

GRIOT JUSTICE AWARD HYPOTHETICAL

Over the last year there have been several high-profile racial-ethnic speech incidents in the U.S. These include Mel Gibson's anti-Semitic, drunken tirade, Michael Richards's "N word" rant, Rosie O'Donnell's "comedic" caricature of Asians, and Don Imus's racially-derogatory reference to the Rutgers women's basketball team.

Racial incivility has not escaped the sleepy little town of Calusa, a small community in Alachua County Florida. The town, which is majority White, has a substantial mix of African American, Latino, Asian American and Native American residents. In recent months, Calusa High School has experienced several racially-charged incidents. Tensions mounted following the placement of the confederate flag inside a school display case that highlighted the achievements of the school's championship soccer team, the Calusa Rebels.

A number of minority students and a few White students at the high school have organized a group opposing the confederate flag display. Minority students say that the confederate flag is racially offensive and belongs in a museum, not on public school property. Most of Calusa High's White students disagree.

In response to the flag display, a group of African American students at Calusa have started wearing T-shirts with a picture of the confederate flag done up in red, black and green – the colors of African liberation. Latino students are wearing T-shirts with the confederate flag depicted in green, white and red – the colors of the Mexican flag. Not to be outdone, White students have responded to the minority students' protests by wearing T-shirts with a picture of the confederate flag with the statement, "100% cotton, and you picked it."

You are an attorney at a large Florida firm that has developed a reputation for its expert handling of race-based hate speech cases. In fact your firm has been consulted on several well-known cases. The firm has made its mark by combining sound legal research and analysis with insights from social science – sociology, political science and history – and public policy experts. Increasingly judges are using social science research to support their legal findings.

To date, school officials have not responded to the students' actions. You have been invited by the Calusa School Board to a meeting to address the incidents at the high school. Parents, students, concerned citizens, teachers and administrators – some sympathetic to the display of the confederate flag, others not, and still others who are unsure what to think – will attend the meeting. This audience is interested in what the law has to say about these matters but, just as important, they want to understand whether these incidents raise larger issues that the school board should be concerned about. In other words, the school board would like you to put the racial events at Calusa High into a broader social context so that people might develop a better understanding of the issues involved in race-based hate speech.¹

Prepare a 12-15 minute talk for the school board meeting. Your talk should apprise the community members on both law and policy.

¹ This hypothetical is based on an actual incident at a South Carolina high school in the 1990s.