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VIA FIRST CLASS MAIL

The Honorable Tom Torlakson
CALIFORNIA STATE SENATE
State Capitol, Room 4032
Sacramento, CA 94249

The Honorable Loni Hancock
CALIFORNIA STATE ASSEMBLY
State Capitol, Room 4126
Sacramento, CA 94249

The Honorable Guy S. Houston
CALIFORNIA STATE ASSEMBLY
State Capitol, Room 2130
Sacramento, CA 94249

Re: *California's Anti-Hazing Law*

Dear Senator Torlakson, Assembly Member Hancock, and Assembly Member Houston:

I represent the parents of Matthew Carrington, a 21-year-old student at California State University-Chico who died on February 2, 2005 because of an illegal fraternity initiation hazing ritual that required him to consume massive volumes of water. On behalf Matthew's father Michael Carrington, his mother Debbie Smith, and his step-father Greg Smith—who live within your districts—I am writing to propose two ways to strengthen California's existing anti-hazing law. Before presenting our proposal, I would like to tell you about Matthew and the tragic way he died.

Matthew Died Because Of Illegal Hazing

In fall 2004, Matthew was 20 years old and a junior at Chico State. He excelled in math, and decided to major in management information systems. He also decided to pledge a fraternity, but he did not know that the Chi Tau fraternity (which had previously been known as the Delta Alpha chapter of Delta Sigma Phi Fraternity) has a long history of hazing.

As part of pledging the fraternity, Matthew was initially required to undergo relatively innocuous, albeit embarrassing, pranks. As the pledge period continued, however, the required activities became increasingly more embarrassing, difficult, and dangerous.

The pledge period culminated in "Hell Week," which began on January 30, 2005. The pledges were told that the basement of the fraternity house would be their home for Hell Week. The 10-foot by 20-foot basement was cold and dirty, littered with cigarette butts, and scrawled with graffiti, including the ominous statement, "In the basement, no one can hear you scream." Large holes were cut into a wall in which the pledges were required to sleep.

The first night of Hell Week, Matthew was ordered to do calisthenics in the basement. The sewer line in the fraternity house had broken that day, however, and the basement was flooded with sewage. Rather than cancel the initiation ritual, Matthew was compelled to do push-ups and sit-ups in two to three inches of sewage. The events in the sewage-filled basement lasted until about five o'clock the next morning.

The next night, January 31, 2005, at about 11 p.m., the fraternity held an initiation event called "Pledge Olympics." During this event, Matthew and the other pledge were compelled to do calisthenics and exercises until approximately 2 a.m.

The next night, February 1, 2005, was dubbed "Movie Night." It began late Tuesday night and lasted until early the next morning. A fraternity member known as the Pledge General and other fraternity members played poker in the basement while watching a movie. Meanwhile, the pledges, wearing only jeans and underwear—they were ordered to take off their shoes, socks, and T-shirts—were ordered to stand on one foot on a wooden bench. As they were doing so, fraternity members asked them difficult questions about the fraternity's history. If they answered incorrectly, they were compelled either to drink as much water as they could from a five-gallon Alhambra bottle or to do push-ups on the basement floor. They were also required to douse themselves with water, while being blasted by fans sucking in the cold night air through the intentionally opened windows. The temperature in the basement that night was below 40 degrees, and Matthew's fellow pledge later told police it was so cold that he could see his own breath. The pledges had to ask permission to urinate on themselves, so that the fraternity members would know when to make fun of them. According to other fraternity members, similar initiation rituals have been used by the fraternity for at least twenty years.

While "Movie Night" was still going, other fraternity members returned to the fraternity house after a night of drinking in bars. One of them passed out on a couch in the basement. When the movie ended, the fraternity member who had passed out on the couch roused himself. He told the pledges they were not finished, and that he was taking over the initiation. Other fraternity members joined in.

Already very weak from that evening's events, Matthew dropped the five-gallon water bottle and spilled water on a fraternity member. Although Matthew was

objectively and visibly weak and incapacitated, the fraternity members did not stop the events and get him help. Instead, as punishment for spilling the water, Matthew was required to do more push-ups. He struggled to do them, so a fraternity member grabbed him by the belt loop to lift him.

At approximately 4 a.m., as Matthew was struggling to do still more push-ups after answering a question incorrectly, he collapsed and went into a seizure. The seizure lasted between 30 seconds and one minute. One fraternity member was going to call 911, but did not after others heard what they thought was Matthew snoring. In fact, Matthew was not snoring; he was struggling to breathe.

Rather than get help, fraternity members changed the unconscious Matthew out of his wet clothing, wrapped him in a sleeping bag, and laid him on a couch. By that point, Matthew's brain and heart were swollen with water, his blood had become dangerously thin, and his liver and kidneys were failing.

At approximately 5 a.m.—an hour after he collapsed—Matthew's fellow pledge heard a gurgling sound coming from Matthew and noticed that he had stopped breathing. The pledge attempted to perform resuscitative breathing, while others called 911. Matthew was taken to Enloe Medical Center in Chico, where he was pronounced dead.

Matthew died from cardiac dysrhythmia and cerebral edema, or brain-swelling, due to hyponatremia, or "water intoxication." Hypothermia brought on by the forced drinking of water, being doused with water, and having the fans turned on him in the 40-degree basement also contributed to his death.

The Butte County District Attorney has charged four men involved in Matthew's death with felony involuntary manslaughter and misdemeanor hazing, and at least three others with misdemeanor hazing.

The Current Anti-Hazing Law

California's current anti-hazing law is contained in Education Code sections 32050-51. Section 32051 provides:

No student, or other person in attendance at any public, private, parochial or military school, community college, college, or other educational institution, shall conspire to engage in hazing, participate in hazing, or commit any act that causes or is likely to cause bodily danger, physical harm or personal degradation or disgrace resulting in physical or mental harm to any fellow student or person attending the institution.

"Hazing" is defined as "any method of initiation or preinitiation into a student organization or student body or any pastime or amusement engaged in with respect to these organizations which causes, or is likely to cause, bodily danger, physical harm, or personal degradation or disgrace resulting in physical or mental harm, to any pupil or other person attending any school, community college, college, university, or other

educational institution in this state.” Educ. Code § 32050. Violation of the anti-hazing law is a misdemeanor, punishable by fine between \$100 and \$5,000, imprisonment in county jail for not more than one year, or both. Educ. Code § 32051.

Proposed Changes To The Anti-Hazing Law

California’s prohibition against hazing needs to be strengthened. Matthew’s tragic death is the latest in a series of tragedies that have befallen families across the state. Adrian Heideman died as a result of hazing at a Chico State fraternity in 2000. On April 15, 2005, the San Francisco Chronicle reported that a 19-year-old University of California, Berkeley student was shot 30 times in the chest and arms with BBs in a hazing ritual at the Pi Kappa Phi Fraternity—the same national fraternity in which Adrian Heideman was a pledge.

Nor is hazing limited to schools and fraternities. The Associated Press reported on April 23, 2005 that eleven Los Angeles Fire Department employees were disciplined for their involvement in hazing incidents. In short, California’s current laws have done unfortunately little to prevent hazing. Accordingly, we propose two changes: one that makes hazing punishable as a felony, and the other making clear that the prohibition extends beyond just the school setting.

First, we propose amending California’s anti-hazing law, which currently makes hazing a misdemeanor, to make hazing that *results* in serious physical or psychological injury or death a felony punishable by up to five years in prison, regardless of whether a victim allegedly “consents.” We also propose making hazing that puts someone *at risk* of injury—even if it does not result in serious injury or death—a misdemeanor. Moreover, the law should be clear that a victim’s alleged “consent” can not be used as a defense to the crime. Eight other states, most recently Florida, have strengthened their anti-hazing laws in this way.

And although this first proposal is a step in the right direction, it is not enough. The possibility remains that individuals like those responsible for Matthew’s death could try to avoid punishment altogether. For example, Florida’s law focuses—like the current version of California’s law—on “students” and “student organizations” expressly sanctioned by colleges and universities. *E.g.*, Fla. Stat. § 1006.63. Critically, such laws leave open the possibility that “rogue” fraternities or sororities—those that are not officially recognized and sanctioned by a university or college, or those that have been kicked off of a campus for misconduct—and their members can try to avoid responsibility altogether for hazing members and pledges by arguing that they are not “student organizations.” Indeed, such laws may even create an incentive for fraternities and sororities to sever their ties with colleges and universities so that they can haze without fear of recrimination.

This scenario is not a theoretical one. Seizing on the words “student” and “student organization” in California’s anti-hazing law, defense attorneys in the criminal cases against the fraternity members responsible for Matthew’s death argued that the criminal charges brought by the District Attorney must be dropped altogether.

Specifically, they argued that that the defendants cannot be convicted of hazing—or of “misdemeanor manslaughter” based on the hazing—because, although they were members in the fraternity, some were not “students” or attending any educational institution when they hazed Matthew. They also argued that, because the local fraternity was not recognized by Chico State, it was not a “student organization.” Accordingly, their argument goes, the anti-hazing statute cannot apply to them.

Although the Butte County Superior Court properly rejected these arguments, there is no published appellate authority on this issue in California. Defense attorneys in this and future cases will no doubt continue to make the same arguments. Those arguments should be foreclosed.

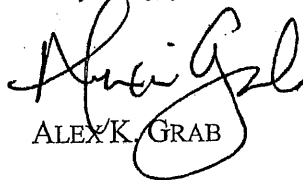
To do so, we offer our second proposal: that California’s anti-hazing law be amended to prohibit hazing by any individual, whether they are a student or not, and by any organization, whether it is affiliated with a particular school or not. These changes would prevent an unaffiliated or “rogue” fraternity or sorority from arguing that the anti-hazing laws do not apply to them because they are not “student organizations.” The changes would also prevent a member of an organization that is not limited to students from arguing that he or she is free to haze other members or prospective members with impunity.

We hope to work with you—Matthew’s family’s representatives in Sacramento—to make these meaningful changes in California’s law. We have also contacted Senator Aanestad and Assembly Member Keene, who represent residents of the Chico area where Matthew died, as well as the California District Attorneys Association. We hope that the changes—which we propose be known as “Matt’s Law”—will help stop a cycle of dangerous and deadly misconduct that has gone on for too long.

Matthew’s family is very interested in participating in the legislative process, and is willing to do whatever it takes to make these proposals a reality. I also pledge my help in whatever I can do. Please do not hesitate to contact me if we can be of any assistance. I look forward to hearing from you.

Thank you.

Very truly yours,



ALEX K. GRAB

Cc: Michael Carrington
Debbie Smith
Greg Smith

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