

1 **U.A. Resolution #6**

2
3 **Requesting Specific Information on Labor Practices at Weill**
4 **Cornell Medicine – Qatar**

5 February 9, 2016

6 **Sponsored by:**

7 **Alexander Thomson, Graduate/Professional Student; Executive Vice Chair,**
8 **University Assembly**
9 **Matt Indimine, Undergraduate; Undergraduate Representative, University**
10 **Assembly**

11
12 **On behalf of:**

13 **UA Campus Welfare Committee (Passed 6-0-0 on 2/2/2016)**
14 **Cornell Organization for Labor Action: Carunya Achar, Michael Ferrer,**
15 **Allison Considine, Xavier Eddy, Deepa Saharia**

16
17 **Whereas,** Article III of the University Assembly Charter grants the University
18 Assembly the authority to “examine, on its own initiative, matters which involve the
19 interests or concern the welfare of a substantial segment of the campus community;”
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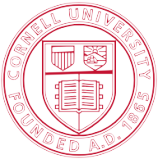
21 **Whereas,** Recent protests have revealed among students, staff, and faculty a
22 substantial interest in the labor practices and conditions at Weill Cornell Medicine -
23 Qatar (WCM-Q);
24

25 **Whereas,** WCM-Q shares not only the Cornell name, but also its common values,
26 educational mission, excellence in research, and commitment to bettering the global
27 community; furthermore, WCM-Q draws faculty from both the Ithaca and New York
28 City campuses;
29

30 **Whereas,** According to the Operating and Capital Budget Plan FY2016, WCM-Q
31 contributes over \$88 million annually to Cornell’s operating budget, which directly
32 affects the financial position of the university as a whole;
33

34 **Whereas,** Cornell's practices both at home and abroad reflect upon the institution as a
35 whole, impacting the prestige and the reputation of the broader Cornell community,
36 including its administrators, faculty, staff, and students;
37

38 **Whereas,** Qatari labor practices enforce the *kafala* system, a migrant-labor monitoring
39 process which requires all unskilled laborers to have an in-country sponsor, usually
40 their employer, who is responsible for their visa and legal status. This system creates
41 opportunities for employers to commit massive labor exploitation with minimal legal
42 repercussions. Migrant workers compose 94% of the Qatari labor force and ubiquitously



43 suffer under a system in which employer consent is required to change jobs, leave the
44 country, get a driver's license, rent a home, or open a checking account;

45
46 **Whereas**, an initial investigation into working conditions in Education City by the
47 International Trade Union Confederation (ITUC) - a global confederation of workers'
48 organizations - found instances of forced labor, cramped living conditions, low wages,
49 and passport confiscation. The results of this investigation were sent to the presidents of
50 universities present in Education City in March of 2014, including Cornell, with only
51 Georgetown responding to the letter;

52
53 **Whereas**, Cornell University, as an institution, has a moral obligation to ensure that its
54 community members are treated with dignity and afforded the same basic human
55 rights, no matter where they are in the world or in what capacity they serve the
56 university;

57
58 **Whereas**, WCM-Q recognizes its positive role in society, stating in its mission a
59 commitment "to provide the highest quality of care to the community;"

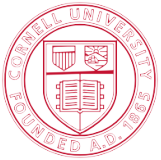
60
61 **Whereas**, The 2022 World Cup will place Qatar in the global spotlight, likely exposing
62 Education City, WCM-Q, and Cornell University to increased scrutiny by the media and
63 viewers around the world;

64
65 **Whereas**, President Garrett responded to these concerns in two letters to Cornell
66 Organization for Labor Action (COLA) in September and October 2015, a response to
67 Student Assembly Resolution 16 in November 2015, and a letter to the Coalition Against
68 Gulf Exploitation (CAGE) in January 2016. However, these responses about labor
69 practices and conditions at WCM-Q have lacked sufficient detail for the University
70 Assembly to objectively evaluate the issue;

71
72 **Be it therefore resolved**, that the University Assembly, in order to promote
73 transparency, requests information about workforce policies and practices at WCM-Q,
74 specifically:

- 75 • The composition of the workforce at WCM-Q, including the number of Cornell
76 employees and contracted employees and the roles these worker groups fulfill
77 (e.g. job group and job family analysis),
- 78 • The names and affiliations of third party employers contracted by WCM-Q,
- 79 • The policies and standards used by WCM-Q to choose third party employers,
- 80 • The specific worker protections stipulated in contracts between WCM-Q and
81 third party employers, and Cornell's options for redress if those stipulations are
82 violated,
- 83 • Any and all policies and practices WCM-Q uses to ensure Cornell's standards are
84 being upheld, including the resources available to workers with grievances;

85



Cornell University
University Assembly

86 **Be it further resolved**, that the information in lines 72-84 be made publicly available
87 and presented to the University Assembly by the May 3rd, 2016 meeting;

88
89 **Be it further resolved**, that the University Assembly requests the details of any and
90 all previous labor investigations or audits conducted at WCM-Q by Cornell, including
91 the investigators, the date(s) of investigation(s), and the conclusions made by the
92 investigation(s);

93
94 **Be it further resolved**, that the University Assembly requests the details, where
95 known, of any and all previous labor investigations or audits conducted at WCM-Q by
96 external organizations, including the investigators, the date(s) of investigation(s), and
97 the conclusions made by the investigation(s);

98
99 **Be it further resolved**, that the University Assembly requests, where not in conflict
100 with the law, the details of any and all contact regarding salaries, policies, and
101 protections with contracted staff at WCM-Q;

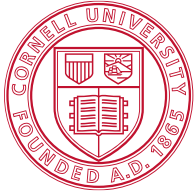
102
103 **Be it further resolved**, that the University Assembly requests the protocols and
104 results of any and all monitoring of the working conditions of contracted staff conducted
105 by the WCM-Q administration;

106
107 **Be it further resolved**, that the University Assembly requests the details of any and
108 all contact with vendors regarding benefits and protections mandated for contracted
109 staff;

110
111 **Be it further resolved**, that the information requested in lines 89-109 be made
112 publicly available and presented to the University Assembly during a regularly
113 scheduled meeting no later than February 2017;

114
115 **Be it further resolved**, that the University Assembly will maintain impartiality on the
116 issue of labor conditions at Cornell's international facilities until further information
117 becomes available;

118
119 **Be it finally resolved**, that this resolution will be transmitted to President Elizabeth
120 Garrett (upon her return), Acting President Michael Kotlikoff, Weill Cornell Medicine
121 Dean and Provost for Medical Affairs Laurie Glimcher, WCM-Q Dean Javaid Sheikh,
122 WCM-Q director of human resources Omar Baki, and any individuals or organizations
123 involved in gathering the requested information.



Cornell University
University Assembly

U.A. Resolution # 7

**Requesting Information on the Cost of Carbon
Neutrality**

February 23, 2016

1 **Sponsored by: Gabriel D. Kaufman, Undergraduate; Acting CJC Chair, University**
2 **Assembly; Martin Hatch, Faculty; Vice Chair of Operations, University Assembly**

3
4 **Whereas,** the University administration has decided that it will not honor the commitment
5 President Skorton made to make Cornell carbon neutral by 2035; and

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7 **Whereas,** the reason cited for this decision is that the cost of carbon neutrality is high or at least
8 presently unknown; and

9
10 **Whereas,** the University administration, despite endorsing the possibility of carbon neutrality
11 several times, has not determined the actual costs associated with carbon neutrality; and

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13 **Whereas,** understanding the cost associated with carbon neutrality would greatly inform the
14 current debate by allowing each constituency to weigh the costs and benefits thereof and
15 would empower each constituent assembly to make specific suggestions to the
16 administration regarding changes in practices and policies towards that end; and

17
18 **Whereas,** Article III, Sub-Section 3.1.1, Sub-point A, of the University Assembly Charter states
19 that “to the extent practical and appropriate, University officials will provide pertinent
20 information as the Assembly requests;” therefore

21
22 **Be it resolved,** that the University Assembly formally requests that the University administration
23 determine and provide the costs of becoming carbon neutral at Cornell's Ithaca campus
24 and nearby Cornell facilities; and

25
26 **Resolved,** that the results of the cost determination be formally presented to the University
27 Assembly by January of 2017 or as soon as reliable information has been obtained; and

28
29 **Be it finally resolved,** that the administrative unit responsible for overseeing the cost calculation
30 make a preliminary report to the University Assembly in the fall of 2016.

Annual Report of the Judicial Administrator

2014 - 2015

I. Scope of Report

- The annual report of the Office of the Judicial Administrator (JA) provides the community information about the JA's Office and the campus disciplinary system as a whole. This particular report details information from July 1, 2014 through June 30, 2015,¹ and includes information from the prior ten years to allow the reader to note trends.
- Please note that the data used for this report was collected in August 2015. Any updates will appear in next year's report.

II. Personnel Involved with the Campus Disciplinary System

- **Judicial Administrator.** Mary Beth Grant² celebrated her sixteenth – and last -- year serving as Judicial Administrator in August 2015. On September 1, 2015, Mary Beth started her new role as Cornell University's Senior Associate Dean of Students for Inclusion, Community Support and Engagement. At the conclusion of this report, please find her reflections and recommendations.
- **Associate Judicial Administrator.** Jody Kunk-Czaplicki, Associate Judicial Administrator, marked her seventh year with the JA's Office in August 2015. Starting September 1, 2015, Jody became the Interim Judicial Administrator. Jody's continued hard work on Code of Conduct cases in 2014 was matched by the hard work she contributed for sexual assault investigations under Cornell Policy 6.4. This author has been impressed with the quality of Jody's investigations on these challenging cases and appreciates the leadership she has demonstrated during a year of transition.
- **Associate Judicial Administrator.** Clint Dupew, Associate Judicial Administrator, left the JA's Office in January 2015 to return to Texas to practice law and to be closer to his family. Clint's two and a half years in the JA's Office demonstrated his care of students and colleagues; his humor and compassion are missed.

¹ This time period is known as Academic Year 2014 in the JA's Office, although it would be considered Fiscal Year 2015 elsewhere in the university.

² Mary Beth Grant is the author of this report.

- **Office Manager in JA's Office.** Janey Bosch continued her work as the Office Manager, celebrating her tenth year with the JA's Office in February 2015. This author remains impressed with Janey's ability to be calm, organized and to process a large volume of work, even if there is external chaos due to the workload and pace of the office.
- **Administrative Assistant in JA's Office.** Steven Morey continued as the Administrative Assistant, marking his ninth anniversary with the JA's Office in February 2015. One of Steve's accomplishments in the past few years has been his effective juggling of multiple calendars, whether for part-time staff or for volunteer assistant investigators. His patience, attention to details and, ultimately, caring of the students is much appreciated.
- **Associate Judicial Administrator for Title IX.** President Skorton approved a temporary, full-time position dedicated to Title IX investigations, given that the new process (Policy 6.4) started in 2013 was more time consuming than Code of Conduct cases (see below). Sarah Affel, an attorney and former prosecutor, joined the JA's Office in September 2014. Sarah's expertise and attention to detail both helped with the cases before her and informed the office and institution about ways to improve the policy.
- **Associate Judicial Administrator (part-time, temporary).** When Clint left, this author wanted to avoid "burnout" in other staff members while we filled his position. While some of Clint's work was given to existing office staff, Marilyn (Moriah) Tebor Shaw, a lawyer and teacher, joined the JA's Office part time to fill the gap. Moriah's care of students was apparent from the start and her work much appreciated.
- **Deputy Assistant Judicial Administrators (Residence Hall Directors).** Starting in fall 2012, the office added one or two residence hall directors for an afternoon or two each week throughout the year. This has been a critical piece to help the office keep up with cases. In 2014 - 2015, Jeannine Crouse Hagadorn and Karli Buday served in this role. Additionally, for over a dozen years all of the RHDs handled first-time underage drinking cases that occur in their halls. This author appreciates not only their individual contributions, but also the collaboration of Joseph Burke, Senior Associate Dean of Students and Director of Residential and New Student Programs, who has supported this work.
- **Assistant Title IX Investigators.** With the changes to the way sexual assault cases were handled starting in 2013 (see below), the JA's Office recruited about a dozen colleagues from around campus to serve as assistant investigators for these challenging cases. In addition to the benefits to our office to have another set of ears and eyes analyzing facts and helping document interviews, we heard from these colleagues that they benefited by achieving a greater understanding of the new process and sexual assault work in general. The community also benefitted because this group provided diversity in: life and educational experience, opinion, race/ethnicity, gender and sexual orientation. The volunteers were: Imani Allen, Jason Allen, Rose Braman, Sherron Brown, Janna Bugliosi, Katherine-Rae Cianciotto, Michael Espisito, Curtis Ferguson, Amy

Foster, Lindsay Jones-Hansen, Sly Matta, Brandee Nicholson, Laurel Parker, Nicole Sandoz and Amy Stewart.

- **Student Employee in JA's Office.** Nathaniel Alex Cordova, a graduate student, assisted the office by recording hearings and completing clerical work.
- **Judicial Codes Counselor.** Amanda Minicus served as the Judicial Codes Counselor (JCC), assisted by Emily Sanchirico, David Coriell, and Brian Jones. All of these colleagues ably represented accused students and this author thanks them for their work.
- **Procedural Advocate for Title IX Cases.** Professor M. Elizabeth Karns served as the Procedural Advocate for Complainants for Policy 6.4 cases. This volunteer position is new and critical for equity in 6.4 cases, because the JA's Office remains neutral and may never present a case on behalf of either party, as it would under the Code of Conduct. It was essential, therefore, that the university provide an advocate for complainants as it does for the respondents, that is, the JCCs. This author thanks the advocate for her willingness to take on this large and important task.
- **Chairs for Campus Code of Conduct.** The University Hearing Board had three chairs to share the responsibilities of overseeing hearings and opining about the appropriateness of suspensions and expulsions in settlements under the Campus Code of Conduct: Professors Patsy Brannon, Jane Mt. Pleasant and Paul Soloway. Professor Andrea Mooney served as chair for the Review Board. The JA's Office thanks the chairs for their willingness to serve in these important roles.
- **Panel Members for Policy 6.4 cases.** The faculty members who served as members of the review panels for sexual assault and sexual harassment cases were: Dorothy Ainsworth, Charles Aquadro, Tad Brennan, Brian Chabot, Shelley Feldman, William Fry, Steve Garvey, Tove Hammer, Richard Harrison, Barbara Holden-Smith, Antonia Jamesson Jordan, Irby Lovette, Jane Mt.Pleasant, Linda Nowak, Jonathan Ochshorn, Christine Olson, Debra Perosio, and Martha Stipanuk. Vice President Susan Murphy heard appeals. This author thanks these individuals for dedicating their time to these cases.
- **University Hearing and Review Boards; President (for Appeal).** Approximately fifty other members of the community, including students, faculty and staff, were members of the University Hearing and Review Boards, ready to serve on a hearing either on the merits or on appeal under the Code. Additionally, President David Skorton would have been available for certain appeals under the Code.
- This writer would like to thank all the members of the office and our campus partners for their work the past year. It was a challenging year and each of these individuals worked hard in their service to the Cornell University community.

III. Educational Outreach

- The JA’s Office continued with its educational efforts to raise awareness of the work of the disciplinary system. Once again, the number of requests this year increased.

Table 1: Number of Presentations by JA’s Office Staff in Past 10 Years

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Presentations	17	12	17	16	16	19	12	24	30	42

- While a few presentations were to explain the Code (for example, during orientation and to train hearing and review boards), the most common training for the past three years has been to help campus partners better understand obligations under Title IX, to provide information about Policy 6.4 to adjudicate sexual assault and sexual harassment cases and to make sure students understand all resources available to them, whether or not they file a complaint. This number includes both training of reviewers and investigators who work with 6.4, but also includes grad students and advisors, law students, undergrad advisors, the faculty senate, the Codes and Judicial Committee and the University Assembly.
- In addition to the trainings reported above, the JA’s Office provided information as needed to the *Cornell Daily Sun* and other newspapers, individual colleagues seeking to better understand the systems, and peers or students in other educational institutions contemplating changes to their policies. Similarly, several Cornell students chose Title IX and sexual assault policies as topics for their research, and the JA’s Office provided many interviews to these students to assist them.

IV. Strategic Planning Efforts

- The JA’s Office continued to participate in a variety of long-term planning efforts to improve policies and practices in the university. This work falls mostly to Mary Beth Grant in the office’s division of labor. This work has increased in the past few years, allowing more opportunities for the JA’s Office to provide its perspective on broader institutional issues.
- The JA’s Office was represented on, or worked closely with, the following groups:
 - * Codes and Judicial Committee, which works to make sure the Campus Code of Conduct works in a balanced and fair manner for accused individuals, complainants and the Cornell University community;
 - * Alert Team, which attempts to identify emerging concerns for individual students and any gaps in policies and practices at Cornell;

- * Alcohol and other drug (AOD) case discussion group;
- * Behavioral Health Oversight Team (“BHOT”), which coordinates a strategic plan for the Alert Team and several other groups;
- * President’s Council on Alcohol and Other Drugs, which provides input on AOD work conducted across the institution;
- * Council on Mental Health and Welfare, which provides input on mental health work conducted across the institution;
- * Council on Hazing Prevention, which has working groups to do anti-hazing work;
- * Council on Sexual Violence Prevention, which has working groups to do anti-sexual violence work; and
- * Bias Assessment and Response Team (BART), which reviews all reports of bias, to make sure complaining parties are receiving support and that appropriate steps are being taken to address the situation.

V. Professional Development

- There are three annual conferences that this author finds directly benefit the work of the JA’s Office: Association of Student Conduct Administration (ASCA), the Ivy Plus Sexual Assault Awareness Roundtable, and COHFE Judicial Affairs. Additionally, there are often conferences, such as the Vermont Legal Institute, NASPA or others, that may have sessions that are valuable or that are designed for a specific purpose or subject matter. Training for Title IX efforts was particularly important the past few years. Due to budgetary constraints, the JA’s Office cannot afford participation in all of these conferences by all case handlers, but tries to apportion attendance fairly and to the benefit of the individuals and the office.
- In 2014 – 2015, Mary Beth, Jody and Sarah all attended two conferences about how to conduct sexual assault investigations, one sponsored by ATIXTA and one sponsored by Cornell University Police. Additionally, Mary Beth attended NASPA, presenting with Cornell University Police Chief Kathy Zoner on the topic, “Supporting Survivors: Teaching Campus Communities to Effectively Respond to Sexual Violence” and presented at a conference for legal aid attorneys in western New York on the topic, “Sexual Assaults on Campus.” Jody attended the ASCA conference to keep the JA’s Office connected to this important professional group. Additionally, Mary Beth attended two trainings available through Cornell University’s Organizational Development, one on project planning and one on being an effective leader.
- While the JA’s Office’s participation in conferences will continue to be more limited than in the past due to the budget, the conferences are valuable and necessary to individual professional development, keeping the office current on

national trends, and connecting with peers at other institutions. It is expected, therefore, that at least two members of the office will attend at least one conference each year in the future. Additionally, this office encourages all members of the office to take advantage of the myriad offerings at Cornell, particularly through organizational development and human resources offices.

- The entire office participated in the “Towards New Destinations” program to increase and understand diversity and inclusion. In particular, the entire office participated in a discussion considering how diversity and inclusion are similar to the hospitality industry. The efforts in this area have increased awareness by members of the office, sparking informal conversations about inclusion and diversity among staff members.

VI. Code of Conduct

- Most cases referred to the campus disciplinary system are investigated and adjudicated under the Cornell Campus Code of Conduct (Code).
- The Codes and Judicial Committee (CJC) is a committee of the University Assembly (UA). The CJC recommends to the UA any suggested improvements to the Code. If the UA agrees, the suggestions are forwarded to the president for final approval.
- In 2014, the JA’s Office did not put forward any suggested changes, focusing instead on ways to improve Policy 6.4 (see below) but the CJC and UA passed code sections addressing some free-speech concerns raised by other community members. The report of Professor Randy Wayne, chair of the CJC is attached as Appendix A.
- The hearing and review boards write procedures that supplement those found in the Code. In spring 2015 the group discussed updated procedures for the review boards (proposed jointly by the JA and the JCC), which will be completed in the coming year.

VII. Policy 6.4: Sexual Assault and Sexual Harassment Cases

- As noted in last year’s report, Cornell University changed the process for investigating allegations of sexual assault and sexual harassment in fall 2013. The three major differences between the Policy 6.4 procedures compared to those of the Campus Code of Conduct are:
 - the parties never see each other and never directly cross-examine each other;
 - while the investigation is in person with the investigators from the JA’s Office, only written communication is permitted from the parties to the faculty review panel that reviews the investigation and to the vice president of student and academic services who hears appeals; and

- the standard of proof is lower for Policy 6.4 (preponderance of evidence) compared to the Code (clear and convincing evidence).

- The first year of using Policy 6.4 was a learning experience and in fall 2014, some practices were modified based on ideas from the JA's Office, the JCC's Office and feedback from review panel members and others involved in these cases. For example, in 2014 – 2015, evidence was provided to the parties in writing while previously it had been summarized orally. Additionally, more opportunities were formally built into the investigation for parties to provide questions they believed should be asked of the opposing party, to review documents, witness statements and other evidence, and to otherwise comment on evidence prior to the close of the investigation. By making these processes more formal, the JA and Cornell hoped to make sure every party felt heard, as well as being heard. Additionally, more information about the evidence was provided to the review panel and vice president on appeal so both the review and appeal could be more robust.
- In this author's opinion, the most positive aspect of Policy 6.4 for both parties has been the reduction of drama associated with live hearings, which has been the experience of many hearings held under the Code of Conduct. Under Policy 6.4, both parties had the ability to share their perspectives in a small setting without a lot of people. This aspect has not been universally appreciated, however, particularly by parties and advocates who wished to participate in a live cross-examination of the other party. Also, review panel members expressed an interest in meeting the parties. Therefore, this author recommended adding a hearing that would provide protections for the parties (to avoid drama), but that would allow the review panel to meet the parties and allow the JA's Office to testify as an investigator (and, therefore, remain neutral). Carol Grumbach, Director, Academically Engaged Learning and Faculty Living-Learning Programs and Special Assistant to the Senior Vice Provost for Academic Affairs, started leading a review of Policy 6.4 in spring 2015, which will look at these recommendations and others in the coming year.
- From this author's perspective, there were two major challenges with the use of Policy 6.4: the length of time to complete individual cases and misapprehensions about the role of the JA's Office. First, the process took longer than one would like because allowing adequate opportunity for the parties to participate and comment on evidence during the investigation, preparing an articulate, sensitive and clear investigative report, and allowing review panels enough time to consider carefully all the information and ask further questions as needed takes much longer than preparing for and conducting a hearing. The university has taken steps to address this issue in the coming year. First and foremost, President Skorton approved more dedicated resources, so that starting in academic year 2015 – 2016 there are two full time Title IX investigators who will not deal with other types of cases. Additionally, as noted above, live hearings are being considered, which would decrease some time. Finally, the university is considering clarifying time frames past the investigation phase.
- The second challenge, misapprehending the role of the JA's Office, comes from comparisons of the JA to a "prosecutor." While the JA never serves as a

prosecutor, whether under the Campus Code of Conduct or under Policy 6.4, this misapprehension survives because the Code is based on the criminal justice model. While members of the office and those in student affairs understand that an educational system differs significantly from a criminal justice system, it can be hard to help others in the community, students, parents and outside advisors to understand the difference. Having the JA move into a more educational-administrative system, that is, Policy 6.4, intensified the confusion. Repeatedly the JA's Office found itself explaining the steps it took to remain neutral during the 6.4 process in the face of assumptions that the process would be adversarial. Those assumptions were unfair to complainants, who might have considered the JA their own personal advocate, and to respondents, who might have worried that the JA was automatically opposed to their point of view: neither assumption was accurate. As a way to correct this incorrect optic, this author recommended that the investigations be moved out of the JA's Office. The leaders in the institution accepted this recommendation in early spring 2015 and, starting in fall 2015, all Title IX investigations, including sexual assaults, will be investigated by Workforce, Policy and Labor Relations (WPLR). Sarah Affel, the investigator who worked as a temp in the JA's Office in 2014, and a new investigator, Elizabeth McGrath, will complete these investigations under the supervision of Alan Mittman.

- Cornell, like other institutions, has been the subject of both legal action and an investigation by the Department of Education's Office of Civil Rights (OCR) related to sexual assault investigations and adjudication. Working on these matters created a significant amount of work for the JA's Office and other offices at Cornell assisting the Office of University Counsel in responding to the lawsuit and OCR investigation.

VIII. Cases

Overall Referrals

- The total number of referrals to the campus disciplinary system remained high in 2014, with 815 referred either under the Campus Code of Conduct or under Policy 6.4.

Table 2: Number of Accused Persons Referred to the JA's Office in Past 10 Years

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Cases Referred	806	1200	1139	974	871	832	949	725	862	815

- It is unclear why there was a bit of a jump in referrals in 2011 or a bit of a dip in 2012. It is clear that digital copyright cases accounted for the major increase in 2006 and 2007. Both because Cornell has changed its practice for digital copyright cases (now only a third-time allegation is considered under the Code; other allegations are resolved administratively by CIT) and because the entertainment industry does not refer as many allegations as in the past, this number has appropriately decreased and stabilized.
- The JA's Office has worked to focus resources on the most serious cases. Since it is still important to address lower-level misconduct (both for the well-being of the community and to provide appropriate behavioral standards for our community members), the JA's Office has addressed less serious misconduct in the following ways:
 - * adjudicating first-time underage alcohol, first-time marijuana and some other low-level cases through letters rather than meetings;
 - * asking some departments to refrain from referring first or second, low-level acts, but rather to address them educationally in their own departments (e.g., parking, dining, copyright, bike-dismounts); and
 - * using all residence hall directors to adjudicate alcohol cases in the residence halls and a few RHDs to address other lower-level cases (as noted above).

Referrals Reflecting Serious and Time-Consuming Matters

- The number of cases referred does not reflect the difficulty of cases. Tables 3, 4, 5 and 6 (below) reflect the increase in serious, time-consuming cases by a few different measures: referrals for sexual assaults and other serious physical violence; sanctions that include separations; cases that went to hearing under the Code; and sexual assault referrals that were formally investigated, went before a panel (or in the past, to the University Hearing Board) or were appealed (in the past, to the Review Board, in 2014 to the VPSAS). A case is counted in the year in which it was received, not necessarily in the year the work was completed. Since there is some, but not complete, overlap in these tables, the information must be analyzed independently, not cross-referenced between tables.

Table 3: Allegations Involving Serious, Physical Misconduct in Past 10 Years

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Sexual Assault³	2	5	3	8	7	7	12	23	14	49
Weapon, Strangulation or Injury⁴ Involved	3	5	8	4	10	8 ⁵	4	4	5	6
Total	5	10	11	12	17	15	16	27	19	55

- While not all complainants choose to go forward with an investigation for serious cases (particularly for sexual assault cases), these serious, physical cases receive the highest priority in the JA’s Office and require the most skill and time by the casehandler to investigate and adjudicate. This is particularly true for sexual assault cases, given that the new procedures are more time consuming, as discussed above.
- Other important cases from 2014 that are not reflected in the chart because they are not physical in nature include harassment (including alleged racial harassment), breaking into Gannett Health Center and stealing drugs, having portable labs in a residence hall to make drugs, drug dealing, fireworks, and theft.

Table 4: Number of Temporary Suspensions,⁶ Suspensions on the Merits and Expulsions⁷

	2005	2006	2007	2008	2009	2010	2011 ⁸	2012	2013	2014
Temp. Suspensions	3	1	1	6	4	7 ⁹	4	4	10	7
Suspensions on merits	2	5	3	10	12	10	13	6	15	3 ¹⁰
Expulsions	1	1	2	0	2	1	1	6	7	1 ¹¹

³ Information included in this category includes potential complainants who never spoke to the JA, but about whom the JA learned and attempted to provide information to one or both parties, directly or indirectly. By way of further comparison, the average number of sexual assaults reported from 1990 - 2003 was 3 per year.

⁴ “Injury” does not include minor injuries such as a black eye or minor bruising, so there are fights or use of physical force that are not reflected in this chart.

⁵ Includes 6 cases of people accused in hazing death.

⁶ This table reflects an interim measure known as “temporary suspensions pending a resolution on the merits.”

Temporary suspensions for non-compliance with sanctions or for a violation of a no-contact order are not included here.

⁷ Some of these cases are also reflected in Tables 3 and 5, but not all serious cases resulted in suspensions or expulsions, and not all suspensions were the type of serious misconduct reflected in Table 3. If a case received both a temporary suspension and a suspension or expulsion on the merits, it would be counted twice because it reflects the work for the initial temporary suspension and the work for the adjudication on the merits. Unfortunately, the JA’s Office does not have statistics on the number of cases for which temporary suspension, suspension or expulsion were considered and rejected, either by the JA’s Office or by the boards.

⁸ Starting in 2011, these figures also include separations that were called “negotiated leaves” or “negotiated withdrawals,” which are tantamount to suspension or expulsion.

⁹ Includes 6 cases of people accused in hazing death.

¹⁰ At the time this data was collected, several investigations of serious matters were still underway or appeals pending; at least one appeared to be suspension-level based on allegations alone.

¹¹ At the time this data was collected, several investigations of serious matters were still underway or appeals pending; at least three appeared to be expulsion-level based on allegations alone.

- In the 1990s, there was only one temporary suspension the whole decade. There are two reasons the numbers of temporary suspensions (used as an interim measure) have gone up since then: a larger number of serious cases were referred to the campus disciplinary system and there was a philosophical change in the institution about how to address serious allegations. With respect to the first reason, as noted in Table 3, it is no longer unusual to receive referrals for serious physical violence.
- The philosophical change is more nuanced. Based on this author's conversations with past JAs from the 1970s, 1980s and 1990s, it had been a practice not to use temporary suspensions because many serious acts were referred to the criminal justice system and sometimes not referred to the JA. Additionally, if a matter was referred both places, the JAs thought that if a student had a criminal matter hanging over his/her head, s/he would not take any risks and, therefore, would not engage in future misconduct. This philosophy changed over time, both nationally and at Cornell. Particularly after the horror of the Columbine shootings on April 20, 1999, institutions of higher education looked differently at violence, taking all acts of violence more seriously and seeing acts of violence against individuals as a threat to the entire campus. Professionals discussed the fact that the best indicator of future misconduct was past misconduct, so an act of violence against one individual was considered a threat of violence against others.
- Starting in 2001, this author, in consultation with campus colleagues, Cornell leadership and national experts, started using temporary suspensions when there were serious allegations of violence. Many safeguards to protect accused students, including Code procedures and practices of the JA's Office, were also in place. For example, the Code sets a high standard to impose a temporary suspension¹² and, by practice and based on hearing board input, the alleged behavior had to be clear. Careful consideration was given to each particular case: not all cases where temporary suspension was considered resulted in temporary suspension; the JA might remove a temporary suspension if further investigation cleared the accused, if circumstances changed, or if other interim measures were sufficient to protect the community; and hearing boards (and later, review panels under Policy 6.4) provided oversight of temporary suspensions to ensure there was no abuse of the JA's discretion. Ultimately, the imposition of temporary suspensions was rare, considering that approximately 900 cases were referred on a yearly basis and only a handful of accused persons were temporarily suspended in any given year. This very important tool to protect the community is also a very powerful tool that greatly impacts individual accused persons and was, therefore, a tool that included great care, professional discernment, judgment and discretion, and a swift appeal process.¹³
- In 2014, the temporary suspensions were for allegations of: sexual assault; homicide; breaking into Gannett Health Center and stealing drugs; and having a portable drug lab in a residence hall. In the past, temporary suspensions have also been imposed, for example, for: fights with weapons or serious injury; hazing; and threats with weapons.

¹² While the standard under Policy 6.4 was less clear, this author used the same standard as articulated in the Code to provide equity among different types of cases.

¹³ Whether under the Code or under Policy 6.4, appeals of temporary suspensions were always heard within five days, with one exception when a review panel extended this by two days.

- Similarly, there are two reasons why adjudicated cases have had more suspensions and expulsions since 2008: a larger number of serious cases (including physical violence, major property issues, and alcohol and other drug problems) have been referred to the campus disciplinary system; and there was a philosophical change at Cornell, reflected in a Code change in 2008 and subsequently reinforced by President Skorton, noting that serious misconduct should result in a substantial suspension or expulsion.
- As noted above, more cases of physical violence have been referred to the campus disciplinary process. Additionally, more cases of serious financial misconduct have been referred, such as financial aid fraud, credit card fraud and major theft. Similarly, but to a lesser degree, some students repeatedly referred for alcohol-and-other-drug-related offenses are now suspended as part of a larger, university-wide initiative to reduce harm from alcohol and other drugs.¹⁴
- A change to the Code in 2008 emphasized the need for serious responses to serious misconduct. This followed a two-year examination of the Code and the campus disciplinary system where the community examined, among other things, how often the JA's Office sought serious sanctions from the hearing and review boards and how often those sanctions were imposed. The result of examination was an addition to the Code of language stating that the expectation was that serious misconduct would result in a substantial suspension or expulsion absent mitigating circumstances. An appeal to the president and the right for the JA to appeal was also included at the same time. In the fall of 2008, when a hearing and review board did not impose a serious sanction in a case in which a man put another in a chokehold, the JA appealed to President Skorton who emphasized that such an act of violence should have resulted in a suspension.
- The guidance from the Code and President Skorton provided a recalibration of sanctions, but was in the context of procedural protections of the Code (and, later, Policy 6.4). An accused person, complainant, hearing boards, review boards, the president (for the Code) and review panels and VP of Student and Academic Services(for 6.4 cases) had the ability to accept or reject the JA's Office's recommendations in any individual case and the matter would be fully vetted and considered by the appropriate body.

Table 5: Number of Code of Conduct Hearings by Academic Year

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Number of Hearings	12	8	11	19	19	16 ¹⁵	8	13	8	3

¹⁴ Between 2008 - 2012, six students were suspended for three or more alcohol-and-other drug violations in a short period of time.

¹⁵ This reflects one hearing that was carried over from May 2009, rescheduled with some new board members.

- There are three judicial boards charged by the Code: University Hearing Board for Regulations for the Maintenance of the Educational Environment (UHB); University Hearing Board for Regulations for the Maintenance of the Public Order (UHB – RMPO); and the University Review Board. Cases on the merits and for sanctions are referred to these boards if there is no agreement between the JA’s Office and the accused person, or if either party or the JA’s Office appeals a hearing board decision. Additionally, the JA’s Office or the accused person may appeal violent cases to the president. Other hearings might involve reviews of temporary suspensions, requests to return from an indefinite suspension or an appeal by a complainant of an agreement between the accused person and the JA’s Office.
- In 2014, the three cases that went before the university hearing board included: a petition to return from an indefinite suspension; harassment; and a violation of a no-contact order. For information about the specific cases that were considered by the board, please see the public record, available for review in the JA’s Office by appointment. No cases were appealed to the Review Board or the president.

**Table 6: Number Of Sexual Assault Referrals, Formal Investigations, Hearings And Appeals
2007 - Present¹⁶**

	2007	2008	2009	2010	2011	2012	2013	2014
Sexual Assault Referrals	3	8	7	7	12	23	14	49
Investigations	3	3	6	5	9	11	8	8
Sent to UHB or Review Panel	0	1	2	0	0	1	8	5 ¹⁷
Appealed to Review Board or VPSAS	0	1	1	0	0	0	5	1 ¹⁸

- All sexual assault cases that are referred to the JA’s Office receive some attention, but not all are formally investigated. For example, if a campus partner such as a residence hall director or a faculty member learned of a student who was assaulted, s/he must let a Title IX coordinator know of the incident. The survivor

¹⁶ In addition to sexual assault referrals, sexual harassment cases went to boards and panels, but are not counted here. The fact of the investigation or referral to a board or panel or appealed is reflected by case year, not necessarily the year in which the work was completed, unlike Table 5 which reports the year in which the hearing was held. For 2012 and earlier, if a sexual assault case went to hearing, it is reflected in both Table 5 and Table 6.

¹⁷ Generally all cases of sexual assault are sent to the Review Panel for Policy 6.4. Two cases, however, did not have individual complainants and it was determined that it was unnecessary to send an investigative report to the Review Panel; a third one was past the allotted time limit for a sexual assault investigation.

¹⁸ Several of the cases from 2014 were within the permitted timeframe for appeal when this data was pulled in August 2015; updates will be included next year.

of the assault may or may not wish to proceed. If the survivor choose not to file a formal complaint, the JA (as a Deputy Title IX coordinator) checked in to make sure s/he was aware of all resources (e.g., counseling, victims advocate, police), to learn if there were any special needs (e.g., no contact order, housing or academic accommodations) and to remind the survivor that s/he may decide to come forward with a complaint at a later date even if that was not his/her choice at that time. If the JA had a concern about community safety and knew the identity of the respondent, she could have decided to go forward without the complainant; this is rare.

- Table 6 compares the number of referrals of sexual assault cases to the number of investigations. Note that the uptick of sexual assault referrals in 2012 coincided with the increased publicity on campus and nationally about these important issues. A very large increase in 2014 seems to reflect campus partners' increased reporting. The number of investigations, however, did not go up much, usually reflecting that survivors did not wish to be complainants. The number of investigations that were resolved by agreement rather than by the boards or review panels changed in 2013 and 2014, because governmental guidance suggested that settlement agreements could generally not be used in the resolution of sexual assault cases (it could be viewed as mediation).¹⁹ Therefore, most sexual assault investigations went to the review panel during those years, while under the Code most of these cases were resolved by agreement.

Alcohol and Other Drug Cases

- Cornell University has taken a public-health approach to alcohol and drug-related cases. While some of our peer institutions do not enforce underage alcohol laws, Cornell does enforce these laws both as a matter of behavior and as a matter of health. Similarly, while institutions vary considerably regarding tolerance for drugs, even marijuana, Cornell takes an educational, health-oriented approach. Starting in 2013, the sanction for a first-time marijuana case was the same for a first-time underage alcohol case. A single violation of underage drinking or marijuana use results in a minor sanction, but part of the sanction is to participate in an educational program that has been proven to reduce the harms of alcohol. The idea is to reduce harmful effects of alcohol or marijuana for individuals and the entire community through prompt, certain and appropriate sanctions.
- Similarly, since Gannett's statistics suggest that three violations of even minor alcohol or drug regulations in an 18-month period is linked to alcohol or drug dependency, strong sanctions including suspension for one semester and alcohol or drug treatment are used in response to multiple violations in a short period of time. A careful review of alcohol and drug cases conducted a few years ago demonstrated that this approach is working to get more students into treatment and fewer students referred for more than three violations.
- Addressing alcohol and other-drug issues helps individual students achieve healthier lifestyles, and also helps the community have fewer second-hand

¹⁹ Governmental practice has changed, so this practice might change at Cornell in the future.

impacts of alcohol and other-drug use, such as minor inconveniences like dirty bathrooms or disruptions to sleep, and major problems like acts of violence perpetrated while a student is intoxicated.

- Table 7 is intended to give the reader a sense of trends related to AOD cases. The reader should note that the data collected from 2003 - 2010 was collected differently from the data in 2011 - 2014, due to a change in database, so an absolute comparison is not possible.

Table 7: Percentages of Alcohol- or Drug- Related Cases for the Past 10 Years²⁰

	2005	2006 ²¹	2007 ¹²	2008	2009	2010	2011	2012	2013	2014
% Persons w/ Alc Related Cases	56%	46%	40%	54%	55%	59%	47%	54%	45%	50%
% Persons w/ Drug Rel. Allegations	10%	5%	5%	16%	17%	10%	8%	14%	20%	15%
% Persons w/ Alc &/or Drug Rel. Violations	64%	51%	44%	68%	70%	69%	55%	67%	63%	62%

IX. Report of the Office of the Judicial Codes Counselor.

- Amanda Minicus wrote a lengthy report of the Office of the JCC, something that had not been done in more than a decade. The report expressed strong opinions that should be considered in ongoing policy evaluation regarding Policy 6.4 and the Code. Some of the JCC's opinions are not in dispute by the JA's Office (sometimes reflecting changes already underway at the time the report was issued), while others represent a position different from that of this author, with this author's acknowledgement that reasonable minds differ and should be fully discussed. Other items stated in the JCC report, unfortunately, are simply inaccurate. It is unfortunate that Ms. Minicus did not meet with this author to discuss any concerns prior to issuing her report, as offered and requested repeatedly by this author. Since many of the report's conclusions are based on anecdotes from the relatively few cases in which the JCC had a role, and since the report lacks broader perspective, historical context and information about actual JA's Office practices, the report includes some errors and misperceptions. This author appreciates, however, that Ms. Minicus took

²⁰ This table reflects cases in which alcohol or drugs were involved, whether or not it was the primary charge (for example, use of a fake ID or property damage while intoxicated). The data was collected in different ways. For 2003 - 2010, the data includes only cases that had been adjudicated and where the individual was either in violation or received a warning. For 2011 - 2014, the data looks at total number of referrals. This change was made due to the change in the database used by the office, which did not allow for exact duplications of data. While the information is not completely comparable, it gives the reader a sense of the patterns. Finally, if a matter is both alcohol and drug related, it is counted in the total of alcohol and drugs only once; therefore the totals of "alcohol" and "drug" may be different from "alcohol and drug."

²¹ In 2006 and 2007 a disproportionately high number of digital copyright cases were referred to the JA's Office, diluting the percentages of AOD cases.

the time to complete a report at all, because it has been quite awhile since a JCC took that time, and this author appreciates the report's support for additional JA's Office staffing and a different staffing model for 6.4 cases.

- The JCC's Office provides support for accused persons and creates a check and balance system in the campus disciplinary system that this author supports. Some accused persons are very nervous and need moral support; others face serious consequences and need strong advocacy, but could not afford an attorney. The JCC's Office provides needed support for these individuals, and many talented law students have served in this role. There is a disadvantage to having students in this role, however, because there is a lack of institutional memory and coverage over the summer is challenging. JCCs to whom this author has spoken have different opinions about whether students should be the JCC: some have indicated that they think accused students appreciate the "near peer" advocacy; others have indicated there is a disparity of having a seasoned professional in the role of the JA (and now as the procedural advocate for complainants) with students serving as JCC and agree the summer months have inadequate coverage. Near the end of the spring 2015 semester it was announced that a law professor, Kevin Clermont, would serve as an advisor for the JCC, which could address some of the concerns. There may be other models that would work, such as having a student affairs professional serve as JCC, assisted by student employees. It may be time for the community to examine whether the current model is the most effective.

X. Report of the Procedural Advocate for Complainants

- M. Elizabeth Karns' summary of her work is attached as Appendix B. As noted above, this position was new in 2014 and was a volunteer position. The role was created because respondents in the Policy 6.4 process had access to JCCs, but there were no procedural advocates for complainants.²² As noted in Professor Karns' report, this work has been very time consuming. It would be wise to consider whether additional resources should be dedicated to this role.
- Additionally, it might be wise to expand this role (with more resources) to include Code of Conduct cases. It is imperative that the university provides equity between the parties in all cases, and this role currently only serves complainants for Title IX cases. The absence of a procedural advocate for complainants in Code cases perpetuates the myth that the JA always adopts the complainant's point of view. Like the role of the JCC, it may be time for the community to examine the role of complainant advocate more broadly.

²² The Victim's Advocate serves more of an emotional-support role.

XI. Reflections on Sixteen Years and Recommendations for the Future

Serving as the Judicial Administrator has been personally and professionally rewarding for me. I appreciate the support, advice and help I received from many colleagues across campus, but especially from members of the JA's Office. In particular, I am immensely grateful to Linda Falkson, Associate Ombudsman, with whom I worked for nine years in the JA's Office and who trained me in the early years. Her guidance set the tone of fairness and compassion that I applied during my tenure. Similarly, Jody Kunk-Czaplicki provided me a deeper understanding of student development that both enriched my work in the JA's Office and prepared me for my new role in the Office of the Dean of Students. The many years of support from Janey Bosch, Steven Morey, Kacy Covert and Elizabeth Gray cannot be measured. The work of Scott Grantz, Sarah Affel, Clint Dupew, Moriah Tebor Shaw and the various part-time or temporary employees, volunteers, "stretch employees" and student employees will forever be appreciated. The hard work, the dedication to the students and the resilience of all the members of the JA's Office over the years inspired me.

I also greatly appreciate the mentorship from members of Cornell's administration who (I am sure) had other things on their plates: Susan Murphy, Vice President of Student and Academic Services; Mary Opperman, Vice President of Human Resources; and the three presidents with whom I served (Hunter Rawlings, Jeffrey Lehman, and particularly David Skorton). Similarly, the help I had from Debbie Phillips in Human Resources and colleagues in counsel's office (particularly Jim Mingle, Nelson Roth and Nora Salvatore) was so important. Since the JA is independent, I had no boss and I needed to have all these colleagues to bounce around ideas so that my decisions – while independent – were well informed and consistent with community values and Cornell policies.

The most important connections I had during my time in the JA's Office, though, were with the many students with whom I crossed paths, often at low points in their lives. Making mistakes is part of the human condition. Working as the JA afforded me the opportunity to work both with students who had made mistakes and with those who experienced negative consequences from the poor choices of others. I am humbled by the fragility of human beings, as well as their incredible resilience; I am deeply touched by the many ways students demonstrated both.

Throughout the time I was JA I worked to improve the systems and the application of the policies to benefit individuals and the community. Some ideas cannot be implemented without community involvement, though. To that end, I have made two recommendations to President Elizabeth Garrett and to Professor Randy Wayne, chair of the Codes and Judicial Committee:

- change the role of the Judicial Administrator from one that mirrors a "prosecutor" to one that is an investigator, mediator and witness; and
- create a reporting structure so the Judicial Administrator has a boss and, therefore, has more opportunities for accountability, mentorship and professional development, and which would provide more efficiency and a better design philosophically.

Please find my email to Professor Wayne attached as Appendix C, which includes the reasons for my recommendations.

XII. Conclusion

- The campus disciplinary system faced some tough challenges in 2014, which the members of the JA's Office, JCCs, the procedural advocate for complainants, the boards, review panels, VP of Student and Academic Services, volunteer assistant investigators and members of shared governance faced with integrity, dedication and a keen sense of the importance of the work. These individuals demonstrated careful decision-making, even in the face of differing opinions or philosophies. Students will benefit both within the adjudicative processes and more broadly: the collegiality, debate and conflict-resolution used will lead to improve the policies and practices of the Cornell University community.
- I am pleased to submit this as my last report of my time serving as the Judicial Administrator, but would welcome any questions from the reader.

Respectfully submitted,

s/Mary Beth Grant

Mary Beth Grant

Senior Dean of Students for Inclusion,

Community Support and Engagement

Former Judicial Administrator 1999 – 2015

December 24, 2015

Appendix A

Annual Report of the 2014-2015 Codes and Judicial Committee

Submitted by Randy Wayne, Chairperson of the Codes and Judicial Committee

The Codes and Judicial Committee (CJC) is traditionally a thoughtful and deliberative body that works with difficult issues surrounding the Campus Code of Conduct (CCC) and the University Hearing and Review Board (UHRB), and this year was no exception. We began by addressing recommendations to the CJC from the 2013-2014 University Assembly about issues to consider:

1. To screen and propose by Resolution an appropriate slate of candidates to serve on the University Hearing and Review Board (UHRB) as soon as possible in order to replace members whose term has expired.
2. To investigate and propose by Resolution a revised UHRB ‘emergency’ appointment procedure when regularly appointed UHRB members are not available to support a required hearing over the summer or holidays.
3. Confirm items posted on hazing.cornell.edu comply with AY 2014 UA Resolution 4 and report back to the Assembly.
4. Confirm hazing.cornell.edu is up-to-date with any incidents after 2013 and report back to the Assembly.
5. Take up and respond by Resolution on the President’s request for “limited advance-notice procedures” in the Campus Code of Conduct.
6. Verify approved AY 2014 changes to the Campus Code have been posted (UA R4, R9 REVISED, R12 REVISED, R13).
7. Review Policy 6.4 implementation issues and determine if Policy 6.4 requires a revision. Submit a Resolution, if needed.

To address issues 1 and 2, we immediately selected nominees for the UHRB using the student and staff applicants that applied using an application created and administered online by the Office of the Assemblies, and proposed a method for making emergency appointments. This resulted in UA Resolution 1: *Appointment of University Hearing and University Review Board Members for Academic Year 2014-2015*, which was passed by the UA and accepted by President Skorton.

We met again in the spring to select additional nominees. This resulted in UA Resolution 15: *Appointment of University Hearing Board and University Review Board Members for Academic Year 2015-2016*, which was passed by the UA and is awaiting a decision by President Skorton.

To address issues 3 and 4, we interviewed Travis Apgar and Mary Beth Grant and confirmed that hazing.cornell.edu is up-to-date and complies with AY 2014 UA Resolution 4.

To address issue 5, after much deliberation, we decided that the President’s recommendation, was counter to the spirit and purpose of the Code of Conduct and we crafted UA Resolution 3: *Response to the President’s Request for “Limited, Voluntary Advance Notice* to say so. The University Assembly passed the resolution and President Skorton respectfully disagreed with our decision.

To address 6, we worked with Brian Murphy in the Office of the Assembly to ensure that AY 2014 changes to the Campus Code, including UA R4, R9 REVISED, R12 REVISED, and R13, have been made and posted.

To address issue 6, we invited Amanda Minikis, the JCC, to speak with us, and point out some inconsistencies between the CCC and Policy 6.4, particularly concerning how long a respondent has to appeal a temporary suspension. These inconsistencies were pointed out to Lynette Chapell-Williams as the next Policy Committee meeting. This will require ongoing work and communication.

New Business

The 2014-2015 CJC initiated new actions concerned with a Community Bill of Rights. This resulted in UA Resolution 9 and UA Resolution 10. UA Resolution 9 calls for the creation, maintenance, and availability of a Community Bill of Rights to the University Assembly bylaws under the purview of the Codes and Judicial Committee. This resolution was passed by the UA and transmitted to President Skorton. I will confirm that the UA Bylaws are changed pursuant to this resolution. Resolution 10 calls for the creation of a Community Rights and Responsibilities Working Group under the Codes and Judicial Committee. This resolution was passed by the UA and transmitted to President Skorton. I will confirm that the UA Bylaws are changed pursuant to this resolution. The CJC created a “Box” where existing University documents concerning the rights and responsibilities of Students, Staff and Faculty can be deposited for analysis by the working group and for the creation of the Community Bill of Rights website by the Office of the Assemblies.

Sarah Balik, represented the UA and the CJC in the selection process to select the new Judicial Codes Councilor (JCC). The UA approved the selection.

Recommendations to 2015-2016 CJC:

1. **Concerning the UHRB:** Currently, the Dean of Faculty appoints faculty to the UHRB, yet the University Assembly must approve the slate of candidates. Next year the CJC should consider working with the Dean of Faculty to require that the faculty applicants to the UHRB also complete the same application process used by the students and the staff. Such a change would require a change in Article IV.C.1 of the Campus Code of Conduct.
2. **Concerning the Community Bill of Rights:** Sarah is currently looking for interested students from the SA to continue the work on Resolutions 9 and 10. Hopefully at least one of these students can be appointed to the CJC for the 2015-2016 term for the sake of continuity. Sarah is working with the Office of Assemblies (and will be continuing to do so over the summer) to ensure the policy website is updated. Sarah met with Susan Murphy last week and discussed next steps for the working group. Firstly, Susan suggested meeting with Mary Opperman to clarify issues regarding employee rights, which we suspect will be the most complicated part of making an accurate, helpful, community bill of rights. Hopefully, she will be able to get on Mary's calendar by the end of May and come up with more next steps. As of right now, the most important step before establishing a true working group is contacting offices that will be affected. Before the end of the summer, Sarah will send Amanda's most recent version of the Bill of Rights draft to several offices, asking for early

feedback on the draft. She will compile their recommendations and also ask who from that office would be interested in sitting on this working group.

Sarah recommends that at the first CJC meeting of next year, at least one member from every constituent assembly be appointed to the working group. The working group will review the initial recommendations Sarah compiled. After making edits and a new draft, the working group can invite the delegates of the offices to review the draft of the bill, and come in to meet if necessary. Once this process is complete and a final draft is ready, the whole CJC will need to approve it in resolution form. Then the UA will need to vote on the resolution.

3. **Concerning the role of the Judicial Administrator (JA):** Mary Beth Grant recommends:

A) changing the role of the Judicial Administrator from one that mirrors a “prosecutor” to one that is an investigator, mediator and witness; and

B) creating a reporting structure so the Judicial Administrator has a boss and, therefore, has more opportunities for more accountability, mentorship and professional development, better efficiency and a better design philosophically. Mary Beth believes this can be done without undermining the independent thinking that goes into deciding individual cases or office policy.

With respect to the role of the JA, the current system contemplates that the JA conduct an independent, neutral investigation and upon its conclusion pick a side. If the JA thinks there is no evidence of a Code violation, the JA picks the accused person’s side and dismisses the case. The complainant may appeal this to the hearing board. If the JA thinks there is enough evidence of the violation, the JA attempts to resolve the matter by agreement, but if it is not possible, the JA typically presents the case to the hearing board on behalf of the complainant. (The JA may enter into an agreement over the objection of the complainant, but this is atypical.) The JA is often described as a “prosecutor” although that is not the educational language, nor the appropriate function, of the JA.

The unfortunate side effect of this process is that both the accused and the complainant start the process believing the JA is the prosecutor. Mary Beth has worked for 16 years to disabuse the community of this notion, yet she still hears trusted colleagues who know better still use that terminology to describe her. It is unfair to the parties. An accused person enters the JA’s office thinking the JA is against her/him. A complainant enters the JA’s office thinking the JA is an advocate specifically representing him/her. Neither is accurate. It causes hard feelings and confusion and a sense of unfairness for each party at different times.

Mary Beth’s idea is to create a system where the JA is seen as neutral by both parties. When the JA makes a decision about the evidence, s/he would enter into mediated agreements based on the same principles we have always used: precedent, fairness, input from hearing board chairs, circumstances of the particular case. But, when a case needs to go to the hearing or review panel, the JA would be a witness, not a “prosecutor.” It has the added benefit of reducing the time needed for a hearing (the JA could testify about what was learned from minor witnesses and the board could hear testimony from the parties and major witnesses). Another benefit is it opens up more opportunities for restorative justice and alternative dispute resolution, which students have been requesting. But, the main purpose would be to change the optics of the office and to be fairer to the parties. It creates a need for an advisor for complainants, similar to the JCCs. This is also being considered for the 6.4 Policy, so could be coordinated with that.

Mary Beth also recommends that this change go into effect as soon as possible. It does not impact staffing in the JA'S OFFICE, still provides all the checks and balances of the hearing board, review board and appeal to the president, and does not change the structure of the office. The only challenge is staffing advisors for complainants, but my guess is that law students would be able to help with this.

Mary Beth's second recommendation (B) would require a longer time period for reflection, community input and fleshing out the details. She is proud of the work she did as the JA, so she is not making this recommendation to reflect self-doubt. She is also confident in Jody Kunk-Czaplicki's ability to lead this office, so she is not raising this to reflect any concerns about her skills. Rather, thinking both philosophically and practically, the days of needing to have a JA who is entirely independent are over. This is not to say that the administration (or faculty or students or staff or trustees or alumni or development) should be able to impact the independent thinking present for each case. But, the safeguards in place with the checks and balances of the hearing and review boards and appeal to the president meet those needs.

Additionally, it is a bit disingenuous to say the JA is completely independent since the president's office controls the budget, space and other logistical factors. Mary Beth has never had a problem working with any of the presidents, but efficiency dictates a lower-level administrator working with the office on these things.

Mary Beth is not asking to revive the Krause report — that changed the checks and balances more than she thinks this community can support. But, she thinks it is a good time to take a step back and ask if the current model is needed for the benefit of students or the community, and if not, what is the more efficient and philosophically sound model?

4. The CJC should be involved in the selection process for the new JA.

Appendix B

Report of Professor M. Elizabeth Karns, Procedural Advocate for Complainants in the 6.4 process

May 28, 2015

RE: 2014-2015 Work as Procedural Advocate at Cornell

Dear Mary Beth --

Thank you for inviting me to volunteer as the Procedural Advocate at Cornell this past year. It has been an illuminating experience.

Here is a summary of the work done:

8 cases with formal 6.4 involvement. The time ranged from 10 hours to approximately 100 hours depending on the needs of the Complainant. Most went through the entire appeal process requiring several reviews and documents to be developed with the Complainant.

8 cases of informal consultation. These were people considering the use of 6.4 or other Cornell policies. The time involved ranged from 2 to 15 hours.

The mix of cases was 50% undergrads, 50% grads and staff.

The case-related work has taken about 10-15 hours per week. I have used my consulting time and evening hours to do the work.

Other related work and outreach

- 5 public talks on sexual assault and harassment in educational environments
- Committee on Sexual Violence Prevention, Research subcommittee (AAU survey focus)
- 6.4 Policy Revision Working Group participation
- Reporting on Sexual Assault: Institutional Comparisons, 2013 (report in review)
- Interviews with administrators at other colleges and universities on sexual assault procedures (ongoing)

Anticipating that there will be no decline in the demand for the work, it is time to consider how to staff this role. We have discussed my continuation with a request for course relief and/or compensation. My preference would be for course relief subject to approval by my Chair and Dean.

Thank you again for the opportunity to work with the Cornell community in this capacity.

Liz

--

M. Elizabeth Karns, MPH JD
Dept of Social Statistics
Cornell University
296 Ives Faculty Building
607-255-4572

Appendix C

Email from Judicial Administrator Mary Beth Grant to CJC Chair Randy Wayne Regarding Recommendations for the JA'S OFFICE

From: Mary Beth Grant <meg36@cornell.edu>
Subject: Re: Annual Report of the Codes and Judicial Committee
Date: May 20, 2015 at 3:09:01 PM EDT
To: "Randy O. Wayne" <row1@cornell.edu>
Cc: Mary Beth Grant <mary.beth.grant@cornell.edu>, Matthew Andrew Battaglia
<mab622@cornell.edu>, Jody Kunk <jak236@cornell.edu>

Dear Randy,

Sorry for the delay in getting this information to you! As you may have heard, I have accepted a position in the Dean of Students office, which starts September 1. I will serve as the Senior Dean of Students for Inclusion, Engagement and Community Support. I am very excited for this new opportunity! It has also left me reflecting on ways that the campus disciplinary system at Cornell works well and the ways in which it could improve.

I have two major suggestions, which may be pursued together or separately:

1. change the role of the Judicial Administrator from one that mirrors a "prosecutor" to one that is an investigator, mediator and witness; and
2. create a reporting structure so the Judicial Administrator has a boss and, therefore, has more opportunities for more accountability, mentorship and professional development, better efficiency and a better design philosophically. I believe this can be done without undermining the independent thinking that goes into deciding individual cases or office policy.

With respect to the role of the JA, the current system contemplates that the JA conduct an independent, neutral investigation and upon its conclusion pick a side. If the JA thinks there is not evidence of a Code violation, the JA picks the accused person's side and dismisses the case. The complainant may appeal this to the hearing board. If the JA thinks there is enough evidence of the violation, the JA attempts to resolve the matter by agreement, but if it is not possible, the JA typically presents the case to the hearing board on behalf of the complainant. (The JA may enter into an agreement over the objection of the complainant, but this is atypical.) The JA is often described as a "prosecutor" although that is not the educational language, nor the appropriate function, of the JA.

The unfortunate side effect of this process is that both the accused and the complainant start the process believing the JA is the prosecutor. I have worked for 16 years to disabuse the community of this notion, yet I still hear trusted colleagues who know better still use that terminology to describe me. It is unfair to the parties. An accused person enters the JA's office thinking the JA is against her/him. A complainant enters the JA's office thinking the JA is an advocate specifically representing him/her. Neither is accurate. It causes hard feelings and confusion and a sense of unfairness for each party at different times.

My idea is to create a system where the JA is seen as neutral by both parties. When the JA makes a

decision about the evidence, s/he would enter into mediated agreements based on the same principles we have always used: precedent, fairness, input from hearing board chairs, circumstances of the particular case. But, when a case needs to go to the hearing or review panel, the JA would be a witness, not a “prosecutor.” It has the added benefit of reducing the time needed for a hearing (the JA could testify about what was learned from minor witnesses and the board could hear testimony from the parties and major witnesses). Another benefit is it opens up more opportunities for restorative justice and alternative dispute resolution, which students have been requesting. But, the main purpose would be to change the optics of the office and to be fairer to the parties. It creates a need for an advisor for complainants, similar to the JCCs. This is also being considered for the 6.4 Policy, so could be coordinated with that.

I recommend that this change go into effect as soon as possible. It does not impact staffing in the JA’S OFFICE, still provides all the checks and balances of the hearing board, review board and appeal to the president, and does not change the structure of the office. The only challenge is staffing advisors for complainants, but my guess is that law students would be able to help with this.

My second recommendation would require a longer time period for reflection, community input and fleshing out the details. I am proud of the work I did as the JA, so am not making this recommendation to reflect self-doubt. I am also confident in Jody Kunk-Czaplicki’s ability to lead this office, so am not raising this to reflect any concerns about her skills. Rather, thinking both philosophically and practically, the days of needing to have a JA who is entirely independent are over. This is not to say that the administration (or faculty or students or staff or trustees or alumni or development) should be able to impact the independent thinking present for each case. But, the safeguards in place with the checks and balances of the hearing and review boards and appeal to the president meet those needs. Additionally, it is a bit disingenuous to say the JA is completely independent since the president’s office controls the budget, space and other logistical factors. I have never had a problem working with any of the presidents, but efficiency dictates a lower-level administrator working with the office on these things.

I am not asking to revive the Krause report — that changed the checks and balances more than I think this community can support. But, I think it is a good time to take a step back and ask if the current model is needed for the benefit of students or the community, and if not, what is the more efficient and philosophically sound model?

I will pass the torch to Jody Kunk-Czaplicki to discuss these things with the next CJC. I think you will love working with her, Randy! And remember I am just in Willard Straight so don’t be a stranger!

Best,

Mary Beth

On May 19, 2015, at 4:12 PM, Randy O. Wayne <row1@cornell.edu> wrote:

Dear Mary Beth,

If you would like your ideas about changes as to how the hearing board is run and how the CCC must change in order to allow the suggested changes, please send me a paragraph about your ideas that I can add to the annual report.

Thanks,

Randy

