AN INVESTIGATION OF THE IMPACT AND MEANING OF THE INFORMAL, NON-ACADEMIC CAMPUS JUDICIAL PROCESS FOR UNDERGRADUATE STUDENTS

by

MARTIN TATE HOWELL

(Under the direction of Diane L. Cooper)

ABSTRACT

The purpose of this study was to better understand the meaning students make of their interactions with campus judicial systems. It addressed research questions concerning students’ thoughts and feelings during the experience, views of the fairness of the process, views about personal outcomes from the process, and perceptions of ways the process may have affected them. The study was qualitative in nature and utilized a multiple case study approach. Ten students from three Research I institutions in the Southeastern U.S. were observed and interviewed. The findings are presented in categories that generally parallel the research questions.

Choice of informal resolution describes the most important reasons students gave for resolving their cases informally: (a) expediency, (b) uncertainty, and (c) culpability.

Affective experiences describes the thoughts and emotions faced by the participants. Two subcategories are discussed: (a) anxiety, and (b) relief.

Perceptions of fairness explores the participants’ views of the fairness of the judicial process. Those who thought that the process was fair identified four reasons: (a)
reasonable consequences, (b) opportunity to choose, (c) opportunity to explain, and (d) rules and punishment. Two students felt that the process was unfair, because of (a) perceived bias in the process and (b) perceived double jeopardy.

*Perceptions of outcomes* describes how participants viewed the results of the process given their circumstances. Students generally described their outcomes in positive terms, although two students described their outcomes in neutral terms.

*Learning attained* explores what participants believe they learned as a result of the campus judicial process. Four subcategories are discussed: (a) consideration of consequences, (b) empathy, (c) familiarity with judicial procedures, and (d) no perceived learning.

*Future behaviors* looks at how students believe they will moderate their behavior as a result of the experience. Students generally indicated that they would not repeat the specific behavior that violated the code of conduct. However, students were reluctant to change their behaviors around alcohol.

Finally, *complementary findings* includes findings that were not related to the original research questions. Two subcategories are discussed: (a) the experiences of students who have a concurrent court process, and (b) advice that students would give others about to enter the campus judicial process.

**INDEX WORDS:** Higher education, Student affairs, Judicial affairs, Student conduct, College student discipline, Student judicial, Moral development
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DEDICATION

This dissertation is dedicated to my wife Michelle. Without her love, her support, her sacrifices, and her encouragement, this – and many other things – would not have been possible.
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CHAPTER 1

INTRODUCTION

Since the beginnings of American higher education at Harvard in 1636, faculty members and administrators have faced the challenge of maintaining some semblance of stability on college campuses. While philosophical reasons for disciplining students have changed, and certainly the methods for disciplining students have changed, colleges and universities continue to deal with students who violate college policies and state and federal laws during their time on campus. The nature and scope of campus judicial systems vary according to institutional characteristics such as mission, size, governance, structure, residential character (or lack thereof), and specific needs of the community, but nearly all institutions of higher education in the United States today have procedures or systems in place to deal with student misbehavior.

Much has been written about the structure of these judicial systems, and the processes and procedures in judicial affairs are generally well documented. The literature contains a wealth of scholarship concerning such topics as due process, legal implications and constraints on judicial affairs, appropriate codes of conduct, and so on (i.e. Bryan & Mullendore, 1992; Caruso & Travelstead, 1987; Paterson & Kibler, 1998). Despite this abundant scholarship on judicial affairs policies and procedures, very little has been written about the educational aspects of judicial affairs.

Broad agreement seems to exist in the student affairs and judicial affairs literature regarding the purposes of campus judicial systems: (a) to promote and protect an
academic community where learning is valued and encouraged, and (b) to promote citizenship education and moral/ethical development for those who are involved in the judicial process, either by way of violation or implementation. Most judicial affairs administrators would likely agree that the second purpose is the most important, and the most challenging, aspect of student discipline.

Bracewell (1997) identifies three important questions that institutions must ask in order to “establish educational foundations equal to legal foundations for student conduct” (p. 47). Those questions are: (a) Why regulate student conduct? (b) Why do students violate published policies? and (c) What is the proper response to student misconduct?

The first question finds fairly broad agreement in the literature: the promotion and protection of the academic community, and the promotion of citizenship education and moral/ethical development for those who are involved in the judicial process. The institutional and academic mission of each institution moderates these purposes.

The second of Bracewell’s (1997) three questions concerns the students who interact with the judicial system. This implies at least two other corollary questions: (a) which students are likely to violate institutional policies? and (b) which institutional policies do they violate? Answers to either of these two questions, or his original question, would allow institutions to design programs and interventions that might prevent the violations in the first place. Numerous quantitative studies have focused on identifying the characteristics of students who become engaged with the judicial process, in an attempt to establish a relationship between those characteristics and judicial involvement. These studies (Bazik & Meyering, 1965; Dennis, 1988; Janosik, Davis, &
Spencer, 1985; Polomsky & Blackhurst, 2000; Tisdale & Brown, 1965; Tracey, Fost, Douglas, & Hillman, 1979; Williamson, Jorve, & Lagerstadt-Knudson, 1952) conducted as early as 1941 and as recently as 1988, attempted to determine what kinds of students typically violate college rules and regulations, and came to very similar conclusions. While the types and frequencies of disciplinary violations may have changed during that time period, the profile of the "typical" student did not. The question of which institutional policies students violate receives minimal attention in the literature, but some information does exist (Dannells, 1991). The question of why students violate institutional policies is left virtually unanswered. Other than a qualitative dissertation that attempted to discover students’ reasons for disciplinary behavior (Roberts, 1989), practitioners are left only with theoretical models to explain why students might violate behavioral policies.

Bracewell’s (1997) third question addresses the issue of educational effectiveness in judicial affairs practice. One might expect that the literature would inform practitioners of the efficacy of certain judicial processes and practices. However, research on judicial affairs practice is paltry at best. This is almost ironic when one considers the long history of judicial affairs or student discipline in higher education: “Although institutions of higher education in the United States have been engaged in the practice of student discipline for more than 300 years, we know surprisingly little about the effectiveness of our efforts” (Dannells, 1997, p. v).

In some ways this situation is not too surprising, however, since it is difficult to quantitatively assess the effectiveness of judicial interventions. Not only is the intervention typically brief in duration, but also there are several stages to the
intervention, including the initial confrontation by staff members, the investigation of the incident, the hearing, and the sanction. The student's level of personal development, as well as the student's experience at each stage of the intervention, affects the effectiveness of the intervention. Institutional and environmental differences, such as the scope of the code of conduct, the nature of the judicial process, and the extent of peer involvement, also complicate assessment and comparison among institutions (Dannells, 1997).

Answering the question of educational effectiveness, of course, means that the question of outcomes must first be answered (Braceywell, 1997): specifically, what is the desired educational outcome(s) of a campus judicial system? While the student affairs and judicial affairs literature offers various assumed answers to that question (such as a greater understanding of citizenship, and advanced psychosocial and moral development), no one knows what the actual outcome, educational or otherwise, is for students who violate institutional policies and then progress through the campus judicial system.

Statement of the Problem

For over three centuries, higher education in the United States has faced the challenge of disciplining students for misconduct on college campuses. Reasons for disciplining students have changed over the years, as have the procedures and methods of doing so. In the twentieth century, judicial affairs has become bound by certain legal restraints (especially at public institutions), and case law has determined that judicial systems must grant students certain rights that reflect principles of due process. Accordingly, the literature teems with research and scholarship on such topics as due
process, the legal implications and constraints on judicial affairs, and appropriate codes of conduct.

However, very little research has been done on judicial affairs practice. A few studies have examined the organization, structure, and scope of campus judicial systems, while several others have attempted to identify characteristics of students who become engaged with the judicial process. Aside from these aspects, however, the research on judicial affairs practice is sparse, an almost ironic state of affairs when one considers the long history of judicial affairs and student discipline in higher education.

Answering the question of effectiveness means that the question of outcomes must first be answered (Bracewell, 1997): specifically, what is the desired educational outcome of a campus judicial system? While the student affairs and judicial affairs literature offer various assumed answers to that question (such as a greater understanding of citizenship, or advanced psychosocial and moral development), no one knows what the actual outcome, educational or otherwise, is for students who violate institutional policies and then progress through the campus judicial system.

Purpose of the Study

The purpose of this study was to understand better the impact of the campus judicial process on undergraduate students, and to determine what meaning students make of their interaction with a judicial system. Specifically, this study did so by examining the case of students who took part in the informal student disciplinary process. The research questions that guided this study include:

1. What are the cognitive and affective experiences of students as they progress through the campus judicial process?
2. How do students view the fairness of the process? How do they construct their view of fairness?

3. How do students view the outcomes of the process in relation to their situation?

4. What, if anything, do students believe they have learned after completing the process?

5. In what ways do students believe their interaction with the campus judicial process will affect their future behavior?

The answers to these questions were then used to formulate recommendations for research and improved practice in judicial affairs.

Definitions of Terms

The following definitions were assumed for the purposes of this study:

1. Discipline: Dannells (1996) notes that within the context of student affairs work, discipline is defined in at least three ways: “(a) self-discipline, or that virtue which may be regarded as the essence of education, (b) the process of re-education or rehabilitation, and (c) punishment, [or] a means of external control of behavior” (pp. 178-179).

2. Campus judicial system: a process or a system of procedures by which institutions of higher education manage alleged violations of institutional codes of conduct or standards of behavior.

3. Informal judicial process: a process for resolving a violation of an institutional code of conduct or standard of behavior that typically involves only the student and a campus judicial officer – usually an alternative to a more formal hearing before a body of peers and/or faculty.
Limitations and Delimitations

This study had limitations and delimitations which must be acknowledged. Delimitations consist of those limits that the researcher chooses to impose on the study, while limitations are restrictions over which the researcher has no control (Rudestam & Newton, 1992). These are identified below.

First, this study was qualitative in nature. Creswell (1998) recommends that researchers use qualitative methods for several reasons, among them to explore a topic, to present a detailed examination of the topic, and to study participants in their ordinary settings. All of these reasons were consistent with the purposes of this study. However, qualitative research also carries with it inherent limitations. Qualitative studies approach problems from an interpretive paradigm. As Rossman and Rallis (1998) explain, “interpretivist research typically tries to understand the world as it is (the status quo) from the perspective of the individual’s experience . . .” (p. 35). Qualitative research strives to understand the meaning of a process or experience rather than to seek a definitive and predictable answer. In addition, like most qualitative research, this study was limited by small sample size, making the results not generalizable in the statistical sense. Instead, as Merriam (1995) points out, it is subject to “reader generalizability” (p. 58), meaning that the reader of the research must determine the applicability of the findings to his or her own particular situation.

Second, this study examined the practices of only three institutions, each of which has unique practices and operates in a unique environment. Although the use of three institutions provided richer data and led to stronger conclusions than the use of only one institution, more institutions would have provided even greater depth. In addition, all
three institutions were located in the same state, perhaps resulting in a less diverse group of participants than otherwise might have been obtained.

Third, students who chose to participate in this study may not have been typical students who go through the judicial system, because their motives for participating may have been very different. For example, some may have had specific agendas or issues they wished to express. These issues emerged from the data, but nevertheless may have colored the participant’s responses in unforeseen ways. While the researcher did not have the capacity to determine these motives prior to the participants’ self-selection into the study, he did remain attentive to them during the course of the study and attempted to discern how those motives affect the data.

Fourth, the participants for this study may not have formed a representative sample of the types of students who go through the judicial system. For example, all of the participants were Caucasian, and 9 of the 10 participants were male. In addition, 7 of the 10 participants encountered the judicial system because of alcohol-related incidents. These numbers may or may not reflect the demographics and types of incidents in the judicial systems under study. The participants are described more fully in Chapter 3.

Fifth, this study deliberately excluded certain kinds of judicial cases. Incidents that involved academic dishonesty were not included, nor were incidents of a violent or sexual nature. In addition, those students whose interaction with the campus judicial system could have resulted in separation from the institution were not included in the study.
Finally, the researcher must acknowledge his experience as a judicial officer in one of the campus judicial systems under study. These and other subjectivities the researcher brought to the study are more fully explored in chapter 3.

Overview of the Study

The remaining chapters of this study include a review of the literature (chapter 2), a review of the methodology (chapter 3), a report of the findings (chapter 4), and a discussion of the findings and recommendations for practice (chapter 5).

Chapter 2 reviews several aspects of the literature on campus judicial systems and provides context for the study. Specific issues that receive attention include an overview of the history, scope and organization, and legal context of campus judicial systems, an examination of the purposes of the judicial process, a discussion of the students in the judicial process, and a section on the assessment of effectiveness in campus judicial systems. Bracewell’s (1997) three questions provide a framework for the literature review.

Chapter 3 provides a review of the methodology used in the study. As this study is qualitative in nature, the chapter presents an overview of qualitative research and in particular the case study tradition, before discussing data collection and analysis techniques and providing profiles of the three campus judicial systems and the individual participants. The researcher also presents his personal subjectivities in this chapter.

Chapter 4 reports the findings of the study, and is generally organized into categories that parallel the research questions: (a) choice of informal resolution, (b) affective experiences, (c) perceptions of fairness, (d) perceptions of outcomes, (e) learning attained, (f) future behaviors, and (g) complementary findings.
Chapter 5 presents a discussion of the findings, explores the implications of these findings, and offers recommendations for further research and for improved practice in student judicial affairs.
CHAPTER 2
REVIEW OF THE LITERATURE

Historical Overview

Faculty and administrators in American higher education have long faced the challenge of maintaining some semblance of order on college campuses. While reasons and methods for disciplining students have changed, and certainly the methods for disciplining students have changed over time, colleges and universities continue to deal with students who violate college policies and state and federal laws. Today, most institutions of higher education in the United States have procedures or systems in place to deal with student misbehavior. This portion of the literature review traces the development of campus judicial systems in American higher education, from the colonial colleges to the present time, and provides context for this study.

The founders of the various American colonial colleges had very distinct purposes in mind when they set about to construct the nine institutions that existed before the American Revolution. Cohen (1998) notes that “in general, the colonists wanted to build communities that integrated religion with society, and religion depended upon on educated laity. They needed institutions to assist in acculturating the young . . .” (p. 19). The colonists needed to train their clergy, and to produce civic leaders who could guide the budding nation – “a learned clergy, and a lettered people” (Morison, 1935, as quoted in Rudolph, 1962/1990, p. 6).
The sectarian roots of the colleges, almost all of which were founded by religious denominations, ensured the blending of intellectual and moral education. The context was clearly religious, and this mandated “rigorous control of [the] social behavior” of students (Smith, 1994, p. 78). As a result, presidents and faculty exercised an authoritarian form of student governance over their young students – most of whom were between the ages of 14 and 18. “College life was designed as a system for controlling the often exuberant youth and for inculcating within them discipline, morals, and character, [and] the family that sent its youngster to the college expected that the institution would take charge of the boy’s life” (Cohen, 1998, p. 23). Although the relationship would not be recognized legally until over two centuries later, the colleges acted in loco parentis, or “in place of the parents.”

In acting in loco parentis, the colleges devised strict codes of conduct and rigid schedules which left almost no portion of students’ lives untouched (Dannells, 1997). The punishment for misbehavior of any sort was swift and direct, and those who administered discipline (usually the president) were harsh by today’s standards, meting out such punishments as “boxing” (a hard slap on the side of the head), public confessions and ridicule, and expulsion (Smith, 1994).

These strict practices, while expedient in controlling students, also resulted in distrust and hatred between students and faculty and administrators (Smith, 1994). Combined with this were the democratic ideals of the American revolution, which Rudolph (1962/1990) characterized as “a full-bodied statement that in America a man counted for more, took less account of his superiors . . . achieved whatever distinction his own ability and the bounty of the land allowed him, and looked any man in the eye and
knew him as an equal before the law . . .” (p. 84). Students, interested in personal liberty and frustrated with the control the colleges wielded over their lives, rebelled. Buildings were burned, professors and presidents were accosted, assaulted, and occasionally killed, alcohol was consumed, and riots broke out with some frequency (Rudolph, 1962/1990; Smith, 1994).

These acts of undisciplined behavior led Thomas Jefferson to write in a letter to a friend that “the rock which I most dread is the discipline of the institution [University of Virginia]” (Hessign, 1999, p. 240). Holding tightly to his republican beliefs in government as well as education, Jefferson believed that institutions of higher education should not resort to tactics based on fear and humiliation, believing that these “cannot be the best process for producing erect character” (Hessign, 1999, p. 240). Simply put, Jefferson believed that by treating students as adults, they would act in a more adult-like manner. In this spirit, Jefferson proposed that students regulate their own behavior through a peer judicial body called the Board of Censors. An informal honor code even prevented students from reporting each other to college authorities (Smith, 1994). Unfortunately, Jefferson’s experiment failed in less than a year, and he subsequently constructed a new code of conduct that disbanded the student board and informed students that “coercion must be resorted to where confidence has been disappointed” (Hessign, 1999). Riots soon followed (Smith, 1994).

According to Rudolph (1962/1990), the riots and disorder of the early 19th century “documented the failure of the colleges to provide altogether suitable ‘rites of adolescence,’ satisfactory outlets for quite normal animal energy and human imagination.
They also emphasized the difficulty, even the impossibility, of following aristocratic traditions in a dynamic democratic society” (p. 98).

Slowly but surely, the relationship between students and those responsible for discipline changed as the century progressed, as did the nature of discipline itself. In part, this change was a result of the emergence of organized student activities, including societies devoted to literature, religion, music, and socializing. Along with athletics, the growing extra-curriculum provided for the release of “youthful energies” in a much more benign way.

More importantly, however, was the more tolerant attitude of many college presidents towards student behavior. By the end of the century many of the leading institutions had abandoned strict discipline and had instead instituted what Smith (1994) termed a period of “disciplinary enlightenment.” Rudolph (1962/1990) notes that “student conscience was now being developed in an atmosphere of freedom rather than of authority. At one time convinced of the natural depravity of man, Americans had now come to believe in his [sic] inherent goodness” (p. 108). New disciplinary practices resulted from this more relaxed stance towards students, including new attempts at self-governance at such institutions as Amherst and Colgate (Smith, 1994).

The role and attitude of the faculty saw a similar change. Up to this point, faculty played a central role in student life on college campuses, involving themselves in behavioral discipline as well as mental and intellectual discipline. The influence of the scholarly ideal of German universities was taking root, however, and “faculty increasingly disinclined to engage in disciplinary matters, or in student life in general. Faculty trained in the German tradition found the approach of faculty as monitors of
student behavior demeaning to their role as research scholars” (Dannells, 1997, p. 7). As the faculty relinquished their role as disciplinarians, “the responsibility fell back to presidents, who increasingly delegated it to specialists chosen from among the faculty for their rapport with students, or to student groups in the form of student governments and honors systems” (Dannells, 1997, p. 8). These specialists developed into Deans of Men and Women, and later Deans of Students. The first known Dean was Ephriam Gurney at Harvard University, whose responsibilities included relieving the President of student discipline in addition to his teaching responsibilities. In 1891, Harvard appointed LeBaron Briggs to a position that is often considered the first true Dean of Students. His duties were nonacademic, and included discipline, registration and records, and “other aspects of students’ lives outside the classroom” (Rentz, 1996, p. 36). Consistent with the move away from paternalistic and authoritarian student discipline, the Deans continued the pattern of “disciplinary enlightenment”:

The early deans expanded on both the philosophy and practice of student discipline. Philosopically, they were humanistic, optimistic, and idealistic. They approached discipline with the ultimate goal of student self-control and self-discipline, and they used individualized and preventative methods in an effort to foster the development of the whole student. Counseling became a popular form of corrective action, and self-governance and student involvement in disciplinary systems were generally encouraged. (Dannells, 1997, p. 8)

The early 20th century saw the emergence of the student personnel movement, which itself grew out of several other movements, including vocational guidance, applied psychology, educational testing and measurement, and mental hygiene and health (Dannells, 1997). Philosophically, these student personnel workers were of the mind that the purpose of higher education was to assist students in developing to the fullest extent of their abilities, and to contribute to the betterment of society. In addition, these workers
emphasized the development of the whole student as a person, rather than just his or her intellectual training alone (American Council on Higher Education, 1937). The idealism of these student personnel workers came into conflict with the deans’ disciplining of students, since it seemed antithetical to their work in developing students, thus separating the “punishing” deans from the “promoting” student personnel worker (Dannells, 1996).

The Great Depression and World War II would change higher education on a scale not seen before in the United States. Through the 1920s and 1930s, however, the view of the “collegiate way” persisted, a view that Rudolph (1962/1990) described as

. . . the notion that a curriculum, a library, a faculty, and students are not enough to make a college. It is an adherence to the residential scheme of things. It is respectful of quiet rural settings, dependant on dormitories, committed to dining halls, permeated by paternalism. . . . The college was ‘a large family, sleeping, eating, studying, and worshipping together under one roof’ (pp. 87-88).

The harmony of the college experience in the early decades of the 20th century saw a slight increase in enrollment, and was interrupted only intermittently as students became involved in social issues. Women students and faculty joined the suffrage movement, some students participated in antiwar protests during the 1930s, along with strikes against coal mines and clothing manufacturers (Cohen, 1998). For the most part, however, it was a period of calm that was not marked by significant issues or developments in campus judicial systems.

When World War II arrived, college men went off to war, and colleges functioned in part as training centers for military officers (Cohen, 1998). In 1945, however, those men who went off to war returned to the United States, and with the help of the Servicemen’s Readjustment Act of 1944 (commonly known as the GI Bill), returned to college in great numbers. These students were not the same students of the 1930s,
however. They were older, more worldly, and more experienced; in addition, they were a much more diverse group with greater aspirations.

World War II also effected numerous societal changes, many of which were reflected in the student affairs profession itself. The 1949 revision of the *Student Personnel Point of View* (American Council on Education, 1949) stated that one of the primary goals of education should be “education for a fuller realization of democracy, in every phase of living” (p. 1). One result of this new awareness of democracy was increased student involvement in disciplinary hearing boards, although that involvement was also increasingly scrutinized as both students and administrators questioned the effectiveness of such boards (Dannells, 1997; Smith, 1994). Dannells (1997) notes that an increased emphasis on the rehabilitation of student offenders characterized the 1940s and 1950s, and that counselors performed more disciplinary work.

The post-war period, however, would prove to be the calm before the storm. With the arrival of the 1960s,

. . . the U.S. Constitution came onto the campus. . . . Students across the country observed the civil rights movement, and many took part in the quest for equal rights. The student rights movement in California, free speech demonstrations, protests against the war in Vietnam, and protests against the draft logically led to campus protests of conduct regulations and disciplinary sanctions. Dress codes and curfews for women, institutional controls over who might speak on campus, live-in requirements for freshmen, and disciplinary suspensions and expulsions by deans were all obvious targets for students of the 1960s (Bracewell, 1997, pp. 46-47).

The protests, violence, and general disobedience of students during this time posed a difficult challenge for campus judicial systems. Despite the endorsement of student involvement in the judicial process by the *Joint Statement on Rights and Freedoms of Students* (AAUP, USNSA, AAC, NASPA, & NAWDC, 1967), administrators became
increasingly reluctant to include students on disciplinary boards as the proceedings themselves became more tumultuous, “often the stage for dissent of one form or another” (Dannells, 1997).

Dannells (1997) suggests that the 1960s left two enduring legacies for campus judicial systems. First, the idea of *in loco parentis*, a staple of college student life for nearly 300 years, was dealt a serious blow, and students began to benefit from contractual, rather than parental, relationships with their institutions. Second, the litigation about disciplinary procedures during the period set the tone for an increased legalism and adversarialism in campus judicial systems.

Surely the most important piece of litigation that affected student discipline during the period was *Dixon v. Alabama State Board of Education* (1961), which contributed to both of the legacies identified by Dannells (1997). In *Dixon*, the 5th Circuit Court of Appeals “declared that due process requires notice and some opportunity for a hearing before students at a tax-supported college could be expelled for misconduct” (Nuss, 1996, pp. 33-34). A number of other court decisions, along with the ratification of the Twenty-Sixth Amendment which lowered the voting age to 18 (Dannells, 1997), gave credibility to the recognition that “persons above the age of eighteen are legally adults and that students at public colleges do not relinquish their fundamental constitutional rights” when they enter the institution (Nuss, 1996, p. 34).

*Dixon* and the other court cases foreshadowed an increasing federal involvement in campus judicial systems that has left student judicial officers struggling to find a balance between the position of providing education and development for student offenders and the position of legalism: due process, students’ First and Fourteenth
Amendment constitutional rights, reporting requirements, and so on (Dannells, 1997). Indeed, judicial affairs administrators struggle with a myriad of issues today, and are challenged by a student body that is increasingly diverse in backgrounds, values, and points of view. Students arrive on campus with varied levels of ability to deal with the social and academic pressures of the campus, which can manifest itself through inappropriate acting-out behavior (ASJA, 1998). New legislation, on both the state and federal level, requires an increased level of attention to governmental regulations and judicial decisions. Dannells (1996) identifies several other current issues facing judicial affairs, including psychiatric withdrawals, academic misconduct, and the use of technology.

Some student affairs professionals believe that the increasingly complex legal environment will lead to a return of in loco parentis in higher education. Black (2000) suggests that external constituents (parents, legislators, media) already expect colleges and universities to assume greater responsibility for students’ lives. He cites several spheres in which this occurs, including the provision of safety and crime information to students, new regulations which allow institutions to notify parents of alcohol and drug violations, demands for education about alcohol/drug and other health issues, liability concerns over appropriate responses to students in distress, and pressure from external groups to control and/or prevent negative student behaviors. Black notes that this all occurs in an era when “students have much more legal and social responsibility for themselves, their education, and their lives” (¶ 3). Forewarning the inevitable conflict ahead, he writes that “as collegiate ‘in loco parentis’ slips more into campus
programming as well as behavior and policy development, colleges and universities need to balance student rights with growing campus responsibilities” (¶ 10).

Organization and Scope

Campus judicial systems vary greatly from institution to institution, depending upon such factors as mission, size, governance (public or private), residential character (or lack thereof), and specific needs of the community. Variation may occur in such areas as extent of authority and responsibility, overlap between campus and criminal procedures and between academic and behavioral misconduct, the degree of specificity with which behavior is defined and prohibited, the amount of due process afforded to students, the availability of sanctions, and the level of student participation (Dannells, 1996). Clearly this makes any kind of generalization difficult, although two studies (Lancaster, Cooper, & Harman, 1993; Steele, Johnson, & Rickard, 1984) concluded that larger and public institutions tend to have more decentralized, more formal, and more legalistic systems than do smaller and private institutions.

The Council for the Advancement of Standards offers some guidance as to the organization and structure of campus judicial systems, in terms of leadership of the judicial function and hearing officers and/or panels (Miller, 2001). For example, the standards state that “institutional disciplinary actions . . . must be administered in the context of a unified and coordinated set of regulations and processes . . . allegations of improper behavior must be encompassed in a single comprehensive judicial system for students” (Miller, 2001, pp. 110-111). The standards also require the use of hearing panels composed of members of the campus community who are provided adequate training, and adequate staffing by professional staff members with graduate education in
a relevant field. The person responsible for the campus judicial system must be well qualified and should have education in the behavioral sciences (Miller, 2001). Other questions, however, are not addressed by the standards or guidelines, including titles of chief judicial officers, to whom they should report, or what kinds of other student affairs responsibilities they should or should not undertake.

Research conducted on actual disciplinary practices reveals some information about these and other organizational and leadership questions. It appears that many campuses do not have offices dedicated specifically to judicial affairs, although the number has increased in recent decades. A 1981 survey conducted by Steele et al. (1984) found that only 12% of responding campuses had a judicial affairs office. By contrast, a more recent survey of public institutions by Bostic and Gonzalez (1999) found that 40% of those responding had a judicial affairs office.

Many campuses also do not have student affairs staff specifically dedicated to judicial affairs. In a 1990 survey conducted of 327 institutions around the country (Lancaster et al., 1993), just under half of responding campuses (50.77% of 167 public campuses, 46.46% of 157 private campuses) had a judicial officer assigned specifically to student discipline. Those with other responsibilities were most likely student affairs generalists, counselors, or student activities staff. Judicial officers at private institutions, smaller institutions, and institutions with Greek-letter organizations were more likely to have other responsibilities. In 85% of the responding institutions the person responsible for the campus judicial system reported directly to the chief student affairs officer or the president (Lancaster et al., 1993).
The same survey revealed that approximately 20% of responding institutions (25.23% of public campuses, 16.31% of private campuses) had residential hearing panels which heard cases, but less than 10% (9.54% of public campuses, 6.15% of private campuses) had faculty panels (Lancaster et al., 1993). The frequency of use of hearing panels in general is not clear, although Steele et al. (1984), in a survey conducted in 1981, found that approximately 30% of cases were handled through a judicial board of some kind. Also unclear is the composition of those panels, although Dannells (1990), in his 1988 survey, found that 11.6% of responding institutions had panels composed of all students, 3.4% of all faculty and staff, and 71.7% composed of a combination of students, faculty, and staff.

Although the diversity of the nation’s campuses makes it is difficult to generalize concerning the organization of campus judicial systems, somewhat more is known about their scope – jurisdiction, extent of due process procedures, and availability of sanctions. The Council for the Advancement of Standards (Miller, 2001) offers very little guidance in this area, perhaps preferring to leave these kinds of decision to individual institutions. Regarding jurisdiction, one only finds a guideline asserting that the institution should clearly state “how it defines student status and jurisdiction of the system, to include whether students can be held responsible for behavior which takes place off campus or between academic sessions” (p. 111). The standards do indicate that judicial processes and procedures “must ensure timely, substantive, and procedural due process” (p. 110), and goes on to recommend that opportunity for advice, a general time frame for resolution, and a description of individual responsibilities be included in that due process.

No guidance is offered regarding the availability or severity of sanctions.
Dannells (1997) articulates two important questions in regard to institutional jurisdiction: (a) when both institutional policies and criminal laws apply to a student’s behavior, “should the institution take internal action, seek external (criminal) action, or both?” (p. 22), and (b) should the institution take action against behavior that occurs off-campus? While very little research exists which might reveal institutional practices on the first question, case law clearly establishes that institutions do not violate the constitutional prohibition against double jeopardy by pursuing the matter through an internal process, since double jeopardy only applies to criminal proceedings, which campus actions, not based on criminal statutes, are not (Dannells, 1997). In a 1986 survey, however, Dannells (1991) found that civil law violations were more likely to be referred to civil authorities, and not dealt with by the institution, than they were a decade earlier.

Dannells (1990) also found a statistically significant increase in the number of institutions which responded to both on- and off-campus behavior from 1978 (35.7%) to 1988 (45.7%). Similarly, a statistically significant decrease existed in the number of institutions that only concerned themselves with on-campus behavior (56.4% in 1978; 43.3% in 1988). Perhaps institutions have decided to take a more proactive approach to the off-campus behavior of their students.

It appears that students are granted adequate due process within campus judicial systems. While more adequately explained later, due process is a flexible concept in that the amount of process due depends upon the nature of the right that may be deprived as a consequence for the action (Gehring, 2000; Wood & Wood, 1997). In his 1988 survey, Dannells (1990) found that over 70% of the responding campuses answered affirmatively
to offering the following due process procedures for cases that could result in dismissal:
(a) a prehearing investigation, (b) a hearing with explicit charges, (c) written notice of the
hearing, (d) opportunity to face accusers, (e) awareness of opposing testimony, (f)
opportunity to present a defense, (g) opportunity to present witnesses, (h) opportunity to
have non-legal counsel, (i) a choice as to whether or not to testify, (j) written notice of the
decision, and (k) opportunity to appeal the decision. Bostic and Gonzalez (1999), in
their more recent survey, found that over 70% of the responding judicial officers
answered affirmatively to offering exactly the same due process procedures. The
qualification of “cases resulting in dismissal” was not part of Bostic and Gonzalez’s
(1999) question on this point, which may suggest a fairly pervasive offering of due
process for all kinds of cases. In the same survey, judicial officers overwhelmingly
agreed with the statement that “students receive sufficient student rights and procedural
due process” (Bostic & Gonzalez, 1999). Whether or not an outside observer would agree
with the same question is unclear, but from a legal standpoint the most important
principle is that an institution follow its own procedures (Dannells, 1997).

In general, institutions have a wide range of sanctions available with which to
respond to student misconduct. Dannells (1997) identifies three categories of sanctions:
 punitive (those which warn students or place them on a disciplinary status), rehabilitative
 (more commonly referred to as educational or developmental), and environmental (those
 intended to reduce external causes of behavior). In his 1988 survey, Dannells (1990)
 found that the following punitive sanctions were most widely available, with at least 70%
of campuses answering affirmatively: (a) oral warning, (b) written reprimand, (c)
disciplinary probation (with and without restrictions), (d) monetary restitution, (e)
temporary dismissal, and (f) permanent dismissal. Although the ranking of availability changed, Bostic and Gonzalez (1999) found that at least 70% of campuses answered affirmatively to the same sanctions. In both surveys, the three least available punitive sanctions were required labor, penalty fine, and corporal punishment. In terms of the mean frequency with which these punitive sanctions were actually used, Dannells (1991) found that oral warnings, written reprimands, and probationary periods were the three most widely used, while temporary dismissal, permanent dismissal, and corporal punishment were the three least widely used.

Dannells (1990) also found that psychological testing, mandatory disciplinary counseling, and teaching/training were the most widely available rehabilitative sanctions, with approximately 50% or more of campuses answering affirmatively. Over 60% of campuses also responded that environmental manipulation was also available. None of the rehabilitative sanctions, however, seemed to be widely used (Dannells, 1991). Bostic and Gonzalez (1999) did not include this aspect of sanctioning in their survey. In general, then, one can probably conclude that punitive sanctions are the most widely available and the most widely used in campus judicial systems.

It is difficult, however, to draw many other definitive conclusions regarding the organization and scope of campus judicial systems because of the diversity of institutions and the diversity of approaches towards student discipline. Dannells (1997), however, after reviewing the research on trends in the administration of student discipline, did make the following observations: (a) student involvement remains high on most campuses, (b) the more serious the charges against the student, the more formal and legalistic the process for resolving cases, and more minor cases are handled less formally,
(c) milder sanctions are utilized more often than harsher penalties, (d) at smaller institutions, the entire campus judicial process is done in the dean of student’s office, (e) while most institutions have no planned changes in their campus judicial systems, but some have indicated a need for less formal and less legalistic processes, and (f) diversity continues to characterize the administration of campus discipline.

Legal Context

As Dannells (1997) and Black (2000) noted earlier, a recent trend in student discipline is increasing legalism and regulation. Gehring (1998) documents what he calls “the steady encroachment of external agencies on the operation and governance of higher education” (p. 4), referring to state and federal legislatures and courts. Whether or not his contention that such encroachment “puts higher education in . . . serious jeopardy of becoming a homogenized federal system of education” (p. 4) is true or not, it is clear that institutions of higher education, and administrators of campus judicial systems, must understand the legal constraints which define their relationships with students, and must comply with laws, regulations, and court rulings which affect their work (Gehring, 2000).

This section will briefly review the legal context in which campus judicial systems operate.

It is important to understand that students may have several different legal relationships with their institutions. Among them are constitutional, statutory, contractual, and common law relationships (Gehring, 2000). The fundamental source for determining the nature and scope of governmental powers is the U.S. Constitution, which guarantees important individual liberties to citizens. In higher education, constitutional protections of free speech, press, and religion are frequently subjects of litigation, as are
guarantees of due process and equal protection. In addition, students enjoy the rights provided for in state constitutions (Kaplin & Lee, 1995). However, these constitutional rights are not necessarily ensured in private institutions (Gehring, 2000; Kaplin & Lee, 1995), an important distinction which will be discussed later.

Both states and the federal government enact statutes that may also serve to define the relationship between student and institution. These statutes, and the rules and regulations written to clarify and enforce them, carry the full force of law (Gehring, 2000). Kaplin and Lee (1995) identify the rules and regulations promulgated by state and federal agencies as the fastest growing source of higher education law. As with constitutions, these statutes, rules, and regulations may or may not affect students at private institutions.

Students have contractual relationships with both public and private institutions. Gehring (2000) notes that contracts are generally defined as “a promise or set of promises for the breach of which the law gives remedy or the performance of which the law in some way recognizes as a duty” (p. 354). Contracts can be either implicit or explicit, and students may have both with an institution. Courts have recognized that an implicit contract exists between a student and an institution: if the student pays tuition and meets established academic and social requirements, he or she will receive a degree (Gehring, 2000). Kaplin and Lee (1995) note that “courts have accorded institutions considerable latitude to select and interpret their own contract terms and to change the terms to which they are subjected as they progress through the institution” (p. 374). Students may also have explicit contracts with their institutions, such as housing, food services, and loan agreements (Kaplin & Lee, 1995).
Finally, the student-institution relationship may be influenced by common law. Kaplin and Lee (1995) describe this as “judge-made law” (p. 15): opinions that do not interpret constitutions or statutes, but nevertheless create applicable precedent. Tort law is a component of common law (Kaplin & Lee, 1995), and may serve to define the relationship between student and institution. A tort of negligence, for example, involves a civil wrong where a breach of a duty owed takes place. Through case law, the courts have established three general duties which higher education institutions owe students: the provision of proper supervision, the furnishing of proper instruction, and the maintenance of equipment and facilities (Gehring, 2000). Common law serves to define and clarify these duties, and thus the relationship between institutions and students.

As noted earlier, private institutions have different legal relationships with their students than do public institutions. Kaplin and Lee (1995) note that because the federal Constitution “was designed to limit only the exercise of government powers” (p. 46), and since public institutions are subject to the authority of the government that created them, the institutions and their officers are constrained by the federal Constitution. Private institutions and their officers, however, have no such constraints: “insofar as the federal Constitution is concerned, a private university can engage in private acts of discrimination, prohibit student protests, or expel a student without affording the procedural safeguards that a public university is constitutionally required to provide” (Kaplin & Lee, 1995, p. 46). Essentially, this removes the federal Constitution from the legal relationship between the student and the private institution.

In practice, however, individual rights at private institutions are generally protected either by state constitutions, statutory law or common law (Kaplin & Lee,
1995). In general, the most important legal source for the relationship between students and private institutions is the implied contract existing between the two regarding the receipt of the degree (Carletta, 1998; Dannells, 1997). In terms of the campus judicial system, the regulations or rules regarding social behavior are published in the college catalog, student handbook, and other documents, as is a description of the process to be provided. Even though private institutions have broader discretion in creating and administering a judicial process, the courts have “traditionally protected students from actions which are clearly arbitrary although still within the institution’s stated policy” (Carletta, 1998, p. 50).

Campus judicial proceedings differ from criminal proceedings in several ways. Carletta (1998) notes that a primary difference exists in terms of purpose: while campus processes are generally assumed to be instructional or educational in nature, criminal systems are designed as punitive. Criminal processes, he notes, are “weighted heavily in favor of the protection of the accused’s rights” (p. 43), whereas campus judicial systems are established primarily with the protection of academic community in mind, and the rights afforded to the accused are far less extensive. Carletta (1998) also identifies several other differences as well, including the range of sanctions (incarceration is not available to campuses), burden of proof, use of evidence, and assistance by attorneys. The most important difference, however, is that campus judicial proceedings are not criminal proceedings. They are administrative or civil proceedings (Carletta, 1998), and thus no double jeopardy exists even when a criminal process may take place for the same offense (Carletta, 1998; Dannells, 1997; Kaplin & Lee, 1995).
Despite the differences that may exist between campus and criminal judicial systems, a certain amount of process is still due to students who encounter the campus judicial system. Due process flows from the Fourteenth Amendment of the U.S. Constitution, which states in part, “. . . nor shall any state deprive any person of life, liberty, or property, without due process of law . . .” The landmark case of *Dixon v. Alabama* (1961) established that when a property or liberty interest is at stake, campuses must offer due process before depriving students of that interest. While due process is a flexible concept in that the amount of process due depends upon the nature of the right that may be deprived as a consequence for the action (Gehring, 2000; Wood & Wood, 1997), court decisions have determined that public institutions must offer, at a minimum, the following due process in order to protect constitutional rights: (a) a notice of both the misconduct with which the student is charged and the policy that prohibits said misconduct, and (b) a hearing which allows the student an opportunity to present a defense (Kaplin & Lee, 1995). For cases where students may face dismissal from the institution, *Esteban v. Central Missouri State College* (1967) added the following elements: (a) an opportunity to review, in advance, the evidence which will be submitted against them at the hearing, (b) the right to bring counsel to the hearing for purposes of advice, (c) an opportunity to present an alternative version of the facts, through written statements or witnesses, (d) the right to hear evidence against them and question the institution’s witnesses, (e) the right to have the facts of the case decided based solely on the evidence presented at the hearing, and (f) a written statement of the hearing body’s finding, and (g) the right to make a recording of the hearing (Kaplin & Lee, 1995). While
not required if the process was fair, most institutions also offer an opportunity for an appeal of the original decision (Wood & Wood, 1997).

Private institutions are not obligated to provide the same due process, but because of their contractual relationship with the student they are obligated to follow their published procedures and to do so using rules of fundamental fairness (Footer, 1996). In order to determine whether or not fundamental fairness is achieved, courts have examined the processes to ensure the absence of arbitrary decisions and the presence of fair and reasonable procedures and substantial evidence (Kaplin & Lee, 1995). Even though private institutions are not required to observe the rigorous constitutional requirements of due process, many scholars (Dannells, 1997; Footer, 1996; Kaplin & Lee, 1995) recommend that they do so in order to meet the standard of fundamental fairness.

Campus judicial administrators must remain cognizant of these facts regarding the student’s relationship with the institution, the nature of the campus judicial process, and requirements of due process. In addition, “it is incumbent upon judicial affairs administrators to become familiar with applicable laws and policies and to assure that the processes of their institutions are in compliance” (ASJA, 1998, p. 15). Two contemporary examples serve to illustrate this point.

According to the Student Right-to-Know and Campus Security Act of 1990, as amended in 1998, campuses must report several items of information, including campus crime statistics. The law requires publication of campus crime data and the furnishing of that information to the campus community, as well as the Department of Education (Gehring, 2000). Campus judicial administrators are often involved in keeping data on
these kinds of crimes, and should make an effort to report them accurately and completely. Institutions who do not may face citations or stiff financial penalties, both of which the Department imposed on at least two occasions in recent years (Healy, 1999; Kiviat, 2000).

The Family Educational Rights and Privacy Act of 1974, also known as the Buckley Amendment, was designed for two purposes: (a) to guarantee students (over the age of 18) access to their educational records at an institution, and (b) to limit access to those records without the consent of the student (Gregory, 1998). Institutions may not release the educational records of any student to a third part without the student’s permission, or unless the situation is one of several exceptions noted in the law (Family Educational Rights and Privacy Act, 34 C.F.R. § 99). The law itself does not provide any clarity about whether or not “educational records” includes disciplinary records, although Gregory (1998) notes that the original version of the act did specifically incorporate records of student behavior. Several court cases have challenged the inclusion of disciplinary records under educational records, most of them related to state open records laws (Gregory 1998). In Georgia in 1993, the state Supreme Court ruled that disciplinary records are not protected from disclosure under FERPA and that disciplinary records were open to public inspection under the Georgia Open Records Act (The Red & Black Publishing Company, Inc. et al. v. The Board of Regents et al., 1993). A federal judge in Ohio, however, recently ruled that disciplinary records are included among educational records and therefore protected (United States of America v. The Miami University and The Ohio State University, 2000). An appeal is planned in this case (Healy, 2000).
FERPA has seen a number of amendments since originally passed (Gregory, 1998), but the most recent amendments, in 1998, allowed (but did not require) institutions to notify parents of students under the age of 21 if they are found responsible for violating institutional drug or alcohol policies (Gehring, 2000; Inter-Association Task Force, 2000). While many compelling arguments exist on both sides of this question, each institution must decide how it will proceed on this matter.

Purpose of the Campus Judicial Process

The first of Bracewell’s (1997) three questions that he believes will “establish educational foundations equal to legal foundations for student conduct” (p. 47) is: “why regulate student conduct?” (p. 47). This section explores that question by reviewing relevant literature from higher education and criminal justice. Dannells (1997) asserts that within the field of judicial affairs “there has been increasing interest and attention to the moral development of students and to the application of human development theories to that end” (p. 19), and consistent with his assertion, several theories of cognitive and moral development will receive consideration here also.

Several sources offer reasons for regulating student behavior, and there is substantial agreement among most of those sources. The Council for the Advancement of Standards (Miller, 2001) presents this guideline:

Judicial programs should support appropriate individual and group behavior as well as to [sic] protect the campus community from disruption and harm. The programs should be conducted in ways that will serve to foster the ethical development and personal integrity of students and the promotion of an environment that is in accord with the overall educational goal of the institution (p. 110).

The Association for Student Judicial Affairs (1998), in discussing the assumptions and beliefs central to judicial affairs, states that “institutions have an obligation to provide
a safe, supportive environment that is conducive to student learning and development.

This includes making students accountable for violations of community standards” (p. 13). An additional assumption made is that

the process should be educational for those who violate the standards and those responsible for enforcing them. Punishment is viewed as educational and developmental as students learn the reality of accountability. Students involved in developing and enforcing campus standards learn the responsibilities of citizenship (p. 13).

David Hoekema (1994) proposes three overarching goals for campus judicial systems: (a) to prevent exploitation and harm to students, (b) to promote an atmosphere conducive to free discussion and learning, and (c) to nurture a sense of mutual responsibility and moral community in students. Hoekema goes on to contend that any rule or policy can be classified under one of these three goals, and he offers a model which does so.

Bracewell (1997), in response to his own question about the purpose of a campus judicial system, mentions two reasons why institutions should regulate student behavior: to protect the values of the institution, and to reduce institutional liability in what he describes as a litigious society. In this regard, however, he also notes that “the double-edged sword of tort liability, however, allows suits if the institution has a regulation and does not enforce it” (p. 48). Bracewell (1997) also hints at another reason for promulgating rules of behavior, to promote citizenship.

In addition to the attention to moral and ethical development noted earlier, Dannells (1997) also observes another view of discipline, which he calls the “legalistic or strict constructionist view” (p. 19), that institutions may discipline students as a way of protecting the educational environment.
Two common themes run through these statements about the purpose of campus judicial systems: (a) to promote and protect an academic community where learning is valued and encouraged, and (b) to promote citizenship education and moral/ethical development for those who are involved in the judicial process, either by way of violation or implementation.

_Campus Judicial Systems and Campus Community_

The concept of community, which Lowery (1998) describes as an “often used and seldom understood term in higher education” (p. 19), tends to elude exact definition. An often-cited framework for community, however, comes from the Carnegie Foundation for the Advancement of Teaching (1990). While preparing their report on campus life, the authors felt that they needed

a larger, more integrative vision of community in higher education, one that focuses not on the length of time students spend on campus, but on the quality of the encounter, and relates not only to social activities, but to the classroom, too. The goal as we see it is to clarify both academic and civic standards, and above all, to define with some precision the enduring values that undergird a community of learning (p. 7).

In response, the authors proposed six principles that they believed would “provide an effective formula for day-to-day decision making . . . and define the kind of community every college and community should strive to be” (p. 7). The six principles call for colleges and universities to be:

1. educationally purposeful, where faculty and students share educational goals and work together to support teaching and learning,

2. open, where freedom of expression is protected and civility is valued,

3. just, where each person is treated as sacred and diversity is pursued,
4. disciplined, where members of the community accept their obligations to the group and where well-defined governance procedures guide behavior for the common good,

5. caring, where the well-being of each member is supported and service is encouraged, and

6. celebrative, where the heritage of the institution is honored and tradition is shared (Carnegie Foundation for the Advancement of Teaching, 1990).

The Association for Student Judicial Affairs (1998) affirms these principles and points out several ways in which campus judicial systems can help an institution realize these values. To support purposeful communities, “judicial affairs professionals have the opportunity to turn misconduct into ‘teachable moments’ in which students . .. can learn how to become reflective learners” (p. 12). To promote open communities, judicial systems must honor free speech and counter “incivility with civility and intolerant speech with more speech” (p. 12). To help create just and disciplined communities, judicial systems should design policies and programs which help create a community that fosters respect for each individual. To support caring communities, “student judicial administrators must [carefully] ensure that learning, not legalities, is the highest priority” (p. 13). Finally, in order to help the community celebrate its heritage, campus judicial systems can assist in preserving the principles of academic excellence, scholarship, and integrity (Association for Student Judicial Affairs, 1998).

Pavela (1996) too suggests that campus judicial systems have a crucial role in promoting community on the campus: “no other unit on campus has a greater role in fostering a community of values and reinforcing key virtues than an office of judicial
affairs” (p. 110). He goes on to write that “if the values and virtues associated with community life are to be affirmed, leadership will have to come from judicial affairs” (p. 110), and then goes on to suggest several ways in which this leadership might occur: (a) involving community members in dialogue about ethics and community values, (b) ensuring procedural fairness and efficiency, (c) giving students real responsibility to help set and enforce community standards, (d) helping students involved in implementing and resolving discipline see the process from a broader perspective, (e) protecting freedom of expression and encouraging civility, and (f) candidly evaluating its work and admitting its errors. Lowery (1998) identifies several more specific means by which campuses have addressed community-building: (a) conducting culture and values audits, (b) developing campus creeds and compacts, (c) developing community standards (typically for smaller segments of the campus community, such as residence halls), and (d) undertaking character education programs.

*Campus Judicial Systems and Moral/Ethical Development*

The theoretical base for cognitive and moral development currently available to student affairs includes at least three veins: (a) those theories that relate to awareness and processing of knowledge, (b) those related to moral development and moral decision-making, and (c) those related to learning styles. The first two of those veins will receive consideration here.

William Perry (1968) is generally considered one of the earliest cognitive theorists, and one who influenced several other cognitive theorists in later years (Evans, Forney, & Guido-DiBrito, 1998). His theory, based on a study of male undergraduates at Harvard University, outlines nine stages of relating to knowledge and understanding
different perspectives of truth. The nine stages can generally be categorized as dualism (believing that a single truth exists, and see others’ perspectives as either correct or incorrect), multiplicity (awareness and acceptance of multiple perspectives, but still believing in a single truth), relativism (acceptance and valuing of others’ perspectives based on their ability to provide support for those perspectives), and commitment to relativism (viewing knowledge as contextual). Perry’s later stages include, to some extent, elements of identity development in that a person’s perspectives on knowledge become integrated with his or her cognitive identity (Evans, et al., 1998).

More recent theorists, working independently but still influenced by Perry (Evans, et al., 1998), have constructed very similar schemes that describe awareness of and relationship to knowledge. King and Kitchener (1994), for example, in describing what they call “reflective judgment,” propose three general stages: pre-reflective (no awareness that uncertainty of knowledge exists), quasi-reflective (awareness of uncertainty in knowledge, but still seeking certainty), and reflective (an appreciation of knowledge as contextual and often uncertain). Marcia Baxter-Magolda (1992), in a series of qualitative studies of undergraduate students at Miami University of Ohio, developed a scheme that included four levels of relating to learning and reasoning that closely parallel those of Perry (1968). In each of these theories, there is a progression from viewing knowledge as certain to viewing knowledge as contextual. Progression, or development, is accomplished through experiences that challenge the person’s current view of knowledge and compel him or her to re-evaluate their awareness of knowledge (Evans, et al., 1998).
The second vein of theories are those related to moral development and moral
decision-making. One of the earlier theorists in this area, Lawrence Kohlberg, devised a
theory based originally on his work with adolescent boys (Kohlberg, 1971, 1972). His
theory includes three general levels of thinking about or resolving moral dilemmas: pre-
conventional (where the decisions are based on what benefit the outcome will have to the
individual), conventional (where decisions are made based on the expectations of others),
and post-conventional (where decisions are based on a set of ethical principles adopted
by the individual). Carol Gilligan (1982/1993), a former student of Kohlberg’s, later
developed what she described as a “voice of care” (as opposed to a “voice of justice”
which she believed dominated Kohlberg’s scheme). Gilligan (1982/1993) believed that
this “voice of care” was used predominantly by women, although she noted that gender
did not necessarily dictate which voice an individual might use in resolving moral
dilemmas. In both of these theories, an individual progresses from primary concern with
self to a concern that includes both self and others. Progression or development in moral
development occurs through exposure to different ways of resolving moral dilemmas
(Evans, et al., 1998).

Some theories suggest that women’s cognitive and moral development varies
from that of men in several ways. As noted, Gilligan (1993) suggested that women are
more likely to use a “voice of care” when making decisions about ethical dilemmas,
whereas men are more likely to use a “voice of justice.” The “voice of care” exhibits a
greater concern for feelings and relationships. Gilligan’s (1982/1993) theory of moral
development includes three general stages: an orientation to individual survival (greater
cconcern for the person’s own feelings and relationships) a conception of goodness as self-
sacrifice (greater concern for the feelings and relationships of others), and finally a “morality of non-violence,” which includes accommodation of the person’s own feelings as well as the feelings and relationships of others.

In terms of awareness and processing of knowledge, two other theorists suggest ways that women’s cognitive development is unique. Belenky, Clenchy, Goldberger, and Tarule (1986) provide a model that speaks to how women both relate to and gain knowledge. In their model, women progress through five different “ways of knowing:” silence (where the learner has yet to find her own place or voice in learning), received (where the learner believes that truth or knowledge resides in others), subjective (where the learner believes that truth resides in the self), procedural (where the learner believes that learning only occurs through certain processes), and contextual (where the learner learns to integrate both subjective and objective knowledge). Baxter-Magolda (1992) proposed that women tend to learn in a relational way, where knowledge is acquired in a more private and collaborative fashion, whereas men tend to learn in a more impersonal way, where knowledge is acquired through more public and independent ways.

Dannells (1997) states that

student discipline is, and always has been, an excellent opportunity for developmental efforts . . . much of discipline involves teaching and counseling . . . [and] through the application of developmental theory, the individual may be better understood, and counseling/developmental interventions may be more scientifically and more accurately fashioned (p. 79).

Ostroth and Hill (1978) agree with Dannells’ (1997) statement: “the disciplinary hearing should be regarded as an opportunity to effect a special kind of counseling/teaching relationship with the student” (p. 34). They go on to describe what they believe to be the goals of the disciplinary encounter in light of the “developmental
model” (p. 34): (a) to help the student explore questions of values surrounding their behavior, (b) to help the student understand the causes of his/her behavior, (c) to encourage the student to accept responsibility for his/her actions and to behave more positively in the future, and (d) to “promote the adult habit of considering, in advance, possible consequences of behavior, and . . . making sound decisions on how to behave” (p. 34). After reviewing the elements of teaching and counseling in the disciplinary encounter, they explore techniques for interacting with the student, such as confrontation (which they define as “focusing direct attention on a student’s behavior or on behavior discrepancies that have undesirable consequences”) (p. 35), role reversal (asking the student to assume the role of the administrator and explore how he/she would make judgments about the situation), and Socratic questioning (asking a series of questions designed to help the student gain insight into the implications of misbehavior).

Each of these techniques can help to create disequilibrium or cognitive conflict, which “occurs when individuals face situations that arouse internal contradictions in their moral reasoning structures of when they find that their reasoning is different from that of significant others” (Evans, et al., 1998, p. 178). As Thomas (1985) points out, however, cognitive dissonance must be appropriately balanced with support for the individual’s growth so that regression does not occur or is not induced.

Healy and Liddell (1998) present a clear and coherent model for a “developmental conversation” which seems to easily apply to a one-on-one, administrative judicial intervention. The developmental conversation, in their view, is a time to “facilitate knowledge of each other in conversation . . . [and] to create shared values of respect, trust, and dignity” (p. 42). They contend that the developmental conversation, as an
intervention, creates an experiential learning opportunity that leads to growth in cognitive and moral development.

Their model consists of five stages: (a) acknowledgement and construction, (b) perspective taking, (c) evaluation, (d) meaning making, and (e) resolution, repartition, and absolution. Each stage is accompanied by a series of questions to ask which may lead to resolution of that stage of the conversation. In the perspective taking stage, for example, Healy and Liddell (1998) pose the following questions: “can you think of ways in which your behavior affected others in your class? In your community? In your group? Is there another way to look at this?” (p. 43).

Other more general models of applying developmental theory are also available to assist judicial affairs practitioners promote moral/ethical development, either with individuals or with groups or communities. These models include the Theory-to-Practice-to-Theory model (Knefelkamp, Golec, & Wells, 1985), the Cube (Morril, Oetting, & Hurst, 1974), and the Developmental Intervention Model (Evans, 1987). One of these, the Developmental Intervention Model (Evans, 1987), was designed specifically for fostering moral development, and presents a fairly straightforward means of devising developmental interventions: identifying a target for the intervention (either an individual or the institution), conceiving a type of intervention (either planned or responsive), and deciding upon an approach (either explicit or implicit) (Evans, et al., 1998).

*Philosophies of Discipline and Punishment*

Broad agreement seems to exist in the literature regarding the purpose of campus judicial systems: promoting and protecting the academic community, and promoting citizenship education and moral/ethical development. However, there is less agreement
regarding the role of punishment or sanctions in accomplishing those purposes. Two competing theories of punishment can be found in the criminal justice literature: retributivism and utilitarianism. In simplest terms, the difference between the two can be expressed as a question: should student violators receive penalties and other consequences simply because it is deserved (retributivism), or because those consequences serve a greater purpose (utilitarianism)?

These two notions are rarely articulated or acknowledged in the student affairs literature, which can lead to confusion about the way in which a judicial system orients itself to students and to punishment. Even the Association for Student Judicial Affairs (1998) blurs the two concepts when talking about assumptions and beliefs for judicial affairs: “the disciplinary process should be educational for those who violate the standards and those responsible for enforcing them. Punishment is viewed as educational and developmental as students learn the reality of accountability” (p. 13). In order to fully understand the role of punishment or sanctions in campus judicial systems, it is useful to understand these two orientations.

Foley (1982), describes retributivism as “[the] claim that punishment is justified because the guilty must pay for their crime . . . retributivist theory stresses the relationship between punishment and desserts” (p. 92). He goes on to write that “punishment restores the moral and legal order . . . the disruptive student . . . has upset the balance of the moral, social, and educational order, and that order can be restored only by making the student suffer for his wrongdoing” (p. 93). Pavela (1985) paints a somewhat less bleak picture of the concept: “retributive punishment affirms that there is a difference between right and wrong; that certain basic standards or moral behavior can be
codified and enforced by the community; and that those who violate such standards should be held accountable for their behavior” (p. 47).

The alternative view is utilitarianism, which holds that “punishment is justified only if it serves some social goal” (Foley, 1982, p. 92). Foley characterizes utilitarianism as asking one essential question: does the action taken in response to the misbehavior serve some larger goal of society or of the community? Punishment for punishment’s sake may indeed be justifiable under utilitarianism if it advances some goal of society, such as deterring undesirable behavior (Foley, 1982). Spader (1986) notes that utilitarianism includes deterrence, incapacitation, and rehabilitation – all of which serve a larger societal goal.

Spader (1986) writes that at least two other characteristics distinguish the retributive point of view from the utilitarian point of view. The first is orientation to time:

- dessert [retributive] punishment is based primarily . . . on the past conduct of the offender; therefore, justifications are primarily past-oriented. Utilitarian punishment, on the other hand, is based primarily . . . on predictions of future conduct; therefore, utilitarian justifications are future oriented (p 166).

In addition, a conflict between the two perspectives emerges over the “use of past factors which are more certain and more knowable as opposed to the use of future factors which are unknown or predicted” (Spader, 1986, p. 167). Retributivists, therefore, believe that “the punishment should fit the crime, which is a past, knowable, and determinable event” (Spader, 1986, p. 167). Utilitarians, on the other hand, believe that “the punishment should fit the offender, who not only has a past history but also a present and a future” (Spader, 1986, p. 167).
Arguments are made for both of these approaches leading to protection and promotion of the community and to promotion of moral/ethical development. Both Pavela (1985) and Foley (1982) argue that retributivism places responsibility for one’s actions on the individual and recognizes that individuals have choices to behave in good and bad ways. The existence of a commonly understood “right” and “wrong,” Pavela (1985) argues, provides a basis for engaging students in ethical dialogue. On the other hand, writers such as Carrington (1971) argue that models based on the criminal justice system (which, he argues, is essentially retributive in nature) have several drawbacks, including (a) punishments tend to express our worst instincts, not our best, (b) punitive systems depend upon “professionals who must harden themselves in order to do their work, [and therefore] are prone to disregard whatever humane sensitivity is reflected in the law” (p. 74), (c) procedural safeguards must be imposed in order to ensure humane enforcement of rules, and (d) punishment tends to reinforce antisocial tendencies. Thomas (1985) argues for the promotion of growth in the campus judicial process: “colleges and universities can move beyond present attempts to define a rule and a defensible punishment for all possible offenses, to a system that fosters students’ growth through individual interactions” (p. 61).

Bazemore and Umbreit (1995), in the context of the juvenile justice system, raise a third option that apparently contains elements of both retributivism and utilitarianism: restorative justice. Restorative justice, they write, “is concerned with the broader relationship between offender, victim, and the community” (p. 307). Rather than emphasizing either punishment or re-education,

restorative justice emphasizes the need for active involvement of the victim, the community, and the offenders in a process focused on denunciation of the offense,
offender acceptance of responsibility (accountability), and reparation, followed by resolution of conflict resulting from the criminal act and offender reintegration [into society] (p. 307).

While not a “victim’s rights” process, it does focus on making reparations to the victim.

The differences between retributivism, utilitarianism, and restoration may have an impact on how a campus judicial process accomplishes its purposes. However, as Dannells (1997) points out, “it seems reasonable to postulate that, in fact, two or more of the various views of student discipline may coexist on a college campus at any one time” (p. 19).

Students in the Judicial Process

The second of Bracewell’s (1997) three questions concerns the students who interact with the judicial system: “Why do students violate published policies?” (p. 48). This implies at least two other corollary questions: (a) which students are likely to violate institutional policies?, and (b) which institutional policies do they violate?. Answers to either of these two questions, or Bracewell’s (1997) original question, would allow institutions to design programs and interventions meant to prevent the violations in the first place. This section examines the literature for answers to these three questions.

Characteristics of Student Offenders

Perhaps the most well researched area in judicial affairs practice focuses on identifying the characteristics of students who become engaged with the judicial process. These studies, conducted as early as 1941 (Williamson, Jorve, & Lagerstadt-Knudson, 1952) and as recently as 1998 (Polomsky & Blackhurst, 2000), have used various methods for reaching their conclusions, including comparisons with the general student population, survey instruments such as the College Student Experiences Questionnaire,
and path analysis. Tracey, Fost, Douglas, & Hillman (1979) identified some
methodological problems in many of the early studies, and as a result most of the more
recent studies have attempted to avoid those limitations. While most of the studies,
regardless of the year and method, have reached similar conclusions, it is helpful to
review them by using some simple categories.

In terms of demographics, most studies have consistently identified several
characteristics. Most notable among those is gender: in nearly all studies, males are
significantly more likely to violate institutional policies than are females (Bazik &
Meyering, 1965; Dennis, 1988; Tisdale & Brown, 1965; Tracey, et al., 1979; Williamson,
et al., 1952). Janosik, Davis, and Spencer (1985) studied repeat offenders and also found
that more males were significantly more likely to repeat offend that females. Many
studies have also showed that younger students are significantly more likely to violate
policies than were older students, whether compared by age (Dennis, 1988) or class
standing (Bazik & Meyering, 1965; Dennis, 1988; Janosik, et al., 1985; Tisdale &
Brown, 1965; Van Kuren & Creamer, 1989). The other demographic characteristic
identified with some consistency is students living in large residence halls (Dennis, 1988;

Academically, some studies showed that students who violate institutional
policies are significantly more likely to have lower grade point averages than the general
student population (Dennis, 1988; Janosik, et al., 1985). Some studies also attempted to
identify the more common colleges or academic programs of offenders, but institutional
differences make any generalizations difficult, if not impossible. Some of the colleges or
academic programs identified include business (Dennis, 1988; Janosik, et al., 1985), arts
and sciences (Dennis, 1988; Janosik, et al., 1985; Tisdale & Brown, 1965), engineering
(Dennis, 1988; Tisdale & Brown, 1965), and health and physical education (Bazik &
Meyering, 1965).

Singular studies have identified other characteristics of student offenders.
Mullane (1999) administered a questionnaire that addressed different phases of the
disciplinary process and administered the Defining Issues Test (Rest, 1986) to a group of
students with minor disciplinary violations. She found that her sample had lower levels
of moral development than normative samples of undergraduates. In addition, she found
a statistically significant positive correlation between levels of moral development and
perceptions of educational value. Chassey (1999) administered the Defining Issues Test
(Rest, 1986) to a group of residence hall students. He compared those who had two or
more behavioral offenses with those who had none, and found that the mean P-score on
the Defining Issues Test for the offenders was nearly 13 points lower than the non-
offenders, scores which he maintained roughly corresponded to pre-conventional moral
reasoning (for the offender group) and conventional moral reasoning (for the non-
offender group). No significant differences between the groups were found for other
characteristics, including age, race, and gender.

Polomsky and Blackhurst (2000) administered the College Student Experiences
Questionnaire to 60 male students (30 disciplinary students and 30 non-disciplinary
students) and found significant differences in involvement with student acquaintances
(disciplinary students were more involved with acquaintances) and in perceptions of the
college environment (disciplinary students had less favorable perceptions), suggesting
that “disciplinary students may be more involved in social pursuits . . . and less aware of
academic forces in the college environment” (p. 48). Van Kuren and Creamer (1989) reached a similar conclusion, finding that students who had positive feelings about their college environment (determined by asking the question “would you attend the same college again?”) were significantly less likely to become disciplinary students. Van Kuren and Creamer (1989) also found that nonoffenders were significantly more likely to have parents with college degrees, leading the authors to suggest that “college-educated parents are in a better position to transmit the behavior expectations of campus living than are parents who did not complete college” (p. 261).

In general, then, the literature does lead to certain conclusions regarding the “typical” student who might violate institutional policies: young undergraduate males, living in large residence halls, whose academic performance is typically lower than that of their peers. One perhaps could add lower moral reasoning to the list of characteristics, but that and other conclusions are more difficult without further study.

Types of Student Misconduct

What kinds of misconduct do these students engage in? Unfortunately, the literature offers very little guidance in this area. As Dannells (1991) points out, “regarding the nature and the number of caseloads processed through disciplinary systems, only three references are found in the literature” (p. 166). However, each of those references merely asserts that conduct problems are on the increase, and does not identify what kinds of problems those are. While most campus judicial systems keep some level of records about types of misconduct (Dannells, 1990), only two national studies offer any answers to the question.
One of those studies (Gallagher, Harmon, & Lingenfelter, 1994), unfortunately, is rather limited in scope, addressing only certain categories of behavior, and only asks about CSAO’s perceptions of the increases in those behaviors. The study looked at six categories of problematic behavior: severe emotional problems, incidents of sexual harassment, acquaintance rape, dating violence, illicit drug use, and alcohol use. Of the 504 responding CSAO’s, at least 40% perceived increases in every behavior except illicit drug use (10%). However, the study did not address the actual occurrence of any of these problems.

Dannells (1991) conducted a somewhat more comprehensive study which surveyed 293 institutions regarding the frequency with which certain kinds of disciplinary violations were handled on the campus, and then compared that data with a similar study conducted ten years earlier. Dannells (1991) used eleven different types of cases, here ranked by the mean number of cases per campus: (a) alcohol (52), (b) disruptive behavior (38), (c) violation of residence hall hours (30), (d) other (28), (e) vandalism (15), (f) theft (15), (g) drugs (10), organized demonstration (3), (h) proscribed sexual behavior (2), and (i) sexual assault (1). Of those, only alcohol increased significantly over the ten-year period; gambling, proscribed sexual behavior, sexual assault, and “other” all decreased significantly.

Other than these two studies, however, campus judicial administrators have no other information with which to compare the types and frequencies of misbehavior on their own campus. It must be noted, however, that evaluating this kind of data has inherent limitations, such as the differences among institutions in codes of conduct, enforcement of regulations, and categories of violations (Howell, 2000). Dannells (1991)
writes that “one must remember that what is called ‘student misconduct’ is a function of both the behavior and the rule” (p. 169).

Reasons for Student Misconduct

Bracewell’s (1997) question of “Why do students violate published policies?” (p. 48) certainly must be among the most, if not the, most vexing question for campus judicial system administrators. Ironically, this is also the subject on which the literature provides the least assistance in advancing judicial affairs practice. One dissertation attempted to discover students’ reasons for disciplinary behavior (Roberts, 1989), but other than that practitioners are left only with theoretical models to explain why students might violate institutional conduct policies.

Roberts (1989) attempted to develop a greater understanding of why students violate institutional policies by conducting a qualitative study. He interviewed 25 repeat offenders, using a grounded theory approach to qualitative research. Based on his research, Roberts (1989) identified 5 categories and 19 subcategories of explanations: (a) social factors (including peer influence, role model influence, media influence, and cultural influence), (b) emotional factors (including challenge and excitement, stress, frustration and anger, alcohol and drug influence, and “for good times sake”), (c) personality factors (including lack of maturity, spontaneous personality, inconvenience and laziness, and need for status and recognition), (d) materialistic factors (including monetary gain and improving one’s living situation), and (e) cognitive factors (including calculating risks, rewards and consequences, ease of opportunity, lack of awareness, denial of wrongdoing, and spontaneous situation).
Based on these factors and other information he collected, Roberts (1989) reached six conclusions about students’ disciplinary behavior: (a) there are a variety of reasons for why students violate institutional policies; behavior cannot be narrowed down into a few simple explanations, (b) many of the subcategories or explanations for behavior interact simultaneously for any given situation; no cause and effect relationship exists for behavior, (c) each disciplinary situation is unique; no predictable reasons are present for any given type of behavior, (d) many students cannot explain why they become involved in disciplinary situations; they only try to make sense of them after the fact, (e) many students do not accept responsibility for their behaviors; instead, they project blame on the situation or on other persons, and (f) he felt his findings generally supported the social deviance theories of Liska & Messner (1999) (see below) and the moral development theory advanced by Kohlberg (1971).

Roberts’ (1989) study is subject to the limitations of qualitative research; namely, that the results are not generalizable in the statistical sense (Merriam, 1995). Roberts (1989) identifies several other limitations as well, including a lack of gender balance and racial diversity in the study sample, and the length of time passed between disciplinary situation and the interview. Nevertheless, the study does provide insight into students’ explanations for their violations of institutional policies.

In addition to the theories of moral and ethical development explored earlier, another set of concepts that might help campus judicial administrators better understand institutional policy violators is the “individual psychology” of Alfred Adler and Rudolph Driekurs (Christenson & Schramski, 1993). Alfred Adler, and his protégé Rudolf Dreikurs, were Austrian psychiatrists who did their work around the turn of the century.
Adler was a contemporary of Sigmund Freud who worked closely with Freud until he broke ranks because he realized he disagreed with Freud on a number of fundamental points. Rudolf Dreikurs worked primarily with families and children and wrote several books on raising children and dealing with children in classrooms.

Adlerian psychology is based on several principles, among them: (a) the wholeness, uniqueness, and value of the individual, (b) mutual respect between parent and child and teacher and child, (c) subjectivism and perception; that is, a person’s perception is his/her reality, and (d) purposive behavior, meaning that all behavior is characterized by movement towards a goal, specifically the goal of belonging and significance (Thomas & Marchant, 1993).

In adapting “individual psychology” to the classroom setting, Dreikurs developed what he believed are the four goals of misbehavior, all of which are consistent with the concept of purposive behavior: (a) Undue attention: “I only belong when I’m noticed or served,” (b) Power: “I only belong when I’m in control or when I’m proving that no one can make me do anything,” (c) Revenge: “I only belong when I hurt others and get even . . . I can’t be liked,” and (d) Assumed disability: “I only belong when I convince others that I am unable and helpless” (Dreikurs, Grunwald, & Pepper, 1998).

While one must bear in mind that this work was developed in the context of the elementary school classroom, it is not hard to imagine that undergraduate college students might engage in behaviors for the same reasons: attention, power, revenge, or helplessness. That these misbehaviors move towards the goal of belonging and significance make sense given Erikson’s (1950) theory of the human life cycle and his proposition that the major developmental task of adolescents, particularly those in their
early twenties, is the development of identity. As Erikson states, young adults “are now primarily concerned with what they appear to be in the eyes of others as compared to what they feel they are . . .” (1950, p. 261). Students try to develop a working definition of the self, and college provides an opportune time to explore identity as college students leave home and interact with others in a new environment.

Gathercoal (1991) seems to take an Adlerian approach to residence hall behavior when he advises staff to “accept and appreciate the reality that students behave in a manner they believe is in their best interests at that time. Students are the best they believe they can be at the time of their behavior – any behavior” (p. 11). In later sections, he also cautions against engaging in power struggles with students or developing adversarial relationships where misbehavior might be motivated by revenge.

Another set of concepts, from the criminal justice literature, concerns deviance. According to Liska & Messner (1999), three levels of explanation exist for deviant behavior. The first is biological theories, which focus on certain biological processes in combination with environmental influences. Recent biological research on deviance tends to focus on genetic (inherited) predispositions or characteristics, psychophysiological correlates (the structure and functioning of the brain), and biochemical origins. The second level of explanation is psychological theories, which, in general, assume that individuals develop relatively stable ways to respond to certain situations and stimuli based on past social experiences (such as the psychoanalytic approach). Psychological research on deviance tends to focus on developing inventories of personality traits or on applying and refining instrumental and cognitive learning theories.
The third level of explanation, and the one most clearly favored by Liska and Messner (1999) is social theories. “Social theories . . . direct attention to social processes and structures in explaining deviance both as norms violations . . . and as social definitions” (Liska & Messner, 1999, p. 14). Social theories of deviance are classified into those that emphasize structure and those that emphasize process, and Liska and Messner (1999) identify six different social theoretical perspectives: (a) Structural/functional, which regards society as a system of interrelated elements and views deviance as explained by a disruption of the social system, (b) Social ecological, which looks at how social activities are distributed across time and space, and views deviance as a result of these activities failing to help social units realize their collective goals, (c) Rational choice/deterrence, which regards human nature as including hedonism, rationalism, and free will, and views deviance as occurring only after a rational calculation of the costs and benefits of the action, (d) Labeling, which holds that a normative framework exists in all segments of society, and view deviance as occurring when those norms conflict and the norms of the more powerful segment are accepted as a reference point, (e) Constructionist, which believes that reality is constructed subjectively and views deviance as something that can only be understood by knowing people’s perceptions, and (f) Conflict, which holds that conflict between social classes is the basic social process, and views deviance as a result of social and political power struggles (Liska & Messner, 1999).

The theoretical models and research findings, do not, unfortunately, provide any clear explanations of why students violate institutional policies – only sound suppositions based on observation and research. One must keep in mind that the application of
theoretical models is subject to limitations, such as those noted by Parker, Widick, and Knefelkamp (1978): (a) theories are descriptive, not prescriptive, (b) theories seem to suggest that all people are alike, but in reality individuals are unique in their development, and (c) theories cannot, and should not, be used to manipulate students in desired directions: “we must recognize in our theory that students are alive, make choices, are as aware of us as we are of them, they act as well as are acted upon. In fact, they are deciding, choosing, interacting persons whose nature changes as we work with them” (p. xiv).

Perhaps the only prudent statement one can make is that human behavior is complex, which leads back to Roberts’ (1989) conclusions: no cause and effect relationship exists for behavior, and behavior cannot be narrowed down to a few simple explanations. Campus judicial system administrators may never fully gain an answer to Bracewell’s (1997) second question, but further research will yield better insight, which will in turn lead them closer to understanding.

Assessment of Effectiveness in the Judicial Process

Bracewell’s (1997) third question seems to get to the heart of the matter: “what is the proper response to student misconduct?” In other words, given what the literature reveals to practitioners concerning the purposes of the campus judicial system, and given the information available concerning characteristics of student violators and how institutions respond to them, are campus judicial systems responding effectively towards any established outcomes? Bracewell notes several corollary questions: “Are institutions simply responding in a mechanical way to violations of regulations? Are responses to misconduct deterring future violations either by the student disciplined or by other
students?” (p. 49). The answers to these questions do not come easily, but as with other questions concerning judicial affairs, the literature does offer some guidance.

**Perspectives on Effectiveness**

Assessment has received much attention in recent years, due in part to state and national pressures on higher education to demonstrate its effectiveness (Upcraft & Schuh, 2000). Several reasons have been identified for conducting assessment, many of which are applicable to campus judicial systems: ensuring adequate levels of funding, determining and improving quality, assisting with strategic planning efforts, policy development and decision-making, satisfying constituents, and meeting accreditation requirements (Upcraft & Schuh, 2000). In order for meaningful assessment to occur, however, campus judicial administrators must first establish specific and expected student outcomes, based on institutional and unit goals and purposes (Winston & Miller, 1994).

While Zacker (1996) correctly notes that “the ‘what and who’ to evaluate obviously depend on the purpose of the evaluation” (p. 103) the literature does suggest various outcomes that an assessment might investigate. Emmanuel and Miser (1987) list several “good examples of questions that define outcomes” (p. 87) for campus judicial systems:

1. Does the judicial system function to protect the rights of students?,
2. Does the judicial system help modify negative behaviors?,
3. Does the judicial system teach students that actions have effects and they must accept responsibility for their actions?
4. Does the judicial system exist as an educational rather than a punitive focus?
5. Does the judicial system teach students about their responsibilities as members of a community?

6. Is the judicial system expedient and fair?

7. Does the judicial process help students clarify their values?

8. Does the judicial system help students gain perspective on the seriousness of their actions?

9. Do the judicial board members provide an opportunity for personal growth?

(Emmanuel & Miser, 1987).

The Council for the Advancement of Standards (Miller, 2001), in offering guidelines for research inquiries into judicial programs, implies some additional outcome measures: (a) the accurate adherence of judicial boards to established procure and guidelines, (b) satisfaction with the campus judicial system from various campus constituents, including students, faculty, and staff, (c) increased levels of development in student participants, (d) ability of programming designed to prevent behavioral problems to actually do so, and (e) reduction in case load and rates of recidivism.

Two dissertation studies from the 1990s also offer perspectives on effectiveness and outcomes. Fitch (1997) used quantitative measures marginally related to the students who went through the systems. His particular study classified judicial systems according to the degree of formality, based upon certain characteristics, processes, and terminology used in the judicial system. After classifying systems as low formality, moderate formality, or high formality, the author looked for differences using five different outcomes: (a) total number of cases adjudicated, (b) total appeals filed, (c) number of appeals revised, (d) total number of repeat offenders, and (e) total number of lawsuits
fitch’s (1997) rationale for choosing these outcome measures over others is not clear, only noting that

the research instrument was based on a review of the literature, an extensive examination of 45 campus conduct codes and through discussion with student affairs practitioners whose primary responsibility is in the area of campus judicial affairs. the survey was pilot-tested by 12 judicial affairs officers in the spring of 1996. . . . participants in the pilot study were asked to complete the survey and provide comments related to the readability of the instrument and the accuracy of the questions (p. 98).

fitch (1997) found no significant differences along any of the outcome measures.

Allen (1994) surveyed campus judicial administrators at 67 liberal arts colleges about how they defined the educational dimensions of the college disciplinary program (using a list of outcomes identified from the literature), and compared their responses with those of 124 liberal arts students who were involved in the disciplinary programs by way of violation. administrators identified four most important student learning outcomes: (a) accepting responsibility for one’s actions, (b) understanding the effects of one’s actions on others, (c) making constructive changes in behavior, and (d) understanding the seriousness of one’s behavior. administrators identified the two most important practices for achieving these outcomes as (a) confronting the student with the consequences of his or her behavior, and (b) having meaningful dialogue between the judicial officer or committee and the student.

student perceptions in Allen’s (1994) study were somewhat different. students identified the most successful outcomes of their campus judicial experience as (a) increased inclination to think through actions before acting, (b) accepting responsibility for actions, and (c) abiding by college policies in the future. students identified the most important practices for achieving these outcomes as (a) responding to their conduct
within a reasonable amount of time, and (b) an opportunity to sort out and discuss the situation.

Allen (1994) makes several conclusions that inform the purpose of this study. First, she concludes that campus judicial system administrators generally agree with the educational outcomes articulated in the literature, and that administrators continue to view education as a primary purpose of the judicial system. Second, she concludes that “the college disciplinary program successfully employs the dimensions of educational practice [that] administrators believe to be important and successfully facilitates desired learning outcomes” (p. 111). However, she later notes several statistically significant disparities between administrators’ desired outcomes of the disciplinary program and students’ experience of the program. The most serious disparity had to do with the meaning and importance of sanctions.

Finally, Allen (1994) notes that “students identified their relationship with the disciplinary officer or board as one of the strongest aspects of the disciplinary experience” (p. 112), possibly indicating the importance of that relationship in achieving desired educational outcomes.

Returning to Zacker’s (1996) statement, campus judicial system administrators should bear in mind that the purpose of any assessment effort will determine the specific outcome measures used. However, the literature seems to point to three broad perspectives on outcomes measurement in judicial affairs: administrative adherence to procedures and guidelines, reduction of negative behaviors that affect the campus community, and the promotion of education and development among those students who become involved in the judicial process, either by way of violation or implementation.
Measuring Outcomes and Effectiveness

Assessment, at its best, is a comprehensive and systematic activity that provides credible data to student affairs constituents (Upcraft & Schuh, 2000), and several excellent models have been proposed for carrying out assessment efforts (i.e. Upcraft & Schuh, 2000; Winston & Miller, 1994). In these models, determining the purpose and focus of the study is one of the first steps, followed closely by determining what to study, whom to study, and the method of study.

In campus judicial systems, the “what” to assess will vary according to the purpose and/or specific outcome measures determined. However, any of the various aspects of a judicial system could conceivably receive assessment. Emmanuel & Miser (1987) identify four (publications, judicial council training, sanctioning consistency, and procedures and practices), although others certainly could be included, such as individual disciplinary meetings or mediation sessions, formal hearings, and outreach and programmatic activities.

The “whom” to assess will also vary according to the purpose and/or specific outcome measures determined, but as the Council for the Advancement of Standards (Miller, 2001) suggests, “data collected must include responses from students and other significant constituencies” (p. 114). Emmanuel and Miser (1987) suggest several constituencies who are involved in the judicial system: student offenders, hearing officers, judicial boards, and appellate bodies, for example. One might also add others, such residence hall staff, campus security or police personnel, faculty, and even parents.

The “how” of assessment, too, will vary according to the purpose and the nature of the assessment. Upcraft and Schuh (2000) identify two general approaches to
measurement: quantitative and qualitative. While many differences exist between the two approaches (see chapter 3), Upcraft and Schuh (2000) write that “quantitative methodologies assign numbers to objects, events, or observations” (p. 250), while qualitative methodologies consist of “detailed description of situations, events, people, interactions, and observed behaviors; the use of direct quotations from people about their experiences, attitudes, beliefs, and thoughts; and the analysis of excerpts of entire passages from documents” (pp. 250-251). Quantitative methods might include surveys and questionnaires (Emmanuel & Miser, 1987), psychometric instruments (Upcraft & Schuh, 2000), or analysis of pre-existing data. Qualitative methods might include interviews, observations, and analysis of reports (Emmanuel & Miser, 1987), as well as focus groups.

Outcomes and Effectiveness Studies

Despite the availability of subject matter, constituents, and methods with which to conduct assessment studies on campus judicial systems, very few assessment efforts exist in the published literature. The few that can be found are examined below, using the three broad perspectives on measurement in judicial affairs (administrative adherence to procedures and guidelines, reduction of negative behaviors that affect the campus community, and the promotion of education and development among those students who become involved in the judicial process).

A study by Donaldson and Steyer (1997) emerges as one of the few published studies to examine, at least in part, administrative adherence to procedures and guidelines. The study surveyed “student staff (undergraduate and graduate), full-time staff, and student volunteers who had regular responsibilities” (p. 40) in a residential
judicial program at a large public institution. The survey asked questions about familiarity with rules and regulations, adequacy of training for confrontation, process and procedures, experiences with hearings, communication, and sanctioning. In addition, the authors conducted focus groups to further explore topics in the survey, particularly those survey items with low mean scores. Donaldson and Steyer (1997) concluded that, overall, the staff and students who completed the survey were pleased with many aspects of the residential judicial program. Several areas for improvement were suggested, however, including length of time for resolving cases, cross-communication with the judicial staff, simplification of documentary report forms, more experiential training opportunities, more familiarity with the roles various staff played in the process, and a need to make the residential judicial program more proactive, positive, and educational. The authors note in several places how these identified needs for improvement were addressed in subsequent years at the institution.

Studies that examine the reduction of negative behaviors that affect the campus community are somewhat more common, perhaps because incidents of behavior, as data, are easier to count than are other outcome measures. LeMay (1971) conducted a study in which students were referred to one of five treatments for misbehavior:

(a) confidential personal-social counseling in a university counseling center, (b) supportive counseling by a disciplinary counselor in the office of the dean of students, (c) directive counseling, designed as an authoritarian, advice-giving session by a member of the staff of the dean of students, (d) no counseling – only a brief discussion of the disciplinary offense, and (e) appearance before a group of peers on student judicial boards. (p. 423)

The purpose of the study was to investigate whether or not any of these treatments would have an effect on academic achievement (as measured by GPA), attrition, or recidivism. Although the rate of attrition was higher for the first group (counseling in the university
counseling center), no statistically significant differences were found for either academic achievement, attrition, or recidivism.

A more recent study investigated the effect of passive sanctions (warning, probation, and deferred suspension) and active sanctions (educational programs, community service, and reflection papers) on recidivism and retention (Kompalla & McCarthy, 2001). No differences in either rates of recidivism or rates of retention for students assigned to active instead of passive sanctions, although the rate of recidivism was lower for students assigned to community service and reflection papers than for students assigned to educational programs or passive sanctions. It appears that no statistical analysis was conducted on the results.

Another study looked at recidivism rates as it related to alcohol education sanctions (Howell, 2000). The study compared the recidivism of students sanctioned to attend mandatory alcohol education programs for first-time alcohol violations with those who were not similarly sanctioned. The study also investigated differences in the types of concurrent sanctions of recidivists and non-recidivists, when given along with a mandatory alcohol education program. Results indicated that there was no difference in the rate of recidivism between those students who were sanctioned to attend a mandatory alcohol education programs for first-time alcohol policy violations and those who were not. However, the findings did indicate that the types of concurrent sanctions differed for recidivists and non-recidivists, when given along with a mandatory alcohol education program. The author concluded that the combination of sanctions, rather than any single sanction, might have the most impact on a student’s future behavior and therefore influence rates of recidivism.
Another very recent study (Palmer, Lohman, Gehring, Carlson, & Garrett, 2001) examining the reduction of negative behaviors concerned the practice of parental notification, discussed earlier in this review. Researchers at Bowling Green State University conducted a national survey of campus judicial officers in February of 2000, and found that among those who had implemented parental notification policies, approximately 52% felt that alcohol violations were significantly or slightly reduced. Approximately 29% felt the policy had had no effect, and 18% did not respond. No statistical analysis was reported, but apparently the researchers do plan to repeat the study in a year (Reisberg, 2001).

Studies which investigate the promotion of education and development among those students who become involved in the judicial process are, unfortunately, virtually non-existent in the published literature. A study by Caruso (1977) examined “the relationship of selected characteristics of student judicial board members and a comparison group to the appropriateness of their decisions in simulated undergraduate discipline cases” (pp. 339-340). Appropriateness of decisions was judged by “an expert group” (p. 340) of 24 professionals from student discipline, law, psychology, and other fields. Caruso’s (1977) results showed that the characteristics of the groups differed in areas such as age, class standing, major, Greek affiliation, and plans for graduate school. A series of psychometric instruments that measured dogmatism and moral judgment were administered to all individuals, but no significant differences were reported between the judicial board members and the comparison group. Judicial board members, however, were judged to have made more appropriate decisions. Caruso (1977) does not indicate whether these measurements took place before or after judicial board members received
training and/or experience. However, if they took place afterwards, the study may represent evidence that involvement in the judicial process does promote education and development.

It is possible, even likely, that some form of assessment of campus judicial systems takes place frequently at individual institutions. Unfortunately, very little of these assessment efforts get reported in the published literature, despite the availability of subject matter, constituents, and methods with which to conduct assessment. The practice of campus judicial affairs would benefit greatly from such knowledge.

A Preliminary Study

The author conducted a pilot study of students who were involved in informal meetings with campus judicial systems during the summer of 2000. Three sources of data were analyzed for the pilot study: an interview (the primary source), an observation, and an examination of archival data. In all three cases, the author worked with a campus judicial office to gain entry into the field and to come into contact with his participants. The following explains the data collection methods in more detail.

Interview

In order to gain introduction to the interviewee, a staff member in the campus judicial office assisted with locating a student who met four criteria: 1) recently completed the judicial process, 2) was on campus for the summer, 3) would be willing (in her best judgment) to talk to the researcher about their experience, and 4) someone who would not know the researcher as a result of his own work as a judicial officer. After identifying a good potential participant, the staff member arranged an interview time with the student.
Observation

The method of gaining entry to the observation setting was very similar. The researcher asked the judicial office staff member if she would allow the researcher to observe a meeting between her and a student. In this case, only one criterion existed: that the researcher did not know the student as a result of his own work as a judicial officer. The staff member very willingly allowed the observation once the IRB process and methods for ensuring confidentiality were explained. The student with whom the staff member met was very willing to allow the researcher to observe the meeting.

Archival Data

Archival data consisted of several (6-7) reflection papers that students wrote as part of their sanctions in the disciplinary process. The researcher obtained the papers by once again utilizing the staff member in the campus judicial office, who was asked to choose ones not that she thought were “best” or “worst,” but simply ones that were easy for her to obtain. The staff member also redacted last names and other identifying information from the papers.

Different open codes emerged from the three data sources, although there was some overlap among the three. From the interview (the primary data source), six strong themes emerged, many supported by the observations and/or archives:

1. “Second Chances.” The subject clearly felt relieved that he could continue to attend the institution and pursue his educational goals: “it’s like I’m getting a second chance.”

2. “Knowing what I know now.” Related to the first theme, the interviewee felt that he had learned from his mistakes (although he was not specific about
what he had learned). He spoke about how he has heard his parents and others talk about how they wish they could go back to college and repeat the experience with the benefit of their post-college experiences and wisdom, and he felt that he now had this chance. The archival data also confirmed this finding.

3. “Taking the positives from the negatives.” Despite the personal consequences to him, the interviewee could see that there were also positive outcomes to the process, both in terms of his own learning and in terms of the impact his experience had on his friends. For example, he spoke about how he believed his friends were now less likely to drink and drive. This theme was reinforced in the archival data later analyzed.

4. “Respect.” The participant conveyed how the judicial officer did not take away his dignity in this process, but treated him as an adult: “it’s an adult level and you can really learn from each other . . . I just thought the way that she handled it and the way that she treated me was really fair, and I thank her for that.”

5. “Personal level.” This theme was especially strong in the interview, as the participant talked about how the University can feel overwhelming, and how it’s difficult to connect with faculty and staff at the University. More importantly, he felt he had found a friend, confidante, and ally in the judicial officer: “it was more like on a personal basis, that she got to know me first before she made the decision, she didn’t just come in and say this is what’s
gonna happen to me . . . she talked to me first and got to know a little more about the situation and a little more about me.”

6. Concern for Academic Career. Related to the first theme of second chances, the interviewee spoke about how he was concerned that this would affect his ability to function as a student at the University. He described himself as “relieved” that he was not suspended, and he also spoke about how he was concerned about his ability to legally drive to and from school. The observation participant had a similar concern, although more long-term: he was anxious about how the incident would affect his ability to get into medical school next year.

At this point it seems premature to begin drawing larger conclusions from these themes, but it appears that at least three categories might start to present themselves if further data were collected. The first concerns the personal and respectful relationship with the judicial officer (“respect” and “personal level”), the second concerns the learning that takes place (“knowing what I know now” and “positives from the negatives”), and the third concerns the importance of the academic career, current and future (“second chances” and concern for academic career).

Summary

The campus judicial or student discipline function has been intertwined with American higher education since its beginnings at Harvard in 1636. The early colonial colleges were founded mostly by religious denominations, and early education blended the intellectual and the moral. Presidents and faculty exercised strict control over their young students, a relationship that would later be legally recognized as in loco parentis,
or “in place of the parents.” Around the time of the American revolution, however, students revolted against the faculty’s harsh rule, sometimes violently. As the 19th century progressed, students were granted greater liberties as the extra-curriculum grew and the faculty turned more of their attention to their scholarly work. As a result, Presidents delegated disciplinary responsibility to specialists: Deans of Men and Women and later student personnel workers.

The 20th century was one of rapid and turbulent growth in higher education. In the late 1940s, war veterans took advantage of the GI Bill and returned to college in great numbers. Unlike their counterparts of the 1920s and 1930s, they were older, more worldly, and more experienced, and had very different expectations of their institutions. Students of the 1960s engaged in protests, violence, and disobedience, posing a challenge for campus judicial systems. Dannells (1997) suggests that the 1960s left two enduring the legacies: (a) the idea of in loco parentis was dealt a serious blow, and (b) increased legalism and adversarialism. Some believe that this increased legalism, along with increasing federal involvement in higher education, will eventually lead to a return of in loco parentis as colleges and universities are expected to assume greater responsibility for students’ lives.

The organization and scope of today’s campus judicial systems vary greatly from institution to institution, depending upon such factors as mission, size, governance (public or private), residential character (or lack thereof), and specific needs of the community. Variation may occur in such areas as extent of authority and responsibility, overlap between campus and criminal procedures and between academic and behavioral misconduct, the degree of specificity with which behavior is defined and prohibited, the
amount of due process afforded to students, the availability of sanctions, and the level of student participation (Dannells, 1996). While any kind of generalization about campus judicial systems is difficult, the literature appears to support the conclusion that larger and public institutions tend to have more decentralized, more formal, and more legalistic systems than do smaller and private institutions.

Students may have several different legal relationships with institutions of higher education, including constitutional, statutory, contractual, and common law. At public institutions, students enjoy the constitutional protections of free speech, press, and religion, as well as guarantees of due process and equal protection. Such protections are not guaranteed at private institutions, although as a matter of practice these individual rights are granted to students and often enforced by statute, common law, and state constitutions. In this complex legal environment, campus judicial administrators must understand the legal constraints which define their relationships with students, and must comply with all applicable laws, regulations, and court rulings.

Broad agreement seems to exist in the student affairs and judicial affairs literature regarding the purposes of campus judicial systems: (a) to promote and protect an academic community where learning is valued and encouraged, and (b) to promote citizenship education and moral/ethical development for those who are involved in the judicial process, either by way of violation or implementation.

In addition to asking the question “Why regulate student conduct?,” Bracewell (1997) identifies two other important questions that he feels institutions must ask in order to “establish educational foundations equal to legal foundations for student conduct” (p.
47). Those questions are: (a) Why do students violate published policies?, and (b) What is the proper response to student misconduct?

The second questions concerns the students who interact with the judicial system and implies at least two other corollary questions: (a) which students are likely to violate institutional policies?, and (b) which institutional policies do they violate?. Numerous quantitative studies have focused on identifying the characteristics of students who become engaged with the judicial process, in an attempt to establish a relationship between those characteristics and judicial involvement. The literature shows that while the types and frequencies of disciplinary violations may have changed during that time period, the profile of the "typical" student did not. The question of which institutional policies students violate receives minimal attention in the literature, but some information does exist (Dannells, 1991). The question of why students violate institutional policies is left virtually unanswered.

Bracewell’s (1997) third question goes to the issue of educational effectiveness in judicial affairs practice. One might expect that the literature would inform practitioners of the efficacy of certain judicial processes and practices. However, research on judicial affairs practice is sparse. This is almost ironic when one considers the long history of judicial affairs or student discipline in higher education.

In some ways this situation is not too surprising, since it is difficult to quantitatively assess the effectiveness of judicial interventions. Not only is the intervention typically brief in duration, but also there are several stages to the intervention, including the initial confrontation by staff members, the investigation of the incident, the hearing, and the sanction. The student's level of personal development, as
well as the student's experience at each stage of the intervention, impacts the
effectiveness of the intervention. Institutional and environmental differences, such as the
scope of the code of conduct, the nature of the judicial process, and the extent of peer
involvement, also complicate assessment and comparison between institutions (Dannells, 1997).

Answering the question of educational effectiveness, of course, means that the
question of outcomes must first be answered (Bracewell, 1997): specifically, what is the
desired educational outcome(s) of a campus judicial system? While the student affairs
and judicial affairs literature offers various assumed answers to that question (such as a
greater understanding of citizenship, and advanced psychosocial and moral
development), no one knows what the actual outcome, educational or otherwise, is for
students who violate institutional policies and then progress through the campus judicial
system.
CHAPTER 3

METHODOLOGY

The purpose of this study was to better understand what meaning a student makes of his or her interaction with a campus judicial system. It attempted to answer several research questions concerning issues such as students’ thoughts and feelings during the experience, their views of the fairness of the process, their views about their own outcomes from the process, and their perceptions of any ways the process may have affected them. This study did so by examining the case of students who took part in the informal student disciplinary process. A qualitative approach was chosen very purposefully because of the nature of the subject under study, as well as the nature of the research questions. As Dannells (1997) points out,

It must be acknowledged that scientific research in this area has been, and will continue to be, difficult because of problems in identifying controlling variables, in gathering data from program ‘participants,’ and in meeting the legal and ethical requirements for confidentiality and informed consent . . . if traditional quantitative methods do not seem to convey the richness of the data needed, then qualitative methods should be encouraged. The almost total lack of disciplinary case studies in the professional literature is surprising and should be remedied. Certainly, those who perform disciplinary functions on their own campuses tell stories. Well-written, detailed stories, that link problems to theory and interventions in thoughtful ways, would be an important contribution to the literature (p. 96-97).

Since the research questions are difficult to answer in a quantitative fashion, since no current research exists that explains this experience, and because this topic needs detailed exploration, a qualitative approach was the appropriate choice for this study.
Student affairs scholars hypothesize that certain outcomes take place in the campus judicial process, including promotion and preservation of the academic community and advanced moral/ethical development. However, no one has examined the process from the perspective of those who actually participate in it. Before one can realistically study outcomes in ways that allow certainty and prediction, he or she must first explore what those outcomes are. This study attempted to identify those outcomes by understanding students’ experience in the process.

Qualitative Research

Qualitative research has several defining characteristics that distinguish it from quantitative research. First, in qualitative research the researcher, rather than an impartial and objective survey, is the data collection instrument. This means that the researcher typically spends a great amount of time in the natural setting of the phenomenon or experience under study, usually in direct contact with the study participants (Merriam, 1998). Second, qualitative research employs an inductive research strategy; by studying a small sample, generalizations about a larger population are made by looking at patterns and themes and constructing hypotheses or theories (this stands in contrast to quantitative research, where findings from a larger sample are used to predict for all of the population) (Creswell, 1998). Third, qualitative research approaches problems from an interpretive paradigm. In this paradigm, individuals construct knowledge based on their experiences, and truth is subjective rather than objective. As Rossman and Rallis (1998) explain, “interpretivist research typically tries to understand the world as it is (the status quo) from the perspective of the individual’s experience . . .” (p. 35). Qualitative research strives to understand the meaning of a process or experience rather than to seek
a definitive and predictable answer. In addition, a qualitative study looks at what happens both during and after the process, rather than removing the participants from the setting as a quantitative study might do (Creswell, 1998). Miles and Huberman (1994) note several advantages of qualitative research consistent with the purposes of this study: (a) it focuses on ordinary and naturally occurring data in close proximity to the specific situation, (b) it gathers data that contains a certain richness and holism, and (c) it is powerful for studying processes and even assessing causality, if sustained over a long period of time.

The Case Study Tradition

Creswell (1998) identifies five types of qualitative research: biography, phenomenology, case study, grounded theory, and ethnography. This study used a multiple case study approach. In general, case studies examine bounded systems (single entities or units which have distinct boundaries), which can mean studies of specific persons, groups, programs, communities, or policies (Creswell, 1998; Merriam, 1998). In addition, a case study uses multiples sources of information, as this one did.

Creswell (1998) notes that a bounded system is “bounded by time and place, and it is the case being studied – a program, an event, or individuals” (p. 61). This study was bounded in several ways. First, it looked at only those students who chose an informal disciplinary process with a judicial officer, rather than a formal process that may have involved a hearing before a body of peers or faculty. Second, it only looked at those students who go through the informal process at the three institutions under study. Finally, only those students who agreed to participate were interviewed, further bounding the case under study.
This study also used two primary sources of information, observations and interviews. The use of both of these sources provided greater richness to the data, as well as enhanced validity and reliability.

Merriam (1998) also notes other characteristics of case studies. First, they are particularistic, and focus on a specific situation, event, program, or phenomenon. As noted above, this study was bounded in several ways and focused on a particular process. Second, cases studies are generally descriptive in nature, where the end product is thick, rich description that can illuminate and explain the complexities of a situation. This study produced such description and attempted to derive themes from the descriptive data. Finally, case studies are heuristic, in that they provide a greater understanding of the experience being studied. This study, by providing rich descriptive data and generating thematic conclusions, attempted to aid in that understanding.

Personal Subjectivity Statement

The area of student judicial affairs and campus judicial systems is an area with which I am intimately familiar, since I have worked in the area for the last eleven years. During eight of those years, judicial work was one of many responsibilities in my positions, but for three years, it was my sole responsibility in my graduate assistant position in University Housing. Because of my time in this line of work, because I have read extensively on the topic and conducted quantitative research on the topic, and because of my passion for the work, I have several biases – some of which I am conscious of and some of which I am not – that I felt I should explore and remain cognizant of as I undertook this study.
Research Orientation

It makes sense to begin by exploring my assumptions about truth and my orientation to research. Rossman and Rallis (1998) present a typology of four paradigms based on a model originally developed by Burrell and Morgan (1979). The four paradigms reflect the intersection of two continua. One continuum, “status quo versus radical change,” represents alternative conceptions of society and social processes. The other continuum, “subjectivity versus objectivity,” represents alternative ideas about the nature of knowledge and the nature of reality.

Rossman and Rallis (1998) arrange these two continua in a matrix with four quadrants: subjectivism, positivism, radical subjectivism, and radical positivism (see Table 1). I believe that my own thoughts about truth and knowledge fall into the quadrant called interpretivism, which is the intersection of subjectivism and status quo. In general, I believe that every individual creates his or her own social reality and truth based on their experiences and perceptions of those experiences. However, I also believe that some social generalizations may exist, although these are not “truths” as in the physical sciences. As someone who works in higher education and relies on policy to implement programs and interventions, I can see the value of those generalizations as a way to forecast and influence desired outcomes. In terms of how research should be utilized, I have a very instrumentalist orientation. That is, research should be a tool for improvement of practice, but without a political agenda.
Table 1
Four Paradigms that Shape Research about the Social World

<table>
<thead>
<tr>
<th>Conceptions about society and social processes</th>
<th>Ideas about the nature of knowledge and the nature of reality</th>
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<tbody>
<tr>
<td>Radical change</td>
<td>Subjectivity</td>
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<tr>
<td>Status quo</td>
<td>Radical subjectivism</td>
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<tr>
<td></td>
<td>Interpretivism</td>
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Assumptions about People

In my work as a judicial officer, I start from the assumption that people are basically good and do have the capacity to change their behaviors from those that are less desirable to those that are more consistent with positive citizenship in a community. I believe every student should receive an opportunity to be successful both academically and socially. I believe that most of the students who interact with campus judicial systems have made poor decisions, but only in rare cases are their behaviors so severe as to warrant exclusion from their living arrangements or from the institution (of course, that involves maintaining a balance between the rights of the individual and the rights of the community as a whole). I believe that my job as a judicial affairs professional is to encourage people to examine their behaviors, provide opportunities to learn from them, set limits if necessary, and help them become positive members of their communities. I acknowledge a strong bias towards educational/developmental outcomes and believe that most students do experience greater moral or cognitive development as a result of participation in the process, even if they cannot articulate their awareness until a later time. In other words, I do believe that learning can and does occur. This, in particular, is a bias I remained cognizant of during my research.

Personal Background and Characteristics

I grew up in the northwestern U.S., in a Caucasian, middle-class family in a Caucasian, middle-class community in a predominantly Caucasian, middle-class state. Combined with the fact that I am a male, this clearly situates me as member of a dominant group. During my adult life, I have made efforts to interact with and understand those who grew up in cultures or situations different than mine, particularly
those who may have suffered oppression. However, no amount of experience will give me a deep understanding of life as a member of a non-dominant group.

Some of the students I interacted with during the study were, or may have been, members of non-dominant groups, either by gender, sexual orientation, or socioeconomic class. In addition, those students who experience the judicial process are placed in relatively powerless positions: while they can make some choices that may affect the outcome of their case, the judicial officer makes most of the decisions. Therefore, I needed to have a particular awareness of the power dynamics present during my interactions with participants. Since I was a researcher, a judicial officer, and a Caucasian male, my participants could have perceived that I hold some power over them. I made every effort to explain the purpose of the research, to ensure participants of confidentiality, and to demonstrate impartiality. More than that, however, I attempted to impart a sense of personal integrity to participants.

Data Collection

This study contributed to a more complete understanding of the impact of the campus judicial process on undergraduate students by examining the case of students who take part in informal meetings with campus judicial officers. The study was qualitative in nature and examined the campus judicial process from the perspective of those who actually participated in it. The design utilized a case study approach and relied on observations and interviews to accomplish its purpose. Research was conducted at three Doctoral/Research institutions in the Southeastern U.S. (the institutions, listed by their pseudonyms, are profiled below). At each institution, the researcher observed and interviewed students who had informal meetings with experienced judicial officers. The
researcher interviewed the participants at two different points: within approximately 10 days of the initial meeting with the judicial officer, and then again approximately two weeks following the initial interview. Some variation occurred due to participants’ schedules.

The study utilized purposeful sampling, which is the deliberate choosing of cases (Lincoln & Guba, 1985). In this study, the cases were chosen because they were most likely to provide insight into the meaning of the campus judicial experience for participants. Actual participants consisted of those participants who were willing to take part in the research, regardless of age, class standing, gender, race/ethnicity, etc. Sampling criteria were simple: (a) someone who was at least 18 years of age, (b) someone whose interaction with the judicial system would likely not result in separation from the institution, (c) someone who was willing to talk to the researcher about his or her experience, and (d) someone the researcher did not know as a result of his own work as a judicial officer. Besides incidents of academic dishonesty and incidents of a violent or sexual nature, no other cases were deliberately excluded from the study. Whenever possible, the researcher observed and interviewed participants who interacted with an experienced judicial officer located in the institution’s central judicial office.

The institution’s central judicial office identified students who met the researcher's criteria and made initial contact with the students to ask for their participation. If a student agreed to participate, the researcher then spoke with the student, explained the purpose and the process of the study, explained any potential risks involved in participation, and then finally asked for his or her participation. The researcher repeated the purpose of the study, the potential risks, and the matter of
confidentiality during each subsequent interaction with the student, and reminded the student that he or she was free to discontinue his or her participation at any time.

A total of 18 students who met the criteria were asked to participate in the study. Four of those declined after the initial contact with the judicial office, and two others declined after speaking with the researcher. After taking part in observations, two additional students discontinued their participation by not responding to the researcher’s attempts to schedule first interviews. Another student declined to respond to the researcher’s attempts to schedule a second interview, but data from his first interview was still used in the analysis.

**Observations**

The researcher assumed the role of complete observer, rather than that of participant (Creswell, 1998) and focused on the nature of the interactions during the hearing and recorded those interactions with field notes. The content of the hearing remained secondary to the study. The researcher developed a protocol (Appendix B) similar to that suggested by Creswell (1998), which provides a means to separate descriptive comments from reflective comments.

**Interviews**

This study utilized guided interviews because of the desire to explore certain topics but also retain enough flexibility to allow the participants to tell their stories (Rossman & Rallis, 1998). During the interview, the participant was asked questions about his or her meeting with the judicial officer. The researcher asked several questions of the participant and recorded his or her responses on audio tape.

**Audit Trail**
Finally, the researcher maintained an audit trail, a method suggested by Merriam (1995) to enhance reliability in qualitative research. Essentially, an audit trail is a detailed account of how data were collected, how it was analyzed, and generally how decisions were made throughout the research process. By maintaining an audit trail, others can gain insight into how the study was conducted, even to the point of replicating the study in another setting.

Bogdan and Biklen (1998) and Merriam (1998) discuss several ethical issues related to educational research: respect for persons (including informed consent), beneficence, and justice. Every effort was made to ensure that participants understood the study so that they could make informed decisions about their involvement. A cover letter and consent form (Appendix A) discussed the purpose of the study, how the study was to be conducted, and any anticipated risks and/or benefits of the study. The researcher also informed participants that every measure would be taken to ensure their confidentiality, although it could not be guaranteed. In addition, the participants were told, by letter and in person, that they could leave the study at any time.

Validity and Reliability

As noted earlier, qualitative research approaches a problem from a much different perspective than does quantitative research. Just as with quantitative research, however, the readers wants to feel some sense of confidence that the research was undertaken with rigor and that the results are useful. Qualitative researchers speak of trustworthiness, or how well a study does what it was designed to do (Merriam, 1995). Establishing trustworthiness depends on three concepts: (a) internal validity (whether or not the study’s findings are congruent with reality), (b) reliability (whether or not the results are
consistent with the data, or whether or not the data makes sense), and (c) external validity (whether or not the findings are generalizable or applicable to other situations) (Merriam, 1995). In this study, internal validity was enhanced through the use of several methods: on-going member checks, triangulation (using more than one source of information), a statement of assumptions, and as necessary, peer/colleague examination. Reliability was enhanced through triangulation and the use of an audit trail. Finally, external validity was ensured through thick, rich description, and sampling within, or random inclusion of participants in the study.

Campus Judicial System Profiles

The University of the Southeast

The University of the Southeast ("Southeast"), classified by the Carnegie Foundation as a Doctoral/Research (Extensive) institution, is a public institution enrolling approximately 31,000 students (23,000 undergraduate, 8,000 graduate and professional) in a comprehensive assortment of undergraduate, graduate, and professional programs, ranging from arts, humanities, business, and journalism, to education, law, and veterinary medicine. Approximately 6000 students, or 20%, live in residence halls, and 85% of freshmen live on campus. 84% of students come from within the state, and approximately 55% are female. The institution is located in a consolidated city/county of almost 97,000 (1999 estimate).

Like most colleges and universities, the institution maintains a judicial system on its campus, whose purpose, as described by the judicial system procedure manual, is to “facilitate the desired environment and educational goals of [the University of the Southeast] and its students and to protect the rights and privileges of its students.”
Students encounter the judicial system because of their alleged involvement in an incident that violates one of several University conduct regulations. There are 15 different regulations for individual students (and approximately the same number for student organizations), which include behaviors ranging from academic dishonesty to fire safety to misuse of alcohol.

When the University receives a report of an alleged violation, usually from University Police or another staff member on campus, the report is referred to the Office of Judicial Programs. The office is responsible for reviewing the report and determining whether or not it warrants further investigation. If so, a judicial officer will ask the student to make an appointment for an investigative meeting.

At the initial meeting, the judicial officer and the student discuss the reported facts of the incident, the student’s perceptions of what occurred, and the conduct regulations that may apply to the incident. If in the course of the meeting the judicial officer feels that enough evidence exists that the student did violate a conduct regulation, he or she can charge the student with a violation. If the student agrees that he or she violated the conduct regulations, then the matter can be resolved informally. However, the student also has the choice of a formal hearing before the University Judiciary, which involves appearing before a panel of two students and one administrator or faculty member from the University. Of the 500+ students and organizations seen by the Office of Judicial Programs each year, only 20-30 choose a formal hearing.

The informal resolution consists of an “Informal Disciplinary Agreement,” in which the student agrees to four things: (a) that he or she violated the regulations with which he or she was charged, (b) that he or she will complete the sanction(s) determined
by the judicial officer, (c) that he or she will waive his or her right to a formal hearing before the Judiciary, and (d) in so doing, to waive his or her right to an appeal. Once both the student and the judicial officer sign the Agreement, it is binding and the student is obligated to complete the sanctions by the deadlines listed, except at the discretion of the judicial officer.

Once the sanction(s) is completed, the disciplinary case is considered closed. The campus judicial office maintains a record of the case for statistical purposes and for future reference should other alleged violations occur. A unique aspect concerning record keeping at this institution is the active utilization by the student newspaper of the state’s open records law, which permits it to request information regarding the student and his or her case from the campus judicial office.

*Longstreet University*

Longstreet University (“Longstreet”) also receives the Doctoral/Research (Extensive) classification from the Carnegie Foundation, and is a private institution enrolling approximately 11,400 students (6300 undergraduate and 5100 graduate and professional) in wide variety of undergraduate, graduate, and professional programs, ranging from arts, humanities, and business, to law, theology, and medicine. On the institution’s main campus, approximately 2500 students, or 40%, live in residence halls, and all freshmen are required to live on campus. The institution is located in a suburban area of a major metropolitan city of approximately 3.4 million (2000 estimate).

Like most colleges and universities, the institution maintains a judicial system on its campus, whose purpose, as described by the code of conduct, is to “provide the proper
balance between the academic freedoms allowed a member of the University and his or her responsibility as a citizen of the University community.”

When the University receives a report of an alleged violation, usually from a residence life staff member or another staff member on campus, the report is referred to the Office of Student Conduct. The office is responsible for reviewing the report and determining whether or not it warrants further investigation. If so, the office assigns a conduct officer to the case and asks the student to make an appointment for an investigative and informational meeting.

At the initial meeting, the conduct officer and the student will discuss the reported facts of the incident and the student’s perceptions of what occurred. In addition, the conduct officer will explain the conduct procedures to the student. If in the course of the meeting the student accepts responsibility for the violations, he or she can select one of three options: (a) waive his or her right to a hearing and have the conduct officer recommend appropriate sanctions to the Director of Student Conduct, (b) choose a hearing with another conduct officer, who will recommend appropriate sanctions, or (c) choose a hearing with the University Conduct Council for a determination of appropriate sanctions.

If the student does not accept responsibility for the violations, then the conduct officer investigates the matter and makes a determination as to whether or not to pursue it further. If warranted, the conduct officer refers the case to a hearing and forwards all documentation to the Director of Student Conduct, who will send the student a “charge” letter and ask the student to attend a meeting where he or she will explain the hearing
procedures and the student’s options. The student may choose a hearing with another conduct officer or a hearing before the University Conduct Council.

Once the sanction(s) is completed, the disciplinary case is considered closed. The Office of Student Conduct maintains a record of the case for statistical purposes and for future reference should other alleged violations occur.

*Southeastern Technological University*

Southeastern Technological University (“Southeastern Tech”) also receives the Doctoral/Research (Extensive) classification from the Carnegie Foundation, and is a public institution enrolling approximately 14,800 students (10,700 undergraduate and 4100 graduate and professional) in mostly technologically-related fields such as architecture, computing, engineering, and management and policy. Approximately 6300 students, or 40%, live in residence halls or on-campus apartments. The institution is located in the downtown area of a major metropolitan city of approximately 3.4 million (2000 estimate).

Like most colleges and universities, the institution maintains a judicial system on its campus. The student conduct code states that “a student enrolling in [Southeastern Tech] assumes an obligation to conduct himself or herself in a manner compatible with the [institution’s] function as an educational institution.” The purpose of the judicial system is to ensure that students meet their obligations for conduct.

When the University receives a report of an alleged violation, either from a residential life staff member, the police, or another source, the report is referred to the Office of Student Integrity. The office is responsible for reviewing the report and determining whether or not it warrants further investigation. If so, a judicial officer is
assigned to the case and the student is asked to make an appointment for an investigative meeting or conference. In practice, alleged violations that occur in residence life are not formally referred by the Office of Student Integrity, but rather the judicial officers have procedures in place to move forward with the meeting without a referral.

At the initial meeting, the judicial officer and the student discuss the reported facts of the incident and the student’s perceptions of what occurred. In addition, the conduct officer explains the conduct procedures to the student. The student may, in the course of the meeting, accept responsibility for the violation(s) and ask that the judicial officer assign appropriate sanctions. The judicial officer must then generate for the student a charge letter, a sanction letter, and a waiver of rights to a hearing and an appeal.

Students who do not accept responsibility for the violation(s) proceed to a hearing before the Housing Judiciary Council, the Undergraduate Judiciary Council, or the Graduate Judiciary Council, as is appropriate to the case. In general, only those cases that involve possible suspension or expulsion proceed to a hearing, unless specifically requested by the student.

Once the sanction(s) is completed, the disciplinary case is considered closed. The Office of Student Integrity maintains a record of the case for statistical purposes and for future reference should other violations occur.

Participant Profiles

The researcher interviewed a total of ten student participants, each identified here by a pseudonym. Nine of the students were male and all were Caucasian. Their ages ranged from 19 to 23, and they represented all undergraduate class levels. Six of the ten were from in-state. Academically, the students represented the divisions of Arts &
Sciences/Liberal Arts, Business, and Engineering at their respective institutions. Table 2 shows the demographic profile of the participants at the time of the interviews. One of the participants did not complete a second interview with the researcher, but his first interview responses were considered sufficiently rich to use during data analysis.

Seven of the ten students were referred for incidents that involved alcohol. Four of those seven incidents involved driving while under the influence of alcohol (two while underage), one involved disorderly conduct while under the influence of alcohol, one involved possession of alcohol while underage, and one involved a violation of an open container law.

Three of the ten students were referred for incidents that did not involved alcohol. Two of those three incidents involved damage to property and theft, and one involved excessive noise in a residence hall. Table 3 illustrates the types of incidents.

_Dave_

Dave was a student at Southeastern Tech and was 23 years old. Originally from out-of-state, he was enrolled in the college of engineering, majoring in industrial engineering. Dave was classified as a senior, but was in his fifth year at the institution and planned to graduate at the end of the summer. While he did not have specific career plans, he wanted to pursue work in “logistics, manufacturing, [or] warehousing.” Dave was walking back to his residence hall from off-campus when the Southeastern Tech police stopped, but did not arrest, him for possession of an open container of alcohol in violation of a city ordinance. The police forwarded the report to the judicial office.
### Table 2

Demographic Characteristics of Research Participants

<table>
<thead>
<tr>
<th>Demographic Variable</th>
<th>n</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Age</strong></td>
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</tr>
<tr>
<td>18</td>
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</tr>
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<td>19</td>
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<td>22</td>
<td>3</td>
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<td>23</td>
<td>2</td>
</tr>
<tr>
<td><strong>Gender</strong></td>
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<tr>
<td>Male</td>
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</tr>
<tr>
<td>Female</td>
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</tr>
<tr>
<td><strong>Race/Ethnicity</strong></td>
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</tr>
<tr>
<td><strong>Class Standing</strong></td>
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<tr>
<td>Sophomore</td>
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</tr>
<tr>
<td>Junior</td>
<td>3</td>
</tr>
<tr>
<td>Senior</td>
<td>3</td>
</tr>
<tr>
<td><strong>Hometown</strong></td>
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</tr>
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<td>In-State</td>
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</tr>
<tr>
<td>Out-of-State</td>
<td>4</td>
</tr>
<tr>
<td><strong>College/Academic Division</strong></td>
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<tr>
<td>Arts &amp; Sciences/Liberal Arts</td>
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</tr>
<tr>
<td>Political Science</td>
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</tr>
<tr>
<td>English</td>
<td>2</td>
</tr>
<tr>
<td>Drama</td>
<td>1</td>
</tr>
<tr>
<td>Undecided/Unclassified</td>
<td>2</td>
</tr>
<tr>
<td><strong>Business</strong></td>
<td></td>
</tr>
<tr>
<td>Finance</td>
<td>2</td>
</tr>
<tr>
<td>Real Estate</td>
<td>1</td>
</tr>
<tr>
<td><strong>Engineering</strong></td>
<td></td>
</tr>
<tr>
<td>Aerospace Engineering</td>
<td>1</td>
</tr>
<tr>
<td>Industrial Engineering</td>
<td>1</td>
</tr>
</tbody>
</table>

*Note: One student double-majored in English and Drama*
Table 3

Types of Incidents Engaged in by the Participants

<table>
<thead>
<tr>
<th>Type of Incident</th>
<th>n</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alcohol-Related Incidents</td>
<td></td>
</tr>
<tr>
<td>Driving while under the influence of alcohol</td>
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</tr>
<tr>
<td>Under age 21</td>
<td>2</td>
</tr>
<tr>
<td>Age 21 or over</td>
<td>2</td>
</tr>
<tr>
<td>Disorderly Conduct while under the influence of alcohol</td>
<td>1</td>
</tr>
<tr>
<td>Possession of alcohol while under age 21</td>
<td>1</td>
</tr>
<tr>
<td>Possession of an open alcohol container in public</td>
<td>1</td>
</tr>
<tr>
<td>Non-Alcohol-Related Incidents</td>
<td></td>
</tr>
<tr>
<td>Damage to Property and Theft</td>
<td>2</td>
</tr>
<tr>
<td>Excessive noise in a residence hall</td>
<td>1</td>
</tr>
</tbody>
</table>
Eric

Eric was a student at Southeast and was 20 years old. Originally from in-state, he was enrolled in the college of arts & sciences, majoring in political science and considering adding a second major, economics. Eric was classified as a junior, only three hours shy of senior status. Eric was arrested by the Southeast police at an off-campus location and charged with driving while under the influence of alcohol. In addition to the University judicial process, Eric had a case pending with the county court. As Eric described the incident to the judicial officer, he was watching television at his residence and consuming alcohol before going to a downtown area. After returning home, he decided to drive to his girlfriend’s house, and was pulled over by the police. They performed a field sobriety test before taking him to the University police station and then the county jail.

Frank

Frank was a student at Southeast and was 23 years old. Originally from in-state, he was enrolled in the college of arts & sciences, double-majoring in drama and English. Frank was classified as a junior, and reported that he had taken a year off between high school and college, and so was slightly older than many other students in his class. He had aspirations of writing for the film industry. Frank was questioned and then documented by the Southeast police after he damaged, removed, and then left campus with a vehicle immobilization boot he discovered on his car as a result of several unpaid parking tickets. Although never arrested or charged by the police, he was referred to the campus judicial office.
Gary

Gary was a student at Southeast and was 23 years of age. Originally from in-state, he was enrolled in the business school, majoring in finance. Although classified as a senior, he would take classes for one more year before graduating because he switched majors during his junior year. At the time of his interviews, he had aspirations of pursuing a career in real estate. Approximately 3 weeks prior to his meeting with the judicial officer, the Southeast police arrested Gary on charges of driving while under the influence of alcohol. In addition to the University judicial process, Gary was sentenced by the county court. As Gary described the incident to the judicial officer, he was drinking in a downtown area, and “sort of blacked out.” While attempting to drive home, he pulled off the road and fell asleep in his car. Since the location he parked his car was blocking someone’s driveway, the police encountered Gary, woke him, and performed a field sobriety test before taking him to the University police station and then the county jail.

Jack

Jack was a student at Longstreet University and was 19 years old. Originally from out-of-state, he was enrolled in the institution’s equivalent of the college of liberal arts, and had not yet declared a major. Jack was classified as a freshman and had thoughts of attending law school. Jack was documented by residence hall staff for the possession of alcohol and the possession of stolen property in his residence hall room. After his discussion with the judicial officer, he was not charged with possession of the stolen property because the residence hall staff who entered his room would not have discovered the stolen property if they had entered the room according to procedure.
Kathy

Kathy was a student at Southeast and was 19 years old. Originally from in-state, she was enrolled in the business school, majoring in finance. Classified as a sophomore, she had no specific career aspirations but was considering law. Approximately 3 weeks prior to her meeting with the judicial officer, the Southeast police arrested Kathy on charges of driving while under the influence of alcohol. In addition to the University judicial process, Kathy was sentenced by the county court. As Kathy described the incident to the judicial officer, she was driving some friends home from an off-campus location, and while driving through campus, turned the wrong way down a one-way street. After the police stopped Kathy, they performed a field sobriety test before taking her to the University police station and then to the county jail.

Kyle

Kyle was a student at Southeast and was 22 years old. Originally from in-state, Kyle was enrolled in the college of arts & sciences as an English major. Classified as a junior, Kyle transferred to Southeast during his second year. Approximately two weeks before his meeting with the judicial officer, Kyle was found by the Southeast police after an athletic event, sitting in the stands and unable to walk on his own due to alcohol intoxication. Although not arrested and charged by the police, Kyle was examined by emergency medical technicians and then transported back to his residence. According to Kyle, he had consumed alcohol before the athletic event without eating, and then “kind of blacked out” while there.
**Max**

Max was a student at Longstreet University and was 19 years old. Originally from out-of-state, he was enrolled in the institution’s equivalent of the college of liberal arts, and had not yet declared a major, but was interested in entering the business school after his sophomore year. Classified as a freshman, he was interested in pursuing international business as a career. Residence hall staff documented Max for creating excessive noise in his residence hall room. According to Max, he attempted to challenge the staff member’s assertion by recording the noise level in his room and in the staff member’s room, but he later decided to not use that recording during his meeting with the judicial officer. Max did not complete a second interview with the researcher; after numerous attempts to schedule the second interview, the researcher surmised that he no longer wished to participate and discontinued contact with him.

**Scott**

Scott was a student at Southeastern Tech and was 18 years old. Originally from out-of-state, he was enrolled in the college of engineering, majoring in aerospace engineering. Scott was classified as a freshman and was active in his fraternity. Scott was arrested by the Southeastern Tech police after they discovered that he had removed bricks from another fraternity house’s wall with a pickaxe and then attempted to remove the bricks from the property, apparently for use in his own fraternity’s homecoming display. Although the owner of the brick wall did not elect to press charges, Scott did spend the night in the county jail before returning to campus. Alcohol was not involved in Scott’s incident.
Steve

Steve was a student at Southeast and was 22 years old. Originally from in-state, he was enrolled in the college of business and majored in real estate. Steve was classified as a senior. Steve was arrested by the Southeast police at an off-campus location and charged with driving while under the influence of alcohol. According to Steve, he had consumed alcohol in his residence before going to a downtown area. After taking a cab home, he decided to drive to a convenience store for some cigarettes, and was pulled over by the police. They performed a field sobriety test before taking him to the University police station and then to the county jail.

Data Analysis

The purpose of this study was to better understand what meaning a student makes of his or her interaction with a campus judicial system. Specifically, this study did so by examining the case of students who take part in the informal student disciplinary process. The research questions that guided this study included:

1. What are the cognitive and affective experiences of students as they progress through the campus judicial process?
2. How do students view the fairness of the process? How do they construct their view of fairness?
3. How do students view the outcomes of the process in relation to their situation?
4. What, if anything, do students believe they have learned after completing the process?
5. In what ways do students believe their interaction with the campus judicial process will affect their future behavior?
The answers to these questions then were used to formulate recommendations for improved practice in judicial affairs.

Data analysis occurred in two ways. First, the researcher utilized the constant comparative method while taking field notes and conducting interviews. The constant comparative method, according to Merriam (1998), involves comparing any particular incident in the data with another incident in the data, or in another set of data. The comparisons lead to tentative categories that can be “tested” during interviews and observations for confirming or disconfirming evidence. Data collection about the tentative category continues until the data becomes saturated. Lincoln and Guba (1985) describe data saturation as the point when “continuing data collection produces tiny increments of information in comparison to the effort expended to get them” (p. 350). This constant comparison continued throughout the course of the study.

At the conclusion of data collection the researcher used a method suggested by Stake (1995) which involves three distinct operations: (a) categorical aggregation, where instances from the data are brought together so that issue-relevant meanings emerge, (b) establishing patterns between categories, and (c) developing naturalistic generalizations that can help readers learn from the case or apply it to another, similar, case. Lincoln and Guba (1985) suggests a very similar method of data analysis, which includes (a) unitizing (identifying units of information that can stand by themselves), (b) categorizing (bringing together those units of information that relate to the same content), (c) filling in patterns within the categories, and (d) conducting member checks with participants to help ensure the accuracy of the categories.
Creswell (1998) recommends that any analysis of qualitative data be fully supported by rich, thick description of the case, replete with examples illustrating the various aspects of the categories, patterns, or relationships proposed by the researcher. As noted earlier, this kind of reporting also helps to establish validity for the study.
CHAPTER 4

FINDINGS

Answering the question of educational effectiveness in student judicial affairs means that the question of outcomes must first be answered (Bracewell, 1997). While the student affairs and judicial affairs literature offers various assumed answers to that question (such as a greater understanding of citizenship, and advanced psychosocial and moral development), no one has examined the actual outcome from the perspective of those who actually participate in it. Before a realistic study of outcomes that may allow better prediction of certainty can occur, one must ask, “what are the actual outcomes?”

The purpose of this study was to better understand the meaning a student attaches to his or her interaction with a campus judicial system. It addressed several research questions concerning issues such as students’ thoughts and feelings during the experience, their views of the fairness of the process, their views about their own outcomes from the process, and their perceptions of any ways the process may have affected them. The study was qualitative in nature and examined the campus judicial process from the perspective of those who actually participated in it. The design utilized a multiple case study approach and relied on observations and interviews to accomplish its purpose. The researcher observed and interviewed a total of ten student participants from three Doctoral (Extensive) institutions in the Southeastern U.S. At each institution, the researcher observed students during their informal meetings with experienced judicial officers. The researcher then interviewed the participants at two different points: within
approximately 10 days of the initial meeting with the judicial officer, and then again approximately two weeks following the initial interview.

Data analysis occurred in two ways. First, the researcher utilized the constant comparative method while taking field notes and conducting interviews. Second, at the conclusion of data collection, the researcher used a method suggested by Stake (1995), which involves several distinct operations: (a) categorical aggregation, where instances from the data are brought together so that issue-relevant meanings emerge, (b) establishing patterns between categories, and (c) developing naturalistic generalizations that can help readers learn from the case or apply it to another, similar, case. This chapter presents the findings of the study.

The findings are presented in categories that generally parallel the research questions that guided the study. These categories are labeled (a) choice of informal resolution, (b) affective experiences, (c) perceptions of fairness, (d) perceptions of outcomes, (e) learning attained, (f) future behaviors, and (g) complementary findings.

The first category, choice of informal resolution, identifies the reasons participants gave for resolving their judicial cases informally, through discussion and agreement with the judicial officer, rather than proceeding to a formal hearing. The subcategories discussed are (a) expediency, (b) uncertainty, and (c) culpability.

The second category, affective experiences, describes the thoughts and emotions faced by the participants during the period they were involved in the campus judicial process. Two subcategories are discussed: (a) anxiety, and (b) relief.

The third category, perceptions of fairness, explores the participants’ views of the fairness of the judicial process, along with how they constructed those views of fairness.
Six subcategories were identified (a) reasonable consequences, (b) opportunity to choose, (c) opportunity to explain, (d) rules and punishment, (e) bias in the process, and (f) perceived double jeopardy.

The fourth category, *perceptions of outcomes*, describes how participants viewed the results of the process given their particular circumstances. Subcategories discussed include (a) positive views of the outcomes, (b) neutral views of the outcomes, and (c) views of specific sanctions. Students’ comments about certain judicial sanctions are also presented.

The fifth category, *learning attained*, explores what participants believe they learned as a result of the campus judicial process. Four subcategories are considered: (a) consideration of consequences, (b) empathy, (c) judicial procedures, and (d) no perceived learning.

The sixth category, *future behaviors*, looks at how students believe they will moderate their behavior as a result of this experience. The findings are presented here using three subcategories: (a) discontinue the behavior, and (b) maintain use of alcohol.

The final category, *complementary findings*, presents data that, while not part of the formal research questions, provides additional insight into students’ experiences. Subcategories discussed are (a) influence of court processes, and (b) advice to others.

**Choice of Informal Resolution**

At each of the three institutions where the researcher observed and interviewed participants, students in the campus judicial process had an opportunity to choose either an informal resolution with the judicial officer or a more formal resolution that involved a hearing before a hearing body (at Southeast and Southeastern Tech, the hearing “body” was a panel of students and staff; at Longstreet students could choose a hearing panel or a
hearing with a single administrator serving as the hearing body). In all cases, the informal resolution involved accepting responsibility for violating a part of the institution’s code of conduct; waiving the right to a full hearing, including the right to an appeal (except at Longstreet, where even informal outcomes could be appealed); and agreeing to a sanction or set of sanctions presented by the judicial officer.

All ten of the participants in this study chose an informal resolution rather than attendance at a hearing. Although not directly related to any of the five guiding research questions, each participant was asked about his or her choice of the informal resolution as a way of exploring students’ attitudes and perceptions about the judicial process. Although participants articulated a number of reasons for choosing the informal process, three surfaced consistently: *expediency*, *uncertainty*, and *culpability*.

**Expediency**

One of the most important reasons participants identified for resolving their judicial processes informally was expediency. Many students felt that the informal resolution would be quicker and less inconvenient than attending a hearing. Before having to make their decision about an informal resolution versus a formal hearing, all of the students interviewed already knew what sanctions would result if they chose the informal resolution. Equipped with that knowledge, many decided that the sanctions were an acceptable alternative to the amount of time or effort that might be involved in a formal hearing. Kyle expressed his concern about the time involved in the following way:

Well, I have too much going on right now to be able to go through that. When all the accusations were right there in clear print, and I know that I did them, then I might as well just go ahead and admit it. I mean, it would be worse to go through
a process and take up extra time of other people and myself and have the same outcome or possibly worse.

Jack seemed more concerned about the effort that might be involved in proceeding to a formal hearing. He felt that the meeting with the judicial officer was punishment in and of itself, and figured that that worst was already over:

. . . it becomes more inconvenient as I get more involved in it, so really the punishment that I am getting, was meeting last week and having to bite my tongue, that was punishment. As I go through the alcohol abuse lecture, that I will probably have to go through to document my punishment or whatever, that is it right there, you know, so there is no use in prolonging it.

Frank, in his first interview, seemed to essentially agree with Jack’s reasoning about the inconvenience of the formal process: “The sanction seemed agreeable to me that she was offering and I saw no reason to go through all of that hassle if those sanctions were agreeable to me, you know, I was okay with them.”

In his second interview, Frank expressed a similar sentiment about basing his decision on the ease of the informal process, adding that he felt that since he and the judicial officer were essentially in agreement, and he didn’t believe there was any reason to bring others into the process:

Researcher: . . . in the meeting you had with [the judicial officer], you decided to resolve it informally instead of going to a hearing, would you still do that again if you were going to go through this again?

Frank: I think so. I think so just because it, there is one person there and like, it is just, I don’t know, I imagine it is just the easiest way of going about doing it, you know, the fewer people we have to bring into it, and if we all seem to see eye to eye, like I did with [the judicial officer], then there is no reason to bring any other people in.

Steve indicated that he wanted to seek closure to this process, and felt that since he could “handle” the sanctions required by the judicial officer, the informal process was best for him:
Well, really just because I want to go ahead and get it resolved. I mean if she had said, you are suspended for a semester, I wouldn’t have agreed to that, you know, I would have gone to, you know a formal hearing, but I mean I don’t plan on getting in any more trouble, the probation I can handle, and the community service and OCTAA, you know it goes along with getting a DUI, so I can handle that . . .

Uncertainty

A second reason that at least two of the participants identified for choosing the informal process was uncertainty. Before making a decision about the informal versus the formal process, the students were told about the outcome of the informal process. At the same time, they were aware that the formal process was unpredictable. A hearing body may or may not have found them in violation, for example, and the sanctions imposed by a hearing panel may have been more severe – or less severe – than those required by the judicial officer. When facing a decision between the known and the unknown, many of the participants chose the outcome they could rely on, rather than risk a more disagreeable outcome from a hearing body.

Before his meeting with the judicial officer, Scott had inquired about this issue of the formal versus informal processes. Based in part on what he was told by a fraternity brother, Scott made his decision to resolve the matter informally:

. . . if I thought the punishment of the J-board was gonna be lighter then maybe I would have risked that, but one of the guys in our house is actually on the IFC J-board, which is the Interfraternity Council, but they’re run approximately the same way, right, and he says the punishment’s not typically to a lesser extent when they come before them, so I mean, considering the punishment wasn’t too harsh, what [the judicial officer] gave me, you know, it just wasn’t worth the time, energy, and risk to go before the student judicial board.

Later, in his second interview, Scott more fully articulated his decision, even discussing the pros and cons of going before the hearing panel:
Well, I had to see her [the judicial officer] regardless of whether I decided to go to the J-board, and, you were there, she laid out what was gonna happen to me, and said ‘you can either take this right now, or you can go to the J-board and see what they say,’ and since I had the punishment right there before me, and it was something I could handle, I didn’t think it was, you know, too overwhelming, then it just didn’t really make sense to go to the J-board, because what, I mean, pros and cons, you know, if I go to the J-board, might the sentence be less? Yeah, but how much less? I mean, it was pretty light to begin with, you know, I was gonna get something, odds were very good that they weren’t gonna just throw it out. They might have, but I don’t think they really could, because, I mean, that’s just not a precedent you can set, so, there wasn’t a lot that they could do that would have been less strict than what [the judicial officer] gave me, so it didn’t seem worth the risk, so there’s a risk/reward thing that isn’t worth it.

Eric’s uncertainty about the hearing panel was similar to Scott’s. He also seemed to weigh the risks and rewards, the pros and cons, of going before a hearing panel. When asked why he made the decision to resolve his case informally instead of going to a hearing, he replied:

Well, because like, I think within a formal hearing, if you do it, if you don’t like what she [the judicial officer] gives you can always not end up doing the informal part. And also, with a panel, it doesn’t even go on a system of precedent, so you don’t really know what you’re going to get. There’s an administrator and two students deciding on you, two students who want to play judge, or play lawyer, but in that system your defender, or prosecutor, whatever they call it, probably some more PC term, but . . . I just thought that’s it, that setup is . . . an administrator and two students on there, and somehow in my mind I don’t think that two students votes are really more than one administrator’s vote on there. You just don’t know what you’re going to get . . .

Eric’s response was somewhat unique in that he distrusted the formal process. Later in the interview, he indicated that he felt the system was unfair because he felt that the fact that the participants in the hearing (the panelists and the advisors to the students going before the panel) knew each other created a conflict of interest.

Eric perhaps also recognized his own feelings about the formal process, and indicated that his decision was also based on some uncertainty about his own actions during the hearing:
I just didn’t want to do it because I didn’t know what I was going to get, basically. I didn’t want to get kicked out of school, I don’t really think that would happen, but you never know, I could get angry in there, perhaps something could go awry, they decide they wanted to crack down on somebody.

Culpability.

The final reason that some of the participants spoke of for choosing an informal resolution was their own culpability. This subcategory could also be very fittingly labeled “I did it.” Simply put, some students were ready and willing to take responsibility for violating a part of the institution’s code of conduct, and for that reason alone did not wish to pursue the formal process.

Scott had no doubts about his own fault in violating the code of conduct; for him the only decision concerned the sanctions that might result: “I did what I did, you know, I wasn’t denying it, so it wasn’t like I was gonna get out of it so it was just a matter of the punishment . . .” Kathy expressed a similar sentiment, and believed that her own culpability made a hearing pointless. She felt that in her case there was “no reason” to consider a hearing. She told the researcher that “I did it,” and “there was no reason to bring others into it.”

Gary’s notion of his own culpability was slightly different. By the time he met with the judicial officer, Gary had already been to municipal court and had plead guilty to the charges related to driving under the influence of alcohol. Not only did he feel responsible for violating part of the institution’s code of conduct, but he felt that the outcome of his court process would predetermine the outcome of any hearing with the institution:

Well, I’d already been to court, I’d already spent my 24 hours in jail, I’d already been convicted and, you know, the legal proceedings were already completely through so I figured it was really no point in going to a formal meeting, I figured
it would be better time spent, I guess it would be quicker, it would have, the end result would have been the same either way, so I just decided to go ahead and proceed with the informal agreement, the informal hearing . . . if I would have felt that I was not guilty of the charges, then I would have gone before a hearing.

In conclusion, participants conveyed three primary reasons for choosing an informal resolution with the judicial officer rather than proceeding to a formal hearing before a panel. The first of those reasons can best be termed *expediency*, or the belief that the informal resolution would be quicker and less inconvenient than attendance at a hearing. The second reason can be referred to as *uncertainty*; when faced with a decision between the known and the unknown, many of the participants did not want to choose the less certain of the two. The third reason had to do with students’ own *culpability*, or the belief that they were indeed responsible for violating part of the institution’s code of conduct, and therefore saw no reason to pursue the formal process. It seems worth noting that a larger theme might be at work here, in that all of these reasons were considered as part of a risk versus reward, or risk management, decision.

Affective Experiences

The participants in this study encountered the judicial process at several different points. Aside from the incident itself occurring and the documentation getting created and forwarded to the campus judicial office, the students first encountered the judicial process when they received a notification, by letter or by e-mail, that they were required to meet with a judicial officer. After contacting the campus judicial office to make appointments and/or ask questions, their next encounter was the meeting with the judicial officer. After the meeting, most (but not all) of the students had sanctions to complete, and some of those sanctions required additional encounters with the campus judicial
office for such tasks as arranging community service, turning in reflection papers, and holding follow-up meetings with the judicial officer.

Participants had several different kinds of affective experiences during their encounters with the campus judicial office. However, most of those affective experiences can be grouped into two main subcategories: anxiety, and later, a subsequent sense of relief that their anxieties were not realized.

Anxiety

Almost all of the students who participated in this study described a sense of anxiety in the weeks, days, and minutes leading up to their meetings with the respective judicial officers. Participants described this sense using several different terms, including “nervous,” “worried,” “scared,” and “anxious.” For some students, their anxiety began immediately after the incident took place, when they knew they would become involved with the campus judicial process (and, for some, with a municipal court process as well). For others, the anxiety began when they received their notifications from the campus judicial office asking them to schedule meetings with a judicial officer.

This sense of anxiety stemmed from two sources: (a) confusion and uncertainty about the process ahead of them, and (b) concern about what effect the process would have on their academic career. For a few students, these sources of anxiety were distinct and represented separate worries; for most, however, these sources were intertwined, so that the uncertainty was about the effect the process would have on their academic careers.

Kyle is an example of a student for whom the two sources of anxiety were distinct. While concerned about the consequences, he also felt anxiety over how the
meeting would proceed, what kinds of information would be presented to him, and how he would be expected to respond:

Researcher: When I came to the judicial office to potentially do that observation, I saw you sitting out in the hallway. What was going through your mind then, when you were sitting out in the hallway?
Kyle: I was just wondering what all was going to be presented to me, you know, how she was going to come at me with it, and what exactly I was gonna have to tell her. And what possibly could I be faced with as far as a reprimand.

In his second interview, Kyle elaborated further on his uncertainty about the process:

Researcher: . . . is there anything that would have made that anxiety any better for you during that meeting?
Kyle: I’m not really sure. Like, it was more so, I didn’t know what to expect, so I think if I was kinda given an idea of what I was gonna be going through, that I could prepare myself better so as to not be worried about what I’m gonna say or what’s gonna be thrown at me.
Researcher: Let me ask a follow-up question. What specifically would you have like to have known before going in there?
Kyle: Well, I would have liked to have known like how everything was gonna be presented to me, and, I mean, once I got there, though, it really, it wasn’t as bad as it, in my mind, I thought it was gonna be. So, it wasn’t extremely accusatory or anything, so that was, if they just would let you know that it’s just to discuss the events, that would have kind of made everything a little bit more easy.

Steve, while primarily concerned about the outcomes of the meeting and how they might affect his academic career, also wished he would have known more about the process before his meeting with the judicial officer. At one point Steve shared with the researcher that he felt “baited” by the judicial officer, because he accepted responsibility for the conduct violation without understanding what that meant: “I definitely wished I had known that when you say you take responsibility that is it, kabam, you are over, and yeah I wished I had known a little more about what punishments are common for DUI.”

At another point, Steve said:

I wouldn’t say I had a bad experience, although I was nervous a week and a half, up until the meeting. I would have liked to have known a little more about what
to expect, you know, like I said, it was an okay experience. I am glad it is over with. I never want to have to go back in that office again, but I mean it was okay.

For most students, however, their anxiety centered on the outcomes, and more specifically, how the outcome would affect their academic career. The most prevalent concern was about getting suspended from the institution for a period of time. Steve, for example, noted that:

I mean all I can tell you is it is scary, because, you know, it was especially scary in my shoes, because I was extremely nervous about getting suspended for a semester, because I mean that would have set me back a whole year, and you know, yeah, and I don’t know what I would have done, had I got suspended for a semester.

In his second interview, he elaborated further on his worry about suspension:

Well the reason I was nervous was just because I thought I was going to get suspended for a semester, you know, and like I said last time, if I was going to get suspended for a semester, instead of graduating in December 01, I would graduate in December of 02. So really if I had known I wasn’t going to get suspended for a semester I wouldn’t have been nervous. That was the only reason I was really scared, because I knew I wasn’t going to be expelled or anything, but I knew there was kind of a line between getting suspended for a semester and getting on probation for the rest of school, and I didn’t know which side of the line it was going to fall on.

Scott also experienced anxiety about his academic career, but his anxiety was tempered by conversations he had with other students who had already been through the process:

I was somewhat nervous about it, obviously, because you know, it was my first infraction at the school, and I’m a freshman and everything, but I had talked to some people at the [fraternity] house about it, some people that had gone through the process, and they assured me that I wasn’t gonna get kicked out of school or anything stupid like that, and would just be, you know, what it was, couple hours of community service, and such the slap on the wrist . . .

For at least one student, Scott, the sense of anxiety was accompanied by feelings of powerlessness and vulnerability:
Well, I mean, she in essence had the power to kick me out of school if she so desired, so I mean, my first time in any kind of trouble at school, one has a tendency to get a little nervous about that, obviously, you know, I figured she’d be somewhat lenient on it, since it was a first offense and it wasn’t, you know, all that offensive, but, you know, she could have still done something that would have been detrimental to my, you know, position as a student at [Southeastern Tech].

Later in the same interview, Scott elaborated further. When asked to explain a statement he made in his first interview that “obviously she’s the one who’s holding all the cards there anyway, and could have done whatever she wanted,”, he said “Well, we didn’t decide [on the outcome], you know I don’t have any bargaining power, I don’t have any [recording inaudible] here, you know . . . it’s her decision to make . . .”

One other student, Max, reported a similar feeling of powerlessness in the process:

There is nothing really anyone can do about it. If you really look at it, it is like no student could really fight anything, because it is like an officer, you get a speeding ticket, the officer can write you up for whatever he wants really, technically . . .

It must be noted, however, that Max’s circumstances were quite different than Scott’s, in that Max’s violation was for excessive noise, a less serious violation not likely to bring substantial consequences. Max did not report that a sense of anxiety accompanied his sense of powerlessness.

Relief

Students’ concern about the potential impact on their academic careers was perhaps most evident when they spoke of the sense of relief they felt at the conclusion of their meetings with the judicial officers. The sense of relief was, almost without exception, about the fact that the process would not affect them academically. Steve, for example, when describing his feelings at the end of the meeting with the judicial officer, said:
Researcher: If you can think back to the conclusion of that meeting, what was going through your head at that time, as you were finishing up and getting ready to walk out of her office?

Steve: Just really relief that I wasn’t getting suspended for the semester and really that is it, just you know, I was just glad I wasn’t going to be suspended for a semester.

Kyle also felt a “sigh of relief” because the process did not have a detrimental effect on his academic career:

I just said to myself, ‘it’s finally over,’ and I was glad that it was just sanctions that were going to be something I could deal with, and something that’s not gonna hurt my school, because I do want to graduate from this school. It was just a sigh of relief, a lot of weight off my back.

Even students who didn’t have concerns about getting suspended from the institution still felt a sensation of relief. Scott, who had made some inquiries with fellow students about the possible outcomes of the judicial process for him, described his frame of mind at the conclusion of his meeting in the following way:

‘That wasn’t bad.’ It wasn’t bad, you know, I mean, I pretty much expected community service, I didn’t know about the probation, but [it’s] not really a big deal . . . it’s all over, so I was, you know breathing a little sigh of relief there but I was never overly concerned with the whole issue, the first offense was a stupid little fraternity prank type thing, it was one guy, so I mean, walking out I was feeling fine about the whole thing.

Often accompanying the feeling of relief were feelings of gratitude towards the judicial officer and a sense of closure. Jack, for example, when describing his feelings at the end of his meeting, said:

I mean I guess I felt slightly relieved. I could have got in a whole lot of trouble there, you know, I could have to have been, it is a fine to steal signs you know, but I could to have paid a lot of money, that wouldn’t have been cool, you know. She could have came down real hard on me, so when we left the meeting I was rather grateful that things went okay, you know, there were minor details that I don’t care about. I think it went well, and I felt good after the meeting.

Frank had similar feelings when leaving his meeting:
Well like I said, I mean I felt really grateful. I mean I made it a point to thank her and I shook her hand going out the door. I was grateful that they weren’t worse, like I said, the sanctions weren’t worse than they were, and that is about it.

Eric had the following reaction when his meeting ended: “I’m done with this, and now I need to go call these people and get this all squared away and finished . . . . I was just glad to be out of there. And I was hungry.”

The students who participated in this study overwhelmingly experienced sensations of anxiety during the time leading up to their meetings with the judicial officer. Their anxiety was related to confusion and uncertainty about two points: (a) what to expect from the process and the meeting with the judicial officer, and (b) concerns about whether or not the outcome of the meeting with the judicial officer would interfere with their academic careers.

After the meeting with the judicial officer had taken place, the predominant feeling was that of relief – relief that some closure had occurred, and relief that the outcome of the process, the sanctions, was not too severe and would not interfere with their academic careers.

Fairness

The Council for the Advancement of Standards (Miller, 2001) put forward guidelines and standards which direct that campus judicial processes must “deal with student behavioral problems in a fair and reasonable manner” (p. 110). For example, the standards do indicate that judicial processes and procedures “must ensure timely, substantive, and procedural due process” (p. 110), and goes on to recommend that opportunity for advice, a general time frame for resolution, and a description of individual responsibilities be included in that due process.
In anticipation that opinions of fairness would influence students’ perceptions and feelings of other aspects of the campus judicial process, the researcher asked participants how they viewed the fairness of the judicial process they had just been through. Without exception, each of the students felt that he or she had been treated fairly. A couple of students expressed reservations about the fairness of the process, but still felt that their case was handled fairly.

When questioned further, and asked how they came to their conclusions regarding fairness, a number of different themes emerged. Those who thought both their own situation and the process itself were fair identified four subcategories: (a) **reasonable consequences**, (b) **opportunity to choose**, (c) **opportunity to explain**, and (d) **rules and punishment**. For the two students who felt that the process was unfair, two subcategories could be identified: (a) **bias in the process** and (b) **perceived double jeopardy**.

In almost every case, the students identified more than one reason for their view of the fairness of the process. This section will explore and provide examples of each of the subcategories, but it is worth noting that for most students, at least two of the subcategories are intertwined together.

**Reasonable Consequences**

Many of the participants made their judgments about fairness, in part, on the perceived reasonableness of the sanctions or consequences they received. As noted in the previous section, students had anxiety about the outcomes or consequences of their behavior, and so it is not surprising that their assessment of the fairness of the process as a whole was determined by their perceptions of the outcome for them.

Kathy, for example, in her second interview, thought immediately of the consequences when asked about her conclusions regarding fairness:
Researcher: Also last time, I think, if I remember this right, you described the judicial process as ‘fair’ . . .
Kathy: Mmm-hmmm [affirmative response].
Researcher: How did you come to that conclusion for yourself?
Kathy: Just because, you know . . . because they gave me OCTAA, which I mean, I said is very informational, you know what I mean, like they gave you a lot of details, like, I mean everybody learns a lot from it, like I can’t imagine who wouldn’t, and then they gave you community service, which I don’t, you know what I mean, like it’s something to do, community needs volunteers, it’s a, you know, like I said, it’s kind of an indirect method, but I mean it’s fair to me, I definitely wouldn’t be like, try to fight against community service.
Researcher: So in your, to you the fairness had to do with the consequences? Is that an accurate statement?
Kathy: Mmm-hmmm [affirmative response].

Max, who received warning as a result of his violation of creating excessive noise in the halls, also spoke of the outcomes, or the consequences, when judging fairness:

I thought it was very fair. I am not sure what would have happened had I met with the RHD, the original person that I was supposed to meet with, I have no idea what would have come out of that meeting, to be honest I was happy that I missed that meeting. I got to speak to [the judicial officer], because I knew what would come out of that . . . she said okay, I will give you a warning, I thought it was very fair.

Dave, who also received a warning for his violation, considered the consequences when discussing the fairness of his situation:

Researcher: What is your view of the fairness of this process that you went through?
Dave: It seemed pretty fair to me. I mean, nothing happened, so of course I think that’s fair. But other than that, you know, it seems like it’s pretty fair.
Researcher: How do you come to that conclusion for yourself?
Dave: Well, based on my own experience, obviously, that’s the only thing I really have to go on, you know, it wasn’t a big deal, they gave me a lecture and that’s it, that seems fitting . . . .

Frank also thought of the consequences when asked about fairness, but his reasoning differed slightly from the others in that he also considered the utility of the sanctions as a measure of fairness:
Well I guess, it is such an ambiguous thing, fairness. I imagine, I imagine because I don’t feel angry at all with my sanctions. In fact I feel a little grateful that they are not more harsh. I guess that is what it comes down to. I feel that I did something wrong and that, that wrong will be made right, and these sanctions I guess will do that.

*Opportunity to Choose*

As noted earlier, each of the campus judicial processes under study gave students the opportunity to choose an informal resolution with the judicial officer or a formal resolution involving a hearing. Several participants felt that the fact that they had the opportunity to make that choice helped make the process fair.

Frank commented that he appreciated having the opportunity to choose how his situation could be resolved:

I think it is fair, certainly. I think it is, it seems like it is the most logical ways of going about doing it, but I like the fact that there is a formal and informal way, that we do have the choice, and even though I would hate to have to employ it, I think the formal system, you know, is set up well, having the students and the faculty, I believe, on the panel of judges or whatever, so you know, all in all I think it is well planned out.

Scott offered a similar comment when discussing his perception of fairness:

I suppose it’s fair in that they give me the opportunity to go before the J-board, in that sense you have somewhat of a trial. I think that’s as fair as you can be, I mean, this is an autocratic society in that it’s run by whoever the Dean’s [recording inaudible], it’s not a democracy, but a college really can’t be, so I mean, I thought it was fair, didn’t you?

Later in the same interview, Scott made a comment which indicated that his interpretation of fairness seemed to be influenced by his understanding of the criminal justice system:

*Researcher:* . . . you said that generally it was a fair process. How did you come to that conclusion? What was it about it that made it fair?  
*Scott:* Well, two things that . . . they didn’t make a ruling without talking to me, which is nice, you know, she heard what I had to say and she said, you know, and if you don’t like what I have to say, you have the opportunity to go before the J-board, which is a trial, and I don’t think you can get much more fair than that, you
know, to allow someone a trial is pretty much the way the United States legal system works . . .

Opportunity to Explain

Consistent with the spirit of due process, all of the participants had an opportunity to explain their perspective on their behaviors and the circumstances around them. For some of the participants, the fact that they had this opportunity to explain their actions and give their account of the incident helped make the process a fair one. Kyle, for example, seemed rather grateful for the opportunity to have input into the process:

Well, in my case I think it was pretty fair, as far as like they did have all their evidence there, and she did talk to me about my feelings about it and got my side of the story. She didn’t just lay out sanctions as soon as I walked in. So I do feel that it was fair, especially since she was kind of talking to me at an equal level. It would have seemed a little less fair if she never gave me a chance to equip myself or to show that I’m not, you know, the kind of person who’s gonna cause problems, and just the fact that she did let me give my side and even let me suggest what would be good sanctions, I feel that showed that it is a little bit more just.

Frank related a similar opinion, also appearing to appreciate the opportunity he had to be listened to:

The fairness of it, I mean I certainly feel like I have been treated fairly. I feel like [the judicial officer] listened to what I had to say, you know, and she, like I was sort of leery at first to you know, to make it known, to both you guys about my views of parking services, the fact that you know, I don’t think it is fair, but going in there I felt that like I could, like she [the judicial officer] would listen to me, that she would be understanding and I felt like we came to the agreement that should be reached, that she dealt with what I thought. She dealt with my views on the matter and then she applied the necessary, you know she applied what was necessary. She made me think about what I did and she applied the necessary sanctions I guess to that, so I think everything worked out really well. I was treated fairly.

Even Steve, who had reservations with the fairness of other aspects of the process, seemed to appreciate the opportunity to relate his account of his situation:

Yeah, I mean I thought it was a fair meeting. I mean, she just, her job is to find out what happened and get my side of the story and I think she asked good
questions, and I mean, I think she had an accurate description of what happened that night, and you know, I don’t know, after meeting with me for one hour, she really came up with the punishment right then and you know, I think maybe it ought to be thought out a little bit more, but I mean, I thought it was fair punishment, a fair meeting . . .

Rules and Punishment

Among those students who thought the process was fair, two of them expressed a final reason for their view of fairness. This view can best be described as a “deserved consequences” or even a retributivist orientation: they felt that they violated the code of conduct and therefore it was only fair that they receive some kind of punishment. As Jack explained very succinctly, “I knowingly broke the rules, and I am punished for it, and I mean that is fair.” In the same interview, Jack further explained his view:

I decided to enroll at [Longstreet], and decided to take part in the method of governing the students, you know, supposed to know the rules. I have been told not to drink in my room, it is fact, I guess, you know, so I would say the way things have been handled, very fair, very fair. It wouldn’t do them right to say that it wasn’t fair.

Max expressed a similar sentiment when he said: “So I thought in my situation it was fair. They had the rules, I mean I broke the rules, obviously, and I guess I broke one of them, and so I will accept responsibility.”

Perceived Double Jeopardy

Two students, Steve and Eric, had reservations about the fairness of the judicial process, although both also acknowledged that they felt as if they were treated fairly. Steve was particularly concerned about what he perceived as double jeopardy, or getting punished twice for the same misconduct:

Sure like I said I still think the process was unfair, having to go through get punished twice, you know, I am not sure if I am going to get punished or not by [municipal court], but if I do get punished twice for one crime, if you want to call it that, then yeah I think that is really unfair. I mean this isn’t a private school. I went to a private school in high school and I can understand it, getting in trouble
with the school for that, but I don’t understand this being a public university, that getting in trouble for something that I am already going to be punished for, if found guilty by the county.

Eric also expressed this view:

I still feel like it’s like double jeopardy, and like, I could get off with [county] and then the University would have basically penalized me for something that the state might not have been able to prove that I did, and I just think it’s ridiculous.

Bias in the Process

Steve also expressed reservations about how the judicial officer came to a conclusion regarding his sanctions. At one point he told the researcher, “. . . I don’t know, after meeting with me for one hour, she really came up with the punishment right then and you know, I think maybe it ought to be thought out a little bit more . . .” During his second interview, Steve had concerns about the consistency of sanctioning: “. . . if the university is going to punish everyone for DUI then unless there are some extenuating circumstances, there ought to be one punishment that you get from the university, whether it be suspended for a semester or whether it be what I got.”

Eric, on the other hand, believed that the process operated from a presumption of guilt:

I think the University process in some ways is kind of set up in a manner that you’re guilty until proven innocent. I mean, I kind of feel like that, you know, just because, like, it’s University personnel that are making the charges, or accusations, or whatever term they use, probably something different, against you, and then you’re being heard by a University group, and University administrators, but I mean I don’t think that I was treated unfairly aside from like how anyone else is treated. I don’t, you don’t ever really hear, like, I’d love to hear of a time when somebody went in and [the judicial officer] was like, oh, well, I guess we were wrong, and never mind. I just don’t think that happens, and if that never happens, or if it only happens occasionally, then you can’t really say that the system is all that fair.
As noted earlier, Eric also perceived that the judicial system had other inherent flaws, as it related to the composition of the hearing panel and the relationships among the participants in a hearing:

And also, with a panel, it doesn’t even go on a system of precedent, so you don’t really know what you’re going to get. There’s an administrator and two students deciding on you, two students who want to play judge, or play lawyer, but in that system your defender, or prosecutor, whatever they call it, probably some more PC term, but . . . I just thought that’s it, that setup is . . . an administrator and two students on there, and somehow in my mind I don’t think that two students votes are really more than one administrator’s vote on there.

The students interviewed for this study all felt that they had been treated fairly. A couple of students expressed reservations about the fairness of the process, but still felt that their case was handled fairly. Upon further questioning, specifically about how they came to their conclusions regarding fairness, a number of different themes emerged. Those who thought both their own situation and the process itself were fair identified four subcategories: reasonable consequences, opportunity to choose, opportunity to explain, and rules and punishment. For the two students who felt that the process was unfair, two subcategories could be identified: bias in the process and perceived double jeopardy. In almost every case, the students identified more than one reason for their view of the fairness of the process.

Outcomes

The student affairs and judicial affairs literature offers a variety of assumed answers to the question of the desired outcomes in from the judicial process. This study took a slightly different tact, however, and investigated the actual outcome from the perspective of those who actually participate in it. Students’ perceptions of the outcomes of their processes were, therefore, a central question for this study.
During the interviews, all of the participants were asked about their views of the outcomes of the judicial process in relation to their situations. In general, students described their outcomes in positive terms, using descriptors such as “fair,” “appropriate,” “meaningful,” “agreeable,” and “necessary.” In two cases, students described the outcomes in neutral terms, believing that the sanctions “wouldn’t do any good.”

The participants in this study received a variety of sanctions as a result of going through the informal process. Those sanctions included warnings, periods of probation, participation in alcohol education programs, community service, restitution, and reflection papers. Three of those types of sanctions – community service, probation, and OCTAA – and were quite common. This allowed an unexpected opportunity to ask about students their opinions of those sanctions.

This section will describe in further detail students’ views of the outcomes of their judicial processes. It is organized into three subcategories, (a) positive views of the outcomes, (b) neutral views of the outcomes, and (c) views of specific sanctions.

Positive Views of Outcomes

By and large, the participants described the outcomes of their situations in positive terms, describing them in such ways as “fair,” “appropriate,” “meaningful,” “agreeable,” and even “necessary.” Most students used two or more of these descriptors.

Kyle, for example, felt that the sanctions he received were both just and meaningful:

I think they’re [the sanctions] all pretty just, and in the end they actually really will help somebody, I mean not just me but like if anybody else had the same situation as I did, I think it would help them learn from it, rather than just make them pass it off as something, I gotta do this, they’re actually meaningful sanctions rather than just like suspending you from school, because that’s really not gonna help.
Frank expressed similar positive sentiments about his sanctions, describing them as sensible, fair, and beneficial:

I think they are, and I should certainly pay back for the damage that I caused to the property, you know that is common sense, and like I said I see the importance of the probation you know, that is sort of, to make sure I don’t ever do anything, it is sort of a preventative measure, and you know community service is sort of like paying back my debt to society, so I don’t mind it. At first I thought you know maybe the community service was a little much, but as I thought about it, like, I think about it like for some people, some students the money would be nothing, in which case if the community service wasn’t there, then they would essentially have to do nothing, so I think that is fair. I think community service is a good idea.

Steve also felt that his sanctions were appropriate for his situation, although he again expressed reservations about consistency in sanctioning:

Yeah, I think they were appropriate. I mean, I, yes I do think they were appropriate given my circumstance, but I think that the Judicial Affairs probably ought to have, some sort of more concrete set guidelines for something like a DUI.

Scott even went so far as to maintain that his sanctions were necessary:

They’re [the sanctions] acceptable. I mean, I was obviously in the wrong, you know, I wasn’t really gonna do anything like that again regardless, but nevertheless you need punishments and consequences otherwise you can just run amuck, that’s not acceptable . . .

Gary shared a slightly different perspective, believing that his sanctions were fair because he was not required to do anything above and beyond what the municipal court had already required of him:

I felt they [the sanctions] were, I guess, pretty fair, I know if the, I think she’s saying that if the court would not have sentenced me to community service that the school would have, but since I was already given community service for the court system she would let that take place, she would let that substitute for the school’s punishment, so that was pretty fair . . .
Dave, who was stopped by the police for possessing an open container of alcohol, received a warning for his violation of the conduct code. He commented that “I think everything was pretty appropriate, you know, I didn’t get any penalties or anything like that, so, and it was pretty much what I expected.”

Eric, as a final example, based his decision of the outcomes on his perception of what others in similar situations would receive in terms of outcomes:

Well, putting aside my opinion that I don’t think the student judiciary should be handling this type of thing, yeah, probably, it’s the same thing that everyone else got, it’s not that bad, I mean, 40 hours of community service will take some time, but, yeah, I mean, there’s nothing wrong with it, it’s not like I feel I got screwed or anything.

As noted above, Eric had reservations about the fairness of the process, and at one point had expressed the opinion that the campus judicial process should not attempt to handle incidents that were also violations of criminal law, such as his DUI.

Neutral Views of Outcomes

Those students who didn’t have positive feelings for the sanctions they received largely had neutral views, believing that the outcomes were either ineffectual or insignificant. Eric, for example, was far more concerned with the penalties he would receive from the municipal court and believed that the sanctions he received from the campus judicial process were secondary: “Those sanctions would have made an impact if there had not been the other side, the county side.”

Jack, as another example, felt that the sanction he received simply “isn’t going to make any difference.” He elaborated further:

It isn’t going to make any difference in how I live my life, I mean, obviously I don’t abuse alcohol. I don’t have a problem with alcohol. I am 19 years old, I am a college student. I had a normal incident where, I got drunk in my room. If I
didn’t get drunk in my room, and I would have got drunk on fraternity row, if I didn’t get drunk on fraternity row, I would have gotten drunk somewhere else . . .

Views of Specific Sanctions

The participants in this study received a number of different sanctions, including warnings, periods of probation, participation in alcohol education programs, community service, restitution, and reflection papers. Three of those types of sanctions – community service, probation, and OCTAA – and were quite common, and presented an opportunity to discover themes related to those sanctions

Community Service. Six of the ten students interviewed received community service as one of their sanctions. Their community service was performed with a variety of community agencies, ranging from the American Cancer Society to the community welcome center.

For the most part, students had very positive comments about community service as a sanction. Steve, for example, noted that “community service is fine, I mean it doesn’t hurt to do community service, ever, you know, I don’t mind going, doing community service.” Gary saw community service as a way to give back to the community as well as an opportunity for reflection:

. . . whenever you, you know, take, affect other people like I did, you know I think it’s good to try to, I don’t know, give back to the community in a sense, but also, you know, while you’re there you realize why you’re there, it gives you time, a little more time to reflect on your decisions and consequences of those.

Eric seemed slightly annoyed by the fact he had to do community service, but still felt it would be a worthwhile experience: “It will make me think about how I wish I wasn’t there, I mean I’ve done community service on my own before, I mean, it’s a worthwhile experience . . .”
Kathy also felt community service would be a positive experience, but had reservations about its relevance:

I want to say it’s irrelevant, but yes, because the reason they say, is because, you know, when you’re driving under the influence, you’re influence, you have an impact on the community and therefore you do community service, so it’s like, it’s a big stretch, I mean community service does need to be done, regardless, so, I mean I don’t mind it all, because it’s more of like, you know what I mean, I want to do community service for my own good anyway, so that doesn’t bother me, but I think it’s a stretch for being relevant.

_Probation_. Six of the ten participants in this study received a period of probation as one of their sanctions. In general, probation was understood to mean that any further violations of the code of conduct during the period of probation could result in more severe sanctions, including placing a student’s status at the institution in jeopardy. The probationary periods received by students in this study lasted anywhere from two months to the remainder of a student’s time at the institution.

Overall, students saw probation as a deterrent that would inhibit them from engaging in similar behaviors during the period of probation. Gary stated that, for him, “it will make me think twice about, you know, doing anything, or putting myself in any kind of situation that would lead to that.” Kyle’s opinion of probation was in agreement with Gary’s:

And the probation, I mean that’s just gonna, it’s something that will keep in your mind to stay out of any kind of other trouble, at least if you’re smart, it’s kinda something that will help set off a signal to say ‘hey, I shouldn’t be doing anything that’s gonna associate me with any kind of trouble.’

Steve viewed probation as acceptable or “just fine.” Even before his meeting with the judicial officer he had expected to receive probation and considered it a fair sanction:

. . . as far as the probation, you know that is fine. I am not going to get into anymore trouble hopefully, knock on wood, and I mean that is just something, I was, I knew I was going to get probation, so I mean, that is what I expected
coming in, that is what happened to a buddy of mine I spoke earlier about, so you
know, I mean, it is fine. I think things are fair, and that is it, just fair punishment.

Frank found the sanction of probation troublesome, but also indicated that he
understood the reasoning behind it:

. . . the probation thing is sort of irritating, but there again I can see the reason for
that, you know, it certainly is set up to ensure that I don’t even think about you
know, doing anything like this again, so I certainly see the importance of that . . .

OCTAA. Several of the students who were involved in alcohol-related incidents
were obliged to attend the On Campus Talking About Alcohol (OCTAA) program, a
comprehensive alcohol education program taught by instructors in the health promotion
areas at the respective institutions. The OCTAA program involved a significant
commitment of time on the part of the student (four or eight hours, depending upon the
institution) and was conducted in a classroom setting that utilized videos, illustrative
presentations, lectures, and readings.

Some students expressed doubts about the usefulness and appropriateness of
attending the OCTAA program before they went to the program. Jack is an example of
this attitude:

It isn’t going to make any difference in how I live my life, I mean, obviously I
don’t abuse alcohol. I don’t have a problem with alcohol. I am 19 years old, I am
a college student. I had a normal incident where, I got drunk in my room. If I
didn’t get drunk in my room, and I would have got drunk on fraternity row, if I
didn’t get drunk on fraternity row, I would have gotten drunk somewhere else . . .

Those who were interviewed after attending the program, however, gave it high
marks as a sanction and believed that it was a significant learning experience. After
attending the program, Kyle stated:

I kind of took it as something that they, part of their little, you know, what they
had to do, but the more I get into this program the more I realize that it is, it’s
probably something every student should take. It’s something that’s helped me
think differently about choices that I’m making, that I have made, and I think it can definitely bring about some wiser decisions on my part.

Two students even expressed a view that all students would benefit from the program and would even want to attend it if offered for free. Kathy described the program in this way:

. . . they make you, you know, second-guess yourself, but, I mean, I enjoyed it. I think probably every college student could maybe benefit from it, you know, and if they didn’t benefit they’d still learn a lot from it. Basically, it made me realize that I have, like, a much higher risk for alcoholism because I have a parent who’s an alcoholic, and I have a very high tolerance to begin with . . .

Steve echoed Kathy’s remarks:

Oh, yeah, it’s an interesting class, I mean, if they do this free I think people might go see it. I’ve seen [name of instructor], who’s going to teach the second half, do a couple of things before, she’s got good information.

When asked about their views of the outcomes of the judicial process in relation to their situations, students generally described their outcomes in positive terms, although in two cases, students described the outcomes in neutral terms, believing that the sanctions “wouldn’t do any good.” The participants in this study received a variety of sanctions included warnings, periods of probation, participation in alcohol education programs, community service, restitution, and reflection papers. Three of those types of sanctions – community service, probation, and OCTAA – and were quite common. This allowed an unexpected opportunity to ask about students their opinions of those sanctions. Consistent with their general views of the outcomes, students also viewed these specific sanctions in positive ways.

Learning Attained

The student affairs and judicial affairs literature offers various assumed learning outcomes for the campus judicial process, including greater understanding of citizenship,
and advanced psychosocial and moral development. However, no one has examined those learning outcomes from the perspective of those who actually participate in it.

This fifth category explores what participants believe they learned as a result of going through the campus judicial process. Four key points emerged from the data containing students’ responses: (a) consideration of consequences, (b) empathy, (c) familiarity with judicial procedures, and (d) no perceived learning. These points are examined below.

Consideration of Consequences

Three students related to the researcher that their experience with the judicial process would help them make better behavior choices in the future, and particularly would encourage them to think about the potential consequences of their actions. Kyle, for example, stated:

Well, it’s made me think about how I’m gonna do in a situation like this again, and how I’m gonna handle myself, and I’m gonna be more responsible from now on. That was my answer to her and that’s my answer to myself.

Frank’s view of what he learned is consistent with this:

I guess the main thing to me is that there is, it is like, there are certainly avenues to go down, and some of those are more, they are more amicable than others, you know, there are many different ways in which you can take care of whatever problem that you feel there is, and you know, you should certainly take the time and decide which one, and make your decision well, because you know, the consequences of some are certainly more devastating than others, and so that is probably the main thing I will take with me.

Steve shared that the experience of getting a DUI had a significant impact on his life:

I mean I have got to figure out, what, I wouldn’t say I need to calm down a little bit, because I am not too crazy anyway, but DUI is certainly, need to look at the consequences before I make a decision, and this has forced me to do that a little
bit more. I thought I was doing a good job of it before I got a DUI, but now I am doing it a little more now, obviously thinking about it a little more.

He was quite insistent, however, that the campus judicial process had no bearing on this change in his outlook: “the judicial process really hasn’t impacted me anymore than, in any way that what the DUI had already you know, impacted me.”

**Empathy**

Two students, Frank and Kyle, reported an expanded sense of understanding for the needs of those around them, and how their own actions could affect others. Frank reported that:

. . . this whole thing sort of reminds me that if I am going to live in a more close knit community, in a community which people are more stacked on each other, you know, I guess what the population density is higher, the more I do then the more I have to realize that I am also living on other people’s terms, not just my own

Kyle stated a similar idea after witnessing the effect incident had on his parents:

I saw how my parents reacted to the situation, and like, that’s another thing as far as affecting other people, I mean, even though I am an adult it still affects them, because it reflects upon them, at least that’s what they think, and you know, whether I feel the same way or not, if it’s how they feel then I do need to understand that my actions are going to affect them and a lot of other people . . .

**Familiarity with Judicial Procedures**

Another learning outcome identified by two of the students was that they felt they had learned about the judicial procedures, and indicated that they appreciated learning about the process itself. Max, for example, stated that:

It was more educational than anything else. I am actually glad I went through it. I like to see how things work, it is always good when you are going in, to see how things work, so in the future if anything happens to anyone . . . I know what is going to happen. I know the steps.
Kyle indicated that he experienced similar learning about the institution’s code of conduct:

I think speaking with her [the judicial officer] and hearing like a University perspective on what happened, it makes me understand parts of that honor [conduct] code, why it’s there . . . talking with her it helps me understand why it’s there and why I should respect it, and why I should abide by it.

No Perceived Learning

While many of the study participants felt that they had learned something from the campus judicial process, some also strongly felt that no learning had occurred as a result. Jack stated:

I guess all punishments one could argue, are meant to teach lessons, but they don’t use teaching lessons, they don’t incorporate teaching lessons into their punishments, you know, punishments are almost aside from like the actual crime itself, you know . . . I really didn’t learn anything other than to be more careful.

Eric was particularly adamant about this point, and strongly believed that any learning that may have taken place came from other sources:

I hadn’t learned shit. I didn’t learn anything from this process. I think I learned more talking to my parents. Maybe some people don’t get that, and you know, like I told my parents, and thinking about it myself, and just . . . like I felt I had already learned that I screwed up, so I mean, I’d already made lifestyle changes, so they weren’t doing anything for me, they were just wasting my time, in my opinion.

In his second interview, however, Eric did concede that the judicial process might “do something” (in terms of learning) for other students: “. . . I guess the University didn’t really do anything that I hadn’t already done for myself . . . but I don’t know, that probably wouldn’t be true for all people I’m guessing.”

An unique aspect of Eric’s outlook was that he didn’t believe the University should not be in the business of “personal integrity” or “[trying to make people] better socially or morally” He went on to explain his view:
Well, I mean, Universities are founded on learning, not on some sort of social conditioning . . . I mean, do people come to the University to enhance themselves, do people come to the University with the idea that the University is going to make them a better person, socially, morally, otherwise? No, they think they’re coming to the University to get, to become more intelligent and to understand, I think that sort of thing. At least from, maybe not in business where you have to work with other people, but the idea that college changes you as a person comes from like, international students and what you do on your own, not what the University, the University is just kind of, the University is here to teach you.

Scott likewise insisted that he had not learned anything and had not changed as a result of the process. In fact, he didn’t feel that such a change was at all necessary or desirable:

No, but, I mean, I don’t think I need to be changed as a person, you know, it’s like I’m some ethically, morally corrupt juvenile delinquent that’s been on the streets for, you know, the last fifteen years, you know, I’m a regular white collar kid, you know, everybody does stuff like this, you know, it’s just the way it is, everybody, you know, and, like, there’s nothing that would have changed me, but I wouldn’t wanna be, like, see a light on this or something, and like, I wouldn’t want myself to change, you know, I would have been upset if, like, if there were some sort of punishment that totally turned me around or something, because, I feel like pretty much set where I am, you know?

Students had varying perceptions of what they believe they learned as a result of the campus judicial process. Four key points emerged from the interview data: (a) 

*consideration of consequences*, (b) *empathy*, (c) *familiarity with judicial procedures*, and (d) *no perceived learning*.

**Future Behavior**

One of the guidelines presented for student judicial affairs from the Council for the Advancement of Standards (Miller, 2001) states that judicial programs should “support appropriate individual and group behavior . . . in ways that will serve to foster the ethical development and personal integrity of students” (p. 110). Implied within this guideline is the assumption that the work of judicial affairs will encourage students to
change their behaviors in a way that is more consistent with the institution’s code of conduct. While a judicial office can track students who go through the process and look at rates of recidivism, it also undoubtedly is the case that a great many students repeat behaviors but simply don’t get referred into the system again.

In addition to asking participants what, if anything, they had learned as a result of the campus judicial process, the researcher also asked participants how they believed the campus judicial process would affect their future behavior. As a general rule, students indicated that they would either not repeat the specific behavior that violated the code of conduct or would be more careful. When it came to the use of alcohol, however, students were far more reluctant to change their behaviors. This is an important finding since seven of the ten participants entered the campus judicial process because of alcohol-related incidents. The findings are presented here using two subcategories: (a) 

*discontinue the behavior*, and (b) *maintain use of alcohol*.

**Discontinue the Behavior**

Most of the students believed that in the future, they would discontinue the specific behavior that resulted in their referral to the campus judicial process. This was especially true for the student who had violations related to driving while under the influence of alcohol. Gary, for example, shared the following reflection:

. . . the fact that I was, got arrested for something made me think about, you know, my actions, and to, you know, try real hard not to repeat those actions in the future, but other than that, other than the fact, I mean, just, you know, the whole thing, the whole situation in general I guess has changed my, my, you know it’s changed my actions but it’s definitely changed my perception about what I’ve been doing . . .

Eric also had made the decision that he would no longer drink and drive because he realized “it’s not a good idea:”
Well, I won’t drink and drive. I’ll make less high risk choices . . . this DUI thing kind of fucked up my universe here for a little while, and made me go crazy, so I don’t understand and I probably, also like getting arrested made me realize it’s probably not the safest thing to do, it’s not a good idea.

*Maintain Use of Alcohol*

Despite student’s assertions that they would not repeat the specific behavior – in these cases drinking and driving – they revealed that they would continue to use alcohol, even if under the legal drinking age. Kathy, for example, stated that:

I will say that I won’t, I won’t ever drink as much, but I’m definitely not gonna, there will be no abstinence in my life from it. I think [the judicial officer] was very, did not want to hear that from me, but I mean I was only being honest.

Similarly, Eric said that he would also continue to use alcohol while under the age of 21:

I don’t drink as much now . . . if I was sober, I would still drive people around, but my attitude towards it has changed. I used to ride around with people who’d been drinking. I saw a girl drinking and driving the other day, and I went down and took her keys so she walked home. Now I still drink underage, but no more driving.

Jack, who also under the age of 21, expected that he would continue to use alcohol, just not in his residence hall room where the original incident took place:

I have been drinking since I was like 16, not like drinking, probably no more than any like adult, of age, and I suppose, it is something I enjoy doing to pass the time on a Saturday night, so on that particular Saturday night I did, I am not going to not do that again, I am just not going to do it in my room is all, you know.

Students who were of legal drinking age felt much the same way. Gary, for example, said “I don’t think that my drinking habits alone will change. Maybe some, somewhat, but as far as what I do while I’m drinking, that will definitely change, and has changed from that moment.”
Dave, who was 23 years of age and referred to the campus judicial process for violating a city open container ordinance, noted:

When I’m still at [Southeastern Tech], I’ll just, I won’t drink on . . . campus, I won’t have open containers just because I don’t want to, I probably if I got caught again or if something happens, if there was another issues with it I’ll probably get a fine, which I don’t really want to pay, so, I probably won’t drink on campus with an open container until I graduate which is just a couple months away.

In addition to asking participants what, if anything, they had learned as a result of the campus judicial process, the researcher also asked participants how they believed the campus judicial process would affect their future behavior. As a general rule, students indicated that they would either not repeat the specific behavior that violated the code of conduct or would be more careful. When it came to the use of alcohol, however, students were far more reluctant to change their behaviors. This is an important finding since seven of the ten participants entered the campus judicial process because of alcohol-related incidents.

Complementary Findings

The final category, complementary findings, presents data that were not intended to be explored through the research questions, but nevertheless provides additional insight into students’ experiences. Two subcategories are discussed here: (a) influence of court processes, and (b) advice to others. The first, influence of court processes, came about serendipitously as a result of the constant comparative method. That is, as additional participants remarked on how the court processes affected their experience, additional questioning and exploration of that topic took place. The second subcategory, advice to others, was part of the original interview protocol.

Influence of Court Processes
Four of the participants (Kathy, Gary, Steve, and Eric) had to go through municipal court processes in addition to the campus judicial process. All four of these participants faced charges related to driving while under the influence of alcohol. Their experiences with the courts varied; the researcher did not pursue lines of questioning about the courts except as it related in some way to the campus judicial process.

The court process could be called the “confounding variable.” In all four cases when students had court processes to go through along with the campus judicial process, a considerable amount of blurring took place between the two processes. This blurring seemed to occur in two ways. First, the campus judicial process became subordinated to the court process, making the campus process seem secondary and/or meaningless to students. Second, it led to questions about the fairness of undergoing two processes, often leading to questions about “double jeopardy.”

Kathy, for example, had a tremendous amount of difficulty distinguishing between the two processes. When asked to describe what impact the campus judicial process had on her as opposed to the court process, she commented that “gosh, I know you’re gonna kill me, but I really cannot separate the school’s, like, it’s really hard for me to put a line between them.”

Eric, when asked the same question about what impact the campus process had on him, indicated that it may have had an impact on him if the court process didn’t happen too:

**Eric:** Well, like I said, those sanctions would have made an impact if there had not been the other side, the county side.
**Researcher:** So is it fair to say that this process might have been more impactful if there wasn’t the county process going on too?
**Eric:** Yeah. That’s why I said they can do a good job for things that aren’t police related. Like it will make an impact if there’s not the other end coming on you.
At another point, Eric discussed this in more detail:

Well I just think that all my learning comes out of the, what I receive in the, I think the OCTAA program, like since I’ve taken that, you learn some stuff about that, that’s pretty interesting, some interesting things in there, but I think that most of the real learning I take to heart comes from like the punishment you receive from the state instead of the University.

Gary also talked about how, after going through the court process, the campus judicial process didn’t provide any new perspectives for him:

There was nothing really that, that she said that I didn’t already know, I didn’t really have any expectations going into the discussion, but, into the meeting, but, and when I came out I didn’t really feel too much different, really, it’d already been about two weeks after, after, lets’ see, it was about a week after my court date, it was maybe about three weeks after my arrest, so I’d already had plenty of time to think about things and reflect on it, so I didn’t really come out of the meeting with any different perspective on anything.

As noted earlier, two of the participants believed that the process was unfair because they had concerns about “double jeopardy,” or being punished twice for the same offense. As noted in the literature review, it is well established that campus judicial processes are administrative or civil proceedings (Carletta, 1998), and thus no double jeopardy exists even when a criminal process may take place for the same offense (Carletta, 1998; Dannells, 1997; Kaplin & Lee, 1995). Even after the judicial officer explained this them, both Eric and Steve continued to express concerns about “double-jeopardy.” This notion clearly colored Steve’s perception of the fairness of the campus judicial process:

. . . it seems like I am going to be punished twice for what happened, because, and I don’t remember the exact wording of the [Southeast] Conduct Code, but it was something about endangering the health and safety of others, you know, well [the] county is going to punish me for that too, if I am found guilty, and it doesn’t seem fair for me to get punished twice for one incident, you know, so I mean that is why it doesn’t seem fair to me, you know.
Eric had very similar sentiments:

I still feel like it’s like double jeopardy, and like, I could get off with [the county] and then the University would have basically penalized me for something that the state might not have been able to prove that I did, and I just think it’s ridiculous.

In his second interview, Eric elaborated further on this view, and provided a clue about why he might feel this way. Eric apparently felt that as a public institution, [the University of the Southeast] should not attempt to handle behaviors that were also criminal charges:

I still think the process was unfair, having to go through get punished twice, you know. I am not sure if I am going to get punished or not by [municipal court], but if I do get punished twice for one crime, if you want to call it that, then yeah I think that is really unfair. I mean this isn’t a private school. I went to a private school in high school and I can understand it, getting in trouble with the school for that, but I don’t understand this being a public university, that getting in trouble for something that I am already going to be punished for, if found guilty by the county.

Advice

Although not directly related to any of the five guiding research questions, each participant was asked what kind of advice he or she would give to other students who were about to go through the campus judicial process. This question was asked as a way of gaining further insight into students’ attitudes and perceptions about the judicial process. Although several pieces of advice were given, three recommendations surfaced consistently: (a) be honest, (b) act remorseful, and (c) tell them [referring to the judicial officer] what they want to hear.

Be Honest. Several of the students believed that “honesty was the best policy,” and that being honest with the judicial officer and taking on an attitude of humility was not only the simplest stance to take, but also would lead to a more positive outcome. Scott explained his perspective in this way:
I’d just say ‘be honest, don’t play it off like it was nothing,’ because then if, I’ve heard that if you just act like ‘no big deal,’ then they’re gonna give you more of a punishment because, like, they’ll want to make, they’ll want you to see that it is a big deal, which makes sense, so, I mean just, I’d say ‘act remorseful,’ you know, act like it, and just tell it like it is, because it’s not something you do all the time, you know, it’s just something stupid, let them know that, and it’s all good, and what happens happens.

Frank added:

I would probably just tell them to do some of the things that I did, which is you know, respond very genuinely to every question that she [the judicial officer] asked you, you know, respond genuinely and you know try to keep an even perspective on the whole thing.

Jack clearly felt that “owning up” to what he did would positively influence the outcome of the judicial process for him:

. . . be honest, own up to everything you did, level with you, [if you] level they will let you go, but if you go against the system and try to claim that you have rights to fight your acquisition, they will hit you harder. So that is what I say to people, you know, they are like 70% sure that you did this, they know, and they think that you did, so don’t disagree with them because it will only piss them off more, you know, just own up to whatever, and if you own up to it and you act like you are sorry, they will let you go easier, you know, which is basically what I did, you know.

*Act Remorseful.* As illustrated above, Scott and Jack both added the advice of “act remorseful” or “act like you are sorry” to their advice of “be honest.” Kyle offered a similar piece of advice:

And it also kind of shows that, that if you do admit that you’ve done whatever their allegations are, that it shows that you are kinda having a feeling of remorse about it, which is something that they do want to know, they want to make sure that people do feel bad about something that they’ve done wrong.

*Tell Them What They Want to Hear.* Seemingly in contradiction to the advice of “be honest,” several students indicted that they would suggest that other students going through the process tell the judicial officer what he or she wanted to hear. For Eric,
“telling them what they wanted to hear” was a device for expediting the meeting and the process itself:

I’d be like, just tell them what they want to hear and take the . . . if they’d done it or not? If they hadn’t done it, I’d be like go through the process and get out of this, and if they had done it I’d be like, just don’t go to the hearing, just take their deal and tell them what they want to hear.

Gary agreed with this advice, for the same reason of expediency:

I would tell them not to really, not have any anxiety or, going in to there, it’s just, it’s something that you have to do, and just go in there and basically tell them what they want to hear, and, you know, get out of there as quickly as you can, and keep your nose clean the rest of the time.

The two categories of complementary findings discussed here shed additional light on the experiences of students who go through informal campus judicial processes. When students have a concurrent court process, the two processes tend to become blurred: the campus judicial process becomes subordinated to the court process, and for some students it leads to questions about fairness and perceptions of “double jeopardy.”

When asked what advice they would give others who were about to go through the campus judicial process, three suggestions arose consistently: be honest, act remorseful, and tell them what they want to hear. In most cases, students felt that these approaches would make the process easier and would positively benefit the outcome of the process.

Summary

The purpose of this study was to better understand what meaning a student makes of his or her interaction with a campus judicial system. It addressed several research questions concerning issues such as students’ thoughts and feelings during the experience, their views of the fairness of the process, their views about their own
outcomes from the process, and their perceptions of any ways the process may have benefited them. The study was qualitative in nature and examined the campus judicial process from the perspective of those who actually participated in it.

The findings were presented in categories that generally parallel the research questions that guided the study. These categories are labeled (a) choice of informal resolution, (b) affective experiences, (c) perceptions of fairness, (d) perceptions of outcomes, (e) learning attained, (f) future behaviors, and (g) complementary findings.

The first category, *choice of informal resolution*, described the most important reasons participants gave for resolving their judicial cases informally, through discussion and agreement with the judicial officer, rather than proceeding to a formal hearing. The specific reasons were (a) expediency, or the belief that the informal resolution would be quicker and less inconvenient than attendance at a hearing, (b) uncertainty, or the tendency, when faced with a decision between the known and the unknown, to choose the more certain, and (c) culpability, or the belief that they were indeed responsible for violating part of the institution’s code of conduct, and therefore saw no reason to pursue the formal process.

The second category, *affective experiences*, describes the thoughts and emotions faced by the participants during the campus judicial process. Two subcategories were discussed: (a) anxiety, and (b) relief. The sense of anxiety was related to confusion and uncertainty about two points: (a) what to expect from the process and the meeting with the judicial officer, and (b) concerns about whether or not the outcome of the meeting with the judicial officer would interfere with their academic careers. After the meeting with the judicial officer had taken place, the predominant feeling was that of relief –
relief that some closure had occurred, and relief that the outcome of the process (the sanctions) was not too severe and would not interfere with their academic careers.

The third category, *perceptions of fairness*, explores the participants’ views of the fairness of the judicial process, along with how they constructed those views of fairness. The students interviewed for this study all felt that they had been treated fairly. A couple of students expressed reservations about the fairness of the process, but still felt that their case was handled fairly. Upon further questioning, specifically about how they came to their conclusions regarding fairness, a number of different themes emerged. Those who thought both their own situation and the process itself were fair identified four subcategories: reasonable consequences, opportunity to choose, opportunity to explain, and rules and punishment. For the two students who felt that the process was unfair, two subcategories could be identified: bias in the process and perceived double jeopardy. In almost every case, the students identified more than one reason for their view of the fairness of the process.

The fourth category, *perceptions of outcomes*, describes how participants viewed the results of the process given their particular circumstances. Students generally described their outcomes in positive terms, although in two cases, students described the outcomes in neutral terms, believing that the sanctions “wouldn’t do any good.” The participants in this study received a variety of sanctions included warnings, periods of probation, participation in alcohol education programs, community service, restitution, and reflection papers. Three of those types of sanctions – community service, probation, and OCTAA – and were quite common. This allowed an unexpected opportunity to ask
about students their opinions of those sanctions. Consistent with their general views of the outcomes, students also viewed these specific sanctions in positive ways.

The fifth category, *learning attained*, explores what participants believe they learned as a result of the campus judicial process. Students had varying perceptions of what they believe they learned as a result of the campus judicial process. Four key points emerged from the interview data: (a) consideration of consequences, (b) empathy, (c) familiarity with judicial procedures, and (d) nothing learned.

The sixth category, *future behaviors*, looks at how students believe they will moderate their behavior as a result of this experience. As a general rule, students indicated that they would either not repeat the specific behavior that violated the code of conduct or would be more careful. When it came to the use of alcohol, however, students were far less reluctant to change their behaviors. This is an important finding since seven of the ten participants entered the campus judicial process because of alcohol-related incidents.

The final category, *complementary findings*, presents data that, while not intended to be explored through the research questions, provides additional insight into students’ experiences. The two categories of complementary findings discussed here shed additional light on the experiences of students who go through informal campus judicial processes. When students have a concurrent court process, the two processes tend to become blurred: the campus judicial process becomes subordinated to the court process, and for some students it leads to questions about fairness and perceptions of “double jeopardy.”
When asked what advice they would give others who were about to go through the campus judicial process, three suggestions arose consistently: (a) be honest, (b) act remorseful, and (c) tell them what they want to hear. In most cases, students felt that these approaches would make the process easier and would positively benefit the outcome of the process.
CHAPTER 5

DISCUSSION, IMPLICATIONS, AND RECOMMENDATIONS

The purpose of this study was to better understand what meaning a student makes of his or her experience with a campus judicial system. It addressed several research questions concerning issues such as students’ thoughts and feelings during the experience, their views of the fairness of the process, their views about their own outcomes from the process, and their perceptions of any ways the process may have affected them. The study was qualitative in nature and utilized a multiple case study approach, employing observations and interviews. The researcher observed and interviewed a total of ten student participants from three Doctoral (Extensive) institutions in the Southeastern U.S. At each institution, the researcher observed students during their informal meetings with experienced judicial officers. The researcher then conducted two interviews with the participants.

Data analysis occurred in two ways. First, the researcher utilized the constant comparative method while taking field notes and conducting interviews. Second, at the conclusion of data collection, the researcher used a method suggested by Stake (1995), which involves several distinct operations: (a) categorical aggregation, (b) establishing patterns between categories, and (c) developing naturalistic generalizations.

The findings were presented in categories that generally parallel the research questions that guided the study. These categories are labeled (a) choice of informal
resolution, (b) affective experiences, (c) perceptions of fairness, (d) perceptions of outcomes, (e) learning attained, (f) future behaviors, and (g) complementary findings.

Researchers and practitioners should remain mindful of the limitations and delimitations of this study and should exercise caution in generalizing these findings to the experiences of other students who go through campus judicial processes. This study was qualitative in nature, and qualitative research strives to understand the meaning of a process or experience rather than to seek a definitive and predictable answer. In addition, this study was limited by a small sample size, making the results not generalizable in the statistical sense. Instead, the reader of the research must determine the applicability of the findings to his or her own particular situation.

In addition, this study examined the practices of only three institutions, each of which has unique practices and operates in a unique environment. It is important to note as well that all three institutions were located in the same state, perhaps resulting in a less diverse group of participants than otherwise might have been obtained.

Despite these limitations, these findings do have implications for student affairs and judicial affairs professionals. As noted earlier, research on judicial affairs practice is paltry at best, an ironic state of affairs when one considers the long history of judicial affairs or student discipline in higher education. This study begins to fill in a chasm in the student affairs literature, and contributes to an understanding of the outcomes of campus judicial processes. While the student affairs and judicial affairs literature offers various assumed answers to the question of outcomes (such as a greater understanding of citizenship, and advanced psychosocial and moral development), this study points to
some of the actual outcomes, educational or otherwise, for students who violate institutional policies and then progress through the campus judicial system.

The purpose of this chapter is to present those outcomes in light of current literature and research, discuss the implications for judicial affairs practice, and to make recommendations for future study.

Research Questions

The purpose of this study was to understand better the impact of the campus judicial process on undergraduate students, and to determine what meaning students make of their interaction with a judicial system. Specifically, this study did so by examining the case of students who take part in the informal student disciplinary process. The research questions that guided this study include:

1. What are the cognitive and affective experiences of students as they progress through the campus judicial process?
2. How do students view the fairness of the process? How do they construct their view of fairness?
3. How do students view the outcomes of the process in relation to their situation?
4. What, if anything, do students believe they have learned after completing the process?
5. In what ways do students believe their interaction with the campus judicial process will affect their future behavior?

Cognitive and Affective Experiences

One intent of this research was to discover both the thoughts and feelings that students experienced as they progressed through the campus judicial process. Students clearly contemplated a number of different aspects of their experience, including fairness,
the ramifications of the outcomes, and what they would learn, or take away from, their encounter with the process. In many cases these cognitive reflections can be understood in light of the literature and previous research, and will be discussed at a later point.

Participants faced two predominant affects, or emotions, during the judicial process: (a) anxiety, and (b) relief. The sense of anxiety was related to confusion and uncertainty about two points: (a) what to expect from the process and the meeting with the judicial officer, and (b) concerns about whether or not the outcome of the meeting with the judicial officer would interfere with their academic careers. After the meeting with the judicial officer had taken place, the predominant feeling was that of relief – relief that some closure had occurred, and relief that the outcome of the process, the sanctions, was not too severe and would not interfere with their academic plans.

While this finding is probably not surprising to most judicial affairs practitioners who have spent hundreds of hours in individual meeting with students, this does appear to represent a new element in the literature. Only a very small number of past studies have solicited students’ perceptions about any aspect of the campus judicial process, and even those have only asked about cognitive factors. Mullane (1999), for example, used a quantitative instrument to examine students’ perceptions of the fairness and educational value of the campus judicial process. In another study, Allen (1994/1995) surveyed campus judicial administrators at liberal arts colleges about how they defined the educational dimensions of the college disciplinary program (using a list of outcomes identified from the literature), and compared their responses with those of liberal arts students who were involved in the disciplinary programs by way of violation. Neither of these studies, however, inquired about students’ affective experiences. This study adds to
the literature by ascertaining that students who go through the campus judicial process experience anxiety as the process unfolds, and a subsequent sense of relief as the process comes to an end.

**Students’ Views of Fairness**

Another objective of this research was to determine whether or not students who went through the campus judicial process believed that the process was fair. The literature suggests that fairness is an appropriate outcome to measure in the judicial process. Emmanuel and Miser (1987) list several “good examples of questions that define outcomes” (p. 87) for campus judicial systems, and among those questions they ask “Is the judicial system expedient and fair?” (p. 87). The Council for the Advancement of Standards (Miller, 2001), in providing standards related to the mission and goals of judicial programs and services, notes that the goals must “address the institution’s need to . . . deal with student behavioral problems and a fair and reasonable manner” (p. 110).

The Association for Student Judicial Affairs, the professional organization for judicial affairs professionals, also identifies fairness as an important concept for judicial affairs. One of the assumptions and beliefs identified by the Association is that “impartiality and fairness ensure the integrity of student judicial affairs.” The statement is further explained: “Establishing and maintaining integrity and professional competence is essential in meeting the educational objectives of a student disciplinary system” (ASJA, 1998, p. 14).

Stoner (1998), who has written and made revisions to a model code for student discipline, believes that fairness deserves special emphasis in the judicial process. He explains his viewpoint in the following way:
As to students who have violated the code, we do not presume that they did violate the code. Because they are students to whom we have also made the commitment of a positive living environment, we want to treat them with fairness and dignity, even if we believe and determine that they have violated the college’s rules. (Stoner, 1998, p. 5)

The students interviewed for this study all felt that they had been treated fairly. A couple of students expressed reservations about the fairness of the process itself, but still felt that their case was handled fairly. Upon further questioning, specifically about how they came to their conclusions regarding fairness, a number of different themes emerged. Those who thought both their own situation and the process itself were fair identified four subcategories: *reasonable consequences*, *opportunity to choose*, *opportunity to explain*, and *rules and punishment*. For the two students who felt that the process was unfair, two subcategories could be identified: *bias in the process* and *perceived double jeopardy*. In almost every case, students identified more than one reason for their view of the fairness of the process.

This finding, that students generally believe their own situation was handled fairly, is consistent with one study found in the literature that investigated students’ perceptions of procedural fairness as well as overall fairness in the process (Mullane, 1999). The study assessed fairness through 12 survey items, and the author states that the mean score was such that students believed the overall process to be fair.

Given the importance placed on fairness as an identified outcome of the process and the findings of previous study, it is heartening to know that students perceived the campus judicial process to generally be a fair one. However, students had varying reasons for believing that they were treated fairly. A portion of this difference can partially be understood in light of theories of moral development.
One of the earlier theorists, Lawrence Kohlberg, devised a theory based originally on his work with adolescent boys (Kohlberg, 1971, 1972). His theory includes three general levels of thinking about or resolving moral dilemmas: pre-conventional (where decisions are based on what benefit the outcome will have to the individual), conventional (where decisions are made based on the expectations of others), and post-conventional (where decisions are based on a set of ethical principles adopted by the individual). Carol Gilligan (1982/1993), a former student of Kohlberg’s, later developed what she described as a “voice of care” (as opposed to a “voice of justice” which she believed dominated Kohlberg’s scheme). Gilligan (1982/1993) believed that this “voice of care” was used predominantly by women, although she noted that gender did not necessarily dictate which voice an individual might use in resolving moral dilemmas. Given that nine of the ten participants were male, it is most sensible to consider Kohlberg’s work when analyzing the comments shared by the students in this study.

Two of the reasons students shared for believing that the process was fair, reasonable consequences, and rules and punishment, might make sense in light of Kohlberg’s work. Persons in Kohlberg’s Stage 2 (Individualistic, Instrumental Morality) “maintain a pragmatic perspective, that of assuring satisfaction of their own needs and wants while minimizing the possibility of negative consequences to themselves” (Evans, et al., 1998, p. 174). In the judicial process, one can imagine that these individuals would very much consider the consequences to themselves as one of the most important factors when forming an opinion of the process. In that view, it is reasonable to believe that for those participants who believed the process was fair because the consequences were
reasonable were using Stage 2 moral thinking in Kohlberg’s model. Max provided a useful example of this type of thinking when he said

I am not sure what would have happened had I met with the RHD, the original person that I was supposed to meet with, I have no idea what would have come out of that meeting, to be honest I was happy that I missed that meeting. I got to speak to [the judicial officer], because I knew what would come out of that . . . she said okay, I will give you a warning, I thought it was very fair.

For persons in Kohlberg’s Stage 4 (Social System Morality) “right is defined as upholding the laws established by society and carrying out the duties to which one has agreed” (Evans, et al., 1998, p. 175). In the judicial process, one can imagine that these individuals would have a “crime and punishment” point of reference when forming opinions about the process. It is reasonable to believe, then, that those participants who believed the process was fair because they broke the rules and therefore deserved punishment were using Stage 4 moral thinking in Kohlberg’s model. As Jack explained very succinctly, “I knowingly broke the rules, and I am punished for it, and I mean that is fair.” Max had a similar view, adding “So I thought in my situation it was fair. They had the rules, I mean I broke the rules, obviously, and I guess I broke one of them, and so I will accept responsibility.”

It should be noted that in the case of Max, it may not be unfounded to believe that he used both Stage 2 and Stage 4 moral thinking when forming his opinion. James Rest, who formulated a slightly different notion of Kohlbergs’s stages, believed that moral development did not occur in rigid stages, but was instead more fluid, and individuals could move back and forth between stages of thinking (Evans, et al., 1998). If Rest is correct, then Max’s statements are not necessarily inconsistent with one another.
It is also noteworthy to consider the philosophies of punishment presented earlier. One of the two predominant ideas was retributivism, which Foley described as “[the] claim that punishment is justified because the guilty must pay for their crime . . . retributivist theory stresses the relationship between punishment and desserts” (p. 92). While Jack and Max are probably would not connect their statements to a philosophy of retributivism, there is a striking similarity between their statements and the descriptions of the philosophy.

The other subcategories identified when students thought about the fairness of the process (opportunity to choose, opportunity to explain, bias in the process and perceived double jeopardy) are more difficult to explain in light of the literature. One supposition is that these subcategories are related to common notions about due process – both substantive and procedural – in criminal law, and that students used their knowledge of due process as a standard when forming their opinions about the campus judicial process. This may make sense particularly when one considers that the two students who felt the process was unfair, Eric and Steve, had concurrent municipal court processes for the same incident.

This study adds to the literature knowledge base by confirming the results of research that reported that students who go through campus judicial processes generally feel that they were treated fairly. Unlike that research, however, this study identifies specific reasons for students’ perceptions of fairness or unfairness. At least two of those reasons make sense when one considers theories of moral development.
Students’ Views of the Outcomes

A third goal of this study was to learn how students viewed the outcomes, or sanctions, of the campus judicial process in relation to their own situation. This study and the general literature suggest that the results of the judicial process are central in many respects. As noted earlier, students clearly place great importance on the sanctions that result from the process, and consistently experience anxiety about them. In terms of the outcomes for judicial affairs identified in the literature, Emmanuel and Miser (1987) list several “good examples of questions that define outcomes” (p. 87) for campus judicial systems, and include among them the following questions: (a) Does the judicial system help modify negative behaviors?, (b) Does the judicial system exist as an educational rather than a punitive focus?, and (c) Does the judicial system help students gain perspective on the seriousness of their actions?

These questions also go to the learning that takes place and behavioral change that results from the campus judicial process, and those topics will be explored in further detail later in this chapter. Sanctions, however, can play an important role in facilitating learning and in modifying behaviors. Gathercoal (1991) points out that

Once students step outside a rule’s boundaries, the rule loses its effect. Therefore, when a rule is violated, the burden of maintaining community expectations and changing behavior attitudes shifts to educational and workable consequences. Consequences then serve as new rules for transgressing students (pp. 50-51).

In relation to learning and behavioral change, then, students’ views of the consequences or sanctions seemed an important aspect to investigate in this study.

In general, the participants in this study viewed their outcomes or sanctions in positive terms. In two cases, students described the outcomes in neutral terms, believing that the sanctions simply “wouldn’t do any good.” The participants in this study received
a variety of sanctions including warnings, periods of probation, participation in alcohol education programs, community service, restitution, and reflection papers. Three of those types of sanctions – community service, probation, and OCTAA – and were quite common. This allowed an unexpected opportunity to ask about students their opinions of those sanctions. Consistent with their general views of the outcomes, students also viewed these specific sanctions in positive ways.

This finding adds to the literature when taken together with the findings in a previous study. Allen (1994/1995) surveyed campus judicial administrators at liberal arts colleges about how they defined the educational dimensions of the college disciplinary program (using a list of outcomes identified from the literature), and compared their responses with those of liberal arts students who were involved in the disciplinary programs by way of violation. One of the more serious disparities had to do with the meaning and importance of sanctions, in that students viewed the sanctions as a ineffective aspect of the campus judicial process. Allen (1994/1995) wrote that

Although 57% of the disciplined students . . . believed the sanctions assigned to them were appropriate to the offense, only 33% described these sanctions as meaningful and beneficial. Slightly more than a third of the student who wrote comments, asserted that sanctions assigned to them were inappropriate. (p. 113)

Allen goes on to note that in their written comments, the third of the students who believed their sanctions were inappropriate deemed them so because (a) they had no connection to the behavior, or (b) were not similar to sanctions other students received.

While this study did not attempt to quantitatively measure students’ views of their sanctions and the specific reasons for those views, it is noted that of the ten students, eight of the ten had generally positive views of their sanctions, and none of the students
had strictly negative views. This study adds to literature on students’ perceptions of their sanctions, but also points to a need for further research in this narrow topical area.

To better understand these findings, it might be helpful to turn again to Kohlberg’s theory of moral development, as well to consider students’ views of their sanctions in light of this study’s other findings.

For persons in Kohlberg’s Stage 5 (Human Rights and Social Welfare Morality) “the rightness of laws and social systems are evaluated on the basis of the extent to which they promote fundamental human rights and values” (Evans, et al., 1998, p. 175). In the judicial process, one can imagine that these individuals would believe that sanctions should promote the welfare of the community and the individuals in it, including themselves. It is reasonable to believe, then, that for those participants who believed that their sanctions were beneficial to themselves and others were using Stage 5 moral thinking in Kohlberg’s model.

Kyle is a good example of this. He believed his sanctions were meaningful and would help someone in his situation:

I think they’re [the sanctions] all pretty just, and in the end they actually really will help somebody, I mean not just me but like if anybody else had the same situation as I did, I think it would help them learn from it, rather than just make them pass it off as something, I gotta do this, they’re actually meaningful sanctions rather than just like suspending you from school, because that’s really not gonna help.

For persons in Kohlberg’s Stage 4 (Social System Morality) “right is defined as upholding the laws established by society and carrying out the duties to which one has agreed” (Evans, et al., 1998, p. 175). In the judicial process, one can imagine that these individuals would have a “crime and punishment” point of reference when forming opinions about sanctions. It is reasonable to believe, then, that for those participants who
believed their sanctions were appropriate because they broke the rules were using Stage 4 moral thinking in Kohlberg’s model.

Frank is an example of someone who may have used Stage 4 moral thinking when forming his opinion about his sanctions. Although his viewpoint is similar to Kyle’s in that he talks about the benefits of his sanctions to society and to himself (a possible indicator of Stage 5 thinking), he speaks primarily about paying back his debt to society:

I think they are, and I should certainly payback for the damage that I caused to the property, you know that is common sense, and like I said I see the importance of the probation you know, that is sort of, to make sure I don’t ever do anything, it is sort of a preventative measure, and you know community service is sort of like paying back my debt to society, so I don’t mind it. At first I thought you know maybe the community service was a little much, but as I thought about it, like, I think about it like for some people, some students the money would be nothing, in which case if the community service wasn’t there, then they would essentially have to do nothing, so I think that is fair. I think community service is a good idea.

Scott provides a probably more tangible example of Stage 4 moral thinking:

They’re [the sanctions] acceptable. I mean, I was obviously in the wrong, you know, I wasn’t really gonna do anything like that again regardless, but nevertheless you need punishments and consequences otherwise you can just run amuck, that’s not acceptable . . .

Some of the other findings concerning students’ views of their sanctions can probably be best understood in light of other findings in this study. The two students who held neutral views of their sanctions, for example, may be explained by other findings. Eric, for example, felt that “Those sanctions would have made an impact if there had not been the other side, the county side.” As explained later, this may be best understood in light of the complementary finding that when students have a concurrent court process, the two processes tend to become blurred and the campus judicial process becomes subordinated to the court process. This issue will explored later in this chapter.
Jack, who shared that

It isn’t going to make any difference in how I live my life, I mean, obviously I don’t abuse alcohol. I don’t have a problem with alcohol. I am 19 years old, I am a college student. I had a normal incident where, I got drunk in my room. If I didn’t get drunk in my room, and I would have got drunk on fraternity row, if I didn’t get drunk on fraternity row, I would have gotten drunk somewhere else . . .

probably can better understood in light of the finding concerning future behaviors that when it came to the use of alcohol, students were reluctant to change their behaviors.

This too will receive further scrutiny later in this chapter.

This study adds to the judicial affairs knowledge base by presenting another perspective on students’ perceptions of their sanctions, but also points to a need for further research in this narrow topical area. Some of the perceptions of sanctions identified here can be understood by turning again to Kohlberg’s theory of moral development, while additional students’ views of their sanctions can be understood in light of this study’s other findings.

Learning Attained

Nearly universal among judicial affairs practitioners is the belief that the campus judicial process should be educational in nature, and that learning should occur as a result of a student’s encounter with the process. One of the core assumptions or beliefs identified by the Association for Student Judicial Affairs is that “the disciplinary process should be educational” (1998, p. 13). The statement is further explained:

The process should be educational for those who violate the standards and those responsible for enforcing them. Punishment is viewed as educational and developmental as students learn the reality of accountability. Student involved in developing and enforcing campus standards learn the responsibilities of citizenship. (ASJA, 1998, p. 13)
ASJA goes on to identify five principles of practice, and among them is the second principle: “Holding students accountable for their conduct within a student disciplinary process is intended to provide a positive educational and developmental experience.” The principle is explained in the following way:

An effective disciplinary process must be grounded in student developmental theory . . . Many of the educational components of a campus judicial system are demonstrated through the application of meaningful, ‘creative’ sanctions, alternative dispute resolution options, and proactive as well as reactive educational activities that help students learn. (ASJA, 1998, pp. 14-15)

The Council for the Advancement of Standards (Miller, 2001), in providing standards related to the mission and goals of judicial programs and services, notes that the goals must “provide learning experiences for students who are found to be responsible for conduct which is determined to be in violation of institutional standards . . .” (p. 110).

Likewise, Emmanuel and Miser (1987) list several “good examples of questions that define outcomes” (p. 87) for campus judicial systems. Among those questions they ask are (a) does the judicial system teach students that actions have effects and they must accept responsibility for their actions?, (b) does the judicial system exist as an educational rather than a punitive focus?, (c) does the judicial system teach students about their responsibilities as members of a community?, (d) does the judicial process help students clarify their values?, and (e) does the judicial system help students gain perspective on the seriousness of their actions?

Finally, Dannells (1997) also considers the campus judicial to be an excellent vehicle for learning and teaching: “. . . student discipline is, and always has been, an
excellent opportunity for developmental efforts . . . much of discipline involves teaching and counseling . . .” (p. 79).

A fourth purpose of this study, then, was to explore what participants believed they learned as a result of going through the campus judicial process. The students who were interviewed had varying perceptions of what they had learned as a result of the campus judicial process. Most believed that they had learned something as a result of the process. For those with that belief, three key points emerged from the interview data to form subcategories: (a) consideration of consequences, (b) empathy, and (c) familiarity with judicial procedures. At least three students, however, indicated that they had not learned or gained anything from the process. The fourth key point from the data was the subcategory no perceived learning.

The results of this study add to the small amount of literature that addresses students’ perceptions of learning in the campus judicial process. Mullane (1999) surveyed students and attempted to assess the educational value of the judicial process by an item that addressed the issue directly and by four related items on the questionnaire on the educational value of the disciplinary system (e.g. ‘My involvement in the disciplinary process will help me avoid further policy violations’). With a possible range from 4 (agreement) to 16 (disagreement), the mean score was 9.40, SD=3.07 . . . . Individual items, with possible range from between 1 (agreement) to 4 (disagreement), had a mean value of between 1.94 (SD=0.95) and 2.52 (SD=0.89) . . . .(p. 91)

From these scores, Mullane (1999) concludes that students generally agreed that the process had educational value. Unfortunately, Mullane apparently did not investigate specifically what it was that students felt they had learned from the process. She did report, however, that there was a significant positive correlation between higher scores on
the Defining Issues Test (Rest, 1986) and agreement that the process had educational value.

Allen (1994/1995), however, did investigate and report specifically what students believed they had learned as a result of the process. Students identified the most successful outcomes of their campus judicial experience as (a) increased inclination to think through actions before acting, (b) accepting responsibility for actions, and (c) abiding by college policies in the future. Two of these can probably be identified as learning outcomes in the same way they are discussed here. One of them, increased inclination to think through actions before acting, corresponds exactly with a finding of this study, consideration of consequences.

The subcategories of empathy and familiarity with judicial procedures appear to represent new elements in the literature, and perhaps also can be understood by turning to theories of moral development and other findings in this study. After reviewing literature and research on moral development, Evans, et al. (1998) conclude that one of the prerequisites for moral development is perspective taking – the capacity for understanding what another person is experiencing and thinking. The finding of empathy seems to be consistent with this concept of perspective taking. Two of the students in this study clearly demonstrated a capacity for perspective taking. Frank, in one of his statements, provided a very good example of this when he reported that:

... this whole thing sort of reminds me that if I am going to live in a more close knit community, in a community which people are more stacked on each other, you know, I guess what the population density is higher, the more I do then the more I have to realize that I am also living on other people’s terms, not just my own...
Kyle also expressed empathy after witnessing the effect incident had on his parents:

I saw how my parents reacted to the situation, and like, that’s another thing as far as affecting other people, I mean, even though I am an adult it still affects them, because it reflects upon them, at least that’s what they think, and you know, whether I feel the same way or not, if it’s how they feel then I do need to understand that my actions are going to affect them and a lot of other people . . .

While further research is clearly needed in this area, this finding may indicate that one of the positive outcomes of the campus judicial process is that it facilitates empathy or perspective taking for some students.

The subcategory of familiarity with judicial procedures can possibly be understood in light of the earlier finding of anxiety. As discussed earlier, the sense of anxiety was related in part to confusion and uncertainty about what to expect from the process and the meeting with the judicial officer. It is possible that the students who reported this as a learning outcome harbored that anxiety and were particularly attentive to the process and procedures as they went through it.

The subcategory of no perceived learning might also makes sense in light of other comments made by the three students who believed that they had not learned anything from the process.

Jack, when discussing what he learned, had said that “I really didn’t learn anything other than to be more careful.” In his second interview, however, Jack made it clear that he was a responsible person and didn’t believe that he needed to learn anything regarding alcohol:

Researcher: . . . you were talking about how you were 19, and how you thought it would be difficult to teach anyone who is 19 a lesson so to speak, about alcohol, why do you think that is?
Jack: I don’t know, it is a part of my culture, you know, whatever. I have been drinking since I was like 16, not like drinking, probably no more than any like adult, of age, and I suppose, it is something I enjoy doing to pass the time on a Saturday night, so on that particular Saturday night I did . . . I am a responsible person, responsible enough to live on my own, responsible enough to drink too, in my opinion, and obviously that is not the law, but I mean, I don’t know. There is college kids all across the country that drink in their room, so I don’t think it is a big deal.

Scott likewise didn’t feel that any learning was at all necessary or desirable:

No, but, I mean, I don’t think I need to be changed as a person, you know, it’s like I’m some ethically, morally corrupt juvenile delinquent that’s been on the streets for, you know, the last fifteen years . . . there’s nothing that would have changed me, but I wouldn’t wanna be, like, see a light on this or something, and like, I wouldn’t want myself to change, you know, I would have been upset if, like, if there were some sort of punishment that totally turned me around or something, because, I feel like pretty much set where I am, you know?

The last student who felt that no learning had occurred, Eric, was also very adamant in his belief that the campus judicial process had nothing to do with “personal integrity” or “[trying to make people] better socially or morally.” As he explained his view:

Well, I mean, Universities are founded on learning, not on some sort of social conditioning . . . I mean, do people come to the University to enhance themselves, do people come to the University with the idea that the University is going to make them a better person, socially, morally, otherwise? No, they think they’re coming to the University to get, to become more intelligent and to understand, I think that sort of thing.

It is very likely that the strong opinions these students held about themselves and/or the judicial process obstructed any learning that might have otherwise taken place.

This study adds to the judicial affairs literature by supporting a study and adding new elements to the understanding of students’ perceptions of learning in the campus judicial process. Some of the perceptions of learning identified here can be understood
by turning to Kohlberg’s theory of moral development, while others of students’ views can be understood in light of this study’s other findings.

Effects on Future Behavior

A final purpose of this study was to explore the ways in which the participants believed that their experience in the campus judicial process would affect their future behaviors, if at all. The literature suggests that affecting behaviors is also an important outcome for the campus judicial process. Emmanuel and Miser (1987), for example, list several “good examples of questions that define outcomes” (p. 87) for campus judicial systems, and among those questions they ask “Does the judicial system help modify negative behaviors?” (p. 87). Similarly, the Council for the Advancement of Standards (Miller, 2001) implies some additional outcome measures in offering guidelines for research inquiries into judicial programs, and among them is a reduction in case load and rates of recidivism, or preventing negative behaviors.

Allen (1994/1995) demonstrated that campus judicial administrators believe that affecting behaviors as an important outcome. After surveying campus judicial administrators at 67 liberal arts colleges about how they defined the educational dimensions of the college disciplinary program (using a list of outcomes identified from the literature), administrators identified making constructive changes in behavior as one of the four most important outcomes.

As a general rule, the participants in this study indicated that they would not repeat the specific behavior that violated the code of conduct. When it came to the use of alcohol, however, students were far more reluctant to change their behaviors. This is a key finding since seven of the ten participants entered the campus judicial process
because of alcohol-related incidents. The corresponding subcategories were labeled (a) *discontinue the behavior*, and (b) *maintain use of alcohol*.

As noted earlier, Allen (1994/1995) found that one of the most successful outcomes of the campus judicial experience identified by students was abiding by college policies in the future. This study’s finding of *discontinue the behavior* agrees with Allen’s (1994/1995) result. Since students’ specific reasons for discontinuing the behavior were not part of the research protocol, it is not clear why they made those choices. One could speculate about those reasons given Kohlberg’s various stages of moral development, perhaps, but in the end this is an area that simply needs further study in order to gain a better understanding.

Those students whose behaviors involved alcohol all felt certain they would not repeat the specific behaviors that resulted in the judicial process, but were also equally certain that they would continue to use alcohol, even if they were under the legal drinking age. Given the evidence in the literature of pervasive use of alcohol by college students (Wechsler, Lee, Kuo, & Lee, 2000), this is perhaps not a surprising finding. However, it does appear to add a new element to the judicial affairs literature.

Understanding this finding is well beyond the scope of this study. The reasons that students choose to use alcohol are many and include both personal (i.e. escaping, forgetting, producing mood changes) and social factors (i.e. easing social interaction, going along with others), as well as simply drinking to achieve intoxication (Prendergast, 1994). The students in this study undoubtedly had just as many reasons for continuing their alcohol use. Understanding those reasons for using alcohol – and continuing to use
alcohol after the campus judicial process was completed – was not part of the research protocol for this study, but is an area for future research.

This finding adds to the judicial affairs literature by supporting the results of one previous study and adding a new element to the outcomes literature in judicial affairs. While the research protocol did not explore the reasons for students’ decision to discontinue the specific behavior that violated the code of conduct, the reasons could perhaps be understood by turning to Kohlberg’s theory of moral development. The finding that students planned to continue their use of alcohol –even while underage – adds to the judicial affairs literature, but understanding that finding is well beyond the scope of this study.

Other Findings

In addition to exploring the specific research questions listed above, the researcher asked other questions of the participants that were intended to add insight into students’ judicial experiences. Three of those categories are discussed here, and were chosen because they yielded especially rich data that illuminated the experiences of students who go through informal campus judicial processes. Those three categories are (a) reason for informal, or why students chose to resolve their judicial matter with the judicial officer rather than attending a hearing, (b) influence of court process, or the effects of concurrent processes in municipal court, and (c) advice, or what students believed they would tell others who were about to embark on the campus judicial process.
Reason for Informal

At each of the three institutions where the researcher observed and interviewed participants, students in the campus judicial process had an opportunity to choose either an informal resolution with the judicial officer or a more formal resolution that involved a hearing before a hearing body (at Southeast and Southeastern Tech the hearing “body” was a panel of students and staff; at Longstreet students could choose a hearing panel or a hearing with a single administrator serving as the hearing body). In all cases, the informal resolution involved accepting responsibility for violating a part of the institution’s code of conduct; waiving the right to a full hearing, including the right to an appeal (except at Longstreet, where even informal outcomes could be appealed); and agreeing to a sanction or set of sanctions presented by the judicial officer.

All ten of the participants in this study chose an informal resolution rather than attendance at a hearing. Although not directly related to any of the five guiding research questions, each participant was asked about his or her choice of the informal resolution as a way of exploring students’ attitudes and perceptions about the judicial process. Participants articulated a number of reasons for choosing the informal process, but three surfaced consistently: expediency, uncertainty, and culpability. Expediency was an important reason because many students felt that the informal resolution would be quicker and less inconvenient than attending a hearing, and many decided that the sanctions were an acceptable alternative to the amount of time or effort that might be involved in a formal hearing. Uncertainty was an important reason because when facing a decision between the known and the unknown, many of the participants chose the outcome they could rely on, rather than risk a more disagreeable outcome from a hearing.
body. Finally, *culpability* represented the belief that they were indeed responsible for violating part of the institution’s code of conduct, and therefore saw no reason to pursue the formal process.

Nothing in the literature focuses on the choice of the informal process and identifies students’ reasons for making that choice. These findings appear to add a new element to the judicial affairs literature.

At least for the first two reasons, *expediency* and *uncertainty*, the judicial affairs literature and the body of student development theory do not seem to elucidate these reasons for making the decision about the informal process. The decision to be made here is not a moral decision about values, nor is it a decision about knowledge and truth. Even psychosocial and identity development theories don’t speak to this particular type of decision.

Upon closer examination, there appears to be an overarching rubric of “risk and reward” at work. When considering *expediency*, the “risk” is an additional commitment of time and effort, whereas the “reward” is closure and an end to the sense of anxiety. The reason of uncertainty is perhaps more obvious when using this “risk and reward” rubric, but surely the “risk,” as students identified it, is the possibility of a less favorable outcome in a formal hearing, whereas the “reward” is an outcome that’s acceptable (or one that “I can handle,” as Steve put it), as well as an end to the sense of anxiety. Undoubtedly the risks and rewards were on Scott’s mind: “there wasn’t a lot that they [a hearing panel] could do that would have been less strict than what [the judicial officer] gave me, so it didn’t seem worth the risk, so there’s a risk/reward thing that isn’t worth it.”
When also understood in light of the advice many students said they would give others to “tell them what they want to here” (discussed in more detail below), the risk/reward rubric may also make sense for the reason of culpability. By accepting responsibility and agreeing to the sanctions, students avoid the “risks” of additional time and effort and the possibility of a less favorable outcome. They are instead “rewarded” by an acceptable outcome and an end to the sense of anxiety. This may indeed have been the case for Gary, who said that for him,

... the legal proceedings were already completely through so I figured it was really no point in going to a formal meeting, I figured it would be better time spent, I guess it would be quicker, it would have, the end result would have been the same either way, so I just decided to go ahead and proceed with the informal agreement ... 

This scheme of risks and rewards represents informed supposition on the part of the researcher, and certainly more research is needed in this very specific area. In the meantime, however, this finding represents a new component in the judicial affairs literature and gives insight into how students make procedural decisions during their encounter with the campus judicial process.

Influence of court process

Of the ten participants interviewed, four of them (Kathy, Gary, Steve, and Eric) had to go through municipal court processes in addition to the campus judicial process. All four of these participants faced charges related to driving while under the influence of alcohol. Their experiences with the courts varied, and the researcher did not pursue lines of questioning about the courts except as it related in some way to the campus judicial process.
This topic was not a part of the research protocol, but rather came about serendipitously as a result of the constant comparative method. That is, as additional participants remarked on how the court process affected their experience, additional questioning and exploration of that topic took place.

The court process could be called the “confounding variable.” In all four cases when students had court processes to go through along with the campus judicial process, a considerable amount of blurring took place between the two processes. This blurring seemed to occur in two ways. First, the campus judicial process became subordinated to the court process, making the campus process seem secondary and/or meaningless to students. Second, it led to questions about the fairness of undergoing two processes, often leading to questions about “double jeopardy.”

This aspect of students’ experiences is not addressed in the existing literature on judicial affairs and student affairs. As with some of the other findings of this study, it appears to be a new element that warrants further investigation.

As with other findings, some insight may occur by considering other results of this study. Students, as a rule, felt a high degree of anxiety about the campus judicial process. While not specifically investigated for this study, there undoubtedly was a parallel anxiety about the municipal court process that may have in fact been greater. Those students who had been through the court process spoke of a series of consequences that most judicial officers would consider onerous: heavy fines, lengthy community service, suspension of drivers’ licenses, and jail time, to name a few. If students felt anxious about the outcomes of the campus judicial process, then they must have felt
almost frightened by the consequences of the court process. Certainly, the court process and its consequences must have preoccupied their minds.

The two students who felt that they experienced “double jeopardy” by going through two processes is a bit more difficult to explain. Case law and the literature in judicial affairs establish that campus judicial processes – even at state institutions – are administrative or civil proceedings (Carletta, 1998), and thus no double jeopardy exists even when a criminal process may take place for the same offense (Carletta, 1998; Dannells, 1997; Kaplin & Lee, 1995). In the researcher’s opinion, the judicial officer who met with these two students did a very adequate job of explaining why they were not being subjected to double jeopardy, explaining that they were part of two different communities with two different sets of accountability, and stating that the campus judicial process is not about state law.

Nevertheless, both students expressed concerns about getting punished twice as a result of the same incident. Without knowing how their perception was formed, it is difficult to explain. One student, Eric, was able to make a distinction between the two processes when discussing private schools, but he had not yet extended that notion to a public university:

I mean this isn’t a private school. I went to a private school in high school and I can understand it, getting in trouble with the school for that, but I don’t understand this being a public university, that getting in trouble for something that I am already going to be punished for, if found guilty by the county.

The influence of a simultaneous court process affected students in two ways. First, the campus judicial process became subordinated to the court process, making the campus process seem secondary and/or meaningless to students. Second, it led to questions about the fairness of undergoing two processes, often leading to questions
about “double jeopardy.” This seems to be a new element for the judicial affairs literature, but understanding these views will require further in-depth study.

**Advice**

Although not directly related to any of the five guiding research questions, each participant was asked what kind of advice he or she would give to other students who were about to go through the campus judicial process. This question was asked as a way of gaining further insight into students’ attitudes and perceptions about the judicial process. Although several pieces of advice were given, three recommendations surfaced consistently: (a) be honest, (b) act remorseful, and (c) tell them [referring to the judicial officer] what they want to hear.

The last two suggestions, act remorseful and tell them what they want to hear, may seem incongruous with the first piece of advice, be honest. However, there may be a common thread among the three. In most cases, students felt that these approaches would make the process easier and would positively benefit the outcome of the process for them. While it may not be reasonable to conclude that students were trying to manipulate or control the process, it probably is reasonable to conclude that they were trying to positively influence the outcome. Scott, for example, who would advise others to be honest and act remorseful, clearly felt that doing so would benefit him. He explained his perspective in this way:

I’d just say ‘be honest, don’t play it off like it was nothing,’ because then if, I’ve heard that if you just act like ‘no big deal,’ then they’re gonna give you more of a punishment because, like, they’ll want to make, they’ll want you to see that it is a big deal, which makes sense, so, I mean just, I’d say ‘act remorseful,’ you know, act like it, and just tell it like it is, because it’s not something you do all the time, you know, it’s just something stupid, let them know that . . .

Jack evidently would agree with Scott’s counsel:
So that is what I say to people, you know, they are like 70% sure that you did this, they know, and they think that you did, so don’t disagree with them because it will only piss them off more, you know, just own up to whatever, and if you own up to it and you act like you are sorry, they will let you go easier, you know, which is basically what I did, you know.

Also evident was a desire for expediency, particularly with the advice of *tell them what they want to hear*. The two students who identified this as a piece of advice clearly hoped that telling them what they want to hear would help them get through the meeting more quickly. Gary, for example, stated “. . . just go in there and basically tell them what they want to hear, and, you know, get out of there as quickly as you can, and keep your nose clean the rest of the time.”

These pieces of advice, while also probably not surprising to seasoned judicial officers, also appear to add a new element to the literature. It also points to a need for additional research into how students view the campus judicial process.

**Implications and Recommendations for Practice**

In addition to adding new elements to the judicial affairs literature, the findings of this study also have implications for practice. Practitioners are cautioned, however, that the study has limitations which must once again be acknowledged: (a) it was qualitative in nature and used a small sample size to attempt understand the meaning of a process or experience rather than to seek any definitive and predictable answers that are generalizable in the statistical sense; (b) this study examined the practices of only three institutions, all of which were located in the same state, and (c) the participants for this study may not have formed a demographically representative sample of the types of students who go through judicial processes generally.

Despite these limitations, the findings offer perspectives that practitioners can apply to their everyday work with students during campus judicial processes.
First, judicial officers should recognize and be sensitive to the fact that students experience anxiety during their involvement in the judicial process. This anxiety may center around uncertainty with the process or uncertainty about the consequences – or both – and the levels of anxiety will differ from student to student. A moderate amount of anxiety or stress is not necessarily undesirable; it may in fact serve to “focus the mind” of the student on to the matters at hand. On the other hand, an excessive amount of anxiety may taint the interaction between the student and the judicial officer and interfere with any learning that might otherwise take place. A judicial officer who remains sensitive to a student’s anxiety can remain alert for verbal and non-verbal cues from students, acknowledge a student’s anxiety, and even invite the student to discuss that feeling. Allen (1994), in her study of students’ perceptions of the educational value of the judicial process, found that “students identified their relationship with the disciplinary officer or board as one of the strongest aspects of the disciplinary experience” (p. 112). Decreased anxiety may enhance the rapport between the judicial officer and the student and lead to more constructive educational outcomes.

Second, judicial officers should remain cognizant that students’ perceptions of fairness is determined by more than following a process. The structure of the campus judicial process is an excellent framework for fairness, and it does help to preserve the integrity of the judicial process. For students, however, other factors, such as having an opportunity to explain his/her perspective and the reasonableness of the consequences also contribute to that perception. Stoner (1998) speaks of treating students not only with fairness but with dignity, and in that respect the meeting with the judicial officer is critical to helping students view the process as a positive one.
Third, judicial officers can feel confident that in most cases, some kind of learning does occur for students in the process. For some students, that learning may take the form of more sophisticated moral thinking; for others, it may simply take the form of increased awareness of the institution’s expectations or the institution’s procedures. Either outcome should be viewed as a positive one for the student and for the campus community.

Judicial officers should take full advantage of this opportunity, however, by encouraging students to consider the consequences of their actions, and by encouraging students to practice empathy. Healy and Liddell (1998) present a clear and coherent model for a “developmental conversation” which seems to easily apply to a one-on-one, administrative judicial intervention. The developmental conversation, in their view, is a occasion to “facilitate knowledge of each other in conversation . . . [and] to create shared values of respect, trust, and dignity” (p. 42). They contend that the developmental conversation, as an intervention, creates an experiential learning opportunity that leads to growth in cognitive and moral development.

Their model consists of five stages: (a) acknowledgement and construction, (b) perspective taking, (c) evaluation, (d) meaning making, and (e) resolution, repartition, and absolution. Each stage is accompanied by a series of questions to ask which may lead to resolution of that stage of the conversation. In the perspective taking stage, for example, Healy and Liddell (1998) pose the following questions: “can you think of ways in which your behavior affected others in your class? In your community? In your group? Is there another way to look at this?” (p. 43). A fuller representation of their model can be found in Table 4.
Fourth, judicial affairs officers should develop sanctions that not only address the behaviors in question, but also attend to other developmental or behavioral issues surrounding the behavior. In this study, students’ reluctance to change their use of alcohol is an example of how students may change a particular behavior, but may not change related behaviors in any significant way. While the specific behaviors – drinking in the residence halls, driving while under the influence of alcohol, and so on – are not desirable and must be addressed, one must wonder how effectively they can be addressed if the underlying issue, alcohol use, is not also dealt with. Admittedly, effecting any kind of positive change in drinking patterns is difficult because of campus cultures that influence alcohol use in the first place.

Gathercoal (1991) suggests that sanctions should be designed so that they are “first, . . . commensurate with the rule violation, and second, compatible with the substantive needs of the student as well as the welfare of the . . . community” (p. 52). This model implies looking both at the specific behavior as well as issues surrounding the behavior.

Fifth, judicial officers should be aware, if they are not already in an anecdotal way, that students who choose to resolve their judicial matters informally may do so for reasons besides wishing to accept responsibility for violating the code of conduct. As this study reveals, students also choose informal resolutions because of expediency and because of uncertainty – as discussed earlier, a “risk and reward” rubric that may be more important than actually accepting responsibility.
Table 4

A Model for the Developmental Conversation

<table>
<thead>
<tr>
<th>Stage of the Conversation</th>
<th>Questions to Ask</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acknowledgement and Construction</td>
<td>Tell me what happened. Do you know why you are here (what you did, and so on)? Can you think of ways in which your behavior affected your future?</td>
</tr>
<tr>
<td>Perspective Taking</td>
<td>Can you think of ways in which your behavior affected others in your class? In this community? In your group? Is there another way to look at this?</td>
</tr>
<tr>
<td>Evaluation</td>
<td>What have you learned from this?</td>
</tr>
<tr>
<td>Meaning Making</td>
<td>What does this lesson mean to you? How do you know that?</td>
</tr>
<tr>
<td>Resolution, Repartition, Absolution</td>
<td>What would make things right? What would that mean to you? What would that mean to the person or organization that was harmed?</td>
</tr>
</tbody>
</table>

*Note. Adapted from The developmental conversation: Facilitating moral and intellectual growth in our students. (p. 41) by M. A. Healy and D. L. Liddell, in D. L. Cooper & J. M. Lancaster, (Eds.), Beyond law and policy: Reaffirming the role of student affairs (pp. 39-48). New Directions for Student Services, No. 82. San Francisco: Jossey-Bass.*
If one of the important outcomes of the campus judicial process is to help students learn to accept responsibility for their actions, as Emmanuel and Miser (1987) suggest it is, then judicial officers will need to carefully design their interactions with students to explore that concept. Judicial officers should carefully and fully explain both the current and future implications of such a decision, and should question students about their specific reasons for accepting responsibility.

Finally, it appears that court processes are a confounding variable with respect to the campus judicial process. For the students involved in this study, the campus judicial process became subordinated to the court process, making the campus process seem secondary and/or meaningless to students, or the court process led to questions about the fairness of undergoing two processes, often leading to questions about “double jeopardy.” Judicial officers should help students involved in two process make the differentiation between the two, and help them understand, in creative ways, the differences between the criminal and administrative processes at work. One of the judicial officers observed during the course of this study explained to students that the two processes were related to the two communities they belonged to and the two very different sets of obligations inherent to that community membership. Institutions should also address this matter within the text of the code of conduct, as suggested by Stoner & Cerminara (1994) in their model student discipline code.

Future Research

This study was qualitative and exploratory in nature, and as such provided plentiful insights into students’ experiences with the campus judicial process. At the
same time, it raised many questions that suggest a need for further research. It must also be acknowledged that many aspects of this study could be replicated with other populations to determine whether or not the themes identified here hold true for other students in other settings. Listed below are some of the specific findings that warrant further research.

This study indicated that one of the positive outcomes of the campus judicial process is that it may facilitate empathy or perspective taking for some students. While this outcome is often assumed, this study appears to be one of the first to confirm it. Further study using qualitative methods would help to confirm or refute this finding. Since at least one quantitative instrument exists to assess levels of moral thinking using Kohlberg’s model, Rest’s *Defining Issues Test* (1986), a pre/post quantitative study may also provide new insight.

Students’ reasons for choosing informal resolutions in the judicial process also deserves further study. On of the explanations offered, that students often make this decision based on a rubric of “risks and rewards” rather than a desire to accept responsibility for a violation, represents informed supposition on the part of the researcher and certainly more research is needed in this very specific area.

Understanding the reasons for using alcohol even when it leads to other behaviors or contributes to negative consequences also deserves further study. Only a small amount of research exists on the specific reasons why students choose to use alcohol, and that would certainly help to inform the finding in this study.

The matter of the courts as a confounding variable in the campus judicial process deserves further study. Not only should an attempt be made to either confirm or refute
this finding, but it would also be useful to know how students form their perceptions of “double jeopardy.” It would also be interesting to know how other judicial officers successfully help students draw distinction between the two processes.

Finally, the students in this study were chosen in part because the judicial officers believed that their interaction with the judicial system would likely not result in separation from the institution. One is left to wonder about the experiences of those students who are separated from the institution as a result of the campus judicial process. While logistically difficult, a study of this nature would shed light on those students who have the most serious of offenses.
REFERENCES


APPENDIX A

CONSENT FORMS

Form 1 – For University of the Southeast Participants

Form 2 – For Longstreet University Participants

Form 3 – Southeastern Technological University Participants
A QUALITATIVE INVESTIGATION OF THE IMPACT OF THE STUDENT JUDICIAL EXPERIENCE ON UNDERGRADUATE STUDENTS

INTERVIEW CONSENT FORM

UNIVERSITY OF THE SOUTHEAST PARTICIPANT

I agree to take part in a research study titled An Investigation of the Impact and Meaning of the Campus Judicial Process for Undergraduate Students, which is being conducted by Martin T. Howell, a student in the Department of Counseling and Human Development Services at the University of Georgia (telephone number 1-678-376-9605). This research is under the direction of Dr. Diane Cooper, a faculty member in the Department of Counseling and Human Development Services (telephone number 1-706-542-4120). I understand that my participation is entirely voluntary; I can withdraw my consent at any time, without giving any reason and without penalty. I can ask to have the results of my participation, to the extent that it can be identified as mine, returned to me, removed from the research records, or destroyed.

1. **The reason for the research** is to better understand the impact of the campus judicial process on undergraduate students, and determine what meaning a student makes of his or her interaction with a campus judicial system. Specifically, this study will do so by examining the case of students who take part in the informal student disciplinary process.

2. **The benefits that I may expect from participating** include reflecting on my student judicial experience at the University of the Southeast and understanding how that experience impacted me as a student at the University.

3. **The procedures for this study are as follows:**
   - **Time research will occur**—Data will be collected between March 1, 2001 and June 30, 2002.
   - **Place research will occur**—Participants will be observed and interviewed on the campus of the University of the Southeast. The observation will take place in the office of the University judicial officer. The interviews will take place in a setting where privacy and confidentiality can be reasonably assured, and that is agreeable to both the researcher and the participant.
   - **Duration of involvement**—Participants can expect to spend about three hours with the researcher during the course of the study; one hour being observed during an informal meeting with a University judicial officer, one hour talking to the researcher approximately 10 days after the initial meeting, and one hour talking to the researcher following the completion of any sanctions/obligations as a result of the process (or, in the event that there are no sanctions to complete, approximately two weeks following the first interview).

4. **The discomforts or stresses that may be faced during this research are:** Other than the potential for mild embarrassment while relating a story or incident to the researcher, no discomforts or stresses are foreseen.

5. **Participation entails the following risks:** No risks are foreseen, except for the unlikely loss of confidentiality (see item #6 below).
6. **Statement of confidentiality:** The results of this participation will be confidential and will not be released in any individually identifiable form without my prior consent, unless otherwise required by law. Each participant will be identified by a pseudonym. Observation notes and interview responses will be coded with the participant’s pseudonym and real names will not be used. The researcher will be the only individual with access to the participant names along with their pseudonym. The list of participant names and their pseudonyms and interview responses will be kept by the researcher in a locked file drawer. Lists of participant names and pseudonyms will be destroyed by June 30, 2002. The interview will be audio taped for the purpose of transcription. Other than the researcher, only a transcriptionist will have access to the audio tape; however, the transcriptionist will only have access to the pseudonyms, not the participant names. The tapes will be destroyed by erasure no later than June 30, 2002. The transcriptions may be shared with members of the researcher’s doctoral committee; however, committee members will only have access to the pseudonyms, not the participant names. The transcriptions will not be shared with any others persons, including the judicial officer with whom the student met.

7. **Further Questions:** The researcher (Martin T. Howell) will answer any further questions about the research, now or during the course of the project, and can be reached by phone at 1-678-376-9605 or by e-mail at mhowell1@arches.uga.edu.

I understand the procedures described above. My questions have been answered to my satisfaction, and I agree to participate in this study. I have been given a copy of this form.

**Participant:** ___________________________    **Date:** ___________________________

**Researcher:** ___________________________    **Date:** ___________________________

*Please sign both copies of this form. Keep one and return the other to the researcher.*

The Institutional Review Board oversees any research-type activity conducted at the University of Georgia that involves human participants. Questions or problems regarding your rights as a participant should be addressed to Dr. Christina Joseph, Institutional Review Board, Office for the Vice President for Research, 606 Boyd Graduate Studies Research Center, The University of Georgia, Athens, Georgia 30602-7411. Telephone: (706) 542-6514 or IRB@uga.edu.
A QUALITATIVE INVESTIGATION OF THE IMPACT OF THE STUDENT
JUDICIAL EXPERIENCE ON UNDERGRADUATE STUDENTS
INTERVIEW CONSENT FORM

LONGSTREET UNIVERSITY PARTICIPANT

I agree to take part in a research study titled An Investigation of the Impact and Meaning of the Campus Judicial Process for Undergraduate Students, which is being conducted by Martin T. Howell, a student in the Department of Counseling and Human Development Services at the University of Georgia (telephone number 678-376-9605). This research is under the direction of Dr. Diane Cooper, a faculty member in the Department of Counseling and Human Development Services (telephone number 706-542-4120). I understand that my participation is entirely voluntary; I can withdraw my consent at any time, without giving any reason and without penalty. I can ask to have the results of my participation, to the extent that it can be identified as mine, returned to me, removed from the research records, or destroyed.

1. The reason for the research is to better understand the impact of the campus judicial process on undergraduate students, and determine what meaning a student makes of his or her interaction with a campus judicial system. Specifically, this study will do so by examining the case of students who take part in the informal student disciplinary process.

2. The benefits that I may expect from participating include reflecting on my student judicial experience at Longstreet University and understanding how that experience impacted me as a student at the University.

3. The procedures for this study are as follows:
   - Time research will occur—Data will be collected between March 1, 2001 and January 30, 2002.
   - Place research will occur—Participants will be observed and interviewed on the campus of Longstreet University. The observation will take place in the office of the University judicial officer. The interviews will take place in a setting where privacy and confidentiality can be reasonably assured, and that is agreeable to both the researcher and the participant.
   - Duration of involvement—Participants can expect to spend about three hours with the researcher during the course of the study; one hour being observed during an informal meeting with a University judicial officer, one hour talking to the researcher approximately 10 days after the initial meeting, and one hour talking to the researcher following the completion of any sanctions/obligations as a result of the process (or, in the event that there are no sanctions to complete, approximately two weeks following the first interview).

4. The discomforts or stresses that may be faced during this research are: Other than the potential for mild embarrassment while relating a story or incident to the researcher, no discomforts or stresses are foreseen.

5. Participation entails the following risks: No risks are foreseen, except for the unlikely loss of confidentiality (see item #6 below).
6. **Statement of confidentiality:** The results of this participation will be confidential and will not be released in any individually identifiable form without my prior consent, unless otherwise required by law. Each participant will be identified by a pseudonym. Observation notes and interview responses will be coded with the participant’s pseudonym and real names will not be used. The researcher will be the only individual with access to the participant names along with their pseudonym. The list of participant names and their pseudonyms and interview responses will be kept by the researcher in a locked file drawer. Lists of participant names and pseudonyms will be destroyed by January 30, 2002. The interview will be audio taped for the purpose of transcription. Other than the researcher, only a transcriptionist will have access to the audio tape; however, the transcriptionist will only have access to the pseudonyms, not the participant names. The tapes will be destroyed by erasure no later than January 30, 2002. The transcriptions may be shared with members of the researcher’s doctoral committee; however, committee members will only have access to the pseudonyms, not the participant names. The transcriptions will not be shared with any others persons, including the judicial officer with whom the student met.

7. **Further Questions:** The researcher (Martin T. Howell) will answer any further questions about the research, now or during the course of the project, and can be reached by phone at 678-376-9605 or by e-mail at mhowell1@arches.uga.edu.

I understand the procedures described above. My questions have been answered to my satisfaction, and I agree to participate in this study. I have been given a copy of this form.

**Participant:** ________________________________  **Date:** ______________________________

**Researcher:** ________________________________  **Date:** ______________________________

*Please sign both copies of this form. Keep one and return the other to the researcher.*

The Institutional Review Board oversees any research-type activity conducted at the University of Georgia that involves human participants. Questions or problems regarding your rights as a participant should be addressed to Dr. Christina Joseph, Institutional Review Board, Office for the Vice President for Research, 606 Boyd Graduate Studies Research Center, The University of Georgia, Athens, Georgia 30602-7411. Telephone: (706) 542-6514 or IRB@uga.edu.
A QUALITATIVE INVESTIGATION OF THE IMPACT OF THE STUDENT JUDICIAL EXPERIENCE ON UNDERGRADUATE STUDENTS

INTERVIEW CONSENT FORM

SOUTHEASTERN TECHNOLOGICAL UNIVERSITY PARTICIPANT

I agree to take part in a research study titled An Investigation of the Impact and Meaning of the Campus Judicial Process for Undergraduate Students, which is being conducted by Martin T. Howell, a student in the Department of Counseling and Human Development Services at the University of Georgia (telephone number 678-376-9605). This research is under the direction of Dr. Diane Cooper, a faculty member in the Department of Counseling and Human Development Services (telephone number 706-542-4120). I understand that my participation is entirely voluntary; I can withdraw my consent at any time, without giving any reason and without penalty. I can ask to have the results of my participation, to the extent that it can be identified as mine, returned to me, removed from the research records, or destroyed.

1. The reason for the research is to better understand the impact of the campus judicial process on undergraduate students, and determine what meaning a student makes of his or her interaction with a campus judicial system. Specifically, this study will do so by examining the case of students who take part in the informal student disciplinary process.

2. The benefits that I may expect from participating include reflecting on my student judicial experience at Southeastern Technological University and understanding how that experience impacted me as a student at the University.

3. The procedures for this study are as follows:
   • Time research will occur—Data will be collected between March 1, 2001 and March 22, 2002.
   • Place research will occur—Participants will be observed and interviewed on the campus of the Southeastern Technological University. The observation will take place in the office of the University judicial officer. The interviews will take place in a setting where privacy and confidentiality can be reasonably assured, and that is agreeable to both the researcher and the participant.
   • Duration of involvement—Participants can expect to spend about three hours with the researcher during the course of the study; one hour being observed during an informal meeting with a University judicial officer, one hour talking to the researcher approximately 10 days after the initial meeting, and one hour talking to the researcher following the completion of any sanctions/obligations as a result of the process (or, in the event that there are no sanctions to complete, approximately two weeks following the first interview).

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7. **Further Questions:** The researcher (Martin T. Howell) will answer any further questions about the research, now or during the course of the project, and can be reached by phone at 678-376-9605 or by e-mail at mhowell1@arches.uga.edu.

I understand the procedures described above. My questions have been answered to my satisfaction, and I agree to participate in this study. I have been given a copy of this form.

```
Participant: ____________________________ Date: ________________

Researcher: __________________________ Date: ________________

Please sign both copies of this form. Keep one and return the other to the researcher.
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The Institutional Review Board oversees any research-type activity conducted at the University of Georgia that involves human participants. Questions or problems regarding your rights as a participant should be addressed to Dr. Christina Joseph, Institutional Review Board, Office for the Vice President for Research, 606 Boyd Graduate Studies Research Center, The University of Georgia, Athens, Georgia 30602-7411. Telephone: (706) 542-6514 or IRB@uga.edu.
APPENDIX B

OBSERVATION PROTOCOL

<table>
<thead>
<tr>
<th>LOCATION:</th>
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<table>
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<table>
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<th>DESCRIPTIVE NOTES (EVENTS)</th>
<th>REFLECTIVE NOTES</th>
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APPENDIX C

INTERVIEW PROTOCOL

Form 1 – Interview #1 Questions

Form 2 – Interview #2 Questions
INTERVIEW QUESTIONS

(INTERVIEW #1)

The interview will begin with some demographic questions, including:

- Age
- Year in school
- Hometown
- College and major
- Career aspirations

Guiding questions for the interview will include:

- Briefly describe the incident which resulted in your judicial experience.
- What did you feel or think after receiving your letter from the campus judicial office? Were those feelings directed at anyone in particular, and if so, why?
- Review the meeting you had with the judicial officer. Which topics of discussion stand out? Which of the questions he or she asked you stand out? Why did you answer those questions the way you did?
- Why did you decide to resolve this matter informally, rather than choosing a hearing?
- Describe your view of the sanctions you agreed to. How do you feel about the appropriateness of the sanctions?
- Discuss the fairness of your judicial process. How did you arrive at your conclusion regarding its fairness?
- Describe the thoughts or feelings you had at the conclusion of your meeting with the judicial officer.
- Describe the impression you now have about your judicial experience.
- What kind of impact did the judicial process have on you? What parts had more impact than others? How do you know that?
- What other comments would you like to share concerning your judicial experience?
INTERVIEW QUESTIONS

(INTerview #2)

The interview will begin by briefly reviewing the participant’s responses from the first interview.

Guiding questions for the interview will include:

• Describe any reflections you’ve had about your involvement in the judicial process since we last spoke.

• In your original meeting with the judicial officer, you decided to resolve this matter informally, rather than choosing a hearing. If you had to do it over again, would you still make that same decision? Why or why not?

• The sanction(s) you had to complete was _______________. What was it like to complete that sanction(s)?

• Describe how you now view the sanctions you agreed to.

• Describe the views you now have about your judicial experience.

• What kind of impact did the judicial process have on you? What parts had more impact than others? How do you know that?

• In what ways will your interaction with the judicial process affect your future behavior, if at all?

• If another student approached you and told you that she or he was about to go through the judicial process, what advice would you give?

• What other comments would you like to share concerning your judicial experience?