After the ATO Report: Discussions to Come

In the wake of the Senate ad hoc committee review of the Alpha Tau Omega case and the response of President Sheldon Hackney and Provost Thomas Ehrlich, city and campus daily newspapers made a running story of the faculty report's objections to administrative handling of the case (pages 3-6) and of the administrators' criticism of the report's accuracy (page 7).

By Monday, however, Senate Chair June Axinn had invited the President and Provost to meet with the Senate Executive Committee and the ad hoc review group, and both leaders had accepted the invitation for January 11. In addition, the President and Provost issued the statement below. Concern for the woman student had taken a leading place in campus commentary, as had the role of the Spritzer committee (page 6).

"The administration has acknowledged its difficulties and its responsibilities, and particularly has emphasized how upset they are about the young woman's welfare," Dr. Axinn said. "They are ready to help, and I know I speak for SEC when I say we are ready to answer their call for help from the faculty. We've invited them to join us in talking about the basis of the problems that have shown up in the report and the aftermath, and they've accepted. A key point is to make clear that the faculty has a role in setting and enforcing standards in an educational institution."

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From the President and Provost

'The Need Now is to Look Forward'

December 10, 1983

The events of last week made it again painfully clear how terribly traumatic the ATO incident has been, not only for the individuals involved but for the entire Penn community. No matter has absorbed more of our emotional energy or caused us more personal pain. We profoundly regret that we were unable to find a way to spare the University community the protracted anguish to which it has been subjected.

We are particularly distressed that our compassion for the young woman involved was not as evident as it should have been, and renew our assurances that the University has a continuing interest in her welfare and stands ready to help her in further ways that may be needed.

Viewing the ATO matter in retrospect, we readily acknowledge that there are some things we would have done differently, though we believe none would have had a material effect on the outcome. During the crisis concerning threats in DuBois House, we consulted regularly with an ad hoc group of concerned individuals from throughout campus. We could have benefited from a similar group of advisers in the ATO matter. In general, we should have spoken more openly and to the ad hoc report some details not contained in it.

We continue to believe that we made the correct decisions on the two essential choices we faced: To follow the unanimous advice of the faculty panel chaired by Professor Spritzer to use existing faculty report's objections to administrative handling of the case and the ad hoc review group, and both leaders had accepted the invitation for January 11. In addition, the President and Provost issued the statement below. Concern for the woman student had taken a leading place in campus commentary, as had the role of the Spritzer committee (page 6).

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Consider this scenario: A faculty-child is accepted at another Ivy League school or other college providing need-based aid. The accepting college provides the admitted student with 50% of its tuition based on need. Adding in this year's $10,000 tuition benefit from Penn, one might reasonably assume (and over four years) roughly equivalent to that provided if the child went to a private school—thereby allowing the child to choose the tuition benefit options relatively free of financial considerations. Reasonable, you might say—but unfortunately not so. Penn tuition benefit checks are made out to the child's name. This causes no problems when a state or non-need based is involved. This is not the case with the other Ivies, however. In the latter case, when the student signs the check over to the chosen private school, the school automatically deducts that amount from its own scholarship offering rather than from the "parent's share" of the money due.

In effect, the "tuition benefit" that places the faculty member 30% below the average cost of attending another Ivies school would be substantially less than the "benefit" from Penn. Inversely, if the faculty member does not need any aid at all, then the faculty parent does not fully benefit from the Penn tuition "benefit." This peculiar arrangement undoubtedly has already cost faculty members thousands of dollars this fall alone.

Upon examining the situation further, I learned that this external benefit is treated by the University as a merit grant which is to be reported as scholarship in applying to other Ivy schools. This arrangement apparently is common practice among some non-need-based schools.

Faculty members should be aware of this practice in making plans for their children's education. For many, the 40% benefit may turn out not to be a benefit at all—and, as anyone who has had the experience knows, "need-based" aid rarely, if ever, meets the needs of families, most especially those of middle income families to which most faculty belong.

Hopefully, the University in cooperation with relevant faculty groups and other concerned faculty, will begin immediately to establish more equitable procedures. Among the possibilities that might be considered: (a) Make tuition benefit checks payable directly to faculty members as reimbursement for tuition payments as is done with Major Medical. (b) Even if this or a somewhat alternative might somehow be misconstrued as to make the benefit taxable (it seems dubious that the IRS would make distinctions based on method of payment), most faculty presumably would prefer the option of selecting a taxable benefit as opposed to no benefit at all.

Since the above (or comparable) changes presumably can be enacted at no cost to the University, let us hope that no effort will be spared in seeking ways to avoid doing faculty a disservice of this fiscal-harried benefit—most especially in cases where the benefit is most needed.

--Joseph M. Scandura, Director, Structural Learning Systems and CBI, GSE
Statement by the Senate Executive Committee December 7, 1983

The Senate Executive Committee commends the Committee to Review the Administrative Actions Pertaining to the ATO Incident for the successful efforts that have been made to carry out their difficult charge by producing this excellent and remarkable document. SEC moved that:

1. The entire report be made public.

2. Based on its review of the document, SEC recommends that the University promptly fulfill its moral responsibility to the victim by meeting the medical, legal and educational expenses incurred by her as a consequence of this incident.

Further consideration of the report will take place at the next meeting of the Senate Executive Committee.

Report to the Senate Executive Committee from the Committee to Review the Administrative Actions Pertaining to The ATO Incident

December 5, 1983

Regina Austin, Jean Crockett, Michael B. Katz (chair), Robert E. A. Palmer

Introduction

On February 22, 1983, an undergraduate woman reported to members of the Administration that she had been raped by several male students after an ATO Fraternity party early on the morning of February 18, 1983. University officials investigated the complaint and decided to proceed against both the Fraternity and the individuals. As a result of a hearing before the Fraternity-Sorority Advisory Review Board on March 23, the Acting Vice-Provost for University Life decided to suspend recognition of the Fraternity. The Fraternity subsequently challenged this decision in court, and the case is still unresolved. The case against the male students was processed through the University Student Judicial System and in May resulted in negotiated settlements without a hearing. The settlements require that their specific terms, including the sanctions, be kept secret. It is the administrative actions with regard to the cases against the individual male students that have been our chief concern.

The Executive Committee of the Faculty Senate charged us with reviewing the administrative procedures followed after the incident at the ATO Fraternity House in February, 1983. We were further charged with evaluating the support provided by the University and assessing the propriety of the sanctions imposed. We were given complete freedom to establish our own procedures.

In total, between October 6 and November 29, 1983, we interviewed 25 persons, some more than once. Our interviews and related discussions occupied approximately 47 hours. In addition, we each spoke individually with many other people, read documents, had many conversations with each other, and met together at length to prepare this report.

We chose to proceed by interviewing individuals one at a time. One of our early tasks was reaching an agreement with the Administration about the nature of their cooperation with us. The Administration was concerned with the impact of our inquiry and report on the case involving the Fraternity that was pending in the Court of Common Pleas and with the privacy of the complainant and the confidentiality of the settlements. Under the agreement reached, members of the Administration at their own request could bring a representative of the General Counsel's Office to their interviews with us. Most chose to do so.

Throughout our inquiry, confidentiality has been an issue in three respects. First, because of the terms of the settlements, the Administration has been unable to tell us certain things we were charged with ascertaining, especially the exact sanctions levied against the respondents and the exact nature of the evidence against them. Second, out of concern for the complainant, many of the details of the case should remain confidential. Third, a number of people spoke to us in confidence, and we feel bound to respect their trust.

Therefore, we do not document the sources of all our assertions. Nonetheless, we believe we have sufficient evidence to support each factual statement in this report. Each statement in this report is supported by more than one and most by several sources. We trust we have been thorough and believe that our report deserves the confidence of all constituencies in the University.

In some respects our knowledge is incomplete because there were facts that were not or could not be revealed, because of conflicts between statements, and because of scanty evidence. With a few exceptions, we do not feel confident about making definitive statements concerning intent or motivation. We have tried to present the Administration's viewpoint fairly, even where it differs from our own.

In the remainder of this report, we explicate the key aspects of the case. In each instance we try to summarize what happened, the available choices, the explanations offered for administrative decisions, and our own evaluations. We conclude with some brief guidelines for the future.

By way of preface, one of our hardest tasks has been determining where and how decisions were made and how they were communicated. As we have interviewed people and read documents, including those relating to the proceedings against the Fraternity, we have concluded that no one was clearly in charge of the various aspects of this case. No one had clear responsibility for checking details and no one weighed the implications of decisions made in one aspect for other aspects of the case.

1. Initial administrative involvement in the judicial process

Members of the Administration, including the Acting Vice-Provost for University Life, first became aware of the incident at the ATO Fraternity when the complainant reported it on Tuesday, February 22. The Judicial Inquiry Officer (hereafter, JIO) and detectives from Public Safety interviewed the complainant on Wednesday, February 23. On Thursday, February 24, the Assistant Director of Fraternity and Sorority Affairs wrote a letter to the prospective respondents directing them to appear at Public Safety the next morning to be interviewed by the Philadelphia Police. (At this time, there was no Director of Fraternity and Sorority Affairs in the University, and the duties of the office were divided among members of the staff of the Vice-Provost for University Life.) The JIO also requested the prospective respondents and witnesses to arrange for interviews with her. These instructions were hand-deliv-
2. The Committee on Consultation and the Special Faculty Committee

On Friday, March 4, the JIO submitted a hand-written report summarizing her investigation of the case. Between that date and March 10 she was away on account of a death in her family. On Thursday, the 10th of March, in consultation with other members of the Administration, she edited her report and made a few minor changes. There was essentially no action with respect to the individual cases between March 4 and March 23. The reasons given us are Spring Break and the decision to move ahead first with the hearing against the Fraternity as a whole on March 23.

On March 23, the President and Provost met with the University Council's Committee on Consultation to discuss how to proceed against the individual respondents. (Because the past-chair of the Senate was out of town, the members included the then-chair and chair-elect and the heads of the undergraduate and graduate student assemblies.)

Two broad options were under consideration at the time. One was to follow the judicial procedures already in effect under the Charter of the University Judicial System and to prepare for hearings before a student panel. The other was to create a special panel of faculty to hear the case. Arguments in favor of the latter included the following: (1) the existing procedures, which specified an all-student panel, had not been designed for cases involving personal violence or possible felonies; (2) hearings before a student panel might be open if the respondents so requested; (3) students might be reluctant to testify before or sit as judges on all-student panels; (4) the gravity of the situation called for the involvement of faculty; (5) lawyers for the respondents—as a previous incident had shown—could turn the hearings into a shambles; (6) the number of defendants might be large; (7) the JIO was not an attorney and the Judicial Administrator was not experienced in formal litigation.

The case for using the existing procedures essentially had two parts. One is that the acceptance of procedures by the University, no matter how inadequate for the circumstances, represents a commitment of the institution. Violation, as one person put it to us, could have precipitated a major "constitutional crisis" on the campus. The other reason is that any failure to follow established procedures would be vulnerable to attack in the courts.

The Committee on Consultation advised the President to appoint a panel of faculty to hear the case. Together with the President and Provost, they nominated members for the panel who would be expert in various areas relevant to the case, including law, medicine, and nursing. On the following weekend, further consideration, the President informed at least the chair of the Senate and the President of the Graduate Student Assembly that he would charge the faculty committee only with recommending procedures and with advising the JIO. Professor Ralph Spritzer, chair of the committee, also understood this to be his task. Professor Murray Gerstenhaber, chair of the Senate, informed the President by letter that he felt this charge was inconsistent with the advice of the Committee on Consultation.

The President convened the members of the Special Faculty Committee together with members of his administration on March 29 to discuss the case and the Committee's charge. At that time, the chair of the Special Faculty Committee asserted that in his opinion there was little choice but to follow the established procedures. Subsequently, the Special Faculty Committee met with the JIO, reviewed the available evidence, and, after three meetings, reported on April 7. The Special Faculty Committee's unanimous recommendation was that the existing judicial procedures should be followed. It also concluded that there was sufficient evidence of serious misconduct to warrant further proceedings. The Administration accepted the Committee's recommendation and decided to prepare for hearings before a student panel as specified in the Charter. Members of the Special Faculty Committee agreed that Professor Spritzer would be their spokesperson. However, after speaking with Professor Spritzer, we have an inadequate understanding of the basis of the committee's decisions.

Your Committee is aware of the difficulties of reaching a decision about the procedures to be followed in this case. However, we are persuaded by the case against employing the existing judicial procedures. They are wholly inadequate to deal with cases that involve personal violence, serious sexual misconduct, or possible felonies. They are not designed to deal with confidential or sensitive information concerning individuals. Indeed, months before the ATO incident, the inadequacies of the existing procedures had prompted the President to form a special commission, under the direction of the Ombudsman, to review them. On April 28, 1982, the JIO in consultation with the Advisory Committee on the Judiciary had submitted a report proposing substantial modifications for cases involving potential felonies or life-threatening situations.

We believe that effective leadership from the Administration, with the support of responsible representatives of the major campus constituencies, could have averted an internal crisis if a panel of faculty had been appointed to hear the case. While there certainly would have been a risk of litigation, we are not convinced that the respondents would have challenged such a procedure in a court of law because to do so would have meant revealing their identities and the incriminating evidence against them. We note—to skip ahead—that 5 of the 6 final respondents asked for closed hearings within the University. In any event, an effort should have been made to reach an agreement with the respondents concerning an alternative tribunal capable of hearing and passing upon all of the evidence germane to a just resolution of the cases.
3. The preparation of the cases

Given the complexity of the situation and the potential problems with hearings where respondents would be represented by lawyers, the President decided to appoint a Special Counsel to assist the JIO in the preparation of the charges and the presentation of the case. He asked Suzanne Reilly, a Lecturer in the Law School's Legal Assistance Clinic and an experienced litigator, to serve in this role. For similar reasons, he asked Stephen Burbank, Associate Dean of the Law School, to serve as Judicial Administrator for the case.

In the next two weeks, the JIO and her Special Counsel interviewed prospective witnesses, gathered evidence, and held meetings with the respondents and their attorneys. Sometime in early March (a precise date is not remembered), a decision had been reached at the highest level of the Administration that a single person, an assistant to the Vice-Provost for University Life, would thereafter serve as sole intermediary between the University and the complainant in matters relating to the case. The decision had these effects: (1) after the initial interview the JIO had no contact with the complainant in the course of investigating the case and preparing for the judicial hearing. (2) The Special Counsel to the JIO had no contact with the complainant, was under the incorrect impression that she was not available, and prepared her cases under the assumption that the complainant was neither an available nor a reliable witness. These assumptions appear to have colored the Special Counsel's view of the strength of the cases against the respondents. (3) The JIO and Special Counsel did not inform the complainant of the progress and preparation of the cases or of her possible role as a witness.

Hearings originally were scheduled for May 3; only one respondent requested an open hearing. On April 29, at a meeting of members of the Administration, the Special Counsel discussed the difficulties with the hearings, especially the open hearing, and raised the possibility of using the provisions of the Charter that permit informal settlements of cases without hearings. Reasons against going through with the hearings were: the inadequacy of the evidence and the consequent possibility of exonerating the respondents by a student panel; uncertainty about the availability of the complainant as a witness; the potentially damaging effect of testifying and cross-examination on the complainant; and the refusal of a number of student witnesses to appear before a student panel. The decision was made to authorize the Special Counsel and the JIO to negotiate informal settlements, and potential components of settlements were discussed. The issue of the confidentiality of the sanctions was raised but considered to be of minor importance.

Subsequently, the Special Counsel carried out negotiations with the respondents' lawyers by telephone and worked out a series of agreements. One of the conditions specified by all of the lawyers was complete confidentiality of the terms of the settlement. One respondent's lawyer changed his mind, and preparations were resumed to go forward with a hearing on May 7. However, he and his client agreed to settle at the last minute. There is no indication that the JIO participated in these negotiations or that she concurred in the outcome. The Special Counsel signed the settlement agreements. The outcome of cases against the respondents was reported to the University community in an Extraordinary Report by the Judicial Administrator, published in the Almanac on May 17, 1983.

We feel it relevant to note that the disclosure of the identity of one of the respondents would have been embarrassing to the University. We have been assured by the President and Provost that this factor had no bearing on decisions about how to proceed in the case, and we know of no evidence to the contrary.

Your Committee has three major concerns about the process of settlement. (We turn to the specifics of the settlements shortly.) First, members of the Administration acted on erroneous or incomplete evidence. We have been told by a number of people that they "understood" various things about the complainant; that she was unwilling to testify; that she could not be reached; that she was unavailable in April after the charges had been transmitted to the respondents; that she had failed to make accurate photographic identifications in her February 23 interview with Public Safety. None of these impressions appears to have been correct on the basis of the evidence available to us. We have been told that efforts were made early in March to obtain evidence from the Philadelphia Police about their investigation and that the Police refused to disclose anything about the case. Apparently, no one in the Administration tried to get further information from the Police around the time that preparation for the hearings was underway. Consequently, no one working on the case inside the University was aware that the complainant had a long interview with the Philadelphia Police on April 22, at which time she again identified participants in the incident from photographs.

We believe that the University did not use all available means to obtain relevant information from the Police, and, according to our understanding, Public Safety was utilized less in this case than in most others, despite their investigative capacities and established working relations with the office of the District Attorney in such matters. Finally, as noted above, all contact with the complainant was supposed to be channeled through one member of the Vice-Provost for University Life's office. As a consequence, the JIO believed she was not to contact the complainant and had to prepare the case without consulting her. This was unprecedented in the JIO's experience.

The second aspect of the settlement process on which we should comment is the role of the Special Counsel. In effect, the Special Counsel proposed, negotiated, drafted, and signed the settlements. The JIO had almost no role in this part of the case. This is at variance with the Charter, which clearly specifies that the JIO is charged with all of these duties. The JIO was initially interrupted by the failure of the prospective respondents to appear for their interviews with her after the meeting with the President, hampered by no or second-hand communication with the complainant, and virtually superseded by a Special Counsel. It was explained to us that the JIO and Special Counsel were considered interchangeable. We are not sure that this understanding was shared by all parties at the time. The Special Counsel is supervising the activities specified by the settlements, although this, too, is a task assigned in the Charter to the JIO. Whether a violation of the Charter has occurred—and whether the Extraordinary Report by the Judicial Administrator is accurate—depends upon one's interpretation of whether the Special Counsel is permitted to act, in effect, as the JIO.

Third, the purported conduct of the complainant prior to February 17-18 appears to have been a consideration in decisions regarding the case. While allegations derogatory to the complainant have been made by ATO members, these must be regarded as unproven. We wish to emphasize that whatever the complainant's history, it was irrelevant to a principled assessment of the conduct of the respondents. Nor, given what we know about the available evidence, are we clear as to why the complainant would have had to testify at hearings (although, of course, she should have been asked), and we see no reason why she could not have been accorded the same protection as that accorded victims of sexual assault when they appear in court against the accused. Her history should have been no more admissible before a University tribunal than in a court of law.

4. The nature of the settlements

The specific terms of the settlements are confidential. Therefore, we have had to rely on information that derives from either those who designed and supervised the settlements or those whose knowledge of the settlements is second-hand. We understand the major elements of the settlements to include reading and writing assignments, discussions, and community service. We understand, as well, that the "educational" component is supposed to be the equivalent of about one course per semester and the service component the equivalent to the usual undergraduate part-time job. We have been told that the settlements represent an attempt to devise sanctions in keeping with the educational mission of the University. Their intent is educative: to make the respondents understand why their actions were wrong and to foster their development as mature and responsible adults. We have been told that the settlements are very "creative" and assured that we would respect their intent and content if we could be told their details.

The settlements are not being supervised by academic faculty in the
schools in which the respondents are or were enrolled, although we have been told that faculty in these schools were involved in their design. Sanctions of the type imposed in this case previously have been employed only in matters involving charges of much lesser gravity. According to the Charter, informal settlement of cases precludes expulsion and suspension as sanctions. Therefore, these no longer were options once a decision had been reached to settle without a hearing.

We do not know if a charge of rape could have been successfully prosecuted in a court of law. For purposes of internal discipline, however, the charge was violation of the student code of conduct, which according to the Charter, informal settlement of cases precludes expulsion and suspension employed only in matters involving charges of much lesser gravity. According to the Charter, informal settlement of cases precludes expulsion and suspension employed only in matters involving charges of much lesser gravity. We are not persuaded of the appropriateness and adequacy of the sanctions. We think that they represent an amalgam of education with punishment that detracts from, rather than enhances, the mission of the University. The respondents deserved serious and public punishment. The Administration failed to give an unequivocal signal to the University community that similar behavior is not to be tolerated on this campus. We are concerned that the apparent leniency of the sanctions has undermined the purpose and effect of the effort to remove ATO from the campus and the Administration’s statements on sexual misconduct.

The confidential nature of the settlements has left the Administration unable to counter effectively the suspicion that the respondents have been treated too leniently. And, as we note below, the confidentiality and presumed leniency of the settlements may have had a very harmful effect on the complainant. In serious cases, some public description of the sanctions should be permitted under any settlement in which the Administration enters on behalf of the University.

5. The University and the complainant

The complainant has received continuing emotional support from some staff members of the University. They have kept in close contact with her and assisted her in obtaining appropriate medical care both inside and outside the University. However, at no point in the entire period did the President initiate contact with the complainant or her family.

The University has given the complainant no financial help with her heavy medical expenses. When she returned to Philadelphia in late April or early May without housing, employment, or other sources of funds, no assistance was offered her.

Furthermore, she was not offered an opportunity to testify at the hearing scheduled for May 3. When she expressed her anger at this, she was requested to testify at the postponed hearing on May 7, less than 24 hours before it was scheduled.

Under the terms of the Judicial Charter, the JIO is to inform the complainant of the resolution of the complaint. On May 29, the complainant attended a meeting at which the Special Counsel for the JIO informed her that settlements had been reached but because of the confidentiality requirement of the settlement agreements was not able to tell her the nature of the sanctions. Your Committee understands that the complainant was deeply distressed by the outcome of the judicial process and that there was an immediate adverse effect on her emotional well-being. We are not persuaded of the appropriateness and adequacy of the sanctions. Your Committee understands that the complainant was deeply distressed by the outcome of the judicial process and that there was an immediate adverse effect on her emotional well-being.

Throughout our report we have indicated other instances where the complainant was shown scant respect. The complainant was not accorded the dignity and compassion she deserved and the financial assistance she required. We recommend that the University promptly consider its financial responsibility to the complainant.

Conclusion

The Senate Executive Committee has asked us to provide "information about the ways the University did—and might in the future—respond to behavior that seemed to flout the idea of a civilized community." We offer four guidelines for the future. With respect to each of them, we have found the response of the Administration in the current case to be inadequate. First, the investigation of the incident should be complete and accurate. Second, there should be a hearing before a tribunal capable of rendering a decision fair to all parties concerned. Third, the resolution of the incident should transmit a clear message as to what conduct is and is not acceptable on this campus. Fourth, the entire process should show great sensitivity to the stake that the complainant has in the outcome.

Following is a response to the ad hoc committee report above:

The Spritzer Panel's Role

As noted in the report of the ad hoc Faculty Senate Committee reviewing the administrative actions pertaining to the ATO incident, on March 29, 1983, President Hackney convened a panel of senior faculty (chaired by the undersigned) to advise the administration. The panel was requested to perform two functions: (1) to advise the President with respect to the procedure to be followed in dealing with those allegedly involved in the incident; (2) to give assistance and advice to the University's Judicial Inquiry Officer if we found basis for proceeding against one or more individuals. As to the second, we unanimously concluded that there was sufficient evidence of serious misconduct to warrant specified charges and recommended that they be pursued “with all diligence.” The ad hoc committee apparently approves this part of our report.

As to procedure, we unanimously reported that the Administration should be obliged to present charges to the University Court. As the report explained, this was based upon the explicit language of the Charter of the University Student Judicial System which provides that, except for Honor Code violations and parking offenses, the University Court established by that Charter “shall have exclusive original jurisdiction in all cases arising under regulations of the University involving students” (emphasis added).

Despite this unqualified language, despite the fact that the ad hoc committee was provided copies of the report issued by the committee that I chaired, and despite my calling to the attention of the ad hoc committee the Charter’s mandate that the procedures there set forth provide the exclusive mechanism for hearing a disciplinary charge, the ad hoc committee states that its members were left with an “inadequate understanding of the basis” of the committee’s view. I am left with a total lack of understanding of their lack of comprehension. Does the ad hoc committee fail to appreciate that a University is bound by its own bylaws? The point was only recently underscored by Judge Lois Forer’s decision setting aside the University’s action against the ATO fraternity for failure to follow prescribed University procedures.

The ad hoc committee believes, as well it might, that there are shortcomings in existing student judicial procedures. I share that view and I have participated in recommendations to make changes. That does not alter the conclusion that existing procedures govern until such time as they are changed by lawful process.

Belying its asserted lack of understanding, the ad hoc committee concludes the second section of its report by acknowledging that a failure to follow prescribed procedures would have created “a risk of litigation.” It responds to this by suggesting that respondents would have refrained from going to court if tried by an ad hoc University tribunal. If I were persuaded of that—and I am not—my conclusion would remain unaltered. I would not consider it either wise or consistent with my obligations as a lawyer and counselor to advise the University to violate its established procedures in the hope or expectation that a challenge might not be forthcoming.

-Ralph S. Spritzer. Professor of Law

ADDITIONAL STATEMENTS ON THE ATO REPORT: OPPOSITE PAGE
Response to the ad hoc Faculty Senate Committee

It is clear that the ad hoc Faculty Senate Committee believes now that, had it been responsible for directing the proceedings in the ATO case, it would have made different decisions at many steps along the way. We continue to disagree fundamentally with judgments of the ad hoc committee, and we believe the report of the committee contains numerous erroneous and misleading statements of fact. The key concern of the ad hoc Senate Committee, however, is that the administration erred in not appointing a special panel to hear the individual cases. Instead, the administration decided to follow the established procedures set out in the Charter of the University Student Judicial System.

The administration's decision was based on the unanimous judgment of a panel of senior faculty members, chaired by Professor Ralph Spritzer of the Law School and including Professors Malcolm Campbell, Anna-Marie Chirico, Walter Wales and Rosalyn Watts. This panel was chosen with the advice of the Committee on Consultation (consisting of present, past and future chairs of the Faculty Senate, chair of the UA and chair of the GAPSA).

We asked the Spritzer panel to advise the administration about whether and how to proceed, and we explicitly included among the options the panel should consider, the possibility of establishing special procedures for this case.

After a careful review with the Judicial Inquiry Officer of the evidence and information available, the Spritzer panel advised us that there was cause to proceed against the individuals and that, in the unanimous view of the panel, the administration had no choice but to use the established procedures as set forth in the Charter.

In view of this panel's clear and unanimous conclusion, we remain convinced that it would have been most unwise to disregard the advice of the panel. The fact that the faculty members on the ad hoc Senate Committee more than seven months later concluded that they would have given different advice, does not alter our firm conviction in this matter.

The terms of the Charter were carefully followed in accordance with the panel's counsel. The allegation by the ad hoc Senate Committee and the role of the Special Counsel to the Judicial Inquiry Officer was at variance with the Charter is one example among many of the erroneous charges by the Committee. In fact, the Special Counsel was appointed with the full approval of the Judicial Inquiry Officer. Further, she did a superb job in a most difficult set of circumstances.

The ad hoc Senate Committee indicates no steps that should have been taken after the administration decided to follow the advice of the Spritzer panel that would have led to an outcome preferable to the settlements actually concluded. The ad hoc Senate Committee objects to those settlements as insufficiently punitive. In our judgment, those settlements were—in the circumstances—the best that could have been obtained. As expressed in our statement printed in Almanac, September 6, 1983, "In our judgment, the settlements reached with the fraternity members were in keeping with the University's basic educational purposes, recognizing also the limits of our judicial system in handling the case."

We do underscore our continued hope that there is emerging a campus consensus on two key conclusions. First, we need strong support for the values that will not only prevent similar episodes from occurring but that will also strengthen the ties of mutual respect and understanding that bind our community. That is the basis for the Task Force on Conduct and Miscohduct, whose work is now underway. Second, as we urged well before the ATO incident occurred, the Charter of the University Student Judicial System needs to be strengthened. The administration has proposed a number of revisions, and the Keene Commission has now issued its report. We hope that campus-wide discussion of these documents will lead to constructive changes in the Charter as soon as possible.

Shelton Hartshorne, Thomas Eulich

More Than A Contract

Our painful differences over how the ATO matter was handled reflect deeper divisions over a university's relationship to its students. One extreme, towards which some institutions lately have turned, is that a university stands only in a contractual relationship with those who pay its fees, supplying instructional services and treating breaches of all sorts in accordance with the contract. Another view is that while a university no longer stand in loco parentis, it still has a duty to protect its students, and to discipline those who cause injury to others or impair its educational purpose. In that view, a university may, in accordance with its regulations, delegate the handling of certain infractions to a student judiciary, but the faculty and administration must act directly when a student seriously threatens the welfare of another.

As Senate chair last semester, I conveyed the latter view to the administration when the Spritzer committee was named, for in the opinion of all the Senate leaders, an alleged gang rape lay outside the jurisdiction of an exclusively student judiciary. An incident which could have serious consequences for the perpetrators and certainly did have an overwhelming emotional impact on the victim was best considered, we believed, by a faculty panel sensitive to both the psychological needs of the victim and the legal rights of the accused.

It was our position, expressed to the administration, that the Spritzer committee should serve as a tribunal and not merely an advisory body. That view may not, however, have been transmitted to the committee.

Perhaps the University community's divisions also stem in part from a lack of consensus on the gravity of what happened; my views of last March would have been, I think, unanimously seconded in an incident of attempted murder or incitement to suicide. In any case, a court has now held that the withdrawal of ATO recognition must be reheard, with full protection of its rights.

None of this, of course, helps either the image of the University or the victim, nor can the former be repaired without our aiding the latter. That, not exculpation, is now our highest priority. For if we acquire the image of merely instructing our students then we shall be sought out only by students who want no more of us than a contract of instruction, and that would sever the thread of loyalty that supports us as a center of excellence.

—Murray Gerstenhaber, Senate Past Chair

More to Come: Additional comments have been offered by Former Senate Chair Robert F. Lucid. Since his letter involves right-of-reply for the 1982-83 Committee on Consultation, it has been held with Dr. Lucid's consent and will appear in the December 20 issue—Ed.
A Campus Sampler of Gifts for All Ages

Whether holiday gift-givers are shopping for presents to give "new arrivals" or old friends, there are gifts for all ages right here on campus.

For young infants, toddlers and children can be found at the University Museum's Pyramid Shop, a great place to find interesting and mostly inexpensive stocking stuffers from many countries around the world. Their mobiles-choose of fish, birds, planes or skiers ($1.50)—would please even the youngest infant or older child. Chinese chimes ($2) are another eye-catcher.

For young musicians the shop has brass bells ($5), flutes ($2.15) and maracas ($1.10). Remember pick-up-sticks? A set of 36 is only $1.10. Another real bargain is chopsticks for the pair—maybe the perfect gift for a finicky eater.

Dollhouse collectors will appreciate "fixing up the house for the holidays" with a rug ($61). The shop also carries some gifts too big for stockings, such as colorful kites ($4-$6.50) and large posters for the creative child to color.

Many more gifts for children of all ages can be found at The Museum Shop; it is a good way to bring the wonders of the world home. Why not start or add to an international collection of ornaments for that special child? Wooden animals from India ($2.50), hand-crafted bread dough figures from Germany ($2.50) and wooden carousel horses from China ($2.50) are among the many options the museum offers. These small wonders of the world home are sure to be treasured for years.

For the chocolate lover with a taste for the past, pick up a miniature chocolate nut bar ($1.50). Hand-stitched appliqué landscapes from Colombia ($15) would brighten any child’s room. For a whistler’s enjoyment select a soapstone whistling rabbit, dove, or fish ($2.50). A comfortable yet versatile item is the Museum Store’s $5.50 illustrated with art by children from around the world.

One of the most delightful gifts of the season is the Museum Shop’s Hmong appliqué (sold in sets of three and four). These designs are handmade by Hmong women and each set is unique. They come in various colors and sizes, from small ($2.50) to large ($5.00). The Museum Shop also carries a wide variety of hand-tied baskets made by Hmong weavers in Vietnam, Laos, and Cambodia. These baskets are a great way to store all sorts of items, from toys to books, and are sure to be a hit with kids and adults alike.

For the holiday season, the Museum Shop carries an array of Christmas-themed gifts, including mini decorated trees, stockings, and garlands. These items are perfect for decorating the home or giving as gifts to friends and family. The Museum Shop also carries a selection of books, including a variety of children’s literature, cookbooks, and travel guides. These books are a great way to give the gift of knowledge and adventure. Overall, the Museum Shop offers a wide variety of thoughtful gifts for all ages, perfect for the holiday season.