

Social Host Law Panel

Andrew welcomes everyone to the panel tonight and thanks Kate Rebban, Patty Hamilton-Rodgers, the SA executive board, and the panelists for being here tonight. Andrew introduces the panel as Geneseo Attorney John Lockhart, Geneseo Village Justice Tom Bushnell, Geneseo Chief of Police Eric Osganian, SUNY Geneseo Alcohol and other Drug Coordinator Sarah Covell, Village Mayor Dick Hathaway, and University Dean of Students Lenny Sancilio. He gives a special thanks to James McLean who will be the moderator tonight. Andrew points out the listed agenda and asks everyone to be respectful tonight as we explore both sides of the issue and learn how the social host law came to be. He also introduces Julia Mackey who is the Inter Greek Council president. She announces a signup sheet going around for students who are here for a Greek organization. Andrew thanks Dr. Bonfiglio who is present and will help close the panel discussion.

Andrew explains that the Social Host Law holds persons responsible for knowingly allowing underage drinking to occur on property they own, lease, or otherwise control in the Village of Geneseo. This property could be any home, apartment, condominium, co-operative unit, dormitory unit or other dwelling of any kind, including yards and adjacent open areas. You cannot be held criminally responsible for hosting a party when you are not home, however, according to civil law you could be held liable for injuries or other consequences that occur, whether or not you are present. You can be held liable even if you are under 21.

Part of the law states that you must take “reasonable corrective action” and that means that you are checking I.D.’s or demanding that underage guests surrender their alcohol. If these actions are taken, you will not be prosecuted under the Social Host Law. Some important things to know are that the law does not give the police the right to enter our residence but they can if they have a reason to do so. This violation is a citation that is similar to a parking ticket, so it is not a misdemeanor or a felony.

For Geneseo social organizations, this means they must understand this law to prevent any conflicts with authorities. If an organization is hosting a social engagement they must act in accordance with the law and be sure to take the necessary precautions of Checking I.D.’s to determine age and marking underage individuals as well as not allowing underage individuals to drink or bring alcohol onto the premise. A first offense of this law would be a fine of \$250 or imprisonment of up to 15 days. A second or third offense would be a fine of \$500 or imprisonment of up to 15 days. For all offenses, hosts must successfully complete a court-approved alcohol and drug awareness program as well. Andrew points out that the imprisonment time should not be taken into consideration because this offense will be treated similar to a parking ticket so that is not applicable.

There are some additional resources that might be of interest to students listed below:

http://geneseo.edu/webfm_send/12667

<http://ecode360.com/30279757?highlight=social%20hosts,social%20host,social#30279757>

http://geneseo.edu/webfm_send/12666

Andrew introduces James McLean who gives a description of the College Senate. He also explains that questions can be submitted at <http://tinyurl.com/socialhostquestions> where they may be chosen to be addressed by the panel. He then reads the first scenario that will be posed to the panel.

EXAMPLE SCENARIO 1:

A party is being held at a residence in the village. The police are alerted to the fact and that there might be underage individuals attending the party. Deciding to check the party, a police officer approaches the residence. Finding underage individuals are at the party, the police officer writes a violation for the social host law. How would the following legal proceedings play out?

The chief of police says they would give an appearance ticket with a court date and there would be a court appearance in front of one of the two judges they have on a Tuesday night just like a normal open container ticket.

Judge Bushnell says you could plead guilty and pay the fine or contact a defense attorney, pay their services, and have them defend you. It is just an infraction, so according to NYS you cannot have a lawyer appointed to you, you would have to pay for their services. You could then talk to the district attorney and see if there is anything you could plead down to and then you would then come in front of the judge with your story and a decision would be made.

SA attorney John Lockhart adds that SA will provides a service that is paid for by undergraduate mandatory student activity fees. He will try to get his hands on any evidence he can to see what evidence is being claimed to determine if the client is actually guilty or not. These are known as accusatory instruments and is the information from the police officer who made the arrest. He also tries to get statements from witnesses to try and build back the entire picture of the event. He has the student read the statute out loud three times when they meet with him. He would then give his legal opinion. Sometimes he says there is no supporting evidence and he might suggest to the student that they might have a defense and move forward from there. Everyone has the right to a trial but most people just go in and admit guilt because it is faster.

EXAMPLE SCENARIO 2:

A party is being held at a residence in the town, people are checking ID's at the door and marking the underage individuals. Some of these underage individuals come already intoxicated but are not being served at the party. A police officer comes to the door. Can the police officer write a citation for the violation of the social host law?

Officer Osganian says he would have to articulate that the minor had possessed, consumed, or was served alcohol at the party. The law gives students an out here because if the student shows up to the party already drunk, you should call the police and have that person removed so the police can take it from there. The police can then figure out where they got the alcohol from and take it from there.

John Lockhart rereads part of the scenario and yes, that the police might make an arrest here to try and control the situation. The charge might later be dropped because of lack of supporting evidence but sometimes charges are filed without sufficient supporting evidence.

Judge Bushnell brings up the situation of the bar- if someone shows up drunk, the bartender has a responsibility not to serve them or they become liable for any injury that might occur. It is similar for

parties in that if someone comes in really drunk it is best to put them in someone's care who can better handle the situation.

John Lockhart adds that at that point if they are really unwell, their health is the more important factor over the law.

PRE-SUBMITTED QUESTIONS:

1. Why was this law put in place?

The Mayor says the law was adopted last April from a group working with the college and the community as a means to improve the quality of life in the community. One of their suggestions was to adopt this law which made it illegal to serve an underage person. The purpose of the law was to improve the quality of life in the village while upholding the state law not to serve underage peoples. The police have previously had difficulties trying to prove who provided alcohol to minors in some cases so this makes it the responsibility of the homeowner.

Sarah Covell adds that the map shown on the board shows all of the counties that already have this law in place. Social host laws came about as an environmental strategy to try and avoid some of the problems that were associated with underage drinking such as drinking and driving. These were originally put into place because of high school parties where parents thought it was okay simply to take away keys at prom parties and such. It is something communities are trying to use to help prevent the harms associated with underage and excessive drinking.

2. How does this impact the Good Samaritan Act?

Officer Osganian explains that the Good Samaritan Act safeguards the community if you have someone who is intoxicated and you call on their behalf that the law gives you immunity from unlawful possession of alcohol. The Social Host Law does not impact the Good Samaritan Law. The police encourage people to do the right thing and calling when someone is in need of medical attention.

3. What if an individual arrived to the said house/apartment/etc. already intoxicated? Is it safe to turn them away when doing such would put them at risk?

Judge Bushnell says that you are only breaking the law if you serve them so it is best to take them in and get help.

John Lockhart said the Good Samaritan law has never been a problem before. Anyone who has ever called in with it has never gotten in trouble so he has never had to deal with it. He urges students to use it and do the right thing. A violation of the Student Code of Conduct is often times the biggest problem students will have in regards to this.

Dean Sancilio adds that the student code of conduct applies to students on and off campus. In order for the college to hold anyone accountable for a violation of the code of conduct, they need to reach a nexus on whether there is a serious impact to the college community or not. They have ever had a case where they held a student responsible for calling in help for someone in need. That also applies to groups: if the person has not been served then the group is not accountable.

Online question: If there is a violation that the school sees as the responsibility of an organization, what issues might the organization face?

Dean Sancilio says this is a complicated question with the Good Samaritan and Social Host laws. If it is alleged that an organization has violated the college code of conduct, the Social Host Law doesn't

matter to the school. The Social Host Law is a village ordinance and is not a college policy. If an organization was potentially serving minors, they would try to get information about the allegation such as reports and any statements because they are trying to collect the whole picture. The individual deserves to hear where these allegations are coming from. They will then hold a meeting with the organization and decide the consequences. If the organization has not had any recent issues, they may give the organization the opportunity to take it upon themselves to take action. The other case is the college would come up with the sanctions after a conduct trial and give them to the organization.

If there is a citation, who would get it? Does everyone who is over 21 get it or can the organization?

Officer Osganian says whoever is in control of the party would get the ticket. McClean asks would all of the housemates get the ticket if it were a communal house. Officer Osganian says they are not interested in arresting the entire house. They would arrest one person who is responsible for providing the alcohol. He adds that the goal would be to stop the noise if it was a noise complaint that they were called to the house for.

John Lockhart adds that someone earlier stated that the laws says that if you aren't there then you can't be held liable but he disagrees that that is what the law is saying. He reads the law to say "No person having control of any residence shall allow a party to take place at the residence if they know or have reason to know that alcohol is being unlawfully possessed or consumed by a minor." So if someone posts on Facebook about a party at their house but they won't be there for a while they are guilty. The police have prosecutorial discretion where they say they aren't interested in giving tickets to everybody but under the law they could. He adds that all of the words included in this law are defined online as well as the law itself.

4. Has any research, quantitative or qualitative, been done to assess whether or not the social host law has in any way decreased the number of incidences of illegal student intoxication?

Sarah Covell says it is too early to tell yet how this will affect the village of Geneseo. There has been some research done in California in 50 different communities, none particularly associated with a college campus, but there has been a 9% decrease in the amount of alcohol related motor vehicle crashes. There isn't a lot of research that has been done nationwide so far but some studies are currently being done.

Judge Bushnell says there is an example in Long Beach, NY where there has been a 20% decrease in underage drinking as shown by arrests and tickets since they implemented a social host type law.

Sarah Covell says that there is some studies being done on different facets of this law such as a decrease in tickets issued or an increase in overall public health and overall they are in the middle of the road for effectiveness. There is different kinds of social host laws. There are some that are civil laws and some are criminal laws and the two cannot be compared directly.

The Mayor says it would be very difficult to look at one law and say that it is the thing that caused a decrease. There is too many variables to point to one piece of legislation to do so.

5. How does the community respond to the increasing number of alcohol and drug related emergencies occurring after the passage of this law?

Judge Bushnell asks if there is causality with that. He says he doesn't think people are drinking because of this law but it is a concern of the community because of the strain it puts on the healthcare system.

Dean Sancilio says the number of transports from campus is not up but he cannot speak to the off campus transports. He would predict the number of transports to increase because the campus and all organizations are urging people to call for help when a friend needs it and you will not be held responsible for violation to the code of conduct. It is not a surprise because people are doing what they have been asked. If it has increased, it is due to good reasons- people are doing what they administration has asked them to do.

The mayor says they do not have enough data to comment on that because it is collected on an annual basis and analyzed over years.

6. How do you justify the use of students to bust their colleagues?

Chief Osganian says they try not to use SUNY Geneseo students for this and they do not use high school students either because that is a liability. It wouldn't be advantageous for them to use SUNY students because they might get recognized. They have good relationships with other colleges in the area that they would use. They use the students for various checks such as alcohol and tobacco checks.

7. Will it be enforced in the Residence Halls?

Dean Sancilio says the village created the ordinance for the village and not the campus. The campus goes by state law and the code of conduct. The village ordinance plays no role on the campus. Their first method of prevention on campus is education so you will see university police officers going through the buildings and talking with students. If there is a situation that requires an officer, they will determine how it will be handled but it will not be a social host issue. This law is something that will not be enforced on campus.

Officer Osganian says the university police have 7 full time officers and the town as 18 full time officers. If you get caught off campus drinking, the officer is going to make the arrest, so if it is the case with the law not being enforced on campus then it would be better to drink on campus. There is more resources on campus than in the village.

Sarah Covell says many states have social host laws in place already. There is a tipping point that once enough counties have this passed, it might become statewide and then could affect the campus.

Judge Bushnell says that you would want to get charged with social host because it is a violation and not unlawful dealing with a minor because that is a misdemeanor. It is meant to help students, not get them in trouble. It is the median between nothing and being a criminal.

Dean Sancilio says there is the code of conduct and there is multiple potential violations if you are under 21 and drink on campus. There will be a conduct review, there will be educational classes and potential charges against them. If you choose to drink on campus, there is a liability for that with the code of conduct and the law. If you drink off campus and the campus finds out about it, there is certain pieces of information they look for. Students also have the right to review the accusatory instrument but it doesn't give the details of why the officers wrote what they did. They look for all statements, tests, and anything they can get to see if the code of conduct is broken but if the offense is off campus there is the possibility they cannot get the information and cannot charge the student. The goal is to prevent the underage consumption of alcohol, trying to prevent noise violations, and improve the overall health of the community.

8. I was under the impression the implications of a Social Host violation would be the same as a parking ticket. However, multiple students have been arrested and were charged with much

more serious offences. Can you clear up the exact consequences of receiving a Social Host violation?

Judge Bushnell says he thinks this question is asking about the Halloween night arrests that have already been talked about. The consequences would be similar to getting a speeding ticket or running a stop sign. Nobody has ever gotten jail time and it would not happen. You will come in front of the court with or without counsel, you will plead your case, and then you will most likely get a \$250 form and complete an online alcohol awareness form. The second time is a \$500 fine and a potential trip to alcohol counseling.

John Lockhart says they don't publish the names of people who get parking tickets online but the social host violation might be published online and will stay with you for a long time on the internet. There is also a letter that will be sent home to a home address that is hard to deal with because of parental intervention and then there is the code of conduct. These make it more serious than a parking ticket because of collateral consequences.

9. If the only "punishment" of the Social Host Law is a ticket with a fine that doesn't go on an individual's record/they are not arrested, how does this benefit anyone but the town because of the influx of funds?

They mayor responds that it is not a fundraising effort. It is supposed to act as a deterrent. The court date is associated with the fine so students cannot just pull out their plastic card and that's the end of it. It will hopefully make people think twice about serving a minor alcohol.

10. Geneseo police suggest that the issues that are now occurring within the Village have been generated by the loss of establishments such as Kelly's, the Vital Spot, and most significantly The Inn Between. Does the town have any ideas or plans to address the issue?

Judge Bushnell says the bar "The Intermission" is coming soon and says when you are in a bar and buying drinks, you are losing money. Bartenders and bar owners are responsible for you when you are in their establishment so drinking is supervised. When the drinking age went up to 21, house parties grew where people pay one price for a cup and people can drink as much as they want.

Officer Osganian adds that the closure of the bars means less supervised drinking. He hopes the college would open a bar on campus. More supervised drinking would be a better scenario but there has to be a balance.

Judge Bushnell says more bars meant more control and adds that the drinking age will just never go back to 18.

Sarah Covell says that the occurrence of accidents has gone down significantly since the drinking age went up and insurance companies would not allow it because of the decreases in crashes that has occurred since. She brings up the binge drinking culture now and how students try to drink as much as they can as quickly as they can and then black out and are no longer responsible for their actions. They are trying to protect the greater good. It is bigger than each individual's right to have a good time.

11. If the police were to come to our party at our house, what are our rights?

It is determined that they came for a noise Violation.

Chief Osganian says they knock on the door and hopefully someone would answer the door and talk to them. If there is a lot of noise they would ask them to get the noise down. If they noticed a lot of bottles and drinking going on they can investigate and ask questions but you

don't have to answer them. Unless they have cause to investigate they would just then leave after the noise was addressed.

Judge Bushnell asks John Lockhart what he would advise students to do at that point. John Lockhart says if the police have a search warrant or an arrest warrant you better submit to it or you will be guilty of another crime. If the police start asking more accusatory questions, you have the right to remain silent. You can never be forced to provide testimony against yourself. You also have the right against unreasonable searches and seizures but police officers are much more equipped to know the nature of this interaction where students might not realize what is going on. It is a difficult answer to give because it depends on the situation and the information that is available to the police officer.

Judge Bushnell asks John Lockhart if it is advised to stop answering questions. John Lockhart says he has never been in that situation because people usually call him after but would ask to speak with the police officer and ask if they are being charged. If they are not being charged, then he would advise to stop answering the questions. The cops are trying to help people most often. There was a situation a number of years ago where the police got word of a really intoxicated individual and when they showed up to help they were not allowed in the house. The student then died and the police were blamed for not intervening. They are sometimes trying to help too.

Online questions:

Why did the offenders that were charged over Halloween Weekend also get charged with misdemeanors? Will that always be the case when the police run the complaints?

Officer Osganian says the law reads "he or she gives or sells or causes to be given or sold any alcoholic beverages". When they did the checks of the parties, two people were arrested for social host and 3 people were arrested for unlawful dealing. If you are hosting the party with underage kids it is social host but if you sell alcohol to minors it is unlawful dealing. The law just came out so there needs to be discussion on this law and if they would be arrested for both charges again or just one. It would be up to the DA to decide which offense to press and they are still working out which offense they will pursue in the future. They were arrested for both and then it is up to the DA to plead down to the social host violation in lieu of the misdemeanor.

Judge Bushnell says they dropped the criminal charge and just plead to the violation.

Does it change anything if the party is closed so only certain individuals are allowed in the house?

The mayor says if it is open or closed does not make a difference. The question is if they are serving underage people or not in order to meet the terms of the social host law. Open house party is defined in the code as "a party gathering at a residence or other private premise of two or more persons." So if there are two or more people, it is an open party. There is no definition for a closed party.

Does the village have an influence on any new bars?

The mayor says it is all through the state liquor authority. They do not have a means of attracting certain businesses to the village.

Andrew brings up Dr. Bonfiglio for closing remarks.

Dr. Bonfiglio thanks SA for putting on this forum. We have heard some great things tonight and we have explored some of the complexities of the argument. All of the people on the panel and all of the students in the room can all agree the main goal is to keep people safe. So where do we go from here? People want our students to be served in bars because there is more control in bars but then they get cited for serving people underage. Some people think it is better to drink on campus but 40% of students live off campus so that is another conflict. The law says that 2 or more people are having a party and that can be a violation of the social host law but that is unfeasible. There is plenty of room for changes and that this is America where there is a democracy. There is room for change in the law and we can only improve the situation if we continue dialogue on this situation to find what works best for the village and the college. Everyone can vote in the elections in the village to have a voice. He encourages dialogue between students and administration. We have to talk with each other and not at each other when everyone has clear heads. He thanks the panel for coming tonight.