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## Hazing in “White” Sororities: Explanations at the Organizational-Level

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**Hazing in “White” Sororities:  
Explanations at the Organizational-Level**

*Gregory S. Parks\* and Sarah J. Spangenburg\*\**

ABSTRACT

*Hazing has been a persistent issue in a variety of contexts, institutions, and organizations. In forty-four states, legislatures have passed anti-hazing statutes. However, the law, as a whole, has been insufficient to curtail hazing. Among the broad range of organizational dynamic, at play are the pervasive cognitive biases among members. Further, sororities face many challenges to integrating new and better information across the membership. We contend that pervasive cognitive bias among members, challenges to integrating improved information, and a range of other organizational dynamics all play a role in members’ collective decision-making.*

INTRODUCTION .....	56
I. HAZING INCIDENTS IN “WHITE” SORORITIES .....	58
A. THE 1980S THROUGH THE 1990S .....	59
B. THE 2000S.....	60
C. THE 2010S.....	66
II. INTO THE ABYSS: MAKING MEANINGFUL SENSE OF HAZING.....	76
A. TOWARDS A DEFINITION.....	76
B. SEARCHING FOR SIMPLICITY .....	79
C. MOVING TOWARDS COMPLEXITY.....	82
D. RETHINKING RISK MANAGEMENT.....	85
E. DEVELOPING A COHERENT FRAMEWORK OF THE ISSUE .....	88
III. ORGANIZATIONAL DYNAMICS .....	94
A. COGNITIVE BIASES AND THE PERFECT STORM.....	94
1. Bias Blind-spot.....	94
2. Black Swan Effect.....	96
3. Normalcy Bias and the Ostrich Effect .....	97
4. Framing .....	99
5. Bandwagon Effect.....	101
6. Hypothetical .....	102
B. THE CHALLENGE OF NEW INFORMATION AND BETTER IDEAS	102
1. Asymmetric Information and Mushroom Management....	103

2. Institutional Information Deficit .....	104
3. Shared Information Bias .....	105
4. Curse of Knowledge.....	109
5. Hypothetical .....	110
C. BROADER ORGANIZATIONAL DYNAMICS .....	110
1. Denialism .....	110
2. Normalization of Deviance .....	111
3. Practical Drift.....	113
4. Normal Accidents Theory .....	115
5. Hypothetical .....	117
D. CONCLUSION.....	117

## INTRODUCTION

2017 was a defining year in how white-predominant fraternities contemplate hazing. Universities across the country dealt with the aftermath of fraternity deaths, which sparked conversation on how to approach hazing in historically white fraternities.<sup>1</sup> In 2017, four deaths resulted from white fraternity hazing, including: Penn State sophomore, Tim Piazza, in February; Louisiana State student Maxwell Gruver in September; Florida State junior, Andrew Coffe, in November; and Texas State sophomore Matthew Ellis in November.<sup>2</sup> In early January 2018, National Panhellenic Conference Officials—representing almost 420,000 members—met with student affairs administrators and risk prevention experts to address, *inter alia*, hazing.<sup>3</sup> As indicated by Carole Jones, Chair of the National Panhellenic Conference:

Just as the fight against campus sexual assault demands action from men's and women's groups alike, it's also on us all to fight against hazing. Our aim is to build partnerships with our student life colleagues and with industry leaders that lead to sustainable solutions to these vexing challenges. The sorority community can, and must, do its part to create safer campus cultures where students advocate for one another.<sup>4</sup>

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1. Katie Reilly, 'Those Families Are Changed Forever.' *A Deadly Year in Fraternity Hazing Comes to a Close*, TIME (Dec. 21, 2017), <http://time.com/5071813/fraternity-hazing-deaths-2017/> [<https://perma.cc/C8GT-3E9T>].

2. *Id.*

3. Jeremy Bauer-Wolf, *Sorority Leaders Seek Plans on Hazing, Alcohol Abuse*, INSIDER HIGHER ED, (Jan. 12, 2018), <https://www.insidehighered.com/quicktakes/2018/01/12/sorority-leaders-seek-plans-hazing-alcohol-abuse> [<https://perma.cc/BH5Z-ARKZ>].

4. *Id.* at 3.

Despite the persistent issue of hazing within the white fraternity/sorority community, there has been little research on the topic in white sororities. In fact, looking to hazing dynamics within white sororities may be instructive in thinking about hazing within other groups (e.g., white fraternities). Over the past several decades, there has been *de minimus* research on hazing within white sororities. In one study, the authors and colleagues conducted investigations on how race and sex intersect in the context of fraternity and sorority hazing.<sup>5</sup> In order to get a sense of the differences at the intersection of race and gender, the researchers analyzed: 1) published and unpublished state and federal court cases on Westlaw; and 2) media hits in news periodicals between 1980 and 2009.<sup>6</sup>

The results from this study suggest that, overall, violent hazing is more prevalent within black and male organizations than it is within those that are white and female.<sup>7</sup> Fraternities employed calisthenics more frequently than sororities, and among the latter only black sororities employed calisthenics.<sup>8</sup> With regard to mental hazing, fraternities employed them more often, and black sororities did so slightly more often than their white counterparts.<sup>9</sup> And while fraternities engaged in more pranks than sororities, this practice was disproportionately engaged in by white organizations.<sup>10</sup> Sexually-related acts were disproportionately employed by white organizations.<sup>11</sup> Alcohol use, however, was the greatest distinguishing factor between black and white groups, with the latter employing it more frequently than the former. White sororities had about a third as many incidents involving alcohol than white fraternities, and five times as many incidents as black fraternities. Interestingly, black sororities had no documented hazing incidents involving alcohol.<sup>12</sup>

In 1874, the United States Congress passed the first hazing statute to prevent hazing at the Naval Academy in Annapolis, Maryland.<sup>13</sup> Since then, forty-four states have passed anti-hazing laws.<sup>14</sup> Scholars and commentators have analyzed the law's contours with regards to hazing. However, what may yield more fruitful results—at least in finding workable solutions to address hazing—would be to discern not simply the

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5. Gregory Scott 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. 93, 146 (2015).

6. *Id.*

7. *Id.* at 147.

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

13. A Catherine Kendrick, Note, *Ex Parte Barran: In Search of Standard Legislation for Fraternity Hazing Liability*, 24 AM. TRIAL ADVOC. 407, 409 (2000).

14. See generally GREGORY SCOTT PARKS, MAKING SENSE OF UNITED STATES ANTI-HAZING STATUTES – STATE BY STATE (2018).

law on books but, rather, the law in action.<sup>15</sup> If, for example, “[t]he strong common-law tradition is that the legislature’s primary function is to declare law to regulate future behavior,”<sup>16</sup> then hazing court opinions or statutes are nothing more than mere bundles of words. The heart of the matter, instead, are those factors that underscore, amplify, and propel hazing.

In section I, we frame our general analysis in the context of historically and predominantly white sororities just for convenience. In many respects, our analyses could be applied to many types of organizations. Here, we chronicle several decades of hazing and use white sororities as the lens through which we seek understanding. In section II, we provide several tools for understanding the underlying reasons why hazing exists and persists. In section III, we explore several sets of reasons why hazing persists in white sororities from an organizational dynamics approach. Each subsection concludes with a hypothetical showcasing the various ways that these reasons and theories apply in the context of white sororities. In subsection III-A, we focus on the way systematic errors in judgment and decision-making amongst a broad swath of white sorority membership undermine these organizations to address the high-risk and high-stakes nature of hazing. In subsection III-B, we consider why the type of ideas that would move the needle on hazing do not permeate broad swaths of white sorority membership. Finally, in section III-C, we address several catch-all organizational dynamics that range from denying the reality of the problem to operations that undermine white sororities’ ability to address hazing.

## I. HAZING INCIDENTS IN “WHITE” SORORITIES

Hazing has persisted in white sororities for more than a generation. In this section, we explore some of the major news accounts of hazing incidents within these organizations since the 1980s to provide context to

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15. Gregory Scott Parks, Note, *Toward A Critical Race Realism*, 17 CORNELL J.L. & PUB. POL’Y 683, 692 (2008) (citing Karl N. Llewellyn, *Some Realism About Realism: Responding to Dean Pound*, 44 HARV. L. REV. 1222, 1222–24 (1931)).

16. *Emp’rs Ins. of Wausau v. Smith*, 453 N.W.2d 856, 866 (Wis. 1990). Other courts have defined “law” similarly; *see generally*, *U.S. v. One Single Family Residence with Outbuildings Located at 15621 S.W. 209th Ave., Miami, Fla.*, 699 F.Supp. 1531, 1536 (S.D. Fla. 1998) (“criminal and quasi-criminal laws serve to regulate behavior which is undesirable from a societal viewpoint”); *U.S. v. Safarini*, 257 F.Supp.2d 191, 200 (D.C. 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. U.S. Parole Comm’n*, 659 F.2d 183, 188 (1981), cert. denied, 455 U.S. 950, 102 S.Ct. 1454, 71 L.Ed.2d 665 (1982); *Thomas C. v. Physicians Ins. Co. of Wisconsin*, 509 N.W.2d 81, 83 (Wis. Ct. App. 1993) (“[T]ort law seeks to deter unsafe behavior ...”); *Washington Metro. Area Transit Auth. v. Johnson*, 726 A.2d 172, 176 (D.C. Cir. 1999) (“[O]ne aim of tort law is to deter negligent (and certainly reckless) behavior ...”); and, *Gen. Motors Corp. v. Farnsworth*, 965 P.2d 1209, 1218 (Alaska 1998) (“Tort law seeks to deter future behavior that exposes others to injury”).

the rest of the article. While this discussion is quite extensive, it is important to understand the evolution of the reporting of hazing incidents and the types of hazing that have occurred in white sororities across the country. Furthermore, this sizable discussion showcases that hazing does exist in white sororities and it provides another population in which to explore this issue.

#### A. THE 1980S THROUGH THE 1990S

During January 1986, a San Diego State University disciplinary panel hearing was held to investigate allegations by a sorority member that she was raped during a fraternity party.<sup>17</sup> The eighteen-year-old told campus police she was raped between 2 a.m. and 4 a.m. in a private room at the fraternity house.<sup>18</sup> In an open letter published in the campus newspaper, the student's mother said her daughter was "unconscious for four hours at the fraternity house after drinking what she believed was non-alcoholic punch."<sup>19</sup> San Diego County District Attorney, Edwin Miller, decided on December 5, 1985, not to file criminal charges in the case after concluding that his office could not prove beyond a reasonable doubt that a rape occurred.<sup>20</sup> Nevertheless, Pi Kappa Alpha fraternity was charged with: 1) physical abuse of a member of the campus community; 2) lewd, indecent, or obscene behavior; 3) obstructing the administrative investigation; 4) hazing, and 5) alcohol violations.<sup>21</sup> Additionally, Delta Gamma sorority, which co-sponsored the "exchange party," was charged with hazing and alcohol violations.<sup>22</sup> Both organizations had the potential to be expelled from the campus, fined, suspended or put on probation.<sup>23</sup> In 1988, the Alpha Chi Omega sorority used a metal stamp to brand the letters of the chapter on pledges at the University of Maine in Orono.<sup>24</sup>

The mid-to-late 1990s included numerous hazing events. In the spring of 1995, the Delta Zeta sorority of University of New Hampshire was removed from campus due to unspecified hazing incidents.<sup>25</sup> Two years later, in April 1997, Denison University in Granville, Ohio, suspended the Kappa Kappa Gamma sorority for two years after a hazing incident.<sup>26</sup> A

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17. Leonard Bernsterin, *Hearing Set on Alleged Rape at Fraternity Party*, L.A. TIMES (Jan. 15, 1986), [http://articles.latimes.com/1986-01-15/local/me-28272\\_1\\_fraternity-party](http://articles.latimes.com/1986-01-15/local/me-28272_1_fraternity-party) [<https://perma.cc/XZ5R-MAU7>].

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.*

22. *Id.*

23. *Id.*

24. *No Charges in Sorority Pledge Branding*, UPI (Oct. 12, 1988) <https://www.upi.com/Archives/1988/10/13/No-charges-in-sorority-pledge-branding/9353592718400/> [<https://perma.cc/WMF7-8G4K>].

25. Tracy Manforte, *UNH Hazing Hotline in Place: Phone Has Yet to Ring and That's a Good Sign*, NEW HAMPSHIRE UNION LEADER, Feb. 10, 1995, at 1, 1995 WLNR 5761225.

26. Armond Budish, *Check Out Fraternity-Sorority Entry Rituals*, CLEVELAND PLAIN

nineteen-year-old student was rushed to the hospital after she drank until she lost consciousness.<sup>27</sup> As part of their suspension, they were unable to hold events or recruit new members.<sup>28</sup> In November 1997, three Kappa Kappa Gamma pledges at DePauw University in Greencastle, Indiana, were branded on the hips with cigarettes in an initiation ritual.<sup>29</sup> One woman went to the hospital in the middle of the night with severe pain, and prosecutors charged three sorority members who allegedly inflicted the burns with criminal recklessness.<sup>30</sup> In the fall of 1998, the University of Georgia investigated an anonymous allegation that pledges to the Chi Omega sorority were encouraged to drink alcohol at an off-campus party in violation of rules against hazing.<sup>31</sup> Almost forty people were interviewed about the incident, which resulted in the sorority getting kicked off the Athens campus.<sup>32</sup> Finally, in July 1999, the Alpha Omicron Pi sorority at Florida Southern College was suspended for the following school year after pledges alleged harassment, including forced alcohol consumption and social infractions.<sup>33</sup>

#### B. THE 2000S

Hazing continued into the 2000s, accompanied with an increase in reporting. One of the most significant suspensions occurred when Kappa Delta sorority was dismissed from West Virginia University in the early 2000s for reports of hazing.<sup>34</sup> After the ten-year suspension, it is rumored the sorority was given permission to return to campus in 2016.<sup>35</sup>

In March 2000, leaders of the Chi Omega chapter at Ohio University came forward to report that members of their sorority were hazing younger members through verbal abuse by yelling at forty-four pledges during their initiation ceremony.<sup>36</sup> The University of Cincinnati's Kappa Alpha Theta chapter was indefinitely suspended by its national organization from participating in Panhellenic activities after hazing occurred on February 4,

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DEALER, Aug. 10, 1997, at 1, 1997 WLNR 6323607.

27. Budish, *supra* note 26.

28. *Id.*

29. Dave Curtin, *Push to Outlaw Hazing Reaches Colorado*, DENVER POST, Mar. 15, 1998, at 4, 1998 WLNR 8629382.

30. Mary Leonard, *Making a Mark on the Culture Body Piercing, Tattoos, and Scarification Push the Cutting Edge*, BOSTON GLOBE, Feb. 15, 1998, at 3, 1998 WLNR 2375520.

31. Press Release, *UPI Ist Georgia News Briefs*, SINOCAST (Oct. 16, 1998) (on file with author).

32. *Id.*

33. Steven Newborn, *Hazing, Alcohol Bring Bans to FSC Groups*, TAMPA TRIBUNE, July 28, 1999, at 1, 1999 WLNR 661006.

34. Press Release, Paige Czyzewski, *Future of International House Undecided*, UNIVERSITY WIRE (Oct. 14, 2015) (on file with author).

35. *Id.*

36. Donna Glenn, *OU Sorority Hazing Incident is Investigated*, COLUMBUS DISPATCH, Mar. 15, 2000, at 1, 2000 WLNR 9609759.

2000.<sup>37</sup> The University of North Texas placed their Alpha Delta Pi sorority on probation from spring 2000 to May 2002 for hazing.<sup>38</sup> In April 2001, the Alpha Epsilon Phi sorority of Ohio State University was suspended for hazing and other violations.<sup>39</sup> It was at least the fourth time that year Ohio State University had to discipline a Greek organization.<sup>40</sup>

In the fall of 2001, Delta Delta Delta sorority at the University of Michigan was suspended after two pledges were drugged and raped at a fraternity party.<sup>41</sup> In November 2001, the University of Colorado's Kappa Alpha Theta sorority was placed on probation after members ended up in the hospital with alcohol poisoning.<sup>42</sup> During initiation, two members were blindfolded and required to consume fourteen drinks on a checklist.<sup>43</sup> The national chapter concluded that the incident was hazing, however, no hazing charges were filed and none of the students were suspended.<sup>44</sup> Additionally, no criminal charges were brought against the chapter because the two students who got alcohol poisoning were not pledges, but technically already members of the sorority.<sup>45</sup> As punishment, the sorority was unable to hold any social events until the end of the school year.<sup>46</sup> In January 2002, a former Sam Houston State University student filed a lawsuit against the Chi Omega sorority.<sup>47</sup> The student claimed that on February 16, 2000, two of her Chi Omega sisters hazed her by spiking her drink with "Special K" and then dropped her off at a male friend's house which led to her being sexually assaulted.<sup>48</sup> The rape allegation did not result in criminal charges because the woman acknowledged having had consensual sex later with the same man.<sup>49</sup> When these allegations arose, school and sorority officials had already placed Chi Omega on suspension for the hazing that occurred.<sup>50</sup>

37. Glenn, *supra* note 36.

38. Reese Dunklin, *Fraternity Suspends Its UNT Chapter: Move Follows 6 Officers' Arrest on Hazing Charges*, DALLAS MORNING NEWS, Mar. 9, 2000, at 2, 2000 WLNR 9424189.

39. Alice Thomas, *Two Greek Houses Put On Suspension by OSU Officials*, COLUMBUS DISPATCH, Apr. 4, 2001, at 1, 2001 WLNR 11911776.

40. *Id.*

41. Press Release, Associated Press, *College Hazing Reportedly Increasing in Sororities*, (Dec. 15, 2001), <https://www.seacoastonline.com/article/20011215/NEWS/312159987> [<https://perma.cc/RYG6-6ZS5>].

42. George Merritt, *Hazing Law Collecting Dust: 5 Years, No Charges Filed: Authorities Chose Not to Test the Law in the September Death of a CU Freshman*, DENVER POST, Feb. 22, 2005, at 2, 2005 WLNR 29712378.

43. *Id.*

44. *Id.*

45. Press Release, Dennis Daily, *Sorority Cleared in 'Hazing' Case*, UPI News (Nov. 29, 2001) (on file with author).

46. *Id.*

47. Jo Ann Zuniga, *Sorority Hazing Included Being Raped, Student's Lawsuit Says*, HOUSTON CHRONICLE, Jan. 19, 2002, at 1, 2002 WLNR 13578017.

48. *Id.*

49. *Id.*

50. *Id.*



After a fatal car crash in October 2003, involving sorority hazing, the parents of a student killed in the alleged hazing-related accident at Plymouth State University sued some of their daughter's Sigma Kappa Alpha sorority sisters, the school, and the parents of the driver of the SUV that crashed.<sup>51</sup> The car, filled with ten blindfolded women, which was only able to hold five comfortably, flipped because the driver was driving erratically to scare the pledges.<sup>52</sup> In December 2003, the University of Alabama placed their Alpha Omicron Pi sorority chapter on probation for two years for hazing.<sup>53</sup>

In 2004, Phi Beta Phi sorority at UCLA was penalized with hazing related sanctions; they were required to develop a workshop on the impact and implications of hazing and were told to sign a non-hazing agreement.<sup>54</sup> UCLA has received backlash on not giving out harsh enough sanctions for issues involving hazing.<sup>55</sup> In February 2004, Stanford placed their Delta Delta Delta sorority chapter on alcohol suspension until June 2005 for underage drinking and hazing.<sup>56</sup> In March 2004, Sigma Delta Tau at the State University at Albany, was suspended amid allegations that some of its members sexually abused a young man in a hazing incident.<sup>57</sup> Sigma Delta Tau was suspended for failing to cooperate with a university investigation of the allegations, not due to any verifiable proof that the story was true.<sup>58</sup> University officials investigated claims that about fifty young women associated with Sigma Delta Tau participated in the collective sexual hazing of a Union College fraternity pledge at a downtown Albany house sometime before February 25.<sup>59</sup> However, no victim came forward and because there was a lack of evidence surrounding the investigation no fraternity was ever named.<sup>60</sup> In the fall of 2004, Delta Delta Delta sorority at Dartmouth College was put on a four-week probation after hazing allegations came to light, but they were not held criminally responsible.<sup>61</sup>

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51. Press Release, Associated Press, *Dead Student's Parents Sue Sorority*, ASSOCIATED PRESS ONLINE REGIONAL (Aug. 26, 2005, 06:28 PM) (on file with author).

52. *Id.*

53. *Hazing Lands UA Sorority on Probation*, MOBILE REGISTER, Dec. 4, 2003, at 1, 2003 WLNR 15785179.

54. Press Release, Shawn Bishop, *U. California-Los Angeles: Hazing in Greek System not Frequently Litigated*, UNIVERSITY WIRE: THE DAILY BRUIN (Mar. 21, 2005) (on file with author).

55. *Id.*

56. Shirin Sharif & Michael Miller, *Seven Plead No Contest in Tri-Delt Incident*, THE STANFORD DAILY (Jan. 12, 2004), <https://stanforddailyarchive.com/cgi-bin/stanforda=d&d=stanford20040112-01.2.2> [<https://perma.cc/6ZRJ-DF9G>].

57. Mary D'Ambrosio, *SUNYA Investigates Sorority Hazing Report*, ALBANY TIMES UNION, Mar. 14, 1988, at 1, 1988 WLNR 69519.

58. *Id.*

59. *Id.*

60. *Id.*

61. John Mitchell, *Winter Lands Frat, Sorority on Probation*, UNIVERSITY WIRE, (Feb. 2, 2017), <http://www.thedartmouth.com/article/2005/03/winter-lands-frat-sorority-on-probation> [<https://perma.cc/A26N-JP54>].

On October 6, 2004, the University of Florida's Delta Phi Epsilon sorority was placed on probation for an August hazing related incident involving lewd phrases written on their pledges.<sup>62</sup>

In September 2005, former members of the University of Michigan's Alpha Epsilon Phi sorority continued to recruit new members under the guise of the Alpha Epsilon Phi name after the university shut them down for hazing and drug related incidents.<sup>63</sup> The University of Michigan was considering reopening the Alpha Epsilon Phi chapter before this incident, but as a result decided that if the chapter was reopened none of the previous members would be permitted to rejoin the sorority.<sup>64</sup> On April 21, 2005, two sororities, Delta Gamma and Kappa Phi Lambda, were placed on interim suspension pending investigation into hazing allegations.<sup>65</sup> On May 22, 2005, the Chi Omega chapter of Tufts University was suspended for one year for hazing their pledges, distributing alcohol to minors, and contributing in the endangerment of others.<sup>66</sup>

On November 20, 2006, the Dartmouth disciplinary committee ruled that Kappa Kappa Gamma sorority had not violated the College Standards of Conduct in terms of hazing after bid-night activities resulted in the arrest of 11 Kappa members.<sup>67</sup> The hazing definition was reviewed, and the sorority was found not to have violated the rule, even though the disciplinary committee found that the sorority had threatened and caused harm to new members.<sup>68</sup> Kappa Kappa Gamma was placed on social probation until March 2007.<sup>69</sup>

In 2007, the University of Florida investigated the Kappa Alpha Theta sorority after a recording was found where two women were talking about a hazing event that involved excessive alcohol consumption, racial overtones, sexual innuendos, and lap dances.<sup>70</sup> During January 2008, after reports of hazing and underage drinking came to light, Missouri State Universities' Sigma Sigma Sigma sorority was shut down by its national council for playing drinking games, leaving blindfolded women in a

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62. Press Release, Casey Johnson, *U. Florida: U. Florida Sorority on Probation for Hazing*, UNIVERSITY WIRE, (Oct. 6, 2004) (on file with author).

63. Press Release, Margaret Havemann, *U. Michigan: Alpha Epsilon Phi Secret Rush May Hurt Chances for New Chapter at U. Michigan*, UNIVERSITY WIRE (Sept. 22, 2005) (on file with author).

64. *Id.*

65. Press Release, David J. Cross, *Ohio State U.: Trio of Ohio State U. Greek Chapters Suspended for Hazing*, UNIVERSITY WIRE (Apr. 21, 2005) (on file with author).

66. Press Release, Daniela Perdomo, *Tufts U.: Tufts U. Greek System is Under Fire for Multiple Violations*, UNIVERSITY WIRE (May 23, 2005) (on file with author).

67. Press Release, Dan Duray, *Dartmouth: Definition of 'Hazing' Questioned at Dartmouth*, UNIVERSITY WIRE (Nov. 20, 2006) (on file with author).

68. *Id.*

69. Press Release, Dan Duray, *Dartmouth: Dartmouth Sorority Not Faulted for Hazing Violations*, UNIVERSITY WIRE (Nov. 17, 2006) (on file with author).

70. Daniel Smithson, *No UF Plans to Ban Greek Life, but 'Work to Do'*, THE GAINESVILLE SUN, Nov. 7, 2017, at 1, 2017 WLNR 34933611.

cemetery, and forcing a woman to get an application from a strip club.<sup>71</sup>

On March 13, 2008, Tufts University sorority chapter Alpha Phi was suspended and placed on social probation for violating hazing and alcohol policies during the new member period.<sup>72</sup> The sorority was not allowed to enlist or recruit new members or participate in any organized social events for one year.<sup>73</sup> A freshman participating in Alpha Phi's new member process reported the sorority for alcohol abuse, harassment, and hazing.<sup>74</sup> On November 8, 2008, Oklahoma State University sorority Kappa Alpha Theta received minor sanctions after a hazing incident involving seventeen current members and eight incoming members.<sup>75</sup> There were no injuries reported, none of the members were suspended, and the sanctions were lifted the following year.<sup>76</sup>

In 2009, the Chi Omega sorority at Utah State University faced felony hazing charges after participating in the hazing of new members of the Sigma Nu fraternity.<sup>77</sup> The sorority members "kidnapped" the pledges and brought them to a fraternity owned house.<sup>78</sup> There, the pledges were given vodka and other alcohol.<sup>79</sup> The hazing became known when a Sigma Nu member called poison control regarding the drunken state of a pledge.<sup>80</sup> The Sigma Nu member wanted to know information about alcohol poisoning, and although the poison control dispatcher attempted to convince the caller to take the incapacitated pledge to the hospital, Sigma Nu did not.<sup>81</sup> Michael Starks, the pledge, died on November 21, 2008, with a BAC of 0.35.<sup>82</sup> The sorority women had given Starks a liter of vodka and the freshman willingly drank three-fourths of the bottle in one hour.<sup>83</sup> This event led to the closure of both the Sigma Nu fraternity and the Chi Omega sorority at Utah State University.<sup>84</sup> Additionally, charges were brought

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71. *Students Take Stand Against MSU Hazing*, SPRINGFIELD NEWS-LEADER, Oct. 24, 2008, at 2, 2008 WLNR 26838427; *MSU Sorority Closed over Drinking, Hazing*, SPRINGFIELD NEWS-LEADER, Jan. 16, 2008, at 2, 2008 WLNR 26838076.

72. Perdomo, *supra* note 66, at 1.

73. *Id.*

74. *Id.*

75. Press Release, Associated Press, *OSU Sorority to Receive Minor Sanctions for Hazing*, ASSOCIATED PRESS ALERT-OKLAHOMA (Nov. 4, 2008, 9:28 PM) <https://news.ok.com/article/3319027/oklahoma-state-university-sorority-to-receive-minor-sanctions-for-hazing> [<https://perma.cc/4C3M-PZ9Z>].

76. ASSOCIATED PRESS ALERT-OKLAHOMA, *supra* note 75.

77. Press Release, Associated Press, *Frat Member Sought Advice from Poison Control Line*, ASSOCIATED PRESS ALERT-UTAH (Feb. 26, 2009, 1:28 PM) (on file with author).

78. *Id.*

79. *Id.*

80. Brian Maffly, *Call to Poison Control a Missed Opportunity to Save USU Pledge: Fraternity Members Lied to the Center and Didn't Follow Advice*, SALT LAKE TRIBUNE, Feb. 6, 2009, at 1-4, 2009 WLNR 2376216.

81. *Id.*

82. *Id.*

83. *Id.*

84. *Id.*

against the nine Chi Omega women and the four Sigma Nu men, both *chapters* faced felony charges and in response, entered not-guilty pleas.<sup>85</sup> The eight Chi Omega women involved faced misdemeanor charges for hazing, and one member, Whitney Miller, faced the additional charge of providing alcohol to Starks.<sup>86</sup>

In January 2009, the Delta Delta Delta sorority at Miami University in Oxford, Ohio violated the Miami University Code of Student Conduct by committing acts of hazing when new members were “kidnapped,” blindfolded, and forced to consume alcohol.<sup>87</sup> The Miami University disciplinary board found the Delta Beta chapter of Tri-Delta responsible.<sup>88</sup> As a result, the Delta Delta Delta sorority was suspended from Miami University campus until January 1, 2011, at which point the chapter would be required to introduce a comprehensive plan to the Office of Ethics and Student Conflict Resolution, as well as the Office of Fraternal Life.<sup>89</sup> After acceptance of this plan, Delta Delta Delta would be reintroduced to campus life with a probationary period for one year and completion of an alcohol education program.<sup>90</sup> The sorority decided not to appeal the school’s decision.<sup>91</sup> The Delta Beta chapter president noted that although the investigation resulted in the suspension of the sorority, no students were expelled or arrested, and that this was instead an instance of poor judgment by several sorority members.<sup>92</sup> Prior to this suspension, the chapter had existed at Miami University for ninety-eight years.<sup>93</sup>

In March 2009, the Kappa Kappa Gamma sorority at Purdue University was placed on probation and required to participate in educational programs on anti-hazing because of their participation in the hazing of new Pi Kappa Alpha fraternity members.<sup>94</sup> The sorority members were witnesses and participants in an event where new fraternity pledges were forced to consume alcohol and engage in embarrassing tasks.<sup>95</sup> Purdue University officials became aware of this event after photos of the event were shared and circulated on Facebook.<sup>96</sup>

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85. *Id.*

86. Brian Maffly, *Sigma Nu Revokes Charter of USU Chapter: Hazing Death, Alcohol Poisoning Also Cost Sorority Its Charter*, SALT LAKE TRIBUNE, Jan. 27, 2009, at 1, 2009 WLNR 1579714.

87. *Miami Sanctions Delta Delta Delta*, US FEDERAL NEWS, Feb. 26, 2009, at 1, 2009 WLNR 3686246.

88. *Id.*

89. *Id.*

90. US FEDERAL NEWS, *supra* note 87.

91. *Id.*

92. *Id.*

93. Press Release, Associated Press, *University in Ohio Suspends Sorority, Fraternity*, Associated Press Alert-Ohio (Feb. 21, 2009, 2:13 AM) (on file with author).

94. *Blaze Consumes Apartment Complex*, MERRILLVILLE POST-TRIBUNE, Mar. 13, 2009, at 2, 2009 WLNR 5052365.

95. *Id.*

96. Press Release, Associated Press, *Purdue Punishes Fraternities, Sorority for Hazing*, ASSOCIATED PRESS (Mar. 12, 2009, 5:08 PM) (on file with author).

In May 2009, the founding chapter of the sorority Zeta Tau Alpha closed after it was revealed that hazing and underage drinking were occurring.<sup>97</sup> Although the chapter at Longwood University was over a century old, the sorority held the chapter accountable to its national standards.<sup>98</sup> Both the national sorority representatives and Longwood University officials conducted hearings.<sup>99</sup>

After hazing incidents, many sororities have rebranded to continue existing under the radar. The Trilogy Society was formed in 2009 after the closing of Penn State's Delta Delta Delta Sorority that same year by the national executive board due to allegations of hazing and risk-management violations, which involved the unauthorized use of drugs and alcohol.<sup>100</sup> Specifics regarding the closing of the chapter have remained private.<sup>101</sup> Members of Trilogy are not subject to the new safety measures instituted after the death of student, Tim Piazza, at Penn State, because regardless of the group's origins and activities, it is not perceived as a sorority by the school.<sup>102</sup> Trilogy, with its 100 members, operates very similarly to the bygone Tri Delta chapter.<sup>103</sup> Over the past eight years, the organization has continued to: mix with fraternities, maintain Tri Delta's fraternity partner, recruit new members, and participate in campus-wide events customarily for Greek organizations.<sup>104</sup> Trilogy members were present at the party where Piazza died, however, they have faced no sanctions as of now, however, Penn State claims it will conduct an investigation concerning the organization's involvement.<sup>105</sup> The school asserts that Trilogy is not operating as an underground sorority but instead is a student organization; they also acknowledge that that Trilogy has no oversight or rules regulating it.<sup>106</sup>

### C. THE 2010S

The 2010s was a decade where reporting of hazing in white sororities exploded. First, in 2010, the Phi Mu sorority at University of Texas at San Antonio was put on yearlong probation following hazing allegations and attempts to stonewall the following investigation.<sup>107</sup> The sorority members

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97. Press Release, Associated Press, *Founding Chapter of Sorority Shuts Down*, ASSOCIATED PRESS ALERT-VIRGINIA (May 8, 2009, 9:30 AM) (on file with author).

98. *Id.*

99. *Id.*

100. Brandy Zadrozny, *The Secret Sorority at Penn State's Deadly Hazing Party*, THE DAILY BEAST, May 30, 2017, at 1, 2017 WLNR 17448344.

101. *Id.*

102. Zadrozny, *supra* note 100.

103. *Id.*

104. *Id.* at 2.

105. *Id.*

106. *Id.* at 3.

107. *News Roundup*, SAN ANTONIO EXPRESS - NEWS, Apr. 16, 2010, at 2, 2010 WLNR 7925429.

blindfolded pledges, tied them together, and forced them to recite the Phi Mu creed and imitate wild animals.<sup>108</sup> According to the disciplinary letter, one pledge fainted, another was nauseated, and another suffered a panic attack.<sup>109</sup> During the investigation, it was revealed that the Phi Mu women told the pledges they did not have to cooperate with university officials.<sup>110</sup> The national Phi Mu organization also placed the sorority on yearlong probation.<sup>111</sup>

On October 12, 2010, a new member of the Alpha Phi sorority at University of Colorado at Boulder was pressured to do shots of alcohol by eight members of the Beta Gamma chapter.<sup>112</sup> The new member was pressured to drink alcohol when the eight members as well as several men arrived at the new member's dorm room to invite her to an event.<sup>113</sup> The eight members in question were subjected to a judicial board hearing.<sup>114</sup> The incident was initially reported to a resident advisor, then brought to the attention of the University of Colorado and the Alpha Phi sorority.<sup>115</sup> In 2011, Washington State University sanctioned Pi Beta Phi sorority for hazing allegations and underage drinking.<sup>116</sup>

In September 2011, the Sigma Sigma Sigma sorority at Marshall University was targeted in a lawsuit involving allegations of hazing and harassment.<sup>117</sup> According to the claim, Sigma Sigma Sigma members caused a woman to suffer from emotional distress, fear, and humiliated her when she attempted to speak out against the usage of alcohol and invitations to men upstairs in the sorority house.<sup>118</sup> As of January 2012, the case was pending in Cabell Circuit Court in West Virginia.<sup>119</sup> After a party on October 7, 2011, the Delta Delta Delta sorority at Union College lost its housing and pledging abilities.<sup>120</sup> The party resulted in the transport of four students to the hospital.<sup>121</sup> In an effort to avoid displacing the residents of the house, the sorority was permitted to remain in its current house until the following fall semester. But they lost access to all common areas, were prohibited from hosting or co-sponsoring any social events with alcohol for

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108. Zdrozny, *supra* note 100.

109. *Id.*

110. *Id.*

111. *Id.*

112. Brittany Anas, *Alpha Phi: Sorority Members Pressured New Member to Drink Several Shots*, BOULDER DAILY CAMERA, Oct. 25, 2010, at 1–2, 2010 WLNR 21377165.

113. *Id.*

114. *Id.*

115. *Id.*

116. Press Release, Daniel Anderson, 'Haze' Screening Reveals a Traditional Analogy of Greek Life, UNIVERSITY WIRE- THE DAILY EVERGREEN (Sept. 26, 2016, 1:58 PM) (on file with author).

117. Curtis Johnson, *Another Greek Organization at Marshall Faces Lawsuit*, CHARLESTON DAILY MAIL, Jan. 30, 2012, at 1, 2012 WLNR 2131050.

118. *Id.*

119. *Id.*

120. Michael Goot, *Union Sorority Sanctioned over Drinking at Oct. 7 Party*, THE DAILY GAZETTE, Nov. 16, 2011, at 1–2, 2011 WLNR 23539350.

121. *Id.*

two years, and had to change its bylaws to become a dry organization.<sup>122</sup> The Director of Greek affairs indicated that Delta Delta Delta sorority's previous record as an exemplary chapter protected the organization from expulsion from campus.<sup>123</sup>

The hazing by Pi Beta Phi sorority on the Washington State University campus continued in 2012. They were sanctioned in February following investigations of hazing and underage drinking that occurred at an unapproved event.<sup>124</sup> The sanctions were to remain in place until June 2014, at which point the sorority would be able to request to re-enter campus life.<sup>125</sup>

At Boston University, the Sigma Delta Tau sorority was suspended for the remainder of the school year after a hazing investigation began in which underage women may have been forced or encouraged to drink excessively.<sup>126</sup> According to the Dean of Students, this was not confined to a single event.<sup>127</sup> Two months prior, the sorority was suspended following a previous hazing report.<sup>128</sup> A woman was picked up by an ambulance from a home on March 3, 2012, later that night police found a second woman who also needed to be transported to a hospital being helped by three men.<sup>129</sup> Both women had attended a Sigma Delta Tau off-campus event at which hazing occurred.<sup>130</sup> The Dean of Students noted that the suspension effectively removes the sorority from campus by ceasing all campus involvement or organizational activities.<sup>131</sup> According to the Boston Herald, three pledges of Sigma Delta Tau had to receive medical treatment due to high levels of intoxication.<sup>132</sup> The events involving hazing and alcohol consumption have damaged the national reputation of Boston University.<sup>133</sup> In November 2012, the University of Nevada at Reno suspended the sorority Pi Beta Phi over hazing allegations.<sup>134</sup> The allegations came from two calls that were made to a hazing hotline in

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122. *Id.*

123. *Id.*

124. Press Release, Associated Press, *WSU Sorority Sanctions*, ASSOCIATED PRESS ALERT-WASHINGTON (Feb. 5, 2012, 9:02 PM) (on file with author).

125. *Id.*

126. Matt Rocheleau, *BU Sorority Suspended in Alleged Hazing, Sigma Delta Tau Hit by Decision*, BOSTON GLOBE, May 3, 2012, at 1, 2012 WLNR 9275171.

127. *Id.*

128. *Id.*

129. Rocheleau, *supra* note 126.

130. *Id.*

131. *Id.*

132. Jessica Heslam, *Reputation Precedes BU*, BOSTON HERALD, Apr. 11, 2012, at 2, 2012 WLNR 7657727.

133. Heslam, *supra* note 132.

134. Press Release, Associated Press, *Here is the Latest Nevada News from the Associated Press*, ASSOCIATED PRESS ALERT-NEVADA (Nov. 21, 2012, 12:30 AM) (on file with author).

October.<sup>135</sup> Pi Beta Phi immediately suspended all chapter events immediately and national sorority representatives began investigating the complaints. Ultimately, the investigation led to the announcement of Pi Beta Phi's suspension which was to last through mid-February of 2013.<sup>136</sup>

In September 2013, *Cosmopolitan* magazine published an article by 2013 Union College alumna Tess Koman entitled, *Why Getting Hazed by my Sorority was Weirdly Worth It*, describing her experiences pledging the Sigma Delta Tau sorority at Union College in the Fall of 2010.<sup>137</sup> The article included numerous allegations of hazing, including "line-ups," "lock-ins" (sharing one toilet with all forty-two other pledges), being "on-call" (being referred to with condescending nicknames), and being constantly monitored.<sup>138</sup> Koman also noted that the university counseling center would see a major increase in attendance during the period of pledging.<sup>139</sup> Although Union College took the allegations of hazing very seriously, all the incidents described had occurred in the past, and the "hazers" in Koman's article had long since graduated.<sup>140</sup> Thus, officials focused on the present and future actions of all Greek organizations as new pledge classes joined them, and to investigate whether these types of activities were still ongoing.<sup>141</sup> In the fall of 2013, the sorority Sigma Lambda Gamma was suspended for one year by the University of Nebraska at Lincoln for engaging in hazing rituals.<sup>142</sup>

Numerous hazing incidents also occurred in 2014. The Chi Omega sorority at the University of Central Florida was placed on interim suspension after it was revealed that three Chi Omega sorority members blindfolded two pledges, forced them to drink an entire bottle of alcohol, and abandoned them in a University of Central Florida parking garage.<sup>143</sup> When speaking with the police, the two pledges indicated that one had "blacked out" and another had injured herself when trying to find her way home on foot. However, both declined to proceed with criminal charges, and the campus police department closed their investigation of the matter.<sup>144</sup> The university proceeded with an investigation and the three Chi Omega members in question resigned from the sorority following the

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135. Lenita Powers, *UNR Suspends Pi Beta Phi Sorority over Hazing Calls*, RENO GAZETTE-JOURNAL, Nov. 16, 2012, at 1–2, 2012 WLNR 24409113.

136. *Id.*

137. Press Release, Emily Browen & Matt Olson, *Alumna Brings Hazing Allegations into Question, Investigation Ongoing*, UNIVERSITY WIRE (Sept. 22, 2013) (on file with author).

138. *Id.*

139. *Id.*

140. *Id.*

141. *Id.*

142. Faiz Saddiqui, *Hazing Not Entirely Stamped Out Despite Widespread Crackdown*, OMAHA WORLD HERALD, Feb. 17, 2014, at 1, 2, 2014 WLNR 4515526.

143. Denise-Marie Ordway, *UCF Says Alleged Hazing Victims Won't Prosecute, So Police Close Case*, ORLANDO SENTINEL, Apr. 29, 2014, at 1, 2014 WLNR 11468114.

144. *Id.*



alleged event, which was said to have occurred on April 4, 2004.<sup>145</sup> Upon receiving a report concerning the event, National Headquarters of Chi Omega alerted the university. This incident occurred only a year after University of Central Florida halted all fraternity and sorority life to require each organization to submit new plans for preventing and controlling behaviors contradictory to the school's anti-hazing and alcohol policies.<sup>146</sup> The interim suspension included a suspension of Chi Omega sorority from participating in fundraisers, socials, and service projects.<sup>147</sup>

In 2014, three sorority organizations were sanctioned by the University of Connecticut. Kappa Kappa Gamma was sanctioned for violating the student code, participating in endangering behavior, hazing, and providing alcohol to underage members.<sup>148</sup> As a result, the chapter lost registration and recognition privileges, as well as housing from May 12, 2014, through at least May 2019.<sup>149</sup> Delta Gamma was sanctioned for similar reasons as Kappa Kappa Gamma, with the addition of abusing the conduct system.<sup>150</sup> Delta Zeta was the third sorority sanctioned for violating the student code, participating in endangering behavior, hazing and providing alcohol to underage members.<sup>151</sup> The chapter lost registration and recognition privileges and housing for at least two years.<sup>152</sup>

On April 4, 2014, the Delta Zeta sorority at the University of Connecticut was placed on interim suspension following allegations of hazing members of a fraternity.<sup>153</sup> According to a report, on March 7, the sorority women forced fraternity men to drink alcohol, eat dog treats, paint themselves, wear women's thong underwear, and take shots of alcohol off each other's bodies.<sup>154</sup> The suspension was not an assignment of guilt, but a precaution as the university investigated claims.<sup>155</sup> Conversely, Alpha Epsilon Phi sorority was suspended the same year as a direct result of hazing violations at Emory University, but no details regarding violations were shared.<sup>156</sup>

In May 2014, the Kappa Kappa Gamma sorority at the University of

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145. *Id.*

146. Denise-Marie Ordway & Tiffany Walden, *Sorority Accused of Hazing*, ORLANDO SENTINEL, Apr. 17, 2014, at 1-2, 2014 WLNR 10361144.

147. *Id.*

148. Chris Dehnel, *Several Uconn Greek Houses Sanctioned*, THE CHRONICLE, Nov. 20, 2014, at 1, 2014 WLNR 32736066.

149. *Id.*

150. *Id.*

151. *Id.*

152. *Id.*

153. Michelle Firestone, *UC Sorority Suspended over Hazing Incidents*, THE CHRONICLE, Apr. 10, 2014, at 1-2, 2014 WLNR 9745540.

154. *Id.*

155. *Id.*

156. Press Release, Stephen Fowler, *Sigma Nu Fraternity Suspended for Five Years Following Hazing Investigation*, UNIVERSITY WIRE (May 11, 2014, 3:01 AM) (on file with author).

Connecticut was removed from campus after a hazing investigation.<sup>157</sup> Allegations of hazing were brought forward by sophomore student, Hillary Holt, who claimed the sorority took members to the Sigma Alpha Epsilon fraternity house as a “surprise” and forced the members to engage in humiliating acts.<sup>158</sup> After her arrival at 7:30 pm, the women were blindfolded and told to “sizzle like bacon” on the floor, jump up and down grabbing their ankles, and express their love for the sorority, all while consuming alcohol to the point of unconsciousness.<sup>159</sup> Both University of Connecticut officials as well as Connecticut state police investigated Holt’s hazing claim.<sup>160</sup> Following the report, the sorority and fraternity involved were placed on interim suspension for the duration of the investigation.<sup>161</sup> Holt described waking up in the hospital in different clothes than she had been wearing when she entered the fraternity house. Holt indicated that she had been brought to the hospital at the urging of her resident advisor.<sup>162</sup> In the hospital, the sophomore had a BAC that was three times over the legal limit.<sup>163</sup> After the investigation, the University of Connecticut ordered the sorority to disband from campus by May 15.<sup>164</sup>

After the incident with University of Connecticut sophomore, Hillary Holt, the Kappa Kappa Gamma national organization’s response differed noticeably from the University’s.<sup>165</sup> It stated, “Kappa Kappa Gamma is disappointed with the University’s decision, which follows an event on March 6, [2014] that was not sanctioned by Kappa Kappa Gamma or its UConn chapter.”<sup>166</sup> This statement fails to acknowledge that the activity was led by Kappa Kappa Gamma members. As part of the suspension, the sorority was banned from serving as a student organization. Members were told to leave their house in “Husky Village,” a housing area for fraternities and sororities.<sup>167</sup> In relation to the incident, SAE was suspended for five years after allegations of hazing and participation in the incident previously mentioned.<sup>168</sup>

The Chi Omega chapter at University Central Florida was denied its

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157. Press Release, Associated Press, *UConn Drops Sorority over Hazing Incident*, ASSOCIATED PRESS STATE NEWS (May 8, 2014 at 9:08 AM) (on file with author).

158. *Id.*

159. *Id.*

160. *Id.*

161. Jesse Leavenworth, *UConn Temporarily Suspends Sorority, Fraternity*, HARTFORD COURANT, Mar. 20, 2014, at 1–2, 2014 WLNR 9365160.

162. *Id.*

163. *Id.*

164. *Id.*

165. Emily Shire, *Suspended UConn Sorority Backs Hazers*, THE DAILY BEAST (May 15, 2014), <https://www.yahoo.com/news/suspended-uconn-sorority-backs-hazers-173000786--politics.html> [https://perma.cc/N2PENTUZ].

166. Shire, *supra* note 165.

167. *Id.*

168. *Id.*

appeal to lift the suspension following hazing allegations.<sup>169</sup> The sorority was placed on interim suspension in April after violating the school's hazing, alcohol, and disruptive conduct rules.<sup>170</sup> The incident in question occurred on April 4, 2014, when three members blindfolded and drove two of the new members to Garage C on campus and subsequently took them to the University of Central Florida Arboretum and instructed them to drink an entire bottle of rum.<sup>171</sup> The two members were driven back to Garage C and left intoxicated with no way to get home.<sup>172</sup> One of the members was able to contact her boyfriend to assist in getting home.<sup>173</sup> Following the incident, the national organization conducted its own investigation.<sup>174</sup>

Many hazing incidents were also reported in 2015. For example, in March 2015, Theta Phi Alpha sorority at York College was suspended for four years after the college's investigation discovered hazing-related activities involving alcohol at an off-campus party on February 9, 2015.<sup>175</sup> In Miami, Alpha Xi Delta sorority was removed from campus for violating the student code of conduct regarding the misuse of alcohol. It is unclear how long the chapter will remain off campus.<sup>176</sup> At Northeastern State University, Alpha Sigma Alpha sorority was suspended from the university for five years following reports of hazing.<sup>177</sup>

Lastly, Delta Delta Delta sorority chapter at the University of West Georgia was closed after an investigation found incidents of hazing at the end of 2015. Some of the sisters claimed these allegations were old and did not involve current members.<sup>178</sup> Members created a petition for reinstatement which gained over 1,450 signatures.<sup>179</sup> The national organization issued a statement that both the organization and university conducted investigations following an alert for hazing and risk

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169. Press Release, *UCF Denies Chi Omega Appeal Following Hazing Allegations*, UNIVERSITY WIRE, (July 1, 2014, 11:00 PM) (on file with author).

170. *Id.*

171. *Id.*

172. *Id.*

173. *Id.*

174. *Id.*

175. Dylan Segelbaum, *Police: Four York College Students Gave Alcohol to Pledging Sorority Members*, YORK DAILY RECORD, (Apr. 29, 2015), <https://www.ydr.com/story/news/education/2015/06/01/four-york-college-students-plead-guilty-drinking-case/31259321/> [<http://perma.cc/7SDY-L9LJ>].

176. Katie Cattell, *Greeks Vote on Stricter Party Rules for Safety*, THE MIAMI STUDENT, (May 8, 2015), <http://miamistudent.net/greeks-vote-on-stricter-party-rules-for-safety/> [<https://perma.cc/JDV6-WS42>].

177. Sean Rowley, *Student Affairs VP Leaving NSU for Texas School*, TAHLEQUAH DAILY PRESS, (June 25, 2015), [https://www.tahlequahdailypress.com/news/student-affairs-vp-leaving-nsu-for-texas-school/article\\_4c7cf53e-1b9c-11e5-a794-476da76e9076.html](https://www.tahlequahdailypress.com/news/student-affairs-vp-leaving-nsu-for-texas-school/article_4c7cf53e-1b9c-11e5-a794-476da76e9076.html) [<http://perma.cc/JFS7-3HKL>].

178. Tyler Estep, *Sorority Shut Down at West Georgia Moves Follows Hazing Review. No Details about Allegations Have Been Released*, ATLANTA J. & CONST., Oct. 20, 2015, at 1, 2015 WLNR 31091865.

179. *Id.*

management concerns.<sup>180</sup> Between 2011 and 2015, seven sororities were either suspended or sanctioned for hazing.<sup>181</sup>

In October 2016, the Phi Sigma Sigma Headquarters received an anonymous email concerning possible hazing during the new member initiation process within the chapter at Central Connecticut State University.<sup>182</sup> In response, the chapter sent a reporter to one of the new member meetings. The reporter noted nothing unusual and offered himself as a resource for anyone who would like to come forward.<sup>183</sup> Two weeks later members of the chapter came forward describing troubling chapter behavior.<sup>184</sup> Subsequently, the International Standards Board conducted a review of the chapter, requiring all members to attend on November 20, 2016.<sup>185</sup> This review entailed 15-minute individual conversations with the review board.<sup>186</sup> The interviews confirmed allegations of oral quizzes covering the Phi Manual where students were forced to stand for at least 30 minutes and could only sit once they had successfully completed the quiz.<sup>187</sup> Furthermore, new members were divided into cliques of popular girls and other girls, creating a destructive platform and continued hazing.<sup>188</sup> Concern was also raised regarding the relationship between the advisor and the chapter. Ultimately, the Headquarters decided to put the chapter on Fraternity Intervention Status but to not suspend the chapter.<sup>189</sup>

After the headquarters investigation, the university conducted its own investigation, suspending the chapter.<sup>190</sup> The Central Connecticut State University investigation began in November 2016. Reports found that the behavior described in the charges had been occurring for the past six to eight years. The university charged the chapter with seven violations of the Student Code of Conduct, including hazing.<sup>191</sup> According to the code, hazing is defined as “an act which endangers the mental or physical safety of a student or which destroys, damages, or removes public or private property for the purpose of initiation or admission into, affiliation with or as a condition for continued membership in a group or organization.”<sup>192</sup> A disciplinary hearing held on March 31, 2019, found the chapter to violate

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180. *Id.*

181. *Id.*

182. Analisa Novak, *Breakdown of the Suspension of Phi Sigma Sigma*, THE CENTRAL RECORDER, (Oct. 25, 2017), [https://www.hoosiertimes.com/herald\\_times\\_online/opinion/when-greek-organizations-close-good-deeds-by-others-tarnished/article\\_b628215b-3efb-545c-b049-0063b9cc3bfe.html](https://www.hoosiertimes.com/herald_times_online/opinion/when-greek-organizations-close-good-deeds-by-others-tarnished/article_b628215b-3efb-545c-b049-0063b9cc3bfe.html) [http://perma.cc/EDX5-6K8H].

183. *Id.*

184. *Id.*

185. *Id.*

186. *Id.*

187. *Id.*

188. *Id.*

189. *Id.*

190. *Id.*

191. *Novak*, supra note 182.

192. *Id.* at 2.

two of the seven accused charges—hazing and threat to health, safety, and well-being. As punishment, the chapter was given a two-year suspension, which terminates at the end of 2019.<sup>193</sup> Additionally, Phi Sigma Sigma was sanctioned as Persona Non-Grata ban by the Central Connecticut State University, the ban prohibits the sorority from being able to start another chapter at a university in the Central Connecticut State University system.<sup>194</sup> With the support of the headquarters, the chapter appealed the decision made by the university. The appeal was denied by the Associate Dean for Student Affairs.<sup>195</sup>

At Indiana University, Delta Delta Delta is the most recent sorority to be removed from campus. The national executive board issued a statement after an investigation that said “members were involved in activities that do not represent our high standards or align with Tri Delta’s purpose.”<sup>196</sup> The vagueness of the allegations could encompass anything from hazing to academic impropriety.<sup>197</sup>

Nationwide reports of hazing continued into 2016 with Miss America Kazantsev’s removal from her sorority Alpha Phi, at the University of North Carolina at Wilmington, for allegations of hazing.<sup>198</sup> Under her supervision, pledges were called “names, berated for their perceived physical flaws and imperfections and made to perform physical tasks to the point of bruising and exhaustion.”<sup>199</sup> Kazantsev denied these charges.<sup>200</sup> At the University of Albany in New York, seven women were arrested for a hazing ritual where pledges of Alpha Omicron Pi sorority were blindfolded.<sup>201</sup> One victim reported being blindfolded and told to get on the ground, then a member poured rotten eggs, milk, mold-covered food, and a liquid that smelled like urine onto her face.<sup>202</sup> Another victim was taken to the hospital after experiencing an allergic reaction. The seven suspects were arraigned and could face up to a year in jail if convicted.<sup>203</sup> In the

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193. *Id.*

194. *Id.* at 3.

195. *Id.*

196. Editorial Staff, *When Greek Organizations Close, Good Deeds By Others’ Tarnished*, THE HERALD-TIMES, (Mar. 8, 2017), [https://www.hoosiertimes.com/herald-times\\_online/opinion/when-greek-organizations-close-good-deeds-by-others-tarnished/article\\_b628215b-3efb-545c-b049-0063b9cc3bfe.html](https://www.hoosiertimes.com/herald-times_online/opinion/when-greek-organizations-close-good-deeds-by-others-tarnished/article_b628215b-3efb-545c-b049-0063b9cc3bfe.html) [<https://perma.cc/3LRN-7HF5>].

197. *Id.*

198. John Staton, *Queen Azalea Kira Kazantsev Looks to ‘Nail’ Domestic Violence*, STAR-NEWS, (Apr. 1, 2017), <https://www.starnewsonline.com/entertainment/20170401/queen-azalea-kira-kazantsev-looks-to-nail-domestic-violence> [<http://perma.cc/5MU2-AG6B>].

199. *Id.*

200. *Id.*

201. Associated Press, *Seven Arrests Over Sorority ‘Hazing’ Ritual*, DAILY TELEGRAPH, Nov. 16, 2016, at 1, 2016 WLNR 35087697.

202. DAILY TELEGRAPH, *supra* note 201.

203. Associated Press & Snejana Farberov, *Seven College Students Are Charged with Hazing After They ‘Blindfolded Sorority Pledges, Forced Them to Eat Mud and Dunked Them in Baths of ‘Urine,’ Rotten Eggs and Spoiled Milk,’* DAILY MAIL ONLINE, (Nov. 11,

spring of 2017, Johns Hopkins University formally recognized the IX Society.<sup>204</sup> The society was created by former members of the sorority Kappa Alpha Theta in 2009 as an unofficial group following the revocation of the Theta chapter due to a series of disciplinary infractions.<sup>205</sup> According to reports, the society has 84 members and will now receive resources like liability insurance, hazing prevention and drug abuse training.<sup>206</sup>

The Kappa Kappa Gamma sorority at Ohio State made national news in 2015 when a nineteen-year-old member was hit by a car shortly after joining the chapter.<sup>207</sup> The student was hospitalized, and an investigation was conducted. The investigation uncovered a culture of hazing, which consequently resulted in a two-year suspension for the sorority chapter.<sup>208</sup> Kappa Kappa Gamma was reinstated to campus the spring of 2017.<sup>209</sup> This incident is just one of many Greek life investigations at Ohio State University.

Recently, discussion of Kappa Kappa Gamma's reinstatement to Ohio State's Campus in spring 2018 occurred after a two-year suspension following an incident of hazing.<sup>210</sup> These incidents occurred in 2015 when a nineteen-year-old pledge was hit by a car near the Kappa Kappa Gamma house while intoxicated. Representatives from all Panhellenic Association sororities voted in April of 2017 to determine reinstatement—nine sororities vetoed.<sup>211</sup> The vote in April was never necessary, and the reinstatement was ultimately determined and approved by Ohio State University's Office of Student Life. Concern among Panhellenic members regarding Kappa Kappa Gamma's return persists.<sup>212</sup>

These incidents highlight, that hazing in white sororities includes de minimus use of alcohol and violence in comparison to white fraternities, and black fraternities and sororities. But the lack of severity does not undermine the notion that it is potentially pervasive and cast across a wide geographic area. Ultimately, making better sense of hazing in white sororities and finding solutions therein may be fruitful for analogous organizations.

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2016), <https://www.dailymail.co.uk/news/article-3927322/7-Albany-students-charged-hazing-sorority-pledges.html> [<http://perma.cc/3V59-NFE2>].

204. Jacob Took & Morgan Ome, *University Now Recognizes IX Society*, THE JOHN HOPKINS NEWS-LETTER, (Oct. 5, 2017), <https://www.jhunewsletter.com/article/2017/10/university-now-recognizes-ix-society> [<http://perma.cc/A8UP-DXDP>].

205. *Id.*

206. *Id.*

207. Owen Daugherty, *Ohio State Greek Life Has History of Hazing Culture*, THE LANTERN, (Oct. 31, 2017), <https://www.thelantern.com/2017/10/ohio-state-greek-life-has-history-of-hazing-culture/> [<https://perma.cc/HH9L-S4UN>].

208. *Id.*

209. *Id.*

210. Owen Daugherty, *Ohio State's Reinstatement of Suspended Sorority Met with Confusion Throughout Greek Community*, THE LANTERN, (May 25, 2017), at 1, <https://www.thelantern.com/2017/05/ohio-states-reinstatement-of-suspended-sorority-met-with-confusion-throughout-greek-community/> [<https://perma.cc/58KJ-7L7Y>].

211. *Id.*

212. *Id.*

## II. INTO THE ABYSS: MAKING SENSE OF HAZING (FINALLY)

One central issue with regards to adequately addressing hazing is making some meaningful sense of what it is. It is difficult to determine a set of solutions for a problem that is poorly defined. In this section the authors, first, work towards a definition of hazing. Second, we highlight that too often hazing has been too simplistically defined and why that has been so. Third, we argue that a more robust conceptualization of hazing would lead to more meaningful solutions to the problem. Fourth, and considering our prior points, we investigate why “risk management,” especially as applied to hazing, is a misnomer. Moreover, we underscore why a more robust understanding of hazing would lead to more effective risk management. Fifth, and finally, we discuss what a coherent framework for understanding hazing would look like.

### A. TOWARDS A DEFINITION

Hazing has been defined and conceptualized in numerous ways by state legislatures in anti-hazing statutes.<sup>213</sup> A handful of scholars have sought to ascertain how different groups of college students conceptualize hazing. Among the limited scholarship in this area, Brian Crow examined how sport hazing has been conceptualized by student-athletes, coaches, and sport administrators.<sup>214</sup> His work found that the confusion around various acts of hazing, such as whether one is defining hazing or team initiation, may be the precipitating problem in collegiate sports.<sup>215</sup> Prior research found that athletes who admitted to being involved in hazing often downplayed and justified their hazing activities or were not aware they were involved in hazing to begin with.<sup>216</sup> Prior research also makes a distinction between hazing and the initiation process where initiation rites, when conducted properly, increase “pro-social behaviors that build social relationships, understanding, empathy, civility, altruism, and moral decision-making.”<sup>217</sup> In order for any hazing or initiation to exist, four

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213. See Parks, *supra* note 14.

214. R. Brian Crow, & Eric W. Macintosh, *Conceptualizing a Meaningful Definition of Hazing in Sport*, 9 EUR. SPORT MGMT Q. 433 (2009).

215. *Id.*

216. Crow, *supra* note 214, at 434. Analogous to Crow's research, the definition of “hazing” may be a matter of how the behavior is framed in any given context. Krzysztof Tokar and Craig Stewart found that studied students in introduction to coaching classes where they completed a survey in which they determined in what “hazing” behaviors they were forced to participate during high school. Krzysztof Tokar & Craig Stewart, *Defining High School Hazing: Control Through Clarity*, 67 PHYSICAL EDUCATOR 204, 205 (2010). The vast majority of involvement was in behaviors that would be considered either positive (i.e., community service, maintaining grades, completing team activities) or neutral at worst. *Id.* at 207. The only behavior that athletes consistently reported was being yelled, cursed, or sworn at.

217. Crow, *supra* note 214, at 436.

characteristics of a group must be met: 1) a common goal achievable only through joint action, 2) interaction between members, 3) a stable structure that survives as members come and go, and 4) group member recognition of the group, other members, and their roles.”<sup>218</sup>

The gap Crow sought to address was the divide between how researchers define hazing and how student-athletes define hazing.<sup>219</sup> Using a sample of college athletes, coaches, and administrators, Crow collected qualitative data from both groups—athletes versus coaches/administrators—on what was acceptable team initiation and bonding, and what is considered to be hazing.<sup>220</sup> There was a consensus among all athletes that male athletes tend to engage in more physically dangerous acts of hazing whereas women tend to engage in more emotional acts.<sup>221</sup> The most commonly used definition of hazing was, “any activity expected of someone joining a group that humiliates, degrades, abuses, or endangers, regardless of the person’s willingness to participate.”<sup>222</sup> This did not include activities such as rookies carrying the balls, team parties with community games, or going out with your team-mates, unless coupled with an atmosphere of humiliation, degradation, abuse or danger.<sup>223</sup> Crow found that hazing consists of an “activity expected of someone joining a group.”<sup>224</sup> With regards to athletes, however, this component of the definition did not apply given that it is the coach who decides who joins the team. Athletic hazing, Crow found, is “most often perpetrated by players who do not have control over which rookies remain as part of the team; a victim can be hazed and still be cut from the team by the coach, or the team-mate can refuse to be hazed and still be kept on the team by the coach.”<sup>225</sup> As such, Crow defined hazing as “any potentially humiliating, degrading, abusive, or dangerous activity expected of a junior-ranking athlete by a more senior team-mate, which does not contribute to either athlete’s positive development, but is required to be accepted as part of a team, regardless of the junior-ranking athlete’s willingness to participate.”<sup>226</sup>

Other research has largely been in the form of unpublished studies. Chad Ellsworth’s study on hazing focused on five different groups: marching band members, fraternity members, sorority members, Reserve Officer Training Corps members, and student athletes.<sup>227</sup> Participants were

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218. *Id.*

219. *Id.* at 438.

220. *Id.* at 441.

221. *Id.* at 443.

222. *Id.* at 437.

223. *Id.* at 448.

224. *Id.*

225. *Id.*

226. *Id.* at 449.

227. Chad William Ellsworth, *Definitions of Hazing: Differences Among Selected Student Organizations*, DIGITAL REPOSITORY AT THE U. OF MD. 42 (2004).



asked to indicate to what degree they agreed that each activity from a list of 42 activities was a hazing activity.<sup>228</sup> For the entire sample, respondents agreed that ten activities constituted hazing: forced consumption of excessive amounts of alcoholic beverages; being struck by an object, such as a ball, baton, fist, or paddle; being handcuffed or tied to a building or structure; receiving a brand or tattoo, drinking or eating substances not intended for normal consumption; being deprived of beverages or food by others; performing sexual acts, participating in streaking or other activities while naked, being deprived of sleep by others; and stealing an item.<sup>229</sup>

In her unpublished study, Kari Jean Brooks sought to analyze the differences in students perception regarding hazing acts, specifically among students who were affiliated with a student group (i.e., fraternity, sorority, athletic groups, marching band) and those who were not.<sup>230</sup> Looking more specifically at Greek-life, Deborah Lee Shaw's study investigated the frequency of hazing activities in sororities to determine if there was a regional distinction in occurrences of hazing.<sup>231</sup> Shaw was interested in whether there was a relationship between: 1) being hazed as a pledge and repeating activities upon pledges when a member; 2) being hazed as a pledge and being able to define the action as hazing; and 3) hazing pledges as a member and being able to define the action as hazing.<sup>232</sup> Shaw applied the definition of hazing promulgated by the National Panhellenic Conference: "any action taken or situation created intentionally, whether on or off fraternity premises, to produce mental or physical discomfort, embarrassment, harassment, or ridicule. Such activities and situations include creation of excessive fatigue; physical and psychological shocks; morally degrading or humiliating games or activities."<sup>233</sup> In sum, individuals have idiosyncratic definitions of hazing. These definitions appear to be influenced by whether and what type of student group one has been a member of, including; race, gender, and one's own experience being hazed. The literature is lacking because of the the limited amount of hazing research and the narrow set of lenses through which it has been studied. Moreover, despite the definitions provided in the various states anti-hazing legislation, many or most of those statutes may have been drafted with little regard to the scholarly literature on hazing. As such, even those definitions may be deficient. Accordingly, a workable hazing definition might be:

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228. *Id.*

229. *Id.* at 69.

230. Kari Jean Brooks, *The Differences in the Perceptions of Hazing Between Student Groups on a University Campus*, U. OF CENT. ARK. 29 (2013).

231. See generally Deborah Lee Shaw, *A National Study of Sorority Hazing Incidents in Selected Land-Grant Institutions of Higher Learning* (Mar. 20, 1992) (Unpublished Ph.D. Dissertation, Auburn University).

232. *Id.* at 10.

233. Shaw, *supra* note 231, at 3.

Hazing is any intentional behavior designed to produce, or results in, mental or physical harm, discomfort, embarrassment, harassment, or ridicule to individuals who are seeking membership, or to maintain or elevate membership status, in an organization or group. Such behavior includes but is not limited to expected or forced alcohol or drug consumption, calisthenics, use of physical brutality, creation of sleep deprivation or excessive fatigue, or morally degrading or humiliating activities. This definition does not include reasonable activities necessary to adequately train one to perform their function in the military or on an athletic team.

#### B. SEARCHING FOR SIMPLICITY

In addition to inadequately defining hazing, another challenge that undermines our collective ability to address hazing is the tendency to think of it in simple terms. Here, the problem is that hazing is not rooted in one cause or even just a few causes. From a philosophical perspective, the fallacy of the single cause is the erroneous belief that a problem is the result of one cause when in reality the problem stems from multiple causes.<sup>234</sup> Often the person who has committed this sort of fallacy frames an issue as being caused entirely by factors that are not sufficient to explain the phenomena, or that overstate the significance of one factor's contribution to the issue.<sup>235</sup>

Behavioral economists approach this search for simple answers from a different angle. For example, the theory of bounded rationality purports that people's ability to be rational is "finite in scope and representational in reach and constrained by the opportunity cost of time."<sup>236</sup> There are

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234. James Danaher, *The Fallacy of the Single Real Essence*, 20 CONTEMPORARY PHILOSOPHY 57 (1998).

235. Danaher, *supra* note 234, at 57. Logical fallacies are often the result of a person trying to make quick sense of the world around them; the fallacy of the single cause is no different. The fallacy of the single cause occurs when the true cause or causes are unknown, and it is falsely supposed that there is a single cause behind a phenomenon. *Id.* at 58. This sort of thinking is not necessarily uncommon and is even supported in some circumstances. For example, noted philosopher David Hume stated that "[t]he same cause always produces the same effect, and the same effect never arises but from the same cause." DAVID HUME, A TREATISE ON NATURE 173 (2003). However, when applied to societal ills, this general rule does not always apply. Instead of experiencing a recognized effect arising out of a known cause people may misattribute what they believe to be the cause and its effect, with something they have perceived in similar situations. *Id.* at 59. This practice stems from the desire to make sense of the connections between cause and effect. It is a direct result of the mind's ability to form analogies to produce habits. *Id.* at 22. What then results is a fallacious way of thinking, where a person assumes that there is a "one-to-one" relationship between a certain cause and effect where there is not one. *Id.* at 173.

236. Don Ross, *Psychological Versus Economic Models of Bounded Rationality*, 21 J. ECON. METHODOLOGY 411, (2014).

countless factors, both external and internal, that pose limits on rational choice such as limits to cognitive ability, incomplete knowledge, and time parameters.<sup>237</sup> Models of bounded rationality for decision-making consider the “practical impossibility” of exercising perfect rationality.<sup>238</sup> While objective rational choice can be predicted using preference conditions and expected utility, actual decisions do not reflect rational choice.<sup>239</sup> Bounded rationality contradicts the normative model of rationality by recognizing variables that limit the ability to make the “best” choice. As such, bounded rationality is built on several preceding conceptual terms, including “finite intelligence,” “limited intelligence,” “incomplete rationality,” and “limited rationality.”<sup>240</sup> Increasing focus on the psychology of choice led to the changing approaches to modeling rationality and eventually to its acceptance and application to various contexts. In fact, Herbert Simon developed this concept of bounded rationality to “designate rational choice that considers the cognitive limitations of the decision-maker—limitations of both knowledge and computational capacity.”<sup>241</sup>

Models of problem-solving also consider how courses of action are limited by the theory the problem solver adopts. That is why a problem-solver may not always draw helpful theoretical inferences, and why the problem-solver may not respond adequately to obvious clues.<sup>242</sup> Richard R. Nelson stipulates that problem-solving is largely based on a process of trial and error and that achievement is based on the efficacy of an individual's learning process (and luck).<sup>243</sup> Nelson explains that holding the correct general theory may actually add nothing to an individual's ability to choose effective paths of action, this can occur if there are no relevant cues in the decision-maker's environment about which path to take.<sup>244</sup> In addition, being a good decision maker may be unhelpful if an incorrect theory is relied on.<sup>245</sup> While exploration of theories through trial and error can be highly advantageous in some problem-solving settings, it may be disastrous in others.<sup>246</sup>

With that in mind, there are two conditions which lead individuals to act in accordance with bounded rationality. John Conlisk states that a human's ability to reason is scarce and such scarcity leads to bounded

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237. Daniele Schiliró & Desmas V. Pareto, *Bounded Rationality and Perfect Rationality: Psychology Into Economics*, 3 THEORETICAL & PRACT. RES. ECON. FIELDS 101, 104–05 (2012).

238. *Id.*

239. *Id.*

240. Matthias Klaes & Esther-Mirjam Sent, *A Conceptual History of the Emergence of Bounded Rationality*, 37 HIST. POL. ECON. 27, 32 (2005).

241. *Id.* at 38.

242. Richard R. Nelson, *Bounded Rationality, Cognitive Maps, and Trial and Error Learning*, 67 J. ECON. BEHAV. & ORG. 78, 79 (2007).

243. *Id.* at 80.

244. *Id.*

245. *Id.*

246. *Id.* at 81.

rationality.<sup>247</sup> This idea of scarcity can be interpreted in two ways which reflect the different circumstances that cause individuals to fail to act rationally.<sup>248</sup> The individual could be constrained in a certain situation and a rational outcome or course of action could literally be impossible, or the procedure necessary to reach a rational decision could require intensive calculus, which might be beyond the scope of an individual's cognitive capacity.<sup>249</sup> Alternatively, time is scarce and people must select which decision processes require intensive reasoning and optimal outcomes, and which could result in satisfactory outcomes through the simple employment of heuristics.<sup>250</sup> Thus, the idea that our capacity to reason is scarce and limited can either force or motivate individuals to pursue a path of bounded rationality.<sup>251</sup>

Conslisk's and others work has built on Simon's who found that when making decisions, individuals did not use techniques such as optimization to ensure that they arrived at the optimal or best decision.<sup>252</sup> Instead of exerting the mental energy necessary for an individual to arrive at the absolute best outcome, Simon found that individuals tended to use rules of thumb and other decision-making shortcuts.<sup>253</sup> Such decision-making methods fail to lead the individual to the optimal outcome, however, they do allow the individual to reach a decision that is acceptable and satisfactory.<sup>254</sup> Simon called this suboptimal yet adequate decision outcome—satisficing.<sup>255</sup> An essential component of the satisficing theory is that individuals will often be presented with choices sequentially.<sup>256</sup> Alternatives may come to the decision-maker's mind according to some ordering where there is not a complete set of all options at once.<sup>257</sup> Rather, options are evaluated as they are discovered. A daily example of this theory is exploring products on the internet, where buyers scroll looking at images sequentially.<sup>258</sup> In short, humans assume that if a current hypothesis is not contradicted by available evidence, one does not need to consider alternatives.<sup>259</sup>

In sum, humans have a natural inclination to settle on the first plausible

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247. John Conlisk, *Why Bounded Rationality?*, 34 J. ECON. LIT. 669 (1996).

248. Conlisk, *supra* note 247.

249. *Id.*

250. *Id.*

251. *Id.*

252. *Id.*

253. Daniel Kahneman, *Maps of Bounded Rationality: Psychology for Behavioral Economics*, 93 AM. ECON. REV. 1449 (2003).

254. *Id.*

255. David Dequech, *Bounded Rationality, Institutions and Uncertainty*, 35 J. ECON. ISSUES 911 (2001).

256. *Id.*

257. *Id.*

258. Mauro Papi, *Satisficing Choice Procedures*, 84 J. ECON. BEHAV. ORG., 451, 452 (2012).

259. Jennifer Garst et al., *Satisficing in Hypothesis Generation*, 115 AM. J. PSYCHOL. 475, 476 (2002).

answer to any question that comes to mind. Often, this answer may tend to be fairly simple. But, in the context of hazing, what may be true, and what the authors set out to demonstrate in this article, is that hazing has a multi-layered and complex etiology. However, the way in which it is conceptualized is often distilled to no more than a handful of simple explanations.

### C. MOVING TOWARDS COMPLEXITY

If hazing is frequently fashioned as a simple problem when it is not, the only way towards a set of workable solutions is to try and see hazing for all its constituent features. In this effort, it is important to ask whether hazing is the type of problem that is highly resistant to “solving.” If so, to what extent does making sense of it in all its complexity aid in addressing it?

Complexity is the study of the dynamics of interaction—it is not so much concerned with how individuals act on their own as it is with the mechanisms by which things happen.<sup>260</sup> It examines bundles of ideas and people, and what results when these bundles interact. Systems that produce complexity typically consist of diverse rule-following entities whose behaviors are interdependent. Complexity often requires a collection of definitions to convey the true essence of a term<sup>261</sup>—though some view this as a negative, all it does is provide more information. A complex system is one whose component parts interact with sufficient intricacy that they cannot be predicted by standard linear equations; so many variables are at work that the overall behavior can only be understood as an emergent consequence of the behaviors of each part.”<sup>262</sup> Complexity is not intended to mean complicated, as was suggested by theorists in the mid-twentieth century. Interpreting complexity to mean complicated misses the point and the paradigm shift complexity offers.<sup>263</sup> A system is complicated only if it can be given a complete description in terms of its individual parts.<sup>264</sup> If a relationship in a system can not be fully explained by analyzing its individual components, because they are constantly evolving, it is a complex system.<sup>265</sup>

Hazing may be defined as a “wicked problem.” Wicked problems are those that are “ill-formulated, characterized by confusing information and thoroughly confusing ramifications.”<sup>266</sup> In this instance, “wicked” describes

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260. Russ Marion & Marl Uhl-Bien, *Introduction to the Special Issue on Leadership and Complexity*, 18 LEADERSHIP Q. 293, 294 (2007).

261. SCOTT E. PAGE, *DIVERSITY AND COMPLEXITY* (2011).

262. MARY UHL-BEIN & RUSS MARION, *COMPLEXITY LEADERSHIP IN BUREAUCRATIC FORMS OF ORGANIZING: A MESO MODEL* 631 (2009).

263. *Id.* at 632.

264. *Id.*

265. *Id.*

266. Charles McMillan & Jeffrey Overall, *Wicked Problems: Turning Strategic Management Upside Down*, 37 J. OF BUS. STRATEGY 34, 36 (2016).

the “mischievous and even evil quality of these problems, where proposed solutions often turn out to be worse than the symptoms.”<sup>267</sup> When compared to tame problems, wicked problems “come with built-in complexities” that underscore why they are so difficult to address.<sup>268</sup> Horst Rittel and Melvin Webber developed a set of ten characteristics that distinguish wicked problems from difficult, but ordinary problems:

1. Wicked problems have no definitive formulation;
2. They have no ‘stopping rule’ (the search for a solution never stops);
3. The solutions are not true or false, but good or bad;
4. There is no ultimate test of a solution to the problem;
5. Every solution is a “one-shot operation” because you cannot learn from trial and error as every attempt counts significantly;
6. There is no exhaustively describable set of potential solutions, nor is there a well-described set of permissible operations that can be incorporated into a plan;
7. Every problem is unique;
8. Every problem can be considered a symptom of another problem;
9. The existence of discrepancies in representing such problems can be explained in multiple ways;
10. The planner has no right to be wrong.<sup>269</sup>

A problem does not have to possess all ten characteristics to be considered ‘wicked.’ However, many of our society’s most urgent problems fall under the ‘wicked problem’ category, including: climate change, drug trafficking, public health issues, terrorism, and poverty.<sup>270</sup> We are in a century of complexity, with unprecedented interconnectivity, scale, novelty, unforeseen new structures with unexpected new properties, and radical innovation and transformation—all of which breed an increasing number of complex problems that defy simple formulation and easy solutions.<sup>271</sup> Even more, non-rational and hidden dimensions are often the key factors that create and sustain wicked problems in organizations.<sup>272</sup>

There are many perspectives on how to approach finding solutions to wicked problems and most contain similar necessary elements: common

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267. Paul Willis, *From Humble Inquiry to Humble Intelligence: Confronting Wicked Problems and Augmenting Public Relations*, 42 PUB. REL. REV. 306, 307 (2016).

268. Michael Pacanowsky, *Team Tools for Wicked Problems*, 23 ORGANIZATIONAL DYNAMICS 36 (1995).

269. Willis, *supra* note 268.

270. Willis, *supra* note 268, at 308.

271. Richard H. Beinecke, *Introduction: Leadership for Wicked Problems*, 14 INNOVATION J.: THE PUB. SECTOR INNOVATION J., 1, 2 (2009).

272. Robert J. Marshak, *Reflections on Wicked Problems in Organizations*, 18 J. OF MGMT. INQUIRY 58 (2009).

understanding, collaboration, flexibility, and responsiveness.<sup>273</sup> Unfortunately, the very nature of wicked problems means that there is no one, simple solution, and there is little-to-no room for trial and error. Richard H. Beinecke focuses primarily on what leaders can do to get around wicked problems. First, finding solutions requires “dynamic leadership, as well as both transactional and informative leadership.”<sup>274</sup> This is especially true today because leaders are facing an increasing number of problems where 1) the problem itself is clear, but the solution is not and 2) there is no obvious definition for the problem. To adequately address wicked problems, leaders must: bring out shared values, empower stakeholders, and effectively communicate information to all participants.<sup>275</sup> Furthermore, they need to be flexible, adaptive, work quickly, and be willing to experiment with different solutions. ‘Adaptive work’ is especially significant, because it is “the learning required to address conflicts in the values people hold or learning to diminish the gap between the values people stand for and the reality they face.”<sup>276</sup>

Proposed solutions to wicked problems tend to ignore the depth and complexity of the factors involved in problematic situations, this serves to keep the situation consistently wicked.<sup>277</sup> At the Dutch Ministry of Foreign Affairs, a “Theory of Change” was established to address wicked problems.<sup>278</sup> For change to happen, certain things need to be accounted for: proper facts and figures, internal politics, people’s untapped values, hopes, and dreams; suppressed emotions and reactive feelings; assumptions sets and culture, and finally the psychodynamics associated with change, anxiety, and loss.<sup>279</sup> Problems need to be addressed by a combination of insiders and outsiders and need to be explained while accounting for depth, and patterns need to be openly described and confronted. A psychologically safe space also needs to be created to allow for the expression of unwanted thoughts, feelings, and attitudes.<sup>280</sup> Furthermore, issues need to be framed in ways that ensure participants don’t feel overwhelmed by the scope of the issue.<sup>281</sup>

These points have been echoed by other scholars. Charles McMillan and Jeffrey Overall argue that effective collaboration is a necessity for addressing wicked problems because the combined understanding of a problem affects how you attempt to solve it.<sup>282</sup> Through collaboration you can create a shared consensus on the problem’s definition, which encourages the commitment of alternative solutions and understanding of

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273. Beinecke, *supra* note 271, at 3.

274. *Id.* at 1.

275. Beinecke, *supra* note 271, at 3.

276. *Id.* at 4.

277. Marshak, *supra* note 272, at 58.

278. *Id.*

279. *Id.* at 59.

280. *Id.*

281. *Id.*

282. McMillan & Overall, *supra* note 266, at 38.

means-end relationships.<sup>283</sup> Recognizing that a problem exists and getting a clear picture of the uncertainties and risks can further improve the understanding of the issue at hand. Conventional methods often ignore complex causal relations and thus disguise the true nature of complex problems, leading to attempts at solutions that do not fit the problem at hand.<sup>284</sup> Furthermore, without effective collaboration, “anchor bias” can occur, which is when evidence is quickly accepted that supports existing assumptions, while contrary options are downplayed or rejected.<sup>285</sup>

Sandra Waddock and colleagues propose that wicked problems need to be viewed holistically, without breaking them into parts or fragments, “because their various components are interconnected, interdependent, and interrelated.”<sup>286</sup> Complexity is such a part of the undergrowth of wicked problems that by trying to simplify or control it you completely change the problem itself. Constant reflection and innovation are needed to adapt solutions to wicked problems as they change over time.<sup>287</sup> Because each piece of a wicked problem is constantly changing over time, it must be addressed with adaptive solutions that do not incorrectly attempt to isolate the ever-changing individual components.

Accordingly, hazing has been a remarkably difficult problem for organizations and institutions to address. However, if the stakeholders who seek to reduce, if not eradicate, hazing shift their conceptualization of it from simple to complex, they may begin to gain more traction.

#### D. RETHINKING RISK MANAGEMENT

In response to the escalating threats associated with hazing, fraternities and sororities created and adhere to risk management rules.<sup>288</sup> Contemporarily, the roots of risk management started in 1921 with economist Frank H. Knight, when he established that risk arises from randomness but is also affected by knowable probabilities.<sup>289</sup> More influential risk management research began after World War II and has been associated with market insurance and protection of companies from losses.<sup>290</sup> With regard to hazing, the fraternity and sorority industry may have “risk” management all wrong. Consider that in February 2002, U.S. Secretary of Defense Donald Rumsfeld responded to a question at a U.S.

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283. *Id.*

284. *Id.*

285. McMillan & Overall, *supra* note 266, at 39.

286. Sandra Waddock et al., *The Complexity of Wicked Problems in Large Scale Change*, 28 J. ORG. CHANGE MGMT. 993, 995 (2015).

287. Waddock et al., *supra* note 286, at 1005.

288. Shane Kimzey, Note, *The Role of Insurance in Fraternity Litigation*, 16 REV. LITIG. 459, 487 (1997).

289. DAVID HILLSON, *THE RISK MANAGEMENT HANDBOOK: A PRACTICAL GUIDE TO MANAGING THE MULTIPLE DIMENSIONS OF RISK 2* (2016).

290. Georges Dionne, *Risk Management: History, Definition and Critique*, 16 RISK MGMT. INS. REV. 147 (2013).



Department of Defense news briefing about the lack of evidence that would link the Iraqi government with supplying weapons of mass destruction to terrorist groups. He noted:

Reports that say that something hasn't happened are always interesting to me, because as we know, there are known-knowns; there are things we know we know. We also know there are known-unknowns; that is to say we know there are some things we do not know. But there are also unknown-unknowns—the ones we don't know we don't know. And if one looks throughout the history of our country and other free countries, it is the latter category that tend to be the difficult ones.<sup>291</sup>

The question for the fraternity and sorority industry is whether they are grappling with known-knowns, known-unknowns, or unknown-unknowns. In short, are they dealing with “risk” or something else much more challenging?

Decisions that have multiple outcomes with differing measurable values imply that individuals are making choices with risk. Knight emphasizes that risk involves possibilities that can be measured and includes more information than ambiguous situations this gives organizations the potential to make a better decision.<sup>292</sup> The numerical probability of occurrence of a group of instances can be reached through calculations or from knowledge of past experiences.<sup>293</sup> While arrival at a decision does not create complete certainty, decisions can be made based on the odds of a specific outcome.<sup>294</sup> Conversely, ambiguity does not allow for the individual to know or measure the probability of an event. Because of the unique attributes of a situation, it is improbable to predict a group of outcomes that could occur.<sup>295</sup> This type of uncertainty involves a lack of information that makes organizations less confident when making a choice. This unmeasurable uncertainty, commonly referred to as Knightian uncertainty, emphasizes aversion from making decisions when the outcomes cannot be estimated.<sup>296</sup> The first branch of ambiguity is asymmetric knowledge, where one group knows more than the other, leaving a party uncertain in their decision. Often this situation occurs in an unpredictable corporate environment, where there are many extraneous organizational variables that impact decision makers.<sup>297</sup>

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291. DoD News Briefing Tr. 9, Feb. 12, 2002.

292. FRANK H. KNIGHT, *RISK, UNCERTAINTY AND PROFIT* 213 (1st ed. 1921).

293. KNIGHT, *supra* note 292, at 233.

294. Dan Schendel, *Risk and Uncertainty*, 1 STRATEGIC ENTREPRENEURSHIP J. 53 (2007).

295. KNIGHT, *supra* note 292, at 233.

296. *Id.*

297. Kent D. Miller, *A Framework for Integrated Risk Management in International Business*, 23 J. INT'L BUS. STUD. 311, 312 (1992).

Regarding hazing, so little appears to be known about its root causes that it seems less like the management of “risk” and more like the management of “ambiguity.” This distinction seems critical to how fraternities and sororities deal with hazing and how they could address it more effectively. In unfamiliar contexts, individuals tend to attempt to draw conclusions and feel a lack of confidence when past knowledge does not clarify the situation. When decision makers know they are missing information, they attempt to rule out the unknowns, but if uncertainty still exist the situation is ambiguous.

Individuals will attempt to create more confidence in their decisions by converting a non-quantitative situation into a measurable risk.<sup>298</sup> Individuals can handle risk by diversifying, avoiding the regret of negative outcomes from past risky decisions and emotionally separating oneself from the choice process. Being rational in decision making involves an individual making the selections that best reach the goal, regardless of what this outcome is.<sup>299</sup> Conversely, the coherence view of decision making emphasizes the importance of logical reasoning and the process.<sup>300</sup>

Knight highlights the combination of perception and inference in eliminating uncertainty. First one must obtain knowledge by being conscious of circumstances in which the decision is being made, then they must infer what the future situation will produce statically.<sup>301</sup> Then the decision maker can create probabilities in order to alter this static outcome.<sup>302</sup> In situations where information is missing, organizations should try to transition from ambiguous uncertainty to a choice only involving risk. To make this transition, decision makers can rely on past information that assists them in estimating risk. Retrospective trends help individuals convert ambiguity to risk, giving them a level of confidence in their choices.<sup>303</sup> However, organizations still may resist these risky decisions because the probabilities used are from the past and create a new type of uncertainty which can influence decisions. Foresight leads to additional issues in accuracy because of the time it takes to produce these predictions and the distance from when the past situation occurred.<sup>304</sup> Reduction of risk in one area can lead to an increase in uncertainty in others—this is referred to as trade-off risk management.<sup>305</sup>

By exercising flexibility, individuals can adapt to change rather than avoid it, this can increase internal responsiveness for the future.<sup>306</sup>

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298. KNIGHT, *supra* note 292, at 256.

299. Valeria F. Reyna & Frank Farley, *Risk and Rationality in Adolescent Decision Making: Implications for Theory*, 7 PSYCHOL. SCI. IN THE PUB. INT. ARCHIVE 1, 8 (2006).

300. *Id.* at 11.

301. KNIGHT, *supra* note 292, at 202.

302. *Id.*

303. *Id.* at 256.

304. *Id.*

305. Miller, *supra* note 297, at 325.

306. *Id.*

Uncertainty can be continuously managed through information production that permits the creation of models.<sup>307</sup> Information production allows individuals to draw inferences based on patterns that can reduce risk when converted to models predicting future outcomes. Through diversification, decision makers rely on the “pattern” of randomness to assure that at least one of their risky decisions will provide a positive result. The more diverse decisions an individual makes, the more likely the possibility of an outcome benefiting the decision maker.<sup>308</sup> For insurance companies, this method is utilized with the assumption that dealing with groups, rather than individual cases, will lessen the amount of possible risk. Organizations purchase insurance to protect against property losses and the insurance company chooses to diversify the companies they provide for to lessen their risk of having to cover a cost.<sup>309</sup>

After using knowns to convert ambiguous situations to decisions only involving risk, organizations can use models, diversification, and risk avoidance to manage uncertainties and have confidence in making these decisions. By creating self-insurance or setting aside resources to cover the costs of a poor decision, individuals utilize risk avoidance to manage uncertainties.<sup>310</sup> Additionally, they can use specialization to transfer the risk to someone with more knowledge of the situation, using the judgment of other individuals who are more suitable to make a certain decision.<sup>311</sup> Evidently the most common method for dealing with risk is securing better knowledge of the future and consolidating the imminent risks to give the burden to those more capable of choosing a course of action.<sup>312</sup>

Hazing is a space in which so little is known about what causes and propels it. As such, it is difficult for fraternities and sororities to discern how it will ebb and flow. The only way for these organizations to more effectively manage and address the issue is to develop a deeper and more sophisticated understanding of the problem. That would allow for true “risk” management.

#### E. DEVELOPING A COHERENT FRAMEWORK OF THE ISSUE

If hazing is a complex issue with a multitude of factors that undergird and propel it, the only way to begin to address it is to: 1) develop a depth of understanding about it; 2) consider the variety of elements that drive it; and 3) understand how those elements interact with one another. Here, the authors employ three tools toward this end—i.e., sensemaking, design-thinking, and the social-ecological model.

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307. KNIGHT, *supra* note 292, at 253.

308. *Id.* at 245.

309. Miller, *supra* note 297, at 323.

310. *Id.* at 320.

311. KNIGHT, *supra* note 292, at 250.

312. *Id.* at 260.

Karl E. Weick brought to the fore the concept of sensemaking, literally meaning the making of sense of a situation.<sup>313</sup> Sensemaking consists of structuring the unknown, as well as putting stimuli into frameworks in order “to comprehend, understand, explain, attribute, extrapolate, and predict.”<sup>314</sup> Weick further explains that sensemaking is comprised of seven elements.<sup>315</sup>

1. Identity: This element is grounded in identity construction—i.e., who people think they are in their context shapes what they enact and how they interpret events.<sup>316</sup>
2. Retrospect: This element is grounded in the notion that people can only truly know what they are doing after they have done it, making retrospect an integral part of sensemaking.<sup>317</sup>
3. Enactment: This element is grounded in the fact that there is not a singular, fixed environment that is detached from people. Instead, people are a part of their environment. When people act, they create the materials that become the experiences they face.<sup>318</sup>
4. Social contact: This element suggests that sensemaking is never truly solitary because what a person does internally is “contingent on others.”<sup>319</sup> This is especially so within an organization, which uses a common language and has everyday social interactions within its network.<sup>320</sup>
5. Ongoing events: This element suggests that sensemaking “never starts.”<sup>321</sup> This is so because the continuation of sensemaking never stops, as people are always in the middle of things.<sup>322</sup>
6. Cues: This element focuses on the way that people notice and extract cues as a way to see how people are actually making sense, and then how they embellish those cues that they extract.<sup>323</sup>
7. Plausibility: This element suggests that in order for there to be plausible reasoning, one must go beyond the directly observable information to form ideas and understandings that fit the facts.<sup>324</sup>

Accordingly, through these processes, people can give meaning to their collective experiences, including in organizations.

Design thinking has been employed as another process for better

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313. KARL E. WEICK, *SENSEMAKING IN ORGANIZATION* 4 (1995).

314. *Id.*

315. *Id.* at 17.

316. *Id.* at 22.

317. WEICK, *supra* note 313, at 24.

318. *Id.* at 31.

319. *Id.* at 40.

320. *Id.* at 38–39.

321. *Id.* at 43.

322. *Id.*

323. *Id.* at 49.

324. *Id.* at 56.

understanding the world around us and, especially, the challenges within organizations. Design thinking invites individuals to approach questions imaginatively and through an interdisciplinary lens as a more innovative approach to traditional problem-solving.<sup>325</sup> Scholars have developed various approaches to how sensemaking is employed. In Steven Chen and Alladi Venkatesh's research they identified four key types of design thinking: "End User Needs," "Knowledge Brokering," "Brand Image," and "Competitor Orientation."<sup>326</sup> Two seem apropos here. "End User Needs" emphasize the needs and experiences of potential "customers." This strategy employs individuals to directly observe consumers to discern more about them.<sup>327</sup> This will help an organization develop product concepts to meet those needs. "End User Needs" has often been found to improve idea generation and create superior innovative products.<sup>328</sup> "Knowledge Brokering" signifies "the transfer of thoughts, ideas, and solutions from one context to another."<sup>329</sup> For instance, technology brokering mixes individuals from different technologies and industries to create teams.<sup>330</sup> Interdisciplinary brokering creates teams made up of individuals with different professional backgrounds.<sup>331</sup> This can help spur innovation.<sup>332</sup>

In their work, Lisa Calgren and colleagues developed five main themes, which they found to be vital to any successful implementation of design thinking—"User Focus," "Problem Framing," "Visualization," "Experimentation and Diversity."<sup>333</sup> We focus on the latter four, as they seem most appropriate to the analysis herein. "Problem Framing" emphasizes that businesses should not rush into solutions. Instead of trying to solve a problem immediately, individuals, and teams should reframe and widen the issue.<sup>334</sup> In creating a wider space for the problem, the business will also have a larger space for the solution.<sup>335</sup> This reframing allows for unconstrained, futuristic thinking that will allow businesses to embrace the

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325. Lori A. Coakley et al., *Meeting the Challenge of Developing Innovative Problem-Solving Students Using Design Thinking and Organizational Behavior Concepts*, 6 J. BUS. EDUC. INNOVATION 34 (2014).

326. Steven Chen & Alladi Venkatesh, *An Investigation of How Design-Oriented Organizations Implement Design Thinking*, 29 J. MARKETING MGMT. 1680, 1682 (2013).

327. Chen & Venkatesh, *supra* note 326.

328. Chen & Venkatesh, *supra* note 326.

329. *Id.*

330. *Id.*

331. *Id.*

332. *Id.*

333. Lisa Calgren et al., *Framing Design Thinking: The Concept in Idea and Enactment*, 25 CREATIVITY AND INNOVATION MGMT. 38, 46 (2016) (explaining that the first theme, User Focus, emphasizes empathy, deep user understanding, and user involvement in design thinking. Businesses will use observation, or empathy mapping to get to know the customer first, which will help develop more user-friendly solutions that will actually be successful. User Focus also emphasizes the need to be able to grapple with other opinions, and backgrounds., fostering an empathetic culture).

334. *Id.* at 47.

335. *Id.*

unexpected.<sup>336</sup> Design thinking constantly encourages ambiguity both in how it is used, and in the solutions it develops. The third theme is “Visualization,” which emphasizes the importance of visualizing and believing in tangible solutions.<sup>337</sup> This theme of design thinking encourages physical and visual representations of solutions enacted through role-play or storytelling.<sup>338</sup> This can help test, refine, and create consensus on ideas.<sup>339</sup> The fourth theme of design thinking is “Experimentation.” This is self-explanatory, suggesting that businesses should test out their solutions in an iterative way, as soon as possible.<sup>340</sup> These tests should emphasize user feedback to build on their solutions more effectively. According to this theme, it is vital for teams and individuals to fail often, and soon.<sup>341</sup> Unconstrained individuals who can test out their solutions, make mistakes, and laugh and learn from these mistakes are far more effective. The fifth theme is “Diversity.” This is similar to brokering in that it signifies that it is key to collaborate with other individuals with different backgrounds.<sup>342</sup> Even incorporating a variety of personalities may be helpful.<sup>343</sup> This mix of minds prevents teams from becoming stagnant.<sup>344</sup>

While design thinking has proven to be beneficial as a process for generating and testing breakthrough innovations, it has also proven to be beneficial for challenging existing ways of thinking.<sup>345</sup> Lori Coakley and colleagues developed a design-thinking program to combine liberal education and business pedagogy to solve complex, ill-structured problems.<sup>346</sup> This program emphasized developing, communicating, and applying ideas with team members. It found that three key ideas were at the heart of the design thinking innovation process: “Inspire,” “Ideate,” and “Implement.”<sup>347</sup> The first step in this design thinking innovation process is “Inspire.” This step in the innovation process consists of identifying and defining a team’s challenge.<sup>348</sup> After the problem had been identified, the team would observe people that could offer information to solve the

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336. *Id.*

337. *Id.*

338. *Id.*

339. *Id.*

340. *Id.*

341. *Id.* at 48.

342. See Jieun Kim & Hokyong Ryu, *A Design Thinking Rationality Framework: Framing and Solving Design Problems in Early Concept Generation*, 29 HUM.-COMPUTER INTERACTION 516 (2014) (examining diversity by using design thinking with both experts and novices. The study demonstrated that experts were better able to problem frame and generate more second order connotations, thus creating more creative options for the business. Meanwhile, the novices were not as attached to their original design. Thus, they were better at meeting user needs and did not fixate as often).

343. Calgren et al., *supra* note 333, at 47.

344. *Id.*

345. Coakley, *supra* note 325, at 34.

346. *Id.*

347. *Id.* at 36.

348. *Id.* at 35.

issue.<sup>349</sup> From these observations, the team would form insights on their observations.<sup>350</sup> The second step is “Ideate.” In this step the team would frame opportunities, which meant framing a space to insert and solve their problem.<sup>351</sup> Once the team had framed their problem, they could brainstorm solutions, and then select the best ideas they developed.<sup>352</sup> The final step is “Implement.” In this stage, the team would develop prototypes of their selected solutions.<sup>353</sup> Next, the team would experiment on their prototypes in realistic ways as soon as possible.<sup>354</sup> They would iterate these experiments rapidly to generate as much information on their solution as possible and determine where their solution had succeeded and failed.<sup>355</sup>

While sensemaking and design thinking provide processes for innovative problem-solving, the socio-ecological model provides a framework within which that processes might fit. Under systems thinking, “the system of any individual concept, or that concept’s ‘ecology,’ is made up on content and context, where content is defined as the set of symbolic or informational variables in a conceptual space.”<sup>356</sup> Building on this theory, Urie Bronfenbrenner defined human development “as the person’s evolving conception of the ecological environment, and his [sic] relation to it, as well as the person’s growing capacity to discover, sustain, or alter its properties.”<sup>357</sup> Bronfenbrenner’s ecological systems model consists of four environmental levels, with each level impacting differently the development of each person: 1) the microsystem; 2) the mesosystem; 3) the exosystem; and 4) the macrosystem.<sup>358</sup> Each is examined in turn.

Bronfenbrenner describes the microsystem as “a pattern of activities, roles, and interpersonal relations experienced by the developing person in a given setting with particular physical and material characteristics.”<sup>359</sup> Thus, the microsystem involves the immediate environment with which the child/adolescent closely interacts such as the classroom, playground, recreation center, home, friend’s home, neighborhood, and religious institution.<sup>360</sup>

The mesosystem, which represents level two, was defined by

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349. *Id.* at 36.

350. *Id.* at 37.

351. *Id.* at 35.

352. *Id.* at 37.

353. *Id.* at 38.

354. *Id.*

355. *Id.*

356. Derek Cabrera et al., *Systems Thinking*, 31 EVALUATION & PROGRAM PLAN. 299, 303 (2008).

357. URIE BRONFENBRENNER, *THE ECOLOGY OF HUMAN DEVELOPMENT: EXPERIMENTS BY NATURE AND DESIGN* 9 (1979).

358. Anthony J. Onwuegbuzie et al., *Foreword to Using Bronfenbrenner’s Ecological Systems Theory to Frame Quantitative, Qualitative, and Mixed Research*, 7 INT’L J. OF MULTIPLE RES. APPROACHES 2, 4 (2013).

359. BRONFENBRENNER, *supra* note 357.

360. *Id.*

Bronfenbrenner as “the interrelations among two or more settings in which the developing person actively participates (such as, for a child, the relations among home, school, and neighborhood peer group; for an adult, the relations among family, work, and social life).”<sup>361</sup> The mesosystem refers to the connections among various environments in a person’s life and how these experiences interact.<sup>362</sup> For example, a child who is bullied at school manifesting withdrawal behavior in the home.<sup>363</sup>

The third level, the exosystem, refers to “one or more settings that do not involve the developing person as an active participant, but in which events occur that affect or are affected by, what happens in the setting containing the developing person.”<sup>364</sup> The exosystem refers to links between a person’s immediate social setting and a social setting in which a person may not participate actively.<sup>365</sup> A person’s experience at home might be influenced by his/her spouse’s/partner’s experiences at work, such as if a newborn baby is keeping the person awake at night, which then might affect how productive this person is at work, which, in turn, might affect the dynamic between this person and co-workers, which then may influence the domestic relationship.<sup>366</sup>

Finally, the macrosystem refers to “consistencies in the form and content of lower-order systems (micro-, meso-, and exo-) that exists, or could exist, at the level of the subculture or the culture as a whole, along with any belief systems or ideology underlying such inconsistencies.”<sup>367</sup> In other words, the macrosystem involves the larger cultural context surrounding the person, such as societal beliefs, ideologies, or laws that indirectly impact the individual.<sup>368</sup> Macrosystems shift over time among members of a cultural group that share a common identity.<sup>369</sup>

In sum, social interactions are a key component of ecological systems theory. “Bronfenbrenner described the topology of the ecological environments as ‘a nested arrangement of structures, each contained within the next’, which must be examined as an interdependent whole to fully understand the forces surrounding a developing individual.”<sup>370</sup> The Centers for Disease Control adapted Bronfenbrenner’s model to address health-

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361. *Id.*

362. *Id.*

363. *Id.*

364. *Id.*

365. *Id.*

366. *Id.* at 5.

367. BRONFENBRENNER, *supra* note 357.

368. *Id.*

369. *Id.*

370. Jennifer Watling Neal & Zachary P. Neal, *Nested or Networked? Future Directions for Ecological Systems Theory*, 22 SOC. DEV. 722, 722–23 (2013). (quoting URIE BRONFENBRENNER, *THE ECOLOGY OF HUMAN DEVELOPMENT: EXPERIMENTS BY NATURE AND DESIGN* 22 (1979)).



related issues.<sup>371</sup> Their model focuses on individual, interpersonal, organizational, community, and policy-levels.<sup>372</sup>

### III. ORGANIZATIONAL DYNAMICS.

Employing sensemaking, design-thinking, and the social-ecological model, we narrow our analysis of the causes of hazing to a variety of organizational factors. In subsection A, we explore how cognitive biases across a large swath of a sorority's membership can create the perfect storm for the demise of the organizations. In subsection B, we explore why it is difficult to communicate new information and better ideas about hazing with the masses of sorority members. Lastly, in subsection C, we explore a broad array of other issues within white sororities that may undermine their ability to address hazing.

#### A. COGNITIVE BIASES AND THE PERFECT STORM

It does not take a series of progressively worse hazing incidents to ruin an organization. All it takes is something out of the ordinary and yet catastrophic—e.g., multiple young ladies dying of hazing in one chapter at the same time or a string of hazing deaths in the same organization over a short period of time. Organizations are not prepared for this because their members cannot imagine such a catastrophe happening. Even as threats against an organization build, members likely think of them in benign terms, which becomes a growing chorus among such members. At the heart of this judgment and decision-making are several cognitive biases that members may be consciously unaware of. Cognitive biases are systematic deviations from rational judgment, whereby inferences about other people and situations may be illogically drawn.<sup>373</sup> We focus on the interconnection between the bias blind-spot, black swan effect, normalcy bias and the ostrich effect, framing, and bandwagon effect.

##### 1. Bias Blind-spot

The bias blind-spot is a person's tendency to think that biases are more prevalent in people other than themselves.<sup>374</sup> For example, three studies by Emily Pronin, Daniel Y. Line and Lee Ross show that individuals can see the existence and procedure of cognitive and motivational biases more so in

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371. Division of Cancer Prevention and Control, Centers for Disease Control, *Social Ecological Model*, COLORECTAL CANCER CONTROL PROGRAM (CRCCP) (Aug. 1, 2013), <https://www.cdc.gov/cancer/crccp/sem.htm>, [<https://perma.cc/7TBR-7SGK>].

372. *Id.*

373. See MARTIE G. HASELTON ET AL., *The Evolution of Cognitive Bias*, in, THE HANDBOOK OF EVOLUTIONARY PSYCHOL. 725, 979 (2005).

374. Richard F. West et al., *Cognitive Sophistication Does Not Attenuate the Bias Blind Spot*, 103 J. PERSONALITY & SOC. PSYCHOL. 506, 506 (2012).

others than themselves.<sup>375</sup> In Study One, Pronin and colleagues asked participants via three surveys to indicate how much they displayed eight specific biases: self-serving attributions for success versus failure, dissonance reduction after free choice, positive halo effect, biased assimilation of new information, reactive devaluation of proposals from one's negotiation counterparts, perceptions of hostile media bias toward one's group or cause, fundamental attribution error "in blaming the victim," and judgments about the "greater good" influenced by personal self-interest.<sup>376</sup> Overall, participants reported themselves as less susceptible to these biases than the average American. Interestingly, they also rated their parents as less susceptible to each bias than the average American.<sup>377</sup>

Study Two asked participants to rate their susceptibility to specific biases relative to their fellow students in a seminar course, thus creating a comparison target which was relevant to the participants.<sup>378</sup> Participants still reported themselves as less biased.<sup>379</sup> However, the participants did not rate themselves as less prone to the personal limitations—procrastination, public speaking, and planning fallacy.<sup>380</sup>

Survey Three explored the role of social desirability and cognitive ability in producing the bias blind-spot.<sup>381</sup> The results generally replicated those of the previous two surveys. Participants claimed to be less biased than members of the relevant comparison group, but not regarding procrastination, public speaking, and planning fallacy.<sup>382</sup> Participants viewed themselves as less susceptible to the eight biases which the raters judged to be low in cognitive ability, but equally susceptible to the eight biases which the raters deemed high in availability.<sup>383</sup> Similarly, participants viewed themselves as less susceptible to biases deemed low in social desirability but equally susceptible to those of high social desirability.<sup>384</sup>

Study Two sought to examine the relation of the findings from Study One to the better-than-average effect. Participants first made self-assessments that were expected to produce this effect and then viewed an explicit description of it, after which researchers measured their denial of guilt.<sup>385</sup> Participants claimed to have more of the positive characteristics than the negative characteristics. Moreover, eighty-seven percent of the participants gave a mean rating that reflected a claim of being better than

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375. Emily Pronin et al., *The Bias Blind Spot: Perceptions of Bias in Self Versus Others*, 28 PERSONALITY & SOC. PSYCHOL. BULL. 369, 369 (2002).

376. *Id.* at 370.

377. *Id.* at 371.

378. *Id.*

379. *Id.*

380. *Id.*

381. *Id.* at 372.

382. Pronin et al., *supra* note 375, at 373.

383. *Id.* at 373–74.

384. *Id.* at 374.

385. *Id.*

average compared to their peers.<sup>386</sup> Only twenty-four percent indicated their responses as having been biased and due to the better than average effect.<sup>387</sup> Even immediate experience with the bias and familiarity with its definition were not sufficient to induce claims to bias susceptibility.<sup>388</sup>

## 2. Black Swan Effect

Nassim Nicholas Taleb coined the term Black Swan, which is an event characterized as being “outside the realm of regular expectations because nothing in the past can convincingly point to its possibility.”<sup>389</sup> Black Swans are catastrophic due to individuals’ inability to accurately predict or prepare for them.<sup>390</sup> Taleb takes a controversial position by advocating for the acceptance of “a Black Swan-dominated system rather than a Gaussian-dominated system”<sup>391</sup> suggesting that human beings need to adjust their behavior accordingly. This position proves contrary to the very nature of human behavior as “human psychology is designed to ignore (highly improbable yet important events), constructing the illusion of certainty where none exists.”<sup>392</sup> The biases of human nature hinder individuals’ awareness of Black Swan events, causing those events to come as a shock when they do inevitably occur. Taleb uses the example of the turkey to demonstrate that Black Swan events present themselves as significant shocks because of humans’ failure to predict future events accurately due to the structure of our mental processes.<sup>393</sup> The turkey is unaware of his fate, days before Thanksgiving. The turkey assumes that his fattening will go on indefinitely—as that is the care that he has become accustomed to. There are no prior events in the turkey’s life that would predict his inevitable slaughter. The data collected by the turkey suggested that the world is a seemingly pleasant place and that its owners are protective of it. To the turkey, his death is a Black Swan event as he could not foretell this event from his prior treatment.<sup>394</sup> Human beings often behave like the

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386. *Id.* at 375.

387. *Id.*

388. *Id.*

389. NASSIM NICHOLAS TALEB, *THE BLACK SWAN: THE IMPACT OF THE HIGHLY IMPROBABLE* xxixvii-xviii (2d. ed. 2010) (Referencing the difficulty that individuals face in predicting rare events with extreme impact with an historical nod to the discovery of black swans in the seventeenth century. It was previously believed that all swans are white. This belief went unchallenged until Dutch Sailors recorded the discovery of black swans in Australia. The existence of black swans causes a prominent disruption of individuals’ perceptions. The rarity of black swans does not disqualify their existence and as a result, this phenomenon serves as the primary metaphor of Taleb’s work.)

390. Pronin et al., *supra* note 375.

391. Stephen Kinsella, *Book Review of The Black Swan: The Impact of the Highly Improbable*, 71 J. ECON. BEHAV. & ORG. 579, 579 (2009).

392. Kinsella, *supra* note 391.

393. *Id.*

394. *Id.*

metaphorical turkey as our mental processes cause us to ignore the lurking presence of Black Swans.

Human beings' tendency to construct narratives and patterns to explain events, where no such pattern exists, presents individuals with an illusion of clarity although the future is not as predictable as they presume it to be. Taleb explains this tendency for uniformity, or narrative fallacy, as "a need for simplicity, order, and structure that clouds our minds and fools us into thinking that the world is less random than it is."<sup>395</sup> Human psychology affects individuals' understanding of reality by compartmentalizing life events into a simple story rather than an accurate account of the truth. The rationalization of observed events provides individuals with a false sense of comfort that may lead to incorrect conclusions about reality and the future. Furthermore, this human tendency to organize random data even affects individuals' security in the future as some project their observations about a past event into a straight-line pattern to predict the future.<sup>396</sup>

An additional complication hindering human beings' awareness of Black Swan events is their tendency to reimagine the world around them to fit their reality. Tunnel vision, or ludic fallacy, places a premium on "known sources of uncertainty and [ignores] the complexity of reality."<sup>397</sup> Black Swan events are problematic for human beings due to their reliance on narrow narratives used for interpretation. Black Swan events contain high degrees of uncertainty because of a lack of knowledge regarding their occurrence. Therefore, human beings have limited means in which to recognize unknowns causing them to focus on known sources of uncertainty and completely ignore events that do not fit their version of reality. Humans' tendency to reconstruct reality to reaffirm their held beliefs, known as confirmation bias, prevents them from noticing relevant contradictions in their understanding. Similar to tunnel vision, individuals' biases towards their beliefs cause them to undervalue observable inconsistencies and as a result, Black Swan events completely disrupt their perceptions of the world.

### 3. Normalcy Bias and the Ostrich Effect

The normalcy bias is a mental state of denial that people enter when they are faced with a disaster.<sup>398</sup> In this mind-set people begin to underestimate as well as minimize the possibility of a catastrophe. This

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395. Gerald L. Musgrave, *Book Review of The Black Swan: The Impact of the Highly Improbable*, 44 BUS. ECON. 123, 1244 (2009).

396. See discussion *supra* section II.B., mainly focusing on David Hume's discussion of the need for simplicity and a desire to make connections as a way to understand why things happen a certain way.

397. Avinash M. Nafday, *Strategies for Managing the Consequences of Black Swan Events*, 9 LEADERSHIP & MGMT. IN ENG'G 191, 193 (2009).

398. Ronda Oberlin, *Improving Disaster Outcomes with Better Decision Making*, 11 J. OF BUS. CONTINUITY & EMERGENCY PLANNING 279, 282 (2017).

bias leads individuals to inaccurately reorder information to create a more optimistic outcome.<sup>399</sup> The clearest example of the normalcy bias is the Nazi Holocaust: it explains why Jews ignored signs of danger—because they did not believe that the horrendous events would happen to them. The normalcy bias tends to occur when people are placed in a situation that has never happened to them before.<sup>400</sup> Individuals tend to use the logic that if an event has never occurred then, that is reason enough to believe that the event will never happen.<sup>401</sup>

There is a lot of unforeseen danger that comes along with the normalcy bias. It may seem as though the individual is not causing harm. However, there are a lot of negative repercussions. For example, it hinders an individual's ability to cope with disaster by making it difficult to react to situations.<sup>402</sup> It leads individuals to misinterpret warnings or not even recognize the situation as a warning, thereby inaccurately reframing information to make a more positive outcome.<sup>403</sup> Elisha Babad explored an analog of normalcy bias—i.e., wishful thinking. Wishful thinking is a link between a wish and an expectation.<sup>404</sup> Babad looked at over 3,000 Israeli voters. She had them predict the outcomes of the 1992 general election and state their political preferences. She discovered that accurate information did not reduce the effects of predictions (wishes) on outcomes (expectations).<sup>405</sup> Voters predicted more favorable results for their favorite candidates even if they saw negative polling scores.<sup>406</sup> When people are asked to predict future outcomes that they have a deep connection with, their concerns and wishes influence their expectations.<sup>407</sup> This tends to lead to an optimistic expectation. Another aspect that correlates with the normalcy bias is the ostrich effect.<sup>408</sup> Webb, Chang, and Benn have determined that the ostrich effect causes individuals to tend to bury their head in the sand.<sup>409</sup> This leads them to intentionally avoid information.<sup>410</sup>

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399. *Id.*

400. *Id.* at 283.

401. *Id.*

402. *Id.* at 284.

403. *Id.*

404. Elisha Babad, *Can Accurate Knowledge Reduce Wishful Thinking in Voters' Predictions of Election Outcomes?*, 129 J. OF PSYCHOL. INTERDISC. & APPLIED 285, 285 (1995).

405. *Id.*

406. Paul F. Lazarsfield, *The People's Choice: How the Voter Makes Up His Mind in a Presidential Campaign*, 261 THE ANNALS OF THE AM. ACAD. OF POL. SOC. SCI. 194 (1949).

407. Lazarsfield, *supra* note at 406.

408. Betty Chang et al., *Teaching & Learning Guide for 'The Ostrich Problem': Motivated Avoidance or Rejection of Information About Goal Progress*, 8 SOC. & PERSONALITY PSYCHOL. COMPASS 41, 41 (2014).

409. *Id.*

410. *Id.* Linde used weight loss as an example of the ostrich effect. Linde found that "20% of people enrolled in a weight loss program reported to have never self-weighed prior to the program." This shows that by not weighing themselves they are avoiding discovering

Dan Galai and Orly Sade found the ostrich effect in the financial sector.<sup>411</sup> Leone and Chirumbolo looked at the normalcy bias and the ostrich effect through political conservatism.<sup>412</sup>

The normalcy bias and ostrich effect have a lot in common. Both exhibit the same type of traits: avoiding information that will most likely harm the individual. The question then becomes, how can individuals learn to overcome/prevent the normalcy bias? When dealing with an emergency or unforeseen event it is best to face the facts, check through possible options of dealing with the situation at hand, and then choose the best option. By examining the way that you process difficult situations, you can learn if you tend to exhibit the normalcy bias. Once you learn how you process information then you can best determine how to handle situations by not using the normalcy bias or the ostrich effect.

#### 4. Framing

Psychologists Tversky and Kahneman researched the framing effect and its impact on individuals' decision-making across various scenarios. The framing effect is another example of a cognitive bias in which an individual alters his or her decision-making process in accordance with the framing or "phrasing" of the question or scenario presented. However, it is important to note, as Tversky and Kahneman did, that the "frame a decision-maker adopts is controlled partly by the formulation of the problem and partly by the norms, habits, and personal characteristics of the decision-maker."<sup>413</sup> The framing effect has an important role in the decision-making process and is an effect that receives much attention from advertisers in the consumer market.

When analyzing the influence of the framing effect both experimentally and in real-world scenarios, it is important to recognize the

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potential negative information and that people can be motivated to avoid as well as reject information about goal progress if it is beneficial to them.

411. Dan Galai et al., *The 'Ostrich Effect' and the Relationship between Liquidity and the Yields of Financial Assets*, J. OF BUS. 2741, 2741 (2006) (explaining the relationship Galai and Sade discovered between liquidity and financial asset yields. Using behavior financial economics, they claim that some financial and economic phenomena can be understood even when agents are not rational in their decisions. Galai and Sade think that the ostrich effect is the main reason behind the non-rational decisions that agents make because agents avoid risky financial situations by pretending that they don't exist).

412. Luigi Leone et al., *Conservatism as Motivated Avoidance of Affect: Need for Affect Scales Predict Conservatism Measures*, 42 J. OF RES. IN PERSONALITY 755, 756 (2008) (discussing a link between avoiding emotions and political conservatism. Conservatism tends to align with an individuals need for closure, uncertainty avoidance, death anxiety, and fear of loss. Conservatives tend to prefer stability, predictability, and reduction of uncertainty. Therefore, they discovered that those who align their beliefs with the conservative party are more likely to exhibit behaviors that come along with the normalcy bias and ostrich effect).

413. Amos Tversky & Daniel Kahneman, *The Framing of Decisions and the Psychology of Choice*, 211 SCI. 453, 453 (2010).

light in which the decision-maker is evaluating the effect. "The 'framing effect' is observed when the description of the option in terms of gains (positive frame) rather than losses (negative frame) elicits systematically different choices."<sup>414</sup> In other words, a person may make a different decision on an issue depending on if the choice is framed in a positive or negative manner. Those doing the framing can take advantage of this hidden influence and sway the decision-maker in the direction of their choice. Goal-oriented framing occurs when a persuasive message has a different appeal depending on whether the situation emphasizes the positive consequences of a certain behavior to achieve a goal or if it emphasizes the negative consequences of not performing a behavior. Individuals seem to be more likely to execute a behavior to achieve a goal if it is framed negatively. The final framing type, risk choice, occurs when the willingness to take a risk depends on whether the possible outcomes are positively or negatively framed. As Tversky and Kahneman show, individuals tend to be more likely to make risky choices to avoid loss with negatively framed consequences than with positive framing.<sup>415</sup>

People who choose to utilize the framing effect to sway people's judgments must be careful because sometimes the framing effect can cause the decision-makers previously formed opinions to become stronger and more defensive. Bizer, Lizen, and Petti call this the valence-framing effect in their research study.<sup>416</sup> The valence-framing effect is influenced by the inoculation-theory first described by McGuire.<sup>417</sup> This theory states that "providing people with arguments against their initial attitudes might induce resistance to subsequent counter attitudinal appeals even in the absence of arguments that supported their initial attitudes," much like an antibiotic prepares the immune system to fight off subsequent attacks from stronger bacteria.<sup>418</sup> The valence-framing effect works similarly in that experiencing a negative attack on one's initial attitude sparks a more defensive reaction than experiencing a positively worded message that supports the opposite side.<sup>419</sup> The researchers use the U.S. elections as an

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414. Cleotilde Gonzalez et al., *The Framing Effect and Risky Decisions: Examining Cognitive Functions with fMRI*, 26 J. ECON. PSYCHOL. 1, 1 (2005).

415. Irwin P. Levin et al., *A New Look at Framing Effects: Distribution of Effect Sizes, Individual Differences, and Independence of Types of Effects*, 88 ORG. BEHAV. & HUM. DECISION PROCESSES 411, 414 (2002).

416. George Y. Bizer et al., *Exploring the Valence-Framing Effect: Negative Framing Enhances Attitude Strength*, 32 POL. PSYCHOL. 59 (2010). (explaining the valence framing effect through an experiment and various analogies regarding the U.S. elections. The valence framing effect states that attacks to initial attitudes in a negative frame will be met with a defensive response and be less effective in changing an initial attitude than the same message framed positively).

417. William J. McGuire, *Inducing Resistance to Persuasion: Some Contemporary Approaches*, 1 ADVANCES IN EXPERIMENTAL SOC. PSYCHOL. 191, 200 (1964) (describing the inoculation theory as it relates to the valence framing effect).

418. Bizer et al., *supra* note 416, at 61.

419. *Id.* at 64.

easily understandable example.<sup>420</sup> If Person A is a Republican and Person B confronts Person A with an anti-Republican message, Person A will react much more defensively than if Person B had presented Person A with a pro-Democrat message. Although the messages are technically the same, the one that speaks negatively about Person A's initial attitude will be met with more resistance than the one that presents the other viewpoint from a positive standpoint.<sup>421</sup>

### 5. Bandwagon Effect

The bandwagon effect is an individual's tendency to make decisions based upon the popularity of the choice.<sup>422</sup> The work of Solomon Asch provides a seminal example of how this cognitive bias works. Asch investigated the role that social conformity plays in an individual's decision-making process.<sup>423</sup> Several of his experiments revolved around a simple task of determining which of three lines were a match in size to a line that was separated from the other three.<sup>424</sup> First, participants were asked to examine these lines alone and then identify which of the lines was a match in size to a new line shown.<sup>425</sup> There were very few errors for the participants in this condition—less than 1 percent of total attempts.<sup>426</sup> The second part of the experiment involved placing individual participants in a room of confederates, who were there to match the lines incorrectly.<sup>427</sup> In this second part, there were errors in 36.8 percent of total attempts.<sup>428</sup> Additionally, seventy-five percent of all participants made an error during the second task.<sup>429</sup> The increase from less than one percent to more than thirty-six percent error in the two groups led Asch to conclude that the participants were conforming to the choices of the confederates.<sup>430</sup> This was one of the first psychology experiments to show this aspect of the bandwagon effect. Here, Asch concluded that a normative social influence was occurring, as the participants did not want to create conflict or be shamed for going against the group.<sup>431</sup>

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420. *Id.*

421. *Id.* at 64.

422. See H. Leibenstein, *Bandwagon, Snob, and Veblen Effects in the Theory of Consumers' Demand*, 64 Q.J. ECON. 183, 184 (1950).

423. See Solomon E. Asch, *Studies of Independence and Conformity: I. A Minority of One Against a Unanimous Majority*, 70 PSYCHOL. MONOGRAPHS: GEN. & APPLIED 1, 2 (1956) (describing how people cooperate with or resist the ways in which group actions become psychological forces).

424. *Id.*

425. *Id.*

426. *Id.* at 3.

427. *Id.* at 10.

428. *Id.*

429. *Id.* at 9.

430. *Id.* at 9–10.

431. See Asch, *supra* note 423, at 70. The work of Albert Mehrabian, as well as Ivo Bischoff and Henrik Egbert, underscores how people follow the herd in such contexts as



## 6. Hypothetical

Many White Sorority (“WS”) members watched the 2016 Presidential campaign and saw the debate between Hillary Clinton and Donald Trump where Clinton discussed implicit bias. As such, they embrace the belief that many people’s judgments result from a systematic pattern of deviation from rationality, even at a subconscious level. WS members, however, largely believe that they engage in rational decision-making (bias blind-spot). As such, they are unaware of the confluence of risky factors surround hazing in their organization. For example, every year, WS is embroiled in a handful of hazing-related lawsuits. WS pays a premium to Greek-letter Organizations Insurance Company (“GOIC”) to cover the Sorority in such cases. However, GOIC has seen diminishing profits in its business relationship with WS, due to WS’s increasing number of hazing-related lawsuits. GOIC is teetering on terminating its contract with WS. While there are a handful of other Greek-letter organization insurers, they have all foreclosed the possibility of doing business with WS. If GOIC terminates its business relationship with WS, the Sorority will be without insurance. It has \$5,000,000 in assets, but that would not be enough to cover the jury awards, or even settlements, in the various hazing cases it faces. Though it is a low probability event, if it loses its GOIC coverage, and the lawsuits persist, WS will likely go bankrupt (black swan event). Many WS members, though they have heard from their leadership that there is the slim possibility of a catastrophe—i.e., bankruptcy—if WS does not get hazing under control, focus on the “slim possibility”, instead of “catastrophe” (framing). As such, they believe that WS will be fine even with the persistence of hazing within it (normalcy bias/ostrich effect). Their beliefs cascade across WS, such that most members adopt the same set of assumptions (bandwagon effect).

### B. THE CHALLENGE OF NEW INFORMATION AND BETTER IDEAS

In addition to cognitive biases, organization members’ inaccurate perceptions or lack of knowledge and insight do not allow them to galvanize and rally to address critical issues like hazing. Leaders play an integral role here. For example, they may intentionally fail to share pertinent information with rank-and-file members that may help them be participants in reducing hazing. Hazing experts also play an integral role here; they may communicate with members in a way that assumes some working knowledge about hazing. However, the truth is the average member probably knows nothing about the issue.

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voting. See Albert Mehrabian, *Effects of Poll Reports on Voter Preferences*, 28 J. APPLIED SOC. PSYCHOL. 2119, 2128 (1998); see also Ivo Bischoff & Henrik Egbert, *Social Information and Bandwagon Behavior in Voting: An Economic Experiment*, 34 J. ECON. PSYCHOL., Feb. 270, 278 (2013).

## 1. Asymmetric Information and Mushroom Management

Asymmetric information occurs when one party involved in a transaction or deal has more or better information than the other party or parties.<sup>432</sup> As a result, because one party knows more valuable information than another, the more knowledgeable party has the ability to take advantage of the other party.<sup>433</sup> This asymmetric information allows for opportunistic behavior such as adverse selection and moral hazards<sup>434</sup> Due to asymmetric information being a root cause of risk, asymmetric information theory is very helpful for preventing and resolving risk related problems.<sup>435</sup>

Businesses that are in a competitive market should try to run their affairs better than their competitor. To outperform the competition, each employee should understand the overall goals of their organization. Employees also need to understand their role within the organization, and how that role fits within the gears of the company. An employee will be able to perform their role if they understand the general well-being of their organization. Sometimes, managers intentionally leave their employees in the dark. This style of management is kindly referred to as “mushroom management.” The term references the similarities between this type of management and the cultivation of mushrooms. Employees, just like mushrooms, are left in the dark and fed plenty of manure.<sup>436</sup> This may work great for mushrooms, but most agree that it does not work well for organizations.

Mushroom management, also known as pseudo-analysis or blind development, is viewed as the opposite of open-book management. If an organization is run using an open-book style of management, then the personnel will know the purpose of their work as it relates to the organization, as well as the general state of affairs. Mushroom managers will provide their personnel with the information and tools they need to complete their task, but the employee doesn't usually understand the

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432. Pengcheng Xiang et al., *Construction Project Risk Management Based on the View of Asymmetric Information*, 138 J. CONSTRUCTION ENG'G & MGMT. 1303, 1303 (2012).

433. *Id.*

434. *Id.* at 1304. Adverse selection manifests when there is asymmetric information prior to the deal between the buyer and the seller, whereas moral hazard materializes when asymmetric information is present between two parties and one party changes behavior after the deal has been made. While asymmetric information occurs in a wide number of fields, adverse selection and moral hazard are usually used in economics, risk management and insurance. More specifically, adverse selection is used to describe an undesired result due to one party having more accurate, different, or better information than the other. Opposite adverse selection is moral hazard, which happens when one party intentionally provides misleading or false information then changes behavior.

435. *Id.* at 1310.

436. ROGER E. HERMAN, *THE PROCESS OF EXCELLING: THE PRACTICAL HOW-TO GUIDE FOR MANAGERS AND SUPERVISORS* 66 (1997).

purpose of their work.<sup>437</sup> Personnel are kept in the dark when it comes to the overall well-being of the company. These managers prefer to make all the important decisions without consulting anybody beneath them.<sup>438</sup>

There are different explanations for why we might observe mushroom management. First, a manager might fail to manage.<sup>439</sup> Instead of acting as a leader in charge of a group with a common goal, the mushroom manager will think they know everything and that their employees input is useless in decision-making.<sup>440</sup> This explanation is considered the main reason we observe mushroom management.<sup>441</sup> Second, keeping employees in the dark might be strictly strategic.<sup>442</sup> When mushroom management is employed, employees are completely oblivious to the general welfare of the company. Management is like a black hole; information goes in, but nothing ever comes out.<sup>443</sup> Ultimately, mushroom management is used to keep employees in the dark by not communicating with them.<sup>444</sup> There are some advantages to the practice, but it is mostly deemed as an ineffective form of management.<sup>445</sup>

## 2. Institutional Information Deficit

Francis Bacon once said, "Knowledge is power," and David Dickson interpreted this to mean that a lack of knowledge leads to a lack of power.<sup>446</sup> The past few decades have seen an increase in the science community's efforts to make scientific knowledge more accessible to the public. Beginning with the Bodmer Report (formally, "The Public Understanding of Science") in 1985, British scientists saw a need to gain the public's trust and appreciation for science.<sup>447</sup> Due to a so-called

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437. T. Kiliç, *Mushroom Management Theory; Sample of Health Sector*, 14 ACAD. OF STRATEGIC MGMT. J. 83, 83 (2015).

438. Anna Mar, *Mushroom Management*, SIMPLICABLE (Jan. 11, 2011), <https://management.simplicable.com/management/new/mushroom-management> [https://perma.cc/3RFU-VV2F].

439. Kiliç, *supra* note 438, at 84.

440. *Id.*

441. *Id.* This also is discussed in the context of why employers leave employees in the dark. Some reasons discussed include managing the flow of information that may have a negative impact on the employees or the well-being of the company. Another reason involves trade secrets and minimizing those who know a secret recipe. Finally, limiting information from employer to employee comes back to productivity.

442. *Id.*

443. *Id.*

444. *Id.* at 82–85.

445. *Id.* at 85.

446. David Dickson, *The Case for a 'Deficit Model' of Science Communication*, SCIENCE & DEVELOPMENT NETWORK (June 27, 2005) <https://www.scidev.net/global/communication/editorials/the-case-for-a-deficit-model-of-science-communic.html> [https://perma.cc/T7LH-J366].

447. Steve Miller, *Public Understanding of Science at the Crossroads*, 10 PUB. UNDERSTANDING OF SCI. 115, 115 (2001).

“information deficit,” the science community worried that fear of new technologies would inhibit genuinely beneficial progress.<sup>448</sup> The deficit model assumes that the public is deficient in its knowledge, while science is sufficient. Surveys of British and American laypeople have indeed shown that scientific literacy and knowledge are typically very low among the general public, but interest in science is comparatively high.<sup>449</sup>

The Bodmer Report created the Committee on Public Understanding of Science (COPUS), which sought to reduce this gap in scientific literacy between laypeople and professionals. To make the public more supportive and enthusiastic about scientific research and technological innovations, COPUS aimed to popularized science.<sup>450</sup> One way to do this was to make science less intimidating. COPUS reasoned that people who do not properly understand the relevant scientific facts will fall back on “mystical beliefs and irrational fears of the unknown.”<sup>451</sup>

However, research has shown that the deficit model is itself insufficient. True, there is a disparity between scientific knowledge and the public understanding of it, but this deficit alone is not enough to fully explain why laypeople run from scientific advancements that make them uncomfortable. Lalasz explains that cultural identity and norms (or cultural cognition) are much more responsible for the perceived disparity.<sup>452</sup> People are more likely to trust scientific facts that confirm the beliefs they already hold.<sup>453</sup> Therefore, Lalasz says, “it’s not about the science; it’s about *you*.”<sup>454</sup> Unfortunately, this can lead to severe misbeliefs when laypeople only confirm what they want to know, rather than learn new facts.

### 3. Shared Information Bias

The decision-making process in a group of people may seem simpler and more efficient because multiple people can pool together their range of knowledge and ideas. Current research on group decision theory and the sharing of information has shown that decision-making in groups presents its own set of challenges; especially when key pieces of information are held by only some or none of the group members.<sup>455</sup> In relation to shared

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448. *Id.*

449. *Id.* at 116.

450. Patrick Sturgis & Nick Allum, *Science in Society: Re-evaluating the Deficit Model of Public Attitudes*, 13 PUB. UNDERSTANDING OF SCI. 55, 55 (2004).

451. *Id.* at 57.

452. Bob Lalasz, *Why Everything You Know About Science Communication is Wrong, and More Science is the Answer*, COOL GREEN SCI. (Mar. 1, 2013), <https://blog.nature.org/science/2013/03/01/dan-kahan-climate-changescience-communications/> [https://perma.cc/ZAN7-8YHY].

453. *Id.*

454. *Id.*

455. David Dryden Henningsen & Mary Lynn Miller Henningsen, *Do Groups Know What They Don't Know? Dealing With Missing Information in Decision-Making Groups*, 34 COMMUNICATION RES. 507, 507 (2007).

and unshared information and supporting why shared information is positive, Jennifer Winquist and James Larson propose a dual-process model to explain how the pre-distribution of decision-relevant information affects the decision quality of a group.<sup>456</sup> Consistent with previous studies, they found that groups were more likely to discuss shared information in the group setting.<sup>457</sup> The groups that discussed more unshared information than the others came to the better decision after their meeting.<sup>458</sup> The social situations that come from group decision-making may allow the group to assign meaning to a piece of missing information that they would not have inferred otherwise. Often, the meaning given to a missing piece of information supports the decision already preferred by the group based on the available information.<sup>459</sup> Missing information could also be completely ignored by the group, but they would then be accepting that their decision is not as well supported as it would have been if all information was considered.<sup>460</sup> Some group members may possess information that other members do not, but interestingly, members tend to only bring to discussion matters of which every member possesses knowledge.<sup>461</sup> In this manner, the group never hears the information that some members possess over others. This potentially important information remains missing even though there are already members of the group that have access to it.<sup>462</sup>

A study by Spears and Chihangir points to groupthink and lack of criticism as causes of unshared critical information and inefficiencies in group decision-making.<sup>463</sup> Groupthink is the idea that people in groups are more concerned with coming to a consensus than with the actual accuracy of the decision.<sup>464</sup> This implies that group members would withhold their

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456. Jennifer R. Winquist & James R. Larson, *Information Pooling: When It Impacts Group Decision-making*, 42 J. PERSONALITY & SOC. PSYCHOL. 371, 371 (1998).

457. *Id.*

458. *Id.*

459. For example, if a group of admissions' officers have a student's test scores but not his GPA, they will assume the student's GPA reflects the quality of his test scores. If the scores are favorable, they may assume his GPA is also good and vice versa. This is called diminishing or bolstering existing information based on assumptions about missing information.

460. See Henningsen & Henningsen, *supra* note 455. Studying shared and unshared information in group decision-making. This study consisted of 99 participants who were given information for a task. Some of the information matched what was given to others, while some was unique to the individual. The researchers found that participants in the groups were able to identify that information was missing, but were more likely to focus on shared information in their discussions than to bring up unshared information. The participants preferred to stick to topics that seemed familiar to the entire group than to bring up something new.

461. *Id.*

462. *Id.*

463. Tom Postmes et al., *Quality of Decision-Making and Group Norms*, 80 J. OF PERSONALITY & SOC. PSYCHOL. 918, 918 (2001).

464. Henningsen & Henningsen, *supra* note 455. Participants in this study were split into consensus and criticism groups in order to see how group history helps shape norms for decision-making within the group. The consensus group was more likely to practice group

personal criticisms of the decision to promote the harmony of the group.<sup>465</sup> Each member may assume that the rest of the members agree with the decision, so it is best not to speak up if everyone else is on the same page. Multiple group members may be harboring similar criticisms that if voiced, would allow the group to reach a better decision.<sup>466</sup> The researchers wanted to test how group norms of consensus and criticism are formed based on group history. They formed a consensus group and a criticism group and compared the two groups' abilities to make use on shared and unshared information to make the best decision possible.<sup>467</sup> The consensus group performed a prior-unrelated task that asked them to put together a poster.<sup>468</sup> The criticism group discussed a policy proposal in their first activity.<sup>469</sup> Each group member was then given information relevant to their actual task before meeting again with the group.<sup>470</sup> Not every member received the same information.<sup>471</sup> As the researchers predicted would happen later in the experimental task, the consensus group valued the shared information among members more during discussion, while the criticism group valued unshared information more.<sup>472</sup> The researchers concluded that their history of interacting in a way that promoted either consensus or criticism explains the difference in decision-making processes later.<sup>473</sup> The criticism group was able to reach the better decision as outlined by the task because they were better at identifying what information was missing and filling in these gaps with information only given to individuals.<sup>474</sup> These people were more willing to speak up because this norm was already established for the group in their initial task.<sup>475</sup>

The next study by Dennis D. Stewart and Garold Stasser tries to identify contexts in which an informed minority is more likely to speak up about unshared information that could benefit the group.<sup>476</sup> The research

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think and to withhold unshared information that could have potentially helped the group reach the better decision.

465. *Id.*

466. *Id.* at 918–919.

467. *Id.* at 920.

468. *Id.* at 920–921.

469. *Id.* at 921.

470. *Id.*

471. *Id.*

472. Postmes et al., *supra* note 463, at 924.

473. *Id.*

474. *Id.*

475. *Id.*

476. Dennis D. Stewart, & Garold Stasser, *The Sampling of Critical, Unshared Information in Decision-Making Groups: The Role of an Informed Minority*, 28 EUR. J. OF SOC. PSYCHOL. 95, 95 (1998) (Studies the contexts in which the informed minority in a group is most likely to come forward with unshared information. Participants in this study completed a mystery in which they believe the answer to be either solvable or possibly solvable based on the information given. The informed minority was most likely to share information when they believed the mystery to be solvable than when a correct answer was only possible.)

paper begins by explaining an equation that provides the probability that shared information will be discussed more than unshared information because more group members are able to mention the shared information.<sup>477</sup> If the likelihood that unshared information will be brought up in a group setting is low, then what situations would increase this likelihood? They found the answer to be task dependant on the belief among members that the information given is sufficient enough to find a correct answer or decision.<sup>478</sup> The informed minority, or the person with all the information necessary to solve the task, is more likely to share their extra pieces of information when the group believes the task must be solvable just using the given information.<sup>479</sup> If the group is told the task may or may not be solvable, the informed minority is less likely to share the information because they cannot confirm that it will even be relevant to solving the task.<sup>480</sup> The perceived value of potentially solving the task seems to be enough to get the informed minority member to bring to light their unshared information.<sup>481</sup> In general, this experiment showed that the informed minority groups were as likely to solve their task correctly as the groups in which everyone had all the necessary information.<sup>482</sup>

The only clear way to avoid this bias is to explicitly make all members aware of it beforehand. This involves sharing why the bias happens in the first place. Baker suggests several reasons why the shared information bias is such a commonly repeated problem in the group-decision-making process: 1) members come to meeting with formed opinions (preference bias); 2) members prefer information they bring to the group over information brought by others (ownership bias); 3) members prefer information that can be validated by other members; 4) members are more likely to advocate for pre-formed opinions than to explore the pros and cons of each side; 5) groups prefer the "majority wins" ideal; 6) the statistical probability of mentioning shared information over and above unshared information; and 7) the limitations of time constraints on group discussion capacities.<sup>483</sup>

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477. Stewart, & Stasser, *supra* note 476.

478. *Id.* at 97.

479. *Id.* at 97–98.

480. *Id.* at 98.

481. *Id.*

482. *Id.* at 109.

483. Diane F. Baker, *Enhancing Group Decision-Making: An Exercise to Reduce Shared Information Bias*, 34 J. MGMT. EDUC. 249, 260–261 (2009) (discussing the potential human and statistical caused of shared information bias. Also provides activities for groups to do to increase awareness and develop strategies to avoid the shared information bias in practice).

#### 4. Curse of Knowledge

Curse of knowledge is “a tendency to behave as if others have access to one’s privileged information about a certain state of affairs.”<sup>484</sup> Kennedy similarly defines the curse of knowledge as, “when, in predicting others’ knowledge of forecasts, individuals are unable to ignore knowledge they already have that others do not have or when they are unable to disregard already processed information.”<sup>485</sup> Boaz Keysar and colleagues address how this phenomenon is manifested in two harmful ways: 1) when others are more informed than they are themselves, people do not fully take into account others’ privileged access to information; they sometimes behave as if the others do not have such extra information; 2) even when people know that others do not have access to their own privileged information, they may behave as if those others had access to this information.<sup>486</sup> Birch and Bloom examine the curse of knowledge in adults, focusing on false beliefs.<sup>487</sup> They define false beliefs as “beliefs that conflict with reality.”<sup>488</sup> Their findings demonstrate that an adult’s judgment can compromise the ability to reason about other people’s false beliefs and make predictions about their actions.<sup>489</sup> They also find that the curse of knowledge is stronger when it is combined with a rationale, even if it is an implicit rationale.<sup>490</sup> An excuse to support the bias of the curse of knowledge only increases its effects.<sup>491</sup> Numerous works highlight the negative consequences of the curse of knowledge.<sup>492</sup>

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484. Boaz Keysar, *States of Affairs and States of Mind: The Effect of Knowledge of Beliefs*, 64 *ORG. BEHAV. & HUM. DECISION PROCESSES* 283, 283 (1995).

485. *Id.*

486. *Id.*

487. Susan A.J. Birch & Paul Bloom, *The Curse of Knowledge in Reasoning About False Beliefs*, 18 *PSYCHOL. SCI.* 382, 382 (2007).

488. *Id.*

489. *Id.* at 385.

490. *Id.*

491. *See generally id.* at 488.

492. Kennedy names implications of the curse of knowledge in audit judgments. For example, “the perceived culpability of auditors who do not modify reports of clients that subsequently fail may be greater in the eyes of shareholders, the SEC, expert witnesses, and jurors, all of whom have one more piece of information that the auditor had—that the client did indeed fail.” Jane Kennedy, *Debiasing the Curse of Knowledge in Audit Judgement*, 70 *ACCOUNTING REV.* 249, 270 (1995); *see also* Karenn F. Malavanti, *The Curse of Knowledge in Estimating Jurors’ Understanding of Memory: Attorneys Know More About Memory Than the General Population*, 10 *APPLIED PSYCHOL. CRIM. JUST.* 98 (2014). Malavanti found that the curse of knowledge affects attorneys. The curse of knowledge affects attorneys’ judgments concerning how much jury members know regarding human memory in the context of eyewitness identification. Attorneys generally have a more accurate understanding of how memory works than the general population does. If attorneys rely on their own knowledge to make inferences about jurors’ understandings of memory, then they are likely to overestimate that understanding.



## 5. Hypothetical.

WS has grappled with hazing for the past generation. It earnestly wishes to stamp it out from its membership selection and initiation practices. Wendy Sanders, WS's national president, has held leadership positions in WS for the past 30 years. She has a true depth of knowledge about and understanding of hazing and wonders why her collegiate sorority sisters just do not get it (curse of knowledge). One of the many challenges that WS faces in addressing hazing is that among the national board, and in order not to ruffle feathers, board members only discuss the ideas that they all know and believe (shared information bias). In addition, the national board knows all the recent hazing incidents and pending litigation, and the rank-and-file members do not (asymmetric information). Moreover, the national board is not inclined to share such information with the rank-and-file members (mushroom management) out of concern that they would not know what to do with such information. In fact, while the national board has authorized the Executive Director to prepare training material for the rank-and-file members, it largely excludes the broad range of social science that sheds light on why hazing exists and persists information (institutional deficit).

### C. BROADER ORGANIZATIONAL DYNAMICS

#### 1. Denialism

The term 'denialism' refers to the practice typically utilized in the scientific community of falsely representing a situation as being highly debated to reject widely accepted facts.<sup>493</sup> According to scientist Ana-Gabriela Benghiac, all varieties of denialism operate under five similar characteristics: 1) conspiracy theories; 2) fake experts; 3) selectivity; 4) impossible expectations of what research can deliver; and 5) misrepresentation and logical fallacies.<sup>494</sup> In practice, the first element, conspiracy theories, involves the discrediting of scientific research under the accusation that scientists have conspired with each other and agreed to share the same results rather than doing legitimate research independently.<sup>495</sup> People who believe this view the peer review process as a tool by which scientists "suppress dissenters," rather than evaluate peer research.<sup>496</sup> The second element is the use of fake experts.<sup>497</sup> The third element, selectivity, is defined as the misrepresentation of contemporary

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493. ANA-GABRIELA BENGHIAC, *Denialism*, in, MENTAL HEALTH PRACTITIONER'S GUIDE TO HIV/AIDS 185-87 (2012).

494. *Id.*

495. *See generally id.*

496. Pascal Diethelm & Martin McKee, *Denialism: What Is It and How Should Scientists Respond?*, 19 EUR. J. OF PUB. HEALTH 2, 2 (2009).

497. BENGHIAC, *supra* note 493, at 501.

research by selecting and highlighting specific papers that oppose the consensus to discredit the entire body of research.<sup>498</sup> Selectivity is also performed when the weakest papers on a specific topic are pulled out and their flaws are publicized.<sup>499</sup> The fourth characteristic is possessing impossible expectations of what research can deliver.<sup>500</sup> The fifth and final characteristic that is associated with denialism is misrepresentation and logical fallacies.<sup>501</sup> This is more of an umbrella category, it contains many different logical fallacies such as “red herrings,” “straw men,” “false analogy,” and “excluded middle fallacy.”<sup>502</sup> An example of logical fallacies used by Diethelm and McKee is the use of “red herrings” in arguments. Red herrings are “deliberate attempts to change the argument.”<sup>503</sup> Specter defines this characteristic as taking the open-minded, skeptical nature of science and basically transforming it into “the inflexible certainty of ideological commitment.”<sup>504</sup> Specter defines it as more of an ego defense mechanism, saying that everyone has probably felt denialism in some small scale, because it helps us cope with truths that are difficult to accept.<sup>505</sup>

## 2. Normalization of Deviance

Normalization of deviance is an example of an “amoral calculation” within a business or group, which justifies “intentional wrongdoing and/or harm” in an attempt to meet an end goal.<sup>506</sup> Organizations that undergo stress with deadlines and objectives of the company will contemplate the costs versus the benefits of any actions, occasionally justifying the violation of laws and rules.<sup>507</sup> Moreover, the decision-making of an organization under stressful conditions can be described as having a “bounded rationality”, meaning organizational members have a skewed view of what processes are or are not morally correct within certain circumstances as a result of this stress.<sup>508</sup> Essentially, normalization of deviance gives you a “sense of false safety” due to the continual practice of deviance within an organization.<sup>509</sup> Furthermore, the process of normalizing deviance can be broken down into three categories that allow

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498. BENGHIAC, *supra* note 49.

499. *Id.*

500. *Id.*

501. *Id.*

502. Diethelm & McKee, *supra* note 496, at 3.

503. *Id.*

504. MICHAEL SPECTER, DENIALISM: HOW IRRATIONAL THINKING HINDERS SCIENTIFIC PROGRESS, HARMS THE PLANET, AND THREATENS OUR LIVES 3 (2009).

505. *Id.*

506. Diane Vaughan, *Rational Choice, Situated Action, and the Social Control of Organizations*, 32 LAW & SOC. REV. 23–24 (1998).

507. *Id.* at 29.

508. *Id.* at 30.

509. Charles Q. Choi, *Learning from Disaster: The Gulf Oil Spill Holds Powerful Lessons for Future Engineers*, 20 AM. SOC’Y FOR ENG’G EDUC., 34, 37 (2010).

problems to occur: the production of culture within an organization, the culture of the production within an organization, and the structural secrecy of the organization.<sup>510</sup>

The "Challenger" launch was characterized by a need for NASA to rush into launching the space shuttle as a result of their dependence on funding from commercial satellite companies.<sup>511</sup> Moreover, NASA was underfunded by Congress, and "the greater number of flights per year, the greater number of commercial payloads, the greater the income."<sup>512</sup> This need to meet fast deadlines caused violations of rules that pertained to safety, and decision-makers redefined the safety concerns to make them acceptable in order to push their hurried schedule.<sup>513</sup> This justification of safety concerns within NASA is a strong example of normalization of deviance because NASA increased the amount of technical deviation that they accepted in order to let the "Challenger" launch.<sup>514</sup> Essentially, the problems that led to this normalization of deviance were the three categories previously mentioned that altered the culture of NASA and allowed such an incident occur.<sup>515</sup>

The first of the problems was the production of a new altered culture within the organization that allowed for the normalization of deviance to occur.<sup>516</sup> The culture of production within NASA was the next problem that allowed for the normalization of deviance to ensue.<sup>517</sup> The final problem that allowed for the normalization of deviance at NASA was the structural secrecy.<sup>518</sup> These three structural issues are an explanation for why the normalization of deviance became a "theory of systematic reproduction and sameness" in the "Challenger" incident.<sup>519</sup> Along with these three categories, organizations also allow exceptions to rules to become routinized over time, causing small, incremental bends in the rules.<sup>520</sup> These small bends do not originally cause policies within an organization to fail, but as more and more rules become bent over time, these bends become normalized within the organization, and this is where deviance becomes a problem.<sup>521</sup>

If not checked over time, deviant acts can become "institutionalized

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510. Vaughan, *supra* note 506, at 23.

511. *Id.* at 35–36.

512. *Id.* at 36.

513. *Id.* at 36–37.

514. *Id.* at 37.

515. *Id.*

516. *Id.*

517. *Id.* at 39.

518. *Id.* at 41.

519. *Id.* at n. 13.

520. Michael N. Barnett & Martha Finnemore, *The Politics, Power, and Pathologies of International Organizations*, 53 INT'L ORG. 699, 721–22 (1999).

521. *Id.* at 722.

corruption.”<sup>522</sup> This concept implies that “personal behaviors become impersonal norms, emergent practices become tacit understandings and idiosyncratic acts become shared procedures.”<sup>523</sup> During institutionalization, the deviant act “becomes embedded in organizational structures and processes[.]”<sup>524</sup> Rationalization refers to “the process by which new ideologies develop to justify and perhaps even valorize deviance[.]”<sup>525</sup> Finally, socialization involves “deviance [becoming] accepted as permissible if not desirable.”<sup>526</sup> These three stages allow the individual to understand the thought process behind normalizing a deviant act.<sup>527</sup> Continued deviance within an organization becomes normalized when there is persistence of the deviance within the organization’s culture and policies.

As well as the three stages, there are two ways to categorize normalization of deviance.<sup>528</sup> The first category requires rule-breaking to not be acknowledged as a deviant behavior.<sup>529</sup> The second category requires rule-breaking to be acknowledged as deviant in private, but publicly viewed in a normal regard.<sup>530</sup> As well as these types of normalization, there are two types of reactions to the deviant acts themselves.<sup>531</sup> The first is the inclusive reaction to deviance.<sup>532</sup> This reaction includes maintaining the deviant person as an “ordinary member of the group.”<sup>533</sup> The alternative reaction is the exclusive reaction.<sup>534</sup> This reaction “treats the rule-breaker as an outsider.”<sup>535</sup> Various small group studies were done to test these deviant reactions, and the results showed that inclusive reactions were very prominent, as the other members of the small groups attempted to change the opinion of the deviant.<sup>536</sup>

### 3. Practical Drift

Practical drift is “a gradual, incremental change that occurs in sequences of practical actions, as an imperceptible shift over several

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522. John Earle et al., *The Normalization of Deviant Organizational Practices: Wage Arrears in Russia 1991-98*, 53 ACAD. OF MGMT. J. 218, 219 (2010).

523. *Id.* at 219–20.

524. Earle et al., *supra* note 522.

525. *Id.*

526. *Id.*

527. *Id.*

528. James D. Orcutt, *Societal Reaction and the Response to Deviation in Small Groups*, 52 SOC. FORCES 259, 261 (1973).

529. *Id.*

530. *Id.*

531. *Id.* at 260.

532. *Id.*

533. *Id.*

534. *Id.*

535. *Id.* at 261.

536. *Id.* at 262–65.

years.”<sup>537</sup> A ‘drift’ implies slow and inconspicuous movements only discovered as time passes, which in this case means that the dangerous consequences of such movements are only discovered once it is too late. Scott A. Snook, who first developed “practical drift” in his study of “friendly fire,”<sup>538</sup> describes such drifts as the “incremental uncoupling of practice from written procedures designed to handle the worst-case condition when subunits are tightly coupled.”<sup>539</sup> In short, it is when such actions are typically unintended interpretations of written procedures, carried out when rules don’t match a goal.<sup>540</sup>

The Wittgenstenian paradox of rule following contends that rules are open to interpretation, and for the sake of flexibility and situational appropriateness, rules may be adjusted to specific situations and contexts.<sup>541</sup> Further, rule-breaking is a necessary possibility: It must be possible to break rules to secure the functioning of organizations.<sup>542</sup> What makes the drift possible is the openness of rules and their meanings—which are subject to change as time passes. Günther Ortmann argues that there is also no such thing as “meaning” to be determined by an author’s intention, thus we cannot define rule-following solely in terms of the intention of said rules.<sup>543</sup>

David Lehman puts forward several circumstances in which a rule is more likely to be violated: an increase in structural secrecy,<sup>544</sup> when prior violations produced positive outcomes, decreased enforceability,<sup>545</sup> low procedural emphasis,<sup>546</sup> and a lack of connectedness to other rules.<sup>547</sup> In tightly coupled organizations, the likelihood of a rule violation is higher when previous violations produced a positive result.<sup>548</sup> Thus, initial violations can be amplified and repeated leading

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537. Günther Ortmann, *On Drifting Rules and Standards*, 26 SCANDINAVIAN J. MGMT. 204, 210 (2010).

538. The accidental shooting-down of two U.S. Black Hawk helicopters over Northern Iraq by U.S. Air Force 5-15C Eagle fighters in 1991, where twenty-six peacekeepers were killed.

539. Diane Vaughan, *The Dark Side of Organizations: Mistake, Misconduct, and Disaster*, 25 ANN. REV. SOC. 271, 294–295 (1999) (Coupling is the perceived likelihood that violations will lead to known outcomes, positive or negative.).

540. Ortmann, *supra* note 537, at 209.

541. *Id.* at 206.

542. *Id.*

543. *Id.* at 208.

544. Structural secrecy is the way that patterns of information, organizational structures, processes, and transactions, and the structure of regulatory relations systematically undermine the attempt to know and interpret situations in organizations.

545. Enforceability is the extent to which regulatory agencies are able to monitor compliance with the rule and pursue justice for violations, as well as the extent to which such pursuit is likely to occur.

546. When procedural emphasis is high, the meaning of a rule tends to be ambiguous, as a result organizations develop particularistic interpretations of rules.

547. David W. Lehman & Rangaraj Ramanujam, *Selectivity in Organizational Rule Violations*, 34 ACAD. OF MGMT. REV. 643, 643 (2009).

548. *Id.* at 648.

to a gradual practical drift.<sup>549</sup>

In terms of practical drift, the “not yet/no longer” problem describes the immediate transition from the state of “not yet” to the state of “no longer.”<sup>550</sup> The danger with drifting is that the movements are slow and indiscernible—you can’t get rid of the problem when it arises because you probably cannot see it yet. When you finally do recognize the issue, it is too late to do anything about it.<sup>551</sup> The “not yet/no longer” problem can be dangerous because rules and standards are established to ensure “systematic reproduction and consistency . . . to allow for repetition and iterability . . . for stability, expectability, reliability, [and] conformity . . . .”<sup>552</sup> Although a gap between written rules and action can impair effective responses in times of crisis, Wittgenstein and Derridean argue deviance can be a necessity.<sup>553</sup> It can even be argued that any system of action inevitably generates secondary consequences that run counter to its objectives.<sup>554</sup> Conformity has the potential to end in accidents or disaster, and breaking the rules can be needed to secure the functioning of organizations.<sup>555</sup> Furthermore, there is a certain drift of rules and standards during application due to contextual and situational conditions depending on the task.<sup>556</sup>

#### 4. Normal Accident Theory

Normal Accident Theory (“NAT”) was developed to address the organizational aspects of safety in a society that increasingly face large-scale accidents, disasters, and risks from advanced technology.<sup>557</sup> Broadly, NAT has focused on industries where these hazardous large-scale accidents can occur, and has created concepts to untangle organizational structure, and concluded that due to technology some accidents are inevitable.<sup>558</sup> The basic underlying theory posed by NAT is that interactive complexity and tight coupling in certain technological systems leads to unpredictable interactions, creating system accidents that are normal or inevitable.<sup>559</sup> Charles Perrow, the foundational theorist of NAT, has a specific definition

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549. *Id.* at 653.

550. Ortmann, *supra* note 537, at 207.

551. Ortmann, *supra* note 537, at 207.

552. *Id.* at 208.

553. *Id.* at 209.

554. Vaughan, *supra* note 506, at 273.

555. Ortmann, *supra* note 537, at 208.

556. *Id.*

557. Nancy Leveson et al., *Moving Beyond Normal Accidents and High Reliability Organizations: A Systems Approach to Safety in Complex Systems*, 30 *ORG. STUD.* 227, 227 (2009).

558. *Id.* Examples of the industries that NAT focuses on would be nuclear power plants, aircraft and air traffic control, and chemical plants; *see also* CHARLES PERROW, *NORMAL ACCIDENTS: LIVING WITH HIGH RISK TECHNOLOGIES* 67 (1984).

559. Leveson, *supra* note 557, at 228.

as to what an accident really is.<sup>560</sup> First, to explain what an accident is, Perrow divides systems into four different levels.<sup>561</sup> The first level in a system is a part, the second level is a unit, the third level is a subsystem, and the fourth level is comprised of the whole system together.<sup>562</sup> Perrow defines an accident as a failure at the third or fourth level “that damages more than one unit and in doing so disrupts the ongoing or future output of the system.”<sup>563</sup>

Perrow ultimately created a matrix to help identify which systems are most prone to accidents.<sup>564</sup> In his book, he determined that complex, tightly coupled systems are most likely to suffer from system accidents.<sup>565</sup> Perrow reasoned that as a system grows in size and number of diverse functions, it is more likely to experience increasingly incomprehensible and unexpected interactions.<sup>566</sup> These types of interactions cause a system to increase in its vulnerability to system accidents.<sup>567</sup> However, Perrow differentiated between systems that complete interactions in a linear manner and those that complete interactions in a complex manner.<sup>568</sup> Linear interactions are known as those that are carried out through a sequence of steps laid out in a line.<sup>569</sup> What causes a system to be complex is when parts, units, or subsystems serve multiple functions.<sup>570</sup> Whether a system is complex or linear is one of side of the matrix, and allegedly helps to identify whether or not accidents are normal within that system.<sup>571</sup> Perrow elaborates on these categories, stating that linear interactions happen in expected and familiar production and are visible even if they are unplanned, while complex interactions are in unfamiliar, unplanned, or unexpected sequences, and are either not visible or not immediately comprehensible.<sup>572</sup>

On the other side of Perrow's matrix are the concepts of tight and loose coupling.<sup>573</sup> Tight coupling is defined as having no slack, buffer, or give between two mechanical items, meaning that what happens to one item directly affects the other.<sup>574</sup> On the opposite side of the spectrum is loose coupling, in which there may be enough slack creating time to respond to a

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560. Perrow, *supra*, note 558, at 64–65.

561. *Id.* at 65.

562. *Id.*

563. Perrow, *supra*, note 558, at 66 (a failure at the first or second level is known as an incident, whether it disrupts the whole system).

564. *Id.* at 97.

565. *Id.* at 72.

566. *Id.*

567. *Id.*

568. *Id.*

569. *Id.*

570. *Id.*

571. *Id.* at 72–75, 97.

572. *Id.* at 78.

573. *Id.* at 97.

574. *Id.* at 90.

failure.<sup>575</sup> Tight coupling restricts the ability of part of the system to express its self, whereas loose coupling allows this.<sup>576</sup> Within his matrix, he explains that complex systems that are tightly coupled are more likely to suffer catastrophic events and that loosely coupled linear systems are least likely to suffer catastrophic events due to failure.<sup>577</sup>

### 5. Hypothetical

WS has a longstanding policy about violating organizational rules or the law—i.e., due process and then swift sanction if the alleged culprit is found guilty. However, for the past couple of decades, various WS members in the leadership structure were found to have embezzled money. At first, these sums were small, and WS let it pass (practical drift). In time, financial malfeasance found its way to the national board. Given that the national board did not want the rank-and-file members to know of these incidents, they let them pass as well (normalization of deviance). When WS's national board members attended a training on hazing, the presenter highlighted how deviance at the top of an organization can predict deviance among its rank-and file. Specifically, the trainer noted research on some of the fundamental elements of hazing—e.g., member rule and law violation, intra-organizational secrecy, by-standers' silence, and sanctioning of members who become whistle-blowers. The trainer highlighted that when those same elements are present in fiscal malfeasance at the top of a fraternity or sorority, it highlights a cultural dynamic that permeates the organizations. Thus, it should be no surprise that in such organizations the same dynamics are found in collegiate chapters with hazing as the form of deviance. Where that deviance takes place, it is inevitable that death, injury, lawsuits, and chapter and member suspensions will take place (normal accident theory). The national board members dismissed this research out-of-hand (denialism).

### D. CONCLUSION

Hazing has persisted in institutions of higher education, generally, and in fraternity and sorority culture for centuries. Victims, institutions, and advocates have been bedeviled for generations about why it is so difficult to curtail the behavior. For some, organizational rules and the law—common or statutory—should be sufficient to regulate hazing behavior. However, while law may be designed to regulate human behavior, without insight into what undergirds and propels such behavior, inroads are likely to be de minimus. In this article, we try to make sense of a range of factors that make sense of hazing behavior, at least at the organizational level.

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575. *Id.* at 93.

576. *Id.* at 92.

577. *Id.* at 97–100.



While these theoretical dynamics do not encompass all the reasons why hazing exists and persists, they broaden our conceptualization of the problem. As such, they should provide fruitful insights into how to more effectively intervene and move the proverbial needle on reducing such behavior.