

## MEMORANDUM

**TO:** Codes and Judicial Committee

**FR:** Mary Beth Grant, Judicial Administrator

**RE:** Requested Statistics

**Date:** January 16, 2007

I have been asked by CJC Co-Chair Marty Hatch to pull together statistics about the JA's Office that will be useful as the CJC considers recommended changes to the Code of Conduct. Not all statistics are tracked in exactly the way Marty requested them, so I have tried to provide information that will get to the underlying issue and, when appropriate, have provided anecdotal information based on the memories of JA staff members. To assist in presenting this information, I have copied Marty's email into this memo, below. Please feel free to contact me for clarification about any of these statistics, or if other information would be helpful.

### Questions from CJC

*Dear Mary Beth,*

*In preparation for our review of the campus judicial system, the CJC will need to have reports on the activity of the JA's office over the past few years. It would be best if we had statistics for the most recent complete academic year, 2005/2006, and the year before that; and then statistics for five years before that, say 2000/2001.*

*I'm sure that you have a typical reporting format which shows total number of cases and then breaks them down into different categories having to do with items in the code, but especially with regard to the most recent year, we would like to have a breakdown in the following ways:*

- 1. incidence of student complaints about students*
- 1. incidence of student complaints about faculty*
- 1. incidence of student complaints about staff*
- 1. incidence of faculty complaints about students*
- 1. incidence of faculty complaints about staff*
- 1. incidence of faculty complaints about faculty*
- 1. incidence of staff complaints about students*
- 1. incidence of staff complaints about faculty*
- 1. incidence of staff complaints about staff*

*(In all the above, staff should be interpreted as including members of the administration.)*

*Other areas in which statistics for the years mentioned above would be useful:*

- 1. how many cases had to do with behavior off-campus?*
- 2. how many cases involve victimless incidents?*
- 3. how many cases involve what could be called political/social activism?*
- 4. how much (anecdotally) is the right to remain silent invoked?*
- 5. in how many cases have "high priced New York lawyers" played a role as council to the accused?*

*Could you also give us an idea of how the present code might best be revised (or elements of the Krause Code included) to bring together Titles II and III?*

*Thanks for your help.*

*Best, Marty*

### **Answers, Based on the Database of the JA's Office and Anecdotal Information**

The chart below provides information regarding questions 1 – 9 and 1 – 3. Some explanation would be helpful prior to reviewing the chart. Please note that data about the victims' status is not tracked, so the specificity requested by 1 – 9 is not available. Anecdotally, however, the vast majority of victims are students, likely over 90 – 95%. There have been a handful of situations, however, where a faculty or staff member was harassed by a student; maybe 10 cases over 7 years.

The use of the words "complainant," "victim" and "referral source" warrants some examination. First, the term "victim" as used in this memo does not line up exactly with the Code definition. There, "complainant" is the individual Cornell community member bringing the case or Cornell as the institution bringing the case. (p. 38) "Victim" is not defined by the Code, but is used in the Code to refer to non-CU-affiliated individuals who have been targeted by misconduct. (p. 45) In this memo, "victim" is referring to any target of misconduct, whether or not CU-affiliated, whether or not the complainant. I do not use "complainant" in to answer CJC questions, but discuss "referral sources" instead. The "referral source" tracks who sent a case to the JA's Office; it may or may not be the "complainant." For example, CUPD may be a referral source but would not be a complainant. Also, there may or may not be a "victim" when the referral source is institutional. For example, a case referred by CUPD may or may not have a victim.

Year	Total # of Cases	Status of Accused Person <sup>1</sup>				Off-Campus <sup>2</sup>	Victim / No Victim		Political/Social Activism <sup>3</sup>	Referral Source					
		Faculty	Staff	Students			All Cases	CUPD Cases		CU PD	Res Prog	CIT	Lib	EHS	Individual
				Undergrad	Grad										
2005 – 2006	806	6	8	720	35	15	40/766	19/388	0	407	245	70	5	7	20
2004 - 2005	812	4	11	732	31	6	73/739	27/322	9 (8 were one incident)	349	308	29	5	4	36
2000 - 2004	2935	14	60	2666	108	11	270/2665	94/1342	7 (6 were one incident)	1436	615	339	15	17	92

<sup>1</sup> The total of these categories will not be 100%, because it excludes minor categories such as visitors and organizations.

<sup>2</sup> This reflects number of cases that were referred that were off-campus; it does not mean action was taken on these cases. The typical response for off-campus cases is to refer them to the Dean of Students for an educational conversation (as opposed to discipline). In 2004 – 05, two off-campus cases were resolved under Title One. Better sources to learn of the amount of off-campus misconduct by CU students would be IPD and the Victim’s Advocate as I assume most of these situations are not referred because the Code generally does not cover off-campus misconduct.

<sup>3</sup> This is anecdotal, because this information is not tracked. This does not include political activism that was ultimately characterized as speech, for example, newspaper articles or listserv debates.

Regarding students who choose not to speak to the JAO and/or the Hearing Board: this is very rare. Typically, students tell their story at the first meeting w/the JA. This is true whether or not they are represented by counsel or the Judicial Codes Counselor. The accused students may choose not to discuss their situation when there are criminal matters pending, but this is not universal. (I've asked CUPD to check on how many cases are referred to both the campus and criminal systems, because we don't track it.) In those cases, if the students decided to wait for the criminal process, they typically discussed the matter at the conclusion of the criminal matter. I only remember a couple of cases in over 7 years when the students NEVER waived their right to silence.

Lawyers are more likely involved if suspension or expulsion are at issue, particularly if the accused student has access to monetary resources. Lawyers sometimes get involved with a non-suspension-level case, but this is rare. While we do not track the involvement of attorneys, I would guess about a dozen to two dozen cases each year involve attorneys (this is a very rough guess). Even if we tracked this information, we would have no way of knowing the number of cases that have some attorney involvement, because students may check with attorneys before they meet with the JA's Office or during the 2-day period they have to revoke the summary agreement. Other advisors who have helped accused student have included the Judicial Codes Counselor, a faculty member, an academic or student-services advisor, a counselor from Gannett, staff from Residential Programs, a friend, a member of the Bursar's Office, a member of the Dean of Students Office.

Regarding Title Two and Title Three: Title Two is pretty much redundant of Title Three. With the exception of a tiny jurisdictional matter, I am not aware of anything Title Two prohibits that Title Three doesn't already prohibit. Most people think of Title Two connected with political activism cases, but all alleged misconduct associated with political activism during my time here have been referred under Title Three, not Title Two. Title Three has more accused-student protections in general (see p. 53), although Title Two doesn't allow a summary agreement. If I were going to re-write the Code, I would eliminate Title Two, but check with counsel's office about any legal requirements of the Henderson Act (which is why Title Two is there). Any requirements that are not already in Title Three could be incorporated.