

REPORT OF THE LACROSSE AD HOC REVIEW COMMITTEE

TO : Richard H. Brodhead, President of Duke University
Paul H. Haagen, Professor of Law and Chair of the Duke University Academic Council

INTRODUCTION

1. The Charge to the Committee

On April 5, 2006, you jointly charged the Ad Hoc Committee as follows:

. . . [T]o look into the behavior of members of the lacrosse team over the past five years, and specifically the record of both charges of inappropriate social conduct and criminal violations and of official Duke, community and team responses to that conduct and those violations. The Ad Hoc Committee should interview faculty members about classroom behaviors, and receive and take into consideration information from members of the Duke community or from any other knowledgeable source about the conduct of or respect for others shown by members of the team.

The purpose of this review is not to establish the culpability of individual team members for particular instances of inappropriate behavior, but rather to determine whether there are patterns of behavior and inadequate responses to it, that should be addressed at the institutional level. Because there is an ongoing criminal investigation of allegations relating to events on the evening of March 13-14, and because the University must be careful not in any way to interfere or compromise that investigation, the Ad Hoc Committee will not consider any matters subsequent to and including March 13, 2006 that relate to the alleged criminal conduct.

In conducting its review, the Ad Hoc Committee should consider the lacrosse team in comparison to other relevant groups at Duke. . . .

The Committee conducted its review consistently with this charge.

2. The process of the review.

The Committee conducted numerous interviews. For what we considered to be the most important interviews, as many of the members of the Committee as possible were present. Thus, all or a majority of the Committee were present for the following interviews:

Administrators

- o Dr. Tallman Trask III, Executive Vice President
- o Dr. Larry Moneta, Vice President for Student Affairs
- o Sue Wasiolek, Assistant Vice President and Dean of Students
- o Stephen Bryan, Associate Dean for Judicial Affairs
- o Katherine (Kacie) Wallace, former Associate Dean for Judicial Affairs

- o Eddie Hull, Dean of Residential Life and Housing
- o Leonard Satterwhite, Senior Associate Director of Admissions

Duke Athletic Department

- o Joe Alleva, Athletic Director
- o Dr. Kathleen Smith, Chair, Duke Athletic Council
- o Dr. Christopher Kennedy, Senior Associate Athletic Director
- o Mike Pressler, former Coach of the Lacrosse team
- o Brad Berndt, Associate Athletic Director for Academic Services

Police Officials

- o Robert Dean, Director of the Duke University Police Department
- o Captain Ed Sarvis, Durham Police Department¹

Various combinations of members of the Committee also conducted numerous other interviews.² The additional individuals whom the Committee interviewed in this manner are set out in Exhibit 1.

On March 24, 2006, the entire Committee met with a self-described representative group of parents of current lacrosse players, at their request. The parents were accompanied by three female Duke undergraduates who made statements to the Committee. The Committee also received numerous unsolicited emails and letters from many generations of Duke alumni and from parents and friends of Duke lacrosse players expressing support for the lacrosse program and its coach, vouching for the integrity of the program, and pointing out the program's contributions to the University and to students who participate in the program.³

Two members of the Committee interviewed one member of the current lacrosse team, but only because he accompanied his mother to the interview. Although the parents with whom the Committee met encouraged the Committee to interview current members of the team, the Committee declined to do so. We decided that interviewing current members of the team would not contribute significantly to our review. Some members of the team likely would have declined any request for an interview for entirely understandable reasons.

¹ Captain Sarvis is the former Commander of District 2, which covers the neighborhoods adjacent to Duke's East Campus.

² With one exception, the Committee did not promise confidentiality to any of the individuals we interviewed, nor did any individual request confidentiality. The Committee did promise confidentiality to professors we surveyed about the behavior of lacrosse players in their classes. Nevertheless, this report does not unnecessarily attribute specific information or statements to individuals by name. Nor does the report discuss rumors or claims of misconduct for which the individuals reporting them could not provide any factual basis.

³ The Committee eventually will make the emails and letters a part of the record of its review, under separate cover.

The Committee does not believe that it failed to interview any individual who might have provided information not otherwise available to the Committee that would have materially affected our findings.

Finally, the Committee reviewed documents and statistical information from numerous sources, including the Division of Student Affairs, the Athletic Department, the Duke University Police Department, and the Durham Police Department. We also obtained the public record relating to a criminal matter in the District of Columbia.

3. Lacrosse Culture

“Lacrosse culture” has received a great deal of media attention. In consequence, our committee is obligated to describe our understanding of the phenomenon in relation to the Duke University Men’s Lacrosse team.

Duke Lacrosse has been described as having a “clannish” or “pack” culture that is distinct from other Duke athletic teams and organized groups on campus. Like other athletic teams, the strict discipline of training and play enforces community for a significant amount of time both in season and out of season. Lacrosse transfers this community to life off the sports field more fully and more visibly than other Duke teams for a variety of reasons. They are a small enough unit (in contrast to football) to have remarkable social coherence and they are a large enough unit (in contrast to golf) to be socially prominent as a group. The players’ backgrounds contribute to that cohesiveness. The majority of the players come from middle-class, suburban families (there are a few players from both very wealthy and from working-class settings). Most members of the team are recruited from the northeast—New York, New Jersey and Maryland are the traditional centers of the sport; many of the players competed against one another in high school. Many of the athletes’ families participate fully in their son’s athletic events—lacrosse is distinctive for its parent-organized tailgates after lacrosse games, for example.

The lacrosse network may even extend, it seems, to post-graduation employment. Apparently more than other teams, many of the LAX players are second-generation players or have siblings who have played the sport at Duke. In other words, the cohesiveness of the Lacrosse team is an expression of a tightness of a broader order. The committee has not heard evidence that the cohesiveness of this group is either racist or sexist. On the contrary, the coach of the Duke Women’s Lacrosse team has expressed her sense of camaraderie that exists between the men’s and women’s team; members of the men’s team, for example, consistently come to the women’s games. The current as well as former African American members of the team have been extremely positive about the support the team provided them.⁴

Although parents and Coach Pressler endorse lacrosse’s social cohesion as good for individual members and for team performance, it does involve negative aspects. Bad alcohol-related behavior seems to be reinforced rather than mitigated by the group. Responsible senior

⁴ The African American player from the 1970s said the only racial slurs that he encountered as a student came from fans of opposing teams.

leadership on the part of team captains seems to have been too often missing. Despite repeated and stern warnings from their coach and his imposition of significant punishments for unacceptable behavior, this behavior continued. The players and their families have expressed deep respect and admiration for Coach Pressler; why then, the Committee wondered, did the players persist in defying him and in failing to live up to his expectation of their conduct? The negative aspects of lacrosse cohesion is a serious problem that requires resolution. It was not, however, a problem that was ever adequately or fully brought to the attention of either Coach Pressler or the players' parents.

FINDINGS

In this section of the report we discuss the lacrosse team's performance at Duke in three areas: academic, athletic, and citizenship.

- 1. The members of the Duke Lacrosse team have been academically and athletically responsible students. In general, faculty who have had lacrosse players in their classes have not experienced disciplinary problems with the players. Over the last five years, however, many lacrosse players increasingly have been socially irresponsible consumers of alcohol. Their extensive record of repetitive misconduct should have alarmed administrators responsible for student discipline.**

- a. Academic and athletic performance.

The members of the lacrosse team generally have been academically responsible students.⁵

The Committee surveyed ten members of the Duke faculty in whose courses a significant number of lacrosse players have enrolled.⁶ With one exception, those members of the faculty who have been able to identify lacrosse players in their classes report that the students have been engaged and "certainly have caused no problems." The professors report that the students appear to take their academic obligations seriously. Two of the professors told the Committee that when the players had to miss class, they appropriately notified the professor and completed any make-up work. One instructor thought the lacrosse players were willing to defend unpopular positions in class, but had not been disruptive in any way. The students were generally described as polite. Two professors noted that the players tended to "move as a group." One of these professors separated them in class, "simply because a 'team' in a classroom is a particular energy; but this is

⁵ Team members also have volunteered for numerous community service activities, including Verizon Read with the Blue Devils, the Durham chapter of the Special Olympics, the Hurricane Katrina Relief Fund, the mentoring program at the Hope Valley Elementary School, the North Durham Little League, and in lacrosse clinics and camps for the Durham community.

⁶ Brad Berndt, the Associate Athletic Director responsible for academic services, identified the professors whom we surveyed.

not different from other team members taking classes together.” One professor mentioned that he did not remember “any race or gender related problem caused by this group in my class.”⁷ Several of the professors we contacted were not aware that they had lacrosse players in their classes. There have been no charges of academic misconduct against any member of the team.

One member of the faculty recently has been a prominent critic of lacrosse players who have enrolled in his course. The professor himself was a lacrosse player in college and a lacrosse coach. He has had many lacrosse players in his history course. Based upon his experience in the Spring of 2004, when he had ten lacrosse players in one of his courses, he wrote a letter to the Dean of Arts & Sciences complaining about the decline in classroom behavior of lacrosse players in particular and athletes in general. The professor’s more recent statements about the behavior of lacrosse players have been significantly more negative than what he said in the letter he wrote in 2004. The Committee also spoke with the teaching assistant in the course. She did not think the lacrosse players intentionally intimidated other students, but thought they displayed aggressive body language in class.⁸

Lacrosse players also have performed well academically. In 2005, twenty seven members of the lacrosse team, more than half, made the Atlantic Coast Conference’s Academic Honor Roll, more than any other ACC lacrosse team.⁹ Between 2001 and 2005, 146 members of the lacrosse team made the Academic Honor Roll, twice as many as the next ACC lacrosse team. The lacrosse team’s academic performance generally is one of the best among all Duke athletic teams.

The team also has distinguished itself athletically. Members of the 2005 team, for example, earned numerous honors on the field. The 2005 ACC Player, Rookie, and Coach of the Year were from Duke. The team also received several national honors.¹⁰ The team lost in last year’s NCAA championship game. This year’s team was ranked second in preseason polls and was one of the favorites to win this year’s national championship.

⁷ The Committee interviewed a 1998 Duke graduate who reported that a lacrosse player had tried to intimidate her in a sociology class in 1995. The individual did not complain about the incident at the time. No other person contacted the Committee to report a specific negative classroom experience.

⁸ The Committee also received a copy of an email written by another professor who complained about the past behavior of members of the baseball team in his course. He thought “professors ought to report such episodes to Duke higher administration more aggressively.” He did not report any negative experience with lacrosse players.

⁹ The Academic Honor Roll consists of athletes who have earned a 3.0 average in their courses.

¹⁰ A list of the team’s 2005 honors is attached as Exhibit 1.

By all accounts, the lacrosse players are a cohesive, hard working, disciplined, and respectful athletic team. Their behavior on trips is described as exemplary. Players clean the team bus before disembarking. Airline personnel have complimented them for their behavior. They observe curfews. They obey the team's no alcohol rule before games.¹¹ They are respectful of people who serve the team, including bus drivers, airline personnel, trainers, the equipment manager, the team manager, and the groundskeeper.¹²

Finally, the lacrosse program has a 100% graduation rate. Alumni of the program apparently contribute to the community after college.¹³ We received letters of support for the team from two recently graduated former players who are presently serving in Iraq. A remarkable number of alumni are volunteer coaches for their local lacrosse teams. Many are employed in prestigious positions in business, law, and medicine.¹⁴ As evidenced by their support of the current team, alumni of the lacrosse program and their families are fiercely loyal to each other, to the lacrosse program, and to Duke.

b. Social behavior

Paradoxically, in contrast to their exemplary academic and athletic performance, a large number of the members of the team have been socially irresponsible when under the influence of

¹¹ The members of the team are forbidden to drink alcohol within 48 hours prior to a game. Nor is alcohol served at the traditional tailgates organized by parents after the team's games, either at home or away.

¹² Both the groundskeeper and the equipment manager spoke about the players' respect for and appreciation of their efforts for the team. They described the members of the team as the best or among the best group of athletes they have served in their long tenures with Duke athletics. Although they give coach Pressler credit for instilling these values in his team, they emphasize that the players themselves are a "special group of young men."

The team's female manager for the last three seasons, a Duke senior, echoed these sentiments.

The equipment manager also mentioned how close the larger lacrosse community was. He said Coach Pressler asked him to put decals on the team's helmet one year to honor the deaths of two students associated with other lacrosse teams.

¹³ Alumni from the classes of 1962 to 2005 sent a collection of biographies and personal statements to the Committee. The collection will be made part of the record of this review.

¹⁴ The former coach of the team gave the Committee a list of the jobs his recent players obtained upon graduation, including the jobs that members of the class of 2006 have been offered. The list is attached as Exhibit 2.

alcohol. They have repeatedly violated the law against underage drinking. They have drunk alcohol excessively. They have disturbed their neighbors with loud music and noise, both on-campus and off-campus. They have publicly urinated both on-campus and off. They have shown disrespect for property. Both the number of team members implicated in this behavior and the number of alcohol-related incidents involving them have been excessive compared to other Duke athletic teams. Nevertheless, their conduct has not been different in character than the conduct of the typical Duke student who abuses alcohol. Their reported conduct has not involved fighting, sexual assault or harassment, or racist behavior.¹⁵ Moreover, even the people who have complained about their alcohol-related misconduct often add that the students are respectful and appear genuinely remorseful when they are not drinking.

i. The record of non-academic misconduct

There is no single comprehensive record of the misconduct of Duke students. Nor does the University maintain an official record of the non-academic misconduct of athletes. The Committee therefore examined numerous sources of information in the course of its review. In addition, the Dean for Judicial Affairs compiled a fairly comprehensive list of lacrosse players' misconduct from several sources to which he had access. He also compiled a list of the disciplinary records of other selected Duke athletic teams for comparison with the lacrosse team. The Committee believes disciplinary record of lacrosse players over the last five years has been problematic, especially since the Fall of 2003.

The Committee prepared a chronology of the disciplinary record of the lacrosse team for the period beginning in the Fall of 2000 and ending on March 13, 2006, using data provided by the Dean of Judicial Affairs.¹⁶ The chronology does not include all disciplinary incidents reviewed by the Committee, but it accurately reflects the nature of the players' misconduct over the period reviewed as well as the circumstances in which the conduct occurred.

During the 2000 - 2001, the 2001 - 2002, and the 2002 - 2003 academic years, there were very few disciplinary incidents reported for lacrosse players. See Tables 1, 2, and 3 below. In the Spring of those years, the season during which the team competes, even fewer incidents were reported. Of the incidents that were reported during this three-year period, all but four were

¹⁵ Very little of the players' misconduct involved women. The one exception was an incident that in which a lacrosse player got into an animated argument with another male student at a local diner. During the course of the argument, the player brushed the other student's girlfriend with his hand. The woman told the Duke police that the physical contact had been accidental.

Another player was charged with assault in the District of Columbia in 2005. Although the incident was not labeled a "hate crime," there was an allegation that the altercation grew out of the victim's objection to being called "gay." See Exhibit 3. The charge in that case is pending.

¹⁶ The chronology is attached as Exhibit 4. The names of the players have been replaced with randomly assigned numbers to preserve the confidentiality of information protected by law.

alcohol-related. The associated conduct of the alcohol related incidents included underage possession of alcohol and public urination. A single incident in the Fall of 2001 involved ten students in a dorm room playing a drinking game; three of the players received disciplinary citations. The players apparently were entertaining a high school student the team was trying to recruit. Two of the non-alcohol incidents involved four students who were cited for trying to remove banners from East Campus. The third incident involved three students hitting golf balls at a campus building; it is not clear whether the players had been drinking. The final non-alcohol incident involved a player smoking marijuana in his dorm room.

Table 1. Disciplinary Incidents (2000 - 2001 Academic Year)

	Fall	Spring	Year
Number of players ¹⁷	2	1	3
Number of incidents	3	2	5
Type of charges	Underage Possession of alcohol Public urination (on-campus)	Theft of pizza Unlawful possession of fireworks	

Table 2. Disciplinary Incidents (2001 - 2002 Academic Year)

	Fall	Spring	Year
Number of players	6	2	8
Number of incidents	5	2	7
Type of charges	Underage Possession of alcohol Playing drinking game On-campus property damage Smoking marijuana in room	Attempted theft of banner Noise policy	

Table 3. Disciplinary Incidents (2002 - 2003 Academic Year)

	Fall	Spring	Year
Number of players	8	0	8

¹⁷ When a player was involved in more than one incident in a semester, he is counted only once for that semester. When a player was involved in incidents in both the Fall and Spring, he is counted once in each semester.

Number of incidents	4	0	4
Type of charges	Alcohol Use Attempted theft of banner On-campus property damage Sending emails		

Beginning in the Fall of 2003, the number of disciplinary incidents involving lacrosse players and the number of lacrosse players cited in these incidents increased noticeably and the misconduct also extended into the Spring semester, the season in which they compete. See Tables 4, 5, and 6.

Table 4. Disciplinary Incidents (2003 - 2004 Academic Year)

	Fall	Spring	Year
Number of players	10	12	22
Number of incidents	9	7	16
Type of charges	Alcohol in dorm room Underage possession of alcohol Noise policy Fire safety in dorm Failure to appear for proceeding Public urination	Underage possession of alcohol Alcohol in dorm room Noise policy Providing false identification Drinking game in dorm room	

Table 5. Disciplinary Incidents (2004 - 2005 Academic Year)

	Fall	Spring	Year
Number of players	5	11	16
Number of incidents	4	6	10
Type of charges	<p>Underage possession of alcohol</p> <p>Drinking Game in dorm room</p>	<p>Noise policy</p> <p>Suspicion of throwing water</p> <p>Accomplice to underage possession</p> <p>Fraudulent use of Duke student card</p> <p>Failure to comply with judicial order</p> <p>Possession of alcohol in dorm room</p>	

Table 6. Disciplinary Incidents (2005 - 2006 Academic Year)

	Fall	Spring ¹⁸	Year
Number of players	10	8	18
Number of incidents	7	3	10
Type of charges	Noise policy (on-campus) Noise ordinance (off-campus) Intoxication Open container of alcohol in car Underage possession of alcohol Public urination Unlawful entry into another student's room Destruction of property (on campus)	Suspicion of damaging property Noise ordinance (off-campus) Drinking party in dorm room	

Two factors appear to have contributed to the noticeable increase in documented incidents beginning in the Fall of 2003. In the Fall of 2002, Duke began to assign Resident Coordinators to the residential dorms. These coordinators lived in the dorms and were responsible for recording and handling administratively disciplinary incidents that occurred there. Eddie Hull, the Dean of Residence Life and Housing, told the Committee that the introduction of the Residential Coordinators greatly increased the eyes and ears monitoring the conduct of students in residential housing; before that, there were no adults with a supervisory function in the residential houses after 5:00 p.m. The Committee's chronology reflects the impact of this change. Of the incidents of misconduct during the 2003 - 2004 academic year, most were handled by the Residential Coordinators in the residential housing and were not immediately reported to the Office of Judicial Affairs. *See* Exhibit 4.

Another factor that likely contributes to the large number of lacrosse players cited for misconduct is their clannish nature. Dean Hull told the Committee that in the 2004 - 2005 academic year, for example, Residential Coordinators had on-going problems with the block of sophomores who lived in a single pod of the Edens Quad on West Campus. These students were responsible for an overwhelming number of the incidents 2004 - 2005. Sophomores also were responsible for most of the incidents during the 2003 - 2004 academic years, and have been responsible for a majority of the incidents during the current academic year.

¹⁸ Through February 4, 2006.

The most common conduct for which disciplinary citations were issued involved drinking games in which several players living in the same residential hall participated. In addition, many of the incidents of misconduct occurred during periods when players did not have academic or athletic obligations, such as the period at the start of the school year after upperclass housing opened but before classes began, on weekends, during school breaks, and in May, after the academic year had ended when the players lived in unsupervised residential housing to complete the team's season.

The Committee also reviewed the records of the Duke Police relating to incidents involving lacrosse players. Although the Duke Police tries to inform the Office of Judicial Affairs of all student misconduct that it investigates, the Duke Police records included some incidents that were not included on the chart that the Dean of Judicial Affairs prepared for the Committee.¹⁹ The nature of the conduct involved, however, was the same as the misconduct reported by the Office of Judicial Affairs, with slightly more conduct involving property damage.

The Committee reviewed the sixteen incidents involving lacrosse players that resulted in citations from the Durham police or agents of the Alcohol Law Enforcement agency.²⁰ All but two of the incidents involved typical alcohol related misconduct. None of the misconduct involved fighting, sexual assault or harassment, or racial slurs. Some of the incidents were included on the list that the Office of Judicial Affairs prepared for the Committee, but not all. This reflects the informality of the relationship between the University and the Durham Police;

¹⁹ A chronology of the incidents investigated by the Duke Police is attached as Exhibit 5. The names of the students have been removed to protect the confidentiality of the records. We emphasize that this list has not been edited to remove incidents for which students ultimately were not held responsible or incidents for which a lacrosse player was suspected but ultimately not charged. Most of the incidents investigated by the Duke Police since 2002 involved alcohol related misconduct and property damage.

²⁰ The list of incidents was reported by the *News & Observer (Raleigh)* on March 28, 2006. The list is attached as Exhibit 6. The Committee did not remove the names of the players because the names were reported by the *News & Observer* and did not come from the university's records. The list contains three citations for which the student ultimately was found not responsible; two students were found not guilty by a judge and the citation in one case was dismissed on a legal technicality. The prosecution in most of the cases was deferred.

The Committee learned that Alcohol Law Enforcement agents and the Durham staged a crackdown on underage student drinking, which resulted in nearly 200 citations being issued to Duke students during the second week of the Fall 2005 semester. This crackdown is reflected in the Committee's chronology.

the police will report informally some off-campus misconduct, but reports are not made in a systematic way.²¹

The Committee also tried to determine the extent to which lacrosse players represented a distinct disciplinary problem in the neighborhoods surrounding Duke's East Campus. We believe the most reliable source of information about the off-campus behavior of lacrosse players was Durham Police Captain Ed Sarvis, the former commander of District 2, the district that includes Trinity Park, Trinity Heights, and Walltown. Risa Foster, the former President of the Trinity Heights Home Owners Association credits Captain Sarvis with the first successful effort to reduce the neighborhood disruptions caused by Duke students in District 2.

Captain Sarvis said the types of student behavior about which residents of District 2 complained included late-night noise and loud parties, excessive drinking, littering, public urination, and some damage to cars parked in the neighborhoods. None of the complaints related to physical assaults of any type.

When he became commander of District 2, Captain Sarvis tried to establish working relationships with Duke, with the students who rented houses in District 2, and with the parents of those students. He thinks some of his efforts yielded an improvement in student behavior in District 2.

Captain Sarvis said lacrosse players did not represent a special or unique problem in District 2; in fact, none of the houses rented by lacrosse players was among the worst of those whose loud parties attracted hundreds of disorderly Duke students on weekends. Although lacrosse players rented a large house at 1206 W. Markham, Captain Sarvis said it was not among the top 10 houses about which neighbors complained the most.²² Nor did lacrosse players as a group stand out as the worst student offenders. Captain Sarvis said the fraternity-affiliated houses presented a greater challenge to police than any of the houses rented by athletes.²³ The

²¹ The Committee also asked the Durham Police to inform it of any arrests that were recorded for Lacrosse players from 2000 until now. The Committee gave the Police the names of 90 players. The Department would indicate only whether it had arrested any of the players, and the nature of the alleged conduct. The Department had arrest records for 8 of the players. Virtually all of the cases were alcohol-related. According to the Department twelve charges were filed against the eight players: Vandalism, Drunk and Disorderly, Failure to Appear (2 cases), Public Urination, Indecent Exposure, Underage Possession of Alcohol (3 cases), Disorderly Conduct/Fighting and Possession of an Open Container of Alcohol in a Vehicle (2 cases).

²² Captain Sarvis sent the Committee a list of the top ten rental houses that generated the most calls to the police in District 2 between 2003 and 2005. The list is attached as Exhibit 7.

committee senses that since the March 13th incident, some Trinity Park/Trinity Heights residents' legitimate frustrations with Duke students have been inappropriately attributed to lacrosse players.

ii. Lacrosse players compared to other athletes

The Committee asked the Office of Judicial Affairs to provide disciplinary histories for other athletic teams to which we could compare the lacrosse team's record. By all measures that we considered, the disciplinary record of the lacrosse team was noticeably worse than the records of all other athletic teams. A greater percentage of the lacrosse players had disciplinary records than the percentage on all but one other team.²⁴ A larger percentage of the lacrosse team have been involved in alcohol-related incidents than the percentage of players on all other teams.²⁵ However, the nature of the incidents in which the lacrosse players were involved did not differ from the nature of incidents in which other athletes were involved.

iii. An attempt to compare apples and apples

The University annually reports statistics relating to student misconduct. These statistics are not as comprehensive as the data examined by the Committee; far fewer incidents of student misconduct are reported. Therefore, in an effort to compare the conduct of lacrosse students to the conduct of Duke students generally, the Committee asked the Office of Judicial Affairs to breakout the cases of lacrosse players from the reports published on its website for the 2004 - 2005 academic year.²⁶

²³ Captain Sarvis referred to rental properties as a "lacrosse house" or a "fraternity house" because those were the tenants; the reference did not mean that the misconduct that took place at the house was the exclusive fault of lacrosse players or fraternity members.

Captain Sarvis said that neighbors of Duke students who called the police often felt harassed afterward. This is consistent with the statement of Risa Foster who reported that two years ago tenants at 1206 West Markham harassed a lesbian couple who had complained to the police about their parties.

²⁴ The men's golf team had a higher percentage of its members with disciplinary records, but it is significantly smaller than the lacrosse team. The results for all Duke teams are set out in Exhibit 8.

²⁵ The disciplinary incidents involving athletes from selected teams are set out in Exhibit 9.

²⁶ The Office of judicial Affairs publishes three types of disciplinary reports. The Office publishes the disciplinary statistics for the undergraduate Judicial System, "Alcohol Statistics at a Glance," and "Off-campus Disciplinary Statistics." These reports can be found on the official website of the Duke Office of Judicial Affairs. <http://judicial.studentaffairs.duke.edu/>

The 47 students on the lacrosse team comprise 0.7 % of the 6,658 Duke students enrolled in the 2004/2005 academic year. For that year, the Office of Judicial Affairs formally handled matters involving 541 students. The Office adjudicated 142 of these cases; forty-five of the cases involved alleged academic misconduct and ninety-seven involved allegations of non-academic misconduct. None of the academic misconduct cases involved lacrosse students. Eleven of the 97 non-academic cases involved lacrosse players (11%). Ten of the cases were adjudicated administratively and one was adjudicated by the University Judicial Board. Five of the eleven cases involved alleged underage possession of alcohol. Four cases involved alleged violations of the Community Standard on alcohol. Two of the cases involved theft (use of another student's Duke card to make food purchases).

Eight of the eleven players with adjudicated cases were sophomores and three were freshmen. None of the lacrosse juniors or seniors was involved in any of the adjudicated cases. Eight of the players were first time offenders (6% of all first time offenders) and three were repeat offenders (15% of all repeat offenders). Six of the complaints against the lacrosse players came from University catering; five came from supervisors in residential housing. Seven of the eleven students were found guilty of at least one of the charges against them (6% of all students found guilty) and four students were acquitted of all charges (23% of all students acquitted).²⁹

Four of the students found guilty were placed on disciplinary probation.³⁰ Three of the students were ordered to provide community service. Two of the students were ordered to apologize to those they had offended. Two students were ordered to participate in educational programs. And one student was given a suspended revocation of his housing license. These sanctions were typical of sanctions generally imposed on Duke students for similar conduct.

The Office of Judicial Affairs published statistics on alcohol-related incidents for the 2004 - 2005 academic year. The Committee asked the office to breakout lacrosse players from those data.³¹ One of the two categories of statistics in which lacrosse players appeared related to the nine cases discussed above in which players were formally adjudicated. We were not able to breakout lacrosse players who were subjected to liquor law disciplinary referrals. None of the lacrosse players were involved in any alcohol-related medical calls.

Finally, the Office of Judicial Affairs published an "Off-campus Summary" of incidents in the Fall of 2005. The Office also broke out those data to identify cases involving lacrosse players.³² The breakout shows the following:

²⁹ Only one of the lacrosse players appealed his conviction. The appeal was denied.

³⁰ Some students received more than one kind of sanction.

³¹ The breakout is attached as Exhibit 10.

³² The breakout is attached at Exhibit 11.

0.75 % (47/6244) Duke undergraduate students were lacrosse players in the Fall of 2005.

4% of the students listed in the chart were LAX players (8/201)

4% of the adjudicated students were LAX players (8/188)

4% of the administrative resolution cases were LAX players (8/187)

4% of total charges-responsible were LAX players (5/126)

2% of total alcohol policy cases were LAX players (2/187)

2% of underage possession cases were LAX players (2/92)

25% of the disorderly conduct cases were LAX players (1/4)

40% of the Other cases were Lax players (2/5)

50% of the noise ordinance cases were LAX players (1/2)

33% of the open container cases were LAX players (1/3)

4% of sanctions involved LAX players (6/138)

5% of warnings involved LAX players (5/106)

6% of written assignments involved LAX players (1/17)

5% of the Total charges-not responsible were LAX players

5% of cases involving alcohol policy were LAX players (4/75)

2% of alcohol-underage cases were LAX players (4/75)

21% of alcohol-unsafe behavior were LAX players (3/14)

* * *

In summary, the non-academic disciplinary record of the lacrosse team that the Committee examined deserved the full attention of the Division of Student Affairs and the Athletic Department. The Committee does not believe that either gave sufficient attention to the conduct.

- 2. Administrators responsible for the discipline of students were generally aware of the irresponsible conduct of lacrosse players associated with drinking. With the exception of the Office of Judicial Affairs, none of these administrators was especially alarmed by the conduct. Although some administrators claim that they communicated their concerns to Coach Pressler, there is no evidence that they adequately did so.**

The most persistent concern of administrators in the Division of Student Affairs and the Athletic Department relating to the conduct of lacrosse players was with their prominent role in the fall Tailgate events, not the team's extensive disciplinary record. Although successive administrators in the Office of Judicial Affairs were generally aware that lacrosse players were often entangled in the disciplinary process, they did not take steps to determine the full extent of the record until the Fall of 2004. When the Dean for Judicial Affairs determined both the number of disciplinary charges against members of the lacrosse team and the number of lacrosse players against whom charges had been filed, various administrators discussed what to do about it. Eventually, administrators brought the disciplinary record of his players to the attention of Coach Pressler. But neither administrators in Student Affairs nor administrators responsible for the Athletic Department adequately conveyed to Coach Pressler any sense of alarm. Nor did the administrators responsible for the Athletic Department demand that Coach Pressler take extraordinary action to address the problem. Indeed, after advising Coach Pressler of his team's problematic disciplinary record, the Athletic Director extended the Coach's contract for an unprecedented three years.

- a. Tailgate

There is no dispute among senior administrators in the Division of Student Affairs and the Athletic Department that their primary focus on the behavior of lacrosse players centered around the team's conduct at Tailgate events, not the disciplinary record of the team. Beginning about two years ago, representatives from the Student Affairs and the Athletic Department along with representatives of the Duke University police met to discuss how to control the outrageously excessive behavior of Duke students at Tailgate. In 2005, those meetings focused on getting the lacrosse and baseball teams to help; players from those teams are credited with starting the Tailgate tradition, and were among its most lusty participants.

Tailgate became a source of concern for Student Affairs after the University banned beer kegs from campus in 2001 - 2002. In reaction, students sought ways to circumvent the new policy. One response was to hold tailgate parties before football games. Originally these tailgates, lead by lacrosse and baseball players, were held just off campus, where students thought they could use kegs. The Vice President for Student Affairs appealed to the Athletic Director to get the baseball and lacrosse players to remove the kegs. In the Fall of 2003, the student tailgates had moved to the parking lots around the athletic fields and clashed with tailgate parties being held by opposing fans in the same locations; there also was other misbehavior,

including damage to cars, foul language, and excessive drinking. Eventually, Student Affairs intervened and assumed control over the event.³⁴

The Executive Vice President told the Committee that in the summer of 2005, he put pressure on the Athletic Director to enlist the assistance of the baseball and lacrosse coaches to help moderate Tailgate. The Athletic Director met with the two coaches and requested their aid. He did not direct them to respond in any particular way. The baseball coach banned his players from the event. The lacrosse coach took a different approach.

Coach Pressler did not think it was appropriate to ban his team from an event generally open to Duke students and sponsored by Student Affairs. In the Fall of 2005, the group of administrators who monitored Tailgate decided to impose a time limit for the event, to encourage students to stop drinking and attend the football game. Coach Pressler took action that he thought would contribute to that goal. He ordered his players to leave Tailgate fifteen minutes before the football game, to meet him at the flagpole outside the football stadium, and then as a group to attend at least the first half of the game. Administrators in Student Affairs hoped other students would follow the lacrosse players out of Tailgate and into the game because of their prominence in the event.

Coach Pressler told the Committee that his team strictly obeyed his order and left the Tailgate and attended the game. This was corroborated by the assistant lacrosse coach and by the team trainer. Although other students followed the lacrosse players out of the first few Tailgates, they stopped doing so mid-way into the season.

The Vice President for Student Affairs concluded the effort to recruit the lacrosse players to help moderate Tailgate was a failure. He told the Committee, "Our request had been to recruit the team to help start the exodus from the tailgate and for them to help encourage others to head to the football game. That never happened." The failure, however, cannot fairly be blamed on either the lacrosse players or their coach.

The significance of the lacrosse team's behavior at Tailgate is reflected in the fact that the Athletic Director specifically mentioned it in his discussion with Coach Pressler when he renewed the coach's contract in June 2005. That was before Pressler put his Tailgate plan into effect. When the coach's contract was renewed, there was no mention of the team's disciplinary record. The Committee believes it is significant that the Coach's contract was extended for an unprecedented three years.

³⁴ Student Affairs established a fenced in location for the event and provided food and non-alcoholic beverages. Robert Dean, Director of the Duke Police, agreed that the area became a law-enforcement-free zone. Administrators from Student Affairs patrolled inside the fence and the Duke police remained outside the perimeter, directing traffic and occasionally warning students about public urination. The Dean of Students said administrators did not police the area for underage drinking; their goal was only to keep drunken students safe and alive.

Although Coach Pressler's response to the demand that he do something about Tailgate did not result in the goal set for students in general, it did result in a change in his team's behavior. The Dean of Students acknowledged that after Coach Pressler intervened in the Fall of 2005, the conduct of lacrosse players at Tailgate improved; the players dispersed at the designated end of the event and did not linger.

Although all of the officials whom we interviewed identified Tailgate as the signature event demonstrating the lacrosse team's excessive behavior, at best they seemed ambivalent about that behavior. The Vice President for Student Affairs, who attended the tailgates along with the Dean of Students, wrote that, "[t]he lacrosse section of the tailgate zone was generally one of the most 'energetic' and by the last game had grown to include a foam machine and foam pit for collective dancing. Actually, it was quite entertaining."

b. The response of administrators to the lacrosse team's disciplinary record

There is no question that the extensive disciplinary record of the lacrosse team came to the attention of administrators in the Fall of 2004. It is equally clear that, perhaps other than the Dean of Judicial Affairs, none of the administrators who knew about the record was alarmed about it or demanded that any extraordinary action be taken to address it.

The focal point of administrators' discussion of the lacrosse team's disciplinary record was a compilation of the record that the Dean of Judicial Affairs prepared in the Fall of 2004.³⁵ Immediately prior to preparing the document, the dean had estimated that "67% of the team has had a disciplinary history (either formally or informally resolved by RC's/Judicial Affairs)."

On September 8, 2004, before the team's disciplinary record had been compiled, Stephen Bryan, the Dean of Judicial Affairs, and Sue Wasiolek, the Dean of Students, and others met with the coach of the lacrosse team to discuss his players' behavior. The meeting was one of several Student Affairs had with athletic teams; it was not prompted by anything specifically relating to the lacrosse team. The administrators met with the coaches of the lacrosse, basketball, football, baseball and soccer teams. The meetings lasted an hour. As a preview of what he wanted to discuss with Coach Pressler, Bryan forwarded to Pressler an email he had received from a Residential Coordinator, detailing the misconduct of lacrosse players in residential housing, including the suspicion that two lacrosse players had assaulted another student off-campus.³⁶ Bryan said all of the coaches were supportive in the meetings, including the lacrosse coach. There was no follow up to any of the meetings.

After Bryan compiled the lacrosse team's disciplinary record in October 2004, he circulated it among administrators in Student Affairs, and eventually it was sent to Tallman Trask, the Executive Vice President of the University. The report was never discussed at any

³⁵ The document prepared by the Dean for Judicial Affairs is attached as Exhibit 12.

³⁶ This suspicion was never confirmed. The student did not file charges against the suspected players.

Senior Leadership meeting of top University officials, although student conduct at Tailgate was discussed at such meetings. Nor was the report discussed among administrators in Student Affairs.

Although officials in Student Affairs were concerned about the lacrosse team's disciplinary record, none of them appeared to have been alarmed by it. The Dean of Students thought the players conduct was an "irritant," more because of the repetitiveness of their misbehavior than the nature of it. The Vice President of Student Affairs appeared more concerned about the behavior. He thought the team was getting away with things, but he also thought the individual cases had been handled appropriately by Judicial Affairs. He felt the collective significance of the conduct was not being addressed, but he did nothing to make that happen.³⁷

Executive Vice President Trask did not think the report was particularly serious. He learned from the documented history that lacrosse players liked to hang out as a group and drink beer. When they were caught three or four times a year, they were disciplined, but Trask suggested that the sanctions imposed were not sufficiently severe to act as a deterrent. Based upon that assessment, he did not feel it was necessary for him to intervene, beyond bringing the matter to Athletic Director Joe Alleva's attention.³⁸

Before Trask met with Alleva in the late Fall of 2004, apparently no one else had spoken to Alleva about the lacrosse team's disciplinary record. Trask told Alleva there were too many infractions, but added that the record was not serious enough to warrant doing anything drastic to the lacrosse program. Trask showed Alleva a copy of the written disciplinary report, but, according to Alleva, did not give him a copy. Nor did Alleva ask for a copy.

Alleva subsequently met with Pressler to discuss his team's conduct. Pressler did not, at that time, see the written report detailing his team's disciplinary record. Alleva told the Committee that he warned Pressler that his team was "under a microscope." The Committee could not substantiate such a warning. Pressler denies that Alleva or anyone else told him that his team was out of control. Pressler acknowledged that Alleva told him about the meeting with

³⁷ In September 2004, in response to an email from Christoph Guttentag, Director, Office of Undergraduate Admissions, suggesting ways in which Admissions might have an impact on the lacrosse team's behavior, Moneta sent Guttentag and others a response proposing a "meeting for key stakeholders to discuss athlete and fan behaviors was warranted." Such a meeting was never held.

The Committee interviewed Leonard Satterwhite erwhwhite, Senior Associate Director of Undergraduate Admissions to determine if the University had admitted lacrosse recruits with disciplinary records. In his six years working with admissions for lacrosse recruits, Satterwhite dealt with only two cases in which the recruits had a disciplinary record in high school. He did not think that was a particular problem for lacrosse recruits.

³⁸ Trask raised the matter with Alleva in his role as Alleva's informal supervisor.

Trask. Alleva told Pressler that his team's misconduct was a problem and he needed to deal with it. Alleva said none of the individual incidents was serious, but the frequency of incidents was a problem. Pressler said Alleva did not tell him that "you're on warning or else." Earlier this year, Alleva suggested to Pressler that he record whenever he disciplined his players for misconduct. Pressler told the Committee that he did so informally and that he notified Kennedy of what action he had taken.

Pressler saw the summary of his team's written disciplinary record for the first time in a meeting in June 2005, which was held to discuss his team's misconduct in the Southgate residential hall in May 2005. As a result of that conduct, Eddie Hull, Dean for Residential Life and Housing, banned the team from further use of the East Campus residential halls after the end of the school year. The team had stayed in dormitories during that period to complete their season.³⁹

In response to seeing his team's written disciplinary record in June 2005, Pressler initiated a meeting with Bryan in July 2005 and asked Bryan to notify Pressler and Chris Kennedy whenever a member of his team was cited for any infraction.⁴⁰ Bryan subsequently sent Pressler and Chris Kennedy, the Senior Athletic Director, emails describing charges being filed against eight lacrosse players. According to Pressler, four of the charges were subsequently dismissed. Residential Coordinators gave the remaining four players oral warnings. The last email that Bryan sent to Pressler is dated November 14, 2005. After that date, Bryan did not notify Pressler of any additional infractions by his players. Pressler assumed that Bryan was filtering out incidents that did not warrant the coach's attention.

Within the last month, Coach Pressler was asked to annotate the list on non-suspendable charges that Bryan had prepared in October 2004 to indicate both the incidents about which he had been informed and the disciplinary actions that he had taken in response.⁴¹ According to his notations, the coach was largely unaware of most of the incidents. With respect to the incidents of which he was aware, he took additional disciplinary action against either the individual involved, or the entire team when all of the players involved in an incident could not be identified. Most of the discipline imposed by the coach consisted of additional running. In one case, however, the Coach suspended two players from participating in the 2005 post-season, including play in the championship game. The players were not permitted to wear team uniforms or to sit with the team.

³⁹ The team also had damaged a dormitory in 2000, under the same circumstances. Hull told the Committee that after the meeting in June 2005, he thought the lacrosse team's conduct was building toward a train wreck. The Committee found nothing in the record prior to March 13, 2006, which reflects that any administrator felt that way.

⁴⁰ Bryan occasionally notified Pressler of player misconduct after their meeting in September 2004. But, it "wasn't until the summer of 2005 that [he] made a concerted effort to keep the coach informed of incidents involving his team. . . ."

⁴¹ A copy of the annotated document is attached as Exhibit 13.

Despite their knowledge of the extensive disciplinary record of the lacrosse team, neither the Executive Vice President, the Vice President for Student Affairs, the Dean of Students, nor the Athletic Director followed up the actions they took in the Fall of 2004 to determine if anything had been done to address the problem. Other than the Dean for Judicial Affairs and Coach Pressler, after he was made aware of specific incidents of misconduct, no other administrator appears to have treated the lacrosse team's disciplinary record as a matter of serious concern.

3. The University's ability systematically to monitor and address non-academic and non-suspendable athlete misconduct (and student misconduct generally) is hampered by an approach that is informal to the point of being casual. The result is a process that is arbitrary and often ineffective.

The University is not able systematically to monitor or produce a full account of student conduct. Rather, it relies upon the informal relationships of administrators with each other and, in the case of athlete conduct, the relationship of administrators with coaches, to disseminate information that is critical to the performance of their responsibilities and essential if coaches are to be held responsible for the conduct of their players. The Committee was able to examine the full disciplinary record of the lacrosse team only because of the extraordinary effort of the Office of Judicial Affairs and the Duke Police Department, and with the cooperation of the Durham Police.

In this case, the Director of the Office of Judicial Affairs did not always timely know what disciplinary incidents had occurred in residential halls. A rule that residential coordinators report second disciplinary offenses to the Director was not always observed.

Although the Office of Judicial Affairs and the Duke Police meet regularly to discuss student misconduct, such discussions do not always result in the police reporting all incidents to the Office. Whether the Durham police reports information to the University depends upon who has the information and what relationship he or she has with a member of the Duke Police or an administrator in Student Affairs.

Without the Office of Judicial Affairs having ready access to all relevant information relating to student conduct, there is no way that senior administrators in the Division of Student Affairs or the Athletic Department can discharge their responsibilities. Even with information, however, currently there is no system in place that ensures it will be disseminated to administrators who need it.

The relationship between the Division of Student Affairs and the Athletic Department in dealing with the conduct of the lacrosse team has been based upon personal relationships, not formal systems. The Committee's review reveals the inadequacy of personal relationships as a means of structuring communications between Student Affairs and the Athletic Department. Until Stephen Bryan and Coach Pressler began to communicate directly in July 2005, there was no affective link between Student Affairs and the Athletic Department that permitted the

Department to monitor adequately the conduct of student athletes.

In the past, the Division of Student Affairs has relied primarily upon the personal relationships of the Dean of Students and the Associate Dean of Judicial Affairs to bring disciplinary problems to the attention of individual coaches. Neither the Athletic Director nor administrators to whom the coaches report are regularly included in the process.

The Committee interviewed several coaches as part of this review. All of the coaches agree that Duke athletes should be held to a higher standard of conduct than the standard to which students generally are held. But the coaches all believe strongly that it is unfair to hold them accountable for their players' failure to meet the higher standard if there is no process to ensure that they are notified of disciplinary incidents involving their players. The Committee agrees. The Committee was surprised to learn that most of the coaches do not know the extent to which their players are involved in the disciplinary system. Most assume that their players have not had serious disciplinary problems, but they admit they do not know.

The policy of the Division of Student Affairs is to notify coaches only when their players are charged with suspendable offenses. Even that is done informally, usually by the Dean of Students calling the coach on the telephone; it is never done in writing. Coaches are not routinely notified of non-suspendable offenses such as underage drinking, noise violations, or any of the long list of charges made against the lacrosse players. The Associate Dean for Judicial Affairs summed up the situation:

. . . we have had no formal policy regarding coach notification, but we try to keep the coaches informed of incidents at least if there is an issue where suspension may result. [The Dean of Students] would often informally communicate these cases to the coach, which served to buffer [Judicial Affairs] from having to deal with coaches who wanted to press on potential outcomes.”

4. The University's ability to deal fully with the problem of alcohol is undermined by its own ambivalence toward drinking and the conduct it spawns.

Alcohol is the single greatest factor involved in the unacceptable behavior of Duke students in general and members of the lacrosse team specifically, both on- and off-campus. Drunkenness is the cause of behaviors that represent a serious nuisance to the community and a source of significant personal danger for the student. The University's alcohol policy is reasonable, but it is inconsistently enforced and only ineffectually disciplined. The University's ambivalence is most obviously manifested in the University's tolerance of egregious violations of its own policies at events such as Tailgate and Last Day of Classes, as outlined in the Report of the Committee to investigate the Judicial Procedure. While the alcohol related misconduct by members of the lacrosse team is deplorable, the University is, by its lack of leadership in this area of deep concern, implicated in the alcohol excesses of lacrosse players and of Duke students more generally.

RECOMMENDATIONS

1. Continuance of the Men's Lacrosse Team with appropriate oversight

Although the pattern of misconduct in recent years by the lacrosse players is alarming, the evidence reviewed by the Committee does not warrant suspension of the sport at Duke University next year. While the committee does not find a pattern of egregious player misconduct suggesting that the lacrosse program should be suspended at Duke, the repetitive nature of certain behavioral problems observed in this case require strict oversight and monitoring of the conduct of players in order to correct behavioral problems when they arise.

2. Code of Conduct for Athletes

An explicitly articulated Code of Conduct should be developed for all Duke University athletes. It is clear from our interviews that it is uniformly considered a privilege and an honor to be an athlete at Duke University and a responsibility that cannot be taken lightly. All agreed that Duke athletes should be held to a higher standard than other Duke students. As one coach put it, the spotlight shines brighter on Duke athletes than on other students at Duke and we would add, as recent events have reminded us, it certainly shines intensely on Duke University.

3. Need for Improved Communication between Student Affairs and Athletics

There has been a pattern of inadequate communication within and between the Division of Student Affairs and the Athletic Department at Duke regarding student behavioral violations more generally, and an improved system of communication needs to be developed and implemented.

4. Need for a Clearly Articulated and Enforced Alcohol Policy

The university's own apparent ambiguity regarding underage alcohol consumption conveys inconsistent messages and confuses expectations regarding alcohol. Duke University has fostered a number of problems among its undergraduates, including lacrosse players, by its ambivalent policies toward underage and over-consumption of alcohol at Duke. This problem needs serious review and remediation within the University.

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