

5-4-20 Stetson Law.

To Remember: Reflections on Kent State 50 Years Later.

The webinar will begin shortly. Please remain on the line.

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[captioner standing by]

>> Good afternoon, everyone. Welcome to Remember. Reflections on Kent State 50 years later. Today, Monday, May 4, 2020, 50 years later. In just a moment, I would like us to take a moment of silence to remember events 50 years ago at Kent State and associated events at other campuses in the United States. I'm aware others are doing this as well as we gather together and I want to thank all of you for taking time out to visit with me today. As you'll see this is a very personal and solemn time for me. So let's take a moment and remember these events.

[Moment of Silence]

>> Thank you. You know it occurred to me when I was putting this together that there are an awful lot of folks that have no living memory of what happened 50 years ago and may have only dim knowledge of what's taken place from a national reference or possibly mention in class or someplace else. If you had a privilege of being a student at Kent State you know quite a bit about this and have access to the wonderful resources they've developed recently there. But for many people this is an event that runs the risk of being ellipsed by the sands of time, if

we're not careful. So I think one of the very first things I would like to start with is as a teacher of higher education in law I hope that other teachers will emphasize this event and not let it fall out of the curriculum and become just some footnote or distant memory. Fifty years is always a very defining moment for an event because human memory begins to dissipate after 50 years. I hope I'm here for the 75th and it's a little ambitious but I would like to be around for that but I might not and there will be some people I'm sure that will still be there at that time that will remember, but again as time goes by, things dissipate and those alive at the time it's a very defining moment and I think a very personal moment for a lot of folks. And when I started this process with the center, I really just wanted to take the opportunity to offer my perspectives, how it affected me, how I see its impact on Higher Ed, it's certainly impossible for me to be a historian of this event or to, you know, synthesize all the literature or even try to resolve some of the controversies around that day. It really just puts it in perspective for things that are important to me and how I see the event. And again I sure do appreciate you are here. A lot of what I have done in this brief synopsis that will follow on events at Kent State is drawn from the Scranton Commission Report. The report of the President's Commission on Campus Unrest but also informed by materials provided and available to me from Kent State and again I want to thank them for materials that I have relied on today and you'll see some attribution as well at the end. I also am aware they're doing their events as well about the same time as we are and again I hope this is complementary to what they're hoping to achieve.

You know, actually events on Friday, May 1, 1970 really began the day before when [http](#) Nixon announces that the Vietnam war will expand into Cambodia. At this time, I'm 11 years old. And I do remember campus unrest

because I was in college prep classes and we were beginning to talk about two things, where to go to college and whether I would be drafted. Some of you know that I just missed the draft by sort of a fortunate occurrence of my birth I was one of the first men not to have to be included in the draft. Although I was evaluated for military service after the war had ended and I remember a marine recruiter telling me, son, America would be safer if you fought for the other side and he rejected me from any potential service. It was a bit of a set-back because I did come from a family with military history but, you know, I suppose there was a strong sense of relief in my family not to have to serve in Southeast Asia. Now there's another note, again it's personal but I think you might get a chuckle out of this. I was sort of a very poor amateur military historian as a kid and I misinterpreted an evening news broadcast in 1969 and I wrote President Nixon and discussed how I thought his decision to move troops into Cambodia how that might affect the outcome in Vietnam and to this day I'm confident I ended up on a list because how did this kid figure out we were in there and we were going to expand operations. I don't remember specifically seeing black cars drive by my neighborhood but it just shows you what a silly young person can do when they don't understand what they're saying.

The announcement of the expansion of the war sets off massive campus unrest, including Kent State and by noon on Friday as you can see there are rallies and calls for morale listen, by midafternoon more students are meeting, the black united students had a peaceful rally and by the evening of May 1 things begin to deteriorate and there's some pretty disruptive activity that starts happening in the City of Kent which if you've been to the town is right there. So it didn't take long for things to begin to go down-hill on May 1 and you can sort of see the boiling of

the pot heading towards May 4. By Saturday, the mayor of Kent requested the governor of Ohio to mobilize the National Guard. There's a ban on alcohol and fair arm sales and a curfew. Administrators began to work to ease the tensions and had meetings with officials throughout the day and to somewhat miraculously a cadre of faculty Marshals forms and I'll talk about them later. So 7:30 p.m. a gathering on campus around a thousand people and that evening the ROTC tower burns and the Guardsmen now enter Kent and Kent State University. We see deploying of tear gas on Saturday as well. On the 3rd, the governor of Ohio arrives, Governor Rhodes and holds a press conference. I pulled a couple of direct quotes from the Scranton report, looks like I might have typed that oddly. You can see this particular speech, you may have been a little bit incendiary to some, inflaming to a certain extent and you're starting to option and the governor advises the President to keep the campus going, a faithful decision and one that probably wouldn't be mirrored today in a lot of college campus -- probably wouldn't imagine we would get the same result. There were uncertainties with the governor's emergency declaration on what should be done, leaflets were put around, but students still gathered on campus and, you know, just to pause, one of things that's notable about this is today, we have much more advanced emergency notification systems, ways to disseminate information, technology, et cetera, a lot more planning for these things and from a modern perspective you can see how a break-down in information transfers to leading to events on May 4.

Monday, May 4 begins as students assemble in common areas and the crowd began to shout. Some of the protesters were motivated by the presence of the National Guard or at least in addition to their concern more than Southeast Asia. Guardsmen began maneuvering and Blanket Hill is an area for this event,

Guardsmen are deploying tear gas, rocks and projectiles are thrown, Guardsmen continue to manure and around 12:24 p.m., 13 second volley occurs, killing 4 and injuring 9 and traumatizing virtually everyone present. There probably would have been more killing had it not been for what I personally believe to be heroic actions by faculty Marshals who frankly grafted personal risk and worked to disburse the crowd and directed efforts to assist the rounded as well. Kent State later closed for the semester. And I want to come back and acknowledge the faculty Marshals as we go forward. This is one of the iconic photos that many of you have seen. And this was The New York Times the next day with the award winning photograph showing Jeffrey Miller killed at Kent State. I have a copy of Life Magazine in my office from that time. And I've showed it to my Higher Ed class several times. One class when I showed them the photos in Life, much more expensive photo shoot than I planned here today, I showed this one class, several students asked me if the photos had been photo shopped. They were in disbelief that this sort of thing had ever happened on a campus and I honestly think a couple of my students still wonder if I had provided them some sort of fake news or doctored account and we talked about it. And for them of them it was the first time they had any meaningful interaction with any of the hit associated with Kent State. A call to make sure we keep living memory of Kent State alive as such a defining moment. Again I say Kent State but again campus unrest in general, one of the things we will be talking about are similar situations or other situations that occurred about the same time that may have gotten less national attention and less attention following this incident.

So I thought we might take a minute to just put some perspective on a time of unrest. And again I'm hardly a 60's historian or specialist in this field, but from a

law professor's point of view, someone that teaches the law in higher education, it's very clear this was a time where civil rights issues, social justice and the war in Southeast Asia were prominent in dominating political discourse and particularly many activities and protests on campus. I want to take a moment just to remind people in case you didn't know, I think some of you would if you're with me today, that there was an incident at Orangeburg, south Carolina state back in 1968, protesters engaged in a demonstration regarding racial segregation shot by South Carolina highway patrolmen and 3 killed, 28 injured. Three of that 28. Kent State of course and Jackson State on May 15, 1970 just a couple days after Kent State and we had again more fatalities. And there's a lot of speculation as to why that is and it may well have been to some extent Americans were familiar with violence directed by officials at protesters, particularly in the south, urging changes in civil rights laws and social justice.

This has been a long history of violence, some perpetrated against by officials of the government and that I think to some extent explains why Kent State may have stood out. I think the location of Kent State also had some something to do with it as well. If you're familiar with Ohio and Kent, Ohio it seems like one of the last places on the planet where open fire on students would have taken place. Many of the students were studying to be teachers at the time, including people like Sandra Scheuer. So it just didn't seem like a place that was going to erupt but of course the Nixon administration was looking at activity around the country, much of which didn't result in fatalities because they learned how to engage in peaceful protests and also in some ways how not to get shot. And so Kent State, you know, stands out for being unfortunate an anomaly in the level of violence deployed but you see this at Orangeburg and Jackson as well. The Scranton

Report. Almost immediately Nixon, President Nixon establishes the President's commission on campus unrest and we get a report very quickly from William Scranton, former governor of Pennsylvania. Very interesting report and if you haven't had a chance to read it I recommend you do at some point. The report goes into big detail of the landscape of campus unrest at the time and includes issues regarding the black student movement, Jackson State and Kent State. And without a doubt, the Scranton was a call to action to the field. And actual in so many ways there had never been anything quite like this type H it was not flattering, it was not complementary. Plenty of blame was thrown around and I'm sure college Presidents and leaders at the time heard the strong message coming from the White House, something is going to have to change. This is just one of the quotes, but I think if there's one to pull out, a lasting memento in our field is the deploying of lethal portion on the college campus and there's been quite a bit of debate when there was an order to fire or not. I'm not going to tell into that but there was clearly at minimum inadequate fire discipline and note this last sentence. The use of highly lethal loaded rifles to confront student demonstrators simply not an acceptable response and as I'll talk about later when force is deployed, reasonable force must guide the use of any force that's deployed against any protesters, and when you sort of look at the situation with the gas masks, insufficient supplies of tear gas, at least I've seen that discussed a few times then the use of, you know, entirely lethal weapon, I assume you're familiar with the legality of the weapon that they used. And really very little alternative, sets the stage for shooting and killing or something else that is not adequate. So again I think the President's Commission really focused on a lot of things that went wrong but one of the things that went wrong was trying to use this kind of crowd

control and again at this time around the world, other forces are beginning to understand how to develop better tactics to confront crowds if they are getting out of control. To me, the Kent State moment, particularly the Scranton commission report sets the tone for something we take for granted today which is for report and investigation culture. Taking cues from a commission report on the assassination of President Kennedy, colleges confront something that's going ubiquitous when there's a major or catastrophic incident you can expect and anticipate there will be reports, external investigations, internal investigations, et cetera. This is the birth of a look/see culture, demanding answers and comprehensive understanding. Prior to Kent State an awful lot of college activity happened with little to no observation or supervision. The activities of a college were often considered within the power and prerogative of that college and it was not readily accepted that colleges would be subject to this kind of scrutiny, particularly negative scrutiny of this type. And here's just some listings of a couple examples, ones that we probably know of today but I think are all direct descendants of the Scranton Report in some way or another. Virginia Tech there were several reports actually, UC Davis pepper spray report, well known in the field. Kent State. The free report is widely known but not the only one and I will talk about that and the pepper Hamilton Baylor findings. Notice a couple of things that come out of this is although you have the Scranton Report on campus unrest one of the things that's happened in the wake of this kind of report investigation culture is many reports. Often conflicting reports or reports that are critical of other reports but if there is one thing that I've noticed is that the first report out often sets a baseline narrative even if it's contested. And so one narrative tends to become a more dominant point of focus around which we debate an event, much like the Warren

Commission Report. And you see this pretty commonly in the field. The other thing is although they're not technically actions of a legal authority in a strict sense, like a legal case or a regulation or a statute, reports become immensely impactful in terms of litigation that follows down the road and one thing again social security a Higher Ed law professor, I really stress this with my students, that if you want to understand the path of higher education law you have to look at sources beyond cases, statutes, regulations. You've also got to understand the culture and particularly these kinds of reports and the impact they can have on legal decision makers. You know, genic do a whole webinar just on this, but FERPA regulations changed after the Virginia Tech incident. The Peterson case went all the way to the Supreme Court of Virginia with issues associated with incidents of the Virginia Tech incident.

Not sure that it necessarily resolved everything for everyone. I don't know that litigation ever does. But we've even seen down in Texas recent statutory changes that seem to be a direct result for many people of observations of things that have been taking place at Baylor or had taken place at Baylor. And again I could have made this slide 5 times larger very easily, I'm just picking a few out of the herd to illustrate this is in prime minister ways the birth of report and investigation culture. We take that so for granted today. But there was a time when higher education was a lot like hog warts. It was very hard to access it. You had to get through platform 9 and 3/4 and the Ministry of magic had not arrived on campus but how things have changed and I think in many ways in 1970, this was the beginning of a culture that continues to grow.

Last point on this slide is this leads to a culture that focuses on spin. People that can fix a problem, most are called fixers, healers, people that try to help a campus

heal and try to find its way to a different plateau after an incident and even politics playing an important role so it turns out into the kind of law and regulation the campus can live with. A culture of crisis management develops and it's taken a long time and a lot of incidents to develop that but certainly the incident in May 1970, the incidents, were a spark for the development of what is today modern crisis management on campuses. And even in midst of a COVID crisis we have a lot to thank to the learning that's taken place unfortunately as a result of these incidents. I see Kent State and Jackson and Orangeburg as a defining moment in the roles of faculty and students. Things would not be the same. Not long after Kent State we start to see the rise of a much larger administrative class. Student affairs administrators, discipline officers, more housing administration, et cetera. And traditional classroom management as it existed in the 60's and 50's begins to meet the modern campus in a new way. And, you know, at one time faculty members were the Lord' s of their classroom and if you were educated in the 60's or 70's you have stories of teachers that ran their classrooms almost autocratically and disciplined, honor code enforcement, everything often happened at a very microlevel in the classroom. I mean you sort of see it in movies like the Paper Chase and others but very, very strong role I think of the faculty. But as the student experience begins to modernize and we start to see more student housing, more activities, more external behavior we see the rise of the administrative class. To me a group of teachers but people who have been identified as an administrative class often without tenure or the protections that traditional classroom faculty have.

You know, you hear a lot today and I've heard a lot of people talk about so called faculty/student confidentiality. And, you know, it's apparent that a lot of students

put a lot of trust in faculty members and vice-versa. Very strong bonds. That trust wasn't always honored, as we know. But that bond was very strong and I think it created at least a legal illusion of a form of faculty/student confidentiality as if there was truly a special bond of efficacy that was recognized legally. It was never entirely true legally and certainly isn't today. But you can see the roots of it in this time. And part of the reason that I think this culture of high efficacy between faculty and students existed is because faculty literally put their lives at-risk for students and had never really stopped doing that. And so I'll pause for a moment and again I'm going to want to talk about the faculty Marshals at Kent State. I have the privilege to meet Jerry Lewis. I hope he approves of what I have to say today. We have given the faculty Marshals an award. I'll show you that in just a minute or two as well. But they were not the last to put their lives on the line. Keep phobic books mind the National Guard were prepared to fire again if necessary with fixed bayonet, a massacre was almost happening but for truly her heroic actions, I think we would have had a much much worse incident at Kent State and it certainly was terrible as it was and at Virginia Tech, a professor I believe knowingly gave his life so his students could survive. And I will ask you today to reflect on what industry do you see this kind of relationship, where an employee will willingly and employees will willingly put their lives on the line for their so called customers. I really think this is an important thing, especially in the COVID crisis. Today I read an article in the Chronicle, you know, basically calling on an evaluation of academic staff to try to meet budget and a gentle reminder to college presidents and everyone out there that it would be a real shame in this industry if we broke this kind of a bond, where the level of trust and confidentiality is taken away. Admittedly the law doesn't respect technical confidentiality, but

maybe the word I should be using is confidante or trust or efficacy, however you want to see it but Kent State really emphasized that efficacy relationship with faculties and students. Where are we headed with that? Something I think we will need to ruminate on Kent State also marks the rise and frankly the eventual fall of the bystander era in college state and wellness as a civil rights era is born. I want to talk a little bit about that, if I might. Neil Young and his famous song Ohio, I don't know if he knew how predictive that statement was because after the immediate aftermath of student unrest American courts entered a period of providing very few safety and wellness rights to students. Students were often portrayed as protesting individuals who wanted freedom to be on their own and therefore they had to live with the consequences of being on their own, which could mean being exposed to risk and danger. I refer to this in my books as the by standing era, most associated with a case Bradshaw, you can hear the echoes in Kent State in that opinion. You the modern college student of the 70's have pushed for liberation from your institutions and you'll have to live with what you've done and you're on your own now. It's interesting, because the civil rights era was exploding at this time and students were running political and civil liberties but a right to basic safety was a contested ADA and although I think the Scranton Report sets a minimum baseline, don't shoot the students with deadly force if there are alternatives, it's hardly the safety law that was developing in can 12 at the time. But I do think that in this era something was starting to be born that's now manifest today, the idea that a college student relationship, some courts today are referring to it as special, several have used that terminology in fact and it seems almost inevitable that the recognition of the kind of relationship that you can see on May 4 at 12:30 in the afternoon between students and faculty would

somehow find some recognition in legal materials.

Nonetheless, the efficacy that existed between faculty and students begins a transfer, to some extent, from professors to their institutions and even other administrators. And I think today, we live in a world where attempts to cope with issues of the magnitude of campus unrest, Kent State type incidents has led to some extent diffusion of efficacy. In fact in some places the law's actually moved to reduce efficacy relationships. We see Texas mandatory reporting law around title 9 which makes it clear that faculty members are first responders for the institution and must share information. I'm not saying that's a bad thing, I'm just illustrating something like that would have been a little unusual to say the least back in 1970. Something else is happening too and again I see this as a teacher and sort of legal historian is this is the time when metacurriculum is born in a very visible way. For example, students begin to receive things like riot training. These are precursors to things that we see today, the title 9 trainings and other trainings that we have. But thinking about the need to train and teach students about things other than history and Latin, et cetera, becomes embedded in American higher education and begins to grow and look at how orientations have exploded an entire CADRE of individuals U so called administrators teach everything from prevention science to title 9 safety, the campus safety and I can go on and on. You'll probably enjoy this. I came to campus in the fall of 1977 and went to Harvard. And I wasn't there a day and we received a mandatory riot training. And I have to be honest, we all looked around the room and said, do you know who we are. We're frankly a bunch of nerds who had few friends in high school and we would be lucky if we could gather in a group of people that could stand around us for any length of time. Riot training? We are aware of why it was being offered to

us. But just 7 years later, roughly, we were being exposed to a kind of training that was a direct result of what had happened during the period of campus unrest. I remember that being delivered by someone in a quasi-administrative capacity. And today, it's much more likely to see that coming in digital training or other types of so called metacurriculum.

Following Kent State, a long period of peaceful campuses is around the corner. Campus unrest does settle down. I mean after Jackson, we don't really see these large pitched battles with deadly force being deployed in large measure. But the question I have and I'm going to sort of pose this today, is things had the appearance of settling down but were we really keeping calm in a restive state? I want to tick off a couple of things that seem to have been simmering on the pot, even if they haven't boiled over into the kind of event we saw in 1970. Social justice. There were tremendously advances in civil rights during this period. But as we see today in the rear-view mirror very unstable social compact was crafted on a lot of civil rights and at least to me teaching higher education law I see we're litigating our way through a lot of second and third generation issues related to social justice and in many ways are getting a front-row seat on the things that were not accomplished in the 1960's and 70's. Issues that remain to be resolved and maybe deeply contested in our society.

The church/state division begins to come more visible. In fact if you look back at the New York Times the day of Kent State sort of prophetically they also acknowledge this is a day the Supreme Court made a major ruling on the right of churches under the tax code. And this is a whole other story but keep in mind that American higher education was deeply connected to the church in its formative periods, particularly in the 20th century began to move down a pathway

legally distinct from legal protections for the church. And that itself I think has been a simmering issue with American college campuses for quite some time. The connection between faith and college and law and society. We see it bubbling up in many ways. Safety. It's a long road from 1970 to really the first moments where students begin to win significant definable safety rights. The Pine Manner case is a famous case. This is in the 90's when colleges start to be told that some level of reasonable safety on campus may be legally required. Today we talk about title IX and even some cases that talk about special relationships. But one thing that definitely was not brought forward from the 60's and 70's clearly was some basic right to safety and wellness on campus. And today we're fighting over that.

Contractual fairness. Students didn't necessarily win major visible contractual rights. The college deal, if you want to think of it that way, still lacks the kind of contractual boundaries that would be typical of a contract of this magnitude. Buying a car or a house has a lot of formalities and contractual language associated with it but college contract or contracts are much more difficult to identify and pin down and we're seeing that play out again and again in the legal system today as we try to figure out how colleges and their students should relate to each other.

Deep social divisions. There were very different reactions to Kent State. Very deeply divided reactions. And I think today we can see that sort of what I call the red, the blue and the purple, it's becoming more visible to more people but I think in many ways this is a legacy at this period, is the violence at Kent State did not necessarily unify America, it may have settled things down but beneath this peace is a magma of conflict, a perspective about the role of higher education, the role

of higher education institutions and the purple, the communities that often host these institutions who may share communities from different political spectrum.

Cost, affordability and outcomes were also sort of sitting underneath the issues on American colleges at the time. It really resurrected in a major way. College was relatively inexpensive back then but I think this issue is simmering and then finally, genic probably add more on this slide, real tests of leadership and governance. You know one thing that stands out with the Kent State incident, it was really a failure in leadership almost across the board. And just before the holiday this year, jack wrote a piece I'll never forget, the whole decade of monsters and men. I gave one quote from that piece but 50 years later we're still getting calls to action on leadership in higher education. The incidents may have changed from gun violence deployed by officials of the state to rape or murder, but they're still there. Modern campus security has never been the same. And one of the things I think that Kent State clearly ushered in was a notion of proportionality in response to disruption. Something that came through very clearly in the UC pepper spray incident report. Colleges I think today will be held to account if the way that they manage disruption is not considered proportional to the types of behaviors that they're encountering, et cetera. And this means special training and leadership training around how to manage different kinds of disruption. And again you probably are familiar with the pepper spray incident. I did provide a link for that. It also began a long dialogue that has emerged in some ways about how to build modern campus security systems. Weaponization is still an issue on college campuses and one of the legacies of Kent State is bringing deadly force weaponry to campus immediately triggers living history for a lot of people and again I'm not taking a position one way or the other but it's important to

understand you cannot understand modern weaponization debates without looking to events from 1968 through Kent State to Jackson. We also have built emergency and timely response systems. And have a fairly pervasive system of accountability now under the Cleary act which allows people to see the security systems in place and understand the types of incidents that have been taking place. We've seen a move towards professionalization, the people who deploy campus security now are generally much better trained and experienced than predecessors in another era. So even the thought of having to call in the National Guard is not a necessity on a lot of campuses because a lot of campuses have that level of staff. I've had the privilege of working with a number of campuses of this type but I'll call on my friends at UMass Amherst that I think have systems and personnel in place that rival the level that some countries have in other parts of the world. Mission redefinition has been a big part of campus security. And over time, campus security has had to redefine its mission. First after Kent State, the need to be able to deal with unruly protests, dangerous protests, today, campus security deals with issues like Title IX and harassment and bias issues so it's been a long and steady process and much to my joy campus security has moved from reporting to business offices and protecting buildings and grounds to playing a critical role in key governance issues, particularly times of crisis. So one thing you'll notice on campus when people have been talking about COVID response, they're including campus security hand in hand all the way with decisions and you can thank the out-flow of the Scranton commission Report for this thinking to help bring it into Higher Ed. My particular focus on Kent State has been heavily oriented towards its impact on managing a campus. And one thing my research clearly shows to me at least is that this is a moment among others but a major moment in which

campuses begin inviting law, lawyers and legalists in the campus to manage the campus. The Scranton Commission Report really had an obvious mandate. To me the message is unmistakable. Manage your campus or else. If not we will do something. There was really an implicit threat in the Scranton report, without getting control of the campus, higher education is at-risk. So what do you do when you're given a mandate like that? How do you operationalize it and I think this was made even more difficult for lawyers and legalists to understand because in prime minister ways Kent State was not a case. I mean there were cases filed and settled, there's some sort of very sort of obtuse legal rulings on immunity that are out there. But what you're not getting for example what you're getting in Title IX today are specific mandates on a court on exactly how to run a hearing. You get a more nonspecific mandate, manage or else. So what do you do? Well campuses I think at this time were really infatuated with the idea of the law. And this is something that's very hard for me to convey to younger people in the field, that there was a time when lawyers were cool. We were the good guys, good people lawyers and Gandhi was a lawyer and Dr. King was not a lawyer but his legal writings were as good as any lawyer I've read. Brilliant legalist, among other things. Bobby Kennedy, great society. There was a feeling the law could really bring peace and justice. And I think campuses were law struck. I think this infatuation with law not entirely undeserved led a lot of campuses to turn to lawyers to have solutions. And the solution seemed to be draft a code or re-draft your code, whether it be discipline or honor, use that to manage your campuses, make it the battleship of campus manage 789 and this will stop unrest and bring peace to the campus. It did work, it did associate with a very long period where organized violence against students just dissipated. You know there are a couple

lawyers that stand out in this. ED Stoner is famous, he drafted two iterations, not the only ones but they stand out. This was a choice by Higher Ed to manage with dominant tools that were influenced by law and legalisms and it implied the birth of a class of legalists. It wasn't too far down the road, that ASCA was born, conduct administrator's group, formally ASJA, that was the original name. And if you know this group they're born, you know, not terribly long after Kent State, within just two decades to meet the need of people to administer codes. Now of course in the rear-view mirror, we can see the choice to use law as a dominant tool for managing a campus has pluses and minuses to it. And these days, when you read a case a week where a federal court is telling a campus law enforcement to do, many ways of roots of this are born in this immediate period following campus unrest. My research when I was working on a book on campus due process showed me that a lot of campuses adopted their first modern codes as we would recognize them today, 1972, 71, 73, it's very obvious that people were hard at work trying to meet the Scranton commission report mandate and turning to great lawyers and legalists to help them do that. But that has led the path to where we are today with a highly legalistic culture where many jobs now are not just JD equivalent, they're JD preferred. We also learned a lot about healing and meaning in the wake of a tragedy. Trying to break the cycle of martyr.com and change and move from blame to prevention. Kent State and other campuses have taught us a lot about how a campus heals in the face of a terrible event and how to find redemption and positive meaning on the other side of events of these types. We've also come in contact with the impact of trauma both collective and individual and how durable that can be over time. One of the things that really strikes me about the Kent State experience is that just the mass trauma that

people must have experienced in the aftermath and carried with them many cases today. The power of contrition. I think we see the legal system often struggles with providing the kinds of remedies and outcomes that we really need the most. Scranton commission was helpful but schools had to do a lot of this on their own and one thing that we're finding is that as people go to court now as we've lawyered up the field in many ways the remedies and the solutions that are happening in court are not getting us to a place where we're bonding and growing, but we're conflicted and frustrated. And underlying all of this is something my work with people who have experienced terrible trauma in the field is that often what people want more than anything is a sincere and unlitigated apology. They want meaning and they want understanding and our legal system struggles to allow people to have that meaningful healing. I think we're going to see over time that legal reform will have to move more and more towards providing the remedies that people really need. The legal system has an obsession with assigning blame and fault. But over time we've developed a culture that's focusing more and more on prevention in the critical world of science and learning theory. We're looking for ways to move beyond blame and fault to discuss ways to prevent and constructively approach a circumstance.

Have we ruled ourselves into a false sense the period of campus unrest ended. Are we living in yellow stone where the magma is underneath us and occasionally a geyser pops up and there's a bubbling pool. But is there another eruption on the way and have we learned the lesson of Kent State that can lead to this violence and outcome? I will pose that question because from my previous law I am concerned that many issues remain bubbling under the surface that we've been in a long period of social conflict that may have become common on the

surface and rest underneath and underlying this is what is a reasonably safe and responsibly managed campus look like? How do we manage that and slowly but surely we're building out metrics to try to determine what people might agree on that as an answer to that question. Kent State's very personal to me. And these 4 individuals' pictures sit in my office. And I could literally fill walls with individuals whom I'm aware of who have sacrificed on the altar of higher education so we can learn. Michael as many of you know throughout my entire career has been the shiftless dynamic. I would like to see us move from martyrdom and change to systems based on empathy, anticipation, prevention and provention and provention I'm not sure is in the dictionary. What I mean by that is engaging in training and teaching, metacurricula, actual curricula that promote healthy and safe behavior that help people understand how to resolve conflict and work together constructively. I'm hoping that someday we can all become barely visible like the man I met at Kent State and I suppose this might be a time to talk a little bit about him. A little more to come but I did this at the campus one time when it was empty. And I was looking around to try to find things and if you know me I'm not terribly well 3 dimensionally oriented. I can get lost in a small room. And there was a man I spotted some distance away and I can tell we sort of made eye contact, there was a connection, nonverbal. And I don't know if you've ever been in a situation on an empty campus and there's a person across the other side of the campus and it's -- it could feel a little creepy or just ignore and go on your way but there was a sense we were communicating. Maybe even sharing some kind of a common purpose. And I didn't get a creepy sense at all. And our paths eventually connected as we were walking around the campus. He seemed to know what I was doing there which I thought was interesting. He said you're

looking for things here at Kent State. I said I am. He said, you know, over there is the parking lot where you will find some of the markers, I bet that's what you're looking for. And I thanked him because I probably would have wandered around for some period of time if he hadn't been helpful and I walked and towards the parking lot and turned back and he was no longer visible to me. He wandered I suppose in another direction. We'll talk a little bit more about him in a minute. By the way I would strongly encourage everyone to the campus at some point. Unfortunately I have yet to get up there to see some of the memorial work they've done and I'm looking forward to that very much once the COVID crisis is done.

And hey, here's a shout-out for the Clery Act. Sometimes I look at the law and what if would be like if we had it in the past. Look at how far we've come. For example with Sandra Scheuer and William Schroeder, the one thing I have learned is information transfer saves lives and obviously, one of the things that happened at Kent State that led to so much injury and death was information wasn't transferring quickly enough to people who could have used it. There were other things that went wrong as well but certainly information transfer is a big part of our work.

So what was the lesson of the man I met at Kent State? I'm going to do this because it's that kind of a day but I have to admit I almost felt like I encountered an angel. It just seemed spookily coincidental there was one person happen to be wandering around, instead of having a creepy feeling of some unknown person who I didn't know their intentions I actually had a feeling of warmth and understanding and the person sort of carefully approached me making sure it was okay to do so then just seemed to know exactly what I needed to know and led me to it and as soon as I found what I needed, he was gone. So, look, I'm a

professor, a rational guy so here's the thing. Maybe I met an angel or maybe I met someone just like you and someone who visits Kent State trying to find meaning. And I think we're all searching for thatch I know I still am today. I don't think we've completely found it. I'm not sure I'll ever live long enough to fully understand what happened that day but I know I'm drawn to it and I find myself being very personal with the event, particularly drawn to one individual. I did dedicate one of my books to Sandy. I want as we're closing out I wanted to just remind people that in 2008 the Center for Excellence in Higher Education Law and Policy which I direct, awarded the faculty Marshall collectively our facilitator award, Dr. Jerry Lewis accepted on behalf of the faculty Marshals. And I couldn't be more proud of people like Jerry Lewis and people like those at Virginia Tech who risked everything for their students. Please look to Kent State for information and guidance. There is a tremendous amount of activity and remember renewals going on. I thought it only appropriate to put that up so you would be able to access that. And I want to thank the Center for Excellence in Higher Education Law and Policy for indulging me. Thank you to Stetson for its continued support of my Center. Of course there's the usual applaud for the conference next March, I'm hoping we can gather then as we have in the past. I do want to put out a special thanks to Eric Lyerly my Center fellow who helped plan and execute this and also wanted to thank Kaylie Murphy who is a brand new Center coordinator, many of you will deal with her, Damon in IT and Mercy and my wife Jennifer, she helps a lot with what I'm doing and did especially here and I do believe we have a question, we are at the hour but I would be happy to answer a question, Eric, what do you have for me, Eric?

>> We have a question from one of our attendees who wants to get your

thoughts on contrasting perspectives on the Kent State shootings at the time, ones that might have been -- what wonders might have favored the National Guard, the National Guard for student zero, they should have shot more students and then compare and contrast that with a similar idea expressed this past Sunday in a story that the attendee posted at a protest at a University where others were shouting to run the students over. So just thoughts on sort of maybe more antagonistic spirit towards students.

>> Yeah, I mean Eric I can go on and on on that particular question. But I'll try to keep it brief because I know we are getting towards our hour here. Actually a little past it. A message today is opposition did not end in May 1970. I think the country was stunned, I think the violence level escalated to a point where people paused. I think we may have entered a long period of calm on the surface but table we live in a restive state and some of the stories that I've heard directly from survivors May 4 are pretty startling to me to hear. You know, parents refusing their children, people -- the idea more people should have been killed. And even today, I think as we reach a pitch of opposition and it finds its way back to our campuses, which it is, there is a tendency for oppositional thinking to migrate in the thoughts of violence and in some cases actions of violence. And I'm just reminded by things that Bobby Kennedy called for in his lifetime, compassion and for higher education to play a role in helping people learn how to live together even if they have fundamentally opposing ideas. Let's hope that conflictive ideas and thoughts does not need to escalate into a Civil War or acts of violence. That energy lies below the surface and can turn into those things but I think what calms the people, so to speak, that brings real peace is justice and understanding and tolerance. And those take the kind of patience and commitment that a

weapon can never supply. You know, a bullet goes off, it took 13 seconds to kill 4 people and wound others. It takes a lifetime to build bridges of peace and understanding and for people like you, Eric, who I have deep respect for, I hope you remember that lesson, realize this is a commitment and it's who teachers are, we're the kind of people who, you know, in many cases if called to do so we will step in the line of fire for people because we deeply opposed to settling our differences through violence. We hope to do it through compassion, understanding and learning.

>> Yeah, and it looks like we've got a couple other questions roll in and I think we have a couple minutes to field them. We have a question that says it seems the throat campuses comes from demonstrations by nonaffiliated persons, people that aren't connected to campus. How does that relate to the legacy of previous student demonstrations? Your thoughts on that?

>> I do think that -- and this was actually true in the 1970 period as well with a lot of student activism has learned techniques of peaceful protest, which means that they wouldn't be as likely to be associated with moments of violence. And so, you know, again from -- when you see the eruption of activity that took place May 1970, including a national student strike, it is almost remarkable that there weren't more shootings and I think a lot had to do with the fact that many internally organized student events had learned tactics and approaches to minimize violence. But I think you would be foolish to under estimate the potential for violence emanating both internally and externally and connecting. I don't think it's a particularly good idea to think that our risk comes from without. In fact, if I can, I mean I do notice something about modern conflict on campus that's quite noticeable is that a lot of people who are very dissatisfied with

American higher education have been the very same people who take tremendous advantage of our systems and been in them. So I know for example the Wall Street Journal wrote a very critical piece of Oberland college. These are people from higher education, so, I think it's a mistake to think that the restive state is external to higher education. I take a lot of cues from Mary Potter, Lord Voldemort was Tom Riddle, the student. So the energies we need to confront are from within and if Jack's piece resonates with people, the one I referenced earlier, monsters and men, the way I read it I think Jack is raising the issue that some of the greatest danger that comes to our students is danger from within. So much like Kent State which I think became over crowded at that time, people were migrating to the campus. It was a mixture of the community and the students in some form and I think you're seeing very much the same thing today. To me, since Kent State colleges have become cross-roads for American conflict. People talk about them as marketplaces of ideas but in many indications the college remains in our images as a place where people can gather to raise the deepest social questions that we face and you'll notice very few colleges are spared playing the role of sort of the kind of conflict we see in a Napoleon conflict. Today our college campuses could erupt at any time and looking at what happened at any campus anywhere any time could be on the front page The New York Times. Also something I think that wouldn't have crossed people's minds back in the 70's that every college was in this kind of risk but I think today, perhaps we are.

>> And it looks like we have one more question going out the door. Do you know of any studies between exploring the possible correlation between the Kent State shootings by law enforcement and the current mass shootings that take place in schools and most often done by students at the school or just your

thoughts on those, if there are any connections.

>> I think that's very interesting. You know, I think the connection -- any deployment of deadly force either by officials or whatever, if I can, I think the first person I would ask a question like that would be Gene Deisinger who worked at Virginia Tech and has a consulting group. Gene has done a lot of work on campus violence and has knowledge on reports done by the federal government on various forms of violence on campus. That would be the first person I would go to to pose a question like that. I do think what I've seen and again I'm not really a historian per se or even a social scientist, what I've noticed is there's a tendency at least for people to do the legal work to divide government initiated violence from nongovernment initiated violence and treat them very differently. They raise different kinds of legal issues and they're often considered separated. Because of what Scranton said, everyone now knows that using deadly force in an organized way against student protesters is really an absolute last resort if resort at all and anybody that does will be called to account for why they have done that.

>> Great. Well, you know, what's special about this webinar in addition to your deep knowledge and passion on the subject is we have attendees who were especially affected by the Kent State event and one of our attendees posted in the chat box, Connie was a student at Ohio State when this happened and had a student teacher stay with her at her home when OSU closed just after Kent. So it's a reminder that those effects are still felt today and people still have strong memories of the event.

>> Eric, I know we're over time but I think it's a good thing to add that Kent State library system has recorded a number of personal recollections of the period but in part, because of technology, what we're finding now is that a lot of personal

narratives are emerging, particularly around this 50th anniversary and deserve to be memorialized and recorded. People have those kinds of experiences. You know, I feel a little disconnected from the event because I was not in college at the time. But I did, you know, again have this, encounter with riot training when I went to school and we all were shaking our heads like why are they doing this and we realized it was a reflection of something that happened 7 years earlier but seem like an eternity that separated us. Our experience in 77/78 was dominated by the movie Animal house. That was the image and it shows how quickly things shifted at least in my experience. But that's just my experience and I think that's important to collect lived experiences and thank you, Connie, it's good to know you are with us today.

>> And we had one more question pop up and I guess we'll close after this, if you don't mind. Do you believe the shootings at Kent State helped pass the lowering of the voting age to 18 and the 26th less than one year later and has giving 18 year olds the right to vote achieved its effect?

>> I do. I think there was tremendous pressure building on giving people who were being asked to die for their country, to give them the right to vote and also other social rights. I was the beneficiary of a change in the law that I didn't advocate for. You know I was too young really, not part of the college experience. I I've always appreciated that, that my immediate predecessor fought for that right. I do believe that changed things. I do also want to point out that Richard Nixon won in a landslide in 1972. And that was an interesting thing as well, because campus unrest in the 70's, early 70's, threatened his reelection and if you remember in 1968, you know, there was a lot of discussion about withdrawing from the war in Southeast Asia. The announcement April 30th seemed to be

contrary to what Nixon promised earlier. So, there was, you know, a chance that the politics of the country might be deeply reflective of what happened at Kent State and again I'll let you decide what that mandate in '72 meant. Nixon obviously squandered it shortly thereafter. So that was part of the challenge of the time. But yes I do think that changed things. I think it also ushered in the idea that 18 was a magic age of maturation. That that was the end of childhood. You know, it's what Neil Young is saying. You're on your own now. And I think there was a grow-up moment and one thing we contend with today is we now know that brain science is telling us that, younger people are going through tremendous development stages well after 18. So, the kind of adulthood that's born on Omaha Beach or Kent State, that loss of innocence, the exposure to extreme violence, certainly transitions people to a kind of adult state but we know that most people are undergoing something else down the road. And I just lingering with the fact that an entire generation was traumatized. And if I may, Eric, I think one of the things that's challenging for baby Boomers right now and I think technically I'm a Boomer but I really always felt a little more on the X side because I was so much younger in the 60's, you know, I think a lot of baby Boomers thought the great mortal apparel was the war in Southeast Asia or in violent civil rights confrontations. And that level of violence subsided, I think the generation sort of felt like we had ours, we had our whatever and now COVID is particularly risky for baby Boomers. Sixty-five and up is a target area and I think it's bringing up a lot of feelings of being put at-risk and reminding people of the trauma that we experienced either being exposed to the war or being threatened by it or even violence in our communities or on campuses. And that feeling of being unsafe, which unfortunately probably is ubiquitous for GenZ people, has

returned to an entire generation and I think there were some lessons in that too.

>> Yeah, I agree. And I think that's time. Do you have any closing remarks, Professor Lake?

>> I'm glad that I didn't break down and start crying during this presentation. Jennifer implored me not to cry. She said it makes people feel uncomfortable. I had to do multiple run-throughs to get through it so if I seemed monotoned or unorganized I was trying to get that balance back. But it's hard for me to look at Sandy's picture and not tear up. I think of her and I can think of anybody, I don't know why I focus so much on her. On her way to class. And how in many ways I feel that I want to dedicate my career to try to make sure that like the guy at Kent State, I just appear if you need me and disappear if you don't and you just get to go home and live a life. I wonder if it would have been like to have been taught by her. So what comes from this is understanding.

>> Perfect. Thank you, professor Lake.

>> Thank you, Eric and thanks to the whole team at Stetson for putting this on. Appreciate it very much.