

## Lawyers discuss legal ramifications after LSU student's death

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The ongoing probe into the possible alcohol-related hazing death of an 18-year-old LSU freshman could focus on crimes ranging from the illegal sale of alcohol to homicide, depending on how the facts shake out, members of Baton Rouge's legal community said Friday.

However, East Baton Rouge Parish District Attorney Hillar Moore III said it's too soon to know whether charges could be filed against LSU students or others who might have contributed to Maxwell Gruver's death.

Whether or not felony charges are filed would likely depend on whether there is evidence of hazing, attorneys said. But they also noted misdemeanor charges could follow if hazing is ruled out, and civil litigation is sure to flow against LSU, Phi Delta Theta, and officers and members of the now-suspended local chapter of the fraternity.

Their comments came as East Baton Rouge Parish Coroner Beau Clark reported that Gruver, of Roswell, Georgia, had a highly elevated blood-alcohol level and signs of THC, the chemical present in marijuana, in his system at the time of his death. The official cause of death may not be known for several weeks, Clark said.

Moore said he's hopeful more people will come forward to tell authorities what happened.

"Right now I think it's premature to guess whether there would be charges at this point because we're too early in the process," Moore said. Authorities have interviewed many members of the fraternity, he said, but some have declined to give statements.

The last hazing prosecution by the East Baton Rouge Parish District Attorney's Office involved the Southern University marching band and a 2008 off-campus incident in which members were struck by boards as part of an unsanctioned initiation into the band's unofficial French horn fraternity, Mellow Phi Fellow.

In that case, seven band members pleaded no contest in 2009 to criminal conspiracy to commit second-degree battery and misdemeanor hazing and were put on probation and ordered to perform community service. A lawsuit filed against Southern and a former student band leader, Jeremy Dixon, was settled in 2015.

Two of the defense lawyers involved in the Southern criminal case said Friday the potential charges, and penalties, could be much stiffer in the LSU incident.

Kris Perret, who represented Dixon in the Southern hazing case, said he believes negligent homicide or manslaughter charges could be filed in the LSU case.

"I don't think it would get to second-degree murder," he said.

Perret said a key question is whether Gruver's intoxication was voluntary or forced.

"It's definitely going to depend on the facts," he said. "How did we get to the point of no return?"

Perret and several other lawyers The Advocate spoke with Friday said they foresee Moore's office taking the case to a grand jury at some point.

Negligent homicide, which carries up to five years in prison, is defined in Louisiana as the killing of a human being by criminal negligence.

Criminal negligence exists when, although neither specific nor general criminal intent is present, "there is such disregard of the interest of others that the offender's conduct amounts to a gross deviation below the standard of care expected to be maintained by a reasonably careful man under like circumstances," according to state law.

Manslaughter is typically defined as a killing done in sudden passion or heat of blood immediately caused by provocation sufficient to deprive an average person of his self-control and cool reflection. But it also is defined as a homicide

committed, without any intent to cause death or great bodily harm, when the offender is engaged in the perpetration or attempted perpetration of certain felonies “or of any intentional misdemeanor directly affecting the person.”

Manslaughter carries up to 40 years in prison.

Second-degree murder is the killing of a human being when the offender has a specific intent to kill or inflict great bodily harm. It carries a sentence of life in prison.

Aiden Reynolds, who also represented a criminal defendant in the Southern hazing case, predicted that Phi Delta Theta “is done at LSU based on what I know.”

Reynolds said negligent homicide would be the most likely charge to be filed in the case, but if the investigation reveals physical force was used against Gruver to make him drink alcohol, then manslaughter and even second-degree murder could be brought into the equation.

Tony Clayton, an 18th Judicial District Attorney’s Office prosecutor, agrees that negligent homicide could be the likely charge filed in the case, but he said second-degree murder would come into play if it is determined that the pledge was held down and force-fed alcohol.

On the civil side, Clayton added, “I think LSU has problems with this.”

Lawyer Fred Crifasi, who said the choices made by various individuals must be examined, believes it’s not a slam-dunk that the matter will be presented to a grand jury.

“No question it needs to be investigated,” he stressed. “It’s a terrible tragedy.”

Whether the death was due to an individual’s choice or the intent of others, Crifasi said, “Either scenario is not good. It’s terribly sad.”

The last student death at LSU involving alcohol and a fraternity was in 1997 when Benjamin Wynne died of alcohol poisoning. The banned Sigma Alpha Epsilon fraternity pleaded no contest in that case in 1998 to 86 misdemeanor

counts of illegal purchase of alcohol on behalf of underage people and agreed to pay more than \$23,000 that was split among the LSU Campus Coalition to Reduce High Risk Drinking, and the Baton Rouge and LSU police departments.

Depending on the circumstances in the Gruver case, Crifasi said, misdemeanor counts of illegal purchase of alcohol on behalf of underage people could result if hazing is not found.

Lawyer Tommy Damico, who represented several fraternity leaders who were not indicted in the Wynne case, called negligent homicide the most "rational charge" that could come from Gruver's death. If it is found that he was forced to ingest alcohol, he said, then the charge "could reach a higher level."

"It would depend on the level of hazing if they were forcing him to drink against his will," Damico said.

Damico said there was no hazing found in the Wynne case.