

## ARTICLES

### WHITE BOY WASTED:

### RACE, SEX, AND ALCOHOL USE IN FRATERNITY HAZING

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*Abstract*

In the past few years, alcohol-related hazing deaths within white fraternities have received considerable attention. These deaths beg the question: what would it take to curtail such behavior and the harm that flows from it? A reasonable answer might be to impose stricter laws. However, if the goal of law is “to regulate behavior by threatening unpleasant consequences should an individual commit a harmful act,” then it is crucial that we understand what factors motivate such behavior.<sup>3</sup> In this article, the authors highlight some of the major alcohol-related, white fraternity hazing incidents over the past several decades. They investigate the extent to which anxieties about race and masculinity influence hypermasculinity amongst young white men. They go on to connect the hypermasculinity to high rates of alcohol use. Given the findings at the intersection of race, sex, and alcohol use, the authors explore their collective role in hazing within white fraternity culture.

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3. See John Hechinger, *Get the Keg out of the Frat House*, N.Y. TIMES (Sept. 26, 2017), <https://www.nytimes.com/2017/09/26/opinion/frats-college-partying-pledging.html> [<https://perma.cc/TU4B-ECXE>].

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## I. INTRODUCTION

Fraternity membership is often hailed as a young man’s gateway to manhood. Brothers are promised a profoundly rewarding and wildly fun experience, from which they will gain critical life skills and enduring friendships. However, this charming ideal is tainted by a vast history of hazing-related violence, sexual assault and untimely death – all of which correlate highly with alcohol consumption.<sup>4</sup> Civil lawsuits have exposed the dark and violent truth of the American fraternity system, revealing rampant “manslaughter, rape, sexual torture, [and] psychological trauma.”<sup>5</sup>

The facts of these cases are rarely in dispute; assignment of liability tends to be the sole source of controversy.<sup>6</sup> As a result, fraternities have developed a formidable legal barricade, shielding them from unwelcome substantive reform.<sup>7</sup>

In 1825, a group of young men at Union College in upstate New York established Kappa Alpha Society, a secret club that would launch the vast and powerful fraternity industry currently dominating the American collegiate experience.<sup>8</sup> The group existed primarily to free members from the oppressive clutch of the fun-spoiling administration.<sup>9</sup> Independence became the primary

4. See John Hechinger, *Get the Keg out of the Frat House*, N.Y. TIMES (Sept. 26, 2017), <https://www.nytimes.com/2017/09/26/opinion/frats-college-partying-pledging.html> [https://perma.cc/TU4B-ECXE].

5. Caitlin Flanagan, *The Dark Power of Fraternities*, THE ATLANTIC (Mar. 2014), <https://www.theatlantic.com/magazine/archive/2014/03/the-dark-power-of-fraternities/357580/> [https://perma.cc/YZ43-ZLZ7].

6. *Id.*

7. *See Id.*

8. *Id.*

9. *Id.*

purpose of fraternity membership nationwide; to operate “on a plane beyond the reach of discipline.”<sup>10</sup> Those universities that sought to discipline or, God forbid, shut down fraternities were accused of violating students’ right to freedom of association.<sup>11</sup> This seemingly feeble argument became fraternities’ indestructible armor in the battle against their host institutions.<sup>12</sup> Simultaneously, and somewhat paradoxically, universities grew increasingly interdependent with fraternities. Greek housing provided enormous financial savings, fraternity alumni became generous donors, and promises of the ultimate, rip-roaring college experience proved highly attractive to scores of prospective students.<sup>13</sup>

During the 1960s, the prevalence of fraternities began to wane in the wake of rising student unrest. Fraternities had come to represent the status quo and were thus at odds with the emerging culture of activism.<sup>14</sup> Though membership declined and many chapters closed during this period, fraternities experienced a spectacular rebirth in the 1980s, due in no small part to the 1978 release of the film *Animal House*.<sup>15</sup> Fraternity life once again became a haven for personal liberation, but also adopted a new role as a platform for student unrest and psychedelic drug experimentation. The passage of the 1984 National Minimum Drinking Age Act – which raised the legal drinking age to twenty-one – further propelled fraternities into prominence by shifting college partying from bars to frat houses.<sup>16</sup> Because universities lacked authority to govern fraternity affairs operating on private property, these young men served as the unchecked, primary provider of alcohol to the underage.<sup>17</sup> Naturally, as a result, the number of lawsuits began to sky-rocket.

Because a single lawsuit had the power to bring a fraternity to its knees, and insurance companies had no incentive to protect such volatile groups, several fraternities collaborated to form what is now the Fraternal Information and Programming Group (FIPG). Today, 32 fraternities are members of the FIPG, whose sole purpose is to protect fraternities from financially damaging lawsuits.<sup>18</sup> The FIPG regularly updates its risk-management policies, which serve as models for the industry.<sup>19</sup> Notably, most risk-management policies are related to alcohol consumption and actually “make it possible for fraternities to be the one industry in the country in which every aspect of serving alcohol can

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10. *Id.*

11. *Id.*

12. See Julia Ryan, *How Colleges Get Rid of Fraternities*, THE ATLANTIC (Mar. 3, 2014), <https://www.theatlantic.com/education/archive/2014/03/how-colleges-could-get-rid-of-fraternities/284176/> [<https://perma.cc/MQV4-3S88>].

13. Flanagan, *supra* note 2.; John Hechinger, *The Powerful Forces That Fight for American Fraternities*, THE ATLANTIC (Oct. 6, 2017), <https://www.theatlantic.com/education/archive/2017/10/the-powerful-forces-that-fight-for-american-fraternities/542187/> [<https://perma.cc/8QSE-2KFG>].

14. See Flanagan, *supra* note 2.

15. Flanagan, *supra* note 2.; see also Ryan *supra* note 9.

16. Flanagan, *supra* note 2.

17. *Id.*

18. *Id.*

19. *Id.*

be monitored and managed by people who are legally too young to drink it.”<sup>20</sup> These policies, coupled with fraternities’ extensive reservoir of powerful alumni in the business, political and legal fields, culminate in an impenetrable wall of legal defense.<sup>21</sup> In light of this mighty force, young fraternity men are often – mistakenly – confident in their own invincibility. As a result, they have virtually no incentive to reform their alcohol-centric culture.

The moment that white fraternities find themselves in, now, is cast against this historical backdrop.<sup>22</sup> It begs the question: to what extent does the law regulate such behavior—hazing? In 1874, the United States Congress passed the first hazing statute to prevent hazing at the Naval Academy in Annapolis, Maryland.<sup>23</sup> Since then, forty-four states have passed anti-hazing laws.<sup>24</sup> However, law is nothing more than a system “to regulate behavior which is undesirable from a societal viewpoint.”<sup>25</sup> Clearly, like in many other contexts, what may be most interesting about the law is not that it exists or what it is but why it is ineffective at curtailing human behavior in many instances.<sup>26</sup> This challenge harkens back to Harvard Law School Dean Roscoe Pound’s distinction between law in books and law in action as conceptualized by the Legal Realists during the early Twentieth Century.<sup>27</sup> If, for example, the goal of the law is “to regulate behavior by threatening unpleasant consequences should an individual commit a harmful act,”<sup>28</sup> it makes sense to understand what actually influences said behavior. In short, court opinions and statutes regarding hazing may be nothing more than mere bundle of words. The heart of the matter, instead, are those factors that underscore, amplify, and propel hazing.

20. *Id.*

21. Hechinger, *supra* note 10.

22. The authors recognize that the phrase “white fraternity” is a misnomer. There are no fraternities that are racially exclusive and none that likely have a membership that is 100% white. Nonetheless, our focus is on fraternities that are historically all white and contemporarily, predominantly white.

23. Darryll M. Halcomb Lewis, *The Criminalization of Fraternity, Non-Fraternity and Non-Collegiate Hazing*, 61 MISS. L.J. 111, 117-18 (1991) (explaining the first anti-hazing legislation passed by the federal government was an 1874 Act of Congress which banned hazing at the Naval Academy); A. Catherine Kendrick, Note, *Ex Parte Barran: In Search of Standard Legislation for Fraternity Hazing Liability*, 24 AM. J. TRIAL ADVOC. 407, 409 (2000).

24. Gregory S. Parks et al., *White Boys Drink, Black Girls Yell: A Racialized and Gendered Analysis of Violent Hazing and the Law*, 18 J. GENDER, RACE, & JUST. 97, 110 (2015).

25. *United States v. One Single Family Residence*, 699 F. Supp. 1531, 1536 (S.D. FL. 1998).

26. For a more probing analysis of the lengths and limits of law’s impact on human behavior see LAWRENCE M. FRIEDMAN, *IMPACT: HOW LAW AFFECTS BEHAVIOR* (2016).

27. Gregory Scott Parks, Note, *Toward a Critical Race Realism*, 17 CORNELL J.L. & PUB. POL’Y 683, 690-91 (2008) (citing Karl N. Llewellyn, *Some Realism about Realism: Responding to Dean Pound*, 44 HARV. L. REV. 1222, 1222-24 (1931)).

28. *United States v. Safarini*, 257 F. Supp. 2d 191, 200 (D.C. Cir. 2003) ([T]he core purpose of the criminal law [is to] to regulate behavior by threatening unpleasant consequences should an individual commit a harmful act.”) (quoting *Warren v. United States Parole Comm’n*, 659 F.2d 183, 188 (1981)).

These past several decades, alcohol-related hazing incidents have come to define the white fraternity experience. This should be no surprise, given roughly two generations where excessive alcohol use has been at the center of white fraternity culture. What may lie at the root of this culture are young white men's anxieties about race and masculinity. As such, this article contends that the new landscape that white fraternity men came to inhabit around 1960 caused them great anxiety about their white male identity. Accordingly, this has played a major role in rise of alcohol-related hazing among them. In section I, the authors highlight the major alcohol-related, white fraternity hazing deaths in 2017. In section II, the authors investigate the extent to which anxieties about race and masculinity influence hypermasculinity amongst young white men. In section III, the authors connect the findings from section III to hypermasculinity and how it's predictive of alcohol use. In section IV, the authors explore the research on the pervasiveness of alcohol use within white fraternity culture.

## II. ALCOHOL-RELATED, WHITE FRATERNITY HAZING DEATHS: 2017

Over the past 40 years, there have been dozens of white fraternity-related deaths and injuries at the intersection of alcohol and hazing.<sup>29</sup> In this section, the

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29. In 1978, Chuck Stenzel, an Alfred University student died with a blood alcohol content of 0.46 while pledging Klan Alpine Fraternity. Sue Anne Pressley, *Fraternity Hell Night Still Endures*, WASH. POST, Nov. 8, 1987; Louise Continelli, *The Haze Suffering in the Name of Brotherhood*, BUFF. NEWS, Feb. 2, 1991; *AU to Award Honorary Degree to Eileen Stevens*, AU PRESS RELEASES, Apr. 13, 1999; John Nicoletti et al., *Violence Goes to College: The Authoritative Guide to Prevention and Intervention* 7 (2009). In 1979, Lurie Barry Ballou, a Sigma Nu Fraternity pledge at the University of South Carolina died after being in a state of acute alcohol intoxication. *Ballou v. Sigma Nu General Fraternity*, 291 S.C. 140 (1986).

In 1984, James E. Lenaghan, a Zeta Chi Fraternity pledge at American International College died from alcohol poisoning. Dan Hinson, *ORLANDO SENTINEL*, Sep. 6, 1986; *Bill Filed to Ban Fraternity Hazing*, BOS. GLOBE, Jan. 20, 1985. In 1986, Mark Seeberger, a Phi Kappa Psi Fraternity pledge, at the University of Texas died of alcohol poisoning. David Jackson, *Parents Sue Fraternity Over UT Hazing Death: Richardson Couple Seek \$40 Million, for Answers*, DALL. MORNING NEWS, Sep. 26, 1986; Joe Drape, *Death Cloaked in Silence: Tormented Father of UT Fraternity Pledge Gropes for Answers*, DALL. MORNING NEWS, Sep. 26, 1986. In 1986, William Quinn, a Beta Theta Pi pledge at the University of Illinois died with a blood alcohol content reached 0.4. *Quinn v. Sigma Rho Ch., Beta Theta Pi Fr.*, 507 N.E.2d 1193 (Ill.App. 4 Dist. 1987). In 1988, James Callahan died with a blood alcohol content was 0.434 after a Lambda Chi Alpha initiation ceremony at Rutgers University. *Determining Duty in Collegiate Tort Litigation: Shifting Paradigms of The College-Student Relationship*, 29 J. COLLEGE & UNIV. L 485 (2003); *Hazing and the "Rush" Toward Reform: Responses From Universities, Fraternities, State Legislatures, and The Courts*, 16 J. COLLEGE & UNIV. L. 93 (1989).

In 1991, Michael Nisbet, a St. Pat's Board pledge at the University of Missouri-Rolla, died after consuming alcohol and other substances. *Nisbet v. Bucher*, 949 S.W.2d 111 (1997). In 1993, Chad Saucier, pledged Phi Delta Theta at Auburn University and with a blood alcohol content of 0.371. Jean Lakeman Helms, *Drinking Death Lawsuit Settled Terms of Fraternity's Settlement over Chad Saucier's Death Kept Confidential*, MOBILE REG., Jan. 27, 1996 at 3B; Scott Morris, *Chad Saucier Died after Auburn Fraternity Party*, MOBILE REG., Dec. 11, 1993, at 4A. In the fall of 1995, Charles Carpetta pledged the University of Toledo chapter of Pi Kappa Alpha and was forced to consume alcohol. *Carpetta v. The Pi Kappa Alpha Fraternity*, 718 N.E.2d 1007 (Ohio Com.Pl. 1998). In 1997, Terry Linn, a Delta Chi pledge at Bloomsburg

University died with a blood alcohol content of 0.40. Mary Ellen Elu, *Student Binge Drinking Still Plagues Colleges*, MORNING CALL, Apr. 30, 1995; Amber L. Ramage, *A History of College Drinking Fatalities*, HARV. CRIMSON, Sep. 20, 1997. The same year, Binaya Oja, pledged Theta Chi Fraternity at Clarkson University, pledged Delta Sigma Chapter of Theta Chi Fraternity where he was forced to consume excessive amounts of liquor and beer. *Oja v. Grand Chapter of Theta Chi Fraternity, Inc.*, 255 A.D.2d 781 (1998). Also, in 1997, Scott Krueger pledged Phi Gamma Delta Fraternity at Massachusetts Institute of Technology and was required to drink large quantities of various types of alcohol. *In Vino Mortuus: Fraternal Hazing and Alcohol-Related Deaths*, 31 MCGEORGE L. REV. 1087, 1122 (2002). In 1998, Jack Ivey pledged Phi Kappa Sigma Fraternity at the University of Texas and a member of the Phi Kappa Sigma fraternity where he died with a blood alcohol content of 0.46. Terrence Stutz, *Settlement Reached in Hazing Case: UT Fraternity, Parents Agree to \$2 Million over Son's Death*, DALL. MORNING NEWS, Aug. 2, 2000; John Williams, *Fraternity Settles in Hazing Suit / Student at UT Died after Drinking Contest*, HOUS. CHRONICLE, Aug. 2, 2000. In 1999, Kevin Lawless pledged Sigma Tau Omega Fraternity at Iona College where he died with a blood alcohol content of 0.34. Elsa Brenner, *In Brief: Courts; Mother Sues College*, N.Y. TIMES, July 16, 2000; *Suit in Student's Death Thrown Out*, BUFF. NEWS, December 6, 2000.

In 2000, Adrian Heideman, a pledge of Pi Kappa Phi Fraternity, died from to asphyxiation due to alcohol poisoning with a blood alcohol content of .37. Matthew B. Stannard, *Chico State Fraternity Pledge Dies After Drinking*, S.F. CHRON. (Oct. 10, 2000). Matthew B. Stannard, *Parents Sue over Son's Death Freshman Died in Drinking Ritual at Chico State Frat Party*, S.F. CHRON., May 23, 2001; Bob Egelko, *Manslaughter Charges Weighed in Frat Death DA May Punish Chico State House*, S.F. EXAMINER Oct. 27, 2000. In 2000, Stephen Petz, a student at Ferris State University, pledged the underground fraternity "Knights of College Leadership" and died after alcohol consumption caused his respiratory system to shut down, with a BAC between .32 and .42. *Pair Gets 3-9 Months for Alcohol Death*, GRAND RAPIDS PRESS, Mar. 29, 2001. James Prichard, *Judge Weighs Evidence in Ferris Death*, GRAND RAPIDS PRESS, Aug. 23, 2000. In 2002, Daniel Reardon was a pledge of Phi Sigma Kappa Fraternity at the University of Maryland. In a bid night ritual, Reardon's blood alcohol content rose as high as .5. After being brought to the hospital, he remained in an alcohol induced coma for a week before being taken off life support and dying of acute alcohol intoxication. Amy Argetsinger, *Fraternity Gave Liquor to Pledge Who Later Died; No Hazing, Student Says*, WASH. POST, Feb. 28, 2002. Amy Argetsinger, *Family Sues Fraternity in Death at U-Md.; Alcohol Overdose Killed 19-Year-Old*, WASH. POST, Nov. 19, 2002. In 2002, Benjamin Klein was found dead behind his Zeta Beta Tau fraternity house at Alfred University. Kleins was beaten and abused by his fraternity brother, and later died due to a drug-overdose suicide. *Student Assaulted at Frat House Gets His Reward: The Frat House*, ASSOCIATED PRESS, Apr. 22, 2004. In 2002, Albert Santos was a pledge of Pi Kappa Alpha at the University of Nevada, Reno, when he died from drowning in a fraternity initiation ritual, in which the older brothers knew he did not know how to swim. Additionally, his blood alcohol content was .062. Lenita Powers, *University Introduces Strict Alcohol Policy*, RENO GAZETTE, Aug. 23, 2003; Lenita Powers, *Suit Asserts UNR Student Died During Initiation Rite*, RENO GAZETTE, Feb. 12, 2004. In 2002, Matthew Prime was a pledge of Pi Kappa Alpha fraternity at the University of Kansas, cited 'peer pressure' as the reason he lost consciousness and was taken to the hospital with a blood alcohol content of .294 percent. Prime suffered no permanent injuries, and his lawsuit was dismissed. *Prime v. Beta Gamma Chapter of Pi Kappa Alpha*, 47 P.3d 402 (Kan. 2002). In 2003, Walter Dean Jennings, III, died after being forced to drink copious amounts of water through a funnel after being tortured for several days through sleep deprivation, excessive alcohol consumption, and forced calisthenics. The official cause of death was water intoxication. *Parents Awarded \$1.5 Million in Hazing Lawsuit Against Fraternity*, ASSOCIATED PRESS, Dec. 5, 2007; *Ex-Student Sentenced for Fatal Hazing*, ASSOCIATED PRESS, Feb. 22, 2004. In 2003, Lynn Gordon "Gordie" Bailey Jr. was pledging the Chi Psi Fraternity at the University of Boulder, Colorado, when he consumed alcohol during an initiation ritual and his blood alcohol content rose to .328 and later died of alcohol poisoning. Matt Williams,

*U. Colorado: Last Guilty Pleas in U. Colorado Bailey Case*, COLO. DAILY, July 20, 2005. Berny Morson, *2 More In CU Frat Plead Guilty to Alcohol Offense*, ROCKY MOUNTAIN NEWS, May 17, 2005. In 2004, Chad Meredith was pledging the Kappa Sigma Fraternity at the University of Miami when he died after drowning when older brothers challenged him to swim across the lake after drinking throughout the night. *Meredith v. Kappa Sigma Fraternity*, 2003 WL 25969631 \*1 (Fla.Cir.Ct. Sept. 2, 2003).

In 2007, Gary Devercelly was a member of Phi Kappa Tau Fraternity at Rider University and died after consuming most of a bottle of vodka in twenty-five minutes. He fell into a coma and died two days later after a heart attack due to alcohol poisoning. *2 in Rider Hazing Case Avoid Prison with Pretrial Program*, CNBNEWS.NET (Oct. 1, 2007), <http://www.gloucestercitynews.net/clearysnotebook/2007/10/2-in-rider-hazi.html>. *2 in Rider Hazing Case Avoid Prison with Pretrial Program; 2 Hazing Defendants Avoid Trial*, UNITED PRESS INT'L, Oct. 1, 2007; Mary Jo Patterson, *Rider Officials, Students Indicted in Hazing Death: Unprecedented Charging of Administrators is Warning Against Alcohol, Says Prosecutor*, STAR-LEDGER, Aug. 4, 2007. In 2008, Johnny Smith was a pledge of Delta Tau Delta Fraternity at Wabash College when he died from accidental acute alcohol poisoning, with a blood alcohol content of approximately .4. *Court Oks Parents' Suit Against Fraternity in Wabash College Alcohol Death*, J. & COURIER, May 8, 2013. *Wabash College Freshman Found Dead*, ASSOCIATED PRESS, Oct. 6, 2008. In 2008, Brett Griffin was a pledge of Sigma Alpha Mu Fraternity at the University of Delaware when he fell into cardiac arrest with a blood alcohol content of .341 and died following a night of hazing. *Police Investigate UD Freshman's Death*, ASSOCIATED PRESS, Nov. 8, 2008. *Fraternity "Big Brother" Testifies in UD Freshman's Death*, NEWS J., Nov 7, 2013. In 2008, Carson Starkey was a pledge of Sigma Alpha Epsilon Fraternity at California Polytechnic State University. During a hazing ritual, Starkey died with a blood alcohol content between .39 and .44. Mustang Daily staff report, *Cal Poly Freshman Found Dead after Fraternity Party*, MUSTANG DAILY, Dec. 4, 2008; *AP Alert-NV*, ASSOCIATED PRESS, May 22, 2009. In 2008, Clifford, a pledge of Alpha Epsilon Pi Fraternity at the University of California, Davis, suffered injuries to his foot and ankle while wrestling with a brother at the fraternity house. *Clifford v. Alpha Epsilon Pi Fraternity, Inc.*, C070846, 2015 WL 6501292, at \*1 (Cal. Dist. Ct. App. Oct. 28, 2015). In 2009, Arman Partamian pledged an off-campus fraternity known as the "Pigs" at the State University of New York in Genesco was found dead with a blood alcohol content of .55 after a night of binge drinking and hazing. *Four Days of Drinking Preceded Teen's Death*, DEMOCRAT & CHRON. (Apr. 1, 2009). In 2009, Michael Starks pledged the Sigma Nu Fraternity at Utah State University and died due to alcohol poisoning with a blood alcohol content higher than .35 after a hazing ritual. *Police Investigate Student's Death as Hazing*, ASSOCIATED PRESS, Nov. 25, 2008. *Liquor Blamed for Fraternity Pledge Death*, UNITED PRESS INT'L, Nov. 27, 2008; *Prosecutor Files Hazing Charges in Student Death*, ASSOCIATED PRESS, Jan. 3, 2009. In 2010, Samuel Mason died of acute ethanol poisoning while pledging Tau Kappa Epsilon at Radford University. Tonia Moxley, *Five Fraternity Members Plead Guilty in Radford University Hazing Death*, ROANOKE TIMES, Dec. 15, 2011. In 2011, George Desdunes died while engaging in a hazing ritual with Sigma Alpha Epsilon Fraternity at Cornell University, with a blood alcohol content of .40. Anahad O'Connor, *Cornell Fraternity Sued Over Student's Drinking Death*, N.Y. TIMES, June 27, 2011. *Former Cornell Fraternity Ordered to Pay \$12,000 For Hazing Death*, HUFFINGTON POST, Oct. 28, 2012. In 2012, William Torrance died following excessive alcohol consumption as part of a hazing ritual of the underground Fraternity of Delta Gamma Iota at Vincennes University. Aaron Castleman, *Vincennes University Student Found Dead*, 13 WTHR, Feb. 18, 2012 (updated: Apr. 14, 2015). *Student from Johnson County Dies after Fraternity Event*, RTV6, Feb. 18, 2012. In 2012, Philip Dhanens died of acute alcohol poisoning with a .36 blood alcohol content following a pledging event at California State, Fresno. Rachel Quigley, *College Freshman, 18, Dies from Binge Drinking 'After Being Locked in Room with 15 Other Pledges and Told not to Come out Until all Liquor was gone'*, DAILY MAIL, Oct. 10, 2012. In 2012, David Bogenberger was pledging Pi Kappa Alpha at Northern Illinois University and died of acute alcohol poisoning at a

authors explore those that occurred in 2017 and resulted in death, thus precipitating national scrutiny of the issue. In the first section, we explore the hazing incidents that resulted in death. In the second section, we explore those incidents that did not result in death but that resulted in criminal or civil litigation.

*A. Timothy Piazza*

On February 4, 2017, Timothy Piazza, a 19-year-old sophomore at Pennsylvania State University, was pronounced dead after suffering numerous injuries following a hazing ritual.<sup>30</sup> According to a grand jury investigation, on February 2, 2017, Beta Theta Pi members organized an event for their incoming pledge class as a celebration of their bid acceptance.<sup>31</sup> As part of the celebration, pledges were instructed to participate in a ritual known as “The Gauntlet.”<sup>32</sup> A Beta pledge, Evan Rooney, testified that the fraternity brothers instructed the pledges to form a line and drink from a bottle of vodka until it was empty. After finishing the bottle together, the pledges were directed to another station at which they drank more vodka. They then proceeded to the end of the hallway where they were expected to “shotgun” beers. At the final station, the pledges were expected to consume wine. According to police, “The Gauntlet,” is designed to make pledges consume about four to five drinks within the span of two minutes. At the following party, fraternity brothers encouraged the pledges to continue drinking.<sup>33</sup>

Timothy Piazza participated in the ritual along with his pledge class.<sup>34</sup> Surveillance cameras at the Beta house show a visibly inebriated Piazza staggering with the help of a fraternity member from the kitchen to the couch

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fraternity hazing event with a blood alcohol content of .43. *Bogenberger v. Pi Kappa Alpha Corp., Inc.*, 56 N.E.3d 1, 8 (Ill.App. 1 Dist. 2016). In 2014, Marquise Braham committed suicide at his home following pledging the Phi Sigma Kappa fraternity at Pennsylvania State University. Haley Draznin & Ray Sanchez, *Police: Hazing at Penn State Altoona fraternity May Have Led to Suicide*, CNN, Mar. 22, 2014. In 2014, Nolan Burch died of alcohol poisoning following a pledging ritual of Kappa Sigma Fraternity at West Virginia University. His blood alcohol content was six times the legal limit. Jay Tokasz, *Hazing Dismissal Weighed for Amherst Man in Student Death at W. Virginia U.*, BUFF. NEWS, Nov. 23, 2016. Dean Schabner, *WVU Student Who Died in Fraternity Pledging Had Blood Alcohol Six Times Legal Limit*, ABC NEWS, Jan. 27, 2015. In 2014, Trevor Duffy died of alcohol poisoning after being hazed by zeta Beta Tau Fraternity at the University of Albany. His blood alcohol content was seven times the legal limit. Nicole Hensley, *Seven Charged in University at Albany Hazing Death of Bronx Teen Forced to Drink Half Gallon of Vodka*, DAILY NEWS, Nov. 2, 2015.

30. Susan Snyder and Jeremy Roebuck, *Defense Lawyer for PSU Frat Member Disputes Charges*, PHILLY NEWS (May 16, 2017), <http://www.philly.com/philly/education/Defense-lawyer-in-PSU-frat-case-calls-charges-against-his-client-inappropriatesaid-his-client-.html> [<https://perma.cc/JV5T-KXVM>].

31. Bill Chappell, *Penn State Student's Hazing Death Was No Accident, Grand Jury Says*, NPR (May 8, 2017), <https://www.npr.org/sections/thetwo-way/2017/05/08/527434623/penn-state-students-hazing-death-was-no-accident-grand-jury-says> [<https://perma.cc/S3SH-YNUQ>].

32. Snyder, *supra* note 27.

33. Chappell, *supra* note 28.

34. *Id.*

with great difficulty.<sup>35</sup> After being left on the couch, Piazza stood up on his own and ‘severely stagger[ed]’ toward the basement stairs, passing fraternity brothers as he did so.<sup>36</sup> Wireless phone records indicate that Greg Rizzo, a Beta member, sent a group text message to the fraternity members, writing: “Tim Piazza might actually be a problem. He fell fifteen feet down a flight of stairs, head first, going to need help.”<sup>37</sup> Fraternity members proceeded to carry Piazza upstairs, where surveillance cameras show a limp and unconscious Piazza with a visible bruise on his abdomen, being placed on a couch.<sup>38</sup> The brothers are seen sitting next to Piazza and pouring liquid on his face several times.<sup>39</sup> Piazza remained unresponsive.<sup>40</sup> The brothers then attached a backpack to Piazza’s back to prevent him from rolling over.<sup>41</sup> Fraternity member Kordell Davis testified that he told the brothers they needed to call 911 after seeing Piazza’s condition.<sup>42</sup> Fraternity brother Jonah Neuman shoved Davis into a wall and told him to leave the house.<sup>43</sup> At 11:25 p.m., surveillance shows Pledge Master Daniel Casey approached Piazza’s unconscious body and slapped him three times in the face.<sup>44</sup> At 12:14 a.m., a fraternity member tackled another brother, both physically landing on top of Piazza’s body.<sup>45</sup> At approximately 2:00 a.m., Piazza is seen vomiting and twitching.<sup>46</sup> At 1:48 a.m., Piazza rolls off the couch and the brothers watching him slam him back onto the couch.<sup>47</sup> Later, a fraternity member struck Piazza hard in the abdomen with an open hand.<sup>48</sup> At 3:22 a.m., Piazza manages to stand but falls backwards, striking his head on the floor with fraternity brother Jerry Coyne seen nearby.<sup>49</sup> Piazza attempted to stand two more times later in the night, falling face down both times.<sup>50</sup> At 5:15 a.m., a fraternity member is seen stepping over Piazza’s body as he goes downstairs for a drink of water.<sup>51</sup> At 7:21

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35. Charles Thompson, *A Night of Shrugging It Off: Frat Cameras Show Some Care, Concern For Dying Student, But No Action*, PENN LIVE (May 5, 2017), [https://www.pennlive.com/news/2017/05/a\\_night\\_of\\_shrugging\\_it\\_off\\_ca.html](https://www.pennlive.com/news/2017/05/a_night_of_shrugging_it_off_ca.html) [<https://perma.cc/V92L-5AXV>].

36. Kristal Dixon & Kara Seymour, *Frat House Death: Fast Drinking, Slow Death, Frantic Coverup in Grand Jury Timeline*, WOODSTOCK PATCH (May 9, 2017), <https://patch.com/georgia/woodstock/frat-house-death-fast-drinking-slow-death-frantic-coverup-grand-jury-timeline> [<https://perma.cc/AB2T-YGFV>].

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. Thompson, *supra* note 32.

42. *Id.*

43. Dixon & Seymour, *supra* note 33.

44. Thompson, *supra* note 32.

45. Dixon & Seymour, *supra* note 33.

46. *Id.*

47. Thompson, *supra* note 32.

48. Dixon & Seymour, *supra* note 33.

49. Thompson, *supra* note 32.

50. *Id.*

51. *Id.*

a.m., a fellow pledge found Piazza.<sup>52</sup> That pledge testified that he began to video Piazza through the application “Snapchat” before leaving the house.<sup>53</sup> At 10:48 a.m., 911 was finally called.<sup>54</sup> Forensic examination of phone records indicates that fraternity members were directed by Chapter President Brendan Young to delete text messages and clean the house of any vestige of alcohol.<sup>55</sup>

Timothy Piazza’s medical records from February 3 show that his abdominal cavity was filled with “80 percent of his body’s blood supply.”<sup>56</sup> His spleen was shattered and sustained multiple lacerations.<sup>57</sup> Timothy also suffered a subdural hematoma, which caused brain compression and neurological decline.<sup>58</sup> Piazza’s brain was so swollen that neurosurgeons had to perform a temporal lobectomy to accommodate the swelling of his brain and close the surgical site.<sup>59</sup> His physicians testified that it would have been extremely unlikely for anyone to recover from such injuries.<sup>60</sup> Piazza was pronounced dead on February 4, 2017, at the Hershey Medical Center in Hershey, Pennsylvania.<sup>61</sup>

The grand jury investigation on the Piazza case ruled that his death was not an accident.<sup>62</sup> Beta Theta Pi and its members face over one thousand criminal charges for their alleged contribution to Timothy Piazza’s death.<sup>63</sup> Beta Theta Pi’s Pennsylvania State University chapter has been charged with involuntary manslaughter, 50 counts of hazing, 48 counts of furnishing alcohol to minors and 48 counts of unlawful acts in relation to liquor.<sup>64</sup> Eight members of the fraternity face charges of involuntary manslaughter, and an additional ten members were charged with lesser charges.<sup>65</sup> The preliminary hearing for these eighteen men took place on June 12, 2017, in Centre County, Pennsylvania.<sup>66</sup> Timothy Piazza’s

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52. Dixon & Seymour, *supra* note 33.

53. *Id.*

54. Sarah Vasile, *TIMELINE: The Events From the Night Leading Up To and Surrounding the Death of Timothy Piazza*, THE DAILY COLLEGIAN, May 5, 2017, [https://www.collegian.psu.edu/news/crime\\_courts/article\\_b0cd4594-31d3-11e7-ab7e-1f8d2b2a1f24.html](https://www.collegian.psu.edu/news/crime_courts/article_b0cd4594-31d3-11e7-ab7e-1f8d2b2a1f24.html) [<https://perma.cc/7W2C-JHXP>].

55. Seymour, *supra* note 33.

56. Thompson, *supra* note 32.

57. Cleve R. Wootson Jr. & Susan Svrluga, *Penn State Teen Killed in Frat Hazing was Treated like ‘Roadkill and a Rag Doll,’ Parents Say*, WASH. POST (May 15, 2017), <https://www.washingtonpost.com/news/grade-point/wp/2017/05/15/penn-state-teen-killed-in-frat-hazing-was-treated-like-roadkill-and-a-rag-doll-parents-say/?noredirect=on> [<https://perma.cc/ZK3Q-YKVG>].

58. Seymour, *supra* note 33.

59. *Id.*

60. Thompson, *supra* note 32.

61. *Id.*

62. Chappell, *supra* note 28.

63. Press Release, Office of the Centre, Pennsylvania County District Attorney, Beta Theta Pi Fraternity and 18 Brothers Charged in Death of Timothy Piazza; Facing Manslaughter Charges (May 5, 2017) (on file with author).

64. *Id.*

65. *Id.*

66. Charles Thompson, *Preliminary Hearings in Penn State Hazing Death Rescheduled to June 12*, PENN LIVE (May 16, 2017),

parents filed a wrongful death lawsuit against Pennsylvania State University,<sup>67</sup> ultimately settling the case.<sup>68</sup>

*B. Andrew Coffey*

Andrew Coffey, a 20-year-old sophomore at Florida State University (“FSU”), died November 3 after attending a party hosted by the fraternity he was pledging – Pi Kappa Phi.<sup>69</sup> More than 50 people attended the party that was held at an off-campus house on Buena Vista Drive.<sup>70</sup> The morning after the party, the police and paramedics arrived at the house after receiving a 911 call at 10:22 a.m.<sup>71</sup> The police and paramedics confirmed, at the scene, that Coffey had passed away.<sup>72</sup> The police suspected alcohol had been a factor in Coffey’s death; however, the officials are still waiting for the release of the autopsy report.<sup>73</sup>

A week after Coffey’s death, on November 10, the national fraternity of Pi Kappa Phi revoked FSU’s Beta Eta chapter.<sup>74</sup> Before Coffey’s death, the FSU Beta Eta chapter had already had a history of violating the national fraternity’s bylaws.<sup>75</sup> On November 2, the national fraternity had declared that the FSU Beta Eta chapter had violated “the fraternity’s ‘social event management policies.’”<sup>76</sup> In the past five years, the FSU Beta Eta chapter has been under disciplinary action for “hazing, alcohol violations, and unspecified misconduct.”<sup>77</sup> Because

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[https://www.pennlive.com/news/2017/05/preliminary\\_hearings\\_in\\_penn\\_s.html](https://www.pennlive.com/news/2017/05/preliminary_hearings_in_penn_s.html)  
[<https://perma.cc/W554-X4NH>].

67. Craig Turpin, *Family of Teen Who Died at Penn State Frat to File Wrongful Death Lawsuit*, N.J.COM (May 15, 2017), [https://www.nj.com/news/index.ssf/2017/05/wrongful\\_death\\_lawsuit\\_to\\_be\\_filed\\_by\\_family\\_of\\_te.html](https://www.nj.com/news/index.ssf/2017/05/wrongful_death_lawsuit_to_be_filed_by_family_of_te.html) [<https://perma.cc/Z4F6-S7E9>].

68. Darran Simon & Rob Frehse, *Parents of Timothy Piazza Reach Settlement with Beta Theta Pi Fraternity after Pledge’s Death*, CNN (Dec. 8, 2018), <https://www.cnn.com/2018/09/05/us/piazza-family-fraternity-settlement-penn-state/index.html> [<https://perma.cc/R37G-HWKL>].

69. Karl Ethers, *Grand Jury Examining FSU Pledge’s Death*, TALLAHASSEE DEMOCRAT (Dec. 5, 2017), <https://www.tallahassee.com/story/news/2017/12/05/grand-jury-examining-fsu-pledges-death/923842001/> [<https://perma.cc/PMZ6-ZL8H>].

70. Ryan Van Velzer, *Fraternity Revokes FSU Charter in Wake of Andrew Coffey’s Death*, SUN SENTINEL (Nov. 10, 2017), <https://www.sun-sentinel.com/news/florida/fl-reg-pi-kappa-phi-revokes-charter-20171110-story.html> [<https://perma.cc/TLA4-E4EQ>]; Claire McNeill, *Police Report Sheds Little Light On FSU Fraternity Death*, TAMPA BAY TIMES (Nov. 7, 2017), <https://www.tampabay.com/blogs/gradebook/2017/11/07/police-report-sheds-little-light-on-fsu-fraternity-death/> [<https://perma.cc/PV64-X4KL>].

71. McNeil, *supra* note 67.

72. *Id.*

73. Ethers, *supra* note 66.

74. Van Velzer, *Fraternity Revokes FSU Charter Revoked in Wake of Andrew Coffey’s Death*, *supra* note 67.

75. *Id.*

76. *Id.*

77. *Id.*

of the alcohol violation, the chapter was required to enroll in a “remedial program,” in 2015.<sup>78</sup>

Florida State University responded to Coffey’s death by an immediate suspension of Pi Kappa Phi.<sup>79</sup> However, on November 6, the FSU community faced another scandal with the arrest of 20-year-old Garrett John Marcy for selling cocaine.<sup>80</sup> Marcy was a member of Phi Delta Theta.<sup>81</sup> On the same day as Marcy’s arrest, President Thrasher extended the impact of the suspension to all Greek organizations until a “new normal for Greek Life at the university” is established, along with “a new culture” that the student body supports and participates in.<sup>82</sup> Thrasher also banned alcohol from being served at “all student organization events” until the suspension is lifted.<sup>83</sup> Criminal charges were brought against several Pi Kappa Phi members, with those charges being dismissed against four in May of 2018.<sup>84</sup>

### C. Matthew Ellis

Matthew Ellis, a 20-year-old sophomore at Texas State University (TSU), died on November 13 after attending an initiation event and party at the Pi Kappa Psi Fraternity.<sup>85</sup> The party was hosted off-campus and drinking had been taking place at the event.<sup>86</sup> The toxicology report had not been released yet; however, the police suspect alcohol to have been a factor in Ellis’ death.<sup>87</sup> Following Ellis’

78. Ryan Van Velzer, *Pompano Beach Fraternity Pledge Found Dead After FSU Off-Campus Party*, LA TIMES (Nov. 4, 2017), <https://www.latimes.com/fl-pn-pompano-fsu-student-death-20171104-story.html> [<https://perma.cc/3ZZL-5XWG>].

79. Andrew Pantazi, *Greek Life Ban Raises Effectiveness Doubts FSU Suspended Fraternities, Sororities’ Activities After Student Death at Party*, FLA. TIMES-UNION (Nov. 14, 2017), <https://www.questia.com/newspaper/1G1-514773726/greek-life-ban-raises-effectiveness-doubts-fsu-suspended> [<https://perma.cc/EY69-7U37>].

80. Joe Reedy, *Florida State Suspends Greek Life Following Alcohol Death*, AP NEWS, (Nov. 6, 2017), <https://apnews.com/cde55d0487904b2c858a63ea38e07b5a> [<https://perma.cc/7893-V6FX>].

81. *Id.*

82. *Id.*

83. Joe Reedy, *Florida State Becomes 3rd University to Suspend Greek Life*, CHI. TRIB. (Nov. 7, 2017), <https://www.chicagotribune.com/news/nationworld/ct-florida-state-greek-life-suspension-20171107-story.html> [<https://perma.cc/F3C4-D7PF>].

84. Karl Ethers, *Judge Dismisses Felony Hazing Charges against Fraternity Members*, TALLAHASSEE DEMOCRAT (May 18, 2018), <https://www.tallahassee.com/story/news/2018/05/18/judge-dismisses-felony-hazing-charges-against-fraternity-members/624802002/> [<https://perma.cc/8BGL-66LB>].

85. Julie Silva, *Texas State Suspends Greek Activities After Death of Atascocita HS Graduate*, HOUS. CHRON. (Nov. 22, 2017), <https://www.chron.com/neighborhood/atascocita/news/article/Texas-State-suspends-Greek-activities-after-death-12358024.php> [<https://perma.cc/U9DR-EQ8X>].

86. Anita Miller, *Autopsy Wait Triggers Forensic Frustration*, SAN MARCOS DAILY REC., Nov. 17, 2017, 2017 WLNR 36096327.

87. Valerie Edwards, *Texas State University Fraternity Pledge, 20 Found Dead The Morning After Initiation Ritual*, DAILY MAIL (Nov. 15, 2017), <https://www.dailymail.co.uk/news/article-5083939/Texas-State-University-investigates-death-frat-pledge.html>, [<https://perma.cc/YP64-X4FS>].

death, the university's president, Denise Trauth, suspended all Greek life "until a thorough review of the Greek Affairs system is completed."<sup>88</sup> The review will be completed by the Vice President for Student Affairs, Dr. Joanne Smith, including recommendations for the Greek life system when the eventual reinstatement of the chapters occurs. The TSU chapter of Pi Kappa Psi had already been under suspension from the national fraternity the week preceding Ellis' death for "unrelated matters."<sup>89</sup> The national fraternity responded that the TSU chapter "will remain suspended while the investigation continues."<sup>90</sup> Kelly Bomersbach, the San Marcos Police Department Commander, stated if alcohol poisoning is the cause of death and that "charges could range from providing alcohol to a minor to manslaughter."<sup>91</sup> An autopsy report indicated Ellis had a blood alcohol level of 0.38, "more than four times the legal limit to drive in Texas."<sup>92</sup> On April 11, 2018, A Hays County grand jury indicted TSU Pi Kappa Psi fraternity member who investigators claim gave alcohol to Ellis, who died of alcohol toxicity.<sup>93</sup> If convicted on the Class A misdemeanor in connection to Ellis' death, Austin Rice faces up to a year in jail and a \$4,000 fine.<sup>94</sup> The indictment stated that Rice provided "alcohol as a gift to a person who (he) knew was under the age of 21."<sup>95</sup> TSU records indicate Rice is a current student, and "*The New York Times* reported in November 2017 that Rice was listed in promotional materials as one of three recruitment captains with Phi Kappa Psi."<sup>96</sup>

#### D. Maxwell Gruver

On September 14, 2017, Maxwell Gruver, an 18-year-old freshman at Louisiana State University ("LSU"), died while pledging Pi Delta Theta.<sup>97</sup> He died from "acute alcohol intoxication with aspiration," with a BAC of 0.495.<sup>98</sup>

88. Silva, *supra* note 82.

89. Maggie Astor, *Texas State Halts Greek Activities After Fraternity Pledge Dies*, N.Y. TIMES (Nov. 14, 2017), <https://www.nytimes.com/2017/11/14/us/texas-state-greek-life.html> [https://perma.cc/2NH3-TXYQ].

90. Valerie Edwards, *Texas State University Fraternity Pledge, 20, Found Dead the Morning After Initiation Ritual*, DAILY MAIL (Nov. 15, 2017), <https://www.dailymail.co.uk/news/article-5083939/Texas-State-University-investigates-death-frat-pledge.html> [https://perma.cc/U79J-97BK].

91. Miller, *supra* note 83.

92. Tony Plohetski, *Texas State Fraternity Member Indicted in Connection with Pledge Death*, AUSTIN AM. STATESMAN (Apr. 24, 2018), <https://www.statesman.com/NEWS/20180424/Texas-State-fraternity-member-indicted-in-connection-with-pledge-death> [https://perma.cc/DY2X-HT5T].

93. *Id.*

94. *Id.*

95. *Id.*

96. *Id.*

97. Wilborn P. Nobles III, *Maxwell Gruver's Mother Calls LSU Student's Hazing Death a Murder*, NOLA MEDIA GROUP (Dec. 14, 2017), [https://www.nola.com/crime/index.ssf/2017/12/maxwell\\_gruver\\_hazing\\_death.html](https://www.nola.com/crime/index.ssf/2017/12/maxwell_gruver_hazing_death.html) [https://perma.cc/XJL2-MK8E].

98. *Id.*

His death resulted from a pledging event called “Bible Study,” during which pledges were tested on their knowledge of the chapter and were forced to drink for answering incorrectly.<sup>99</sup> Throughout the event, older members threw hot sauce and mustard at the pledges and had the pledges do wall sits while current members walked across their knees. Gruver was allegedly “forced” to drink 190-Diesel when he answered questions incorrectly.<sup>100</sup> He faced pressure from Pi Delta Theta member Matthew Alexander Naquin to drink more than other pledges. Naquin “targeted” Gruver because of the freshman’s previous late attendances to fraternity events.<sup>101</sup> Following the “Bible Study,” Gruver was left on a couch by older members and was found unresponsive around 11:00 a.m.<sup>102</sup> He was transported to Our Lady of the Lake Hospital in Baton Rouge and passed away later that day. Following Gruver’s death, LSU President F. King Alexander suspended all Greek activities on campus, implemented an alcohol ban for sororities and fraternities and formed a Greek Life Task Force to investigate Greek life on campus. The president temporarily lifted the alcohol ban for fraternities and sororities the weekend of October 13, then reinstated the ban on October 19 following negative responses from alumni and the student body. The duration of the ban is set to last “at least until” the Greek Life Task Force completes their report in January of 2018. The national Pi Delta Theta’s responded to Gruver’s death with the immediate closure of the LSU chapter.<sup>103</sup> On October 11, ten members of the LSU chapter of Phi Delta Theta – eight current students and two former students – were arrested and are currently facing hazing charges over Gruver’s death.<sup>104</sup> Naquin is facing an additional negligent homicide charge.<sup>105</sup> As of December 14, 2017, a grand jury had convened to start “a series of meetings to discuss the case.”<sup>106</sup> In March 2018, a grand jury indicted four suspects: Matthew Naquin on charges of negligent homicide and three

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99. Fernando Alfonso III, *Arrest Warrant: Houston Man Acted in ‘Bible Study’ Activity Before LSU Fraternity Pledge Death*, HOUS. CHRON. (Oct. 12, 2017), <https://www.chron.com/news/houston-texas/houston/article/houston-man-lsu-hazing-death-details-bible-study-12272817.php> [https://perma.cc/T28U-TXTE].

100. Nobles III, *Maxwell Gruver’s Mother Calls LSU Student’s Hazing Death a Murder*, *supra* note 94.

101. Wilborn P. Nobles III, *LSU Reinstates Alcohol Ban for Greeks After University Says Some Failed to Take it Seriously*, NOLA MEDIA GROUP, (Oct. 20 2017), [https://www.nola.com/education/index.ssf/2017/10/lsu\\_reinstates\\_alcohol\\_ban\\_on.html](https://www.nola.com/education/index.ssf/2017/10/lsu_reinstates_alcohol_ban_on.html) [https://perma.cc/DL7G-AJVU].

102. *Id.*

103. *LSU Frat Suspended, May Have Violated University Policies*, FOX NEWS (Nov. 8, 2017), <https://www.foxnews.com/us/lsu-frat-suspended-may-have-violated-university-policies> [https://perma.cc/5G7S-S7ZA].

104. Eli Rosenberg, *A Fraternity Pledge Died of Alcohol Poisoning. Now 10 are Charged with Hazing in Connection with His Death*, WASH. POST (Oct. 11, 2017), [https://www.washingtonpost.com/news/grade-point/wp/2017/10/11/a-fraternity-pledge-died-of-alcohol-poisoning-now-10-are-charged-with-hazing/?utm\\_term=.67fc4dc17beb](https://www.washingtonpost.com/news/grade-point/wp/2017/10/11/a-fraternity-pledge-died-of-alcohol-poisoning-now-10-are-charged-with-hazing/?utm_term=.67fc4dc17beb) [https://perma.cc/JWU-HEB5].

105. Nobles III, *Maxwell Gruver’s Mother Calls LSU Student’s Hazing Death a Murder*, *supra* note 94.

106. *Id.*

others indicted on hazing charges.<sup>107</sup> When hearing evidence against five other suspects, the grand jury could not reach a consensus on whether to charge the suspects.<sup>108</sup> The jury declined to charge the fifth suspect according to District Attorney Hillar Moore's report.<sup>109</sup> Moore's office previously decided not to prosecute another suspect.<sup>110</sup> The grand jury also heard evidence relating to LSU's Phi Delta Theta chapter and whether it had a criminal liability for hazing, yet the grand jury could not come to a consensus.<sup>111</sup> Naquin's attorney John McLindon stated he and his client were "prepared to go to trial."<sup>112</sup> "No one forced Max Gruver to drink," McLindon said.<sup>113</sup> "I'm prepared to show that my client is not guilty of negligent homicide."<sup>114</sup> In August 2018, Gruver's parents filed a lawsuit in US District Court in the Middle District of Louisiana against LSU, Phi Delta Theta and several of its members alleging they failed to adequately address hazing on campus, despite numerous hazing claims.<sup>115</sup> The lawsuit, which seeks \$25 million, claims LSU violated Title IX in how it navigated hazing claims in fraternities and sororities differently.<sup>116</sup> The culture of fraternity hazing was permitted to continue because of "outdated gender stereotypes about young men engaging in masculine rites of passage," said a statement from the Cazayoux Ewing Law Firm, which represents the Gruver family.<sup>117</sup> The suit further alleges LSU was well aware of the risks associated with fraternity hazing, and was not forthright about those risks.<sup>118</sup>

### III. WHITE MALE ANXIETY AND HYPERMASCULINITY

The leading thinker on white masculinity, Michael Kimmel, has delineated both the roots and consequences of modern white masculinity.<sup>119</sup> Kimmel examines the crisis of masculinity that emerged among white men in the 1960s and 1970s, an era marked by powerful social movements that "offered scathing

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107. Dakin Andone & Tina Burnside, *LSU Fraternity Pledge's Death Leads to 4 Indictments*, CNN (Mar. 17, 2018), <https://www.cnn.com/2018/03/16/us/maxwell-gruver-hazing-indictments/index.html> [<https://perma.cc/E6S7-4B4Q>].

108. *Id.*

109. *Id.*

110. *Id.*

111. *Id.*

112. Andone & Burnside, *supra* note 104.

113. *Id.*

114. *Id.*

115. Dakin Andone, *Lawsuit Claims LSU Ignored Alleged Fraternity Hazing Before Pledge's Death Last Year*, CNN (Aug. 17, 2018), <https://www.cnn.com/2018/08/17/us/max-gruver-lsu-frat-death-lawsuit/index.html> [<https://perma.cc/CVP9-6ZTF>].

116. *Id.*

117. *Family Alleges University and Frat Ignored Known Hazing Traditions that Resulted in Son's Death*, CAZAYOUX EWING LAW FIRM (Aug. 17, 2018), <https://www.cazayouxewinglaw.com/news-and-insights/2018/08/17/family-alleges-university-and-frat-ignored-known-hazing-traditions-that-resulted-in-sons-death/> [<https://perma.cc/7VQ4-FW95>].

118. Andone, *supra* note 112.

119. See MICHAEL KIMMEL, *MANHOOD IN AMERICA: A CULTURAL HISTORY* (1996).

critiques of traditional masculinity and demanded inclusion and equality in the public arena.”<sup>120</sup> The women’s rights, civil rights, and gay liberation movements challenged racial hierarchies and traditional gender roles, leaving white men in search of their place in the world.<sup>121</sup> For example, confidence in the ‘masculine mystique’ – the man of formidable strength, stoicism and responsibility – was shattered.<sup>122</sup> Middle-class white men now scrambled to redefine their masculine identity within the home and in society.<sup>123</sup>

The promise of the self-made man and the glory of the “breadwinner” lost their allure during this time period, as both were now considered sources of stress, loneliness and depression.<sup>124</sup> Even more jarring was the demotion of soldier from manly hero to “failed man” in the wake of the Vietnam War.<sup>125</sup> At its core, the antiwar movement epitomized the escalating crisis of masculinity as men fought to distinguish (and define) the strong from the weak.<sup>126</sup> When President Kennedy was assassinated in 1963, a shockwave reverberated across the nation.<sup>127</sup> The assassination of a powerful national hero, a virile man in his prime, was akin to the assassination of the manhood he so resoundingly represented.<sup>128</sup> At the same time, traditionally marginalized groups were demanding inclusion professionally and politically.<sup>129</sup> As women, black men and gay men staked their claims for identity and masculinity, white men found themselves lacking a comparison by which to define their own masculinity.<sup>130</sup> This gave rise to the men’s liberation movement.<sup>131</sup>

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120. *Id.* at 271.

121. *Id.* at 262-63; *see also* MICHAEL KIMMEL, *ANGRY WHITE MEN: AMERICAN MASCULINITY AT THE END OF AN ERA* 38 (2017).

122. KIMMEL, *MANHOOD IN AMERICA: A CULTURAL HISTORY*, *supra* note 116, at 262.

123. *Id.* at 263-64.

124. *Id.* at 265-266. To this point, in his work, David Savron indicated that the ideal man of this time, the “breadwinner,” was solely responsible for the financial stability of his nuclear family. DAVID SAVRON, *TAKING IT LIKE A MAN* 46 (1998). The nuclear family, therefore, became a critical source of reinforcement of normative gender roles. *Id.* Furthermore, the American male identity had adapted from its predecessors to accommodate the postwar culture of Fordism. *Id.* at 47. Fordism, defined by “mass-production and assembly-line technology” gave rise to the “organization man” who was expected to prioritize the needs and interests of the corporation over his own. *Id.* Men were encouraged to cooperate, rather than compete, with each other, as well as demonstrate loyalty and obedience to their superiors. *Id.* Moreover, men were increasingly expected to engage in traditionally female activities in the home, such as “changing diapers, washing dishes, [and] cooking meals.” *Id.* at 47-48. This feminization of the male role at work and in the home created a gender identity crisis among American men. *Id.* at 48.

125. KIMMEL, *MANHOOD IN AMERICA*, *supra* note 116, at 263.

126. *Id.* at 267.

127. *Id.*

128. *Id.* at 267-68.

129. *See id.* at 280.

130. *Id.*

131. *Id.* at 280-81.

The men's liberation movement, launched in the 1970s, was often criticized as "merely a case of oppression envy."<sup>132</sup> In reality, it was not so trivial.<sup>133</sup> Initial men's rights activists sought to free men from the trappings of traditional masculinity.<sup>134</sup> They promised to release men from the oppressive expectations of manhood so they may finally live with a sense of purpose, fulfilment and happiness.<sup>135</sup> For the first time in the nation's history, American men were rejecting conventional requirements for manhood and asserting their own, new identity – without escaping into the wilderness in search of masculinity or excluding women, black men and gay men from the arena.<sup>136</sup> Nevertheless, the men's liberation movement did not gain significant traction among cultural observers, feminists or mainstream American men.<sup>137</sup> Traditional concepts of masculinity persisted, gaining popularity when only slightly nuanced.<sup>138</sup> By the end of the 1970s, it became clear that altering men's gender roles would not revolutionize the social and economic structure in their favor.<sup>139</sup> As a result, men began to assert their own victimhood.<sup>140</sup>

The 1980s are often remembered with nostalgia as the decade in which America reaffirmed its pride and saw the return of the true American man.<sup>141</sup> However, according to Kimmel, manhood since the 1980s has been characterized more by confusion than anything else.<sup>142</sup> He identifies three types of men that emerged at this time: the wimps, the whiners, and the weekend warriors.<sup>143</sup> The wimps were sensitive, compassionate and passive.<sup>144</sup> They were not interested in grand displays of male toughness and bravado.<sup>145</sup> Other men, and some women, resented the wimp for his lack of sexual drive and professional ambition.<sup>146</sup> The whiners belonged to the men's rights movement and advocated for the return of the traditional, self-made man.<sup>147</sup> They felt threatened by women moving beyond their traditional role as the submissive housewife.<sup>148</sup> Feminists, according to the whiners, were an oppressive and emasculating force determined to weigh men down with guilt and shame.<sup>149</sup> Men were the real victims of sexual harassment, domestic violence, unfair divorce laws, systematic scapegoating and "antimale

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132. *Id.* at 280.

133. *Id.*

134. *Id.*

135. *Id.* at 280-81.

136. *Id.* at 281.

137. KIMMEL, MANHOOD IN AMERICA, *supra* note 116, at 286.

138. *Id.*

139. *Id.* at 290.

140. *See id.* at 290, 300.

141. *Id.* at 291.

142. *Id.* at 292.

143. *Id.* at 291-328 (ch. 9).

144. KIMMEL, MANHOOD IN AMERICA, *supra* note 116, at 293.

145. *See generally, id.* at 292-295.

146. *Id.* at 294.

147. KIMMEL, MANHOOD IN AMERICA, *supra* note 106, at 300.

148. *Id.*

149. *Id.*

sexism.”<sup>150</sup> The third group, the weekend warriors, were men who sought an escape from the feminization of American males.<sup>151</sup> They searched for all-male environments – such as wilderness retreats, fraternities, same-sex schools and Boy Scout troops – designed for men – real men – to demonstrate to each other their rugged manliness and ensure that the next generation would not grow up to be wimps.<sup>152</sup>

In short, white masculinity, over the past fifty years, has largely been defined as a reaction to the strides of racial minorities, women, and the LGBTQ community. The America that white men once knew, ceased to exist decades ago, and this has caused them great angst. As a result, white men have largely fashioned a new form of masculinity, rooted in their fears. It is this new white masculinity that has associated with it, especially within college culture, hazing and excessive alcohol use.

#### IV. HYPERMASCULINITY, RISK-TAKING, AND ALCOHOL USE

It should come as no surprise that men harboring anxieties about their manhood would engage in hypermasculine conduct—e.g., violence and alcohol consumption. Societal and cultural conceptions of masculinity hail social drinking as a symbol of manliness and dominance.<sup>153</sup> The consumption of alcohol is heralded as a boy’s entrance into manhood; heavier consumption of alcohol is widely expected to increase one’s manliness.<sup>154</sup> The greater toleration a man has for alcohol, the greater his degree of masculinity.<sup>155</sup> Among college students, men overwhelmingly view heavy drinking as a source of pride and affirmation of masculinity and therefore tend to increase their alcohol consumption in the presence of other men.<sup>156</sup> Not surprisingly, male alcoholics significantly outnumber female alcoholics.<sup>157</sup> At some point in their lives, 39% of men report “psychological dependence” on alcohol, 18% are “problem drinkers” and 10% are “alcoholics.”<sup>158</sup>

Not only is drinking itself considered manly, drinking is increasingly linked to three traditional elements of masculinity: unconventionality, risk-taking and aggressiveness.<sup>159</sup> Men are likely motivated to drink heavily because it illustrates unconventionality and deviance, both of which are qualities that men are encouraged to embody. Heavy drinking, because of its potential to endanger

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150. *Id.* at 301-02.

151. *Id.* at 309.

152. *Id.*

153. Samantha Wells et al., *Linking Masculinity to Negative Drinking Consequences: The Mediating Roles of Heavy Episodic Drinking and Alcohol Expectancies*, 75 SOC. & EPIDEMIOLOGICAL RES. DEP’T 510, 511 (2014).

154. Russell Lemle & Marc E. Mishkind, *Alcohol and Masculinity*, 6 J. SUBSTANCE ABUSE TREATMENT 213, 214 (1989).

155. *Id.*

156. Wells et al., *supra* note 142, at 511; Lemle & Mishkind, *supra* note 143, at 215.

157. Lemle & Mishkind, *supra* note 143, at 213.

158. *Id.*

159. *Id.* at 216.

one's health, has also come to exemplify a manly willingness to take risks.<sup>160</sup> Finally, drinking is highly associated with increased aggression.<sup>161</sup> The expectation of aggressiveness is powerful enough alone to impact a man's disposition. For example, in a controlled laboratory setting, subjects were led to believe they had consumed alcohol, though they had not. Nevertheless, participants demonstrated increased aggression; the belief that they had consumed alcohol was sufficient to alter their behavior to conform to societal expectations.<sup>162</sup>

Hegemonic masculinity is "a multidimensional approach to understanding gender that permits analysis of individual interactions, social structure, and culture."<sup>163</sup> Hinote and Webber used this concept as a framework for understanding how historical, cultural and social context shape gendered expectations and behaviors.<sup>164</sup> More specifically, Hinote and Weber examined heavy, social alcohol consumption among Russian men and its associated form of hegemonic masculinity.<sup>165</sup> They found that men who perceived a loss of dominance – or, masculinity – drank heavily to compensate.<sup>166</sup> Such heavy social drinking provided marginalized men access to dominant masculine resources such as money, power and influence.<sup>167</sup> This demonstrates that concepts of gender related to alcohol can have a significant impact on individual health and longevity.

The alcohol industry's representation of manhood and gender relations perpetuates traditional "macho" concepts that have been proven to contribute to violence against women.<sup>168</sup> Alcohol advertisements often engage young people by promoting desirable lifestyles and identities that reinforce existing constructs of gender roles.<sup>169</sup> Such advertisements appeal to traditional concepts of masculinity that "privilege men's dominance, entitlement, and control of women."<sup>170</sup> These constructions of masculinity have long been associated with violence against women.<sup>171</sup> Alison Towns and colleagues examined this link between alcohol advertisements and violence against women and how this association poses a serious threat to healthy heterosexual relationships.<sup>172</sup> Domestic violence prevention efforts are designed to promote "egalitarian

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160. *Id.*

161. *Id.*

162. *Id.*

163. Brian P. Hinote & Gretchen R. Webber, *Drinking Toward Manhood: Masculinity and Alcohol in the Former USSR*, 15 *MEN & MASCULINITIES* 292, 294 (2012).

164. *Id.* at 292.

165. *Id.* at 295.

166. *Id.*

167. *Id.* at 305.

168. Alison J. Towns et al., *Constructions of Masculinity in Alcohol Advertising: Implications for the Prevention of Domestic Violence*, 20 *ADDICTION RES. & THEORY* 389 (2012).

169. *Id.* at 390-91.

170. *Id.* at 389.

171. *Id.* at 389, 391.

172. *Id.* at 389.

relationships and alternative masculinities.”<sup>173</sup> Alternative masculinities seek to promote forms of masculinity that foster healthy relationships with women.<sup>174</sup> However, alcohol advertisements often reinforce traditional values of masculinity “to promote a positive emotive response.”<sup>175</sup> The alcohol industry’s promotion of hegemonic masculinity not only underpins the notion that masculinity requires patriarchal control, but suppresses alternative forms of masculinity as well.<sup>176</sup>

Changes in social order and gender perceptions over time have caused corresponding shifts in beer advertisements.<sup>177</sup> For example, in the 1950s and 1960s, beer advertisements depicted a shared relaxation experience between husband and wife.<sup>178</sup> However, in the 1970s, beer advertisements depicted men drinking beer and women as peripheral, sexualized accessories to the occasion.<sup>179</sup> Advertisements portray comradery among men as the ultimate masculine experience, where “life with the boys is fun, exciting, ‘emotionally comfortable’ and undemanding, with clear, but largely unspoken, boundaries that ‘limit emotional expression.’”<sup>180</sup>

Alcohol advertisements can be understood as “manuals on masculinity,” implying that they influence a far broader range of male lifestyle choices beyond that of beverage.<sup>181</sup> The alcohol industry utilizes iconic characters as symbols of masculinity that perpetuate hegemonic masculinity and suppress women and alternative masculinities.<sup>182</sup> They also employ humor, irony and symbols of manhood to mask more offensive or sexist messages.<sup>183</sup> Furthermore, advertisements have claimed certain spaces, particularly pubs, as exclusively male environments where men can drink together and escape the demands of wives and mothers. Such environments serve as havens for sport-watching and beer-drinking, from which “less masculine” men are also excluded.<sup>184</sup>

Studies show that women suffer far less from alcoholism than men.<sup>185</sup> Although men comprise less than half of the U.S. population, they consume 75% of alcohol, drink twice as often as women and become intoxicated twice as often as women.<sup>186</sup> This gender disparity exists for all ages, races, ethnic groups, education levels, incomes and categories of marital status.<sup>187</sup> Gender roles are the

173. *Id.* at 391.

174. Julie Beck, *Raising Boys With a Broader Definition of Masculinity*, THE ATLANTIC, Apr. 15, 2019, <https://www.theatlantic.com/family/archive/2019/04/how-raise-boys/587107/>

175. *Id.* at 391.

176. *Id.* at 389, 392.

177. *See id.* at 392-393.

178. *Id.* at 392.

179. *Id.* at 392-93.

180. *Id.* at 394.

181. *Id.* at 390.

182. *Id.* at 395.

183. *Id.* at 396.

184. *Id.*

185. Lemle & Mishkind, *supra* note 143, at 213.

186. *Id.* at 213.

187. *Id.*

product of internalized cultural beliefs that define how masculinity and femininity should manifest. These ideologies are distinguished by race, social class, and sexual orientation.<sup>188</sup> Alcohol consumption is a highly gendered activity; male drinking habits are particularly influenced by societal norms and values, as well as the presence and perception of other men.<sup>189</sup> Moreover, Lyons and Willott found that men often define female drinking in male terms and are reluctant to relinquish beer drinking as a predominately male activity.<sup>190</sup> Samantha Wells and colleagues identified four dimensions of the male norm: “no sissy stuff,” “the big wheel,” “the sturdy oak,” and “give ‘em hell.”<sup>191</sup> The “no sissy stuff” dimension demands that men never behave in a manner remotely feminine.<sup>192</sup> “The big wheel” dimension demands that men pursue success and achievement.<sup>193</sup> “The sturdy oak” dimension demands that men exude strength, never weakness.<sup>194</sup> The “give ‘em hell” dimension demands that men seek adventure, whether or not it entails violence.<sup>195</sup>

Studies show that young men are more likely than women to engage in excessive drinking and therefore experience negative consequences, such as risky sexual behavior, aggression and violence.<sup>196</sup> A social constructionist theory of gender proposes that men and women engage in different health-risk behaviors based on social constructs of masculinity and femininity. These constructs are adopted through social, cultural and structural mechanisms. Through these mechanisms, men and women act according to their normative gender role when interacting with other men and women.

Three features of alcohol consumption drive its masculine image: the existence of geographical space dedicated to male drinking, the distinction of ‘manly’ types of alcohol (such as beer), and the perception that a high tolerance of excessive amounts of alcohol is masculine.<sup>197</sup> Because gender identities are formulated in relation to one another, changes in female drinking patterns and expressions of femininity are likely to affect male drinking patterns and expressions of masculinity.<sup>198</sup> In some social-historical contexts, hegemonic

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188. Wells et al., *supra* note 142, at 510.

189. Lemle & Mishkind, *supra* note 143, at 214.

190. Antonia C. Lyons & Sara Willott, *Consuming Male Identities: Masculinities, Gender Relations, and Alcohol Consumption in Aotearoa, New Zealand*, 22 J. COMMUNITY. & APPLIED SOC. PSYCHOL. 330, 342 (2012).

191. Wells et al., *supra* note 142, at 510.

192. Wells et al., *supra* note 142, at 510.

193. *Id.* at 510-11.

194. *Id.* at 511.

195. *Id.*

196. *Id.*; see also Neo K. Morojele et al., *Masculinities, Alcohol Consumption, and Sexual Risk Behavior Among Male Tavern Attendees: A Quality Study in North West Province, South Africa*, 16 PSYCHOL. MEN & MASCULINITY 382, 382 (2015) (finding that in South Africa, a country with high alcohol-consumption rates, alcohol consumption is highly correlated with risky behavior such as high-risk sexual behavior that leads to HIV infection).

197. Lyons & Willott, *supra* note 179, at 331.

198. *Id.* at 332.

masculinity delineates a single form of masculinity as superior to all others.<sup>199</sup> Moreover, the superior identity is the only accepted standard by which to measure such subordinate identities. With regard to drinking, hegemonic masculinity is constructed through, “(i) engaging in drinking practices that [are] specifically gendered in terms of place and activity, (ii) learning to drink beer and (iii) drinking large quantities.”<sup>200</sup>

Heavy drinking is highly prevalent among men in the United Kingdom.<sup>201</sup> Men outrank women in amount consumed, frequency of consumption and intoxication, alcohol abuse and dependency.<sup>202</sup> Men are also more likely to cite intoxication and escapism as their incentive to drink.<sup>203</sup> Over two-thirds of alcohol-related deaths in the U.K. are among men. Drinking is an event commonly shared among men, during which sexist, racist and homophobic discourse play a prominent role.<sup>204</sup> This parade of hegemonic masculinity often involves the degradation of others who are not present, as well as the affirmation of masculinity and solidarity. Moreover, men who are both committed to the hegemonic definition of masculinity and experience a high level of gender-role stress are more likely to resort to alcohol misuse or abuse.<sup>205</sup> However, Kenneth Mullen and colleagues’ study in Scotland suggests that alcohol’s masculine image has recently diminished among certain young men.<sup>206</sup> While traditional masculine drinking norms persist among some men, others are demonstrating greater flexibility in gender role possibilities.<sup>207</sup> The inclusion of women in social drinking and increasing variety of drinking locations and alcohol products have led some young men to develop alternative expressions of masculinity in these contexts.<sup>208</sup>

Heavy episodic drinking is strongly associated with male aggression; more than half of all violent crimes involve alcohol.<sup>209</sup> Peter Miller and colleagues examined the implications of various pharmacological effects of alcohol, such as “a focus on salient environmental cues, reduced anxiety, increased risk taking, impaired cognitive functioning as well as increased concerns about personal power.”<sup>210</sup> Individuals with moderate to high levels of trait aggression are more susceptible to these effects that increase aggression.<sup>211</sup> Additionally, young men seeking to fulfill masculine norms may demonstrate aggression because such

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199. *Id.*

200. *Id.* at 335.

201. Kenneth Mullen et al., *Young Men, Masculinity and Alcohol*, 14 DRUGS: EDUC., PREVENTION & POL’Y 151, 152 (2007).

202. *Id.* at 151.

203. *Id.* at 152.

204. *Id.*

205. *Id.* at 153.

206. *Id.* at 163.

207. *Id.* at 162.

208. *Id.* at 163.

209. Peter Miller et al., *Alcohol Masculinity, Honour and Male Barroom Aggression in an Australian Sample*, 33 DRUG & ALCOHOL REV. 136, 136 (2014).

210. *Id.* at 136-37.

211. *Id.* at 137.

behavior is both accepted and expected during heavy episodic drinking; not because they have aggressive personalities or suppressed anger. In Miller and colleagues' study, heavy episodic drinkers were most likely to engage in aggressive behavior in bars.<sup>212</sup> These men also reported greater concerns of social honor, higher trait aggression and held more "positive male alcohol-related aggression expectancies" than did those who did not engage in aggressive behavior.<sup>213</sup> Although alcohol is a strong determinant of male aggression, it is evident that other factors also contribute to male aggression while drinking, including peer pressure and the desire to conform to masculinity norms.

Because heavy drinking poses a formidable threat to American college men's health, it is critical to understand the underlying motivation to drink.<sup>214</sup> Rocco Capraro found that most men in college drink simply because that is the college man's role.<sup>215</sup> Furthermore, Capraro found that this behavior is paradoxical by nature, as men drink to reflect masculine power when, in fact, they feel powerless.<sup>216</sup> While alcohol *use* is not statistically correlated with masculinity concerns, masculinity concerns predict alcohol misuse and abuse among men.<sup>217</sup> Men suffering from alcohol problems might arrive at this conclusion by one of two paths: the first beginning with traditional masculine attitudes, followed by alcohol use and ending in abuse; the second beginning with concerns or stress about masculinity, leading directly to alcohol problems.<sup>218</sup>

Alcohol is a tool by which college men accomplish their gender role.<sup>219</sup> The ideal male identity in Western culture is "European American, young, heterosexually active, economically successful, athletically inclined, and self-assured."<sup>220</sup> In Peralta's study, men communicated their masculinity through "drinking stories, the body's ability to tolerate alcohol, and the relevance of drinking too little or not at all, which symbolized weakness, homosexuality, or femininity."<sup>221</sup> Although men drink more frequently and in greater quantities than women, gender differences in alcohol consumption by college students are shrinking.<sup>222</sup>

Individuals perform stereotypical notions of gender based on subconscious beliefs about cultural norms.<sup>223</sup> These norms produce and reinforce gendered

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212. *Id.* at 141.

213. *Id.*

214. Rocco L. Capraro, *Why College Men Drink: Alcohol, Adventure, and the Paradox of Masculinity*, 48 J. AM. C. HEALTH 307, 307 (2000).

215. *Id.*

216. *Id.* at 308.

217. *Id.*

218. *Id.*

219. Robert L. Peralta, *College Alcohol Use and the Embodiment of Hegemonic Masculinity Among European American Men*, 56 SEX ROLES 741, 750 (2007).

220. *Id.* at 742.

221. *Id.* at 741.

222. *Id.* at 742.

223. *Id.* at 752.

behavior expectations through a system of social rewards and punishments.<sup>224</sup> By this process, college men are rewarded for demonstrating hegemonic masculinity with stories and trophies of drunken behaviors, which are believed to exhibit elements of stamina, popularity and confidence.<sup>225</sup> Hegemonic masculinity is also expressed through aggressive and risky behavior while drinking.<sup>226</sup> Such acts of ‘courage’ are essential to the hegemonic masculine image of “strength, aggression, and confidence,” thereby fostering a false sense of invincibility.<sup>227</sup> This illusion of invincibility can lead to violent behaviors and even drunk driving.<sup>228</sup> Despite the obvious danger, men face considerable pressure to continually express their masculinity through socially accepted behaviors.<sup>229</sup> In the college context, heavy drinking is legitimized as an appropriate and necessary representation of manhood.

It is well-established that men who possess traditional beliefs of masculinity are more likely to engage in dangerous activities that may result in serious injury or alcohol abuse.<sup>230</sup> Furthermore, research has demonstrated a significant “association between men’s endorsement of traditional views of masculinity and their alcohol use and between men’s experience of masculine role stress and their alcohol problems.”<sup>231</sup> Traumatic brain injuries and spinal cord injuries among men in the U.S. have reached epidemic proportions, with a significant portion attributed to either active military service or risky behavior typical of the hegemonic man. This second category of injured men includes those who refuse to wear seatbelts, drive recklessly and perform dangerous acts “for fun.”<sup>232</sup> Studies show that these men are also far more likely to engage in heavy drinking, both before and after the injury. Because these men are highly concerned with manliness and dominance, post-injury social interactions may lead them to experience negative psychological outcomes and perceive significant threats to their masculinity.<sup>233</sup> Likely already prone to drinking, these men are therefore at risk of alcohol abuse as they seek to reassert their masculinity and power through drinking.<sup>234</sup>

Homosexual men often face severe mistreatment and potential danger when confronted by intoxicated heterosexual men.<sup>235</sup> Ruschelle Leone and Dominic Parrott found that heterosexual men’s adherence to traditional masculine norms

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224. *Id.* at 753.

225. *Id.* at 746.

226. *Id.* at 747.

227. *Id.*

228. *Id.* at 748.

229. *Id.* at 753.

230. Glenn E. Good et al., *Men with Serious Injuries: Relations Among Masculinity, Age, and Alcohol Use*, 53 REHABILITATION PSYCHOL. 39, 39 (2008).

231. *Id.*

232. *Id.* at 40.

233. *Id.* at 42.

234. *Id.* at 43.

235. Ruschelle M. Leone & Dominic J. Parrott, *Dormant Masculinity: Moderating Effects of Acute Alcohol Intoxication on the Relation Between Male Role Norms and Antisocial Aggression*, 16 PSYCHOL. MEN & MASCULINITY 183, 183 (2015).

increased the risk of aggression or violence toward homosexual men, who “are assumed to violate sex norms and are typically viewed as feminine.”<sup>236</sup> Hegemonic masculinity demands that men be exclusively heterosexual, as homosexuality threatens the dominance of the male gender over women. Heterosexual men often assert and enforce hegemonic masculinity through violent acts against gay men.<sup>237</sup> The adherence to and enforcement of such rigid gender norms is likely context-dependent.<sup>238</sup> For example, Leone and Parrott observed that greater acceptance of male toughness norms did not increase the likelihood of sober heterosexual men’s aggression toward homosexual men.<sup>239</sup> However, intoxication among the same men significantly predicted aggression toward homosexual men.<sup>240</sup> Overall, the authors found that acute alcohol intoxication activates concepts of male toughness that translate into antigay aggression.<sup>241</sup>

Gender norms that have endured for centuries compel men and women to tailor their behavior to cultural expectations.<sup>242</sup> Hegemonic masculinity is an ideal that demands unfaltering strength, boundless courage and superior success. Alcohol is a means by which men express, or feign, such masculine ideals, particularly as a coping mechanism for existing inadequacies. Those most concerned with fulfilling the hegemonic masculine image are most likely to suffer from alcohol problems. Thus, gender identity insecurity is a primary driver of alcohol abuse among men in Western cultures.

#### V. ALCOHOL USE AND WHITE FRATERNITY CULTURE

Injuries and accidents associated with excessive alcohol consumption have become the leading cause of death among the United States undergraduate population.<sup>243</sup> The U.S. has recorded approximately 100,000 deaths and spends about \$150 billion on issues related to alcohol abuse.<sup>244</sup> Such tragedies may result from various dangerous activities, including driving while intoxicated, riding as a passenger in a car with an intoxicated driver, and engaging in risky sexual behavior.<sup>245</sup> Members of Greek life, and particularly fraternity men, are significantly more likely to drink alcohol and engage in binge-drinking than their non-Greek peers. As a result, members of fraternities and sororities are far more likely to experience the negative consequences associated with binge-drinking.

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236. *Id.*

237. *Id.* at 184.

238. *Id.* at 190.

239. *Id.* at 192.

240. *Id.* at 190.

241. *Id.* at 190-192.

242. *Id.* at 184.

243. Mary E. Larimer et al., *College Drinking and the Greek System: Examining the Role of Perceived Norms for High-Risk Behavior*, 38 J. C. STUDENT DEV. 587, 587 (1997) [hereinafter *College Drinking and the Greek System*].

244. Mary E. Larimer et al., *Evaluating a Brief Alcohol Intervention with Fraternities*, 62 J. STUD. ALCOHOL 370, 370 (2001).

245. Larimer et al., *College Drinking and the Greek System*, *supra* note 232, at 587.

Fraternity men are at an even greater risk than sorority women of experiencing such consequences.

*A. Alcohol and Drug Prevalence*

Though undergraduate men and women exhibit similar patterns in drinking—such as their likelihood to consume alcohol – Kathleen Ragsdale and colleagues found that significant differences exist between genders that must be addressed in efforts to combat dangerous drinking behavior.<sup>246</sup> For example, men are significantly more likely to drink in Greek houses and college football games, as well as to engage in binge-drinking competitions.<sup>247</sup> Women are more likely to have consumed alcohol in the past 30 days, but less likely to have binged.<sup>248</sup> Despite a decrease in alcohol consumption by college students since the 1990s, dangerous drinking – such binge drinking and frequent drinking – has increased, particularly among members of fraternities and sororities. Effective intervention and prevention programs on college campuses must therefore be gender-specific, tailored to the drinking culture on campus, and cognizant of various psychosocial and environmental factors associated with heavy drinking.<sup>249</sup>

Leonard Goodwin examined alcohol and other drug use among 2,000 fraternity and sorority members.<sup>250</sup> Findings indicated alcohol to be the clear drug of choice among fraternity and sorority members.<sup>251</sup> Ninety-eight percent of respondents drank alcohol every week, while only 47% used marijuana or cocaine during a 20-day period.<sup>252</sup> Fifty percent reported having never used drugs other than alcohol.<sup>253</sup> Goodwin also found that self-monitoring played a significant role in alcohol and other drug consumption.<sup>254</sup> For example, students who experienced more aversive effects from drinking than expected, based on the amount consumed, tended to be more concerned about their alcohol consumption than students who experienced less aversive effects.<sup>255</sup> However, those students who experienced more than average aversive effects from alcohol tended to increase their use of marijuana/cocaine.<sup>256</sup>

Lori Scott-Sheldon and colleagues examined the efficacy of intervention programs designed to reduce alcohol consumption among members of

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246. Kathleen Ragsdale et al., “Liquor Before Beer, You’re in the Clear”: Binge Drinking and Other Risk Behaviours Among Fraternity/Sorority Members and Their Non-Greek Peers, 17 J. SUBSTANCE USE 323, 323 (2012).

247. *Id.* at 329.

248. *Id.* at 335.

249. *Id.* at 337.

250. Leonard Goodwin, *Alcohol and Drug Use in Fraternities and Sororities*, 37 J. ALCOHOL & DRUG EDUC. 52, 52 (1992).

251. *Id.* at 62.

252. *Id.* at 61.

253. *Id.*

254. *Id.*

255. *Id.*

256. *Id.*

fraternities and sororities.<sup>257</sup> Previous research indicates that members of fraternities and sororities, compared to their non-Greek peers, consume higher quantities of alcohol, drink more frequently and experience more alcohol-related consequences.<sup>258</sup> Several factors contribute to alcohol misuse among Greek-affiliated students.<sup>259</sup> First, fraternity and sorority members self-select into peer groups with patterns of heavy alcohol consumption consistent with their own.<sup>260</sup> Second, as aspiring members participate in the socialization process of “pledging,” they are indoctrinated into a culture that rewards alcohol misuse.<sup>261</sup> Third, the environment of Greek housing enables alcohol to play a central role in fraternity and sorority life.<sup>262</sup> Fourth, fraternity members tend to drink more if they perceive their peers to be drinking or to approve of drinking, regardless of whether these assumptions are accurate.<sup>263</sup> Lastly, those who expect alcohol consumption to have positive results, such as improved social skills, tend to drink more.<sup>264</sup> Scott-Sheldon and colleagues found that intervention programs that challenged positive alcohol-related expectancies were more effective in reducing the quantity of alcohol consumed on specific occasions.<sup>265</sup> However, intervention methods “highlighting the situational risk factors that contribute to drinking and efforts to manage drinking” seem ineffective when fraternity and sorority members that perceive alcohol “as a means to achieve their social and sexual goals.”<sup>266</sup>

Students in Greek organizations tend to drink more frequently and in greater quantities than other college students, placing them at higher risk for missing class, obtaining poor grades, engaging in unprotected sex, violence, and death.<sup>267</sup> Jeffrey Cashin and colleagues note that “50% of Greek house residents performed poorly” on a test or important project “compared to 25% of all students,” “70% missed a class compared to 33% of all students and 59% had an argument or fight compared with 35% of all students.”<sup>268</sup> Among the 25,411 students who completed the Core and Alcohol and Drug Survey, non-Greeks averaged significantly fewer drinks per week, engaged in heavy drinking less often and suffered fewer negative consequences of drinking or other drug use than their Greek-affiliate peers.<sup>269</sup> Further, “[t]he leaders of fraternities and

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257. Lori A. J. Scott-Sheldon et al., *Alcohol Interventions for College Students in Greek Letter Organizations: A Systematic Review and Meta-Analysis, 1987 to 2014*, 1 (Nov. 16, 2016) (author manuscript) (full article can be found printed in 35 HEALTH PSYCHOL. 670).

258. *Id.* at 2.

259. *Id.*

260. *Id.*

261. *Id.*

262. *Id.*

263. *Id.*

264. *Id.*

265. *Id.* at 11.

266. *Id.* at 11-12.

267. Jeffrey R. Cashin et al., *Alcohol Use in the Greek System: Follow the Leader?*, 59 J. STUD. ALCOHOL 63, 63 (1998).

268. *Id.*

269. *Id.* at 64, 69.

sororities consumed alcohol, engaged in heavy drinking and experienced negative consequences at levels at least as high and in some cases higher than that of others” who attended functions or were actively involved in Greek life.<sup>270</sup>

In a comparison of two studies (one conducted in 1994, one conducted in 2000) examining alcohol use and its consequences for Greek members, Sandra Caron and colleagues found that while efforts must still be made to reduce heavy alcohol consumption among fraternity and sorority members, progress has been made since 1994.<sup>271</sup> Sorority members are almost twice as likely to be binge drinkers compared to non-sorority women.<sup>272</sup> Further, research shows that being a resident in a fraternity or sorority house, rather than a non-Greek house, is associated with even higher rates of binge drinking.<sup>273</sup> Sandra Caron and colleagues found that a majority of fraternity and sorority members drank in high school and have since increased their consumption.<sup>274</sup> The majority of respondents indicated that they drink on two or more occasions per week, consuming at least four or more drinks on each occasion.<sup>275</sup> Over 60% of respondents stated that they have been so intoxicated that they experienced a loss in memory.<sup>276</sup> Compared to the 1994 sample, fewer students in 2000 reported having drunk in high school, feeling pressured to drink, drinking three or more times per week, consuming more than six drinks in a single evening, using a fake identification, having been arrested for drinking and driving, or having done something they later regretted.<sup>277</sup> Overall, fraternity and sorority members in the 2000 sample appeared to be more responsible in terms of their alcohol use and experienced fewer alcohol-related consequences.<sup>278</sup>

Harrington and colleagues review of the research literature found “[s]tudents who live in fraternity or sorority houses are more likely to drink, to binge drink, and to have experienced complications as a result of alcohol consumption.”<sup>279</sup> However, when compared to non-Greek peers, members of fraternities and sororities are more likely to regard binge-drinking and alcohol consumption more positively, believing that “people who drink have more fun than people who don’t.”<sup>280</sup> Research shows that frequent binge-drinkers are 25 times more likely than non-binge-drinking to engage in delinquent behaviors.<sup>281</sup> Comparing Greek-life and athletics, Jami Lechlitter and colleagues, found that

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270. *Id.* at 63.

271. Sandra L. Caron et al., *Alcohol Use Among Fraternity and Sorority Members: Looking at Change over Time*, 47 J. ALCOHOL & DRUG EDUC. 51, 51 (2004).

272. *Id.* at 52.

273. *Id.* at 53.

274. *Id.* at 60.

275. *Id.*

276. *Id.* at 62.

277. *Id.* at 64.

278. *Id.*

279. Nancy Grant Harrington et al., *Differences in Alcohol Use and Alcohol-Related Problems Among Fraternity and Sorority Members*, 47 DRUG & ALCOHOL DEPENDENCE 237, 238 (1997).

280. *Id.*

281. *Id.*

individuals with increased involvement in sports or Greek life were more likely to use alcohol and experience effects of substance abuse.<sup>282</sup> Additionally, students who participated in both athletics and Greek life “consumed the most alcohol and engaged in the most binge drinking.”<sup>283</sup> Men drank more than women, regardless of their involvement in these two organizations.<sup>284</sup> However, Meilman reports that “fraternity and sorority members are more involved in drinking than athletes.”<sup>285</sup> On college campuses, fraternities facilitate high risk drinking amongst all college students, regardless of Greek affiliation.

### *B. Contributing Factors to Risky Behavior*

In Aaron Turner and colleagues’ analysis of the relationship between parent-child conflict and alcohol-related consequences, parent-child conflict was found to significantly predict the experience of alcohol-related consequences in the child’s transition from high school to college.<sup>286</sup> Parent-child conflict is a reliable predictor of depression and global psychological distress.<sup>287</sup> The more conflict there tended to be, the more potent the effects, and the greater likelihood the child would experience higher levels of negative alcohol-related experiences in their first year of college. Research also demonstrates that parent-child conflict varies by gender. Both sons’ and daughters’ experience with mother-child conflict predicted high-risk drinking behavior, but father-child conflict was a better predictor of high-risk drinking behavior in sons.<sup>288</sup> This research indicates that high-risk drinking behavior may not only be a result of global psychological distress, but also the perceived quality of specific parent-child relationships.

Personality research demonstrates that individuals will seek environments that align with their dispositions.<sup>289</sup> In the transition from high school to college, individuals who engaged in high-risk drinking behaviors prior to college are more likely to seek an environment conducive to such behavior in college.<sup>290</sup> Furthermore, individuals with impulsive, and more specifically, novelty-seeking, personalities are more likely to have drunk heavily in high school.<sup>291</sup> As a result, students with such personality traits may self-select into Greek organizations, where there is ample opportunity to maintain pre-college habits of drinking in

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282. Jami S. Leichter, Philip W. Meilman & Chery A. Presley, *Greeks and Athletes: Who Drinks More?*, 47 J. AM. C. HEALTH 187, 187 (1999).

283. *Id.* at 188.

284. *Id.*

285. *Id.* at 188-89.

286. Aaron P. Turner et al., *Family Risk Factors for Alcohol-Related Consequences and Poor Adjustment in Fraternity and Sorority Members: Exploring the Role of Parent-Child Conflict*, 61 J. STUD. ALCOHOL 818, 819 (2000).

287. *Id.* at 823.

288. *Id.*

289. Aesoon Park et al., *Dual Mechanisms Underlying Accentuation of Risky Drinking via Fraternity/Sorority Affiliation: The Role of Personality, Peer Norms, and Alcohol Availability*, 118 J. ABNORMAL PSYCHOL. 241, 242 (2009).

290. *Id.*

291. *Id.*

excess.<sup>292</sup> Once membership in these organization is acquired, perceived peer drinking norms may lead first-year students to reaffirm their preexisting preference for drinking and subsequently increase their alcohol consumption.<sup>293</sup> This research suggests that intervention seeking to decrease excessive drinking in high school may have a significant impact on future drinking behaviors in college.<sup>294</sup> Unfortunately, intervention beginning after the transition to college may be too late to be effectual.<sup>295</sup> Furthermore, recruitment into Greek organizations should be delayed to the second semester of freshman year or sophomore year to reduce first-year students' susceptibility to, and therefore the potency of, peer influence.<sup>296</sup> However, because dangerous drinking behaviors steadily increase among Greek members throughout the first 3 years of college, intervention programs must target undergraduates of all ages.<sup>297</sup> Effective programs must tackle social norms and incorporate both "supply reduction" and "demand reduction" strategies.<sup>298</sup>

Geller and colleagues examined whether serving low-alcohol beer without partiers' knowledge would reduce alcohol impairment and subsequent DWI (i.e. driving while intoxicated) risk.<sup>299</sup> Previous research provides "substantial evidence that individuals. . .regulate their alcohol intake to achieve a particular state of intoxication."<sup>300</sup> Geller and colleagues hypothesized that individuals, if served low-alcohol beverages, would drink more than those served beverages with standard alcohol content to reach desired levels of intoxication.<sup>301</sup> Geller and colleagues measured the blood alcohol content of students entering and exiting three fraternity parties, each serving drinks varying in alcohol content (low-alcohol beer, standard alcohol content beer, or mixed drinks and low-alcohol beer).<sup>302</sup> The results failed to support a titration hypothesis, which predicts that partiers assigned to the low-alcohol condition would consume beverages at higher rates than partiers assigned to the standard-alcohol condition.<sup>303</sup> Instead, the authors found that "partiers [were] significantly less impaired when served beverages (beer or mixed drinks) with lower alcohol content."<sup>304</sup> While subjects' perceptions of differential alcohol content in their beer or mixed drinks was not assessed systematically, no beer drinker complained about the taste and only two consumers of mixed drinks indicated

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292. *Id.* at 242-43.

293. *Id.* at 252.

294. *Id.*

295. *Id.*

296. *Id.*

297. *Id.*

298. *Id.*

299. Scott E. Geller et al., *Beer Versus Mixed-Drink Consumption at Fraternity Parties: A Time and Place for Low-Alcohol Alternatives*, 52 J. STUD. ALCOHOL 197, 198 (1991).

300. *Id.*

301. *Id.*

302. *Id.* at 197.

303. *Id.* at 202.

304. *Id.*

that they thought their drink was weak.<sup>305</sup> Overall, the blood alcohol content levels “at the end of the parties were not significantly different across the beer and mixed-drink conditions” (i.e. the beer and mixed-drink consumers drank differential amounts of their selected beverages to reach similar levels of alcohol impairment).<sup>306</sup> These findings suggest that “if [] hosts serve low-alcohol beer and mixed drinks without informing their guests, partiers [will] not compensate for the reduced alcohol content by drinking” greater volumes.<sup>307</sup> As a result, blood alcohol content levels at the end of the party will be lowered.<sup>308</sup>

### C. Peer Influence

Research shows that the level of risk for heavy drinking depends on the specific Greek organization rather than general participation in Greek life.<sup>309</sup> Norms regarding the quantity and frequency of alcohol consumption are the primary factors that influence binge-drinking in college.<sup>310</sup> Students report their average drinking to be much higher when they are among peers in their fraternity or sorority.<sup>311</sup> Their individual consumption is therefore much higher than that of the average population.<sup>312</sup> Peer support is among one of the most common factors that influence heavy drinking.<sup>313</sup> When drinking among peers, college students feel more accepted and perceive drinking to play a significant role in socialization.<sup>314</sup> Studies show that Greek life members rely heavily on drinking to better their social reputations, gain acceptance and increase popularity.<sup>315</sup>

Researchers have developed processes and identified various factors to help explain risky drinking among college students.<sup>316</sup> Three individual-difference factors include selection, socialization, and reciprocal social influences.<sup>317</sup> Students who consume alcohol heavily tend to select peers who also consume alcohol heavily.<sup>318</sup> Research indicates that many students enter college with substantial drinking experience and tend to seek students whose drinking habits align with their own.<sup>319</sup> Socialization begins upon entering college when students find themselves in a strange, particular environment that accepts, encourages and

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305. *Id.* at 202.

306. *Id.*

307. *Id.*

308. *Id.*

309. *College Drinking and the Greek System*, *supra* note 232, at 587.

310. *Id.* at 588.

311. *Id.*

312. *Id.*

313. *Id.*

314. *See id.*

315. *Id.* at 587.

316. Christy Capone et al., *Fraternity and Sorority Involvement, Social Influences, and Alcohol Use Among College Students: A Prospective Examination*, 21 PSYCHOL. ADDICTIVE BEHAV. 316, 316 (2007).

317. *Id.* at 318.

318. *Id.* at 316.

319. *Id.*

normalizes alcohol consumption.<sup>320</sup> The process of reciprocal social influence is interconnected with the processes selection and socialization.<sup>321</sup> For example, once immersed in the environment, a student who selects friends that engage in similar drinking behaviors will, over time, continue and potentially escalate his or her degree of alcohol consumption as drinking becomes more normative.<sup>322</sup> This mutually reinforcing system may exacerbate individual consumption and experience of alcohol-related consequences.<sup>323</sup>

Peer support and influence is commonly found among college Greek members who drink.<sup>324</sup> Perception of drinking norms has a significant impact on college drinking. Students tend to overestimate their peers' consumption levels and consequently raise their own consumption levels to accord with what they perceive to be their peers'.<sup>325</sup> Many college campuses attempt to gather students for interventions to inform them of the actual degree of alcohol consumption among their peers.<sup>326</sup> The purpose of such an intervention strategy is to decrease the pressure to conform to perceived societal norms.<sup>327</sup> Students' perceptions of subjective norms can be defined as "perceived social pressure to perform or not to perform the behavior."<sup>328</sup> Students' subjective norms are influenced by what society deems as appropriate behavior.<sup>329</sup> Accordingly, because heavy drinking norms are seen as "normative behavior expectations," students may engage binge-drinking more frequently.<sup>330</sup> Peers in the same age group, and especially in the same Greek organization, have strong effects on whether or not others will participate in drinking.<sup>331</sup>

Males in college fraternities are the heaviest and most frequent drinkers on college campuses.<sup>332</sup> When receiving new members, or "pledges," initiated members use alcohol, amongst other experiences, to welcome and socialize the new members to the fraternity's culture and behavioral norms.<sup>333</sup> Within these social settings, parties rarely occur if alcohol is not present.<sup>334</sup> Under the rule of pledge-educators and older fraternity members, the pledges' consumption of

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320. *Id.*

321. *Id.* at 317.

322. *Id.*

323. *Id.* at 325.

324. Mickey Trockel et al., *Considerations for More Effective Social Norms Based Alcohol Education on Campus: An Analysis of Different Theoretical Conceptualizations in Predicting Drinking Among Fraternity Men*, 64 J. STUD. ALCOHOL 50, 50 (2003); see also Capone et al., *supra* note 284, at 325.

325. Trockel et al., *supra* note 313, at 50.

326. *Id.*

327. *Id.* at 51.

328. *Id.*

329. *Id.*

330. *Id.*

331. *Id.* at 57.

332. George D. Kuth et al., *Liquid Bonding: A Cultural Analysis of the Role of Alcohol in Fraternity Pledgeship*, 34 J. C. STUDENT DEV. 327, 327 (1993).

333. *Id.*

334. *Id.* at 331.

alcohol is based on a system of rewards and punishments.<sup>335</sup> As a reward, alcohol is viewed as a privilege that represents membership within the fraternity.<sup>336</sup> This system of reward and punishment encourages pledges conform to the cultural ideals of the fraternity.<sup>337</sup> Because these mechanisms of conformity create a close-knit brotherhood based on extreme loyalty, the process of pledging and the role of alcohol in fraternities cannot be fully understood or altered by the outside community.<sup>338</sup>

The positive view of alcohol, such as a mechanism to increase socialization among peers, coupled with the prior experience of alcohol-related problems are, together, positively correlated with increased alcohol consumption.<sup>339</sup> Due to this phenomenon, “freshman males [in college environments] have significantly increased their consumption of alcoholic beverages over the past twenty years.”<sup>340</sup> Those who are more likely to drink heavily are typically single, sexually active males who are members of the middle or upper class.<sup>341</sup> Within fraternities, the amount of alcohol that freshman pledges consume is associated with the importance of alcohol consumption within the fraternity as a whole.<sup>342</sup> Individual factors such as ambivalence within the family towards alcohol consumption and lack of personal drinking limits are shown to contribute to an increased level of drinking.<sup>343</sup> More importantly, past drinking behaviors are a reliable indicator of the level of alcohol consumed during pledging.<sup>344</sup> Those more actively involved in religious activities are less likely to drink heavily.<sup>345</sup> High risk characteristics of pledges such as the absence of a stable family background suggest an increased likelihood in heavy drinking.<sup>346</sup> To maximize effectiveness, interventions should be tailored to individuals as well as fraternities, while also maintaining an environment that promotes socialization.

For college students involved in Greek organizations, descriptive and injunctive norms create perceptions about alcohol consumption, the negative consequences drinking and symptoms of alcohol dependence that are predictive of students’ rates of alcohol consumption.<sup>347</sup> The misperception of descriptive norms, which involves the overestimation of the amount of alcohol that peers consume, influences individuals to consume more alcohol to align their

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335. *Id.*

336. *Id.*

337. *Id.*

338. *Id.* at 332.

339. Kim K. Faulkner et al., *Prediction of Alcohol Consumption Among Fraternity Pledges*, 34 J. ALCOHOL & DRUG EDUC. 12, 12 (1989).

340. *Id.*

341. *Id.*

342. *See id.*

343. *Id.* at 17.

344. *Id.* at 18.

345. *Id.*

346. *See id.* at 19.

347. Mary E. Larimer et al., *Predicting Drinking Behavior and Alcohol-Related Problems Among Fraternity and Sorority Members: Examining the Role of Descriptive and Injunctive Norms*, 18 PSYCHOL. ADDICTIVE BEHAVIORS 203, 203 (2004).

behaviors with those of their peers.<sup>348</sup> Injunctive norms influence drinking and other behaviors because they dictate “the behaviors and attitudes that are judged to be acceptable, expected, or correct within a social system.”<sup>349</sup> Research indicates that these two norms can independently predict certain behaviors.<sup>350</sup> Injunctive norms are more important because they are better predictors of alcohol-related problems.<sup>351</sup> Descriptive norms may be better predictors of men’s negative alcohol-related consequences because perceived pledge class drinking behavior and dependence was much stronger among males than among females.<sup>352</sup> Interventions focused on descriptive norms have been more successful, however research suggests that modifying interventions to include injunctive norms would present “fewer ethical and pragmatic difficulties” because they do not target the majority of students that abuse alcohol.<sup>353</sup>

*D. Fraternities, Alcohol, and Sexual Assault*

Many factors contribute to sexual aggression, including, “societal-level supports (cultural values, sexual scripts), institutional influences (peer groups, schools, religious groups), didactic interpersonal context (relationship characteristics, victim characteristics, miscommunication, the situation surrounding the social interaction), and characteristics of the individual man (attitudes, personality traits, gender schema, attraction to sexual aggression, sex/power motives).”<sup>354</sup> College athletic teams and fraternities have been identified as valuing the forceful sexual domination and subordination of women.<sup>355</sup> Out of the three previously mentioned factors, heavy alcohol and nicotine use were the most accurate predictors of sexual aggression.<sup>356</sup> Further, sexual aggression, rape-supportive attitudes and hyper-masculinity amongst fraternity members have been found to be positively associated and exhibit a moderate correlation.<sup>357</sup> These sex related issues are perpetuated through “pornography, sexual ideology, masculinity, and degrading initiation and hazing rituals.”<sup>358</sup> Although fraternity membership alone does not create sexual aggression towards women, a significantly higher number fraternity men compared to non-fraternity men reported that they have engaged in “sexually

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348. *Id.* at 204.

349. *Id.*

350. *Id.* at 204-05.

351. *Id.* at 208.

352. *Id.* at 209.

353. *Id.*

354. John A. Gaines & Mary P. Koss, *The Prediction of Sexual Aggression by Alcohol Use, Athletic Participation, and Fraternity Affiliation*, 8 J. INTERPERSONAL VIOLENCE 94, 94-95 (1993).

355. *Id.* at 95.

356. *Id.* at 104.

357. J. Patrick Biddix, *Moving Beyond Alcohol: A Review of Other Issues Associated with Fraternity Membership With Implications for Practice and Research*, 57 J. C. STUDENT DEV. 793, 795 (2016).

358. *Id.*

aggressive actions.”<sup>359</sup> Additionally, sorority women are “74% more likely to experience rape than other college women,” which may be the result of increased interaction with fraternity men and exposure to alcohol.<sup>360</sup>

Mary Frintner and Laura Rubinson’s research sought to determine the extent to which sexual victimization of undergraduate women was related to alcohol use, fraternity membership and sports team membership.<sup>361</sup> Participants were asked to describe the most sexually stressful event they had experienced since enrolling at the university. Participants were posed with three questions: (1) whether alcohol use occurred, (2) if the man was a member of a fraternity, and (3) if the man was a member of a sports team or club.<sup>362</sup> Results showed that alcohol “play[ed] a major role in the sexual violence [] on college campuses.”<sup>363</sup> According to their research, “Fraternities and fraternity members have often been identified as being involved in acts of sexual violence.”<sup>364</sup> Further, previous research has documented several cases of acquaintance rape and gang rape by fraternity members.<sup>365</sup> In one study, more than 50 cases of gang rape were committed by fraternity members.<sup>366</sup> Sexual violence on campuses has been demonstrated to be strongly connected to fraternities.<sup>367</sup> Frintner and Rubinson believed that because athletic members of universities are often involved in violent behaviors, their involvement in sexual violence on campus should be examined further.<sup>368</sup> The authors found fraternity members and members of sports teams to be overrepresented among crimes of sexual assault, attempted sexual assault and battery, illegal restraint and intimidation.<sup>369</sup> Furthermore, alcohol was involved in the majority of the reported sexually stressful events, suggesting that an association between alcohol and sexual violence exists.<sup>370</sup>

John Foubert and colleagues believe that “effective rape prevention programs should appeal to the way men perceive themselves.”<sup>371</sup> The authors found that rape prevention programs often target fraternity men because previous research has shown them to be more likely than non-Greek males to be sexually coercive, “to use alcohol in an attempt to have sex with women,” to have traditional attitudes toward women, “to believe that women enjoy being physically ‘roughed up,’” and to think “that sexually liberated women are

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359. *Id.*

360. *Id.* at 795-96.

361. Mary Pat Frintner & Laura Rubinson, *Acquaintance Rape: The Influence of Alcohol, Fraternity Membership, and Sports Team Membership*, 19 J. SEX EDUC. & THERAPY 272 (1993).

362. *Id.*

363. *Id.* at 273.

364. *Id.* at 274.

365. *Id.*

366. *Id.*

367. *Id.*

368. *Id.*

369. *Id.* at 280-81.

370. *Id.* at 281.

371. John D. Foubert et al., *An Exploration of Fraternity Culture: Implications for Programs to Address Alcohol-Related Sexual Assault*, 40 C. STUDENT J. 361, 362 (2006).

promiscuous and will probably have sex with anyone.”<sup>372</sup> Foubert and colleagues asked fraternity men to share their experiences in asking for consent from sexual partners after one or both parties had consumed alcohol.<sup>373</sup> They found five major themes, four of which were” related to the decision-making process that fraternity men [employ when] deciding whether to be sexually intimate with a woman.<sup>374</sup> The fifth theme involved ideas fraternity men have for improving rape prevention programming.<sup>375</sup> First was the notion that asking for consent ruined the intimate moment.<sup>376</sup> Self-reports indicated that most male fraternity members did not ask for consent before engaging in sexual behaviors with women.<sup>377</sup> Reasons varied from being afraid of rejection to and looking foolish if they were denied consent.<sup>378</sup> The second and third themes centered on the idea that women may simultaneously present both clear and unclear signals that indicate consent.<sup>379</sup> The second factor exposed that “men believe that women who stand very close to them, pay attention to them, attempt to impress them, persistently initiate sexual contact, and undress in front of them are giving off signals that they want to be intimate.”<sup>380</sup> Fraternity men believe a woman “is still able to consent while she is drinking if she appears to be ‘normal,’” has rational thoughts, is not loud/obnoxious, has good coordination/balance, and is not the “‘token drunk girl’ in a room full of people.”<sup>381</sup>

One concern present in the research is that many men were uncertain of whether a woman can consent to intimacy at all when she has consumed alcohol.<sup>382</sup> In fact, “[t]hey define this situation of uncertainty as the ‘gray area,’ stating that there is no way to know for sure if and when a woman is too drunk to be able to consent to intimacy.”<sup>383</sup> The fourth and most prevailing theme found in the study was that familiarity was an important factor in determining how intoxicated a woman was, how to interpret her body language, and the likelihood the fraternity member would ask for consent.<sup>384</sup> Being in some type of a relationship with a woman allowed men to feel more comfortable asking for consent, interpreting the signals given off, and determining her level of intoxication.<sup>385</sup> Finally, the fifth theme was an expressed interest “in educational programs that incorporate” rape survivors’ stories (as opposed to role-playing scenarios) and open dialogue between men and women regarding differing

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372. *Id.*

373. *Id.* at 365.

374. *Id.* at 366.

375. *Id.*

376. *Id.*

377. *Id.*

378. *Id.*

379. *Id.* at 366-67.

380. *Id.* at 366.

381. *Id.*

382. *Id.* at 367.

383. *Id.*

384. *Id.*

385. *Id.*

perspectives on consent, alcohol, intimacy, and sexual assault.<sup>386</sup> Participants believed that a better understanding of female's perspectives would prevent confusion when interpreting body language (i.e. less use of mind-reading).<sup>387</sup>

*E. Fraternities, Alcohol, and Physical Injury*

Greek membership was found to be a “significant independent risk factor for increased injury (both experienced and caused to others), even after adjusting for drinking behaviors.”<sup>388</sup> Mary O’Brien and colleagues report that “in 2005, there were 1,825 alcohol-related deaths among students ages 18-24, 599,000 unintentional injuries, 646,000 physical assaults, and 97,000 sexual assaults.”<sup>389</sup> O’Brien and colleagues surveyed random samples of Greek undergraduate college students attending 10 universities in North Carolina. Researchers found that “11% of non-Greek-letter students, 18% of Greek-letter pledges, and 13% of Greek-letter members experienced one or more alcohol-related injuries that required medical treatment in the 12 months preceding the survey.”<sup>390</sup> Sorority pledges and members “were significantly more likely to have been sexually assaulted than non-Greek females.”<sup>391</sup> Pledges of Greek organizations were three times as likely to have experienced a fall that required medical attention compared to both non-Greek students and Greek members.<sup>392</sup> Additionally, “[g]reek members were more likely to have been stabbed, shot or burned in the 12 months preceding the survey compared, to non-Greek students.”<sup>393</sup> O’Brien and colleagues found “that alcohol interventions provided in university counseling centers can reduce alcohol use and increase students’ use of protective behavioral strategies.”<sup>394</sup> Further, “[i]ndividual interventions that provide feedback and normative comparisons” were found to be “most likely to reduce alcohol-related problems over time.”<sup>395</sup>

Excessive drinking may cause physical harm, such as hangovers, vomiting or self-injury.<sup>396</sup> Binge-drinking may also affect a student’s criminal reputation by increasing engagement in delinquent behavior such as property damage, drinking while driving or assault.<sup>397</sup> Drinking can also negatively impact interpersonal relationships, such as emotionally hurting close friends or

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386. *Id.* at 369.

387. *Id.*

388. Mary C. O’Brien et al., *Alcohol-Related Injury Among Greek-Letter College Students: Defining a Target Population for Secondary Prevention*, 1 (Apr. 1, 2014) (author manuscript) (full article can be found printed in 18 J. HEALTH PSYCHOL. 461).

389. *Id.* at 2.

390. *Id.* at 3.

391. *Id.*

392. *Id.*

393. *Id.*

394. *Id.* at 4.

395. *Id.* at 4.

396. Harrington et al., *supra* note 268, at 238.

397. *Id.*

exasperating troubles in a romantic relationship.<sup>398</sup> Finally, excessive drinking can lead to academic troubles, including lower grades, missed homework, poor attendance and being late, drunk or hungover upon arrival to class.<sup>399</sup>

## VI. CONCLUSION

Young white men are under enormous pressure to embody the quintessential “guy” and demonstrate masculinity.<sup>400</sup> Without a legitimate and universally accepted form of initiation into manhood, nor a person with clear authority to validate the accomplishment, proving one’s masculinity has become a life-long, perpetual endeavor for American white boys. In college, these boys attempt to initiate boys into manhood.<sup>401</sup> This manifests itself as fraternity hazing. Because peers cannot legitimately initiate peers, fraternity brothers seek evermore hazardous means to validate their manhood.<sup>402</sup> Consequently, enormous peer pressure has not only normalized, but glorified, brutal and degrading hazing and binge drinking.<sup>403</sup> Binge drinking is simultaneously a demonstration of manhood and a preservation of boyhood; it is an exercise of adulthood freedom as well as an evasion of responsibility.<sup>404</sup> Sexually humiliating hazing practices teach pledges that they are the antithesis of “real” men until the older brothers deem them fit for initiation.<sup>405</sup> Even more, drinking and hazing are thus a mechanism by which these boys feel control and power.<sup>406</sup> It is no surprise that these largely white and all-male enclaves are not only places that “facilitate closeness among young men” but also places that protect and edify white masculinity even in its most fragile form.<sup>407</sup>

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398. *Id.*

399. *Id.*

400. See MICHAEL KIMMEL, GUYLAND: THE PERILOUS WORLD WHERE BOYS BECOME MEN 100 (2008).

401. See *id.* at 101.

402. See *id.* at 102.

403. See *id.* at 113.

404. See *id.* at 109.

405. See *id.* at 113.

406. See *id.* at 122.

407. See KIMMEL, MANHOOD IN AMERICA, *supra* note 116, at 309–10.