavior in light of this information while maintaining the overall aims of the experimenter. According to Darley, this result suggests that Milgram’s data might be read as implying the same sort of process in those conditions where Milgram left the room. That is, participants might have thought that Milgram would have instructed them differently had he been able to hear the learner’s cries.

In 1974, Philip Zimbardo wrote a short article contending that Milgram’s experiment provides powerful support for the idea that situational determinants, and not a person’s individual
characteristics, determine behavior. Commenting on Milgram’s research and his own companion research on prison behavior, Zimbardo noted the three major research themes in each:

(a) [T]hat obedience to authority requires each of us to first participate in the mythmaking process of creating authority figures who then must legitimize their authority through the evidence of our submission and obedience to them;

(b) that the reason we can be manipulated so readily is precisely because we maintain an illusion of personal invulnerability and personal control, all the time being insensitive to the power of social forces and “discriminable” stimuli within the situation, which are in fact the potent determinants of action; and

(c) that evil deeds are rarely the product of evil people acting from evil motives, but are the product of good bureaucrats simply doing their job.

Zimbardo concluded that we must focus on acquiring more knowledge about the social conditions that cause us to behave in ways that contradict our morals and expectations and that we must “critically reexamine the ethics and tactics of our revered social institutions, which lay the foundation for our mindless obedience to rules, to expectations, and to people playing at being authorities.”

As mentioned above, Zimbardo concluded that it is important to focus on the situational determinants that lead to the uncritical acceptance of authority. Robert Lavine cautions, however, that the emphasis on situational determinants of obedience to authority should not obscure other factors that contribute to this phenomenon. Specifically, Lavine contends that cultural and personality differences may influence obedience to authority, with the caveat that “such traits probably change over time and generations, are subject to situational and historical variables, and interact with individual differences.” Despite the potential interactive effects, Lavine contends that future researchers should develop studies that take into account the potential impact of cultural factors on obedience to authority.
G. Organizational Prestige

Carmeli’s study proposed and tested a model which links two forms of perceived organizational prestige with employee affective commitment and organizational citizenship behaviors. Organizational prestige refers to an “employee’s own beliefs about how other people outside the organization . . . evaluate the status and prestige of the organization.” Carmeli identified two forms of perceived organizational prestige: “[S]ocial prestige, covering (1) quality of management, (2) quality of products or services, (3) ability to attract, develop, and retain talented people, (4) community and environmental responsibility, and (5) innovativeness; and economic prestige, covering (1) financial soundness, (2) long-term investment value, and (3) use of organization assets.”

Next, Carmeli examined organizational identification. Organizational identification is the “perception of oneness with or belongingness to some human aggregation.” It occurs when one integrates beliefs about one’s organization into one’s identity.” Carmeli measured organizational identification in terms of affective commitment, which refers to “positive feelings of identification with, attachment to, and involvement in, the work organization.”

Carmeli put forth three hypotheses: (1) “Both perceived external economic prestige and perceived external social prestige augment employees’ affective commitment to their organization, but perceived external social prestige will have a larger impact”; (2) “[p]erceived external economic prestige and perceived external social prestige will have positive interactive effects on employees’ affective commitment to their organization”; and (3) the relationship between both forms of PEP and citizenship behaviors would be mediated by affective commitment.

The results revealed that both forms of PEP affect employees’ affective commitment to their organization, though perceived external social prestige may have a larger effect, confirming the first hypothesis. However, the findings failed to support the second hypothesis that both forms of PEP would produce a positive interactive effect on affective commitment. Carmeli noted that the data on the second hypothesis contradicts previous research and may
be due to the nature of the setting in which the sampled employees worked (social workers in health care institutions). Finally, “the mediating hypothesis was supported only for the relationship between perceived external social prestige and altruism.”

Carmeli explained that these results may suggest that organizations may be perceived as prestigious but not in all aspects of the definition. Carmeli interpreted the results as providing support for the more general hypothesis that when members believe that outsiders have positive perceptions of their organization, they identify more with the organization, and this increased identification is translated into altruistic behavior.

Carmeli and colleagues adopted a stakeholder approach to assess the impact of PEP on organizational members’ cognitive identification and affective commitment. Stakeholder theory holds that the organization should be analyzed from the perspective of the organization’s key interest constituents because they affect, and are affected by, the behaviors of the organization. Applying that theory to the study by Carmeli and colleagues involved an evaluation of whether an employee’s personal assessment of how outsiders view the organization fosters cognitive identification and whether such identification ultimately influences an employee’s affective commitment.

Cognitive identification refers to the “perception that one shares[] the experiences, successes[,] and failures of the focal organization, and that these successes and failures apply to and reflect upon the self just as they reflect upon the organization.” Affective commitment refers to the “positive feelings of identification with, attachment to, and involvement in, the work organization.” Carmeli and colleagues examined two components of affective commitment: love and joy. The love component is concerned with the member’s “emotional attraction or affection toward the organization as a social category,” while the joy component refers to the happiness that arises from the organization as a social category.

Carmeli and colleagues hypothesized that “[PEP] among competitors, customers and suppliers is positively related [to cognitive organizational identification],” and that “[c]ognitive organizational identification mediates the relationship between [PEP]
and affective commitment.” These hypotheses were tested on a sample of Israeli employees who work for four organizations in the electronics and media industries.

Results showed that high PEP (of competitors, customers, and suppliers) causes employees to develop a higher level of cognitive organizational identification, confirming the first hypothesis. The data on the differences among the three groups of stakeholders was non-significant for the first hypothesis. The second hypothesis was also confirmed, but differential effects were observed among the three groups with respect to the two forms of affective commitment. On the affective commitment-love measure, it was found that employees “who construe the prestige that the competitors and suppliers attribute to their organization as favorable” report greater love for the organization as a social category. No significant effects were observed for customers on this measure. On the affective commitment-joy measure, it was found that when employees “construe the prestige that the competitors and customers attribute to their organization as favorable” report a greater sense of happiness arising from the organization as a social category. No significant relation was observed for suppliers on this measure. With respect to the claim about the mediating role of cognitive organizational identification, the researchers found support for the assumption that cognitive organizational identification mediates “the relationship between both PEP (competitors) and PEP (suppliers) and affective commitment.”

On the whole, the data suggest that employees attribute consistent care and attention to all reference groups with respect to cognitive organizational identification, but that employees view some stakeholders as more critical to the organization than others with respect to the two forms of affective commitment.

Carmeli and Freund developed and tested a model that explores how perceived organizational prestige influences job satisfaction, affective commitment, and turnover intentions among Israeli social workers in the nonprofit sector. Results of two separate studies showed that high levels of perceived organizational prestige cause employees to develop high levels of commitment and satisfaction and lower levels of intention to leave the organization.
This finding is consistent with previous research (such as that discussed above) and further validates the relationship between organizational image and organizational attachment.

**H. Symbolic Interaction**

Symbolic interactionist theory is based in part on the assumption that it is through processing interactions with external objects and other people that individuals develop their sense of self and their understanding of the world. Accordingly, how a person understands others, how others come to understand that person, and how a person comes to understand and identify himself or herself are part of the symbolic interaction process. Charles Cooley explained this phenomenon in terms of a looking glass metaphor, in which we each undergo a similar process to develop a unique self. That is, the sense of self that we each develop is shaped by our interactions with people significant to us. What is different, however, is the group of people we each consider to be significant. In the context of pledging, the identity of aspirants is influenced because members isolate aspirants from their other significant social groups, thereby causing aspirants to ascribe more significance to the fraternity as the relevant reference group. The ultimate implication is that aspirants come to view the fraternity as the reference group from which they must gain social approval.

Another important assumption of symbolic interactionist theory concerns the role that perception and meaning play in an individual’s significant interactions. Symbolic interactionism rests on three premises. The first is that individuals “act toward things on the basis of the meanings these things have for them.” The second premise is that the meaning of these things is derived from or arises out of the social interaction that one has with one’s social counterparts. The third premise is that these meanings are handled and modified through an interpretive process used by the person in dealing with the things he or she encounters.

Applying Blumer’s premises, Sweet contends that “hazing is not simply the result of psychologically or morally flawed individuals; but is the result of a confluence of symbols, manipulated identities,
and definitions of situations that are organized in the context of fraternity initiation rites.” Sweet concludes that in order to understand why aspirants consent to hazing, one must first understand the subcultural factors that affect their perceptions of hazing situations. Such an understanding, Sweet suggests, will allow one to shape individual’s decisions about their conduct in the face of hazing situations.

Jones and Volpe examined organizational identification from the perspective of a symbolic interaction theory. Symbolic interaction theory emphasizes the importance of social relations in organizational identification. Thus, Jones and Volpe examined the influence of social networks on organizational identification processes. To do so, they examined the interactive effects of two categorical antecedents of organizational identification—organizational distinctiveness and organizational prestige—and the general antecedents of social networks—network size, network density, and relationship strength.

Results showed that both organizational distinctiveness and “organizationally affiliated network size positively influenced the strength of individuals’ organizational identification by promoting communication with others” as a way of strengthening commitment to and identification with the organization. Results further indicated that “relationship strength amplified the effect of organizational prestige on organizational identification,” but that “organizational prestige had no direct effect on organizational identification for this sample.” These results highlight the type and structure of specific relationships that influence an individual’s organizational identification; they ultimately suggest that introducing a social network perspective allows researchers to “better understand and predict organizational identification.”

**Conclusion**

“It would seem that the old saw about what happens when you ‘assume’ proves again to be quite accurate.” The existence of consent or lack thereof, whether we think about it from the statutory or common law approach, appears to be imbued with a bit of armchair theorizing. There seems to be an assumption that hazing “victims”
either can or cannot consent to their ordeal without truly reconciling that assessment with what social science—the study of human behavior—might have to say. In \textit{Yost}, the court assumed that the plaintiff was not coerced. In \textit{Quinn}, the court found the opposite, suggesting that the social pressure that exists within Greek-letter organization pledging culture to comply with initiation procedures is nearly insurmountable. In \textit{Nisbet}, the court noted that while the defendant could have walked away, the social pressure to join blinded him to the dangers he faced. Each of these cases, and the other examples, supra, of fraternity hazing may have come to the right conclusion. They, however, appear to leap over what a deeper understanding of the social science might say about hazing consent.

A fraternity or sorority pledge may have begun a pledge process, and once they start down the path of being hazed not realize the stakes associated with the activity, believe that there are not adequate opportunities to quit, and may not know enough about the organization or the pledge experience to properly evaluate the consequences of persisting or quitting. As such, the pledge may perceive that if they stick it out for another day and another day and yet another day, they will finally be a member. But, often, those days may turn into weeks or months of hazing. Such thinking may be particularly pronounced in groups, like pledge classes, where the individual identity is submerged for the sake of the group’s identity and where group members are stressed and hampered in their ability to critically evaluate the situation in which they find themselves. Even more, the hostile environment that big brothers or sisters may create for a pledge class may forge a bond between those pledges as a cohesive group in contrast to the big brothers or sisters. Such a bond may be difficult for pledge class members to terminate even for their own self-preservation. And in these contexts where big brothers or sisters exert their authority, pledges may willingly submit to that authority even if being hazed. Where the fraternity or sorority is of high prestige, either on the pledge’s respective campus or in society more widely, the pledge may be driven to tolerate being hazed to be a part of such an organization in and of itself but also as a means to enhance his or her own self-esteem. In the end, the pledge may come
to gain a deeper understanding of themselves during the pledge process and be unwilling to relinquish that understanding.

While all of this may be true, it is still not universal. For example, a fraternity pledge may come from a long line of fraternity men or have had a mentor who was a fraternity man. The pledge may have heard “war stories” about what it was like to be online. The pledge may have done his homework, before seeking fraternity membership, on fraternity life and been apprised of what hazing was like. The fraternity may have provided a deep and meaningful education to the pledge on the dangers of hazing—informing him of hazing injuries and deaths with some specificity. A pledge may not “buy into” the notion of submerging the “I” for the sake of the “we.” As such, she may not be interested in the goal of the group—completing the pledge process—vis-à-vis her own interest of self-preservation. A pledge may not readily submit to authority or only do so when he perceives the hazing to be mild. A pledge may be interested in joining a sorority but not perceive the organization as being particularly prestigious, and thus her esteem may not be enhanced by membership. Even more, pledges may feel as though they gain little insight into who they are as a result of the pledge process. Courts and legislatures should be mindful of these and other factors and evaluate hazing consent on a case-by-case basis while also paying attention to the growing body of research on hazing.
CHAPTER 14

Hazing Victim Consent: An Evidentiary Basis

Given what I have articulated in Chapter 13, while there are a whole host of psychological reasons why black Greek-letter organization (BGLO) aspirants cannot consent to hazing, consent is not impossibility. Where there is such a possibility, how can it be discerned that such acquiescence took place, and what are the legal implications. Herein, I contend that the cultural artifacts of calls, chants, poems, and songs highlight that some BGLO pledges are aware of the rigors of BGLO hazing and often early-on in their process. In the legal context, analogous evidence is admissible. Accordingly, this raises the specter of evidence towards tort defense doctrines of assumption of risk and comparative fault.

Hazing and Tort Defenses

The relationship between Greek-letter organizations and the United States university system began in 1776 when the nation’s first fraternity, Phi Beta Kappa, was formed at William & Mary. Since that original fraternity, Greek-letter organizations continue to permeate college campuses and continue, nationally, to gain awareness, popularity, and relevance through the 21st Century. In fact, in 1997, six percent of college undergraduates participated in the Greek-letter groups. Despite their ubiquitous presence and unwavering commitment to developing strong leaders, Greek-letter organizations continue to injure its members through violent hazing which continues to plague the system. Hazing has persisted and remained prevalent in both fraternities and sororities despite a recent wave of state legislation aimed at criminalizing and deterring such conduct.

Of the few hazing cases to reach trial, many were civil lawsuits – personal injury suits against the fraternities and their affiliated universities. To the victim, the civil court system availed the only legitimate recovery since hazing criminal sanctions often
provided only minimal misdemeanor punishments without “real” compensation to victims. As a result, colleges and universities found themselves “under siege” due to hazing liability, liable under several tort principles. Defendants, i.e., Greek-letter organizations and their affiliate universities, raise several defenses against these attacks, including consent, assumption of risk, contributory negligence and comparative negligence. Courts hearing issues of liability, however, have proven inconsistent and somewhat confusing as their ad hoc analyses have failed to take a uniform approach toward enforcing liability against fraternities.

Adding to the confusion is the divergence in state tort laws regarding comparative fault and assumption of risk. Sixteen states have language eliminating consent defenses in their anti-hazing statutes. Most jurisdictions hold that comparative negligence may transfer part of the fault to the plaintiff for culpable participation, but within these jurisdictions some states such as Tennessee require the plaintiff to be less than fifty percent at fault for his injuries in order to recover. Other states such as South Carolina bar recovery in tort on the plaintiff’s behalf for contributory negligence, but refuse to apply the doctrine to fraternity hazing cases.

A. Assumption of Risk

“Assumption of risk generally bars recovery by an [individual] who knows of the danger in a situation but nevertheless voluntarily exposes himself to that danger.... Assumption of risk arises through implied contract of assuming the risk of a known danger; the essence of it is venturousness; it implies intentional exposure to a known danger; it embraces a mental state of willingness; ... it defeats recovery because it is a previous abandonment of the right to complain if an accident occurs.” Alabama stands in stark contrast to the various approaches of other courts by using assumption of risk to completely bar recovery for hazing against fraternities. In Ex Parte Barran III, the Alabama Supreme Court held that Jason Jones assumed the risk of hazing and that he could not recover against the Auburn chapter of Kappa Alpha for negligent and wanton hazing in violation of an Alabama anti-hazing statute. Jones pledged a fraternity when he was
freshman in 1993. Two days after the commencement of his initiation period, fraternity members began hazing him. Over the course of the next academic year Jones was paddled, pushed, kicked and thrown into walls. Additionally, he was made to dig a ditch and jump in after it had been filled with water, urine, feces and vomit by the active members.

Jones was aware that twenty to forty percent of his fellow pledges dropped out of the process, because of the violent hazing, but Jones refused to give in. Eagerly anticipating full Kappa Alpha membership at the conclusion of the year, he soldiered on; while lying to school administrators and his parents about the activities, Jones continued submit to the hazing despite knowing that he was free to leave at any time. Eventually, poor academics forced Jones’ hand. He finally quit the pledging process (and subsequent beatings) after the University suspended him for poor grades. Shortly thereafter, in October of 1995, Jones sued the fraternity.

At trial, Kappa Alpha presented the assumption of risk defense, arguing that Jones (1) knew and appreciated the risk and (2) voluntarily exposed himself to the risk. The trial court granted summary judgment in favor of the fraternity. On appeal, the Alabama Civil Court of Appeals reversed, holding that because the fraternity violated Alabama’s anti-hazing statute, it was negligent per se and therefore liable for Jones’ damages. The Alabama Supreme Court granted certiorari and reversed, holding that both elements of the assumption of risk defense were satisfied. First, Jones knew and appreciated the risk because he first experienced the hazing merely two days into initiation yet continued to return through the school year, he knew the activities were illegal and he lied to both parents and school administrators in order to conceal the practice. Second, Jones voluntarily exposed himself to the risk by coming back for repeated abuse. The court explained that peer pressure was insufficient to negate the voluntary element of assumption of risk, and that Jones must be held accountable for his decisions since he had reached the age of majority at the time of the activities. There existed a safe alternative available to Jones (leaving the fraternity) of which he was aware, he failed to choose it, and therefore he had
assumed the risk of hazing and was barred from recovery as a matter of law.

B. Comparative and Contributory Negligence

Unlike Alabama, most jurisdictions adhere to the doctrine of comparative negligence. “Under the principles of comparative negligence … a [plaintiff’s] recovery will be reduced [based on the plaintiff’s percentage of fault toward the injury] if he knew or should have known of a safer alternative.

While most jurisdictions allow either the assumption of risk or comparative negligence defenses, a few still recognize contributory negligence. Contributory negligence has the same, objective standard as comparative negligence—i.e., that the plaintiff “knew or should have known” of the risk. The distinction, however, lies in the fact that contributory negligence bans all recovery to the plaintiff due to his own negligence. This defense has been abandoned by most jurisdictions (only Alabama, Maryland, North Carolina, Virginia, and the District of Columbia still recognize the pure contributory negligence doctrine).

In Ballou v. Sigma Nu General Fraternity, the South Carolina Court of Appeals expressly rejected assumption of risk as a defense to injuries caused by alcohol-related hazing. Barry Ballou, a freshman at the University of South Carolina, pledged a fraternity. The pledges were required to attend a party and participated in a ceremony where they drank an unknown brew of strong liquor from a “cup of truth” as it was passed around the room. After this part of the ritual concluded, the pledges were led to another part of the house and were encouraged to consume beer and more liquor while singing drinking songs dedicated to their fraternity. The following morning, fraternity brothers discovered that Ballou was dead. His cause of death being acute alcohol intoxication with terminal aspiration, and his blood alcohol level was still an astounding 0.46 the following day.

At trial, the jury awarded Ballou’s family a verdict of $200,000 and an additional $50,000 in punitive damages. Sigma Nu argued on appeal that Barry’s own negligence should preclude the judgment on
three fronts: proximate causation of the injuries, contributory negligence, and assumption of risk. The court rejected Sigma Nu’s contributory negligence argument. In South Carolina, a defense of contributory negligence is defeated when the defendant’s conduct is willful. The court held that Ballou’s conduct was not willful; it held, rather, that it was reasonable for the jury to find that Sigma Nu willfully furnished Ballou with alcohol and pressured him into drinking an excessive amount leading to his injuries.

The court also rejected Sigma Nu’s assumption of risk defense. In South Carolina, a plaintiff assumes the risk when it clearly appears that the plaintiff: (1) had knowledge of and appreciated the danger; or (2) the danger was so obvious that knowledge should be imputed to him. The court held that Ballou had assumed a risk of verbal and physical hazing up to the point of intoxication. However, once he was intoxicated, Ballou could not have assumed the risks created by Sigma Nu’s action of promoting extreme intoxication. As a result, the jury could reasonably find that Ballou’s further imbibing no longer constituted “deliberate drinking with knowledge of what was being consumed, so that the result was deliberately risked.” The Court, therefore, affirmed the verdict.

In Quinn v. Sigma Rho Chapter of Beta Theta Pi, the Illinois Court of Appeals held that any fault of a pledge for voluntarily participating in hazing would be applied through comparative negligence defense and would not, therefore, bar the action altogether. William Quinn pledged Beta Theta Pi as an eighteen year-old and was required to attend the fraternity’s initiation ceremony known as “Pledge Dad Night.” At the ceremony the brothers required each pledge to either finish chugging pitchers of alcohol or vomit trying; Quinn finished his pitcher. The brothers further instructed Quinn to drink a bottle of whiskey. Afterwards they took Quinn to a bar where the brothers fed him more liquor. At around 1:00 AM, the brothers and Quinn returned to the fraternity house where Quinn passed out on the floor. The brothers left him to “sleep off his intoxication” until 2:30 PM the following day. Upon waking up, Quinn could not use his hands and arms and was taken to the hospital, where his blood alcohol level registered at 0.25. Quinn suffered permanent disability as a result of his injuries.
The court observed that “plaintiff was coerced into being his own executioner”, and the social pressures he faced blinded him to the dangers of the activity. Thus the court held that the defense of comparative negligence reduced the damages Quinn was entitled because he willfully participated in the consumption of alcohol which caused the injuries. While comparative negligence reduced his damages it did not serve as a bar to the action.

In *Morrison v. Kappa Alpha Psi Fraternity*, the Louisiana Court of Appeals, applying the doctrine of comparative fault, held that a pledge was not at fault for participating in hazing. Kendrick Morrison pledged a fraternity as a freshman at Louisiana Tech. In April 1994, he was beaten during a mandatory meeting in the chapter president’s residence hall room, resulting in head and neck injuries which required hospitalization.

The trial court held the fraternity, the state of Louisiana, and the chapter president liable to Morrison while it apportioned no fault to the plaintiff. Louisiana considers the following factors in apportioning fault through comparative negligence: (1) whether the conduct resulted from inadvertence or involved an awareness of the danger; (2) how great a risk the conduct created; (3) the significance of what the actor sought by the conduct; (4) the capacities of the actor; and (5) any extenuating circumstances which might require the actor to proceed in haste. The court assigned fault of thirty-three percent to Kappa Alpha Psi, thirty-three percent to Louisiana, and thirty-four percent to the fraternity brother who administered the beating. On appeal, the court held that although Kendrick willingly attended the meeting, he did not volunteer to be beaten and did not feel free to leave the ceremony. Because these dangers were not fully appreciated nor willingly entered into, the jury was reasonable in apportioning none of the blame to Morrison.

In *Alexander v. Kappa Alpha Psi Fraternity*, a federal district court held that, under Tennessee law, a pledge could be less at fault for hazing than the perpetrators. Akeem Alexander pledged the local chapter of Kappa Alpha Psi fraternity at Fisk University. He submitted to physical beatings each night, including some with canes and paddles – some lasting up to three hours. One particularly violent session left Alexander dehydrated and physically scarred with a deep
laceration which required hospitalization. After extensive analysis, the court held that a reasonable jury could find that Alexander’s portion of fault for his injuries was less than fifty percent, and denied summary judgment for the fraternity. Thus, his voluntary attendance of the ceremonies did not preclude the action from being brought forth.

In *Griffen v. Alpha Phi Alpha Fraternity*, University of Pennsylvania fraternity pledges were hazed. Among them, E. Martyn Griffen was allegedly punched repeatedly in the thighs and had a rubber band snapped repeatedly on his arm. As a result, he suffered permanent damage and ossification of his thigh muscles, as well as permanent scarring on his upper arm from the rubber bands. Griffen filed a ten count complaint against Alpha Phi Alpha and two individuals alleging he was assaulted and battered during hazing. The United States District Court for the Eastern District of Pennsylvania denied a contributory negligence defense, because the Pennsylvania anti-hazing statute expressly stated that voluntary participation in hazing could not be a defense at trial.

In *Lloyd v. Alpha Phi Alpha Fraternity*, a Cornell University student participated in fraternity initiation activities, which involved various forms of physical beatings and abuse, psychological coercion, and embarrassment. Sylvester Lloyd filed suit in federal district court against the fraternity and Cornell University. The court stated in dicta that contributory negligence and assumption of risk would not bar recovery in hazing cases in New York, instead it stated that the doctrine of comparative negligence would be applied to diminish the damages in proportion to the plaintiff’s culpability. Hazing is not an assumed risk of joining a fraternity, and even if some hazing is expected, severe physical psychological abuse is not expected or assumed by the plaintiff in such cases.

In *Edwards v. Kappa Alpha Psi Fraternity*, Northern Illinois University fraternity members gave their pledges the option of being hazed or not. The pledges, among them Donald Edwards, chose the hazing option. Edwards and the other initiates were required to provide food, drugs, and money to fraternity members. Fraternity members poured hot candle wax on Edwards and slapped him across the head. Two pledges quit the pledge process, but Edwards and the
others continued. Over the next month, Edwards was paddled on the face and buttocks, and a cigarette was put out on him. Ultimately, Edwards went to the hospital with a head contusion and he returned the following day with blood in his urine.

Edwards filed suit against Kappa Alpha Psi. He alleged that the fraternity was liable for battery, because its members were agents of the organization. Additionally, Edwards alleged negligence by Kappa Alpha Psi for permitting an aura of violence. The court refused summary judgment for the defendant on both counts. The court followed the Quinn decision and denied assumption of risk as a complete defense. Voluntary participation in hazing did not qualify as an assumption of risk, but rather would be factored into the apportionment of fault under the comparative negligence doctrine.

Alabama stands out as an exception by shielding fraternities from liability under the assumption of risk doctrine. Most states, on the other hand, hold fraternities liable for injuries arising from hazing if the fraternity’s conduct was extremely dangerous toward the pledge. The assumption of risk defense has been defeated in many jurisdictions by finding that the pledge did not truly, voluntarily submit to the hazing because of excessive social pressures. Additionally, courts often state that the physical injuries suffered were not a risk which was appreciated by the pledge. Courts do, however, frequently allow for use of comparative negligence, which shifts the focus from liability to damages and apportions the fault amongst all negligent parties. The linchpin issue in the cases discussed supra, as with any case, is the importance of facts and the evidentiary utility and admissibility of those facts. The authors address this matter in the following section.

**Song Lyrics as Legal Evidence of Intent**

As is suggested by the history of pledging and hazing within BGLOs, recent decades have witnessed a growth in civil litigation resulting from hazing. This growth raises the specter of what types of evidence might be employed in such litigation. One such piece of evidence could be the poems oft-memorized by BGLO pledges. In another context, the use of song lyrics as evidence provides a useful analog to
the type of evidence that might be used in civil BGLO hazing litigation. Over the past several decades, both state and federal courts have increasingly allowed for the admissibility of song lyrics as evidence in criminal trials. The courts that have admitted song lyrics as evidence of criminal intent have focused on either (1) lyrics written by the criminal defendant himself, or (2) lyrics written by others, but listened to or sung by the criminal defendant at the time of his alleged offense. Courts in either type of case admit the evidence because it tends to demonstrate criminal defendants’ intent. In turn, I analyze both.

A. The Admissibility of Defendant-Authored Lyrics

In her work, Andrea Dennis finds that courts typically allow defendant-authored lyrics into evidence for the following purposes: as confessions to the charged crimes; as direct evidence of intent or knowledge; or as circumstantial “other acts” evidence to establish intent, identity, knowledge, or motive. Despite objections from defense attorneys to the admission of such lyrics, courts overwhelmingly find the evidence to be non-hearsay: permissible, non-prejudicial character evidence. Even in cases where the admission of the lyrics was deemed to be in error on appeal, the reviewing courts have nearly always found that that the error was harmless.

1. Non-Hearsay

Under the Federal Rules of Evidence, hearsay is “a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted,” and is “not admissible except as provided [in the Rules or elsewhere].” Defendant-authored rap lyrics are typically introduced into evidence during the prosecution’s case-in-chief through the testimony of a law enforcement witness. While on their face the lyrics appear to be “hearsay” testimony, the Federal Rules of Evidence clearly establish that “admissions by a party-opponent” are not hearsay. Courts have generally found that such lyrics fall under this exception. Under the
admission by a party-opponent provision, statements are admissible if the statement is offered against a party and is the party’s own statement.

In *People v. Williams*, the Michigan Court of Appeals found rap lyrics to be a written statement that fell under the definition of non-hearsay as being a “party’s own statement” or a “statement of which a party has adopted or manifested a belief in its truth.” The lyrics in this case were offered as evidence of William’s motive and intent to commit a murder. Lyrics such as “I got ragged hollow tips that’s gon’ spit at yo’ dome” and “when I come through yo’ hood, you ain’t no good” mirrored the circumstances of the crime because Williams initially shot the victim in his head and testified he was not at a location familiar to him. The court ruled that although the lyrics constituted a statement made out of court that was offered as evidence of the matter asserted, the lyrics were admissible over a hearsay objection as an admission by a party-opponent.

Similarly, in *People v. Singleton*, the defendant argued to a California appeals court that an expert opinion about his rap lyrics was inadmissible hearsay. The court ruled that the lyrics were not offered to prove the truth of the matter stated, but were offered as a basis for expert opinion. Further, even if the lyrics were hearsay, they were still the defendant’s lyrics and thus admissible under the “admissions exception” to the hearsay rule. Lastly, even if the lyrics were inadmissible hearsay, the court ruled that an expert opinion can be based on reliable, but inadmissible, hearsay.

2. Relevant

Under the Federal Rules of Evidence, only relevant evidence is admissible. The rules define relevant evidence as evidence having “any tendency to make [the existence of] a fact more or less probable than it would be without the evidence” when “the fact is of consequence in determining the action.” According to Andrea Dennis, courts typically find defendant-authored lyrics to be relevant in one of two situations: either (1) when lyrics are characterized as a confession depicting the crime charged, or (2) when lyrics are deemed direct evidence of a defendant’s intent or motive.
Under the first situation, courts characterize lyrics as confessions depicting the crime charged. Such was the case in an Indiana courtroom where a juvenile defendant was charged with the murder of his stepmother. Police found the corpse of the defendant’s stepmother in the trunk of her car and later determined that she had died of strangulation. During the investigation, police discovered rap lyrics written by the defendant, which the prosecution offered as evidence of intent to carry out the murder. The lyrics stated, “Cuz the 5-0 won’t even know who you are when they pull yo ugly ass out the trunk of my car.” Similarly, a Kentucky court allowed the admission of defendant-authored lyrics in a murder case in which the defendant recorded a homemade rap video. The video, which was recorded after the murder of the defendant’s wife and before an arrest had been made, contained the following lyrics: “B—— made me mad, and I had to take her life. My name is Dennis Greene and I ain’t got no f—— wife. . . . I cut her motherf——in’ neck with a sword.” The court reasoned that these lyrics were probative on multiple fronts: to show premeditation, motive, and the defendant’s emotional state after the killing.

Likewise, the Seventh Circuit, in United States v. Foster, held that defendant-written lyrics that discussed the alleged crime tended to show that the defendant committed the crime and were therefore relevant evidence. The defendant claimed his rap lyrics were minimally relevant to the issue of his knowledge of the drugs he was carrying. He argued that his rap verse “certainly was nothing that could show knowledge of what was in the suitcases” because the verse “made no reference to the suitcases he carried, or the trip he was making.” The court found this to be unpersuasive, since a finding of relevance only required that the evidence made it more probable that he had knowledge of the drugs rather than requiring it to prove his actual knowledge. Interestingly, the defendant attempted to diminish the relevance of the verse by arguing its rap lyrics were fiction with artistic value and thus could not be relevant to his guilt. The court, however, reasoned that the rap verse was not admitted to show the defendant was “the biggest dope dealer” and that, in writing about a “fictional” character, the defendant displayed knowledge of an activity that is far from fictional.
Courts also find defendant-authored lyrics to be relevant when the lyrics demonstrate defendants’ intent or motive. Despite defendants’ repeated objections to the admission of defendant-authored rap lyrics on the ground of irrelevancy, courts typically overruled these objections because the threshold for relevance is relatively low. Because these lyrics tend to make the fact that their author committed the crime more probable, courts typically hold that the lyrics are relevant.

Using this logic, the Arkansas Supreme Court found relevant a rap song written by the defendant entitled “Give Up the Stilla.” The defendant was charged with, among other things, aggravated robbery, and the song featured lyrics that depicted an aggravated robbery. The rap song was found three days after the crime on the front seat of the vehicle used in the crime. The court reasoned that the song, because of the similarity between the events it described and the crime that took place, made the defendant’s intent to commit aggravated robbery more probable than without the evidence. The song discussed using a “strap” (slang for “gun) to force a victim to “give up the cash,” which the court found probative of an intent to commit aggravated robbery.

Defendant-authored rap lyrics that demonstrate in-depth awareness of the criminal enterprise on trial are often used as substantive evidence when their author claims to have little to no knowledge of the crimes with which he is charged. In United States v. Belfast, the Eleventh Circuit held that the admission of rap lyrics, which were found on the defendant’s person at the time of his arrest, were admissible as evidence in the defendant’s criminal trial. The defendant was charged with multiple acts of torture, conspiracy to commit torture, and two firearm-related crimes after he was arrested at Miami International Airport for using a false passport to enter the country. Lyrics to a rap the defendant had authored were found in his luggage in the course of his arrest. The prosecution sought to introduce the lyrics as evidence of the defendant’s association with the Anti-Terrorism Unit (ATU) and his role in committing acts of torture. The court found that the lyrics were probative on “multiple fronts,” holding that the lyrics—which referred to the ATU—were particularly relevant for the purpose of contradicting the defendant’s
own statements. The lyrics, which largely centered on ATU violence, directly contradicted the defendant’s prior statement concerning his awareness of the violent tendencies of the group. The court reasoned that the use of such lyrics bolstered the credibility of the witnesses who testified about both the defendant’s and the ATU’s incessant use of force and violence. Similarly, the Seventh Circuit noted that rap lyrics could be admissible as an admission by a party opponent to establish a familiarity with the illegal drug market where the defendant makes “protestations of naiveté.” Lyrics that used drug code-words demonstrated a certain level of knowledge about drug trafficking and made it more likely that the defendant knew that he was carrying illegal drugs on or about his person the day that he was apprehended.

In 2002, the Arkansas Supreme Court admitted rap lyrics written by a fifteen year-old defendant where the lyrics were directly related to the alleged crime of making terroristic threats in the first degree. The defendant, in Jones v. State, was a high school student who frequently wrote rap lyrics. He mailed his lyrics to a female classmate expressing how he felt about her. Although the lyrics were not personally directed to her, they were often violent in nature. When the classmate refused to respond to the defendant’s letters and lyrics on one occasion, the defendant authored and sent the following lyrics directed specifically at the recipient:

You gonna keep being a bitch, and I’m gonna cliche [click],
. . . you better run, bitch, cuz I can’t control what I do. I’ll murder you before you can think twice, cut you up and use you for decoration to look nice,
I’ve had it up to here, bitch, there’s gonna be a 187 on your whole family, trik [trick],
Then you’ll be just like me, with no home, no friends, no money,
. . . you’ll be six feet under, beside your sister, father and mother.

The defendant was subsequently charged with and convicted of making terroristic threats. He argued that the lyrics were protected
under the First Amendment, and therefore the statute criminalizing his creation of rap lyrics was unconstitutionally applied to him. The court, however, held that the lyrics fell under the fighting words exception to the First Amendment, and thus were not protected. The court held that the lyrics constituted a “true threat” using a formulation set forth by the Eighth Circuit.

3. Evidence of Intent, Knowledge, or Motive

While the evidence of a person’s character is generally not admissible for the purpose of proving action in conformity with that character, Federal Rule of Evidence 404(b)(2) allows the use of “evidence . . . for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.” Propensity evidence, i.e., character evidence, is evidence offered to show that a person has a particular character trait (violence, untruthfulness, a tendency to break the law, etc.), thereby allowing the jury to infer that the person acted in conformity with that trait on the occasion in question. Such evidence is typically not admissible for that purpose because it is of little probative value and is usually very prejudicial. Such evidence tends to distract jurors from the facts of the case and encourages them to place an unsubstantiated amount of emphasis on facts not at issue. In essence, propensity evidence allows the juror to “reward the good man [and] to punish the bad man because of their respective characters.”

Even though propensity evidence is typically circumstantial, the Rules Advisory Committee for the Federal Rules of Evidence accepts that an accused’s state of mind usually can only be proven with circumstantial evidence. Therefore, courts tend to admit defendant-authored lyrics as “other acts” evidence, holding that such lyrics are probative of the defendant’s intent, knowledge, or motive. Take, for example, the defendant in Foster.

Also, the court in Cook held that the lyrics were not only relevant but were admissible as “other acts” evidence under a modus operandi theory. The test for this theory is that (1) both acts must be committed with the same or strikingly similar methodology, and (2) the methodology must be so unique that both acts can be attributed
to one individual. The defendant argued both that the prosecution failed to establish the first prong, because the rap lyrics were not similar to the crime, and that the prosecution failed to prove that the rap lyrics were not remote in time. In answering the defendant’s first argument, the court determined that the standard for similarity is relatively low and the degree of similarity between the lyrics describing an aggravated robbery and the robbery itself was sufficient to meet the standard. For the second argument, the court found that, regardless of when the song was written, it was found in the car three days after the robbery, on top of other papers depicting plans for a robbery. The defendant did not challenge the second prong of the modus operandi test. Thus, the song was independently relevant proof of the defendant’s intent to commit the aggravated robbery.

In Greene, the Supreme Court of Kentucky disagreed with the defendant’s contention that his rap video was character evidence introduced to prove a “criminal disposition.” The defendant admitted to killing his wife but attempted to assert a defense of extreme emotional distress, contending that he acted out of rage over his wife’s abuse of their son. The prosecution offered as evidence a rap video the defendant had made after his wife’s killing, which showed the defendant bragging about how he had killed her. The court reasoned that the rap video referred to the defendant’s actions and emotions vis-à-vis the alleged crime, and that it was not a previous act. The court also stated that the video showed the defendant’s mental state shortly after the killing and established premeditation and motive. Thus, the court allowed the video to come in as evidence of the defendant’s premeditated intent to kill his wife.

4. Not Prejudicial

While the Federal Rules of Evidence allow admission of relevant data, Rule 403 provides that although relevant, evidence may be excluded if “its probative value is substantially outweighed by a danger of . . . unfair prejudice . . . .” Unfair prejudice results from evidence that has an “undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional
one.” Not surprisingly, defendants often try to exclude rap lyrics by arguing that the lyrics are unfairly prejudicial.

Courts typically conduct a balancing test, considering “(1) the extent to which the point to be proved is disputed; (2) the adequacy of proof of the prior conduct; (3) the probative force of the evidence; (4) the proponent’s need for the evidence; [and] (5) the availability of less prejudicial proof . . . ,” among other things, to determine whether the evidence unfairly prejudices the defendant with respect to “other acts” evidence. A 2004 Ninth Circuit decision illustrates this balancing test. The victim was killed when he failed to comply with a police order to lie down on the ground. Two weeks prior to the killing, police found rap lyrics in the victim’s car during a traffic stop. The lyrics advocated the murder of police officers. During the trial, the district court admitted the lyrics for the limited purpose of showing that the victim possessed animosity toward the police, and it found that the lyrics were probative of the proposition that the victim would have refused to comply with a police order. However, on appeal, the Ninth Circuit found that portions of the lyrics, which stated, “Bitches are to be pimped in this world for money. . . . And when these bitch ass pigs trying to f**k up your pimping, split the cop’s wig and keep moving always,” had no probative value regarding the suspect’s refusal to comply with police commands and were unfairly prejudicial due to their offensive nature.

In People v. Wright, rap lyrics found in the defendant’s jail cell were determined by an expert to exemplify the defendant’s “hardcore gang mentality” and desire to be a “soldier” against his rival gang. The defendant, a gang member, was charged with the murder of a rival gang member, and the court found the expert’s testimony probative of the defendant’s motive to kill. Interestingly, the court drew a distinction between the lyrics themselves and the expert testimony, claiming that the lyrics would have been overly prejudicial as evidence, but that the expert testimony based on those same lyrics was not. Similarly, in Allen, the court found that the rap lyrics, when considering the facts and circumstances surrounding the murder, were properly admitted to establish the defendant’s intent and motive. The defendant shot the victim after drinking heavily at a child’s funeral and composed the rap lyrics while awaiting trial for
murder. While some distinctions could be made between the actual rap lyrics and the facts of the case, those distinctions were de minimis and not unfairly prejudicial to the defendant.

B. The Admissibility of Recited Lyrics

In addition to defendant-authored lyrics, courts have allowed the admission into evidence of songs that criminal defendants listened to at the time of their offenses. For example, the lyrics to songs by Tupac Shakur were at the forefront of a 1993 Texas case. In that case, Ronald Ray Howard shot Texas Department of Public Safety Trooper Bill Davidson during a routine traffic stop. Howard, who was listening to the song when he was stopped, attempted to use the violent, anti-police lyrics to show that he had been brainwashed by the lyrics.

Song lyrics from genres other than rap have also been put on display in the courtroom. The Tenth Circuit held that racist lyrics were admissible to show a defendant’s racial animus and intent. In United States v. Magleby, the defendant burned a cross in an interracial couple’s yard. Prior to burning the cross, the defendant had been listening to and singing the following racist lyrics calling for the removal of African-Americans from the United States: “Nigger, nigger, get on that boat. Nigger, nigger, row. Nigger, nigger, get out of here. Nigger, nigger, go, go, go.” The defendant claimed that he was unaware that he had placed his burning cross on the front lawn of an interracial couple. The court found that the lyrics, and the defendant’s knowledge of them, were probative of his specific intent to “oppress, threaten, or intimidate” the interracial couple via cross burning. The defendant objected to the admissibility of the song on the grounds that the lyrics were both irrelevant and unfairly prejudicial. The reviewing court, taking note of the defendant’s objections on both of these grounds, looked to precedent to resolve the issue. A few years prior to the Magleby decision, in United States v. Viefhaus, the Tenth Circuit held that “the context in which an alleged threat is made is probative of whether a ‘true threat’ exists.” Bearing its Viefhaus holding in mind, the Magleby court ruled that while the
admission of the lyrics was certainly “harmful” to the defendant’s case, the lyrics’ “probative value outweighed its prejudicial effect.”

C. Rap Music as an Analog for Poetry

Rap music can be used as an analog for poetry because the two genres share similar concepts and forms. Embracing the spirit of competition that has roots in historical poetic performances, rap takes advantage of poetry’s usage of rhythm and rhyme, similes and metaphors, and storytelling. In this regard, rap is more of an oral poetry that focuses less on the actual words and more on the rhythms and rhymes. Rap “naturally relies more heavily than literary poetry on devices of sound.” It also stresses a dual rhythmic voice, unlike its older derivative. “In literary poetry, the difference between meter and rhythm is the difference between the ideal and the actual rhythms of a given line.” On the other hand, “rap makes audible a rhythmic relationship that is only theoretical in conventional verse.”

The ancient Greeks even referred to their lyrical poetry as “ta mele,” which translates to “poems to be sung.” “[R]ap bears a stronger affinity to some of poetry’s oldest forms, such as the strong-stress meter of Beowulf and the ballad stanzas of the bardic past.” Similar to most poets, rappers write their lyrics with a beat in mind, and this beat drives the connection between the language and a poetic identity. The heavy reliance on 4/4 beats and the limited use of melody and harmony are what make rap an “effective vehicle for poetry.”

While specific literary aspects of rap can be seen as similar to poetry, there are also genres of poetic satire and mockery in Greco-Roman classical antiquity that show rap is poetic. Ancient Greco-Roman literature contained poems filled with traditions of mockery and personal attacks on one another. This satire and mockery shares with forms of rap, like gangsta rap, a propensity for generic self-consciousness. Moreover, ancient traditions exhibiting a variety of transgressive poetry across several genres are seen in many forms of rap today and also support the idea that rap is a form of poetry.
Poetry, the BGLO Hazing Culture, and What They Mean for Law

The admissibility of song lyrics in criminal cases and lyrics’ utility in understanding, legally, what some legal actor knew or understood at a particular point in time provides a useful template: given that poetry is arguably an analog to song lyrics, the poems oft-learned and memorized by BGLO pledges highlight a convergence of what BGLO pledges know, when they know it, and possibly the legal significance of their knowledge vis-à-vis hazing. Specifically, it is likely that BGLO pledges learn and internalize poems about sacrifice, hardship, and suffering while they are simultaneously experiencing those things during hazing. Arguably, they are on notice about what they are likely to experience during their pledge process and have assumed the risk of those experiences. Given the authors’ experience as BGLO members, we explore the extent to which particular poems were part of BGLO members’ pledge experiences and how pledges interpreted those poems in light of their pledge experiences.

Ex parte Barran elucidates assumption of risk in the hazing context. In Ex parte Barran, Jason Jones, a former fraternity pledge, sued the Kappa Alpha Order national fraternity, the Auburn University chapter, and individual members, alleging, inter alia, negligent and wanton hazing. Chapter members began to haze Jones two days after he became a pledge. The hazing activities included: (1) having to dig a ditch and jump into it after it had been filled with water, urine, feces, dinner leftovers, and vomit; (2) receiving paddlings to his buttocks; (3) being pushed and kicked, often into walls, pits, and trash cans; (4) eating such foods as peppers, hot sauce, butter, and “yerks” (a mixture of hot sauce, mayonnaise, butter, beans, and other items); (5) doing chores for the fraternity and its members, such as cleaning the fraternity house and yard, serving as designated driver, and running errands; (6) appearing regularly at 2 a.m. “meetings” during which the pledges would be hazed for a couple of hours; and (7) “running the gauntlet,” during which the pledges were pushed, kicked, and hit as they ran down a hallway and down a flight of stairs.
Despite his knowledge that it was against university rules, and despite the fact that he was the one being hazed, Jones “continued to participate in the hazing activities for a full academic year” and repeatedly covered up the hazing when asked about it. However, 20% to 40% of Jones’ fellow pledges withdrew from the Kappa Alpha Order pledge process without any additional hazing. Jones alleged that the coercive environment of the pledge process prevented him from voluntarily leaving the fraternity in response to the defendants’ asserted defense that Jones assumed the risks associated with hazing. An Alabama state trial court granted summary judgment for the defendants on the negligence claims, and an Alabama state intermediate appellate court affirmed in part, reversed in part, and remanded. On petition for a writ of certiorari, the Alabama Supreme Court concluded that Jones’ “participation in the hazing activities was of his own volition,” and it rejected his contention that peer pressure prevented him from leaving the hazing activities. Thus, the court held that Jones assumed the risks of hazing.

In light of the Ex parte Barran holding, the following part details (A) the significance of poetry within BGLOs, especially within BGLO pledge processes, and the background of some of the most salient BGLO poems; (B) the findings of a previously conducted and published study on BGLO poetry; and (C) a second study that this chapter’s authors conducted on BGLO poetry.

A. Poetry and the BGLO Experience

Many BGLOs have specific poems that members learn either as part of the initiation process or in the context of the organization’s broader culture. The poems “If—” and “Invictus” have special significance in black Greek life, as they are the only two poems that BGLO members seem to collectively share regardless of sorority or fraternity affiliation, generation, or region of the country. The poems not only are enduring favorites in the English-speaking world, but also play a central role in black “Greek” life discourse.

“If—”
If you can keep your head when all about you
Are losing theirs and blaming it on you;
If you can trust yourself when all men doubt you,
    But make allowance for their doubting too;
If you can wait and not be tired by waiting,
    Or being lied about, don't deal in lies,
Or being hated don't give way to hating,
    And yet don't look too good, nor talk too wise;
If you can dream—and not make dreams your master;
    If you can think—and not make thoughts your aim,
If you can meet with Triumph and Disaster
    And treat those two impostors just the same;
If you can bear to hear the truth you've spoken
    Twisted by knaves to make a trap for fools,
Or watch the things you gave your life to, broken,
    And stoop and build 'em up with worn-out tools;
If you can make one heap of all your winnings
    And risk it on one turn of pitch-and-toss,
And lose, and start again at your beginnings
    And never breathe a word about your loss;
If you can force your heart and nerve and sinew
    To serve your turn long after they are gone,
And so hold on when there is nothing in you
    Except the Will which says to them: 'Hold on!'
If you can talk with crowds and keep your virtue,
    Or walk with Kings—nor lose the common touch,
If neither foes nor loving friends can hurt you,
    If all men count with you, but none too much;
If you can fill the unforgiving minute
    With sixty seconds' worth of distance run,
Yours is the Earth and everything that's in it,
    And—which is more—you'll be a Man, my son!

Rudyard Kipling penned “If—” while at Bateman's, his residence in the village of Burwash in Sussex. Composed in iambic pentameter, the poem delineates the virtues Kipling associates with ideals of heroic manhood. The poem's hero, Sir Leander Starr Jameson, led the famous Jameson Raid against the Boers of South Africa in 1895.
Some of the poem’s enduring popularity, especially in England, where the poem is regularly regarded as the nation’s favorite, can be attributed to its recognition of stoicism as an important character trait. Stoicism opens the poem; the ability to “keep your head” when all those around you are not only “losing theirs” but “blaming it on you” is as close as it comes to a poetic definition of stoicism. Even more than stoicism, “If—” exalts the ability to persevere through the most harrowing times, such as losing all of one’s possessions “on one turn of pitch-and-toss” without coming undone as a result. The leader Kipling paints in “If—” can take a beating and maintain his dignified manhood by means of a stoic disposition paired with a strong will to persevere. Though it is over one hundred years old, “If—” still resonates with the modern reader. Through its depiction of the strong leader, a resilient man who is able to “walk with Kings” without losing the “common touch,” the poem guides its readers’ and reciters’ ideas about leadership and so-called manhood.

“Invictus”
Out of the night that covers me,
   Black as the pit from pole to pole,
I thank whatever gods may be
   For my unconquerable soul.
In the fell clutch of circumstance
   I have not winced nor cried aloud.
Under the bludgeonings of chance
   My head is bloody, but unbowed.
Beyond this place of wrath and tears
   Looms but the Horror of the shade,
And yet the menace of the years
   Finds and shall find me unafraid.
It matters not how strait the gate,
   How charged with punishments the scroll.
I am the master of my fate:
   I am the captain of my soul.
William Ernest Henley’s poem “Invictus” first appeared in A Book of Verses in 1888 and was republished in Poems in 1898. The title “Invictus” (Latin for “the unconquerable”), however, did not appear until 1903, after Henley’s death. Like “If—,” “Invictus” in many ways represents Victorian stoicism. While “If—” is a didactic coming-of-age poem directed toward children, “Invictus” is a poem about self-mastery in the face of extreme suffering, something Henley experienced firsthand.

Henley suffered from osteoarthritic tuberculosis as a young boy, and by age eighteen, necrosis necessitated amputation of his left leg. Shortly afterwards, the infection spread to his right leg. He underwent a series of painful treatments at the Royal Sea-Bathing Infirmary in order to save his remaining leg. However, his doctors determined that its amputation was the only manner to save Henley’s life. Unwilling to lose both legs, Henley took a chance and transferred himself to the Royal Infirmary in Edinburgh in 1873, where he was treated for twenty months. As he convalesced in Edinburgh following his treatment, he wrote poems about his experiences, including “Invictus.”

Considering the harrowing personal experience that prompted Henley to pen “Invictus,” it is hardly surprising that the poem’s portrayal of stoicism in the face of adversity is more startling and fearsome than that in “If—.” “Out of the dramatic first line emerges a darkness ‘black as the pit’ of hell, permeating ‘from pole to pole’ in all four stanzas and setting the tone for the gothic, sublime perspective of near death cast by the poem’s imagery.” “In the negation of what ‘Invictus’ refuses to do—neither did he ‘wince nor [cry] aloud’ [nor] fear the ‘Horror of the shade’—the hell of suffering is . . . powerfully invoked for the reader to experience, even as the unconquerable one ultimately rises above it all.” “Each of the first three stanzas concludes with stoical evidence of self-mastery—soul unconquered, bloody head ‘unbowed,’ despair and fear kept at bay.” “The [fourth and final] stanza breaks with the pattern . . . devote[ing] two lines to the triumph of self-mastery with the oft-quoted ‘I am the master of my fate: I am the captain of my soul.’” “With this shift in emphasis, . . . gothic horror . . . gives way to heroic triumph in the Victorian stoic mode.”
Though scholars “deride the poet as a ‘declaimer on a cosmic soap box’ or . . . condemn the poem for its ‘senseless swagger’ and its self-consciously heroic attitudinizing,” the poem is still “widely anthologized and learned by rote and quoted.” Like “If—,” “Invictus” was met with divergent popular and academic receptions; both have been reviled by critics but revered by the masses.

B. Study I

Just as “If—” and “Invictus” themselves have been enduring, popular favorites in the English-speaking world for over one hundred years, so too have the messages from “If—” and “Invictus” had a lasting, central place in the discourse of black Greek life. From their survey of BGLO members, Ray and colleagues found that “meanings derived from the recitation of these poems during the intake process [continue to have] relevance for the personal identities of young African Americans in college and beyond.”

1. Methods

Ray and colleagues conducted an online survey of members of the Divine Nine, the nine BGLOs represented in the NPHC, by sending an e-mail to a large listserv of BGLO members, soliciting their participation. The researchers used a confidential survey to gather the responses of 366 individuals. This survey, which also collected standard demographic information, sought to determine how salient “If—” and “Invictus” were during initiation and the nature of each poem’s contribution to respondents’ Greek and personal identities. They found that not all respondents learned both poems, and so, where appropriate, they limited the sample to respondents who had learned the given poem during initiation. For example, when asking whether “If—” influenced the way members viewed their personal identity, they omitted respondents who had learned only “Invictus.”

In addition to the quantitative and descriptive inquiries, the survey asked respondents two open-ended questions intended to gauge the respondents’ interpretation of the meanings of these poems. For each of the poems, respondents were prompted: “Please provide us with
one to four sentences on your interpretation of the meaning of ‘Invictus’/‘If—.’" After excluding respondents who did not answer or who said that they did not learn the poems during initiation, there were 269 responses for “Invictus” and 192 responses for “If—.” Ray and colleagues analyzed the responses for key words or phrases (for example, perseverance, resolve, determination, overcome, self-mastery, self, religion, spirituality, inspiration, hope, success, race, gender, suffrage, racism, triumph, trials, tribulations, adulthood, coming of age, manhood, womanhood, and optimism) and synonyms for these words to establish patterns in the data. They then developed themes from the literature to make sense of these patterns. They searched the data thoroughly again, looking both for examples that confirmed the emerging patterns and examples that contradicted them. Finally, they refined or eliminated propositions to explain negative cases.

2. Preliminary Findings

Ray and colleagues determined that the likelihood of learning the poems depends on organizational affiliation. Sorority members are less likely to learn either poem than are fraternity members. Among fraternity members, Alphas and Omegas in particular, are more likely to learn both poems than are other BGLO members.

In addition to determining which organizations required their members to learn the poems, Ray and colleagues wanted to know whether the poems’ wording remained salient to members. They asked respondents whether they could still recite the poem word for word. They found that more than 73% of respondents who learned “Invictus” could still recite it word for word. Unsurprisingly, there was a drop-off in the percentage of respondents who could still recite the substantially longer “If—.” Despite its length, more than 54% of respondents stated that they were able to recite “If—” during initiation, with about one-third of respondents reporting that they could still recite it today. The researchers concluded that while there was organizational variation in who learned the poems (If—” in particular), the poems remained salient to BGLO members who learned them.
3. Role of Poems in Greek Identity Formation

BGLOs have an initiation process riddled with organizational and historical information. Members gain status by being able to repeat this information, and the observed repetition of this information legitimizes the group and becomes a distinct characteristic of the black “Greek” identity. In addition to the role poems play in the collective self-concept of BGLO members, the poems’ words, not least through members’ recitation and memorization of those words, become a characteristic of members’ personal identities. Personal identity has been defined as “a sense of self built up over time as the person embarks on and pursues projects or goals that are not thought of as those of a community, but as the property of the person. Personal identity thus emphasizes a sense of individual autonomy rather than of communal involvement.” “From this perspective, BGLO members view [“Invictus” and “If—”] as salient [not only] to their social identities as black Greek members [but] to their personal identities as individuals.”

Ray and colleagues attempted to determine whether these poems influenced how BGLO members view their “Greek” and personal identities by asking participants to respond to each of the following survey items: (1) “Invictus”/“If—” plays a role in how I view my identity as a member of my “Greek” organization. (2) Did “Invictus”/“If—” help you persevere during your membership intake process? (3) I referred to or thought about “Invictus”/“If—” at other points during my life outside “Greek” membership. (4) Having potential members recite “Invictus”/ “If—” should be required to be a member of my “Greek” organization.

“More than fifty percent of survey participants who learned ‘Invictus’ reported that the poem played a role in how they view their Greek identities.” On the other hand, less than 25% of the respondents stated that “Invictus” “did not play a role in the formation of their Greek identities,” and the other 25% were neutral. Nearly 70% of respondents reported that “Invictus” “helped them persevere during initiation . . . .” Additionally, 87% reported that “Invictus” “helped them deal with life situations outside of Greek
membership.” Approximately 70% stated that new members should be required to learn “Invictus.” Taken together, these findings suggest that “Invictus” “plays a substantial role in shaping the Greek and personal identities of BGLO members.”

The percentages for “If—” are even higher than those for “Invictus.” Roughly 58% of respondents who learned “If—” reported that the poem played a role in the formation of their Greek identity, whereas only 17% said that it played no such role. Seventy-five percent stated that it helped them persevere during initiation, and, like “Invictus,” just over 87% reported that “If—” has helped them persevere in their lives outside of Greek membership. More than 70% believed that new members should be required to learn “If—.” Thus, these findings suggest that “If—,” like “Invictus,” is an important part of the formation of BGLO members’ Greek and personal identities.

4. Poems’ Meaning

Given the suggestion that “Invictus” and “If—” are meaningful to BGLO members’ Greek and personal identities, the question then becomes, what actual meaning do members derive from the poems? Ray and colleagues looked at four unique themes: perseverance, self-mastery, spirituality, and racial uplift. Nearly 50% of the respondents cited perseverance as a major theme prevalent in these poems, and more than 33% noted self-mastery. Slightly less than 13% of respondents stated that “Invictus” is about spirituality, while racial uplift and miscellaneous responses represented smaller percentages.

“Perseverance can be conceptualized as the ability to overcome obstacles, to never give up, and to be steadfast in the pursuit of a goal.” “A member of Omega Psi Phi Fraternity in his thirties who was initiated in the early 1990s in the Northeast stated that, to him, the message of “Invictus” is, “to achieve or to make some positive progress, one will most certainly have to overcome hardships.” A member of Sigma Gamma Rho Sorority in her late twenties from the Midwest said: “To me the entire poem shows perseverance and strength! How obstacles may get in your way, but it is your strength that helps you knock down those obstacles.” Another Midwestern
Sigma Gamma Rho in her early twenties stated, “‘Invictus’ is about coming out of something victorious regardless of the obstacles you face.” A member of Delta Sigma Theta who was initiated in the early 2000s in the South stated: “For me, the meaning [of ‘Invictus’] is perseverance. I think of all the struggles that we’ve been through and are yet to face as Black people. I think the message here is to keep moving towards your goal and what you know is true and right, no matter what you must go through.”

Self-mastery is the ability to control one’s own destiny despite obstacles and personal limitations. Self-mastery is exemplified by the following lines: “I am the master of my fate: I am the captain of my soul.” A member of Alpha Phi Alpha Fraternity from the South who was initiated in the 1980s took this from the poem: “No matter what grave circumstances an individual faces, they [sic] are the ultimate controller of the outcome.” A member of Delta Sigma Theta Sorority who was initiated in the South before 1980 said, “‘Invictus’ encourages one to never give up in spite of the obstacles or hardships and supports the notion that a person is responsible for his own fate.”

Spirituality involves the belief that a higher power, primarily God, is involved when one overcomes life’s obstacles. A member of Alpha Phi Alpha Fraternity who was initiated in the South in the early 1990s stated: “I always think of overcoming the most hopeless situation when I think of ‘Invictus.’ It’s a harrowing reminder that no matter how futile your current situation is, with God on your side you can conquer anything.”

Racial uplift encompasses the ideal “related to ameliorating racial inequality. Here, responses were linked with what sociologist and Alpha Phi Alpha member W.E.B. DuBois conceptualized as the ‘Talented tenth’—that is, the top ten percent of African Americans who are well educated, politically engaged, and in a position of influence to help rectify racial inequality.” “Recently, scholars who study BGLOs have shown that members of these organizations have historically contributed to the cause of racial uplift.” A member of Delta Sigma Theta Sorority who was initiated in the 1980s in the South responded, “No matter how much the media depicts me [as] a Black woman in a negative way or how much pressure I must endure
from society—I might have to retreat to my secret place to be emotional but they will never see me defeated."

C. Study II

In order to gather the further qualitative data required to investigate the meaning that poems other than “If—” and “Invictus” provide to members of BGLOs, the authors of this chapter conducted an online survey of members of the nine BGLOs represented in the NPHC. We sent an e-mail soliciting participation in the survey to a large listserv, composed mostly of alumni members of BGLOs. Using a confidential online survey, we gathered 1,281 responses. Besides collecting standard demographic information, the survey gauged the salience of poetry during initiation, when individuals learned the poems, and the interpretative meaning associated with the poems as they relate to the initiation process, the pledge experience, and hazing.

As a complement to Study I, some of the poems asked about in this study include “Don’t Quit,” “The Man Who Thinks He Can,” and “Test of a Man,” though other poems also were mentioned by the respondents. Accordingly, we asked respondents two open-ended questions. First, we asked respondents to give us the names of poems they remember from their initiation process. Second, we asked them to tell us the meaning of those poems. We gathered 132 responses from men and 330 responses from women on these open-ended questions. In line with previous research on BGLOs, we searched each of the responses for key words (for example, perseverance, hope, coping, and unity) and synonyms to these words to establish patterns in these data about the meaning of the poems and their relation to how information is used during the initiation process. These data were searched again for examples that both confirmed and contracted emerging patterns. These propositions were refined or eliminated to explain negative cases.
1. Sample

Nearly 80% of respondents were sorority members (women), while slightly over 20% were fraternity members (men). These percentages are similar to the gender disparity in college attendance and graduation rates, as black women significantly outnumber black men.

Interestingly, though, there are few differences in the responses given by age or period of initiation. This finding speaks to the history, consistency, and depth of BGLOs. However, there is a difference in the amount of information provided by gender. Fraternity members are more likely to provide specific details about the meaning of the information learned during the pledge process. This difference might be attributed to the larger percentage of men who pledged and did not go through the MIP compared to women, although a similar percentage of men and women became members as undergraduates (roughly 75%).

According to U.S. Census region codes, over 60% of the sampled individuals became members in the South. Twenty-two percent of fraternity members were initiated in the Midwest compared to 17% of sorority members. About 10% of the sample became members in the Northeast, while only about 5% became members in the Western region. Considering that about half of African-Americans are born and live in the Southern region of the United States and a much smaller percentage live in the West, this finding is expected. Our sample is similar across university contexts, as 54% became members at predominately white universities, while 46% became members at historically black colleges and universities.

Twenty percent of the women’s mothers were members of the same sororities as their daughters, while 16% of the men’s fathers were members of the same fraternity, so we do see some status transmission in our sample. Fifty-eight percent of fraternity members, compared to 49% of sorority members, participate in initiating new members. This gender difference is also seen concerning financial activity. Over 75% of fraternity members, compared to 66% of sorority members, are financially active. Participation in initiating new members and financial activity may also contribute to fraternity members being able to better recall information learned during their
initiation process, as they are more likely than sorority members to see and hear the information. Still, the breadth of information learned during a pledge process compared to the MIP is more responsible for fraternity men being more likely to provide specific information than sorority women.

Over 90% of the sampled individuals reported being black and heterosexual, and over 75% reported being Christian. Sixty-two percent of men and 48% of women were married. This marriage disparity is similar to the broader African-American population. For the highest education degree obtained, over 30% had a bachelor’s degree, nearly 50% had a master’s degree, and about 20% had a Ph.D. or M.D. Thus, the respondents in this sample were as a whole a reliable, valid, and generalizable representation of the BGLO community.

2. Results

Forty percent of respondents report learning at least one poem during their initiation process. Roughly 75% of those respondents reported that the poem and related information was about the pledge experience, while over 90% say the information they learned during their initiation process suggested hazing. So an overwhelming percentage of respondents consciously link the poems and additional information (such as songs and chants sung in prose) to pledging and hazing.

The poems learned during initiation are mostly interpreted as a coping mechanism. Regarding the poem “Don’t Quit,” 65% of fraternity and sorority members reported that the poem helped them persevere during initiation. A similar percentage of fraternity members reported that “Test of a Man” and “The Man Who Thinks He Can” helped them persevere. Given the masculine tone of these two poems, however, only about 25% of sorority women stated that the poems helped them persevere during initiation, while roughly the same percentage said these poems did not help them persevere. Additionally, a much smaller percentage of sorority members reported learning “Test of a Man” and “The Man Who Thinks He Can.” Below are some examples of how poetry served as a coping
mechanism. We removed the specific names of poems that would identify or single out a particular BGLO. During pledging interactions, poems are often repeated very fast for speed and efficiency or sung to a ballad or hymn. The responses below reflect this style.

One respondent stated, “Invictus was my lighthouse. No matter how bad the storm, I took solace in the blinking never moving secure lighthouse. It set my course.” Another respondent provided a more in-depth response about the meaning of information learned during his initiation process:

“Invictus” and “If” were both poems which spoke to me regarding endurance and the ability to cope or better yet, surmount situations that may be difficult and hard to bear. The songs/chants/greetings kept my spirits lifted, more so helping me to persevere which is why I marked the above answers as “neutral.” I enjoyed that part of the process because it gave us time to display our creativity while learning the history and pertinent information regarding the organization.

A sorority member echoed these sentiments. She said, “Those chants and songs helped my sisters and me to cross those ‘burning sands’ and take the wood of —— Sorority, Inc. To wear [sorority insignia] is an honor. And when I went over, we earned it!”

Many respondents talked about “earning it” and going through the difficulties and challenges to dutifully and rightfully wear their organization’s Greek letters with pride.

Possibly more pertinent to this paper than the descriptive statistics and meaning of the information mentioned above was when respondents reported learning poems and other information. Table 1 details the time period when respondents learned poems and other information during their initiation process. We asked respondents when, if their initiation process was broken into four quarters, they learned poems and additional information that suggested the process would be difficult or challenging. Nearly 60% of respondents reported learning the information in the first quarter of their process. If we think of a pledge process as lasting eight weeks, these findings suggest that a majority of individuals knew their initiation would be difficult within the first two weeks. An additional 25% reported
learning information suggesting difficulty and challenges within the second quarter. So 85% of respondents who learned information during their initiation process made the link between the information they were expected to learn and retain, and the current and future difficulty and challenges of their process, within the first half of their process. Below, we detail some of the qualitative responses to show the severity of the type of information learned during an initiation process.

Table 1: Time Period When Respondents Learned Poems and Other Information That Suggested the Initiation Process Would Be Difficult or Challenging

<table>
<thead>
<tr>
<th>Time Period</th>
<th>Fraternities</th>
<th>Sororities</th>
<th>Total Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st Quarter</td>
<td>61.5%</td>
<td>57.6%</td>
<td>59.4%</td>
</tr>
<tr>
<td>2nd Quarter</td>
<td>21.9%</td>
<td>29.8%</td>
<td>26.2%</td>
</tr>
<tr>
<td>3rd Quarter</td>
<td>8.9%</td>
<td>7.8%</td>
<td>8.3%</td>
</tr>
<tr>
<td>4th Quarter</td>
<td>7.7%</td>
<td>4.9%</td>
<td>6.1%</td>
</tr>
</tbody>
</table>

One fraternity member made the following statement when asked to provide examples of poems, songs, chants, and greetings learned during the initiation process:

60 hours and soon will be over, 60 hours and soon will be — —s no more wishing for 80 or a hundred! just to be with the men of —— HIT ME HARD HIT ME QUICKA BIG BROTHA, THE SOONER YOU HIT ME THE SOONER WE’LL BE OVER, WE’LL BE OVERRRRR, OVERRRRR, OVER WHERE THE REAL MEN ARE!

When this man said, “wishing for 80 or a hundred,” he was referring to “taking wood” by being hit with a wooden paddle repeatedly on his buttocks. Another respondent stated that his chapter had a poem that said, “Love the big black Moriah that beats my ass.” The “big black Moriah” was more than likely the Dean of Pledges or another member who had the role of “giving wood” to pledges. Moriah is a mountain range mentioned in the Book of
Genesis in the Bible. It refers to being ordained by God. Another respondent really brought this type of regurgitated poetry to reality when he stated that he had to repeat the following during his initiation process: “Sun goes down, moon comes up, big brothers beat across my butt Lord of mercy what kind of fool I am.” Many individuals outside of the Greek community would agree with this respondent and, as we will see later, even some BGLO members would agree as well.

Fraternity men, however, are not the only ones to give examples of information that refers directly to physical violence. A sorority member says the following: “Knowledge is power, taking wood by the hour; Get in the cut, Wood ain’t a friend of our butt.” A few sorority members mention versions of the following poem/song:

I’ve just got to be an ——, an ——. We may die, we may die, we may die, Oh, while we try, while we try, while we try . . . to make ——. My head it feels like lead. I think I’m almost dead . . . . We may die . . . . Had to carry up the trays, give up my sexy ways . . . . We may die . . .

Another sorority member says, “It was the blood, tears and sweat on my face for ——, the ladies with grace.” Similar to this respondent, several men and women mention a version of the poem/song “Sweat, Blood, and Tears” where initiates profess about the actual sweat, blood, and tears they shed to be members of their organization. Others may know Blood, Sweat, and Tears as the New York City band from the late 1960s and 1970s. Besides “Sweat, Blood, and Tears,” another popular poem/song includes: “I’ve got a feelin’, I’ve got a feeling Brothers/[Sisters], I’ve got a feelin’ / Someone’s tryin’ to sneak in my frat, and it ain’t gonna be no shit like that . . . (repeat).” This poem/song indicates that there should be a penalty to pay for becoming a member, like a grueling pledge process, instead of a simple induction ceremony and/or paper application (which is commonly known as “skating,” “sneaking in,” or “paper made” members).

As mentioned above, some respondents have serious objections to the initiation experience. One sorority member states
that the information she learned during her initiation process was “absolutely nothing but fear and degradation.” A fraternity member says, “Reading the Bible was an example, chanting scriptures. Now I question God, my faith because where was God as I ask for help as I was brutally beaten?????” A fraternity member says, “I cannot remember, but I know I quit during undergraduate, and was made in graduate school, where I felt more adult behavior prevailed.” To some people, this man’s response seems very sensible. Interestingly, very few respondents actually mention quitting or stopping their process because of the practices mentioned here.

However, not all of the responses addressing the meanings, interpretations, and feelings about the information learned during the initiation process were negative. In fact, some respondents interpreted and internalized the information as a positive experience that continues to influence their life in beneficial ways. A fraternity member says the following: “—— was something to aspire to. ‘If—’ was truly something I used to get me through the difficult times. I continue to use it today. I’ve also given that poem to each of my three children and they and I have talked about it at length.” Another respondent says, “All songs I learned were positive and enhanced the image of the fraternity but I also felt they were a way [of] demonstrating my commitment by learning them.” The following respondent not only provides his interpretation of his experiences during his initiation, but also possible ways to change the current level of hazing in Greek life. He says:

I think for our line what those chants, songs, and greetings did for us was build that brotherhood. We learned our history as an African American people and fraternity what it meant to step, so chants, what [our] letters meant, why no one can break our line. . . . Looking back I am glad we earned the right to wear those letters and did not take the paper route. I do understand some pledges are being hazed, that is why there should be a universal pledge handbook. Taking wood, maybe in a hell week situation, should be part of the process, but I just don’t get the slapping, punching, kicking, buying someone’s food, etc. should be part. Maybe cut out those
parts for calisthenics. What’s wrong with pushup[s], sit-ups, jumping jacks, I think that supports keeping in shape.

In sum, the poems and other information mentioned here speak to the difficulties and challenges that individuals endure to become members. These findings also imply that initiates know early on that their initiation process will be extremely difficult and imbued with physical and mental anguish. Despite this realization, many continue on with their initiation process. While some individuals report that the costs of membership outweigh the benefits, most individuals take pride in their initiation process. These respondents believe the Greek letters worn across their chests are properly earned. In this case, their initiation process was simply a rite of passage to membership that they consented to in some form.

D. Study III

1. Sample

Of the 30,000 recipients of the email, approximately 1,300 individuals responded to the study. (Due to missing data on individual questions, the sample ranged from 1,289 to 1,365.) The sample was predominantly female (62%) and African-American (90.9%), with a mean age of 40.04 years. Most participants belonged to a sorority (61.5%). Geographic regions in which participants were initiated were diverse, including the southeast (48.2%), midwest (20.8%), northeast and the District of Columbia (19.1%), southwest (7.4%), west (4%), and international (0.4%). The mean year of initiation was 1993 (range: 1950-2010), and mean age at initiation was 23 years. The majority of participants attended a predominantly white institution (59.2%) while nearly two-fifths of the participants attended a historically black college or university (38.3%).

2. Results

Participants were asked a series of questions to ascertain whether they knew prior to the process of joining that hazing could be part of
the process. Participants were also asked whether they thought the hazing would continue after the first encounter. Fully 84.9% indicated that they knew prior to joining that mental hazing was likely, and 75.1% suggested that they knew physical hazing was likely. After the initial incidents of hazing, very few thought that mental (23.3%) or physical (30.6%) would discontinue.

For a more nuanced look at these data, the same questions were examined using only those who joined a fraternity or sorority after 1990. The results were largely the same. Most participants expected there to be mental (85.2%) or physical (77.4%) hazing involved as part of the initiation process. Once encountered, few expected it would cease (mental: 21.5%; physical: 27.7%).

Finally, the data including those who joined after 1990 were examined by sex. For males, nearly all of the participants expressed awareness that mental (91.6%) or physical (90.2%) hazing was likely, with a small minority expecting that the mental (13.4%) or physical (15.2%) would discontinue. Among females, most expected mental (83.7%) or physical (71.4%) hazing to be part of the initiation process, with few expecting the mental (23%) or physical (34.7%) to stop. Chi-square tests indicated significant differences between males and females on each of the four questions.

E. Study IV

In order to gather the qualitative data required to investigate the types and the meaning of information learned during an initiation process, we conducted an online survey of members of the nine BGLOs represented in the National Pan-Hellenic Council (NPHC). We sent an e-mail, soliciting survey participation, to a large listserv composed mostly of BGLO alumni. Using a confidential online survey, we recorded 1,281 responses. Besides collecting standard demographic information, the survey gauged what types of information (e.g., songs, chants, greetings) the respondent learned, when he learned the information, and the interpretative meaning associated with the poems as they relate to the initiation process, the pledge experience, and hazing. Accordingly, we asked respondents two open-ended questions. First, we asked respondents to give us the names, details,
and descriptions of songs, chants, and greetings they remember from their initiation process. Second, we asked them to tell us the meaning of those songs, chants, and greetings. We gathered 132 responses from men and 330 responses from women on these open-ended questions. In line with previous research on BGLOs, we searched each of the responses for key words (e.g., perseverance, challenge, hope, coping, pride, optimism, unity) and synonyms to these words to establish patterns in these data about the meaning of the information used during the initiation process. These data were searched again, looking for examples that both confirmed and contradicted emerging patterns. These propositions were refined or eliminated to explain negative cases.

1. Sample

As mentioned above, 1,281 respondents participated in the on line survey. Nearly 80 percent of these respondents were sorority members (women), while slightly over 20 percent were fraternity members (men). These percentages are also similar to the gender disparity in college attendance and graduation rates as black women significantly outnumber black men.

Concerning the initiation process, 63 percent of men and nearly fifty percent of women became members solely through a pledge process, while 9 percent of men and 24 percent of women became members solely through the Membership-Intake Process (MIP). Twenty-eight percent of men and 27 percent of women became members by participating in a pledge process and the MIP. The type of initiation process that individuals go through is mostly attributable to their initiation period. Roughly 50 percent of the sample became members before pledging was outlawed in 1990. Slightly over 10 percent became members during the transition period of the early 1990s as BGLOs formulated a MIP. The remaining 40 percent became members from 1996-2010. The initiation period also corresponds to the age of the respondents. Only about 5 percent of the sample was the traditional college age of eighteen to twenty-four. Slightly over 10 percent were in their late twenties, while roughly a quarter were in their thirties. Nearly 25
percent were in their forties and over 30 percent were fifty years of age or older. In this regard, our sample has respondents who became members in the 1960s.

Interestingly though, there are few differences in the types of information learned and responses given by age or period of initiation. This finding speaks to the history, consistency, and depth of BGLOs. However, there is a difference in the amount of information provided by gender. Fraternity members are more likely to provide specific details about the types and the meaning of the information learned during the pledge process. This difference can be mostly attributed to the initiation process. As noted above, a substantial percentage of men pledged and did not go through the MIP, while a much larger percentage of women became members solely through MIP compared to men.

Using census region codes, over 60 percent of the sample became members in the South. Twenty-two percent of fraternity members were initiated in the Midwest compared to 17 percent of sorority members. About 10 percent of the sample became members in the Northeast, while only about 5 percent became members in the Western region. Considering about half of African-Americans are born and live in the Southern region of the United States and a much smaller percentage live in the West, this finding is expected. Our sample is pretty similar across university contexts as 54 percent became members at Predominately White Universities (PWIs), while 46 percent became members at Historically Black Colleges and Universities (HBCUs).

Twenty percent of the women's mothers were members of their sororities, while 16 percent of men's fathers were members of their fraternity so we do see some status transmission in our sample. Fifty-eight percent of fraternity members, compared to 49 percent of sorority members, participated in initiating new members. This gender difference is also seen concerning financial activity. Over 75 percent of fraternity members, compared to 67 percent of sorority members, are financially active. Participation in initiating new members and financial activity may also contribute to fraternity members being able to better recall information learned during their initiation process as they are more likely to see and hear the
information more than sorority members. Still, the breadth of information learned during a pledge process compared to MIP is more of the main culprit for fraternity men being more likely to provide specific information than sorority women.

Over 90 percent of the sample report being black and heterosexual and over 75 percent report being Christian. Sixty-two percent of men and 46 percent of women are married. This marriage disparity is similar to the broader African-American population (Banks, 2011). Over 30 percent have a bachelor’s degree, nearly 50 percent have a master’s degree, and about twenty percent have a Ph.D./M.D. As a whole, the respondents in this sample are a reliable, valid, and generalizable representation of the BGLO community.

2. Results

Figure 1 shows the percentage of fraternity and sorority members who learned information about pledging and hazing during their initiation process. Nearly 90 percent of fraternity members and 85 percent of sorority members learned or made up at least one song, chant, or greeting about the pledge experience. This is an overwhelming majority of respondents who were introduced to information about the pledge process and what it means to pledge. A much smaller percentage, however, report learning songs, chants, or greetings that suggested hazing. While 56 percent of fraternity members report learning information that suggested hazing, only 16 percent of sorority members do. Although a similar gender gap exists, an even lower percentage of respondents report making up songs, chants, or greetings that suggested hazing. Thirty-seven percent of fraternity members and 13 percent of sorority members report making up information that suggested hazing.
The gender disparity between fraternity and sorority members is not unusual. As seen by the case review, fraternities are more likely to be involved in criminal and civil suits involving hazing. As mentioned earlier, they are also more likely to pledge. As we see later, however, when sorority members do recall information about pledging and hazing, their responses and reactions are similar to that of fraternity members.

Figure 2 shows the number of songs, chants, and greetings learned during the initiation process. While roughly 26 percent of the sample learned only 1-3 pieces of information, nearly that same amount (22%) learned ten or more songs, chants, and greetings. Slightly over 50 percent report learning 4-10 pieces of information during their initiation process.
Potentially more important than understanding what an individual learned about pledging and hazing, is when they learned it. Figure 3 breaks the pledge process into four quarters. If we think that an initiation process last 4-8 weeks, then each quarter represents 1-2 weeks of time. We asked respondents during which quarter of their initiation process did they learn songs, chants, and greetings that suggested the process would be difficult or challenging. Nearly 60 percent of respondents report learning the information in the first quarter of their process. An additional 25 percent report learning information suggesting difficulty and challenges within the second quarter. Thus, 85 percent of respondents who learned information during their initiation process made the link between the information they were expected to learn and retain, and the current and future difficulty and challenges of their process, within the first half of their initiation.
Now that we have detailed how much and when information is learned, we turn our attention to specific types of information. Figure 4 shows exactly which type of information BGLO members report learning during initiation. Members were most likely to learn chants, followed by songs, poems and greetings. Interestingly, sorority members were more likely to learn chants and songs than fraternity members who were more likely to learn greetings and poems. As seen in Figure 4, nearly 45 percent of sorority members report learning chants compared to slightly over 35 percent of fraternity members. Songs have a closer margin as slightly over 25 percent of sorority members learned songs and slightly fewer than 25 percent of fraternity members did. While fraternity members report learning over 15 percent of greetings and poems, less than 10 percent of sorority members do. Although the Greek alphabet is frequently seen as a way to showcase the proficiency of information (and viewed in some ways as a gold standard of Greek information), a very small percentage of respondents report learning it or associating it with pledging and hazing (Parks & Brown, 2005). Considering that less than 5 percent of respondents report learning other types of information, we are confident that songs, chants, greetings, and poems make up an overwhelming majority of the types of
information learned during an initiation process. Still, the information presented here should be viewed as the main exemplars that members recall instead of an all-inclusive list.

While some of the songs, chants, and greetings learned during an initiation process are humorous, many of them speak to the brutality that individuals endure to become members. We provide examples of some below. Because we do not want to single out any particular organization, names or acronyms that readily identify an organization directly have been omitted.

Now that we know in detail the language, style, and tone of the types of information that members learn, we shift our focus to the meaning of the information. In what ways is this information important to members and how important is it? Table 2 shows the percentage of respondents who agree or disagree that the songs, chants, or greetings learned helped them persevere during initiation. An overwhelming majority of fraternity members (65 percent) agree that this information helped them to persevere, while only 53 percent of sorority members do. Roughly the same percentage (about 17%) of fraternity and sorority members disagree that this information helped them persevere. As a whole, a substantial percentage of

<table>
<thead>
<tr>
<th>Type of Information</th>
<th>Fraternities</th>
<th>Sororities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greetings</td>
<td>16.3%</td>
<td>9.4%</td>
</tr>
<tr>
<td>Songs</td>
<td>23.8%</td>
<td>26.5%</td>
</tr>
<tr>
<td>Chants</td>
<td>36.7%</td>
<td>44.4%</td>
</tr>
<tr>
<td>Poems</td>
<td>19.0%</td>
<td>8.5%</td>
</tr>
<tr>
<td>Greek Alphabet</td>
<td>1.4%</td>
<td>6.8%</td>
</tr>
<tr>
<td>Other</td>
<td>2.7%</td>
<td>4.3%</td>
</tr>
</tbody>
</table>

Figure 4: Information Learned During Initiation Process
respondents report the songs, chants, and greetings learned during the initiation process helped them to persevere.

Table 2. Songs, Chants, and Songs Helped Fraternity Members Persevere During Initiation

<table>
<thead>
<tr>
<th>Agree</th>
<th>Neutral</th>
<th>Disagree</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fraternities</td>
<td>65.0%</td>
<td>18.6%</td>
<td>16.4%</td>
</tr>
<tr>
<td>Sororities</td>
<td>52.7%</td>
<td>30.2%</td>
<td>17.1%</td>
</tr>
</tbody>
</table>

Figure 5 shows the meaning of the information learned during the initiation process. Similar to previous work on the meaning of information learned during Greek-letter organization initiation processes, our qualitative analysis revealed six primary themes regarding the meaning of information—unity, mental/physical challenges, coping, pride, collective memory, and self-mastery. Extending the literature, we show how these themes vary by gender.

For fraternity and sorority members, unity was the dominant theme of the information learned during initiation. While 29 percent of fraternity responses link to unity, 37 percent of the sorority responses do. Coping was the second major theme. Similar to unity, 29 percent of the fraternity responses link to coping. However, only 18 percent of the sorority responses link to coping. Pride also displays a gender difference as nearly twenty percent of sorority responses link to pride compared to eleven percent of fraternity responses. The mental/physical challenges theme is about 15 percent across the whole sample. Collective memory and self-mastery both have less than 10 percent.
Building on Table 2, we start with mental/physical challenges because responses that link with this theme are perhaps most aligned with the information discussed during court proceedings. The theme of mental/physical challenges speaks to the ability to overcome obstacles that stand in your way, to never give up, and to be steadfast toward a goal. In this sense, mental/physical challenges not only involve the actual dealings with these challenges but also involve one's persevering and motivation to continue on in spite of them. In this context, the theme of mental/physical challenges speaks to pledges having the ability and stamina to confront the stigma and turmoil of being on line.

The statements below are some responses that tend to characterize this theme. A fraternity member stated the following about how the information he learned during his initiation process helped him to deal with the mental/physical challenges of being on line.

“Invictus” and “If”—“were both Poems which spoke to me regarding endurance and the ability to cope or better yet, surmount situations that may be difficult and hard to bear. The Songs/Chants/Greetings kept my spirits lifted, more so helping me to persevere which is why I marked the above answers as "neutral." I
enjoyed that part of the process because it gave us time to display our creativity while learning the history and pertinent information regarding the organization.

Another respondent actually mentions how a fraternity poem still helps him in his daily life:

“[Organization name] was something to aspire to. “If”—“was truly something. I used to get me through the difficult times. I continue to use it today. I’ve also given that Poem to each of my three children and they and I have talked about it at length.”

A sorority member said: “[It] spoke of the constant struggles and pain we must endure to move along our journey to better days as a people.” Another said: “It meant that it was a hard long process, but only the strong survived. It meant that I could make it through if I stayed strong, and that the letters on my front and back had to be earned and not just paid for.”

The “earned” and “paid for” language above speaks to possibly the most salient division within organizations—whether a person pledged (made real) or only went through MIP (paper made” via national paperwork and not hard work at the chapter/local/university level). Most members accepted the fact that as one respondent said, “things you want will not come easily.” But, possibly one of the most salient responses that captured the severity of how important being a member is to some individuals simply said, “I have to make it no matter what.” Another respondent stated, “Helped you understand that hardship is only for a season. They helped you to be motivated to persevere and see what the end was going to be.”

Another component of mental/physical challenges is the brutality involved with pledging. One fraternity man stated, “If you didn’t learn the required material swinging of wood could become a motivator.” By “swinging of wood” this respondent meant “getting wood” or being mandated to “get in the cut” by being struck with a wooden paddle across the butt. Sorority members also made similar comments. One stated, “It was just a reminder that I needed to know
specific pieces of information to save me from being in the cut.” Pledges are often given wood when they do not know historical organization information deemed important or cannot properly recall or verbalize songs, chants, or greetings in unison or individually.

Another respondent reacted to the accepted brutality of some members. He said, “[Songs, chants, and greetings] perpetuated in some ways the destructive backward notions of manhood and brotherhood linked through physical violence.” And even more starkly, two respondents had very different reactions to their initiation processes. One respondent said, “It’s a tough process, but it’s worth it.” Another said, “I can’t believe I participated in that foolishness.”

Altogether, these responses show the main reactions to what was learned during an initiation process. Most members embrace that their experience is emblematic of their right to wear their Greek letters, while some view it as a disgrace that they submitted to these mental/physical challenges.

As implied above, the information learned during an initiation process is constructed to build a sense of collective identity regarding how status is maintained and goals are accomplished. In this sense, songs, chants, and greetings create symbolic boundaries that form a sense of competition, one-upmanship and bravado that speak to unity and a sense of pride in one’s organization, chapter, line, and self. A sorority member said, “The Songs and Chants helped forge a sense of solidarity within our line.” Another said, “It was meant to foster sisterhood as we met the challenges of having to do tasks as a group of varied personalities.” Another respondent simply said, “Loyalty, camaraderie, brotherhood.” Furthermore, a sorority member said, “Ties that were binded during and after the process. This is the reason why I am still an active member.” It is the “unity of spirit/purpose/goal.”

A sorority member who pledged during the 1970s stated the following:

We were so creative. . and tasteful . . able to take Songs of the day and personalize it for us! Our Songs emphasized our exclusive/sophisticated/"classy" aura. Indeed, we were quite
proud to "make line" - over 120 women rushed that year . . . only 40 made it! The Songs were definitely touching and heartfelt. . . I still hum them to myself when working with over 100 women to accomplish a common goal in my local chapter . . . over 30 years later! I am active in my local chapter . . . something I think the pledging process helped to foster . . . something that was hard to achieve is less likely to be ignored/discarded.

In addition to this respondent’s fervor, display of collective identity, and pride in her organization, her statement was telling in light of the percentage of her class who did not “survive” the process. Her pledge class from the 1970s started with over 120 women and ended with only 40. The mental/physical challenges that one must endure to be a member are suspected to be severe if only one-third “made it.”

The quotation below not only speaks the mental/physical challenges that it took to become a member but also the pride that individuals feel in their organizations. The first two songs reflected on the difficulty involved with the pledge process and the sacrifices you were willing to endure to become [a member]. This [chant] is about the ego, pride, bravado, and arrogance associated with being [a member] (This was and still is my favorite).

Potentially just as important as embracing unity within the organization is showing unity in public and displaying one-upmanship or “trumping” other organizations by being in sync when performing songs, chants, and greetings to the student and local communities. The following respondent discusses this point in detail:

Strivin & Wine - These were Songs we did as we were marching across campus or jogging from one place to another. To me as long as we were singing Chants we did not concentrate on any pain our bodies may have felt at that time. It truly helped me. When I am jogging on my treadmill I often sing the Chants I did when I was online. Somebody Please & Go Down Brother - These were songs that we chanted during our Death March (finale pledge week and
march across campus) on campus. My father [1959 initiate] and my brother [1984 initiate] were both in attendance and I remember them both telling me that they enjoyed the experience as well as hearing me do "Somebody Please." With my father and my brother participating in my death march, those Songs allowed us to share the experience even though we pledged at different times and at different chapters. Greetings are the one place in the pledge process where a public display is awesome. This is where as a line you can find your strengths and weaknesses and perform for the crowd. Since many people don't know what happens behind closed doors, this is the one time where you can showcase your talents to the public while still in the pledging state. Brothers that can sing or perform well in public, this helps them the most. I was never good at Greetings, however I still remember them.

Not only does this information lead to a level of unity among members, it also speaks to a collective memory which binds family members and links Black people via ancestral trials and tribulations such as surviving the Middle Passage, American slavery, Jim Crow, de facto segregation, and discrimination. The Middle Passage was recorded as taking an average of about eight weeks (Harper Dickinson, 2005). Some BGLO pledging processes try to mimic this timeline and even call their pledge lines/classes “ships” to further capture the association between pledging and the slave experience (Kimbrough, 2003). In this regard, the collective memory theme has an inspirational and spiritual component that speaks to racial uplift (Ray, Heard, & Ingram, 2012). Below are some responses that capture this theme.

One respondent stated, “It helped me and tied in the Negro spiritual aspects.” Another stated, “These songs set to the tune of religious hymns seemed to give my experience more purpose and meaning. I felt as if I was going through a rite of passage.” A fraternity member said, “In reflection, it made it fun, and because many of them sounded like Negro Spirituals, I felt linked to my history.” Still another said, “The National Hymn and ritual hymns or
songs allow me to relate to the larger organization throughout our nation and world.” The following respondent stressed his point with detail and recollection:

I think for our line what those Chants, Songs, and Greetings did for us was build that brotherhood. We learned our history as an African American people and fraternity what it meant to step, so Chants, what our letters meant, why no one can break our line...Looking back I am glad we earned the right to wear those letters and did not take the paper route. I do understand some pledges are being hazed, that is why there should be a universal pledge handbook. Taking wood, maybe in a hell week situation, should be part of the process, but I just don't get the slapping, punching, kicking, buying someone’s food, and the like should be part. Maybe cut out those parts for calisthenics, what's wrong with pushup, sit-ups, jumping jacks, I think that supports keeping in shape.

In addition to having a collective memory of the past, individuals must also display a certain level of self-mastery or hyper-individualism in their pursuit to maximize personal sacrifice and dedication by being “all you can be” to yourself and the organization. One respondent said, “I think that the Songs, Chants, and Greetings made me angry at the time this happened but now reflecting it helped me realized it was trying to bring brotherhood and get me stronger as an individual.” A sorority member said, “It helped me know my worth and how important it is to work for something.” Another said, “These words reinforced my commitments to service and help speed me onward towards my goals.” Another stated, “It meant get the job done to the best of your ability and don’t make excuses.” Another mentioned the importance of making choices. She said, “Don't make an excuse for not doing something or not having what you should have. Made me more aware of the choices I made on a daily basis.”

Collectively, songs, chants, and greetings carry significant meaning to members. Most take pride in the mental/physical challenges they endured to become members. And, while other
members shun hazing and certain types of behaviors, they still participated because they viewed pledging and hazing as mandatory for membership.

**Conclusion**

It may be convenient to argue that hazing will end when hazers simply stop their actions. Such an argument, however, is provincial in that it fails to consider the role that all stakeholders might play in eradicating hazing. This research on the calls, chants, poems, and songs that BGLO pledges learn and the point in their pledge/hazing process when they begin to learn these poems highlights what these aspiring BGLO members know about the hardships they will endure. In essence, our empirical work suggests that the calls, chants, poems, and songs demonstrate that BGLO pledges know that their pledge experiences are characterized by the endurance of hardship as manifested through the appreciation of such themes as perseverance and self-mastery. Furthermore, this knowledge seems to emerge during their initiatory processes. The fact is that aspiring BGLO members may know about the risks upon which they are about to embark when they pledge one of these organizations. The calls, chants, poems, and songs that BGLO pledges learn during their initiatory processes could and should be valuable and admissible evidence in tort cases brought by hazing victims. Accordingly, such evidence could speak to tort defense doctrines such as assumption of risk and comparative fault.
Conclusion:  
Is the End Near?

While many black Greek-letter organization (BGLO) members may believe that the future is bright for these organizations, I contend that such a belief is naïve optimism. My contention is not born out of speculation, but rather hard research and mounting evidence that BGLOs are in the midst of a perfect storm that undermines their long-term viability. As I have laid-out in this book, hazing has persisted within BGLOs for decades. It has become increasingly violent, especially within the fraternities. A host of factors undergird, or at least help explain why BGLO hazing persists, from members’ beliefs and understanding of the risks to broader organizational culture. Also, there is the question of whether alleged victims can consent to hazing. All of these factors speak to a broader context of criminal and civil litigation, including what types of evidence may be admissible at trial.

In addition to these broad contextual factors, two others emerge and raise the very real specter that BGLOs will meet their demise as a result of hazing. The first is the worldview of today’s average hazing victim; the other is the role that liability insurance plays in BGLO hazing. With regard to the former, it has been taboo among BGLO elites and anti-hazing activists to criticize alleged hazing victims. For years, however, individuals who elected not to be hazed—those perceived by some as taking the easy way into BGLOs via, for example, the Membership Intake Process—have been labeled, among other things, “paper” or “skaters.”

By way of definition, these terms identify those “… who are only technically members because they signed the documents and took a fraternity test, [v]ersus learning history and building a bond through a pledge process.” As such, if a BGLO aspirant does not submit to the rigors of the old-school BGLO pledge process, he or she is deemed a less-than-authentic or full member. While it may be absurd to criticize and demonize people who do not want to submit themselves to the very real possibility of physical and psychological injury or even death, a legitimate and practical question remains
about this current—and even future—generation’s willingness to make significant sacrifices to join BGLOs.

Specifically, it has been argued that today’s generation of teenagers and young adults are peculiarly narcissistic. Jean Twenge, in her book Generation ME, contends that “[narcissists] believe they are entitled to special privileges and believe they are superior to other people”, and that narcissism is more common in recent generations. For example, Twenge cites studies finding consistent increases in narcissistic behavior in college students between 1960 and 1990, and college students’ belief that experts were no better than them. In their book The Narcissism Epidemic: Living in the Age of Entitlement, Twenge and W. Keith Campbell argue that millennial generation narcissism is because these individuals have been coddled and lead to believe that the world would be as delighted with them as their parents are. More broadly, the Twenge and Campbell contend, changes in societal values have contributed to the narcissism epidemic; in the past, duty and responsibility were deemed more important than individual wants and needs. Today, many young people display a belief that others’ needs are not as important as their own, a sense of entitlement. Twenge and Campbell argue that repeated effort and hard work is what defines an individual and if you are not successful you should “suck it up and try again.” This is arguably consistent with the American ethos of self-reliance, grounded in individual effort and self-reliance. This idea, however, is not valued as much among millenials, who expect to be rewarded for little to no effort. Consequently, it is not surprising, as suggested by empirical research, that narcissists lash out aggressively when they are insulted or rejected.

Within BGLOs there may be some contemporary examples that fit within this narrative. In 2013, Yesuto Shaw sought membership in Alpha Phi Alpha Fraternity at Dartmouth University. Shaw ultimately reported the fraternity for hazing to both the school newspaper and the Dean of Students. From his account, pledges were not allowed to look fraternity members in the eyes. Pledges were not referred to by their names but rather as decimal point values. Pledges were required to stand at attention whenever they were at the fraternity house. They had to recite facts about the
fraternity’s history. If pledges erred, they were required to do push-ups and other exercises; fraternity members would also place objects on pledges to weigh them down. In time, the physical punishment shifted from calisthenics to soft punches to the chest. It progressed to being smacked across the chest with a wet plastic spoon. Pledges were also prohibited from speaking to friends who were not Alpha Phi Alpha members.

These issues do not only arise in the context of on-campus sanctions; they may also result in litigation. For example, in one case that was brought in a Washington, D.C. federal court, by two Alpha Kappa Alpha Sorority members whose daughters were denied membership into the sorority’s Howard University chapter. Arguably, the aggrieved young ladies felt that they were entitled to Alpha Kappa Alpha membership simply because they were legacies, submitted an application, and attended rush—the formal information session for perspective members prior to selection. This matter was not even the first of its kind in Alpha Kappa Alpha or even vis-à-vis the Howard University chapter. In 2005, Sheila Mitchell and Tarsha Wilson—both Alpha Kappa Alpha members—sued the sorority after having been expelled for hazing Ruby Crenshaw-Lawrence, a young lady initially denied legacy membership into the sorority’s Howard University chapter.

The point here is not to say or suggest that individuals who do not wish to experience the rigors and even violence of the old BGLO pledge process are problematic in their decision-making. After all, individuals who report such incidents or sue because of harm or injury may simply be vindicating their rights or looking-out for the next, potential hazing victim. However, the fact is that BGLOs currently exist in an era in which many potential members may be unwilling to take even the mildest of slights in pursuit of membership let alone physical or psychological injury. It is this fact that underscores the truism that we live in an increasingly litigious society, and litigation is increasingly the remedial solution for BGLO hazing victims.

The second factor that emerges as one that raises the very real possibility that BGLOs will meet their demise as a result of hazing is the role that liability insurance plays in protecting BGLOs
from bankruptcy. Given the litigiousness and liability surrounding the collegiate “Greek” system, these organizations—BGLOs included—are increasingly aware of the possibility for litigation and its financial impact. As such, insurance has become a bulwark against insolvency. Black Greek-letter organization’s ability to obtain liability is not easy. In part, this is because insurers have historically been reluctant to provide insurance to such high-risk organizations. Even more, there are few insurers of college fraternities and sororities.

Nonetheless, the general practice among BGLOs seems to be to purchase a comprehensive, general liability policy that covers the national organization as well as local chapters. Insurers, however, may refuse to provide coverage for things such as hazing, something for which BGLOs crucially need coverage. Even more, the question remains as to whether the national organization can sever itself, in the context of hazing litigation, from the actions of the local chapters and its members. As we indicated in Chapter 6, this may pose a significant challenge.

There may be unintended consequences of liability insurance. Indeed, the existence of liability insurance may increase BGLO-related litigation. Plaintiff's lawyers may be more willing to take cases where there is the “deep pocket” of an insurance policy, knowing that insurance provides a mechanism by which to satisfy a judgment and that collecting a judgment from an insurance company is easier than from other defendants. Another unintended consequence of liability insurance is the phenomenon of moral hazard. One type of moral hazard occurs where BGLOs purchase liability insurance and thus have less of an incentive to prevent hazing. Here, BGLOs may feel less of a sense of urgency to end hazing, because they sense that insurance provides a buffer between their organizations and bankruptcy.

The argument that BGLO leaders have provided their membership over the years is that “we are one lawsuit away from bankruptcy.” While it may once have been hyperbole, it probably is an increasingly accurate description of where BGLOs find themselves today. As Robert Manley, one of the founders of a law firm specializing in fraternity and sorority-related issues, once noted: “Survival is the simple reason that fraternities have frequently agreed
to compulsory insurance for the entire fraternity under a single unified policy. Many fraternities would be destroyed by a multi-million dollar arising from a personal injury suit.” Even still, what is likely to happen where a BGLO has liability coverage for ten million dollars, is sued for fifty million dollars, and loses the case? The insurer is not going to cover the BGLO for the full sum of the damages; it will abide by its contractual obligation of ten million dollars and no more. The same could be said for punitive awards, because liability insurance does not cover such remedies.

The most likely scenario for BGLOs is that hazing will not abate, and litigation will concomitantly increase. With more claims, insurers will increase coverage cost. For some BGLOs, passing this increasing cost along to chapters will be impossible because of the shrinking numbers of chapter members, especially at the undergraduate level. In the alternative, insurers will drop BGLOs as they cease to be profitable as clients in any regard. Given that most BGLOs have so few financial assets, with no coverage, they would be, proverbially, sitting ducks. It would only be a matter of time before mounting hazing law suits would bankrupt them. And for those with substantial assets, even still, with no insurance coverage, it would take just a few multi-million dollar judgments to level those organizations.

Though it is beyond the scope of this book, the only real hope for BGLOs is that they actually solve the problem of hazing within their ranks. Ironically, these organizations boast that they have the best and brightest that, largely, black America has to offer, within their ranks. At the same time, however, they contend that they cannot fix the problem. These two ideas seem as if they are mutually incompatible. The more probable issue is that these organizations, their members and leaders, have not fully committed to harnessing their organizations’ intellectual capital and cutting through organizational politics, provincialism, as well as lack of vision. Whether BGLOs can do this remains to be seen, but one thing is for sure: if they are to conquer hazing, it is a challenge to which they must rise.
APPENDIX

BGLO-Relevant Cases

Missouri v. Allen, 905 S.W.2d 874, 875 (Mo. 1995).
Morrison v. Kappa Alpha Psi Fraternity, 738 So. 2d (La. App. 2 Cir. 1999).
Morton v. State, 988 So. 2d 698 (D.C. Fla. 2008).
State v. Allen, 905 S.W.2d 874, 875 (Mo. 1995).

Williams v. Wendler, 530 F.3d 584 (7th Cir. 2008).