



“Who is to blame when students kill themselves on campus?”

The Debate of Institutional Liability in Campus Suicides

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Outline

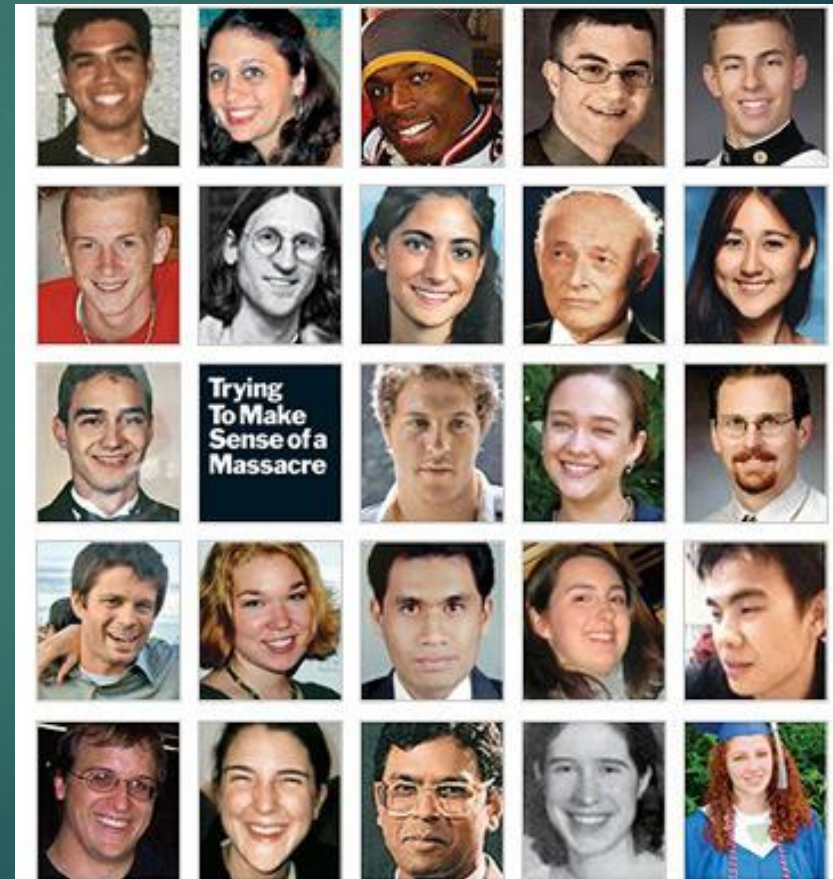
- ▶ Campus suicide numbers
- ▶ Cases that brought forth the question of institutional liability in suicide
 - ▶ Tort law and the debate
- ▶ Changes to college mental health delivery after those cases
- ▶ Ongoing issues
- ▶ Role of psychiatrists
- ▶ Proposals to fix the campus mental health systems

April 16, 2007

- ▶ 32 people shot and killed on a college campus
- ▶ 17 others were wounded
- ▶ There were two separate attacks two hours apart
- ▶ The killer committed suicide shortly after
- ▶ Deadliest school shooting by a single gunman in US history

Virginia Tech Massacre

- ▶ Seung-Hui Cho – long mental health history, warning signs
- ▶ First high-profile case



Statistics

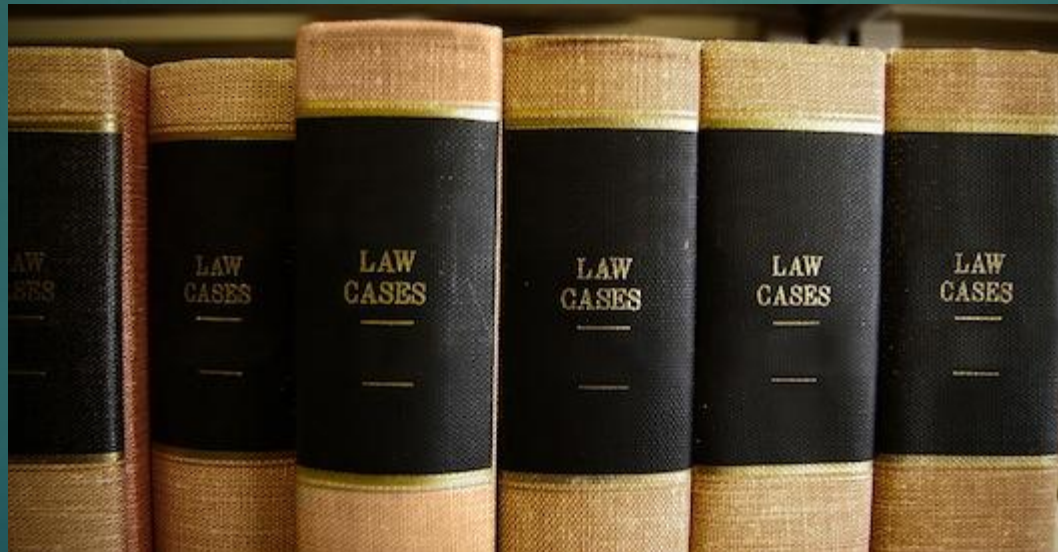
- ▶ Suicide is the second leading cause of death in college students
- ▶ Estimated 1,100 students commit suicide each year.
 - ▶ 3 students per day
- ▶ American College Health Association's National College Health Assessment, 2006
 - ▶ Out of 95,000 students on 117 campuses, 9% had seriously considered suicide, and 1:100 had attempted suicide in the previous year.

Who do we blame for these tragic numbers?



Liability Case Law

- Schieszler v Ferrum College
- Shin v MIT



Schieszler v Ferrum College

▶ FACTS

- ▶ Michael Frentzel, on-campus freshman
- ▶ Self-inflicted bruises first noted by RA and campus police on 2/20/00
- ▶ Dean of Student Affairs was notified → Frentzel required to sign a “No-Harm Agreement” that he would not kill himself.
- ▶ Two “goodbye notes” written by Frentzel and reported to the RA and Dean that same night.
- ▶ Frentzel found in his room after hanging himself with a belt; pronounced dead on 2/23/00

▶ Court Ruling:

- ▶ College had a duty to prevent suicide because of the formation of a special relationship.

Shin v MIT

▶ FACTS:

- ▶ Elizabeth Shin, on-campus freshman
- ▶ Multiple episodes of concerning behaviors:
 - ▶ Hospitalized for an overdose on Tylenol #3
 - ▶ Exhibited cutting behavior
 - ▶ On 4/8/00, assessed in the hospital after threatening to stab herself
- ▶ Met with MIT psychiatrist vs off campus psychiatrist, on antidepressants
- ▶ Family was notified on several occasions
- ▶ Hospital psychiatrist was consulted twice
- ▶ Monitored closely by the Dean and Hall director
- ▶ On 4/10/00, students discovered a fire in Shin's room. She died of self-inflicted thermal burns.

▶ Court Ruling:


- ▶ College had a duty to prevent suicide because of the formation of a special relationship.






The Debate

1. WHAT DOES THE LAW SAY?
2. INTERPRETATION OF THE LAW PRIOR TO SHIN/SCHIESZLER
3. INTERPRETATION OF SHIN/SCHIESZLER AND WHY IT WAS WRONG!



Do institutions have a duty to
prevent suicide?

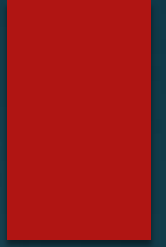


Restatement of Torts

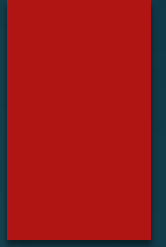
- ▶ Restatement Section 314, Duty to Act for Protection of Others
 - ▶ Baseline rule that a person DOES NOT have an affirmative duty to protect another person from harm or aid another person in danger.
- ▶ Restatement Section 314A, Special Relations Giving Rise to Duty to Aid or Protect
 - ▶ Some special relationships will give rise to an affirmative duty to aid or protect.

What is a “special relationship?”

1. Extent of intended harm
2. Foreseeability
3. Degree of certainty for injury
4. Closeness of connection between defendant's conduct and the injury
5. Moral blame to defendant's conduct
6. Policy for prevention
7. Administrative factors
8. Relationship of the parties



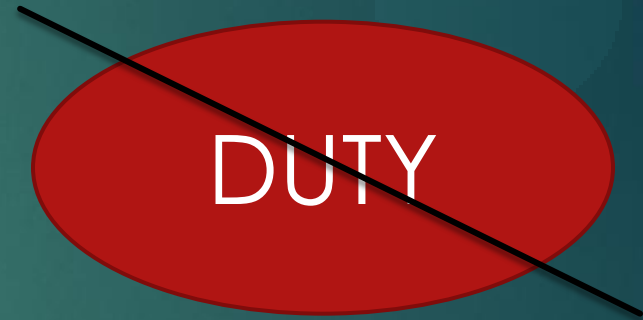
LEGAL INTERPRETATION



Pre – Shin/Schieszler Case

▶ Jain v Iowa, 2000

1. Extent of intended harm
2. **Foreseeability**
3. Degree of certainty for injury
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What happened in Shin v MIT and Schieszler v Ferrum College then??

1. Extent of intended harm
2. **Foreseeability**
3. Degree of certainty for injury
4. Closeness of connection between defendant's conduct and the injury
5. Moral blame to defendant's conduct
6. Policy for prevention
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Why is this interpretation incorrect?

- ▶ Contrary to well-established principles
- ▶ Decisions were based on a prior case, *Mullins v Pine Manor College*, where the university was found liable.
- ▶ Not an assessment of all elements of the “special relationship”
- ▶ *Loco parentis* → students are adults

Changes to Mental Health on Campuses

▶ The Good:

- ▶ Training students, staff, and educators
- ▶ Anonymous surveys
- ▶ New campus programs
- ▶ Victim foundations

▶ The “Not so good”:

- ▶ “Blanket” policies

The screenshot shows the homepage of The Jed Foundation. The header includes the logo and the tagline "Promoting emotional health and preventing suicide". Navigation links include ABOUT US, PROGRAMS, LEARN MORE, GET INVOLVED, and PRESS ROOM. A sidebar on the left lists categories: FOR PARENTS, FOR STUDENTS, FOR CAMPUS PROFESSIONALS, PROGRAMS & RESEARCH, UPCOMING CONFERENCES, RESOURCES & LINKS, and FOR SUPPORTERS. The main content area features a "FOR CAMPUS PROFESSIONALS" section with a "QUICK LIST" of resources such as "Campus Teams Resource" and "CampusMHAP". A "GET INVOLVED!" section at the bottom left includes a "Make a donation" button and a "Sign up for our newsletter" form.

The screenshot shows the homepage of Active Minds. The header includes navigation links: About, Get Involved, Our Programming, Issues & Resources, and Give. The main content area features a "Join the Conversation" section with a "Active Minds empowers students to change the perception about mental health on college campuses." and a "Join our Email List" form. A "voices" section includes a quote from Wendy Guillen from Active Minds at Florida International University. A "active minds updates" section features "Eating Disorders Awareness Week" and "Friends Do Make a Difference". A sidebar on the right includes "Learn More about the Active Minds Speakers Bureau" and "GET YOUR GEAR".

...ONGOING ISSUES...



1. Administration Dilemma

- ▶ Student Safety v Reducing Risk of Liability
 - ▶ Blanket policies
 - ▶ Violating ADA of 1990 and Section 504
 - ▶ Department of Education
 - ▶ Minimal programing and intervention
 - ▶ Not helping at-risk students
 - ▶ Including parents
 - ▶ Violating FERPA
 - ▶ Violate student privacy and civil liberties

2. Stigma

- ▶ Students fear seeking help due to potential consequence
 - ▶ Suicidal/Depressed students less likely to be helped
- ▶ Fighting stigma on campus
 - ▶ Using neutral language for screening workshops

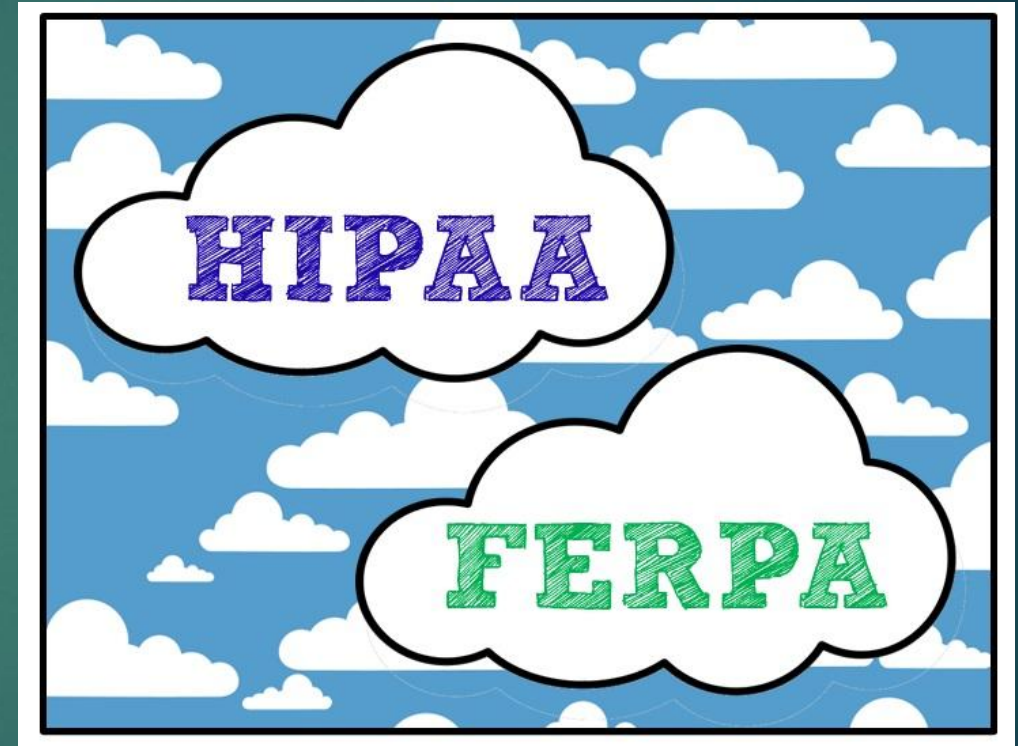


3. Stricter laws

- ▶ For:
 - ▶ Better definitions of the law
 - ▶ More guidance for colleges
- ▶ Against:
 - ▶ There is not a trend to hold schools liable since the Shin/Shieszler cases
 - ▶ Suicide on college campuses is not as bad as we think

Where do psychiatrists fit in?

- ▶ Obligation to the patient
 - ▶ Treating relationship
 - ▶ Don't violate HIPAA
- ▶ VS
- ▶ Obligation to the university
 - ▶ Evaluating relationship
 - ▶ You are not the treating psychiatrist



SOLUTIONS



Proposals to fix the problem

- ▶ Standard for duty
- ▶ FERPA emergency exception/SAFE legislation
 - ▶ Limited substance of disclosure
- ▶ Require students to report mental illness as part of the application process
- ▶ Adopt the “Illinois Plan”
- ▶ Educate students with the “Marine Corps Model”

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THANK YOU!!!!

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